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T. R. A. R.
GUIDE
FOR *Jane Eddons*
CONSTABLES,

Churchwardens, Overseers of the
Poor, Surveyors of the High-ways,
Treasurers of the County-Stock, Masters
of the House of Correction, Bayliffs of
Mannors, Toll-takers in Fairs, &c.

T **A** *T*
TREATISE

Briefly shewing
The Extent and Latitude of the se-
veral Offices, with the Power of the
Officers therein, both by Common
Law and Statute, according to the se-
veral Additions and Alterations of
the Law.

The sixth Edition Enlarged.

Collected by *Geo. Meriton, Gent.*

LONDON, Printed for *G. Sawbridge, A. Roper,*
F. Tyton, J. Starky, T. Basset, R. Pawlet,
S. Heyrick, W. R. J. Place, and W. and J. Leak,
Booksellers in *Fleet-street* and *Holborn*, 1679.

GUIDE

FOR

CONSTABLES

Churchwardens, Overseers of the Poor, Surveyors of the Highways, Justices of the Peace, and other Officers of the County of Middlesex, in the Execution of their respective Duties.

A

TREASURY

Directly showing the Powers and Authorities of the several Officers, with the Powers of the several Officers therein, both by Common Law and Statute, according to the several Additions and Alterations of the Law.

The Sixth Edition enlarged.

Collected by Geo. Lewis, Esq.

Printed for G. Smith, at the Sign of the Sun, in Strand, near the Theatre Royal, in the Year 1714.

To all Constables, Tythingmen,
Head-borroughs,
Bursholders, &c.

S I R S,

Having many times considered of the large Extent of the Constables Office, and how little skill or knowledg many of you have, who are often called to take upon you the same Office, and also how few Authors there be who have writ on this Subject, Mr. Lambert, Mr. Wingate, and Mr. Sheppard being the Chief, whose Rules at this day are very unsafe for the Constables to square their Actions by: for Mr. Lambert's Book being a Discourse principally of the Common Law Cases, is now much altered by Statute since, and that Book of the Office of a Constable Fathered upon Mr. Wingate, I am verily perswaded was none of his Work; for

there are some unwarrantable Authorities and gross Errors in it, which could not have slipped his ingenious Pen if the Work had been his; and for Mr. Sheppard's Book, it is stuf full of Acts and Ordinances of that Convention at Westminster (which in the late times of Usurpation and Rebellion was owned for a Parliament) which Ordinances are now of no force; Therefore none of these being safe and warrantable Rules for the Constables to walk by, but blind Guides to lead them into the by-paths and crooked Meanders of many Errors; I thought thereupon that some little Treatise of this Subject might not only prove very useful, but also very beneficial for the generality of People of this Kingdom; which consideration hath occasioned me to publish this small unpolished Epitome; and though I know the Book will fall under many hard Censures of those who are far better able to undertake
the

the Work, yet I hope, Dear Friends,
my willingness to contribute anything
to your Service, though but a Mite,
doth claim your favourable Accep-
tance of my pains; Remembring the
old saying ----- est voluisse satis;
and there is nothing of so little re-
gard, but hath something of worth
in it, and I despair not of some pro-
fit hence to you for whom it is inten-
ded, and for whose ease, satisfaction
and direction it was collected and
published by him, kind Friends,
whose ambition and desire is, and
shall be

Red-Hall, Yours ready to serve
Feb. 25
1668. in what he may,

George Meriton.

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A

GUIDE

FOR

CONSTABLES, &c.

CHAP. I.

Of the Derivation of the word Constable, how many sorts of Constables, the Antiquity of the Office, the several Appellations of this Officer in several places, who ought to be chosen to the said Office, and how and where to be sworn, with the form of the Constables Oath.

THE word *Constable* is derived or compounded of two old *Saxon* words, *Cuning*, or *Kinning*, which signifieth *King*, and *Stable* signifying *Stability*; shewing that these ancient Officers were reputed

B ted

ted to be as the stability or stay of the King and Kingdom: *Co. 4. Part. Inst. fol. 123. Lamb. Office of Const. 5. & Dalt. J. P. c. 15. fol. 46.*

There are only two sorts of Constables, of whose Office this Treatise maketh particular mention, and that is High Constables of Hundreds, and Petty Constables in Towns and Parishes.

Now by the opinion of some men, these High Constables were first ordained to be chosen by the Statute of *Winchester*, and they were to make view of Armour twice every year, and to present before the Justices assigned defaults of Armour, Watches, Highways, Hue and Cry; and also such as lodged Strangers for whom they would not answer. *Lamb. 5. Rastall 379. C. D. 13 E. 1. c. 6. Dalton's J. P. c. 16. fol. 46.*

And that the Petty Constables in Towns and Parishes, were after devised for the aid of the High Constables of Hundreds, about the beginning of the Reign of King *Edward the Third.* *Lamb. Duty Const. pag. 9.*

But others are of opinion, that the High

High Constables were Conservators of the Peace within their several Hundreds and Limits, by the ancient Common Law. *Crompt. 6. & 222. 12 H. 7. fol. 18.*

And that whereas the Sheriffs of Counties at the first had the Government of their Counties committed to them, that afterwards by reason of the multitude of people, it being then too great a task for one man to undertake, thereupon Hundreds were deduced and derived out of the Countreys, and in every one of them was ordained a Conservator of the Peace, who was called the High Constable; and after this Boroughs or Towns were made, and within every one of them also was ordained a Conservator of the Peace, who is called the Petty Constable: and this was long before the time of King *Edward* the Third, as appears by the derivation of the words, and that they were in the time of the *Saxons*, so that it may seem as well the High Constables, as the Petty Constables and their Authorities, were by the Common Law; and that the old Statutes concerning them, are but a Recital of the

ancient Common Law, 12 H. 7. fol. 18.
a. Dalton's J. P. c. 16. fol. 46.

Now there be other Officers of much like Authority to the Constables, as the Bursholders in *Kent*, the third Burrough in *Warwickshire*, and the Tythingman, Borrough-head, or Headburrough or Chief Pledge in other places; but yet the Office of a Constable is distinct and (as it seemeth) is of greater Authority then these other: for it is held by some that these Bursholders, Thirdburroughs, Tything-men, &c. being in a Town or Parish where a Constable is, that in such case they cannot meddle, because the Constables be (in comparison of them) Head Officers, and that the others are but as Assistants to the Constables in all Services of his Office when the Constable is present, and in his absence then these others are to attend the service; and that there are many other things which the Constables may do, and wherewith the Bursholders and the rest cannot meddle at all; and yet in Towns where there be no Constables, and that the Bursholders, Tythingmen, &c. be there the only Officer; for the Peace, as also
 in

in such case where the Power or Authority of a Bursholder, Tythingman, &c. is declared to be equal with the power of the Constable, in all such cases and things, their Office and Authority be in a manner all one. See 1 Jac. c. 7. Lamb. pag. 4, 6, 9, 51, 52, 53, 54, 55. Dalton's J. P. ch. 1. fol. 3, 4.

Where any Statute doth appoint offenders to be punished by the Constable, or other inferiour Officer, in such case the Tythingman, Headburrough, &c. may do it, for they are supposed to be inferiour Officers to the Constable. Dalton's J. P. ch. 1. fol. 4.

Note that these Officers are to be attendant to Court-Leets, Justices of the Peace, and Coroners, for the executing of their Warrants, within their several Precincts.

And now as to the choice of these Constables, you shall understand that the Law requireth that every Constable be *Idoneus homo*, that is, apt and fit for the execution of the said Office, and he is said in Law to be *Idoneus*, who is indued with these three things, honesty, knowledge and ability. Co. 8. lib. Rep. fol. 41. in *Grieslyes* case there.

First, he ought to have Honesty to execute his Office truly, without malice, affection or partiality. Secondly, Knowledge to understand what he ought to do. And lastly, Ability as well in substance or estate, as also in body, that so he may attend and execute his Office diligently, and not, through impotency of body or want, to neglect the place; for Constables chosen out of the meaner sort, they are either ignorant what to do, or dare not do what they should, or are not able to spare the time to execute the Office: they ought therefore to be of the ablest sort of men, and are not to be chosen either by House or other Custom, if they be not fit persons for the Office. *Co. 8. lib. rep. fol. 41.*

And if any one shall be chosen Constable, which is not thus qualified and enabled, he may by Law be discharged of his said Office, and another fit man may be appointed in his place. *Co. 8. lib. rep. fol. 42.*

Clergy-men, Justices of the Peace, Lawyers, Physicians, Attorneys, Women, whether Maids or Widows, Madmen, Infants, old, sick, decrepit persons,

sons, nor poor people, are not to be chosen to the Office of Constable.

And note, that a man is to serve this Office in respect of his personal abode and place of Resiency, and not in respect of his Land in another place, for if he have Lands in one place, and keep house in another place, he must serve where he lives, and not where his Lands lie.

A custom in a Parish or Town, that the Office of Constable shall go by the house, is not good; for if a woman have an house there, she is eligible, which is against Law; but a custom that every man, sufficient in the place, shall serve the Office himself, or find a sufficient man to serve it, may be good. *Cro. 1. Part. Rep. fol. 283.*

A Leet choosing unable or unfit Constables is cause of forfeiture of the Leet, and such choce is void, and two Justices of Peace, upon complaint to them made, may remove such a Constable, and choose and swear a new one. *Dalt. J. P. c. 16. fol. 47. Steels Rep. f. 21. Mich. 22 Car. 1. B. R. Bolsted's 1 part. Rep. fol. 174.*

The High Constables are most usu-
ally

ally chosen at the Quarter Sessions of the Peace for that County, and are either to be sworn there, or else by warrant from the Sessions to be sworn elsewhere; and if it happen that they be chosen out of the Sessions, then ought they to be chosen by the greater number of the Justices of that Division where they dwell. *Lamb. 190. 13 E. 1. Stat. Winch. Dalt. J. P. ch. 16. fol. 46.*

And in such manner as they are to be chosen, in the same manner, and by the like Authority are they to be removed; for *eodem modo quo quid constituitur, dissolvitur.*

By the *Stat.* of the 34 H. 8. Two Justices of the Peace, the one being of the *Quorum*, may appoint the High Constables in *Wales*, 34 H. 8. *ch. 26.*

Now for the Swearing and choosing of petty Constables, it properly belongs to the Court-Lect, but in ancient time they were yearly appointed by the Sheriffs in their turn, and were there sworn and received their Oath, and so they may still. *Bacons use of the Law, pag. 5, 6. Dalt. J. P. c. 16. fol. 47. & ch. 121. fol. 366.*

And

And now by the *Stat. 14 Car. 2.* It is provided that if any Constable of a Parish die, or remove, that any two Justices may make and swear a new one, to continue till the next Leet or Quarter Sessions, and then the Steward of, or in the Leet or Justices at the Sessions are to swear another, or to approve of him that is chosen; and if any such Officer shall continue in his place above a year, the Justices at their Quarter Sessions may discharge him, and put another in his place, till the Lord of the Leet shall keep his Court and place in another. *14 Car. 2. ch. 12.*

Constables lawfully chosen, if they shall refuse to be sworn, the Justices of Peace may bind them over to the Assises, or Sessions of the Peace, *Dalt. J. P. ch. 16. fol. 47. vide Crawlyes Case. Cro. 1. Part. fol. 409.*

A Constable of an Hundred or Parish, may not make a Deputy to execute his Office, as some hold opinion, but a Deputy may do under him many parts of his Office in his Name, so still as the Constable must answer for it. *Bolstrods 3. Part. Rep. fol. 77, 78.*

If any Action be brought against a Justice of Peace, Maior, or Bailiff of a Corporation, Headborough, Port-Reeve, Constable, Tythingman, Collector of Subsidies or Fifteens, Churchwardens, Sworn-men, Overseers of the Poor, or their Assistants, for any thing done by reason of their several Offices, they may plead the general issue, and give the special matter in Evidence. 7 Jac. c. 5. 21 Jac. c. 22. *Wingate Abr. St. Title Evidence.*

And all Actions, brought against such Officers, must be laid in the County where the fact was done, and in case where the verdict passes for the Defendant, or the Plaintiff is Non-suit, or discontinues his suit, these Officers shall be allowed double costs, to be recovered as other Defendants recover their costs. 7 Jac. c. 5. 21 Jac. c. 12. *Wingate Abr. Stat. Tit. Evidence.*

The form of the Constables Oath is as followeth:

You shall swear well and faithfully to serve our Sovereign Lord the King, and the Lord of the Manour, in the Office of a Constable; you shall see the Kings Peace.

Peace to be well and duly kept and preserved to the utmost of your power; you shall Arrest all such persons as in your presence shall ride or go armed offensively, or shall commit or make any Riot, Affray, or other breach of the Kings Peace; You shall do your best endeavour that the Statute of Winchester for the Watch in your Town be duly kept, and that Hue and Cry, and the Statutes for punishment of sturdy Beggars, Rogues, Vagabonds, Night-walkers, and other idle and wandring persons within your Liberties be duly put in execution: You shall do your best endeavour upon complaint to you made to apprehend all Felons, Barrators, Rioters, and persons making Affrays, and if any such persons shall make resistance with force, you shall levy Hue and Cry, and shall pursue them till they be taken; you shall have a watchful eye to such persons as shall maintain or keep any common house or place where any unlawful Games or Plays are or shall be used, as also to such persons as shall frequent or use such places, or shall exercise or use any unlawful Games or Plays there or elsewhere contrary to the Statute. At your Assizes, Sessions, or Leet you shall present all & every the offences committed or done contrary

trary to the Statutes made and provided for the restraint of inordinate haunting and tipling in Taverns, Inns, and Ale-houses, and for repressing of drunkenness and prophane swearing. You shall true presentment make of all bloudshedding, Affrays, Outcryes, Rescues, and other offences committed or done against the publick Peace, within your Limits: You shall well and truly execute all Precepts and Warrants to you directed from the Justices of Peace, and others in Authority in this County: and you shall well and duly, according to your knowledg, power and ability, do and execute all other things belonging to the Office of a Constable, so long as you shall continue in the said Office.

So help you God.

Or the Oath may be given to the Constable in thort thus;

You shall swear that you shall well and truly execute the Office of a Constable (or Tythingman for the Parish (or Tything) of C. for this next year, or half a year, as the case is) and until another be sworn in your Room, or you shall be legally discharged thereof.

So help you God.

CHAP.

CHAP. II.

The Constables Office about Affrays.

IF any man shall make an Affray or Assault upon another in the presence of the Constable, or if any man in his presence shall threaten to kill, beat or hurt another, or shall be in a fury ready to break the Peace, in every of these cases the Constable may commit the Offenders to the Stocks, or to some other safe custody for the present (as the quality of the person requireth) until such time as he can carry them before some Justice of the Peace, or to the Gaol, until they shall find Sureties for the Peace, which Surety the Constable himself may also take by an Obligation to be sealed and delivered to the Kings use: and so was the opinion of *Walme-sly, Owen, and Beamond*, in the Argument of *Skarrett's Case*, *Trin. 35 Eliz. Co. Ban. Rot. 1458*. But my Lord *Ander-son* said that the Constable ought to carry the parties that he should see breaking the Peace, before a Justice to find Sureties for the Peace; and at this day

day this is the most usual and safest way, *vide* 3 H. 4. 9. & 10. *Bacons use of the Law*, fol. 5. *Dalt. J. P. c. 1. fol. 4, 5. & c. 118. fol. 340. Kitchin's Court. Leer, &c. fol. 69. a. 22 E. 4. fol. 35.*

In case where the Constable had taken such an Obligation to the use of the King, he was to send it into the Exchequer or Chancery, from whence process should be awarded to levy the debt, if the Peace were broken. *Dalton's J. P. c. 1. fol. 5. Bacon's use of the Law* 5.

The Constable in the Kings Name ought to command Affrayers, or such as are about to make an Affray, to avoid or surcease, and to depart on pain of Imprisonment; and if the Constable being present at an Affray, doth not his best endeavour to part them, it being presented by the Enquest at the Sessions of the Peace, such Constable may be fined for it. *Dalt. J. P. c. & fol. 33.*

If any person be dangerously hurt in any Affray, the Constable (or any other person) may arrest the offender, and carry him to a Justice of Peace, who is either to Bayl him till the next Gaol Delivery, or to commit him to the

the Gaol until it be known whether the party hurt will live or dye thereof.

Bro. faux Impr. 35. 44. 3 *H.* 7. 1. 10

H. 7. 20. *Lamb.* 136. 38 *E.* 3. 8. & 11.

Dalt. J. P. ch. 8. *fol.* 33. *Kitchin fol.*

68.

If the Affrayers will not depart but shall draw weapons, or give any blow, the Constable may command assistance of others for the pacifying of the Affray, and may justifie the beating or wounding of them, if they make resistance, and if either the Constable, or any in his Assistance be slain, it is murder in the Affrayers. *Lamb.* 135. 1 *H.* 7. 7. 3 *H.* 7. 10. *Co.* 4. *lib. rep. fol.* 4. & *Co.* 9. *lib. rep. fol.* 66.

The Constable (if the Affray be great or dangerous) may in the Kings Name make Proclamation that the Affrayers shall keep the Kings peace, and depart, &c. And if the Affray be in an house, and the doors shut, the Constable may break into the house to see the peace kept, though none of the parties have taken any hurt; and if the Affrayers fly into another mans house, the Constable upon fresh pursuit may break into such house, and apprehend the Affrayers,

frayers. *Dalt. J. P. ch. 8. fol. 34. 33.*
Lamb. 135. 7 E. 3. 19.

And where the Affrayers fly into another County, the Constable seeing this, may freshly pursue, or cause them to be pursued, and to be taken there: but then in such case the Constable can meddle no further (but as every private man may do) to carry them before some Justice of Peace of the County where they are taken, to cause them to find Sureties for the Peace, *Crompt. 146. b.*
& 172. b. Dalt. ch. 8. fol. 34. & ch. 118. fol. 340. Plo. 37.

But in case where the Affrayers fly into a Franchise only within the same County where the Affray was, there the Constable, seeing this, may freshly follow and take them out of such Franchise, *Crompt. 146. Dalt. J. P. ch. 8. fol. 34.*

Note that after the Affray be over, the Constable without a Warrant cannot arrest the Affrayers, except some person be in peril of death by some hurt there received; but before the Affray begun, and during the time thereof, he may arrest them without Warrant. *38 H. 8. Bro. faux Impr. 6.*

Dalt.

Dalt. J. P. ch. 8. fol. 34. Kitchin 69. b.
Where the Affray is made out of the presence or sight of the Constable, and one cometh to the Constable and telleth him of it, and wisheth him to go and see the Peace kept, and the Constable will not, in such case it is held by some that the Constable shall not be fined by the Justices at their Sessions upon presentment thereof by the grand Enquest; but *quere* hereof, for it is against his Oath if he do not see the Peace kept, *Crompt. 146. Dalt. J. P. ch. 8. fol. 33.*

Note that it is properly no Affray, unless there be some weapons drawn, or some stroke given or offered to be given, or other attempt to such purpose: for if men shall contend only in hot words, this is no Affray, neither may the Constable for words only lay hands upon them, unless they shall threaten to kill, beat, or hurt one another, and then may the Constable arrest such persons, and carry them before a Justice of Peace, to find Sureties for the keeping of the Peace; and yet such threatning as aforesaid, is no Affray. *Bro. faux Impr. 6. Crompt. 135. Dalt.*

Dalt. J. P. ch. 8. fol. 34. & 158.

If any affray or an assault be made upon the Constable himself, he may not only defend himself, but also put the parties offending in the Stocks, till such time as he can carry them to a Justice of Peace, or to the Gaol; and if he be not able to arrest them himself, he may then call others to his assistance, who may justifie to arrest the parties. *5 H. 7. 6. Bro. faux Impr. 41. 3 H. 4. fol. 10. & Dalt. J. P. ch. & fol. 35. Kitchin pag. 69. a.*

CHAP. III.

The Constables Office about Alehouses, &c.

IF the Constables and Churchwardens upon a Warrant directed to them from one or more Justices of the Peace, against an Inn-keeper, Alehouse-keeper or Victualler, for suffering Tippling in his house, or for his measure of Ale and Beer, do not restrain and levy the forfeitures according to the Statute; that is 20 s. for selling less than a full Ale quart of the best Ale or Beer,

or

or two quarts of the small for one penny, and 10 s. for Tipling in his house; or of there be no distress to be found, if the Officers neglect by the space of twenty days to certify the same default of distress to the Justices, in any of these Cases the Officers forfeit forty shillings to the use of the Poor, to be levied by distress on their Goods by Warrant made to any indifferent person, from any one or more Justices of the Peace under their Hand and Seal, and for want of Distress, the Delinquents by any such Justice of the Peace may be committed to the Gaol, there to remain until they have paid the same forfeitures; but note the distresses in all these cases must be kept six days, and if the parties do not within that time pay the forfeitures, then the distress is to be appraised and sold, and the *overplus* returned to the owners.

Wingate Abr. Stat. Title Alehouses, &c.

1 *Jac. ch. 9.* 1 *Car. 1. ch. 4.* *Dalton's J. P. ch. 7. fol. 28.* *Young's Vade Mecum, Sect. 1, 2, 3.*

Or if the Constable, or other inferior Officer of the Parish, shall neglect to execute the Justices Warrant against

gainst Townsmen or others, for Tippling in any Inn, Alehouse, or Victualling house, or against men for being drunk, that is 3 s. 4 d. for Tipling, and 5 s. for being drunk, to be levied by distress on the offenders Goods, and sale thereof after six days default of payment, rendring the overplus to the owner, and for want of distress, and not being able to pay, the Tipler is to be set in the Stocks for the space of four hours, and the Drunkard six hours; and if in any of these cases the Constable neglect to do his duty, he forfeits ten shillings to the use of the Poor, to be levied upon his Goods by distress and sale as aforesaid; these offences are to be enquired of within six months after they are committed: And all Constables, Churchwardens, Headburroughs, Tythingmen, Alecunners, and Sidemen, may be charged on their Oaths to present the said Offences. 4 Jac. ch. 5. 21 Jac. ch. 7. Young's Vade Mecum, Sect. 4, 5. Dalt. J. P. chap. 7. fol. 28. Wingates Abr. Stat. Title, Alehouses, &c.

If any keep an Alehouse without Licence, he forfeits Twenty shillings.

to the use of the Poor, which the Constable and Churchwardens (upon Warrant from the Justice before whom the offence is proved) shall levy by distress upon the offenders Goods, and for default of payment within three days after the said distress taken, then the same is to be sold for to satisfie the penalty, rendring the overplus to the owner ; and in case the Delinquent hath not wherewithal to satisfie, the said Justice may commit him to the Constable to be openly whipped, and if the Constable neglect to execute the Warrant, or do refuse, or do not execute upon the said offender the punishment of whipping, then the Justice may commit the Constable to the Gaol without Bail, there to remain until the said Offender shall be by him punished as aforesaid, or until the Constable shall pay 40 s. to the use of the poor of the Parish, 3 Jac. Chap. 3. *Wingate Abr. Stat. Tit. Alehouses, &c. Dalton's J. P. Ch. 7. fol. 31, 32.*

If a common Innkeeper or Alehousekeeper will not lodge a Traveller, he profering to pay ready money for his victuals, then in such case the Constable

ble may cause such Innkeeper, Alehouse-keeper, &c. to be Indicted at the Sessions or Assises, where he may be fined and imprisoned, or the party grieved may have his Action of the case against the Innkeeper or Alehousekeeper; but note, they are not bound to lodge or find Victuals without ready money first paid, if it be required. *Co. 9. Lib. Rep. fol. 87. b. 10 H. 7. 8. 4 H. 7. 22. 5 E. 4. 2. Dalton's J. P. c. 7. fol. 28.*

CHAP. IV.

The Constables Office about Arms, &c.

IF any person shall ride or go armed offensively before the Kings Justices, or before any other the Kings Officers or Ministers during their Office, or in Fairs or Markets or elsewhere by Night or by Day in Affray of the Kings People, and breach of the Peace, or wear or carry any Guns, Daggers, or Pistols charged; in such case the Constable upon the sight hereof may seize and take away their Armour and other weapons, and cause them to be ap-

apprized and answered to the King as forfeited, and carry them before a Justice to find Sureties for the Peace. 2 E. 3. c. 3. 7 R. 2. 13. 20 R. 2. c. 1. 14 E. 3. fol. 33. Co. 3. part. Inst. fol. 162. Dalt. J. P. c. 9. fol. 35. & 159.

But note the Kings Servants in his presence, Sheriffs and their Officers, and other the Kings Ministers, and such as be in their Companies assisting them in the execution of their Office, and all others in pursuing Hue and Cry, where any Felony or other offences against the Peace be done, may lawfully bear Armour or Weapons. 2 E. 3. chap. 3. Co. 5. Lib. Rep. fol. 72. in S. John's case, 3 H. 7. fol. 1. Dalt. J. P. ch. 9. fol. 36.

All High Constables, Petty Constables, and other Officers within their several Parishes, are to be aiding and assisting to such persons as shall have warrant from the Lord Lieutenants or any two of their Deputies under their Hands and Seals, to search for and seize all Arms in the custody and possession of any person or persons whom the said Lieutenants or their Deputies shall judge to be dangerous to the
Peace

Peace of the Kingdom, and to secure the same, and give account thereof to the said Officers; but such search is to be made in the day time only between Sun rise and Sun set, and not otherwise, unless it be in Cities and their Suburbs, Towns Corporate, and Market Towns, or houses within the Bills of Mortality, in which places search may be in the night, if the Warrant so direct. No dwelling house of any Peer of the Realm is to be searched, unless the Warrant be from the Kings Majesty under his Sign-Manual, or in the presence of the Lieutenant or one of the Deputy Lieutenants of the said County, or Riding. And in all places and houses aforesaid, where search is made, in case of Resistance to enter with force; and such Arms so seized, where the Lieutenants or their Deputies, or any two of them think fit, may be restored to the owners again. 14 Car. 2. c. 3.

CHAP. V.

The Constables Office about Foreign Bone-Laces, Cut-work, Imbroidery, &c.

THE Constables upon Warrant to them directed from the Justices of Peace, or chief Officers of the Cities, Towns Corporate, &c. are to search within their respective Counties, Cities, Towns, &c. in the Shops being open, Ware-houses and dwelling house of such person or persons, who shall be suspected to have any Foreign Bone-Laces, Cut-works, Imbroideries, Fringes, Bandstrings, Buttons, or Needle-works made of Thred, Silk, or any or either of them, made in the parts beyond the Seas, and where they find any such to seize the same. 14 Car. 2. chap. 13.

CHAP.

CHAP. VI.

The Constables Office about Irish Cattel.

IF any great Cattel, Sheep, or Swine, or any Beef, Pork, or Bacon (except such as is for the necessary Provision of the respective Ships or Vessels in which the same shall be brought, not exposing the same or any part thereof to Sale) shall by any wise whatsoever be imported or brought from *Ireland*, or any other part beyond the Seas into the Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick* upon *Tweed*; in such case the Constable, Tythingman, Headborough, Churchwardens or Overseers of the Poor, or any of them within their respective Liberties, Parishes, or places, may take and seize the same, and keep the same during the space of eight and forty hours, in some publick or convenient place where such seizure shall be made, within which time, if the owner or owners, or any for him or them shall make it appear unto some Justice of Peace of the same County where the same

same shall be so seized, by the Oath of two credible witnesses that the same were not imported from *Ireland*, or from any other place beyond the Seas, (except the Isle of *Man*) then the same, upon the Warrant of such Justice of Peace, are to be delivered to the owner or owners without delay. 18 *Car. 2. ch. 2.*

But in default of such proof and Warrant, then the same to be forfeited and one half thereof to be disposed to the use of the Poor of the Parish where the same shall be so found and seized: and the other half thereof to his or their own use that shall so seize the same. 13 *Car. 2. ch. 2.*

Such Cattel as are Imported from the *Isle of Man*, (before excepted) into *England*, &c. are not to exceed the number of six hundred in one year, and they are to be of no other breed then of the breed of the *Isle of Man*, and all to be landed at the Port of *Chester*, or some of the members thereof, and not elsewhere, and this Act continues for seven years, and from thence to the end of the first Session of the next Parliament. 18 *Car. 2. ch. 2.*

But these former Remedies not proving so effectual for the prevention of the transporting of the Cattel aforesaid, it is further provided, That whensoever, and as often as it shall happen, either through any fraudulent Agreement, or unfaithfull Connivence of any Constable, Headborough, Tythingman, Churchwarden, or Overseer of the Poor, or that it shall happen any otherwise howsoever, that any great Cattel, Sheep, Swine, Beef, Pork or Bacon, after the first Seizure of them or any of them, by virtue of the aforesaid Act, shall be driven, brought, carried into, or found in any other Parish or Place, than where the same shall be first seized as aforesaid; That then, and so often, and from time to time, it shall and may be lawful to and for the Constable, Tythingman, Headborough, Churchwarden, or Overseer of the Poor of every or any such other Parish or Place, where such great Cattel, Sheep, Swine, Beef, Pork, or Bacon shall be brought, driven, or carried into, or found as aforesaid, to seize, take, and dispose the same, and every or any of them as forfeited, The one Moiety thereof

thereof to the Use of the poor of such other Parish or Place where such Seizure shall be made, the other to the Use of such Officer or Officers who shall seize the same as aforesaid; Any other or former Seizure or Seizures, in any other Parish or Parishes, Place or Places, notwithstanding. *An. 20. C. 2. Maii 1668.*

CHAP. VII.

The Constables Office about Chimney-Money.

THE High Constables and Petty Constables Duties about Chimney money by the 14 *Car. 2. c. 10.* and the 15 *Car. 2. c. 13.* is now much altered, and particular Officers appointed for that purpose. 16 *Car. 2. c. 3.*

All Justices of Peace, Chief Magistrates, Treasurers, and Under-Treasurers, Constables, and other his Majesties Officers are within their several Limits and Jurisdictions to be aiding and assisting to his Majesties Officers appointed for the collecting of the

C 3

duty

duty of Hearth-money. 16 Car. 2.
ch. 3.

The Officers appointed by his Majesty for the Chimney money, once every year, being accompanied with the Constable, or Tything-man, Treasurer, or Under-Treasurer, or other publick Officer of the place, and in all Parishes and places where there are no Constables, Tything-men or other publick Officers as aforesaid, there without any such assistance, may enter in the day time into a dwelling or other House, Edifice, Lodgings, and Chambers in any of the Inns of Court, or Chancery, Colledges, and other Societies, to search and examine whether there be any more Fire-hearths and Stoves in the same then were formerly returned or certified, and what are increased and decreased since the last Certificate, and if they find any variance in the number returned, both the Officer and Officers appointed by his Majesty, and the Constable or Tythingman, or other Officer aforesaid, are to certify the same under his and their hands to the Clerk of the Peace, &c.
16 Car. 2. ch. 3.

If the party after Demand made by his Majesties Officers, or their Deputies at the House, Chamber or Place where the duty shall arise or grow due, make default or refuse to pay by the space of one hour after such demand, then the Officer or his Deputy may at any time with the assistance of the Constable, Tythingman, or other Officer as aforesaid, in the day time levy the said duty and all the Arrearages thereof, by distress and sale of the Goods of the party or parties so refusing or making default, rendering the overplus to the owners, over and above the duty and Arrearages, and necessary charges of taking the Distress; which Charges are not to exceed one Moiety of the Duty and Arrearages. 16 Car. 2. ch. 3.

Note that no Arrearages of Hearth-money are to be distreyned for after the space of two years next after such duty becomes due: and if any violence, opposition, or injury be done by any person or persons to any of his Majesties Officers or their Deputies in the due execution of their Office, and the same proved by Oath before any one

Justice of the Peace, or chief Magistrate, &c. such Justice or chief Magistrate, &c. if they think fit, may send the Offender to the Common Gaol for any time not exceeding one month. 16 Car. 2. c. 3.

The Constables are to have two pence in the pound paid them by the Collector to whom they pay the Chimney-money by them collected within their Constableries, and are to pay nothing to the Collectors for their Acquittances. 16 Car. 2. c. 3.

CHAP. VIII.

The Constables Office about Conventicles.

IF any Constable, Headborough, or Tythingman, neglect to execute the Warrants to them directed for Sequestring, Distraining and Selling the Estate or Goods of any Seditious Conventiculer to be Transported: or neglect to distrain and sell the Goods and Chattels of such Offender for the levying of such summes of money as shall be imposed on them for the first and
second

second offence; in such cases the Officer for his neglect shall forfeit five pounds, the one moiety to the King, and the other to him that sues for the same in any of the Kings Courts of Records, 16 Car. 2. c. 4.

Note, if any person be any time sued for putting in execution any of the powers in the Act against Conventicles, such person shall and may plead the general issue, and give the special matter in Evidence; and if the Plaintiff be *Non-suit*, or a verdict pass for the Defendant; or if the Plaintiff discontinue his Action, or if upon Demurrer Judgement be given for the Defendant, every such Defendant shall have his or their treble costs. 16 Car. 2. c. 4.

By the Stat. 22 Car. 2. cap. 1. made against Seditious Conventicles; Every Constable, Headborough, Tythingman, Churchwarden, and Overseers of the Poor, are authorized and required to levy the fines assessed by the Justice of Peace, upon those who shall be present at unlawful Conventicles, upon their Goods and Chattels, having first received a Warrant under the

Hands and Seals of one or more Justices or Chief Magistrate, and forthwith deliver the money so levied to the same Justice of Peace, or chief Magistrate. And by Warrant from one or more Justice or Justices, or chief Magistrate, and respective Constables, Headboroughs and Tythingmen (Overseers not named) may with what ayd, force and assistance they think fit, after refusal or denial to enter, break open and enter into any house or other place, where they shall be informed any Conventicle is held, as well within Liberties as without, and take into their Custody the persons there unlawfully assembled, to be proceeded against according to this Act.

No Peers House is to be searched, unless in presence of a Lord Lieutenant, or two Justices of Peace, whereof one to be of the *Quorum*.

If any Constable, Headborough, Tythingman, Churchwarden, or Overseer of the Poor, shall know or be credibly informed of any Conventicle within his Precinct, and shall not thereof inform some Justice of the Peace or chief Magistrate, and endeavour

your the conviction of the parties, but neglects his Duty, he forfeits five pound to be levyed on his Goods: And any person sued for acting, by this Law, may plead the General Issue, and give the special matter in Evidence, and shall recover treble costs.

CHAP. IX.

The Constables Office about Clothiers.

THe Constables and other Officers, upon request to them made, are to be aiding and assisting to the Wardens and Assistants for regulating the Trade of Worsteds and other Stuffs called *Norwich* Stuffs, made within the City of *Norwich* and County of *Norfolk*:
14 Car. 2. ch. 5.

The Constables also within the West-Riding of the County of *York*, are upon Warrant from the Justices of Peace, Masters and Wardens of the Corporation of Clothiers within the said Riding, or any Thirteen of them, to levy such Fines, Forfeitures and Penalties as shall grow due from any Clothier,

Clothier, by vertue of the Act of the 14 Car. 2. by distress and sale of the offenders Goods, rendring the overplus to the owner upon Demand. 14 Car. 2. c. 31.

The makers of Cloth must pay to their Carders, Spinners, and other Labourers their wages in ready money, and not in Wares, and shall deliver them Wool according to due weight on pain to forfeit six pence for every default; and the Carders, Spinners, Weavers, Fullers, Dyers, Shear-men, and other Labourers are to do their work faithfully, in pain to forfeit double damages to the party grieved. 4 E. 4. ch. 1. Fitz. J. P. 203. & Wingates Abr. Stat. Tit. Drapery.

And every Justice of Peace, High Constable, or Steward of Leet, out of a Corporation, and in a Corporation every head Officer where no Master is, and every Matter shall hear and determine the complaints of every such Clothier or Draper, as well for non-payment of the Labourers wages, as the damages aforesaid, by due examination of the parties, for which said damages they have power to commit the offenders

offenders to the Gaol, until the party grieved shall be satisfied. 4 E. 4. ch. 1.

Wingate's Abr. Stat. Tit. Drapery.

The High Constables also, or Justices of the Peace, have power to enter into any House, Lands, or other place, to search for any Tenters, Ropes, Rings, Headwrinches, or other Engines, for stretching of Cloth, and if they find any to deface them; and if the owners shall afterwards use them again, then these Officers may take and sell them, and give the money to the poor. 39 Eliz. ch. 20. *Wingate's Abr. Stat. Tit. Drapery.*

CHAP. X.

The Constables Office about the Customs.

WHere a Warrant comes from my Lord Treasurer, or any of the Barons of the Exchequer, or chief Magistrate of a Port, to any person for the search of uncustomed Goods, such person with the assistance of a Sheriff, Justice of Peace, or Constable, who are to be aiding and assisting upon request

quest, may enter into any House in the day time, where such Goods are suspected to be concealed, and in case of Resistance, may break open such Houses, and seize and secure the same Goods so concealed in any House. 12 Car. 2. ch. 19.

No house is to be entred by vertue of the Act aforesaid, unless it be within the space of one month after the offence supposed to be committed, and if the Information, whereupon any house shall come to be searched do prove to be false, then in such case the party injured shall recover his full damages and costs against the Informer, by Action of Trespas to be brought against such Informer. 12 Car. 2. ch. 19.

And by the 14 Car. 2. such person or persons as are authorized by Writ of Assistance, under the Seal of his Majesties Court of Exchequer, are to take a Constable, Headborough, or other publick Officer inhabiting near the place, and in the day time are to enter and go into any House, Shop, Cellar, Warehouse, Room, or other place, and in case of Resistance, break open the Doors, Chests, Trunks, and other package,

package, there to seize, and from thence to bring any kind of Goods or Merchandize whatsoever, prohibited and uncustomed, and to put and secure the same in his Majesties Store-house in the Port next to such place where the seizure shall be made. 14 Car. 2. ch. 11.

All Officers belonging to the Admiralty, Captains, and Commanders of Ships, Forts, Castles and Blockhouses, and all Justices of Peace, Mayors, Sheriffs, Constables and Headboroughs, and other the Kings Majesties Officers and Subjects whatsoever, whom it may concern, are to be ayding and assisting to all and every person and persons which are or shall be appointed by his Majesty to manage his Customs: and if the Officers of the Customs, or any acting in aid of them, shall be sued, indicted, prosecuted or molested, such persons, their Heirs, Executors and Administrators, may plead the General Issue, and give the several Acts relating to the Customs, or any of them in Evidence, in any of his Majesties Courts of Justice. 14 Car. 2. ch. 11.

CHAP. XI.

The Constables Office about Setting-Dogs, &c.

Every Constable or Headborough, (upon a Warrant under the hands of two or more Justices of the Peace) hath power to search the houses of persons suspected to have any Setting-Dogs, or any manner of Nets, for taking of Pheasants or Partridges, and the Dogs and Nets there found, to take, carry away, detain, kill, destroy, and cut in pieces. *Dalt. J. P. ch. 37. fol. 90. 7 Jac. c. 11.*

But note, that they cannot search the houses of such as have Free Warren, or are Lords of any Mannor, or have Freehold of Forty pounds by year or more, of some Estate of Inheritance, or Eighty pounds by the year for Term of Life, or be worth in Goods Four hundred pounds, for these may keep Nets or Dogs to take Pheasants or Partridges in their own grounds or Precincts. *7 Jac. c. 11. Dalt. J. P. ch. 37. fol. 90.*

CHAP.

CHAP. XII.

The Constables Office about Escapes and Arrests.

IF a Constable, or any other, which hath a Prisoner under Arrest for Felony, or Suspicion thereof voluntarily letteth or suffereth the Prisoner to go where he will at liberty (though this be breaking of Prison) yet it is Felony in the Gaoler, Constable, or him that letteth such prisoner escape, but it is no Felony in the prisoner; but if such a prisoner shall escape by the negligence of his keeper, and against his will and knowledge, then it is Felony in the prisoner, because a breach of Prison, and the Gaoler, Constable, &c. may be Fined by the Judges or Justices for such Escape. *Bro. Coron. 112. 224. 316. 454. & Bro. Escape 31. Stamford fol. 32. 44. Ass. Pl. 18. Dyer fol. 99. Dalt. J. P. c. 106. fol. 272.*

If the Constable, or other Officer, shall voluntarily suffer a Thief, being in his custody, to go into the Water, and drown himself, this Escape is Felony

lony in the Constable, and the drown-
ing makes the Thief *Felo de se*; but if
the Thief shall suddenly (without the
assent of the Constable) kill, hang, or
drown himself, this is then but a neg-
ligent Escape in the Constable, and
Fineable as aforesaid. *Dalt. J. P. ch. 106.*
fol. 272.

The voluntary letting of a Felon to
escape before he be arrested for the fe-
lony, is no felony in the party that suf-
fereth him to escape; but if the Con-
stable suffer one to escape when he
knows he hath committed a Felony; in
such case he may be indicted and fined
for suffering the escape; and *quare* if
it do not make him Accessary to the
Felony. *9 H. 4. 1. Stam. 32. Bro. Escape.*
43. Dalt. J. P. c. 106. f. 272.

If a man be Arrested for suspicion of
Felony by the Constable, or other person,
and after they shall have Intelligence
that there is no such Felony committed,
here they may set the party Arrested at
Liberty again, and they shall not be
charged with the Escape; for there can
be no Felon, where there is no Felony
committed. *13 H. 7. 7. & Cromp. 40.*
Dalt. J. P. c. 106. f. 275.

But

But if a Felony be committed indeed, and one is Arrested for the same, or for Suspicion thereof; though the Constable or other person that made the Arrest, shall after have certain Intelligence and knowledge that the Party Arrested is not Guilty of the offence; yet they may not set the party at liberty, for he must not now be delivered by any mans discretion, but by due course of Law, otherwise it will prove a voluntary Escape, and so Felony, or at least Finable. *Cromp.* 40. 44. *Aff.* 12. *Dalt.* J. P. c. 106. fol. 275.

In all cases of misdemeanour, where a private person hath Authority to Arrest any for any offence, it is requisite for him to carry and deliver the Prisoner to the Constable, or some other Officer. *vide* 20 E. 4. 6. *Dalt.* J. P. c. 118. fol. 338.

But in case where a Justice of Peace, Constable, or other Officer comes to a Felon to arrest and take him, and he perceiving, flies into another County before he can be taken, in such case the Felon shall be carried before some Justice of Peace of that County where he is taken, and must be committed to the Gaol.

Gaol of that County, although the Felony were committed in another County. *Bro. faux Impr. 25. 11 E. 4. fol. 5. a. Dalt. J. P. ch. 118. fol. 340.*

If a man be Arretted for Felony, and the Constable carry him to the Gaol, and the Gaoler will not receive him, then 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, by the opinion of the Book, 10 H. 4. or the Constable may in such case keep the Prisoner in his own house, as it hath been held by some. See 11 E. 4. *Bro. faux Impr. 25. in fine. Dalt. J. P. ch. 118. fol. 340, 341.*

But in such case where the Gaoler refuses to receive a Prisoner as above-said, or takes any thing for receiving him, upon Information thereof to the Justices of the Gaol Delivery, they will punish him for his offence. 4 E. 3. c. 10. *Poulton Prison 6. Dalt. J. P. ch. 118. fol. 341.*

The Constable, or other Officer, that shall Imprison in the Stocks any Felon, may lock the Stocks, and if need be, may also put Irons on the Prisoner, and

and when he conveyeth him to the Gaol, or to the Justice, he may pinion him, or otherwise make him sure, so that he cannot escape. *Dalt. J. P. ch. 118. fol. 342.*

CHAP. XIII.

The Constables Office about Excise.

THose Officers under the Commissioners of Excise, called Gagers, are to have the Constable along with them, when they enter by night into the Houses of any Brewer, Inn-keeper, Victualler, &c. to Gage their Coppens, Fats, or Vessels, or to take an Account of their Beer, Ale, Worts, Perry, Syder, Strong-waters, Metheglin, Mead, Coffee, Chocolate, Sherbet or Tea, brewed, made or distilled in the said Houses. *12 Car. 2. c. 23, 24.*

Such persons as shall be convicted before the Justices of Peace, or Commissioners of Excise, of any offence and Forfeiture within the Acts for Excise; The Constables, upon Warrant to them directed from the Justices of Peace, are

to

to levy the penalties upon the Goods of the offenders by distress and sale thereof, rendering the overplus to the owners, and for want of distress, they are to carry the party to the Gaol, there to remain till satisfaction be made. 12 Car. 2. ch. 23, 24.

The Constables are also upon Warrant to them directed to Summon all Alehouse-keepers, &c. to appear before the Commissioners of Excise at such days and places as shall be appointed in the said Warrants from time to time.

CHAP. XIV.

The Constables Office about Fish.

THE Constables and Churchwardens, by Warrant from any one or more Justices of the Peace (where any offence is committed in destroying the spawn and breed of Fish, along the Sea-shoar, or in any Haven or Creek, or within five miles of the mouth of any Haven or Creek, by Fishing with Nets of less Mesh then
three

three Inches and an half between knot and knot) are to levy the penalty by distress and sale of the offenders Goods, rendering the overplus to the owners ; the penalty is Ten shillings and forfeiture of their Nets. 3 Jac. c. 12. *Wingate's Abr. Stat. Tit. Fish. Fishers and Fishing.*

If any Ling, Herring, Codd, or Pichard, Fresh or Salt, dried or bloat-ed, or any Salmon, Eels or Congers, taken by Foreigners, Aliens to the Kingdom of *England*, shall be imported, uttered, sold, or exposed to sale in this Kingdom ; in such case the Constable, Headborough, &c. or any other person may take and seize the same, and one half thereof must go to the use of the Poor of the Parish where the same is so found and seised, and the other half to the use of the party that seizes the same.

18 Car. 2. c. 2.

CHAP. XV.

The Constables Office about Forceible Entries, &c.

IF a Constable, or any private person of the same County do refuse to attend and assist the Justices of Peace, upon request to remove a Force, or to convey the parties to the Gaol, he may be imprisoned for his neglect, and make Fine to the King. 15 R. 2. ch. 2. *Dalt. J. P. c. 22. f. 57.*

CHAP. XVI.

The Constables Office about Hedge-breaking, &c.

ALL such Lewd persons as are convicted before a Justice of Peace, for taking away any Corn growing, Robbing of Orchards, breaking Hedges, &c. and their Procurers, and Receivers knowing the same, if they cannot give the Parties grieved such satisfaction as the Justice shall think fit, then the

the Justice may commit him to the Constable to be whipped for the first offence, and the like pain for the second offence. And if the Constable or other inferiour Officer, do not by himself, or some other, see the same be done accordingly, then the Justice may commit such Officer to the Gaol, there to remain without Bail, until the said offender be by the said Constable, or some other by his procurement, whipped as aforesaid, and this by the 43 *El. ch. 7.*

But now by the 15 *Car. 2.* every Constable, Headborough, or other person, in every County, City, Town-Corporate, or other place, where they shall be, Officers and Inhabitants, have power to apprehend, or cause to be apprehended such persons as they suspect, for having or carrying, or any wise conveying any Burthen or Bundles of any kind of Wood, Underwood, Poles, or young Trees, or Bark or Bast of any Trees, or any Gates, Styles, Posts, Pails, Rales, or Hedge-wood, Broom or Furze; and any Constable, Headborough, &c. by War-

rant under the Hand and Seal of one
D Justice,

Justice, &c. may enter into the Houses, Outhouses, Yards, Gardens or other places belonging to the Houses of such persons as they shall suspect to have any Woods, Underwoods, &c. and wheresoever they shall find any, such to apprehend, or cause to be apprehended the persons suspected for cutting the same, and those also in whose houses or other places belonging to them any such Wood, Underwood, &c. shall be found, to carry before some Justice of Peace of the County, City, &c. and if the party cannot give a good account to the Justice how he came by the same Wood, &c. by the consent of the owner, such as to satisfy the Justice, or shall not within such time as the Justice appoints, produce the party of whom he bought it, or some other credible witness to depose upon Oath such sale of the said Wood, &c. then such person shall be deemed convicted of the cutting and spoiling Wood, &c. within the meaning of the Statute of 43 Eliz. aforesaid; and for the first offence, if they do not give the owner such satisfaction, and within such time as the Justice shall appoint, and pay o-
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ver and above down presently to the use of the Poor of the place where the offence is committed, such a sum of money as the Justice shall appoint, not exceeding ten shillings, then the Justice may commit the party offending to the House of Correction for so long time, not exceeding one Month, as he shall think meet, or otherwise to be whipped by the Constable or other Officer; and if such person offend again, and be convicted as before, then he must be sent to the House of Correction for one month, and there held to hard labour; and if he offend the third time, and be convicted, then he must be used as an incorrigible Rogue. 15 Car. 2. ch. 2.

And if any person buy any burthens of Wood, Poles, Sticks, Underwood, &c. of any who may justly be suspected to have stolln, or unlawfully come by the same; then upon complaint to a Justice of Peace, Head-Officer, &c. if upon examination by Oath, &c. he find that the same were bought of such person as aforesaid, then the Justice may order the party that bought the same to pay the treble value of the Wood,

&c. to the party from whom they were stoln or unlawfully taken; and in default of present payment, the Justice may issue out his Warrant to the Constable to levy the same by distress and sale of the Offenders Goods, rendring the overplus to the owner, and for lack of such distress, then to commit the party to the Gaol at his own charge, there to remain one month without Bayl. 15 *Car. 2. ch. 2.*

Note, that none is to be punished by this Law, who hath been punished by a former Law for the same offence, nor is any to be questioned for any offence within this Statute, unless it be within six weeks after the offence committed. 15 *Car. 2. ch. 2.*

CHAP. XVII.

The Constables Office about High-ways.

THE Churchwardens and Constables, or Tythingmen of every Parish are upon the Monday or Tuesday in Easter week (after notice given publickly in the Church the Sabbath day before)

before) after Morning Prayer ended, with the advice and consent of the major part of the Parish then present, to choose two or more of the sufficient Inhabitants of the place, to be Surveyors or Supravisors for their Highways for the next year, and give notice thereof to the parties chosen in writing, under pain of five pounds to be forfeited by the same Constable, Churchwardens and Parish by the *Stat. 14 Car. 2. ch. 6.* which Statute is to continue till the end of the first Sessions of the next Parliament, or they may be punished by Fine or Amerciamment in the Quarter Sessions, by the discretion of the Justices, 2, 3 *P. & M. ch. 8.*

The Constables and Churchwardens are then also to appoint six days betwixt that and the four and twentieth day of *June*, for the amendment of the Highways, and to give publick notice thereof in the Church the next Sunday after. 2 & 3 *P. & M. ch. 8.* & 5 *El. ch. 13.*

Stewards in Leets have power to enquire after the breach of the Act of the 2 & 3 *P. & M.* about Highways,

and to set Fines upon such as make default, at their discretion, and shall within six weeks after *Michaelmas* deliver Indented Estreats thereof under their Hands and Seals, *viz.* one part thereof to the Bayliff or High Constable of the Liberty, and the other to the Constable and Churchwardens of the Parish where the Default was made. 2 & 3 P. & M. *ch.* 8.

And in default of presentment thereof in Leets, the Justices of Peace in the Sessions shall enquire thereof, and set such Fines as they or two of them *quor. unus*, shall think fit; whereof the Clerk of the Peace shall deliver Indented Estreats under his Hand and Seal, within six weeks of *Michaelmas*, in like sort as aforesaid. 2, 3 P. & M. *ch.* 8.

And these Estreats of the Stewards of Leets, or Clerk of the Peace, shall be a sufficient Warrant for the Bayliff or chief Constable to levy the said Fines by way of Distress; and if no Distress can be found, or the party do not pay the Fine within twenty days after lawful demand thereof, he or they shall forfeit double so much; all which Fines
and

and Forfeitures shall be bestowed by the Constable and Churchwardens on the Highways in the same Parish. 2, 3 P. & M. ch. 8. Dalt. J. P. ch. 26. fol. 71.

And the Bayliff or High Constable is yearly, between the first of *March* and last of *April*, to render unto the Constable and Churchwardens to whom the other part of the Estreat was delivered, a true Account of the Moneys received by them, in pain of Forty shillings, and the said Constables and Churchwardens have power to call the Bayliff or High Constable before two Justices of the Peace (*Quor. un.*) to pass the Account, who have power to commit such Bayliff or High Constable, until they have satisfied all the Arrearages by them received. 2, 3 P. & M. ch. 8. Dalt. J. P. ch. 26. fol. 70.

And upon passing such Account, every Bayliff or High Constable shall have allowed Eight pence for their pains for every pound collected, and Twelve pence for the Fee for the Estreat delivered. 2, 3 P. & M. ch. 8. Dalt. J. P. ch. 26. fol. 70.

Any two Justices of Peace, upon complaint to them made by the succeeding Constables and Churchwardens, may call before them the precedent Constables and Churchwardens, and may take their accounts, and compel them, as aforesaid, to pay in all Arrearages in their hands. 2, 3 *P. & M. ch. 8. Dalt. J. P. ch. 26. fol. 71.*

All Fines and Forfeitures assessed in the Sessions upon the *Stat. 5 El.* about High-ways, must be Estreated by the Clerk of the Peace, and must be levied, accounted, and imployed as is appointed by the 2, 3 *P. & M. ch. 8. 5 El. ch. 13.*

The Surveyers upon Warrant from two Justices of Peace, are to levy by distress and sale of Goods, the Forfeitures of all such persons as offend against the 18 *El. 10.* in not Scowring their Ditches, &c. and if they neglect by the space of a year after the offence committed to levy the Forfeiture: Then the Justices may send to the Constable and Churchwardens to levy the same. 18 *El. ch. 10.*

The Constables or other Officers by Warrant from any of his Majesties Justices

offices of either Bench, Barons of the Exchequer, or Justices of the Peace to them directed, are to levy by Distress and Sale of the Offenders Goods and Chattels, all such penalties (rendring the overplus to the owner) as shall be forfeited by any person upon the Act of the 14 *Car. 2. ch. 2.* for repairing the High-ways and Sewers, and for paving and keeping clean the Streets in and about the Cities of *London* and *W.minster*, &c. and for default of Distress or *Non-payment* of the said penalties within six days after demand thereof, or notice in writing left at the house or dwelling place of the Offender, by the said Constable or other Officer; the said Offender not being a Peer of the Realm, may be committed to the common Gaol of the said County or City respectively, by the Warrant of any such Justice under his Hand and Seal, there to remain without Bayl or Mainprize until payment.

14 *Car. 2. ch. 2.*

By the *Stat. 22 Car. 2. ch. 12.* All Constables and Surveyers of the High-ways shall put in execution the Statutes for repairing or enlarging High-ways.

ways, and levy the penalties thereby imposed. And every Constable or Surveyer of the High-ways neglecting so to do, or wilfully suffering any Wagons or Carts to pass through his Limits, with any more Horses or Cattle, or in any other manner than this Act alloweth, upon conviction thereof by one Oath before one Justice, or the Justices own view, shall pay such fine (not exceeding 40 s.) as such Justice shall Assess.

All Actions brought against any person for acting by this Law, shall be laid in the proper County, and Defendants may plead the General Issue, and recover treble Costs.

The Clause in the former Act about the Tyre of Wheels is repealed.

Enacted that after the 24th. of *July*, 1670. No travelling Wagon, Cart, &c. in which any Burdens shall be carryed, (except Carts used about Husbandry, and carrying Hay, Straw, Corn unthrashed, Coal, Chalk, Timber for Shipping or Building, Stones of all sorts, Ammunition or Artillery for the King) shall be drawn or go in any road or publick High-way, with above five Horse-

Horse-beasts at length, and if any draw with more Horses or Oxen, he shall draw all two abreast except one Horse.

Every owner of any Wagon, Cart, &c. Horse or Beasts, shall forfeit for every offence 40 s. One third part to the Surveyers to amend the ways; one third part to the Overseers for the Poor; The last third part to him who shall discover the Offender; to be levied as the penalties against Constables, &c. for their neglects before mentioned.

The Surveyor upon neglect to come and labour, shall complain thereof to the next Justices, who upon Oath of one witness, shall levy for every day labour neglected 18 d. and for every Man and Horse 3 s. and for every Cart with two men 10 s. for each day neglecting.

CHAP. XVIII.

The Constables Office about Stoned Horses.

NOne ought to put to feed upon Forests or Commons (except they be Commons where Mares are not usually kept) any Stoned Horse, being above two years old , and not fifteen hands high from the lower part of the hoof to the upper part of the wither (every hand containing four inches Standard measure) in pain to forfeit the same Horse. 32 H. 8. ch. 13.

If any Stoned Horse of lesser Stature be put to feed in any such Common (unless it be in Fen-grounds of the Isle of Ely, and of the Counties of Cambridge, Huntington, Northampton, Lincoln, Norfolk, or Suffolk, where they need be but thirteen hands high) any man may seize them to his own use, so that first by the assistance of the keeper of the ground, or Constable, Bayliff, Headborough, or other such Officer of the Parish adjoining , such Horse be brought to the next Pound, and there by such Officer, in the presence of three other

other sufficient men, he be measured and found lower then the Statute. 32 H. 8. *ch.* 13. 8 Eliz. *ch.* 8. *Wingate Abr. Stat. Tit. Horses.*

Those that refuse to Measure, or to be present at Measuring do forfeit 40 s. a-piece for every such default, to be divided between the King and Prosecutor; but note that an Horse that makes an Escape into such Common, shall not be questioned, so that he stay not above Four days after notice thereof at the owners House, or in his Parish Church, 32 H. 8. *ch.* 13.

Forests and Common grounds must be driven yearly at *Michaelmas*, or within fifteen days after, by the Keepers, Constables, or other Officers abovesaid, in pain of Forty shillings; and they have power to drive them at any other time of the year at their pleasure, and such likewise have the owners of the ground. And if upon the drift any unlucky Tits shall be found, they may be killed. 32 H. 8. *ch.* 13. *Wingate Abr. Stat. Tit. Horses.*

Note that this Act of the 32 H. 8. *ch.* 13. is not to extend to the County of *Cornwall*. 21 Jac. *ch.* 28.

CHAP. XIX.

The Constables Office about Hue and Cry.

THe Constables and Officers of every Town, to which Hue and Cry shall come, ought to search in all suspected houses and places within their Limits, and as well the Officers as all other persons, which shall pursue the Hue and Cry may attach and stay all such persons, as in their search and pursuit they shall find to be suspicious, and thereupon shall carry them before some Justice of Peace of the County where they are taken, to be examined, where they were at the time of the Felony committed; and if any Default be in the Officers, they may be fined by the Justices for their Neglect. *Dalt. 7. P. ch. 28. fol. 75.*

In case of a Robbery where Damages are recovered against one or some few Inhabitants of the Hundred, and the rest refuse to contribute thereunto, in such case two Justices of the Peace (*Quor. un.*) dwelling within or near the Hundred, may for the levying

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ing thereof set a Tax upon every Parish within that Hundred; according to which the Constables and Headboroughs of every Town must Tax the particular Inhabitants within their Constableries, and then levy the money upon such as refuse by Distress and Sale of their Goods, restoring them the overplus, and after the money is gathered, they are to deliver the same to the Justices, or some of them that made the Rate within ten days. 27 Eliz. chap. 13. *Wingate's Abr. Stat. Tit. Robbery. Poult. Hue and Cry 6. Dalt. J. P. ch. 48. fol. 132.*

The Hundred where fresh suit shall cease, shall answer half the Damages to the Hundred where the Felony was committed, to be recovered in any Court at *Westminster*, in the Name of the Clerk of the Peace of the County where the Felony was committed, and here the death or change of the Clerk of the Peace, shall not abate the Suit; to be taxed and levied as aforesaid. 27 *Eliz. ch. 13. Wingate's Stat. Tit. Robbery.*

Note, that the Hundred is not charge-

chargeable for the Robbery; when any one of the Ma'efactors shall be apprehended, or when the Action is not prosecuted within one year after the Robbery committed; and note also that the Hue and Cry shall not be deemed Legal, unless the pursuit be both by Horse and Foot. *Wingate's Stat. Tit. Robbery. Bract. Lib. 3. fol. 121. vide Co. 7. Lib. fol. 6, 7. 23. Eliz. Dyer fol. 370. Dalt. J. P. fol. 133.*

He that goeth not at the command of the Sheriff or Constable at the cry of the County, that is upon Hue and Cry to Arrest Felons, after Attainder shall be grievously fined and imprisoned. *West. 1. ch. 9. Co. 2. Part. Inst. fol. 172. 2 H. 7. 15. b. 5 H. 7. 5. a.*

CHAP. XX.

The Constables Office about Labourers and Servants.

THe Constable in the time of Hay and Corn Harvest, upon the request to him made by any man who
wants

wants Labourers; for the avoiding of the loss of Corn, Grain, and Hay, may cause all such Artificers, as he shall see meet to labour, to serve by the day for Mowing, Reaping, or otherwise, for the getting in of Corn or Hay abroad, according as they see them fit and able to perform; and if such persons shall refuse to work, after they are requested thereunto by the Constable, the Constable may then fet them in the Stocks by the space of two days and one night; and if the Constable neglect to perform his Office, he Forfeits Forty shillings. 5 Eliz. ch. 14. *Wingate's Stat. Tit. Labourers.*

And it is also provided by the said 5 Eliz. that no person retained in Husbandry, or in any Arts appointed by that Statute, shall depart after the time of such Retainer expired, out of the City, Town, or Parish where he last served, to serve in another without a Testimonial, to wit, (in a Town Corporate) under the Hands and Seals of the Magistrate and two Household-holders there, and in the Country under the Hands and Seals of the Constable or Constables, and two Household-holders.

holders of the Town or Parish where he last served) which Testimonial must be Registred by the Minister, for which he is to have Two pence, and then to be delivered to the Party. 5 *El. c. 4. Wingate's Stat. Tit. Labourers.*

But these Testimonials are now very seldom used, although the Statute be very penal in the same; for the Master that retains a Servant without such a Testimonial forfeits five pounds, being thereof convicted upon Indictment taken in the Sessions of the Peace, and every Servant which sheweth not such a Testimonial to the chief Officer in a Corporation, or to the Constable or such other Officer, Minister or Churchwardens of the place where he is to dwell, may be imprisoned till he procure one, and if he produce not one within one and twenty days, next after the first day of his Imprisonment, or if he shall shew a false or counterfeit one, then he is to be whipped and used as a Vagabond. *Dalt. J. P. ch. 31. fol. 86. 5 El. ch. 4.*

The Form of a Testimonial is after this manner :

Memorandum that A. B. Servant to C. D. of Kirk-Leaventon, in the County of York, Husbandman, is Licenced to depart from his said Master, and is at his Liberty to serve elsewhere according to the Statute in that Case made and provided. In witness whereof we have hereunto set our Hands and Seals this Tenth day of November, in the 19th. year of the Reign of our most gracious Sovereign Lord King Charles the Second ; Annoque Domini 1667.

Jo. Mettcalfe Constable of Kirk-Leaventon.

T. H. }
G. B. } Householders there.

If it be one that lives with a woman, then say, *is Licenced to depart from his Mistress or Dame as she is ;* and if his Master be not an Husbandman, but a Taylor, Smith, Joyner, or some other Trade, then name him accordingly in the Testimonial.

CHAP. XXI.

The Constables Office about Malt-making.

THe Constables and Bayliffs of any Town, where any deceitful Malt shall be made, or mingled to be sold contrary to the *Stat. 2 E. 6.* may from time to time view and search all such Malt as shall be made, or put to sale within any of their Towns, being evil made, or mingled with evil Malt, contrary to the Statute; then the said Constable or Bayliff, so finding any such deceitful Malt, with advice of any one Justice of Peace, may cause the same to be sold to such persons, and at such reasonable prizes, as to the discretion of the same Justice shall seem expedient. *2 E. 6. ch. 10. 21 Jac. ch. 28. 3 Car. 1. c. 4. Dalt. J. P. ch. 33. fol. 86, 87.*

Now these deceitful Malts are of three sorts, to wit, such as are not well made, and that is where Barly Malt hath not in the making thereof in the Fat, Floor, Steeping and drying thereof, three weeks at the least, except it be in the Months of *June, July and August,*

and

and in those Months it must have 17 days; for under such times it cannot be well made nor wholsom. 2 E. 6. ch. 10. *Dalt. J. P. ch. 33. fol. 87.*

Secondly, No Malt ought to be put to sale, unless before the sale thereof, by treading, rubbing and fanning it, they take out of every Quarter half a peck of dust, or more, on pain to forfeit 20 pence for every Quarter otherwise sold, to be divided between the King and the Prosecutor. 2 E. 6. 10.

And thirdly, if any Malts be put to sale, which are not well made, as aforesaid, according to the limited time, or which are made of Mow burnt or Spiced Barly, or mixed of good and bad together, they forfeit for every Quarter so put to sale two shillings to be divided between the King and the Prosecutor, as aforesaid. 2 E. 6. ch. 10. & *Wingate's Stat. Tit. Malt.*

Note, that none shall be punished by this Act, who only make the Malt for their own provision, nor for the penalties of 20 d. or 2 s. per quarter, unless the Action be prosecuted within one year. *Wingate Stat. Tit. Malt. 2 E. 6. ch. 10. Dalt. J. P. ch. 33. fol. 87.*

CHAP. XXII.

The Constables Office about the Militia.

THe Constables by Warrant to that purpose, under the Hand and Seal of the Lord Lieutenant, or any three or more of the Deputy Lieutenants, are to Levy such Sums, Forfeitures, Penalties and Payments, as shall be charged upon any person, or persons, within their severall Constableries, for the furnishing of Arms, Horse, or Foot, or payment of Soldiers, &c. according to the Acts for the Militia. 14 Car. 2. ch. 3. 15 Car. 2. ch. 4.

And where sufficient Distress cannot be had, then the Lord Lieutenants, or their Deputies, by like Warrant to the Constable, may commit such Offender to Prison until he shall make satisfaction according to the said Forfeiture, Payment, or Penalty. 15 Car. 2. ch. 4.

CHAP.

CHAP. XXIII.

The Constables Office about Moss-Troopers.

THe Constables and other Officers within the Counties of *Northumberland* and *Cumberland*, upon Warrant from the Justices of the Peace, are to Levy by Distress and sale of the Parties Goods (rendring the overplus to the owners) all such sums as shall be charged upon any person within their severall Constableries, by the Justices at their Sessions, for the safeguard of the Counties against the Injury, Theft, and Rapine of Moss-Troopers; and the Justices also may examine any complaint against the Constables or other Officers that shall neglect, or refuse, or fail to give obedience to the Act, or do any thing in disturbance thereof, and bind over such person to the Quarter Sessions to be proceeded against according to Justice. 14 *Car. 2. ch. 22.*

This Act took force from *Michaelmas*, 1662. and was to continue five years, and now by the *Stat. 18 Car. 2.*
it

it is continued for seven years longer,
which is till *Michaelmas*, 1674. 18 Car.
2. ch. 3.

CHAP. XXIV.

*The Constables Office about the Disturbing
of Ministers.*

IF any shall purposely, without Authority, disturb a Preacher lawfully licenced in his Preaching of the Word, Praying, or Administring of the Sacraments, either by their talking, laughing, humming, or the like, any one of the Constables or Churchwardens of the place, may of his own Authority presently apprehend the party, and carry him before a Justice of Peace of the same County, who upon due accusation may, if he think fit, commit him to safe custody, and within six days after, taking with him another Justice of the Peace, they may examine the matter, and if by proof of two witnesses they find it true, they must commit him to the Common Gaol, there to remain for Three months, and from
thence

thence to the next Quarter Sessions, at which upon the parties Reconciliation, and entring into Bond, for the good behaviour for one whole year (at the discretion of the Justices he may be released) but if he persist still in his obstinacy, he must remain in Prison still without Bayl, until he shall reconcile, and be penitent for his offence. *1 Mar. Sess. 3. ch. 3. Wingate's Stat. Tit. Sacraments. Dalr. J. P. ch. 41. fol. 103.*

He that rescues an offender in this kind, shall suffer like imprisonment, and forfeit Five pounds besides, and the Inhabitants that suffer such an offender to escape, being presented before the Justices of Peace in the Sessions within the County, or Corporation where the escape was made, do also forfeit Five pounds. *Wingate's Stat. Tit. Sacraments. 1 M. Sess. 2. c. 3.*

This Act does not restrain the Jurisdiction of the Ecclesiastical Law, howbeit none are to be punished twice for one offence; *Quere* of this Statute, for some think it is Repealed by the *1 El. c. 2. vide Lamb. 199. Cromp. 14. Dalr. J. P. c. 41. fol. 103, 104.*

CHAP. XXV.

The Constables Office about the Peace.

THe Constable may do what he can to keep the Peace, but he cannot take Surety of the Peace at the request of any man. *Cromp. 6. 12 H. 7. fol. 18. a.*

Note, That the breach of the Peace is said to be any injurious force or violence used against the person of another, his Goods, Lands, or other Possessions, whether it be threatenng words or furious gestures, or force of the body, or any other force used *in terrorem*. *Dalt. J. P. ch. 3. fol. 9.*

The Constable, or other Officer, before he Arrest the party upon a Warrant for the Peace, ought first to acquaint him with the matters, and withal, to require or charge the party in the Kings Name, to go along with him before the Justice, to find and put in Sureties according to the Warrant; and if the party refuse either to go before the Justice, or to find Sureties; then the Officer by vertue of the said
Warrant

Warrant may and ought forthwith Arrest him, and convey him to the Gaol without carrying him to any Justice, and there the party is to remain until he shall voluntarily offer and find Sureties; and then such officer must be at the next Sessions of the Peace, there to deliver his said Warrant in, and to certify all that he hath done thereupon. *Dalt. J. P. ch. 69. fol. 166. 5 E. 4. 13. Lamb. 92. Bro. faux Imp. 18. Cromp. 235.*

But if the party yield to go and find Sureties, then the Officer may not absolutely Arrest him, but yet the Officer is not bound to go up and down with the party to find Sureties, but may keep him till he can procure Sureties to come to him; and if afterwards the party shall make any resistance, or shall offer to go his way, then the Officer may Arrest him, and carry him to the Gaol, or else imprison him in the Stocks until he can provide aid to carry him to the Gaol. *Dalt. J. P. ch. 69. fol. 166.*

If a Constable or other Officer, having a Warrant from a Justice of Peace to Arrest a man, to find Sureties for the Peace, do afterwards receive a *Super-*

persedeas out of the Chancery, &c. or from another Justice of the Peace of the same County, to discharge the same Surety of the Peace, and yet nevertheless the Officer will urge the party to find Sureties by vertue of the Warrant, the party may refuse to give it, and if he be Arrested or Imprisoned for such Refusal, he may have his Action of false Imprisonment against such Officer; for such *Supersedeas* is a Discharge of the former Precept or Warrant. *Lamb. 101. Dalt. J. P. c. 69. fol. 168.*

If any shall abuse a Constable in doing of his Office, the Constable may have the party bound to his good behaviour for it. *Fitz. Barr. 202. Cromp. 135.*

If a Constable be informed that a man and a woman be in Adultery or Fornication together, or that a man and a woman of evil Report are gone to a suspected house together in the Night, the Constable may take company with him, and if he find them so, he may carry them before a Justice of Peace, to find Sureties for the good behaviour. *13 H. 7. 10. Bro. Travers. 432. Dalt. J. P. ch. 75. fol. 189.*

CHAP. XXVI.

The Constables Office about Physicians.

THe Constables and other Officers in London, and within seven miles round, are to be aiding and assisting to the President of the Colledge of Physicians, and all persons authorized by the said Colledge for the due execution of the Laws and Statutes belonging to the said Colledge, upon pain of running into contempt to the King. 1 M. Par. 1. Sess. 2. c. 9. *Wingate's Stat. Tit. Physicians.*

CHAP. XXVII.

The Constables Office about the Plague.

IF any person Infected, or being or dwelling in an house infected with the Plague, shall be by the Constable commanded to keep his house, and notwithstanding shall wilfully go abroad and converse in company, having any infectious Sore on him, it is Felony,
E 3 and

and if such person shall not have such Sore about him, yet for his offence he shall be punished as a Vagabond, by the appointment of any one Justice of the Peace, and further shall be bound to his good behaviour for one whole year. *Wingate's Stat. Tit. Plague. 1 Jac. c. 31. Dalt. J. P. c. 39. fol. 91.*

The Justices of Peace, or any one of them, and other Head Officers in Corporate Towns, within their several limits, may appoint Searchers, Watchmen, Examiners, Keepers, and Buriers for the persons and places infected; and if any person infected, or dwelling and being in an house infected, shall contrary to the commandment or appointment of the Justice of Peace, or Constable, &c. wilfully attempt to go abroad, or to resist such their Keepers or Watchmen, then may such Watchmen with violence force them to keep their houses, and if any hurt happen thereupon, the Watchmen shall not be impeached therefore. *1 Jac. ch. 31. Dalt. J. P. ch. 39. fol. 91. Cromp. 122. b. Wingate's Stat. Tit. Plague.*

If the Constable or other Officer wilfully neglect to levy the money (by Warrant

Warrant from two Justices of Peace, upon the Statute for Relief of any Town infected with the Plague) by Distress and sale of the Goods of such persons as refuse or neglect to pay; then they forfeit for every such Offence ten shillings to be employed to the said Charitable use. *Wingate's Stat. Tit. Plague. 1 Jac. c. 31. Dalt. J. P. c. 39. fol. 91.*

CHAP. XXVIII.

The Constables Office about conveying Prisoners to the Gaol.

AN Offender which is to be conveyed to the Gaol, if he be able, must bear all charges, both of himself and of those that guard him; and if he refuse to defray and bear the charges, or shall not at the time of commitment pay or bear the same, then upon a Warrant from a Justice of Peace, the Constable of the Township, where the Offender hath any Goods (being within the same County) may sell so many of the parties Goods as in the discretion

of the Justice shall be thought sufficient to satisfy the said charges, the Apprisement to be made by Four Inhabitants of the Parish where such Goods be, and the overplus to be rendred to the owner. 3 Jac. c. 10. Dalt. c. 43. fol. 104. *Wingate's Stat. Tit. Prison.*

And if the Offender have no Goods to satisfy the charges, then the charge must be born by the Town where the Offender was taken, which must be laid on by way of Tax by the Constable, Churchwardens, and two or three other honest Inhabitants, and where there are no such Officers, then four of the principal Inhabitants of the Parish must lay on the Tax, which being allowed under the hand of a Justice of Peace, every Inhabitant must pay their proportion according to the Tax; and if any refuse to pay, the Constable, Tythingman, or other Officer, by Warrant from a Justice of Peace, may levy the same by Distress (and after apprisement by four Inhabitants there) may sell the same, rendring the over-plus to the party so refusing. 3 Jac. c. 10. *Wingate's Stat. Tit. Prison.*

Here if the Constable, or other Officer,

cer, that distrains, be sued, he shall plead Justification, and upon verdict for, or Non suit of the Plaintiff, he shall recover treble Damages, besides Costs of Suit. 3 Jac. c. 10.

CHAP. XXIX.

The Constables Office about Purveyance.

THe Constab'les duty about Purveyance, upon the *Stat. 36 E. 3. c. 2. 5 E. 3. ch. 2. 20 H. 6. ch. 8. 23 H. 6. ch. 14. & 2, 3 P. & M. ch. 6.* is now of little or no use; for it is enacted by the *12 Car. 2.* That from henceforth no Moneys, or other thing shall be taken, rated or levyed for any Provision, Carriages, or Purveyance for the King, his Heirs, &c. or for the King, Queen, or any of their Children, for the time being, or any of his Household, of any Timber, Fewel, Cattel, Corn, Grain, Malt, Hay, Straw, Victuals, Cart, or Carriage, Oxen, Horses, Ploughs, Wains, or other Carriages, or any other thing from any Subject, without the full and free consent of the owner.

first obtained without menace or enforcement ; but note , that this afore-said clause being found to be too prejudicial to the King, if the Subjects might not be forced at reasonable prices to furnish the King with Carriages , it is therefore altered by the *Stat.* of the 13 *Car.* 2. *ch.* 8. and is thus enacted :

That the Clerk or Chief Officer of the Kings Carriages three days before his Majesties Arrival, by Warrant from the Greencloth , shall give notice in writing to two Justices of the Peace adjoining to the place where his Majesty is to come, to provide such a number of Carts and Carriages as the said Officer shall need for the work, and to express the time and place where the said Carts and Carriages are to attend ; and then these Justices are to require the Country to provide the number of Carts and Carriages of four able Horses , or four Oxen and two Horses a piece, at six pence a mile for every mile they go laden, to be paid them in hand at the place of lading ; and no Carriage to be enforced to travel above one days Journey , from the place where they receive their Lading ; and if any refuse,

refuse, or shall not be ready at the time and place, not having good cause to shew to the contrary, the said Justices upon due proof thereof, and conviction of the offence by the Oath of two Witnesses, or the Oath of the Constable, or other Officer, may (by their Warrant) cause to be levied of the Goods of the Offender 40 s. by distress and sale, rendering the overplus to the owner. 13 Car. 2. c. 8.

If any Justice of Peace, Officer, or Constable, shall take any Gift or Reward to spare any person from making such Carriage, or shall impress more Carriages then shall be directed from the Greencloth, upon due proof and conviction thereof, the parties offending shall forfeit Ten pounds to be recovered by any person by Action of Debt in any of his Majesties Courts of Record: And if any person shall take upon him to Impress Horses, Oxen, Carts and Carriages, other then the persons aforesaid, upon conviction of the offence, he shall suffer the punishment contained in the 12 Car. 2. c. 24. which see in the ensuing case of Pre-emption. *vide* 13 Car. 2. c. 8.

No Pre-emption shall be allowed to the King his Heirs or Successors, nor to the Queen, or any of the Children of the Royal Family, in Market, or out of Market; but it is now lawful for all Subjects to dispose of their goods as they please, and if any person shall make any Purveyance, or Impress any Carriages (otherwise than as is appointed by the 13 *Car. 2. c. 8.* in the two before going Cases by order of the Greencloth) or other things by colour of any Authority of Purveyance for the King, &c. contrary to the 12 *Car. 2. ch. 24.* then two or one Justice of Peace next adjoining, and the Constable of the place where such offence shall happen, at the request of the party grieved, shall commit the party offending to the Gaol, until the next Sessions, there to be Indicted and proceeded against for the same, and the party grieved shall have his Action against the Offender, and therein shall recover treble damages and treble costs. 12 *Car. 2. c. 24.*

Two or more Justices of the Peace by Warrant from the Lord High Admiral of England, or two or more of the

the Principal Officers, or Commissioners of the Navy, or of the Master of his Majesties Ordnance, or the Lieutenant of his Ordnance, are to provide Carriages with Horses and Oxen out of the Country, not being above 12 miles distant from the place of lading, the owners of which Carriages, or their Servants, are to receive for every load of Timber 12 pence *per* mile, and for every Tun of other Commodities 8 pence *per* mile; and such persons as refuse or neglect to make their appearance, then upon Oath by the Constable, or two credible Witnesses, before the Justices, &c. such person refusing or neglecting, forfeits 20 s. to be levied by Distress and Sale of his Goods and Chattels by Warrant from the said Justices, Mayor, or other chief Officer, or from the principal Officers or Commissioners of his Majesties Navy, or Master or Lieutenant of his Majesties Ordnance, respectively, rendring the overplus, if there be any (the charge of Distraining being first deducted) to the owner. 14 Car. 2. c. 20.

Note, That no Horses, Oxen, Cart, Wain, or other Land Carriage, shall be

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inforced to travel more days Journey from the place where they receive their Lading, or be compelled to continue longer in the employment; then shall be appointed by the order of the said Justices of Peace, and that ready money be made to the parties in hand at the place of Lading, according to the Rates aforesaid. 14 Car. 2. c. 20.

If the Justices, Mayor, chief Officer, Constable, or any person appointed, shall take any Gift or Reward to spare any, or maliciously charge or grieve any person through Envy, &c. they forfeit Ten pounds, to be recovered in any of his Majesties Courts of Record. And if any take upon them to Impress Horses, Oxen, Carts, &c. other then the persons aforesaid, they are to be punished as is appointed by the 12 Car. 2. c. 24. which see before in the case of Pre-emption. 14 Car. 2. c. 20.

Note, that this Act of the 14 Car. and the 13 Car. c. 8. stand upon continuance till the end of the first Session of the next Parliament.

CHAP. XXX.

The Constables Office about Quarter Monies for Maimed Soldiers, Prisoners, &c.

THe Constables and Churchwardens are to levy, by Distress and Sale of the Offenders Goods, such money as is rated upon any person within their Constabery for the Relief of poor maimed Soldiers and Mariners, rendering the overplus to the owner. 43 Eliz. 3. *Wingate's Stat. Tit. Captains and Soldiers.* 14 Car. 2. c. 9.

And this Money, so collected, is to be paid quarterly to the High Constable of the Hundred Ten days before every Quarter Sessions, or else the Constable and Churchwardens, their Executors, &c. forfeit twenty shillings: And the High Constable is to pay in the Collection money (to the Treasurers appointed by the Justices) every Quarter Sessions, or otherwise he, his Executors, &c. forfeits 40 s. which forfeitures are to be levied and employed by the Treasurers for the increase
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of their Stock for the uses aforesaid.
 43 *El. c. 3.* 14 *Car. 2. c. 9.* & *Wingate's Stat. Tit. Captains and Soldiers.*

The High Constables are to make Quarterly payment, at every Sessions unto the Collectors appointed by the Justices, of all such Sums of money as are raised in every Parish, and paid to them by the Churchwardens or Constables, for the Relief of the poor Prisoners in the Gaol, under pain of Five pounds. 14 *El. c.* *Wingate's Stat. Tit. Prison and Prisoners.*

The Constables and Churchwardens are to levy, by Distress and Sale of the Offenders Goods, so much money as is rated upon any person within their Parish, for the Relief of the Prisoners in the Kings Bench and Marshalsey, and also of Hospitals and Almshouses, and relief of the poor within their County, rendering the overplus to the owner; and for want of such Distress, the Justice of Peace may commit the party to Prison, there to abide till it be paid, without Bayl or Mainprize; which money the Churchwardens are to pay to the High Constable ten days before the end of every Quarter Sessions; and

if the Churchwardens their Executors, &c. fail to pay this Money, they forfeit Ten shillings; and if the High Constable, his Executors, &c. fail to pay the Treasurers of the County the same money at the Quarter Sessions, they forfeit twenty shillings; which Forfeitures the Treasurers may levy by Distress and Sale as aforesaid, and the Moneys to be employed to the uses aforesaid. 43 Eliz. ch. 2. Wingate's Stat. Tit. Poor People. Dalt. J. P. ch. 53. fol. 135.

CHAP. XXXI.

The Constables Office about Popish Recusants.

Popish Recusants above Sixteen years of Age, shall within Forty days after their conviction repair to their usual dwelling, and not remove above Five miles from thence, in pain to forfeit all their Goods and Lands, and Annuities during Life; and if they have no certain abode, then are they to repair to the place where they were born,

born, or where their Father and Mother dwells, and within twenty days after their arrival, there to give their Names in writing to the Minister, Constables and Headboroughs, which Minister is to enter them in a Book to be kept for that purpose, and he, together with the said Constables and Headboroughs, are to certify the same to the next Quarter Sessions, where the Justices of Peace must cause the same to be inrolled. 35 *El. c. 2. Wingate's Stat. Tit. Crown.*

The Constables and Churchwardens of every Parish, or the one of them, or if there be none such, then the High Constables of the Hundred there, are once every year to present at the General Sessions of the Peace, the monthly absence from Church of every Popish Recusant and their Children, being above the age of nine years, and their Servants together with the age of their Children as near as they can know them, in pain to forfeit respectively for every such default twenty shillings; which Presentment the Clerk of the Peace, or Town Clerk shall Record without Fee, in pain of Forty shillings.

shillings. *Wingate's Stat. Tit. Crown, 3. Jac. c. 4.*

If the Minister, petty Constable, or Churchwardens of any Parish, or any two of them, shall complain to any Justice of Peace, of any person suspected for Recusancy, then any such Justice may tender the Oath of Supremacy to the person suspected, and if he refuse to take it, then the Justice may commit the party to the Gaol, there to remain until the next Assises or Sessions of the Peace; and if then the party refuse again, he incurs a *Premunire*, but if it be a Woman Covert, she shall only be imprisoned, there to remain without Bail till she take the said Oath. *Wingate's Stat. Tit. Crown. Dalt. J. P. ch. 45. fol. 108. 7 Jac. c. 6.*

CHAP. XXXII.

The Constables Office about Riots and Routs.

Sheriffs, Constables, and all other the Kings Officers, shall suppress Rioters, and imprison them, and all other
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ther Offenders against the Peace. *Wingate's Stat. Tit. Riots, &c. 27 R. 2. ch. 8.*

Knights and all other Temporal persons under that degree, that be above the Age of Fifteen years, and be able to Travel, upon warning given are to be assistant to the Justices, when they shall be reasonably requested to suppress Riots on pain of Imprisonment, and to make Ransom to the King. *2 H. 5. 8. Wingate's Stat. Tit. Riots, &c. Dalt. J. P. ch. 46. fol. 114.*

Note, where three persons or more shall come or assemble themselves together, to the intent to do any unlawful Act, with force or violence, against the person of another his possessions or Goods, as to kill, beat, or otherwise to hurt, or to imprison a man; to pull down an House, Wall, Pale, Hedge, or Ditch; wrongfully to enter upon, or into another mans Possession, House, or Lands, &c. or to cut or take away Corn, Grass, Wood, or other Goods wrongfully, or to hunt unlawfully in any Park or Warren, or to do any other unlawful act (with force or violence) against the Peace, or to the manifest terrour of the people; if they only

only meet to such a purpose or intent, although they shall after depart of their own accord, without acting any thing, yet this is an unlawful Assembly, because of their intention at the first. *Bro. Tit. Riot. 4, 5. Cromp. 68. Co. 3 part. Inst. fol. 176. Dalt. J. P. ch. 85. fol. 217. Terms de Ley, verb. Rout. Lamb. 179. 181.*

If after such meeting, as aforesaid, they shall ride, go, or move forward towards the execution of such Act, whether they put their intended purpose in execution or not, this is a Rout. *Bro. Riot. 4. Co. 3. part. Inst. fol. 176. Terms de Ley, verb. Rout. Dalt. J. P. ch. 8. fol. 217.*

And if they do any such thing indeed, then it is a Riot. *Co. 3 part. Inst. fol. 176. Terms de Ley, verb. Riot. Dalt. J. P. ch. 85. fol. 217. Bro. Riot. 4 & 5.*

CHAP. XXXIII.

The Constables Office about Rogues and Vagabonds.

THE Constable Headborough, or Tythingman, assisted by the Minister and one other of the Parish, is to see (or do it himself) Rogues and Vagabonds, which shall be taken begging, stripped naked from the middle upwards, and openly whipped till their body be bloody, and then forthwith to be sent away from Constable to Constable the next straight way to the place of their birth, and if that cannot be known, then to the place where they last dwelt by the space of one whole year, before such punishment; and if that cannot be known, then to the Town through which they last passed unpunished: And when they come there, if it cannot be discovered where they were born, or last dwelt as aforesaid, then are they by that Constable to be conveyed to the House of Correction, or Common Gaol of the County, to be employed in work, or placed

placed in some service, and so to continue by the space of one year; or in case they be not able in body, that Town is to keep them till they may be placed in some Almshouse within the same County. 39 El. ch. 4. *Wing. Stat. Tit. Vagabonds. Resoluc. Judges Sect. 714. Bolst. 2. Part. Rep. fol. 258.*

After such whipping, the Vagabond is to have a Testimonial under the Hand and Seal of the Constable, Tything-man, &c. and the Minister, testifying the day and place of his punishment, the place to which he is to be conveyed, and the time limited for his passage thither; which time, if by his own Default he exceeds, he shall from time to time incur the like punishment, till he arrive at the place limited; the substance of the Testimonial is to be Registred by the Minister in a Book, which he is to keep for that purpose in pain of Five shillings. See the Form of the Testimonial, pag. 104. *Wingate's Stat. Tit. Vagabonds. Dalt. J. P. fol. 129. Poulton Vagab. 3.*

If any Constable, Headborough or Tythingman, be found negligent in the due execution of the Act of the 39 Elizabeth.

liz. aforefaid, he forfeits Ten ſhillings for every Default, and all ſuch perſons as ſhall in any wiſe diſturb or hinder the execution of the Law, or any part thereof, concerning the puniſhment of Rogues; forfeit Five pounds, and to be bound to the good behaviour: and obſerve therefore that by the Reſolution of the Judges, *Señ. 13, 14.* where a Rogue is to be conveyed from Conſtable to Conſtable the next ſtraight way to the place of his birth, in ſuch caſe, if the Conſtable of any Pariſh will not receive ſuch Rogue, to convey him to the next Conſtable, &c. this is a forfeiture of Five pounds in ſuch Officer that ſhall not receive the party, to convey him or her, and he may be bound, as aforeſaid, to the good behaviour, and if he receive him, and do not convey him to the next Conſtable, it ſeems he incurs the like penalty, 39 *Eliz. ch. 4. Poul. Vag. 5, & 11. Dalt. J. P. ch. 47. fol. 128. & Reſol. Judges. Señ. 13, 14.*

Every perſon ſhall apprehend or cauſe to be apprehended, ſuch Rogues as he ſhall ſee or know to reſort to his houſe to beg, or receive any Alms,
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and him or them shall carry, or cause to be carried to the next Constable, or else shall forfeit for every such default Ten shillings; and the Constable is to whip and convey such Rogues as afore directed, on pain of twenty shillings. *1 Jac. ch. 7. Poul. Vag. 5. Dalt. J. P. ch. 47. fol. 128. Wingate's Stat. Tit. Vagabond.*

Two Justices of the Peace (*quor. un.*) by Warrant under their Hands and Seals, may cause to be levied by Distress and Sale of the Offenders Goods all the Fines and Forfeitures afore said, appointed by the *Stat. 39 Eliz. ch. 4. & 1 Jac. ch. 7.* after Conviction of the party, which must be after by confession or proof of two sufficient Witnesses before the said Justices; *Poul. Vag. 1. 39 Eliz. ch. 4. 1 Jac. ch. 7. Dalt. J. P. ch. 47. fol. 149. Wingate's Stat. Tit. Vagabond.*

If the Constables or Tythingmen neglect to make privy search for Rogues upon Warrant from the Justices of Peace, and to appear before the Justices at their meeting appointed for that purpose, to give an Account upon Oath in Writing under

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the Ministers hand, testifying what Rogues, &c. they have taken in that search, or since the last meeting, and how many have been punished, or otherwise sent to the House of Correction, or if they neglect safely to convey such to the House of Correction, as by the said Justices Warrant are to be committed thither, they are to incur what Fine the Justices please to set upon them, so that it exceed not Forty shillings. 7 Jac. ch. 4. *Wingate's Stat. Tit. Vagabond.*

Any Justice of Peace may Reward any person or persons who shall apprehend and bring before him any Rogue, Vagabond, or Sturdy Beggar, by granting to such person a Warrant under his Hand and Seal to the Constable, or Tythingman of the place, through which the Rogue, &c. did pass, unapprehended, ordering the Constable, &c. to give such person two shillings for every Rogue so taken; and if such Constable, &c. refuse or neglect to pay the same, the Justices of the Peace may proceed against such Constable, &c. according to the Statute of the 1 Jac. ch. 7. before mentioned,

oned, and then compel him to pay so much money as he hath forfeited by the said Statutes, and allow the said Two shillings out of the said forfeiture to the said person, and also reasonable allowance for loss of time, as they shall think fit. 14 Car. 2. c. 12.

And if any person shall apprehend any Rogue, &c. at the Confines of any County, which passed through any Parish of another County unapprehended, then the person so apprehending such Rogue must carry him to some Justice of Peace of that County, through which he passed unapprehended, who (upon a Certificate under the hand of some Justice of Peace of the County where such Rogue was apprehended) is to grant his Order or Warrant under his Hand and Seal to the Constable, &c. to pay two shillings as aforesaid; which if he refuse or neglect, then the Justice is to proceed against such Constable, &c. and cause him to pay Ten shillings to the party, or so much thereof, for loss of time, as the Justice shall think fit. 14 Car. 2. c. 12.

Whereas Constables, Tythingmen,

&c. are at great charges in Relieving conveying with Passes, and carrying Rogues, *&c.* to the Houses of Correction, *&c.* It is enacted that all Constables, Tythingmen, *&c.* so out of Purse, together with the Churchwardens and Overseers of the Poor, and other Inhabitants of the Parish, may make a Rate and Tax all the Inhabitants of the Parish, chargeable by the 43 *Eliz.* which Rate must be confirmed by two Justices of the Peace under their Hands and Seals; and if any person refuse to pay his part thereof, then by Warrant from Two Justices the Constable may levy the same upon the parties Goods, that refuseth, rendring the overplus to the owner, if any be. 14 *Car. 2. ch. 12.*

Note, That all these persons following, being above the Age of seven years, Man or Woman, Sole or Covert, that wander from their usual place of abode, abroad every where begging; or if they do not beg, yet if they wander and loyter abroad without a lawful Passport, and give no good reason for their Travel, are accounted Rogues: All Scholars and Sea-faring

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ring men which beg, wandring persons, that use unlawful Games, subtile Craft, or Plays, or pretending themselves to have skill in Physiognomy, Palmestry, or the like, or to be Fortune-tellers; all Proctors, Patent-gatherers (except for Fire) Collectors for Gaols, Prisoners, or Hospitals, wandring abroad, Fencers, Bearwards, Common Players of Enterludes, and Fiddlers or Minstrels wandring abroad, all Juglers, Tinkers, Pedlers, and petty Chapmen, and Glass-men wandring abroad, especially if they be not well known, or have not a sufficient Testimonial; all counterfeit *Egyptians* not being Felons; all persons delivered out of Gaols, which beg for their Fees, or otherwise do travel begging, such as go to or from the Bathes and do not pursue their Licence; Soldiers and Mariners that beg, and counterfeit a Certificate of their Commanders; All Labourers which wander abroad out of the Parish, and refuse to work for wages reasonably taxed, having no living otherwise to maintain themselves, and such as go with a general Passport which is not directed from Parish to

Parish ; all these are accounted Rogues, Vagabonds, and Sturdy Beggars: And all Servants departing out of their Service (to wit, forth of one City, Town or Parish to another, or out of one Hundred or County to serve in another) without a Testimonial , or which shall be taken with a false one , and those that are sick of the Plague , and wilfully go abroad in company against the command of Officers , are to be punished as Vagabonds , but observe that none but the wandring Rogue is to be sent to the place of his birth, or last habitation ; for those poor people which beg in their own Parish, without the appointment of the Overseers, or in the High-ways, are to be sent to the House of Correction. 39
Eliz. ch. 4. & 17. 43 Eliz. ch. 2. 1 Jac. ch. 7. 21 Jac. ch. 28. 7 Jac. ch. 24. 5 Eliz. ch. 4. P^ult. Vag. 2 & 7. Resol. Judges. 13, 15. Dalt. J. P. ch. 47. fol. 123, 124, 125. & Cro. 2. part. Rep. fol. 577.

Note, That the Wife , and Children under seven years of age , being vagrant, must go and be placed with the Husband ; and if the Husband be dead,

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then with the Wife where she was born, or last dwelt; and vagrant Children above seven years of Age, must be sent to the place of their birth; and if the vagrant Parents with their Children under seven years of Age be placed at the place of the birth of the Parents, or at the last place of dwelling, as the case falls out; if afterwards the Parents, or either of them die, or run away, yet the Children once settled, must remain there still, and may not be sent to the place of their birth, though afterwards they attain to the age of seven years; and the Wife being but a vagrant Rogue, ought to be sent to the Husband, though he be but a Servant in another Town, and the Rogue whose place of birth or dwelling cannot be known, having a Wife or Children under seven years of age, they must go with the Husband to the place where they were last suffered wilfully to pass through unpunished; where the Children must be relieved with the work of their Parents, though their Parents be committed to the House of Correction. 39 El. *ch. 4. Poult. Vag. 2. Resoluc. of the Judges, Sect. 4, 5. Dalt. J. P. ch. 47. fol. 125.*

Now the Form of a Testimonial, for the conveying a Rogue that hath been banished, is as followeth;

John Roo a Sturdy Vagrant Beggar (of tall stature, gray haired, and blind of the left Eye) aged about fifty years, was this 2d. day of February, in the twentieth year of the Reign of our most gracious Sovereign Lord King Charles the Second of England, &c. openly whipped at Kirk-Leaventon in the County of York, according to Law, for a wandring Rogue; and is assigned to pass forthwith from Parish to Parish, by the Officers thereof, the next straight way to A. in the County of Westmerland, where as he confesseth he was born; and he is limited to be at A. aforesaid, within Ten days now next ensuing at his peril. Given under the Hands and Seals of J. H. Minister of Kirk-Leaventon aforesaid, and J. M. Constable there. Wingate's Stat. Tit.

CHAP. XXXIV.

The Constables Office about Profane Swearing.

IF any person or persons shall profanely Curse and Swear, for every time so offending they forfeit Twelve pence; the offence to be proved within Twenty days after it is committed, by the Oath of Two Witnesses, or by confession of the party before any Justice of Peace, or Head Officer of any City or Town Corporate; who thereupon may issue out their Warrant to the Constables, and Churchwardens, and Overseers of the Poor of that Parish where the said offence shall be committed, and the said Constables, &c. are to levy the sum and sums of money by distress and sale of the Offenders Goods, rendring the overplus, if any be, to the owner. 21 Jac. ch. 20. 3 Car. I. c. 4. *Wingate's Stat. Tit. Swearing. Dalt. J. P. c. 55. f. 138.*

Note, Where no Distress is to be had, the Offender, if above Twelve years of Age, shall by Warrant as a-
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foreſaid, to be ſet in the Stocks Three whole hours; but if the Offender be under the Age of Twelve years, and ſhall not forthwith pay the ſaid ſum of Twelve pence *per* Oath, then he or ſhe is to be whipped by the Conſtable, or by the Parent, or Maſter, in the Conſtables preſence. 21 *Jac. chap. 20. 3 Car. 1. chap. 4. Dalt. J. P. chap. 55. fol. 138.*

CHAP. XXXV.

The Conſtables Office about Profaning the Sabbath.

THE Conſtable by Warrant from a Juſtice of Peace, (or the chief Officer of any City, Borough, or Town Corporate) under their Hand and Seal, againſt ſuch as uſe unlawful Games on the Sabbath day, as Bull-baiting, Bear-baiting, Enterludes, or other unlawful Exercises within their own Pariſh, or out of their own Pariſh at any ſuch Sports whatſoever, may levy the penalty of Three ſhillings and Four pence by Diſtreſs and Sale of the Offenders Goods,

Goods, rendering the overplus to the owners; and in default of Distress, the Constable is to fet the Offenders in the Stocks by the space of three hours: Note, that the party offending in these Games, must be questioned within a month after the offence committed. *1 Car.*

1. ch. 1. Dalt. J. P. ch. 23. fol. 63.

If any one on the Sabbath day keep, or be present at any Wrestlings, Shootings, Bowlings, Ringing of Bells for pleasure, Mask, Wake, Church-Ale, Dancing, Games, Sport, or pastime whatsoever, they forfeit Five shillings, if he or she be above Fourteen years of Age, and if under that Age, then Twelve pence by him that hath the government of the party, to be levied by Sale and Distress by the Constable, by Warrant from a Justice of Peace, or chief Officer, as aforesaid; and for want of Distress to be fet Three hours in the Stocks; and every Carrier going with his Horses on this day, or Wagoner, Carter or Waynman going with any Wagon, Cart or Wayn, or Drover with his Cattel, forfeit Twenty shillings for every offence, to be levied also by Distress and Sale of his Goods,

Goods, if he be questioned within Six weeks after the offence done; but there must be but one Twenty shillings forfeited for one Journey, although they pass through several Parishes, and this Twenty shillings that Parish shall have where the Distress is first taken. 3 Car. 1. ch. 1. *Dalt. ch. 50. fol. 134.*

And if any Butcher by himself, or any for him, shall kill or sell any Victuals upon the Lords day, he forfeits Six shillings and Eight pence, to be levied by the Constable by Distress and Sale, as aforesaid, upon Warrant from a Justice of Peace, &c. the offence to be questioned within Six weeks after it is committed, and the parties to be convicted before any Justice of Peace, Mayor, or head Officer, &c. upon their own view, proof of Two Witnesses or more, or the parties own confession; and the Justice, Mayor, &c. may reward the Informer with a Third part of the penalty. 3 Car. 1. ch. 1. *Dalton's J. P. ch. 50. fol. 134.*

CHAP. XXXVI.

The Constables Office about Tobacco Planting.

ALl Sheriffs, Justices of Peace, Mayors, Bayliffs, Constables, and every of them, upon Information or Complaint made to them, or any of them, by any of the Officers of the Customs, or by any other person or persons whatsoever, that there is any Tobacco set, sown, planted, or growing within their Jurisdictions or Precincts (except such as is growing in any Physick Garden of either University, or in any other private Garden; where the quantity of ground planted exceeds not one half of one Pole, in any one place or Garden) they are within ten days after such Information or Complaint, to cause to be burnt, plucked up, consumed, or utterly destroyed all such Tobacco so set, sown, planted, or growing. 12 Car. 2. c. 34.

And if any person or persons shall resist, or make forceable opposition against any person or persons in the due execu-

execution of this Office as abovesaid, every person or persons for every such offence, shall forfeit the sum of Five pounds, to be recovered in any Court of Record; and be also committed to the common Gaol of the County where the offence was committed, there to remain without Bayl or Mainprize, until he, she, or they, do enter into Recognizance to his Majesty, his Heirs and Successors, with two sufficient Sureties in Ten pounds penalty, not to do or commit the like offence again. 12 Car. 2. ch. 34. 15 Car. 2. ch. 7.

CHAP. XXXVII.

The Constables Office about Weights and Measures.

Every City, Borough, and Market Town within *England*, ought to have common Weights and Measures sealed, at which the Inhabitants themselves may freely weigh; and all Foreigners must pay for every Draught under 40 pound, a Farthing, for a Draught between Forty and a Hundred,

dred, must pay an half penny, and for a Draught betwixt an Hundred and a Thousand they must pay a Penny; wherewith the Weights are to be maintained, and the Officers which attend that Service are to be rewarded at the discretion of the said Inhabitants. 8 H. 6. ch. 5. *Wingate's Stat. Tit. Weights and Measures.*

Every City which wants such Weights and Measures forfeits Ten pounds to the King, every Borough Five pounds, and every Market Town Forty shillings; and the chief Officers of such places, whether they be Constables, Bayliffs, or others are, upon Request to them made, to mark and sign such Weights and Measures to any of the Kings Subjects, taking for the marking of every Bushel one penny; and none ought to sell with any other Weights or Measures, but such as are so marked. 8 H. 6. ch. 5. 11 H. 7. ch. 4. *Wingate's Stat. Tit. Weights and Measures.*

Mayors and chief Officers are, &c. are at least once every year to view all Measures and Weights within their Jurisdiction, and break or burn them which

which they find defective, and also may inflict punishment upon the Offenders; for the first offence Six shillings Eight pence, for the second Thirteen shillings and Four pence, and for the third offence Twenty shillings; and besides, may adjudge them to the Pillory. *Wingate's Stat. Tit. Weights and Measures.* 11 H. 7. c. 4.

By the *Stat. 22 Car. 2. c. 8.* All Constables are impowred to search and examine if any person buy or sell by any other Bushel then *Winchester Measure*, containing Eight Gallons to the Bushel or Strike, and sealed by the Clerk of the Market; and if any person do not strike the same even with the brim; and any Constable may seize and break such other Measure, and present the Offender at the next Private or Quarter Sessions.

CHAP.

CHAP. XXXVIII.

The Constables Office about Watches.

THe Constables, &c. of every Town, are to cause Night Watch to be kept from *Ascension* till *Michaelmas*, in their Towns, which Watch must continue from Sun set to Sun rise, and may be by two or four men, according to the greatness of the Town. 13 E. 1. ch. 4. Dalt. J. P. ch. 60. fol. 140. Poul. Watch. 1.

These Watchmen are to apprehend all Strangers that pass by them in the Night, and must examine them; and if they find cause of suspicion in them, then they may keep them till the morning; and if the parties refuse to obey the Arrest, then the Watchmen may levy Hue and Cry for the taking of the said Night-walkers; or the Watchmen may justify the beating of them upon their resistance, and set them in the Stocks till the morning, and then if no suspicion be found in the parties, they may let them go quit: but if they find suspicion in them, then the Watchmen
may

may deliver them to the Constable, who is to convey them to a Justice of Peace to be examined, and to be bound over, or committed until they be acquitted according to due form of Law. *Dalt. J. P. ch. 60. fol. 140. & ch. 109. fol. 292. 5 E. 3. 14. 5 H. 7. 5. a. Lamb. Office Const.*

These Watchmen are also to apprehend Rogues and Vagabonds, Night-walkers, Evesdroppers, Scouts, and such like, and such as go armed, &c.

And note, that these particulars following have been held for Law concerning Watches.

First, That the Watch must be by men of able body, and sufficiently armed, and that no man is compellable to watch, except he be an Inhabitant within the same Town.

Secondly, That such as are Inhabitants within the Town, are not compellable to watch at the will of the Constable, but only when their turn cometh, according to the use and custom of the place, which most commonly is by turn, or house.

Thirdly, If a man who is compellable to watch, shall contemptuously refuse

to watch, upon the command of the Constable; it hath been held, by some, that the Constable in such case, *ex Officio*, may set the party in the Stocks for his contempt; but the safest way is for the Constable to present such person for his default at the Assizes or Sessions of the Peace, or else to complain of him to a Justice of Peace, who may bind the Offender to the good behaviour, and so over to the next Quarter Sessions, &c. *Dalt. J. P. ch. 60. fol. 141.*

CHAP. XXXIX.

The Constables Office about Executing Warrants.

A Justice of Peace may direct his Warrant to the Sheriff, Bayliff, Constable, or other Officer, or to any other Indifferent person by Name, though he be no Officer. *14 H. 8. 16. Bro. Peace 6. Dalt. J. P. ch. 117. fol. 332.*

A Warrant directed by the Justice of Peace to the Constable, or other sworn Officer, and to a Stranger who is

no Officer, and the Warrant is made to them joyntly and severally, and is delivered to the Stranger who executeth it, this is good enough: and if a Warrant from a Justice of Peace be directed to two men joyntly to Arrest another, yet any one of them may do it alone. *Cromp.* 147. *Dalt. J. P. ch. 117. fol. 332.*

If a Justice of Peace direct his Warrant to the Sheriff, he may by word command his Undersheriff, Bayliff, or other known and sworn Officer, to serve it without any Precept to them in writing, and they upon such Commandment of the Sheriff may lawfully do it. *Lamb.* 91. *Bro. faux Imprif.* 43. & *Trespass* 339. *Dalt. J. P. ch. 117. fol. 332.*

But if the Sheriff in such case do command a Stranger, who is neither his Servant nor Sworn Officer, then he must do it by Precept in writing, or otherwise an Action of false Imprisonment lies for the Arrest. *Dalt. J. P. ch. 117. fol. 332.*

Where a Warrant is directed by a Justice of Peace to the Sheriffs Bayliff, or his Servant, or to the Constable, or other private person to Arrest one, such

such person cannot command another to do it, neither by word nor writing, but must do it himself. *Co. 9. Lib. Rep. fol. 69. 14 H. 7. 9. b. 20 H. 7. 13. 21 H. 7. 14. Dalt. J. P. ch. 117. fol. 332.*

The Officer, to whom any Warrant shall be directed, ought with all speed and secrecy to seek and find out the party, and then to execute his said Warrant. *Dalt. J. P. ch. 117. fol. 332.*

A sworn and known Officer (be he Sheriff, Under-Sheriff, Bayliff, or Constable) needs not to shew his Warrant to a man when he comes to serve it upon him, although he demand it; but he who is no sworn Officer ought to shew his Warrant upon demand, or otherwise the party may make resistance and not obey him, and a sworn Officer also upon the Arrest, though he will not shew his Warrant, yet he ought to acquaint the party with the contents thereof. *M. & 8 E. 4. f. 14. a. Bro. faux Impr. 23. Dalt. J. P. c. 117. f. 332, 333. Co. 6. Lib. Rep. 54. & 9. Lib. f. 68.*

Note, that an Officer giveth sufficient notice what he is, when he saith to the party, *I arrest you in the Kings Name, &c.* and in such case the party at his

his peril ought to obey him, though 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 against him. *Co. 9. l. Rep. f. 69. Dalt. J. P. c. 17. f. 333.*

If a Constable or other Officer Arrest a man for the Peace, or the like, before that he have a Warrant, and then afterwards doth procure a Warrant (or a Warrant cometh after him) to Arrest the party for the same cause, yet the first Arrest was wrongful, and the Officer is subject to an Action of false Imprisonment. *Dyer f. 244. Lamb. 93. Dalt. J. P. c. 117. f. 333.*

Where a Warrant is granted out against *J. N.* the son of *T. P.* and the Constable or other Officer takes *J. N.* the son of *L. P.* although he in truth be the same person that offended, and against whom the complaint was made, yet this Arrest is tortuous, and the Officer liable to an Action of false Imprisonment. *10 E. 4. f. 12. Bro. fauce Impr. 38. Dalt. J. P. c. 117. f. 333.*

But it is said by some, that where two or three are known by the Name of *J. R.* of *K.* Yeoman, and upon a Warrant

rant or other process granted out against one of them, another of them is Arrested, in such case an Action of false Imprisonment will not lie against the Officer; *tamen Quere* hereof. 11 H. 4. fol. 90. 5 E. 4. fol. 51. Dalt. J. P. ch. 117. fol. 333.

Where an Officer hath received a Warrant, he is bound to pursue the effects of his Warrant in every behalf; or otherwise his Warrant will not excuse him of that which he hath done. Dalt. J. P. ch. 117. fol. 333.

The Constable, or other Officer, upon a Warrant from a Justice of Peace for Treason, Felony, the Peace, or good behaviour, or in any other case where the King is party, may by force of such Warrant break open a mans house to Arrest the Offender; but in such case he ought first to signifie the cause of his coming, and require them to open the Doors, before he break them open. Co. 5. Lib. Rep. fol. 9. 7 E. 3. 19. Cromp. 171. Dalt. J. P. ch. 78. fol. 204, 205. & ch. 117. fol. 333.

If a Constable or other Officer hath arrested a man by vertue of his Warrant, which he hath from a Justice of Peace,

Peace,

Peace, and then taketh his promise that he will come to him such a day to go to the Justice with him, according to his Warrant (and so he letteth the party go) who comes not again at the day appointed, in this case the Officer cannot take him again upon the same Warrant, because he was suffered to go by the consent of the Officer; but if the party Arrested had escaped of his own wrong without the consent of the Officer, in such case upon fresh suit he may take him again, and again so often as he escapeth, although he were out of view, or that he do flie into another Town or County; and it is said that the Officer in such case, though the party be taken in another County after the Escape, yet he may bring the party before the Justice on whose Warrant he was first Arrested. *Cromp.* 214. a. 148. 172. & 173. *Dalt. J. P. c.* 117. f. 333. & c. 118. fol. 340.

By the opinion of the Court of the 14 H. 8. it was held there that a Justice of Peace cannot make a Warrant to Arrest a Felon, unless he be Indicted of Felony (or that the Justice himself hath a suspicion of the Felon) But if

the

the Constable, or other Officer, shall serve such a Warrant, he may justify the same, though the Justice did erre in awarding thereof. 24 E. 3. 9. 14 H. 8. 16. Bro. Peac. 6. & faux Impr. 8 & 9. Dalt. J. P. ch. 117. fol. 331.

Note, That where a Justice of Peace doth make a Warrant for a matter wherein he hath Jurisdiction, though it be beyond his Authority, yet it is not disputable by the Constable, or other such Officer, but must be obeyed and executed by them; as if the Justice shall make a Warrant to Arrest one for the Peace, or good behaviour, &c. without any cause, the Officer shall not be punished for executing the Warrant: But if a Justice of Peace shall make his Warrant to do a thing out of his Jurisdiction, or in a Cause wherein the Justice is not Judge, then if the Officer shall execute such a Warrant he is punishable for it; for the Officer is not bound to obey him who is not Judge of the Cause, no more than he is bound to obey a meer Stranger; and so note that the Officer is bound at his peril to take notice of the Authority and

Jurisdiction of the Judge. See *Plo. Com.*
 394. b. 22. *Aff. fol.* 64. 14 H. 8. 16.
Lamb. 67. 94. *Co.* 10. *Lib. Rep. fol.* 76.
Cromp. 74. *Bro. faux Impr.* 8. *Dalt. J. P.*
c. 117. *fol.* 334.

If any shall abuse the Justice of Peace his Warrant, by casting it into the dirt, treading it under feet, burning it, &c. for such contempt the party may be bound to his good behaviour, and may also be indicted and fined for the same, for it is the Kings Process. *Cromp.* 149. *Dalt. J. P. c.* 117. *f.* 334.

Where Hue and Cry either by the Common Law, or by force of any Statute is levied upon any person, the Arrest of such person is lawful, although the cause of the Hue and Cry be Feigned; and if the Cause be Feigned, he that Levies the same shall also be Arrested, and shall be Fined and Imprisoned; but common Fame and voyce is not sufficient to Arrest a man in case of Felony, unless a Felony be done indeed. 29 E. 3. 9. 38 E. 3. 6. *Co.* 3 part. *Inst. fol.* 118. 21 H. 7. 28. a.

F I N I S.

Conductor Generalis.

A
G U I D E

F O R

Churchwardens, Overseers of
the Poor, Surveyors of the High
ways, Treasurers of the County
Stock, Masters of the House of
Correction, Bayliffs of Mannors,
Toll-Takers in Fairs, &c.



L O N D O N,

Printed in the Year, 1679.

Conductor Generalis.

A
GUIDE

FOR

Churchwardens, Overseers of
the Poor, Surveyors of the High
ways, Treasurers of the County
Stock, Members of the House of
Correction, and all of Mansors,
Toll Taken in this Co.



LONDON

Printed in the Year 1879.



To all Churchwardens,
Overseers, &c.

Gentlemen,

THese following Offices, as well
as that of the Constable, have
been touched also by Mr. Lambert,
and Mr. Sheppard: but since the
one writ, there have been many
hundred new Statute Laws; and
the other, Writing in the late
times of Rebellion, hath moulded
his work suitable to the Manners
then in fashion, and many of the
Rules laid down by Mr. Sheppard
in these several Offices, which
thwart the Laws of the Kingdom,
and Priviledges of the Church, are
now out of doors: I have therefore
(for the ease and satisfaction of
those who desire to be put in the right

126 The Epistle Dedicatory.

Way and sure Road in the executing of these several Offices) collected and published this small Treatise, briefly laying down the Authority and Duty of Churchwardens, Overseers, &c. in their several Offices. The desire of praise could not carry me aloft, who want Wings for it; but the main thing, here aimed at, is the good of my Country-men, and I hope to reap the fruit of my labour in it, that is, your kind acceptance, Dear Friends: which if I may obtain, it is all that is desired by him, who is, and shall be

Yours

Ready to serve you,

George Meriton.



A
GUIDE
 FOR
CHURCH-WARDENS.

CHAP. I.

The Antiquity of the Churchwardens Office, and how they are to be chosen.

1. **I**T is said by some Historians, that *Dionysius*, in the year of our Lord 267. divided both in *Rome* and other places, Churches, Church-yards, and Parishes to Curates, and Diocesses to Bishops, and this was about 87 years after *Britain* had received the Christian Faith: For though Historians do not all agree when the Christian Faith was first

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planted

planted here, yet it is thought by most of them to be in the Reign of King *Lucius*, about the year of our Lord 180. but how long after it was before these Officers called Churchwardens were appointed, it cannot certainly be known; but Mr. *Lambert* and other Authors do agree, that they are very antient Officers, and by the antient common Law they were, and are still to take care, see to, and preserve the Goods of the Church, *viz.* the Church Books, Communion Cups, &c. and other decent Ornaments and furniture of the Church, which they do find there at their coming into their Office.

2. As to the choice of these Officers it is appointed by the Book of Canons printed in the first year of King *James*, *An. Dom.* 1604. That all Churchwardens, Questmen, Sidemen, or Assistants in every Parish shall be chosen by the joynt consent of the Minister and the Parishioners, if it may be: But if they cannot agree upon such a choice, then the Minister shall choose one, and the Parishioners another; and without such a joynt or severall choice, none shall take upon them

them to be Churchwardens, neither shall they continue any longer then one year in that Office, except perhaps they be chosen again in like manner; and these Officers are to be yearly chosen in Easter-week. *Can. 89, 90.*

3. But note, where there is an antient custom in any Parish for the choice of Churchwardens contrary to this Canon, in such case the custom is to be observed before the Canon, as appears by several Cases hereafter mentioned.

4. If the Parishioners of a Parish have used time out of mind, &c. to elect one Churchwarden, and the Vicar another, and afterwards a Canon is made that the Vicar shall elect two, and he doth so accordingly, and the Parishioners elect one according to their custom, and the Ordinary disallows him, and establisheth the other two elected by the Vicar; in this Case a prohibition shall be granted. *P. 5 Jac. B. R. the Parishioners Case of Rowenden in Kent. Rolls cases, 2 part. f. 287.*

5. A Prohibition was granted against a Churchwarden chosen by the Parson of St. Magnus nigh London-bridge, by force of a Canon, upon a surmise

surmise that the Parish had a custom to choose two Churchwardens, *Tr. 7 Car. 1. B. R. bet. Shirlye & Brown, Rot. 1391. Roll's Cases, 2 part. fol. 287.* The like against a Churchwarden chosen by the Parson of *Alhallowes, London, P. 17 Jac. B. R. Warner's Case, & P. 5 Jac.* the Parishioners of *Walbrook's Case in London. Cro. 2 part. Rep.* The like against a Churchwarden chosen by the Parson of *St. Thomas in London, P. 15 Car. 1. B. R. Evelin's Case, Cro. 3 part.* and the like granted between *Draper and Stone for Abchurch in London, P. 4 Car. 1. B. R. Rot. 420. Roll's Cases, 2 part. f. 287.*

6. An Attorney cannot be made a Churchwarden : if he be put in and refuse, and so be sued in the Spiritual Court, he may have a Prohibition ; *P. 14 Car. 1. B. R. Wilson's case, & Tr. 15 Car. 1. B. R. Barker's case. Roll's cases, 2 part. f. 272.*

7. By the *Stat. 15 Car. 2.* All Vestry men, or those who are members of any Vestry within any Parish in the Cities of *London and Westminster, Borough of Southwark,* and Weekly Bills of Mortality, and in all other Cities, Boroughs and Towns Corporate, where

where Select Vestries are used in the Kingdom of England, are within one month after their Election, before the respective Archbishop, Bishop, or Ordinary, Vicar General or Chancellour of the Diocess to make and subscribe as followeth :

I A. B. do declare that it is not lawful upon any pretence whatsoever, to take up Arms against his Majesty. And that I do abhor that traiterous Position of taking Arms by his Majesties Authority against his person, or against those that are Commissionated by him. And that I will conform to the Liturgy of the Church of England, as it is now established. And I do declare, that I hold there lies no obligation on me, or on any other person from the Oath commonly called The Solemn League and Covenant, to endeavour any change or alteration of Government either in Church or State; And that the same was in it self an unlawful Oath, and imposed upon the Subjects of this Realm, against the known Laws and Liberties of this Kingdom. 15. Car. 2. c. 5.

8. He that refuses this Subscription within the time aforesaid, is *ipso facto* deprived of such his place of Vestryman,

man, and a new one to be chosen; and if such new one refuse also, or if such person who shall have right of Election, shall not proceed to Election within one month after such vacancy, then the respective Archbishop, Bishop or Ordinary of the Diocess may under his Hand and Seal elect and nominate a discreet person of the respective Parish, who after Subscription within the time aforesaid is to stand. 15 Car. 2. c. 5. This Act is to continue till the end of the first Session of the next Parliament.

CHAP. II.

The Churchwardens Office about Prophanation of the Sabbath, and of the Church.

9. **T**Hese Officers are diligently to see that all the Parishioners duly resort to their parish Church upon all Sundays and Holydays, and there continue the whole time of Divine Service, and none to walk or stand idle, or talking in the Church, Church-yard, or Church-Porch during that time; and all

all such as shall be found slack or negligent in resorting to the Church (having no great or urgent cause of absence) they shall earnestly call upon them, and after due admonition, if they amend not, they must present their Names to the Ordinary of the place. 5, 6 E. 6. c. 1. canon 19, 90, III.

10. If the Churchwardens find any person absent from the Church upon Sundays or Holydays, in the time of Divine Service, Preaching, or other holy Exercise, such person is to pay 12 *d.* to the use of the Poor; and this extends as well to all Women Covert, as to other persons: or the Churchwardens, if the please, may present such person in the Ecclesiastical Court. But note that none are to be punished twice for one offence, so that they must not pay their twelve pence, and be presented too. 1 *El. ch. 1. Hobbart's Rep. fol. 97.*

11. And if they find any Tipling in an Inn or Alehouse, &c. then, besides the twelve pence for being absent from the Church as aforesaid, they forfeit three shillings four pence more for Tipling, and the Master of the House

House ten shillings for suffering them to Tipple; which forfeitures are to go to the use of the Poor. 4 *Jac. c. 5.*

12. The Churchwardens or Questmen are to suffer no Plays, Feasts, Banquets, Suppers, Church Ales, Drinkings, Temporal Courts or Leets, Lay Juries, Musters, or any other profane usage to be kept in the Church, Chappel, or Church-yard; neither the Bells to be rung superstitiously upon Holy days, or Eves abrogated by the Book of Common Prayer, nor at any other times, without good cause, to be allowed by their Minister of the place and by themselves. *Canon 88.*

13. Neither the Minister, Churchwardens, nor any other Officers of the Church, shall suffer any man to preach within their Churches or Chappels, but such as by shewing their Licence to preach shall appear unto them to be sufficiently Authorized thereunto: And the Churchwardens or Questmen are also to see that in every meeting of the Congregation the Peace be well kept, and that all persons excommunicated, and so denounced, be kept out of the Church. *Canon 50. 85.*

CHAP. II.

*Some few Cases concerning Actions for
and against Churchwardens.*

14. **N**Ote, that the Law doth make of these Officers a kind of a Corporation, viz. Persons enabled by that name to take moveable Goods or Chattels, and to sue and to be sued at Law concerning such Goods for the use and profit of their Parish; for the property of the Goods of the Church is in them, and they are by that Name enabled to take them for the use and profit of the Parish: and therefore a man may well in his life time, or by his last Will, give or grant Money, or other moveable Goods to the Churchwardens, or Parishioners of such a Parish, for the Reparations of the Church, or for buying of Books, Communion Cups, Linnen Cloths, or other decent Ornaments or Furniture for the Church. 12 H. 7. fol. 27. Finch's Law, lib. 2. ch. 17. pag. 178. Kitchin, pag. 278. a.

15. But they cannot take an Estate of
Lands

Lands to them by Name of Churchwardens only, for if a Feoffment be made to the use of the Churchwardens of D. this is a void use, for they have no capacity to take such Purchase. *Finch. Lib. 2. ch. 17. p. 179. Rolls Cases, 1 part. f. 393.*

16. Neither can they prescribe to have Lands to them and their Successors; for they are no Corporation to have Lands, but for Goods for the Church only. *P. 37 El. C. B. Longley & Meredines case. Rolls cases, 1 part. fol. 393.*

17. If a Man buy a Bell, and hang it up in the Steeple, or make a Pew and set it up in the Church, though he make neither words nor writing hereof, yet by this the Bell and Pew are so dedicated to the Church, that the party that did owe them, can never have them again; for if they should come to remove them, the Churchwardens might sue them for it. *8 H. 7. 12. 10 H. 4. f. 9. Kitchen, pag. 277. a.*

18. They can have no action at common Law to Recover any Goods of which they never had the possession: But if the Churchwardens be once possessed

possessed of any Goods, or Ornaments belonging to the Church, and afterwards, the same things are taken from them, then they have the same remedy for the things, as other men have for the Goods taken from them: And therefore if such Goods be stoln, they may have an Appeal of Robbery, and if they be otherwise taken away or abused; as if a Bell be broken, or the like, the Churchwardens may have an Action against him that doth it: and in this Action they recover Damages to the use of the Parish, and not to their own use. *Tr. 8 E.4. f. 6. b. 37 H.6. 32. Finch lib. 2. chap. 17. pag. 178, 179. Abr. Daff. fol. 76. Kitchen, pag. 277. b. & 278. a.*

19. And it seems also, that the party that doth steal or take away any Goods belonging to the Church may be punished for it as for a sacrilegious offence: And observe, that if the Churchwardens from whom the Goods were taken be out of their Office, their Successors, as it seems, may sue for, or recover the same, or damages for them to the use of the Parish. *Vide M. 31, & 32 El. B. R. Hadman*

& *Kingwood's case*, *Cro. Rep.* 3. *Part.*

20. But note, that the Churchwardens have no such property in the Goods of their Church, as thereby to have power to give, sell, release, hurt or impair them, without the assent of the Sidemen or Vestry. *Vide* 38 *El. Mebold & Winnes case*. *Rolls cases* 1 *part.* fol. 393. and see *Hil. 7 Jac. B. R. in Starkie and Barton's case*. *Cro. Rep.* 2 *part.* & *vide* 13 *H. 7.9.*

21. If the Churchwardens shall give or impair the Goods in their custody, the Parishioners may choose new ones, who may have an account against their Predecessours. 8 *E. 4. fol. 6. b. Finch. l. 2. ch. 17. p. 179.*

22. If the Organs be taken out of the Church, the Churchwardens may have an Action of Trespass for the same, for the Organs belong to the Parishioners, and not to the Parson; and therefore the Parson cannot sue such party in the Ecclesiastical Court that took them. *Tr. 12 Jac. B. R. per Curiam. Rolls cases, 1 part. fol. 393.*

23. But if the Walls, Windows, or Doors of the Church be broken down, or the Trees in the Churchyard be cut down,

down, or the Grass thereof be eaten up, the Parson or Vicar, and not the Churchwardens shall have an Action for it, for they are a Corporation only as to moveable Goods, and see 8 H. 6. fol. 9. where the Parson brought an Action of Trespass for breaking and entring into his house and close, which was the Church and the Church-yard. 10 H. 4. fol. 9. 21 H. 7. fol. 21. & Parson's Law, p. 191.

24. The Churchwardens by the assent and agreement of the Parishioners, may take a ruinous Bell, and deliver it to a Bell-founder, and agree with him that he shall have four pounds for casting it, and that he shall retain the same till the four pounds be paid: and such Agreement of the Parishioners shall excuse the Churchwardens in a Writ of Account brought against them by their Successors Churchwardens. M. 37, 38 El. B. R. Methold & Winnes case. Rolls cases, 1 part. fol. 393.

25. If a Presentment be made by the Churchwardens in the Ecclesiastical Court, That J. S. one of the Parishioners is a Railer and a Sower of Discord amongst his Neighbours, a Prohibition

hibition lies in such case; for this belongs to the Leet, and not to the Spiritual Court, unless such Railing were in the Church, or such like place. *M. 16 Jac. C. B. Rot. 716. Smith & Pannel's case. Hobarts Rep. fol. 246. Rolls cases, 2 part. fol. 286.*

26. If the Churchwardens of a Church sue in the Ecclesiastical Court for a way to the Church, which they claim to belong to all the Parishioners by Prescription, in such case a prohibition will be granted, for this is a temporal cause. *P. 16 Jac. B.R. between the Churchwardens of Bythorn and Bow. Rolls Cases, 2 part. fol. 287.*

27. If the Churchwardens of C. sue in the Ecclesiastical Court *J. S.* for that he, and all those whose Estate he hath in such an House, &c. at the perambulation of the Parishioners of the Parish, did use to find a refreshing for them (to wit) Bread and Ale, and suffer them to rest there; here a Prohibition shall be granted, for that they claim it in nature of a Corrody; and if that should be suffered, a great inconvenience would ensue, *M. 13 Jac. B. R. The Churchwardens of Uffington's*

ington's case in Barkshire, Hill. 15 Car. 1. B. R. The like Prohibition prayed in one *Lock's case*, which was referred to Justice *Jones, Rolls cases, 2. part. f. 287.* The like Prohibition granted in one *Reynold's case. Mores Rep. fo. ———*

28. If the Churchwardens of a Church sue in the Court Christian *J. S.* supposing by their Libel, that he and all those who had an Estate in certain Lands adjoyning to the Churchyard, have used time out of mind to repair so much of the Fences of the Churchyard, which were next adjoyning to the said Land, in this Case a Prohibition will be granted; for this ought to be tryed at the Common Law, in so much as that it doth charge a Temporal Inheritance; *M. 14 Car. 1. B. R.* the Churchwardens of *Claydon* and *Duncomb's case, Rolls cases, 2 part. fol. 287.*

CHAP. III.

The Churchwardens Office about disposing of Seats in their Church.

29. **T**Hese Officers are to look to the repair of the Seats in the Church, but the disposing of the Seats in the body of the Church, belongs of common Right to the Ordinary of the Diocess, so that he may place and displace whom he pleaseth, except in some cases. *Roll's cases, 2 part. fol. 288.*

30. For if a Man and his Ancestors, and all those whose Estate he hath in a certain Messuage, have used time out of mind, &c. to repair an Isle of the Church, and to sit there and none else, the Ordinary in such case cannot displace him; for if he do, a Prohibition lies, because he hath it by a Prescription for a reasonable consideration. *M. 10 Jac. C. B. Pimme's case, per curiam, Roll's cases, 2 part. fol. 288.*

31. If a man prescribe that he and his Ancestors, and all those whose Estates they had in a certain Messuage, did use to sit in a certain Seat in the
body

body of the Church, time without mind, &c. in consideration that he, and they, &c. have used time out of mind, to repair the said Seat; if the Ordinary remove him from such Seat, a Prohibition may be brought; for the Ordinary hath no power to dispose of it, for it is a good Prescription, and by intendment there hath been a good consideration for the commencement of such Prescription. *Tr. 12 Jac. C. B. Crosses case. M. 13 Jac. C. B. Laugh & Hussys case, & M. 13 Jac. C. B. Boothby & Days case. Rolls cases, 2 part. fol. 288.*

32. But if a man prescribe to have a Seat in the body of the Church generally, without consideration to repair the same, then the Ordinary in such case may displace him. *M. 11 Jac. B. R. per curiam, & M. 13 Jac. C. B. inter Boothby & Bayly. Hobbart's Rep. fol. 69. Roll's cases, 2 part. fol. 288.*

33. The Ordinary hath nothing to do with the Seats in the Chappels belonging to the houses of Noblemen; *T. 12 Jac. C. B. Roll's cases, 2 part. fol. 288.*

34. But if a Layman by the dissolution

on

on of Monasteries hath a Monastery in which there is a Church, parcel of it, and he suffers the Parishioners for a long time to come to it, and do Divine Service, and to use it as their Parish Church, this (unless for all the whole time the party hath used to place men in their Seats himself) shall give Jurisdiction to the Ordinary to order the Seats; for that now in fact is the Parish Church, although that before it were not subject to the Ordinary. *Tr. 12 Jac. C. B. Buzzard's case, Rolls 2. part. fol. 288, 289.*

35. If there be a custom in a Parish, that twelve of the Parishioners may choose Churchwardens, which Churchwardens have power by the custom to repair the Seats and make new ones in the body of the Church, and to appoint what persons shall sit in them; and the Churchwardens so elected do erect a new Seat in the Body of the Church, and appoint a certain man to sit there, and afterwards the Ordinary decrees that another shall have the Seat, here a Prohibition lies: for the custom hath fixed the power of disposing the Seats in the Churchwardens, P. 16

Jac.

Jac. B. R. Brabin and Tredennick's case for a Seat in Breock Church in the County of Cornwall: but the reason of granting the Prohibition in this case, was partly because that the Sentence of the Ordinary was, that Tredennick should have the Seat to him and his Heirs, and that none should disturb him on pain of Excommunication, which is unreasonable, and by such Sentence he and his Heirs should have it, though they were no Inhabitants within the same Parish. Rolls cases. 2 part. f. 289.

CHAP. V.

The Churchwardens Office about Reparations and Rates.

36. **T**Hese Officers are to see that the Church and Churchyard be well repaired and kept clean: and they are to provide Books of Common Prayer, Books of Homilies, a Parchment Book for registering Christnings, Weddings and Burials in, Fonts, Pulpits, Tables, Chests for Alms, Communion Cups, Ornaments and other Furniture,

niture, and a Chest with three Locks and Keys for putting the same in: and they are also to provide Bread and Wine for the Sacrament according to the number of the Communicants. And for these purposes they may rate the Parish for money to do it, for which see 37 H. 6. 30. 11 H. 4. 12. 11 H. 7. 27. 12. H. 7. 10. F. N. B. 54. 91. Canon 20. 70, 80, 81, 82, 83, 84, 85.

37. Upon making of Rates for Reparations, &c. they are to be done by the Churchwardens with the Assent of the greater part of the Parishioners, and upon a general warning given before they assemble for that purpose; and note, that the Ecclesiastical Court hath cognizance of the Reparation of the body of the Church. See *Jeoffry's case. Co. 5. lib. Rep. f. 67. & Rolls cases, 2 part. f. 289. M. 31, 32. El. B. R.*

38. If a man stay and inhabit in one Parish, and have Lands in another Parish which he occupies there, he may be charged for such Lands for the Reparation of the Church of the Parish where the Lands lye: because he may come there when he pleases, and he is to be charged in respect of the Lands.

Co. 5. Rep. 4. 67. M. 31, & 32. El. B. R.
 Jeoffry's case, & Tr. 11. Jac. C. B. An-
 drews case, per Curiam Rolls cases, 2 part.
 f. 289.

39. But if an Inhabitant of a Parish
 Lease out his Lands which he hath in
 another Parish, reserving Rent, then he
 shall not be charged in the Parish
 where the Land lies in respect of the
 Rent, because there is a Parishioner
 and Inhabitant which may be charged.
 Co. 5. Rep. 4. 67. b. M. 5. Jac. C. B. Rolls
 cases 2 part. f. 289. and see P. 41. El. B.
 R. Paget and Crumpton's case. Cro. Rep.
 1 part. f.

40. Neither can a man who Inhabits
 in one Parish, and occupies Lands in
 another Parish, be charged in that Pa-
 rish where the Lands lie for the Orna-
 ments of that Church according to his
 Land; for the Inhabitants only ought
 to be rated for them, and so it was ad-
 judged by the Court. M. 20 Jac. B. R.
 Rolls cases, 2 part. f. 291. Winches Rep.
 fo. per Yelverton.

41. Neither can a man be charged
 in the Parish where he doth inhabit, for
 the Lands which he occupieth in ano-
 ther Parish, towards the Reparation of
 H 2 the

the Church in the Pariih where he li-
veth; because then he might be twice
charged, for he may be charged in the
Parish where the Land lies, as is shewed
before, *See*. 38. P. 16. *Fac. B. R.* Sir *Wil-*
liam Butler Vers. Rolls cases, 2 part. f.
289. Co. 5. Rep. f. 67.

42. If a petty Chapman take a Stall
in the waste of a Mannor for Rent,
within the Market for two or three
hours every Market day to sell his
commodities, the Market being held
there one day every week, but he inha-
bits in another Parish, here he cannot
be rated to the Reparation of the
Church for such Stall or Standing. *M.*
20. Fac. B. R. between *Holms* and the
Churchwardens of *Kettering* in *North-*
hamptonshire, resolved, and a Prohibiti-
on granted accordingly. *Rolls Cases,*
2 part. f. 289.

43. If a Citizen of *London* build an
house in the Parish of *A.* and inhabit
there in the time of Sickness in *London*,
and hath not any Land in the Parish,
and afterwards he is assessed 20*s.* for
the Reparation of the Church, where
others that have an 100 Acres of Land
in the same Parish pay but 6*d.* yet not-
with-

withstanding no Prohibition lies in this case in the Court Christian, because they have the Jurisdiction of the thing; and therefore he must be ordered according to their Law. *M. 5. Jac. C. B. Sir Robert Ley's case. Rolls Cases, 2 Part. f. 289.*

44. If there be a Chappel of Ease within a Parish, and one part of the Parish have used time out of mind, &c. to repair the Chappel themselves without the rest of the Parishioners, and there to hear service, and Marry, and all other things, but only that they bury at the Mother-Church; here notwithstanding they shall not be discharged of the Reparation of the Mother-Church, but must contribute to it; for the Chappel was ordained only for their ease. *M. 13. Jac. C. B. between the Churchwardens of Ashton and the Inhabitants of Castle-Bromage. Rolls 2. part. f. 289. & Hob. Rep. 4. 66.*

45. If all the Parishioners in the Parish are not rated, but some are, and some are not; and those who are, rated are sued in the Ecclesiastical Court, yet they cannot have a Prohibition, but must plead this matter in the Spiritual

tual Court. *M. 11 Jac. B. R. per curiam, Rolls cases, 2 part. f. 291.*

46. If the greater part of the Parishioners of a Parish where there are four Bells, agree that there shall be made a fifth Bell, and it is made accordingly, and they make a Rate for payment for it, this shall bind the remainder of the Parishioners, although they did not agree to it; for otherwise any obstinate persons might hinder any thing intended, and what is fit for the Ornament of the Church. *M. 2 Car. 1. B. R. Rolls cases, 2 part. f. 291.*

47. Note, That a man ought to be rated according to his personal Estate, and not according to his Lands for the Ornaments of the Church. *M. 20. Jac. B. R. Rolls cases, 2 part. f. 291.*

48. These things hereafter mentioned are accounted Church Reparations, *viz.* the Walls of the Church and Church-Steeple, the Church-yard Walls of Stone or Brick, the Windows of Stone or Brick, and the Bars of Iron, and Glass, the Roof of Timber, with Laths, Nails, Prigs, Dogs and Bolts of Iron, the covering of Lead, Tile Slates, or Shingles, the Floor with Stone or paving

paving Tile, the Doors of Timber with Locks, Keys, Ridges, Hooks and Nails, the furniture of the Steeple with Stairs, Floors, Bells, Wheels and Ropes, the Pulpit and the Pews or Seats, not made by private men, and all these are to be performed by Land-Rate &c. though the occupier lives in another Parish, as afore shewed.

49. But these hereafter mentioned are not properly Church-Reparations, viz. the Communion Table, with the Coverings thereof, the Communion Cups, the Bread and Wine for the Communicants, the Bible and other Books appointed to be in Churches, the washing of the Communion clothes, the Candles for the Lecture days, the Surplice, the Pulpit Cloth and Cushion, the Clerk and Sextons wages, and expences of the Churchwardens and Sidemen at the Visitation; and therefore all these are to be performed Ratably by the Inhabitants of the Parish, and not by out dwellers.

C H A P. VI.

Some Cases wherein the Churchwardens are equally concerned with the Constables and Overseers of the Poor. See fol. 32, 33, 34. their Power against Conventicles.

50. **I**F any of their own authority shall wilfully disturb any Minister in his Preaching or Reading of Divine Service, the Churchwardens or Constables may of their own Authority apprehend such persons, and bring them to a Justice of Peace to be dealt with according to Law. 1. Mar. c. 6. See the Constables Guide, ch. Disturbing of Ministers, &c.

51. These Officers are to joyn with the Overseers of the Poor in the execution of their Office, for they have an equal Authority and charge with them in the execution of the whole Office; therefore see afterwards in the Office of Overseers of the poor, ch. 1.

52. If a Rogue be brought to these Officers, they must receive him and look to him, or forfeit 5 pound, and be bound

bound to the good behaviour, *Stat. 32. El.* See *Constables Guide, ch. Rogues, &c.*

53. These Officers, by Warrant from a Justice of Peace, may levy the forfeiture for Cursing and Swearing which is twelve pence upon the Offenders Goods. *21 Jac. c. 20. 3. Car. 1 ch. 4.* See *Constables Guide, ch. Swearing, &c.*

54. If any forfeiture be by any offence about killing Hares, Pheasants, or Partridges, and the Justice of peace force the payment thereof to these Officers, they are to see it imployed to the use of the poor of the Parish. *1 Jac. ch. 27.*

55. These Officers are to present the Offences against the *1 Jac.* for suffering Tipling and Drunkenness, and selling by unlawful measure, and are to execute the Warrants from the Justices concerning the same, *1 Jac. ch. 9. 1 Car. 1. ch. 4. 21 Jac. ch. 7. 4 Jac. ch. 5.* See *Constables Guide, ch. Alehouses, &c.*

56. These Officers also are to execute the Warrant against such as profane the Lords Day by Sports, &c. *3 Car. 1. ch. 6. & ch. 22.* See *Constables Guide, ch. Profanation of the Sabbath.*

57. These Officers also are to execute the Warrants against such as destroy Fish unlawfully. 3 *Jac. chap. 12.* See *Constables Guide, c. Fish, &c.*

58. These Officers are also to joyn with the Constables, in the making of Rates for the Relief of poor maimed Soldiers and Mariners, and for conveying Prisoners to the Goal, and to execute the Warrants for the same. 43 *El. 14 El. ch. 5.* 3 *Jac. c. 10.* See *Constables Guide. ch. Quarter Moneys, & c. conveying Prisoners to the Goal.*

59. These Officers are also to joyn with the Constables in the choosing of Surveyors for the High-ways, and in the setting down of days for the work, and in the over-sight of the High-Constables Account for the Monies they do receive upon any forfeiture about the High-ways; and they may also with the help of two Justices of the Peace (*Quor. unus*) force High-Constables that have received any monies forfeited for default of High-ways, to account for it, and pay in, what is in their hands to be employed about the High-ways; and these Officers also are to execute the Justices Warrants for all

all such penalties about cleansing the streets and repairing High-ways, as are forfeited by the 14 *Car. 2. ch. 2. vide 2. 3. P. & M. ch. 8. Vid. Constables Guide, c. High-ways.*

60. These Officers have equal Authority with the Constable or Overseers of the Poor, about the seizing of foreign Cattel Imported into *England*, &c. 18 *Car. 2. ch. 2. V. Constables Guide, ch. Irish Cattel.*

61. These Officers together with the Overseers of the poor, are to execute the Justices Warrant for levying the penalty of five pound upon the parties Goods that is not buried in Woollen, which penalty is to be imployed to the use of the poor of the Parish, where such party is buried. 18 *Car. 2. ch. 4.*

62. These Officers in the several Parishes within the Cities of *London* and Borough of *Southwark*, &c. upon every Tuesday or Wednesday in *Easter Week*, together with the Constables, Overseers of the poor, and Surveyors of the High-ways of every Parish respectively, or the greater number of them, giving notice unto, or calling

calling together such other Inhabitants of their respective Parishes, as have formerly born the like Offices, they or the greater number of them are to make choice of, and shall nominate and appoint two or more able persons, that are Tradesmen of their Parish, to be Scavengers for the Streets, Lanes, and other open passages of each Ward or Division within the said Parish for the year then next following, and untill others be chosen and settled in their place. 14 Car. 2 c. 2.

C H A P. VII.

The Churchwardens Office about passing Accounts, together with the Heads of most of the things which they are to present in the Visitation Court.

63. **A**LL Churchwardens at the end of their year, or within a month after at the most, are before the Minister and Parishioners to give up a just Account of such Monies as they have received, and also what particularly they have bestowed in Reparations
 OF

or otherwise for the use of the Church: And last of all, going out of their Office, they must truly deliver up to the Parishioners whatsoever Monies or other things of Right belonging unto the Church or Parish which remains in their hands, that it may be delivered over by them to the next Churchwardens by Bill Indented. *Vide Canon 89.*

64. And if they refuse to do this, they may be presented at the next Visitation Court for it, or the succeeding Churchwardens may have an Action of Account against them by the Common Law, and compel them to give an Account, and answer for their doings during the time of their Office; And if they have done the Parish any wrong, to make amends and satisfaction for the same to the use of the Parish for the harm it hath received by their default: And in this Account the old Officers shall have allowances for all the needful Sums of Money laid out or spent by them, either upon the Reparations of the body of the Church, Tower, or Bells, &c. or for Relief of the Prisoners in the Gaol, or otherwise where the Law doth injoyn them

them to pay or disburse any mony. *Vid.*
8 E. 4. f. 6. b.

65. Now as touching the Churchwardens Presentments. Note, That no Churchwardens, Questmen or Sidemen of any Parish shall be inforced to exhibit their presentments to any having Ecclesiastical Jurisdiction, above once in every year, where it hath been no oftner used, nor above twice in any Diocess whatsoever, except it be at the Bishops Visitation; for the which presentments of every Parish, Church, or Chappel, the Register of any Court where they are to be exhibited, shall not receive in one year above four pence, under pain for every offence therein, of suspension from the execution of his Office for the space of one month *toties quoties*, but the Churchwardens may voluntarily upon their own account present oftner if they please. *Canon. 116.*

66. But no Churchwardens, Questmen or Sidemen, shall be called or cited, but only at the said time or times before limited, to appear before any Ecclesiastical Judge whatsoever, for refusing at other times to present any faults

faults committed in their Parishes, and punishable by Ecclesiastical Laws; neither shall they, nor any of them, after their Presentments exhibited, at any of those times be any further troubled for the same, except upon manifest and evident proof it may appear, that they did then willingly and wittingly omit to present some such publick crime or crimes as they knew to be committed, or could not be ignorant that there was then a publick fame of them, unless there be very just cause to call them for the Explanation of their former Presentments: In which case of wilfull omission, their Ordinaries shall proceed against them in such sort, as in causes of wilfull perjury in a Court Ecclesiastical it is already by Law provided *Canon 117.*

67. Note, That one of the two times for Presentments is always to be about a Week or a Fortnight after *Easter*, at which time also the old Churchwardens are to leave the *Office*, and new ones are to come in, but the new ones are not to be sworn till the old ones have given in their Presentment, and every Parson or Vicar, and in the law-
full

ful absence of the Parson or Vicar, then their Curates and Substitutes are to joyn in every Presentment with the Churchwardens, Sidemen and Questmen; and if the Churchwardens, &c. refuse to present, then every such Parson and Vicar, or in their absence, as aforesaid, their Curates may themselves present to their Ordinaries at all such times, and when else they think meet. Canon, 113, 118.

68. The Heads of the Articles, most commonly exhibited to the Churchwardens to make their presentments upon, are as followeth :

69. *Whether their Church and Chancel, Bells and Ropes be good and well repaired, and the Ten Commandments, Lords Prayer, and Creed, drawn out in fair Letters, the Kings Arms set up, Assessments made for the Repair of the Church, and who refuses to pay? If they have a Font, Communion-Table, Carpet, Table-cloth, Flaggon with Cups, and Cover for Bread and Wine, Reading Desk, Pulpit with a Cushion and Covering fit for it, a Common Prayer-Book of the largest Volume; and the Bible of King James's Translation in Folio, with a Book of Homilies, and Book of Canons, and*

a Surplice? If the Tombs, Monuments and Grave-Stones be safely kept from removing and breaking; a Book of Parchment for Registring, Christnings, &c. A Chest with three Locks to put the same and the Church Ornaments in, with a Box for Alms, and a Table of Degrees prohibited in Marriage, set forth 1563. hung up in the Church? And if the Parsonage-house and out-houses be in good repair; and the Churchyard well fenced to keep out Swine, &c.

70. Then, whether their Parson, Vicar, or Curate, read the Common Prayer at Morning and Evening Service, wear his Surplice, bid Holydays, Preach every Sunday, or read a Homily, Catechise, observe the 5. November, 30. Jan. and 29. May, and keep Perambulations, Preach sound Doctrin, and vent no Sedition against the King or Government, Celebrate the Lords Supper three times every year at least, whereof at Easter for once; Baptise Infants with Godfathers and Godmothers, visit the Sick, and pray with them, Bury the Dead according to the Book of Common Prayer, Marry none Clandestinely, Preach in his Gown, be a man of a sober and chaste life, a Peace-maker amongst his Neighbours, and one that takes
care

care to reduce Sectaries, Popish Recusants, Separatists and Refractory persons to the Obedience and Doctrin of the Church, and reads the Book of Canons to the People at least once every year, and the 39 Articles twice every year, according to his Majesties Letters published 1662?

71. Then, Whether all their Parishioners of due Age, resort to the Church to Divine Service, behave themselves reverently there, Kneel, Stand up, and make answer according to the Rubrick of the Common Prayer Book? Whether any work or sell wares on Sundays or Holydays, or Vintners, Victuallers, Innkeepers, or others, receive any into their houses to tipple on those days? Whether any Marry within the prohibited Degrees, be Adulterers, Fornicators, Blasphemers, Swearers, Drunkards, or Sorcerers, and if all above sixteen years old receive the Lords Supper at least three times every year, Easter to be one? and whether any keep their Children unbaptized, Women after Delivery in due time come not to be Churched, or any bring not their dead to be buried after the Service of the Church, keep Conventicles, have been married without Banes or Licence at unlawful hours? and whether their Almshouses, Hospital, School, or Spittle,

tle, if they have any, be well and godlily used, or any thing detained from it? What Legacies given to pious uses; and if the Parishioners be placed into Pews or Seats, without offence or contention.

72. And lastly, Whether their Parish Clerk and Sexton (if they have any) be duly chosen, can write and read, be of an honest life, and make the Responses to the Hymns and other Suffrages? and if the Schoolmaster, and Usher, Physician, Chirurgion, or Midwife, (if they have any of them) teach or practise without Licence? if the Churchwardens be duly chosen in the Week after Easter, by the Parson and Parishioners, according to the Canon or custom? and if the old Churchwardens have been diligent to keep the Church in good Repair, to preserve all the Furniture thereof, and walk out of the Church usually about the midst of Divine Service, to see who are abroad in the Alehouse, or elsewhere absent or evilly imploy'd

73. These are the heads of most of the Articles that are inquired of at the Visitation Courts; but it is probable there may be some small alteration, according to the use of the several Diocesses in several places.

F I N I S.

A

GUIDE

FOR

Overseers of the Poor.

CH A P. I.

Of the Antiquity of the Officers, their Qualifications, and how and when to be chosen.

1. **T**His Office of Overseers of the Poor, is a Name and Office of great Excellency and Antiquity, and may beseem the best and not the meanest men in a Parish; for this is not the least Office, to be called *Overseers of the Poor*; for as God himself hath a special respect to the miseries of the Poor, so they be like God which provide for the necessities of the Poor

2. Now

2. Now it is certain, that the Antiquity of this Office is above sixteen hundred years standing, as appears by holy Writ ; for we find St. *Stephen* the Proto-martyr, a man full of Faith and of the Holy Ghost, and *Philip*, and *Prochorus*, and *Nicanor*, and *Timon*, and *Parmenas*, and *Nicolas* a Profelyte of *Antioch*, chosen to this Office, as appears *Acts* 6. 5. and see *Acts* 20. & 28. & *1 Cor.* 16. 2, 3.

3. As for the qualifications of these Officers, they ought to be substantial persons, having competency of Wealth, Wisdom, a good Conscience, and of honest report; see *Acts* 6, & 3. *Dalt. J. P. c.* 40. f. 93.

4. Now these Overseers of the Poor, here with us in *England*, are certain Officers appointed yearly to be joynd and assistant to the Churchwardens of the Parish, in the over-sight and ordering of the Poor of the Parish, and they are to be appointed by two or more Justices of the Peace of the County (whereof one to be of the *Quorum*) dwelling in or near the Parish or Division, &c. who are yearly under their Hands and Seals, at *Easter*, or within a month

month after to appoint 4, 3, or 2 substantial Householders, (according to the greatness of the Parish to be joyned with the Churchwardens of the Parish) and all these together are to look to the Poor of the Parish; for the Churchwardens of the place have an equal power and charge with the Overseers, and may be punished for their neglect, if they refuse to meddle herein, *43 El.2.21. Jac. c.28. Dalt. J.P.c 40.f.93. Wingate's Stat. Tit. poor People.*

5. The major part of these Officers, without the rest of them may do any thing belonging to their Office. But they are to have the allowance and consent either in particular or in general of Two Justices of the Peace (*Quor. unus*) to every thing they do about their Office. And these Officers, or such of them as shall not be let by just excuse, (to be allowed by two Justices) are to meet monthly in the Church on Sunday after Evening Prayer, and there they are to consider of some meet directions about their Office, and they are to use all possible diligence in their Office, on pain to forfeit for every such Default twenty shillings

shillings. 43. *El. c. 2. Wingat's Stat. Tit. Poor People.*

6. The Inhabitants of the Townships within the great Parishes of *Lancashire, Cheshire, Derbyshire, York-shire, Northumberland, Bishoprick of Durham, Cumberland and Westmoreland*, are to take care for the Poor of their Townships and Villages only, and are yearly to choose Overseers for the Poor within their several Townships and Villages: And these Officers shall have the same power in the place where they are chosen, for the relief of the Poor there, and forfeit the like penalties for their neglect, as such like Officers for intire Parishes shall do. *14 Car. 2. c. 12.*

7. And if it happen that Overseers be not appointed according to the *43 El.* then every Justice of Peace, or Head Officer of that Division or Corporation shall forfeit *5 l.* to be levied by a Sessions Warrant, and employed to the use of the Poor of the Parishes where such default is made, *43 El. ch. 2 Wingate's Stat. Tit. Poor people.*

CHAP. II.

Of the several Sorts of Poor People, and what Poor the Overseers are to provide for and relieve, or set to work.

8. **N**Ote, That there are three sorts or degrees of Poor, as first the Poor by impotency and defect, as the aged and decrepit that are past their labour; the Infant Fatherless and Motherless, and not able to work, the person naturally disabled either in Wit or Member, as an Ideot, Lunatick, Blind, Lame, &c. not being able to work, and the person visited with grievous sickness or disease, though casually, yet thereby for the time being impotent. All these the Overseers are to provide for, that they have necessary Relief and Allowances proportionable and according to the continuance and measure of their maladies and needs, and of these it may be said, *Si non pavisti, occidisti*: *Dalt. J. P. c. 40. f. 100.*

9. Then Secondly, the Poor by casualty, as a person casually disabled or maimed in his body, as the Soldier or

Labourer, &c. maimed in their lawful Callings, the Houfholder decayed by casualty of Fire, Water, Robbery, Suretithip, &c. and the poor man overcharged with Children: All thefe (and fuch like others) having ability and ftrength of body, but not fufficient means to maintain themfelves, are to be fet to work by the Overfeers, and being not able to live by their work, they are in Charity to be relieved in fome reasonable proportion, according to their feveral wants and neceffities. *Dalt. J. P. ch. 40. f. 100.*

10. Then lafly, The thriftlefs poor, as the riotous and prodigal perfon, that confumes all with play or drinking, &c. the diffolute perfon, as the Strumpet, Pilferer, &c. the Slothful perfon that refuseth to work, &c. and the Vagabond that will abide in no place or fervice; and for all thefe the Houfe of Correction is the place where they are to be fent to, and being of able bodies there they are to be held to hard labour, and to maintain themfelves by their labour and work, without charging the Town or Countrey for any allowance. *7 Jac. ch. 4. Dalt. J. P. ch. 40. f. 101.*

11. But

11. But it seemeth that if any of these last sort of Poor happen to prove impotent, and also in cases of manifest extremity, then they are to be relieved by the Town. *Dalt. J. P. c. 40. f. 101.*

12. If the Parents be able to work, and may have work, they are to find their Children by their labour, and not the Parish; but if they be overcharged with Children, they may have help, by having some of their Children put out Apprentices by the Overseers. *Dalt. J. P. c. 40. f. 98.*

13. The Father, Grandfather, Mother, Grandmother, and the Children and Grandchildren of every poor impotent person not able to work, being of sufficient ability, shall relieve such poor persons in such manner, as the Justices of Peace of that County (where such sufficient person dwelleth) at their General Quarter Sessions shall Assess; and if such person refuse to abide the order they forfeit 20 s. for every month to the poor of the Parish, which forfeiture is to be levyed by the Churchwardens or Overseers, or one of them, by Warrant from any two Justices of the Peace (*Quor. unus*) within their Limits,

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by

by distress and sale of the Offenders Goods, and for want of distress, any two such Justices may commit the Offender to prison, there to remain without Bail till the said forfeiture be paid.

43 *El. 2. c. 2. Resol. Judges 16, 17.*
Dalt. J. P. c. 40. f. 98.

14. But note, That if a man marry a Grandmother that hath no Estate, the Grandfather in Law is not chargeable: But if she hath an Estate caused without such marriage, or that comes after marriage by descent or otherwise to her, here he may be charged: But where they have raised themselves to an Estate by their own Industry there it is doubtful. But in no case shall he be charged longer than his wife lives; and it seems also Bastard Children are not within this Law, neither can the Justices do any thing herein against a man that lives out of their County. See *Boulstred's Rep. 2. part. f. 245, 246, 247.*

15. No Poor may beg but in their own Parish, and there by licence of the Overseers of the Poor; and they may not licence them to beg in the High ways there, and without the licence of the Overseers they may not beg at all. *Res. Judges*

Judges 15. Dalt. J.P.c.40.f.99. 39 El.3.

16. No Inhabitants may serve any Poor at their Door, but those of their own Parish, that have licence from the Overseers of the Poor to beg there, under pain of 10 s. for every time they do so. 1 Jac. 7. Dalt. J. P. ch 47. fol. 129.

17. These Officers to make provision for a poor man that wants an House (but not for a common Herdsman or Shepherd) with consent of the Lord of the Mannor first had in writing under his Hand and Seal, either by themselves, or with a Sessions Order, may erect a Cottage upon any part of the Waste of a Mannor, and lodge Inmates therein, notwithstanding the Stat. 31 El. 7. But such Cottage may not be afterwards employed otherwise than to lodge impotent persons there; for if it be, then it falls within the penalty of the 31 El. aforesaid, 43 El. c. 2. Wingate's Stat. Tit. Poor People.

18. All such persons married or unmarried, having no means to maintain them, use no ordinary and daily Trade of life to get their living by, and such persons also as can get no work, are to

be set on work by the Overseers; and any one Justice of Peace may send to the House of Correction, or Common Gaol, such as shall not imploy themselves to work, being appointed there-to by the Churchwardens and Overseers of the poor of the Parish. 43 *El.* c. 2. *Dalt. J. P. c. 40. f. 93.*

19. And to this purpose the Churchwardens and Overseers of the Poor may by, and with the consent of two or more Justices of the Peace (*Quor. unus*) &c. Set up, use, and occupy any Trade, Mystery, or Occupation, only for the setting on work, and better relief of the Poor of the Parish, Town or Place, where they are Overseers, &c. 3 *Car. 1. ch. 4. Dalt. J. P. ch. 40. f. 94. Wingate's Stat. Tit. Poor people.*

20. If a Stranger come into the Parish into any Tenement, under the yearly value of 10 *l.* The Overseers may require sufficient Security of him, for the discharge of the Parish, and if he refuse, they may complain to the Justices of Peace within 40 days after the party comes there, and they may order him to do it, or otherwise remove him. 14 *Car. 2. ch. 12.*

CHAP. III.

The Duty of the Overseers about putting forth and binding of Apprentices, with the form of the Indenture for such purpose.

21. **I**N the putting out of Children Apprentices, there ought to be regard had to the Master, the Child, and the Parents; First to the Master, that he be of ability and honesty, otherwise by some device or hard intreaty they may provoke their Apprentices to depart or run away, and regard is also to be had to his Trade or Faculty, lest the Apprentice consume his time without learning any thing: Secondly, Regard is to be had to the Apprentices to put them out timely, and while they are young and tractable (so that they be above the age of seven years) otherwise by reason of their idle and base Educations they will hardly keep their Service or imploy themselves to work: Then lastly, Regard is to be had to the Parents to take away such from them as are brought up to live idly and

loosly, or else such as are a burthen and charge to their Parents. *Dalt. J. P. ch. 40. f. 94, 95.*

22. Note, That the choice of these Apprentices are to be out of the poorest sort of Children, whose Parents are the least able to relieve them, and they are to be above 7 and under 15 years of Age, when they are first bound. 7 *Jac. c. 3. Wingate's Stat. Tit. Poor People.*

23. And these Officers are to have the consent of two Justices of the Peace in the placing out of such Apprentices; and they may bind the Manchild till 24 years of age, and the Womanchild till 21 years of age, or till she be married, which shall first happen: And these Apprentices may be bound to Weavers, Masons, Dyers, Fullers, or any other Trade, as well as to Husbandry or Housewifery. See 43 *El. ch. 2. Dalt. J. P. ch. 31. f. 83. Wingate's Stat. Tit. Poor People.*

24. Now this placing of Apprentices may be to any man, whom the Officers and Justices think fit to receive them, within the same Parish or elsewhere in other Parishes within the same Hundred either with, or without Money; there-

therefore it is fit in this case to consider, if the Child be young, and the party to whom they place it is not very able, then they may give money, if they please, as the party and they shall agree.

Res. Judges 1633. Quest. 1.

25. All men that have, or may have use for Servants, as Knights, Clergymen, Gentlemen, and Yeomen, as well as Tradesmen, are bound to take Apprentices; yea, though wealthy men Table themselves, or live so privately, that they have no use for a Servant, yet they may be compelled to take them, or else to pay a sum of money for putting them Apprentices elsewhere; and if they refuse to pay the sum imposed upon them, Two Justices of the Peace may make their Warrant to levy the same by distress and sale of the Offenders Goods. *Res. Judges, 1633. Quest. 4. Poul. 2. 4. Dalt. J. P. c. 40. f. 95.*

26. Or the Refusers to take Apprentices may be presented and indicted for the same, upon the *Stat. 43. El. c. 2.* at the Assizes or Sessions of the Peace. *Dalt. J. P. c. 40. f. 95. Res. Judges, 1633. Quest. 7.*

27. An Apprentice put to a man in

respect of his Farm when his Lease ex-
 pireth, the Apprentice shall go still
 with the Farm, if the first Master be so
 pleased; otherwise it is where an Ap-
 prentice is put to a man in regard of
 his ability, or for other respects. And
 where any differences are between the
 Officers and the man that is to receive
 an Apprentice, about money, and what
 money shall be given or otherwise, here
 the Justices thereabouts, or, in their
 defaults, the Sessions must end it. *Resol.*
Judges, 1633. Quest. 2. Dalt. J. P. c.
40. f. 95.

28. If the Parents of Poor Children
 shall refuse to let their Children be put
 forth Apprentices (without good cause
 shewed) such Parents may be bound o-
 ver, by the Justices, to answer their
 said Default, and if the Children shall
 refuse, the Justices may send them to
 the House of Correction, there to re-
 main till they be content to be bound
 and serve. *Dalt. J. P. c. 40. & 31. f.*
96. & 78.

29. Note, that this binding must be
 by Indenture, and may not well be
 done by a Verbal Agreement; and the
 Indenture must be either between the
 Ju-

Justices, Churchwardens, and Overseers, or them, and the Apprentice on the one part, and him that takes the Apprentice of the other part, as appears by the form of the Indenture in the end of this Chapter; and he must be named by the name of Apprentice expressly, or else he is no Apprentice, though he be bound. *Crompt. 184. Dalt. J.P.c. 31. f. 82.*

30. And this binding is as effectual to all purposes, as if the Children were of full age, and did bind themselves by Indentures and Covenants; and all such as are bound by the Overseers, as aforesaid, may safely be received and kept as Apprentices by their Masters.

1 Jac. c. 25. 21 Jac. c. 28. Dalt. J.P. c. 31. f. 83. 3 Car. 1. c. 4. 5 El. c. 4. Crompt. 184. b.

31. Note, That money given, to put out poor Children Apprentices, is to be employed in Corporate Towns by the Corporations, and in other places by the Parson or Vicar, together with the Constables, Churchwardens, and Overseers of the Poor, on the most part of them; who shall not forbear or refuse to employ the same accordingly, in pain to forfeit five marks, each of them

them so making default, to be divided betwixt the Poor of the Parish and the Prosecutor. 7 Jac. ch. 3. *Wingate's Stat. Tit. Poor People.*

32. And the party, taking any money with such Apprentice, shall give good Security by Obligation to repay it at the end of seven years next ensuing the date of the said Obligation, or within three months next after the end of the said seven years; and if such Apprentice shall die within the seven years, then within one year after his or her death; and if the Master, Mistress, or Dame, happen to die within the seven years, then within one year after their death: so as the money may be employed in placing the Apprentice with some other of the same Trade, to serve out his time, at the discretion of the parties trusted as aforesaid. 7 Jac. c. 3.

33. And the money so given shall be employed within three months after the Receipt thereof, and if there shall not be apt persons found in the places where it is given to the Apprentices, it shall then be employed in the Parishes next adjoining, by the parties that are trusted with it in the place where it was

was so given, and there also Bond shall be taken, as afore is declared. 7 *Jac.* ch. 3.

34. Note, That if the Master shall put his Apprentice into Apparel, it is a Gift in Law, and he cannot afterwards take it away, though he should part with his Apprentice. *Bro. Transgr.* 93.

35. An Apprentice cannot be discharged from his Apprentiship, but by 4 Justices of the Peace at the least, and in open Sessions, or else by the Agreement of the Master and Apprentice, and under his Masters hand in writing. *Dalt.* *J. P.* ch. 31. f. 79.

36. The Form of these Indentures, mentioned before, is as followeth, *viz.* This Indenture made the 29 day of September, in the 20 year of the Reign of Our most Gracious Sovereign Lord Charles the Second, by the Grace of God of England, Scotland, France and Ireland, King, Defender of the Faith, &c. Annoq; Dom. 1668. Witnesseth that *J. W.* and *G. B.* Overseers of the Poor in the Town of *Kirk-Leaventon*, and *J. R.* Churchwarden of the same Town, by and with the consent of Sir *J. P.* Knight and Baronet, and *T. M.* Esq; two.

two of his Majesties Justices of Peace for the North-Riding of the County of York, have by these presents placed and bound *J. T.* (being a poor fatherless Child) as an Apprentice with *E. H.* of *Kirk-Leaventon* aforesaid, Widow; and as an Apprentice with her the said *E. H.* to dwell from the day of the Date of these presents, until she the said *J. T.* shall come to the age of 21 years, or be married, which shall first happen, according to the Statute in that case made and provided; by and during all which time and term the said *J. T.* shall the said *E. H.* her Dame well and faithfully serve in all such lawful business as the said *E. H.* shall put her the said *J. T.* unto, according to her power, wit, and ability, and honestly and obediently in all things shall behave her self towards her said Dame and Children, and all the rest of the Family of the said *E. H.* And the said *E. H.* for her part promiseth, covenanteth, and agreeth that she the said *E. H.* the aforesaid *J. T.* in the Art and Skill of Housewifery the best manner that she can, or may, shall teach and inform, or cause to be taught and informed, as
much

much as thereunto belongeth, and she the said E. H. knoweth; and also during all the said Term to find unto her said Apprentice, Meat, Drink, Linnen, Woollen, Hose, Shooes, Washing, and all other things needful or meet for an Apprentice. In witness whereof, &c.

37. Note, If it be a Boy that is to be bound Apprentice to Husbandry, or any other Trade, then he may be bound till 24 years of Age, as is shewed before in this Chapter.

CHAP. IV.

Several Cases about Settlements, and also touching Bastards, &c.

38. **N**ote, There have been formerly many Controversies, what time should be accounted a Legal Settlement; but now all Objections in that point are answered; for it is appointed by the 14 Car. 2. that 40 days shall be accounted a Legal Settlement; but then this Settlement ought neither to be obscure, interrupted, or brought about by practice.

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39. As touching Setling of Poor People; Note, That the Justices are to meddle with none but those who are impotent, and such as are like to be chargeable to the place where they are. *Boulstr. Rep. 1. part. 347.*

40. And as to this, know that it is enacted by the 14 *Car. 2. c. 12.* That if any Stranger come into a Parish to settle there in any Tenement, under 10 *l.* a year, and he refuse to give such Security for the Discharge of the Parish as two Justices shall think fit; then any two Justices (*Quor. unus*) may upon complaint to them made by the Churchwardens or Overseers within 40 days after the Stranger comes into the Parish, make their Warrant to send him to the place, where he was last legally settled as a Native, Householder, Sojourner, Apprentice, or Servant 40 days or more; so that by this, it seems to be the opinion of this Parliament, that no man that Rents 10 *l.* a year, or above, is to be accounted such a poor man as to be removed by order of the Justices: where any person finds himself aggrieved by the two Justices order, he may appeal to the next Quar-

ter Sessions held for the County for his relief. 14 *Car. 2. cb. 12.*

41. But any person may go into any County, Parish, or place to work in time of Harvest, or at any time to work at other work, so as they carry with him or them a certificate from the Minister of the Parish, one of the Churchwardens, and one of the Overseers of the Poor, that they have a dwelling House wherein they inhabit, and that they have left Wife and Children, or some of them there, and is declared an Inhabitant there; and in such case, if the person shall not return to the place aforesaid, when his work is done, or shall fall sick or impotent, while he is in the said work, yet this shall not be accounted a Settlement; but any two Justices may send the person or persons to the place or places of his or their Habitation; and if any person shall refuse to go, or shall not remain in the Parish where he ought to be settled, then the Justices may send such persons to the House of Correction, there to be punished as a Vagabond, or to a publick Workhouse to be employed in a work or labour. 14 *Car. 2. c. 12.*

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This Statute, as to the point aforesaid, is to continue to the end of the first Sessions of the next Parliament.

42. Note, That no man but a Vagrant Begger, ought to be sent out of any Parish to the place of his birth or last habitation; for if any refuse to work in the Parish where he is settled, or to work for the wages assessed, then he is by the Justices to be sent to the House of Correction. *Co. 2. part. Inst. f. 730. 7 Jac. c. 4. Resol. Judges, 9 Dalt. f. P. c. 47. f. 126.*

43. If a Scholar in the University, or in a Grammar School begin to be suspect, he may be, or if he doth become impotent, and is like to be a charge to the Parish where he is, he must be sent to his Parents if he have any, otherwise to the place where he was last legally settled before he came to School. *Res. Judges, 1633. Sect. 31.*

44. If one be born, and live 20 years in *A.* and then go to *B.* and there live in a House and pay his Rent, and after he comes to *C.* and there works 20 Weeks as a Labourer in a Quarry of Stones, where he breaks his back, and becomes impotent, and there is taken
vagrant

vagrant and begging, in this case he must be sent to *A.* the place of his birth, and there must be provided for. *Res. Judges 14 Car. 1.*

45. If a man that hath a Wife and Children, take an House in one Parish for a year, and during this time he is illegally forced out of his Possession; then he takes an House as Inmate in another Parish, out of which he is put within two or three days, and then not having any place to be in, he gets into a Barn in the third place, and there his Wife is delivered of another Child: in this case they are all to be sent to the Parish out of which they were first illegally forced. *Resol. Judg. 1663. Sect. 24.*

46. One born in *D.* left that place for the space of 20 years, then lived in *S.* took an house and paid rent, and left that place also 6 or 7 years, and then came to *L.* in another County, and there was 20 weeks, did work, and there became impotent, and did wander and beg in the same place, and was taken as a Vagrant, and it was ordered he should be passed and settled at *D.* where he was born, by the Judges at

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Worcester Assises. 14 Car. 1. Boulstr.
Rep. 1. part. f. 357.

47. No Child under the Age of 7 years shall be adjudged a Rogue within the *Stat. 39. El. ch. 4.* But it seems such Children vagrant and begging must be sent and placed with the Father or Husband of the Wife; and if he be dead, then with the Mother (where she was born, or last dwelt by the space of one year) and such Children, once thus settled or placed, must there remain, and not be sent from thence to their place of birth, though after their Parents dye or run away, or that the said Children grow above the age of 7 years; yea, though the said Children after beg and prove vagrant in the Town, for there they must be set to labour by the Overseers of the Poor. *Res. Judg. 4, 9, 10. Poult. Vag. 2. & Dalt. J. P. ch. 47. f. 125.*

48. But Children above 7 years of age, going about vagrant or begging in the Country, shall be punished as Rogues, and sent to their place of birth. *Dalt. J. P. c. 47. f. 125. & Resol. Judg. 4. 39. El. c. 4.*

49. The Wife, being a Vagrant Rogue,

Rogue, must be sent to her Husband, though he be but a Servant in another Town; and where the Husband and Wife have an House, (though as an Inmate) and either of them Rogue about, in this case they are to be sent to the place where the house is. *Dalt. J. P. c. 47. f. 125. Ref. Judges 3, & 5.*

50. The Rogue, whose place of birth or last dwelling cannot be known, having Wife and Children under 7 years of age, they must go with the Husband to the place where they were last wilfully suffered to pass through without punishment, where the Children must be relieved by the work of their Parents, though the Parents be committed to the House of Correction; and if the Rogue have Children above 7 years of age, that Rogue about with him, then they are to be sent to the House of Correction also with the Parents, and when they come out again, then to their several places of births. *Dalt. J. P. c. 47. f. 123. and Sheppard's Guide for J. P. pag. 252. Ref. &c. b.*

51. If I live in a House in *A.* there with my Children, but I work in *B.* where I am hired by the year, in this case

case my Children shall be in *A.* but if I have an House in *B.* they shall be placed there. *Dalt. J. P. c. 40. f. 99.*

52. *A.* being a Wanderer with three Children born in three Parishes comes to *Dale* with them to her Sister, and there dyeth shortly after, here the Children must be settled in the several Parishes where they were born, and not in the Parish where the Mother dyed. *Boultr. Rep. 2. part. 351.*

53. No man is to be put out of the Town where he dwelleth and is lawfully settled, nor to be sent to his place of birth, or last Habitation, but a Vagrant Rogue, nor to be found by the Town, except the party be impotent, but they ought to set themselves to labour, if they be able and can get work; And if they cannot get work, then the Overseers are to set them to work: And if in such case such persons wander abroad begging out of the Parish, then they may be sent as Vagabonds (from the place where they shall be taken wandering or begging) to the place of their birth. *Dalt. J. P. c. 40. f. 99.*

54. If a Maid Servant be gotten with Child at *A.* by her Fellow Servant (or by

by another Man of the same Town) and after both their Services ended they marry, and then the young man is retained at B. and afterwards the Woman is delivered of her Child, in this Case she with her Child are to be sent to the Father at B. and there must be settled. *Dalt. J. P. c. 40. f. 99.*

55. If any disturbance be made to any Settlement lawfully ordered by the Justices, either by the Constables refusing to receive and convey a Rogue where they ought to do it, or by the Churchwardens and Overseers of the Poor in refusing such an one as is duly sent to be settled there, in such case they forfeit 5 *l.* by the 39 *El. c. 4.*

56. If a woman unmarried be hired Weekly, Monthly, half Yearly, or Yearly, in one Parish, and there be gotten with Child, and then goeth into another Parish, and there is settled in Service, or otherwise for two or three months, and then she is discovered to be with Child, in this case she and her Child shall be settled in the Parish where she then is, and must not be sent to the Parish whence she came. *Resol. Judges 1633. Sect. 12.*

57. If a Woman be delivered of a Bastard Child in one Parish, and then go into another Parish with her Child, in this case the Child after it is nursed, is to be sent to and settled in the place where it was born, and not to remain with the Mother. *Resol. Judges 1633. Sect. 21.*

58. If *A.* have a Bastard Child by *B.* born in *Dale*, 10 years since, and the Reputed Father marries another Woman, and they breed the Child 10 years in the Parish of *Sale*, and the Mother of the Child is in Service all this while, and a Single Woman, the Reputed Father dies; in this case the Child is to be sent to the Mother first, to be maintained by her if she be able, and if not, it must be kept by the Parish of *Sale*; where it was settled with the Father 10 years. *Rulstr. Rep. 2. part. f. 350.*

59. If a Woman have a Bastard Child, and is like to be chargeable to the Parish, and she is sent to the House of Correction for it (as she may be by Law) in this case it hath been questioned whether the Child must go with her, or remain in the Town where it was born, (or settled with the Mother)

and

and there to be relieved by the work of the Mother, or by Relief from the Reputed Father, upon the 18 *El.* and it seems most reasonable to be so; and yet the common opinion and practice is otherwise, (to wit) to send the Child with the Mother to the House of Correction: And this may also seem reasonable where the Child sucketh on the Mother. *Dalt. J. P. Ch. 11. fo. 39.*

60. If a Woman with Child be sent to the House of Correction, and there be delivered, the Child must be sent back to the Parish where the Woman came from, there to be relieved. Also if a Woman be travelling, and have her Child with her, and is apprehended and sent to the Goal, and there hanged for Felony, in this case the Child shall not be chargeable to the place where the Goal is, but to the place where it was born (if it can be known) otherwise to the place where the Mother was apprehended; and so was the opinion of Sir Nicholas Hide 3 *Car. 1.*

61. The Two next Justices (*Quor. unus*) in or next to the limits where the Parish Church is, may take order as well for the punishment of the Mother

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and reputed Father of a Bastard Child, as also for the relief of the Parish where it is born, by charging the Mother and Father with the payment of money weekly towards the keeping of it, or otherwise; And if the Mother or Father perform not the Justices order therein, they are to suffer imprisonment without Bayl, except he or she give Security to perform, or else to appear at the next Sessions, and abide the order of the Justices there, if any be made there; and if none be made, then to stand to the first order. *Dalt. J. P. Ch. 11. fo. 37, & 38. 18 El. Ch. 3.*

62. Note, That this Order may be made by any two Justices of the County (*Quor. unus*) as it is held by some, but most properly by the two next Justices, and the question must be about such a Bastard Child as is like to be a charge to the Parish; and the Security must be given to the Parish where the Child is born, to secure the Parish from the charge of the Child, or to keep the Child: it must be a Parish within the County where the two Justices have power, and the Order must be certain how long the Reputed Father

Father must keep the Child, secure the Parish, &c. and it must be made against the person that is suspected to have gotten the Bastard Child, and not against another person to contribute towards it, because it was gotten in his house, &c. and the Order must express the Child by the name of a Bastard Child, and not the reputed Child of such an one, and the Justices for the better discovery of the matter, may upon Oath examine the Mother herself concerning the reputed Father, the time, &c. *Dalt. J. P. Ch. 11. fo. 37. 18 Eliz. Ch. 3. 7 Jac. Ch. 4. See Steel's Rep. fo. 154, 245, 246, 247, 388. and see Pridgeon's Case. Hill. 9 Car. 1. B. R. and Slater's Case. Pasch. 13 Car. 1. B. R. Cro. Rep. 1. Part.*

63. Where the Putative Father or Mother of a Bastard Child shall run out of a Parish or County, and leave their Children upon the charge of the Parish, having Estates sufficient to discharge the Parish, there the Churchwardens and Overseers of the Poor of the place where the Child is born, may seize so many of the Goods and Chattels, or Rents of his other Lands, for

the discharge of the Parish, and bringing up and providing for the Child, as any two Justices shall order; and thereupon the Sessions is to dispose and sell the Goods and Chattels, and the Sessions may order the Officers aforesaid, what they shall receive of the Rents and Lands also for the purposes aforesaid.

14 Car. 2. Ch. 12.

C H A P. V.

*The Overseers Office in making of Rates,
And passing Accounts.*

64. **T**Hese Officers, or the greater part of them (for the doing and performing of the things they have in charge) may raise weekly, or otherwise by Taxation of every Parson, Vicar, and other Occupier of Land, House, or Tythes, Cole-mines, or saleable Underwoods, within the Parish, Town, &c. such a sum as they shall think fit; and this Rate they must have allowed and confirmed under the hands of two Justices (*Quor. unus*) and then by Warrant from them, or
any

any other Two Justices (*Quor. unus*) they may levy, by distress and sale of the Goods of the party refusing to pay, the said Tax, rendring the Overplus to the owners, and in default of Distress, two such Justices may commit the party to Prison, there to remain without Bail till it be discharged by him. 43 *El. Ch.* 2. *Dalt. J. P. Ch.* 4. fo. 97. *Wingate's Stat. Tit. Poor People.*

65. Now these Rates ought to be well and truly made, according to mens visible Estates, real and personal, within the place only, and not for any Estate elsewhere; at *Lincoln Assizes 9 Car. 1.* by Justice *Hutton* and *Crook.*

66. Note, That a Parish in Reputation shall be a Parish within this Law; so that if *A.* be an ancient Parish that hath Officers in it, and there be a Town within this Parish, which for a long time hath been used and reputed as a Parish, and hath all Parochial Rights, as Churchwardens, &c. here this place may be Rated as a Parish towards the Poor. *Hutton's Rep. fo. 93. & M. 3. Car. B. R. Hilton & Paul's Case. Cro. 3. Part. Rep.*

67. This Tax must be set upon the

Tenants and Occupiers of Lands; and not upon the Land-Lords living within or without the Parish; for the Tenant only is chargeable for the Land. *Bulstred's 1. Part. Rep. fo. 354.*

68. The Parson, having a full Tenth Part of the Profits of the Place, may be rated to a Tenth Part. *Resol. Judges. 1633. Secti. 32.*

69. He that doth occupy Lands in his own hands, lying in several Parishes, he must be charged in every Parish for his Land lying therein, only according to the proportion thereof, and no more; but for his personal Estate it seems reasonable he should be charged for it in the place where his person is: All Lands Ancient Demeasn Guildable, and Copyhold, are to be charged with these Rates, which ought to be according to the value, or by the pound, and not according to the quantity. *Sed consuetudo tollit Legem.*

70. The Rate for Stock or Goods is thought reasonable to be set after the proportion of Lands (*viz.*) an 100 pound in stock to be rated after 5 or 6 pound a year in Land.

71. Note, That in some special cases

a man may be rated beyond his ability, as where one brings a charge upon a Parish; or under any pretence brings in a man that may be chargeable in a Parish, he may, if there be cause for this, be raised in his Rate to the full value of his Estate; and so was the Opinion of Sir Nicholas Hide. *Dalt. J. P. Ch. 40. fo. 97.*

72; Where the Inhabitants of any Parish are not able to relieve their Poor, any two Justices (*Quor. unus*) may tax other Parishes and places within the Hundred, yea, the whole Hundred, if need require; and where that is not sufficient, the Justices in their Sessions may tax the County in part, or wholly at their discretion. *43 El. Ch. 2. Wingate's Abr. Stat. Tit. Poor People. 14 Car. 2. Ch. 12.*

73. If any persons find themselves aggrieved in any Tax or other Act done by the Overseers, or by the Justices of Peace, they are to be Relieved at the Quarter Sessions. *Dalt. J. P. Ch. 40. fo. 97. Wingate's Abr. Stat. Tit. Poor People.*

74. The Father, Grandfather, Mother, Grandmother, and Children of every poor person, shall be assessed to-
K. 4. wards

wards their Relief, as the Justices of the Peace in their Sessions of the Peace in the County where such Father, &c. dwells, shall limit and appoint, in pain to forfeit 20 s. a Month to the use of the Poor, to be levyed by distress and sale as aforesaid, and for want of distress to be committed to Prison till the Forfeiture be paid. 43 *El. Ch. 2. Wingate's Abr. Stat. Tit. Poor People. Dalt. J. P. Ch. 40. fo. 98.*

75. Head Officers in Cities and Corporate Towns, and Aldermen of London, have in their several Precincts like Authority that Justices of Peace have in their Counties, and no other Justices of Peace are to enter and intermeddle there. *Wingate's Abr. Stat. Tit. Poor People. 43 El. Ch. 2.*

76. If any Parish shall extend into two Counties, or part thereof to lie in any City or Corporate Town where they have Justices; Then the Justices of every County, &c. are to intermeddle only within their own limits; and every of them respectively within their limits are to execute this Law concerning the nomination of Overseers, binding of Apprentices, granting Warrants

Warrants to levy Taxations, taking Accounts of Overseers, and committing such as refuse to account or to pay their Arrearages; and yet the Overseers shall without dividing themselves, execute their Office in all places within the said Parish, but shall give up Accounts to the Justices, or Head Officers of both places. *Wingate's Abr. Stat. Tit. Poor People. 43 El. Ch. 2. Dalt. J. P. Ch. 40. fo. 97, 98.*

77. These Officers within four days after the end of their year, (and that other Officers are nominated) are to yield up a true account to two Justices (*Quor. unus*) of these things following, 1. What sums of Money they have received or rated, and not received? 2. What stock of Ware or Stuff is in their hands, or in the hands of any of the Poor? 3. What Apprentices they have put out, and bound according to the Statute? 4. What Poor they have set to work or relieved? 5. What Poor they have suffered to wander and beg out of their Town, or in the Highways, or in their Town without their directions? 6. Whether they meet monthly to consider of the things be-

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longing

longing to their Office? 7. Whether they made their Rates indifferently upon all men, according to their ability? 8. Whether they have endeavoured to gather and levy such Assessments? 9. Whether they have neglected the Justices Warrants to them, or any of them directed for the levying of any forfeiture according to the *Stat. 43 El. Ch. 2. Dalt. J. P. Ch. 40. fo. 96.*

78. Now if the Churchwardens or Overseers, or any of them, shall refuse to make and yield a true and perfect Account to the said Justices, of all such money and of all such stock as aforesaid, any two Justices (*Quor. unus*) may commit them to the Common Gaol, there to remain without Bayl, till they have made a true account, and satisfied and paid to the new Overseers so much of the said Sum or Stock, as upon the said Account shall be remaining in his or their hands, &c. And if they make a false account, they may be bound over to the Assizes or Sessions, and there an Indictment may be preferred against them. *Dalt. J. P. Ch. 40. fo. 96.*

79. Also if any of the Churchwardens

dens or Overseers shall refuse, or deny to pay or deliver over to the new Overseers the Arrearages (Sums of Money or Stock) which shall be in their hands, and due and behind upon their Account to be made as aforesaid, and two such Justices of Peace may make their Warrant to the present or subsequent Churchwardens and Overseers, or any of them, to levy the same by distress and sale of the Offenders Goods, rendering to the Parties the Overplus, and in default of such Distress, any two Justices of the Peace may commit him or them to the Common Gaol, there to remain without Bayl, until payment or delivery of the said Sum, Arrearages, and Stock be made. 43 *El. Ch. 3. Dalt. J. P. Ch. 40. fo. 96.*

80. If any such Stock shall be in the hands of any of the Poor to work, and such Poor shall refuse to deliver the same, two such Justices may make the like Warrant, to levy the same by distress, and for lack thereof may commit such Offenders to the Gaol as aforesaid. *Dalt. J. P. Ch. 40. fo. 96.*

81: And for these aforesaid, and all other

other Negligencies of the Churchwardens and Overseers, in the execution of their Office, about the Poor, &c. every of them for every default he makes forfeits 20 s. which Default must be proved either by the Offenders own Confession, or by Examination of Witnesses, and it is to be levied by the new Churchwardens and Overseers, or one of them, by Warrant from two Justices, as aforesaid, by Distress and Sale of the Offenders Goods; and for want of Distress, two such Justices may commit Offenders to the Goal, there to remain without Bail, till the said Forfeitures shall be paid; which said Forfeitures are to be employed to the use of the Poor of the same Parish. *Dalt. J. P. Ch. 40. fo. 97. 43 Eliz. Ch. 2.*

Their duty in suppressing Conventicles; See here *fol. 34.*

FINIS.

A
G U I D E
 F O R
S U R V E Y O R S
 O F
High-ways and Bridges.

C H A P. I.

*Of the Choice of these Officers, how many
 Sorts of ways there are, with some few
 General Cases concerning High-ways.*

I. **T**H E S E Supervisors or Sur-
 veyors of the High-ways
 are Officers yearly chosen
 by the Constables and Churchwardens
 of every Parish : and by the 14 Car. 2.
 the Churchwardens, Constables, or
 Tythingmen of every Parish, Town or
 Hamlet, for the time being, are upon
 Monday

Monday or Tuesday in *Easter-week*, with the advice of the major part of the Inhabitants to choose two or more sufficient Inhabitants of the Parish, Town, or Hamlet, to be Surveyors of the High-ways for the year following, and they are to give notice thereof in writing to the persons chosen next Sunday after; and for default of such choice, the Constable, Churchwardens, and Inhabitants of every Parish, Town, or Hamlet, shall forfeit and loose 5*l.*
14 Car. 2. Ch. 6.

2. And after choice made of these Officers, as aforesaid, and notice given them, they are forthwith to take the Office upon them, on pain to forfeit 20*s.*
2, 3 P. M. Ch. 8. Wingate's Abr. Stat. Tit. High-ways.

3. The Constables and Churchwardens are then also to appoint six days betwixt then and Midsummer, to be set apart for the amendment of the High-ways, and must give publick notice thereof in the Church the next Sunday after *Easter*. *5 El. Ch. 13. 23 P. M. Ch. 8. Wingate's Abr. Stat. Tit. High-ways.*

4. Note,

4. Note, That there are three kind of ways, (to wit) first a Foot-way, called *Iter quod est jus eundi, vel ambulandi hominis*. Secondly, a Foot-way, and an Horse-way, called *actus ab agendo*, and this vulgarly is called a Pack or Drift way, and is both Foot-way and Horse-way. Thirdly, a Cart-way, &c. called *Via* or *Additus*, (and this containeth the other two, and a Cart way also) for this is *jus eundi, vehendi, & vehiculum & jumentum ducendi*; and this is two-fold, to wit, *Via Regia*, the Kings High-way for all men, & *communis Strata*, belonging to a City or Town, or between Neighbours. *Dalt. J. P. Ch. 26. fo. 67.*

5. Note, That the Kings High-way (or *Via Regia*) leading either to the Market, or from Town to Town, the Freehold and Soil thereof, and the interest of all Trees, and other such Profits thereupon growing, do belong to the Lord of the Soil, or the Lord of the Mannor, and therefore such Lords are chargeable to cut down the Trees and Bushes growing in such Highways; and it is called the Kings High-way, for that the King at all times hath therein Passage for Himself and his People,

People, and may punish all Nufances therein, though otherwise the Interest be in the Lord to bring his Action for digging therein, or other like Trespafs there done. *Dalt. J. P. Ch. 26. fo. 68.* and see *Rolls Cases, 1. Part. fo. 392.* 2 *E. 4. 9. 8 E. 4. 9. 17 E. 3. fo. 43.* *Bro. Chemine, 10, 11. & Leet. 3. 27 H. 6. fo. 9. 8 H. 7. fo. 5.*

6. Generally the owner of the Soil on both sides of the way shall have the Trees growing in the way: But the Lord of a Rape, within which there are Ten Mannors, may prescribe to have all the Trees growing within any High-way within such Rape, although the Mannor or Soil adjoyning belong to another person, for the usage and taking of the Trees is a good badge of Ownership. *P. 11. Jac. B. R. between Sir Tho. Pelham, & Wiat, & Blake, Rolls Cases. 1. Part. fo. 392.*

7. Where any person shall inclose any part of the High-way, such person shall be charged to amend the High-way next adjoyning to the said Inclosure. And if one man have inclosed on one side, and another man on the other side, they shall be both charged to mend the

the

the same way. *Dalt. J. P. Ch. 26. fo. 69.*
and see *Tr. 10. Car. 1. B. R. Sir Edward
Duncomb's Case, Cro. 3. Part. Rep. & 6
Jac. & 19 Jac. so Resolved. Rolls Cases
1. Part. fo. 390.*

8. But otherwise generally High-ways must be sufficiently amended at the charge of the whole Town: And it is not enough for the Inhabitants to do their full Six days work yearly; except their ways be all well and sufficiently repaired thereby; For if all their said ways be not sufficiently amended, the whole Town may be Indicted therefore: and if Six days work in the year will not serve to amend them, the Surveyors may, yea, must appoint more days. *Dalt. J. P. Ch. 26. fo. 69. 14 Car. 2. Ch. 6.*

9. The owner of Lands, if he be not the occupier thereof, ought not to be charged towards the repair of the common High-ways; but the Tenant who occupies the Lands is to be charged. *Hill. 11. Car. 1. Br. in one Foster's Case, per Curiam. Rolls Cases. 1. Part. fo. 390.*

C H A P. II.

The Duty of the Surveyors about Setting and Calling the Parishioners to the Common days works for the High-ways, and about taking and digging for Gravel, Chalk, Sand, &c. See fol. 58, 59.

10. **T**Hese Officers are to see that the Parishioners do their work on the days appointed, and that according to these Rules following, *viz.* Every person having in his own Occupation a Plough Land in Tillage or in Pasture in the same Parish, or keeping there a Plough or Draught, shall find and send on every day to the place appointed by the Surveyors, one Wain or Cart provided, after the fashion of the Country, with Oxen, &c. fit for the carriage, and with necessary Tools fit for the work, and with two able men, who are there to do such work with their Wains, &c. as they shall be appointed (by the Surveyors) by the space of eight hours every of the said six days, on pain of 10 s. every day default is made, 2, 4 P. M. *Ch. 8. Rastall. 199.*

Lamb.

Lamb. 459. *Wingate's Abr. Stat. Tit. High-ways, Dalt. J. P. Ch. 26. fo. 68.*

11. And every other Housholder, Cottager, and Labourer of the Parish, Town, &c. (able to labour, and being no hired Servant by the year) must by himself, or some other able man, be then and there ready to work every of the said six days, by the space of eight hours, as aforesaid, where they shall be appointed by the Surveyors, under pain to forfeit 12 *d.* for every day they make Default. 2, 3 *P. M. Ch. 8.*

12. Note, That all persons being chargeable but as Cottagers by the 2, & 3 *P. M.* yet if they be in Subsidy 5 *l.* in Goods, or 40 shillings in Lands, or above, they must find two able men to work every of the said six days. 18 *El. Ch. 9. Wingate's Abr. Stat. Tit. High-ways. Dalt. J. P. Ch. 26. fo. 68.*

12. If any of the Carriages shall not be thought needful by the said Surveyors upon any of the said days, they may appoint instead of a Team, two able men to work, as aforesaid, who shall not fail in pain that the party that should send them shall forfeit 12 pence for every day that either of them

them make default. *Wingate's Abr. Stat. Tit. High-ways. 2, 3 P. M. Ch. 8. Dalt. J. P. Ch. 26. fo. 68.*

13. He that shall occupy a Plow-land in Tillage or Pasture, lying in several Parishes, shall be chargeable only in the Parish where he dwelleth; and he that occupieth several Plow-lands in several Parishes, shall be charged in each Town or Parish where such Land lyeth (to wit) to find in each Town or Parish one Cart furnished as aforesaid, though he be no Inhabitant there. *18 El. Ch. 9. Dalt. J. P. Ch. 26. fo. 68.*

14. Now for the further opening of these things, note, That it is said that a Plow-land is not of any certain content, but ordinarily it is so much as one Plough may Plough in one year, which in some Countries is more, and in some less, according to the heaviness of the Soil. *Co. 9. Rep. fo. 124. Co. on Lit. fo. 69. & vide Lamb. ver. Hide. 35 H. 6. fo. 29.*

15. And note, That a Plow-land or Carve of Land may contain House, Meadow, Pasture, and Wood: And if one have so much of this as will keep a Plough and yield Tillage for it, if
part

part of it were eared in this case, it seems he is to send his Plough. *Vide Co. 4. Lib. Rep. fo. 37. b. & 9. Rep. fo. 122.*

16. He that hath a Plough Land, and no Plough, but doth suffer his Land to lie fresh, yet he is to find a Plough for this work; and so it hath been agreed by the Judges. *Mich. 21. Jac. Dalt. J. P. Ch. 26. fo. 72.*

17. He that keepeth a Plough or Draught for carriage, although he occupieth little or no Land, but carrieth or plougheth for other men, yet it seems he is to send his Cart to the High-ways; and if a man keep only two Horses and a Cart for his own business, in this case it seems he is to come with his Cart and two Horses with a man to manage them. *Vide Dalt. J. P. Ch. 26. fo. 72.*

18. It is held by some, that so many Ploughs or Draughts men have, and use frequently about their own business in Summer, so many they are to bring with them to the High-ways; so that if a man have one Plough and five or six Horses, and shall plough seven or eight score Acres of Land, and shall usually go in the Summer time with
two

two Carts or Draughts; in this case, it seems he is to come with two Carts or Draughts to this Service: And he that occupieth 40 or 50 Acres of Land, and keepeth only three Horses, and one Draught or Cart, he is to come with one Draught or Cart. *Vide Dalt. J. P. Ch. 26. fo. 72.*

19. Note, That an Indictment by the Common Law may be brought against any Parish, for not repairing their High-ways, and so they are bound to make them good at their peril, and if Six days will not serve, the Surveyors may appoint more, and charge all persons within their limits who are chargeable by Law to come to the work; and if he who is to send a Team neglect, he forfeits 10 s. and the labourer that neglects to come, forfeits 18 d for every day; but then by 14 *Car. 2. Ch. 6.* the Surveyors are to pay them for their work for all the days above six days, according to the Rates of the Country; and if they cannot agree, the next Justice of Peace living out of the Parish is to determine the business between them. 14 *Car. 2. Ch. 6.*

20. These Officers may, if they see cause,

cause, for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken stones already digged, of any mans Quarry lying within the same Parish without leave of the owner, as they shall think needful, or gather the loose stones lying dispersed in any mans grounds; But they may not without License dig in any mans Quarry for new Stones, nor take the great Stones already digged; and if there be no such Rubbish to be found in any mans Quarry within the said Parish, then may they enter into any mans several ground within the Parish, lying near the place where the ways are decayed, and there (if they see any hopes of finding materials fit for the Reparation thereof) without leave of the owner, they may dig for Sand, Stones, Gravel, &c. so that it be not in the Houses, Gardens, Orchards, or Meadows of any man; for they are not come there without Licence of the owner; and in such place where they may dig without leave, they are not to make a pit above ten yards in breadth or length, and they are to take care that the place be filled up again

gain at the charge of the Parish within one month after, upon pain to forfeit five marks to the owner of the ground to be recovered by Action of Debt; and this is by the 5 *El. Ch.* 13.

21. The same power also is granted to Surveyors by the 14 *Car. 2. Ch.* 6. to dig for Gravel, Chalk, Sand, Stones, &c. in any mans ground in the Parish next adjoining to the place where the ways are in decay, if there be not sufficient in the same Parish; Provided it be not in the House, Garden, Orchard, Court, Yard, Park with Deer in it, or in the Meadow of such party; and this they may do without paying any thing for the same Sand, Gravel, &c. only Damages to the party for the carriage of the same over his Grass, &c. and the pits and holes are to be filled up in such manner, and under such penalties as are prescribed in the 5 *El.* in the Section, next before shewed. 14 *Car. 2. Ch.* 6.

feits for every load thereof 12 pence; and the Surveyors are to make Sluces where such banks have been heretofore made, for carrying away the water out of the High-way. 18 *El. Ch.* 10.

25. Every Surveyor may cause any Water-course, or Spring of Water being in the High-way, (within their Parish) to be turned into another mans several Ditch or Ground next adjoining to the said way, in such manner as by the discretion of the said Surveyor shall be thought meet. *Dalt. J. P. Ch.* 26. fo. 70.

26. Note, That the Forfeitures of the Act of the 18 *El.* 10. must be levied by the Surveyors for the time being, (by Warrant from the Justices before whom the party shall be convicted) by Distress and Sale of Goods; which forfeitures are to be employed towards the amendment of the High-ways; and if the Surveyors neglect to do it within one year after the offence committed, then the Constables and Churchwardens by like Warrant may do it. 18 *El. Ch.* 10. *Wingate's Abr. Stat. Tit. High-ways.*

27. The Surveyors or one of them are to present to the next Justice of Peace every default upon the 2, & 3 P. & M. Ch. 8. & 5 El. Ch. 13. within one month after it shall be made, in pain of 40 s. and the Justice is in pain of 5 l. to certify the same at the next Quarter Sessions, where the Justices have power to inquire of the Default, and shall set such Fine upon the Delinquents, as they or two of them (*Quor. unus*) shall think fit. 5 El. Ch. 13. Dalt. J. P. Ch. 16. fo. 70.

28. Note, That the Presentment of a Justice of Peace in Sessions, upon his own knowledg, shall be a good Conviction, whereupon the Justices in Sessions, or any two of them (*Quor. unus*) may assess a Fine, as well as upon a verdict of Twelve men; but in this case the Delinquent shall be admitted to his Traverse as in other cases, 5 El. Ch. 13. vide Rastall. 199.

29. The Defaults and Offences upon these Stat. 2, & 3 P. M. 5 El. & 18. Eliz. are inquirable by the Justices of Peace in their Sessions, or by Stewards in Leets, either of which have power to set Fines upon Offenders at their

discretions; of which Fines Indented Estreats (in the Sessions under the Hand and Seal of the Clerk of the Peace, in the Leet under the Hand and Seal of the Steward) shall be delivered within six weeks after *Michaelmas*, one part of the Estreate to the Bayliff or High-Constable of the Liberty, and the other part to the Constables and Church-wardens of the Parish where the Offenders live. 2, 3 *P. M. Ch. 8. 5 El. Ch. 13. 18. Wingate's Abr. Stat. Tit. High-ways.*

30. And these Estreats shall be a sufficient Warrant for the Bayliff or Chief Constable of the Liberty to levy the said offences by way of Distress; and if no Distress can be found, or the party do not pay the fine within 20 days after lawful demand thereof, he or they shall forfeit double so much; all which Fines and Forfeitures are to be employed and bestowed towards the amendment of the High-ways in the Parish where the offences are committed. *Wingate's Abr. Stat. Tit. High-ways, 2, 3 P. M. Ch. 8.*

31. The Bayliff, or High Constable, shall yearly betwixt the first of *March* and

and last of *April*, render an Account unto the Constables and Church-wardens, who have the other parts of the Estreats of the Fines, of what money they have received, in pain of 40 shillings; and the said Constables and Churchwardens have power to call the Bayliff or High-Constable before two or more Justices of the Peace (*Quor. unus*) to pass his Account, who have power to commit him, until he have satisfied all the Arrearages by him received, save 8 *d.* in the pound for his own Fee, and 12 *d.* in the pound for the Clerk of the Peace, or Steward of the Leet, and in this case the succeeding Constables and Churchwardens have the same power as their Predecessors had. 2, 3 *P. M. Ch.* 8.

32. Two Justices of the Peace by the *Stat. 18 El.* may take Accounts of the Surveyors of the ways, and of the petty Constables and Churchwardens, for such Forfeitures (within that Statute) as they have Levied. 18 *El. Ch.* 10. *Dalt. J. P. Ch.* 26. fo. 71.

33. By the 14 *Car. 2. Ch.* 6. Every person elected a Surveyor of the Highways, shall within one month after his

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year

yearly expired yield up to the Inhabitants of the Parish Town, or Hamlet, at some publick meeting appointed by the Inhabitants, a perfect Account of all monies he hath received and paid within the year, by reason of his said Office, and of whom, what sum, and to whom he paid the same, what monies are in Arrear for Fine, Forfeitures, Penalties, &c. And if any overplus be in his hands, he shall turn the same to the next Surveyor for the use of the Parish, Town, or Hamlet, to be disbursed in and about the High-ways the year following. And if the Surveyor shall not make such Account and Payment, then two Justices near the Parish upon complaint may examine the business upon Oath, and upon default found in the Surveyor, they may commit him to the Goal of the County, City, &c. there to remain till he have made a true Account and Payment.

14 Car. 2. Ch. 6.

34. All Justices of Assise, Oyer and Terminer, and Justices of Peace are impowred to hear and determine all matters concerning Charitable Gifts, for the amending and keeping in Repair
any

any common High-ways, Pavements, Streets, &c. within their Commission, and to make Orders for the due Im-
ployment of such Gifts (except the Gift be made to the use of any Col-
ledge, Hall, Free-School, or Hospital, who have proper Visitors of their own)
and to determine all offences ; and de-
fects in Surveyors concerning the same ;
and in case any person be agrieved by
such order, he may appeal to the Court
of Chancery, as in case of a Decree
made upon the Statute of *Charitable
Uses. 14 Car. 2. Ch. 6.*

35. No Travelling Wain, Wagon,
Cart, or Carriage, wherein any Goods,
Burthens, or Wares shall be carried or
drawn for hire (other than such Carts
and Carriages as are imployed about
Husbandry, and managing of Lands,
and in carrying of Hay, Straw, Corn
unthreshed, Coal, Chalk, Timber for
Shipping, Materials for Building,
Stones of all sorts, or such Ammuni-
tion or Artillery as shall be for his
Majesties Service) shall at any one
time Travel, be drawn, or go in any
publick or common High-way with
above 7 Horse Beasts, whereof six shall

draw in pairs, nor with about 8 Oxen, or six Oxen and two Horses; nor shall at any time carry above 2000 weight between the first of *October* and the first of *May*, (except such particulars as above said) nor above 3000 weight between the first of *May* and the first of *October*; nor above five quarters of Wheat, Meal, Mesline, Rye, Pease, Beans, Tares, nor above eight quarters of Barly, Malt, or Oats; nor shall any Wagon, Wain, or Carriage, be employed for the said uses, the wheels whereof are less in breadth than four inches in the tyre, upon pain every owner of such Waggon, Wain, or Carriage, Horse, Beasts, or Oxen, shall for every of the said offences forfeit 40 shillings, to be divided into three equal parts, one to the Surveyors of the High-ways where any of the offences shall be committed towards the repair of the High-ways of the Parish there, one other part to the Overseers of the Poor of the Parish where the offence is committed for the Relief of the Poor there, and one other part to him that shall discover and prosecute for every of the said offences; The penalties to be levied by Distress
of

of all or any the Horse, Beasts or Oxen, and to be distributed as aforesaid, by the Constables, Surveyors of the High-ways and Overseers of the Poor; and in case the penalties be not paid within three days after Distress, then the same to be sold, rendring the overplus, the charges of keeping and selling first deducted. 14 Car. 2. Ch. 6.

36. Note, There are several Statutes which concern particular High-ways, in which these Surveyors are little concerned; I shall therefore only name the Statutes, and they who desire to be further informed therein, may look the Statutes at large.

37. Stat. 39 El. Ch. 19. for Repairing the High-ways in the Wild of *Sussex*, *Surrey*, and *Kent*, used for Iron Works, Stat. 37. H. 8. Ch. 3. For *Huntington Lane* near to *Chester*, Stat. 14. H. 8. Ch. 6. & 26 H. 8. Ch. 7. For laying out new High ways in the Wild of *Kent* or *Sussex*, Stat. 1 M. Par. 2. Ch. 5. For the Cawsey between *Dorchester* and *Sherborn*, Stat. 18. El. Ch. 10. about the Kings Ferry in *Kent*.

C H A P. IV.

Some Heads of the Stat. 14 Car. 2. Ch. 2. concerning the Ways, Sewers, Pavements, &c. in London, and the Scavengers Office.

38. **F**OR the enlargement of the High-ways, Streets, Pavements, Gutters and Sewers in and about *London*; these things are to be known, that there are Commissioners to be appointed under the Kings Great Seal; any Five or more of which Commissioners may direct and order the pulling down and removing of Nufances and Incroachments, and the enlarging, altering, new-making or cleansing of Vaults, Sinks, and Common Sewers, and may enlarge or straiten the passages as they see cause, according to the Limitations laid down in the said Act. 14 *Car. 2. Ch. 2.*

39. For the raising of money for the Commissioners to effect their work with, they are to licence 400 *Hackny* Coaches and no more, every of which is to pay five pound *per annum* to the
Com-

Commissioners, and every load of Hay is to pay six pence, and every Cart load of Straw two pence every time they stand upon the new paved Streets about the *Mews*, &c. mentioned in the Act, to the Commissioners or to such as they shall appoint. 14. Car. 2. Ch. 2.

40. The Commissioners also are to order and direct the Scavengers, and such like Officers and others, for the carrying away of Filth and Dirt in the Streets, and every Householder in *London, Westminster, Burrough of Southmark*, and places adjacent, are to sweep and cleanse the Streets, Lanes, Allies, and publick places, before their houses, twice every week (to wit) Wednesdays and Saturdays, and make it ready for the the Scavenger to carry away, on pain of 3 s. 4 d. for every neglect. 14. Car. 2. Ch. 2.

41. And no person whatsoever, upon pain of five shillings, is to throw any Filth, Dirt, Ashes, or noysom thing into the Streets, Lanes, Allies, or against the Walls of any Church or Churchyard, or other Houses, nor throw the same into any Vault or Sink; but they are to keep the same in their Houses,
until

until the Scavenger come, and then they are to carry it out to him, or otherwise put it in his Cart, upon pain to forfeit for every offence twenty shillings. 14 *Car. 2. Ch. 2.*

42. None are to hoop, wash, or cleanse any Pipe, Barrels, or other Casks or Vessels, in any of the Streets, Lanes, or Passages aforesaid, nor set out any empty Coaches to make or mend, or rough Timber or Stones to be sawn or wrought in the Streets, on pain of twenty shillings for every offence; and every Housholder is to repair and keep paved the Streets, Lanes, &c. before his House unto the Channel or middle of the same Street, upon pain of twenty shillings for every Rod, and after that proportion for a less quantity for every Default; and twenty shillings *per week* for every week after till it shall be well paved and amended: such Streets as have been otherwise repaired are to keep their old custom; and every Housholder also, whose House adjoyns next the Street, is to hang out his Light from *Michaelmas* till *Lady-day*, from such time as it begins to grow dark, till nine of the clock in the Evening, upon pain

pain of 12 *d.* for every default. 14 *Car.*
2. *Ch.* 2.

43. Every Justice of either Bench, Barons of the Exchequer, or Justices of Peace in the places aforesaid, within their several Limits, may upon their own knowledg, or view, confession of the Party, or proof of one Witness upon Oath convict any person, &c. of the offences aforesaid, whereby they shall incur the penalties aforesaid, one moiety to the repairing and cleansing of the Street, &c. the other to the Discoverer; but in case the Justice himself convict the party upon knowledg or view of himself, then all the penalty is to be imployed for the repairing of the Street or place where the offender lives: And these Forfeitures are to be levied by Distress and Sale of the Offenders Goods by Warrant under the Hand and Seal of any such Justice, &c. rendering the Overplus to the party, and for Default of Distress or Non-payment within six days after demand, or notice in writing left at the Offenders dwelling house by the Constable or other Officer, the Offender (not being a Peer of the Realm) may by
such

such Justice be committed to the Common Goal, there to remain till payment. 14 *Car. 2. Ch. 2.*

44. Within *London*, and the Liberties thereof, the Scavengers, Rakers, and such like Officers are to be elected, and such Payments made by the Parishioners to them, for cleansing the Streets, as hath been used by custom; and in *Westminster* also they are to observe their Customs for Election and Payments as aforesaid, and in all other Parishes and places upon every Tuesday or Wednesday in *Easter-week*, the Constables, Churchwardens, and Overseers of the Poor, and Surveyors of the High-ways of every Parish aforesaid, giving notice or calling together the Inhabitants of the Parish that have born such Office, they, or the greater number of them shall appoint two Tradesmen of their Parishes to be Scavengers for the Streets, &c. of each Ward for that year following; which persons being appointed and confirmed under the hands of two Justices of Peace, within their Limits, &c. are within seven days after to take the Office upon them, on pain of twenty pounds

pounds upon every Refuſer; and it after this others be choſen, and reſuſe as aforeſaid, they are to ſuffer the like penalty: which penalties are to go towards the repairing of the Streets of the Pariſh where, &c. to be levyed by Diſtreſs and Sale of the Offenders Goods, by Warrant from any Juſtice of Peace within the limits, &c. directed to the Conſtables, or other Officers, or any two of them, rendring the overplus to the owners; and for want of Diſtreſs or Non-payment ſix days after demand, the offenders to be committed by any ſuch Juſtice to the Common Gaol, there to remain till payment. 14 *Car. 2. Ch. 2.*

45. Within twenty days after Election and Confirmation as aforeſaid, the Conſtables and other Officers and Inhabitants as aforeſaid, or the greater number of them, ſhall ſet a Rate according to the pound Rate, to be impoſed upon the Inhabitants of the Pariſh, Ward, &c. for the year following, which being allowed and confirmed by two Juſtices of the Peace of the place aforeſaid, reſpectively, ſhall be yearly paid by every Inhabitant, upon demand thereof,

thereof by the Beadle of the Parish, or other Officer appointed to collect the same, and in case of refusal, two such Justices may grant their Warrant to levy the same by Distress and Sale; and for want of Distress, to imprison the Offender as aforesaid, (not being a Peer of the Realm) till payment be made. 15 *Car. 2. Ch. 2.*

46. The Rakers and Scavengers every day in the week (except Sundays and Holy-days) must bring Carts, Dung-pots, or other fitting Carriages, into the Streets within their respective Wards, Parishes, and Divisions, where such Carts, &c. can pass; and at and before their approach by a Bell Clapper, or otherwise, shall make a loud noise, and give notice of their coming; and so into every Court, &c. where Carts cannot pass, and abide and stay there a convenient time, that all persons concerned may bring forth their respective Dust, Ashes, &c. to the said Carts, all which the said Rakers and Scavengers shall carry away on pain of 40 shillings for every offence and neglect respectively. 14 *Car. 2. Ch. 2.*

CHAP. V.

*Some Particulars gathered out of the Acts,
15 Car. 2. Ch. 1. & 16, 17 Car. 2.
Ch. 10. about the Repair of the High-
ways in the Northern-Post-Road from
London to York, &c.*

47. **F**OR the amendment of the ancient High-way and Post-road leading from London, (for many miles in the County of Hertford, Cambridge, and Huntington) to York, and so into Scotland, and likewise from London into Lincolnshire, and from the City of Norwich, St. Edmunds-Bury, and the Town of Cambridge to London; and from London to Newmarket, and so into Norfolk and Suffolk, beginning at Puckridge in Hertfordshire, and so to Barley in the same County, it is provided, as followeth:

48. The Justices of Peace at their Easter Sessions yearly, for the respective Counties aforesaid, from time to time are to nominate and appoint nine sufficient able persons, residing and inhabiting within the said several Counties, to be Surveyors of the several places

places in the ways aforesaid, for the year then next following, the Justices for the County of *Hertford*, to appoint the Surveyors for the Highway, lying in the several Towns and Parishes within the said County, and Justices for the Counties of *Cambridge* and *Huntington* respectively to do the like; and the Justices and these Officers are not to meddle out of their respective Counties: After the choice of the Surveyors, the Justices are to give them notice in writing, and if they neglect or refuse the Office, the Justices at their Sessions may set any Fine under 10 pounds upon every such person so refusing or neglecting; and in case any one so chosen shall die, or shall be discharged of his Office, then any two or more Justices of the County, near to the High-way and places, may appoint some other fit person in his place, and give him notice thereof under their Hands and Seals; and if he refuse or neglect it, then to be under the same penalty as the Refusers of them that were first elected. 15 *Car.* 2. *Ch.* 1.

49. The Surveyors within a week after

ter notice given them of their choice, having no lawful impediment to be allowed by the Justices that do choose them, are to meet in each of their Counties respectively, in some convenient place of each County appointed by the Justices at their Quarter Sessions, to view and survey the same ways, and to consider what Reparations shall be needful, and they are in each County to provide Stones, Gravel, and other materials and necessaries for the work. 15 *Car. 2. Ch. 1.*

50. And three of these Surveyors for each County, being met together as aforesaid, with the approbation of two or more Justices of the County living near to the High-ways or places aforesaid, may appoint a Receiver or Collector of Toll, and such other Officers as they shall find necessary to carry on their work, for which a moderate allowance is to be given. 15 *Car. 2. Ch. 1.*

51. Any three or more of the Surveyors are to appoint and require all the Inhabitants within three miles of the places aforesaid, and in the same County that are by the former
Laws

Laws of P. & M. and Queen Elizabeth chargeable to find Wain, Team, or Cart for the amending of the Highways, and other persons chargeable in person only, to labour herein for three days in a week, so that it be not in Seed-time, Hay, or Corn-harvest, to come or send their Wains, Carts, or Teams provided, as by Law they ought to do, for repair of the Highways; and when they are come, to appoint them their several work, and to pay them after the rate of the Country for their work, and if any difference be, two Justices of the Peace of the County are to end it; he that fails to send his Wain, &c. for every day forfeits ten shillings, and the Labourer refusing or neglecting for every day 18 pence. 15 Car. 2. Ch. 1.

52. Any three or more of the Surveyors may appoint any to dig, take, and carry away so much as they shall think needful of the Gravel, Chalk, Sand, or Stones out of the Waste or Common of any neighbouring Parish or place near adjoining to the place in decay, without paying any thing for it; and if it be not there to be had, then they

they may take it out of any mans several ground (not being an House, Garden, Orchard, Yard or Park stored with Deer) in any Parish chargeable toward the repair of the said Highway, giving only satisfaction to the owner of the ground for the damage he hath thereby, accordingly as the Justices at any of their Quarter Sessions shall set down, if any difference be: And they are with all speed convenient to fill up and level such Pits as they shall make, or else to rail them about, that they be not dangerous to Man or Beast.

15 Car. 2. Ch. 1.

53. The Surveyors are always at the Quarter Sessions next after *Easter* to give in an Account under their Hands to the Justices of all the money they have received from the Collector or Receiver of the Toll, and what they have laid out about the High-ways or in the execution of their Office; and if they have any money in their hands, they are to pay it to the Surveyors for the next year, or to their Treasurer or Receiver; and then they are to have allowance for their pains; and if they shall not account and pay in the money
in

in their hand, or if the Collector or Receiver of the Toll refuse to pay in the money to the Surveyors upon Request, then they respectively at any Quarter Sessions may be committed to Prison, till they do so account and pay in the money. 15 *Car. 2. Ch. 1.*

54. If the Justices at their Quarter Sessions make any Rate for the Repair of these High-ways, the Surveyors are to collect and receive it, and in case of refusal they or their Receivers and Collectors may distrain for it, and sell the Distress, rendring the overplus to the owners; and they or their Receivers are to receive all the Fines and Forfeitures named in the Act, and to imploy them towards the Repair of the High-ways; they might also (with the consent of the Justices at their Quarter Sessions) borrow money to repair the said High-ways, and ingage the Toll for it in their respective Counties, by Indenture under their Hands and Seals for any time under nine years, for Security of the Repayment of the Money borrowed with Interest, and therewith repay the same. 15 *Car. 2. Ch. 1.*

55. The

55. The Collector of the Toll for these High-ways is to demand and receive Toll or Custom, for all the Horses, Coaches, Carts, Waggon, Drovers, and Gangs of Cattel, that shall pass, be led, or driven in or through the Toll Gates at *Stilton* in *Huntingtonshire*, at *Arrington-Bridge* in *Cambridgeshire*, and at *Wades-Mill* in *Hartfordshire*, after the proportion following: That is to say, for every Horse one peny, every Coach six pence, every Cart eight pence, every Waggon twelve pence, every score of Sheep or Lambs one half peny, and so proportionably for greater or lesser numbers; for every score of Hogs two pence, and so proportionably for greater or lesser numbers, not being under Five; for every score of Oxen or Neat Cattel five pence, and so proportionably for greater or lesser numbers; and if any refuse or neglect to pay, the Collector may distrain the Horse, Coach, Cart, Waggon, Oxen, or other Cattel aforesaid, or any of them, and keep them till the Toll be paid, and damages for keeping the Distress. 15 *Car. 2. Ch. 1.* and see 16, & 17 *Car. 2. Ch. 10.*

56. Note, That no Passenger is to pay twice in one day at the same place, neither is any Souldier in his March, or Post-rider to pay Toll, and certain adjacent Towns also to the said places appointed for taking of Toll are exempted. See the Statute it self. 15 *Car.* 2. *Ch.* 1.

57. The Toll at *Stilton* and *Arrington* Bridge is to continue 11 years, to begin from the 7th of *July* in the 15th year of the King, if the ways be not well amended, and the monies borrowed paid in again, before the expiration of the said Term; and the Toll at *Wades* Mill is to continue for 21 years, after the 11 years expired, if the ways be not adjudged to be well amended in the mean time, and all monies borrowed for that purpose, with the Interest thereof repaid again. 15 *Car.* 2. *Ch.* 1. 16, & 17 *Car.* 2. *Ch.* 10.

58. The Collector of the Toll at *Wades* Mill is to account weekly to the Receiver General; and the next Justice may give the Collector an Oath to make a true and perfect Account, and such Account is to be returned to the next Quarter Sessions for the County, by

by the Justice that gives the Oath, 16
& 17 *Car. 2. Ch. 10.*

59. All persons who by Law are chargeable towards the repairing of the High-ways aforesaid, shall still remain so chargeable, by the 15 *Car. 2. Ch. 1.* and shall also pay six pence in the pound yearly, according to the true value of their Estate, towards the repair of the said High-way during the continuance of the Toll, which shall be paid to the Treasurer of the said Toll; and in default of payment six days after demand, the Surveyors are to distrain for it, and sell the distress, rendring the overplus to the owners, if any be, 16, & 17 *Car. 2. Ch. 10.*

60. The Receivers or Collectors of the Toll, that shall be in the office at the end of the 11 years, if they upon their account shall then have any Money in their hands, they are to bring the same to the Justices at their next Quarter Sessions, under pain to forfeit double so much, to be recovered by Distress and Sale of their Goods. 15 *Car. 2. Ch. 1.*

C H A P. V.

Several Cases about the Repairs of Bridges, with the names of the Statutes which concern particular Bridges.

61. **W**HERE a Common Bridge in the Kings High-way is in decay, and that it cannot be proved or known, who, nor what Lands are chargeable to the repairing thereof; in this case Four Justices of the Peace (whereof one to be of the *Quorum*) within the Shire or Riding wherein such decayed Bridges be, and if they be in a City or Town Corporate, then four such Justices of Peace there, may, within the limits of their several Commissions, call before them the Constables, or two of the most honest Inhabitants of every Town and Parish within the Shire, Riding, City or Town Corporate, wherein such Bridge or any parcel thereof shall happen to be; and the Justices (upon the appearance of the Constables or other Inhabitants, and with their assents) may tax every Inhabitant in any such City, Town, or Parish

Parish within their limits, to such reasonable sum of money as by their discretions they shall think convenient, as well for the repairing of such Bridge, and also for the making and repairing of the High-ways by the space of 300 Foot next adjoining to the ends of any such Bridge. 22 H. 8. Ch. 5. Dalt. 7. P. Ch. 13. fo. 40. Co. 2. Part. Inst. fo. 701, 702.

62. But note, where the Franchise, City, or Burrough is a County of it self, and hath not four or more Justices of the Peace, whereof one or more are of the *Quorum*, in this case no other Justices of the Peace of any Shire or County have any power to meddle there by this Act, but such decay must be reformed by the Common Law by such Remedie, as they were before the making of the Statute of 22 H. 8. Co. 2. Part. Inst. fo. 702.

63. And note, that this Taxation ought not to be made by the Justices without the consent of the Constables or Inhabitants, nor by them without the Justices; and this tax ought to be upon every Inhabitant in particular, and not to be set upon the Hundred, M 2 Parish,

Parish, Town, &c. for then one or few might be distrained upon for the whole. *Co. 2. Part. Inst. fo. 704.*

64. After such Taxation made as aforesaid, the said Justices of Peace shall cause the Names and Sums of every particular person so by them Taxed, to be written in a Roll indented in Parchment for every Hundred, and sealed with their Seals. *Co. 2. Part. Inst. fo. 704. Dalt. J. P. Ch. 13. fo. 40.*

65. And the said Justices may make two Collectors of every Hundred, for the Collecting of all such Sums of Money, by the said Justices set and taxed, which Collectors receiving the one part of the Roll indented, have power thereby to collect all the Sums of Money therein contained, and if refusal be made upon demand, then to distrain and sell such distress, rendring the overplus to the owner if any be. *Dalt. J. P. Ch. 13. fo. 40. 22 H. 8. Ch. 5. Co. 2. Part. Inst. fo. 705.*

66. The said Justices also are to appoint two Surveyors, who shall see such decayed Bridges and ways repaired and amended from time to time as often as need shall require, to whose hands

hands the Collectors must pay the Monies by them received. *Dalt. J. P. Ch. 13. fo. 40. 22 H. 8. Ch. 5.*

67. And the said Collectors and Surveyors, and their Executors and Administrators, and every of them shall from time to time make a true Account to the said Justices of Peace, of the Receipts, Payments, and Expences of the said Sums of Money, and if any of them refuse so to do, then the said Justices of Peace from time to time by their discretions, may make out process against the said Collectors and Surveyors, their Executors and Administrators by Attachment, Precept, or Warrant, under their Hands and Seals returnable at their General Sessions of the Peace, and the said Justices may allow such reasonable Costs and Charges to the said Surveyors and Collectors upon their Account, as to them shall seem convenient. *22 H. 8. Ch. 5. Dalt. J. P. Ch. 13. fo. 40.*

68. If any such Bridge be wholly in a City, or other Corporate Town, the Inhabitants of the said City or Corporate Town must repair it; and where such Bridge lies out of such City or

Corporate Town, the same must be made by the Inhabitants of the Shire or Riding within which the same Bridge shall be, and if part of the Bridge be in one Shire or Riding, City, or Corporate Town, and part in another, then every of them shall be charged to make and repair such part as shall lie and be within their own limits. 22 H. 6. Ch. 5. Co. 2. Part. Inst. fo. 702. Dalt. J. P. Ch. 13. fo. 41.

69. But otherwise no Village or Freeman shall be compelled to make any Bridge; but such as of old time, and by Right they were wont to make. *Magna Charta Ch. 15.*

70. By the Common Law some persons were bound to repair Bridges, *Ratione tenuræ suæ Terrarum, &c.* and this was binding, into whose hands soever the Estate did come; but they which have Lands on the one side, or on the other, or on both, are not bound in Common Right to repair the same. 44 El. 3. 31. 21 E. 4. 46. 5 H. 7. 3. *Crompt.* 186. 8 H. 7. 5. b. Co. 2. Part. Inst. fo. 700.

71. If a man, which holdeth 100 Acres of Land, ought to repair a Bridge by tenure of the same, do alien 20 Acres

Acres thereof to one man, and 10 Acres to another man, in such case every owner or occupier of such Lands must be charged proportionably for their said Lands. *Reg ist.* 268. *a.* *F. N. B.* 235. *B. Co.* 2. *Part. Inst.* fo. 700.

72. Again, some by the Common Law were bound by prescription to repair a Bridge, but herein there is a diversity between Bodies Politick or Corporate, Spiritual or Temporal, and Natural Persons; For Bodies Politick, &c. may be bound by usuage and prescription only, because they are local, and have a perpetual succession, and never dye; but a Natural person cannot be bound by the Act of his Ancestor, without Assets, or some profit to be taken therefore. 21 *E.* 4. fo. 38. *b.* 27. *Aff.* 8. *Crompt.* 187. *Co.* 2. *Part.* fo. 700. *Dalt.* *J. P. Ch.* 13. fo. 41.

73. By Common Right Bridges are to be amended by the whole County, if it be not known who ought to do the same otherwise. *Pasch.* 10 *E.* 3. 28, 29. *Co.* 2. *Part. Inst.* fo. 701. *Crompt.* 186. *b.* *Tr.* 10. *Car.* 1. the Case of Longford Bridge. *Rolls Cases* 1. *Part.* fo. 368. & *Cro. Rep.* 3. *Part.* the same Case.

74. If a man erect a Mill for his own particular profit, and cut a new course for the water to come to it, and makes a new Bridge over the same, and the Kings Subjects use to ride over the same as over a common Bridge; such Bridge ought to be repaired by him who hath the Mill, and not by the County, because he erected it for his own benefit, 8 E. 2. B. R. adjudged for *Bow Bridge* and *Channel Bridge* against the Prior of *Stratford*, *Rolls Cases. 1. Part. fo. 368.*

75. Such as are chargeable to repair a Bridge, may enter upon any other mans Land or Soil adjoining, and lay their Stone, Lime, Timber, or other things necessary there for the repairing and amending thereof, and the owner of the Lands shall have no action therefore; for it is for the common profit; and the party that is chargeable to repair a Bridge, must also maintain the way at each end thereof (though the Soil be to another) and if the ends be broken by the Water-course, he must follow the Water-course, and repair the way, &c. *Crompt. 186. b. 43. Ass. Dalt. J. P. Ch. 13. fo. 42.*

76. It is provided by the 14 Car. 2. Ch. 6. That all Bridges shall have sufficient Walls, or Posts and Rails on each side thereof, four foot high at the least, and that the same be from time to time sufficiently kept and repaired. 14 Car. 2. Ch. 6.

77. The Names of some Statutes for particular Bridges follow, 18 H. 6. Ch. 28. for the making of *Burford* and *Culhamford* Bridge. 18 El. Ch. 17. & 27. El. Ch. 25. for the maintenance of *Rochester* Bridge. 18 El. Ch. 20. for Repair of the Bridges within a Mile of *Oxford*, 23 El. Ch. 11. for the maintenance of the Bridges over *Tosse* in *Wales*. 39 El. Ch. 23. for making and repairing of *Newport* and *Carlion* Bridges over the River *Usk*. 39 El. Ch. 24. for building and maintenance of a Bridge at *Wilton* upon *Wy* near *Ross* in *Heresfordshire*, 43 El. Ch. 16. for erecting and repairing *Edon* and *Presberk* Bridges in *Cumberland*. 3 Jac. Ch. 23. for making and repairing *Chepstow* Bridge. 14 Car. 2. Ch. 6. for building and repairing *Laycock* and *Key* Bridges in *Wiltshire*, and *Stratford* Bridge in *Middlesex*.

By the *Stat. 22 Car. 2. Ch. 12.* It is enacted, That the Surveyors and Orderers of the work of amendment of the High-ways shall be yearly chosen in Christmas-week, according to the *Stat. 2, & 3 P. & M. Ch. 8.* Which persons so chosen shall take upon them that Office, and shall appoint six days for providing Stones, Gravel, and other Materials, and for working in the High-ways, having respect to the season of the year and weather, and giving notice publickly some convenient time before the several days. At which days all persons lyable to the said work shall attend and work: And the said Surveyors and Orderers shall make return of the Defaulters and every of them within one month, to some neighbouring Justice of the Peace of the same County.

F I N I S.

GUIDE
FOR
TREASURERS
OF THE

County Stock, for the
Relief of Poor Maimed Souldiers and Mariners.

THese Treasurers are certain Officers appointed by the Justices of Peace, to have the charge of the Receipt and Disbursement of money taxed and levyed upon the whole County yearly for the relief of Poor Maimed Souldiers and Mariners; For the Justices of Peace
are

are yearly at their Quarter Sessions, about *Easter*, to choose or appoint one or two persons (according to their discretions) of the County for the taking and distributing of the Monies collected for the purposes aforesaid: And these Treasurers, by the words of the Statute, ought to be Subsidy men of 10 pounds in Lands, or 15 pounds in Goods, (but it seems, if they be sufficient men, this is not stood upon) and these Officers are to continue in their Office one year, and new ones then to be chosen in their rooms. 43 *El. Ch. 3. Wingate's Stat. Tit. Captains.*

2. Now for the raising of Money for these Treasurers, the greater part of the Justices in their Quarter Sessions have power to charge every Parish within their limits towards a weekly Relief of Maimed Souldiers and Mariners, so that no Parish pay weekly above 10 pence, nor under two pence; nor any County, which consists of above 50 Parishes, pay above six pence; one Parish with another, and this is by the 43 *El. Ch. 3.* but it is provided further by the 14 *Car. 2, Ch. 9.* that the Justices

Justices may tax every Parish more than the Rates aforesaid, so as it exceed not two shillings and six pence, nor be under three pence *per week*. And these sums, thus taxed, must be assessed in every Parish by the Parishioners (or in their Default) by the Constables and Churchwardens (or in their Default) by the next Justice or Justices of the Peace. 43 *El. Ch. 3.*

3. And the Constables and Churchwardens have power to levy the Tax in every Parish of every person refusing to pay the same, by Distress and Sale of his Goods, rendring the overplus to the owner; and in the Constables and Churchwardens Default, the next adjoining Justice may distrain for the same. 43 *El. Ch. 3. Wingate's Stat. Tit. Captain, & Dalt. J. P. Ch. 53. fo. 135.*

4. When the Tax is levyed; the Constables and Churchwardens are to deliver it quarterly (ten days before every Quarter Sessions) to the High Constable of their Division, who must deliver to the Treasurers of the County at the same Quarter Sessions all the same money; and if the Constables or Church-

Churchwardens, their Executors, &c. fail in the payment to the High Constable within the time aforesaid, then they are to forfeit 20 shillings; and if the High Constable fail to pay the Treasurers every Sessions, then he forfeits 40 shillings; which Forfeitures, as it seems, the Treasurers may levy by Distress and Sale of the Offenders Goods, without any Warrant, rendering the overplus to the owner: and these Forfeitures are to go in Augmentation of the Treasurers Stock.
43 *El. Ch. 3.*

5. The Maimed Souldier or Mariner which was prest, shall repair (if he be able to Travel) to the Treasurers of the County where he was prest; if he were not prest, then to the Treasurers of the County where he was born, or where he last dwelt by the space of three years, at his Election; but if he be not able to Travel, then to the Treasurers of the County where he Lands; and he is to bring with him a Certificate under the Hand and Seal of the Chief Commander, or of the Captain under whom he served, containing the particular of his hurts and services,

ces, which Certificate shall also be allowed by the Muster-Master, or the Receiver General of the Rolls for the Muster, under one of their hands. 43 *El. Ch. 3.*

6. Then upon such a Certificate, the Treasurers aforesaid may allow the party Relief to maintain him till the next Quarter Sessions; and then the major part of the Justices may allow him a Pension, which the Treasurers must pay him Quarterly, until it shall be revoked or altered by the said Justices; and this allowance is not to exceed 10 pounds *per ann.* to a common Souldier, nor 15 pounds to an Officer under a Lieutenant, nor 20 pounds to a Lieutenant. 43 *El. Ch. 3. Wingate's Stat. Tit. Captains and Souldiers.*

7. Note, where Souldiers and Mariners arrive far from the place where they are to receive Relief, the Treasurers there shall give them Relief, and a Testimonial whereby they may pass from Treasurer to Treasurer, until they shall come to the place required; and this shall be done upon the bare Certificate of the Commander and Captain, although they have not as yet obtain'd any allowance
from

from the Muster-Master, or Receiver General of the Muster Rolls. *Wingate's Stat. Tit. Captains and Souldiers.* 43 *El. Ch. 3.*

8. If any Souldier or Mariner beg, or Counterfeit a Certificate, he shall be punished as a common Rogue, and shall loose his Pension, if he have any. 43 *El. Ch. 3. Wingate ubi supra.*

9. When out of the County where the party was prest, a fit Pension cannot be satisfied, it shall then be supplied by the County where he was born, or where he last dwelt by the space of three years. *Wingate ubi supra.* 43 *El. Ch. 3.*

10. By the 14 *Car. 2. Ch. 9.* It is provided, that every Officer, Souldier, or Mariner maimed, indigent, aged, or disabled in body for work, in the Service of King *Charles* the First, or of his Majesty that now is, during the late Wars, or which are so impoverished by their sufferings under any of the late usurped Powers, as that they are destitute of any competent subsistence or livelyhood, and have continued faithful to their Trust, and not deserved the same, by taking up Arms against his

his late Majesty, or his Majesty that now is, or otherwise, is to repair to the place where he was last settled before he took up Arms, (with a Certificate of his Service and hurts received under the hand of his Captain, or other Commissionated Officer) and there repair to the two next Justices, who upon examination of the truth of such Certificate (upon Oath of the Party and such Witness as he shall produce) may by Warrant unto the Treasurers assign him Relief unto the next Quarter Sessions, to be holden for that County or Liberty; at which time a yearly Pension may be settled on him, which must not exceed 20 pounds to any one person, which Pension is to be with power of Revocation or Alteration; and in case where the Captain or Officer appointed to make such Certificate is dead, the Justices upon Request to them made in behalf of the party maimed, aged, indigent or disabled, as aforesaid, by persons of credit, are to give such Relief, as in cases of Examination as aforesaid. 14 *Car.* 2. *Ch.* 9.

11. And touching the Widows and
Or-

Orphans of such as dyed in the Service aforesaid, it is provided, That (over and beside such Relief as they shall gain by their labour and work, and what shall be allowed by the charity and benevolence of the Parish, Town, or Hamlet where they are settled) the Treasurers for the maimed Souldiers for such County shall allow such further Relief from time to time, as shall be adjudged meet by two next Justices of the Peace of such County ; and the said Relief is to be paid out of the Surplusage of such Stock of Maintenance as shall remain in the hands of the said Treasurers after such Pensions and Payment of them made ; And of which surplusage and allowance made unto such Widows and Orphans, the said Treasurers shall give account from time to time, and the same distribute as by the Justices shall be directed. 14 Car. 2. Ch. 9.

12. The Treasurers are to Register all their Receipts and Disbursements, and must enter the Names of the Parties relieved into their Book, and also the Certificate, by vertue whereof
the

the disbursements are made; and where they disallow of a Certificate, they are to set down the Reasons of their Refusal under the Certificate, or on the back thereof. 43 *Eliz. Ch. 3. Wingate's Stat. Tit. Captains and Soldiers.*

13. If any Treasurer wilfully refuse to give Relief in the cases aforesaid, the Justices of the Peace in their Sessions may set a Fine upon him, which may be levyed by Distress and Sale of his Goods. *Wingate ubi supra. 43 Eliz. Ch. 3.*

14. These Officers at the end of their year, within 10 days after *Easter Sessions*, are to give up a just account to the succeeding Treasurers of all their Receipts and Disbursements within the time of their Office; and then if they have any money in their hands, they are to deliver it to their Successors; and if any such Officer, his Executors, or Administrators shall not give up such Account within the time aforesaid, or shall be otherwise negligent in the execution of his Office; The Justices at their Sessions may assess what fine they please upon him; so that
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260 *A Guide for Treasurers, &c.*

it be not under five pounds, but what they please above five pounds upon him, his Executors or Administrators. *Wingate ubi supra, 43 El. Ch. 3.*

15. In Corporations the Justices there are to put this Action in execution, and not the Justices of the County; This Act is not to prohibit the City of *London*, to make a Tax if need require, differing from that above limited in this Act, so that no Parish pay above three shillings weekly, nor under 12 pence weekly one Parish with another. *43 Eliz. Ch. 3.*

F I N I S.

A
GUIDE
 F O R
TREASURERS
 O F T H E

County Stock, for the
 Relief of Poor Prisoners in the
Kings-Bench and *Marshalsea*,
 and for Hospitals and Almshouses
 in their several Counties.

1. **T**HES E Officers are to be
 yearly chosen by the Justices
 at their Quarter Sessions
 about *Easter*, and they must be two
 for

for every County, Riding, &c. and by the words of the Statute they ought to be Subsidy men, of 5 pound in Lands, or 10 pounds in Goods at the least, or near that value; and these Officers are to continue in their Office but one year, and then others to be chosen, and they are to have the charge of the Receipt and Disbursements of the money taxed and levyed upon the whole County yearly, for the Relief of the Prisoners in the *Kings Bench* and *Marshalsey*, and for the Relief of Hospitals and Almshouses within the same County. 43 *Eliz.* Ch. 2.

2. And for this purpose the Justices of Peace of every County or Corporation, or the major part of them, at *Easter* Sessions yearly, or as often as they shall think fit, may rate every Parish at a certain sum to be paid weekly; but so as no Parish may pay more than six pence, nor less than a half penny, and one Parish with another, not above two pence through the whole County or Corporation, which sum so rated, the Constables and Churchwardens in every Parish, or any of them, (or in their default the next Justice

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stice of Peace) have power to Assess, and to levy by Distress and sale of the Parties Goods refusing to pay, Rendering the overplus to the owners; and for Default of Distress, the said Justice may commit the Party to Prison till it be paid. *Wingate's Stat. Tit. Poor.* 43 *El. 12. Ch. 2. Dalt. J. P. Ch. 53. fo. 135.*

3. And these sums, collected and levied as aforesaid, the Churchwardens or Constables of every Parish are to pay to the High Constable of that Division ten days before every Sessions, in pain that they or their Executors, &c. shall forfeit ten shillings: And the High Constable is to pay over the Sums received to the Treasurers, or one of them, every Quarter Sessions, in pain that he, his Executors, &c. shall forfeit 20 shillings; and these Forfeitures are to be levied by the Treasurers by Distress and Sale of the Offenders Goods, rendering the overplus to the party offending, which Forfeitures are to be employed by the Treasurers for the uses aforesaid. 43 *Eliz. Ch. 2. Wingate's Stat. Tit. Poor.*

4. And

4. And such Sums as the Justices shall appoint for the *Kings Bench* and *Marshalsey* (which must be 20 shillings yearly out of each County to each of them) These Officers must pay over in convenient time to the Lord Chief Justice of *England*, and Knight Marshal for the time being, equally to be divided to the uses aforesaid, taking their Acquittances for the same, and in default of the said Chief Justice, the next antientest Justice of the *Kings Bench*. *Wingate ubi supra* 43. *El. Ch. 2.*

5. They are to pay yearly also, by a Quarterly Payment, such Sums of Money as shall be set down by the Justices of Peace at their Quarter Sessions, unto the Masters and Governours of the Houses of Correction, the which if they do refuse or neglect to do, the same Masters or Governours (without any Warrant) may levy the same of the Goods of the said Treasurers by Distress and Sale, rendring them the overplus. 7 *Fac. Ch. 4.*

6. And the Surplufage of the money, by the Treasurers received, they must distribute and bestow for the Relief of
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GUIDE

FOR

MASTERS

OF THE

House of Correction, and Governours of the Corporations, or Work-Houses in *London, Westminster, &c.*

1. **T**He Governor or Master of the House of Correction is an Officer appointed by the Justices of Peace at their Quarter Sessions, to have the Oversight and Government of the House of Correction within their County or Riding, of whom the Justices are to take sufficient Security for the continuance and

performance of the Service belonging to his Office; and the Justices are to set down what allowance they shall have for their pains, (which may be charged upon the County) and for the Relief of such as shall happen to be weak and sick in their custody and for the Stock to set on work such persons as shall be committed thither; and they may set down their orders concerning the same according to their discretions; and the money allowed to these Officers by the Justices as aforesaid, is to be paid Quarterly before-hand by the Treasurers of the County for the Relief of the Prisoners in the *Kings Bench* and *Marshalsey*; and if the Treasurers refuse or neglect to pay it, the Master of the House of Correction may levy the same, or so much thereof as shall be unpaid, upon the Treasurers Account, by Distress and Sale of their Goods, rendring back the overplus of the money. 39 *El. Ch. 4.* 7 *Jac. Ch. 4.*

2. Now the Office and Duty of this Officer consists in these things following, *viz.* To look well to the same House, and the backside thereof, and to all the Implements and Goods he doth find

find there, and to look to all such lewd persons as he finds there at his entrance, and to receive all such Rogues, Vagabonds, and idle or disorderly persons, as by any of the Justices of Peace shall be sent thither. *Co. 2. Part. Inst. fo. 731.*

2. He is also to keep safely all such as are committed to his custody, and not to suffer them to wander abroad about the Country; or to escape away without order of Justices. *7 Jac. Ch. 4. Co. 2. Part. Inst. fo. 734.*

4. He is also to see and take care, that amongst the persons committed to his charge, if there be any sick, or otherwise Impotent, that stands in need of Relief, that he do relieve them, according to their necessity. *7 Jac. Ch. 4. Co. 2. Part. Inst. fo. 732.*

5. And for the rest that are able to work, he is to see and take care that from time to time, as long as they remain there, they be set to work and labour; for during that time, they must in no sort be chargeable to the Countrey for any allowance, either at their coming in, or going forth, or abode there, for they are to have such and so much allowance only as they shall de-

serve by their own labour and work: and if they will not work and perform their Task, he is to punish them as he sees cause, with putting on Fetters or Gives upon them, and by moderate whipping of them. 7 *Jac. Ch. 4. Co. 2. Part. Inst. fo. 731.*

6. And lastly, at every Quarter Sessions the Master is to give an account of all such persons as have been committed to his custody; And if he offend in any of these particulars before rehearsed, or in any other Duty incident to his Office, the Justices of Peace may impose such Fines and Penalties upon him for the same, as they shall think fit; and these Fines must be paid unto, and must be accounted for by the Treasurer of the County Stock for the *Kings Bench* and *Marshalsey*, &c. 7 *Jac. Ch. 4. Co. 2. Inst. fo. 734.*

7. Now touching the Corporations and Work-Houses in *London* and *Westminster*, and within the Burrough Towns and places of the County of *Middlesex* and *Surrey* within the weekly Bills of Mortality, and their Officers; these things are to be observed following: First it is ordained, that there shall be
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one or more Corporation or Corporations, Work-house or Work-houses within the Cities of *London* and *Westminster*, and the Burroughs and places within the Counties of *Middlesex* and *Surrey*, lying within the Weekly Bills of Mortality, consisting of a President, Deputy President, and Treasurer; and the Lord Mayor to be President of the Corporation, Work-house or Work-houses within the City of *London*, and the Aldermen and 52 other Citizens to be chosen by the Common Council to be Assistants; which President and Assistants, or the major part of them, are to choose a Deputy President and Treasurer, and all other necessary Officers to execute the powers appointed by the Act; and a President, Deputy President, Treasurer and Assistants are to be appointed by the Lord Chancellor or Lord Keeper of the Great Seal for the City of *Westminster*, and the Liberties thereof, for the Corporation or Corporations, Work-house or Work-houses within the same; and for the said places within the Weekly Bills of Mortality in the Counties of *Middlesex* and *Surrey*, a President Deputy and

Treasurers are to be chosen by the major part of the Justices of the said Counties at their Quarter Sessions, of the most able Inhabitants and Freeholders of the said Counties of *Middlesex* and *Surrey*, for the Corporation or Corporations, Work or Workhouses of the said Counties. 14. *Car. 2. ch. 12.*

8. And upon Vacancy, Death, or otherwise of any of the Presidents, Deputy Presidents, Treasurers or Assistants in the City of *Westminster* and places aforesaid, in *Middlesex* and *Surrey*, the major part of the Justices at their General Quarter Sessions have power to elect others in their rooms; and at every Quarter Sessions the said Justices are to take an account in writing of all the Receipts, Charges and Disbursements of the Officers and Treasurer of such Corporation or Corporations, Work-house or Work-houses, how, and how many poor people have been employed and set to work in the year last past, and what Stock there was and is remaining. 14 *Car. 2. Ch. 12.*

9. The President, Deputy President, Treasurers and Assistants aforesaid shall be Bodies Politick and Corporate for

for ever, and shall have a perpetual Succession, and may sue, plead, and be impleaded by the Name of a President and Governours of the Poor for the respective places aforesaid, in all Courts and places of Judicature within the Kingdom of *England* and *Wales*, &c. and may without Licence in Mortmain, Purchase, or receive any lands, &c. not exceeding the yearly value of 3000*l.* per annum, of the Gift, Alienation or Devise of any person or persons; and every of the Corporations may keep Courts for the ends and purposes in the Act expressed, at such time and place as shall be appointed by the said President, his Deputy or the Treasurer; who are upon the desire of any four of the said Corporation, at any time to cause a Court to be warned accordingly, and may from time to time make Common Seals for the use of the Respective Corporations. 14 *Car.* 2. *Ch.* 12.

10. The Respective Presidents and Governours of the said Corporations, or any two of them, or any person authorized and appointed by them, or any

two of them, may from time to time apprehend, or cause to be apprehended any Rogues, Vagrants, Sturdy Beggars, or idle or disorderly persons, within the said Cities and Liberties, Places, Divisions, and Precincts, and cause them to be kept and set to work in the several and respect Corporations or Work-houses. 14 Car. 2. Ch. 12.

11. If the President and Governours of any of the said Corporations shall certifie under their Seals, at any time their want of money for a Stock, and what Sum they think fit for the same, to the Common Council of the City of London, and the Burgeses and Justices of Peace in their Quarter Sessions for Westminster, or to the Justices of the respective Counties for Middlesex and Surrey in their Quarter Sessions, then they are from time to time to set down and ascertain such competent sums of money for the purposes aforesaid, not exceeding one years Rate usually set upon any person for, and towards the Relief of the Poor; and the same to proportion out of the several Wards, Precincts, Counties, Divisions, Hundreds, and Parishes, as they shall think
fit,

fit, and according to the said Proportions for the said several Wards, Precincts and Parishes, to Tax and Rate the several Inhabitants, within the said respective Wards, Precincts and Parishes; in which Tax if any shall find himself agrieved, he or they are to appeal to the Justices of the Peace at their next open Sessions, where the business is to be finally ended. 14 Car. 2. Ch. 12.

12. And any Alderman of London, or his Deputy, Burgeses and Justices of Peace of the Counties of *Middlesex* and *Surrey*, by Warrant under their Hands and Seals, may Authorize the Churchwardens, or Overseers of the Poor within the Places and Parishes aforesaid, to receive and demand of every person and persons such sums of money as shall be assessed upon them, by vertue of the Taxations and Constitutions aforesaid; and for default of payment within ten days after demand or notice left at the dwelling house or lodging of every person assessed, then to levy the same by Distreis and Sale of his Goods, rendring him the overplus. 14 Car. 2. Ch. 12.

13. The respective President and Governours, or seven of them may make and constitute Orders and By-laws for the better relieving, regulating, and setting the Poor to work, apprehending and punishing of Rogues, and Vagabonds, within the Cities, Liberties, and places aforesaid, provided the said By-Laws be presented to the Justices of Peace at their Quarter Sessions, and confirmed by the order of the said Court; And the Presidents and Governours, or four of them of any of the said Corporations or Work-houses, may choose and entertain all such Officers as shall be needful to be imployed in and about the premisses, and remove them as they see cause, and make such reasonable allowances unto them out of the Stock belonging to the Work-house, as they shall think fit. *14 Car. 2. Ch. 12.*

14. This Act is not to prejudice any the Franchises, Rights, Liberties, or Priviledges heretofore granted, by any Kings or Queens of this Realm, to the Dean and Chapter of the Collegiate Church of *St. Peters in Westminster.* *14 Car. 2. Ch. 12.*

A

GUIDE

F O R

BAYLIFFS

O F

MANNOURS.

1. **T**HE Bayliff of a Mannor is an Officer chosen by the Lord of the Mannor, and this Officer by the ancient Saxons was called a *Reeve*, for the name Bayliff was not known among them; but came in with the Normans it seems. *Termes de Ley, verb. Bayliff.*

2. This Officer is to Summon and call

call the Lords Courts, and to collect his Rents, Fines, Herriots, and Amerciaments, and other profits hapning within the Mannor as they grow due; and he may seize or distrain for them *ex Officio*, where seizure and distress is justifiable without any special command of the Lord, he may also pay Quit-Rents. *Termes de Ley, ubi supra.*

3. It is said he may also order his Lords Husbandry, distrain Beasts, damage Feasant, repair any Houses, Hays, or Pales, and for that purpose cut down Timber or Trees: but it is not safe for him to build a new House, or set up an old House that is fallen, or to make any new Additions or Alterations as to Tyle the House, which before was Thatched, or pale it where before it was hedged, or the like, without a special command from his Lord so to do; for otherwise he will be a Trespasser to the Lord.

4. It is said also, that he may take any Cattel for his Lord to compost his ground as an Agugment, and cut down Underwoods that have been used to be cut, and he is to over-see and order the Labour of other Labourers and
 Servants

Servants under him about his Lords work.

5. And lastly, These Officers are to give Account to their Lords of all their Receipts and Disbursements, and pay into him the money remaining in their hands, being required thereunto: and if they refuse, the Lord may compel them thereunto by an Action of Account given to him for his Relief in such case. *Bro. Bayliff.* 31. 8 E. 4. fo. 13.

F I N I S.

servants under him about the Lords work.

2. And lastly, These Officers also give account to their Lords of their Receipts and Disbursements, and pay into him the money remaining in their hands, being required to return and if they refuse, the Lord may compel them thereunto by an Action of Account given to him for his Relief in such case. See Statute 31. 8. 4. 16. 13.

F I N I S

A
GUIDE
FOR
GOVERNOURS
OF
FAIRS.

1. **T**HE Owner, Governour, Ruler, Farmer, Steward, Bayliff, or Chief Keeper of every Fair and Market overt, are to appoint and limit out a certain and open place, within the Town, Place, Field, or Circuit, where Horses, Mares, Geldings, and Colts must be sold, and they

they must appoint one sufficient person or more to take Toll, and keep the same place from ten of the clock before Noon until Sun-set of every day of the aforesaid Fair or Market, upon pain to lose for every default 40 shillings. 2, 3 P. M. Ch. 7. Co. 2. Part. Inst. fo. 715.

2. And the Toll-gatherer, his Deputy or Deputies are to take their due and lawful Tolls for every Horse, Mare, &c. at the place and times aforesaid: And they are to have before them at the taking of the said Toll, the Parties to the Bargain, Exchange, Gift, Contract, or putting away of every such Horse, Mare, &c. and also the same Horse, Mare, &c. so sold, exchanged, or put away, and then the Toll-gatherer must write in his Book the Names, Surnames, and dwelling places of all the said parties, and the colour with one special mark at the least of the said Horse, Mare, &c. on pain to forfeit for every default 40 shillings. 2, 3 P. M. Ch. 7. Co. 2. Part. Inst. fo. 715.

3. And the said Toll-gatherer is within one day after the Fair, &c. to bring his
his

his Book to the Owner, Governour or Ruler, &c. of the Fair, or Market, who is then to cause a note to be made out of the same; of the true number of all the Horses, Mares, &c. Sold at the said Fair or Market, to which note he must set his hand or mark, on pain of 40 shillings: And if the Toll-gatherer neglect to bring the Book as aforesaid, he also forfeits 40 shillings.
2, 3 P. M. Ch. 7. Co. 2. Part. Inst. fo. 715.

4. Note, That where no Toll is due, the Book-keepers Fee for entring every Contract, is one peny and no more.
2, 3 P. M. Ch. 7. Co. 2. Part. Inst. fo. 716.

5. Now since the making of this Stat. 2, 3 P. & M. It is further provided by the 31 Eliz. That every Seller or Exchanger of any Horse, Mare, &c. in a Fair or Market, which is unknown to the Toll-taker or Book-keeper, must procure one credible person that is well known to the Toll-keeper, or Book-keeper, who is to vouch and testify his knowledge of the Seller, and the Toll-taker or Book-keeper is to enter both the Names and Sir-

Sirnames, Mysterics and Places of dwelling of the Seller and Voucher into his Book, with the colour, mark, and price of the Horse, Mare, &c. so sold or exchanged; and he is to give the Buyer, if he require it, a note in writing out of his Book, concerning the Contract subscribed with his hand, for which he is to have two pence. 31 *El. Ch. 12. Co. 2. Part. Inst. fo. 717, & 718.*

6. Every Toll-taker or Book-keeper that Suffers a Sale to pass without a Voucher, unless he know the party of his own knowledg as aforesaid, and every person making false Testimony or Avouchment in the behalf aforesaid, and every Seller unknown to the Toll-taker, not bringing a Voucher, and causing the same to be entered as aforesaid, forfeits five pounds, one moiety thereof to the King, and the other to the Prosecutor; and also the sale of such Horse, Mare, &c. to be void. 31 *El. Ch. 12. Co. 2. Part. Inst. fo. 718.*

7. And note, That though an Horse, Mare, &c. be at the sale used in all the points aforesaid, with Voucher, &c. yet the right owner, his Executors or Administrators, may redeem a stoln Horse,

Horse, if they claim him within six months after the stealing, at the Parish or Corporations where they shall find him, and make proof within 40 days after by two sufficient Witnesses before the next Justice of Peace of the County, or before the Head Officer in a Corporation, that the Horse was theirs, and repay to the Buyer such price for the Horse, as the same Buyer shall upon his own Oath before such Justice or Officer testify he paid for him. 31 *El. Ch.* 12. *Wingate's Stat. Tit. Fairs and Markets. Co. 2. Part. Inst. fo. 718.*

8. And if a stoln Horse be not sold in Fair or Market, according to the Rules aforesaid, then such sale does not alter the property of the right Owner, but he may Seize or Replevy him wheresoever he finds him. 31 *El. Ch.* 12. *Wingate's ubi supra. Co. 2. Part. Inst. fo. 718.*

By the *Stat. 22 Car. 2. cap. 8.* There shall be no Buthel but the *Winchester* Buthel, containing eight gallons, and none shall sell by other measure.

If the Clerk of the Market of the Kings-house, or others authorized to
mark

mark or seal Measures, being required shall neglect or refuse to seal or mark any Bushel, Half Bushel, or Peck duly gauged, he forfeits 5 *l.* for the first offence, and for every other offence 10 *l.* Or if the Kings Clerk of the Market of his House take more than his Fees; or if any other take above one peny for sealing a Bushel, one half peny for the Half Bushel or Peck, or more than one Farthing for any lesser Measure, he incurs the Penalties in the Statute 17 *Car.* 1.

That at the charge of such persons who have the Toll, or profit of the Market where no Toll is taken, there shall be before 29. *Sept.* 1670. one Measure of Brass provided and chained in the Market place, upon pain to forfeit 5 *l.*

F I N I S.

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:Peragrina Eddoves: 1717:

Wants P.

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