

University of Michigan Law School

## University of Michigan Law School Scholarship Repository

---

Books

Faculty Scholarship

---

1964

### British Statutes in American Law, 1776-1836

Elizabeth Gaspar Brown

*University of Michigan Law School*

Available at: <https://repository.law.umich.edu/books/27>

Follow this and additional works at: <https://repository.law.umich.edu/books>



Part of the [Legal History Commons](#), [Legislation Commons](#), and the [State and Local Government Law Commons](#)

---

#### Recommended Citation

Brown, Elizabeth Gaspar. *British Statutes in American Law, 1776-1836*. Ann Arbor: University of Michigan Law School, 1964.

This Book is brought to you for free and open access by the Faculty Scholarship at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Books by an authorized administrator of University of Michigan Law School Scholarship Repository. For more information, please contact [mlaw.repository@umich.edu](mailto:mlaw.repository@umich.edu).

**MICHIGAN LEGAL STUDIES**

---

---

**BRITISH STATUTES IN AMERICAN LAW**  
**1776—1836**

PUBLISHED UNDER THE AUSPICES OF THE UNIVERSITY  
OF MICHIGAN LAW SCHOOL (WHICH, HOWEVER, ASSUMES  
NO RESPONSIBILITY FOR THE VIEWS EXPRESSED) WITH  
THE AID OF FUNDS DERIVED FROM GIFTS TO THE  
UNIVERSITY OF MICHIGAN BY WILLIAM W. COOK.

BRITISH STATUTES IN AMERICAN LAW  
1776—1836

---

---

*by*

ELIZABETH GASPAR BROWN

RESEARCH ASSOCIATE IN LAW, THE UNIVERSITY OF MICHIGAN

*in consultation with*

WILLIAM WIRT BLUME

PROFESSOR EMERITUS OF LAW, THE UNIVERSITY OF MICHIGAN

*Foreword by*

ALLAN F. SMITH

Ann Arbor  
THE UNIVERSITY OF MICHIGAN LAW SCHOOL  
1964

Copyright © 1964  
by  
The University of Michigan



To  
LOUISE

## FOREWORD

Historical studies are often undertaken solely in response to the sheer fascination which scholars feel for knowing and understanding the past. When historical studies are undertaken in legal areas, there is frequently an accompanying motivation arising from the desire of the historian to understand the present and plan for the future. The University of Michigan Law School has long supported studies of legal history, and the present study is an outgrowth of a comprehensive work undertaken years ago by Professor Emeritus William Wirt Blume as he sought to identify and trace the sources of law in the United States during the territorial period.

As these studies progressed, it became clear that, while the early American settlers brought with them the traditions and ideas of law with which they were familiar, they evidenced no disposition to limit their use of either common or statute law to such English legislative enactments as were extended specifically to the colonies. It became equally clear that independence did not modify the mores. The subject of how far British statutory law was utilized in American law after independence is one on which there has been much speculation and little factual research. Mrs. Brown has provided here a definitive answer for the thirty-two jurisdictions which she examined. Not only does the study set to rest the factual questions of the extent to which British statutes were used, but it also throws light on the content of those statutes. One need no longer speculate upon the areas of law in which the early Americans found British legislation compatible and desirable in the development of new institutions and in the settlement of the affairs of men. The pages which follow reveal, with a completeness which is typical of Mrs. Brown's work, the answer to such questions.

Finally, the book provides a framework for future studies, either in other American jurisdictions or in countries which have gone through comparable periods of adjustment in developing a legal system. Thus, the contribution here made to legal scholarship is not only the definitive nature of the particular content but the analytical base which will permit both continuing and comparative studies of similar nature.

Allan F. Smith  
Dean, The University of Michigan Law School

## PREFACE

When a dependency severs its formal connection with the mother country — irrespective of the century in which such severance occurs — the act of independence can neither eradicate the past nor solve all problems of the future. In the late eighteenth and early nineteenth centuries, the United States of America discovered that independence from Great Britain in itself did not abolish the need for rules and regulations by which men could anticipate with some degree of certainty the consequences of particular actions. Wholesale adoption of such English\* statutes as were suited to their condition offered a solution to the need for a body of laws. At the same time it avoided the need to draft and enact a comprehensive body of legislation at the moment the newly independent jurisdictional entities were faced with a wide assortment of internal and external problems.

As colonists, the citizens of these newly independent states had clamored for the untrammelled use of the English statutes and the common law and had made much of Great Britain's refusal to concede such use. After 1776 they were free to use, adapt, or reject the statutes and the common law which they had claimed as their birthright and heritage. This study is designed to show the extent to which British statutes without re-enactment were declared to be or were considered to be in force or not in force in the twenty-eight separate jurisdictions of the United States during the first sixty years of the nation's independence.

To keep the scope of the study within reasonable limits, no substantial effort was made to learn the extent to which English statutes were re-enacted as state or territorial statutes. That this re-enactment did occur in some jurisdictions is apparent upon an examination of the early state or territorial statutes, especially those dealing with subjects such as wills or uses or waste. That such re-enactment, together with the enactment of state or territorial acts geared to local needs, lessened the use of and emphasis upon English statutes is likewise apparent. It is not irrelevant to note that codification of a jurisdiction's laws was more frequently than not coupled with a repeal of all English statutes heretofore in force.

---

\* The terms "English" and "British" are used interchangeably.

This study is divided into one minor and three major parts. Part I consists of two chapters dealing with the background and a summary of methods of handling the British statutes employed by the jurisdictions. Part II is a jurisdiction by jurisdiction discussion, the jurisdictions being divided primarily by geographical areas, to provide more details concerning the particular method or methods employed by each. Part III is a Table containing references to all English statutes referred to in the statutes and published reports of the individual jurisdictions as well as in the lists of English statutes considered to be in force which were authorized by several of the legislatures. Part IV contains two colonial statutes which sought to place in effect specified statutes of Great Britain but which were disallowed by Orders in Council.

The origin of this study lay in the collection and preparation of teaching materials for Professor William Wirt Blume's seminar in American Legal History, which between 1955 and 1962 dealt primarily with the territorial period of United States history. While seeking to determine what laws of Great Britain were in force without re-enactment in the territories of the United States from 1787 to 1912, it became obvious that no definitive answer was possible without examining all available statutory and decisional materials. To provide a more unified time period, and also to concentrate on the years during which the status of English statutes was a matter of prime concern for legislators and jurists, the sixty years immediately succeeding independence — 1776-1836 — were selected. Rather than limit the investigation to the territories, all jurisdictions of the United States in existence during these six decades were included. The examination of the materials, the determination of the format for the Table, and the preparation of the text, were all carried out in consultation with Professor Blume. At all times he provided patient and judicious counsel and drew upon his extensive and intensive knowledge of American territorial history and of procedural developments in the United States to suggest fruitful lines of inquiry. Student research assistants bore much of the drudgery of page turning and reference checking; their names and efforts are described in more detail in the Note preceding Part III. Alice Russell shepherded the completed study through the editorial process and rendered invaluable assistance at this stage in the project. In the end, of course, the shortcomings of this study are my responsibility.

Elizabeth Gaspar Brown

Ann Arbor, June 28, 1963

## TABLE OF CONTENTS

|                                           |     |
|-------------------------------------------|-----|
| Foreword by Dean Allan F. Smith . . . . . | vii |
| Preface . . . . .                         | ix  |

### PART I. BACKGROUND AND SUMMARY

#### Chapter

|    |                                                                                 |    |
|----|---------------------------------------------------------------------------------|----|
| 1. | British Statutes in Historical Perspective . . . . .                            | 1  |
| 2. | Methods of Dealing with British Statutes in<br>American Jurisdictions . . . . . | 23 |

### PART II. METHODS EMPLOYED BY PARTICULAR JURISDICTIONS

|    |                                      |     |
|----|--------------------------------------|-----|
| 3. | The New England States . . . . .     | 47  |
|    | Massachusetts . . . . .              | 47  |
|    | Rhode Island . . . . .               | 52  |
|    | Connecticut . . . . .                | 57  |
|    | New Hampshire . . . . .              | 60  |
|    | Vermont . . . . .                    | 62  |
|    | Maine . . . . .                      | 67  |
| 4. | The Middle Atlantic States . . . . . | 69  |
|    | New York . . . . .                   | 69  |
|    | New Jersey . . . . .                 | 76  |
|    | Pennsylvania . . . . .               | 87  |
|    | Maryland . . . . .                   | 95  |
|    | Delaware . . . . .                   | 103 |
|    | District of Columbia . . . . .       | 107 |
| 5. | The Southern States . . . . .        | 113 |
|    | Virginia . . . . .                   | 113 |
|    | Kentucky . . . . .                   | 129 |
|    | North Carolina . . . . .             | 138 |
|    | South Carolina . . . . .             | 147 |
|    | Georgia . . . . .                    | 152 |

Chapter

|    |                                                                                  |     |
|----|----------------------------------------------------------------------------------|-----|
| 6. | Jurisdictions Carved from Territory Northwest of the River Ohio . . . . .        | 157 |
|    | Territory Northwest of the River Ohio—Ohio. . . . .                              | 157 |
|    | Indiana Territory—Indiana. . . . .                                               | 160 |
|    | Illinois Territory—Illinois. . . . .                                             | 164 |
|    | Michigan Territory (Wisconsin, Iowa, Minnesota, and Dakota Territories). . . . . | 166 |
| 7. | Jurisdictions Carved from Territory South of the River Ohio. . . . .             | 176 |
|    | Territory South of the River Ohio—Tennessee. . . . .                             | 176 |
|    | Mississippi Territory—Mississippi . . . . .                                      | 180 |
|    | Alabama Territory—Alabama . . . . .                                              | 185 |
| 8. | Jurisdictions Carved from the Louisiana and Florida Purchases . . . . .          | 189 |
|    | Orleans Territory—Louisiana . . . . .                                            | 189 |
|    | Louisiana Territory—Missouri Territory—Missouri. . . . .                         | 191 |
|    | Arkansas Territory . . . . .                                                     | 193 |
|    | Florida Territory . . . . .                                                      | 195 |

|                                                                                                         |     |
|---------------------------------------------------------------------------------------------------------|-----|
| PART III. SPECIFIC BRITISH STATUTES: THEIR TREATMENT BY COURTS, LEGISLATURES, AND LIST-MAKERS . . . . . | 201 |
|---------------------------------------------------------------------------------------------------------|-----|

PART IV. TWO COLONIAL RE-ENACTMENT-BY-REFERENCE STATUTES

|                                                   |     |
|---------------------------------------------------|-----|
| Colony of New York, Act of 1767 . . . . .         | 357 |
| Province of North Carolina, Act of 1749 . . . . . | 360 |

PART I

BACKGROUND AND SUMMARY

## Chapter 1

### BRITISH STATUTES IN HISTORICAL PERSPECTIVE

The North American plantations were not the earliest overseas possessions of the English Crown; neither were they the first to be treated as separate political entities, distinct from the realm of England. From the time of the Conquest onward, the King of England held — though not necessarily simultaneously or continuously — a variety of non-English possessions including Normandy, Anjou, the Channel Islands, Wales, Jamaica, Scotland, the Carolinas, New-York, the Barbadoes. These holdings were not a part of the Kingdom of England but were governed by the King of England. During the early medieval period the King would issue such orders for each part of his realm as he saw fit. Even as he tended to confer more and more with the officers of the royal household and with the great lords of England — the group which eventually evolved into the Council out of which came Parliament — with reference to matters relating to England, he did likewise with matters relating to his non-English possessions.<sup>1</sup>

Each part of the King's realm had its own peculiar laws and customs, as did the several counties of England. The middle ages thrived on diversity and while the King's writ was acknowledged eventually to run throughout England, there was little effort to eliminate such local practices as did not impinge upon the power of the Crown. The same was true for the non-English lands. An order for one jurisdictional entity typically was limited to that entity alone; uniformity among the several parts of the King's realm was not considered sufficiently important to overturn existing laws and customs. Illustratively, in 1323 the King in Council at Nottingham enacted Ordinatio de Statu Terrae Hiberniae consisting of articles for the reform of government in Ireland.<sup>2</sup> Although the King in Council eventually became the King in Parliament, in the opinion of the Crown its right to legislate for its non-English holdings did not automatically devolve upon Parliament. However, the practice of separate legislation for separate jurisdictional entities continued.

---

1. See Schuyler, *Parliament and the British Empire* 8-39 (1929) and the review thereof by Julius Goebel, Jr., in 30 *Colum. L. Rev.* 273 (1930).

2. 1 *Statutes of the Realm* 193-94.



Where the King in Parliament, acting as the King in Council, did legislate for one or more of the non-English Crown possessions, the operation of such act of Parliament would be restricted to the particular possession or possessions named therein. Wales provides an example of the control by the King in Parliament of a possession acquired by the Crown in 1284 but not made a part of the realm of England until 1536.<sup>3</sup> Scotland, of course,

3. "Concerning the laws to be used in Wales," 27 Hen. 8, c. 26 (1535), 4 Statutes at Large 388. The act stated in part:

"Albeit the dominion, principality and country of Wales justly and righteously is, and ever hath been incorporated, annexed, united and subject to and under the imperial crown of this realm, as a very member and joint of the same, whereof the King's most royal majesty of meer droit, and very right, is very head, King, lord and ruler; (2) yet notwithstanding, because that in the same country, principality and dominion, divers rights, usages, laws and customs be far discrepant from the laws and customs of this realm . . . (5) his Highness . . . minding and intending to reduce them to the perfect order, notice and knowledge of his laws of this his realm, and utterly to extirp all and singular the sinister usages and customs differing from the same . . . hath . . . ordained, enacted and established, That his said country or dominion of Wales, shall be, stand and continue for ever from henceforth incorporated, united and annexed to and with this his realm of England; (6) and that all and singular person and persons, born and to be born in the said principality, country or dominion of Wales, shall have, enjoy and inherit all and singular freedoms, liberties, rights, privileges and laws within this his realm, and other the King's dominions, as other the King's subjects naturally born within the same have, enjoy and inherit.

"II. And that all the singular person and persons inheritable to any manors, lands, tenements, rents, reversions, services or other hereditaments, which shall descend after the feast of All-Saints next coming, within the said principality, country or dominion of Wales, or within any particular lordship, part or parcel of the said country or dominion of Wales, shall for ever, from and after the said feast of All-Saints, inherit and be inheritable to the same manors, lands, rents, tenements, reversions and hereditaments, after the English tenure, without division or partition, and after the form of the laws of this realm of England, and not after any Welch tenure, ne after the form of any Welch laws or customs; (2) and that the laws, ordinances and statutes of this realm of England, for every, and none other laws, ordinances, ne statutes, from and after the said feast of All-Saints next coming, shall be had, used, practised and executed in the said country or dominion of Wales, and every part thereof, in like manner, form and order, as they be and shall be had, used, practised, and executed in this realm, and in such like manner and form as hereafter by this act shall be further established and ordained; any act, statutes, usage, custom, precedent; liberty, privileges, or other thing had, made, used, granted or suffered to the contrary in any wise notwithstanding.

\* \* \* \* \*

"XXVII. Furthermore it is enacted by the authority aforesaid, That immediately after the prorogation or dissolution of this present parliament,

is an even more familiar example: James I ruled over the two kingdoms simultaneously, but it was not until the reign of his granddaughter Anne that Parliament passed the Act of Union in 1706.<sup>4</sup>

However, while the King in Parliament as the successor to the King in Council claimed and for some centuries exercised the right to legislate separately for this several dominions,<sup>5</sup> the reverse was also true. That is, an act of the King in Parliament did not operate in a non-English dominion unless it was specifically extended to such dominion. Illustratively, to place an act of Parliament in force in Wales prior to its union with England in 1536, it was necessary to specify in the act that it was to be in force in that particular possession of the Crown. Moreover, the laws that were held to be common to all England or acts of Parliament designed to apply to all England were not considered as equally applicable to, say, the Channel Islands.<sup>6</sup>

---

the lord chancellor of England shall direct the King's commission under his Grace's great seal to such persons as to him shall be thought convenient, to enquire and search out, by all ways and means that they can, all and singular laws, usages and customs used within the said dominion and country of Wales; (2) and the same shall return and certify to the King's highness, and his most honourable council, before the said feast of All-Saints next coming; (3) and that upon deliberate advice thereof had and taken, all such laws, usages and customs as the King's highness and his said most honourable council shall think expedient, requisite and necessary to be had, used and exercised in the before rehearsed shires, or any of them, or in any other shire of the Wales, shall stand and be of full strength, virtue and effect, and shall be for ever inviolably observed, had, used and executed in the same shires, as if this act had never been had ne made; any thing in the same act contained to the contrary in any wise notwithstanding."

4. "An act for the union of the two kingdoms of England and Scotland," 1706 (5 & 6 Anne c. 8, 11 Stat. at Large 196; 6 Anne c. 11, 8 Statutes of the Realm 566).

5. Goebel, note 1 supra, at 276 states that where "parliamentary power was exercised [over a Crown dominion] it was by virtue of an extraordinary power or prerogative in the Crown, because of the exceptional position of the dominion."

6. At the time of the Conquest, the Channel Islands were a part of the Duchy of Normandy. As such, they became a part of the Crown's holdings and have remained possessions of the Crown though not part of the realm of England. Contrary to popular belief, island registration of an act of Parliament is not necessary to make such an act operative therein. However, an act of Parliament does not extend automatically to the islands, either collectively or separately. The island or islands must be specifically named therein. See Schuyler, note 1 supra, at 13-20.

The Crown lawyers, drawing up the original charters for the North American Atlantic seaboard settlements, were quite aware of the differentiation between the realm of England and non-English holdings of the English Crown. They knew that the statutes of Parliament did not automatically extend to the non-English dominions. They also recognized that the Crown had no intention of yielding its prerogative with respect to the right to legislate for its dominions. Yet inserted in the charters are phrases respecting the laws which are to be enacted.<sup>7</sup> These laws are not to be "contrary to the Laws and Statutes of this our Realm of England. . ."; they are to be "agreeable to the laws of this our realme of England. . . ."<sup>8</sup>

7. See, for example, the Third Charter of Virginia, 1611-1612 which empowered the setting up of a "great, general, and solemn Assembly . . . with the power to "ordain and make such Laws and Ordinances, for the Good and Welfare of the said Plantation . . . So always, as the same be not contrary to the Laws and Statutes of this our Realm of England. . . ." 7 Thorpe ed., *Federal and State Constitutions, Colonial Charters, and Other Organic Laws* 3802 at 3808 (1909) [hereinafter cited as Thorpe]. See also the Charter for Rhode Island and Providence Plantations, granted in 1663, which gave a General Assembly the power to enact laws provided such laws shall "bee not contrary and repugnant unto, butt, as neare as may bee, agreeable to the lawes of this our realm of England, considering the nature and constitutione of the place and people there. . . ." 6 Thorpe 3211 at 3215.

8. Utilization of these phrases imposing a comparable standard on the laws to be enacted was not limited to the colonies later comprising the United States. For the use of British statutes in the area later comprising the Dominion of Canada see Brown, "British Statutes in the Emergent Nations of North America: 1670-1949," 7 *Am. J. Legal Hist.* 95 (1963). These phrases were included in the following charters, grants, or commissions:

|                             |                                                             |
|-----------------------------|-------------------------------------------------------------|
| Virginia (1609)             | 7 Thorpe 3790 at 3801                                       |
| Virginia (1611-1612)        | 7 <u>id.</u> 3802 at 3806                                   |
| Maryland (1632)             | 3 <u>id.</u> 1677 at 1680                                   |
| Maine (1639)                | 3 <u>id.</u> 1625                                           |
| Connecticut (1662)          | 1 <u>id.</u> 529 at 533                                     |
| Carolina (1663)             | 5 <u>id.</u> 2743 at 2746                                   |
| Rhode Island (1663)         | 6 <u>id.</u> 3211 at 3216                                   |
| Maine (1664)                | 3 <u>id.</u> 1637 at 1638                                   |
| New Jersey (1664)           | 5 <u>id.</u> 2535 at 2538                                   |
| Carolina (1665)             | 5 <u>id.</u> 2761 at 2764                                   |
| Hudson's Bay Company (1670) | 1 Oliver ed., <i>The Canadian Northwest</i> 135, 145 (1914) |
| Maine (1674)                | 3 Thorpe 1641 at 1642                                       |
| Pennsylvania (1681)         | 5 <u>id.</u> 3035 at 3038                                   |
| Massachusetts Bay (1691)    | 3 <u>id.</u> 1870 at 1882                                   |
| Georgia (1732)              | 2 <u>id.</u> 1870 at 1882                                   |

Why these clauses were inserted is not clear. In effect, however, the fact of insertion placed some restraint on the legislative power granted the governing authority in the new dominion.<sup>9</sup> It imposed a standard, an assurance against unlikeness.<sup>10</sup> At the same time it protected the Crown against "contrary" local enactments. But there was no intention to grant the laws

---

Nova Scotia (1749)

Akins ed., Public Documents of Nova Scotia 497 at 500 (1869)

Prince Edward Island (1769)

2 Cartwright, Cases on the British North America Act 511 at 514-15 (1887)

New Brunswick (1784)

Id. 572 at 575-76

Newfoundland (1832)

I Consolidated Statutes of Newfoundland iii (1916)

9. Goebel, Law Enforcement in Colonial New York 3-5 (1944) comments in a footnote that additional research into the early history of this restriction would be profitable, and then states in the text with reference to the 1664 New York charter to the Duke of York:

"... there were limits to the grant: the Duke was subject ... to the necessity of conforming as nearly as possible to English law.

"The exact significance of this last restriction is difficult to assess. Since the time of Henry VII, it had been usual to insert this or an equivalent clause in grants and charters to individuals or companies engaged in overseas enterprise, partly because the exercise of by-law power was traditionally supposed to conform to common law standards, and partly because the government was already committed by statute to a policy of supervising the rules of domestic bodies. Consequently some warning of surveillance of activities conducted by Englishmen in regions beyond the reach of the statutory machinery was desirable. There is no evidence that the employment of the conformity formula was at all connected with the safeguarding of the royal prerogative over legislation ... the words of the charter just quoted could hardly be taken as an explicit direction to introduce English law, and thereby to divest the Crown of its prerogative. ...

"The effect of the charter provision as respects the Crown was thus to reserve implicitly a control over legislation enacted by the proprietor ... As far as the colonists were concerned, the charter provision was of no avail to them as a ground for demands regarding the laws of the province. ..."

10. At the same time this standard was a broader one than if it had been restricted to the common law of England. It made possible the use of any kind of law used in England, whether employed in the common law courts, the chancery courts, or the inferior local courts. It was this latter type of court, including the manorial, borough, county, and sessions courts, that the Plymouth settlers were most familiar with and on which they based their earliest court organization. See Goebel, "King's Law and Local Custom in Seventeenth Century New England," 31 Colum. L. Rev. 416 (1931).

of England themselves, whether common or statute.<sup>11</sup> The phrase meant exactly what it said and to twist the words into another meaning — as was done in later years — evidences a flagrant disregard for historical facts.<sup>12</sup>

Another clause, typically inserted in the charters, provided that the English settlers and their descendents were not to be deprived of their "liberties and immunities." The First Charter of Virginia, 1606, stated:

---

11. Added confirmation that the Crown had no intention to grant the unrestricted use of the laws of England appears in the Pennsylvania Charter of 1681 where specific provision is made for the use of certain classes of English laws until altered in the province. 5 Thorpe 3035 at 3038. See also "Concessions" made by William Penn in 1681 where provision was made for temporary continuance of certain other classes of English laws. *Id.* 3044 at 3046.

12. This is in marked contrast to the later practice as illustrated in the case of twelve African colonies and emergent nations within the British Commonwealth. For details of the utilization of British statutes in these jurisdictions, see Brown, "British Statutes in the Emergent Nations of Africa: 1844-1962," 24 Pittsburgh Law Review 503 (1963). Note the following table which indicates the date of the introduction of English law within these jurisdictions.

Portions of English Law Introduced  
(Common law, doctrines of equity, and  
statutes of general application)

| <u>Jurisdiction</u> | <u>Date as of which introduced</u> | <u>Method of introduction</u> |
|---------------------|------------------------------------|-------------------------------|
| Gambia              | 11-1-1888                          | Ordinance                     |
| Ghana               | 7-24-1874                          | Ordinance                     |
| Kenya*              | 8-12-1897                          | Order in Council              |
| Nigeria             | 1-1-1900                           | Ordinance                     |
| Northern Rhodesia   | 8-17-1911                          | Ordinance                     |
| Nyasaland           | 8-11-1902                          | Order in Council              |
| Sierra Leone        | 1-1-1880                           | Ordinance                     |
| Somaliland**        |                                    | Order in Council              |
| Tanganyika          | 7-22-1920                          | Order in Council              |
| Uganda***           | 8-11-1902                          | Order in Council              |
| Zanzibar            | 7-7-1897                           | Order in Council              |

\*In Kenya the introduction of the common law, doctrines of equity, and statutes of general application was restricted to such portions of the law as to which the Civil Procedure, Criminal Procedure, and Penal Codes of India did not extend.

\*\*The Somaliland Orders in Council for 1899 and 1929 refer to "the Common and Statute Law of England."

\*\*\*In Uganda the introduction of the common law, doctrines of equity, and statutes of general application was restricted to such portions of the law as to which the Civil Procedure, Criminal Procedure, and Penal Codes of India did not extend. Subsequently these codes were superseded by enactments of the local legislature.

... all and every the Persons being our Subjects, which shall dwell and inhabit within every or any of the said several Colonies and Plantations, and every of their children, which shall happen to be born within any of the Limits and Precincts of the said several Colonies and Plantations, shall HAVE and enjoy all Liberties, Franchises, and Immunities, within any of our other Dominions, to all Intents and Purposes, as if they had been abiding and born, within this our Realm of England, or any other of our said Dominions.<sup>13</sup>

Later generations were to argue that this grant of "liberties and immunities" should be construed as a grant of the laws of England.<sup>14</sup> There is no evidence that this was the intention of the Crown.

Within the framework of the charters, which provided that the colonists were to have "liberties and immunities" as if they were "abiding" within the "Realm of England" and that the laws which were to be made for them were to be "agreeable" to the laws of England, and which did not provide that the colonists were entitled to the laws of England or that the laws of England were to extend to the colonies, the details of application were spelled out by the courts and Crown officials in response to specific fact situations or to questions posed, due regard being had for precedent.

The earliest of the sources showing such application is Calvin's Case which was concerned specifically with whether a man born in Scotland after James VI of Scotland has ascended to the English throne could bring in England an action of novel disseisin. The question was argued before the leading judges of England. The opinion, holding the plaintiff was entitled to bring such an action, discussed the power of the sovereign to extend the laws of England. It drew a distinction between the right of a subject of the King, say in Ireland, to bring an action

13. 7 Thorpe 3873 at 3878. Phrases imposing a comparable standard on the laws to be enacted were included in charters, grants, or commissions for the following colonies:

|                          |                           |
|--------------------------|---------------------------|
| Virginia (1609)          | See 7 Thorpe 3790 at 3800 |
| Maine (1639)             | 3 <i>id.</i> 1635         |
| Maryland (1632)          | 3 <i>id.</i> 1677 at 1681 |
| Connecticut (1662)       | 1 <i>id.</i> 529 at 533   |
| Carolina (1663)          | 5 <i>id.</i> 2743 at 2747 |
| Rhode Island (1663)      | 6 <i>id.</i> 3211 at 3220 |
| Maine (1664)             | 3 <i>id.</i> 1637 at 1638 |
| Carolina (1665)          | 5 <i>id.</i> 2761 at 2765 |
| Massachusetts Bay (1691) | 3 <i>id.</i> 1870 at 1881 |
| Georgia (1732)           | 2 <i>id.</i> 765 at 773   |

14. See 1 Blackstone, Commentaries 382 (Tucker ed. 1803).

in an English court and possess in Ireland, "privileges and benefits" and the actual extension of English laws into an acquired territory. Coke reported the case, stating in part:

... there is a diversity between a conquest of a kingdom of a Christian King, and the conquest of a kingdom of an infidel; for if a King come to a Christian kingdom by conquest, seeing that he hath vita et necis potestatem [power of life and death], he may at his pleasure alter and change the laws of that kingdom: but until he doth make an alteration of those laws the ancient laws of that kingdom remain. But if a Christian King should conquer a kingdom of an infidel, and bring them under his subjection, there ipso facto the laws of the infidel are abrogated, for that they be not only against Christianity, but against the law of God and of nature, contained in the decalogue; and in that case, until certain laws be established amongst them, the King by himself, and such Judges as he shall appoint, shall judge them and their causes according to natural equity, in such sort as Kings in ancient time did with their kingdoms, before any certain municipal laws were given, as before hath been said. But if a King hath a kingdom by title of descent, there seeing by the laws of that kingdom he doth inherit the kingdom, he cannot change those laws of himself, without consent of Parliament. Also if a King hath a Christian kingdom by conquest, as King Henry the Second had Ireland, after King John had given unto them, being under his obedience and subjection, the laws of England for the government of that country, no succeeding King could alter the same without Parliament. And in that case, while the realm of England, and that of Ireland were governed by several laws, any that was born in Ireland was no alien to the realm of England. In which precedent of Ireland three things are to be observed. 1. That then there had been two descents, one from Henry the Second to King Richard the First, and from Richard to King John, before the alteration of the laws. 2. That albeit Ireland was a distinct dominion, yet the title thereof being by conquest, the same by judgment of law might by express words be bound by Act of the Parliament of England. 3. That albeit no reservation were in King John's charter, yet by judgment of law a writ of error did lie in the King's Bench in England of an erroneous judgment in the King's Bench of Ireland. Furthermore, in the case of a conquest of a Christian kingdom, as well as those that served in wars at the conquest as those that remained at home for the safety and peace of their country, and other the King's subjects, as well antenati as postnati, are capable of lands in the kingdom or country conquered, and may maintain any real action, and have the like privileges and benefits there, as they may have in England.<sup>15</sup>

Calvin's Case referred briefly to the power in Parliament to provide binding legislation for a "dependency" if such dependency were named therein. The status of an English statute in a colony if such colony were not specifically named therein was considered in an opinion delivered in 1681 by Sir William Jones,

---

15. Calvin's Case, 7 Coke 2a, 17b-18a (Trin., 6 Jac. 1, 1608), 77 Eng. Rep. 377, 397-98.

Attorney General to Charles II, on a case sent him from Virginia. Sir William stated:

I, having perused the will of Burnham, and the depositions relating to the same, am of Opinion,

That this is undoubtedly a good will, if not avoided by the Act of Parliament, made in England, Anno 1677, against frauds, &c. For it clearly appears, the devisor was compos mentis and understood himself, and did willingly, with a full desire, both cause the same to be written, and did after sign and publish the same: And

Whereas there were only two witnesses, who did, in the presence of the testator, subscribe their names as witnesses; . . . though it was not discreetly done to do so, yet being, done, it in nothing vitiates or makes void the will:

That this will, made in Virginia, of lands there, is not within the compass of the act abovesaid, so as that it should be necessary to have three witnesses subscribing their names in the presence of the testator (as that act requires for devises of lands in England:) For though I do agree that an act of Parliament made in England doth bind Virginia or any other of the English plantations, where they are expressly named; yet I do conceive a new law or statute made in England, not naming Virginia or any other plantation, shall not take effect in Virginia or the other plantation, till received by the General Assembly, or others who have the legislative power in Virginia or such other plantations; and this upon a double reason—

1st. Because the Parliament of England, when they make a law without naming more places than England as to the extent to which it shall relate, are not to be presumed to have consideration of the particular circumstances and conditions of the plantations, especially considering no Members come from thence to the Parliament of England.

2dly. Because the plantations have their own representatives, and though the Parliament of England hath a superior power, when they think fit by express words to execute it, yet it shall not be presumed that they execute that extraordinary power, when they do not in express words declare it.

And as this hath been anciently resolved in many cases, with relation to Ireland, so I think that same reasons hold with relation to the plantations. And if it should be otherwise, this great inconvenience amongst others, would follow: That a law made in England (which relates, if no time be expressed, to the first day of the Parliament — and when a time is set at which it shall take effect, it is commonly so short a time that no notice can arrive at the plantations before it begins to take effect) should bind the plantation, who have not any ready means to know it for a long time after it is passed; and so men should be bound by laws of which they are, or may be reasonably supposed, necessarily or invincibly ignorant.<sup>16</sup>

Two major points were thus made by Sir William in his 1681 opinion. First, that an Act of Parliament which did not

---

16. 2 Barton ed., Virginia Colonial Decisions 1728-1741, B-1 (Bar-radell's Reports) (1909). See also Carolina Law Repository 20 (1814).



specifically name a particular colony or colonies did not come into force in such colony or such colonies. Second, that an Act of Parliament not naming a particular colony or group of colonies could be "received by the General Assembly, or others who have the legislative power in Virginia or such other plantation. . . ."

In two late seventeenth century cases Chief Justice Holt expressed the opinion that in a conquered country, the law depended upon the King's pleasure and the laws of England did not automatically extend there. Smith v. Brown involved the sale of a negro in Virginia. Holt stated there that "... the laws of England do not extend to Virginia, being a conquered country their law is what the King pleases. . . ." <sup>17</sup> In Blankard v. Galdy, the same Chief Justice went into more detail, stating:

... Et per Holt C. J. & Cur.

1st, In Case of an uninhabited Country newly found out by English Subjects, all Laws in Force in England are in Force there; so it seemed to be agreed.

2dly, Jamaica being conquered, and not pleaded to be Parcel of the Kingdom of England, but Part of the Possessions and Revenue of the Crown of England the Laws of England did not take Place there, until declared so by the Conqueror or his Successors. The Isle of Man and Ireland are Part of the Possessions of the Crown of England; yet retain their ancient Laws: That in Davis 36. it is not pretended, That the Custom of Tanistry was determined by the Conquest of Ireland, but by the new Settlement made there after the Conquest: That it was impossible the Laws of this Nation, by mere Conquest, without more, should take Place in a conquered Country; because, for a Time, there must want Officers, without which our Laws can have no Force: That if our Law did take Place, yet they in Jamaica having Power to make new Laws, our general Laws may be altered by theirs in Particulars; also they held, That in the Case of an Infidel Country, their Laws by Conquest do not entirely cease, but only such as are against the Law of God; and that in such Cases where the Laws are rejected or silent, the conquered Country shall be governed according to the Rule of natural Equity, . . . <sup>18</sup>

While both of these opinions take the position that the laws of England did not automatically extend to a conquered country, in Blankard v. Galdy appears the express statement that where an uninhabited country was "newly found out by England subjects, all laws in force in England, are in force there." Thus, in the case of a totally uninhabited country, the English colonists would carry with them their laws. This distinction was usually, but not always, maintained in the statements of officials.

17. Smith v. Brown, 2 Salk. 666, 91 Eng. Rep. 566 (n.d.).

18. Blankard v. Galdy, 2 Salk. 411, 91 Eng. Rep. 356 (K.B. 1693).

In 1720, Richard West, Counsel to the Board of Trade, took the position that Englishmen carried the law with them, although no statutes made subsequent to the settlement of a particular colony were in force therein unless such colony were specifically mentioned. He stated:

The Common Law of England, is the Common Law of the Plantations, and all statutes in affirmance of the Common Law passed in England, antecedent to the settlement of a colony, are in force in that colony, unless there is some private Act to the contrary; though no statutes made since those settlements, are there in force, unless the colonies are particularly mentioned. Let an Englishman go where he will, he carries as much of law and liberty with him, as the nature of things will bear.<sup>19</sup>

Two years later, in 1722, the Privy Council differentiated between an uninhabited country settled by Englishmen and an inhabited country conquered by the King and settled by Englishmen. The memorandum stated:

1st, That if there be a new and uninhabited country found out by English subjects, as the law is the birthright of every subject, so, wherever they go, they carry their laws with them, and therefore such new found country is to be governed by the laws of England; though, after such country is inhabited by the English, acts of parliament made in England, without naming the foreign plantations, will not bind them for which reason, it has been determined that the statute of frauds and perjuries, which requires three witnesses, and that these should subscribe in the testator's presence, in the case of a devise of land, does not bind Barbadoes; but that,

2dly, Where the King of England conquers a country, it is a different consideration: for there the conqueror, by saving the lives of the people conquered, gains a right and property in such people; in consequence of which he may impose upon them what laws he pleases. But,

3dly, Until such laws given by the conquering prince, the laws and customs of the conquered country shall hold place; unless where these are contrary to our religion, or enact any thing that is malum in se, or are silent; for in all such cases the laws of the conquering country shall prevail.<sup>20</sup>

---

19. 1 Chalmers, *Opinions of Eminent Lawyers on Various Points of English Jurisprudence*, chiefly concerning the Colonies, Fisheries, and Commerce of Great Britain, 194 (1814). A more recent expression of the position taken by West in 1720 appears in Allott, *Essays in African Law* 3 (1960) where he states, in connection with the reception and modification of English law in Africa, "English settlers are presumed to take their English law with them. . . and the English law they take with them means the common law of England, equity, and statutes of general application in force at the time when the newly-acquired colony was constituted. . . ."

20. Privy Council Memorandum, 2 Peere Wms. 75.

The Counsel of the Board of Trade, Richard West, and the drafter of the Privy Council memorandum, while disagreeing on the circumstances under which the laws of England were carried to new settlements by English colonists — West stating it was under all circumstances and the drafter of the Memorandum confining it to an uninhabited country — were both in agreement that subsequent to settlement the only acts of Parliament in force in the plantations were such statutes as specifically named such plantations.

In 1729 Attorney General Yorke gave as his opinion that specific English statutes could be in force in plantations either by "long uninterrupted usage or practice" in the plantations or by declaration of the local assembly as well as by a specific extension in the act of Parliament itself. He stated:

*Quere.*— Whether such general statutes of England, as have been made since the date of the charter of Maryland, and wherein no mention is made of the plantations, and not restrained by words of local limitation, are, or are not, in force without being introduced there by a particular act of their own?

I am of opinion, that such general statutes as have been made, since the settlement of Maryland, and are not, by express words, located, either to the plantations in general, or to the province in particular, are not in force there, unless they have been introduced, and declared to be laws, by some acts of assembly of the province, or have been received there by long uninterrupted usage, or practice, which may import a tacit consent by the lord proprietor, and the people of the colony, that they should have the force of a law there.<sup>21</sup>

The official British position at the outbreak of the Revolution may be summarized as follows. Whether English colonists took with them the laws of England as of the date of settlement depended on whether the country they settled was uninhabited or was inhabited and made English by conquest or cession. If uninhabited, they took with them "all laws in force in England."

---

21. 1 Chalmers, note 19 *supra*, at 196. In 1757, *id.* at 197, "The opinion of the attorney and solicitor, Henley, and Yorke," dealing with whether a particular act of parliament dealing with the counterfeiting of foreign coin was in force in Nova Scotia, after stating that the act in question was restricted to "this realm of which Nova Scotia is no part," went on to observe:

"Secondly, we are of opinion, that the proposition adopted by the judges there [i.e., Nova Scotia], that the inhabitants of the colonies carry with them the statute laws of this realm, is not true, as a general proposition, but depends upon circumstances, the effect of their charter, usage, and acts of their legislature; and it would be both inconvenient, and dangerous, to take it in so large an extent."

See also the opinions delivered in 1762 and 1767, *id.* at 199 and 200 relative to the extension of acts of parliament to the colonies.

If inhabited, they did not take the laws of England with them, although the King had power to declare what, if any, laws of England were to be in force. Whether or not statutes enacted after the date of settlement were in force in the plantations depended on the existence of either of two conditions. If an act of Parliament itself was specifically extended to one or more colonies, it was in force where so extended. Alternatively, if an act of Parliament were "received" into a particular colony, either by an act of the colonial legislature or by long-accepted usage or practice on the part of the colonial courts, then such act was considered in force in that colony.

England considered that the plantations in North America were acquired through conquest; hence it followed that the law officers of the Crown held that the colonists did not take with them the laws of England. As a consequence, the common law and acts of Parliament in force in England at the time of the settlement of each colony were not considered as automatically brought by the settlers to that colony. Subsequently enacted statutes, however, could be extended to one or more colonies either by the act of Parliament itself or by act of the particular colony.

Blackstone's seventh edition, published in 1775 stated:

Besides these adjacent islands, our more distant plantations in America, and elsewhere, are also in some respect subject to the English laws. Plantations, or colonies in distant countries, are either such where the lands are claimed by right of occupancy only, by finding them desert and uncultivated, and peopling them from the mother country; or where, when already cultivated, they have been either gained by conquest, or ceded to us by treaties. And both these rights are founded upon the law of nature, or at least upon that of nations. But there is a difference between these two species of colonies, with respect to the laws by which they are bound. For it hath been held, that if an uninhabited country be discovered and planted by English subjects, all the English laws then in being, which are the birthright of every subject, are immediately there in force. But this must be understood with very many and very great restrictions. Such colonists carry with them only so much of the English law, as is applicable to their own situation and the condition of an infant colony; such, for instance, as the general rules of inheritance, and of protection from personal injuries. The artificial refinements and distinctions incident to the property of a great and commercial people, the laws of police and revenue, (such especially as are enforced by penalties) the mode of maintenance for the established clergy, the jurisdiction of spiritual courts, and a multitude of other provisions, are neither necessary nor convenient for them, and therefore are not in force. What shall be admitted and what rejected, at what times, and under what restrictions, must, in case of dispute, be decided in the first instance by their own provincial judicature, subject to the revision and control of the king

in council: the whole of their constitution being also liable to be new-modelled and reformed by the general superintending power of the legislature in this mother country. But in conquered or ceded countries, that have already laws of their own, the king may indeed alter and change those laws; but, till he does actually change them, the ancient laws of the country remain, unless such as are against the law of God, as in the case of an infidel country. Our American plantations are principally of this latter sort, being obtained in the last century either by right of conquest and driving out the natives (with what natural justice I shall not at present enquire) or by treaties. And therefore the common law of England, as such, has no allowance or authority there; they being no part of the mother country, but distinct (though dependent) dominions. They are subject however to the control of the parliament; though (like Ireland, Man, and the rest) not bound by any acts of parliament, unless particularly named.<sup>22</sup>

Postponing momentarily the colonial reaction to this British viewpoint, it is clear that in itself the position of the Crown's law officers automatically insured a wide variety in the degree to which both common and statute law was "received" into the colonies. Given the different times and conditions of settlement, the varying types of settlers in each colony, the diversity of governments, the variations in climatic conditions, unlikeness of local law and custom became the rule rather than the exception.

Historically and legally, the British were on unassailable ground. English legal theory held that English settlers going to inhabited countries did not carry the laws of England with them. Once it was assumed that the North American plantations had been made in inhabited countries, the sequitur was obvious. The

---

22. 1 Blackstone, Commentaries 106 (7th ed. 1775). This was an elaboration on the views expressed in the first edition. The same theory was apparently applied in Pennsylvania, for Charles II's charter of 1681 to William Penn provided that the laws which were to be enacted should "bee consonant to reason, and bee not repugnant or contrarie, but as neare as conveniently may bee agreeable to the Lawes and Statutes, and rights of this Our Kingdome of England. . . ." 5 Thorpe 3035 at 3038. The charter also provided for the temporary use of certain English laws, i.e., "that the Lawes for regulateing and governing of Propertie within the said Province, as well for the descent and enjoyment of lands, as likewise for the enjoyment and succession of goods and Chattles, and likewise as to Felonies, shall bee and continue the same, as they shall bee for the time being by the generall courts of the Law in our Kingdome of England, untill the said Lawes shall be altered . . . ." *Id.* at 3038. Note also Penn's Concessions of 1681, *id.* 3044 at 3046, XVI, which stated: "That the laws, as to slanders, drunkenness, swearing, cursing, pride in apparel, trespasses, distriesses, replevins, weights, and measures, shall be the same as in England, till altered by law in this province."

several charters did not grant the laws of England to the colonists.<sup>23</sup> An Act of Parliament might be extended specifically to the colonies or to a particular colony, but this did not assure the inhabitants of the far-off Atlantic settlements a right to the laws of England equal to that possessed by a man of Norfolk or Suffolk.<sup>24</sup> The colonists, however, felt otherwise.

St. George Tucker, in his 1803 edition of Blackstone's Commentaries, added an Appendix, which, *inter alia*, commented on the extract from the Commentaries previously quoted. Undoubtedly his views were shared by many colonists. He observed:

As I apprehend the opinion here cited is not as correct as many others of the learned commentator, I shall venture to state some objections to it: observing by the way, that his conclusion is applicable only to the colony of New-York, which was originally settled by the Dutch, and afterwards conquered by the English, and ceded to the crown by the treaty of Breda in 1667; and perhaps, to the adjacent colony of Jersey, which was likewise ceded by the same treaty, and was also peopled at that same time by the Dutch, the boundaries between the two colonies being not then established. But with respect to the other colonies; whether they were obtained by purchase from the Indian natives, as was certainly the case with Pennsylvania, and as it has been said, was the case with several others; or whether the territory was acquired by conquest; or by cession; in either case, as those persons by whom the colony was settled, were neither the people who were conquered, nor those who were ceded by treaty, to a different sovereignty; but the conquerors themselves, or colonists, settling a vacant territory ceded by treaty, the conclusion here made by judge Blackstone will appear to be erroneous. For baron Puffendorf informs us, that sovereignty, by way of conquest, is acquired when a nation, having just reason to make war upon another people, reduces them by the superiority of their arms to the necessity of thenceforward submitting to the government of the conquerors. And with respect to countries ceded by treaty, Grotius tells us, it is not the people that are alienated, but the perpetual right of governing them as a people. Now the British emigrants by whom the colonies were settled were neither a conquered nor a ceded people, but free citizens of that state, by which, the conquest was made, or, to which, the territory was ceded; the Indians, the former people, having uniformly withdrawn themselves from the conquered, or ceded territory. What is here said by Mr. Blackstone, cannot,

---

23. A discussion of the opposing points of view as related to the Province of New York *circa* 1700 appears in 1 Hamlin & Baker, Supreme Court of Judicature of the Province of New York 1781-1704, at 385 (1959).

24. For a 1956 case denying the extension of a British statute, which related solely to certain offences committed in England, to an act which would have constituted an offence under this statute if committed in England but which was in fact committed on a British-registered aircraft on a flight from Bahrain to Singapore, see *Regina v. Martin*, 1956 U.S. & Can. Av. R. 141, [1956] 2 W.L.R. 975.

therefore, be applicable to any colony, which was settled by English emigrants, after the Indian natives had ceded, or withdrawn themselves from, the territory, however applicable it may be to New-York, where the Dutch settlers remained, after they were conquered, and after the perpetual right of governing them as a people, was ceded by a treaty of Breda before mentioned.

This distinction between the English emigrants, and the Indian natives, being once understood, we shall be able to apply to the former, what Grotius says upon this subject, viz. "When a people, by one consent, go to form colonies, it is the original of a new and independent people; for they are not sent out to be slaves, but to enjoy equal privileges and freedom." This . . . corresponds precisely with the declaration contained in Queen Elizabeth's charter to Sir Walter Raleigh, bearing date March 25, 1584, whereby she "... grants to the said Sir Walter Raleigh, his heirs and assigns . . . that they and every one of them that should thereafter be inhabiting in the said lands, countries, and territories, should and might have and enjoy the privileges of free denizens, or persons native of England." The like engagements and stipulations were contained in all the successive charters granted by King James, to the colony of Virginia; from whence it seems probable that the charters of all the other colonies contained the same. If this were the case, we may, without recurring to the authority of the writers on the law of nations, decide upon the ground of compact alone, that the English emigrants who came out to settle in America, did bring with them all the rights and privileges of free natives of England; and, consequently, did bring with them that portion of the laws of the mother country, which was necessary to the conservation and protection of those rights. A people about to establish themselves in a new country remote from the parent state, would equally stand in need of some municipal laws, and want leisure, and experience to form a code adapted to their own peculiar situation. The laws of the parent state would from this circumstance acquire a tacit authority, and reception in all cases to which they were applicable. Of this applicability, the colonists themselves could be the only competent judges; the grant of a legislature of it's own, to each colony, was a full recognition of this principle, on the part of the crown; and sanctioned the exercise of the right, thereby recognized, on all future occasions.<sup>25</sup>

Two points made by Tucker stand out with peculiar clarity. First, the Virginian argues that the English brought their law with them under the English rule because the land was in fact uninhabited. He then shifts his ground to argue that the grant of "privileges" equal to those of the "free denizens" of England was tantamount to a grant of the laws of England. Tucker rather carefully avoids the specific language in the charters which does refer to the laws of England. After referring to the "compact" theory, which he uses to produce a right to the laws of England out the grant of "privileges," he then wanders into something

---

25. 1 Blackstone, Commentaries 382 (Tucker ed. 1803).

vaguely akin to natural law in explaining why the early legislative groups "received" the laws of the parent state.

What might be termed the colonial attack upon the English position took three main routes. It was intermittently argued that the charter language of "agreeable to the laws of England" was tantamount to a grant of the laws of England.<sup>26</sup> It was also contended that the grant of "privileges" conferred a grant of the laws of England.<sup>27</sup> By way of frontal assault, the colonists from time to time attempted to enact or introduce by reference large numbers of the English statutes. To all these efforts, the official Crown position was usually, but not always, in opposition.<sup>28</sup>

In 1712, South Carolina declared a long list of specific English statutes, together with the common law, to be in force in that province.<sup>29</sup> There is no record of a disallowance by the Privy Council of this action by the colonial General Assembly.

In 1715 North Carolina enacted a catchall statute which did not specify any particular acts of Parliament but declared that the common law and certain particular groups of English statutes were to be in force.<sup>30</sup> This act likewise went unchallenged. In 1749, however, when North Carolina passed an act similar to but not identical with the South Carolina act of 1712, the Crown did act. The North Carolina statute of 1749 was disallowed in 1754 by an order in council.<sup>31</sup> However, the Privy Council did not act upon a much shorter list of English statutes introduced into the law of Rhode Island by an act of 1749.<sup>32</sup> In 1767 New

---

26. For an illustration of this, see note 21, *supra*.

27. Note 25 *supra*.

28. See Russell, *Review of American Colonial Legislation by the King in Council* 139-40 (1915). See also Smith, "Administrative Control of the Courts of the American Plantations," 61 *Columbia Law Review* 1210 (1961). This attitude was in marked contrast to the treatment accorded two comparable Canadian re-enactments by reference: Upper Canada (Ontario) in 1792 and British Columbia in 1867.

29. "An Act to put in Force in this Province the several Statutes of the Kingdom of England or South-Britain, therein particularly named," 2 Cooper, ed., *Statutes at Large of South Carolina* 401 (1837); Trott, ed., *Laws of the Province of South-Carolina* 37 (1837).

30. "An Act for the more effectual observing of the Queen's Peace, and establishing a good and lasting Foundation of Government in North Carolina. . . .," Iredell, ed., *Laws of North Carolina* 17 (1791).

31. "An Act to put in Force in this Province, the several Statutes of the Kingdom of England, or South-Britain, therein particularly named," *Laws of North Carolina*, 1749, Ch. 1. Disallowed by an Order in Council, April 8, 1754. For text, see Part IV, *infra*.

32. *Acts and Laws of Rhode Island* 70 (1749).



York declared a substantial list of British statutes to be in force,<sup>33</sup> but the act was disallowed by an order in council of December 9, 1770.<sup>34</sup>

The records of the Maryland General Assembly show what arguments were actually advanced by Crown and colonial when an effort was made in 1723 to introduce the English statutes "in a Lump." The Proprietor addressed a communication to the legislators which stated in part:

... [a specific act of the Assembly] seems by implication to introduce English Statutes to operate there, which Statutes have been always held not to extend to the Plantations unless by Express Words Located thither and you are upon all Occasion so as to Conduct yourself as not only to admitt any such practice to take Place in Maryland but even to discountenance any Doubts concerning the same and when any of the English Statute Laws are found Convenient and well Adapted to your Circumstances you ought specially to Enact them De Novo, or such part of them as you find proper for you; and not by an Act of the Province Introduce in a Lump (as it were) any of the English Statutes. . . .

Apparently the Lower House found it expedient to appoint a committee to reply to the Proprietor. The committee shortly thereafter turned in a report which observed:

... we hope that what we have Collected, Will be Sufficient to evince, that as well the Governours as the People Governed Within this Province since it's first Settlement, or at least ever since we Can find any foot Steps of Assemblys or Judicial Proceedings, deemed the General Statutes of England to have the force of Laws in Maryland . . . and it would be a great Absurdity to advance that we are intituled to all the Rights and Liberties of British Subjects and that we Can't have the

---

33. "An Act to declare the Extension of several Acts of Parliament made since the Establishment of a Legislation in this Colony: and not declared in the said Act to extend to the Plantations," 4 The Colonial Laws of New York 953 (1894). For text, see Part IV, *infra*.

34. The report of Richard Jackson, counsel to the Commissioners of Trade and Plantations, in Public Record Office, C.O.5/1075, 461, cited by Goebel, note 9 *supra*, at 15 n.76, stated:

"It is with a good deal of Concern that I find myself obliged to represent to your Lordships that though the first of these acts introduces no Law or part of any law of this kingdom the substance of which upon a careful perusal does not appear of public utility to that province yet it does not seem fitting they should be thus adopted in Cumulo and that without stating more of the several Acts than the Title and the number Sections adopted. That nothing can be more obvious than that such a Cumulative Act deprives both the Crown and the Governor of that distinct approbation or dis-approbation that is essential to the Constitution of the Province, and to all similar constitutions and that the perusal of

Benefits of the Laws by which those Rights and Liberties are Reserved.<sup>35</sup>

These, however, were attempts to introduce "by way of reference" large numbers of English statutes at one time. English officials looked with much less disfavor upon an act of a provincial assembly which introduced a specific act of Parliament, probably at least in part because it presented a clear-cut question: Should this particular statute be permitted to stand or should it be disallowed? Virginia, for example, successfully introduced a number of English statutes by specific acts of assembly which declared such and such an act of Parliament to be in force.<sup>36</sup>

Although the "introduction by way of reference" may have been a source of friction between the colonists and the Crown officials, it has great merit for the historian. These acts of the colonial assemblies not only state precisely what statutes or groups of statutes were considered of sufficient importance by the colonists to be introduced in this manner, but, on the whole, statutes — even those of the early colonial period — have been better preserved than the court records which constitute the only source for determining what portions of English law, whether common or statute, were introduced into the law of a particular colony by way of long accepted usage or practice.

As early as 1729 Attorney General Yorke had conceded that English statutes which were not specifically extended thereto by Parliament could be "received there by long uninterrupted usage, or practice, which may import a tacit consent by the lord proprietor, and the people of the colony, that they should have the force of a law there." This method of reception was thus accepted and approved. However, the determination of what statutes or what parts of the common law were in fact so "received" in a particular colony is extraordinarily difficult.

Not only are there relatively few colonial court records still in existence, but there are very few scholars able to find their way through the common law and chancery pleadings who have the patience and skill to collect, arrange, classify, and draw conclusions from the mass of often dusty and ill-kept files and volumes, which present the added problem of crabbed

---

the Acts of Parliament themselves, make it palpable that such an introduction by way of reference will frequently occasion great difficulties in the Construction, and those sometimes such as ought not to be left to a Court of Justice to decide."

35. 34 Archives of Maryland, Proceedings and Acts of the General Assembly, October 1720 - October 1723, 661-79 (1914).

36. See "Virginia," *infra* p. 115, note 6.

and difficult handwriting. Yet this paper by paper and page by page examination of the original court records is the only means to determine precisely what parts of English law were used in the courts of a colony, i.e., were received into practice in that same colony. As a gloss on his efforts, the scholar knows, when all this is done and a valid conclusion drawn, that that conclusion will apply only to a particular colony whose records were so examined, for it is a fact too frequently — though often conveniently — overlooked that these colonies were political and jurisdictional entities, and in consequence a legal practice accepted or a statute placed in force in one does not necessarily imply comparable acceptance or reception in another. The colonies were not without reason in regarding each other as "foreign" states.<sup>37</sup> Each colony, therefore, must be investigated separately. Such procedure is the only approach to determine the meaning of those phrases used in early state constitutions and statutes which provided for a continuation of the existing laws. What specific parts of the common law, what particular English statutes, what acts of the colonial assemblies did heretofore "form the law of the . . . colony," as was continued in effect by the New York constitution of 1777? What laws were included within the phrase in the New Hampshire constitution of 1784 which referred to "all the laws which have heretofore been adopted . . . and usually practiced on in the courts of law . . . ." The colonial statutes provide an incomplete answer. The printed reports in most jurisdictions do not antedate the Revolution. Reliance on treatises which describe the law in England is utter folly. To attempt to determine what was the common law in South Carolina from a treatise which discussed its contemporary application in England is to presume an identity between the courts of South Carolina and the courts of England which did not exist. Merely because English treatises and English reports were widely used in the colonies<sup>38</sup> does not mean that the common law as practiced in London was identical with that received and practiced under in Charles Town or that Charles Town and New York received and practiced under the same parts of the common law of England. However much the colonists may have wished that they

37. When Jefferson catalogued his library, probably in 1783, he classified under the heading of "Foreign Law" the statutes of Massachusetts, Connecticut, and other states as well as those of Barbados and Bermuda. See Goebel, note 9 supra, at xxxv. For a contemporary discussion pointing out the differences see 1 Tucker, ed. op. cit. note 25 supra, at 393.

38. For a discussion of the law library facilities in pre-Revolutionary New York, see Hamlin, Legal Education in Colonial New York 73-94 (1939).

possessed the full body of the common law of England, they did not.

Thus it is only when the records of the courts of each colony have been collected and analyzed, conclusions drawn, and the separate results for each colony correlated into one master report, that valid statements can be made concerning the reception of the common law and English statutes prior to the Revolution.<sup>39</sup> Until that time, generalizations of more than local or limited application are unwarranted.<sup>40</sup>

The strained relations between England and the colonies which culminated in the Revolution increased the colonial interest in the common law and English statutes. When the First Continental Congress in 1776 adopted a Declaration of Rights, it included the following resolutions:

... the respective colonies are entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law.

... they are entitled to the benefit of such of the English statutes, as existed at the time of their colonization; and which they have, by experience, respectively found to be applicable to their several local and other circumstances.<sup>41</sup>

---

39. Examples of the type of work needed before any overall conclusions can be drawn include Blume, ed., *Transactions of the Supreme Court of the Territory of Michigan 1805-1836* (6 vols. 1935-1940); Goebel & Naughton, *Law Enforcement in Colonial New York 1664-1776* (1944); Hamlin & Baker, *Supreme Court of Judicature of the Province of New York 1691-1704* (3 vols. 1959).

40. In this connection see Goebel, note 9 *supra*, at xxxiv-xxxviii.

41. 1 *Journals of the Continental Congress 1774*, 63 at 69 (1904). The Declaration of Rights also provided (*id.* at 68) "That our ancestors, who first settled these colonies, were at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural-born subjects, within the realm of England." For an account of the adoption of the Declaration of Rights see Burnett, *The Continental Congress 52-54* (1941). A draft resolution, found among the papers of James Duane of New York, designed to be offered to the 1774 Continental Congress (quoted in Goebel, *Cases on the Development of Legal Institutions* 405 (1937)) stated:

"The colonists in the several colonies are bound by, and entitled to the Benefit of, those parts of the Common Law of England, of the civil and maritime Law used there and of the statutes of that Kingdom of Force there, at the time of the settlement of the Colonies which are applicable to them and [which] from their local circumstances are not impracticable there, and the like parts of the statutes of Great Britain made from that time for securing the Rights and Liberty of the Subject. We do not however admit into this collection but absolutely reject the statutes of Henry 8 and Edward 6 respecting Treasons and Misprison of treasons.

Footnote continued

These resolutions were not made a part of the Articles of Confederation. They did not appear in the Declaration of Independence. Comparable provisions, however, were inserted during the first years of independence in state constitutions and statutes in an obvious attempt to secure to the colonists what had been so long denied them. These provisions, continuing the common law and such English statutes as had been heretofore practiced under or were suitable to the several newly independent states, should be appraised in the light of contemporary conditions. They did not, as might be superficially concluded, represent a strong pro-British sentiment. Quite the reverse. The colonists for a variety of reasons wanted the laws of England, and they saw to it that the guarantee of those laws was provided. From the point of view of the voteless man, accustomed to but resentful of the summary justice of the Crown officials, it assured his right to the habeas corpus act. The lawyer at the other extreme may well have viewed it as a welcome continuation of the accepted order of things, much as a twentieth century attorney might be relieved to know that a proposed revision of his state's statutes involved merely renumbering and not a change in substance or even reorganization. The landed proprietor recognized that he still could protect his acres by the accustomed legal remedies. The merchant could still bring an action of debt. Though no break with the legal patterns of the past took place, the assurance of what the colonists had sought for decades to achieve represented a triumph over the previous rebuffs by the Crown. With this achievement they were temporarily content. Only in Virginia were there any rumblings which looked forward to a revision of the existing laws. The laws which had heretofore been in force were continued or the common law and such English statutes as were considered suitable were said to be in force. The application of these standards in determining what was the law in force awaited the decisions of the future.

---

"They are also entitled to the . . . privileges which have been from time to time granted to them respectively by royal Charters, and to a free and exclusive power of Legislation in all cases of Taxation and internal policy. Such parts of the Common, Civil, and maritime Law and Statutes of Great Britain, the acts of our several assemblies and the Charters granted to the Colonies . . . only constitute the law of the Land and the rights and privileges of the Peoples in the Colonies. These cannot be altered or abridged by any authority but our respective legislatures."

## CHAPTER 2

### METHODS OF DEALING WITH BRITISH STATUTES IN AMERICAN JURISDICTIONS

Revolution with the inevitable termination of governmental continuity may solve some problems. It also creates new ones. The break with Great Britain did not automatically give the colonists the common law and English statutes for which they had clamored. When justice ceased to be administered in the King's name, practical problems multiplied involving such mundane matters as the style of a criminal prosecution, the heading on a summons, the method of securing judges, the use of summary justice in the handling of petty crimes, the enforcement of contracts. The colonists faced an interruption in the administration of justice in both criminal and civil proceedings. Some framework for an orderly continuance of the judicial processes of government was apparent to thoughtful and responsible citizens. Laws were needed to deal with the daily mechanics of existence.<sup>1</sup> Rather than devise completely new statutes to deal with all anticipated contingencies, delegates to constitutional conventions and state general assemblies found it expedient to utilize existing and familiar bodies of law<sup>2</sup> and at the same time satisfy

---

1. The preambles to two statutes which put into effect the English laws, enacted respectively by Vermont in 1782 and Georgia in 1784, illustrate this awareness of a need for laws:

[Vermont] "Whereas, it is impossible, at once, to provide particular statutes adapted to all cases wherein law may be necessary for the happy government of this people.

\* \* \* \* \*

[Georgia] "WHEREAS during the late convulsions in this State several salutary laws were lost, and destroyed, that had from time to time been enacted by the general assembly of the same; . . . And whereas it is absolutely necessary for the well governing of every State that laws properly adapted to the circumstances of the inhabitants be at all times in force. . . ."

2. The Vermont statute of 1782 illustrates the legislative recognition of this familiarity. It stated in part:

"And whereas the inhabitants of this State have been habituated to conform their manners to the English laws, and hold their real estate by English tenures.

"Be it enacted, &c that so much of the common law of England, as is not repugnant to the constitution or to any act of the legislature of

popular demand for the use of the common law and English statutes.<sup>3</sup>

Between 1776 and 1784, eleven out of the thirteen original states made, either directly or indirectly, some provision for the use of the common law and British statutes.<sup>4</sup> Out of the total of twenty-eight jurisdictions organized between 1776 and 1836, all but two at one time or another had a comparable provision.<sup>5</sup> While some jurisdictions retained their original provisions unaltered, others did not. Thus the categories listed below relate only to the methods initially employed by the several jurisdictions to handle the status of the acts of Parliament. Methods subsequently used by these same jurisdictions will be dealt with later.

---

this State, be, and is hereby adopted, and shall be, and continue to be, law within this state.

"And whereas, the statute law of England is so connected and interwoven with the common law, that our jurisprudence would be incomplete without it; therefore,

"Be it further enacted, that such statute laws and parts of laws of the kingdom of England, as were passed before . . . [October 1, 1760] for the alteration and explanation of the common law, and which are not repugnant to the constitution, or some act of legislature, and are applicable to the circumstances of the State, are hereby adopted and made, and shall be and continue to be, law within this State: and all courts are to take notice thereof, and govern themselves accordingly."

3. At the outbreak of the American Revolution in 1775, three of the colonies had statutes which dealt directly with the status of English statutes. Rhode Island had a general statute enacted in 1700 which had been followed in 1749 by a statutory declaration that such English statutes as were included in a list were to be "in Force in this Colony." South Carolina in 1712 had re-enacted by reference a long list of English statutes. North Carolina in 1715 had declared a number of groups of English statutes to be in force. Attempts by other jurisdictions during the colonial period to enact similar legislation had been futile, though during the seventeenth century Virginia had from time to time declared particular English statutes to be in effect.

4. Rhode Island did not make such a provision until 1798 while Connecticut waited until 1818. In November 1785, Thomas Jefferson commented " . . . The American states having on their first establishment adopted the system of British laws. . . ." 9 Papers of Thomas Jefferson 6 (Boyd ed. 1950).

5. The sole exceptions were Michigan and Mississippi territories. Wisconsin Territory, organized in 1836, continued in effect the laws of Michigan. Although the English statutes in toto were never formally put into effect in either Michigan or Mississippi, both territories expressly repealed them, Mississippi in 1807 and Michigan in 1810.

Initial Constitutional And Statutory Provisions For Use Of  
British Statutes

1. No reference to British statutes but provision that laws heretofore in force (or in force in prior jurisdiction) to continue
 

|                                                             |           |
|-------------------------------------------------------------|-----------|
| South Carolina                                              | 1778-1872 |
| Massachusetts                                               | 1780 —    |
| New Hampshire                                               | 1784 —    |
| Territory south of River Ohio-Tennessee<br>(North Carolina) | 1790-1858 |
| Kentucky (Virginia)                                         | 1792 —    |
| District of Columbia (Maryland)                             | 1801 —    |
| Alabama Territory - Alabama (Mississippi)                   | 1817 —    |
| Connecticut                                                 | 1818 —    |
| Maine (Massachusetts)                                       | 1819 —    |
  
2. Provision that the common law and British statutes were in force (or were to continue in force)
 

|                |           |
|----------------|-----------|
| Delaware       | 1776 —    |
| New Jersey     | 1776-1799 |
| Pennsylvania   | 1777 —    |
| North Carolina | 1778-1837 |
| Georgia        | 1784 —    |
| Rhode Island   | 1798 —    |
  
3. Provision that the common law and British statutes as of a particular date were in force
 

|                            |           |
|----------------------------|-----------|
| As of the first emigration |           |
| Maryland                   | 1776 —    |
| As of April 19, 1775       |           |
| New York                   | 1777-1788 |
| As of October 1, 1760      |           |
| Vermont                    | 1782-1797 |
| As of July 4, 1776         |           |
| Florida Territory          | 1823 —    |
  
4. Provision that English statutes enacted prior to 1607 "of a general nature" were the rule of decision
 

|                               |           |
|-------------------------------|-----------|
| Virginia                      | 1776-1792 |
| Northwest Territory - Ohio    | 1795-1806 |
| Indiana Territory - Indiana   | 1807 —    |
| Missouri Territory - Missouri | 1816 — 6  |

6. Missouri Territory excluded such portions of the British Statutes as related to crimes.



|                               |           |
|-------------------------------|-----------|
| Arkansas Territory - Arkansas | 1819 -- 7 |
| Illinois                      | 1819 --   |
| Florida Territory             | 1822-1823 |

5. Provision that the common law relative to crimes to be in force

|                               |           |
|-------------------------------|-----------|
| Orleans Territory - Louisiana | 1805-1928 |
|-------------------------------|-----------|

Where the state constitution was used to continue the use of the common law and English statutes, two methods were employed. The state constitutions of Connecticut, Massachusetts, New Hampshire, and South Carolina simply continued in effect all laws heretofore in force. The state constitutions of Delaware, Maryland, New Jersey, and New York, however, referred to the continuation of the common law and English statutes.

Where a state or territorial statute was used, two types of statement appeared. Georgia, North Carolina, Pennsylvania, Rhode Island, and Vermont -- jurisdictions which did not pass through the territorial period -- continued in effect the common law and English statutes then in force or in force as of a particular date. The states of Arkansas and Illinois and the Florida, Indiana, Missouri, and Northwest territories copied the Virginia Ordinance of 1776 which stated that the common law and English statutes enacted prior to 1607 "of a general nature" were the rule of decision.<sup>8</sup>

In 1790 Congress, organizing the "territory south of the river Ohio," provided for a continuation of the laws then in force in North Carolina in accordance with the terms of the Deed of Cession under which North Carolina had ceded its western land claims. There was another continuation of the laws in force in 1801 when Congress, accepting cessions from Maryland and Virginia, organized the District of Columbia. In the meantime Kentucky, carved out of Virginia in 1791, provided in its constitution of 1792 for a continuation "of the laws now in force in the state of Virginia." A comparable provision appeared in the Maine constitution of 1819 when that state was separated from Massachusetts.

On six occasions between 1801 and 1836 Congress employed the device first used in 1790 and continued in effect the laws in force within a jurisdiction when organizing a new political entity.

---

7. Arkansas Territory excluded such portions of the British statutes as related to crimes but repealed this portion of the statute in 1837.

8. Other territories adopting a statute based on the Virginia Ordinance of 1776 included Kansas Territory (1855), Colorado Territory (1861), and Wyoming Territory (1869).

In 1804, dividing the Louisiana Purchase into the Territory of Orleans and the District of Louisiana and providing for the government thereof, the laws then in force -- i.e., the laws of Spain -- were continued. In 1822 similar provision was made for Florida Territory, also acquired from Spain. In 1817, when Alabama Territory was carved out of Mississippi Territory, the laws in effect were continued, and the same provision appeared in the organic acts for Arkansas, carved out of Missouri Territory in 1819, and Wisconsin, carved out of Michigan Territory in 1836.

The organic act for Mississippi Territory, organized in 1798, made no provision for an existing body of legislation to be in force immediately. In this respect, it was analogous to the 1787 Northwest Ordinance. It may be that in both instances it was felt that the power to "adopt" laws provided a sufficient body of suitable legislation. However the fact that in 1795 the governor and judges of the Northwest Territory declared the common law and English statutes prior to 1607 to be the rule of decision suggests the possibility that the piecemeal adoption of laws from the "original states" had not provided a sufficient framework of statutes. There was a real difference of opinion in the Mississippi Territory as to the status of the English statutes, with one judge contending they were in force and another that they were not. In the case of Michigan Territory, where again no provision was made in the organic act for a body of laws to be in force, it was initially assumed that the statutes of the Indiana Territory were not in force until the Supreme Court decided otherwise in 1806.<sup>9</sup> Under this decision, such statutes of the Northwest Territory as had remained in force in Indiana were in force in Michigan Territory, including the Act of 1795. It is at least possible that here, as in the case of Mississippi, it was not felt necessary to provide an immediate framework in the belief "adoption" would be adequate.

Thus with the exception of the Mississippi and Michigan territories, either Congress or the state or territorial legislature or the state constitutional convention provided at an early stage within the life of the jurisdiction for a body of laws to be in force therein. In these provisions, heavy reliance was placed on the use of the common law and English statutes. This was true even in those jurisdictions originally inheriting the civil law, for Orleans Territory introduced the common law relating to crimes in 1805 (while retaining the civil law for other purposes) and

---

9. *U. S. v. Muir, Lundie, and Brevoort*, 1 Blume, ed., *Transactions of the Supreme Court of the Territory of Michigan 1805-1814*, 317 (1935).

Missouri Territory in 1816 and Florida Territory in 1822 declared the common law and English statutes enacted prior to 1607 to be the rule of decision.

There seems no reason to doubt that when these provisions were placed in state constitutions, acts of Congress, or acts of state and territorial legislatures, they were considered as permanent solutions to the need for a body of laws and also as assurance of the use of such parts of the common law and English statutes as were considered desirable. Two factors, however, caused a reappraisal in some jurisdictions of these early provisions: the realization that there were no objective criteria for determining exactly what portions of the common law and English statutes were in force and a belief that there were sufficient portions of the English statutes (and of the colonial and early state statutes as well) which were not adapted to the government then in force in the several states to warrant a thorough revision or codification of all existing statutes coupled with repeal of all not included within the final revisal.<sup>10</sup>

It is true that the state constitutional provisions and state or territorial statutes which dealt directly or indirectly with the status of common law and English statutes imposed a variety of standards for determining what portions of the English statutes were to be considered in effect. The application of these standards, however, was seriously hampered by two factors: the difficulty in obtaining copies of the English statutes themselves and the nature of the criteria so imposed.

The absence of readily available volumes of the statutes of England was remarked upon intermittently throughout the 1776-1836 period. Not only were the volumes themselves relatively inaccessible, but the number involved and the searching which had perforce to be done to locate a particular statute

— legal indexing being an art in which the twentieth century has shown marked improvement — constituted a tremendous practical deterrent to their effective use.<sup>11</sup>

---

10. As a factor favoring revision or codification, there was a contemporary belief held by unsophisticated individuals that writing out all the law in one book would enable men to know what the law was, obey it at all times, and hence dispense with the need for lawyers. Concurrently, there was a considerable degree of antagonism toward the legal profession. For a discussion see Warren, *History of the American Bar* 211 (1911).

11. The 1786 New York act "for revising and digesting the laws of this state," noted in the preamble that "such of the said [English and British] statutes as have been generally supposed to extend to the late

The purely physical facts of unavailability or inaccessibility were significant factors in creating uncertainty on the part of lawyers and judges, not only as to what had been placed in effect but what was the actual substance of the statutes themselves. This was aggravated by the nature of the criteria imposed.

One group of statutes or constitutional provisions continued in effect the laws heretofore in force or practiced under. Immediately, the courts were faced with the problem of whether a particular English statute had been in force or had been practiced under. What did "practiced under" mean? In view of the absence of published reports, if a court set up the standard that a prior decision was the only acceptable evidence of a statute's having

---

colony and to this state, are contained in a great number of volumes. . . ." 1 Jones & Varick, eds., *Laws of the State of New York*, 281 (1789). In 1812 the Pennsylvania legislature authorized the printing of certain English statutes for distribution. *Acts of Pennsylvania 1811-1812*, 100 (1812). A report of a committee to the Georgia Senate, dated December 9, 1823, remarked "it being known that there are but few copies of the Statutes of England in the State of Georgia, and those which are in force in this State, being comparatively speaking, but few, and scattered through a heavy and voluminous work, to wit, the Statute Laws of England, up to the year seventeen hundred and seventy-six, so that very few have the opportunity afforded to them of knowing what the said laws are. . . ." Dawson, ed., *Compilation of the Laws of the State of Georgia*, "Resolutions," 26 (1831). An early reference to the "book problem" is found in the preamble to the Virginia acts of 1661-2, which explained the reasons prompting a review of the laws then in force. 2 Hening ed., *Statutes at Large of Virginia* 41 at 42-43 (1810). The preamble stated in part:

"This assembly . . . have also endeavoured in all things (as neere as the capacity and constitution of this country would admitt) to adhere to those excellent and often refined laws of England, to which we profess and acknowledge all due obedience and reverence, And that the laws made by us are intended by us, but as breife memorialls of that which the capacity of our courts is utterly unable to collect out of such vast volumes, though sometimes perhaps for the difference of our and their condition varying in small things, but far from the presumption of contradicting any thing therein conteyned. . . ."

Note also the Michigan statute of 1810 which stated:

". . . whereas the good people of the territory of Michigan may be ensnared by ignorance of laws adopted and made by the governor and judges of the ancient territory of the United States north-west of the river Ohio, and of laws made by the general assembly of the said territory, and of laws adopted and made by the governor and the judges of the territory of Indiana . . . which said laws do not exist of record or in manuscript in this country, and are also out of print, as well as intermingled with a multiplicity of laws which do not concern or apply to this country, and therefore may not be expected to be reprinted in a body, and may not be expected to be selected and reprinted in a detached form without much uncertainty, delay and difficulty. . . ."

been practiced under, this would be an untenable situation. Inevitably, the courts were thrown back on more nebulous standards, but the basic question remained to perplex them.

Where the common law and English statutes were specifically continued or said to be in force, the courts still had the problem of selection. True, some provisions stated that no statutes enacted after a particular date were to be in force. This was helpful and definite. However, when the criterion was that those statutes which had been a part of the law of a given state as of a particular date were to be in force, the absence of published reports arose again to plague the judiciary. How establish that a given statute had or had not been a part of the law of the state in question? The standard of "applicable" or "suitable to our condition," while helpful at polar extremes, was not of much assistance in borderline cases.<sup>12</sup> No real problems were provoked by statutes dealing with the aid payable upon making the king's son a knight or marrying his daughter<sup>13</sup> or the head pence due in Northumberland,<sup>14</sup> or, at the other extreme by certain provisions of Magna Carta.<sup>15</sup> Again where it could be shown that an English statute had been superseded by a state statute dealing with the same subject, it could be assumed safely that that English statute was no longer in force.<sup>16</sup> The unresolved issues arose over statutes which dealt with subjects having real relevance to existing governmental, social, and economic patterns but over which the argument could be raised that they were not "suitable."<sup>17</sup> The number of decisions touching on the status of English statutes

---

12. See Report of the Judges, 3 Bin. (Pa.) 595 (1808).

13. A statute of purveyors, 25 Edw. 3, Stat. 5, c. 11 (1350).

14. Statutes made at Westminster, 23 Hen. 6, c. 6 (1444).

15. Illustratively, in the absence of a superseding statute a widow was conceded to be entitled to her marriage inheritance and quarantine as had been provided in Magna Carta. Portions of the Statute of Merton dealing with the right of widows to bequeath the crops of their lands and declaring that a child born before the marriage of its parents was a bastard were also usually held to be in effect, as was the Statute de Anno Bissextili. See Kilty, A Report of All Such English Statutes as Existed at the time of the first emigration of the people of Maryland . . . 205-207 (1811) where he lists such portions of the early English statutes as he considered to be both applicable and proper to be incorporated. See also Martin, A Collection of the Statutes of England now in Force in North-Carolina, 1-5 (1792), Report of the Judges, 3 Bin. (Pa.) 599-600 (1808), Schley, A Digest of the English Statutes of Force in the State of Georgia 34-82 (1826).

16. See Kilty, note 15 supra, at 139-201.

17. See Glasgow's Lessee v. Smith and Blackwell, 1 Tenn. 144 (1805).

which could not be arbitrarily classified as definitely suitable, not in force, or superseded, illustratively those dealing with apprentices or charitable uses, indicates the inherent difficulty faced by the courts and the lawyers.<sup>18</sup>

Thus pressure for greater certainty developed. There was an obvious need for a swifter solution to the determination of what English statutes were to be considered in force in terms of the day-to-day conduct of business affairs or the handling of criminal prosecutions than could be achieved through the judicial selection decision-making process alone. Certain choices were available to the legislators. They could leave the situation as it was, continuing to entrust the judiciary with the responsibility for deciding what English statutes fell within the criteria imposed by the particular state. They could enact as state statutes on a piecemeal basis such selected English statutes as seemed desirable.<sup>19</sup> They could authorize the preparation of a list of English statutes considered in force within the jurisdiction which would provide an official, if nonstatutory, guide. Or they could embark on an extensive program of statutory revisal coupled with, upon completion and enactment of the revision, repeal of all English statutes heretofore in force.

Such jurisdictions as were not content to continue reliance upon their original enactments -- which had continued in effect laws heretofore in force or had declared that English statutes enacted before 1607 were the rule of decision -- utilized two major methods of dealing with the problem of uncertainty: the official nonstatutory list and the revisal-repeal technique.

The idea of preparing a list of English statutes under legislative authorization very possibly derived from those colonial statutes which had declared certain English statutes to be in force within that particular colony. Of the four colonies which had employed this device -- South Carolina in 1712, Rhode Island and North Carolina in 1749, and New York in 1767 -- the North Carolina and New York colonial legislatures had seen their legislation disallowed by an Order in Council.<sup>20</sup>

---

18. See Part III *infra*.

19. Chancellor Kilty's notes, note 15 *supra*, at 139-201 indicate something of the extent of this practice in Maryland. See also Willard Hall's report to the Delaware State Senate in 1829 where he remarked *inter alia*, "We have adopted some English statutes. . . ." Journal of the Senate of the State of Delaware 41 (1829).

20. The Orders in Council were issued in 1754 and 1770 respectively. It is at least possible that the Rhode Island statute escaped disallowance because it was relatively brief. It is also possible that it

It is not beyond possibility that in 1791 some member or members of the North Carolina General Assembly knew of or had called to his attention the fact of the disallowed 1749 statute and that this knowledge spurred the appointment of François-Xavier Martin to prepare a Collection of the Statutes of the Parliament of England in force in the State of North Carolina. Martin's list, in which he included the text of the statutes he considered to be in force, was published in 1792 and approved by the General Assembly in 1804. However, in 1817, the General Assembly authorized the preparation of another list by commissioners appointed by the legislature.<sup>21</sup> The report was simply ordered to be published; it was neither rejected nor adopted. Hence in North Carolina the question of the status of each particular English statute remained to be resolved by the judiciary.

This was also the state of affairs in Pennsylvania, Maryland, and Georgia. Sixteen years after the publication of Martin's Collection, the Pennsylvania General Assembly in 1807 authorized the preparation by the Supreme Court Judges of a list of English statutes considered to be in force in the Commonwealth.<sup>22</sup> Published in the third volume of Binney's Pennsylvania Reports, it did not include the text of the statutes. In 1817, a compilation by Samuel Roberts, based on the Report of the Judges, did include the text.<sup>23</sup> The Report of the Judges was prepared with far greater care and expertise than had been the Martin Collection. However, the report of Chancellor Kilty of Maryland, published in 1811 and dealing with the same subject, was even more extensive.<sup>24</sup> It included not only the text of such statutes as were "found applicable and proper to be incorporated" but also detailed footnotes prepared by

---

simply went unnoticed as it bore no title and its enactment appeared most unobtrusively in the proceedings of the Assembly for February 1749.

21. Manual of the Laws of North Carolina 354 (4th ed. 1819).

22. "An Act enjoining certain duties on the Judges of the Supreme Court" (April 7, 1807).

23. Roberts, Digest of Select British Statutes, comprising those which, according to the report of the Judges of the Supreme Court, made to the Legislature, appear to be in force, in Pennsylvania; with some others (1817).

24. Kilty, A report of all such English statutes as existed at the time of the first emigration of the people of Maryland, and which by experience have been found applicable to their local and other circumstances; and of such others as have since been made in England or Great-Britain, and have been introduced, used and practised, by the courts of law or equity; and also all such parts of the same as may be proper to be introduced and incorporated into the body of the statute law of the state. . . . (1811).

the Chancellor which explained the reasons for his inclusion or exclusion of a particular statute or section of a statute. The existence of the Pennsylvania and Maryland lists may have suggested to the Delaware legislators the desirability of having a list prepared for their state. The preparation of such a list was authorized in 1824, but no record of its compilation has been located. In 1823 William Schley was appointed by the Georgia General Assembly to prepare a list of the English statutes in force in that state. His report was published in 1826 and included the text of the statutes considered to be in effect as well as some footnotes.<sup>25</sup>

During the years which saw lists of English statutes considered to be in force prepared under legislative authorization in North Carolina, Pennsylvania, Maryland, and Georgia, with Delaware authorizing such a list which was not prepared, there were at least two non-authorized lists published. A fragment of a list for North Carolina appeared in 1814 and 1815.<sup>26</sup> A purportedly complete list was included by William Littell in his 1810 compilation of the Kentucky statutes.<sup>27</sup> A list was prepared in Florida under legislative authorization in 1845 but was not published until almost a century later.<sup>28</sup>

When these lists included the text of the English statutes said to be in force in a particular jurisdiction, they gave attorney and judge alike ready access to the language of the statutes, avoiding the need to secure the complete set of the statutes of England. Moreover, the inclusion or exclusion of a statute from a list at the very least represented a reasoned opinion on or suggested the likelihood of a prevailing opinion as to that statute's status. Basically, however, the lists in themselves — absent legislative re-enactment by reference or some other form of positive legislative endorsement —<sup>29</sup> did not resolve the issue of

---

25. Schley, *All the Statutes of a General Nature which were "Usually in Force on the Fourteenth Day of May, 1776, and not Repugnant to the Constitution, Laws, and Form of Government since Established in this State" with Explanatory Notes, Connecting References, and Reference to English and American Decisions.* . . . (1826).

26. "An Abridgment of the Statute Law of Great-Britain, Now in Force in North-Carolina," *Carolina Law Repository*, 549-555 (1814), 4 *North Carolina Reports*, Part II, 294-303.

27. Littell ed., *The Statute Law of Kentucky* (2 vols., 1809-1810).

28. "An Act concerning the Statutes of Great Britain, of force in this State" (1845). See 3 *Florida Statutes* 1941, *Helpful and Useful Matter*, 3 (1946).

29. This did not take place on any wide basis during the post-Independence period. Mississippi Territory in 1800 did provide by statute



whether a particular statute was or was not to be applied to the particular set of facts in question. Their usefulness in practice as an aid in construction of the general declaration that English statutes as "suitable" were in force depended in large measure upon the competency of and the respect accorded to the list-makers. Some jurisdictions apparently found the general statute supplemented by the list completely adequate. No dissatisfaction was apparent in Georgia. A Pennsylvania decision in 1956 referred respectfully to the list prepared by the judges,<sup>30</sup> although it is of some interest to note the contemporary evidence that this same list was considered as a stop-gap measure until a revisal could be prepared.<sup>31</sup> In Maryland, as late as 1912, a two-volume edition of British Statutes in Force in Maryland was based on Kilty's 1811 Report.<sup>32</sup> On the other hand, North Carolina turned to the revisal-repeal method in 1837,<sup>33</sup> and other than Florida in 1845 no other jurisdiction made any effort to employ the list technique. Instead there was renewed interest in the older revisal-repeal approach, which appealed to lawyers and judges who sought definite answers to the status of particular statutes and also appealed to non-lawyers who felt codification and conciseness would prevent lawsuits and insure justice.

The revisal-repeal method originated with Thomas Jefferson. Writing in 1821 at the age of seventy-seven, Jefferson described his efforts at statutory revision between 1776 and 1779, efforts which were eventually incorporated into the Virginia Revisal of 1792.<sup>34</sup>

---

that "the Statutes of Jeofails" were to be in force therein. Contrarywise, the Northwest and Indiana territories in acts dated 1799 and 1807 respectively specifically declared three English statutes not to be in force and Illinois did likewise in 1819. There was, however, nothing in the 1776-1836 period at all comparable to the 1712 South Carolina statute. The importance attached to this colonial statute by South Carolina compilers should be noted. Grimké, Brevard, and Cooper included the particular statutes included in the list in their compilations, dated respectively 1790, 1814, and 1837.

30. *Commonwealth v. O'Brien*, 181 Pa. Super. 382, 391, 124 A.2d 666 (1956), app. dism'd 389 Pa. 109, 132 A.2d 265 (1957).

31. See Report of the Judges, 3 Bin. (Pa.) 595, 598 (1808) and Roberts, note 23 supra, xiv, xv.

32. Coe ed., British Statutes in Force in Maryland according to the report thereof made to the General Assembly by the late Chancellor Kilty . . . by Julian J. Alexander. . . . (2 vols., 2 ed., rev. and annotated to date, Baltimore, 1912).

33. Revised Statutes of North Carolina (1837).

34. It is not clear how much influence Jefferson had on the enactment of the 1776 Virginia Ordinance which declared the common law and

Our delegation [i.e., to the Continental Congress from Virginia] had been renewed for the ensuing year commencing Aug. 11. but the new government was now organized, a meeting of the [Virginia] legislature was to be held in Oct. and I had been elected a member by my county. I knew that our legislation under the regal government had many very vicious points which urgently required reformation, and I thought I could be of more use in forwarding that work. I therefore retired from my seat in Congress on the 2d. of Sep. resigned it, and took my place in the legislature of my state, on the 7th. of October.

\* \* \* \* \*

So far we were proceeding in the details of reformation only; selecting points of legislation prominent in character & principle, urgent, and indicative of the strength of the general pulse of reformation. When I left Congress, in 1776. it was in the persuasion that our whole code must be reviewed, adapted to our republican form of government, and, now that we had no negatives of Councils, Governors & Kings to restrain us from doing right, that it should be corrected, in all its parts, with a single eye to reason, & the good of those for whose government it was framed. Early therefore in the session of 76. to which I returned, I moved and presented a bill for the revision of the laws; which was passed on the 24th. of October, and on the 5th. of November Mr. [Edmund] Pendleton, Mr. [George] Wythe, George Mason, Thomas L. Lee and myself were appointed a committee to execute the work. We agreed to meet at Fredericksburg to settle the plan of operation and to distribute the work. We met there accordingly, on the 13th. of January 1777. The first question was whether we should propose to abolish the whole existing system of laws, and prepare a new and complete Institute, or preserve the general system, and only modify it to the present state of things. Mr. Pendleton, contrary to his usual disposition in favor of ancient things, was for the former proposition, in which he was joined by Mr. Lee. To this it was objected that to abrogate our whole system would be a bold measure, and probably far beyond the views of the legislature; that they had been in the practice of revising from time to time the laws of the colony, omitting the expired, the repealed and the obsolete, amending only those retained, and probably meant we should now do the same, only including the British statutes as well as our own: that to compose a new Institute like those of Justinian and Bracton, or that of Blackstone, which was the model proposed by Mr. Pendleton, would be an arduous undertaking, of vast research, of great consideration & judgment; and when reduced to a

---

English statutes enacted prior to 1607 to be the rule of decision. However, the wording of the title, "An ordinance to enable the present Magistrates and Officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases till the same can be more amply provided for," suggests that the ordinance was considered as a temporary measure. It is clear that if there was any tendency to perpetuate the use of the common law and English statutes prior to 1607 in Virginia, this was nullified by Jefferson's not inconsiderable energies.

text, every word of that text, from the imperfection of human language, and its incompetence to express distinctly every shade of idea, would become a subject of question & chicanery until settled by repeated adjudication; that this would involve us for ages in litigation, and render property uncertain until, like the statutes of old, every word had been tried, and settled by numerous decisions, and by new volumes of reports & commentaries; and that no one of us probably would undertake such a work, which, to be systematical, must be the work of one hand. This last was the opinion of Mr. Wythe, Mr. Mason & myself. When we proceeded to the distribution of the work, Mr. Mason excused himself . . . Mr. Lee excused himself . . . The other two gentlemen therefore and myself divided the work among us. The common law and statutes to the 4. James I. (when our separate legislature was established) were assigned to me; the British statutes from that period to the present day to Mr. Wythe, and the Virginia laws to Mr. Pendleton. . . .

\* \* \* \* \*

Feb. 6. In the execution of my part I thought it material not to vary the diction of the ancient statutes by modernizing it, nor to give rise to new questions by new expressions. The text of these statutes had been so fully explained and defined by numerous adjudications, as scarcely ever now to produce a question in our courts. I thought it would be useful also, in all new draughts, to reform the style of the later British statutes, and of our own acts of assembly, which from their verbosity, their endless tautologies, their involutions of case within case, and parenthesis within parenthesis, and their multiplied efforts at certainty by says and aforesays, by ors and by ands, to make them more plain, do really render them more perplexed and incomprehensible, not only to common readers, but to the lawyers themselves. We were employed in this work from that time to Feb. 1779, when we met at Williamsburg . . . We had in this work brought so much of the Common law as it was thought necessary to alter, all the British statutes from Magna Charta to the present day, and all the laws of Virginia, from the establishment of our legislature, in the 4th. Jac. I. to the present time, which we thought should be retained, within the compass of 126 bills . . . Some bills were taken out occasionally, from time to time, and passed; but the main body of the work was not entered on by the legislature until after the general peace, in 1785. when by the unwearied exertions of Mr. Madison . . . most of the bills were passed by the legislature, with little alteration.<sup>35</sup>

Reading Jefferson's account of his efforts to revise the laws of Virginia, with the emphasis on utilizing whatever parts of the common law and English statutes that were suitable to the new political climate, it is difficult to discover any animosity toward what might be termed "usable" portions of the English law. Moreover, it should be noted that he avoided the idea of an

---

35. "Autobiography," 1 Writings of Thomas Jefferson 48-63 (Ford ed. 1892).

entirely new system of jurisprudence. Rather, he was content to utilize whatever portions of the past seemed desirable and build on them for the future. Obviously, after incorporating into the revision such portions of the English statutes as were suitable, it was logical to provide for the repeal of all outstanding ones, as otherwise the courts would be faced with, in effect, certain English statutes being in force as re-enacted Virginia statutes and also as English statutes declared to be the "rule of decision."

Virginia was the first jurisdiction to initiate a revisal of the statutes coupled with repeal, but it was not the first to complete the project. New York authorized its statutory revision in 1786 and repealed the English statutes upon completion of the revision in 1788. Virginia did not adopt its revisal, coupled with repeal of the English statutes, saving only "all and every writ or writs," until 1792. Patterson of New Jersey commenced his revisal in 1792 and brought it to completion in 1799. Vermont adopted its Revised Laws and repealed all English statutes in 1797. In Mississippi Territory, Judge Harry Toulmin, who had argued that the English statutes were in force in the territory, when appointed to prepare a statutory compilation, incorporated a good number of those same statutes in the compilation which the state legislature adopted in 1807, simultaneously repealing all English statutes then in force. In 1836-1837 North Carolina authorized a revision of the state's statutes and, upon adopting it in 1837, repealed all English statutes then in effect. In 1858 Tennessee adopted a Code which repealed all previous enactments including the English statutes heretofore in force. In 1872 South Carolina did likewise.

A variant of the revisal-repeal approach to the status of acts of Parliament appeared in Ohio, where the English statutes were repealed outright without any indication that a revisal was contemplated. In Michigan, however, although repeal in 1810 preceded the revisal which was spoken of in a preliminary resolution of the governor and judges, the comprehensive Code of 1820 was actually a revisal of such laws as had been in force or were thought necessary for the territory. It is not unlikely that the delay between repeal and the enactment of legislation to take the place of the English statutes and of the statutes of earlier territories which had been repealed was caused in large part by the intervening War of 1812.<sup>36</sup>

---

36. For an account of the background and enactment of the Michigan Code of 1820, see Blume, "Legislation on the American Frontier," 60 Mich. L. Rev. 317, 348-366 (1962).

Looking at the dates on which revisal-repeal was effected, as contrasted with the non-statutory authorized lists, within the 1776-1836 period, four out of the six jurisdictions utilizing revisal-repeal did so before 1800.<sup>37</sup> Out of the four states using the nonstatutory authorized lists, three initially authorized their preparation after 1800.<sup>38</sup> It is possible that the original enthusiasm for the comprehensive revisal-repeal approach diminished when the extent of the necessary work involved in selection and drafting became apparent. At this time, lists appeared a suitable alternative, alike easier to prepare and requiring less overturn of the statutory status quo. When, however, the need for certainty became more obvious, attention may well have shifted back to the revisal-repeal method. But whether the list or the revisal-repeal approach was used, the evidence suggests that on the part of the law-makers and law-users the needs for certainty and accessibility were potent motives. This is not to suggest that antagonism toward English law did not exist, for there is considerable contemporary evidence as to its existence.<sup>39</sup> Its influence, in terms of determining legislative action, is more questionable. It is easy to overestimate the impact of choleric pamphlets and vitriolic letters to newspaper editors. On the other hand, they should not be totally disregarded as evidence of contemporary opinion. They do not, however, to judge from the enactments of state legislatures, appear to have been of significant importance in the legislative process.

Hence when English statutes were repealed — and recall that only two jurisdictions did not accompany repeal with a prior revision which included re-enactment as state statutes of such English statutes as were considered desirable and one of these two did later produce an equivalent to a revisal — this was dictated in large measure by the needs for certainty<sup>40</sup> and

---

37. New York (1778), Virginia (1792), Vermont (1797), New Jersey (1799), Mississippi Territory (1807), North Carolina (1836-1837).

38. North Carolina (1791, 1817), Pennsylvania (1807), Maryland (1809), Georgia (1823).

39. For an extreme example of anti-English sentiment, see Goodenow, *Historical Sketches of the Principles and Maxims of American Jurisprudence in Contrast with the Doctrines of the English Common Law on the Subject of Crimes and Punishments* (1819).

40. One factor which may have operated to foster the revisal-repeal approach, with its apparent assurance of certainty, was the depletion of the bar by the American Revolution. While the number of Loyalists who emigrated has never been definitely determined, it is clear that many men of substance and education did leave the United States. It is known, as

accessibility rather than by antagonism for the English law itself.<sup>41</sup> Out of the nine jurisdictions which repealed the British statutes, only one, Ohio, specifically repealed the common law as well, and in later years the effect of this ostensible repeal was largely nullified by judicial decision.<sup>42</sup>

Once revisal and repeal had been effected in such jurisdictions as had elected to utilize this approach, revisors and legislators alike undoubtedly believed that the problem of the English statutes had been resolved on a permanent basis. This was not to be uniformly true. It appeared that the English statutes had imbedded themselves in the interstices of the legal systems of the several United States jurisdictions to a surprising degree. In the retention of the common law, an official loophole had been provided through which the English statutes would penetrate in some, though not in all, jurisdictions. New York, for example, which had repealed the English statutes in 1788, saw Chancellor Walworth in 1833 declaring them to be in force as a part of the common law. There were parallel developments in Alabama, Wisconsin, and Iowa, jurisdictions which had inherited territorial statutes repealing all English statutes. Conversely, however, the state courts of Mississippi and Michigan, out of which had been carved Alabama and Wisconsin, have refused to hold English statutes in force as a part of the common law. New Jersey also has steadily adhered to this refusal.

---

illustration however, that by 1779 the bar of the Supreme Court of New York had almost ceased to exist. Not only had many emigrated but the years of conflict had created vacuums in the training of young attorneys. See Hamlin, *Legal Education in Colonial New York* 120 (1939). It is at least arguable that many of the remaining leaders of the bar in New York — and perhaps in other states — may have felt that an added argument in favor of a revisal was the relative ease it would afford to attorneys in determining what the law was, a factor particularly desirable if many members of the bar did not measure up to the pre-Revolution standards of training. See Warren, note 10 *supra*, at 212.

41. It is true that in the case of New Jersey there was some dissatisfaction expressed with the "Latin and French terms" contained in the English statutes. See "An additional Supplement to an Act for revising and digesting the Laws of the State," March 19, 1795. In New York "An act for revising the digesting the laws of this state" April 15, 1786, noted the language of the English statutes, that they were "conceived in a style and language improper to appear in the statute books of this state."

42. See *Ohio v. Lafferty*, Tappan's Reports 113 (1817). Howe, ed., *Readings in American Legal History* 426 (1949) reproduced the case and added some useful notes.

The courts of those states whose statutes or constitutions did insure the use of English statutes had to deal with the status of English statutes during the 1776-1836 period with a high degree of frequency.<sup>43</sup> In subsequent decades issues involving their use diminished but still exist. A comparison of the state and territorial reports of United States jurisdictions between 1776 and 1836 with the reports of Canadian provinces during the earlier decades of each, shows that the United States jurisdictions had as high if not a higher dependence on the use of English statutes as a statutory basis for the administration of justice. Some of the provinces — i.e., Ontario, British Columbia, Manitoba, Alberta, and Saskatchewan — and the two territories — Yukon and Northwest — have definite dates as of which general laws in force in England were said to be in force within the particular Canadian jurisdiction.<sup>44</sup> In those provinces without such a cut-off date — Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland — the absorption of general laws enacted by Parliament continued until the Colonial Laws Validity Act of 1867.<sup>45</sup> This statute provided that no subsequent act of Parliament would be considered as extending to any colony or colonies unless such colony or colonies were specifically named therein. This, of course, did not affect prior acts of Parliament. In the case of the African nations, formerly British colonies, where the laws of England as of a certain date had been put into effect,<sup>46</sup> all "statutes of general application" as of that date are considered to be in force but none enacted after that date unless specifically extended. An examination of the reports of these jurisdictions shows a substantial number of English statutes applied by the courts. An additional limitation on the power of Parliament to legislate for the colonies was imposed by the 1931 Statute of Westminster, which provided that some affirmative act of reception by a colonial legislature was necessary to the effectiveness of any act of Parliament within

43. See Part III, *infra*.

44. Canadian Jurisdictions

Date As Of Which Laws Of  
England Became In Force

|                       |      |
|-----------------------|------|
| Ontario               | 1792 |
| British Columbia      | 1858 |
| Manitoba              | 1870 |
| Northwest Territories | 1870 |
| Yukon Territory       | 1870 |
| Alberta               | 1870 |
| Saskatchewan          | 1870 |

45. "An Act to remove Doubts as to the Validity of Colonial Laws," 28 & 29 Vict. c. 63 (1865).

46. See Chapter 1, note 12, *supra*.

that jurisdiction.<sup>47</sup> There may be much truth in the allegation that the loss of the thirteen North American colonies prepared Great Britain for its Empire and Commonwealth.

Closely allied to the use of English statutes by the newly independent states of the United States was the use of English precedents. The almost total absence of any published reports of decisions, not only for the colonial period but also during the early years of many states and territories, made their employment by the former colonists almost inevitable. The attorney seeking clarification in the application of a statute or point of law instinctively turned to the reasonably available volumes of the English reports.<sup>48</sup> The early volumes of state and territorial reports show the extent to which these English decisions were cited and also show the decrease in their use as local reports became increasingly available.

In three jurisdictions efforts were made to limit the use of English precedents. In 1799 New Jersey prohibited the citation of any English report or treatise made or written after July 4, 1776, a prohibition which was definitely repealed in 1819. In 1808 Henry Clay in Kentucky was able to keep extremists in the legislature from doing more than to ban the citation of English reports dated on or after July 4, 1776. In later years this was altered to permit the reading of such reports but they were not to have "binding authority." The Pennsylvania General Assembly in 1810 prohibited the citation of English precedents, again with the cut-off date of July 4, 1776, a prohibition that was repealed in 1836. It is noteworthy, however, that not one of these three statutes as finally enacted dealt with pre-1776 English precedents.<sup>49</sup>

---

47. Statute of Westminster, 22 Geo. 5, c. 4 (1931).

48. Insufficient research has been done on law library facilities during the post-Independence period to make very definite conclusions as to the number of books available to lawyers. However, the available data shows the heavy preponderance of English sources. See Hamlin, note 40 *supra*, at 73, and Warren, note 10 *supra*, at 325. For a list of law books physically present in the Michigan Territory between 1805 and 1836, see Blume, "Chancery Practice on the American Frontier," 59 Mich. L. Rev. 49 at 89-95 (1960).

49. In this connection, the comment made by St. George Tucker in his 1803 edition of Blackstone's Commentaries is worth noting: "[The Revolution] put an end to the authority of any future decisions or opinion of [English] judges, and sages of the law in the courts of this commonwealth; those decisions and opinions, . . . will long continue to be respected in Virginia, as to decision of the wisest and most upright foreign judges; but from the moment that Virginia became an independent commonwealth, neither the laws or the judgment from any other country, or



In 1836 the status of acts of Parliament was handled under the following types of constitutional and statutory provisions:

Constitutional And Statutory Provisions In Effect In 1836  
Which Controlled The Use Of British Statutes

1. No reference to British statutes but provision that laws heretofore in force (or in force in prior jurisdiction) to continue
 

|                                           |           |
|-------------------------------------------|-----------|
| South Carolina                            | 1778-1872 |
| Massachusetts                             | 1780 --   |
| New Hampshire                             | 1784 --   |
| Territory south of River Ohio - Tennessee | 1790-1858 |
| Kentucky (Virginia)                       | 1792 --   |
| District of Columbia (Maryland)           | 1801 --   |
| Alabama Territory - Alabama (Mississippi) | 1817 --   |
| Connecticut                               | 1818 --   |
| Maine (Massachusetts)                     | 1819 --   |
  
2. Provision that the common law and British statutes were in force (or were to continue in force)
 

|                |           |
|----------------|-----------|
| Delaware       | 1776 --   |
| Pennsylvania   | 1777 --   |
| North Carolina | 1778-1837 |
| Georgia        | 1784 --   |
| Rhode Island   | 1798 --   |
  
3. Provision that the common law and British statutes as of a particular date were in force
 

|                            |                       |
|----------------------------|-----------------------|
| As of the first emigration |                       |
| Maryland                   | 1776 --               |
| As of July 4, 1776         |                       |
| Florida Territory          | 1823 -- <sup>50</sup> |
  
4. Provision that the common law and English statutes enacted before 1607 "of a general nature" were the rule of decision
 

|                             |         |
|-----------------------------|---------|
| Indiana Territory - Indiana | 1807 -- |
|-----------------------------|---------|

---

its courts, can claim any authority whatsoever in our hearts." 4 Blackstone, Commentaries, 437 (Tucker ed. 1803).

50. In 1828, the original provision which had declared British statutes relative to crimes were not in force was altered to permit the use of those in aid of the common law.

|                                                                                                                                                         |            |       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-------|
| Missouri Territory - Missouri                                                                                                                           | 1816       | -- 51 |
| Arkansas Territory - Arkansas                                                                                                                           | 1819       | -- 52 |
| Illinois                                                                                                                                                | 1819       | --    |
| 5. Provision that the common law relative to crimes was to be in force                                                                                  |            |       |
| Orleans Territory - Louisiana                                                                                                                           | 1805       | --    |
| 6. Continuance of general provision that common law and British statutes were in force supplemented by non-statutory list authorized by the legislature |            |       |
| North Carolina                                                                                                                                          | 1792, 1817 |       |
| Pennsylvania                                                                                                                                            | 1808, 1817 |       |
| Maryland                                                                                                                                                | 1811       |       |
| Georgia                                                                                                                                                 | 1826       |       |
| Florida                                                                                                                                                 | 1845       |       |
| 7. Provision repealing British (or English) statutes upon completion of statutory revision                                                              |            |       |
| New York                                                                                                                                                | 1788       |       |
| Virginia                                                                                                                                                | 1792       |       |
| New Jersey                                                                                                                                              | 1799       |       |
| Mississippi                                                                                                                                             | 1807       |       |
| North Carolina                                                                                                                                          | 1837       |       |
| Tennessee                                                                                                                                               | 1858       |       |
| South Carolina                                                                                                                                          | 1872       |       |
| 8. Provision repealing English statutes without completion of statutory revision                                                                        |            |       |
| Ohio                                                                                                                                                    | 1806       |       |
| Michigan Territory                                                                                                                                      | 1810       | 53    |

Within these categories, of course, there were substantial variations. For example, while Orleans Territory had expressly declared the common law relative to crimes to be in force, Missouri had expressly excluded the common law and English statutes relative to crimes when declaring English statutes enacted prior

---

51. English statutes relative to crimes were specifically said not to be in force.

52. English statutes relative to crimes were specifically said not to be in force between 1819 and 1837, but this part of the general provisions was removed in 1837.

53. The Code of 1820 completed the projected rewriting of the Michigan statutes.

to 1607 to be the "rule of decision." Arkansas originally had the Missouri statute but in 1837 altered it to permit the use of English statutes relating to crimes and misdemeanors in the absence of applicable state statutes. While the earliest Florida statute dealing with English statutes, enacted in 1822, had followed the Virginia Ordinance of 1776 in declaring English statutes prior to 1607 to be the "rule of decision," in 1823 this was changed to a simple declaration that general English statutes down to July 4, 1776, excluding those dealing with crimes and misdemeanors, were "to be in force in this territory," and in 1828 the 1823 statute was altered to permit in the absence of territorial statutes the use of "British statutes respecting crimes and misdemeanors" which were "declaratory of and in aid of the common law. . . ." Moreover, as noted earlier, the consequences of any one particular course of action were not necessarily identical in all jurisdictions employing it.

The following table, grouping the several jurisdictions on the basis of their background — i.e., colonial, territories formed from acquisitions by the national government territories formed from other territories, states created from territories — will show the totality of the constitutional and statutory provisions which governed the use or non-use of the British statutes between 1776 and 1836. For details as to the dates, see the lists dealing with provisions initially used and the provisions in effect in 1836 which appear earlier in this part.

Thus, despite the variations which occurred, the use of English statutes was provided for at an early stage in twenty-six out of the twenty-eight jurisdictions organized between 1776 and 1836, that is, in all but Mississippi and Michigan territories. Eventually, only Ohio failed to make systematic provision for their use, whether in whole or in part, either by direct statutory or constitutional declaration or by a revisal which re-enacted substantial portions thereof as state or territorial statutes. Thus, the potential break with prior legal developments was averted — there was at least as high a continuity in the use of English statutes by the several United States jurisdictions as in the case of the Canadian provinces and territories during the nineteenth century and the emergent African nations of the twentieth century. The extent to which British or English statutes were re-enacted as state or territorial statutes by United States jurisdictions has not been explored. When this is done, it is likely to show the substantial number of these statutes that were incorporated into the body of local statutory law. The table in Part

III shows the English statutes with which the courts dealt between 1776 and 1836. The great variety of these statutes and the number of cases which involved their application is significant. The number of statutes so listed demonstrates with unmistakable clarity how widely the English statutes were relied upon and used in the first six decades of the independence of the United States.

## CONSTITUTIONAL AND STATUTORY PROVISIONS GOVERNING THE USE OR NON-USE OF BRITISH STATUTES: 1776-1836\*

| Types Of Provisions                                                                             | Jurisdictions With A Colonial Background <sup>1</sup> |               |         |               |              |             |          |            |              |          |                                 |          |          |                |                |                |         | Territories Formed Directly From National Acquisitions <sup>2</sup> |                     |             |         |           | Territories Formed From Other Territories <sup>3</sup> |                     |                 |                 |                | States Formed From Territories <sup>4</sup> |                |                  |                                 |                |                     |                     |                 |                |   |   |
|-------------------------------------------------------------------------------------------------|-------------------------------------------------------|---------------|---------|---------------|--------------|-------------|----------|------------|--------------|----------|---------------------------------|----------|----------|----------------|----------------|----------------|---------|---------------------------------------------------------------------|---------------------|-------------|---------|-----------|--------------------------------------------------------|---------------------|-----------------|-----------------|----------------|---------------------------------------------|----------------|------------------|---------------------------------|----------------|---------------------|---------------------|-----------------|----------------|---|---|
|                                                                                                 | Maine (Mass.)                                         | New Hampshire | Vermont | Massachusetts | Rhode Island | Connecticut | New York | New Jersey | Pennsylvania | Maryland | District of Columbia (Md., Va.) | Delaware | Virginia | Kentucky (Va.) | North Carolina | South Carolina | Georgia | Northwest                                                           | South of River Ohio | Mississippi | Orleans | Louisiana | Florida                                                | Indians (Northwest) | Michigan (Ind.) | Illinois (Ind.) | Missouri (La.) | Alabama (Miss.)                             | Arkansas (Mo.) | Ohio (Northwest) | Tennessee (South of River Ohio) | Indiana (Ind.) | Louisiana (Orleans) | Mississippi (Miss.) | Illinois (Ill.) | Missouri (Mo.) |   |   |
| British statutes in force or continued in force                                                 | .                                                     | .             | .       | .             | .            | .           | .        | x          | .            | .        | .                               | x        | .        | .              | .              | .              | x       | .                                                                   | .                   | .           | .       | .         | .                                                      | .                   | .               | .               | .              | .                                           | .              | .                | .                               | .              | .                   | .                   | .               | .              | . | . |
| British statutes at a particular date in force                                                  | .                                                     | .             | x       | .             | .            | .           | x        | .          | .            | x        | .                               | .        | .        | .              | .              | .              | .       | x                                                                   | .                   | .           | .       | .         | x                                                      | .                   | .               | .               | .              | .                                           | .              | .                | .                               | .              | .                   | .                   | .               | .              | . |   |
| British statutes enacted before a particular date in aid of the common law the rule of decision | .                                                     | .             | .       | .             | .            | .           | .        | .          | .            | .        | .                               | .        | x        | .              | .              | .              | .       | .                                                                   | x                   | .           | .       | .         | .                                                      | .                   | x               | .               | .              | .                                           | .              | .                | .                               | .              | .                   | .                   | .               | .              | x |   |
| British statutes continued in force supplemented by authorized non-statutory list               | .                                                     | .             | .       | .             | .            | .           | .        | .          | x            | .        | .                               | .        | .        | .              | x              | .              | .       | .                                                                   | .                   | .           | .       | .         | .                                                      | .                   | .               | .               | .              | .                                           | .              | .                | .                               | .              | .                   | .                   | .               | .              | . |   |
| Selected British statutes re-enacted; all others declared not in force                          | .                                                     | .             | x       | .             | .            | .           | .        | x          | .            | .        | .                               | .        | x        | .              | .              | .              | .       | .                                                                   | .                   | .           | x       | .         | .                                                      | .                   | .               | .               | .              | .                                           | .              | .                | .                               | .              | .                   | .                   | .               | .              | . |   |

\*The terms "British" and "English" are used interchangeably.

1. Jurisdictions which had an English colonial background inherited the laws in force during the colonial period which included some portions of the common law and British statutes.

2. Territories formed out of cessions to the national government by Great Britain and the several states, however, with the exceptions of the Territory South of the River Ohio, lacked any background of the common law

and British statutes. Territories formed from cessions by France and Spain inherited the Spanish civil law.

3. Territories formed from existing territories inherited the laws of such prior territories.

4. States formed from existing territories inherited the laws in such prior territories.

## PART II

### METHODS EMPLOYED BY PARTICULAR JURISDICTIONS

## CHAPTER 3

### THE NEW ENGLAND STATES

#### Massachusetts

The Commonwealth of Massachusetts adopted a constitution as approved by popular vote, effective the last Wednesday of October, 1780. Chapter VI, Article VI provided:

All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.<sup>1</sup>

This constitutional provision, in force in 1962, has been construed by the courts as continuing in force such laws as were in effect at the date of its adoption. More precise questions, however, arose as to what common law and what particular English statutes were to be considered as in force in the Commonwealth.

An early case dealing with these questions was Commonwealth v. Leach,<sup>2</sup> which came before the Supreme Judicial Court in 1804. The prime issue was the meaning of the phrase "cognizable by them at common law" in the act of July 3, 1782, which established Courts of General Sessions for Massachusetts. The attorney for the Commonwealth argued that the phrase "at common law" could not mean "the common law of England, because justices of the peace there are not common law officers — it must therefore mean our common law — and on this subject our common law must be precisely what the statute law of England was at the time of the emigration of our ancestors from that country. — The statutes which were, previous to that time, enacted in England and which define or describe the authorities, powers and jurisdiction of justices of the peace, give to them,

---

1. For a discussion of Massachusetts law and government between 1630 and 1650, see Haskins, *Law and Authority in Early Massachusetts* (1960). See also, Howe, *Readings in American Legal History* 100-267 (1949).

2. *Commonwealth v. Leach*, 1 Mass. 59 (1804). See also *Commonwealth v. Warren*, 6 Mass. 72 (1809) where 33 Hen. 8, c. 1 (relating to the obtaining of goods by way of counterfeit documents) was held in force "as a part of our common law."

expressly, cognizance of diverse offences which were offences at common law — among which are trespasses. The present indictment is for a trespass and therefore within the jurisdiction of the Session — . . . .”<sup>3</sup>

The four justices handed in separate opinions:

Thatcher, J. I am of opinion that the statutes of Ed. 3. respecting the jurisdiction and powers of justices of the peace have been adopted, used and approved here, and are to be considered as part of our common law; that the offence charged in the indictment is cognizable by the court of sessions and therefore that judgment ought not to be arrested.

Sedgwick, J. Justices of the peace . . . are creatures of statute; and their powers are given them by the statutes. . . It appears to me, generally speaking, that the English statutes which were in force at the time of the emigration of our ancestors from that country are common law here. The statutes of Ed. 3. have been adopted and practiced upon here, and are therefore to be considered as part of our common law. This is decisive of the question before the court, as the offence charged in the indictment is, by those statutes, within the jurisdiction of the sessions.

\* \* \* \* \*

Dana, Ch. J. The term common law ought not to be construed so strictly as is contended for by the counsel for the defendant. Generally when an English statute has been made in amendment of the common law of England, it is here to be considered as part of our common law. For instance, the stat. of Ja. 1., giving double costs to an officer who is sued out of his county, for any thing done by him in the execution of his office, being made in amendment of the common law, is adopted here and is part of our common law. So also the stat. of Anne, respecting negotiable notes. Usage of the country establishes and makes the common law of the country. No one, probably, can recollect the period when the Courts of Sessions have not exercised the authority which is now excepted against. Justices of the peace have this authority expressly given them in their commissions. It appears to me that they have uniformly exercised it, and that without being questioned—and therefore that the law is to be considered as settled. Per. Cur. unanimously.<sup>4</sup>

In 1829, the Supreme Judicial Court in Sackett v. Sackett<sup>5</sup> was faced with the question of whether the action of waste in Massachusetts was controlled by the statute of Marlebridge, 52 H. 3, or by the statute of Gloucester, 6 Ed. 1, c. 5. Parker, Chief Justice, delivered the opinion of the court, stating in part:

3. Commonwealth v. Leach, 1 Mass. 59, 60 (1804).

4. Id. at 60-61.

5. Sackett v. Sackett, 25 Mass. (8 Pick.) 309 (1829).



Before the statute of Marlebridge, a lessee or devisee for life or years was punishable of waste, unless care was taken in the will or lease to make him so. After that statute, such tenants were punishable, unless the will or lease expressly excused them. . . .

. . . .The statute of Gloucester then came, which created a forfeiture of the place wasted and of treble damages. Under this law our ancestors lived until their emigration. . . . They then came to this country, bringing with them, as all agree, the rights and privileges of Englishmen, and the common law of that country, so far as it should be found applicable to their new state and condition. They brought with them also a charter, containing power to make such new laws as their exigencies might require. . . . Whenever they legislated upon any subject, their own law regulated them; when they did not legislate, the law they brought with them was the rule of conduct.

Then the question is, whether the law by which they would be governed in relation to waste committed by tenants, was the ancient common law, as it stood before the statute of Marlebridge, or as modified by that statute, or the law which was in force in England at the time of their emigration and for centuries before; and we think it very clear that it was the latter. . . . And this was the opinion of the learned jurists and judges who lived before and after the adoption of our present constitution and had occasion to study the jurisprudence of both periods.

Thus Chief Justice Dana, in the case Commonwealth v. Leach et al. 1 Mass. R. 61, says, "the term common law ought not to be construed so strictly as is contended for. Generally when an English statute has been made in amendment of the common law of England, it is here to be considered as part of our common law."

This proposition includes statutes of that description, whether enacted before or after the settlement of the colony, and was therefore too broad as a rule of our jurisprudence. Our ancestors having brought with them an ample charter for legislation, and having in fact exercised that power as soon as they were organized as a body politic, cannot be presumed to have adopted of course all the statutes which were afterwards passed in the British parliament, which might alter or amend the common law, but only such as they practically received into their system, and which in this manner became their common law.

The distinction between the two classes of statutes, those made before and those after the emigration, was seen and recognised by the Court in the case Commonwealth v. Knowlton, 2 Mass. R. 534 [1807]. In the opinion of the Court drawn up by Parsons C. J., though it does not bear his name, is the following sound exposition of the basis of our jurisprudence, as distinct from legislative enactments made since the present form of government has been in force.

"Our ancestors, when they came into this new world, claimed the common law as their birth-right, and brought it with them, except such parts as were judged inapplicable to their new state and condition. The common law, thus claimed, was the common law of their native country, as it was amended or altered by English statutes in force at the time of their emigration. Those statutes were never re-enacted in this country, but were considered as incorporated into the common law. Some few other English statutes, passed since the emigration, were adopted by our courts, and now have the authority of law, derived from long practice. . . .

"So much therefore of the common law of England as our ancestors brought with them, and of the statutes then in force, amending or altering it; such of the more recent statutes as have been since adopted in practice; and the ancient usages [stemming from annulled laws of the Massachusetts Bay Colony] . . . may be considered as forming the body of the common law of Massachusetts, which has submitted to some alterations by the acts of the provincial and state legislatures, and by the provisions of our constitution."

If the foregoing be a true enumeration of the materials which compose the common law by which our ancestors, under their colonial institutions, were governed, then it is very clear that the action of waste was the same and had the same consequences with them, as it had in England under the statute of Gloucester, viz. forfeiture of the place wasted and treble damages. . . .

We admit the authority of the colonial legislature, while its charter continued, to have substituted any other remedy for waste than that which existed in England, or even to have made it dispunishable, as it was in regard to lessees for life or years before the statute of Marlebridge; but if they did not choose to legislate upon the subject, the common law, as above described, remained in force. . . .

\* \* \* \* \*

But the argument for the defendant in this case has relied much on the provision introduced into our constitution, whereby it is declared, "that all the laws which have heretofore been adopted, used and approved in the province, colony or state of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution."

It is argued that the law respecting waste, as existing in England at the time of the emigration, was never adopted, used or approved in the province, colony or state, and therefore ceased to be law after the adoption of the constitution, or rather never had force as law.

The answer to this argument has before been given, viz. that by that article of the constitution the common law was adopted as a whole, and that it is not necessary to show a use or practice of any particular branch of it, to give it validity; and that it is only of a statute enacted after the emigration that the question can arise, whether it has been actually used in practice, in order to give it the force of law. . . .<sup>6</sup>

In 1834, in Going v. Emery,<sup>7</sup> the Supreme Judicial Court at the Middlesex Term considered the question of whether 43

---

6. Id. at 314-21.

7. Going v. Emery, 33 Mass. (16 Pick.) 107 (1834). Commonwealth v. Churchill, 43 Mass. 118, 124 (1840) rejected the proposition that under the Massachusetts constitution "no principle or rule of the common law could be regarded as adopted, unless it could be shown affirmatively that it had been adjudicated before the revolution." See also Glezen v. Rood, 43 Mass. (2 Met.) 490, 492 (1841) where 23 Hen. 6, c. 9 (relating to the

Eliz., c. 4 (relating to charitable uses) was in force in the Commonwealth. In the opinion, Chief Justice Shaw stated in part:

There is no case in the reports of this Commonwealth, directly in point, deciding that the statute in question has been adopted in this Commonwealth. What English statutes are deemed to be in force here, is often a question of difficulty, depending upon the nature of the subject, the difference between the character of our institutions, and our general course of policy, and those of the parent country, and upon fitness and usage. As a general rule, it must be considered that our ancestors came here as British subjects, submitting to the obligations and claiming the protection and privileges of the laws of England, as they then stood. All the statutes of the realm, previously made, especially those altering, modifying, or declaring the common law, were included with and adopted as a part of that code. Those statutes of a general and beneficial nature, such as the statute of uses, of wills, and the like, of which many were passed in the reigns of Henry 8, Elizabeth, and James 1, were as useful in their nature and as beneficial to the subject, as the body of the common law. By an act passed soon after the granting of the provincial charter, 4 Wm. & Mary, Anc. Chart. 213, 229, it was provided, that all the laws and ordinances in force under the then late colonial government, should remain in force until altered or repealed by the provincial legislature thereby established. And by the constitution of the Commonwealth, c. 6, § 6, it is declared, that all the laws which have heretofore been adopted, used and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force until altered or repaled by the legislature. It is by this course of regular transmission, that the common law of England, and the statutes in force at the time of the settlement of this country, have been established and have the force of law at the present time. It is difficult to perceive why the statute 43 Eliz. c. 4, passed some years before the granting of the first charter, and before the emigration of our ancestors, should not be deemed one of those adopted. Many of its provisions were well adapted to the condition and circumstances, as well as to the policy and religious views, of the early emigrants. Though there is no decision upon this point, it does not stand altogether without authority. Some general rules pointing out what early English statutes are in force here, may be found in a case in the first volume of our Reports. Commonwealth v. Leach, 1 Mass. R. 59. Sedgwick J. says, "It appears to me, generally speaking, that the English statutes, which were in force at the time of the emigration of our ancestors, are common law here." Dana C. J. adds, "Generally when an English statute has been made in amendment of the common law of England, it is here to be considered as part of our common law."<sup>8</sup>

No case has been located, during the first six decades of the Commonwealth, in which a Massachusetts court addressed itself

---

commissioners of sewers) was said to be "made part of the common law of Massachusetts, subject to such modifications as may have been introduced by our own statutes."

8. Going v. Emery, supra, at 115-16 (1834).

to the question of whether the "common law" was continued in force under the 1780 constitution. The arguments addressed to the court were over what constituted the common law, acknowledged to be in force, and whether English statutes were included within it, and, if so, to what extent.<sup>9</sup>

### Rhode Island

In 1822, Justice Joseph Story, of the Supreme Court of the United States sitting as Circuit Justice in the Circuit Court for the District of Rhode Island, delivered an opinion in Steere v. Field<sup>10</sup> which dealt in part with the status of English statutes in Rhode Island. He stated:

The first question is, whether an action of debt lies in Rhode Island for the escape of an execution debtor. That debt lies in England in such a case, at least, since the statute of Westm. II. c. 11 (13 Edw. I.), and the statute of 1 Rich. II. c. 12 [prohibiting the release of prisoners by a jailor], has not been denied at the bar . . . The only point is, whether that remedy has either by usage or statute been incorporated into the law of Rhode Island. It is not necessary, in my judgment, to consider how far the common law and statutes of England, applicable to its situation, were to be considered as introduced by adoption into the colony of Rhode Island at its first settlement, or under the charter of Charles II., — though certainly the current of American as well as British authority sets very strongly in favor of the affirmative . . . — because there is an express colonial statute on this subject. By the act of Rhode Island, of the 30th of April, 1700, it is enacted, "That in all actions, matters, causes, and things whatsoever, when no particular law of this colony is made to decide and determine the same, that then, and in all such cases, the laws of England shall be put in force to issue, determine, and decide the same, any usage, custom, or law to the contrary hereof notwithstanding."<sup>11</sup> It is too clear, for argument, that this statute completely adopts the English statute, as well as common law, in all cases not otherwise provided for; and as no colonial statute existed touching remedies for escapes, it follows, that the remedy of an action of debt was virtually coupled with the local law. Assuming this to be the correct conclusion, and it seems to me undeniable, it remains only to inquire, whether by any subsequent statute the operation of this act has been suspended or repealed. There is no pretence of an express repeal; but an attempt has been made to deduce a repeal by implication from statutes subsequently made. The statute of 1767, after expressly declaring,

---

9. See, e.g., Crocker, Notes on the General Statutes of Massachusetts 32 (Balde's ed. 1925).

10. Steere v. Field, 22 Fed. Cas. 1210 (No. 13350) (C.C.R.I. 1822).

11. Acts and Laws of Rhode Island [1663-1745], 28 (1745). The title of the act read: "An Act for putting in Force the Laws of England, in all Cases where no particular Law of this Colony hath provided a Remedy."

that the courts of the colony shall be governed by certain statutes of parliament, which it enumerates in detail, as "hereby introduced into this colony," proceeds to provide in the second section, "that in all actions, laws and things whatsoever, where there is no particular law of this colony, or act of parliament introduced for the decision and determination of the same, then and in such cases, the laws of England shall be in force for the decision and determination of the same."<sup>12</sup> It does not appear to me, that this statute in the slightest degree varies the operation of the act of 1700; it is merely affirmative of its provisions. The enumeration of certain statutes, as introduced, cannot be considered as denying the adoption of any others; but was probably inserted *ex majori cautela*; and at all events the second section completely repeals any such constructive repeal. Then comes the act of 1789 [i.e., 1798], which, after declaring the Digest, then made of the statutes of the state to be in force, and reciting, that "in the aforesaid Digest statute provision may not have been made in all cases unprovided for at common law," enacts, "that in all cases, in which provision is not made, either at common law, or by the statutes aforesaid, the statute laws of England which have heretofore been introduced into practice in this state, shall continue to be in force, until the general assembly shall expressly provide therefor." Dig. 1798, p. 78, §5. Now I do not think it material to inquire, whether it be the common law of England, or the common law of Rhode Island (supposing there is a difference), which is alluded to in this statute, though upon sound principles of construction it seems difficult to avoid the conclusion that the latter was intended. . . ; nor whether the common law of Rhode Island, at least since the act of 1700, is not to be considered the common law of England, as modified and amended to the acts of parliament, and the local usages and doctrines of the colony; for in my view of the question, the effect of the act of 1798 will be the same, which ever construction is adopted. . . there does not seem any reason to suppose that debt was a remedy for an escape at the common law; for according to all analogies of that law, it lay not in cases of tort, but of contract only, where the claim was for a sum certain. . . From the nature of the case, it is a tort, sounding in damages, and perpetually varying in measure and extent. The statutes of Westm. II., and 1 Rich. II., were, in my judgment, introductive of new law; and such seems to have been the general if not the universal opinion of the profession. . . Assuming therefore, that the common law referred to in the act of 1798 is the common law of England, as the counsel for the defendant contends, it establishes only, that debt for an escape was not a remedy given by that law, or in the language of the act, it is "a case in which provision is not made at common law." It would be too narrow a construction to hold, that if there was some remedy at common law, the act of 1798 did not save a new statute remedy, introduced by practice into Rhode Island. The obvious purpose was to save all English statutes, then in force which gave remedies and rights unprovided for by the common law, or by the state statutes. And at all events the act is merely affirmative, and in no respect touches former statutes, with which the provisions of the Digest are not inconsistent. That the remedy of debt for escapes had been introduced into practice in this state is clear from the extracts

---

12. Acts and Laws of Rhode Island 55 (1767).

of the judicial records, with which I have been furnished, since the year 1767. And the legal conclusion from these extracts is greatly fortified by the language of the statutes of 1700 and 1767. Without going more at large into the subject, I am satisfied, that debt is a proper and legal remedy in Rhode Island in cases of escape.<sup>13</sup>

Despite the obvious care with which Story prepared his 1822 opinion, he omitted any reference to a statute enacted in 1749. The proceedings of the General Assembly for October 1748 show:

Whereas Messrs Danial Updike, James Honyman, jun. Matthew Robinson, and John Alpin, Attorneys at Law, by a Memorial under their Hands, have represented unto this Assembly, That the Judges of the Superior Court of Judicature, &c. in this Colony, have of late judicially determined, that the Statutes of that part of Great-Britain, formerly called England, are not in Force in this Government, except such as are introduced by some Law of the Colony; and this, notwithstanding that in all Time heretofore, the Courts throughout the Colony, both Superior and Inferior, have admitted such of the said Statutes as relate to the Common Law to be in Force here, and have adjudged upon them as such, so that there has been no Occasion of an Act of Assembly for the formal Introduction of those Statutes: But as the Case now stands, the Laws of this Colony are altogether imperfect, and scarcely any one Law-proceeding can be commenced or brought to Issue. And now this Assembly having taken the Premises into Consideration, Do Vote and Resolve, and it is hereby Voted and Resolved, That the Memorialists be, and they are hereby constituted a Committee to prepare a Bill for introducing into this Colony, such of the Statutes of England as are agreeable to the Constitution, and present the same to this Assembly at their next Session.<sup>14</sup>

The proceedings of the General Assembly for February 1749 show:

Whereas this Assembly, at their Session in October last, appointed a Committee to prepare a Bill for introducing into this Colony, such of the Statutes of England as are agreeable to the Constitution, and make Report of their Doings; the greater Part of whom, presented what followeth:

"We the Subscribers, being appointed to Report what Statutes of Great-Britain are, and ought to be in Force in this Colony, do Report as followeth:

That the following STATUTES, viz.  
The Statute of Merton, concerning Dower.

The Statutes of { Westminster the first, as far as it concerns Bail.  
Gloucester.

13. Steere v. Field, *supra* note 10. See also another opinion by Story, reaching an analogous conclusion in *Sesson v. Seabury*, 1 Summ. 235, 258 (C.C.R.I. 1832).

14. Acts and Laws of Rhode Island 51 (1748).

The Statutes of { Westminster the second, de Donis conditionalibus.  
 First Henry the 5th. chap. 5th. of Additions.  
 Partition in general.  
 Thirty-second of Henry the 8th. concerning Leases,  
 saving and excepting the last Paragraph of the  
 said Statute.  
 Twenty-first James Ist. chap. 16th. for limiting real  
 Actions: And that of 32d of Henry the 8th. chap. 2d.  
James and Elizabeth, and all other Statutes that concern  
 Bastardy, so far as applicable to the Constitution of  
 this Colony.

"All Statutes that are against criminal Offenders, so far as they are descriptive of the Crime, and where the Law of this Colony hath not described and enjoined the Punishment; then that Part of the Statute that relates to the Punishment also; always saving and excepting such Statutes, as from the Nature of the Offences mentioned in them, are confined to Great-Britain only.

"The Statute of 27th Henry the 8th. commonly called the Statute of Uses.

"The Statute of the 29th of Charles 2d. chap. 3d. commonly called the Statute of Frauds and Perjuries.

"The Statutes of the 22d and 23d of Charles the 2d. chap. 10th. for distributing the Estates of Intestates.

"The statutes of the 3d and 4th of William and Mary, chap. 14th [relating to the relief of creditors from fraudulent devises].

"The Statutes of 4th and 5th of Anne, chap. 16th. relating to Jointenants, and Tenants in common.

"That Part of the Statute of the of Anne, that subjects Lessees that hold over their Term against the Will of the Lessor, to the Payment of double Rent during the Time they hold over.

"All Statutes relating to the Poor, and relating Masters their Apprentices; so far as they are applicable in this Colony, and where we have no Law of the Colony.

"All which Statutes we are humbly of Opinion have heretofore been and still ought to be in Force in this Colony.

D. Updike,  
 J. Honyman, jun.  
 J. Aplin."

And this Assembly having taken the said Report into Consideration, Do Vote and Resolve, That all and every of the Statutes aforesaid, be, and they are hereby introduced into this Colony, and shall be in full Force therein, until the General Assembly shall order otherwise.<sup>15</sup>

15. Acts and Laws of Rhode Island 70-71 (1749).

The Acts and Laws for Rhode Island, printed in 1767, include "An ACT, regulating sundry Proceedings in the several Courts in this Colony," which is essentially a combination of the Acts of 1700 and of 1749.<sup>16</sup> This was the act which Story referred to and which was in force at the outbreak in the American Revolution.

In 1798, the Rhode Island General Assembly passed "An Act establishing the Digest of Laws. . ." which stated in part:

WHEREAS the committee appointed to revise the Laws of this State, have completed the business of their appointment, and the several bills by them reported, as proper to constitute the public statute laws of this State, have been carefully examined and considered by this Assembly, and such amendments as have been made thereto as have been deemed proper, and the digest reported by said committee, after being amended as aforesaid, has been approved, and the several acts therein contained have been separately passed and enacted:

\* \* \* \* \*

And whereas in the aforesaid digest, statute provision may not have been made in all cases, unprovided for at common law:

Sec. 5. Be it therefore enacted, That in all cases in which provision is not made, either at common law, or by the statutes aforesaid, the statute laws of England, which have heretofore been introduced into

---

16. There were, however, certain differences between the text of the acts. The Act of 1700 Provided:

"BE IT ENACTED by the General Assembly, and by the Authority of the Same, that in all Actions, Matters, Causes and Things whatsoever, where no particular law of this Colony is made to Decide and Determine the same; that then and in all such Cases the Laws of England shall be put in Force, to Issue, Determine and Decide the same. Any Usage, Custom or Law to the Contrary hereof notwithstanding."

The corresponding provision of the Act of 1767 provided:

"AND be it further Enacted by the Authority aforesaid, That in all Actions, Causes, Matters and Things, whatsoever, where there is no particular Law of this Colony, or Act of Parliament introduced, for the Decision and Determination of the same, then and in such Cases the Laws of England shall be in Force for the Decision and Determination of the same."

As between the acts of 1749 and 1767, however, there was only one minor substantive change. The act of 1749 had placed in force:

"That Part of the Statute of the of Anne, that subjects Lessees that hold over their Term against the Will of the Lessor, to the payment of double Rent during the Time they hold over."

The Act of 1767 substituted for the Statute of Anne, "THAT Part of the Statute of the Fourth of George the Second. . . ." with the balance of the paragraph left unchanged.



practice in this state, shall continue to be in force, until the General Assembly shall especially provide therefor.<sup>17</sup>

This was the controlling statute under which Story delivered his 1822 decision in *Steere v. Field*.<sup>18</sup> In the same year, however, the General Assembly enacted "An Act establishing the the Digest of Laws, as reported by the committee appointed to revise the laws of this State, and amended by the General Assembly, at their present Session." The act, after repealing all statutes not specifically included in the revision, provided in part:

Sec. 5. Be it therefore enacted, That in all cases in which provision is not made either at common law or by the statutes aforesaid such statutes as were introduced before the declaration of independence, and as have since been continued in practice in this State, shall be considered as part of the common law and remain in force until the General Assembly shall especially provide therefor.<sup>19</sup>

The constitution of the state of Rhode Island, adopted in 1842, provided:

... All statutes, public and private, not repugnant to this constitution, shall continue in force until they expire by their own limitation, or are repealed by the general assembly. . . .<sup>20</sup>

The statutes of Rhode Island, in force in 1962, provide:

In all cases in which provision is not made herein, such English statutes, introduced before the Declaration of Independence, which have continued to be practiced under as in force in this state, shall be deemed and taken as a part of the common law thereof and remain in force until otherwise specially provided.<sup>21</sup>

### Connecticut

The Connecticut Charter of 1662, granted by Charles II,

---

17. The Public Laws of the State of Rhode-Island and Providence Plantations 75, 78 (1798).

18. *Steere v. Field*, supra note 10.

19. Public Laws of Rhode Island 63, 65 (1822).

20. Constitution of Rhode Island art. XIV, § 1 (1842). 6 Thorpe ed., Federal and State Constitutions, Colonial Charters, and Other Organic Laws 3222, 3234 (1909) [hereinafter cited as Thorpe].

21. General Laws of Rhode Island § 43-3-1 (1956). For cases construing the series of acts and the constitutional provision, see *Bishop v. Tripp*, 16 R.I. 198, 14 Atl. 79 (1888), *Tucker v. Denico*, 27 R.I. 239, 61 Atl. 642 (1905), and *State v. McMahon*, 49 R.I. 107, 140 Atl. 359 (1928).

gave to the General Court the power to "Make, Ordain, and Establish all manner of wholesome, and reasonable Laws . . . not Contrary to the Laws of this Realm of England. . . ." <sup>22</sup> Acting under this charter, statutes were enacted throughout the colonial period. The charter itself was not superseded until 1818, when the state adopted its first constitution. This constitution continued in effect the laws then in force. <sup>23</sup>

In the meantime, the Superior Court in Strong's Case (1787) had had to decide whether a mandamus could issue to compel a town clerk to record a deed. The argument of counsel showed Mr. (Tapping?) Reeve contending:

That the first instance of a mandamus to be found in the books, was Bagg's case, 11 Coke, 93; and the first statute recognizing the the practice, was 9 Anne, cap. 20. [relating to mandamus and quo warranto] which regulates the mode of proceeding: That this practice was a part of the common law, independent of any statute, and undoubtedly derived itself from necessity. Hence they inferred, that the supreme courts in this country, as well as in England, from the nature and object of their appointment, must have a general superintending power over all inferior courts, and offices; to restrain them within their proper bounds, and to oblige them to execute that justice which their duty requires. — . . . <sup>24</sup>

At the conclusion of the arguments of counsel, the court ordered that a writ of mandamus issue. The reporter, Ephraim Kirby, added the following note:

At February term, 1788, the mandamus was returned; and the court was requested to direct what should be the rule of proceeding, in trying the sufficiency of the return; whether the common law, as it stood before the stat. 9 Anne, or that statute; and the court said, the statute of Anne should be the rule of proceeding. <sup>25</sup>

In 1805, the Supreme Court of Errors had before it Fitch v. Brainerd, which turned on the question of whether a feme covert could devise realty. In holding that she could not, the court stated:

---

22. Acts and Laws of the State of Connecticut, 3-8 (1784). See 1 Thorpe 533.

23. Constitution of 1818, Article 10, § 3 provided in part: ". . . All laws not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force until they shall expire by their own limitation, or shall be altered or repealed by the General Assembly, in pursuance of this Constitution. . . ." Thorpe 546. The State of Connecticut adopted a new constitution in 1955, Article 10, § 5 of which contained an essentially identical provision.

24. Strong's Case, Kirby 345, 348-49 (1787).

25. Id. at 351.

For though the common law of England hath not, as such, nor ever had, any force here; yet, in the progress of our affairs, whatever was imagined at the beginning, it long since became necessary, in order to avoid arbitrary decisions, and for the sake of rules, which habit had rendered familiar, as well as the wisdom of ages matured, to make that law our own, by practical adoption—with such exceptions as a diversity of circumstances, and the incipient customs of our country, required. The same may be said of ancient English statutes, not penal, whose corrective and equitable principles had become so interwoven with the common law, as to be scarcely distinguishable therefrom.<sup>26</sup>

By 1823, there had been some modification of the earlier opinion toward the common law. Hosmer, Chief Justice, delivering the majority opinion in Card v. Grinman, noted:

... The English common law, so far as it was not unadapted to the local circumstances of this country, our ancestors, on their emigration hither, brought with them; and until it is abrogated, by statute, I must . . . consider it as the common law of this state. . . .<sup>27</sup>

This common law, however, was apparently considered to include the modifying English statutes. In Baldwin v. Walker, the Supreme Court of Errors in 1851 stated:

Perhaps, the most interesting question here is, whether this plaintiff, as an assignee of the rent and reversion, if indeed he be such, can sustain this action of covenant, in his own name, for the arrears of rent falling due after the assignment? That, by the ancient common law of England, as assignee, in such case, could only maintain an action of debt, we suppose, must be admitted. . . But this state of the law was changed, by Stat. 32. Hen. 8. ch. 34. [relating to rights of reversioners against lessees], as it was found to be embarrassing in its practical effects. It would be found to be equally so here, if adopted by us. We have not yet adopted it, either by judicial recognition, or legislative enactment. Many of our sister states have, by constitutional or legislative provisions, recognized the common law of England as a part of their codes of law. We have not. We have, in our judicial practice, adopted so much of the common law as was operative as law, in the father-land, when our ancestors left it, and which was adapted to the new state of things here, under our colonial condition. This was our inheritance. But no abrogated or repealed law of England was considered as existing or binding here: the colonists brought no such law with them; they inherited no such law.<sup>28</sup>

26. Fitch v. Brainerd, 2 Day (Conn.) 163, 189 (1805).

27. Card v. Grinman, 5 Conn. 164, 168 (1823). But cf. "On the common law of Connecticut," 1 Root (Conn.) ix-xv (1798) where Judge Jesse Root rejected any notion that the common law of England was the common law of Connecticut.

28. Baldwin v. Walker, 21 Conn. 168, 181 (1851). In State v. Ward, 43 Conn. 489, 494 (1876), the Supreme Court of Errors stated: "If the statute [12 Anne, c. 7 relating to burglary] be viewed in another aspect,

### New Hampshire

New Hampshire, in common with the other former colonies of Great Britain, faced the question of whether the laws in force prior to the Revolution remained in force after it.

In 1837 State v. Rollins came before the Superior Court of Judicature. It raised the question as to whether when the state had adopted the laws previously in force, such adoption was restricted to those actually "practiced on" or whether it embraced all prior laws except those "repugnant to the rights and liberties contained in this constitution. . . ."<sup>29</sup> In his opinion, Justice Joel Parker stated:

It is objected that the provisions of the common law for the punishment of the crime of kidnapping have never been in force in this state; and this objection is based upon the position, that the constitution has adopted and given force and efficacy only to such particular provisions of the common law as can be shown to have been used and approved in the province, colony, or state, and usually practised on in the courts of law, prior to the present organization of the state government.

We are of opinion that this position cannot be maintained:

\* \* \* \* \*

There seems to be no reason to doubt . . . that the body of the English common law, and the statutes in amendment of it, so far as they were applicable to the government instituted here, and to the condition of the people, were in force here, as a part of the law of the province, except where other provision was made by express statute, or by local usage. And this so continued until the period of the revolution. . . .

The form or plan of civil government adopted by the congress of the colony, January 5, 1776, was intended for a temporary purpose, and made no change in this respect.

---

as in alteration and amendment of the common law, it may still perhaps be considered a part of our law by adoption, though not of binding force as a statute. Statutes of this character, passed by Parliament before our declaration of independence, have been adopted by our sister states as part of their common law . . . In this state in 1787, our Superior Court recognized and adopted the statute of 9 Anne, altering and amending the common law relating to writs of mandamus. Strong's case, Kirby, 345."

29. New Hampshire Constitution of 1784. See 4 Thorpe 2453, 2469. The full text of the relevant provision, Article 90 of the 1784 Constitution as amended, in force in 1962, states:

"All the laws which have heretofore been adopted, used, and approved, in the province, colony, or state of New Hampshire, and usually practiced on in the courts of law, shall remain and be in full force, until altered and repealed by the legislature; such parts thereof only accepted, as are repugnant to the rights and liberties contained in this constitution...."

... in April 1777, a formal act passed, "for the reestablishing the general system of laws heretofore in force in this state;" which provided "that all the acts and laws in force in this state, (at the time the present form of government was assumed) with every article, direction, and power in the same contained, so far as they are not repugnant to and incompatible with the present form of government in this state, its independence of Great Britain, or are not repealed and disannulled or altered by any act or law made and passed by the Council and House of Representatives of this state since the assuming of government, be revived, be enacted, directed and ordered to abide and remain in full force, and accordingly to be exercised, practised and put in execution," &c.<sup>30</sup> It is perfectly apparent that the body of the common law, as previously in force, was comprehended in this enactment. . . for there is nothing to indicate that a separation was then to be made in it, and such parts only of it as could be shown to have been actually used in the courts of justice, to be adopted, and the residue, which was in force before, although not shown to have been used, to be rejected. If any part of it was within the act, the whole body of it, previously in force, was so, except such parts as were incompatible with the new form of government.

In this state of things the constitution was adopted, in 1784, containing the provision relied on by the defendant, that "all the laws which have heretofore been adopted, used and approved, in the province, colony, or state of New-Hampshire, and usually practised on in the courts of law, shall remain and be in full force until altered and repealed by the legislature; such parts thereof only excepted as are repugnant to the rights and liberties contained in this constitution."

\* \* \* \* \*

It seems clear to us that this provision of the constitution was intended as a substitute for the statutory provision of 1777, before cited . . . Prior to the act of April, 1777, there had been in force here, the common law, so far as it was applicable to our institutions — the English statutes made in amendment of it before the emigration — such of those made after as were adopted in practice, and others made specially for the government of the colonies — the acts of the assembly of the colony, and those of the infant state — and, to a limited extent, some provisions of the civil and ecclesiastical law. To these may perhaps be added some matters of local usage. That act reestablished these laws, so far as they were not repugnant to the new form of government, and ordered that they should be exercised, practised and put in execution. The clause in the constitution comprehended the same laws which of course had been "practised on" in the courts of justice, and also the statutes passed after April, 1777, so far as they were not repugnant

---

30. Acts and Laws of the State of New-Hampshire, in America, 84 (1780). The preamble to the act, dated April 9, 1777 stated:

"Whereas Doubts have arisen whether the several Acts and Laws in force in this State before the Assumption of the present form of Government were not thereby, or by the subsequent Declaration of Independence, vacated abrogated & disannulled: for the removal whereof —"

to the provisions of that instrument. . . .<sup>31</sup>

State v. Rollins has been cited in subsequent New Hampshire cases,<sup>32</sup> expressing the proposition that the Act of 1777 and the constitutional provision quoted above continued in force such laws as were not "repugnant to the rights and liberties contained in this constitution. . . ." and that such laws included ". . . the common law and the English Statutes in amendment of it, so far as they were applicable to our institutions and the circumstances of the country. . . ." <sup>33</sup>

### Vermont

Although Vermont had been active in the fight for independence from Great Britain, it was not admitted to the Union until 1791.<sup>34</sup> In the interim between its organization as an independent state in 1777 and its admission, it governed itself as "The Commonwealth or State of Vermont."<sup>35</sup>

The Journal of the General Assembly of the State of Vermont for March 21, 1778, stated:

A bill being presented to this House, by the Council, relative to establishing the common law as the law of this State; which, being read

31. State v. Rollins, 8 N.H. 550, 559-64 (1837).

32. Illustrative of the cases citing with approval State v. Rollins, 8 N.H. 550 (1837), are the following: Pierce v. State, 13 N.H. 536, 542-543 (1843); State v. Moore, 14 N.H. 451, 455 (1843); Lord v. State, 16 N.H. 325, 330 (1844); Dennett v. Dennett, 43 N.H. 499, 503 (1862); Wright v. Bartlett, 45 N.H. 289, 291 (1864); and Bellows v. Page, 88 N.H. 283, 285, 188 Atl. 14 (1936). In Wright v. Bartlett, the court held that the constitutional provision did not prevent the effectiveness of British statutes enacted subsequent to the emigration, specifically holding 14 Geo. 2, c. 17, §1, relating to pleading, to be in force. In Bellows v. Page, the court held that the Statute of Uses (27 Hen. 8, c. 10) was in force, stating: "Its authoritative force here is derived from the fact that it was an amendment of the common law suitable to the condition and needs of the inhabitants of this state and in harmony with their institutions. It thus, like other similarly enacted statutes, became part of the body, not of our statutory, but of our common law . . . ." In connection with the adoption of the Statute of Uses, see the carefully prepared opinions in French v. French, 3 N.H. 234 (1825). For a partial list of English statutes and their status in New Hampshire, see 2 Hening, Digest of Cases 1473-1474 (1926).

33. State v. Rollins, 8 N.H. 550 (1837).

34. "An Act for the admission of the State of Vermont into this Union," February 18, 1791, 1 Stat. 191.

35. Constitution of 1777, Ch. II, §1. See 6 Thorpe 3737, 3754.

and debated, was put to vote, and passed in the affirmative.<sup>36</sup>

In 1779, the Assembly passed "AN ACT for securing the general privileges of the people, and establishing common law and the constitution, as part of the laws of this State," which provided in part:

Be it further enacted . . . that common law, as it is generally practised and understood in the New-England states, be, and is hereby established as the common law of this State.<sup>37</sup>

The inadequacies of this general statement as a basis for operating the mechanics of government, and the need for precise statutes on a variety of points was apparently responsible for the 1782 act of the Assembly which provided:

Whereas, it is impossible, at once, to provide particular statutes adopted to all cases wherein law may be necessary for the happy government of this people.

And whereas, the inhabitants of this State have been habituated to conform their manners to the English laws, and hold their real estate by English tenures.

Be it enacted, &c. that so much of the common law of England, as is not repugnant to the constitution or to any act of the legislature of this State, be, and is hereby adopted, and shall be, and continue to be, law within this state.

And whereas, the statute law of England is so connected and interwoven with the common law, that our jurisprudence would be incomplete without it; therefore,

Be it further enacted, that such statute laws and parts of laws of the kingdom of England, as were passed before the first day of October, Anno Domini one thousand seven hundred and sixty, for the alteration and explanation of the common law, and which are not repugnant to the constitution, or some act of legislature, and are applicable to the circumstances of the State, are hereby adopted and made, and shall be and continue to be, law within this State: and all courts are to take notice

---

36. Vermont State Papers 264 (1823). Note by Slade, ed., *id.* at 287: "Much exertion has been made to obtain a copy of the laws of 1778, — but without effect. They were published toward the close of that year, in a pamphlet form, but were never recorded in the Secretary's office. No records appear to have been made in that office until the year 1779 . . . ." In 1 Vermont Statutes Annotated 1 (1958), the text of the aforementioned law is said to have been as follows: ". . . the laws 'as they stand in the Connecticut law book, and in defect of those laws the plain word of God ascertained in the Scriptures, to be the law of the land until the legislature should have time to digest and enact a code adapted to the condition of the country.' "

37. Vermont State Papers 288 (1823). Repealed March 3, 1787. Statutes of the State of Vermont 1787, 130 (1787).

thereof, and govern themselves accordingly.<sup>38</sup>

The Assembly repealed the 1782 statute in 1787. However, it enacted another, substantially the same, with two minor changes in the paragraph relating to the statutes: "the kingdom of England" now read "the kingdom of England and Great Britain," and the phrase "for the alteration and explanation of the common law" read "for the explanation of the common law."<sup>39</sup>

Commenting in 1793 on this 1787 statute, Nathaniel Chipman, Chief Justice of the Vermont Supreme Court, wrote:

A Dissertation On the Act adopting the Common  
and Statute Laws of England

\* \* \* \* \*

By the common law of England, exclusive of positive laws enacted by statute, are understood those rules and maxims, by which decisions are made in their courts of law, whether in relation to the mode of prosecuting a right, or to the right itself — Rules and maxims, which have been there adopted, "time, whereof the memory of man runneth not to the contrary." — For a knowledge of the common law of England, we must have recourse to the history of their law proceedings, handed down in almost innumerable volumes of reports, and to the writings of the sages of their law. Hence are drawn maxims and precedents for the decision of all causes, at common law.

The foregoing statute, adopting the common law of England, in this state, has rendered a knowledge of that law indispensable in our courts. This statute expressly limits the adoption of the common laws, to so much as is not repugnant to the constitution, or any act of the Legislature of this State. By this limitation, all that part of the common law, which relates to the royal person, family, and prerogative; all which relates to the peerage, their privileges and pre-eminence, is excluded. We have, strictly speaking, no common law officers — all the offices in this state, are established, and the duties, in general terms, pointed out by the constitution, or by statute. The terms and expressions, adopted in both, are frequently derived from the common law. The office of Sheriff, for instance, is contemplated in the constitution and established by statute. His power and duties are pointed out, generally, by statute: these are, mostly, the same, as those of a Sheriff in England; yet these powers, and duties, are derived from the constitution and statutes of this state, and limited by them — the manner, in which these shall be exercised, if not pointed out by our laws, must be learned from the common law of England, so far as adopted here — as, the manner of an arrest — what shall be deemed an escape.

---

38. Vermont State Papers 450 (1823). Repealed March 10, 1787. Statutes of the State of Vermont 1787, 130 (1787)

39. "An Act adopting the Common and Statute Law of England," Statutes of the State of Vermont 1787, 30 (1787).



From the different constitution of our courts, the English mode of practice can, in very few instances, be adopted; but their rules may, in most instances, be applied in determinations on pleas and pleadings; in the constructions of words and of laws; in almost every instance, which can arise, in our state of society, between individuals, on torts, frauds, or contracts.

It will be much more restricted in cases arising on our landed titles. . . .

The mode of descent, and right of inheritance, depend, intirely, on our statutes; while the degrees of affinity and consanguinity are to be learned from the common laws of England. . . .

I have given these instances, by way of example only. It is not my design to enumerate every instance, in which the common law of England is to be applied in this State, or, in which it is excluded or restricted. It will be of more use to discover some general principles, which may enable us to distinguish properly, in our applications.

\* \* \* \* \*

We may then lay it down, that this statute gives the citizens of this State the rules, maxims, and precedents of the common law, so far as they serve to illustrate principles — principles only, which from the situation of society with us, exist in this state; but does not impose upon them those principles, which from the particular circumstances of that government, exists only in England.<sup>40</sup>

This act of 1787, discussed by Chipman in 1793, was presumably in force when, on November 5, 1796, the General Assembly on November 5, 1796, enacted the following statute:

WHEREAS from the peculiar situation of this state, as a new formed government, it is difficult at once to provide a system of maxims and precedents, which may in all cases be necessary as a guide and direction to the several courts of justice within this state, and for producing uniformity of decisions in the same, and whereas the inhabitants have been accustomed to conform their manners to the laws of England.

Therefore,

It is hereby enacted by the General Assembly of the State of Vermont, That so much of the common law of England as is not repugnant to the constitution or to any act of the legislature of this state, be and is hereby adopted law within this state; and all courts are to take

---

40. N. Chipman's Reports (Vt.) 118-38 (1793). Chipman included in the same volume a "Dissertation on the Statute of Conveyances," in which he observed (*id.* at 144-46) "... but any species of conveyance which contains words, operative at common law to convey, will be equally valid; provided, that each and every of the parties, from whom any thing passes by the grant, comply with the requisitions of the statute. I said, at common law; for none of the statutes of Great Britain, as such, have any force in this state. . . ."

notice thereof and govern themselves accordingly.<sup>41</sup>

On November 4, 1797, the General Assembly enacted an almost identical statute with one modification: an additional qualification to the portion of the common law which was adopted. The phrase, as enacted in 1797, read:

... so much of the common law of England, as is applicable to the local situation, and circumstances, and is not repugnant to the constitution. . . .<sup>42</sup>

Then on November 10, 1797, the Assembly repealed the Act of 1787 — that is, the statute which had "adopted" certain portions of the English and British statutes<sup>43</sup> leaving in force the Act of 1797.

In 1862, the 1797 statute was construed by the Vermont Supreme Court in Le Barron v. Le Barron, as "an adoption of the whole body of the law of that country, (aside from their parliamentary legislation,) . . . ."<sup>44</sup> However, in 1906, the same court in Clement v. Graham, stated:

Although the statute of 1782 is more specific, we think it no broader in meaning and includes no more than the Act of 1779, unless it be because of the date fixed prior to which the English statute may have been passed and yet be within the later act. It was in effect a reenactment of the earlier statute in terms showing how the common law was practiced and understood, with a limitation of statutes included therein. The statute of 1787 specifies such statute laws of England as are "for the explanation of the common law," and in the compilation of 1797, all mention of English statutes as such is omitted, and the provisions adopting the common law are in phraseology much like those contained in section 898 of Vermont Statutes [now §1263, Vermont Statutes, 1947]. These various changes in the wording of the statute, however, were not intended to work a change in the law itself, and the statute should be construed as including within the common law adopted, such English statutes as fall within the limitations of the statute of 1782, which as before seen was largely declaratory of the law then existing. That such construction is the one which has been generally accepted and understood

---

41. "An act adopting the common law of England," November 5, 1796, Acts and Laws of Vermont 1796, 4 (1796).

42. "An ACT adopting the common law of England, and declaring that all persons shall be equally entitled to the benefit and privileges of law and justice," November 4, 1797, Laws of the State of Vermont Revised and Passed by the Legislature 1797, 71 (1798). Underlining added to indicate 1797 addition to the 1796 legislation.

43. Laws of the State of Vermont Revised and Passed by the Legislature 1797, 599, 600 (1798).

44. Le Barron v. Le Barron, 35 Vt. 365, 367 (1862).

appears from its long and frequent application in practice . . . .<sup>45</sup>

The Vermont statute, in force in 1962, stated:

So much of the common law of England as is applicable to the local situation and circumstances and is not repugnant to the constitution or laws shall be laws in this state and courts shall take notice thereof and govern themselves accordingly.<sup>46</sup>

Under this same statute the Vermont Supreme Court in Comstock's Admr. v. Jacobs in 1915 had stated:

Plaintiff argues that we have no statute covering the taxation [of costs] in question; that the court has no power to create a liability for costs by a rule of Court; and that at common law no costs were recoverable by either party. It is true that at common law costs, eo nomine, were unknown. However, by the statute of Gloucester (6 Edward I) they were made recoverable by the plaintiff in real actions; and by subsequent statutes the plaintiff's right to recover costs was extended to all cases in which he was successful. Later by the statute of 23 Henry VIII and subsequent amendments the defendant was given the same right to his costs, if successful, as the plaintiff would have had if he had recovered. 7 R.C.L. 781. When our Legislature (1779) enacted that "the common law as it is generally practiced and understood in the New England States" should be established as the common law of this State, it adopted the common law of England as amended or altered by statutes in force at the time to which the enactment related. Giddings v. Smith, 15 Vt. 344. Subsequently for convenience October 1, 1760, was arbitrarily selected as the date to which the enactment related. See Clement v. Graham, 78 Vt. 290, 63 Atl. 146 . . . Such amendatory statutes were not reenacted here, but were considered as incorporated into the common law. Giddings v. Smith, *supra*; Com. v. Knowlton, 2 Mass. 530; State v. Rollins, 8 N.H. 550; Card v. Grinman, 5 Conn. 164.

The English statutes relating to costs in force October 1, 1760, were thus adopted as part of the common law of this State. . . .<sup>47</sup>

### Maine

When the State of Maine was separated from the Commonwealth of Massachusetts and admitted to the Union as a separate

---

45. Clement v. Graham, 78 Vt. 290, 303, 63 Atl. 146. For subsequent cases taking this position see State v. O'Brien, 106 Vt. 97, 170 Atl. 98 (1934) and Whiting Co. v. City of Burlington, 106 Vt. 446, 175 Atl. 35 (1934).

46. Vermont Stat. tit. 1. §271 (1958).

47. Comstock's Adm'r v. Jacobs, 89 Vt. 510, 511-12, 96 Atl. 4 (1915).

state in 1819,<sup>48</sup> its constitution provided: "All laws now in force in this State, and not repugnant to this Constitution, shall remain, and be in force, until altered or repealed by the Legislature, or shall expire by their own limitation."<sup>49</sup>

This provision continued in force all the laws then in effect in Massachusetts.<sup>50</sup> It will be recalled that the Massachusetts courts had held that the English statutes, enacted prior to the emigration, were to be considered as a part of "our common law."<sup>51</sup> Thus the English statutes which were considered to be in force in Massachusetts in 1819 were continued and remained in force in Maine on the same basis.<sup>52</sup>

---

48. "An Act for the admission of the state of Maine into the Union," 3 Stat. 544.

49. Constitution of 1819, Article X, Sec. 1. See 3 Thorpe 1646, 1664 (1909). A substantially identical provision appears in the Constitution of 1955, Article X, Sec. 3.

50. *Hovey v. Hobson*, 51 Me. 62, 66 (1863). See also *Dwyer v. State of Maine*, 151 Me. 382, 392, 120 A. 2d 276 (1956) where the court referred to Article X, Sec. 3 of the Constitution as having "effectively incorporated all 'laws' then in force [i.e., at the time of its adoption when Maine was separated from Massachusetts and became a state]. Whether the word 'law' refers to Massachusetts law or to the common law is immaterial, for by either standard a writ of error coram nobis was then recognized as a remedy. Coram nobis was recognized by Massachusetts courts until the Massachusetts writ of error statute was passed in 1836, and since that time Massachusetts' cases reflect the opinion that there is no writ in Massachusetts other than those prescribed by statute. . . ."

51. *Commonwealth v. Leach*, 1 Mass. 59, 60 (1804). See also *Going v. Emery*, 33 Mass. (16 Pick.) 107, 115-116 (1834).

52. See *Cottrell v. Myrick*, 12 Me. 222 (1835). In *Weeks v. Hill*, 88 Me. 111, 113, 33 Atl. 778 (1895), the Supreme Judicial Court referred to "the Statute 13 Eliz. c. 5 [relating to fraudulent transfers by a debtor], recognized as a part of the common law of this State. . . ." See also *Farrington v. Stoddard*, 115 F. 2d 96 (1st Cir. 1940) where the court observed: ". . . so far as concerns the cause of action for damage to personal property, it seems that this survived at the Maine common law, even before the passage of the survival statute, for ancient English statutes providing for survival in such cases were received as part of the common law of Maine. *Ahern v. McGlinchy*, 112 Me. 58, 60, 61, 90 Atl. 709 (1914)."

## CHAPTER 4

### MIDDLE ATLANTIC STATES

#### New York

On April 15, 1786, the New York legislature passed "An act for revising and digesting the laws of this state," which stated in part:

WHEREAS by the Constitution of this state it is declared that such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the Legislature of the colony of New-York, as together did form the law of the said colony, on the nineteenth day of April in the year of our Lord one thousand seven hundred and seventy-five (except such parts thereof as are by the said Constitution abrogated) shall be and continue the law of this state; subject to such alterations and provisions as the Legislature of this state shall, from time to time, make concerning the same.<sup>1</sup> And whereas such of the said statutes as have been generally supposed to extend to the late colony and to this state, are contained in a great number of volumes, and those statutes as well as the acts of the Legislature of the late colony are conceived in a style and language improper to appear in the statute books of this state; therefore,

---

1. Constitution of 1777, Art. 35. See 5 Thorpe, ed., *Federal and State Constitutions, Colonial Charters, and other Organic Laws* 2623 at 2635 (1909) [hereinafter cited as Thorpe]. The text of this article stated in part:

"And this convention doth further. . . ordain, determine, and declare that such parts of the common law of England and of the statute law of England and Great Britain, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on . . . [April 19, 1775, i.e., the date of Battle of Lexington] shall be and continue the law of this State subject to such alterations and provisions as the legislature of this State shall, from time to time, make concerning the same. . . ."

It should further be noted that on December 24, 1767, the New York General Assembly passed "An Act to declare the Extension of several Acts of Parliament made since the Establishment of a Legislation in this Colony: and not declared in the said Act to extend to the Plantations," 4 Colonial Laws of New York 953 (1894) which was disallowed by an Order in Council December 9, 1770. For the text of the act, see Part IV infra.

I. Be it enacted . . . that Samuel Jones<sup>2</sup> and Richard Varick,<sup>3</sup> Esquires, shall be, and hereby are authorized and appointed to collect, and reduce into proper form, under certain heads or titles of bills, all the said statutes, and lay the same bills before the Legislature of this state, from time to time, as they shall prepare the same; and that they, the said Samuel Jones and Richard Varick, Esquires, also collect and reduce all the public acts of the late colony which yet remain in force, into proper form, under certain heads or titles of bills, and lay the same bills before the Legislature from time to time, as they shall prepare the same; that such of them as shall be approved of by the Legislature may be enacted into laws of this state; to the intent that when the same shall be completed, then, and from thenceforth, none of the statutes of England, or of Great Britain, shall operate, or be considered as laws of this state.

II. And be it further Enacted . . . That when all such of the said Statutes so to be collected and reduced into Proper Forms, as shall be enacted as aforesaid; then the said Samuel Jones and Richard Varick, Esquires, shall collect, revise and digest all the Laws of this State then in Force, passed by the Legislature thereof since the Revolution, and prepare the same for the press. . . ; and they hereby are directed to cause to be inserted in the said Work, the Titles of all Acts that shall have been passed by the Legislature of this State, and to distribute each Act into one Chapter, and to subdivide each Act into Sections, and abstract the Substance of each Section on the Margin, and distinguish and note in the Margin, which of the said Acts were temporary, and whether expired, revived or repealed, and when; and to examine and correct the Press; and to make an Index and Table to each Volume of all the principal Matters contained therein, alphabetically digested, with Reference to each Matter in every Act, Section, and Page; and to make References from one Act to another, where the Matter in one Act may have Relation to any principal Matter in another.<sup>4</sup>

During the 1787-1788 sessions of the New York Legislature, Jones and Varick submitted a number of bills which provided substitutes for particular English or British statutes then in force. Without a word-for-word comparison of the New York enactments

---

2. Samuel Jones, 1734-1819, was a New York attorney of whom Chancellor Kent is reported to have said: ". . . no one equalled him in his accurate knowledge of the technical rules and doctrines of real property, and in familiarity with the skillful and elaborate but now obsolete and mysterious black letter learning of the common law." Jones, Jones Family of Long Island, 109 (1907), cited in 10 Dictionary of American Biography 198 (1933).

3. Richard Varick, 1753-1831, served as recording secretary to George Washington from 1781 to 1783, charged with the responsibility of arranging, classifying, and copying all the correspondence and records of the Continental Army's headquarters. In 1784, he became recorder of New York City. He was Speaker of the New York Assembly in 1787 and 1788 and attorney-general in 1788-1789. In 1789 he became mayor of New York and held the office until 1801 when, as a Federalist, he was swept from office. 19 Dictionary of American Biography 226 (1936).

4. 1 Jones & Varick, eds., Laws of the State of New York 281 (1789).

with the acts of parliament dealing with the same subject, it is impossible to state precisely just which of these enactments constituted re-enactments. However, in subsequent years on at least five occasions, the following English statutes were said to have been re-enacted in 1787-1788: 18 Ed. 1, Quia emptores;<sup>5</sup> the statutes of Marlbridge and Gloucester relating to waste;<sup>6</sup> 21 Hen. 8, c. 7, relating to embezzlement;<sup>7</sup> 29 Car. 2, c. 3, the Statute of Frauds;<sup>8</sup> and 12 Anne., st. 2, c. 16, relating to usury.<sup>9</sup> Attention is also directed to two other 1787-1788 enactments: "An ACT concerning Uses"<sup>10</sup> and "An ACT concerning Amendments and Jeofails."<sup>11</sup>

On February 27, 1788, the Legislature passed "An Act for the Amendments of the Law, and the better Advancement of Justice." Containing 36 sections, it was designed to bring to conclusion the task of statutory re-enactment and revisal. The first thirty-five sections dealt primarily with procedural matters including the granting of bail, with three sections modifying or repealing certain technical real property practices. The final section stated:

And be it further Enacted by the Authority aforesaid, That from and after the first day of May next, none of the Statutes of England, or of Great-Britain, shall operate or be considered as Laws of this State.<sup>12</sup>

5. Statute Quia Emptores, 18 Ed. 1. See Van Rennselaer v. Hays, 19 N.Y. 68 (1859); "An ACT concerning Tenures," February 20, 1787, 2 Jones & Varick 67.

6. Statute of Marlbridge, 52 Hen. 3, and Statute of Gloucester, 6 Ed. 1. See Rogers v. Atlantic, Gulf & Pacific Co., 213 N.Y. 246, 107 N.E. 661 (1915); "An ACT for preventing Waste," January 30, 1787, 2 Jones & Varick 7.

7. "Servants imbezzeling their masters goods to the value of forty shillings, or above. . ." 21 Hen. 8, c. 7. See People v. Hennessey, 15 Wend. 147 (1836); "An ACT declaring it to be Felony in Servants to embezzle their Master's Goods," February 7, 1788, 2 Jones & Varick 214.

8. Statute of Frauds, 29 Car. 2, c. 3. See Beers v. Hotchkiss, 246 N.Y. 41 (1921); "An ACT for the Prevention of Frauds," February 26, 1787, 2 Jones & Varick 88.

9. "An act to reduce the rate of interest. . ." 12 Anne., st. 2, c. 16. See Henry v. Bank of Salina, 5 Hill 523 (1843); "An ACT for preventing Usury," February 8, 1787, 2 Jones & Varick 20.

10. "An ACT concerning Uses," February 20, 1787, 2 Jones & Varick 68.

11. "An ACT concerning Amendments and Jeofails," February 20, 1788, 2 Jones & Varick 224.

12. "An ACT for the Amendment of the Law, and the better Advancement of Justice," February 27, 1788, 2 Jones & Varick, note 4 *supra*, at 269, 282. See "An ACT for giving Relief against the Operation of the Statute of 21st of James the 1st, commonly called the Statute of Limitations. . ." passed March 21, 1783, Holt, ed., Laws of the State of New

Having declared that no statutes of England or Great Britain were to be in force in New York after May 1, 1788, it was entirely logical for the constitution of 1821 — which superseded the constitution of 1777 — to provide as follows:

Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts or parts thereof as are repugnant to this constitution, are hereby abrogated.<sup>13</sup>

Taken at its face value, in conjunction with the Act of February 27, 1788, this would seem to have ended the use of English or British statutes as such in New York. However, the legislature apparently found it necessary to provide additional clarification. "An Act concerning the Revised Statutes," passed December 10, 1828, stated:

3. None of the statutes of England or Great Britain shall be considered as laws of this state; nor shall they be deemed to have any force or effect in this state, since the first of May in the year one thousand seven hundred and eighty-eight.

4. No statutes passed by the government of the late colony of New York, shall be considered as law in this state.<sup>14</sup>

Whatever may have been the expectations of the New York legislators in enacting the 1828 statute, it is probable they did not anticipate the doctrine or principle expounded by Chancellor York, 287 (1782) which provided in part:

"WHEREAS the Disturbance which proceeded, and have attended the Present happy Revolution have greatly interrupted the free Course of Justice; and it would be altogether unreasonable, that during this Period the Statute made in the twenty-first Year of the Reign of King James the First, entitled "An Act for the Limitation of Actions, and for avoiding of Suits in Law," . . . should operate to the Prejudice of Creditors or Suitors:

"Be it therefore enacted. . . That no Part of the Time from . . . [October 14, 1775] to the Day of the passing of this Act, shall be deemed, computed, pleaded, or adjudged as Part of the respective Periods, limited by the said recited Statute . . . for commencing, suing, or prosecuting any of the Writs, Actions, Suits or Plaints, in and by the said Statute. . . specified and described. . ."

13. Constitution of 1821, Art. VII, §13. Thorpe 2639 at 2649.

14. "An Act concerning the Revised Statutes," December 10, 1828. Laws of the State of New York, passed at the second meeting of the Fifty-first session of the Legislature 19, 66 (1828).



Walworth in Bogardus v. Trinity Church (1833). The corporation of Trinity Church had taken possession of certain land in 1705 as, according to the complainant, tenant in common with complainant's ancestor. Complainant claimed to have, together with his brothers and sister, a right in the land as tenant in common with the corporation. In confirming the right of Trinity Church to perfect title to the premises in question, Chancellor Walworth, noted that when the corporation of Trinity Church took possession of the premises in 1705, two English statutes of limitation were in force in the colony of New York, specifically 32 Hen. 8, c. 2 and 21 Jac. 1, c. 16. He went on to state:

... [These statutes had been] brought hither by our ancestors, who emigrated to this country from England, where these statutes were then in force, and settled in this state as an English colony. It is a natural presumption, and therefore is adopted as a rule of law, that on the settlement of a new territory by a colony from another country, especially where the colonists continue subject to the same government, they carry with them the general laws of the mother country which are applicable to the situation of the colonists in the new territory; which laws thus become the laws of the colony, until they are altered by common consent or by legislative enactment. . . But there might be a technical difficulty in pleading a statute of the mother country as the statute law of the colony. The common law of the mother country as modified by positive enactments, together with the statute laws which are in force at the time of the emigration of the colonists, become in fact the common law, rather than the common and statute law of the colony. The statute law of the mother country, therefore, when introduced into the colony of New-York by common consent, because it was applicable to the colonists in their new situation, and not by legislative enactment, became a part of the common law of this province. . . .<sup>15</sup>

The logical consequence of the decision in Bogardus v. Trinity Church was that instead of a carefully thought out scheme of replacing with New York statutes such acts of parliament as were considered to be desirable for the state to retain, coupled with a repeal en masse of all English statutes, lawyers and courts were now to be faced with the question of what English statutes could be considered to be in force as a part of the common law of the state at the time it broke away from Great Britain.<sup>16</sup>

15. Bogardus v. Trinity Church, 4 Paige 178, 198-99 (1833), aff'd 15 Wend. 111 (1835).

16. See, for example, DeRuyter v. Trustees of St. Peter's Church, 3 Barb. Ch. 119, 122-23 (1848). See also Lansing v. Stone, 37 Barb. 15, 18 (1862) where the state supreme court, citing Chancellor Kent, remarked "... I think no repealing act of our legislature, not even that passed December 10, 1828 ... is applicable to English or colonial statutes which were a part of the common law of New York. . . ." Miller v. Miller, 18 Hun 507 (1879) took the same position. Cf., however,

The attitude of the New York courts toward the 1787-1788 re-enactments of the English statutes is illustrated by the following extract from Van Rensselaer v. Hayes (1859):

... Our ancestors, in emigrating to this country, brought with them such parts of the common law and such of the English statutes as were of a general nature and applicable to their situation (1 Kent, 473, and cases cited in note a to the 5th ed.; Bogardus v. Trinity Church, 4 Paige, 178); and when the first Constitution of this State came to be framed, all such parts of the common law of England and of Great Britain and of the acts of the Colonial Legislature as together formed the law of the Colony at the breaking out of the Revolution, were declared to be the law of this State, subject, of course, to alteration by the Legislature. (Art. 35.) The law as to holding lands and of transmitting the title thereto from one subject to another must have been a matter of the first importance in our colonial state; and there can be no doubt that the great body of the English law upon that subject, so far as it regarded the transactions of private individuals, immediately became the law of the Colony, subject to such changes as were introduced by colonial legislation... with the exception of the tenure arising upon royal grants, and such as might be created by the King's immediate grantees under express license from the Crown, I am of opinion that the law forbidding the creating of new tenants by means of subinfeudation [i.e., Statute Quia Emptores, 18 Ed. 1] was always the law of the Colony, and that it was the law of this State, as well before as after the passage of our act concerning tenures, in 1787...

The fact that the statute we are considering was reenacted in this State in 1787, has no tendency to show that it had not the force of law prior to that time. Indeed, the contrary inference is nearly irresistible, when it is seen how it came to be reënacted. The compilation of statutes prepared by Jones and Varick, and enacted by the Legislature, embracing the statute of tenures and a great number of other English statutes, was made in pursuance of an act passed in 1786... The persons mentioned were, therefore, authorized to collect and reduce ... [the British statutes] into proper form, in order that such of them as were approved might be enacted into laws of this State, to the intent that thereafter none of the statutes of England or Great Britain should be in force here ... The Statute of tenures was not, therefore, understood as introducing a new law, but was the putting into a more suitable form certain enactments which it was conceived had the force of law in the Colony, and which the constitution had made a part of the law of the State. ...<sup>17</sup>

---

People v. Hennessey, 15 Wend. 147, 151 (1836) and Henry v. Bank of Salina, 5 Hill 523, 532 (1843). See also Williams v. Williams 4 Seld. 525 (1853); cf. Yates v. Yates, 9 Barb. 325 (1850) and Bascom v. Albertson, 343 N.Y. 584, 613-14 (1866). For a discussion of the difficulties in determining what formed the law of New York in 1775, see Goebel & McNaughton, Law Enforcement in Colonial New York, xvii-xxxix (1944).

17. Van Rensselaer v. Hays, 19 N.Y. 68, 73-75 (1859).

The principle set out by Chancellor Walworth in Bogardus v. Trinity Church (1833) has been, in general, adhered to by the New York courts. As a result, they have been faced with the continuing problem of deciding what English statutes had been incorporated into the practice of the colony of New York so that such English statutes could be considered a part of the common law. The significance of the continuation in force of English statutes and of the common law in the Constitution of 1777, the re-enactment of certain English statutes in 1787 and 1788, the repeal of the English statutes en masse in 1788, and the omission of any mention of English statutes in the Constitution of 1821 was overlooked. It may be that there was some discussion of whether the term "common law" in the 1821 constitution included English statutes; if so, it would explain the apparently superfluous act of 1828 which again stated that English statutes were not in force. In any event, Chancellor Walworth opened a Pandora's box of continuing and perplexing problems for the New York courts.<sup>18</sup>

---

18. E.g., Rogers v. Atlantic, Gulf & Pacific Co., 213 N.Y. 246, 251, 107 N.E. 661, 662 (1915); Harmon v. Alfred Peats Co., 216 App. Div. 368, 214 N.Y.S. 353 (1926), rev'd on other grounds, 243 N.Y. 473, 154 N.E. 314 (1926); Russell v. Societe Anonyme des Etablissements Aeroxon 274 N.Y.S. 794, 242 A.D. 801 (1934), aff'd 268 N.Y. 173, 197 N.E. 185 (1935); Beers v. Hotchkiss, 246 N.Y. 41, 53-63, 175 N.E. 506 (1931), rev'd 230 A.D. 447, 245 N.Y.S. 478 (1930); Getty Realty Co. v. 2 East 61st Street Corp., 169 Misc. 976, 8 N.Y.S. 2d 845, 848 (1939). In Harmon v. Alfred Peats Co., supra, the state supreme court stated:

"... the Legislature adopted, among other things, on February 26, 1787... the provisions of the English statute of frauds. This compilation or re-enactment of the English statute of frauds into the statute law of this state was an express recognition and declaration by the Legislature that such statute had theretofore extended to the colony of New York by virtue of the Constitution of 1777 and was a part of its common law.

"The precise question was considered by Mr. Justice Bischoff in the case of Cahill Iron Works v. Pemberton (Com.P1.) 27 N.Y.S. 927, Id., 30 Abb. N.C. 450, and he there stated:

"The common law of the state of New York differed from the common law of England in that the statute of frauds, passed during the reign of King Charles II formed a part of the former. The English colonists in this country, prior to the establishment of their independence, are presumed to have carried with them the laws of the country to which they at the time owned their allegiance, except only so far as such laws were inapplicable to their condition and to the form of government subsequently established by them. The laws so transmitted constituted the common law of the colonies... and by the constitutional adoption became the common law of this state...'

"There can be no doubt therefore that the common law of the state of New York includes the original English statute of frauds enacted in 1677."

### New Jersey

The New Jersey Constitution of 1776 made provision for a continuation of the laws and statutes that had been in force prior to the break with Great Britain. It stated:

... the common law of England, as well as so much of the statute law, as have been heretofore practised in this Colony, shall still remain in force, until they shall be altered by a future law of the Legislature; such parts only excepted, as are repugnant to the rights and privileges contained in this Charter. . . . <sup>19</sup>

No contemporary explanation has been located for the action taken by the New Jersey General Assembly in 1792 when it passed "An ACT for revising and digesting the Laws of this State." The act provided in part:

---

19. Constitution of 1776, §22. "An ACT for the Limitation of Actions, and for avoiding Suits in Law," passed February 10, 1727-8, provided in part: "... all the Statutes now in Force in that Part of Great-Britain called England, concerning the Limitation of Actions Real and Personal, . . . are hereby declared to be in Force in this Province from the Publication hereof, as fully and effectually as if every one of them were herein at Length repeated and enacted, and Law, Usage or Custom to the contrary in anywise notwithstanding."

The dissenting opinion in Lohmann v. Lohmann, 50 N.J. Super. 37, 141 A.2d 84 (1958), aff'd 57 N.J. Super. 347, 154 A.2d 741 (1959) stated in part:

"That the common law of England prevailed in the Colony of New Jersey is not open to question. The settlers of this State brought with them the common law of England and such of its statutes as were of general application. On April 15, 1702 the proprietors of East and West New Jersey made a full and unconditional surrender of the right to self-government to Anne, Queen of England. Anne accepted that surrender and appointed Lord Viscount Cornbury as Governor of the combined provinces. Under the new system of government the citizens of New Jersey claimed the protection of and were subject to the same laws as any other British subject, i.e., the common law of England, and the statutes of England which were of general application. The colonial government could, under its charter, enact laws or ordinances to govern its inhabitants, subject to the approval of the Crown and insofar as those laws did not abrogate the English law. This provision must have been designed to insure the Crown that the laws of England having general application would be uniform throughout the Empire. The colonial power to legislate was limited by charter provision to the enactment of laws which were deemed peculiarly essential to their local conditions. These legislatures were not empowered to change the law of England save by

BE IT ENACTED . . . That his Excellency William Paterson, Esquire, shall be and he is hereby authorized and appointed to collect and reduce into proper Form, under certain Heads or Titles of Bills, all the Statutes of England or Great-Britain, which, before the Revolution, were practised, and which, by the Constitution, extend to this State; as also all the Publick Acts which have been passed by the Legislature of this State, both before and since the Revolution, which remain in Force; which said Bills, as soon as the Whole shall be completed, the said William Paterson, Esquire, shall lay before the Legislature of this State, to be by them, if approved, enacted into Laws; and the said William Paterson, Esquire, is hereby directed to cause to be inserted in the said Work, the Titles of all Acts that shall have been passed by the Legislature of this State; and to abstract the Substance of each Act on the Margin; and to examine and correct the Press; and to make an Index and Table to the Volume or Volumes, of all the principal Matters contained therein, alphabetically digested, with Reference to each Matter in every Act, Section and Page; and to make References from one Act to another, where the Matter in one Act may have Relation to any principal Matter in another.

2. . . . it shall and may be lawful for the said William Paterson, Esquire, in all Cases, when several Laws relate to the same subject Matter, to reduce them into one Law, and also then to lay before the Legislature such Amendments to any Law or Laws, now in Force, as he may think will promote the Good of this State.<sup>20</sup>

Clearly, the General Assembly contemplated that Paterson would prepare a complete revision of the statutes, whether of England or of New Jersey, then in force. At that point, Paterson was the Governor of New Jersey, appointed to that office in 1790 upon the death of William Livingston.<sup>21</sup> Earlier, he had been the Attorney - General of the state from 1776 to 1783, a member of the Constitutional Convention at Philadelphia, and one of the two first United States Senators from New Jersey. During his brief term of office in the Senate, he had been a member of the Judiciary Committee and participated in drafting the Judiciary Act

---

special approval of the Crown. Thus, since 1702 the common law of England and those statutes which were general in nature were applicable in New Jersey. . . ." [Emphasis added.]

20. Act of November 24, 1792, Acts of the Sixteenth General Assembly of New Jersey 794 (1792).

21. William Paterson, 1745-1806, held a number of significant posts during the Revolutionary and post-Revolutionary periods. For additional details, see Elmer, *Reminiscences of New Jersey*, 77-102 (New Jersey Historical Collections, Vol. VII, 1872), Wood, *William Paterson of New Jersey* (1934), and Parker, "William Paterson," 1 Lewis, ed., *Great American Lawyers*, 225 (1907).

of 1789.<sup>22</sup> He served as Governor from 1790 to 1793, resigning to accept an appointment as Associate Justice of the United States Supreme Court. Despite the burdens, first of the double role of Governor and Chancellor of the State of New Jersey, and then of an Associate Justice at a period when the Supreme Court Justices rode on circuit, Paterson continued his drafting efforts from 1793 to 1798. However, in at least one respect, Paterson did not comply with the expectations of the General Assembly — he presented his bills as they were prepared.<sup>23</sup> Apparently, however, the General Assembly accepted this alteration without demurrer.

In 1793, the Assembly increased the scope of his drafting activity. It passed "A Supplement to the Act, intituled, 'An Act for revising and digesting the Laws of this State'" which provided in part:

... That his late Excellency William Paterson, Esquire, in executing the Duties required of him and by the Act, intituled, "An Act for revising and digesting the Laws of this State," be and he is hereby authorized, according to his Discretion, to modify and later the Criminal Law now in Force in this State, either by the Statutes of England or Great-Britain, or by the Acts of the Legislature of this State; and that the said William Paterson, Esquire, be and he is hereby directed to reduce the said Criminal Law into proper Form, under certain Heads or Titles of Bills, and to lay the same before the Legislature as soon as completed, to be by them, if approved, enacted into Laws.<sup>24</sup>

Lacking access to the drafts of the bills prepared by William Paterson, said to be in existence in 1872,<sup>25</sup> it is impossible to say exactly how many bills he presented to the New Jersey General Assembly. Moreover, without a meticulous word for word examination of the New Jersey statutes between 1793 and 1798, it is impossible to state precisely to what extent he based his bills upon English statutes. However, for the Nineteenth General

---

22. "An Act to establish the Judicial Courts of the United States," 1 Stat. 73.

23. Elmer, note 21 *supra*, 89. This statement by Elmer is confirmed by the arrangement of statutes in the 1794-1795 acts; those incorporating English statutes are scattered among those dealing with matters of current importance. Moreover, Elmer's statements receive added credence from the fact that he was the nephew of Jonathan Elmer, who was, with Paterson, one of the two first United States Senators from New Jersey, and may well have had some personal information concerning Paterson.

24. Act of May 29, 1793, Acts of the Seventeenth General Assembly of New Jersey, 843 (1793).

25. Elmer notes that all of Paterson's drafts were preserved and at the time of writing they were bound together. Elmer, note 21 *supra*, 90. It is probable that these drafts are among the Paterson manuscripts referred to in the bibliography appearing in Wood, note 21 *supra*.

Assembly, covering the 1794-1795 period, it is possible to state with some degree of certainty that provisions of one or more specific English statutes were incorporated into the following acts: 26

At the first sitting: 1794

- An Act authorizing the Justices of the Supreme Court to appoint Commissioners to take Special Bail, and to administer Oaths and Affirmations in Causes depending in the said Court.
- An Act for supporting Idiots and Lunatics, and preserving their Estates.
- An Act respecting Amendments and Jeofails
- An Act concerning Justices of the Peace, and Courts of General Quarter Sessions.
- An Act for the prevention of Frauds and Perjuries.
- An Act concerning the Action of Account.
- An Act to enable Infants, who are seized or possessed of Estates in Trust, or by Way of Mortgage, to make Conveyances of the same.
- An Act for regulating References and determining Controversies by Arbitration.
- An Act for the better Regulation of Proceedings upon Writs of Mandamus.
- An Act for the more easy Redemption and Foreclosure of Mortgages.

At the second sitting: 1795

- An Act to prevent, in certain Cases, the Abatement of Suits and Reversal of Judgements.
- An Act concerning Tenures.
- An Act concerning Costs.
- An Act for the Maintenance of Bastard Children.
- An Act concerning Executors and the Administration and Distribution of Intestates Estates.
- An Act regulating Proceedings and Trials in Criminal Cases.

---

26. By one of those fortuitous chances, the particular copy of the Acts of the Nineteenth General Assembly of New Jersey which was used in this study was an original edition of the session laws. In the margin of the separate paragraphs of certain acts are entries, in what may very well be the handwriting of Jonathan Elmer who, with Paterson, was one of the two first United States Senators from New Jersey. These entries indicate the English statutory source of each particular paragraph.

An Act concerning Landlords and Tenants.

An Act concerning Distresses.

An Act for rendering the Proceedings upon Informations in the Nature of a quo warranto, more speedy and effectual.

An Act for the Prevention of Waste.

An Act for the better Regulation of Actions of Replevin.

Possibly some dissatisfaction may have been expressed with Paterson's utilization of the exact phraseology of many of the English statutes. In any event, in "An additional Supplement to an Act for revising and digesting the Laws of the State," passed on March 19, 1795, Paterson was

... requested to translate the Latin and French terms as near as may be into English, that are contained in the laws that have passed during the present sitting of the legislature, and also in the bills that he may hereafter report; the translation to be inserted in the margin of the said laws and bills.<sup>27</sup>

On the whole, however, the General Assembly cannot have been dissatisfied with the overall scope of Paterson's efforts, for the same act also provided:

... he is hereby authorized, according to his discretion, to collect, alter and modify such of the statutes and laws which he has not reported on, and also to draught and propose for the consideration and approbation of the legislature such bills as to him shall appear conducive to the general interests of this state, and to the completion of the revision of the laws of this state, intended by the act above recited. . . .<sup>28</sup>

While Paterson was preparing the bills which, in essence, provided for the re-enactment of selected English statutes, the New Jersey Supreme Court in State v. Mairs, was faced with the question of whether a particular English statute was in force in New Jersey.<sup>29</sup> The court avoided a direct ruling upon the issue, but the reporter, Richard Coxe, thought the entire matter of sufficient interest to warrant the insertion of a note, which stated in part:

---

27. Acts of the Nineteenth General Assembly of New Jersey, 1074 (1795).

28. *Ibid.*

29. State v. Mairs, 1 N.J. Law 335 (1795). Counsel for defendant argued that as prisoners the defendants were entitled to bail, although charged with a capital felony on the ground that the act of Parliament upon which the indictment was founded did not extend to New Jersey. The argument, as reported, stated in part:

"... This Act was passed 22<sup>d</sup> and 23<sup>d</sup> Car. 2 in the year 1670. Two years before this time the Province of New-Jersey possessed within itself a regular legislative government, and of course ceased to be bound



NOTE -- From the peculiar connexion which formerly existed between the colonies now constituting a large part of the United States with Great Britain; from the circumstance that the common law of England was adopted almost universally among us, and that many of the acts of Parliament were recognized as part of our law, questions have frequently arisen, and probably will continue to arise, how far these statutes have any obligatory force among us. Different opinions have been entertained and expressed upon this subject by Judges of equal ability and worth; but upon a question of this kind, so completely anomalous in its nature, the grounds for the decision of which are so scattered, obscure and remote, we cannot be surprised if political feelings have sometimes mingled in the consideration and influence the opinion that has been adopted. . . .

\* \* \* \* \*

It would seem from a comparison of these opinions that the prevailing idea is, that the statutes of British Parliament, as such, have no force with us; but so far as they have been practised under, they have become a part of our common law, and are authority. Nor is this idea in any degree contradicted by a circumstance which must occur to every lawyer upon reflection, viz., that in examining the particular English statutes a very large proportion of them will be found to have been adopted, much larger indeed than it can be supposed would have been sanctioned, had they been individually submitted to the choice of the people or their representatives. It is to be recollected however that before the revolution it was customary for the gentlemen of the bar, and the Judges to receive their legal education in England, where they were instructed equally in the common and statute law, and insensibly introduced much of the latter into the Provinces.

The idea that none of the British statutes have other force in the United States, than such as is derived from having been adopted by ourselves is sanctioned by an ingenious publication of Judge Wilson of the Supreme Court of the U. S. as early as the year 1774. [3 Wils. Works 203] in which the same idea is very ably supported, and the whole question fully investigated.<sup>30</sup>

Paterson continued his drafting efforts throughout 1798. He is said to have presented no bills after the close of that year other than the one which marked the end of his efforts.<sup>31</sup>

---

by the laws of the mother country. It appears . . . that the General Assembly met May 30th 1668, when Carteret was Governor, and passed laws for the government of the Province. From that period therefore the acts of Parliament ceased to have any binding force here. . . .

"Under ordinary circumstances therefore, and with regard to the statutes of the British Parliament, this Court are bound to take notice that they are not applicable here. . . ."

30. State v. Mairs, 1 N.J. Law 335, 338-339 (1795).

31. This, despite the efforts of the Assembly to lighten the totality of his work as evidenced by the act of January 24, 1799, Acts of the Twenty-third General Assembly of New Jersey, 432 (1799) which no longer obliged Paterson "to insert in the work comprising the said revision, the titles

On June 13, 1799, "An Act relative to Statutes," was passed by the New Jersey General Assembly. The fourth section of the act repealed all English statutes heretofore in effect. It stated:

That from and after the passing of this act, no statute or act of the parliament of England or of Great Britain shall have force or authority within this state, or be considered as a law thereof.<sup>32</sup>

In enacting "An Act relative to Statutes," the General Assembly added a section which Paterson had not prepared. The addition provided:

5. And be it enacted, That no adjudication, decision or opinion, made, had or given, in any court of law or equity in Great-Britain, or any cause therein depending, nor any printed or written report or statement thereof, nor any compilation, commentary, digest, lecture, treatise, or other explanation or exposition of the common law, made, had, given, written or composed since the fourth day of July, in the year of our Lord, one thousand seven hundred and seventy-six, in Great-Britain, shall be received or read in any court of law or equity in this state, as law or evidence of the law, or elucidation or explanation thereof, any practice, opinion or sentiment of the said courts of justice, used, entertained or expressed to the contrary hereof notwithstanding.<sup>33</sup>

---

of all the acts that shall have been passed by revision, the titles of all the acts that shall have been passed by the legislature of this state. . . ." Instead, Paterson was "directed to insert in the said work, only such titles as he shall deem necessary and proper."

32. Acts of the Twenty-third General Assembly of New Jersey (1799).

33. Ibid. In 1800, however, the General Assembly modified the Act of June 13, 1799, as follows: ". . . so much of the fifth section of the above act, as prohibits the citing of books of law therein mentioned, made and published in Great-Britain, since the fourth day of July, seventeen hundred and seventy-six, in the courts of this state, shall be . . . repealed, and the prohibition therein mentioned, shall be taken and construed only to extend to such books therein mentioned, as shall be made and published in Great-Britain, after the thirteenth day of June, seventeen hundred and ninety-nine — Provided nevertheless, That nothing hereby enacted shall be understood to give to said books, published since the fourth day of July, seventeen hundred and seventy-six, and before the thirteenth day of June, seventeen hundred and ninety-nine, any binding authority upon the courts of judicature within this state." Acts of the Twenty-fifth General Assembly of New Jersey, 28 (1800). However, in 1801, the General Assembly passed "An Act Relative to Foreign Reports," Acts of the Twenty-sixth General Assembly of New Jersey, 127 (1801) which provided:

"Sect. 1. BE IT ENACTED . . . That from and after the passing of this act no adjudication, decision, or opinion, made, had, or given, in any court of law or equity in Great-Britain, any cause depending, nor any printed or written report or statement thereof, nor any compilation, commentary, digest, lecture, treatise, or other explanation or exposition of the common law, made, had, given, written, or composed since. . .

It was not until 1819 that this section of the New Jersey statutes was definitely repealed.<sup>34</sup>

The Laws of the State of New Jersey: 1703-1799, edited by William Paterson, was published in 1800 under the authority of the General Assembly.<sup>35</sup> In at least one respect it failed to conform with the instructions given by the Assembly to Paterson in 1795: the translation of "the Latin and French terms" did not appear in the margins "of the said laws and bills." However, Paterson did include an "Explanation of Certain Latin and French Terms Made Use Of In The Preceding Laws."<sup>36</sup>

An 1822 comment on Paterson's revision of the New Jersey statutes stated:

This edition [i.e., of the New Jersey statutes] commences with an act Dec. 13, 1703, and ends, Nov. 21, 1799; -- and was completed between the years 1794 and 1799 inclusive; by the late Wm. Paterson, one of the Justices of the Supreme Court of the U. States.

It deserves particular consideration, as containing a complete incorporation of all such of the English Statutes as were supposed to be in force in 1776, with such others or parts of others previously or subsequently enacted, as he deemed fit to introduce. It is supposed, so far as relates to a practical and legislative substitution of English statutes, in connection with antecedent local laws and existing usages and the existing government, to be more complete in its execution than any former or subsequent attempt, besides which the antecedent domestic statutes were thoroughly revised and improved, and many parts of the common

---

[July 4, 1776] in Great-Britain, or elsewhere, without the present boundaries of the United States of North America, shall be received or read in any court of law or equity in this state, as law, or evidence of the law, or elucidation, or explanation thereof, any practice, opinion or sentiment of the said courts of justice, used, entertained, or expressed, to the contrary notwithstanding.

"2. And be it enacted. . . That if any practising Counsellor, Solicitor, or Attorney at Law, shall read or offer to read in any court of law or equity in this state, any adjudication, decision, or opinion, contrary to the restrictions contained in this act, then and in such case, he shall be excluded from pleading or acting in any wise as a Counsellor, Solicitor, or Attorney at Law, in any of the courts of this state of one whole year next succeeding, and the judges and justices of the several courts are hereby directed to the strictest observance of this act.

"3. Be it enacted, That the fifth section of the act entitled 'An Act relative to Statutes,' passed. . . [June 13, 1799], and the Supplement made thereto, passed . . . [November 20, 1800], shall be and the same are hereby repealed."

34. "An Act to repeal part of the act relative to Statutes," Acts of the Forty-third General Assembly of New Jersey, 25 (1819).

35. Laws of the State of New Jersey; Revised and Published, Under the Authority of the Legislature (By William Paterson, 1800).

36. Id. xxii.

law revised and amended. The revision by Judge Paterson ends with an act of June 13, 1799, "relative to statutes," in which there is a section declaring that from thence "no statute or act of parliament of England or Great Britain, shall have force or authority within the state of New Jersey, or be considered as the law thereof."

The same provision was re-enacted in the last revised code, by act of May 26, 1820 (Rev. Laws. 726).<sup>37</sup>

Writing in 1872, Judge Elmer noted:

An examination of the statutes Mr. Paterson compiled, to take the place of those English statutes which had been considered in force before the Revolution, will convince any lawyer of the care he took to make them complete, and to preserve, so far as circumstances would allow, the old terms, most of which had undergone judicial examination.<sup>38</sup>

It was this care to preserve the original terms that made it possible for the court in Camden Trust Co. v. Handle, decided in 1942, to comment:

"The statutes of Marlbridge and Gloucester have been incorporated into our statute law. Rev. 1877 p. 1235: R.S. 1937, 2:79-1, 2:79-2, 2:79-3. . . ."<sup>39</sup>

Apparently, William Paterson did his work with such meticulous thoroughness that from the time of the act of 1799, repealing all English statutes, no English or British statute was considered as being in force in New Jersey either in its own right or as a part of the common law. However curious this may appear to be, no case has been located which in any way refers to such a statute as being in force. Instead, illustratively, there is an early New Jersey case which carefully differentiated between the effect of a New Jersey re-enactment of the statute of *de donis* in 1784 and the effect of the repeal of the English statutes in 1799 as well as an emphatic 1882 opinion denying that any English statute was in force as such in New Jersey.

The Supreme Court of New Jersey in 1828 had before it a will dated, May 3, 1799, which was proved on October 5, 1799.

---

37. 4 Griffith, Annual Law Register 1155 (1822). William Griffith, 1766-1826, a New Jersey lawyer, was the father-in-law of Richard Coxe, the early New Jersey law reporter. He published a number of legal works. "During the years 1820-1824 he published the Annual Law Register, containing a reliable account of the officials, laws, and regulations of each of the then twenty-four United States, and a succinct account of the origin, history and practise of the courts of New Jersey. . . ." 7 Dictionary of American Biography, 625 (1931).

38. Elmer, note 21 supra, 91.

39. Camden Trust Co. v. Handle, 132 N.J. Eq. 97, 100 (E. & A. 1942), citing State v. Mairs, 1 N.J. Law 385; Stewart v. Chance, 3 N.J. Law 396; Loudon v. Loudon, 114 N.J. Eq. 242; Stemmer v. Kline, 128 N.J. Law 455.

The question was whether the will had created an estate in tail and, if so, whether such an estate would be barred by the Act of June 13, 1799, abolishing all English statutes. The opinion of Associate Justice, Gabriel Ford stated in part:

Ford, J. John Mason by will dated the 3d of May 1799, but not proved till the 5th of October following, devised as follows: "I give and devise the plantation whereon I now live to my son Aaron Mason and his male heirs, lawfully issuing; - and for want of such heirs, I give the same to my son Barnt Mason and his male heirs, lawfully issuing; and for want of such heirs, I give the same to my son John Mason, and his male heirs, lawfully issuing; and for want of such heirs, to return back," &c. On the death of the testator, Aaron, the first named devisee, entered, and died seized without any issue. Barnt Mason, the second devisee then entered and became seized, but died ultimately out of possession, and this action is brought by Lewis Mason, his eldest son.

It is argued that the devise "to Barnt Mason and his male heirs," did not create an estate tail under the statute de donis 13 Ed. 1. because that and all other English statutes had been publicly abolished by law on the 13th June 1799; which date, though after the making of the will, was nevertheless prior to the death of the testator; and from the ambulatory nature of wills they never take effect till death; at which time, in this case, there was in existence no law for upholding this kind of estate; as estates in tail were entirely by force of the statute de donis. Now that it is so, there can be no doubt, in England. But it must be remembered that we had a statute of our own passed in 1784. Pat. 54, sec. 2. That was in existence fifteen years before the abolition of the British statutes, and that remained in force more than twenty years afterwards. This statute adopts the great principle of the statute de donis, and supplies its place, as far as the legislature wished that great principle to remain. Besides acting retrospectively, on estates prior to 1784, it was made to operate prospectively, also, by its very words: "on all such devises which shall hereafter be made in tail of any kind;" thus preserving a future power of making these known estates under the restrictions and limitations in the same act. . . These estates could be as well made under our own act as under the statute of Edward; they both rested on the same great principle, that the will of the donor should be observed; and in abolishing the English statute there was no intent to abolish the estates likewise; the principle of them, being very valuable to a certain extent, and to that extent the legislature meant to support them. . . . 40

In 1882, the New Jersey Supreme Court in Read v. Pennsylvania R.R. Co., the court stated:

In the course of the discussion the operation of the statutes of 6 Anne, c. 31, and 14 Geo. III., c. 78, was adverted to in reference to their effect upon the question of responsibility in this case.

---

40. Den ex dem. Mason v. Smith and Fox, 10 N.J.L. 39 (1828), citing Den ex dem. Crane v. Fogg, 3 N.J.L. 819 (1811). See also Den ex dem. Spachius v. Spachius, 16 N.J.L. 172 (1837) and Den ex dem. James v. Dubois, 16 N.J.L. 285 (1837).

\* \* \* \* \*

The act of Anne was incorporated in the compilation made by Judge Paterson, and appears as the last section in the statute for the prevention of waste. Rev., p. 1236, §8.

The act of Geo. III. was never re-enacted in this state, and in view of the fact of its omission from the compilation of statutes just alluded to, it never became a part of the law of this state.<sup>41</sup>

Moreover, in 1915, the New Jersey Court of Chancery, considering whether or not the chancellor had the power to issue the writ of habeas corpus, stated:

... Whether the statute of Car. II. was ever in force in New Jersey, colony or state, appears to be doubtful. The supreme court, in State v. Garthwaite, 23 N.J. Law 143, observed (at p. 146) that the Habeas Corpus act of 31 Car. II., 1679, was not enacted in this state until after the Revolution. And the same court, in Paterson v. State, 49 N.J. Law 326, observed (at p. 333) that section 65 of the Criminal Procedure act when first enacted in 1799 seems to have superseded the provisions of section 7 of the Habeas Corpus act of Car. II. as enacted in this state in 1795. It may be, however, that it was in force from the earliest colonial period down to 1795, for the supreme court, in Stille v. Wood, 1 N.J. Law 162, decided that the statutes of Charles and James respecting writs of errors extended here. In State v. Mairs, 1 N.J. Law 335, the supreme court (at p. 337) expressed no opinion upon the question whether the Coventry act of 22 and 23 Car. II., 1670, extended to this state. In Den v. Spachius, 16 N.J. Law 172, the supreme court (at p. 176) seems to recognize the existence of estates-tail in this state by virtue of the statute of 13 Ed. I. (de donis conditionalibus), until that act was repealed by our act of June 13th, 1799. In Den v. DuBois, 16 N.J. Law 285, the supreme court (at p. 295) held that while the statute de donis had never been enacted in this state, it nevertheless was always considered as operative here before and after the Revolution down to June 13th, 1799, when our legislature enacted that no act of parliament should have force or be considered law in this state.

If the statute concerning writs of error and the statute de donis were in force in New Jersey until repealed by the act of 1799, I fail to see why the statute of 31 Car. II. was not also in force. But, if it were, it was doubtless repealed by the passage of our Habeas Corpus act of March 11th, 1795, because our statute, in title and enacting clauses, was practically a re-enactment of the English statute, and, because it legislated upon the whole subject, it appears to have been, under the well-settled rule, a repealer by implication of the earlier English statute, assuming that statute to have obtained here. . . But if the passage of our Habeas Corpus act of March 11th, 1795, did not, by implication repeal the statute of 31 Car. II., that act was expressly repealed by the act relative to statutes passed June 13th, 1799, supra, which provided that from and after its enactment no statute or act of the parliament of Great Britain should have force or authority within this state or be considered as a law thereof. Pat. Rev. 435 §4 (at p. 436).<sup>42</sup>

41. Read v. Pennsylvania R. R. Co., 44 N.J.L. 280, 282 (1832).

42. In re Thompson, 85 N.J. Eq. 221, 246, 96 Atl. 102, 113 (1915).

Although the 1915 Chancery decision did not cite the earlier Read v. Pennsylvania R. R. Co., the court certainly took the same general position. There seems no reason to question the general proposition that only such English or British statutes as have been specifically been re-enacted as New Jersey statutes are in force in New Jersey and that such a situation has prevailed since June 13, 1799.

### Pennsylvania

In 1956 the Superior Court of Pennsylvania had before it, in Commonwealth v. O'Brien,<sup>43</sup> the question of whether a grand jury could indict, without special permission of the court, a defendant who was not present at a preliminary hearing because at the time it was held he was in prison in another county of the Commonwealth. In holding that a grand jury could so indict, a decision affirmed by the Supreme Court of Pennsylvania, the court reviewed the English statutes which modified the common law to permit the holding of preliminary hearings. In the course of the opinion, the court stated:

The development of the preliminary hearing can be followed in a series of four English statutes of the 15th and 16th centuries, each of which sets forth the reason for its enactment. . . .

\* \* \* \* \*

After the signing of the Declaration of Independence the Commonwealth of Pennsylvania finding itself without any adopted or enacted law, passed the Act of January 28, 1777, 1 Sm. L. 429, 46 PS §152 by virtue of which the common law and such of the statute laws of England as had theretofore been in force in the province, with certain enumerated exceptions, were declared to be in force and binding upon the inhabitants of the newly created commonwealth.<sup>44</sup>

---

43. Commonwealth v. O'Brien, 181 Pa. Super. 382, 391-92, 124 A. 2d 666 (1956). app. dism'd 389 Pa. 109, 132 A. 2d 265 (1957).

44. Sections one and two of this statute were, as of January 1, 1962, in force in Pennsylvania as §§ 152, 153, Title 46, Pennsylvania Statutes Annotated. The text follows:

"§ 1. Each and every one of the laws or acts of general assembly, that were in force and binding on the inhabitants of the said province on the 14th day of May last, shall be in force and binding on the inhabitants of this state, from and after the 10th day of February next, as fully and effectually, to all intents and purposes, as if the said laws, and each of them, had been made or enacted by this general assembly. . . . and the common law and such of the statute laws of England, as have heretofore been in force in the said province, except as hereafter excepted.

"§ 2. Provided always, that so much of every law or act of general

Doubt having arisen after a few years as to which English statutes were applicable to the new government and which should be considered as a part of the law of this Commonwealth, the legislature, by the Act of April 7, 1807,<sup>45</sup> directed the judges of the Supreme Court to report to the legislature which of the English statutes were then in force in this Commonwealth. In the report made by the judges found in the appendix of 3 Binney's Report, 616, 620, there were included three of the above acts: the statute of Third Henry VII, Chapter 3 [relating to bail], the statute of First and Second Philip and Mary, Chapter 13 [relating to bail by justices of the peace], and the statute of Second and Third Philip and Mary, Chapter 10 [relating to the examination of suspected felons]. These statutes thus became a part of the law of this Commonwealth, and constitute the basic authority for our preliminary hearings.<sup>46</sup>

The act of 1777, referred to above, continued in effect in Pennsylvania, with certain exceptions, only such English statutes "as have heretofore been in force in the said province. . . ." The criterion of "heretofore been in force" was confirmed in Morris's Lessee v. Vanderen (1782),<sup>47</sup> in which Chief Justice M'Kean, charging the jury, stated in part:

. . . It is the opinion of the Court, however, that the common law of England has always been in force in Pennsylvania; that all statutes

---

assembly of the province aforesaid, as orders taking or subscribing any oath, affirmation or declaration of allegiance or fidelity to the king of Great Britain, or his successors, or oath of office; and so much of every law or act of general assembly aforesaid, as acknowledges any authority in the heirs or devisees of William Penn, Esq., deceased, the former governor of the said province, or any other person whomsoever as governor; and so much of every law or act of general assembly, as ascertains the number of members of assembly in any county, the time of election and the qualifications of electors; and so much of every law or act of assembly aforesaid, as declares, orders, directs or commands any matter or thing repugnant to, against, or inconsistent with the constitution of this commonwealth, is hereby declared not to be revived, but shall be null and void, and of no force or effect; and so much of the statute laws of England aforesaid relating to felonies, as takes notice of or relates to treason or misprision of treason, or directs the style of the process in any case whatsoever, shall be, and is hereby declared, of no force or effect, anything herein contained to the contrary notwithstanding."

45. The act in question, entitled "AN ACT Enjoining certain duties on the Judges of the Supreme Court," was approved April 7, 1807. It stated in part ". . . the judges of the Supreme Court are hereby required to examine and report to the next legislature, which of the English statutes are in force in this Commonwealth, and which of those statutes in their opinion ought to be incorporated into the statute laws of this commonwealth." Laws of the Commonwealth of Pennsylvania 1806-1807, 163 (1808).

46. Commonwealth v. O'Brian, note 43 *supra*, at 387, 391-92.

47. Morris's Lessee v. Vanderen, 1 Dallas 64, 67 (1782).



made in Great Britain, before the settlement of Pennsylvania,<sup>48</sup> have no force here, unless they are convenient and adapted to the circumstances of the country; and that all the statutes made since the settlement of Pennsylvania, have no force here, unless the colonies are particularly named. The spirit of the act of Assembly passed in 1718 supports the opinion of the Court.<sup>49</sup>

The Report of the Judges, dated December 14, 1808, and referred to in Commonwealth v. O'Brien, was a formal attempt to ascertain what English statutes were in force in Pennsylvania. It was inserted in the third volume of Binney's Pennsylvania Reports, with the following footnote:

---

48. Cf. Anonymous, 1 Dallas 1 (1754) where the reported case reads: "Adjudged by the Court, that the statute of frauds and perjuries [29 Car. 2, c. 3] does not extend to this province, though made before Mr. Penn's charter: the Governor of New York having exercised a jurisdiction here, before the making of that statute, by virtue of the word territories, in the grant to the Duke of York, of New York and New Jersey."

49. In 1718, the General Assembly enacted "An ACT for the advancement of justice, and more certain administration thereof," in an obvious effort to establish what English statutes should be considered in force in the province. It stated in part:

"... whereas it is a settled point, that as the common law is the birthright of English subjects, so it ought to be their rule in British dominions: But acts of parliament have been adjudged not to extend to these plantations, unless they are particularly named in such acts: Now forasmuch as some persons have been encouraged to transgress certain statutes against capital crimes, and other enormities, because those statutes have not been hitherto fully extended to this province:

"I. Therefore, . . . Be it enacted, That all inquests and trials of high treason shall be according to the due order and course of the common law, observing the directions of the statute laws of Great-Britain, relating to the trials, proceedings and judgments, in such cases.

\* \* \* \* \*

"VI. And when any person or persons shall be so as aforesaid convicted or attainted of any of the said [capital] crimes, they shall suffer as the laws of Great-Britain now do, or hereafter shall, direct and require in such cases respectively. . . .

\* \* \* \* \*

"XI. . . . another statute, made in the first year of the reign of King James the first, chap 12, entitled An Act against conjuration, witchcraft, and dealing with evil and wicked spirits, shall be duly put in execution in this province, and of like force and effect, as if the same were here repeated and enacted.

Footnote continued

This important document is here inserted at the request of the judges of the Supreme Court. In many respects it deserves to be placed by the side of judicial decisions, being the result of very great research and deliberation by the judges, and of their united opinion. It may not perhaps be considered as authoritative as judicial precedent; but it approaches so nearly to it, that a safer guide in practice, or a more respectable, not to say decisive authority in argument, cannot be wanted by the profession.<sup>50</sup>

The high regard which Pennsylvania jurists and attorneys have accorded this report is indicated by Gardner v. Kiehl (1897) where the Pennsylvania Supreme Court, faced with the argument that 21 Jac. 1, c. 12, relating to actions against public officials, was controlling, held that the statute was not in force in the Commonwealth and referred to the fact it was not included in the Report of the Judges, stating:

... It is true that this omission is not conclusive against the statute, but it raises a presumption of very great weight. . . in citing any of the British statutes as ground of judgment it has been considered sufficient to refer to that report as authority for their continuance as part of the law of the state. See Finney v. Crawford, 2 Watts, 294; Kline v. Jacobs, 68 Pa. 58; Savage v. Everman, 70 Pa. 315; Frisbee's Appeal, 88 Pa. 144; Carson v. Cemetery Co., 104 Pa. 575. And though in Warren v. Steer, 118 Pa. 529, by a much to be regretted decision, an act reported

---

\* \* \* \* \*

"XXIII. . . every such accessory, and other offenders, as above expressed, shall answer upon their arraignments, and receive such trial, judgment, order and execution, and suffer such forfeitures, pains and penalties, as is used in other cases of felony, and as the statute made in the second and third years of King Edward the Sixth, chap. 24, entitled, An Act for the trial of murders and felonies committed in several counties, does direct in such cases; which statute shall be observed in this province, any law or usage to the contrary notwithstanding.

\* \* \* \* \*

"XXV. . . the statute made in the fifth year of Queen Elizabeth, chap. 9, entitled, An Act for punishment of such persons as shall procure or commit any wilful perjury, shall be observed in this province, and be duly put in execution. . . ."

Alexander James Dallas' footnotes to this statute, reprinted in 1 Laws of Pennsylvania, 129 (1797) make it clear that much of the content of this statute was superseded by subsequent enactments after the revolution. The language of this 1718 statute, however, throws light on some of the language contained in the 1777 Act concerning such portions of the English statutes as were not continued in effect.

50. 3 Bin. (Pa.) 595 (1808).

by the judges was held no longer in force, and parties in ejectment were deprived of a most convenient and much needed remedy, yet it was put on the express ground that the English statute had since the report of the judges been superseded by acts of our own on the same subject. The presumption against a statute by its omission from the report is not of course so strong as the presumption in its favor by its affirmative inclusion, but it is still of very great weight, and it is especially so in the present case, as the judges included the very next and one other section of the same act, showing that the act had passed under their consideration. In the absence of anything in the case to overcome the prima facie correctness of the judges' report the presumption must prevail.<sup>51</sup>

The list of the English statutes which the Judges considered to be in force was accompanied by notations as to whether a particular statute should or should not be incorporated "into the statute laws of said commonwealth." The preface to the annotated list stated in part:

The undersigned judges of the Supreme Court of the said commonwealth, respectfully submit their report of the English statutes which are in force in the said commonwealth, and of those the said statutes which in their opinion ought to be incorporated into the statute law of the said commonwealth.

They have taken the liberty, at the same time, of submitting a few preliminary observations, connected with the subject of the report, and tending to explain the principles which have governed them in the execution of the trust which the legislature have been pleased to confide in them.

The subject is divided into two branches. 1st, The ascertaining of such English statutes as are in force in this commonwealth. 2d, The opinion of the judges, which of the statutes so in force are proper to be incorporated into the statute laws of the commonwealth.

In order to accomplish the first part of the subject, it was necessary to begin with the consideration of the present constitution of the commonwealth. It contains nothing particular as to the point in question. There is a general provision, that all laws of this commonwealth, in force at that time, and not inconsistent with the said constitution, and all rights &c., should continue as if the said alterations and amendments had not been made.<sup>52</sup> The question still remained unanswered, what laws were in force. It appeared upon tracing the matter further back that an act was passed on the 28th January 1777, intitled "An act to revise and put in force such and so much of the late laws of the province of Pennsylvania, as is judged necessary to be in force in this commonwealth." In this act it is provided, that the common law,<sup>53</sup> and such of the statute laws of England as have been heretofore in force in the said province, shall be in force, except as is hereafter excepted. The exception

51. Gardner v. Kiehl, 182 Pa. 194, 199, 37 Atl. 829 (1897).

52. Constitution of 1790, Schedule, Section 1. 5 Thorpe 3092, 3102.

53. For a detailed discussion of the incorporation of certain English statutes into the common law and, as a result, into the common law of Pennsylvania, irrespective of whether or not they had been specifically

relates to the oath of allegiance to the king of Great Britain, the acknowledgment of any authority in the heirs of William Penn the first proprietary, the laws ascertaining the number of members of assembly in any county, the time of election and qualification of electors, the English statutes relating to treason or misprision of treason, and such laws or acts of assembly as declared, ordered, or directed, any thing inconsistent with the then existing constitution of the commonwealth.

Still the point remained open — what English statutes were in force in Pennsylvania? It became necessary therefore to mount up to the first sources of information, the charter granted to William Penn, and the general principles of colonization.

It is provided by the charter, that the laws for regulating and governing of property, as well for the descent and enjoyment of lands, <sup>54</sup> as likewise for the enjoyment and succession of goods and chattels, and likewise as to felonies, within the said province, shall be and continue the same as they shall be for the time being, by the general course of the law in the kingdom of England, until the said laws shall be altered by the said William Penn, his heirs or assigns, and by the freemen of the said province, their delegates or deputies, or the greater part of them. Notwithstanding the generality of these expressions, it has always been held, that many of the English laws, relating both to property and to felonies, would have been improper for the state of things in an infant colony; and accordingly they were never practically extended here. It is the true principles of colonization, that the emigrants from the mother country carry with them such laws as are useful in their new situation, and none other. <sup>55</sup> A multitude of English statutes, relating to the king's prerogative, the rights and privileges of the nobility and clergy, the local commerce and revenue of England, and other subjects unnecessary to enumerate, were improper to be extended to Pennsylvania. In order to execute the duty required of them, it was necessary for the judges to examine the code of English statute law from the beginning to

incorporated as statutes into the law of Pennsylvania, see *Magill v. Brown*, 16 Fed. Cas. 408, (E.D. Pa. 1833), also included in *Brightly* (Pa.) 346 (1833). See also *Carson v. Blazer*, 2 Bin. (Pa.) 475 (1810) where the Justice Yeates stated in construing the Act of 1777: "... the uniform idea has ever been, that only such parts of the common law as were applicable to our local situation have been received in this government . . . ." This approach to the adoption of common law under the 1777 statute appears in *Guardians of the Poor v. Greene*, 5 Bin. (Pa.) 554 (1813) where 43 Eliz., c. 4, relating to charitable uses, was held to be not in force in the Commonwealth on the basis that it had not been included in the Report of the Judges. Cf., *Magill v. Brown*, *supra*, where the United States District Court concluded that while the statute itself was not in force, its principles were in effect as a part of the common law. For a later case, see *Tollinger Estate*, 349 Pa. 393, 397 (1944) where the court stated: "While the statute of 43 Eliz., c. 4 (1601) is not a statute of this Commonwealth, its principles are part of our common law: *Fire Insurance Patrol v. Boyd*, 120 Pa. 624, 644. . . ."

54. In this connection, it should be noted that the Charter granted by Charles II to William Penn in 1681 declared that the statute of *Quia Emptores*, forbidding the subinfeudation of land, was not to be applicable to William Penn, his heirs or assigns.

55. See *Morris' Lessee v. Vanderen*, note 47 *supra*.

the time of the settlement of Pennsylvania; and weigh deliberately which of them were proper to be adopted. But this was not all. It was essential that our own statute book should be examined, to see in what cases the English law had been altered, or in what cases it had been expressly extended here. Wherever our own legislature had enacted a law on the same subject on which an English statute was to be found, it has been supposed that the English statute had no force here, even though it contained more extensive provisions than our own act of assembly; because it was reasonable to presume, that our assembly were acquainted with the English statute, and designedly omitted some of its provisions.

Besides these inquiries, it was necessary to ascertain, what had been the decisions of our own courts, respecting the extension of English statutes. This was no easy task, as we have no printed reports prior to our revolution, of cases determined in our courts of justice. Of course these decisions are only to be known by tradition, or manuscript notes in the possession of the gentlemen of the bar, or the judges.

With respect to English statutes enacted since the settlement of Pennsylvania, it had been assumed as a principle, that they do not extend here, unless they have been recognized by our acts of assembly, or adopted by long continued practice in courts of justice. Of the latter description there are very few, and those, it is supposed, were introduced from a sense of their evident utility. As English statutes they had not obligatory force, but from long practice they may be considered as incorporated with the law of our country. <sup>56</sup>

Having endeavoured to ascertain the English statutes which were in force, the judges proceeded to the second part of the subject, the consideration of which of these statutes were proper to be incorporated with our own law. They felt that this part of their task, though very honourable, was very arduous, and in executing it, they have thought themselves bound to proceed with great caution. In works which consist in the alteration of long established usages, it is safer to do too little than too much. . . . If further alteration should be necessary, it is always competent to the legislature to make them. It will be found by the report, that in a number of cases, the repeal of English statutes is recommended. In a number of others which appeared doubtful, it was thought best to leave them for further experience.

In perusing the statutes referred to in the report, the legislature will perceive, that in many of them the language is uncouth, and unsuited to our present form of government. In many of them too, they will find here and there a sentence, not properly applicable to any other country than England. There is no other way of curing these defects, than by reenacting the substance of these statutes in language suitable to our present condition, which might be attended with the additional advantage of simplifying the statute law, by reducing into one, several acts passed on the same subject. This would be a work of labour. Something of the kind had been done in the states of Virginia and New York, but it is believed that several years were employed in the performance. <sup>57</sup>

56. See *Magill v. Brown*, note 53 *supra*.

57. Report of the Judges, 3 Bin. (Pa.) 595-98 (1808). The judges could have added Vermont, New Jersey and Mississippi to the list of those jurisdictions which had attempted to re-enact the substance of certain English statutes and then repeal all English statutes *en masse*.

Despite the importance to Pennsylvania jurists and attorneys of the Report of the Judges, one difficulty was encountered — securing the text of the statutes they had classified. In 1812, the General Assembly had authorized the governor to secure the printing of the Judges' Report, but apparently the authorization was never acted upon.<sup>58</sup> In 1816, the Assembly authorized the secretary of the Commonwealth to subscribe for and purchase 300 copies of a work by Samuel Roberts,<sup>59</sup> entitled as follows: "A Digest of Select British Statutes, comprising those which, according to the report of the Judges of the Supreme Court, made to the Legislature, appear to be in force, in Pennsylvania; with some others." Roberts, in his Preface, made it clear that he regarded his "Digest" as only a stop-gap until there could be a reformation of "the English code of statutes" and perhaps a "review of our own statute book."<sup>60</sup>

Since, however, the Statutes of Pennsylvania, in force as of January 1, 1962, contain the two sections of the Act of 1777, referred to earlier, and since as recently as 1956, the Pennsylvania Superior Court in a decision affirmed by the Pennsylvania Supreme Court referred both to the Act of 1777 and to the Report of the Judges, it would appear that Robert's hopes, expressed in 1816 for a reformation of the English statutes, had not been fulfilled with unseemly haste.<sup>61</sup> Moreover, no disposition appears in the recorded decisions to consider such English statutes as appear in the Report of the Judges to be other than in force under the authority of the Act of 1777 and the Constitution of 1790.<sup>62</sup>

---

58. Act of March 10, 1812, entitles "An act authorizing the governor to contract with John Binns, for printing a certain number of copies of such parts of the English statute law as is reported by the judges of the supreme court to be in force within this commonwealth, and to provide for the distribution thereof," Acts of Pennsylvania 1811-1812, 100 (1812).

59. "An ACT authorizing the purchase of a certain number of copies [i.e., 300] of the work of Samuel Roberts on the British statutes in force in Pennsylvania," March 18, 1816, Acts of Pennsylvania 1815-1816, 141 (1816).

60. Roberts, Digest of Select British Statutes, comprising those which, according to the report of the Judges of the Supreme Court, made to the Legislature, appear to be in force, in Pennsylvania; with some others, xiv, xv (1817).

61. Commonwealth v. O'Brien, note 43 *supra*.

62. In 1810 an effort was made to prevent citation of English precedents of a later date than July 4, 1776, approved March 19, 1810. The act stated in part: "... from and after the first day of May next, it shall not be lawful to read or quote in any court in this Commonwealth, any British precedent or adjudication which may have been given or made

Maryland

The Declaration of Rights in the Constitution of Maryland, adopted in 1776, stated:

3. That the inhabitants of Maryland are entitled to the common law of England and the trial by jury according to the course of that law, and to the benefit of such of the English statutes as existed at the time of their first emigration, and which by experience have been found applicable to their local and other circumstances, and of such others as have been since made in England or Great-Britain, and have been introduced, used and practised by the courts of law or equity; and also to all acts of assembly in force on the first of June, seventeen hundred and seventy-four. . . . <sup>63</sup>

There was no effort on the part of the new state to break with the past. The provincial assembly had consistently asserted — the proprietor or governor dissenting with equal consistency —

---

subsequent to the fourth day of July in the year one thousand seven hundred and seventy-six, Provided, That nothing herein shall be construed to prohibit the reading of any precedent of maritime law, or of the law of nations," Acts of Pennsylvania 1809-1810, 136 (1810). It was repealed by an act, approved March 30, 1836. Laws of Pennsylvania 1835-36, 224 (1836). See Surrency, "When the common law was unpopular in Pennsylvania," 33 Pa. Bar Ass'n Quart. 291 (1962).

63. 3 Thorpe 1686. The original Maryland charter, granted by Charles I to Caecilius Calvert, Lord Baltimore, in 1632, had provided that Maryland residents were to be secure in "all Privileges, Franchises and Liberties of this our Kingdom of England, freely, quietly, and peaceably to have and possess . . . any Statutes, Act, Ordinance, or Provision to the contrary thereof, notwithstanding." Id. at 1677, 1681. In 1638 an act of the Assembly stated: "The Inhabitants of this Province shall have all their rights and liberties according to the great Charter of England." 1 Archives of Maryland. Proceedings and Acts of the General Assembly of Maryland, January 1637-8 — September 1664, 83 (1883). In 1742, the Lower House passed a series of resolutions — which was to be re-passed repeatedly at intervals until 1771 — one of which stated: "Resolved further that this Province hath always hitherto had the common Law and such General Statutes of England as are securitative of the Rights and Liberties of the Subject and such Acts of Assembly as were made in this Province to suit its particular Constitution as the Rule & Standard of its Judicature and Government; such Statutes and Acts of Assembly, being Subject to the like Rules of Common Law, or equitable Construction as are used by the Judges in construing Statutes in England. . . ." 42 Archives of Maryland, op. cit., supra, 1740-1744, 321 (1923); 44 id., 1745, 70 (1925); 44 id., 1746, 258 (1925); 46 id., 1750, 236 (1929); 46 id., 1751, 652 (1929); 50 id., 1754, 598 (1933); 55 id., 1757, 208 (1938); 56 id., 1758, 18 (1939); 58 id., 1762, 73 (1941); 59 id., 1765, 135 (1942); 61 id., 1768, 331 (1944); 63 id., 1771, 81 (1946).

that in general English statutes were in force as statutes in the Province.<sup>64</sup> The state legislature took the position that the English statutes were in force as a source of law, for with the change of sovereign they could no longer be considered as an expression of the sovereign's will. Under the general proposition that English statutes were in force in Maryland as a source of law, the courts continued to be left largely to their own discretion<sup>65</sup> in determining what specific English statutes were or were not in

---

64. See note 63 supra. The attitude of the proprietor was expressed in 1723 in a communication to the Assembly which stated in part: "... [a specific act of the Assembly] seems by implication to introduce English Statutes to operate there, which Statutes have been always held not to extend to the Plantations unless by Express Words Located thither and you are upon all Occasions so to Conduct yourself as not only to admitt any such practice to take Place in Maryland but even to discountenance any Doubt concerning the same and when any of the English Statute Laws are found Convenient and well Adapted to your Circumstances you ought specially to Enact then De Novo, or such part of them as you find proper for you; and not by an Act of the Province Introduce in a Lump (as it were) any of the English Statutes and these Sentiments you may instil and make known as you see Cause."

The Lower House appointed a committee which shortly thereafter turned in a report which stated in part: "... we hope that what we have Collected, Will Be Sufficient to evince, that as well the Governours as the People Governed Within this Province since it's first Settlement, or at least ever since we Can find any foot Steps of Assemblys or Judicial Proceedings, deemed the General Statutes of England to have the force of Laws in Maryland... and it would be a great Absurdity to advance that we are intituled to all the Rights and Liberties of British Subjects and that we Can't have the Benefits of the Laws by which those Rights and Liberties are Reserved." 34 Archives of Maryland, Proceedings and Acts of the General Assembly, October 1720 - October 1723, 661-79 (1914).

65. There was in 1662 a controversy concerning the leaving of such decisions to the judiciary. The Lower House had enacted a provision that "in all cases where the Lawe of this Province is silent Justice shall be administered according to the Lawes and Statutes of England if pleaded and produced..." To this the Upper House desired "to be satisfied how the County Courts shall be satisfiied when the Lawe of England is rightly pleaded and whether all Lawes of England how inconsistent soeuer with a plantacon shall be admitted here." The Lower House answered that "The Courts [were] to judge the right pleadeing and inconsistency according to the best of their Judgemt skill and Cunning..." To which the Upper House responded "that by this meanes of leaueing all to the Breast of the Courts, all is againe Left to discrecon and soe the Acte unnecessary as it lyes..." 1 Archives of Maryland. Proceedings and Acts of the General Assembly of Maryland, January 1637/8 - September 1664, 435-36 (1883). In 1771, Governor Eden urged the Lower House to consider what English statutes were in force in the Province with particular reference to the criminal laws. In his message of October 25, the Governor



force as decisional (common) law with two exceptions:<sup>66</sup> where there had been a specific prior legislative declaration relative to a particular English statute or where the provincial assembly or legislature had rendered an English statute or group of English

---

stated in part: "... there is not I apprehend, any precise, invariable Rule established, by which the Extent of the Penal Statutes may be ascertained; and therefore, in what Cases Punishment may be regularly inflicted in this Province according to their Prescripts, is a Question, on which various Sentiments may be expected, and in fact, have often occurred. Should the Position be admitted, that such of the Penal Statutes extend hither, as are suitable to the Circumstances of the Country, still what are, or are not thus suitable, may be, in many instances on a Consideration of Statutes . . . a very doubtful Question; and which being determinable by the Courts, seems moreover to admit too great Authority in the Judges, and to give too much Scope for Contrariety in the Decisions which a rigorous or compassionate Disposition may influence; for Men's Qualities, when not controuled by fixed and established Provisions, will generally slide into their most deliberate, and best formed Opinions. . . the Judges have no Authority to reject the Rule enjoined by the Legislature: Such Authority would elevate the judicial Power above it's proper Rank; an Authority the Legislative will hardly ever be so incautious as to confer by Provisions, that such Penal Statutes, and such only shall be carried into Execution, as the Discretion of Judges may adopt; but this seems to be the Result of the Position, or Doctrine, that such Penal Statutes, and such only as suit our Circumstances extend hither. . . ." 63 Archives of Maryland. Proceedings and Acts of the General Assembly of Maryland, 1771-1773, 125-27 (1946).

66. The form of oath which the Maryland judges were to take provoked controversy over the status to the accorded the English statutes. In 1727 the Assembly enacted a bill, vetoed by the proprietor, the relevant portions of which provided that the Maryland judges were to proceed "... according to the Directions of the Acts of Assembly of this Province. so far as they provide: And where they are silent, according to the Laws, Statutes, and reasonable Customs of England, agreeable to the Usage and Constitution of this Province. . ." 36 Archives of Maryland. Proceedings and Acts of the General Assembly, July 1727 - August 1729, 81 (1916). In 1730 the Assembly made another attempt, also vetoed, which directed the judges to proceed "according to the Directions of the Acts of Assembly of this Province, so far as they provide; and where they are silent, according to the reasonable Customs of England, and the Laws and Statutes thereof, as are or shall hereafter be Enacted, agreeable to the Usage or Constitution of this Province . . . ." 37 Archives of Maryland. Proceedings and Acts of the General Assembly of Maryland, 151 (1917). Finally, in 1732, the proprietor did not veto the proposed form of oath which directed the judges to proceed "... according to the Laws, Customs, and Directions, of the Acts of Assembly of this Province, so far forth as they provide, and where they are silent, according to the Laws, Statutes, and reasonable Customs of England, as used and practised within this Province. . . ." *Id.* at 518-19.

statutes obsolete because of its own enactments.<sup>67</sup>

Under this general directive, however, it was inevitable that the issue of whether particular statutes were or were not in force should be argued frequently before the courts. The reported decisions show that the judges took their responsibility seriously, comparing acts of parliament with subsequent provincial or state acts to determine whether or not particular English statutes were suitable to the present conditions of Maryland or had been rendered inapplicable because of subsequent provincial or state enactments. By 1809, however, the legislature felt that more definite information should be available. In the November session, the legislature passed the following resolution:

Resolved, That the chancellor and judges of the court of appeals be and they are hereby requested to inquire, and report to the legislature at the next session, all such English statutes as existed at the time of the first emigration of the people of this state into the same, and which by experience have been found applicable to their local and other circumstances, and of such others as have been since made in England or Great-Britain, and have been introduced, used and practised, by the courts of law or equity, and also such parts of the same as may be proper to be introduced and incorporated into the body of the statute law of this state.<sup>68</sup>

In 1810, Chancellor Kilty presented a report to the Maryland legislature, prepared in conformance with the standards set out in the 1809 resolution.<sup>69</sup> For this work, the legislature voted "the sum of sixteen hundred dollars." While the legislature did not formally adopt Kilty's Report, by resolution it instructed the Governor and Council "to have printed for the use of the State, one thousand copies of the report made by the Chancellor. . . of

---

67. See Dulany, *The Right of the Inhabitants of Maryland to the Benefits of the English Laws* (1728), reprinted in Sioussat, *The English Statutes in Maryland*, Series XXI John Hopkins University Studies Nos. 11-12 (1903).

68. *Laws of Maryland 1809*. Resolutions assented November Session, 1809 (n.d.).

69. The report was entitled "A report of all such English statutes as existed at the time of the first emigration of the people of Maryland, and which by experience have been found applicable to their local and other circumstances; and of such others as have since been made in England or Great-Britain, and have been introduced, used and practised, by the courts of law or equity; and also all such parts of the same as may be proper to be introduced and incorporated into the body of the statute law of the state. Made according to the directions of the legislature, by William Kilty, chancellor of Maryland. To which are prefixed, an introduction and lists of the statutes which had not been found applicable to the circumstances of the people: with full and complete indexes." It was published in 1811, and although the full title appeared on the title page, it was usually referred to as Kilty's Report.

the English statutes and those of Great-Britain. . . ." 70

In the introduction to the Report, dated November 12, 1810, Kilty discussed the criteria employed for inclusion or exclusion of particular statutes. In so doing, he recapitulated the background and the rationale underlying and, in effect, summed up the basic principles which led Maryland to consider certain English statutes in force or not in force. He stated in part:

The report thus made, has been grounded on a careful perusal and consideration of the statutes at large, and on an examination, as far as it was practicable, of the records of the former provincial court, and the legislative and executive proceedings of the government before the revolution, for which I have to acknowledge the assistance of the officers having respectively the custody of these documents.

With respect to the criminal statutes (which before the making of the penitentiary law of the last session, were considered of the most importance,) the records have afforded the most conclusive evidence as to the usage and practice under them.

In civil cases, it has been, from the nature of the proceedings, and the want of indexes pointing to the different subjects, more difficult to ascertain the grounds upon which my selections have been made; and although the record books have been frequently resorted to with success, I have had to consider, also, the nature of the subjects, and the law authorities thereon, and to refer to the usage and practice generally known in proof of the extension of many of the statutes.

The knowledge of what was the practice, must for want of books of reports necessarily depend in some degree on information, or what may be called tradition, which, when it could be obtained, I have availed myself of; and I have been furnished by the clerk of the court of appeals, with some cases which have not been yet reported.

I think it proper also to mention, that among the papers which were put into my hands, of the late John Duckett, Esq. who had projected some report on the English statutes, I found a copy of a letter from Samuel Chase, Esq. at present one of the judges of the supreme court of the United States, to the late judge Tilghman, in answer to some enquiries made by him on the subject, of which I have been informed several copies were distributed. The following part of that letter is here inserted: "It is a general principle, that the first settlers of Maryland brought with them all English statutes made before the charter, and in force at that time, which were applicable to the local and other circumstances of the province, and the courts of justice always decided the applicability of any statute, and of consequence its extension. I have understood that the judges under the old government laid it down as a general rule, that all statutes for the administration of justice, whether made before or since the charter, so far as they were applicable, should be adopted by them."

Several statutes, (to the number of forty) during both periods, are then particularly mentioned therein, as having extended, together with all the statutes relative to distresses for rent, and all the statutes respecting

---

70. Laws of Maryland 1810. Resolutions assented to November Session, 1810 (n.d.).

ejectments — as 4 Geo. 2, ch. 28 — 11 Geo. 2, ch. 19 — with the observation, that other statutes had been received in our courts upon the general principles which had been suggested — which observation is verified by their being nearly two hundred statutes which are considered proper to be incorporated, and upwards of three hundred not proper to be incorporated, that had extended.

\* \* \* \* \*

It appears from an examination of the proceedings of the government, that the question as to the application and extention of the English statutes, was taken up at the first session of Assembly of which we have any record, and continued in various ways to be agitated, to a period so late as the year 1771. The views of the proprietors, and their adherents, having been to discourage the extention of those statutes, in order that their power of assenting to laws might become more important, and the country party having been unwilling that such statutes should be particularly enumerated, so as to limit the courts in their power of judging of the consistency of them with the good of the province: a power which was essential to the proper discharge of their duties; and which had been expressly given by several acts of Assembly.

There are three distinct modes by which the English statutes may have been in force in the province.

1. By the express declaration of the parliament.

2. By declarations contained in the provincial acts of Assembly.

3. By having been introduced and practised by the courts of law and equity, which is the most important in judging of those that are to be retained under the provision in the declaration of rights.

In the late case of "Whittington and Polk," in the general court, the following was a part of the opinion given: "None of the English statutes which passed anterior to the first emigration of the inhabitants of Maryland have been adopted by the constitution of Maryland, and incorporated with the laws, but such as have been found by experience applicable to our local and other circumstances; and it does not appear to the court, there can be any other safe criterion by which the applicability of such statutes to our local and other circumstances can be ascertained and established, but that of having been used and practised under in this state."

In the application of this criterion to the several statutes as passed in review, it must however be observed, that many statutes relating to rights and rules of property have been tacitly and without contest acquiesced in, and that many have been used and practised under without the sanction of any express decision of the courts. Several of the criminal statutes which would otherwise have remained in force, are stated as improper to be incorporated on account of the act of the last session, commonly called the penitentiary act. . . . <sup>71</sup>

---

71. Kilty, A Report v-vii (1811). For the full title, see note 69 supra.

Kilty divided the body of the Report into three parts with these titles:

English Statutes existing at the time of the first emigration of the people of this State, which have not been found, by experience, applicable to their circumstances.<sup>72</sup>

Statutes and Parts of Statutes Found Applicable, but not proper to be incorporated.<sup>73</sup>

Statutes and Parts of Statutes Which Have Been Found Applicable and are proper to be Introduced and Incorporated Into the Body of the Statute Law of the State.<sup>74</sup>

For each category, a list of the statutes was provided and for the two latter — statutes found applicable but not proper to be incorporated and statutes found applicable and proper to be incorporated — Kilty provided an explanation, referring to acts of the Maryland legislature before and after the Revolution and to cases decided in the state courts.

Despite the lack of formal adoption of Kilty's Report by the legislature as the basis for determining the status of particular English statutes in Maryland, the courts — when faced with the necessity of determining whether or not a particular statute was in force as a source of law — were quite willing to consult it. The following extract from the opinion in Dashiell v. The Attorney General (1822) is illustrative:

The next and principal question is, whether the statute 43 Elizabeth [relating to charitable uses] is in force in this state? which we think depends entirely on the construction to be given to the third section of the bill of rights, and the evidence furnished by Chancellor Kilty's Report of the Statutes. The third section of the bill of rights is in these words: "The inhabitants of Maryland are entitled to the common law of England, and the trial by jury, according to the course of that law, and to the benefit of such of the English statutes as existed at the time of their first emigration, and which by experience have been found applicable to their local and other circumstances, and of such others as have been since made in England or Great Britain, and have been introduced, used, and practised by the courts of law or equity."...

The inhabitants of the state are declared to be entitled to the common law, without any restrictive words being used, and thus the common law is adopted in mass, so far at least as it is not inconsistent with the principles of that instrument, and the nature of our political institutions.

They are declared to be entitled to the benefit of such of the English statutes as existed at the time of their first emigration, and which, by experience had, at the time of the declaration of rights, been found to be applicable to their local and other circumstances, and also to the

---

72. Id. at 9.

73. Id. at 139.

74. Id. at 203.

benefit of such other British statutes, made after the emigration, as had been introduced, used, and practised by the courts of law or equity — a distinction being made between the statutes which existed before the emigration, and those which were afterwards passed, and between both and the common law. We do not think that this section of the bill of rights is to be expounded according to the rule of construction applicable to declaratory laws, but that it must be understood as adopting the different classes of the statutes to which it relates sub modo only, and rejecting all others; and as laying down rules by which to ascertain what statutes were so adopted — a different rule applying to each class. In relation to those which existed at the time of the emigration, their having been found by experience to be applicable to our local and other circumstances, being the rule for the government of courts of justice in determining which are in force; and their having been introduced, used, and practised by the courts of law or equity, the rule in relation to those passed since the emigration. As to the latter class, it does not seem to be denied that none are in force but such as had, at the time of the declaration of rights, been introduced, used, and practised by the courts of law or equity; and if that rule was intended to be restrictive, it is difficult to ascribe to the convention a different intention in relation to the other, nor can a different intention be raised by the argument that our ancestors brought with them all the laws of the mother country at the time of their emigration. For if it had been intended that all the statutes, then existing, should be and continue in force, which might by courts be deemed applicable to our local and other circumstances, it was exceedingly idle to declare such of them to be in force as had by experience been found applicable. And why was a different language adopted in relation to them from that which was used in relation to the common law? for they were equally brought with them by our ancestors.

The circumstances of a different provision being made shows that the convention entertained different views with respect to them.

It could not have been intended as a mere declaratory provision for the purpose only of removing doubts that existed at the time, for if there were any statutes about the extension of which no doubts were entertained, it must have been those which, by experience, had been found applicable, and there was no necessity for declaring the inhabitants of the state to be entitled to their benefit, unless it was the intention to prohibit the use of all such as had not by experience been found applicable.

This view of the third section of the bill of rights raises the question, Which of the statutes existing at the time of the first emigration had by experience been found applicable? The only evidence to be found on that subject is furnished by Kilty's Report of the Statutes, in which the 43 of Elizabeth is classed among those which are said not to have been found applicable. That book was compiled, printed, and distributed, under the sanction of the state, for the use of its officers, and is a safe guide in exploring an otherwise very dubious path.

It is therefore our opinion, that the statute 43 Elizabeth, is not in force in this state. . . . <sup>75</sup>

This opinion as to the status of British statutes in Maryland — as laid down in the Declaration of Rights in 1776 and illustrated by Kilty's Report and subsequent cases — continued as the official posture of the state in 1962. The analogous provision of the state's Declaration of Rights, adopted in 1851 and in force in 1962 provided:

... the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course of that law, and to the benefit of such of the English statutes as existed on the fourth day of July, seventeen hundred and seventy-six, and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used, and practised by the courts of law or equity  
 ....<sup>76</sup>

Maryland thus continued the practice employed during the early statehood period: the courts were left to determine what particular English or British statutes were in force as decisional (common) law under the constitutionally imposed criteria of applicability and usage.

### Delaware

The Delaware Constitution of 1776, Article 25, provided:

The common law of England, as well as so much of the statute law as has been heretofore adopted in practice in this state, shall remain in force unless they shall be altered by a future law of the Legislature, such parts only excepted as are repugnant to the rights and privileges contained in this Constitution and the declaration of rights, &c., agreed to by this convention.<sup>77</sup>

This article, however, was not incorporated into the Constitution of 1792. Article VIII of the state's second constitution provided in part:

---

<sup>76</sup>. Constitution of 1851, Declaration of Rights, Art. 3. See 3 Thorpe at 1713. Constitution of 1867, with amendments of January 1, 1957, Art. 5. For two recent Maryland cases relative to particular English statutes see *Hitchcock v. State*, 213 Md. 273, 131 A.2d 714 (1956) and *Kelly v. Scott*, 215 Md. 530, 137 A.2d 704 (1957). *Hitchcock v. State* held that 34 and 35 Hen. 8, c. 8, relating to natural healers, was not in force in Maryland. *Kelly v. Scott*, held that the statute 17 Edw. 2, c. 10 De Praerogativa Regis, relative to lunatics, was in force.

<sup>77</sup>. 1 Laws of Delaware, 1700-1797, Appendix, 89.

Sect. 10. All the laws of this state, existing at the time of making this constitution, and not inconsistent with it, shall remain in force, unless they shall be altered by future laws; and all actions and prosecutions now pending, shall proceed as if this constitution had not been made.

\* \* \* \* \*

Sect. 12. The Legislature shall, as soon as conveniently may be, provide by law, for ascertaining what statutes, and parts of statutes, shall continue to be in force within this state; for reducing them, and all acts of the General Assembly, into such order, and publishing them in such manner, that thereby the knowledge of them may be generally diffused. . . .<sup>78</sup>

Thus the Constitution of 1792 continued in force all statutes originally British that had been continued in force by the Constitution of 1776 — that is, "so much of the statute law" as had been "adopted in practice" — except any which had been repealed prior to 1792. The statutes that had been "adopted in practice" were not specified, and it is only by examining colonial records that those British statutes which were made state statutes by the Constitution of 1776 may be identified.

On January 31, 1824, the Delaware General Assembly passed a resolution which stated in part:

. . . to complete a digest of the laws of this State, it is expedient that the statutes, coming properly under the following general titles, to wit; . . . should be revised, and that the principles contained in these statutes should be embraced by a general act relative to each title.

RESOLVED, That Nicholas Ridgely, Esquire, and Willard Hall, Esquire, be appointed to carry into effect the foregoing resolution. . . .

RESOLVED, that the said Nicholas Ridgely, esquire, and Willard Hall, esquire, be requested to make report to the General Assembly, at their session in January next; and that they, at the same time report what English statutes are in force in this state, to the end that the same may be included in the revised code; also that they be requested to make such explanatory notes of adjudged cases, to accompany a digest, as may shew the construction that has been given to any statute therein to be included; and further that if they shall consider that any statutes should be repealed, that they shall report the same, with their reasons.<sup>79</sup>

This Resolution may have been an attempt to fulfil the mandate of Article VIII, Section 12 of the Constitution of 1792. The need for identifying and specifying what English statutes had become state statutes was obvious. Nevertheless, the Revised Laws of 1829 does not mention that part of the 1824 Resolution

---

78. Laws of the State of Delaware, 28 (1829).

79. 6 Laws of the State of Delaware, 681 (1826).



which directed the commissioners to "report what English statutes are in force in this state." <sup>80</sup>

This omission becomes understandable upon examination of a report made by Willard Hall to the Delaware Senate in 1829, in which he stated:

With a view to report to the General Assembly the English statutes in force in this state pursuant to the resolution of February 3, 1828, I have examined this subject. To aid me in this examination, I have taken the report of the judges of the supreme court of Pennsylvania in the appendix to the 3rd vol. of Binney's report 595-626, and I have considered the statutes therein mentioned. We have adopted some English statutes not contained in this report; because these statutes have been supplied in Pennsylvania by their own acts of Assembly, and have not been supplied in this State. There are several statutes contained in this report, which, I apprehend, were never adopted in this state; for I do not see how they could be applied. But generally I presume, that from the similarity of our condition with that of Pennsylvania under the proprietary government and the general similarity of our laws, great reliance may be placed on this report. The advice of the judges of the supreme court of Pennsylvania is, that many of these statutes should be incorporated with their laws. To this course in this state, there are I think great objections. It would swell the volumes of our laws. Many of the statutes would be unintelligible; for they concern matters which are obsolete; we know nothing of the things by the names. With regard to some of the statutes, it is enough to say they are in force; such as the statute "de donis" which creates the estate tail. We know the effect of the language can never come in question; so of the statutes concerning fines and common recovery. Generally the provisions should be supplied by our own acts and the statutes excluded from our system. Besides, our practice, altho' founded on the statute, frequently varies from it. Our provisions ought to conform to our practice, for this is adapted to our convenience. In the bills which have been presented for the consideration of the General Assembly, many of these statutes have been supplied or rendered unnecessary.<sup>81</sup>

80. The editor of Laws of the State of Delaware (1829), Willard Hall, stated in the Preface: "... the General Assembly directed their attention to the state of the Acts of Assembly. These had become intricate. The law in force was to be gathered from a mass, a great part of which was obsolete or had been repealed or altered. On many subjects, it required great diligence and care to search out the law, and skill to distinguish what was in force from what had been annulled, varied or supplied. It was seen, that every year would increase this evil."

81. Journal of the Senate of the State of Delaware 41 [1828] - (1829) Emphasis supplied. In *Sobolewski v. German*, 32 Del. (2 W. W. Harr.) 540 (1924) the Delaware Superior Court stated: "... We know of no compilation of the English Statutes which are in force in Delaware, although the Legislature on January 31, 1824, requested Chancellor Ridgely and Judge Hall to prepare such a list. . . . and the report of Judge Hall to the Legislature of 1829 indicates that it had been prepared (House Journal 1829, p. 53) . . . ."

Due to the absence of reports of cases decided in the colonial and early state periods,<sup>82</sup> and the lack of an authoritative list of British statutes in force as state statutes after 1776, the courts of Delaware have been forced in many cases to engage in extensive research to determine whether a particular British statute enacted before 1776 should be applied.<sup>83</sup> That the problem has been a continuing one is shown by an extract from a 1924 opinion where the court stated:

The English acts, just referred to, having been enacted after the settlement and colonization of this state, the question of their application to our jurisprudence becomes material. The Delaware Constitution of September 20, 1776, adopted upon our separation from England and organization into an independent state government, provides by Article 25: "The common law of England, as well as so much of the statute law as has been heretofore adopted in practice in this state, shall remain in force, unless they shall be altered by a future law of the Legislature; such parts only excepted as are repugnant to the rights and privileges contained in this Constitution and the declaration of rights, \* \* \* agreed to by this convention."

The object of this clause was to secure to the people in their transition from a colonial to an independent political state, a jurisprudence already complete and adequate immediately to define and to protect their rights of person and property without awaiting the slow growth of a new system to be thereafter matured by legislation and judicial precedent. Clawson v. Primrose, 4 Del. Ch. 643, 652. It created no new common law nor re-created any old common law, but continued an existing common law with such statutes as had been adopted in practice . . . .<sup>84</sup>

The court held that there was no evidence that the particular English statutes under consideration had been "adopted in Delaware," noting that while it knew of no compilation of English statutes in force in Delaware, it was aware of the list for Pennsylvania found in 3 Binney (Pennsylvania) 595.

---

82. The first volume of Harrington's Delaware reports was not published until 1837. In addition to post-Revolutionary cases contained in the printed reports, there is a group of early Delaware cases decided in several of the Delaware courts, reprinted from manuscript notebooks maintained by attorneys. Delaware Cases: 1792-1830, Daniel J. Boorstin, editor, 3 vols., 1943. Some of the cases in these volumes touching upon the status of British statutes include Burton's Lessee v. Vaughan, 1 Del. Cases 268 (1800), State v. Stansborough, 1 Del. Cases 129 (1797), Bassett's and Clayton's Lessee v. Ellsbury, 2 Del. Cases 99 (1798), Burton v. McCullen, 2 Del. Cases 21, 338 (1793), Evans v. Boggs, 1 Del. Cases 349 (1794). See also, Starr and v. Fisher and Shockley, 1 Del. Cases 611 (1818) relative to the common law.

83. See Clawson v. Primrose, 4 Del. Ch. 643 (1873).

84. Sobolewski v. German, 32 Del. (2 W.W. Harr.) 540 (1924).

Thus, the 1776 constitutional provision continued to be operative with the Delaware courts charged with the responsibility of determining what portions of the common law or of English statutes had been "adopted in practice" but with the authority for any change in what had been "adopted in practice" vested in the legislature.

### District of Columbia

"An Act concerning the District of Columbia," enacted by Congress in 1801, provided:

... the laws of the state of Virginia, as they now exist, shall be and continue in force in that part of the District of Columbia, which was ceded by the said state to the United States, and by them accepted for the permanent seat of government; and that the laws of the state of Maryland, as they now exist, shall be and continue in force in that part of the said district, which was ceded by that state to the United States, and by them accepted as aforesaid.<sup>85</sup>

As discussed earlier in connection with the status of British statutes in Maryland, the Maryland legislature had taken the general position that the British statutes were in force in that jurisdiction as a source of law from which, as a generalization, the courts were free to draw in determining what particular statutes were or were not in force.<sup>85</sup> In contrast to this, Virginia had repealed all of its British statutes — other than those re-enacted as Virginia statutes — in 1792, although it had preserved as a source of law those statutes pertaining to the writs.<sup>86</sup>

There was, apparently, enough confusion over what were the precise laws in force in the District of Columbia to cause Congress, by an act approved April 29, 1816, to direct the preparation of a code of jurisprudence for the district.<sup>87</sup> The code was prepared but no action thereon was taken by Congress. It is, however, of some interest, for it attempted to re-enact all the British, Virginia, and Maryland statutes which Judge Cranch, its compiler, considered suitable,<sup>88</sup> and it further contained the

---

85. 2 Stat. 103. Alexandria County was retroceded to Virginia in 1846. 9 Stat. 35.

86. See *supra*, p. 96 and *infra*, pp. 123-25.

87. "An Act authorizing the judges of the circuit court, and the attorney for the District of Columbia, to prepare a code of jurisprudence for the said district," 3 Stat. 323.

88. Code of Laws for the District of Columbia (1819). The Preface, signed by W. Cranch as one of the Circuit Court judges, stated in part:

"In preparing a substitute for the existing statute law, it was

draft of an act to specifically repeal all British, English, Virginia, and Maryland statutes.<sup>89</sup>

necessary, if possible, to ascertain what the law was. This was not an easy task. By the act of Congress of the 27th of February, 1801, the laws of Virginia, as they then existed, were to remain in force in that part of the District which was ceded by Virginia, and the laws of Maryland in that part which was ceded by Maryland. The laws thus adopted consisted of so much of the common law of England as was applicable to the situation of this country; of the bills of rights, constitutions, and statutes of Virginia and Maryland, modified by the constitution and laws of the United States; and also (in regard to that part of the District ceded by the State of Maryland) of such of the English statutes as existed at the time of the first emigration to Maryland, 'and which, by experience, had been found applicable to their local and other circumstances, and of such others as had been since made in England or Great Britain, and had been introduced, used, and practised by the courts of law or equity' of that state.

"To ascertain, therefore, what was the existing statute law, it was necessary to know what statutes of England, enacted before the first emigration to Maryland, had, by experience, been found applicable to the local and other circumstances of the country, and what statutes, since made in England or Great Britain, had been introduced, used, and practised by the courts of law or equity in that state; and also what statutes of England or Great Britain had been expressly re-enacted by the state of Virginia.

"From these three systems of statutes to select such as were most important and best adapted to the circumstances of the District, to supply such defects as were discovered, and to combine the whole into one code, required more deliberation, and occupied more time, than was anticipated."

89. "AN ACT Respecting the statutes of England, Great Britain, the commonwealth of Virginia, and the state of Maryland." Code of Laws for the District of Columbia 25 (1819).

"SECT. 1. Be it enacted, &c. That no statute of England or of Great Britain, as such, no statute of the commonwealth of Virginia, as such, and no statute of the state of Maryland, as such, (except such statutes of Virginia and Maryland respectively, as have been enacted since the first day of January, seventeen hundred and eighty-nine, and prior to the twenty-seventh day of February, eighteen hundred and one, and were expressly enacted in relation to such parts of the District of Columbia, respectively, as were at the time of the enacting of such statutes under their respective jurisdictions) shall be of any force or validity within the said District of Columbia, but the same, so far as they were in force in the said District, are hereby repealed; and the first section of the act of Congress passed on the twenty-seventh day of February, eighteen hundred and one, entitled, "An Act concerning the District of Columbia," so far as the said section operated to give validity to the said statutes, within the said District, is also hereby repealed. . .

"SECT. 2. And it is hereby declared that the inhabitants of the said District, being citizens of the United States are entitled to the benefit of the common law of England, except so far as the same shall have

Insofar as the area ceded by Maryland was concerned, the British statutes in force at the time of the Act of 1801 were generally considered as remaining in force.<sup>90</sup> The provision in this act, which so provided, was commented upon in 1819 by Justice William Johnson, speaking for the Supreme Court in Bank of Columbia v. Okely. He stated:

The laws of the State of Maryland derive their force, in this district, under the first section of the act of Congress of the 27th of February, 1801. But we cannot admit, that the section which gives effect to those laws amounts to a re-enactment of them, so as to sustain them, under the powers of exclusive legislation, given to Congress over this district. The words of the act are, "The laws of the State of Maryland, as they now exist, shall be and continue in force in that part of the said district, which was ceded by that State to the United States." These words could only give to those laws that force which they previously had in this tract of territory under the laws of Maryland; and if this law [i.e., the statute under consideration by the Supreme Court] was unconstitutional in that State, it was void there, and must be so here. . . .<sup>91</sup>

Twelve years after the decision in Bank of Columbia v. Okely, Chief Justice John Marshall, speaking for the Supreme Court in Cathcart v. Robinson, stated unequivocally: "The statute of Elizabeth [i.e., 27 Eliz., c. 4, An Act against Covinous and fraudulent Conveyances] is in force in this district. . . .<sup>92</sup> Marshall then went on to discuss the construction of the statute; he did not discuss how it came to be in force in the District of

been or may hereafter be repealed by the statutes in force in the said District . . . ."

90. One editorial comment in 1929 noted that "the laws of Great Britain and the early laws of the State of Maryland still in force in the District . . . have been found pertinent by the courts of the District on no less than 127 reported occasions . . . ." District of Columbia Code, ix (1951 ed.).

91. Bank of Columbia v. Okely, 4 Wheat. (17 U.S.) 234, 242 (1819).

92. Cathcart v. Robinson, 5 Pet. (30 U.S.) 264, 280 (1831). In commenting on the construction to be given to the statute of 27 Eliz., c. 4 (relating to fraudulent conveyances), Marshall stated: "The rule, which has been uniformly observed by this court in construing statutes, is to adopt the construction made by the courts of the country by whose legislature the statute was enacted. This rule may be susceptible of some modification, when applied to British statutes which are adopted in any of these states. By adopting them they become our own as entirely as if they had been enacted by the legislature of the state. The received construction in England at the time they are admitted to operate in this country, indeed to the time of our separation from the British empire, may very properly be considered as accompanying the statutes themselves, and forming an integral part of them. But however we may respect subsequent decisions, and certainly they are entitled to great respect, we do not admit their absolute authority. . . ."

Columbia, apparently taking this for granted. Justice Henry Baldwin dissented "as to the construction of 27 Elizabeth. On the other points he agreed with the court." <sup>93</sup>

In 1838 Justice Smith Thompson, in Kendall v. United States discussed the power of the District Court of the District of Columbia to issue a writ of mandamus. He referred to the operation of the Act of 1801, stating in part:

The first section [of the Act of 1801] declares, that the laws of the state of Maryland, as they now exist, shall be, and continue in force in that part of the district which was ceded by that state to the United States; which is the part lying on this side the Potomac, where the court was sitting when the mandamus was issued. It was admitted on the argument, that at the date of this act, the common law of England was in force in Maryland, and of course it remained and continued in force in this part of the district: and that the power to issue a mandamus in a proper case is a branch of the common law, cannot be doubted, and has been fully recognized as in practical operation in that state. . . .

\* \* \* \* \*

. . . There can be no doubt, but that in the state of Maryland a writ of mandamus might be issued to an executive officer, commanding him to perform a ministerial act required of him by law; and if it would lie in that state, there can be no good reason why it should not lie in this district, in analogous cases. . . . <sup>94</sup>

In "An Act To establish a code of law for the District of Columbia," enacted in 1901, Congress provided:

Section 1. The common law, all British statutes in force in Maryland on the twenty-seventh day of February, eighteen hundred and one, the principles of equity and admiralty, all general acts of Congress not locally inapplicable to the District of Columbia and to other places under the jurisdiction of the United States, in force at the date of the passage of this act shall remain in force except in so far as the same are inconsistent with, or are replaced by, some provision of this code. <sup>95</sup>

An analysis of the status of British statutes in the District of Columbia appears in a 1940 District Court decision, Burdick v. Burdick where the court stated in part:

I am of the opinion that the meaning of the expression "all British statutes in force in Maryland on the twenty-seventh day of February, eighteen hundred and one" is ascertainable from an examination of the Maryland Declaration of Rights of 1776. That declaration, in Sec. 3, provided that the inhabitants of Maryland were entitled to "the benefit

93. Cathcart v. Robinson, supra, at 282.

94. Kendall v. United States, 12 Pet. (37 U.S.) 524, 618-19 (1838).

95. 31 Stat. 1189. As of 1962, the provision remains in force in the District of Columbia. See District of Columbia Code §49-01 (1951).

of such of the English statutes, as existed at the time of their first emigration, and which, by experience, have been found applicable to their \* \* \* circumstances." , and also to "the benefit \* \* \* of such others as have been since made in England, or Great Britain, and have been introduced, used and practised by the courts of law or equity." Of course, no British statutes were "in force" in Maryland in 1801 nor had any been in force, legally or literally speaking, since 1783, the date of the treaty establishing the independence of the Colonies, or probably since 1776 when the Colonies declared their independence, but by the Maryland Declaration of Rights of 1776 the Maryland inhabitants were entitled to the benefit of English statutes found applicable to their circumstances and introduced, used and practiced by their courts. This was a simple verbal expedient for the retention of the statutory law as it was unless and until amended by the Legislature of Maryland. It would be unrealistic to assume as contended by defendants, that any act of British Parliament enacted between 1776 and 1801 had any force and effect in Maryland or that Congress in enacting the D.C. Code of 1901 intended any such assumption. Based on the foregoing, it is my opinion that this provision in the D.C. Code, 1901, was intended by the Congress to mean those British statutes to the benefit of which the Maryland inhabitants were entitled under the Maryland Declaration of Rights of 1776 which were still recognized as being in force in Maryland in 1801 as part of the laws of Maryland under which Declaration of Rights, and that this provision did not intend to incorporate in the District of Columbia law, either as amending the common law or otherwise, British statutes enacted between 1776 and 1801. . . . 96

A 1956 Circuit Court of Appeals decision, Manoukian v. Tomasian, was faced with the specific question of the status under the Act of 1901 of Sections 19-104 and 19-105 of the District of Columbia Code, such sections having been derived from the British Statute of 25 Geo. II, Ch. 6, §§1, 7 (relating to gifts to the attestor of a will). After quoting the relevant provision from the Act of 1901 and the Maryland Declaration of Rights of 1776, the court went on to state:

. . . The Declaration of Rights drew no distinction between British statutes which were expressly made applicable to the colonies by Parliament, and those which were not. The statute of George II thus must be given the same force as — and no more than — any other British statute received here by July 4, 1776. . . .

British statutes antedating the Declaration of Independence have almost universally been regarded as having the effect of judicial precedent, rather than legislative enactment. "The common law of the mother country as modified by positive enactments, together with the statute laws which are in force at the time of the emigration of the colonists, becomes in fact the common law rather than the common and statute law of the colony. The statute law of the mother country, therefore, when introduced into the colony of New York, by common consent,

---

96. Burdick v. Burdick, 33 F. Supp. 921, 925 (D.C. D.C. 1940).

because it was applicable to the colonists in their new situation, and not by legislative enactment, became a part of the common law of this province." *Bogardus v. Trinity Church*, N.Y. Ch. 1833, 4 Paige 178, 198, affirmed N.Y.Ct. of Errs. 1835, 15 Wend. 111. Such statutes are for many purposes considered part of our common law... to be applied by American courts like the common law, rather than like enactments of our own legislatures. In substance, they have been received here as "part of our judicial heritage," ... and should be interpreted and applied as such.

... And not only changed conditions but simply the peculiar circumstances of a particular case may justify departure from a rule of the common law to reach a sensible result. ...

Thus, whether we approach this case as one requiring construction of a statute or as one calling for application of common law principles, we think the result should be the same — a result based on reason and justice. We recognize that the old British statutes that have been received in the District of Columbia must be considered well established rules of law, not to be varied without good reason. Nor do we lightly undertake the task of excepting a particular case from the general rule of a statute — old or new. But here we think the course to be taken is plain: to exclude this case from the literal wording of Sections 19-104 and 19-105 [derived from 25 Geo. II, c. 6, §§1, 7 relating to gifts to the attester of a will].<sup>97</sup>

The precise treatment District of Columbia courts in the future will accord British statutes may be in some doubt after this decision in *Manoukian v. Tomasian*. However, within the period 1801 to 1836, there can be no doubt that the district courts were prepared to consider what the status of particular British statutes had been in Maryland on February 27, 1801, and be guided accordingly.

---

97. *Manoukian v. Tomasian*, 237 F. 2d 211, 214-16 (1956).



## CHAPTER 5

### THE SOUTHERN STATES

#### Virginia

In May 1776 the Virginia Assembly passed "An ordinance to enable the present Magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases till the same can be more amply provided for," which provided:

VI AND be it further ordained, That the common law of England, all statutes or acts of Parliament made in aid of the common law prior to the fourth year of the reign of King James the first, and which are of a general nature, not local to that kingdom, together with the several acts of the General Assembly of this colony now in force, so far as the same may consist with several ordinances, declarations, and resolutions of the General Convention, shall be the rule of decision, and shall be considered as in full force, until the same shall be altered by the Legislative power of this colony.<sup>1</sup>

This Ordinance was complemented by a statute approved in December 16, 1776, entitled "An act for establishing a Court of Admiralty," which stated in part:

The said court shall have cognizance of all causes heretofore of admiralty jurisdiction in this country, and shall be governed in their proceedings and decisions by the regulations of the continental congress, acts of general assembly, English statutes prior to the fourth year of the reign of king James the first, and the laws of Oleron, the Rhodian and Imperial laws, so far as the same have been heretofore observed in the English courts of admiralty, save only in the instances hereafter provided for.<sup>2</sup>

Both the Ordinance and the statute relative to the Admiralty Court reflected the overall attitude which prevailed in Virginia throughout the colonial period. English statutes enacted after the fourth year of James the first — i.e., the date on which the

---

1. 9 Hening ed., Statutes at Large of Virginia 127 (1821) [hereinafter cited as Henning ed.]. See also A Collection of all such Public Acts of the General Assembly and Ordinances of the Conventions of Virginia, 37 (1785), known as the "Chancellors' Revisal."

2. 9 Hening ed. 202. See 1 Papers of Thomas Jefferson 645 (Boyd ed. 1950) [hereinafter cited as Boyd ed.]. Jefferson prepared the original draft of the bill and reported it himself on December 4, 1776.

Virginia General Assembly was first constituted — were not in force, unless declared to be in force by the Virginia Assembly or declared by Parliament to extend to the plantations in general or to Virginia in particular.<sup>3</sup> English statutes "of a general nature, not local to that kingdom," enacted prior to 1607 were "in full force," but only to the extent they were consistent with colonial statutes and were considered suited to the conditions of the colony. Such English statutes — i.e., those enacted prior to 1607 — could be applied as rules of decision, but until a court had decided that a particular one should be so applied, it was uncertain just what statutes or parts of statutes were actually in force.<sup>4</sup>

Writing in 1781 and 1782, Jefferson in his "Notes on the State of Virginia" stated:

3. This was consistent with the English position. See Ch. 1 *supra*.

4. Only one such statute which specifically mentioned the colonies is referred to in any cases which have been located. Rogers Adm'r of Rogers v. Spalden, Jefferson 58 (1738) and Harrison v. Halley, 2 Va. Colonial Decisions 80 (1739) both refer to 5 Geo. 2, c. 7 (1732) [16 S. L. 272] "For the more easy recovery of debts in his Majesty's plantations and colonies in America."

It should be noted that there are almost no official court records available prior to the Revolutionary period. The sole exception is the County Court Record of Accomack-Northhampton, 1632-1640, American Legal Records.

Jefferson's Reports, 1730-1740, 1768-1772, contains the following Preface, illustrative of the paucity of reported decisions:

"When I was at the bar of the General Court, there were in the possession of John Randolph, Attorney General, three volumes of MS. Reports of cases determined in that court; the one taken by his father, Sir John Randolph, a second by Mr. Barradall, and a third by Hopkins. These were the most eminent of the counsel at that bar, and give us the measure of its talent at that day. All, I believe, had studied law at the Temple in England, and had taken the degree of Barrister there. The volumes comprehended decisions of the General Court, from 1730 to 1740, as well on cases of English law, as on those peculiar to our own country. The former were of little value, because the Judges of that court, consisting of the King's Privy Counsellors only, chosen from among the gentlemen of the country, for their wealth and standing, without any regard to legal knowledge, their decisions could never be quoted, either as adding to, or detracting from, the weight of those of the English courts, on the same points. Whereas, on our peculiar laws, their judgments, whether formed on correct principles of law, or not, were of conclusive authority. As precedents, they established authoritatively the construction of our own enactments, and gave them the shape and meaning, under which our property has been ever transmitted, and is regulated and held to this day. These decisions, therefore, were worthy of preservation. With this impression, I undertook to extract from those volumes every case of domestic character. They constitute the earlier part of this volume.

A description of the laws.

The general assembly was constituted . . . by letters-patent of March the 9th, 1607, in the fourth year of the reign of James the first. The laws of England seem to have been adopted by consent of the settlers, which might easily enough be done whilst they were few and living all together. Of such adoption, however, we have no other proof than their practice till the year 1661, when they were expressly adopted by an act of the assembly, except so far as "a difference of condition" rendered them inapplicable. Under this adoption, the rule, in our courts of judicature was, that the common law of England, and the general statutes previous to the fourth of James, were in force here; but that no subsequent statutes were, unless we were named in them, said the judges and other partisans of the crown, but named or not named, said those who reflected freely. It will be unnecessary to attempt a description of the laws of England, as that may be found in English publications. To those which were established here, by the adoption of the legislature, have been since added a number of acts of assembly passed during the monarchy, and ordinances of convention and acts of assembly enacted since the establishment of the republic. . . .<sup>5</sup>

Upon the change of sovereignty, English statutes as such could not continue in effect. They might, however, become state statutes through re-enactment by reference. They might also, of course, be rewritten or altered and enacted as state statutes. The Ordinance of 1776, quoted above, re-enacted by reference all English statutes prior to 1606 that were "made in aid of the common law . . . of a general nature, not local to that kingdom," to the extent that they were consistent "with the several ordinances, declarations, and resolutions of the general convention." English statutes after 1606, incorporated by reference or otherwise into colonial statutes in force in 1776, were also made state statutes by the same ordinance.<sup>6</sup>

---

"During the subsequent period, which may be called that of Wythe, Pendleton, the Randolphs, Peyton and John, sons of Sir John, Mason &c. until 1768, an interval of twenty-eight years, no Reports, I think, were ever taken. At the latter date, I began to commit to writing some leading cases of the day, confining myself still to those arising under our peculiar laws, and I continued to do so until the year 1772, when the Revolution dissolved our courts of justice, and called those attached to them to far other occupations. These cases I have added to the former series.

\* \* \* \* \*

TH: JEFFERSON"

5. "Notes on Virginia," 3 Writings of Thomas Jefferson 238 (Ford ed. 1892).

6. For illustrations of the adoption or incorporation of English statutes into the laws of colonial Virginia between 1632 and 1754, see 1

The Virginia Assembly had passed the ordinance continuing in effect the common law and certain English statutes in May 1776. In October 1776 they passed "An act for the REVISION of the LAWS," which provided in part:

Section I. WHEREAS on the late change which hath of necessity been introduced into the form of government in this country, it is become also necessary to make corresponding changes in the laws heretofore in force, many of which are inapplicable to the powers of government as now organised, others are founded on principles heterogeneous to the republican spirit, others which, long before such change, had been oppressive to the people, could yet never be repealed while the regal power continued, and others, having taken their origin while our ancestors remained in Britain, are not so well adapted to our present circumstances of time and place, and it is also necessary to introduce certain other laws, which, though proved by the experience of other states to be friendly to liberty and the rights of mankind, we have not heretofore been permitted to adopt; and

---

Hening ed., note 1 supra, 167, 172, 193, 217, 331, 336, 351, 472, 552 (1809); 3 id. 171, 178, 360 (1812); 4 id. 164 (1814); 6 id. 339 (1819). See comment by F. S. Philbrick to the effect "... that some of the Assembly's early 'Acts' assumed that English statutes could be made law in Virginia merely by publishing them there." 7 American Legal Records, County Court Records of Accomack-Northampton, Virginia, 1632-1640, viii (1954). At "A Grand Assembly holden at James City the 21st of February, 1631-2" the three following acts were adopted. 1 id. 153, 167, 172.

#### ACT XXX

"The statutes for artificers and workemen are thought fitt to be published in this colony. (1 Jacobi c. 6.)"

#### ACT XXXI.

"And the lawes of England agaynst drunkards are thought fitt, to be published and dulle put in execution, that is to say, for every offence to pay five shillings to the hands of the church wardens, and further as is conteyned in the statutes of the 4th of kinge James and the 5th chapter."

\* \* \* \* \*

#### ACT XLIII.

"The statutes and lawes of England agaynst forestallers, and engrossers, to be made known and executed in this colony."

As a collateral illustration of the practical utilization of the laws of England, note the following from the "Extracts of the Minutes of the Proceedings of the Governor and Council of Virginia," 1640, 1 id. 551, 552. "Robert Sweet to do penance in church according to the laws of England, for getting a negroe woman with child and the woman whipt."

whereas a work of such magnitude, labor, and difficulty, may not be effected during the short and busy term of a session of Assembly:

Sect. II. BE it therefore enacted . . . that a committee, to consist of five persons, shall be appointed by joint ballot of both Houses (three of whom to be a quorum) who shall have full power and authority to revise, alter, amend, repeal, or introduce all or any of the said laws, to form the same into bills, and report them to the next meeting of the General Assembly.

\* \* \* \* \*

Sect. V. PROVIDED, that such bills so to be prepared and reported by the Committee of Revisors shall be of no force or authority until they shall have gone through their several readings in both Houses of Assembly, and been passed by them in such manner and form as if the same had been originally introduced without the direction of this act.<sup>7</sup>

On November 5, 1776, the Assembly "RESOLVED, that Thomas Jefferson, Edmund Pendleton, George Wythe, George Mason, and Thomas Ludwell Lee, Esquires, be appointed a committee to revise the laws of this commonwealth."<sup>8</sup> Then in December the Assembly passed "An act for establishing a Court of Admiralty," with its direct reference to the English statutes prior to 1607 and to "the laws of Oleron, the Rhodian and Imperial laws. . . ."<sup>9</sup> The committee of revisors, headed by Thomas Jefferson, met at Fredericksburg on January 13, 1777.<sup>10</sup> In the plan of operation eventually decided upon, Jefferson was responsible for those bills — out of the 126 prepared by the committee — which were based on the common law and English statutes prior to 1607.<sup>11</sup>

On June 18, 1779, a letter was laid before the House of Delegates, signed by Jefferson and Wythe, which stated in part:

---

7. 9 Hening ed. 175. See also Report of the Committee of Revisors 3 (1784).

8. *Id.*

9. See note 2 *supra*.

10. 2 Boyd ed. 305-15 (1950). Writing in 1826, to S. H. Smith, James Madison commented on Jefferson's share in the revision: "The revised Code, in which he had a masterly share, exacted perhaps the most severe of his public labours. It consisted of 126 Bills comprizing and recasting the whole Statutory Code British and Colonial then admitted to be in force or proper to be adopted, and some of the most important articles of the unwritten law, with original laws on particular subjects; the whole adapted to the Independent and Republican form of Government. The work tho' not enacted in the mass as was contemplated has been a mine of Legislative wealth; and a Model also of Statutory Composition, containing not a single superfluous word, and preferring always words and phrases of a meaning fixed as much as possible by oracular treaties or solemn adjudications." Madison Papers, Library of Congress, quoted in Boyd ed. at 313.

11. *Id.* at 315-16. See also *id.* at 658 for "Jefferson's Notes of English Statutes" classified as to those which were doubtful whether or

The committee appointed in pursuance of an act of General Assembly passed in 1776, intituled "An act for the revision of the laws," have according to the requisitions of the said act gone through that work, and prepared 126 bills, the titles of which are stated in the inclosed catalogue. Some of these bills have been presented to the House of Delegates in the course of the present session two or three of them delivered to members of that House at their request to be presented, the rest are in the two bundles which accompany this; these we take the liberty through you of presenting to the General Assembly.<sup>12</sup>

While ultimately more than a third of the 126 bills were enacted by the Assembly, the "revisal was never put into effect as a unit." In fact, it was not until October 1785 that the "proposed revision as a whole was brought forward for consideration. . . ." <sup>13</sup>

In the meantime, however, on June 16, 1783, the General Assembly had directed the Judges of the High Court of Chancery to collect the acts of the General Assembly subsequent to 1769, currently in force.<sup>14</sup> Delays were encountered,<sup>15</sup> and it was not until 1785 that the Chancellors completed "A Collection of All Such Public Acts of the General Assembly and Ordinances of the Conventions of Virginia, Passed since the year of 1768, as are now in force. . . ." Essentially this work, known as the Chancellors' Revisal of 1785, was a compilation or collection. It did not purport to replace the existing laws, a purpose to which, in some substantial measure, the Committee of Revisors appointed under the 1776 act felt itself to be committed.<sup>16</sup>

---

not they should be retained and those which he had omitted but which were "necessary to be taken up." See also "Autobiography," 1 Ford ed., note 5 *supra*, at 59-61.

12. Report of the Committee of Revisors, 3 (1784), See also 2 Boyd ed. 307.

13. 2 Boyd ed. 307.

14. The Resolution of 1783, 9 Hening ed. 176, stated:

"Resolved, That it be an instruction to the executive to cause the several acts of the General Assembly subsequent in date to the revisal in the year 1769, and the ordinances of Convention which are now in force to be collected into one code with a proper index, and marginal notes, to be revised and examined by any two judges of the high court of Chancery: that copies of this code be printed in sufficient numbers for the use of the two houses of Assembly, the several executive boards, the superior courts of justice and the county and corporation courts, that they be covered with paste board: And that the executive be empowered to defray the expense of this collection and of printing the same out of any money in the treasury. Provided nevertheless, That the whole expence attending the same do not exceed the sum of seven hundred and fifty pounds."

15. See "Letter from the Chancellors on the revision of the laws," November 24, 1783, 11 Hening ed. 547 (1823).

16. 2 Boyd ed. 314-15.

One hundred and twenty-six bills were contained in the 1779 Report of the Revisors. Three are of particular importance as regards the status of English statutes in Virginia: Numbers 92, 102, and 126. They were all submitted to the Assembly for action in 1785, but none passed.

Number 92, "A Bill Constituting the Court of Admiralty," provided in part:

... the Court of Admiralty, to consist of three Judges ... shall have jurisdiction in all maritime causes ... and shall be governed in their proceedings and decisions by the regulations of the Congress of the United States of America, by the acts of General Assembly, by the laws of Oleron, and the Rhodian and Imperial laws, so far as they have been heretofore observed in the English Courts of Admiralty, and by the laws of nature and nations. . . .<sup>17</sup>

Thus, was removed the phrase in the 1776 act which directed the admiralty courts to use as a source of law "English statutes prior to the fourth year of the reign of king James the first" while the phrase "the laws of nature and nations" was added.

Number 102, "A Bill for Regulating Proceedings in Courts of Common Law," stated in part:

Be it enacted . . . that all writs, given by the twenty-fourth chapter of the statutes, made in the thirteenth year of the reign of King Edward, the first of England [relating to the issuing of writs in consimili casu], and heretofore in use, shall continue to be used, in the same manner as if that statute were hereby re-enacted. . . .<sup>18</sup>

Bill 126, entitled "A Bill for Repealing Certain Acts of Parliament and of General Assembly" provided in part:

Be it enacted . . . that all acts of the Parliament of England, made before the fourth year of the reign of King James the first of England, except such of them as shall be by this General Assembly enacted, in express words, to be in force, shall be, and are repealed, so far as they concern any persons or things in, or belonging to this commonwealth. And it is declared, that every act, either of the said Parliament of England, made in or after the said fourth year of the reign of the said King James, or of the Parliament of Great-Britain, made since the union of the two kingdoms of England and Scotland, so far as any such act concerned or was intended to concern any persons or things in or belonging to this commonwealth, was and is void, and never had any force, further than such act shall have been particularly enacted or allowed by some act of General Assembly to be in force. . . .<sup>19</sup>

---

17. *Id.* at 572.

18. Report of the Committee of Revisors 71 (1784). See also 2 Boyd ed. 599.

19. Report of the Committee of Revisors 90 (1784). See also 2 Boyd ed. 656. See also *id.* 658 for "Jefferson's Notes of English Statutes."

Neither bill 102 nor bill 126 was enacted. James Madison — who in Jefferson's absence was shepherding the bills through the Assembly — felt it undesirable to press for the passage of the bill repealing the English statutes since the complementary bills for enacting as state statutes such English statutes as were considered desirable to be so incorporated had not been enacted.<sup>20</sup> In December 1786 Madison proposed that a new Committee of Revisors be appointed to salvage as much as possible of the earlier committee's work.<sup>21</sup> Although appointed, it accomplished nothing.<sup>22</sup>

On November 18, 1789, the General Assembly appointed another committee of revisors,<sup>23</sup> and then on November 25, they

---

20. 2 Boyd ed. 657 note. See also *id.* at 323.

21. 12 Hening ed. 409 (1823). See also 2 Boyd ed. 323. The act itself, entitled "An act for completing the revision of the laws," passed on January 2, 1787, stated in part:

" I. FOR completing the revision of the laws, Be it enacted . . . That a committee . . . shall be appointed . . . who shall take into consideration such of the bills contained in the revisal of the laws prepared and reported by the committee appointed for that purpose, in the year . . . [1776] as have not been enacted into laws; shall examine what alterations therein may be rendered necessary, by a change of circumstances or otherwise, and shall make report thereupon to the next meeting of the general assembly, as the said committee shall judge proper.

" II. And be it enacted, That the said committee shall also take into consideration, all acts of assembly passed since the revisal aforesaid was prepared, and shall have full power and authority to revise, alter, amend, repeal or introduce, all or any of the said laws, to form the same into bills, and report them to the general assembly. . . ."

22. 2 Boyd ed. 323-324.

23. "An act concerning a new edition of the Laws of this Commonwealth. . ." 13 Hening ed. 8 (1823) which stated in part:

"Sect. 1 WHEREAS the great number of the laws of this Commonwealth, dispersed as they are through many different volumes, renders it often questionable, which of them are in force; copies of those laws are procured with difficulty, and only at high prices; and so many of them have been repealed, wholly or in part, were temporary and have expired; were occasional, and have had their effect; were private or local, or have been re-enacted in substance, in the laws, taken from the report of the revisors, appointed in the year of our Lord one thousand seven hundred and seventy-six, that scarce a third of them concern the public at large.

"Be it enacted by the General Assembly, That James Mercer, Henry Tazewell, Joseph Prentis, Saint George Tucker, Edmund Randolph, James Innes, John Taylor and John Marshall, Esquires, be appointed, whose duty it shall be, first, to report to the next session of the General Assembly, what English statutes, if any there be, are suited to this Commonwealth, and shall not have been enacted in the form of Virginia laws; secondly, What laws or parts of laws, which are of a general concern, shall remain in force at the close of the present session of



repealed that part of the 1776 ordinance which had continued in force certain acts of parliament.<sup>24</sup> A year later, realizing that although the revisal had been authorized, it had not been prepared,<sup>25</sup> on December 23, 1790, the General Assembly appointed a new committee of revisors.<sup>26</sup> The question of the status of the

---

Assembly; thirdly, What laws on the same subject, ought from their multiplicity to be reduced into single acts; and fourthly, What laws or parts of laws are either unfit to be continued in force, or unnecessary to be published in any code of the laws; fifthly, To prepare and report as aforesaid, marginal notes and a full index to all the laws of the Commonwealth; sixthly, To note in due order of time and report as aforesaid, the titles of all those laws, which may be proper to be omitted, in a general compilation of the laws; and seventhly, To instruct the clerk of the House of Delegates, as far as it may be in their power, how to obtain for the use of his office, copies of those laws, the rolls whereof are lost."

24. "An act repealing a part of the ordinance by which certain English Statutes were declared to be in force within this Commonwealth," 13 Hening ed. 23 (1823), which stated:

"Sect. 1. WHEREAS by an ordinance of convention, intituled "An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases, till the same can be more amply provided for" it is among other things enacted, that "all statutes or acts of Parliament made in aid of the common law, prior to the fourth year of the reign of king James the first, and which are of a general nature, not local to that kingdom, shall be the rule of decision, and shall be considered as in full force, until the same shall be altered by the legislative power of this colony;" and whereas the good people of this Commonwealth may be ensnared by an ignorance of acts of Parliament, which have never been published in any collection of the laws; and it has been thought adviseable by the General Assembly during their present session, specially to enact such of the said statutes as to them appeared worthy of adoption, and did not already make a part of the public code of the laws of Virginia.

"Be it enacted by the General Assembly, That so much of the above recited ordinance, as relates to any statute or act of Parliament, shall be and is hereby repealed; and that no such statute or act shall have any force or authority within this Commonwealth.

"Sect. 2. But all rights arising under any such statute or act, and all crimes and offences committed against the same, at any time before the commencement of this act, shall remain in the same condition in all respects, as if this act had never been made. This act shall commence in force on the first day of January, in the year one thousand seven hundred and ninety-one."

25. For some of the difficulties encountered in preparing a definitive edition of the statutes at large of Virginia from 1618 onward, see 1 Hening ed., Preface, iii-xxii, especially x-xi.

26. "An act to amend an act, intituled 'An act concerning a new edition of the laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the laws and

English statutes, however, remained. In 1791 the General Assembly re-instituted them, declaring that they were to continue in effect "until the revisors shall make report of their proceedings, and the General Assembly shall have acted thereon." <sup>27</sup>

---

resolutions of each session," 13 Hening ed. 130, which stated in part:

"Sect. 1. WHEREAS an act passed at the last session of the General Assembly, intituled "An act concerning a new edition of the laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the laws and resolutions of each session," so far as it relates to the new edition of the laws, has not been carried into effect, and it is thought expedient, that the same should be revised and amended: Be it therefore enacted. . . . That six gentlemen be appointed, whose duty it shall be, First, To prepare bills upon the subject of such British statutes, if any there be, which are suited to this Commonwealth, and have not been enacted in the form of Virginia laws: Secondly, To report what laws or part of laws, which are of a general concern, shall remain in force at the close of the next session of the General Assembly: Thirdly, To prepare bills upon the subject of such laws, as from their multiplicity ought to be reduced into single acts: Fourthly, To report what laws or parts of laws are either unfit to be continued in force, or unnecessary to be published in any code of the laws: Fifthly, To note in due order of time and report the titles of all bills which may be proper to be omitted in a general compilation of the laws: Sixthly, To instruct the clerk of the house of delegates, as far as it may be in their power, how to obtain for the use of his office, copies of those laws, the rolls whereof are lost.

\* \* \* \* \*

"Sect. 4. And be it further enacted, That the following gentlemen, viz. Edmund Pendleton, Henry Tazewell, St. George Tucker, Joseph Prentis, Arthur Lee, and William Nelson, jun. shall, and they are hereby appointed to carry into execution the duties above ascertained. . . ."

27. "An act to amend and explain the act, intituled, 'An act to amend the act, intituled, An act concerning a new edition of the Laws, of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the Laws and Resolutions of each Session,'" 13 Hening ed. 259, which stated in part:

"Sect. 1. WHEREAS by the third section of the act passed at the last session of Assembly, intituled, "An act to amend an act, intituled, an act concerning a new edition of the laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the laws and resolutions of each session," It is enacted, that the said revisors shall make report of their proceedings to the next session of the General Assembly, and that an act passed at the last session, intituled, "An act repealing part of an ordinance by which certain English statutes were declared to be in force within this Commonwealth," shall be, and the same is hereby continued until the General Assembly shall have acted thereon. And whereas doubts have arisen, whether by continuing the last recited act, the said ordinance was not

In 1792 the long-anticipated revisal of the Virginia laws was finally effected. It is important not only because of its treatment of the English statutes, directly and indirectly, but also because it was the second in a series of attempts to provide for a compilation of the laws in force within a state, including such English statutes as were considered as being in force. Though Virginia had attempted to provide for its overall revisal of the laws in 1776, New York, while commencing its revisal later, finished in 1788, four years before Virginia.<sup>28</sup> Each of these two states — to be joined within the decade by New Jersey — apparently proceeded on the theory that insofar as English statutes were in force within its jurisdiction, such statutes should be re-enacted as statutes of the enacting state and all not so re-enacted be declared to be no longer in force.

As a part of the general Revisal of the laws, the General Assembly enacted in December 1792 two statutes, one of minor, the other of major importance. The first, passed on December 12, entitled "An Act reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of the District Courts," provided for the transfer of "cases in which the Court of Admiralty heretofore had jurisdiction by Law, and which are not taken away by the Constitution of the United States. . . to the District Courts to be proceeded on as the Law requires in the said Court of Admiralty."<sup>29</sup>

The second, enacted on December 27, 1792, follows:

An Act repealing under certain Restrictions, all Statutes or Acts of the Parliament of Great-Britain, heretofore in Force within this Commonwealth.

---

repealed, and for removing such doubts, as well as to declare and explain the law thereon, Be it enacted, That so much of the said act as repeals a part of the ordinance by which certain English statutes were declared to be in force within this commonwealth, shall be deemed, taken, and considered to have been suspended, until the revisors shall make report of their proceedings, and the General Assembly shall have acted thereon.

"Sect. 2. And be it further enacted, That the said recited ordinance, so far as the same relates to the said statutes, shall continue to be in force."

28. See supra pp. 69-72.

29. A Collection of all such Acts of the General Assembly of Virginia, of a Public and Permanent Nature, as are now in force, 80 (1792). See also 13 Hening ed. 427, 432, (1823). The theoretical question might be raised as to whether this had impliedly left in force the English statutes prior to 1607 under the authority of the Act of 1776 relating to the Court of Admiralty.

WHEREAS by an ordinance of convention, passed in the month of May, in . . . [1776], intituled, "An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases, "till the same can be more amply provided for," it is among other things ordained, "That the common law of England, all statutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of King James the first, and which are of a general nature, not local to that kingdom, together with the several acts of the General Assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations and resolutions of the general convention, shall be the rule of decision, and shall be considered in full force, until the same shall be altered by the legislative power of this colony."

II. AND whereas the good people of this commonwealth may be ensnared by an ignorance of acts of parliament, which have never been published in any collection of the laws, and it hath been thought advisable by the General Assembly, during their present session, specially to enact such of the said statutes as to them appear worthy of adoption, and do not already make a part of the public code of the laws of Virginia.

III. BE it therefore enacted by the General Assembly, That so much of the above recited ordinance as relates to any statute or act of parliament, shall be, and is hereby repealed; and that no such statute or act of parliament shall have any force or authority within this commonwealth.

\* \* \* \* \*

V. SAVING moreover to this commonwealth, and to all and every person and persons, bodies politic and corporate, and each and every of them, the right and benefit of all and every writ and writs, remedial and judicial, which might have been legally obtained from or sued out of any court or jurisdiction of this commonwealth, or the office of the clerk of any such court or jurisdiction, before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully and amply, to all intents, constructions and purposes, as if this act had never been made; any thing herein contained, to the contrary, or seeming to the contrary, notwithstanding. 30

This act which repealed the Ordinance of 1776 is noteworthy for two reasons in addition to the unequivocal statement that no English "statute or act of parliament shall have any force or authority within this commonwealth." In the first place, it stated that the Assembly had already enacted such of the English statutes as had appeared to them "worthy of adoption" which were not already "a part of the public code of the laws of Virginia." To this extent, the 1792 act paralleled the action of the New York legislature and anticipated that of New Jersey. Secondly, the unique and distinguishing feature of the Virginia statute was

---

30. A Collection of all such Acts of the General Assembly of Virginia, of a Public and Permanent Nature, as are now in force, 302 (1792). See also 1 Shepherd, ed., Statutes at Large of Virginia (N.S.) 199 (1835).

in the provision which saved "the right and benefit of all and every writ and writs, remedial and judicial which might have been legally obtained . . . before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully and amply . . . as if this act had never been made."

Thus the thrust of this 1792 act reflects the thinking of Thomas Jefferson embodied in his drafts of bills 102 and 126 submitted to the General Assembly in the Report of the Revisors prepared in 1779. The English statutes were discarded; the important ones already had been incorporated as Virginia statutes into the laws of the state. The remedial and judicial writs, however, and the rights and benefits arising thereunder, had been retained.

This, however, is not the only impact Jefferson had upon the laws of Virginia. Hening's edition of the Statutes at Large, covering the period through the 1792 session of the General Assembly, contains footnotes showing the source of the sections of the particular bills. In a number of these sources appear the notation "Rev. Bills of 1779," referring to the 1779 Report of the Revisors.<sup>31</sup> The 1819 Revised Code of the Laws of Virginia contains marginal references which show whenever a particular section of any Virginia statute had its source in an English statute.<sup>32</sup> As it was known that Jefferson was responsible for the preparation of those bills in the Revisors' Report of 1779 which were based on the English statutes and the common law, whenever an act is noted in Hening as originating in the "Rev. Bills of 1779" and also is noted in the 1819 edition of the Virginia Statutes as having been derived from one or more English statutes, it is reasonable to assume that this particular act was prepared by Jefferson.<sup>33</sup> Moreover, such an act will also reflect Jefferson's decision that such English statute, when rewritten, was proper to be incorporated into the laws of Virginia.

The Revised Code of the Laws of Virginia, published in 1819 under the authority of the General Assembly, contained the following provision:

All acts and parts of acts, of a general nature, which shall not be published in the code aforesaid, pursuant to the directions of this act,

---

31. See e.g., 12 Hening ed. 160, 166, 185, 334.

32. 1 Revised Code of the Laws of Virginia iv (1819) [hereinafter referred to as Revised Code].

33. For a table, setting out the extent to which the subject matter of English statutes was covered by the Revised Code of 1819, see Blume & Brown, "Territorial Courts and Laws: Unifying Factors in the Development of American Legal Institutions — Part II. Influences Tending To

either entire or by their titles, shall be, and the same are hereby repealed. . . .<sup>34</sup>

Unify Territorial Law," 61 Michigan Law Review 467 at 535 (1963). The following table is based on the more extensive one noted above.

| <u>Title of Act</u>                                                                                                                                       | <u>Hening ed.,<br/>Statutes at Large<br/>Reference</u> | <u>Revised<br/>Code of 1819<br/>Reference</u> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|-----------------------------------------------|
| "An Act to prevent Frauds and Perjuries"                                                                                                                  | 12:160                                                 | 1:372                                         |
| "An Act providing that wrongful Alienations of Lands shall be void so far as they be wrongful"                                                            | 12:166                                                 | 1:368                                         |
| "An Act declaring that none shall be condemned without Trial, and that Justice shall not be sold or deferred"                                             | 12:186                                                 | 1:595                                         |
| "An Act forbidding and punishing Affrays"                                                                                                                 | 12:334                                                 | 1:554                                         |
| "An Act against Conspirators"                                                                                                                             | 12:334                                                 | 1:553                                         |
| "An Act providing that Actions popular prosecuted by Collusion, shall be no bar to those which may be pursued with good Faith"                            | 12:354                                                 | 1:615                                         |
| "An Act for the Suppression and Punishment of Riots, Routs, and unlawful Assemblies"                                                                      | 12:331                                                 | 1:556                                         |
| "An Act prescribing a Method of protesting Inland Bills of Exchange, and allowing Assignees of Obligations to bring Actions thereupon in their own Names" | 12:350                                                 | 1:483                                         |
| "An Act against conveying or taking pretended Titles"                                                                                                     | 12:335                                                 | 1:375                                         |
| "An Act against Usury"                                                                                                                                    | 12:337                                                 | 1:373                                         |
| "An Act allowing a Bill of Exceptions to be Sealed"                                                                                                       | 13:10                                                  | 1:523                                         |

34. "An Act providing for the re-publication of the Laws," March 12, 1819, 1 Revised Code 16.

However, the Revised Code contained the sixth section of the Ordinance of 1776<sup>35</sup> and the 1792 legislation repealing "under certain restrictions, all Statutes or Acts of the Parliament of Great Britain, heretofore in force within this Commonwealth."<sup>36</sup> Thus the cluster of English statutes dealing with remedial and judicial writs was continued in force by the General Assembly.

The effect of the 1792 act in continuing the use of the writs reached the Virginia Court of Appeals in 1825. Dykes & Co. v. Woodhouse's Adm'r dealt with the question of whether an administrator de bonis non could "maintain an action of debt, or scire facias, upon a judgment obtained by an executor for a debt due by the testator." The opinion stated in part:

... The statute of Westm. 2, Cap. 19, authorised creditors to sue the ordinary; and the same statute, Cap. 45, authorised a scire facias against him. But neither of these statutes authorised the ordinary or administrator to sue for the debts due to the intestate; and at common law, neither could sue for such debts. It was not until the 31 Ed. 3, Cap. 11 ... that any authority was given to an administrator, to sue for debts. ...

\* \* \* \* \*

It is said, that the scire facias in personal actions was given by the statute of Westm. 2, Cap. 45, and did not exist at common law. Bac. Abr. Scire Facias, C. 1. Lord Holt, in Withers v. Harris, 2 Salk, 600, doubted whether this was true as a general proposition, but submitted to the weight of authority. I think any one who will examine the statute at large, will agree with Lord Holt. It will be found that the statute gives only a scire facias after the year and the day, instead of a new action, which was necessary at the common law, and a scire facias against the ordinary; and these are the only cases expressly provided for. No scire facias is given to an executor, and of course, not to an administrator; for an administrator could not then sue at all, in right of his intestate. If the great variety of scire facias's, in use in England, sprang out of this statute, it must have been upon a most uncommonly liberal construction. It is, however, immaterial from what source this process was derived, whether from the common law or statute. It came to us upon the settlement of the colony, and has been preserved by the exception in our act repealing the British statutes.<sup>37</sup>

In 1827 Commonwealth v. Winstone raised the question of the status of an English statute which had been declared to be in force in Virginia during the colonial period by the General Assembly. The statute under consideration, 8 Hen. 6, c. 12 (relating to the examination of court records) was held not to be in

---

35. Id. at 135.

36. Id. at 136.

37. Dykes & Co. v. Woodhouse's Administrator, 24 Va. (3 Randolph) 287, 290-91 (1825).

force, not because it had been repealed in 1792 but because the Revised Code of 1819 had repealed all acts not included therein and the particular colonial statute had not been included. The opinion stated in part:

At the common law, an error committed by the Court, not in a point of judgment, but such as might be called a misprision of the Court, could be amended; but, no misprision of the clerk was amendable after the term . . . By the 14th Edw. 3, chap. 6 (which was the first act of amendment) it is enacted, that by the misprision of clerks in every place wheresoever it be, no process shall be annulled or discontinued, by mistaking in writing one letter or one syllable too much or too little, &c. but shall be hastily amended in due form. . . .

The most important English statute on this subject, is 8th Hen. 6, chap. 12, by which Judges had power to examine records, and in affirmance of judgments, to amend all that to them, in their discretion, should seem to be the misprision of the clerk.

In 1753, 6 Stat. at Large, 339, it was enacted that all the English acts of jeofail and amendment, shall be in full force in this Dominion also. Under the statute of 8th Hen. 6, many decisions have taken place in England, drawing the line of distinction between misprisings of the clerk, and errors in judgment. . . .

[The court then held that the facts showed that there had been a clerical error.]

\* \* \* \* \*

But, it is said, that the English statutes were not in force here, when this case arose; and that is very true. I consider, however, that by the statute of 1753, they were incorporated into our laws, as much as if they had been repeated verbatim; and they were not repealed by the subsequent declaration, that British statutes (as such) should no longer be in force here; but that they were repealed by the clause in the revisal of 1819, declaring that all laws, not included in that revisal, should be repealed. . . . 38

This had been the Virginia position. The Code of Virginia, in effect on January 1, 1962, contained the following provision:

The right and benefit of all writs, remedial and judicial, given by any statute or act of Parliament, made in aid of the common law prior to the fourth year of the reign of James the first, of a general nature, not local to England, shall still be saved, so far as the same may consist, with the Bill of Rights and Constitution of this State and the Acts of Assembly. 39

---

38. *Commonwealth v. Winstone*, 26 Va. (5 Randolph) 546, 547-50 (1827). See also *Cathcart v. Robinson*, 30 U.S. (5 Pet.) 264, 279-80 (1831) where Chief Justice John Marshall, in dealing with the construction of British statutes by the Virginia courts threw out as dictum: ". . . . By adopting them [i.e. British statutes] they became our own as entirely as if they had been enacted by the legislature of the state. . . ."

39. Virginia Code § 1-11.



Kentucky

The first state organized west of the Alleghenies, Kentucky, was admitted to the Union in 1791, having been "formed" out of Virginia.<sup>40</sup> Its initial constitution, adopted in 1792, provided in part:

All laws now in force in the State of Virginia, not inconsistent with this constitution, which are of a general nature, and not local to the eastern part of that State, shall be in force in this State, until they shall be altered or repealed by the legislature.<sup>41</sup>

The Constitution of 1799 was somewhat more specific. It stated:

All laws which, on the first day of June, one thousand seven hundred and ninety-two, were in force in the State of Virginia, and which are of a general nature, and not local to that State, and not repugnant to this constitution, nor to the laws which have been enacted by the legislature of this commonwealth, shall be in force within this State, until they shall be altered or repealed by the general assembly.<sup>42</sup>

Substantially the same provision was in force as of January 1, 1962.<sup>43</sup> Thus from the date of its organization as a separate state, Kentucky continued its existence with the same laws it had possessed when a part of Virginia. Among those laws so continued in force was the Ordinance of 1776, in which the Virginia General Assembly had stated:

...the common law of England, all statutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of King James the first, and which are of a general nature, not local to that kingdom, together with the several acts of the general assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations, and resolutions of the general convention, shall be the rule of decision, and shall be considered as in full force, until the same shall be altered by the legislative power of this colony.<sup>44</sup>

This ordinance was in force in Virginia on June 1, 1792, as it

---

40. "An Act declaring the consent of Congress, that a new State be formed within the jurisdiction of the Commonwealth of Virginia, and admitted into this Union, by the name of the State of Kentucky," February 4, 1791, 1 Stat. 189.

41. Constitution of 1792, Art. VIII, §6. See 3 Thorpe ed., *Federal and State Constitutions, Colonial Charters, and Other Organic Laws*, 1264, 1272 (1909). [Hereinafter cited as Thorpe.]

42. Constitution of 1799, Art. VI, §8. See Thorpe 1277 at 1286.

43. Constitution of 1891, as amended, §233. See Thorpe 1316, 1351.

44. 9 Hening ed., *Statutes at Large of Virginia*, 127 (1821). See also *A Collection of all such Public Acts of the General Assembly and Ordinances of the Conventions of Virginia*, 37 (1785), known as the "Chancellors' Revisal."

was not repealed until November of that year.<sup>45</sup> Hence, "the common law of England, all statutes or acts of parliament made in aid of the common-law prior to . . . [1607]" became the "rule of decision" for Kentucky. There was, however, one important exception. The language of the Constitution continued in effect the laws of Virginia. As a consequence, whenever the Virginia General Assembly had enacted a statute which superseded or replaced an English statute, the Virginia statute and not its English predecessor or counterpart was in force in Kentucky.

On December 7, 1793, the Kentucky General Assembly passed an act entitled, "An Act for the revision of the Laws of this Commonwealth." Its purpose was explained as follows:

WHEREAS, on the separation of this state from that of Virginia, the Convention declared all the laws then in force in that state and not of local nature, in force also in this state, in consequence of which there are multiplied laws on the same subject; And it is necessary and proper, that a revision should be made of all the British Statutes and acts of the Assembly now in force in this state, and a selection of such as ought to continue in force, and that the different acts on the same subject should be brought into one point of view.<sup>46</sup>

That the revision contemplated was designed to encompass all the statutes then in force, not being merely limited to the British statutes, is reinforced by a re-enactment of the act of 1793 in 1795,<sup>47</sup> when a list of the duties of the revisors was added to the original language. The Act of December 17, 1795, stated in part:

Sec. I. Be it enacted. . . That two persons shall be appointed by joint ballot of both houses, whose duty it shall be, first, to prepare bills upon the subject of such British Statutes, if any there be which are suited to this commonwealth, and have not been enacted in the forms of acts of assembly.

Secondly, to report what laws or parts of laws which are of a general concern shall remain in force at the close of the next session of the General Assembly, after they have completed the work; thirdly, to prepare bills upon the subject of such laws as from their multiplicity

---

45. A Collection of all such Acts of the General Assembly of Virginia, of a Public and Permanent Nature, as are now in force, 302 (1792). See also 1 Shepherd ed., Statutes at Large of Virginia (N.S.) 199 (1835).

46. "An Act for the revision of the Laws of this Commonwealth," Acts of Kentucky 1793, 43 (1794).

47. "An Act concerning the Revision of the laws," Acts of Kentucky 1795, 53 (1796). See also "An Act to revive and continue an act, entitled 'An Act for the revision of the laws of this commonwealth,' " December 7, 1794, which merely re-enacted the 1793 statute. Acts of Kentucky 1794, 48 (1795).

ought to be reduced into single acts. And, Fourthly, to report what laws or parts of laws are either unfit to be continued in force or unnecessary to be published in any code of laws. . . . Provided, that such bills so to be prepared and reported by the said revisors, shall be of no force, until they shall have been passed in such manner and form as if the same had been originally introduced without the direction of this act.

Under this act, the revisors submitted their first revisions to the General Assembly in 1796 and continued to present bills yearly through 1798. During these years, the General Assembly passed a series of acts, each dealing with a particular subject reducing to one the existing laws governing that subject matter.<sup>48</sup>

The last of these bills to "reduce into one the several acts concerning. . ." was enacted in 1798. In 1799 the state adopted its second constitution which continued in effect in Kentucky the laws in force in Virginia on June 1, 1792. Then in 1802, the General Assembly enacted two provisions, one on December 20, and the other on December 22, which repealed certain English statutes or categories of English statutes. The first of these statutes provided as follows:

. . .whereas a mode of prosecuting and punishing offences has been provided by act of assembly, differing in some cases, from that which had before been provided by the common law, or by the English statutes: Be it enacted, That in such cases, the provisions of the common law, or of the English Statutes, shall be, and the same is hereby repealed.<sup>49</sup>

The second statute stated in part:

And be it further enacted, That the statutes of the 39th of Elizabeth chapter the 15th [denying benefit of clergy to certain offenders], the 5th and 6th of Edward the 6th chapters the 9th and 10th [denying benefit of clergy to certain offenders], the 8th of Elizabeth chapter the 4th [denying benefit of clergy to certain felons], the 5th of Elizabeth chapter 14 [relating to forgeries], the 5th Henry the 4th Chapter the 4th [relating to the "multiplication of gold or silver"], the 37th of Henry 8th chapter 6th [relating to the burning of frames], the 43d of Elizabeth chapter 7th

---

48. The subjects covered by the acts "to reduce into one the several acts. . ." included the following: county courts and justices of the peace, proceedings in civil cases, courts of quarter-sessions, limitations of acts, ferries, proceedings in chancery courts, executions and insolvent debtors, land boundaries, descents, conveyances, "examination and trial of Criminals, Grand and Petit Juries, Venires. . .", wills and intestates' estates together with executors and administrators, "a Permanent Revenue," "Assignment of Bonds and other writings," authenticating foreign deeds and other records, bills of exchange.

49. "An Act to amend an act entitled 'an act directing the mode of revising the Criminal Common Law, and providing for the appointment of Revisors, and for other purposes, [']' Acts of Kentucky 1802, 146, 148 (1803).

[relating to misdemeanors], . . . all English statutes and laws relating to witchcraft, to false and pretended prophecies, and to religious doctrines and observances; any statute which imposes a penalty for exercising a trade without having served an apprenticeship; all laws and statutes which provide for the punishment of offences for which other punishments are provided by act of assembly, together with all laws, statutes and acts or parts thereof, which come within the purview of this act, shall be, and the same are hereby repealed.<sup>50</sup>

That the 1802 legislation "repealed" certain acts of Parliament suggests widespread acceptance of the fact that English statutes were in force in the state. Anti-British feeling, however, was responsible for the proposal to the legislature, made in 1807, that all acts of Parliament and the common law be repealed and that no English precedent be hereafter cited in a Kentucky court. The proposal as originally laid before the state Senate stated:

Resolved, Therefore, that no report of cases or decisions had in the courts of England, ought to form precedents by which the courts in this commonwealth ought in any manner to be bound.

Resolved, That the common law of England, and all acts of parliament of Great Britain made in aid thereof, so far as the same has been in force in this state, be repealed.

Resolved, That the laws regulating judicial proceedings in this commonwealth need amendment.<sup>51</sup>

Henry Clay was instrumental in causing the resolution as originally drafted to be modified to apply only to English precedents handed down after July 4, 1776.<sup>52</sup>

---

50. "An Act in addition to an act, entitled 'an act to amend the act, entitled an act to amend the Penal Laws of this Commonwealth,'" Acts of Kentucky 1802, 107, 118 (1803).

51. Senate Journal 1807-1808, 6 (1808). There is considerable evidence of the existence of pronounced anti-British feeling among the senators, but to judge from the Journal, it was provoked by overt acts of the English rather than by their legal system as such. This appears to have been a convenient scapegoat. See *id.* at 6, 7, 8, 20, 61. See also Senate Journal, 1808-1809, 21 (1809).

52. "An act prohibiting the reading of certain reports in this commonwealth," February 12, 1808, Acts of Kentucky 1807-8, 23 (1808). The act itself stated: "Be it enacted . . . That all reports and books containing adjudged cases in the kingdom of Great Britain, which decisions have taken place since the 4th day of July, 1776, shall not be read nor considered as authority in any of the courts of this commonwealth; any usage or custom to the contrary notwithstanding." Bullock & Johnson, eds., General Statutes of Kentucky, 610 (1873) show the following variant: "The decisions of the Courts of Great Britain, rendered since . . . [July 4, 1776], shall not be binding authority in the courts of Kentucky, but

This ban on the use of post-Independence precedents, however, had no effect on the status of such pre-1607 English statutes as had been continued in force under the Virginia Ordinance of 1776 and the Kentucky constitutions of 1792 and 1799. In 1810, William Littell completed his two-volume compilation of The Statute Law of Kentucky.<sup>53</sup> The second volume contained a Preface in which Littell explained the criteria he had applied in determining whether or not particular English statutes were in force in Kentucky. In the Appendix he listed "all the acts of parliament and of Virginia, of a general nature, remaining in force in the state of Kentucky. . . ." <sup>54</sup> Then in 1822 came a Digest of the Statute Law of Kentucky which placed "the English . . . Statutes yet in force . . . ." under the several topic headings.<sup>55</sup>

Although Littell's compilation cannot be classed as an official publication, it was widely cited in Kentucky decisions, and hence becomes of considerable importance. In his Preface he stated in part:

An examination of the English statute-book, for a period of nearly six hundred years, must be admitted to be a laborious task, even if it was all in one language: but this labor is rendered irksome and disgusting, by the variety of uncouth languages in which these statutes were written. It is true that the largest part of them were, about three hundred years ago, translated into the English of that day; but it is equally true, that many of them have never yet been translated. Of those which still remain in the Norman language, I have discovered none which I consider in force here, and only two in the Latin; these I have published without attempting any translation; understanding it to be an admitted rule, that a translation of a law has no authority, unless made by one appointed by the government for that purpose.

Those who are well acquainted with the English statute-book, will probably wonder why I have rejected so many acts of parliament; and those unacquainted with it, will equally wonder why I have retained so many. It is not to be expected, on a subject like this, that any thing I could say, would satisfy either the one or the other. I will, however, give a brief account of my views as to some.

With the strongest wishes to believe that the common law, and most of the statute law of England on the subject of fines, was in force in this

---

may be read in court and have such weight as the judges may think proper to give them." The Kentucky Revised Statutes (1953), §447.040 state: "The decisions of the courts of Great Britain rendered since July 4, 1776, shall not be of binding authority in the courts of Kentucky . . . ." For an account of the part played by Henry Clay see 1 Mallory ed., *Life and Speeches of Henry Clay*, 29 (1843).

53. Littell ed., *The Statute Law of Kentucky* (2 vols., 1809-1810).

54. 2 *id.* 493-584.

55. Littell & Swigert, eds., *Digest of the Statute Law of Kentucky*. . . (2 vols. 1822). See, for example, "Jeofails and Amendments," 2 *id.* 682, "Officers," *id.* 792, "Penal Laws," *id.* 1012.

country, I was, on a thorough examination, compelled to decide that none of it was in force.

My reason for excluding all the acts respecting bankruptcy, was, that I did not think any of our judges authorised to issue a commission of bankruptcy.

Some statutory provisions for the punishment of offences have become obsolete, from the great change which has taken place in the value of money. A fine of four pence, for an atrocious fraud, was once an adequate punishment: it would now be a burlesque on vindictive justice.

Those who may be disposed to think that too many acts have been retained, are respectfully reminded, that when Mr. Bradford's first volume was published [i.e., Bradford ed., *Laws of Kentucky*, 2 vols. 1799, 1807], it was very generally believed to contain all the statute law in force in this country. This delusion was then almost universal; and not more than five years ago, two highly respected circuit judges told me that they did not consider a single act of parliament to be in force in this state.

These facts I considered as sufficient evidence, that on a subject so remote from popular view, public opinion, however general, was at any time a most delusive guide. I of course made no further inquiries respecting it; but employed myself in comparing the statute-books of Kentucky, Virginia, and England, together — rejecting what the constitution of Virginia bade me reject, and retaining what that had retained. Wherever I found that Virginia had, previous to the year 1792, adopted an act of parliament, and no similar one was to be found in our code, I have taken the Virginia instead of the English act.

I have never consulted my inclination in either excluding or retaining an act: conscious at all times, that whether it was in force or not, did not depend on my volition, or any opinion I might entertain of its merit or demerit, but upon the constitutions of Kentucky and Virginia. If it shall be found that some of the laws which I have published as being in force, contradict the adjudications of all the courts in the state, I cannot help it. A judicial decision, that no law exists on a particular subject, does not repeal a law actually existing. . . .

\* \* \* \* \*

I respectfully recommend the careful perusal of the appendix, to those who apprehend danger from that part of the English law remaining in force here. I am inclined to think that they will cease to consider it as oppressive or immoral in its tendency.

The Acts of Parliament which Littell considered to be in force in the state were listed in his Appendix under the following headings: <sup>56</sup>

---

56. Although Littell's headings have been used, they have been rearranged in alphabetical order and his method of statute citation has been altered to conform to contemporary usage.

Actions Personal, and Proceedings Therein

- 52 Hen. 3 (Marlbridge), c. 23 (1267)
- 13 Edw. 1 (Westminster 2), Stat. 1, c. 11 (1285)
- 13 Edw. 3, c. 30 (1285)
- 2 Edw. 3, c. 17 (1328)
- 9 Edw. 3, c. 3 (1335)
- 25 Edw. 3, Stat. 5, c. 17 (1350)
- 37 Edw. 3 (1363)
- 38 Edw. 3 (1363)
- 6 Rich. 2, c. 2 (1382)
- 2 Hen. 4, c. 7 (1400)
- 4 Hen. 4, c. 23 (1402)
- 11 Hen. 4, c. 3 (1409)
- 8 Hen. 6, c. 10 (1429)
- 9 Hen. 6, c. 4 (1430)
- 10 Hen. 6, c. 4 (1432)
- 6 Hen. 8, c. 4 (1514)
- 2 Phil. & M., c. 7 (1555)

Administration

- 21 Hen. 8, c. 4 (1529)
- 21 Hen. 8, c. 5 (1529)

Aliens

- 32 Hen. 8, c. 16 (1540)

Attornies

- 20 Hen. 3, c. 10 (1235)
- 6 Edw. 1, c. 8 (1278)
- 13 Edw. 1, c. 10 (1285)
- 15 Hen. 6, c. 7 (1436)
- 18 Hen. 6, c. 9 (1439)
- 32 Hen. 8, c. 30 (1540)
- 18 Eliz., c. 14 (1576)
- 29 Eliz., c. 5 (1587)

Chancery Proceedings

- 17 Rich. 2, c. 6 (1393)
- 15 Hen. 6, c. 4 (1436)
- 31 Hen. 6, c. 9 (1452)

Common Informers

- 18 Eliz., c. 5 (1576)
- 31 Eliz., c. 5 (1589)

Conveyances and Estates

- 4 Edw. 1, c. 6 (1276)
- [Incerti temporis] "A Statute introducing Tenancy by Curtesy"
- 18 Edw. 1, c. 1 (1290)
- 35 Edw. 2 (1322)
- 39 Hen. 6, c. 2 (1461)
- 1 Rich. 3, c. 1 (1483)
- 27 Hen. 8, c. 16 (1535)\*

Crimes and Criminal Proceedings

- 3 Edw. 1, c. 9 (1275)
- 3 Edw. 1, c. 26 (1275)
- 3 Edw. 1, c. 29 (1275)
- 3 Edw. 1, c. 37 (1275)
- 28 Edw. 1 (1300)
- 33 Edw. 1, Stat. 3 (1305)
- 1 Edw. 3, c. 8 (1327)
- 14 Edw. 3, c. 10 (1340)
- 18 Edw. 3, Stat. 1 (1344)
- 18 Edw. 3, Stat. 2, c. 5 (1344)
- 25 Edw. 3, c. 3 (1350)
- 27 Edw. 3, c. 10 (1353)
- 1 Rich. 2, c. 9 (1377)
- 6 Rich. 2, c. 6 (1382)
- 8 Rich. 2, c. 3 (1385)

\*Littell stated with respect to this statute: "There is no doubt but that all the provisions of this act have been superseded by the acts of assembly, but it has been retained from a consideration of the great importance of thoroughly understanding the adjudications which have been had on it." 2 Littell 496.

- 5 Hen. 4, c. 10 (1403)
- 18 Hen. 6, c. 14 (1439)
- 32 Hen. 8, c. 9 (1540)
- 2 & 3 Edw. 6, c. 15 (1548)
- 5 & 6 Edw. 6, c. 23 (1552)
- 5 Eliz., c. 21 (1562)
- 8 Eliz., c. 3 (1565)
- 23 Eliz., c. 8 (1581)
- 27 Eliz., c. 6 (1585)
- 35 Eliz., c. 8 (1593)
- 1 & 2 Jac., c. 18 (1604)
- 3 Jac., c. 21 (1605)

#### Escheators

- 18 Hen. 6, c. 7 (1439)
- 23 Hen. 6, c. 17 (1444)
- 1 Hen. 8, c. 9 (1509)
- 2 & 3 Edw. 6, c. 8 (1548)

#### Executors

- 13 Edw. 1 (Westminster 2),  
Stat. 1, c. 18 (1285)
- 13 Edw. 1, c. 45 (1285)

#### Fraudulent Administration

- 43 Eliz., c. 8 (1601)

#### Fraudulent Conveyances

- 27 Eliz., c. 4 (1585)

#### Interest

- 20 Hen. 3, c. 5 (1235)

#### Land Measure

- [Stat. Incerti Temporis]  
"Measures for Land"

#### Leap Year

- 21 Hen. 3 (1236)

#### Leases and Leasehold Estates

- 21 Hen. 8, c. 15 (1529)

- 32 Hen. 8, c. 28 (1540)

- 32 Hen. 8, c. 34 (1540)

#### Marriage and Pre-Contracts

- 32 Hen. 8, c. 38 (1540)

#### Proceedings in Actions Real

- 6 Edw. 1 (Gloucester),  
c. 1 (1278)
- 6 Edw. 1, c. 2 (1278)
- 13 Edw. 1 (Westminster 2),  
Stat. 1, c. 4 (1285)
- 13 Edw. 1, c. 7 (1285)
- 13 Edw. 1, c. 23 (1285)
- 20 Edw. 1 (Statute de De-  
fensione Juris) (1292)
- 9 Rich. 2, c. 3 (1385)
- 13 Rich. 2, c. 17 (1389)
- 21 Hen. 8, c. 3 (1529)

#### Rents, Distress, etc.

- 51 Hen. 3, Stat. 4 (1266)
- 52 Hen. 3, c. 1 (1267)
- 52 Hen. 3, c. 3 (1267)
- 52 Hen. 3, c. 4 (1267)
- 32 Hen. 8, c. 38 (1540)

#### Sheriffs

- 13 Edw. 1, c. 39 (1285)
- 2 Edw. 3, c. 5 (1328)

#### Weights and Measures

- [Stat. Incerti Temporis]  
"Measures"
- 2 Hen. 6, c. 11 (1423)
- 9 Hen. 6, c. 8 (1430)
- 1 Rich. 3, c. 13 (1483)
- 11 Hen. 7, c. 5 (1496)
- 23 Hen. 8, c. 4 (1531)



In 1839, the Kentucky Court of Appeals had before it the question of whether the English mortmain acts were in force in Kentucky. The court in Lathrop v. The Commercial Bank of Scioto held that they were not but in the opinion discussed the status in Kentucky of British statutes in general, stating in part:

By an ordinance of 1776, Virginia adopted "the common-law of England, and all statutes or acts of parliament made in aid of the common-law, prior to the fourth year of King James I, and which were of a general nature, and not local to that kingdom."

And the eighth section of the sixth article of the constitution of Kentucky adopted, with certain qualifications, "all laws which, on the 1st of June, 1792, were in force in the state of Virginia."

Unless the British mortmain acts were in force in Virginia on the 1st of June, 1792, they have never been in operation in Kentucky. Virginia, had never, prior to June, 1792, specially enacted any mortmain statute, and therefore, if the mortmain acts of England, prior to the fourth James I, were all "local to that kingdom" no part of them was ever in force in either Virginia or Kentucky.

\* \* \* \* \*

Without further amplification, the foregoing considerations are sufficient, in our judgment, to authorize the conclusion that the mortmain acts of England were altogether local, and that none of them were ever applicable, or considered applicable, to Virginia. . . .

And if those statutes were not applicable to Virginia in 1776, they were not adopted by the ordinance of that year, which embraced only such statutes as were "of a general nature, and not local" to England.

It is, therefore, our opinion that none of the mortmain acts of England are, or ever have been, in force in Kentucky. <sup>57</sup>

The Kentucky courts have continued to take the position that such English statutes as were in force in Virginia on June 1, 1792, have continued to be in force in Kentucky until "altered or repealed by the General Assembly."

---

57. Lathrop v. The Commercial Bank of Scioto, 38 Ky. 76, 81-85, 8 Dana 114, 121-127 (1839). In accord Coleman v. O'Leary's Ex'r, 114 Ky. 388, 406-409, 70 S.W. 1068 (1902). See also Nider v. Commonwealth, 140 Ky. 684, 686, 131 S.W. 1024 (1910) where the court stated:

"... If this was an offense at common law, then it would also be an offense in this State, even if we had no statute on that subject, as the common law of England and all acts of parliament made in aid thereof have since the organization of this State been a part of the body not only of the criminal but the civil law, except where it has been abrogated or superseded by statute, or is repugnant to the spirit of our laws or the public policy of the State. . . .

\* \* \* \* \*

"That the crime we are considering was an offense at common law is shown by an act of parliament passed in the reign of Queen Elizabeth. . . .

"That this parliamentary statute is a part of the common law in force in this State, except to the extent that it has been modified by

### North Carolina

In 1817, the General Assembly of North Carolina appointed a commission to revise and consolidate its public acts, and "to enumerate and specify those statutes and parts of statutes of Great-Britain which are in force within this State."<sup>58</sup> The commissioners, after an account of the operation of British statutes in the colony and the state,<sup>59</sup> listed the British statutes in force in 1817.<sup>60</sup>

Their report, a lengthy one, stated in part:

In order to meet the enquiry, what [British] statutes were in force before 1778, it became necessary to consider, in the first place which of them began to operate with the first settlement of the country by emigrants from Great-Britain.

This event took place in 1665, the date of the charter of Charles the Second; and the colonists brought with them from the mother country, all such statutes then in force as were applicable to their situation, to the country, and their new way of life. Their infant settlements required a legislation of a new character more simple, clear and determinate, than could be obtained by indiscriminate adoption of the English statutes; a very large proportion of which were suitable to England alone, and could not without evident absurdity be extended to Carolina. Of this description, were the laws relative to the King's prerogative, the rights of the nobility and clergy, the trade and revenue of England, and even many of those

---

section 1155 of the Kentucky Statutes, is apparent from a consideration of the section of the Constitution and the cases before mentioned. It was passed in aid of the common law, that is to supply a deficiency or an omission in that law and prior to the reign of King James the First, who succeeded Elizabeth on the throne of England, and it is not repugnant to the spirit of our laws or our public policy."

The same position was taken by the Kentucky courts in *Campbell v. W.M. Ritter Lumber Co.*, 140 Ky. 312, 131 S.W. 20 (1910). Decisions referring to the common law alone include *Commonwealth v. Donoghue*, 250 Ky. 343, 63 S.W. 2d 3 (1933) and *Ruby Lumber Co. v. K.V. Johnson Co.*, 299 Ky. 811, 187 S.W. 2d 449 (1945).

58. *A Manual of the Laws of North Carolina* 354 (4th ed. 1819).

59. 1 *Laws of the State of North Carolina* iv-vi (1821). The two-volume work was entitled: *Laws of the State of North-Carolina including The Titles Of Such Statutes And Parts Of Statutes Of Great Britain as are in force in said state.*

60. In arranging the statutes, the commissioners placed the list of British statutes immediately after the Treaty of Peace with Great Britain and before the earliest North Carolina provincial statutes of 1715, under the following title: "Statutes and Parts of Statutes of Great Britain, Reported As Being In Force In This State, By The Commissioners Appointed Under The Act of 1817, Entitled, 'An Act For The Revision Of The Acts Of The General Assembly.' The statutes so listed are arranged in chronological order, with the year and reign appearing in the first column, the 'Title of the Statutes, and Remarks' in the second column, and in the third column the 'Book & page of Ruffhead's edit.' "

sanguinary penal laws, whose policy, questionable even in a rich, commercial and populous country, must be ill adapted to the condition of a few agriculturalists, inhabiting a wilderness.

The next object of enquiry was, what statutes were extended to the colony after the date of the charter, either by the terms of the statutes themselves, and adopted here, or were enforced by legislative acts of the Proprietary, Regal or State Governments.

The charter of the lords proprietors invested them with the power of enacting laws with the assent of the freemen; but what was the course of proprietary legislation for the first fifty years after the settlement of the colony, there are no accessible means of ascertaining. In 1715, the date of the first acts which are extant, the legislature avow that it is often disputed how far the laws of England are in force in the colony; and to put an end to the doubts upon the subject, they deduce from the words of the charter, what perhaps would have more clearly resulted from the general principles of colonization, that the laws of England are the laws of the colony, so far as they are "compatible with our way of living and trade." But they go further, and adopt many statutes by general description, passed both before and after the settlement of the colony, which would not otherwise have been in force, either in consequence of any general principle, or as the necessary construction of the charter.<sup>61</sup>

---

61. "An Act for the more effectual observing of the Queen's Peace, and establishing a good and lasting Foundation of Government in North Carolina. . . ." (1715) Iredell ed., *Laws of North Carolina* 17 (1791), provided in part:

"... it appearing by the Charter, that the powers therein granted of making Laws, are limited with this Expression, viz. 'Provided, Such Laws be consonant with Reason, and as near as may be, agreeable to the Laws and Customs of our Kingdom of England.' From thence it is manifest, That the Laws of England are the Laws of this Government, as far as they are compatible with our Way of Living and Trade.

"VI. Be it therefore enacted. . . That the Common Law is, and shall be, in Force, in this Government, except such Part in the Practice, in the Issuing and Return of Writs, and Proceedings in the Court of Westminster; which for Want of several Officers cannot be put in Execution; which ought to be supplied by Rules of the General Court of this Government, being first approved of by the Governor and council, which shall be good in Law, from Time to Time, till it shall be altered by Act of Assembly.

"VII. AND be it further enacted. . . That all Statute Laws of England, made for maintaining the Queen's Royal Prerogative, and the Security of her Royal Person, and Succession of the Crown, and all such Laws made for the Establishment of the Church, and the Laws made for the Indulgence to Protestant Dissenters, and all Laws providing for the Privileges of the People, and Security of Trade; as also, all Statute Laws made for Limitation of Actions, and preventing Immorality and Fraud, and confirming Inheritances and Titles of Land, are and shall be in Force here, although this Province, or the Plantations in general, are not therein named. . . ."

It should be noted that this 1715 act did not speak of laws in force at the time of the establishment of the colony nor of those which were suitable to the condition of the colony. It did reject certain portions of

Some of these were abrogated by the revolution, others became merged in the declaration of rights, which secured the privileges of the people in a more enlarged and effectual manner; and the residue have been superseded by laws, providing for the same subjects. There is one statute, however, passed after the date of the charter, which was adopted in 1715, under the designation of those which provided for the privileges of the people, which still retains its authority to a certain degree. The statute adverted to is the 31st Charles II, chapter 2nd, commonly called the habeas corpus act. Although the immunity of the subject from unjust imprisonment is proclaimed by magna-charta and the petition of right, 3 Car. I. c. 1, and that of the citizen is still more strongly fortified by the declaration of rights, yet, with the exception of the habeas corpus act, there is neither statute nor act of Assembly which prescribes and enforces the method of obtaining the writ, and regulates the details of redress. . . .

Some other statutes passed posterior to the charter, are also now in force in this state, either because they were enforced in 1715, or at some later period, and are not incompatible with the constitution, and have not been repealed or otherwise provided for; or because they were originally made to extend to the state, and have been practically adopted. Of the former description, are the statutes for the amendment of the law; of the latter, are the 5th George II, c. 71, "An act for the more easy recovery of debts in his Majesty's plantations and colonies in America," of which the fourth section is in force; and the 12th George III, ch. 20. "An act for the more effectual proceeding against persons standing mute on their arraignment for felony or piracy." 62

the common law which could not "be put in Execution." Moreover, it clearly stated that it was not necessary that either "this Province, or the Plantations in general" be named in a British statute in order for that statute to be in force in North Carolina. Instead, it established particular categories of British statutes and declared them to be in force.

62. In 1749 the General Assembly again addressed itself to the question of what British statutes should be in force in the Province. On October 16, 1749, it enacted a statute entitled: "An Act to put in Force in this Province, the several Statutes of the Kingdom of England, or South-Britain, therein particularly mentioned." Laws of North Carolina, 1749, Ch. I. The act was subsequently disapproved by an Order In Council, April 8, 1754. Such disapproval was consistent with the general attitude of the British Crown toward colonial efforts to re-enact English statutes or to declare English laws in force. See Russell, Review of American Colonial Legislation by the King in Council (1915).

The text of the 1749 act stated in part:

"I. Whereas many of the Statute Laws of the Kingdom of England, or South-Britain, by Reason of the different Way of Agriculture, and the different Productions of the Earth of this Province, from that of England are altogether Useless, and many others, which otherwise are very apt and good, either by reason of their Limitation to particular Places, or because in themselves they are only Executive by such nominal Officers are not in, nor suitable for the Constitution of this Government, are thereby become impracticable here.

"II. Be it therefore Enacted. . . That the several Statutes, and

The Commissioners are apprehensive that a detailed exposition of the reasons for inserting or omitting each particular statute, might be deemed tedious or unprofitable, but so far as the whole subject is susceptible of a general analysis, the result of the whole is, that when any British statute, passed between the years 1225, the earliest of the British statutes, and 1665, the date of the second charter of Charles II, to the proprietors of Carolina. . . both inclusive, is not contained in the list, the reasons are either,

1. Because it was unsuited to the condition of the colonies.

the several Paragraphs or Sections of the several Statutes of the Kingdom of England intituled as followeth, and made and Enacted in such Years of the Reigns of the Kings and Queens of England as before the Titles of the several Statutes, as in this Act set down, are, and are hereby to be in as full Force, Power, and Virtue, as if the same had been specially Enacted and made for this Province, or as if the same had been made and Enacted there in, by any General Assembly thereof: That is to say:

"Magna Charta

" 9 Henry III. Chap. 1. An Act for confirmation of Liberties.  
[For the list of the British statutes contained in this act, see Part IV infra.]

\* \* \* \* \*

"VI. And be it further Enacted. . . That all and every Part of the Common Law of England, where the same is not altered by the above enumerated Acts, or inconsistent with the particular Constitutions, Customs, and Laws of this Province, excepting so much thereof as hath Relation to the ancient Tenures. . . and also excepting that Part of the Common Law which relates to Matters of Ecclesiastical, which are inconsistent with, or repugnant to, the Settlement of the Church, of England in this Province, by the Acts of Assembly thereof; be, and is hereby made and declared to be in as full Force and Virtue within this Province, as the same is, or ought to be, within the said Kingdom of England: . . . .

\* \* \* \* \*

"XI. And be it further Enacted . . . That all the Statute Laws of the Kingdom of England, which are not enumerated and made of Force in this Province by this Act (such only excepted which relate to, or concern his Majesty's Customs, and the Acts of Trade and Navigation,) are hereby declared not adapted, or applicable to, the Circumstances of this Province.

"XII. Provided nevertheless, . . . That because few of the Statute Laws of the Kingdom of England, made since the Eleventh Year of the Reign of his present Majesty King George the Second, have been transmitted to this Province; It is hereby Enacted, That all Statute Laws made within the Kingdom of England since the said Eleventh Year of the Reign of his said Majesty King George the Second, shall be deemed, construed, and taken, to have such and the same Relation and Force in this Province. . . as the same might, could, or ought to have had, if this Act had never been made."

2. The same objects have been provided for, by the legislature of the Proprietary, Regal or State Government.

3. It has been annulled by the change from the Proprietary to the Regal Government, which took place in 1728, or by that from the Regal to the Independent Sovereignty established in 1776.<sup>63</sup>

When any British statute, passed since 1665, is inserted in the list, the reasons are either,

1. It has been enforced by some legislative act; or,

2. It has been extended by its terms to the colonies and adopted in practice.

Since, as noted by Judge Henderson in State v. Antonio,<sup>64</sup> decided in 1825, the "report was not either sanctioned by law or disapproved; it was simply ordered to be published," the question of what British statutes were in force remained unresolved. In the case referred to, the following opinions were delivered:

Hall, Judge. — The privilege extending to aliens the right to a jury de medietate lingue was granted by stat. 28 Ed. 3. ch. 13. re-enacted by the 8th Hen. 6. ch. 29. It is contended that those statutes are in force in this state, and that that privilege has been improperly withheld from the prisoner in this case. It is said that the act of 1715, New Rev. ch. 5. enforces those statutes. That act declares, that all statute laws of England, provided for the privileges of the people, limitations of actions, preventing vexatious law-suits, immorality and fraud, confirming inheritances and titles to land, shall be in force. It is farther argued, that the act of 1778, New Rev. ch. 133. embraces them. That act declares, that all such statutes and such parts of the common law as were in force and use as are not destructive of or repugnant to the freedom

---

63. In 1778, the General Assembly of the State of North Carolina passed "An Act to enforce such Parts of the Statute and Common Laws as have been heretofore in Force and Use here, and the Acts of Assembly made and passed when this Territory was under the Government of the Late Proprietors and the Crown of Great-Britain. . . ." Laws of North Carolina, 353 (Iredell, 1791). The act stated in part:

"I. WHEREAS Doubts may arise, upon the Revolution in Government, whether any and what Laws continue in Force here: For Prevention of which,

"II. BE it enacted. . . That all such Statutes and such Parts of the Common Law, as were heretofore in Force and Use within this Territory, and all the Acts of the late General Assemblies thereof, or so much of the said Statutes, Common Law, and Acts of Assembly, as are not destructive of, repugnant to, or inconsistent with the Freedom and Independence of this State, and the Form of Government therein established, and which have not been otherwise provided for, in the Whole or in Part, not abrogated, repealed, expired, or become obsolete, are hereby declared to be in full Force within this State. . . ."

64. State v. Antonio, 11 N. Car. (4 Hawks) 201 (1825).

and independence of this state, &c. and which have not been provided for, in whole or in part, &c. are declared to be in full force.

If those British statutes were in force before the revolution, I do not think the latter act of assembly excluded them; but I do not think they were in force by the first recited act. That act, so far as relates to this question, enforces such as provided for the privileges of the people; the statutes in question provides for the privilege of aliens. I admit, however, that many statutes of Great-Britain had become the law of this state before the time of passing that act. When the state was first settled as a colony of Great Britain, the colonists brought with them, as their birthright, the laws of the mother country, namely, such parts of the common law, and statutes that were incorporated with it, as were suitable to their situation at the time of their migration; such as the statute 4 Ed. 3 ch. 7. de bonis asportatis in vita testatoris, the statute of uses, and the statutes of Eliz. against fraudulent conveyances to defraud creditors, &c. And if the statutes we are now considering were suitable and proper for the government and well being of the colonists at that time, and were not afterwards repugnant to or inconsistent with the freedom and independence of the state and form of government therein established, I admit they are in force at this time. But it seems to me that those statutes were in their nature local; they were founded more in commercial policy than in general principles calculated to answer alone the ends of justice and reach the objects of criminal law. . . .

In the infancy of the settlement of this country, the habits of the colonists were agricultural; their trade and commerce were altogether in the hands of the mother country; a quite different policy prevailed from that which dictated the statutes of Ed. 3. and Hen. 6.; and the question which we have now to decide is, not whether such a law extending the privilege to aliens would be suitable to our present situation, as it seems many of the states have thought it would be, but whether it was suitable to our situation as an infant colony at that time; for if that was not the case, and on that account it was not adopted at that time, it is not the law at this day, for it has never been enforced by any positive law.

I therefore think, as the reasons which induced the parliament in England to enact those statutes, were not good reasons why they should be enforced by the colonists, as not being applicable to their then situation, the Court below gave a correct judgment in refusing the prisoner the jury he prayed for.

Henderson, Judge. — I concur in the opinion given by Judge Hall, and for the reasons given by him. The policy which induced the parliament of England to pass the statutes of Edward, was to encourage foreign merchants, and possible artists, to come and trade with and reside among them. This policy is not only declared in the act itself, but in the act of Henry 6. complaining of the construction given to an act of Henry 5. respecting the qualification of jurors. In the colonial system, the policy was certainly inverted. Foreign merchants were prohibited from trading with us; and artists were certainly not encouraged, for it was the policy of the mother country to supply the colonists with manufacturers of her own production, and to keep the colonists engaged in the cultivation of the earth, to grow the raw materials for the manufactures of the mother country. . . Our ancestors, therefore, did not bring with the statute of Edward. This law, I think, was territorial, and confined to England; it

was unsuited to the situation of the colonists. If it was not brought with our ancestors, there is no act either of the colonial government, the mother country, or of our present government, which imposes it. The last act upon the subject enforces such acts of the British government as had been in force and use here, and were compatible with our form of government. If, therefore, it had not been in force before, that act did not enforce it. I am at a loss to declare the meaning of the words in use, as used in that act; I am now, and heretofore have been, much perplexed to ascertain its meaning; but I am satisfied that it produces no such effect, as enforcing the act in question. I would mention, also, the various acts of our legislature on the subject of the qualification and appointment of jurors, as affording some evidence, although, I admit, not conclusive, that the law of Edward was not considered as being in force. I do not mean to say, that had the act of Edward been in force, that these provisions would repeal it, for I think that they might be made to stand together; but only as affording some evidence that the law was not in use, and sufficiently strong to repel the evidence of its being in use, arising from its having been used by Judge Williams once or perhaps twice at Wilmington; if such partial and solitary instances of its being in use would satisfy that word in the act of 1778.

I place no reliance on the report of the gentlemen on the subject, who lately revised our statutes. That report was not either sanctioned by law or disapproved; it was simply ordered to be published. . . This subject was brought before the legislature by the report, and it was simply ordered that it should be published, without expressing any opinion thereon. It was saying, that it must depend on its own merits, we will neither give it our sanction or disapprobation.

I, therefore, concur with Judge Hall, that there should be judgment for the state.

Taylor, Chief Justice. — It is difficult, perhaps impossible, to arrive at exact demonstration on a subject that involves the question whether an ancient British statute, passed nearly five hundred years ago, is now in force in this state. There are no certain guides to direct us in an inquiry of this sort; for the darkness that hangs over the early legislation and judicial history of this state, the dearth even of traditional knowledge, has left us little to resort to but general principles and reasoning, and no confidence that more can be done that grouping together the strongest probabilities. . . .

In order to ascertain whether the prisoner has been legally convicted, I shall consider two questions; 1st, whether the statute of 28 Ed. 3. allowing to aliens a trial de medietate lingue, forms a portion of that statute law of Great Britain, which the first settlers of this state brought with them from the mother country; 2dly, if it does, then, whether it has been repealed, or superseded by any legislative act of our own.

It seems to be agreed by the writers on the subject, that colonists who settle a new and uninhabited country, carry with them the laws of the parent country as their birth-right, so far as such laws are applicable to their situation, and the condition of an infant colony; or in the language of an early act of assembly, the laws of England were, at first migration of our ancestors, the laws of this province, "so far as



they were compatible with our way of living and trade." (1715, sec. 1.) <sup>65</sup>

At the legislative session of 1836-1837, the North Carolina General Assembly once again revised the state statutes. In a Preface to the Revised Statutes of 1837,<sup>66</sup> the legislative history of the state was set out with an account of the treatment of the British statutes. In this Preface, reference was made to a collection of English statutes published in 1792<sup>67</sup> and approved by the General Assembly in 1804,<sup>68</sup> which had been prepared by François-Xavier Martin, a French émigré who later distinguished himself as a jurist in Louisiana.<sup>69</sup>

... in obedience to a resolution of the General Assembly of the preceding year [i.e., 1791], [he] published a "Collection of the statutes of the Parliament of England in force in the State of North Carolina," of which work it may only be remarked that it was utterly unworthy of the talents and industry of the distinguished compiler, omitting many important statutes, always in force, and inserting many others, which never were, and never could have been in force, either in the Province or in the State of North Carolina. . . . <sup>70</sup>

65. For an extract from the 1715 act referred to, see note 61 supra.

66. Revised Statutes of North Carolina (1837).

67. Martin, A Collection of the Statutes of the Parliament of England in force in the State of North Carolina (1792). In the Preface to the Collection, Martin stated in part:

"I began at Magna Charta. . . . From thence to the seventeenth year of Charles the Second, the time at which the people of this country first legislated for themselves, I have inserted every statute unrepealed by subsequent acts, or which did not appear so glaringly repugnant to our system of government as to warrant its suppression. From the seventeenth of Charles, I have published such statutes as have been expressly enforced by act of Assembly, as those commonly called the statutes of jeofails, and the 5 Geo. 2, c. 7, which was intended by Parliament to operate in the British colonies of North-America, has ever been taken notice of by our courts of judicature, and was, I believe, for many years the only authority under which they issued writs of fieri facias against real estates.

"All the statutes relating to the benefit of clergy have been preserved. They are a key that opens the way to the knowledge of a part of our criminal jurisprudence, which ought to be clearly known and understood.

"Since the abolition of tenures in fee-tail, the statutes respecting fines and recoveries may be said to have become obsolete. Those, nevertheless, with a few others, relative to that species of tenure, I have thought it improper to reject, as a great deal of property in this state is still secured under them; and in a few instances, an obsolete statute has been retained, having been deemed necessary for the illustration of others. . . ."

68. A Manual of the Laws of North Carolina 354 (4th ed., 1819).

69. 12 Dictionary of American Biography 335 (1928).

70. Revised Statutes of North Carolina xii (1837).

The Preface to the Revised Statutes of 1837, however, did not mention an earlier and unofficial listing of the British statutes appearing in 1814 and 1815 in the Carolina Law Repository. Although fragmentary, it serves to indicate the need on the part of North Carolina attorneys to know what statutes of England were considered to be in force in the state.<sup>71</sup>

In the course of the General Assembly's statutory revision of 1836-1837, they enacted two complementary statutes. The first, "An Act Declaring What Parts of the Common Law Shall Be In Force In This State" declared:

... all such parts of the common law, as were heretofore in force and use within this State, or so much of the said common law as is not destructive of, or repugnant to, or inconsistent with, the freedom and independence of this State and the form of government therein established, and which has not been otherwise provided for in the whole or in part, not abrogated, repealed, or become obsolete, are hereby declared to be in full force within this State.

The second, "An Act Concerning The Revised Statutes" provided in part:

... all the statutes of England or Great Britain heretofore in use in this State, are hereby declared to be repealed and of no force and effect from and after the first day of January next. . . .<sup>72</sup>

The General Statutes of North Carolina, in force January 1, 1962, provide:

All such parts of the common law as were heretofore in force and use within this State, or so much of the common law as is not destructive of, or repugnant to, or inconsistent with, the freedom and independence of this State and the form of government therein established, and which has not been otherwise provided for in whole or in part, not abrogated, repealed, or become obsolete, are hereby declared to be in full force within this State.<sup>73</sup>

---

71. "An Abridgment of the Statute Law of Great-Britain, Now in Force in North-Carolina," Carolina Law Repository (1814) 549-555; 4 North Carolina Reports, Part II, 294-303. While the Abridgment may have been completed by its compiler, only the titles from "Accessory" through "Felons and Felony" were printed.

72. Revised Statutes of North Carolina 52-53 (1837). The Journals of the Senate and House of Commons of the General Assembly of the State of North Carolina 1836-1837 (1837) furnish no explanation for the repeal of the British statutes, although they provide full information concerning the enactment of the bill by both branches of the General Assembly.

73. General Statutes of North Carolina §4-1. *State v. Mitchell*, 202 N.C. 439, 444, 163 S.E. 581 (1932) construed §4-1 as follows: "It is generally conceded that so much of the common law as is in

South Carolina

In 1694, South Carolina made the first attempt by any legislative body in North America to deal with the status of English statutes. "AN ACT to put in force the several Acts of the Kingdom of England therein particularly mentioned" was ratified on June 20, 1694.<sup>74</sup> Unfortunately, no text of this act has been located.<sup>75</sup> It was confirmed by "A Declaration and Repealing Act," ratified March 10, 1696,<sup>76</sup> and was not repealed until 1712 when a more comprehensive statute was enacted.<sup>77</sup> This Act of 1712 remained in force throughout the colonial period and was not repealed until 1872.<sup>78</sup>

The Act of 1712 stated in part:

WHEREAS, many of the statute laws of the Kingdom of England or South Britain, by reason of the different way of agriculture and the differing productions of the earth of this Province from that of England, are altogether useless, and many others, (which otherwise are very apt and good) either by reason of their limitation to particular places, or because in themselves they are only executive by such nominal officers as are not in nor suitable for the Constitution of this Government, are thereby become impracticable here.

I. Be it enacted. . . That the several statutes, and the several paragraphs and sections, or number of the paragraphs of the several statutes of the Kingdom of England, entituled as followeth, and made and enacted in such years of the reigns of the Kings and Queens of England, as before the titles of the several statutes is in this Act set down, and as the same are distinguished and divided into paragraphs and sections or numbers, by Joseph Keble of Gray's Inn, Esq., in his Statutes at Large, from Magna Charta . . . to the fifteenth day of November, 1709, . . . are and are hereby to be in as full force, power and virtue as if the same had been specially enacted and made for this Province, or as if the same had been made and enacted therein by any General Assembly thereof, (that is to say,)

[Here follows a list, identified by regnal year, title, and page reference to the proper volume of the Statutes at Large, of 168 separate items, referring to the specific chapters in the several statutes.]

force by virtue of this provision is subject to legislative control and may therefore be modified or repealed. But there are parts of the common law which are not subject to modification or repeal by the Legislature because they are imbedded in the Constitution."

74. 2 Cooper ed., Statutes at Large of South Carolina 81 (1837); Trott ed., Laws of the Province of South-Carolina 37 (1837).

75. 2 Cooper ed. 81 (1837). Cooper stated: "The original Act not now to be found."

76. 2 Cooper ed. 135 (1837); Trott ed. 65.

77. "An ACT to put in Force in this Province the several Statutes of the Kingdom of ENGLAND or SOUTH-BRITAIN, therein particularly mentioned," 2 Cooper ed. 401 (1837); Trott ed. 236.

78. Revised Statutes of the State of South Carolina 778 (1873).

\* \* \* \* \*

V. And be it further enacted. . . That all and every part of the Common Law of England, where the same is not altered by the above enumerated Acts, or inconsistent with the particular constitutions, customs and laws of this Province, excepting so much thereof as hath relation to the ancient tenures which are taken away by Act of Parliament made in the twelfth year of the reign of King Charles the Second, chapter 24th [relating to tenures in capite]. . . whereby it is enacted that all tenures by the common law, whether held of the King or any other person or persons, are turned into free and common soccage, and which statute, as to that part of it which doth enact that all tenures be turned into free and common soccage, is hereby enacted and declared to be of as full force in this Province as if particularly enumerated by this Act; and also excepting that part of the common law which relates to matters ecclesiastical, which are inconsistent with or repugnant to the settlement of the Church of England in this Province, by the several Acts of Assembly thereof, be and is hereby made and declared to be in as full force and virtue within this Province, as the same is or ought to be within the said Kingdom of England. . . .

\* \* \* \* \*

X. And be it further enacted. . . That all the statute laws of the Kingdom of England which are not enumerated and made of force in this Province by this Act (such only excepted which relate to or concern Her Majesty's customs, and the Acts of Trade and Navigation,) are hereby declared impracticable in this Province.

XI. Provided nevertheless, . . . That because few or none of the statute laws of the Kingdom of England, made since the eighth year of her present Majesty's reign, have been transmitted to this Province, all statute laws made within the Kingdom of Great Britain since the eighth year of the reign of her present Majesty, shall be deemed, construed and taken to have such and the same relation to and force in this Province, and on all her Majesty's subjects inhabiting and dwelling in the same, as the same might, could, or ought to have had, if this Act had never been made.

Two additional acts relating to particular British statutes were passed during the colonial period, one in 1737 and the other in 1743. They were, however, quite different in the methods employed. The statute enacted in 1737 re-enacted part of an act of Edward VI (relating to the buying and selling of offices) and parts of two acts of George II (relating, inter alia, to forgery).<sup>79</sup> The statute enacted in 1743 declared part of one act of Edward VI and all of another of the same sovereign (both relating to

79. 3 Cooper ed. 468 (1838). The complete title of the act read:

"AN ACT for putting in force in this Province part of An Act of the Parliament of England, made in the fifth and sixth years of the reign of King Edward the sixth, against buying and selling of Offices, and also part of an Act of the Parliament of Great Britain made in the second year of the reign of our present most gracious sovereign Lord King George the second, entituled 'An Act for the more effectual preventing and further punishment of Forgery, Perjury and subornation of Perjury,

horse stealing) "to be in full force in this Province, to all intents and purposes whatsoever."<sup>80</sup>

Thus, at the end of the colonial period, in 1776, South Carolina had specifically incorporated into her laws, via the acts of 1712 and 1743, particular statutes of England, with the statement that they were "... be to in as full force, power and virtue as if the same had been specially enacted and made for this Province, or as if the same had been made and enacted therein by any General Assembly thereof. . . ."

The South Carolina Constitution of 1778 continued in effect the laws then in force stating:

XXXIV. That the resolutions of the late congress of this State, and all laws now of force here, (and not hereby altered,) shall so continue until altered or repealed by the legislature of this State. . . .<sup>81</sup>

The Constitution of 1790 provided:

All laws of force in this State at the passing of this constitution shall so continue, until altered or repealed by the legislature. . . .<sup>82</sup>

In 1809, an edition of the Public Laws of South Carolina, edited by John Faucheraud Grimké, was published. The Preface stated in part:

and to make it Felony to steal Bonds, Notes or other securitys for payment of money,' and also part of one other Act of the Parliament of Great Britain, made in the seventh year of the reign of his said present Majesty, entituled 'An Act for the more effectual preventing the forging and the acceptance of Bills of Exchange, or the numbers or principal sums of accountable receipts for notes, bills or other securitys for payment of money or warrants or orders for payment of money or delivery of goods, and for the more effectual putting in execution the said several acts in this Province.' "

80. 3 Cooper ed. 603 (1838). The Act of 1743, entitled "AN ACT to prevent Stealing of Horses and Neat Cattle. . . ." stated in part:

"I. And be it enacted. . . That an Act of Parliament made in the first year of the reign of King Edward the Sixth, entitled an Act for the Repeal of certain statutes concerning treason and felonys, &c. in so far as the same relates to the felonious stealing of horses, geldings or mares — and also another Act of Parliament, made in the second and third years of the reign of the said King, entitled a Bill for horse and horse stealers, are, and are hereby declared, immediately from and after the passing of this Act, to be in full force in this Province, to all intents and purposes whatsoever."

81. Constitution of South Carolina, 1778, Article XXXIV. See 1 Cooper ed. 137, 144 (1836); 6 Thorpe 3248 at 3255.

82. Constitution of South Carolina, 1790, Article VII. See 1 Cooper ed. 184, 190; Thorpe 3258, 3264.

I have given at large all such acts, parts and sections of acts of assembly, as are of a public nature; and have inserted all the British Statutes which were made of force in 1712; a very few excepted, and which, the change of our political situation renders no longer of any force or efficacy. Their titles, however, are mentioned.

... I compiled therefore several other British Statutes (in Appendix No. 1) which are declared to be of force by some act of Assembly, either expressly or virtually; also such as have been determined in the courts of law to have an operation here, and likewise some which may by parity of reason, implication, or construction or the uniform practice of our courts be deemed and adjudged to be of force. . . Perhaps I may lay this down as a general rule, that all those British Statutes which are stiled "vetera statuta" & "statuta incerti temporis" are of force in this State; but undoubtedly it must be left to the courts of justice ultimately to determine, whether many of the said statutes are not obsolete or totally inapplicable to our present independent government. Besides these statutes contained in No. 2, of which there are a considerable number, I have inserted in No. 2, all the statutes relative to the retailers of spiritous liquors, and in No. 3, those which declare the parliamentary privileges of the members of the houses of Assembly. . . .<sup>83</sup>

In 1814, Joseph Brevard published An Alphabetical Digest of the Public Statute Law of South Carolina.<sup>84</sup> He first classified the statutes of the state according to subject matter and then arranged them in chronological order under the separate headings. Among these statutes, he included the particular English statutes which had been declared to be in force, thus equating them with those enacted directly with the General Assembly.<sup>85</sup>

The South Carolina General Assembly authorized the governor in December 1834 to employ "som fit and competent person, to compile under his direction the Statute Law of this State . . ."<sup>86</sup>

83. Grimké ed., Public Laws of South Carolina, iv (1790).

84. Brevard, An Alphabetical Digest of the Public Statutes Law of South-Carolina, 3 vols. (1814).

85. Illustratively, under the title "Executors and Administrators," appear references to the following statutes: 4 Ed. 3, c. 47 (1330); 25 Ed. 3, St. 5, c. 5. (1351); 21 H. 8, c. 4 (1529); 43 Eliz. c. 8 (1601); 17 Ch. 2, c. 8 (1665); 30 Ch. 2, c. 7 (1667); 1 Jac. 2, c. 17 (1685); 4 & 5 W. & M. c. 24 (1692); Act of Assembly, 1745; Act of Assembly, 1787; Act of Assembly, 1789. For a comment on Brevard's Digest, see 1 Cooper ed. iv (1836).

86. 1 Cooper ed. iv (1836). The text of the resolution in question stated:

"The Committee on the Judiciary, to which was referred the resolution to inquire into the expediency of procuring to be compiled and published the Statute Law of this State, now of force, with a digested index thereto— and also that part of the Governor's Message on the same subject — having had the same under consideration, respectfully recommend the adoption of the following resolution, viz:

Thomas Cooper was authorized to prepare the compilation, the first volume of which was published in 1836.<sup>87</sup> In his Preface, Cooper stated in part:

The legislative records of South-Carolina commence in 1682: from that time to the present, no plan sanctioned by public authority has been formed and executed to collect, revise or digest our written Laws. . . Of these laws, enacted during a period of more than 150 years, many have been repealed, many have become obsolete, others have been at various times altered and modified, many have been passed without a due reference to former enactments, many British Statutes have been adopted by formal and direct reference, others have been made of force indirectly and as a class of statutory provisions; until the Statute Law of South-Carolina has become a confused mass of legislation. . . Revisal, condensation, amalgamation, and something in the form of an intelligible digest, have become absolutely necessary. . . .

It is manifest, that before any step of this kind can be taken for the future, it is necessary to have under our view the whole ground occupied by past legislation. . . I have endeavored to supply this want by collecting in a chronological series the whole mass of our public legislation. . . .<sup>88</sup>

This objective Cooper adhered to, presenting in order of their enactment the several acts of the colonial and state legislative bodies. While giving the text of such of the English statutes as were put in force by the acts of 1712 and 1743, he did not present them under subject headings: in effect, they were as notes to the text of the original enactments. However, he did add certain other British statutes which had been considered as being in force under court decisions or by implication of other colonial or state legislation.<sup>89</sup>

"Resolved, That His Excellency the Governor be authorized and requested to employ some fit and competent person, to compile under his direction the Statute Law of this State, with a digested index thereto: that he be requested to communicate at the next Session of the Legislature the progress of this work, and the compensation he may deem just and equitable should be paid to the person thus employed: and that the Governor be further authorized to pay from time to time such sum or sums as upon inspection of the work he may deem equivalent to the labor actually bestowed on the same by the person thus employed."

87. When completed, Cooper's edition of the South Carolina statutes consisted of 6 volumes, covering the period from 1682 to 1838, published between 1836 and 1839. The Preface in the first volume contains a useful account of the evolution of the South Carolina statutes. Cooper himself was fully responsible only for the first four volumes, but his name appears as editor on the title page of the first five.

88. 1 Cooper ed. iii (1836).

89. 2 Cooper ed. 549 set out an "Appendix To The English Statutes Made Of Force," which listed certain British statutes "with the reason for their insertion, at the head of each Act." The following will serve as illustrations:

One hundred and sixty years after the act of 1712 which had placed specific English statutes in force in South Carolina, the General Assembly in 1872 repealed this colonial statute.<sup>90</sup> At the same time, it specifically retained the common law.<sup>91</sup>

### Georgia

In May 1823, the Georgia Senate referred to the Joint Committee on the Judiciary of the Georgia General Assembly a resolution which instructed the committee "to inquire into the expediency of appointing some fit and proper person to compile and

---

The following Act of 33 Edward 1, A.D. 1305, "As to Challenges of Jurors," is inserted under the authority of the State v. Barrontine, 2 Nott and McCord's Reports, p. 552.  
An Ordinance for Inquests, made 18 Septembris, Anno 33 Edw. 1, Stat. 4, Anno Dom. 1305.

He that challengeth a Jury or Juror for the King, shall shew his Cause

\* \* \* \* \*

[25 Ed. 3. st. 2 (1350)]

(Inserted on the authority of the second section of A. A. 1712)

In what place Bastardy pleaded against him that is  
born out of the Realm shall be tried

\* \* \* \* \*

[34 & 35 H. 8. c. 5 (1542-3)]

(Inserted as confirmatory of the common law relating  
to Pledges of Prosecution.)

None shall sue a Subpoena until he find Surety to  
satisfy the Defendant his Damages, if he do  
not verify his Bill

\* \* \* \* \*

(The following sections of 4 & 5 W. & M. ch. 24, 1692, are adopted by Judges Grimké and Brevard. They are explanatory of the statutes relating to executors, and relating to Benefit of Clergy.)

An Act for Reviving, Continuing and Explaining several Laws therein

(The following sections of 4 & 5 W. & M. ch. 24, 1692, are adopted by Judges Grimké and Brevard. They are explanatory of the statutes relating to executors, and relating to Benefit of Clergy.)

An Act for Reviving, Continuing and Explaining several Laws therein  
mentioned, which are expired and near expiring

\* \* \* \* \*

90. Revised Statutes of the State of South Carolina, 778 (1873).

91. *Id.* at 767. This provision of the Act of 1872, declaring the continuation in effect of the "Common Law of England," appeared in the Revised Statutes of 1873, Ch. CXLVII, §10 and in the General Statutes of 1882, §2738. It did not appear in the Revised Statutes of 1893 or in the Code of Laws of 1902. The question was raised in 1919 whether or not the common law of England had remained in force in the state, but the



digest the statutes of England that are of force in the State of Georgia." The committee reported to the Senate on December 9, 1823, stating:

... they have taken the same into consideration, and are of opinion that the subject-matter embodied in the said resolution, is one well worthy the serious attention of the Legislature: That the Legislature of Georgia, in the year seventeen hundred and eighty-four, by law, adopted, as the law of this State the common law of England and such of the statute laws thereof as were usually of force in the State of Georgia, and binding on the inhabitants thereof . . . <sup>92</sup> and although a considerable length of time has elapsed since the adoption of the said laws, yet the Legislature has devised no means to facilitate to her citizens the knowledge of the said laws, which it is acknowledged are in force and binding upon them; and it being known that there are but few copies of the Statutes of England in the State of Georgia, and those which are in force in this State, being comparatively speaking, but few, and scattered throughout a heavy and voluminous work, to wit, the Statute Laws of England, up to the year seventeen hundred and seventy-six, so that very few have the opportunity afforded to them of knowing what the said laws are; and it being not only compatible with but indispensably necessary to, the liberty and interest of a free people, that the laws by which they are governed

---

state supreme court in *State v. Charleston Bridge Co.*, 113 S. C. 116, 125, 101 S.E. 657 (1919) stated that "... the common law is as much the law of this country as of England."

92. Watkins ed., *Digest of the Laws of Georgia* 289 (1800). The Act of 1784, entitled "An Act for reviving and enforcing certain laws therein mentioned" provided in part.

"WHEREAS during the late convulsions in this State several salutary laws were lost, and destroyed, that had from time to time been enacted by the general assembly of the same; and among others, an act reviving and putting in force such as so much of the laws of the province of Georgia as were adjudged necessary to be in force in this State; And whereas the said laws are for the most part suited to the circumstances of the people; And whereas it is absolutely necessary for the well governing of every State that laws properly adapted to the circumstances of the inhabitants be at all times in force: Therefore be it enacted . . . That all and singular the several acts, clauses, and parts of acts that were in force, and binding on the inhabitants of the said province, on the fourteenth day of May in the year of our Lord one thousand seven hundred and seventy-six, so far as they are not contrary to the constitution, laws and form of government now established in this State, shall be, and are hereby declared to be in full force, virtue and effect, and binding on the inhabitants of this State immediately from and after the passing of this Act, as fully and effectually to all intents and purposes as if the said acts and each of them, had been made and enacted by this general assembly, until the same shall be repealed, amended or otherwise altered by the legislature. And also the common laws of England, and such of the statute laws as were usually in force in the said province, except as before excepted."

should be promulgated and known; and inasmuch as the statute laws of England that are of force in Georgia cannot be published conveniently, unless they are digested and arranged by some fit and proper person, whose duty and whose interest it will be to compile the same; and in order to effect this desirable object,

The Committee respectfully recommend the following resolution:

Resolved . . . That it is expedient that some fit and proper person should be appointed by the Legislature, at its present session, to compile and digest the statute laws of England that are now of force in the State of Georgia, and whose duty it shall be within two year, to report the same to his excellency the Governor, who after the same has been examined by a committee of three learned in the law, to be appointed by him for that purpose, shall approve or disapprove the same, and who for their services shall be paid by the Governor, out of the contingent fund; and when the said work shall be performed and approved, that his excellency the Governor be, and he is hereby authorized to subscribe for two thousand copies, in conveniently bound volumes. . . .<sup>93</sup>

William Schley was appointed to prepare the compilation at the same session of the General Assembly.<sup>94</sup> His report took the form of a volume entitled "A Digest of the English Statutes in Force in the State of Georgia," printed at Philadelphia in 1826.<sup>95</sup> A resolution of the Georgia House of Representatives, approved on December 22, 1826, directed the governor to forward copies of Schley's Digest to the proper officials in the several counties of the state.<sup>96</sup>

In the preface to his Digest, Schley stated in part:

In prosecuting the task assigned me by the General Assembly, I found some difficulty in determining which of the English statutes were

---

93. Dawson ed., *Compilation of the Laws of the State of Georgia, "Resolutions,"* 26 (1831).

94. *Id.* at 37.

95. The full title of Schley's report was as follows: "All the Statutes of a General Nature which were 'Usually in Force on the Fourteenth Day of May, 1776, and not Repugnant to the Constitution, Laws, and Form of Government since Established in this State' with Explanatory Notes, Connecting References, and Reference to English and American Decisions, and the Acts of the General Assembly of Georgia: and AN APPENDIX, Containing Several Statutes which the Compiler believes to be in Force; and which are Recommended by the Committee of Revision to the Legislature, as Containing Principles Worthy of Being Incorporated in our Laws — also the Petition of Right — The bill of Rights — and the Charter of Georgia: Compiled by the Appointment, and under the Authority of the General Assembly." [Hereinafter cited as Schley.]

96. Dawson ed. 81. No record appears of a formal acceptance of the Digest by the General Assembly, although a Resolution originating in the House of Representatives, approved December 15, 1824, authorized the governor to advance to Schley "one-half of the amount subscribed for the State to enable him to defray the expense of printing and binding the said work. . . ." *Id.* at 47.

in force in this state, because the rules laid down by the writers on the subject, and by the adopting act of 1784. . . could not be applied with any degree of certainty for want of necessary evidence to establish the facts upon which these rules might operate. . . .

Schley concluded that the following rule provided him with the most satisfactory guide:

. . . "That the colonists of America brought with them from England as their birthright all those laws of the mother country, which were capable of being so transferred, up to the period of the settlement of Georgia, therefore all the English statutes of a general nature must be considered to have been in force anterior to the revolution. After the settlement (as internal though restricted legislation was permitted to the colonies) the laws of the mother country extended to them only when they were expressly named; though when those laws were merely modifications of previous general laws, the utility of these modifications may have recommended their adoption to the colonial courts. These are our guides to ascertain what laws were in force here before the revolution, and they continue in force, so far as they are not repugnant to the constitution, laws, and form of government since established."

Despite the use of this as a general rule, Schley found that its application presented some difficulties. He went on in his preface:

. . . the application of this rule, plain and simple as it may seem, was a task requiring considerable labor and investigation; for many statutes, although general in their nature, were, from the subject matter or the mode of enforcing them — the habits and manners of the colonists — their local situation, or the forms of judicial proceedings established here, totally inapplicable. It became necessary therefore to establish a line between such statutes as could not at any time have been suited to the situation of the people, and such as might reasonably be supposed to have been adapted to their wants, and their use; and then to compare these last with the constitution, laws, and form of government since established, and select such as were not repugnant to them.

\* \* \* \* \*

Those statutes which are considered to be of force in the state of Georgia, compose the body of the following work. . . .

Some of the statutes here reported of force, were passed after the settlement of Georgia; but they were adopted in practice long before the fourteenth May, 1776, and have been in constant use ever since, and are therefore a part of our law, such as the 11 Geo. II, ch. 19 [relating to the payment of rents], 24 Geo. II, ch. 55 [relating to warrants to apprehend those beyond the court's jurisdiction], 25 Geo. II, ch. 6 [relating to wills and codicils].

There are also a few of these statutes, which at first view would seem to have little or no application here; but they form a part of that system of English law in regard to real property which in principle is adopted by us, and ought therefore properly to have a place in this work; although, perhaps, they may never be called into practical operation; such

for instance are the statutes of 6 Edw. I, ch. 7 [according writ of entry to dower lands to heirs], 13 Edw. I, sta. 1, ch. 3, 4 [according writ of entry to wife in dower lands], 11 Hen. VII, ch. 20 [relating to alienation of lands by a widow], and a few others. But they are necessary to be known, as they are alterations of the common law.<sup>97</sup>

How extensively Schley's Digest was used by lawyers throughout Georgia, it is impossible to state. However, the general attitude of the Georgia courts toward the British statutes indicates that it probably was relied upon heavily.

In 1848, Justice Lumpkin, speaking for the Georgia Supreme Court in Flint River Steamboat Company v. Foster, classified the several categories of laws which were in force in Georgia. He included in his list "the Common Law of England, and such of the Statute Laws as were usually in force before the revolution. . . ."<sup>98</sup>

As recently as 1950, the Georgia Court of Appeals held that the statute of 4 Edw. 3, c. 7 (relating to survival of actions) was in force in Georgia by virtue of the act of 1784.<sup>99</sup>

Thus the Georgia courts have taken and continued to take the position that the statutes of England, in force in the province in 1776, were continued in force under the Act of 1784, insofar as compatible with the constitution, laws, and form of government of the state.

---

97. Schley xviii-xxix.

98. Flint River Steamboat Co. v. Foster, 5 Ga. 194, 204-205 (1848). See also Tucker v. Adams, 14 Ga. 548, 569 (1854). Judge Lumpkin's classification, giving the relative importance of the several types of law in Georgia, was incorporated into the state constitutions of 1865 and 1868. In his opinion, Judge Lumpkin stated:

"The laws of Georgia may be thus graduated, with reference to their obligation or authority. 1st, The Constitution of the United States. 2d, Treaties entered into by the Federal Government before, or since, the adoption of the Constitution. 3d, Laws of the United States, made in pursuance of the Constitution. 4th, The Constitution of the State. 5th, The Statutes of the State. 6th, Provincial Acts that were in force, and binding on the 14th day of May, 1776, so far as they are not contrary to the Constitution, laws and form of government of the State. 7th, The Common Law of England, and such of the Statute Laws as were usually in force before the revolution, with the foregoing limitation. It is the peculiar province of the Courts to ascertain and declare when any two of these several species of law conflict with each other; and then it follows, as a matter of course, that the less must yield to the greater.

"And on this point there is no dearth of precedents. . . ."

99. Davis v. Atlanta Gas Light Co., 82 Ga. App. 460, 463, 61 S.E. 2d 510 (1950). See also Grimmett v. Barnwell, 184 Ga. 461, 464, 192 S.E. 191 (1937), where the court remarked: "The common and statute law of England, of force in this State on May 14, 1776, remains of force, so far as it is not incompatible with the Federal or the State constitution or has not been modified by statute. . . ."

## CHAPTER 6

### JURISDICTIONS CARVED FROM NORTHWEST TERRITORY

#### Territory North-West of the River Ohio — Ohio

The definitive Treaty of Peace between Great Britain and the United States, concluded at Paris, September 3, 1783, and ratified by Congress, January 13, 1784, recognized the claims of the several states to the area west of the Appalachians which lay east of the Mississippi, north of Spanish Florida, and south of the Great Lakes. These claims were ceded to the United States at various times, with cessions to the lands north of the Ohio River completed by September 13, 1786.<sup>1</sup>

The delegates to the Continental Congress were keenly aware that one of the major factors in causing the Revolution against Great Britain had been the desire to utilize or speculate in these western lands, frustrated as it was by the British colonial policy of keeping these same lands as a source of furs for the Canadian based fur trade. Men and women from the seaboard were moving across the Appalachians even before the Treaty of Peace had been officially signed, and the sporadic forays of British-oriented Indians showed no signs of discouraging the westward movement. Colonists, fresh from success in a fight for freedom from colonialism, found themselves a colonial power faced with the task of governing their own colonies.

A plan for the "temporary government" of the "western territory" was adopted by the Continental Congress in April 1784,<sup>2</sup> but it never came into effect. It was not until July 13, 1787, that the delegates adopted "An Ordinance for the Government of the Territory of the United States north-west of the river Ohio," usually referred to as the Northwest Ordinance.<sup>3</sup>

The Ordinance set out a plan or scheme for governing the area, but it did not envisage that the territories to be carved from it were to remain indefinitely in a dependent position. On

---

1. States having claims to parts of the western area north of the Ohio River ceded their interests to the United States on the following dates:

New York . . . . . March 1, 1781

Virginia . . . . . March 1, 1784

Massachusetts . . . April 19, 1785

Connecticut . . . . . September 13, 1786

2. Journals of the Continental Congress, XXVI, 275

3. See 2 Carter ed., Territorial Papers of the United States 39-50

the contrary, the territorial status was viewed as a prelude to statehood and equality with the original states. In the interim period, however, certain guarantees were considered necessary. Among these are three provisions which have particular relevance in determining the extent to which the acts of the English or British parliament were to be considered in force within the area.

... There shall also be appointed a court to consist of three judges any two of whom to form a court, who shall have a common law jurisdiction. . . .

The governor and judges or a majority of them shall adopt and publish in the district such laws of the original states criminal and civil as may be necessary and best suited to the circumstances of the district. . . .

\* \* \* \* \*

ARTICLE THE SECOND. The Inhabitants of the said territory shall always be entitled to the benefits of . . . judicial proceedings according to the course of the common law. . . .<sup>4</sup>

In 1795 the Governor and Judges of the Territory, acting in their legislative capacity, adopted the following statute, based on a Virginia act of 1776, which stated:

The common law of England, all statutes or acts of the British parliament made in aid of the common law, prior to the fourth year of the reign of King James the first (and which are of a general nature, not local to that kingdom) and also the several laws in force in this Territory, shall be the rule of decision. . . .<sup>5</sup>

In 1799 the General Assembly of the Territory, in acts dated November 15 and December 2, specifically repealed so much of the act of 1795 as referred to three particular English statutes

---

(1934) for the text as it appeared in the original Journals of the Continental Congress. See also 1 Stat. 51, footnote (a).

4. The Northwest Ordinance, see 2 Carter ed. supra note 3, at 42, made the following provision for the enactment of legislation:

"The governor, and judges or a majority of them shall adopt and publish in the district such laws of the original states criminal and civil as may be necessary and best suited to the circumstances of the district and report them to Congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit."

5. Illinois State Bar Association, Pease ed., *Laws of the Northwest Territory, 1788-1800*, 253 (1925). See also 1 Blume ed., *Transactions of the Supreme Court of the Territory of Michigan 1805-1814*, xxxii-xxxiii (1935). It should be recalled that while the Virginia statute of 1776 was "adopted" in the Northwest Territory in 1795, the Virginia General Assembly had repealed it in 1792.

— i.e., 37 Hen. 8, c. 9 (relating to usury); 13 Eliz., c. 8 (relating to usury); 43 Eliz., c. 6 (relating to the prevention of unnecessary suits at law).<sup>6</sup>

Indiana Territory was carved out of the Northwest Territory in 1800. The area included within the original territory was thereby reduced to the present state of Ohio and the eastern half of the lower peninsula of Michigan. In 1802 Ohio was admitted as a state and all of Michigan became part of Indiana Territory.<sup>7</sup> The first state constitution of Ohio provided:

Sec. 4. Laws and parts of laws now in force in this Territory, not inconsistent with this constitution, shall continue and remain in full effect until repealed by the legislature, except so much of the act entitled "An act regulating the admission and practice of attorneys and counsellors at law," and of the act made amendatory thereto, as related to the term of time which the applicant shall have studied law, his residence within the Territory, and the term of time which he shall have practised as an attorney at law, before he can be admitted to the degree of counsellor at law.<sup>8</sup>

In 1805, the General Assembly repealed the Act of 1795 but passed the following statute:

... the common law of England, all statutes or acts of the British parliament, made in aid of the common law, prior to the fourth year of the reign of king James the first, and which are of a general nature not local to that kingdom, and also the several laws in force in this state, shall be the rule of decision and shall be considered as of full force, until repealed by the general assembly of this state.<sup>9</sup>

However, on January 2, 1806, the General Assembly proceeded to repeal so much of the 1805 act "... as declared the common law of England and the statutes or acts of the British Parliament made in aid of the common law, prior to the fourth year of the reign of King James the First, to be in force as the rule of decision in this state. . . ." <sup>10</sup>

Commenting on this statute, the state supreme court in 1848 stated:

It is claimed that this statute [i.e., 32 Hen. 8, c. 34] relating to the

---

6. Illinois State Bar Association, Pease ed. 353, 401.

7. "An Act to enable the people of the eastern division of the territory northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," 2 Stat. 173.

8. Constitution of 1802, Schedule, Sec. 4. See 5 Thorpe ed., Federal and State Constitutions, Colonial Charters, and Other Organic Laws 2901 at 2912 (1909) [hereinafter cited as Thorpe].

9. Acts of the State of Ohio 248 (1805).

10. Acts of the State of Ohio 38 (1806).

rights of reversioners against lessees has become incorporated into the law of Ohio, not as a statute law, or by virtue of legislative jurisdiction, but as a part of the common law, which has been adopted as a body or system of law into the American code generally. That it is a part of the system, being in aid of the common law and not repugnant to our institutions, which is as operative in this State as in the English Courts.

It is not known to any of us that this precise question was ever before presented for the consideration of this Court.

In 1793 [sic] a statute was adopted from Virginia, declaring "that the common law of England and all statutes made in aid of the common law prior to the fourth year of James 1st which were of a general nature, should be a rule of decision until repealed, within the territory." 1 Chase, 190.

By the 2d section of the act passed Feb. 22, 1805, the above law was repealed, and by the first section of the same act it was re-enacted. (1 Chase, 512.) And again it was repealed January 2, 1806. (Chap. 122, 1 Chase, 528.) Since that date we can discover no legislation upon the subject. The adoption of the law from Virginia and the two enactments of 1805 and 1806 by implication, necessarily show that the British statutes never had any force in Ohio save that derived from their adoption by the Legislature. In all cases where the British statutes contravene or change the common law and are not so incorporated into it as to have become part and parcel of the system, it is supposed they have no force within this State independent of Legislative enactments adopting them.<sup>11</sup>

### Indiana Territory — Indiana

"An Act to divide the territory of the United States northwest of the Ohio into two separate governments," approved May 7, 1800,<sup>12</sup> carved Indiana Territory out of the Northwest Territory. The organic act made no specific provision for continuing in force the laws of the prior territory, but in practice — despite some articulate dissent — the statutes of the Northwest Territory were considered as remaining in force until repealed or altered.<sup>13</sup>

11. *Crawford v. Chapman*, 17 O.S. 585, 590 (1885) where the court remarked: "During part of our territorial period and a portion of time under the state government, but not since 1806, English statutes not inapplicable to our circumstances and conditions, enacted prior to 4 James I., were in force in Ohio, but statute 29 Car. II. [c. 7] [relating to the observance of Sunday] was not among the English statutes which have been in force with us at any time. . . ."

12. 2 Stat. 58.

13. Letter, John Marshall, Secretary of State, to John Adams, President, August 26, 1800: "The opinion that the laws of the old territory do not operate in the new, whether well or ill founded. . . ." 7 Carter ed., *Territorial Papers of the United States* 18 (1934). See *Illinois State Bar Association*, Philbrick ed., *Laws of Indiana Territory, 1801-1809*, cii (1930). See also *Laws Adopted by the Governor and Judges of the Indiana Territory at their First Sessions, held at Saint Vincennes, January 12th, 1800*



Among the statutes so continued in effect was the act adopted in 1795 by the Governor and Judges of the Northwest Territory which had declared that the common law and certain English statutes enacted before 1607 should be the "rule of decision."<sup>14</sup> In 1799, the General Assembly of the Northwest Territory had specifically repealed so much of the Act of 1795 as referred to three particular English statutes.<sup>15</sup> Thus at the date of organization of Indiana Territory, the bulk of the English statutes enacted before 1607 "of a general nature, not local to that kingdom," were the "rule of decision" in the Northwest Territory and hence continued to occupy the same status in the newer territory.

For about two and a half years, between 1801 and 1803, another group of English statutes was in force in Indiana Territory. On January 22, 1801, the Governor and Judges of Indiana Territory adopted from the Kentucky and Virginia codes an act which placed in force "the several acts of parliament commonly called the statutes of jeofails, which were in force and use in England on the seventh day of February, one thousand seven hundred and fifty-two . . ."<sup>16</sup> This act, however, was repealed on September 26, 1803.<sup>17</sup>

---

(1802), reproduced in full in Illinois Bar Association, Philbrick ed., *op. cit.* 1 ff. The first law adopted is entitled "A Law supplemental to a law to regulate county levies. . ." A resolution was adopted repealing a specific portion of a law of the Northwest Territory regulating the admission and practice of attorneys. "An Act repealing certain laws and acts and parts of certain laws and acts. . ." specifically described the laws of the Northwest Territory which were no longer to be in force in Indiana Territory.

14. The first stage of government in the Indiana Territory, as in the Northwest Territory, placed in the Governor and judges the power to "adopt" such laws of the original states as they considered suitable. The statute adopted in 1795 for the Northwest Territory, originally a Virginia enactment of 1776, provided: "The common law of England, all statutes or acts of the British parliament made in aid of the common law, prior to the fourth year of the reign of King James the first (and which are of a general nature, not local to that kingdom) and also the several law in force in this Territory, shall be the rule of decision. . . ." Illinois State Bar Association, Pease ed., *Laws of the Northwest Territory, 1788-1800*, 253 (1925). See also 1 Blume ed., *Transactions of the Supreme Court of the Territory of Michigan 1805-1814*, xxxii-xxxiii (1935).

15. Illinois State Bar Association, Pease ed., *Laws of the Northwest Territory, 1788-1800*, 353, 401 (1925). The specific acts so declared to be not in force were the following: 37 Hen. 8, c. 9 (relating to usury), 13 Eliz., c. 8 (relating to usury), and 43 Eliz., c. 6 (relating to perjury and the prevention of unnecessary suits at law).

16. Illinois State Bar Association, Philbrick ed., note 13 *supra*, at 7.

17. *Id.* at 64.

In 1807, the Territorial Legislature adopted a revision of the laws of Indiana Territory, specifically providing that these laws ". . . so revised, altered and amended shall with the Laws passed at this Session of the Legislature, be the only statute Laws in force in this territory."<sup>18</sup> Contained in this 1807 revision was the following act:

The Common Law of England, all statutes or acts of the British Parliament, made in aid of the Common Law, prior to the fourth year of the reign of King James the first (excepting the second section of the sixth Chapter of forty-third Elizabeth [relating to the prevention of unnecessary suits at law], the 8th Chapter, thirteenth, Elizabeth [relating to usury], and 9th Chapter, thirty-seventh, Henry eight [relating to usury],) and which are of a general nature, not local to that kingdom; and also the several laws in force in this Territory, shall be the rule of decision, and shall be considered, as of full force. . . .<sup>19</sup>

Indiana was admitted as a state by Congressional resolution, approved December 11, 1816.<sup>20</sup> The first constitution of Indiana provided:

All laws and parts of laws now in force in this Territory, not inconsistent with this Constitution, shall continue and remain in full force and effect until they expire or be repealed.<sup>21</sup>

This provision was clarified by the General Assembly in "An Act declaring what Laws shall be in force," approved January 2, 1818, which stated:

. . . the common law of England, all statutes or acts of the British parliament made in aid of the common law, prior to the fourth year of the reign of King James the first, excepting the second section of the sixth chapter of forty-third Elizabeth, the eighth chapter, thirteenth Elizabeth, and ninth chapter, thirty-seventh Henry eight, and which are of a general nature, not local to that kingdom, and not inconsistent with the laws of this state; and also, the several laws in force in this state shall be the rule of decision, and shall be considered as of full force until repealed by legislative authority.<sup>22</sup>

The Revised Statutes of the State of Indiana (1838) declared this act to be in force.<sup>23</sup> The Statutes of Indiana, in force in 1962, contain a similar statute which provides:

18. Id. at 608.

19. Id. at 323. Note that these were the same statutes which the Northwest Territory had declared in 1799 were not in force. See note 15 supra.

20. 3 Stat. 399.

21. Constitution of 1816, Article 12 § 4. See 2 Thorpe 1057 at 1072 (1909).

22. Revised Laws of Indiana 256 (1824).

23. Revised Statutes of the State of Indiana 398 (1838).

The law governing this state is declared to be:

First. The Constitution of the United States and of this state.

Second. All statutes of the general assembly of the state in force, and not inconsistent with such constitutions.

Third. All statutes of the United States in force, and relating to subjects over which congress has power to legislate for the states, and not inconsistent with the Constitution of the United States.

Fourth. The common law of England, and statutes of the British Parliament made in aid thereof prior to the fourth year of the reign of James the First (except the second section of the sixth chapter of forty-third Elizabeth, the eighth chapter of thirteenth Elizabeth, and the ninth chapter of thirty-seventh Henry the Eighth), and which are of the general nature, not local to that kingdom, and not inconsistent with the first, second and third specifications of this section.<sup>24</sup>

There are no published decisions during the territorial period. The published reports of the Indiana supreme court during the first decades of statehood make it clear that the common law<sup>25</sup> and English statutes enacted prior to 1607 were considered as

---

24. Annotated Indiana Statutes §1-101 (1933) (1946 Replacement Volume).

25. See *Fuller v. State*, 1 Ind. 63 (1820); *Platt and Another v. Eads*, 1 Ind. 81 (1820). During the territorial period, provoked by the phrase in the Northwest Ordinance (in force in Indiana Territory by virtue of the Organic Act) which gave to the three federally-appointed judges "a common law jurisdiction," certain irritated residents of Indiana prepared a Memorial to Congress, which stated in part as follows:

"Your memorialists beg leave further to suggest the propriety and necessity of defining, with more precision, the duties of the judges appointed by virtue of the ordinance for the government of the Territory. The ordinance says there shall be a court to consist of three judges, who shall have a common law jurisdiction. . . it would be desirable that Congress would define the jurisdiction of the superior court. We presume that it is a sound rule for the construction of a constitution or a law, that it must be construed from the face of it, and not travel to the history of other times and other Governments in search of the meaning of our ordinance, or any act of Congress. We beg leave to suggest the propriety of pointing out, by law, what common law the ordinance refers to, whether the common law of England, or France, or of the Territory over which the ordinance is the constitution. If it should be determined that, by the expression of the ordinance, a common law jurisdiction should be located on the common law of England, it is essential to define to what extent of that common law the judges shall take cognizance; whether the whole extent of the feudal and gothic customs of England; whether the customs, or unwritten law shall be taken with the statute law, and that to form the common law to govern the judges; or whether the unwritten and statute law is to be taken in contradistinction to the laws, customs, and rules of chancery; or whether it includes that law which is common to all . . . ." *Annals of Cong.*, 13th Cong. 3d Sess., cols. 400-401 (1814); 20 *Indiana Historical Collections*, Ewbank & Riker, eds., *Laws of Indiana Territory 1809-1816*, 809-810 (1934).

being in force.<sup>26</sup> This pattern has been continued, subject to statutory modifications or replacements.

### Illinois Territory — Illinois

Illinois Territory was carved out of Indiana Territory by "An Act for dividing the Indiana Territory into two separate governments," approved February 3, 1809.<sup>27</sup> The organic act made

26. See *Fite v. Doe*, 1 Ind. 127 (1821); *Hanna v. Pegg*, 1 Ind. 181 (1822); *Meek v. Ruffner*, 2 Ind. 23 (1826). See also *State ex rel. Bingham, Attorney-General v. Home Brewing Co.*, 182 Ind. 75, 105 N.E. 909 (1914), where the court stated:

"The common law of this State as it has always existed here by legislative adoption is the common law of England and English statutes of a general nature and not local to that kingdom, in aid thereof, as it was prior to the fourth year of the reign of James I (1607), with certain named exceptions and when not inconsistent with our State or Federal Constitutions, or statutes. It was first so adopted from Virginia by the governor and judges of the Northwest Territory and has since been so declared by subsequent legislative bodies of the state. . . But this provision of our law has not had the effect of making English statutes, passed subsequent to 1607, a part of the body of our law. Holloway v. Porter (1874), 46 Ind. 62. The law and practice of informations in the nature of quo warranto were not as comprehensive under the common law of that time as that embodied in our statutes on the subject as they are now and have been at least as far back as 1843. . . When the ancient writ of quo warranto was supplanted in English practice by informations in the nature of quo warranto, these informations were filed and exhibited by, and in the name of, the Attorney-General. . . Gradually the practice developed of allowing the master of the crown office. . . to exhibit information in the nature of quo warranto on the relation of private individuals to enforce certain of their rights in offices, franchises and the like. . . The vexatious and irresponsible character of this litigation led to the enactment of statutes 4 and 5, William and Mary, chapter 18, which required the private individual to enter into a recognizance in the sum of twenty pounds and obtain leave of the court before he could require the master of the crown office to file such an information on his relation. As this statute was enacted long after 1607 it is no part of the common law of Indiana. Thereafter, the practice in filing such informations on private relation was covered by the statute 9 Anne, chapter 20, enacted 1711. This statute is no part of the common law of Indiana, although it may doubtless have suggested our statute, and the information statutes of other states; but our statute goes further and covers the entire field embracing those public causes which the common law entrusted to the Attorney-General as well as the suits of a private interest which the statute of 9 Anne covered. That part of the law of England concerning informations in the nature of quo warranto which prevailed at the date of the settlement of Virginia does not contain any discoverable act of parliament, certainly not the statutes of William and Mary, or of Queen Anne. . . ."

27. 2 Stat. 514.

no provision for continuing in force the laws of the prior territory, but in 1812 the Illinois territorial legislature provided:

... all the laws passed by the Legislature of the Indiana Territory which were in force on [3-1-1809] ... in that Territory, that are of a general nature and not local to Indiana Territory and which are unrepealed by the laws passed by the Governor and Judges of the Illinois Territory are hereby declared to be in full force and effect in this Territory, and shall so remain until altered or repealed by the Legislature of this Territory. 28

It will be recalled that the 1807 revision of the Indiana territorial laws had included the following act:

The Common Law of England, all statutes or acts of the British Parliament, made in aid of the Common Law, prior to the fourth year of the reign of King James the first, (excepting the second section of the sixth Chapter of forty-third Elizabeth, the 8th Chapter, thirteenth, Elizabeth, and 9th Chapter, thirty-seventh, Henry eight,) and which are of a general nature, not local to that kingdom; and also the several laws in force in this Territory, shall be the rule of decision, and shall be considered, as of full force. . . . 29

Illinois was admitted as a state by Congressional resolution, approved December 3, 1818.<sup>30</sup> The first Illinois constitution of 1818 did not continue in force the laws then in effect. However, at the first session of the General Assembly of the state, efforts were made to supply this omission by the passage of "An Act declaring what laws are in force in this state," approved February 4, 1819, which provided in part:

... the common law of England, all statutes or acts of the British Parliament made in aid of the common law prior to the fourth year of the reign of King James the I, excepting the second section of the sixth chapter of XLIII. Elizabeth [relating to the prevention of unnecessary suits at law]; the eighth chapter XIII. Elizabeth [relating to usury], and ninth chapter XXXVII. Henry VIII [relating to usury]; and which are of a general nature and not local to that Kingdom, shall be the rule of decision, and shall be considered as of full force, until repealed by legislative authority.<sup>31</sup>

---

28. "AN ACT Declaring what laws shall be in force," December 13, 1812. Illinois State Historical Library, Philbrick ed., Pope's Digest 34 (1938).

29. "An Act declaring what Laws shall be in force," September 17, 1807. Illinois State Bar Association, Philbrick ed., Laws of Indiana Territory, 1801-1809, 323 (1930).

30. "RESOLUTION declaring the admission of the state of Illinois into the Union," 3 Stat. 536.

31. Laws of Illinois, 1819, 1 (1819).

In 1845, this provision was changed to read:

... the common law of England, so far as the same is applicable and of a general nature, and all statutes or acts of the British parliament made in aid of, and to supply the defects of the common law, prior to the fourth year of James the First, excepting the second section of the sixth chapter of 43d Elizabeth, the eighth chapter of 13th Elizabeth, and ninth chapter of 37th Henry Eighth, and which are of a general nature and not local to that kingdom, shall be the rule of decision, and shall be considered as of full force until repealed by legislative authority.<sup>32</sup>

Under these provisions, the English statutes, falling within the specified categories, have been considered in force in Illinois, as illustrated by Plumleigh v. Cook, decided in 1852, where the opinion stated in part:

It is insisted that an action of debt will not lie against a sheriff, for an escape on a writ of capias ad satisfaciendum. At common law the only remedy was by action on the case. But the statutes of Westminster 2, ch. 11, 13 Ed. 1, and 1 Rich. 2, ch. 12, gave an additional remedy by action of debt. And those statutes being in aid of the common law, are in full force in this State. Our statute not only adopts the common law of England, but also all statutes in aid thereof, passed prior to 4 James 1, (except the 2d sec. of the 6th ch. 43 Eliz., the 8th ch. 13 Eliz., and 9th ch. 37 Henry 8,) which are of a general nature and not local to that kingdom. Rev. St. ch. 62, §1. Under a similar provision in Indiana, the British statutes giving the remedy by action of debt for an escape, were held to be in force in that State. Gwinn v. Hubbard, 3 Blackf. 14. Similar decisions were made in Shewel v. Fell, 3 Yeates, 17, and Steere v. Field, 2 Mason, 486. . . .<sup>33</sup>

### Michigan Territory

(Wisconsin, Iowa, Minnesota, and Dakota Territories)

The Territory of Michigan was carved out of Indiana Territory by "An Act to divide the Indiana Territory into two separate governments," approved January 11, 1805.<sup>34</sup> No specific provision was made for continuing in force the laws of Indiana Territory. The available evidence indicates that prior to September 1806, the Governor and Judges "acted on the assumption that the laws

32. Revised Statutes of the State of Illinois, 1844-5, Ch. LXII, 337 (1845). Changes made in 1845 are indicated by underlining in the text. This statute is currently in effect. Illinois Revised Statutes, Ch. 28 §1.

33. Plumleigh v. Cook, 13 Ill. 669 (1852). See also Shedd v. Patterson, 312 Ill. 371, 144 N.E. 5 (1924) where the statute of 4 Ed. 3, c. 7 (relating to the survival of actions) was held to be in force in Illinois.

34. 2 Stat. 309.

of Indiana Territory were not in force," but that in that month the three judges composing the territorial supreme court "held for the first time that the laws of Indiana Territory were in force in Michigan."<sup>35</sup>

When Indiana was carved out of the Northwest Territory, it was generally assumed that the laws of the older territory continued in force in the newly organized one. Such of these statutes as were not repealed by the legislative authority of Indiana, consisting of the governor and judges, remained in force in Michigan Territory. However, in Michigan they were referred to as the laws of Indiana and not of the Northwest Territory.

Among the statutes thus inherited by Michigan from the Northwest Territory was the statute of 1795, which declared the common law of England and certain English statutes to be in force in the Northwest Territory. This became in due course a law of Indiana Territory and as such continued in force in Michigan. The effect of this law was to continue in force in Michigan all English statutes of a general nature made in aid of the common law prior to 1607.<sup>36</sup>

On October 17, 1808,<sup>37</sup> Judge Augustus Brevoort Woodward laid before the governor and judges thirteen resolutions, the tenth of which stated:

WHEREAS, The variety of government and laws through which it has been the fate of this country successively to pass has had a tendency to introduce complexity, confusion, and distraction, therefore,

Résolved, That it is expedient to revise all the laws which have successively been in force in this Territory, and re-enact such of them as may be found necessary and suitable to its present circumstances, and that after such revision fully made, it will be expedient to provide that the continue [sic.; i.e. coutume], or common law of France, the ordinances of the government of France, the common law of England, or such parts thereof as have been found inexpedient, acts of the British parliament, the laws of the late Territory of the United States northwest of the river Ohio, and laws of the Territory of Indiana, excepting so far as it will be found desirable to re-enact them under the authority of this government, ought to cease to have operation.<sup>38</sup>

---

35. 1 Blume ed., Transactions of the Supreme Court of the Territory of Michigan 1805-1814, xxxvi-xxxvii (1935).

36. *Id.* at xxxviii.

37. Although the original manuscript bears a date of "Dec. 31, 1806" in a handwriting other than that of Judge Woodward, the internal evidence of the resolutions themselves indicates clearly that it is in error. Moreover, Hull himself stated that he had presented them to the legislature on October 17, 1808. 12 Michigan Pioneer Collections 466 (1887). See also 1 Blume ed., note 35 *supra*. at xxxix, n. 129.

38. 12 Michigan Pioneer Collections 464-5 (1887).

Reporting on this proposal, Governor Hull stated on December 23, 1808:

The 10th resolution recommends a revision of the laws, and a compression of them into one code, at as early a period as possible, and is desirable to effect this object. The various governments, which it has been the fortune of the people, who inhabit this country, to be under, and the different laws to which they have been subjected, have created perplexities and embarrassments which it is desirable to remove. . . .<sup>39</sup>

Judge Woodward left the territory on October 18, 1808. He was gone for some months and in his absence forty-five acts, signed by the governor alone, were passed.<sup>40</sup> These statutes, known as the "Witherell Code" were in force for less than two years. Their importance arises from the fact they were intended to constitute a complete revision of the laws previously adopted in Michigan and to supersede the statutes of the older territories. Their enactment was coupled with "AN ACT repealing certain acts therein mentioned," signed by Hull on February 24, 1809, which repealed twenty specifically listed acts of the governor and judges of Michigan and then went on to state:

And be it enacted, That all acts or laws adopted and published by the governor and judges, or by the legislative authority of the Northwestern Territory, or the Indiana Territory, shall, from and after the passing of this act, cease to have any force or operation within this Territory. . . .<sup>41</sup>

When Woodward returned to the territory, he was highly displeased at the enactment of the "Witherell Code." Eventually he was able to secure the repeal of the several statutes, on the ground that since they had been signed by the governor alone they were invalid.

Among the acts so repealed was the provision which declared the laws of the earlier territories to have no effect in Michigan, but the "Witherell Code" itself did not touch on the status of the common law or the English statutes. Woodward, however, saw to it that the statute which repealed the forty-five acts signed by the governor also repealed the Acts of Parliament and the coutume de Paris hitherto in force in the territory.

While Woodward himself may have intended to emulate Virginia in a codification of existing law, including the English statutes, coupled with a repeal of all existing law not so codified, this in

39. Id. at 466-7.

40. See 4 Laws of the Territory of Michigan 21-91 (1884).

41. Id. at 82-4.



fact was not done. Instead, Michigan reversed the order of every other jurisdiction which had repealed the English statutes in the course of codification. It was only after the legislatures of Virginia, New York, New Jersey, and Mississippi had codified or rewritten existing legislation and enacted as local statutes such English statutes as they wished to retain, that the English statutes were repealed. Michigan repealed first and then failed to follow through promptly on the re-enactment. The result was a serious gap in the territory's statute law which was not repaired until the completion of the Code of 1820.<sup>42</sup>

"AN ACT to repeal all acts of the Parliament of England, and of the Parliament of Great Britain, within the Territory of Michigan, and for other purposes," signed by Hull as governor and Woodward and Griffin as judges on September 16, 1810, stated in part:

"Whereas the good people of the territory of Michigan, may be ensnared by ignorance of acts of the parliament of England, and acts of the parliament of Great Britain, which are not published among the laws of the territory, and it has been thought advisable by the governor and the judges of the territory of Michigan, hereafter specifically to enact such of the said acts as shall appear worthy of adoption,

Be it therefore enacted. . . That no act of the parliament of England, and no act of the parliament of Great Britain, shall have any force within the territory of Michigan: . . .

Section 2. And whereas, the good people of the territory of Michigan, may be ensnared by ignorance of the laws of other governments under which this territory has heretofore been, that is to say, of the Coutume de Paris, or common law of France, the laws, acts, ordinances, arrests and decrees of the ancient kings of France, and the laws, acts, ordinances, arrests and decrees of the governors or other authority of the province of Canada and the province of Louisiana, under the ancient French crown, and of the governors, parliaments, or other authorities of the province of Canada particularly, under the British crown, which laws, acts, ordinances, arrests and decrees, do not exist of record, nor in manuscript or print in this country, and have never been formally repealed or annulled,

Be it therefore enacted. . . That the Coutume de Paris, or ancient French common law, existing in this country, the laws, acts, ordinances, arrests and decrees of the governors or other authorities of the province of Canada, and the province of Louisiana, under the ancient French crown, and of the governors, parliaments or other authorities of the province of Canada generally, and of the province of Upper Canada particularly, under the British Crown, are hereby formally annulled, and the same shall be of no force within the territory of Michigan: . . .

---

42. See Blume, "Legislation on the American Frontier," 60 Michigan Law Review 317 at 348-66 (1962). Pending a detailed analysis of the Code of 1820, it is impossible to state the extent to which it enacted British statutes as Michigan laws.

Section 3. And whereas, the good people of the territory of Michigan may be ensnared by ignorance of laws adopted and made by the governor and judges of the ancient territory of the United States north-west of the river Ohio, and of laws made by the general assembly of the said territory, and of laws adopted and made by the governor and the judges of the territory of Indiana, under all of which respective governments, this territory has heretofore been, and which said laws do not exist of record or in manuscript in this country, and are also out of print, as well as intermingled with a multiplicity of laws which do not concern or apply to this country, and therefore may not be expected to be reprinted in a body, and may not be expected to be selected and reprinted in a detached form without much uncertainty, delay and difficulty, and it has been thought advisable by the governor and the judges of the territory of Michigan, heretofore specially to re-enact such of the said laws as appeared worthy of adoption, and hereafter also to re-enact such of the said laws as shall appear worthy of adoption.

Be it therefore enacted. . . That the laws adopted and made by the governor and the judges of the territory of the United States north-west of the river Ohio, and the laws made by the general assembly of the said territory, and the laws adopted and made by the governor and judges of the territory of Indiana, shall be of no force within the territory of Michigan. . . . 43

This statute did not repudiate the common law of England or declare that it was not in force within the territory. In Chene v. Campau (1828)<sup>44</sup> the pivotal question was whether the particular cause of action died with the person or survived to the decedent's administrator. An opinion in the handwriting of Solomon Sibley, one of the three judges of the territorial supreme court, expressed the view that the common law rule had been modified by the statute of 4 Ed. 3, and hence in England since that time the maxim actio personalis moritur cum persona did not apply. The opinion went on to state that the common law in force in Michigan Territory was the common law in force in England at the time of the American Revolution. Sibley relied on the Ordinance of 1787, guaranteeing the inhabitants the "benefits. . . of judicial proceedings according to the course of the common law," as placing the common law in effect in Michigan Territory. He went on to declare that the statute of 4 Ed. 3 (relating to the survival of actions) was in force in the territory as a part of the common law in force at the time of the emigration from England to the colonies, stating in part:

The question then as applying to the present case, is, was the maxim of the Com. Law that Actio personalis moritur cum persona in force at

43. 1 Laws of the Territory of Michigan 900-02.

44. 1 Blume ed., Transactions of the Supreme Court of the Territory of Michigan 1825-1836, 82 (1940).

that period of time [at the time of the Declaration of Independence] in extensio or so far as to embrace the present action — would the Com. Law as acted on, at that day have warranted the admr to support the present action? — I apprehend It will not be contended but that the action might have been well maintained in England at that time and also at this time, But it is contended that the action in that Country was given by a statute, and that the operation of that statute was Local and confined to England — It is admitted that the statute altered the Com Law in that Country, and that the law continues there to this day so altered. —

The statute alluded to was past in the 4 year of Edwd the first, a period anterior to the colonizing of the present United States by Great Britain — How then, I would ask could it be brought into the Colonies, consistent with the doctrine that the Com— Law, in force in the mother Country, at the time of the emigration, is alone brought out and only so much thereof as is applicable to their convenience or necessities? —

Could they take with them any principle, as Law, which had ceased to be Law— I contend not— They could take nothing with them but the law of the land— They were compelled to draw from the Com. Law, as they found it settled at the time they used it— And I do not Consider it material, in what way the principles of the C. Law have been settled, whether by usages, custom, statute or Judicial decisions of Courts— In whatever mode a change has been accomplished, is in my view, so long as the change has been acquiesced in, a part of the Com. Law in a modified and improved state— Such alteration and improvement having been made in the maxim relied on, at the time the Com— Law was brought to bear on the rights and persons of this Territory as to take the Case out of the influence or operation of the maxim, I think the present case is not nor ought to be affected by it— 45

No further cases dealing with English statutes appear in Transactions of the Supreme Court of the Territory of Michigan 1805-1836. A number of early Michigan state cases refer to the common law as being in force in the state,<sup>46</sup> but the earliest case located which deals with the status of English statutes was decided in 1861. In Trask v. Green the court referred to the act of 1810 as "expressly repealing all acts of the British parliament. . . ." <sup>47</sup> Perhaps the most widely known of the earlier Michigan cases dealing with this subject is In the Matter of Lamphere, decided in 1886, where the court stated:

. . . The relations of this commonwealth to the common law are not altogether conformed to the holdings of some other states. In many of the states, statutes of parliament passed before or during the early days

---

45. Id. at 305, 311-12.

46. E.g., Stout v. Keyes, 2 Doug. 184 (1845).

47. Trask v. Green, 9 Mich. 358, 365 (1861). See also Crane v. Reeder, 21 Mich. 24 (1870); Newark M.E. Church First Soc. v. Clark, 41 Mich. 730, 741, 3 N.W. 207 (1879); In the Matter of Lamphere, 61 Mich. 105, 108, 27 N.W. 882 (1886).

of the American colonies, as well as old colonial statutes and usages, have been construed and applied by the courts. But Michigan was never a common law colony, and while we have recognized the common law as adopted into our jurisprudence, it is the English common law, unaffected by statute.<sup>48</sup>

However, in 1939, the decision by Justice Potter in In re Sanderson seems to reflect the line of reasoning advanced by Judge Solomon Sibley eleven decades earlier. He stated in part:

The common law was brought to this country by the English colonists who settled at Jamestown in 1607. What was brought was not only the common customary law of England, but the law as modified by English statutes of general operation up to that time, subject to some modifications not here important. . . .

The ordinances of 1787, for the government of the territory northwest of the Ohio river, provided the inhabitants of the territory should always be entitled to judicial proceedings according to the course of the common law. Swan v. Williams, 2 Mich. 247. The common law, including the English statutes of general application, made the law of the Northwest Territory by the ordinance of 1787, continued to be the law of Michigan during the territorial period. . . .<sup>49</sup>

Despite these isolated references to English statutes in aid of the common law having been kept in force in Michigan, it seems impossible to avoid the conclusion that as a practical matter the act of 1810 was effective in preventing the use of English statutes by the Michigan courts.

The impact of the act, however, was not limited to the area included within the present state of Michigan. At its farthest extent, between 1834 and 1836, the Territory of Michigan extended westward to the Missouri and White Earth rivers, including all of the present states of Wisconsin, Minnesota, and Iowa and parts of North and South Dakota.<sup>50</sup>

When Congress carved out Wisconsin Territory in 1836, the organic act provided in part:

. . . The existing laws of the Territory of Michigan shall be extended over said Territory [of Wisconsin], so far as the same shall not be incompatible with the provisions of this act, subject nevertheless, to be altered, modified, or repealed, by the Governor and Legislative Assembly of the said Territory of Wisconsin. . . .<sup>51</sup>

48. In the Matter of Lamphere, supra note 47.

49. In re Sanderson, 289 Mich. 165, 174-175, 286 N.W. 198 (1939). See also People v. Den Uyl, 320 Mich. 477, 486, 31 N.W. 2d 699 (1948) where the court stated that ". . . the principles of the habeas corpus act [31 Car. 2, c. 2 (1679)] have become a part of our common law. . . ."

50. 4 Stat. 701.

51. 5 Stat. 10.

Thus the act of 1810, providing that no English or British statute was to be in force in the Territory of Michigan, continued in effect in the newly organized territory.

However, in an act effective July 4, 1839, the Wisconsin territorial legislature repealed all the acts of the Territory of Michigan in force in the Wisconsin Territory on July 4, 1836. The legislature then went on to provide:

None of the statutes of Great Britain shall be considered as law of this territory; nor shall they be deemed to have had any force or effect in this territory since the fourth day of July, 1816.<sup>52</sup>

In spite of the explicit language of this statute, in 1870 the state supreme court held that the statute 6 Anne, c. 31, §6 (relating to actions upon the accidental escape of fire) was in force in Wisconsin "as part of the common law of this state."<sup>53</sup>

Iowa Territory was carved out of Wisconsin Territory in 1838.<sup>54</sup> The organic act continued in force the laws then in force in Wisconsin subject to legislative modification or repeal. In 1840, Iowa repealed all the laws of Michigan and Wisconsin then in force, and, like Wisconsin, declared that "none of the statutes of Great Britain shall be considered as law of this territory."<sup>55</sup> However, the state supreme court in 1857, in O'Ferrall v. Simplot, held that as the statute in question specified statutes of Great

---

52. "An ACT to repeal the act herein mentioned," Statutes of the Territory of Wisconsin 1838-1839, 404-407 (1839).

53. Kellogg v. Chicago and Northwestern Ry. Co., 26 Wis. 223, 272 (1870). See also Spaulding v. Chicago and Northwestern Ry. Co., 30 Wis. 110, 116-118 (1872) where the same statute was held to be in force. Note the recent decision in In Re Budd's Estate, 11 Wis. 2d 248, 105 N.W.2d 358 (1960) where the court stated:

"The common law in this state is defined in Coburn v. Harvey, 1864, 18 Wis. 156, 162:

"\* \* \*When our territorial legislature and the framers of our constitution recognized the existence here of the common law, they must be held to have had reference to that law as it existed, modified and amended by English statutes passed prior to the [American] revolution."

"In Menne v. City of Fond Du Lac, 1956, 273, Wis. 341, 345, 77 N.W. 2d 703, 705, this court stated:

"The common law in effect at the time of the adoption of our state constitution is difficult of definition. We do not think it is confined to English statutes and the decisions of English courts \* \* \* the term 'common law' is broad enough to embrace customs and usages and legal maxims and principles in vogue at that time."

54. 5 Stat. 235.

55. "An Act to repeal the acts therein mentioned." Effective July 30, 1840. Laws of the Territory of Iowa 20, 21 (1840).

Britain, it did not apply to the English statutes, and hence the Statute of Merton, 20 Hen. 3, was in force in the state.<sup>56</sup>

56. O'Ferrall v. Simplot, 4 Iowa 381, 400-402 (1857). In Gardner v. Cole, 21 Iowa 205, 209-210 (1866), statutes of 13 Eliz., c. 4, relating to fraudulent conveyances, were held to be in force as "part of the unwritten law," i.e., statutes prior to 1607. See also McClure v. Dee, 115 Iowa 546, 549, 88 N.W. 1093 (1902) where the court stated that 3 & 4 Wm. & M., ch. 14 was "a part of the common law of this country. . . ."

In O'Ferrall v. Simplot, the court stated:

"... the ordinance of 1787, for the government of the Northwest Territory, made it [i.e., the common law] the law of that country; and that was extended over Wisconsin, and then the laws of Wisconsin, over Iowa. And although the statutes of Michigan and Wisconsin were repealed in 1840, the ordinance of 1787 was not affected, but remained in full vigor as before. . . .

\* \* \* \*

"... By the original common law, the doweress could not recover damages for the detention of her dower. This was remedied by the statute of Merton, 20 Hen. III, A.D. 1236. . . .

"It becomes, in some measure important, then to inquire what effect, if any, the statute of Merton has in this State. . . . It is urged that this ancient statute can have no effect here, because of the enactment of the sixth section of the act of July 30, 1840 (Special Session, 1840, chap. 20, p. 20), which is, that 'none of the statutes of Great Britain shall be considered as law of this territory.' The enactment of this chapter, containing a repeal of the laws of Michigan and Wisconsin, as well as the above declaration in reference to the statutes of Great Britain, was then, and has ever since been considered of very doubtful wisdom, and of no less doubtful effect. It seemed to be taking a step in the dark. That act did not receive the approval of the governor of the territory . . . The lawyer can readily perceive that there was much reason for hesitation. The statutes of England, from time to time, modified and meliorated the common law to a considerable extent. . . . In this view of them, these statutes were as much required by the people of America, as by those of the mother country. Many of them of a general character, and an enabling or remedial nature, have been adopted by the different states (even by the new western ones), either by express statute provision, or by re-enactment, or by judicial construction; the latter sometimes declaring them adopted, and sometimes considering them as become the common law of the state. . . . And these remarks will justify us in saying, that we are not disposed to give the above named section, relating to the statutes of Great Britain, any greater effect than is necessary.

"Then the question is, whether the declaration of that section extends to the statutes of England. Great Britain is not the same with England, although it includes it. The greater part, if not all of those beneficial acts, which have been adopted into the laws of the American States, were enacted before the union with Scotland. The periods at which the English statutes have been held to cease operating upon American law have been different in different states.

"Some have stopped at the fourth of James I, which was about the period of the first emigration to this country; some have fixed the

Minnesota Territory was organized in 1849.<sup>57</sup> The organic act provided that "... the laws in force in the Territory of Wisconsin at the date of the admission of the State of Wisconsin [i.e., 1848] shall continue to be valid and operative therein. . . ." Thus the 1839 Wisconsin statute became part of the Minnesota laws, but despite this the Minnesota court in 1877, in Dutcher v. Culver, held that neither the 1810 Michigan statute nor the 1839 Wisconsin statute was "entitled to be considered as extending to such statutes as were amendatory of the common law."<sup>58</sup> Therefore, the court held 2 Wm. & M., c. 5 (relating to distraint for rent) to be in force in the state.

In its two years of greatest territorial extent, Michigan Territory had extended to the White Earth River, thus including parts of the area later organized as Dakota Territory. No case or statute has been located, however, either for Dakota Territory or for the states of North or South Dakota, which shows any inclination to consider English or British statutes in force.

---

epoch of our revolution; and some, if we mistake not, that of the revolution of 1688. The above act of 1840 may reasonably be considered as having prescribed the event of the union of the crown of England with that of Scotland, which was nearly contemporaneous with that of the English revolution, that having taken place in the year 1707. This is more reasonable than to regard that declaration as to the statutes of Great Britain, as synonymous with a like declaration in relation to the statutes of England, which would receive support from neither history, language, nor the principles of interpretation. We conclude, therefore, that the statute of Merton is not deprived of any effect by the foregoing declaration of the act of 1840. . . ."

57. 9 Stat. 403.

58. Dutcher v. Culver, 24 Minn. 584, 619-20 (1877).

## CHAPTER 7

### JURISDICTIONS CARVED FROM TERRITORY SOUTH OF THE RIVER OHIO

#### Territory South of the River Ohio — Tennessee

In 1790 the State of North Carolina ceded to the United States the area referred to as "a certain district of western territory." Known initially as "the Territory of the United States, south of the river Ohio," it had substantially the same boundaries as the present state of Tennessee.

The North Carolina Deed of Cession provided:

... the territory so ceded shall be laid out and formed into a State or States containing a suitable extent of territory; the Inhabitants of which shall enjoy all the privileges, benefits and advantages set forth in the Ordinance of the late Congress for the Government of the Western territory of the United States. . . .<sup>1</sup> Eighthly, That the laws in force and use in the State of North Carolina at the time of passing this act shall be and continue in full force within the territory hereby ceded, until the same shall be repealed, or otherwise altered by the Legislative authority or the said territory. . . .<sup>2</sup>

This stipulation, among the others set out in the Deed of Cession, was accepted by Congress<sup>3</sup> and incorporated by reference in "An Act for the Government of the Territory of the United States, south of the river Ohio," approved May 26, 1790.<sup>4</sup>

Thus from the moment of its organization, "the territory . . . south of the river Ohio" was provided with a complete body of

---

1. For the text of the Northwest Ordinance as it appeared in the original journals of the Continental Congress, see 2 Carter ed., Territorial Papers of the United States 39-50 (1934) [hereinafter cited as Carter]. See also 1 Stat. 51, footnote (a). Among the "privileges, benefits and advantages" conferred by the Northwest Ordinance, re-enacted by reference in "An Act for the Government of the Territory of the United States, south of the river Ohio," 1 Stat. 123, were the following:

"There shall also be appointed a court to consist of three judges . . . who shall have a common law jurisdiction. . . .

"The inhabitants of the said territory shall always be entitled to the benefits . . . of judicial proceedings according to the course of the common law."

2. Deed of Cession, February 24, 1709, 4 Carter 11-12.

3. An Act to Accept the North Carolina Cession, April 2, 1709, 1 Stat. 106.

4. 1 Stat. 123.



statute law.<sup>5</sup> This included not only the statutes enacted by the Province and State of North Carolina but also the British statutes which had been declared to be in force in North Carolina by virtue of the acts of 1715 and 1778.

In 1715 the General Assembly of the Province of North Carolina enacted a statute entitled "An Act for the more effectual observing of the Queen's Peace, and establishing a good and lasting Foundation of Government. . . ." which provided in part:

VI. Be it therefore enacted. . . . That the Common Law is and shall be, in Force in this Government, except such Part in the Practice, in the Issuing and Return of Writs, and Proceedings in the Court of Westminster; which for Want of several Officers cannot be put in Execution; which ought to be supplied by Rules of the General Court of this Government, being first approved of by the Governor and Council, which shall be good in Law, from Time to Time, till it shall be altered by Act of Assembly.

VII. AND be it further enacted. . . . That all Statute Laws of England, made for maintaining the Queen's Royal Prerogative, and the Security of her Royal Person, and Succession of the Crown, and all such Laws made for the Establishment of the Church, and the Laws made for the Indulgence to Protestant Dissenters, and all Laws providing for the Privileges of the People, and Security of Trade; as also, all Statute Laws made for Limitation of Actions, and preventing of vexatious Law Suits, and for preventing Immorality and Fraud, and confirming Inheritances and Titles of Land, are and shall be in Force here, although this Province or the Plantations in general, are not therein named. . . .<sup>6</sup>

In 1778 the General Assembly of the State of North Carolina enacted a statute entitled "An Act to enforce such Parts of the Statute and Common Laws as have been heretofore in Force and Use here, and the Acts of Assembly made and passed when this Territory was under the Government of the Late Proprietors and the Crown of Great Britain. . . ." which stated in part:

I. WHEREAS Doubts may arise, upon the Revolution in Government, whether any and what Laws continue in Force here: For Prevention of which,

II. BE it enacted . . . That all such Statutes and such Parts of the Common Law, as were heretofore in Force and Use within this Territory, and all the Acts of the late General Assemblies thereof, or so much of the said Statutes, Common Laws, and Acts of Assembly, as are

---

5. Not only was the territory fortunate in having a ready-made pattern of legislation, but the actual problems of administration "were few, because the entire basis of local government had already been established under North Carolina jurisdiction. It is also significant that the relations between the Governor and his superiors and associates were in general without serious incident; the course of government appears to have run with relative smoothness." 4 Carter iv.

6. Iredell ed., Laws of North Carolina 17 (1791).

not destructive of, repugnant to, or inconsistent with the Freedom and Independence of this State, and the Form of Government therein established, and which have not been otherwise provided for, in the Whole or in Part, not abrogated, repealed expired, or become obsolete, are hereby declared to be in full Force within this State. . . .<sup>7</sup>

The first constitution of the state of Tennessee, February 6, 1796, provided that:

All laws and ordinances now in force and use in this territory, not inconsistent with this constitution, shall continue to be in force and use in this state, until they shall expire, be altered, or repealed by the legislature.<sup>8</sup>

A similar provision appeared in 1834 constitution.<sup>9</sup>

In 1805 the Tennessee Supreme Court was faced with the question of the status in the state of the North Carolina acts of 1715 and 1778. In Glasgow's Lessee v. Smith & Blackwell, Overton, J., stated:

That part of the act of 1715, which refers to royalty, and its privileges is not in force, being incompatible with the present form of government, and the act of 1778. The same observation will apply to the statutes made for the benefit of an established church. The remainder of the act is obscure, and does not permit any specific and definite train of ideas, in relation to what English statutes, by that act, are enforced. The construction of this act when standing alone must have depended very much upon usage and the decisions of the superior courts. Information on this subject is wanting. It becomes then necessary to look carefully into the act of 1778. The preamble of the act is in these words "whereas doubts may arise upon the revolution in government, whether any and what laws continued in force here." Sec. 2. enacts "that all such statutes and such parts of the common law, as were heretofore in force and use, within this territory and all the acts of the late general assembly thereof, or so much of the said statutes, common law, and acts of assembly as are not destructive of [,] repugnant to, or inconsistent with the freedom and independence of this state; and the form of government therein established, and which laws not been otherwise provided for, in the whole, or in part, not abrogated, repealed, expired, or become obsolete, are hereby declared to be in full force within this state."

With respect to what part of the statutes of England, to use the language of this act, "were heretofore in force, and use," no satisfactory opinion can be given; but the alternative of this sentence is susceptible

---

7. Id. at 353.

8. Constitution of Tennessee, Art. X, Sec. 2 (1796). See 6 Thorpe ed., Federal and State Constitutions, Colonial Charters, and Other Organic Laws 3414 at 3421 (1909) [hereinafter cited as Thorpe].

9. Constitution of Tennessee, Art. XI, Sec. 1 (1834). See Thorpe 3426 at 3439.

of specification, the expressions are, "or so much of the said statutes., &c as are not destructive of, repugnant to, or inconsistent with the freedom and independence of this state and the form of government." In other words all the statutes of England, contemplated in this act are in force which are not inconsistent with the principles, and the form of government. The statutes contemplated by the act, were those which passed previously to the fourth year of Jac. 1st. when the charter to the colony of Virginia was granted, which included, what was afterwards called North-Carolina.<sup>10</sup>

In 1809 John Haywood, formerly a judge in the superior courts of North Carolina, published A Revisal of all the Public Acts of the State of North Carolina and of Tennessee now in force in the State of Tennessee. He included the North Carolina act of 1778.<sup>11</sup>

In 1836 Caruthers and Nicholson prepared a compilation of Tennessee statutes.<sup>12</sup> They included sections six and seven of the North Carolina act of 1715 and section two of the North Carolina act of 1778. To the latter act, a note was appended which quoted the second paragraph extracted from Glasgow's Lessee v. Smith, as set out above.

Under these statutes, it was held by the Tennessee Supreme Court in State v. Miller (1883) that the statutes which the acts of 1715 and 1778 placed in force were

... those passed before the fourth year of James I., 1607, when the charter of the Colony was granted. See N. & C., 438; 1 Tenn., 154. Under these provisions many English statutes were held by the courts in force as statutes in Tennessee, a list of which will be found in a note by Judge Cooper to the case of Glasgow v. Smith & Blackwell, Overton Rep., 168-9. Among these we may mention the statute of limitations of 21 James I., except so far as changed by the act of 1715, ch. 27. See App. N. & C., 770. So the law stood at the time of the enactment of the Code [of 1858]. 13

---

10. Glasgow's Lessee v. Smith & Blackwell, 1 Overton (Tenn.) 144, 153-54 (1805). See also Shute v. Harder, 9 Tenn. 1 (1818); Sappington & Hickman v. Philips' Ex'rs, 9 Tenn. 105, 106-107 (1826); Green et al v. Allen et al, 24 Tenn. 170, 205 (1844); Harding v. St. Louis Life Ins. Co., 2 Cooper's Tenn. Ch. 465, 467 (1875); State v. Miller, 79 Tenn. 620, 624-25 (1883); Smith v. North Memphis Savings Bank, 115 Tenn. 12, 17-19, 89 S.W. 393 (1905); Moss v. State, 131 Tenn. 94, 103-106, 173 S.W. 859 (1914).

11. Haywood ed., A Revisal of all the Public Acts of the State of North Carolina and of the State of Tennessee now in force in the State of Tennessee (1809).

12. Caruthers & Nicholson, eds., A Compilation of the Statutes of Tennessee, of a general and permanent nature, from the commencement of the government to the present time, with reference to judicial decisions, in notes... (1836)

13. State v. Miller, 79 Tenn. 620, 625 (1883). See also Box v. Lanier,

The Code of 1858 repealed all previous enactments and enacted a new body of statute law with the result that no statutes not included within the Code were considered to be in force. The opinion in State v. Miller went on to state:

For these reasons we have no doubt of the proposition, that no English statute as such is in force in our State since the Code.<sup>14</sup>

### Mississippi Territory — Mississippi

The Mississippi Territory, as organized by Congress in 1798, included the land between the western boundary of Georgia and the eastern bank of the Mississippi, north of the 31st latitude and south of a line drawn from the mouth of the Yazoo River to the Chattahoochee River.<sup>15</sup> It was not until 1804 that the boundaries of the territory were extended northward to the southern boundary of Tennessee,<sup>16</sup> and it was 1812 before the arguments with Spain were sufficiently resolved to permit annexation to Mississippi Territory of the narrow strip along the Gulf of Mexico east of Louisiana and west of Florida.<sup>17</sup>

The area initially included within the territory had been claimed by Georgia throughout the colonial period under grants from the British Crown. Spain, fighting against Great Britain during the American Revolution, conquered it in 1781 and did not formally cede the land north of the 31st latitude to the United States until 1795. The English however, had relinquished their claims in the Anglo-Spanish Treaty of 1783, though Georgia refused to abandon hers until 1802.<sup>18</sup>

The organic act, "An Act for an amicable settlement of limits

---

112 Tenn. 393, 79 S.W. 1042 (1904); *Smith v. North Memphis Savings Bank*, 115 Tenn. 12, 89 S.W. 393 (1905); *Moss v. State*, 131 Tenn. 94, 173 S.W. 859 (1914).

14. *State v. Miller*, 79 Tenn. 620, 627 (1883).

15. "An Act for an amicable settlement of limits with the state of Georgia, and authorizing the establishment of a government in the Mississippi territory," 1 Stat. 549.

16. "An Act supplementary to the act intituled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States, south of the state of Tennessee,'" 2 Stat. 303.

17. "An Act to enlarge the boundaries of the Mississippi territory," 2 Stat. 734.

18. "An Act To ratify and confirm certain articles of agreement and Cession entered into on the 24th day of April, 1802, between the Commissioners of the State of Georgia on the one part, and the Commissioners of the United States on the other part," Laws of Georgia 1800-1810, 48 (1812).

with the state of Georgia, and authorizing the establishment of a government in the Mississippi territory," provided:

And be it further enacted, That from and after the establishment of the said government, the people of the aforesaid Territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted to the people of the territory of the United States northwest of the river Ohio in and by the aforesaid ordinance of the thirteenth day of July in the year one thousand seven hundred and eighty-seven, in as full and ample a manner as the same are possessed and enjoyed by the people of the said last-mentioned Territory.<sup>19</sup>

Unlike the organic act which in 1790 had established the territory south of the river Ohio, no specific provision was made for the laws which were to be in force. However, under the re-enactment by reference of the Northwest Ordinance, the Governor and Judges of Mississippi Territory were given the same power to adopt laws of the original states as was granted under both the Northwest Ordinance and the organic act for the territory south of the Ohio River.

In 1849, the Mississippi Supreme Court in Boarman v. Catlett commented on this re-enactment by reference of the Northwest Ordinance, stating in part:

... When the Mississippi territory was organized, the ordinance secured the inhabitants in the enjoyment of judicial proceedings, according to the course of the common law. Toulmin, Dig. 473; Laws U.S. Vol. 1, 475. This, together with the provision in the [Mississippi] constitution of 1817, schedule § 5, has been considered to exclude all English statutes, and to adopt only the common law, and the statutes of our own government, for the determination of the rights of the citizen. . . .<sup>20</sup>

An early reference in territorial legislation to English statutes appeared in an act of October 30, 1800, when Governor Winthrop Sargent<sup>21</sup> and Judges Seth Lewis and P. Bryan Bruin enacted the following:

---

19. 1 Stat. 549.

20. Boarman v. Catlett et al., 21 Miss. (13 Smedes and Marshall) 149, 152 (1849). See also "An Act for the punishment of crimes and misdemeanors," § 45, February 10, 1807, Toulmin ed., Statutes of Mississippi Territory, Revised and Digested. . . , 324 (1807), originally enacted January 30, 1802 (Acts of 1802, Act 13, § 32) which provided that "... every other felony, misdemeanor or offence whatsoever not provided for by this act, shall be punished as heretofore by the common law."

21. Winthrop Sargent, 1753-1820, had served as secretary of the Northwest Territory until his appointment as the first governor of the Mississippi Territory. Jefferson refused to re-appoint him in 1801. For the papers relating to the difficulties he encountered in Mississippi, see 5 Carter. See also 16 Dictionary of American Biography 368 (1935).

And be it further enacted, That all the statutes of England and Great Britain for amendment of the Law, commonly called the Statutes of Jeofails, which are received and enforced in the state of North Carolina, as the Laws of the said state, be, and the same are hereby Adopted and declared to be in force in this Territory.<sup>22</sup>

This statute is of considerable interest as a controversy arose in the territory as to whether the English statutes extended to Mississippi. The supporters of the proposition that they had been extended followed one of two theories: either the statutes had come by way of Georgia, lying dormant during the period of Spanish occupancy or they had come by way of Florida during the years when Great Britain had held the area. Those who took the position that the English statutes had come by way of Florida pointed to the fact that in 1765 the boundary of West Florida had been extended northward by Great Britain to 32° 39' at the mouth of the junction of the Yazoo River with the Mississippi. It was argued that this action had, at least constructively, placed the British statutes in force within this portion of Mississippi.<sup>23</sup>

---

22. "A Law to alter, and amend a Law heretofore passed in this Territory, entitled 'A Law fixing the place where the Supreme Courts for this Territory shall be held, the number of Sessions and the time of holding them,' and for other purposes," §25, October 30, 1800. Historical Records Survey, Sargent's Code 1799-1800 [135] at [145] (1939).

23. 8 American State Papers, 1 Public Lands 57 (1834). See also Cox, *West Florida Controversy 1798-1813*, 12 (1918). For a general account, see Johnson, *British West Florida 1763-1783* (1943). Both theories are open to considerable scepticism. Although Georgia's original grants provided the basis for her claims to land west of the Mississippi, the technical question arose whether Great Britain had ever legally moved the boundary of British West Florida northward to the junction of the Yazoo River with the Mississippi. If the commission of 1764 to Governor George Johnston of British West Florida did not effectuate the Order in Council which had so extended British West Florida, it could be argued that no act of the British Crown had interfered with Georgia's claim. Thus the Spanish conquest of the area in 1781 could be considered as non-destructive of the inherent continuity of the laws in force in Georgia. However, there is no indication that either the common law or English statutes, let alone Georgia statutes, were actually administered by Georgia within the area, although Georgia did attempt to exercise nominal sovereignty within the area by a series of legislative acts commencing in 1785 and culminating in the formal cession of the area claimed to the United States in 1802. Moreover, no comment has been located in any of the early cases taking the position that the common law came to Mississippi by way of Georgia.

The supporters of Florida as a source for English statutes in Mississippi, on the other hand, had to recognize the fact that even if British West Florida had included the area within the Mississippi Territory, Great Britain had ceded all of British West Florida to Spain in

On the general question of whether or not the English statutes were in force in Mississippi, two of the United States territorial judges were in complete disagreement. Thomas Rodney, judge in the western part of the territory from 1803 until his death in 1811, believed they were not.<sup>24</sup> Harry Toulmin, judge in the eastern part in and around Mobile from 1804 until the end of the territorial period, believed they were. That he held this view is of more than academic interest, as he was commissioned by the General Assembly to prepare a digest of the territorial law.<sup>25</sup> The evidence indicates that Toulmin interpreted his instructions somewhat liberally: that is, he not only wrote, rather than compiled, a number of the provisions in the Digest but he also incorporated into it the text of a number of English statutes which he considered would be useful to have in effect in the territory.<sup>26</sup>

---

1783. Despite this, Harry Toulmin, one of the United States territorial judges, advanced the proposition that "the common law of England, as it stood previously to the settlement of Florida, makes a part of the law of the Mississippi Territory." Toulmin to Cowles Mead, Washington, January 19, 1807, Series A, 7 Mississippi Archives, M.T.A. Cited and quoted in Hamilton ed., *Anglo-American Law on the Frontier: Thomas Rodney and His Territorial Cases* 127 (1953). R. J. Walker, editor of the first volume of the Mississippi reports, mentioned the possibility of a question arising concerning the transfer of laws from British West Florida or from Georgia but did not explore the issue. 1 Miss. (Walker) 52.

24. Rodney to T. Gammel, October 2, 1805, 44 Penn. Mag. 188 (1920), cited in Hamilton ed., note 23 supra.

25. Toulmin ed., note 20 supra.

26. Hamilton ed., note 23 supra, states as follows:

"... The word 'wrote' is used advisedly rather than 'compiled,' because there is a substantial foundation for the belief that Toulmin composed many passages in his digest. In addition to incorporating the public acts still in force, he wrote to the acting governor:

"I have likewise, Sir, ventured a step beyond this, knowing that many of our legal provisions and mode of proceedings are founded not in the common law, but on the Statutes of England — reflecting that in the establishment of a colony in this country under the auspices of the British Government, the settlers must have brought with them the laws of the parent state — which a subsequent temporary occupation of the country by the Spaniards, occasioned by an ignorance of the acknowledged boundaries, would not be considered as abrogating. I have felt inclined to adopt [the view that] the statute as well as the common law of England, as it stood previously to the settlement of Florida, makes a part of the law of the Mississippi Territory.

"Knowing full well that this opinion ran counter to prevailing view in the territory, Toulmin said he had restrained himself and limited his use of English statutes, not incorporating into the digest many that he felt would be useful . . . ." Toulmin to Cowles Mead, Washington, Jan. 19, 1807, in Mississippi Archives, M.T.A., Ser. A, Vol. 7."

The Digest prepared by Toulmin was "received and established as the law of the said territory" by the General Assembly in 1807,<sup>27</sup> but the legislators took pains to add to the act of acceptance the following provision:

... That the said Digest and acts of the present session shall, when printed, be entitled "The Statutes of the Mississippi territory, revised and digested by the authority of the General Assembly:" and that from and after the first day of October next, all the laws of the Governor and Judges, all the acts of the General Assembly of the Mississippi territory, and all statutes of England and Great-Britain, not contained in the said volume of statutes, shall cease to have any force or validity in this territory. . . .<sup>28</sup>

When Mississippi became a state in 1817, its first constitution contained the specific provision that all the laws then in force in the Territory were to continue in force.<sup>29</sup> A similar provision appeared in the state constitution of 1832.<sup>30</sup> As pointed out in the extract quoted above from Boarman v. Catlett, the Mississippi Supreme Court on at least this one occasion construed the constitutional provision as excluding all English statutes, stating unequivocally ". . . no English statute has any intrinsic validity here."<sup>31</sup>

The general denial of validity to any English statute not incorporated into Toulmin's Digest and thus re-enacted as a statute of Mississippi was made by the Mississippi High Court of Errors and Appeals in 1856. The opinion stated in part:

---

27. "An Act to adopt the Digest of the Laws of the Mississippi Territory, prepared agreeably to a resolution passed at the last Session of the General Assembly, and for other purposes therein mentioned. Whereas in consequence of a resolution of the General Assembly of this territory, passed at the last session, the Governor of this territory did accordingly employ HARRY TOULMIN, Esquire, one of the Judges of the same, to compile a Digest of the Statutes now in force; and whereas the said Digest has been laid before the present General Assembly, and has been examined and amended: . . . Be it enacted. . . That the said Digest, containing the acts hereinafter mentioned, is received and established as the law of the said territory, viz:— . . . ." Toulmin ed., note 20 supra, at 19.

28. Toulmin ed., note 20 supra, at 23. See also, "An act for the Punishment of Crimes and Misdemeanors," February 6, 1807, § 55, id. at 328. which provided ". . . all laws, customs or usages relating to, or in any manner respecting the benefit of clergy, are hereby abrogated and made null to all intents and purposes."

29. Constitution of 1817, Schedule, § 5. See 4 Thorpe 2032 at 2046.

30. Constitution of 1832, Schedule, § 4. See 4 Thorpe 2049 at 2063.

31. Boarman v. Catlett et al., 21 Miss. (13 Smedes and Marshall) 149, 152 (1849).



When this statute was passed [i.e., the Act of June 13, 1822 relating to conveyances], neither the statute of Westminster 2d, 13 Edward I., called the statute "de donis conditionalibus," nor the Statute of Wills, 32 Hen. VIII., was in force within this commonwealth. As early as the year 1807, all the statutes of England and Great Britain not re-enacted, were, by express enactment of the legislature, excluded from operation within the territory. Hutch. Dig. 65. <sup>32</sup>

### Alabama Territory — Alabama

The Territory of Alabama, carved out of Mississippi Territory, was organized under "An Act to establish a separate Territorial Government for the eastern part of the Mississippi Territory," approved March 3, 1817.<sup>33</sup> Section 2 of the act provided:

And be it further enacted, That all laws which may be in force, in said Territory, within the boundaries above described, at the time this act shall go into effect, shall continue to exist, and be in force, until otherwise provided by law. . . . <sup>34</sup>

Among the laws so continued in effect in Alabama Territory was the 1807 Mississippi territorial statute declaring that "... all statutes of England and Great-Britain, not contained in the said volume of statutes, shall cease to have any force or validity in this territory. . . ." Also continued in effect was another Mississippi statute, initially enacted in 1802 but amended in 1807, which provided in part:

. . . every other felony, misdemeanor or offence whatsoever not provided for by this act, shall be punished as heretofore by the common law. <sup>35</sup>

The first constitution of Alabama, adopted in 1819, continued in force the laws of Alabama Territory.<sup>36</sup> Thus, in theory, no

32. *Jordan v. Roach et al.*, 32 Miss. 482, 616 (1856), cited with approval as to this particular point in *Middlesex Banking Co. v. Field*, 84 Miss. 646, 665, 37 So. 139, 146 (1904). See *Ingraham et al. v. Regan*, 23 Miss. 213, 226-27 (1851) re the construction to be placed by Mississippi courts on English statutes re-enacted by the state. However, see also *Lumber Co. v. Harrison County*, 89 Miss. 448, 42 So. 290 (1906) where the opinion held that while the English statutes of Marlbridge and Gloucester had no force as statutes in Mississippi, the principle announced by them relative to waste committed by a tenant was a part of the law of the state.

33. 3 Stat. 371.

34. Toulmin ed., *supra*, note 20, 19.

35. "An Act for the punishment of crimes and misdemeanors, § 45, February 10, 1807, Toulmin ed., 324, originally enacted January 30, 1802, Acts of 1802, Act 13, § 32.

36. Constitution of 1819, Schedule, § 5. See 1 Thorpe 96, 113.

English or British statutes have ever been in force in the state.

In 1830, the Supreme Court of Alabama faced the question in a criminal case of whether the common law was in force in the state where the offence in question was not covered specifically by a state statute. State v. Cawood held that it was in force, referring both to the Northwest Ordinance and to the Mississippi acts of 1802 and 1807.<sup>37</sup>

---

37. State v. Cawood et al, 2 Ala. 360, 361-62 (1830) stated in part:

"It was conceded in argument, that a conspiracy was punishable at common law, but that we had not adopted it as an offence in our code of criminal jurisprudence. The objection we think is not sustainable; yet for its novelty, it merits consideration. By the 2d article of the ordinance of 1787, 'for the government of the Territory of the United States, North West of the Ohio,' which was afterwards made the fundamental law of the Mississippi Territory, it is provided that 'the inhabitants of the said Territory shall always be entitled to . . . judicial proceedings according to the course of the common law.' This provision was doubtless made with reference to the common law of England, and hence that law need not have been declared to be in force here by express enactment; but if express legislation were necessary, the part of the ordinance referred to, may be considered as having that effect. We cannot yield our acquiescence to the proposition, that the common law of England was abrogated by our secession from that country, although aware that this doctrine is sustained by some respectable names. We are willing to admit, that as the common law of England, it no longer obtains, yet as the law of the different members of the union, in which it once obtained, it still maintains validity without the aid of legislative enactment, so far as compatible with the genius of our institutions.

"I take it then as most obvious, that Congress designed to make the common law of England, so far as applicable, the rule of action, both in civil and criminal proceedings in the Mississippi Territory. This idea, in regard to crime, is strengthened by the 45th section of the 'act for the punishment of crimes and misdemeanours,' originally passed in June, 1802, but re-enacted with amendments in 1807. After the enumeration of many offences, among which conspiracy is not included, the section referred to, declares 'that every other felony, misdemeanour or offence whatsoever, not provided for by this, or some other act of the General Assembly, shall be punished as heretofore by the common law.' This act was enacted upon the hypothesis, that the common law was in force here; or it would have specifically mentioned the offences which were understood to be punishable.

"This being all the written law upon the subject, existing anterior to the adoption of our constitution, the 5th section of the schedule of the that instrument, declares that 'all laws and parts of laws, now in force in the Alabama Territory, which are not repugnant to the provisions of this constitution, shall continue and remain in force as the laws of this State, until they expire by their own limitation, or shall be altered or repealed by the legislature thereof.' By this section it is clear, that all laws whether unwritten or statute, if consistent with the constitution, are continued in force."

State v. Cawood had involved a conspiracy to commit an unlawful act, and under the Mississippi statutes continued in force it was logical to hold the common law applicable. However, in 1851 the state supreme court went somewhat further. In Carter and Wife v. Balfour's Adm'r, it addressed itself to the question of whether the statute of 43 Elizabeth relative to charitable bequests was in force in the state and stated in part:

... it is not necessary to inquire whether the statute of 43d Elizabeth is in force in this state. It appears that that statute was passed in the year 1601. and the first settlement of Virginia, (that being the first settlement in any part of the United States,) was in 1607. And the doctrine appears to be settled that English statutes passed before the emigration of our ancestors to America. and which were applicable to our situation and not inconsistent with our institutions and government, constitute a part of the common law, and are in force (unless repealed) in all the States of the Union. — . . . . 38

Carter v. Balfour was cited with approval by the state supreme court in Nelson v. McCrary et al. (1877),<sup>39</sup> a case involving 13 Edw. 1, c. 18 (relating to alternative methods of execution).

In 1907 the Legislature adopted a Political Code for the state which contained the following provision:

The common law of England, so far as it is not inconsistent with the Constitution, laws and institutions of this state, shall, together with such institutions and laws, be the rule of decision, and shall continue in

---

38. Carter and Wife v. Balfour's Adm'r, 19 Ala. 814, 829 (1851). Emphasis added, See also Clark & Co. v. Goddard, 39 Ala. 164, 169-170, 84 Am. Dec. 777 (1863) which held that 5 Eliz. 4, relating to apprentices, despite its enactment prior to the "emigration of our ancestors to America... cannot possibly be regarded as of force in this country... [as it] is incompatible with the genius and spirit of our institutions...."

39. Nelson v. McCrary et al., 60 Ala. 301, 309-310 (1877). The opinion stated in part:

"... The principle is well settled, that English statutes passed before the emigration of our ancestors, so far as consistent with our institutions and government, unless repealed, constitute a part of the common law prevailing in the states of a common origin. — Carter v. Balfour, 19 Ala. 814; Horton v. Sledge, 29 Ala. 478. If it were a matter of practical importance, there would be no room for doubt, that this statute was of force during the five years of organized government elapsing before it was in substance re-enacted by the act of 1807, Clay's Dig. 199, § 1. . . ."

Horton v. Sledge, referred to in the Nelson v. McCrary opinion, 29 Ala. 478, 496 (1856), held that the English statute of uses, 27 Hen. 8, constituted "... 'a part of the common law' of Alabama and [was] in force unless repealed...." Besides, the opinion noted "... our own statute is strikingly similar, and perhaps in effect the same, with the English statute. . . ."

force, except as from time to time it may be altered or repealed by the legislature. <sup>40</sup>

In the 1941 annotated edition of the Alabama code the following annotation appears for the above-quoted section:

Old English statutes are part of our common law. The statutes passed in England before the emigration of our ancestors, which are in amendment of the law, and applicable to our situation, constitute a part of our common law. *Carter v. Balfour*, 19 Ala. 814; *Clark v. Goddard*, 39 Ala. 164, 84 Am. Dec. 777; *Nelson v. McCrary*, 60 Ala. 301. <sup>41</sup>

---

40. The Code of Alabama, Political Code, ch. I, § 12 (1907).

41. The Code of Alabama, tit. 1, § 3 (1940).

## CHAPTER 8

### JURISDICTIONS CARVED FROM THE LOUISIANA AND FLORIDA PURCHASES

#### Orleans Territory — Louisiana

In 1803, the United States purchased from France the Province of Louisiana. The area would later be divided into the states of Louisiana, Arkansas, Missouri, Iowa, South Dakota, Nebraska, and Kansas, and part of the states of Oklahoma, Minnesota, North Dakota, Montana, Wyoming, and Colorado. Although France had originally colonized the area, it had been occupied by Spain from 1796 to 1803. After retrocession, effective French occupation lasted only from November 30, 1803, to December 20, 1803.<sup>1</sup>

On November 14, 1803, President Jefferson sent Congress a detailed Description of Louisiana, in which he described the laws in force as being "the laws of Spain and the ordinances formed expressly for the colony. . . ." <sup>2</sup> Jefferson's opinion was confirmed by the consistent attitude taken by the courts, first of Orleans Territory (including approximately the present state of Louisiana) and then of Louisiana. In 1817, the state supreme court stated: "In Spain, however, the laws of which were, and have continued to be ours. . . ." <sup>3</sup>

In the organic acts for Orleans territory, Congress continued in force these Spanish laws.<sup>4</sup> Upon organization as the state of Louisiana in 1812, the state constitution continued in effect "all laws now in force in this territory, not inconsistent with this constitution, shall continue and remain in full effect until repealed by the legislature."<sup>5</sup>

---

1. The exact nature of the laws in force in the Louisiana Purchase at the date of acquisition by the United States is discussed by Brown, "Law and Government in the 'Louisiana Purchase': 1803-1804," 2 Wayne L. Rev. 169-89 (1956).

2. 10 American State Papers, 1 Miscellaneous 344 (1834).

3. *Cottin v. Cottin*, 5 Mart. O.S. 93 (1817). For a discussion of the conflict between diverse legal systems, see Brown, "Legal Systems in Conflict: Orleans Territory 1804-1812," 1 Am. J. Legal Hist. 35-75 (1957).

4. "An Act erecting Louisiana into two territories, and providing for the temporary government thereof," March 26, 1804, 2 Stat. 283; "An Act further providing for the government of the territory of Orleans," March 2, 1805, 2 Stat. 322.

5. Constitution of 1812, Schedule, § 4. See 3 Thorpe ed., Federal

However, on May 4, 1805, the Legislature made an important breach in the predominantly civilian character of the prevailing laws. As §33 of "AN ACT for the punishment of crimes and misdemeanors," it enacted the following provision:

All the crimes, offenses and misdemeanors herein before named, shall be taken, intended and construed according to and in conformity with the common law of England; and the forms of indictment (divested however of unnecessary prolixity), the method of trial, the rules of evidence and all other proceedings whatsoever in the prosecution of the said crimes, offenses and misdemeanors, changing what ought to be changed, shall be, except as is by this act otherwise provided for, according to the said common law.<sup>6</sup>

This 1805 adoption was construed by the Louisiana Court of Errors and Appeals in 1844 as bringing into force, first in Orleans Territory and later in the State of Louisiana, the common law of crimes as it existed in 1805, "modified, explained and perfected by statutory enactments." Applying this general principle, the court held that the statutes of 2 and 3 Edw. 6 and "the statute of Geo. 2" relative to venue were in force in Louisiana.<sup>7</sup>

---

and State Constitutions, Colonial Charters, and Other Organic Laws 1380 at 1391 (1909) [hereinafter cited Thorpe].

6. "AN ACT For the punishment of crimes and misdemeanors," §33, May 4, 1805, Acts of the Territory of Orleans 1804, 416, 440 (1805). This act was not popular among the non-American segments of the Louisiana population. Edward Livingston, despite his common law background, disapproved of this wholesale introduction of one area of the common law. See *The Complete Works of Edward Livingston on Criminal Jurisprudence* 91-92, 101, 122 (1873). Under legislative authorization in 1822 Livingston prepared a complete Code of Criminal Law and Procedure, but the code was never adopted in Louisiana. It was not until 1928 that a Code of Criminal Procedure was adopted which completely superseded the act of 1805. See Hubert, "History of Louisiana Criminal Procedure," 33 *Tulane L. Rev.* 739, 740-743 (1959).

7. *State v. McCoy*, 8 *Robinson (La.)* 545 (1844). In its opinion, the court stated:

"... It will not be contended that those principles and rules of the common law, which had been abrogated and had ceased to exist in England, previously to 1805, were introduced by our statute. On the other hand, the system would have been incomplete and inefficient for the purposes contemplated by the Legislature, if they had not adopted the substitutes established by Parliament, for the rules of the common law which had been abolished. . . .

"With this construction of our act, it may be considered that by the statute of 2 and 3 Edw. 6 [relating to venue], which is amendatory of the common law, it is as fully and definitively settled in this State, as though such a provision had been made by special legislative enactment,

Except for such English statutes and parts of the common law as could be brought into Louisiana law through the statute of 1805 — which was not completely superseded until the adoption in 1928 of a Code of Criminal Procedure — the laws in force in Orleans Territory were initially the laws of Spain and after 1808 were based on the Code Napeleon.<sup>8</sup> As noted earlier, these were continued in effect by the original state constitution of 1812.

Louisiana Territory — Missouri Territory — Missouri

"An Act erecting Louisiana into two territories, and providing for the temporary government thereof," approved March 26, 1804, divided the area included within the Louisiana Purchase into the territory of Orleans and the District of Louisiana.<sup>9</sup> In 1805, the District of Louisiana was organized as the territory of Louisiana, and in 1812, it was renamed the Missouri Territory.<sup>10</sup>

At the date of the French cession of Louisiana to the United States, Spanish laws were in force.<sup>11</sup> These laws were continued in force by the organic acts.<sup>12</sup> However, "An Act further providing

---

that the venue in such cases, is in the parish where the death occurred.

\* \* \* \* \*

"The same reasons which have been urged for adopting the statute of Edw. 6, as part of our law in relation to venue, apply with equal force to the statute of Geo. 2. Both were passed for the purpose of explaining the common law, or of providing rules for the prosecution of criminals, in lieu of those which had grown in disuse, or which had been forgotten or become doubtful, or which experience had taught to be inconvenient and ineffectual."

Other cases construing and applying the 1805 statute include *Territory v. Nugent*, 1 Martin (La.) 108, 169 (1810), *State v. Kennedy*, 8 Robinson (La.) 590, 604-608 (1844), *State v. Foster*, 7 La. Ann. 255 (1852), *State v. Foster*, 8 La. Ann. 290 (1853), *State v. Smith*, 30 La. Ann. 846 (1878).

8. See Brown, "Legal Systems in Conflict: Orleans Territory 1804-1812." 1 Am. J. Legal Hist. 35, 57-59 (1957).

9. 2 Stat. 283.

10. "An Act further providing for the government of the district of Louisiana," March 3, 1805, 2 Stat. 331; "An Act providing for the government of the Territory of Missouri," June 4, 1812, 2 Stat. 743.

11. President Thomas Jefferson in 1804 noted with reference to this area "... at present the Spanish laws are in force there." 13 Carter ed., *The Territorial Papers of the United States* 19 (1934). In an early Missouri state case, *Lindell v. McNair*, 4 Mo. 380, 382 (1836), the court stated: "The laws of Spain, which prevailed here when the transfer from France to the United States was made. . . ."

12. "An Act erecting Louisiana into two territories, and providing for the temporary government thereof," March 26, 1804, 2 Stat. 283; "An Act further providing for the government of the district of Louisiana,"

for the government of the district of Louisiana," which in 1805 gave it a territorial form of government, provided for the appointment of three judges to "have the same jurisdiction which is possessed by the judges of the Indiana territory. . . .<sup>13</sup> — i.e., "a common law jurisdiction." In 1807 and 1810 there were further breaches in the civil law pattern,<sup>14</sup> while in 1816 the following enactment by the Missouri territorial legislature reflected the inrush of emigrants from the eastern states:

The common law of England, which is of a general nature, and all statutes made by the British parliament in aid of or to supply the defects of the said common law, made prior to the fourth year of James the first, and of a general nature, and not local to that kingdom, which said common law and statutes are not contrary to the laws of this territory, and not repugnant to, nor inconsistent with the constitution and laws of the United States shall be the rule of decision in this territory, until altered or repealed by the legislature, any law, usage or custom to the contrary notwithstanding, provided, however, that none of the British statutes respecting crimes and punishments shall be in force in this territory, nor shall any person be punished by common law, where the laws and statutes of this territory have made provision on the subject, but where the laws and statutes of the United States and this territory have not made provision for the punishment of offences, the several courts may proceed to punish for such offences. . . .<sup>15</sup>

---

March 3, 1805, 2 Stat. 331; "An Act providing for the government of the Territory of Missouri," June 4, 1812, 2 Stat. 743.

13. 2 Stat. 331, § 4 provided: "There shall be appointed three judges who . . . shall possess the same jurisdiction which is possessed by the judges of the Indiana territory. . . ." The organic act for Indiana Territory, "An Act to divide the territory of the United States northwest of the Ohio into two separate governments," May 7, 1800, 2 Stat. 58, had re-enacted by reference the provision in the Northwest Ordinance ". . . There shall also be appointed a court to consist of three judges . . . who shall have a common-law jurisdiction. . . ."

14. "AN ACT establishing courts of justice and regulating judicial proceedings," July 3, 1807, § 68: ". . . The rules of the common law respecting evidence as adopted by the courts of the United States having common law jurisdiction shall govern the decisions of the courts of this territory in like cases." 1 Missouri Territorial Laws 105, 124 (1842). "AN ACT regulating the mode of judicial proceedings in certain cases, and extending certain powers to the general courts," October 26, 1810, § 1: "In all cases where a remedy cannot be had in the ordinary course of the common law proceedings, the General Court shall exercise a chancery jurisdiction. . . ." *Id.* at 239, 240. "AN ACT in addition to an act, entitled, 'An act to amend an act regulating the mode of judicial proceedings in certain cases and extending certain powers to the General Court,'" December 21, 1818, § 1, gave a similar jurisdiction to the circuit courts in each county. *Id.* at 608.

15. "AN ACT declaring what laws shall be in force in this territory," January 19, 1816. 1 Missouri Territorial Laws 436 (1842). See comment



The Missouri Constitution of 1820 continued in effect "All laws now in force . . . until they expire by their own limitations, or be altered or repealed by the general assembly."<sup>16</sup>

Thus the 1816 statute was continued in force<sup>17</sup> and has, with various modifications, continued in effect in that state until 1962.<sup>18</sup>

### Arkansas Territory

Arkansas Territory was carved out of Missouri Territory by "An Act Establishing the Territory of Arkansas," approved March 2, 1819.<sup>19</sup> The act provided for the continuance in the new territory of "all the laws which shall be in force in the Territory of Missouri, on the fourth day of July next, not inconsistent with the provisions of this Act, and which shall be applicable to the

by H. M. Brackenridge in a charge to a Florida grand jury in 1831 to the effect that a volume of the "digested Legislative acts of Missouri," available to him in 1822 during the first session of the Florida Legislative Council, "contained for the greater part, little more than the adaptation of the joint labours of Jefferson, Wythe and Madison, and some of the Pennsylvania Legislators, to the circumstances of the country. The act adopting the common and statute law of England, prior to the 4th of July 1776, was among the few which can be called original . . . ." 24 Carter, ed., Territorial Papers of the United States, 309, 313 (1934).

16. Constitution of 1820, Schedule, § 2. See 4 Thorpe 2150 at 2165.

17. For cases construing the Act of January 19, 1816, and its successors see inter alia Lindell v. McNair, 4 Mo. 380 (1836), Baker's Adm'r v. Crandall et al., 78 Mo. 484 (1883), and Industrial Acceptance Corp. v. Webb., 287 S.W. 657 (Mo. App. 1926). See also Eckhardt, "Common Law, and Statute Law of England," 17 Mo. L. Rev. 398 (1952). In Baker v. Crandall, supra at 588, the court held that the statutes of 4 Ed. 3, c. 7 (relating to the survival of actions) and 31 Ed. 3, st. 1, c. 11 (relating to the administration of the goods of an intestate) constituted "a part of the common law."

18. At intervals in the intervening years, the act has been modified. Laws 1957, at 587, § 1, Missouri Revised Statutes § 1.010 (1949), provided as follows:

"The common law of England and all statutes and acts of parliament made prior to the fourth year of the reign of James the First, of a general nature, which are not local to that kingdom and not repugnant to or inconsistent with the Constitution of the United States, the constitution of this state, or the statute laws in force for the time being, are the rule of action and decision in this state, any custom or usage to the contrary notwithstanding, but no act of the general assembly or law of this state shall be held to be invalid, or limited in its scope or effect by the courts of this state, for the reason that it is in derogation of, or in conflict with, the common law, or with such statutes or acts of parliament; but all acts of the general assembly, or laws, shall be liberally construed, so as to effectuate the true intent and meaning thereof."

19. 3 Stat. 493.

Territory of Arkansas . . . until modified or repealed by the legislative authority thereof."

The new territory officially came into existence on July 4, 1819. Until December 28, 1819, the legislative power rested in the federally-appointed governor and three judges, who, on August 3, 1819, enacted a provision confirming the federal provision placing in force in Arkansas the laws "now in existence in the territory of Missouri. . . ." <sup>20</sup>

One of the laws in force in the territory of Missouri on July 4, 1819, was the statute of January 16, 1816 in which the Missouri legislature had declared:

The common law of England, which is of a general nature, and all statutes made by the British parliament in aid of or to supply the defects of the said common law, made prior to the fourth year of James the first, and of a general nature, and not local to that kingdom, which said common law and statutes are not contrary to the laws of this territory, and not repugnant to, nor inconsistent with the constitution and laws of the United States shall be the rule of decision in this territory, until altered or repealed by the legislature, any law, usage, or custom to the contrary notwithstanding, provided, however, that none of the British statutes respecting crimes and punishments shall be in force in this territory, nor shall any person be punished by common law, where the laws and statutes of this territory have not made provision for the punishment of offences, the several courts may proceed to punish for such offences . . . <sup>21</sup>

This statute continued in force in Arkansas Territory throughout the territorial period.<sup>22</sup> It was modified in 1837 by the General Assembly of the State of Arkansas to read:

SEC. 1. The common law of England, so far as the same is applicable and of a general nature, and all statutes of the British Parliament

---

20. "AN ACT declaring what laws shall be in force in the Territory of Arkansas," August 3, 1819, Laws of the Territory of Arkansas 70 (1821).

21. "AN ACT declaring what laws shall be in force in this territory," January 19, 1816, 1 Missouri Territorial Laws 436 (1842). In commenting on this statute, the Arkansas Supreme Court in *Horsley et al. v. Hilburn et al.*, 44 Ark. 458 (1884) stated: "This statute remained to govern the subsequently formed territory of Arkansas, and was afterwards re-enacted as a part of the laws of the State, with some change of phraseology and grammatical arrangements." See also Egbert Harris to the Speaker of the House of Representatives, January 9, 1833, 21 Carter ed., Territorial Papers of the United States 593, 597 (1934) where an enclosed report stated passim, "The Common law of England regulates the subject of bail in the territory. . . ."

22. See Steele & McCampbell, eds., Laws of Arkansas Territory 130-31 (1835).

in aid of, or to supply the defects of the common law, made prior to the fourth year of James the First, (that are applicable to our own form of government,) of a general nature and not local to that kingdom, and not inconsistent with the constitution and laws of the United States, or the constitution and laws of this State, shall be the rule of decision in this State, unless altered or repealed by the General Assembly of this State.

SEC. 2. In cases of crimes and misdemeanors, committed in this State, the punishment of which has not been provided for by the statute, the court having the jurisdiction thereof, shall proceed to punish the offender under the provisions of the common or statute law of England, put in force in this State, by this act. . . .<sup>23</sup>

Section 1 of the 1837 act was in force in 1962 as §1-101, Arkansas Statutes.<sup>24</sup>

### Florida Territory

When Spain ceded to the United States in 1819<sup>25</sup> the area later to be organized as the Territory of Florida, the laws then in force were those of Spain.<sup>26</sup> Pending organization by Congress, Major-General Andrew Jackson was placed in charge as Governor of the Province of the Floridas, exercising the powers of the Captain General and Intendant of the Island of Cuba. On July 21, 1821, he promulgated an ordinance which provided in part:

... the judicial proceedings ... shall be conducted in criminal cases, according to the course of the common law. . . .<sup>27</sup>

The organic act of March 30, 1822, continued in effect the laws

23. Act of December 9, 1837. Revised Statutes of the State of Arkansas, adopted at the October Session of the General Assembly of Said State, A.D. 1837, 182 (1838). Among the earlier cases referring to this statute are *Horsley et al. v. Hilburn et al.*, note 21, *supra*, *Biscoe v. Thweatt*, 74 Ark. 545, 86 S.W. 432 (1905), and *Moore v. Sharpe*, 91 Ark. 407, 414, dissent 421, 121 S.W. 341 (1909).

24. Arkansas Statutes §1-101.

25. Treaty concluded February 22, 1819, proclaimed February 22, 1821. 2 Malloy ed., *Treaties, Conventions, International Acts, Protocols and Agreements between the United States and Other Powers 1776-1909*, 1651 (1910).

26. See *Heirs of Vidal v. John Innerarity*, 1821, *Annals of Congress*, 17th Cong., 1st Sess., 2328, 2334 (1855). See also letter from John Quincy Adams, Secretary of State, to Governor Andrew Jackson, October 26, 1821, *id.* at 2339, in which Adams referred to the laws "... of Spain, operating in the provinces. . . ." For a discussion of what laws of Spain were to be considered in force in the Floridas, see a report submitted to Jackson on July 26, 1821, by H. M. Breckenridge, newly appointed Alcalde of Pensacola, *id.* at 2540, 2544.

27. *Id.* at 2551, 2554. See also Thomas, *A History of Military Government in Newly Acquired Territory of the United States* 54-97 (1904).

then in force, that is, the laws of Spain as modified by Jackson's ordinance relating to criminal proceedings.<sup>28</sup>

The legislative body for the newly organized territory, the Legislative Council, convened in the summer of 1822. On September 2, it repealed all the laws and ordinance in effect in the territory of July 22, 1822.<sup>29</sup> Commenting on this act, in a concurring opinion in Menendez et al. v. Rodriguez, Justice Whitfield in 1932 stated:

"The laws and ordinances" that were repealed as above shown were the laws of Spain that were continued in force in the Floridas by the proclamation, and the ordinances promulgated in 1821, by Major General Andrew Jackson, Governor of the Provinces of the Floridas, pursuant to authority conferred by James Monroe, President of the United States, under an Act of Congress approved March 3, 1821, to carry into execution the Treaty with Spain ceding the Floridas to the United States. . . .<sup>30</sup>

While repealing all the laws then in force in the newly organized territory, the Legislative Council provided a substitute by enacting that

. . . the common law of England which is of a general nature, and all statutes of the British Parliament in aid of, or to supply the defects of the said common law made prior to the fourth year of James the first and of a general nature, and not local to the kingdom, which said common law and statutes are not inconsistent with the constitution and laws of the United States, and except as in this act, is hereafter excepted, together with the system of equity recognized and practised in the courts of Chancery in the U. States, shall be the rule of decision in this Territory, until altered or repealed by the Legislature thereof — Provided however that none of the British statutes respecting crimes and punishments shall be in force in this Territory, nor shall any person be punished by common law, where the laws and statutes of this Territory have made provision on the subject, but where the laws and statutes of the United States and of this Territory have not made provision for the punishment of offences, the several courts may proceed to punish for such offences . . . .<sup>31</sup>

The following year, however, by the Act of June 29, 1823, this provision was repealed and the following enacted:

---

28. "An Act for the establishment of a territorial government in Florida," 3 Stat. 654.

29. "AN ACT Providing for the adoption of the Common Law, and certain Statutes of Great-Britain, and for repealing the Laws and Ordinances now in force," September 22, 1822, Acts of the Legislative Council of the Territory of Florida 1822, 53 (1823).

30. Menendez et al. v. Rodriguez, 106 Fla. 214, 219-20, 143 So. 223 (1932).

31. See note 29, supra.

... the common and statute law of England, which is of a general nature, with the exceptions hereinafter mentioned, down to [7-4-1776] ... is hereby declared to be in force in this territory; Provided, the said common and statute law be not inconsistent with the constitution and laws of the United States, and the acts of the Legislative Council of this Territory—and Provided also, That none of the British statutes respecting crimes and misdemeanors, shall be in force in this territory. . . 32

In 1829, the Governor and Legislative Council repealed the 1823 act and enacted the following provision:

... the common and statute laws of England, which are of a general and not of a local nature, with the exception hereinafter mentioned down to [7-4-1776] ... are hereby declared to be in force in this Territory; Provided, The said statutes and common law be not inconsistent with the constitution and laws of the United States, and the acts of the Legislative Council of this Territory; And provided also, That none of the British statutes respecting crimes and misdemeanors shall be in force in this Territory, except statutes declaratory of and in aid of the common law; nor shall any person be punished by the said common law, when there is an existing provision by the statutes of this Territory on the subject; but when there exists no such provision by statute of the Territory, then the several courts of this Territory shall proceed to punish such offence. . . . 33

In a Presentment to the Grand Jury of Jackson County, in December 1831, the Honorable H. M. Breckenridge — the same man who ten years earlier had reported to Andrew Jackson on the status of the laws in the Floridas — set out inter alia an account of the acts of 1822, 1823, and 1829 dealing with the adoption of the common law and the British statutes. He stated in part:

... The Legislative Council of this Territory [in 1822], it must be acknowledged, had an arduous task to perform. In the different states of the Union, from which you have migrated to this country, they had the advantage of the settled code of Great Britain, and this, when altered and modified by the cautious hand of enlightened men, with the aid of experience, has enabled them to establish something better suited to this circumstances, and situations, without incurring the danger of

---

32. "AN ACT Providing for the adoption of the Common and Statute laws of England, and for repealing certain laws and ordinances," July 29, 1823, Acts of the Legislative Council of the Territory of Florida 1823, 111 (1823).

33. "AN ACT Providing for the adoption of the Common and Statute Laws of England, and for repealing certain laws and ordinances," November 6, 1829, Acts of the Legislative Council of the Territory of Florida 1829, 8 (1829). See Florida Statutes 1959 §2.01.

uncertainty, obscurity and confusion. The alterations might be made from time to time, on an established system, as they were dictated by necessity. This Territory, having been obtained by the United States, through a treaty with a foreign nation, whose government was of a despotic character, it became necessary to establish institutions entirely new. The inhabitants of Florida, did not like those of the Carolinas or Georgia, bring their laws and institutions with them; but from their habits and predilections, in this newly settled country, it was natural for them to look for models to those laws, and institutions, under which they had enjoyed liberty, prosperity and happiness. . . .

The first acts of the Legislative Council were passed in the summer of 1822, one year after the acquisition of the Territory. I was a member of that body, by commission from the President of the United States, but was appointed to my present situation, before the commencement of its session. Foreseeing, however, the difficulty under which the Territory would labor for the want of a suitable code of laws, I had procured a volume of the digested Legislative acts of Missouri, which had been similarly situated, having been also a province of Spain. The Territory of Orleans, now the State of Louisiana, continued to be governed in civil matters by Spanish laws; the greater part of its inhabitants, having been accustomed to them, and estates being held subject to its rules. Missouri, on the contrary, was settled by citizens of the United States, habituated to English and American Legislation. The volume to which I have alluded, was the result of fifteen years experience in that State, and yet contained for the greater part, little more than the adaptation of the joint labours of Jefferson, Wythe and Madison, and of some of the Pennsylvania Legislators, to the circumstances of the country. The act adopting the common and statute law of England, prior to the 4th of July 1776,\* was among the few which can be called original. Our first Council, received this volume as their text book, and adopted the greater part of it, with little or no alteration. The next Council of 1823, for what cause it is difficult to say, thought proper to repeal the whole of them at once, instead of making such alterations, or amendments, as they might have deemed necessary. Our Territory, has ever since experienced the pernicious effect of this example. The whole body of the law criminal as well as civil, not even excepting the fundamental act which adopted the common and statute law of England, has since been repeatedly repealed, and re-enacted, and partial alterations have been made, by which they have been rendered vague and uncertain, instead of being permanent and generally known. . . .

The last statute of the Territory providing for the punishment of crimes and misdemeanors, was passed in 1823;† all acts prior to that period were expunged from the statute books. It was hoped that in future, we should look to this statute only, for our direction in the administration of the criminal law. But it was soon observed, that a most important omission had been made, in the enumeration of acts to be in force, by the condensation act as it is styled, of the same Council; all others being repealed. The act to which I allude, was that before spoken of, adopting the common and statute law of England. In the act of 1829‡ this omission is supplied, by the act adopting those laws, which are of a general, and not a local nature, down to the 4th of July 1776 — with certain exceptions, thereafter enumerated; these are, 1st, that the said

Statutes, and common law, be not inconsistent, with the Constitution and laws of the United States, and the acts of the Legislative Council of this Territory: 2d— that none of the British Statutes, respecting crimes and misdemeanors, shall be in force in this Territory, excepting Statutes declaratory of and in aid of the Common law; 3d—Nor shall any person be punished, by the said common law, when there is an existing provision on the subject, by the Statutes of the Territory; but when there is no such provision, then, the several Courts of the Territory, shall proceed to punish such offence, by fine and imprisonment, the fine not to exceed five hundred dollars, nor the imprisonment twelve months. . . .

By the act adopting the Common Law of England, it appears that none of the British statutes, on the subject of crimes and misdemeanors, are in force in this Territory, except such as are declaratory, and in aid of the Common Law; it appears further, that no part of the Common Law INCONSISTENT with the acts of the Council, is adopted; and again, that Common Law PUNISHMENTS, are in no instance to be inflicted; but in lieu of them, where our own Laws are silent, a discretionary power is given to the Court, to punish by fine not exceeding five hundred dollars, and imprisonment, not exceeding twelve months; so much of the Common Law therefore, on the subject of crimes and misdemeanors, as is not thus excluded, is still in force here.<sup>34</sup>

\* Fla., Acts, 1822, pp. 136-137.

† Approved Nov. 22, 1828, Fla., Acts, 1828, pp. 48-78.

‡ Approved Nov. 17, 1829, Fla., Acts, 1829, pp. 123-124.

Although the Legislative Council, in adopting this series of acts which declared in force substantial portions of the English statutes, may have hoped to thereby provide "a body of integrated law"<sup>35</sup> for the territory, it did not identify precisely what statutes of England were made a part of the laws of Florida. This uncertainty persisted throughout the territorial period and it was not until December 27, 1845, that the Governor of the State of Florida approved an act of the General Assembly which stated in part:

BE IT ENACTED . . . That his Excellency, the Governor, is hereby authorized to appoint some suitable person, to collect and arrange, under appropriate heads, all the Statutes of Great Britain, of force in this State; and upon the completion of said work, and its approval by the Governor, after having been first submitted to the examination of three skilful and experienced members of the bar, he, the said Governor, shall contract for the publication of such a number of volumes, not exceeding

---

34. 24 Carter ed., Territorial Papers of the United States 609, 612-15 (1934). See also Dietz, "Sketch of the Evolution of Florida Law," 3 U. Fla. L. Rev. 74, 75 (1950); Day, "Extent to Which the English Common Law and Statutes Are in Effect," *id.* at 303-318.

35. British Statutes in Force in the State of Florida, compiled by Leslie A. Thompson, 1853, brought up to date and annotated by Guy W. Botts, 1943, 3 Florida Statutes 1941, Helpful and Useful Matter 3 (1946).

three thousand, subject to the future disposition of the General Assembly; and may issue his warrant upon the Treasury, in favor of said compiler, for such sum as he may deem reasonable and just.<sup>36</sup>

The Governor appointed Judge Leslie A. Thompson to compile such a list. The Judge completed his work, but the finished product was never officially approved by the Governor and it was not then published.<sup>37</sup>

In 1941, in the course of a revision of the Florida statutes then in progress, Attorney General Watson determined that the Thompson compilation should be brought up to date with annotations and published. This was done and the list was published in volume three of the Florida Statutes of 1941, so-called "Helpful and Useful Matter."

---

36. "AN ACT concerning the Statutes of Great Britain, of force in this State," Acts of Florida 1845, 118 (1845).

37. See note 35, supra. The original manuscript is in the Library of the Supreme Court of Florida.



### PART III

SPECIFIC BRITISH STATUTES: THEIR TREATMENT BY  
COURTS, LEGISLATURES, AND LIST-MAKERS

## INTRODUCTORY NOTE

This Table is designed to list references to British statutes appearing between 1776 and 1836 in the following sources:

1. Statutes of the several states and territories of the United States
2. Reported decisions by the courts of the several states and territories of the United States
3. Lists authorized by state legislatures purporting to set out all British statutes considered in force and/or not in force in the particular jurisdiction

To facilitate reference by subject, the English statutes themselves have been arranged under key words taken from the index to the Statutes of the Realm. Thus under a key word—e.g., Dower—will appear all the English statutes mentioned in the reports or statutes or lists. Each particular British statute is identified by its full title, the regnal year citation, and references to both the Statutes at Large and the Statutes of the Realm (hereinafter cited as S.L. and S.R., respectively). Under each such statute, in alphabetical order, are listed the several jurisdictions of the United States which have been concerned with this particular statute. Under each jurisdiction are references to the reports or statutes or lists which mention the particular English statute. To avoid cross-referencing, a single English statute which dealt with more than one topic has been placed under as many key words as seemed desirable. For the sake of convenience, the following abbreviations have been used in referring to the authorized lists:

| <u>Abbreviation</u> | <u>Jurisdiction</u> | <u>Official Title of List</u>                                                                                                                                                     |
|---------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Binney              | Pennsylvania        | The Report of the Judges of the Supreme Court of the Commonwealth of Pennsylvania, 1808, 3 Binney (Pa.) 593                                                                       |
| Cooper              | South Carolina      | "An Act to put in force . . . the several Statutes of the Kingdom of England . . . therein particularly mentioned," Cooper, ed., 2 Statutes at Large of South Carolina 401 (1837) |

| <u>Abbreviation</u> | <u>Jurisdiction</u> | <u>Official Title of List</u>                                                  |
|---------------------|---------------------|--------------------------------------------------------------------------------|
| Kilty               | Maryland            | Kilty, A Report of All Such English Statutes . . . (1811)                      |
| Martin              | North Carolina      | Martin, A Collection of the Statutes of the Parliament of England . . . (1792) |
| Roberts             | Pennsylvania        | Roberts, A Digest of Select British Statutes . . . (1817)                      |
| Schley              | Georgia             | Schley, A Digest of the English Statutes . . . (1826)                          |

In preparing the Table, no reliance was placed on indices to the volumes of statutes or printed reports. Instead, the pages of all reports and statutes were scanned individually to locate each reference to an English statute. Cards were prepared showing each entry. The validity of each reference was checked for context against the particular British statute and the case or statute referring to it. The cards were then filed under the key words taken from the index to the Statutes of the Realm.

The student research assistants who contributed to the completion of this study included John Baumgartner, Law '60, Clarhold Britton, Law '61, S. Stuart Eilers, Law '63, William McCarter, Law '63, Richard Snyder, Wade C. Stevens, Law '63, James J. White, Law '62, and Richard Wood, Law '62. Particular mention must be made of three of these individuals: John Baumgartner, who was the first to work on the project and who laid down the pattern for locating and identifying the individual references, Joseph Schneider, who was responsible for the organization of the Table and the selection of the key words drawn from the index to the Statutes of the Realm, and Wade Stevens, who rechecked each individual reference and double checked all entries. Louise S. Brown and Ross N. Pearson, Jr., did the final proof-reading. Mary H. Dobson, Jean V. Hughes, and Roma Schneider typed the manuscript. Grateful acknowledgment is due to each for his individual contribution.

ABJURATION

For abjurations and sanctuaries.

22 Hen. 8, c. 14 (1530), 4 S.L.  
208; 22 Hen. 8, c. 14 (1530-31),  
3 S.R. 332

North Carolina: State v. Gayner,  
1 C. & N. 305 (1801)

South Carolina: 2 Cooper 408

Tennessee: Garner v. State, 13  
Tenn. 160 (1833)

ACCESSARIES

An act that accessaries in murder  
and divers felonies shall not have  
the benefit of clergy. 4 & 5 Phil.  
& M., c. 4 (1557), 6 S.L. 95; 4 & 5  
Phil. & M., c. 4 (1557-58), 4 S.R.  
322

New York: Butler's Case, 4 Rog.

N.Y. City H. Rec. 77 (1819)

North Carolina: State v. Seaborn,  
15 N.C. 305 (1833)

South Carolina: 2 Cooper 409

ACCOUNT AND ACCOUNTANT

A remedy against accomptants.

Fermors shall make no waste.

52 Hen. 3, c. 23 (1267), 1 S.L. 70;

52 Hen. 3, St. Marl., c. 23

(1267), 1 S.R. 24

Connecticut: Moore v. Ellsworth,

3 Conn. 483 (1821)

Georgia: Schley 81

Maryland: Kilty 209

Massachusetts: Sackett v. Sackett,

25 Mass. (8 Pick.) 309 (1829)

New Hampshire: Chase v. Hazelton,

7 N.H. 171 (1834)

South Carolina: 2 Cooper 403

ACTON BURNEL

The Statute of Acton-Burnel.

Ordaining the statute-merchant  
for recovery of debts. 11 or 13

Edw. 1 (1283 or 1285), 1. S.L.

141; 11 Edw. 1 (1283), 1 S.R. 53

Delaware: Ex parte Dixon, 1 Del.

Ch. 261 (1824)

Maryland: Watkins v. Worthington,

2 Bla. Ch. 509 (1830); Tessier v.

Wyse, 3 Bla. Ch. 28 (1830);

Coombs v. Jordan, 3 Bla. Ch.

284 (1831)

ACTIONS

Process in actions upon the case  
sued in the King's bench and com-  
mon pleas. 19 Hen. 7, c. 9 (1503),  
4 S.L. 91; 19 Hen. 7, c. 9 (1503-04),  
2 S.R. 653

Maryland: Kilty 229

South Carolina: White v. City

Council, 2 Hill 571 (1835);

2 Cooper 408

An act to give costs to the de-  
fendant upon a nonsuit of the  
plaintiff, or verdict against him.  
4 Jac. 1, c. 3 (1606), 7 S.L. 206;  
4 Jac. 1, c. 3 (1606-07), 4 S.R.  
1141

Georgia: Schley 235

Maryland: Kilty 236

Pennsylvania: 3 Binney 623;

Roberts 129

South Carolina: Ex'rs of Bordeaux

v. Cave, 2 Bail. 6 (1830); 2 Cooper  
410

Tennessee: Wallen v. M'Henry's

Lessee, 10 Tenn. 310 (1829)

ACTIONS POPULAR

Actions popular, prosecuted by  
collusion, shall be no bar to those  
which he pursued with good faith.  
4 Hen. 7, c. 20 (1487), 4 S.L. 48;  
4 Hen. 7, c. 20 (1488-89), 2 S.R.  
543

Georgia: Schley 141

Maryland: Kilty 229

Pennsylvania: 3 Binney 617;

Roberts 372

An act for the ease of the subject,  
concerning informations upon  
penal statutes. 21 Jac. 1, c. 4  
(1623), 7 S.L. 260; 21 Jac. 1, c. 4  
(1623-24), 4 S.R. 1214

Georgia: Schley 239

Maine: Titus v. Frankfort, 15 Me.  
89 (1838)

Maryland: Kilty 236

Federal: Foyles v. Law, 3 Cranch  
C.C. 118 (1827)

ADMINISTRATORS

To whom the ordinary may commit

the administration of the goods of him that dieth intestate. The benefit and charge of an administrator. 31 Edw. 3, St. 1, c. 11 (1357), 2 S.L. 113; 31 Edw. 3, St. 1, c. 11 (1357), 1 S.R. 351

Alabama: Mayfield v. Clifton, 3 Stew. 375 (1831)

Georgia: Carnochan v. Abrahams, Charlt. T.U.P. 196 (1810); Schley 125

Massachusetts: Pitts v. Hale, 3 Mass. 321 (1807)

New Jersey: Dickerson v. Robinson, 6 N.J.L. 195 (1822)

North Carolina: Carthey v. Webb, 6 N.C. 268 (1813)

Pennsylvania: Lattimore v. Simmons, 13 S. & R. 183 (1825); Penrod v. Morrison, 2 Pen. & W. 126 (1830); Ellmaker's Estate, 4 Watts 34 (1835); 3 Binney 612; Roberts 250

South Carolina: M'Vaughters v. Elder, 2 Brev. 307 (1809); Ordinary v. Bonner, 2 Hill 468 (1834); 2 Cooper 405

Tennessee: Lasseter v. Turner, 9 Tenn. 413 (1830)

Virginia: Dykes & Co. v. Woodhouse's Adm'r, 24 Va. (3 Rand.) 287 (1825)

An act against fraudulent administration of intestates goods. 43 Eliz., c. 8 (1601), 7 S.L. 50; 43 Eliz., c. 8 (1601), 4 S.R. 972

Georgia: Schley 233

Maryland: Kilty 236

North Carolina: Barnard v.

Gregory, 14 N.C. 223 (1831)

Pennsylvania: 3 Binney 622; Roberts 256

South Carolina: 2 Cooper 410

An act for reviving and continuance of several acts of parliament therein mentioned. 1 Jac. 2, c. 17 (1685), 8 S.L. 463; 1 Jac. 2, c. 17 (1685), 6 S.R. 19

New Jersey: Orange v. Springfield, 14 N.J.L. 321 (1834)

New York: Foster v. Wilbert, 1 Pai. Ch. 537 (1829)

North Carolina: Davis v. Duke's Adm'r, 1 Tayl. 213 (1801); 1 C. & N. 361 (1801)

Pennsylvania: Lessee of Ware v. Fisher, 2 Yeates 578 (1800); Harris v. Hayes, 6 Binn. 422 (1814); Bevan v. Taylor, 7 S. & R. 397 (1821)

South Carolina: 2 Cooper 411

## ADMIRALTY

With what things the admiral and his deputy shall meddle. 13 Rich. 2, St. 1, c. 5 (1389), 2 S.L. 312; 13 Rich. 2, St. 1, c. 5 (1389-90), 2 S.R. 62

Maryland: Kilty 223

South Carolina: 2 Cooper 406

Federal: Gardner v. The New Jersey, 1 Pet. Adm. 223 (1806); De Lovio v. Boit, 2 Gall. 398 (1815); United States v. Wiltberger, 18 U.S. (5 Wheat.) 76 (1820); Jenks v. Lewis, 3 Mas. 503 (1825); Steele v. Thacher, 1 Ware, 85 (1825); Plummer v. Webb, 4 Mas. 380 (1827); Bains v. Schooner James, Bald. C.C. 544 (1832); Schooner Volunteer, 1 Sumn. 551 (1834); Thomas v. Lane, 2 Sumn. 1 (1834)

In what places the admiral's jurisdiction doth lie. 15 Rich. 2, c. 3 (1391), 2 S.L. 340; 15 Rich. 2, c. 3 (1391), 2 S.R. 78

Maryland: Kilty 223

South Carolina: 2 Cooper 406

Virginia: Commonwealth v. Gaines, 4 Va. (2 Va. Cas.) 172 (1819)

Federal: Gardner v. The New Jersey, 1 Pet. Adm. 223 (1806); De Lovio v. Boit, 2 Gall. 398 (1815); Ship Grand Turk, 1 Pai. C. 73 (1817); United States v. Wiltberger, 18 U.S. (5 Wheat.) 76 (1820); Steele v. Thacher, 1 Ware 85 (1825); Plummer v. Webb, 4 Mas. 380 (1827); Bains v. Schooner James, Bald. C.C. 544 (1832); Schooner Volunteer, 1 Sumn. 551

(1834); *Thomas v. Lane*, 2 Sumn. 1 (1834)

For the avoiding of tedious suits in civil and marine causes. 8 Eliz., c. 5 (1565), 6 S.L. 236; 8 Eliz., c. 5 (1566), 4 S.R. 488

Federal: *Jennings v. Carson*, 1 Pet. Adm. 1 (1792)

An act declaring the authority of the commissioners appointed by his Majesty under the great seal of Great Britain, for receiving, hearing, and determining appeals in causes of prizes. 22 Geo. 2, c. 3 (1749), 19 S.L. 274

Federal: *Jennings v. Carson*, 1 Pet. Adm. 1 (1792)

## AFFIDAVITS

An act for taking affidavits in the country, to be made use of in the courts of King's bench, common pleas and exchequer. 29 Car. 2, c. 5 (1676), 8 S.L. 410; 29 Car. 2, c. 5 (1677), 5 S.R. 846

Delaware: *Jacobs v. Aydlotte*, 1 Del. Cas. 443 (1797)

An act to prevent the committing of frauds by bankrupts. 5 Geo. 2, c. 30 (1732), 16 S.L. 335

Kentucky: *Tribble v. Taul*, 23 Ky. (7 T.B.Mon.) 455 (1828)

New Jersey: *Sharp v. Teese*, 9 N.J.L. 352 (1828)

New York: *Frost v. Carter*, 1 Johns. Cas. 74 (1799); *Duncan v. Lyon*, 3 Johns. Ch. R. 351 (1818); *Dale v. Cooke*, 4 Johns. Ch. R. 11 (1819); *Roosevelt v. Mark*, 6 Johns. Ch. R. 266 (1822)

Pennsylvania: *Pleasants v. Meng*, 1 Dall. 380 (1788); *Rugan v. West*, 1 Binn. 263 (1808); *Blythe v. Johns*, 5 Binn. 247 (1812); *Kingston v. Wharton*, 2 S. & R. 208 (1816)

Rhode Island: *Greene v. Davling*, 5 Mas. 201 (1828)

Federal: *Vasse v. Comegys*, 4 Wash. C.C. 570 (1825); *Howe v.*

*Sheppard*, 2 Sumn. 409 (1836); *In re Morris, Crabbe* 70 (1837)

## AIDS

The King or his heirs shall have no tallage or aid without consent of parliament. 34 Edw. 1, St. 4, c. 1 (1306), 1 S.L. 319; 25 Edw. 1, St. Tall., c. 1 (1297), 1 S.R. 125  
South Carolina: 2 Cooper 404

## ALE AND BEER

A Statute of the Pillory and Tumbrel, and the Assise of Bread and Ale. 51 Hen. 3, St. 6 (1266), 1 S.L. 47; *Temp Incert.*, 1 S.R. 201

Pennsylvania: *James v. Commonwealth*, 12 S. & R. 220 (1825)

## ALIENS

The warranty of packing of wool shall be put out. An inquest shall be de Medietate Linguae, where an alien is party. 28 Edw. 3, c. 13 (1354), 2 S.L. 104; 28 Edw. 3, c. 13 (1354), 1 S.R. 348

North Carolina: *State v. Antonio*, 11 N.C. 200 (1825)

Pennsylvania: *Respublica v. Mesca*, 1 Dall. 73 (1783); 3 Binney 611; *Roberts* 336

[Re rates of shipping on English Ships] 32 Hen. 8, c. 14 (1540), 5 S.L. 24; 32 Hen. 8, c. 14 (1540), 3 S.R. 760

Federal: *Schooner Volunteer*, 1 Sumn. 551 (1834)

An act for taking off aliens duty upon commodities of the growth, product, and manufacture of the nation. 25 Car. 2, c. 6 (1672), 8 S.L. 395; 25 Car. 2, c. 6 (1672), 5 S.R. 791

Massachusetts: *Shrimpton v. Brenton*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 268 (1692)

An act to enable his Majesty's natural-born subjects to inherit the estate of their ancestors,

either lineal or collateral, notwithstanding their father or mother were aliens. 11 & 12 Will. 3, c. 6 (1700), 10 S.L. 319; 11 Will. 3, c. 6 (1698-99), 7 S.R. 590

Georgia: Schley 312

Maryland: M'Creery's Lessee v. Somerville, 22 U.S. (9 Wheat.) 354 (1824)

Massachusetts: Palmer v. Downer, 2 Mass. 179 note (1801); Merry v. Prince, 2 Mass. 176 (1806)

New York: Lessee of Levy v. M'Cartee, 31 U.S. (6 Pet.) 102 (1832); Jackson v. Fitz Simmons, 10 Wend. 9 (1832)

Pennsylvania: 3 Binney 625; Roberts 20

South Carolina: 2 Cooper 412

An act to explain a clause in an act made in the seventh year of the reign of her late majesty Queen Anne, for naturalizing foreign protestants, which relates to the children of the natural-born subjects of the crown of England, or of Great Britain. 4 Geo. 2, c. 21 (1731), 16 S.L. 243

New York: Jackson v. Jackson, 7 Johns. R. 214 (1810)

South Carolina: Ex Parte Dupont, 1 Harp. Eq. 5 (1824)

An act to obviate doubts that may arise upon an act made and passed in the eleventh and twelfth years of the reign of his late majesty King William the Third, intituled, An act to enable his Majesty's natural born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens. 25 Geo. 2, c. 39 (1752), 20 S.L. 383

Maryland: M'Creery's Lessee v. Somerville, 22 U.S. (9 Wheat.) 354 (1824)

## ALLEGIANCE

An act to retain the Queen's majesty's subjects in their due obedience. 23 Eliz., c. 1 (1581), 6 S.L. 332; 23 Eliz., c. 1 (1580-81), 4 S.R. 657

Connecticut: Barkhamsted v. Parsons, 3 Conn. 1 (1819)

An act for the more speedy and due execution of certain branches of the statute made in the twenty-third year of the Queen's majesty's reign, intituled, An act to retain the Queen's majesty's subjects in their due obedience. 29 Eliz., c. 6 (1587); 6 S.L. 394; 29 Eliz., c. 6 (1586-87), 4 S.R. 771

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## ALLUM MINES

An act concerning monopolies and dispensations with penal laws and the forfeitures thereof. 21 Jac. 1, c. 3 (1623), 7 S.L. 255; 21 Jac. 1, c. 3 (1623-24), 4 S.R. 1212

Maryland: Cunningham v. Browning, 1 Bla. Ch. 299 (1827)

New York: Commonwealth v. Bean, 3 Wheel. Cr. C. 67 (1824)

Federal: Evans v. Eaton, 20 U.S. (7 Wheat.) 356 (1822); Mellus v. Silsbee, 4 Mas. 108 (1825); Whitney v. Emmett, Bald. C.C. 303 (1831)

## ALMS

A Contra formam Collationis; and a Cessavit to recover lands given in alms. 13 Edw. 1, St. 1, c. 41 (1285), 1 S.L. 218; 13 Edw. 1, Westminster 2d, c. 41 (1285), 1 S.R. 91

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## AMBASSADORS

An act for preserving the privileges of ambassadors, and other publick ministers of foreign

princes and states. 7 Anne, c. 12 (1708), 11 S.L. 487; 7 Anne, c. 12 (1708), 9 S.R. 81

South Carolina: State v. De La Foret, 2 N. & Mc. 217 (1820)

#### AMENDMENT

The justices may in certain cases amend defaults in records. 8 Hen. 6, c. 15 (1429), 3 S.L. 137; 8 Hen. 6, c. 15 (1429), 2 S.R. 252

Connecticut: Judson v. Blanchard, 3 Conn. 579 (1821)

Georgia: Schley 134

Kentucky: Jeffrey's Heirs v. Callis, 34 Ky. (4 Dana.) 465 (1836)

Maryland: Kilty 227

Pennsylvania: 3 Binney 615; Roberts 34

South Carolina: Rep's of Bourdeaux v. Treasurers, 3 McCord 142 (1825); 2 Cooper 407

Federal: Wilson v. Berry, 2 Cranch C.C. 707 (1826)

An act for the amendment of writs of error; and for the further preventing the arresting or reversing of judgments after verdict. 5 Geo. 1, c. 13 (1718), 14 S.L. 49

Maryland: Giles v. Perryman, 1 H. & G. 164 (1827); Kilty 248

New Jersey: Hill v. Hill, 1 N.J.L. 261 (1794)

North Carolina: Dudley v. Carmolt, 5 N.C. 339 (1810); Glisson v.

Herring, 13 N.C. 156 (1829); West v. Ratledge, 15 N.C. 31 (1833)

Pennsylvania: Thomas v. Culp, 4 S. & R. 271 (1818); Finney v.

Crawford, 2 Watts 294 (1834); 3 Binney 626; Roberts 48

Federal: Wilson v. Berry, 2 Cranch C.C. 707 (1826)

#### AMERCIAMENTS

Amerciaments shall be reasonable, and according to the offence.

3 Edw. 1, c. 6 (1275), 1 S.L. 80;

3 Edw. 1, c. 6 (1275), 1 S.R. 28

South Carolina: 2 Cooper 403

#### AMERICA AND AMERICAN PLANTATIONS

An act for ascertaining the rates of foreign coins in her Majesty's plantations in America. 6 Anne, c. 30 (1707), 11 S.L. 412; 6 Anne, c. 57 (1707), 8 S.R. 792

Maryland: Hepburn's Case, 3 Bla. Ch. 95 (1830)

An act for the preservation of white and other pine trees growing in her Majesty's colonies of New Hampshire, the Massachusetts Bay, and province of Main, Rhode Island, and Providence Plantation, the Narraganset country, or King's Province, and Connecticut, in New England, and New York, and New Jersey, in America, for the masting her Majesty's navy. 9 Anne, c. 17 (1710), 12 S.L. 185; 9 Anne, c. 22 (1710), 9 S.R. 480

Maryland: The Chancellor's Case, 1 Bla. Ch. 595 (1825); Duvall v. Waters, 1 Bla. Ch. 569 (1829)

An act for granting certain duties in the British colonies and plantations in America; for continuing, amending, and making perpetual, an act passed in the sixth year of the reign of his late majesty King George the Second, (intituled, An act for the better securing and encouraging the trade of his Majesty's sugar colonies in America;) for applying the produce of such duties, and of the duties to arise by virtue of the said act, towards defraying the expences of defending, protecting, and securing the said colonies and plantations; for explaining an act made in the twenty-fifth year of the reign of King Charles the Second, (intituled, An act for the encouragement of the Greenland and Eastland trades, and for the better securing the plantation trade;) and for altering and disallowing several drawbacks



on exports from this kingdom, and more effectually preventing the clandestine conveyance of goods to and from the said colonies and plantations, and improving and securing the trade between the same and Great Britain. 4 Geo. 3, c. 15 (1764), 26 S.L. 33

Maryland: Dashiell v. Heron, 1 H. & McH. 385 (1771)

## ANNUITIES

An act for registering the grants of life annuities; and for the better protection of infants against such grants. 17 Geo. 3, c. 26 (1777), 31 S.L. 350

Delaware: Wilson v. George, 2 Del. Cas. 413 (1818)

## APPEAL

Appeal against the principal and accessory. 3 Edw. 1, c. 14 (1275), 1 S.L. 83; 3 Edw. 1, c. 14 (1275), 1 S.R. 30

South Carolina: 2 Cooper 403

The [appellee] being acquitted, the appellor and abettors shall be punished. There shall be no es-  
soin for the appellor. 13 Edw. 1, St. 1, c. 12 (1285), 1 S.L. 190; 13 Edw. 1, Westminster 2d, c. 12 (1285), 1 S.R. 81

Pennsylvania: 3 Binney 604; Roberts 61

South Carolina: 2 Cooper 404

To whom the only writ of trespass of Oyer and Terminer shall be granted. In what case the writ of Odio & Atia is granted. 13 Edw. 1, St. 1, c. 29 (1285), 1 S.L. 202; 13 Edw. 1, Westminster 2d, c. 29 (1285), 1 S.R. 85

Maryland: Blackiston v. Carroll (1696), 1 American Legal Records: Proceedings of the Maryland Court of Appeals, 1695-1729,\* 29 (1933)

What process shall be awarded against those that be appealed by approvers. 28 Edw. 1, St. 2 (1300), 1 S.L. 287; 28 Edw. 1 (1300), 1 S.R. 141

Pennsylvania: 3 Binney 608; Roberts 62

Appeals or indictments of felony committed, in a place where there is none such. 18 Hen. 6, c. 12 (1439), 3 S.L. 234; 18 Hen. 6, c. 12 (1439), 2 S.R. 310

South Carolina: 2 Cooper 407

For the avoiding of tedious suits in civil and marine causes.

8 Eliz., c. 5 (1565), 6 S.L. 236;

8 Eliz., c. 5 (1566), 4 S.R. 488

Federal: Jennings v. Carson, 1 Pet. Adm. 1 (1792)

## APPEAL OF DEATH

In what only case a woman shall have an appeal of death. 9 Hen. 3, c. 34 (Magna Charta) (1225), 1 S.L. 12; 9 Hen. 3, (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 48

Pennsylvania: 3 Binney 599; Roberts 55

South Carolina: 2 Cooper 403

## APPEARANCE

An act for making process in courts of equity effectual against persons who abscond, and cannot be served therewith, or who refuse to appear. 5 Geo. 2, c. 25 (1732), 16 S.L. 327

Georgia: Schley 366

Maryland: Hagthorp v. Hook's

Adm'rs, 1 G. & J. 270 (1829);

Buckingham v. Peddicord, 2 Bla.

Ch. 447 (1830); Neale v. Hagthorp, 3 Bla. Ch. 551 (1832)

Virginia: Morrison v. Campbell, 23 Va. (2 Rand.) 206 (1824)

An act to explain, amend and render more effectual an act made in the twelfth year of the reign of his late Majesty King

\*Hereinafter cited as 1 Am. Leg. Rec.

George the First, intituled, An act to prevent frivolous and vexatious arrests. 5 Geo. 2, c. 27 (1732), 16 S.L. 331

Pennsylvania: Sims v. Hampton, 1 S. & R. 411 (1815)

## APPRENTICES

An act containing divers orders for artificers, labourers, servants of husbandry and apprentices.

5 Eliz., c. 4 (1562), 6 S.L. 159; 5 Eliz., c. 4 (1562-63), 4 S.R. 414

Connecticut: Barkhamsted v.

Parsons, 3 Conn. 1 (1819)

New Jersey: State v. Taylor,

3 N.J.L. 58 (1808); Ackerman v. Taylor, 9 N.J.L. 65 (1827)

North Carolina: Dowd v. Davis,

15 N.C. 61 (1833)

Pennsylvania: Commonwealth v.

Sturgeon, 2 Bro. (Pa.) 205 (1810); Ex parte Meason, 5 Binn. 167 (1812)

South Carolina: M'Knight v. Hogg,

3 Brev. 44 (1812)

An act for the continuing and better maintenance of husbandry and other manual occupations, by the true employment of monies given and to be given for the binding out of apprentices. 7 Jac. 1, c. 3 (1609), 7 S.L. 218; 7 Jac. 1, c. 3 (1609-10), 4 S.R. 1157

Pennsylvania: Magill v. Brown;

Bright. N.P. 346 (1833)

An act for the better adjusting and more easy recovery of the wages of certain servants; and for the better regulation of such servants, and of certain apprentices. 20 Geo. 2, c. 19 (1747), 19 S.L. 48

New Jersey: Ackerman v. Taylor,

9 N.J.L. 65 (1827)

An act to amend an act made in third year of the reign of King William and Queen Mary, intituled, An act for the better explanation, and supplying the defects of the former laws for the settlement of

the poor, so far as the same relates to apprentices gaining a settlement by indenture; and also to empower justices of the peace to determine differences between masters and mistresses and their servants in husbandry, touching their wages, though such servants are hired for less time than a year. 31 Geo. 2, c. 11 (1758), 22 S.L. 235

New Jersey: Hopewell v. Amwell, 3 N.J.L. 422 (1808)

An act for better regulating apprentices, and persons working under contract. 6 Geo. 3, c. 25 (1765), 27 S.L. 94

Pennsylvania: Commonwealth v.

Sturgeon, 2 Bro. (Pa.) 205 (1810)

## ARBITRATION

An act for determining difference by arbitration. 9 & 10 Will. 3, c. 15 (1698), 10 S.L. 139; 9 Will. 3, c. 15 (1697-98), 7 S.R. 369

Delaware: Gilpin v. Gilpin, 1 Del.

Cas. 19 (1793); 1 Del. Cas. 343 (1793); Beeson v. Elliott, 1 Del. Ch. 368 (1831)

Georgia: Schley 302

Indiana: Titus v. Scantling, 4 Blackf. 89 (1835)

Maryland: Phillips v. Shipley,

1 Bla. Ch. 516 (1828); Shriver v. State, 9 G. & J. 1 (1837); Caton v. MacTavish, 10 G. & J. 192 (1838)

Massachusetts: Webster v. Lee, 5 Mass. 334 (1809)

New Jersey: Ford v. Potts, 6 N.J.L.

388 (1797); Anonymous, 2 N.J.L. 213, 1 Penning. 228 (1807); Prosser v. Richards, 2 N.J.L. 356, 1 Penning. 377 (1808); Sherron v. Wood, 10 N.J.L. 7 (1828); Hazen v. Addis, 14 N.J.L. 333 (1834)

New York: Underhill v. Van

Cortlandt, 2 Johns. Ch. R. 339 (1817); Toppan v. Heath, 1 Pai. Ch. 293 (1828)

North Carolina: Simpson v. McBee, 14 N.C. 531 (1832)

Pennsylvania: Williams v. Craig,  
1 Dall. 313 (1788)

## ARCHERY

The bill for the maintaining artillery, and the debarring of unlawful games. 33 Hen. 8, c. 9 (1541), 5 S.L. 79; 33 Hen. 8, c. 9 (1541-42), 3 S.R. 837

D.C.: United States v. Dixon,  
4 Cranch C.C. 107 (1830)

Maryland: United States v. Dixon,  
4 Cranch C.C. 107 (1830)

## ARMS & ARMED MEN

No man shall come before the justices or go or ride armed. 2 Edw. 3, c. 3 (1328), 1 S.L. 422; 2 Edw. 3, St. Northam., c. 3 (1328), 1 S.R. 258

Tennessee: Simpson v. State, 13 Tenn. 356 (1833)

## ARMY

Taking of horses, carts, and wood. 9 Hen. 3, c. 21 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 43

## ARREST OF JUDGMENT

An act to prevent arrests of judgment, and superseding executions. 16 & 17 Car. 2, c. 8 (1664), 8 S.L. 213; 16 & 17 Car. 2, c. 8 (1664 & 1665), 5 S.R. 556

Connecticut: Judson v. Blanchard,  
3 Conn. 579 (1821)

Delaware: Long's Adm'r v. Spear,  
1 Del. Cas. 393 (1796)

Georgia: Low v. Commissioners,  
Charlt. R.M. 302 (1830); Schley 244

Kentucky: Birney v. Haim, 12 Ky. (2 Litt.) 262 (1822); Leather's Rep's v. M'Glasson, 19 Ky. (3 T.B. Mon.) 223 (1826); Walton v. Kindred's Adm'x, 21 Ky. (5 T.B. Mon.) 388 (1827)

Maine: Morton v. Chase, 15 Me. 188 (1838)

Maryland: Strike's Case, 1 Bla. Ch. 57 (1825); Strike v. M'Donald, 2 H. & G. 191 (1828); Kilty 239

New York: Messonnier v. Kauman,  
3 Johns. Ch. R. 66 (1817)

North Carolina: Gidney v. Hallsey,  
9 N.C. 550 (1823)

Ohio: Howe v. Dawson, Tap. 201 (1817)

Pennsylvania: Henry v. Boyle,  
1 Miles 386 (1830); 3 Binney 624; Roberts 39

South Carolina: 2 Cooper 411

## ARRESTS

An act to prevent frivolous and vexatious arrests. 12 Geo. 1, c. 29 (1725), 15 S.L. 331

D.C.: Winter v. Simonton, 2 Cranch C.C. 585 (1825)

Georgia: Central Bank v. Kendrick,  
Dud. (Ga.) 66 (1831)

Maryland: Anonymous, 4 H. & McH. 159 (1798); Winter v. Simonton,  
2 Cranch C.C. 585 (1825); Kilty 249

Pennsylvania: Fisher v. Consequa,  
2 Bro. (Pa.) append. 28 (1809)

## ARTIFICERS

An act containing divers orders for artificers, labourers, servants of husbandry and apprentices.

5 Eliz., c. 4 (1562), 6 S.L. 159;

5 Eliz., c. 4 (1562-63), 4 S.R. 414

Connecticut: Barkhamsted v.

Parsons, 3 Conn. 1 (1819)

New Jersey: State v. Taylor,

3 N.J.L. 59 (2 Penning. 467) (1808);

Ackerman v. Taylor, 9 N.J.L. 65 (1827)

North Carolina: Dowd v. Davis, 15 N.C. 61 (1833)

Pennsylvania: Commonwealth v. Sturgeon, 2 Bro. (Pa.) 205 (1810); Ex Parte Meason, 5 Binn. 167 (1812)

South Carolina: M'Knight v. Hogg,  
3 Brev. 44 (1812)

## ASSIZES

The authority of justices of Nisi prius. Adjournment of suits.

Certain writs that are determinable in their proper counties. A jury may give their verdict at large. None but who were summoned shall be put in assises or juries. 13 Edw. 1, St. 1, c. 30 (1285), 1 S.L. 203; 13 Edw. 1, Westminster 2d, c. 30 (1285), 1 S.R. 85

New Jersey: Springer v. Reeves, 4 N.J.L. 207 (1818)

New York: People v. Crowell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 605; Roberts 326

In what case the plaintiff shall not be nonsuit if the verdict pass against him. 2 Hen. 4, c. 7 (1400), 2 S.L. 410; 2 Hen. 4, c. 7 (1400-01) 2 S.R. 123

Maryland: Kilty 224

New York: Swift v. Sacket, Cole. & Cai. Cas. 124 (1800)

Pennsylvania: 3 Binney 614; Roberts 396

Plaintiffs in assise may abridge their plaints. 21 Hen. 8, c. 3 (1529), 4 S.L. 165; 21 Hen. 8, c. 3 (1529), 3 S.R. 284

New York: Inglis v. Trustees of Sailor's Snug Harbor, 28 U.S. (3 Pet.) 99 (1830)

Pennsylvania: 3 Binney 618; Roberts 166

#### ASSIZE OF BATTLE

Where the wife shall be endowable of lands recovered against her husband. Where the heir may avoid a dower recovered. A remedy for particular tenants losing by default. 13 Edw. 1, St. 1, c. 4 (1285), 1 S.L. 171; 13 Edw. 1, Westminster 2d, c. 4 (1285), 1 S.R. 74

Georgia: Schley 98

Maryland: Kilty 212

Pennsylvania: 3 Binney 603; Roberts 182

#### ASSIZE OF DARREIN PRESENTMENT

Assises of Darrein presentment. 9 Hen. 3, c. 13 (Magna Charta) (1225), 1 S.L. 6; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 40

#### ASSIZE OF MORT D'ANCESTOR

Where and before whom assises shall be taken. Adjournment for difficulty. 9 Hen. 3, c. 12 (Magna Charta) (1225), 1 S.L. 6; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 39

Enquiry and punishment of re-disseisin. 20 Hen. 3, c. 3 (1235), 1 S.L. 26; 20 Hen. 3, St. Mert., c. 3 (1235-36), 1 S.R. 2

Pennsylvania: 3 Binney 599; Roberts 144

Jointenancy pleaded in abatement of a writ, &c. 34 Edw. 1, St. 1 (1306), 1 S.L. 313; 34 Edw. 1, St. Joint-Ten., (1306), 1 S.R. 145

Pennsylvania: 3 Binney 609; Roberts 159

#### ASSIZE OF NOVEL DISSEISIN

Where and before whom assises shall be taken. Adjournment for difficulty. 9 Hen. 3, c. 12 (Magna Charta) (1225), 1 S.L. 6; 9 Hen. 3, (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 39

In what cases lords may approve against their tenants. 20 Hen. 3, c. 4 (1235), 1 S.L. 27; 20 Hen. 3, St. Mert., c. 4 (1235-36), 1 S.R. 2

Pennsylvania: Western University v. Robinson, 12 S. & R. 29 (1824)

Several actions wherein damages shall be recovered. 6 Edw. 1, c. 1 (1278), 1 S.L. 119; 6 Edw. 1, St. Glouc., c. 1 (1278), 1 S.R. 47

D.C.: Forrest v. Hanson, 1 Cranch C.C. 63 (1802)

Georgia: Schley 93

Maryland: Forrest v. Hanson, 1 Cranch C.C. 63 (1802); Kiersted v. Rogers, 6 H. & J. 282 (1824); Kilty 210

New Hampshire: Chase v. Hazelton, 7 N.H. 171 (1834)

New Jersey: Martin v. Martin, 14 N.J.L. 125 (1833)

Ohio: Bell v. Bates, 3 Hamm. 380 (3 Ohio 611) (1828)

Pennsylvania: Benner v. Evans, 3 Pen. & W. 454 (1832); 3 Binney 602; Roberts 107

Tennessee: Wallen v. M'Henry's Lessee, 10 Tenn. 310 (1829)

He that recovereth debt may sue execution by Fieri facias or Elegit. 13 Edw. 1, St. 1, c. 18 (1285), 1 S.L. 194; 13 Edw. 1, Westminster 2d, c. 18 (1285), 1 S.R. 82

Connecticut: Denison v. Williams, 4 Conn. 402 (1822); Giddings v. Canfield, 4 Conn. 482 (1823)

Maryland: Whittington v. Polk, 1 H. & J. 236 (1802); Jones v. Jones, 1 Bla. Ch. 443 (1829); Duvall v. Waters, 1 Bla. Ch. 569 (1829); Tessier v. Wyse, 3 Bla. Ch. 28 (1830); Hanson v. Barnes' Lessee, 3 G. & J. 359 (1831); Coombs v. Jordan, 3 Bla. Ch. 284 (1831); Cape Sable Co.'s Case, 3 Bla. Ch. 606 (1832); Mullikin v. Duvall, 7 G. & J. 355 (1835); Miller v. Allison, 8 G. & J. 35 (1836)

Massachusetts: Williams v. Amory, 14 Mass. 20 (1817); Montague v. Gay, 17 Mass. 439 (1821)

Missouri: Scott v. Whitehill, 1 Mo. 764 (1827)

New Jersey: Den v. Steelman, 10 N.J.L. 193 (1828); State v. Stout, 11 N.J.L. 362 (1830); Disborough v. Outcalt, 1 N.J. Eq. 298 (1831)

New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806); Stymets v. Brooks, 10 Wend. 206 (1833);

Mason v. Denison, 15 Wend. 64 (1835)

North Carolina: Jones v. Edmonds, 7 N.C. 43 (1819)

Ohio: Stiles v. Murphy, 4 Hamm. 92 (1-4 Ohio 729) (1829)

Pennsylvania: Shaupe v. Shaupe, 12 S. & R. 9 (1824); Allen v. Reesor, 16 S. & R. 10 (1827)

South Carolina: D'Urphey v. Nelson, 1 Brev. 289 (1803); Blake v. Heyward, Bail. Eq. 208 (1831)

Tennessee: Boyd v. Armstrong's Heirs, 9 Tenn. 40 (1821); Ward v. Southerland, 7 Tenn. 462 (1822)

Virginia: Coleman v. Cocke, 27 Va. (6 Rand.) 618 (1828); Wilson v. Jackson's Adm'x, 32 Va. (5 Leigh) 102 (1834)

Of what things an assise shall lie. Certificate of assise. Attachment in an assise. 13 Edw. 1, St. 1, c. 25 (1285), 1 S.L. 198; 13 Edw. 1, Westminster 2d, c. 25 (1285), 1 S.R. 84

Pennsylvania: Barnet v. Ihrle, 17 S. & R. 174 (1828); 3 Binney 605; Roberts 152

Jointenancy pleaded in abatement of a writ, &c. 34 Edw. 1, St. 1 (1306), 1 S.L. 313; 34 Edw. 1, St. Joint-Ten., (1306), 1 S.R. 145

Pennsylvania: 3 Binney 609; Roberts 159

Tenants in assise of Novel disseisin may make attornies. 12 Edw. 2, St. 1, c. 1 (1318), 1 S.L. 352; 12 Edw. 2, St. Ebor., c. 1 (1318), 1 S.R. 177

Pennsylvania: 3 Binney 609; Roberts 162

The penalty where a sheriff is named a disseisor in an assise. 11 Hen. 6, c. 2 (1433), 3 S.L. 182; 11 Hen. 6, c. 2 (1433), 2 S.R. 279

Pennsylvania: 3 Binney 616; Roberts 164

ATTAINT

An act against perjury and untrue verdicts. 23 Hen. 8, c. 3 (1531), 4 S.L. 215; 23 Hen. 8, c. 3 (1531-32), 3 S.R. 365

South Carolina: 2 Cooper 408

ATTORNEYS AND SOLICITORS

The conusor of a fine shall come personally before the justices. Where a commission shall be awarded to take a fine. Who may admit attorneys. 15 Edw. 2, Statutum de Carleol. de Finibus (1322), 1 S.L. 360; St. Fines & Attorn., 1 S.R. 215

Maryland: Kilty 215

Pennsylvania: 3 Binney 610; Roberts 265

The punishment of an attorney found in default. 4 Hen. 4, c. 18 (1402), 2 S.L. 438; 4 Hen. 4, c. 18 (1402), 2 S.R. 138

Maryland: Kilty 225

New York: Case of Emmet, 2 Cai. R. 386 (1805)

South Carolina: 2 Cooper 406

Tennessee: Smith v. State, 9 Tenn. 228 (1829)

An act requiring the practicers of law to take the oaths, and subscribe the declaration therein mentioned. 7 & 8 Will. 3, c. 24 (1696), 9 S.L. 437; 7 & 8 Will. 3, c. 24 (1695-96), 7 S.R. 109

South Carolina: 2 Cooper 412

An act for the better regulation of attornies and solicitors. 2 Geo. 2, c. 23 (1729), 16 S.L. 54

Delaware: Killen v. Adams, 1 Del. Ch. 184 (1822)

Georgia: Schley 353

Maryland: Dugan v. Mayor of Baltimore, 1 G. & J. 499 (1829)

Tennessee: Peeler v. Norris, 12 Tenn. 331 (1833)

AVOWRY

An act concerning avowries for rents and services. 7 Hen. 8, c. 4

(1515), 4 S.L. 144; 7 Hen. 8, c. 4 (1515), 3 S.R. 178

Maryland: Hopewell v. Price, 2 H. & G. 275 (1828); Kilty 230

New York: Rowley v. Gibbs, 14 Johns. R. 385 (1817)

Pennsylvania: 3 Binney 618; Roberts 117

Avowries shall be made by the lord upon the land, without naming his tenant. 21 Hen. 8, c. 19 (1529), 4 S.L. 195; 21 Hen. 8, c. 19 (1529), 3 S.R. 303

Maryland: Hopewell v. Price, 2 H. & G. 275 (1828); Kilty 230

New York: Pike v. Gandall, 9 Wend. 149 (1832)

An act of limitation with a proviso. 32 Hen. 8, c. 2 (1540), 5 S.L. 7; 32 Hen. 8, c. 2 (1540), 3 S.R. 747

Georgia: Wakeman v. Roache, Dud. (Ga.) 123 (1832)

Kentucky: Reed v. Bullock, 16 Ky. (Litt. Sel. Cas.) 510 (1821); Woodruff v. Detheridge, 29 Ky. (6 J.J. Mar.) 368 (1831)

Maryland: Pancoast's Lessee v. Addison, 1 H. & J. 350 (1802)

New Jersey: Den v. Morris, 7 N.J.L. 6 (1822); Stevens v. Enders, 13 N.J.L. 271 (1833); Crane v. Alling, 14 N.J.L. 593 (1835)

New York: Bogardus v. Trinity Church, 4 Pai. Ch. 178 (1833)

Pennsylvania: Boehm v. Engle, 1 Dall. 15 (1767); Morris's Lessee v. Vanderen, 1 Dall. 64 (1782); Eakin v. Raub, 12 S. & R. 330 (1825)

Rhode Island: Inman v. Barnes, 2 Gall. 315 (1814); Sisson v. Seabury, 1 Sumn. 235 (1832)

Tennessee: Weatherhead v. Lessee of Bledsoe's Heirs, 2 Tenn. 352 (1815)

An act for a more speedy and effectual proceeding upon distresses and avowries for rents. 17 Car. 2, c. 7 (1665), 8 S.L. 224; 17 Car. 2, c. 7 (1665), 5 S.R. 579

Maryland: Kilty 239

New York: Gibbs v. Bull, 18 Johns.

R. 435 (1821); Gould v. Warner,  
3 Wend. 54 (1829); Pike v. Gandall,  
9 Wend. 149 (1832)

Pennsylvania: Albright v. Pickle,

4 Yeates 264 (1805); Howard v.  
Johnson, 1 Ashm. 58 (1823);  
Kimmel v. Kint, 2 Watts 431  
(1834)

South Carolina: Solomon v. Harvey,

1 N. & Mc. 81 (1818); Murphy v.  
Sumner, 1 Hill 216 (1833)

Federal: Wood v. May, 3 Cranch  
C.C. 172 (1827)

## BAIL

Which prisoners be mainpernable,  
and which not. The penalty for  
unlawful bailment. 3 Edw. 1, c. 15  
(1275), 1 S.L. 84; 3 Edw. 1, c. 15  
(1275), 1 S.R. 30

Georgia: Schley 83

Maryland: Kilty 209

Ohio: Fight v. State, 7 Hamm, Pt. 1,  
180 (6 & 7 Ohio 327) (1835)

Rhode Island: Sisson v. Seabury,  
1 Sumn. 235 (1832)

South Carolina: Barton v. Keith,  
2 Hill 537 (1835)

Every justice of peace may let a  
prisoner to mainprise. No officer  
shall seise the goods of a prisoner  
until he be attainted. 1 Rich. 3,  
c. 3 (1483), 4 S.L. 2; 1 Rich. 3,  
c. 3 (1483-84), 2 S.R. 478

Maryland: Kilty 228

New York: People v. Huggins, 10  
Wend. 464 (1833)

Pennsylvania: Morrison v. Gross.  
1 Bro. (Pa.) 1 (1806)

South Carolina: 2 Cooper 407

Justices of peace may let prison-  
ers to bail. The sheriff shall  
certify the names of all his pris-  
oners at the gaol-delivery. 3 Hen.  
7, c. 3 (1487), 4 S.L. 30; 3 Hen. 7,  
c. 3 (1487), 2 S.R. 512

Georgia: Schley 139

Maryland: Kilty 228

Pennsylvania: 3 Binney 617;

Roberts 396

South Carolina: 2 Cooper 407

An act touching bailment of per-  
sons. 1 & 2 Phil. & M., c. 13  
(1554), 6 S.L. 57; 1 & 2 Phil. & M.,  
c. 13 (1554 & 1554-55), 4 S.R. 259

Georgia: State v. Asselin, Charlt.

T.U.P. 184 (1808)

Maryland: Kilty 234

New Jersey: Ludlow v. Ex'rs of

Ludlow, 4 N.J.L. 387 (1817)

Ohio: Fight v. State, 7 Hamm., Pt. 1,

180 (6 & 7 Ohio 327) (1835)

Pennsylvania: 3 Binney 621;

Roberts 77

South Carolina: Barton v. Keith,

2 Hill 537 (1835); State v. Hill,

2 Hill 607 (1835); 2 Cooper 409

## BAILIFFS

What distresses shall be taken for  
the King's debts, and how it shall  
be used. 51 Hen. 3, St. 4 (1266),  
1 S.L. 39; Temp. Incert., 1 S.R.  
197b

Maryland: Kilty 208

Of what things an assise shall lie.  
Certificate of assise. Attachment  
in an assise. 13 Edw. 1, St. 1,  
c. 25 (1285), 1 S.L. 198; 13 Edw. 1,  
Westminster 2d, c. 25 (1285), 1  
S.R. 84

Pennsylvania: Barnet v. Ihrie, 17

S. & R. 174 (1828); 3 Binney 605;  
Roberts 152

## BAILIFFS OF FRANCHISES & LIBERTIES

The order of the indictments taken  
in the sheriff's tourn. 13 Edw. 1,  
St. 1, c. 13 (1285), 1 S.L. 191; 13  
Edw. 1, Westminster 2d, c. 13  
(1285), 1 S.R. 81

Connecticut: Andrews v. Pardee,

5 Day 29 (1811)

New York: People v. Dalton, 15

Wend. 581 (1836)

An act to prevent extortion in  
sheriffs, under sheriffs, and

bailiffs of franchises or liberties,  
in cases of execution. 29 Eliz.,  
c. 4 (1587), 6 S.L. 390; 29 Eliz.,  
c. 4 (1586-87), 4 S.R. 769

Connecticut: Preston v. Bacon,  
4 Conn. 471 (1823)

D.C.: Swann v. Ringgold, 4 Cranch  
C.C. 238 (1832)

Maryland: Cape Sable Co.'s Case,  
3 Bla. Ch. 606 (1832)

North Carolina: Matlock v. Gray,  
11 N.C. 1 (1825)

South Carolina: 2 Cooper 410

Virginia: Swann v. Ringgold, 4  
Cranch C.C. 238 (1832)

### BAILIFFS OF HUSBANDRY

An act containing divers orders  
for artificers, labourers, servants  
of husbandry and apprentices.

5 Eliz., c. 4 (1562), 6 S.L. 159;

5 Eliz., c. 4 (1562-63), 4 S.R. 414

Connecticut: Barkhamsted v.

Parsons, 3 Conn. 1 (1819)

New Jersey: State v. Taylor, 3

N.J.L. 58, 2 Penning. 467 (1808);

Ackerman v. Taylor, 9 N.J.L. 65  
(1827)

North Carolina: Dowd v. Davis,  
15 N.C. 61 (1833)

Pennsylvania: Commonwealth v.  
Sturgeon, 2 Bro. (Pa.) 205 (1810);  
Ex Parte Meason, 5 Binn. 167  
(1812)

South Carolina: M'Knight v. Hogg,  
3 Brev. 44 (1812)

### BAILIFFS OF LIBERTIES

An act for swearing of under-  
sheriffs and other under officers  
and ministers. 27 Eliz., c. 12  
(1585), 6 S.L. 371; 27 Eliz., c. 12  
(1584-85), 4 S.R. 719

New Jersey: Allen v. Smith, 12  
N.J.L. 159 (1831)

Tennessee: Glasgow's Lessee v.  
Smith, 1 Tenn. 144 (1805)

### BAILIFFS OF SHERIFFS

No sheriff shall let to ferm his  
country or any bailiwick. The  
sheriffs and bailiffs fees and  
duties in several cases. 23 Hen. 6,

c. 10 (1444), 3 S.L. 269; 23 Hen. 6,  
c. 9 (1444-45), 2 S.R. 334

D.C.: Winter v. Simonton, 2 Cranch  
C.C. 585 (1825); Swann v. Ringgold,  
4 Cranch C.C. 238 (1832); U.S. v.  
Hilliard, 4 Cranch C.C. 644 (1835)

Georgia: Central Bank v. Kendrick,  
Dud. (Ga.) 66 (1831)

Kentucky: Lampton v. Taylor, 16 Ky.  
(Litt. Sel. Cas.) 273 (1821)

Maryland: Gresham v. Gassaway,

1 H. & McH. 34 (1718); Gorsuch v.

Holmes (Osborn v. Jones), 4 H. &

McH. 5 (1797); Winter v. Simonton,

2 Cranch C.C. 585 (1825); Cape

Sable Co.'s Case, 3 Bla. Ch. 606

(1832); United States v. Hilliard,

4 Cranch C.C. 644 (1835); Kilty 227

Massachusetts: Long v. Billings,  
9 Mass. 479 (1813)

New Jersey: Nottingham v. Giles,

2 N.J.L. 111, 1 Penning. 120

(1806); Howard v. Blackford,

3 N.J.L. 344, 2 Penning. 777

(1811); Reed v. Bainbridge, 4

N.J.L. 351 (1817); Vroom v. Ex'rs

of Smith, 14 N.J.L. 479 (1834)

New York: Love v. Palmer, 7 Johns.

R. 159 (1810); Strong v. Tompkins,

8 Johns. R. 98 (1811); Newburgh

Turnpike Co. v. Miller, 5 Johns.

Ch. R. 101 (1821); Malcom v.

Rogers, 5 Cow. 188 (1825); Hawley

v. James, 16 Wend. 61 (1836)

North Carolina: Joyce v. Williams,  
1 Tayl. 27 (1799)

Ohio: Morris v. Marcy, 4 Hamm. 83  
(4 Ohio 724) (1829)

South Carolina: Stewart v. M'Clure,

1 Brev. 407 (1804); Laval v. Gell,

2 Brev. 265 (1809); Blanding v.

Rogers, 2 Brev. 394 (1810); Com-

missioners v. Hanion, 1 N. & Mc.

554 (1819); Saunders v. Hughes,

2 Bail. 504 (1831); Treasurers v.

Barksdale, 1 Hill 272 (1833)

Virginia: Swann v. Ringgold, 4  
Cranch C.C. 238 (1823)

### BAILIWICKS

Every sheriff shall in person  
continue in his bailiwick, and  
shall not let it. 4 Hen. 4, c. 5



(1402), 2 S.L. 427; 4 Hen. 4, c. 5

(1402), 2 S.R. 134

Maryland: Gresham v. Gassaway,  
1 H. & McH. 34 (1718); Kilty 224

No sheriff shall let to ferm his  
country or bailiwick. The sheriffs  
and bailiffs fees and duties sever-  
eral cases. 23 Hen. 6, c. 10

(1444), 3 S.L. 269; 23 Hen. 6, c. 9

(1444-45), 2 S.R. 334

D.C.: Winter v. Simonton, 2 Cranch  
C.C. 585 (1825); Swann v. Ringgold,  
4 Cranch C.C. 238 (1832); U.S. v.

Hilliard, 4 Cranch C.C. 644 (1835)

Georgia: Central Bank v. Kendrick,  
Dud. (Ga.) 66 (1831)

Kentucky: Lampton v. Taylor, 16  
Ky. (Litt. Sel. Cas.) 273 (1821)

Maryland: Gresham v. Gassaway,  
1 H. & McH. 34 (1718); Gorsuch  
v. Holmes (Osborn v. Jones),  
4 H. & McH. 5 (1797); Winter v.  
Simonton, 2 Cranch C.C. 585  
(1825); Cape Sable Co.'s Case,  
3 Bla. Ch. 606 (1832); United  
States v. Hilliard, 4 Cranch C.C.  
644 (1835); Kilty 227

Massachusetts: Long v. Billings,  
9 Mass. 479 (1813)

New Jersey: Nottingham v. Giles,  
2 N.J.L. 111, 1 Penning. 120  
(1806); Howard v. Blackford,  
3 N.J.L. 344, 2 Penning. 777  
(1811); Reed v. Bainbridge,  
4 N.J.L. 351 (1817); Vroom v.  
Ex'rs of Smith, 14 N.J.L. 479  
(1834)

New York: Love v. Palmer, 7  
Johns. R. 159 (1810); Strong v.  
Tompkins, 8 Johns. R. 98 (1811);  
Newburgh Turnpike Co. v. Miller,  
5 Johns. Ch. R. 101 (1821);  
Malcom v. Rogers, 5 Cow. 188  
(1825); Hawley v. James, 16 Wend.  
61 (1836)

North Carolina: Joyce v. Williams,  
1 Tayl. 27 (1799)

Ohio: Morris v. Marcy, 4 Hamm.  
83 (4 Ohio 724) (1829)

South Carolina: Stewart v. M'Clure,  
1 Brev. 407 (1804); Laval v. Gell,

2 Brev. 265 (1809); Blanding v.  
Rogers, 2 Brev. 394 (1810); Com-  
missioners v. Hanion, 1 N. & Mc.  
554 (1819); Saunders v. Hughes,  
2 Bail. 504 (1831); Treasurers v.  
Barksdale, 1 Hill 272 (1833)

Virginia: Swann v. Ringgold, 4  
Cranch C.C. 238 (1823)

## BAKERS

A Statute of the Pillory and  
Tumbrel, and the Assise of Bread  
and Ale. 51 Hen. 3, St. 6 (1266),  
1 S.L. 47; Temp. Incert., 1 S.R.  
201

Pennsylvania: James v. Common-  
wealth, 12 S. & R. 220 (1825)

## BANK OF ENGLAND

An act for granting to their Majes-  
ties several rates and duties upon  
tunnage of ships and vessels, and  
upon beer, ale, and other liquors,  
for securing certain recompences  
and advantages in the said act  
mentioned, to such persons as  
shall voluntarily advance the sum  
of fifteen hundred thousand pounds,  
towards the carrying on the war  
against France. 5 & 6 W. & M.,  
c. 20 (1694), 9 S.L. 283; 5 & 6  
W. & M., c. 20 (1694), 6 S.R. 483

Maryland: Williams' Case, 3 Bla.  
Ch. 186 (1831)

An act for making good the de-  
ficiencies of several funds therein  
mentioned; and for enlarging the  
capital stock of the bank of Eng-  
land; and for raising the public  
credit. 8 & 9 Will. 3, c. 20 (1697),  
10 S.L. 34; 8 & 9 Will. 3, c. 20  
(1696-97), 7 S.R. 218

D.C.: United States v. Watkins,  
3 Cranch C.C. 441 (1829)

Maryland: United States v. Watkins,  
3 Cranch C.C. 441 (1829)

Federal: United States v. Watkins,  
3 Cranch C.C. 441 (1829)

An act for establishing an agree-  
ment with the governor and com-  
pany of the bank of England, for

advancing the sum of one million six hundred thousand pounds, towards the supply for the service of the year one thousand seven hundred and forty two. 15 Geo. 2, c. 13 (1742), 18 S.L. 7

Federal: United States v. Stewart, 4 Wash. C.C. 226 (1818)

## BANKRUPTS

An act against such persons as do make bankrupts. 34 & 35 Hen. 8, c. 4 (1542-43), 5 S.L. 132; 34 & 35 Hen. 8, c. 4 (1542-43), 3 S.R. 899

New Jersey: Vanuxem v. Hazlehursts, 4 N.J.L. 192 (1818)

An act touching orders for bankrupts. 13 Eliz., c. 7 (1570), 6 S.L. 271; 13 Eliz., c. 7 (1571), 4 S.R. 539

New Jersey: Den v. Steelman, 10 N.J.L. 193 (1828)

Pennsylvania: Wickersham v. Nicholson, 14 S. & R. 118 (1826)

South Carolina: Alexander v. Gibson, 1 N. & Mc. 480 (1819); M'Dowall v. Wood, 2 N. & Mc. 242 (1820)

An act for the better relief of the creditors against such as shall become bankrupts. 1 Jac. 1, c. 15 (1604), 7 S.L. 90; 1 Jac. 1, c. 15 (1603-04), 4 S.R. 1031

Maryland: Burk v. M'Clain, 1 H. & McH. 236 (1766)

Pennsylvania: Wickersham v. Nicholson, 14 S. & R. 118 (1826)

An act for the further description of a bankrupt, and relief of creditors against such as shall become bankrupts, and for inflicting corporal punishment upon the bankrupts in some special cases. 21 Jac. 1, c. 19 (1623), 7 S.L. 282; 21 Jac. 1, c. 19 (1623-24), 4 S.R. 1227

New Hampshire: Coburn v. Pickering, 3 N.H. 415 (1826)

New York: Craig v. Ward, 9 Johns.

R. 197 (1812); Hall v. Tuttle, 8 Wend. 375 (1832)

North Carolina: Green v. Johnson, 9 N.C. 309 (1823)

Pennsylvania: Price v. Ralston, 2 Dall. 60 (1790)

South Carolina: Gist v. Pressley, 2 Hill Eq. 318 (1835)

An act to prevent frauds frequently committed by bankrupts. 4 Anne, c. 17 (1705), 11 S.L. 162; 4 & 5 Anne, c. 17 (1705), 8 S.R. 461

Kentucky: Tevebaugh v. Reed, 21 Ky. (5 T.B.Mon.) 179 (1827); Tribble v. Taul, 23 Ky. (7 T.B. Mon.) 455 (1828)

New York: Frost v. Carter, 1 Johns. Cas. 73 (1799); Murray v. De Rottenham, 6 Johns. Ch. R. 52 (1822)

Rhode Island: Greene v. Darling, 4 Mas. 201 (1828)

An act for explaining and making more effectual the several acts concerning bankrupts. 7 Geo. 1, St. 1, c. 31 (1720), 14 S.L. 358

New York: Frost v. Carter, 1 Johns. Cas. 74 (1799); Lansing v. Prendergast, 9 Johns. R. 127 (1812); Murray v. De Rottenham, 6 Johns. Ch. R. 52 (1822); Roosevelt v. Mark, 6 Johns. Ch. R. 266 (1822)

An act to prevent the committing of frauds by bankrupts. 5 Geo. 2, c. 30 (1732), 16 S.L. 335

Kentucky: Tribble v. Taul, 23 Ky. (7 T.B. Mon.) 455 (1828)

New Jersey: Sharp v. Teese, 9 N.J.L. 352 (1828)

New York: Frost v. Carter, 1 Johns. Cas. 74 (1799); Duncan v. Lyon, 3 Johns. Ch. R. 351 (1818); Dale v. Cooke, 4 Johns. Ch. R. 11 (1819); Roosevelt v. Mark, 6 Johns. Ch. R. 266 (1822)

Pennsylvania: Pleasants v. Meng, 1 Dall. 380 (1788); Rugan v. West, 1 Binn. 263 (1808); Blythe v.

Johns, 5 Binn. 247 (1812); Kingston v. Wharton, 2 S. & R. 208 (1816)  
Rhode Island: Greene v. Darling, 5 Mas. 201 (1828)  
Federal: Vasse v. Comegys, 4 Wash. C.C. 570 (1825); Howe v. Sheppard, 2 Sumn. 409 (1836); In re Morris, Crabbe 70 (1837)

An act for amending the laws relating to bankrupts. 19 Geo. 2, c. 32 (1746), 18 S.L. 489  
New York: Murray v. De Rottenham, 6 Johns. Ch. R. 52 (1822); Roosevelt v. Mark, 6 Johns. Ch. R. 266 (1822)

#### BANKS OF RIVERS

Making of bridges and banks. 9 Hen. 3, c. 15 (Magna Charta) (1225), 1 S.L. 7; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22  
Georgia: Schley 41  
 Defending of banks. 9 Hen. 3, c. 16 (Magna Charta) (1225), 1 S.L. 7; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22  
Georgia: Schley 41  
New York: Rogers v. Jones, 1 Wend. 237 (1828)

#### BARGAIN OF SALE

For inrollment of bargains and sales. 27 Hen. 8, c. 16 (1535), 4 S.L. 376; 27 Hen. 8, c. 16 (1535-36), 3 S.R. 549  
Connecticut: Chalker v. Chalker, 1 Conn. 79 (1814); French v. Gray, 2 Conn. 92 (1816)  
Delaware: Van Dyke v. Johns, 1 Del. Ch. 93 (1819)  
Georgia: Patterson v. Winn, 30 U.S. (5 Pet.) 233 (1831)  
Kentucky: Breckenridges v. Todd, 19 Ky. (3 T.B. Mon.) 52 (1825); Pyle v. Maulding, 30 Ky. (7 J.J. Mar.) 202 (1832)  
Maryland: Hammond's Lessee v. Brice, 1 H. & McH. 322 (1769)  
Massachusetts: Anonymous, Quincy 370 (1770)

New Jersey: Den v. Steelman, 10 N.J.L. 193 (1828)  
New York: Jackson v. Dunsbath, 1 Johns. Cas. 91 (1799); Rogers v. Eagle Fire Co., 9 Wend. 611 (1832)  
North Carolina: Moore v. Collins, 15 N.C. 384 (1834)  
Pennsylvania: Evans v. Jones, 1 Yeates 172 (1792); Hurst v. Hurst, 2 Wash. C.C. 69 (1807); Lessee of Heister v. Fortner, 2 Binn. 40 (1809); Pearpoint v. Graham, 4 Wash. C.C. 232 (1818)  
Tennessee: Russell v. Stinson, 4 Tenn. 1 (1816); Morgan v. Elam, 12 Tenn. 375 (1833)  
Virginia: Eppes v. Randolph, 6 Va. 125 (1799); Claiborne v. Henderson, 13 Va. (3 Hen. & M.) 322 (1809)

An act to give further time for inrolling such leases granted from the crown, as have not been inrolled within the respective times therein limited; and for making the pleading of deeds of bargain and sale inrolled, and of fee farm rents, more easy. 10 Anne, c. 18 (1711), 12 S.L. 324; 10 Anne, c. 28 (1711), 9 S.R. 694

Georgia: Patterson v. Winn, 30 U.S. (5 Pet.) 233 (1831)

#### BARNS (BURNING)

An act to prevent the malicious burning of houses, stacks of corn and hay, and killing or maiming of cattle. 22 & 23 Car. 2, c. 7 (1670), 8 S.L. 340; 22 & 23 Car. 2, c. 7 (1670 & 1671), 5 S.R. 709  
South Carolina: Braker v. Knight, 3 McCord 80 (1825); Walker v. Briggs, 1 Hill 118 (1833); State v. Cantrell, 2 Hill 389 (1834); 2 Cooper 411  
Tennessee: State v. Wilcox, 11 Tenn. 278 (1832)

#### BARON (LORD)

How men of all sorts shall be amerced, and by whom. 9 Hen. 3, c. 14 (Magna Charta) (1225),

1 S.L. 6; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 40

# BARONIES

Tenure of a barony coming into the King's hands by eschete.

9 Hen. 3, c. 31 (Magna Charta) (1225), 1 S.L. 11; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 47

An act for taking away the court of wards and liveries, and tenures in capite, and by knights-service, and purveyance, and for settling a revenue upon his Majesty in lieu thereof. 12 Car. 2, c. 24 (1660), 7 S.L. 472; 12 Car. 2, c. 24 (1660), 5 S.R. 259

D.C.: Mauro v. Ritchie, 3 Cranch C.C. 147 (1827)

Georgia: Schley 242

Maryland: Davis v. Jacquin, 5 H. & J. 100 (1820); Mauro v. Ritchie, 3 Cranch C.C. 147 (1827); Corrie's Case, 2 Bla. Ch. 488 (1830); Kilty 238

New York: Jackson v. Schutz, 18 Johns. R. 174 (1820)

North Carolina: Mills v.

McAllister, 2 N.C. 350 (1796)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833); 3 Binney 623; Roberts 312

# BASTARDS & BASTARDY

He is a bastard that is born before the marriage of his parents.

20 Hen. 3, c. 9 (1235), 1 S.L. 31; 20 Hen. 3, c. 9 (1235-36), 1 S.R. 4

Georgia: Schley 79

Maryland: Kilty 208

Pennsylvania: 3 Binney 600; Roberts 90

South Carolina: 2 Cooper 403

Justices of peace shall order the punishment of the mother and reputed father of a bastard, &c. 18 Eliz., c. 3 (1576), 6 S.L. 311; 18 Eliz., c. 3 (1575-76), 4 S.R. 610

New Jersey: State v. Price, 11 N.J.L. 143 (1829)

South Carolina: Rembert v. Kelly, 1 Harper 65 (1823)

An act for continuance of divers statutes, and for repeal of some others. 43 Eliz., c. 9 (1601), 7 S.L. 50; 43 Eliz., c. 9 (1601), 4 S.R. 973

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act to prevent the destroying and murdering of bastard children. 21 Jac. 1, c. 27 (1623), 7 S.L. 298; 21 Jac. 1, c. 27 (1623-24), 4 S.R. 1234

North Carolina: State v. Jeffreys, 7 N.C. 480 (1819); State v. Joiner, 11 N.C. 350 (1826)

Pennsylvania: Pennsylvania v. M'Kee, Add. 1 (1791)

South Carolina: 2 Cooper 410

An act for continuance and repeal of divers statutes. 3 Car. 1, c. 4 (5) (1627), 7 S.L. 325; 3 Car. 1, c. 5 (1627), 5 S.R. 27

New Jersey: State v. Price, 11 N.J.L. 143 (1829)

New York: Van Wagenen v. Overseers of the Poor, 10 Johns. R. 56 (1813)

An act for the relief of parishes and other places from such charges as may arise from bastard children born within the same.

6 Geo. 2, c. 31 (1733), 16 S.L. 425

Georgia: Central Bank v. Kendrick, Dud. (Ga.) 66 (1831)

New Jersey: State v. Price, 11 N.J.L. 143 (1829)

New York: Rockfeller v. Donnelly, 8 Cow. 623 (1826)

North Carolina: State v. Pettaway, 10 N.C. 623 (1825)

# BENEFICES

In appropriation of benefices there shall be provision made for the poor and the vicar.

15 Rich. 2, c. 6 (1391), 2 S.L. 344;  
 15 Rich. 2, c. 6 (1391), 2 S.R. 80  
Pennsylvania: Magill v. Brown,  
 Bright. N.P. 346 (1833)

An act for continuance and repeal  
 of divers statutes. 3 Car. 1, c. 4  
 (5) (1627), 7 S.L. 325; 3 Car. 1,  
 c. 5 (1627), 5 S.R. 27

New Jersey: State v. Price, 11  
 N.J.L. 143 (1829)

New York: Van Wagenen v. Over-  
 seers of the Poor, 10 Johns. R. 56  
 (1813)

### BENEFIT OF CLERGY

Clergy shall be allowed but once.  
 A convict person shall be marked  
 with the letters M or T. A provi-  
 sion for them which be within  
 orders. 4 Hen. 7, c. 13 (1487),  
 4 S.L. 45; 4 Hen. 7, c. 13 (1488-  
 89), 2 S.R. 538

D.C.: United States v. Norris,  
 1 Cranch C.C. 411 (1807)

Maryland: United States v. Norris,  
 1 Cranch C.C. 411 (1807)

South Carolina: 2 Cooper 407

An act concerning convicts in  
 petit treason, murder, &c. 23  
 Hen. 8, c. 1 (1531), 4 S.L. 212;  
 23 Hen. 8, c. 1 (1531-32), 3 S.R.  
 362

New York: Butler's Case, 4 Rog.  
 N.Y. City H. Rec. 77 (1819)

North Carolina: State v. Scott,  
 8 N.C. 24 (1820)

South Carolina: 2 Cooper 408

Tennessee: Grainger v. State, 13  
 Tenn. 459 (1830); Mitchell v.  
 State, 16 Tenn. 514 (1835)

Virginia: Commonwealth v. Posey,  
 8 Va. (4 Call) 109 (1787)

For such as stand mute, &c.  
 25 Hen. 8, c. 3 (1533), 4 S.L.  
 264; 25 Hen. 8, c. 3 (1533-34),  
 3 S.R. 439

New York: Butler's Case, 4 Rog.  
 N.Y. City H. Rec. 77 (1819)

North Carolina: State v. Seaborn,  
 15 N.C. 305 (1833)

South Carolina: 2 Cooper 408

An act for the repeal of certain  
 statutes concerning treasons and  
 felonies. 1 Edw. 6, c. 12 (1547),  
 5 S.L. 259; 1 Edw. 6, c. 12 (1547),  
 4 S.R. 18

New York: Woodbeck v. Keller,  
 6 Cow. 118 (1826)

North Carolina: State v. Seaborn,  
 15 N.C. 305 (1833)

Pennsylvania: Respublica v.  
 Roberts, 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

An act for the avoiding of clergy  
 from divers persons. 5 & 6 Edw.  
 6, c. 10 (1552), 5 S.L. 368; 5 & 6  
 Edw. 6, c. 10 (1551-52), 4 S.R. 143  
Kentucky: Act of 1802, 107, 118  
 (1803)

North Carolina: State v. Seaborn,  
 15 N.C. 305 (1833)

South Carolina: 2 Cooper 409

An act to take away the benefit of  
 clergy from certain offenders for  
 felony. 8 Eliz., c. 4 (1565), 6 S.L.  
 235; 8 Eliz., c. 4 (1566), 4 S.R. 488  
Kentucky: Act of 1802, 107, 118  
 (1803)

South Carolina: 2 Cooper 409

Tennessee: Crenshaw v. State,  
 8 Tenn. 122 (1827)

An act to take away clergy from  
 the offenders in rape or burglary,  
 and an order for the delivery of  
 clerks convict without purgation.  
 18 Eliz., c. 7 (1576), 6 S.L. 316;  
 18 Eliz., c. 7 (1575-76), 4 S.R. 617

D.C.: United States v. Norris,  
 1 Cranch C.C. 411 (1807)

Maryland: United States v. Norris,  
 1 Cranch C.C. 411 (1807)

South Carolina: 2 Cooper 410

Tennessee: Crenshaw v. State,  
 8 Tenn. 122 (1827)

Virginia: Commonwealth v. Bennet,  
 4 Va. (2 Va. Cas.) 235 (1820)

An act to take away clergy from some offenders, and to bring others to punishment. 3 & 4 W. & M., c. 9 (1691), 9 S.L. 138; 3 W. & M., c. 9 (1691), 6 S.R. 311

New York: M'Niff's Case, 1 Rog.

N.Y. City H. Rec. 8 (1816)

South Carolina: State v. Council, 1 Harp. 53 (1823); State v. Wright, 4 McCord 358 (1827); 2 Cooper 411

Tennessee: Wright v. State, 13

Tenn. 154 (1833); Swaggerty v. State, 17 Tenn. 338 (1836)

Federal: United States v. Moulton, 5 Mas. 537 (1830)

Crane, 30 U.S. (5 Pet.) 190 (1831)

North Carolina: Bank v. Hunter, 12 N.C. 100 (1826); State v. Lipsey, 14 N.C. 485 (1832)

Pennsylvania: Shortz v. Quigley, 1 Binn. 222 (1807); Frey v. Wells, 4 Yeates 497 (1808); Morris v. Buckley, 8 S. & R. 211 (1822); 3 Binney 606; Roberts 93

Tennessee: Ewell v. State, 14 Tenn. 364 (1834)

Federal: Smith v. Chase, 3 Cranch C.C. 348 (1828); Ex Parte Crane, 30 U.S. (5 Pet.) 190 (1831); United States v. Gibert, 2 Sumn. 19 (1834)

## BIGAMY

An act to restrain all persons from marriage until their former wives and former husbands be dead. 1 Jac. 1, c. 11 (1604), 7 S.L. 88; 1 Jac. 1, c. 11 (1603-04), 4 S.R. 1028

Pennsylvania: Miller v. Beates, 3 S. & R. 490 (1817)

South Carolina: 2 Cooper 410

Federal: Gardner v. The New Jersey, 1 Pet. Adm. 223 (1806); Thomas v. Lane, 2 Sumn. 1 (1813); De Lovio v. Boit, 2 Gall. 398 (1815); United States v. Wiltberger, 18 U.S. (5 Wheat.) 75 (1820); Jenks v. Lewis, 3 Mas. 503 (1825); Steele v. Thacher, 1 Ware 85 (1825); Plummer v. Webb, 4 Mas. 380 (1827); Bains v. The James, Bald. C.C. 544 (1832); Schooner Volunteer, 1 Sumn. 551 (1834)

## BILLS OF EXCEPTIONS

An exception to a plea shall be sealed by the justices. 13 Edw. 1, St. 1, c. 31 (1285), 1 S.L. 206; 13 Edw. 1, Westminster 2d, c. 31 (1285), 1 S.R. 86

Maine: Colley v. Merrill, 6 Me. 50 (1829)

Maryland: Queen v. State, 5 H. & J. 232 (1821); Nesbitt v. Dallam, 7 G. & J. 494 (1836); Kilty 212

New York: Ex Parte Vermilyea, 6 Cow. 555 (1826); Ex Parte

## BILLS OF EXCHANGE

An act for the better payment of inland bills of exchange. 9 & 10 Will. 3, c. 17 (1698), 10 S.L. 141; 9 Will. 3, c. 17 (1697-98), 7 S.R. 371

Georgia: Schley 308

Maryland: Patterson v. Maryland Insurance Co., 3 H. & J. 71 (1810); Kilty 244

New Jersey: Ferris v. Saxton, 4 N.J.L. 1 (1818)

New York: White v. Meday, 2 Edw. Ch. 486 (1835)

South Carolina: Fleming v. M'Clure, 1 Brev. 428 (1804)

An act for the more effectual preventing the forging the acceptance of bills of exchange, or the numbers or principal sums of accountable receipts for notes, bills, or other securities for payment of money, or warrants or orders for payment of money, or delivery of goods. 7 Geo. 2, c. 22 (1734), 16 S.L. 477

Maryland: United States v. Book, 2 Cranch C.C. 294 (1822)

South Carolina: State v. Washington, 1 Bay 117 (1791); State v. Holly, 2 Bay 262 (1800)

## BILL OF RIGHTS

An act for declaring the rights and liberties of the subject, and

settling the succession of the crown. 1 W. & M., Sess. 2, c. 2 (1688), 9 S.L. 67; 1 W. & M., Sess. 2, c. 2 (1688), 6 S.R. 142

Maryland: Williams' Case, 3 Bla. Ch. 186 (1831)

# BISSERTILE DE ANNO ET DIE

The day of the leap-year, and the day before, shall be holden for one day. 21 Hen. 3 (1236), 1 S.L. 32; 40 Hen. 3 (1256), 1 S.R. 7

Georgia: Schley 80

Maryland: Kilty 208

Pennsylvania: 3 Binney 600; Roberts 207

# BONA NOTABILIA

An act for the amendment of the law, and the better advancement of justice. 4 Anne, c. 16 (1705), 11 S.L. 155; 4 & 5 Anne, c. 3 (1705), 8 S.R. 458

Connecticut: Judson v. Blanchard, 3 Conn. 579 (1821)

Delaware: Vandegrift v. Haughey, 1 Del. Cas. 338 (1793); 2 Del. Cas. 13 (1793); Evans v. Boggs, 1 Del. Cas. 18 (1794); 1 Del. Cas. 349 (1794); Horsey's Ex'rs. v. Moore, 1 Del. Cas. 122 (1796); Robinson v. Ingram, 1 Del. Cas. 242 (1799); Ford's Lessee v. Hays & Sutton, 1 Del. (1 Harr.) 48 (1832)

Georgia: Moss v. Wood, Charl. R.M. 42 (1819); Schley 326

Kentucky: Leather's Rep's v. M'Glasson, 19 Ky. (3 T.B. Mon.) 223 (1826); Nelson's Heirs v. Clay's Heirs, 30 Ky. (7 J.J. Mar.) 138 (1832)

Maryland: Gorsuch v. Holmes (Osborn v. Jones), 4 H. & McH. 5 (1792); Union Bank v. Ridgely, 1 H. & G. 324 (1827); Hammond v. Hammond, 2 Bla. Ch. 306 (1830); Buckingham v. Peddicord, 2 Bla. Ch. 447 (1830); Brown v. Wallace, 2 Bla. Ch. 585 (1830); Addison v. Bowie, 2 Bla. Ch. 606 (1830); Salmon v. Clagett, 3 Bla. Ch. 125

(1830); Hall v. McPherson, 3 Bla. Ch. 529 (1832); Sasscer v. Walker's Ex'rs, 5 G. & J. 102 (1833); Kilty 245

Massachusetts: Jones v. Harraden (Brigham v. Eveleth), 9 Mass. N. 540 (1784); Brigham v. Eveleth, 9 Mass. 538 (1813); Bond v. Cutler, 10 Mass. 419 (1813); Farley v. Thompson, 15 Mass. 18 (1818); Jackson v. Stetson, 15 Mass. 48 (1818); Parker v. Parker, 34 Mass. (17 Pick.) 236 (1835)

New Hampshire: Chapman v. Sloan, 2 N.H. 464 (1822)

New York: Cheatham v. Lewis, 3 Johns. R. 42 (1808); Lansing v. Capron, 1 Johns. Ch. R. 617 (1815); Jones v. Clark, 20 Johns. R. 51 (1822); Kane v. Bloodgood, 7 Johns. Ch. R. 90 (1823); In the Matter of Hemiup, 2 Pai. Ch. 316 (1830); Oakley's Ex'rs v. Romeyn's Heirs, 6 Wend. 521 (1831)

North Carolina: Powell v. Hampton, 1 C. & N. 86 (1800); Bickerstaff v. Dellinger, 1 C. & N. 299 (1801); Chambers v. Chambers, 10 N.C. 232 (1824); Morrison v. Connelly, 13 N.C. 233 (1829); Briley v. Sugg, 21 N.C. 366 (1836)

Ohio: Lowther v. Lawrence, Wright (Ohio) 180 (1833)

Pennsylvania: Rapp v. Elliot, 1 Yeates 185 (1792); Kesselman's Lessee v. Old, 4 Dall. 168 (1799); Lessee of Eshelman v. Hoke, 2 Yeates 509 (1799); Griffith v. Willing, 3 Binn. 317 (1811); Hopkins v. Deaves, 2 Bro. (Pa.) 93 (1811); Wentz v. Dehaven, 1 S. & R. 312 (1815); Roop v. Meek, 6 S. & R. 542 (1821); Carl v. Commonwealth, 9 S. & R. 63 (1822); Jourdan v. Jourdan, 9 S. & R. 268 (1823); Irvine v. Hanlin, 10 S. & R. 219 (1823); Lynn v. M'Millen, 3 Pen. & W. 170 (1831); Vicary v. Moore, 2 Watts. 451 (1834); Pepper v. Doores, 1 Miles 60 (1835); M'Mackin v. M'Farland, 1 Miles 319 (1836); 3 Binney 625; Roberts 43

Rhode Island: *Sisson v. Seabury*,  
1 Sumn. 235 (1832)

South Carolina: *Fraser v. McLeod*,  
1 Brev. 198 (1802); *Gaillard v.*  
*Ball*, 1 N. & Mc. 67 (1818);  
*O'Driscoll v. M'Burney*, 2 N. &  
*Mc.* 58 (1819); *City Council v.*  
*Price*, 1 McCord 299 (1821);  
*Nicks v. Martindale*, 1 Harp. 138  
(1824); *Thomas v. Wilson*, 3  
*McCord* 166 (1825); *Soloman v.*  
*Evans*, 3 McCord 274 (1825);  
*Barino v. M'Gee*, 3 McCord 452  
(1826); *M'Lure v. Vernon*, 2 Hill  
420 (1834); 2 Cooper 412

Tennessee: *Slatton v. Jonson*, 5  
*Tenn.* 197 (1817); *Payton v. Trigg*,  
5 Tenn. 250 (1817); *Johnston v.*  
*Dew*, 6 Tenn. 224 (1818); *Harmon*  
*v. Crook*, 10 Tenn. 127 (1826);  
*Hill v. State*, 10 Tenn. 248 (1829)  
Virginia: *Carthrae v. Clarke*, 32  
Va. (5 Leigh) 268 (1834)

#### BOOK OF RATES

A subsidy granted to the King of  
tonnage and poundage, and other  
sums of money, payable upon  
merchandise exported and im-  
ported. 12 Car. 2, c. 4 (1660),  
7 S.L. 362; 12 Car. 2, c. 4 (1660),  
5 S.R. 181

Maryland: *Blackiston v. Carroll*,  
1 Am. Leg. Rec. 46 (1697)

#### BOOKS & PAMPHLETS

An act for preventing abuses in  
printing seditious, treasonable,  
and unlicensed books and pam-  
phlets, and for regulating of  
printing and printing-presses.  
13 & 14 Car. 2, c. 33 (1662), 8  
S.L. 137; 14 Car. 2, c. 33 (1662),  
5 S.R. 428

New York: *People v. Cröswell*, 3  
*Johns. Cas.* 337 (1804); 3 Wheel.  
*Cr. C.* 330 (1804)

Pennsylvania: *Proprietor v. Keith*,  
*Penny*. 117 (1692)

An act for reviving and continu-  
ance of several acts of parliament  
therein mentioned. 1 Jac. 2,

c. 17 (1685), 8 S.L. 463; 1 Jac. 2,  
c. 17 (1685), 6 S.R. 19

New Jersey: *Orange v. Springfield*,  
14 N.J.L. 321 (1834)

New York: *Foster v. Wilbert*, 1 Pai.  
Ch. 537 (1829)

North Carolina: *Davis v. Duke's*  
*Adm'r*, 1 Tayl. 213 (1801); 1 C. &  
N. 361 (1801)

Pennsylvania: *Lessee of Ware v.*  
*Fisher*, 2 Yeates 578 (1800);  
*Harris v. Hayes*, 6 Binn. 422  
(1814); *Bevan v. Taylor*, 7 S. & R.  
397 (1821)

South Carolina: 2 Cooper 411

#### BOOKSELLERS

An act for the encouragement of  
learning, by vesting the copies of  
printed books in the author's or  
purchasers of such copies, during  
the times therein mentioned.

8 Anne, c. 19 (1709), 12 S.L. 82;  
8 Anne, c. 21 (1709), 9 S.R. 256

Federal: *Ewer v. Cox*, 4 Wash.  
C.C. 487 (1824)

#### BOWS

All sorts of men under the age of  
forty years shall have bows and  
arrows, and use shooting; certain  
persons accepted, &c. 3 Hen. 8,  
c. 3 (1511), 4 S.L. 111; 3 Hen. 8,  
c. 3 (1511-12), 3 S.R. 25

D.C.: *United States v. Dixon*, 4  
*Cranch C.C.* 107 (1830)

Maryland: *United States v. Dixon*,  
4 Cranch C.C. 107 (1830)

#### BRIDGES

Making of bridges and banks.  
9 Hen. 3, c. 15 (Magna Charta)  
(1225), 1 S.L. 7; 9 Hen. 3 (Magna  
Charta) (1224-25), 1 S.R. 22

Georgia: *Schley* 41

For bridges and highways. 22  
Hen. 8, c. 5 (1530), 4 S.L. 199;  
22 Hen. 8, c. 5 (1530-31), 3 S.R.  
321

New York: *Ontario Bank v. Bunnell*,  
10 Wend. 186 (1833)



Federal: Bank of the United States v. Deveaux, 9 U.S. (5 Cranch) 61 (1809)

#### BROKERS, PAWN-BROKERS, ETC.

An act to prevent the infamous practice of stock-jobbing. 7 Geo. 2, c. 8 (1734), 16 S.L. 443

New York: Frost v. Clarkson, 7 Cow. 24 (1827)

An act for the more effectual punishment of persons who shall attain, or attempt to attain, possession of goods or money, by false or untrue pretences; for preventing the unlawful pawning of goods; for the easy redemption of goods pawned; and for preventing gaming in publick houses by journeymen, labourers, servants and apprentices. 30 Geo. 2, c. 24 (1757), 22 S.L. 114

D.C.: Forrest v. Hanson, 1 Cranch C.C. 63 (1802)

Maine: Cross v. Peters, 1 Me. 376 (1821)

Maryland: Forrest v. Hanson, 1 Cranch C.C. 63 (1802)

Massachusetts: Commonwealth v. Warren, 6 Mass. 72 (1809)

New Jersey: State v. Gibbons, 4 N.J.L. 40 (1818)

New York: Conger's Case, 4 Rog. N.Y. City H. Rec. 65 (1819); People v. Stone, 9 Wend. 182 (1832); People v. Gates, 13 Wend. 311 (1835)

Federal: United States v. Moulton, 5 Mas. 537 (1830)

#### BUGGERY

The punishment of the vice of buggery. 25 Hen. 8, c. 6 (1533), 4 S.L. 267; 25 Hen. 8, c. 6 (1533-34), 3 S.R. 441

South Carolina: 2 Cooper 408

An act for the punishment of the vice of buggery. 5 Eliz., c. 17 (1562), 6 S.L. 208; 5 Eliz., c. 17 (1562-63), 4 S.R. 447

South Carolina: 2 Cooper 409

#### BUILDINGS

An act for the further and better regulation of buildings, and party-walls; and for the more effectually preventing mischiefs by fire within the cities of London and Westminster, and the liberties thereof, and other the parishes, precincts, and places, within the weekly bills of mortality, the parishes of Saint Mary-le-bon, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the county of Middlesex; and for indemnifying, under certain conditions, builders and other persons against the penalties to which they are or may be liable for erecting buildings within the limits aforesaid contrary to law. 14 Geo. 3, c. 78 (1774), 30 S.L. 483

New York: Campbell v. Mesier, 4 Johns. Ch. R. 334 (1820)

#### BULLION

An act for the encouraging and increasing of shipping and navigation. 12 Car. 2, c. 18 (1660), 7 S.L. 452; 12 Car. 2, c. 18 (1660), 5 S.R. 246

Maryland: Randolph v. Tench, 1 Am. Leg. Rec. 10 (1695); Randolph v. Blackmore, 1 Am. Leg. Rec. 29 (1695)

Massachusetts: Lason v. Brenton, 1 Rec. Ct. of Asst., Colony of Mass. Bay 256 (1691); Brenton v. Three Brothers, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691); Shrimpton v. Brenton, 1 Rec. Ct. of Asst., Colony of Mass. Bay 268 (1692)

Federal: The Ann Green v. United States, 1 Gall. 274 (1812); Gelston v. Hoyt, 16 U.S. (3 Wheat.) 246 (1818)

An act for the encouragement of trade. 15 Car. 2, c. 7 (1663), 8 S.L. 160; 15 Car. 2, c. 7 (1663), 5 S.R. 449

Massachusetts: Randolph v. Catch Newbery, 1 Rec. Ct. of Asst., Colony of Mass. Bay 152 (1682); Luger v. Ship Elisabeth, 1 Rec.

Ct. of Asst., Colony of Mass. Bay 209 (1686); *Brenton v. Katch Salisbury*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 251 (1691); *Brenton v. Three Brothers*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691)

## BURGLARS AND BURGLARY

An act to take away clergy from the offenders in rape and burglary, and an order for the delivery of clerks convict without purgation. 18 Eliz., c. 7 (1576), 6 S.L. 316; 18 Eliz., c. 7 (1575-76), 4 S.R. 617

D.C.: *United States v. Norris*, 1 Cranch C.C. 411 (1807)

Maryland: *United States v. Norris*, 1 Cranch C.C. 411 (1807)

South Carolina: 2 Cooper 410

Tennessee: *Crenshaw v. State*, 8 Tenn. 122 (1827)

Virginia: *Commonwealth v. Bennet*, 4 Va. (2 Va. Cas.) 235 (1820)

An act for the more effectual preventing and punishing robberies that shall be committed in houses. 12 Anne, St. 1, c. 7 (1713), 13 S.L. 22; 12 Anne, c. 7 (1712), 9 S.R. 767

Georgia: *State v. Thompson, Charl.* R.M. 80 (1821); *State v. Maloney, Charl.* R.M. 84 (1821)

Federal: *United States v. Moulton*, 5 Mas. 537 (1830)

## CALENDAR

An act for regulating the commencement of the year; and for correcting the calendar now in use. 24 Geo. 2, c. 23 (1751), 20 S.L. 186

Maryland: *Kilty* 252

An act to amend an act made in the last session of parliament, (intituled, An act for regulating the commencement of the year, and for correcting the calendar now in use). 25 Geo. 2, c. 30 (1752), 20 S.L. 368

Maryland: *Kilty* 253

## CANON LAW

The submission of the clergy, and restraint of appeals. 25 Hen. 8, c. 19 (1533), 4 S.L. 283; 25 Hen. 8, c. 19 (1533-34), 3 S.R. 460

Delaware: *Van Dyke v. Johns*, 1 Del. Ch. 93 (1819)

Virginia: *Commonwealth v. Posey*, 8 Va. (4 Call) 109 (1787)

## CARRIAGES FOR THE USE OF THE NAVY AND ORDNANCE

An act for reviving, continuing, and explaining several laws therein mentioned, which are expired and near expiring. 4 & 5 W. & M., c. 24 (1692), 9 S.L. 229; 4 W. & M., c. 24 (1692), 6 S.R. 416

Delaware: *Burton v. McCullen*, 2 Del. Cas. 20 (1807)

Georgia: *Schley* 286

Maryland: *Sibley v. Williams*, 3 G. & J. 52 (1830)

New Jersey: *Schenck v. Ex'rs of Schenck*, 3 N.J.L. 149 (2 Penning. 562) (1809); *Dickerson v. Robinson*, 6 N.J.L. 195 (1822)

Pennsylvania: *Potts v. Smith*, 3 Rawle 361 (1832)

South Carolina: *Trescot v. Trescot*, 1 McCord Eq. 417 (1826)

## CARTS, DRAYS, WAGGONS, ETC.

Doing of castle-ward. 9 Hen. 3, c. 20 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: *Schley* 42

The bill for burning of frames. 37 Hen. 8, c. 6 (1545), 5 S.L. 222; 37 Hen. 8, c. 6 (1545), 3 S.R. 994

Kentucky: Act of 1802, 107, 118 (1803)

South Carolina: 2 Cooper 409

## CASTLES &amp; FORTRESSES

Purveyance for a castle. 9 Hen. 3, c. 19 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: *Schley* 42

Doing of castle-ward. 9 Hen. 3, c. 20 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 42

The remedy if the distress be impounded in a castle or fortress.

3 Edw. 1, c. 17 (1275), 1 S.L. 86; 3 Edw. 1, c. 17 (1275), 1 S.R. 31

Maryland: Kilty 210

Sheriffs. 19 Hen. 7, c. 10 (1503), 4 S.L. 91; 19 Hen. 7, c. 10 (1503-04), 2 S.R. 654

Georgia: State v. Dews, Charl. R.M. 397 (1835)

Maryland: Kilty 230

#### CASTLE WARD

Doing of castle-ward. 9 Hen. 3, c. 20 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 42

#### CATTLE

An act for the encouragement of trade. 15 Car. 2, c. 7 (1663), 8 S.L. 160; 15 Car. 2, c. 7 (1663), 5 S.R. 449

Massachusetts: Randolph v. Catch Newbery, 1 Rec. Ct. of Asst., Colony of Mass. Bay 152 (1682); Luger v. Ship Elisabeth, 1 Rec. Ct. of Asst., Colony of Mass. Bay 209 (1686); Brenton v. Katch Salisbury, 1 Rec. Ct. of Asst., Colony of Mass. Bay 251 (1691); Brenton v. Three Brothers, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691)

An act to prevent the malicious burning of houses, stacks of corn and hay, and killing or maiming of cattle. 22 & 23 Car. 2, c. 7 (1670), 8 S.L. 340; 22 & 23 Car. 2, c. 7 (1670 & 1671), 5 S.R. 709

South Carolina: Braker v. Knight, 3 McCord 80 (1825); Walker v. Briggs, 1 Hill 118 (1833); State v.

Cantrell, 2 Hill 389 (1834); 2 Cooper 411

Tennessee: State v. Wilcox, 11 Tenn. 278 (1832)

An act for reviving and continuance of several acts of parliament therein mentioned. 1 Jac. 2, c. 17 (1685), 8 S.L. 463; 1 Jac. 2, c. 17 (1685), 6 S.R. 19

New Jersey: Orange v. Springfield, 14 N.J.L. 321 (1834)

New York: Foster v. Wilbert, 1 Pai. Ch. 537 (1829)

North Carolina: Davis v. Duke's Adm'r, 1 Tayl. 213 (1801); 1 C. & N. 361 (1801)

Pennsylvania: Lessee of Ware v. Fisher, 2 Yeates 578 (1800); Harris v. Hayes, 6 Binn. 422 (1814); Bevan v. Taylor, 7 S. & R. 397 (1821)

South Carolina: 2 Cooper 411

An act for reviving, continuing, and explaining several laws therein mentioned, which are expired and near expiring. 4 & 5 W. & M., c. 24 (1692), 9 S.L. 229; 4 W. & M., c. 24 (1692), 6 S.R. 416

Delaware: Burton v. McCullen, 2 Del. Cas. 20 (1807)

Georgia: Schley 286

Maryland: Sibley v. Williams, 3 G. & J. 52 (1830)

New Jersey: Schenck v. Ex'rs of Schenck, 3 N.J.L. 149 (2 Penning. 562) (1809); Dickerson v. Robinson, 6 N.J.L. 195 (1822)

Pennsylvania: Potts v. Smith, 3 Rawle 361 (1832)

South Carolina: Trescot v. Trescot, 1 McCord Eq. 417 (1826)

An act to render the laws more effectual for preventing the stealing and destroying of sheep, and other cattle. 14 Geo. 2, c. 6 (1741), 17 S.L. 419

North Carolina: State v. Hall, 1 Tayl. 126 (1799)

CESTUIQUE VIE

An act for redress of inconveniencies by want of proof of the deceases of persons beyond the seas or absenting themselves, upon whose lives estates do depend. 19 Car. 2, c. 6 (1667), 8 S.L. 255; 18 & 19 Car. 2, c. 11 (1666), 5 S.R. 614

Georgia: Schley 248

Maryland: Kilty 240

Pennsylvania: Miller v. Beates, 3 S. & R. 490 (1817); 3 Binney 624; Roberts 233

CHAMPERTORS

Who be conspirators, and who be champertors. 33 Edw. 1, St. 2, (1304), 1 S.L. 307; 33 Edw. 1, Ord. Conspir. (1305), 1 S.R. 145

Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

New York: Lambert v. People, 9 Cow. 578 (1827)

Pennsylvania: 3 Binney 608; Roberts 96

South Carolina: State v. De Witt, 2 Hill 282 (1834); 2 Cooper 404

The bill of bracerly and buying of titles. 32 Hen. 8, c. 9 (1540), 5 S.L. 17; 32 Hen. 8, c. 9 (1540), 3 S.R. 753

Connecticut: Emerson v. Goodwin, 9 Conn. 422 (1833)

Georgia: Schley 191

Maryland: Kilty 232

Massachusetts: Swett v. Poor, 11 Mass. 549 (1814); Brinley v. Whiting, 22 Mass. (5 Pick.) 348 (1827)

New York: Jackson v. Brinckerhoff, 3 Johns. Cas. 101 (1802); Johnson v. Stagg, 2 Johns. R. 510 (1807); Williams v. Jackson, 5 Johns. R. 489 (1809); Thallhimer v. Brinckerhoff, 3 Cow. 623 (1824); People v. Sergeant, 8 Cow. 139 (1828)

Pennsylvania: Morris's Lessee v. Vanderen, 1 Dall. 64 (1782); Lessee of Hall v. Vandegrift, 3

Binn. 374 (1811); Cresson v. Miller, 2 Watts 272 (1834)

South Carolina: State v. Chitty, 1 Bail. 379 (1830); Giles v. Pratt, 2 Hill 439 (1834); 2 Cooper 408

Tennessee: Whitesides v. Martin, 15 Tenn. 384 (1835)

CHAMPERTY

Nothing shall be taken to maintain any matter in suit. 28 Edw. 1, St. 3, c. 11 (1300), 1 S.L. 298; 28 Edw. 1, Artic. sup. Cart., c. 11 (1300), 1 S.R. 139

Georgia: Schley 114

New York: Jackson v. Ketchum, 8 Johns. R. 479 (1811); Thalimer v. Brinckerhoff, 20 Johns. R. 386 (1823); Thallhimer v. Brinckerhoff, 3 Cow. 623 (1824)

South Carolina: 2 Cooper 404

Tennessee: Whitesides v. Martin, 15 Tenn. 384 (1835)

The punishment of such as commit champerty. 33 Edw. 1, St. 3 (1305), 1 S.L. 308; St. Conspir., 1 S.R. 216

Pennsylvania: 3 Binney 608; Roberts 96

South Carolina: 2 Cooper 404

CHANCERY

An act for better securing the monies and effects of the suitors of the court of chancery; and to prevent the counterfeiting of East-India bonds, and indorsements thereon; as likewise indorsements on South-Sea bonds. 12 Geo. 1, c. 32 (1725), 15 S.L. 335

Pennsylvania: Taylor v. Knox, 1 Dall. 158 (1785)

Federal: United States v. Stewart, 4 Wash. C.C. 226 (1818)

An act for making process in courts of equity effectual against persons who abscond, and cannot be served therewith, or who refuse to appear. 5 Geo. 2, c. 25 (1732), 16 S.L. 327

Georgia: Schley 366

Maryland: Hagthorp v. Hook's

Adm'rs., 1 G. & J. 270 (1829);

Buckingham v. Peddicord, 2 Bla.

Ch. 447 (1830); Neale v. Hagthorp,

3 Bla. Ch. 551 (1832)

Virginia: Morrison v. Campbell,

23 Va. (2 Rand.) 206 (1824)

## CHAPLAINS

Spiritual persons abridged from having pluralities of livings, and from taking of fermes, &c. 21 Hen. 8, c. 13 (1529), 4 S.L. 177; 21 Hen. 8, c. 13 (1529), 3 S.R. 292

Maryland: Miller v. Lord Proprietary, 1 H. & McH. 543 (1774)

## CHARITABLE GIFTS

An act for the encouragement of charitable gifts and dispositions. 7 & 8 Will. 3, c. 37 (1696), 9 S.L. 503; 7 & 8 Will. 3, c. 37 (1695-96), 7 S.R. 155

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## CHARITABLE USES

[To reform deceits and breaches of trust touching lands given to charitable uses.] 39 Eliz., c. 6 (1597), 7 S.L. 5; 39 Eliz., c. 6 (1597-98), 4 S.R. 903

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act to redress the mis-employment of lands, goods and stocks of money heretofore given to certain charitable uses. 43 Eliz., c. 4 (1601), 7 S.L. 43; 43 Eliz., c. 4 (1601), 4 S.R. 968

Kentucky: Gass v. Wilhite, 32 Ky. (2 Dana) 170 (1834); Moore's Heirs v. Moore's Ex'rs, 34 Ky. (4 Dana) 354 (1836)

Maryland: Dashiell v. Attorney Gen., 5 H. & J. 392 (1822)

Massachusetts: Going v. Emery, 33 Mass. (16 Pick.) 107 (1834)

North Carolina: Griffin v. Graham, 8 N.C. 96 (1820)

Pennsylvania: Witman v. Lex, 17

S. & R. 88 (1827); Magill v. Brown, Bright. N.P. 346 (1833)

Vermont: Ex'rs of Burr v. Smith, 7 Vt. 241 (1835)

Virginia: Baptist Ass'n v. Hart's Ex'rs, 17 U.S. (4 Wheat.) 1 (1819); Inglis v. Trustees of Sailor's Snug Harbor, 28 U.S. (3 Pet.) 99 (1830); Gallego's Ex'rs v. Attorney Gen., 30 Va. (3 Leigh) 450 (1832)

An act for continuance of divers statutes, and for repeal of some others. 43 Eliz., c. 9 (1601), 7 S.L. 50; 43 Eliz., c. 9 (1601), 4 S.R. 973

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## CHARTERS OF CONFIRMATION OF LIBERTIES AND TENEMENTS TOGETHER

A confirmation of liberties. 9 Hen. 3, c. 1 (Magna Charta) (1225), 1 S.L. 2; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 34

South Carolina: 2 Cooper 403

## CHARTERS OF FRANCHISE

Liberties by prescription or the king's grant. (Another new statute of quo warranto, taken from the Secunda Pars veterum statutorum, fol. 2, and is inserted in the editions of Berthelet, Rastal, Pulton, Keble, &c.) 18 Edw. 1, St. 3 (1290), 1 S.L. 259; 18 Edw. 1, St. New Quo Warr. (1289-90), 1 S.R. 107

Pennsylvania: 3 Binney 608; Roberts 382

## CHARTERS OF PARDON

In what cases only pardon of felony shall be granted. Who shall be justices of assise, &c. 2 Edw. 3, c. 2 (1328), 1 S.L. 421; 2 Edw. 3, c. 2 (1328), 1 S.R. 257

South Carolina: 2 Cooper 404

Pardons shall not be granted contrary to the statute of 2 Edw. 3,

c. 2. 10 Edw. 3, St. 1, c. 2 (1336),  
1 S.L. 461; 10 Edw. 3, St. 1, c. 2  
(1336), 1 S.R. 275

South Carolina: 2 Cooper 405

No pardon for felony, but where  
the King may do it saving his oath.  
14 Edw. 3, St. 1, c. 15 (1340),  
1 S.L. 483; 14 Edw. 3, St. 1, c. 15  
(1340), 1 S.R. 286

South Carolina: 2 Cooper 405

## CHEATS

An act for the more effectual  
punishment of persons who shall  
attain, or attempt to attain, pos-  
session of goods or money, by  
false or untrue pretences; for  
preventing the unlawful pawning  
of goods; for the easy redemption  
of goods pawned; and for prevent-  
ing gaming in publick houses by  
journeymen, labourers, servants  
and apprentices. 30 Geo. 2, c. 24  
(1757), 22 S.L. 114

D.C.: Forrest v. Hanson, 1 Cranch  
C.C. 63 (1802)

Maine: Cross v. Peters, 1 Me. 376  
(1821)

Maryland: Forrest v. Hanson, 1  
Cranch C.C. 63 (1802)

Massachusetts: Commonwealth v.  
Warren, 6 Mass. 72 (1809)

New Jersey: State v. Gibbons, 4  
N.J.L. 40 (1818)

New York: Conger's Case, 4 Rog.  
N.Y. City H. Rec. 65 (1819);  
People v. Stone, 9 Wend. 182  
(1832); People v. Gates, 13 Wend.  
311 (1835)

Federal: United States v. Moulton,  
5 Mas. 537 (1830)

## CHILDREN BORN ABROAD

In what place bastardy pleaded  
against him that is born out of  
the realm shall be tried. 25 Edw.  
3, St. 2 (1350), 2 S.L. 36; 25  
Edw. 3, St. 1 (1350-51), 1 S.R. 310

Georgia: Schley 124

Pennsylvania: 3 Binney 611;  
Roberts 18

South Carolina: Ex Parte Dupont,  
1 Harp. Eq. 5 (1824)

Children born beyond sea in the  
King's dominions shall be inherit-  
able in England. 42 Edw. 3, c. 10  
(1368), 2 S.L. 183; 42 Edw. 3,  
c. 10 (1368), 1 S.R. 389

South Carolina: 2 Cooper 406

An act for naturalizing foreign  
protestants. 7 Anne, c. 5 (1708),  
11 S.L. 444; 7 Anne, c. 5 (1708),  
9 S.R. 63

D.C.: Contee v. Godfrey, 1 Cranch  
C.C. 479 (1808)

Maryland: Contee v. Godfrey, 1  
Cranch C.C. 479 (1808)

South Carolina: Ex Parte Dupont,  
1 Harp. Eq. 5 (1824)

## THE CHURCH

The duty of justices of peace when  
any forcible entry is made into  
lands. 15 Rich. 2, c. 2 (1391), 2  
S.L. 339; 15 Rich. 2, c. 2 (1391),  
2 S.R. 78

Georgia: Ex Parte Putnam, Charl.  
T.U.P. 78 (1806)

Maryland: Kilty 223

New York: People v. Anthony, 4  
Johns. R. 198 (1809); Mather v.  
Hood, 8 Johns. R. 44 (1811)

Pennsylvania: Commonwealth v.  
Stoerer, 1 S. & R. 480 (1815);  
3 Binney 614; Roberts 283

South Carolina: State v. Speirin,  
1 Brev. 119 (1802); State v.  
Huntington, 3 Brev. 111 (1813);  
State v. Senft, 2 Hill 367 (1834);  
2 Cooper 406

## CHURCH YARDS

Assurance of lands to certain  
places, persons, and uses, shall  
be adjudged Mortmain. 15 Rich.  
2, c. 5 (1391), 2 S.L. 342; 15  
Rich. 2, c. 5 (1391), 2 S.R. 79

New York: McCartee v. Orphan  
Asylum Soc'y, 9 Cow. 437 (1827)

Pennsylvania: Leazure v. Hillegas,  
7 S. & R. 313 (1821); Magill v.

Brown, Bright. N.P. 346 (1833);  
Ross v. Barker, 5 Watts 391  
(1836)

### CHURCHES (PARISH)

In appropriations of benefices  
provision shall be made for the  
poor and the vicar. 4 Hen. 4,  
c. 12 (1402), 2 S.L. 433; 4 Hen. 4,  
c. 12 (1402), 2 S.R. 136

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

### CINQUE PORTS

The liberties of London, and other  
cities and towns confirmed. 9  
Hen. 3, c. 9 (Magna Charta) (1225),  
1 S.L. 5; 9 Hen. 3 (Magna Charta)  
(1224-25), 1 S.R. 22

Georgia: Schley 38

For pirates and robbers on the  
sea. 27 Hen. 8, c. 4 (1535), 4  
S.L. 348; 27 Hen. 8, c. 4 (1535-  
36), 3 S.R. 533

South Carolina: 2 Cooper 408

[Re rates of shipping on English  
Ships] 32 Hen. 8, c. 14 (1540),  
5 S.L. 24; 32 Hen. 8, c. 14 (1540),  
3 S.R. 760

Federal: Schooner Volunteer, 1  
Sumn. 551 (1834)

An act for rendering the proceed-  
ings upon writs of Mandamus, and  
informations in the nature of a  
Quo Warranto, more speedy and  
effectual; and for the more easy  
trying and determining the rights  
of offices and franchises in cor-  
porations and boroughs. 9 Anne,  
c. 20 (1710), 12 S.L. 189; 9 Anne,  
c. 25 (1710), 9 S.R. 483

Georgia: Ex Parte Carnochan,  
Charlt. T.U.P. 216 (1808); Schley  
343

Maryland: Kilty 248

New York: People v. Tibbits, 4  
Cow. 358 (1825)

Pennsylvania: Commonwealth v.  
Murray, 11 S. & R. 73 (1824);  
Commonwealth v. Arrison, 15

S. & R. 127 (1827); Commonwealth  
v. Mitchell, 2 Pen. & W. 517 (1831)

### CIRCUITS

Where and before whom assises  
shall be taken. Adjournment for  
difficulty. 9 Hen. 3, c. 12 (Magna  
Charta) (1225), 1 S.L. 6; 9 Hen. 3,  
(Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 39

### CLERGY

Clerks shall not commit mainte-  
nance. 3 Edw. 1, c. 28 (1275), 1  
S.L. 94; 3 Edw. 1, c. 28 (1275), 1  
S.R. 33

New York: Thalimer v. Brinkerhoff,  
20 Johns. R. 386 (1823); Thallhimer  
v. Brinckerhoff, 3 Cow. 623 (1824)

Nothing shall be taken to maintain  
any matter in suit. 28 Edw. 1, St.  
3, c. 11 (1300), 1 S.L. 298; 28  
Edw. 1, Artic. sup. Cart., c. 11  
(1300), 1 S.R. 139

Georgia: Schley 114

New York: Jackson v. Ketchum, 8  
Johns. R. 479 (1811); Thalimer v.  
Brinkerhoff, 20 Johns. R. 386  
(1823); Thallhimer v. Brinckerhoff,  
3 Cow. 623 (1824)

South Carolina: 2 Cooper 404

Tennessee: Whitesides v. Martin,  
15 Tenn. 384 (1835)

All clerks convicted of felony or  
treason shall be delivered to their  
ordinaries. 25 Edw. 3, St. 3, c. 4  
(1350), 2 S.L. 40; 25 Edw. 3, St.  
6, c. 4 (1351-52), 1 S.R. 325

D.C.: United States v. Norris, 1  
Cranch C.C. 411 (1807)

Maryland: United States v. Norris,  
1 Cranch C.C. 411 (1807)

None shall arrest priests or clerks  
doing divine service. 50 Edw. 3,  
c. 5 (1376), 2 S.L. 202; 50 Edw. 3,  
c. 5 (1376-77), 1 S.R. 398

Maryland: Kilty 221

The penalty for arresting of  
priests during divine service.

1 Rich. 2, c. 15 (1377), 2 S.L. 214;  
1 Rich. 2, c. 15 (1377), 2 S.R. 5

Maryland: Kilty 222

The submission of the clergy, and restraint of appeals. 25 Hen. 8, c. 19 (1533), 4 S.L. 283; 25 Hen. 8, c. 19 (1533-34), 3 S.R. 460

Delaware: Van Dyke v. Johns, 1 Del. Ch. 93 (1819)

Virginia: Commonwealth v. Posey, 8 Va. (4 Call) 109 (1787)

An act repealing all articles and provisions made against the see apostolick of Rome, since the twentieth year of King Henry the Eighth, and for the establishment of all spiritual and ecclesiastical possessions and hereditaments conveyed to the laity. 1 & 2 Phil. & M., c. 8 (1554), 6 S.L. 34; 1 & 2 Phil. & M., c. 8 (1554 & 1554-55), 4 S.R. 246

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

#### CLERK OF THE PEACE

An act for the following of hue and cry. 27 Eliz., c. 13 (1585), 6 S.L. 373; 27 Eliz., c. 13 (1584-85), 4 S.R. 720

New Jersey: Schooley v. Thorne, 1 N.J.L. 71 (1791); State v. Berry, 9 N.J.L. 374 (1828)

Pennsylvania: Smith v. Schell, 13 S. & R. 336 (1825)

South Carolina: 2 Cooper 410

#### CLERKS OF THE CHANCERY AND THE KING'S COUNCIL

Justices of assise shall enquire of and punish the misdemeanour of officers and other offenders. 20 Edw. 3, c. 6 (1346), 2 S.L. 25; 20 Edw. 3, c. 6 (1346), 1 S.R. 305

South Carolina: 2 Cooper 405

#### CLERKS OF UNDER SHERIFFS

An act for swearing of under-sheriffs and other under officers and ministers. 27 Eliz., c. 12

(1585), 6 S.L. 371; 27 Eliz., c. 12 (1584-85), 4 S.R. 719

New Jersey: Allen v. Smith, 12 N.J.L. 159 (1831)

Tennessee: Glasgow's Lessee v. Smith, 1 Tenn. 144 (1805)

#### CLOTHS

An act for the reviving, continuance, explanation and perfecting of divers statutes. 35 Eliz., c. 7 (1593), 6 S.L. 434; 35 Eliz., c. 7 (1592-93), 4 S.R. 854

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act for continuance of divers statutes, and for repeal of some others. 43 Eliz., c. 9 (1601), 7 S.L. 50; 43 Eliz., c. 9 (1601), 4 S.R. 973

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act for continuance of a former act made in the fourth year of the King's majesty's reign of England, &c. intituled, An act for the true making of wollen cloths, and for some additions and alternations in and to the same. 21 Jac. 1, c. 18 (1623), 7 S.L. 277; 21 Jac. 1, c. 18 (1623-24), 4 S.R. 1224

Massachusetts: Barrett v. Pritchard, 19 Mass. (2 Pick.) 512 (1824)

An act for continuance and repeal of divers statutes. 3 Car. 1, c. 4 (5) (1627), 7 S.L. 325; 3 Car. 1, c. 5 (1627), 5 S.R. 27

New Jersey: State v. Price, 11 N.J.L. 143 (1829)

New York: Van Wagenen v. Overseers of the Poor, 10 Johns. R. 56 (1813)

#### COFFEE, TEA AND CHOCOLATE

An act for repealing certain duties therein mentioned, payable upon coffee, tea, cocoa nuts, chocolate and cocoa paste imported; and for granting certain inland duties in



lieu thereof; and for prohibiting the importation of chocolate ready made, and cocoa paste; and for better ascertaining the duties payable upon coffee, tea, and cocoa nuts imported; and for granting relief to Robert Dalzell, late earl of Carnwath. 10 Geo. 1, c. 10 (1723), 15 S.L. 132

Delaware: Simpson v. Smith, 2 Del. Cas. 285 (1817)

## COIN & COINAGE

An act for the further remedying the ill state of the coin of the kingdom. 8 Will. 3, c. 2 (1696), 10 S.L. 2; 8 & 9 Will. 3, c. 2 (1696-97), 7 S.R. 162

Kentucky: Gaines v. Conn's Heirs, 32 Ky. (2 Dana) 231 (1834)

New Jersey: Crane v. Alling, 14 N.J.L. 593 (1835)

Pennsylvania: Arrison v. Commonwealth, 1 Watts 374 (1833)

An act to prohibit the importation of light silver coin of this realm, from foreign countries, into Great Britain or Ireland; and to restrain the tender thereof beyond a certain sum. 14 Geo. 3, c. 42 (1774), 30 S.L. 372

South Carolina: M'Clarín v. Nesbit, 2 N. & Mc. 519 (1820)

## COLLEGES, CHANTRIES, ETC.

A bill for colleges, chantries, &c. 37 Hen. 8, c. 4 (1545), 5 S.L. 219; 37 Hen. 8, c. 4 (1545), 3 S.R. 988

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833); Ross v. Barker, 5 Watts 391 (1836)

The act for chantries collegiate. 1 Edw. 6, c. 14 (1547), 5 S.L. 267; 1 Edw. 6, c. 14 (1547), 4 S.R. 24

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833); Ross v. Barker, 5 Watts 391 (1836)

## COMMISSIONS OF GENERAL ENQUIRY

What sort of persons shall be justices of the peace; and what

authority they shall have. 34 Edw. 3, c. 1 (1360), 2 S.L. 135; 34 Edw. 3, c. 1 (1360-61), 1 S.R. 364

D.C.: Ex Parte Reed, 4 Cranch C.C. 582 (1835)

Georgia: Schley 126

Maryland: Ex Parte Reed, 4 Cranch C.C. 582 (1835); Kilty 220

Massachusetts: Commonwealth v. Leach, 1 Mass. 59 (1804); Commonwealth v. Knowlton, 2 Mass. 530 (1807)

New York: Ex Parte Rhodes, 2 Wheel. Cr. C. 559 (1816)

Pennsylvania: Commonwealth v.

Duane (Commonwealth v. Davies), 1 Binn. 97 (1806); 2 Wheel. Cr. C. 533 (1807); Kroemer v. Commonwealth, 3 Binn. 577 (1811); 3 Binney 612; Roberts 339

## COMMON OF PASTURE

In what cases lords may approve against their tenants. 20 Hen. 3, c. 4 (1235), 1 S.L. 27; 20 Hen. 3, St. Mert., c. 4 (1235-36), 1 S.R. 2

Pennsylvania: Western University v. Robinson, 12 S. & R. 29 (1824)

## COMMONS AND WASTE GROUNDS (INCLOSING)

Lords may approve against their neighbours. Usurpation of commons during the estate of particular tenants. 13 Edw. 1, St. 1, c. 46 (1285), 1 S.L. 225; 13 Edw. 1, Westminster 2d, c. 46 (1285), 1 S.R. 94

Pennsylvania: Western University v. Robinson, 12 S. & R. 29 (1824)

## CONCEALMENT

An act to amend and render more effectual an act made in the twenty first year of the reign of King James the first, intituled, An act for the general quiet of the subjects against all pretences of concealment whatsoever. 9 Geo. 3, c. 16 (1768), 28 S.L. 161

Maryland: Kelly's Lessee v.

Greenfield, 2 H. & McH. 121 (1785)

Federal: United States v. Hoar, 2 Mas. 311 (1821)

CONDITIONS

Concerning grantees of reversions to take advantage of the conditions to be performed by the lessees.

32 Hen. 8, c. 34 (1540), 5 S.L. 48;

32 Hen. 8, c. 34 (1540), 3 S.R. 788

Kentucky: Birney v. Haim, 12 Ky. (2 Litt.) 262 (1822)

Maryland: Moale v. Tyson, 2 H. & McH. 387 (1789); Kilty 232

New Jersey: Farley v. Craig, 11 N.J.L. 262 (1830)

New York: Ex'rs of Platner v. Devisees of Van Rensselaer, 3 Johns. Cas. 475 (1802); Demarest v. Willard, 8 Cow. 206 (1828)

Pennsylvania: 3 Binney 620; Roberts 227

South Carolina: Ex'rs of M'Craday v. Brisbane, 1 N. & Mc. 104 (1818)

CONFESSION

An act for the amendment of the law, and the better advancement of justice. 4 Anne, c. 16 (1705), 11 S.L. 155; 4 & 5 Anne, c. 3 (1705), 8 S.R. 458

Connecticut: Judson v. Blanchard, 3 Conn. 579 (1821)

Delaware: Vandegrift v. Haughey, 1 Del. Cas. 338 (1793), 2 Del. Cas. 13 (1793); Evans v. Boggs, 1 Del. Cas. 18 (1794), 1 Del. Cas. 349 (1794); Horsey's Ex'rs v. Moore, 1 Del. Cas. 122 (1796); Robinson v. Ingram, 1 Del. Cas. 242 (1799); Ford's Lessee v. Hays, 1 Del. (1 Harr.) 48 (1832)

Georgia: Moss v. Wood, Charlt. R.M. 42 (1819); Schley 326

Kentucky: Leather's Rep's v. M'Glasson, 19 Ky. (3 T.B. Mon.) 223 (1826); Nelson's Heirs v. Clay's Heirs, 30 Ky. (7 J.J. Mar.) 138 (1832)

Maryland: Gorsuch v. Holmes (Osborn v. Jones), 4 H. & McH. 5 (1792); Union Bank v. Ridgely, 1 H. & G. 324 (1827); Hammond v. Hammond, 2 Bla. Ch. 306 (1830); Buckingham v. Peddicord, 2 Bla. Ch. 447 (1830); Brown v. Wallace, 2 Bla. Ch. 585 (1830); Addison v.

Bowie, 2 Bla. Ch. 606 (1830); Salmon v. Clagett, 3 Bla. Ch. 125 (1830); Hall v. McPherson, 3 Bla. Ch. 529 (1832); Sasscer v. Walker's Ex'rs, 5 G. & J. 102 (1833); Kilty 245

Massachusetts: Jones v. Harraden (Brigham v. Eveleth), 9 Mass. n. 540 (1784); Brigham v. Eveleth, 9 Mass. 538 (1813); Bond v. Cutler, 10 Mass. 419 (1813); Farley v. Thompson, 15 Mass. 18 (1818); Jackson v. Stetson, 15 Mass. 48 (1818); Parker v. Parker, 34 Mass. (17 Pick.) 236 (1835)

New Hampshire: Chapman v. Sloan, 2 N.H. 464 (1822)

New York: Cheetham v. Lewis, 3 Johns. R. 42 (1808); Lansing v. Capron, 1 Johns. Ch. R. 617 (1815); Jones v. Clark, 20 Johns. R. 51 (1822); Kane v. Bloodgood, 7 Johns. Ch. R. 90 (1823); Matter of Hemipup, 2 Pai. Ch. 316 (1830); Oakley's Ex'rs v. Romeyn's Heirs, 6 Wend. 521 (1831)

North Carolina: Powell v. Hampton, 1 C. & N. 86 (1800); Bickerstaff v. Dellinger, 1 C. & N. 299 (1801); Chambers v. Chambers, 10 N.C. 232 (1824); Morrison v. Connelly, 13 N.C. 233 (1829); Briley v. Sugg, 21 N.C. 366 (1836)

Ohio: Lowther v. Lawrence, Wright (Ohio) 180 (1833)

Pennsylvania: Rapp v. Elliot, 1 Yeates 185 (1792); Kesselman's Lessee v. Old, 4 Dall. 168 (1799); Lessee of Eshelman v. Hoke, 2 Yeates 509 (1799); Griffith v. Willing, 3 Binn. 317 (1811); Hopkins v. Deaves, 2 Bro. (Pa.) 93 (1811); Wentz v. Dehaven, 1 S. & R. 312 (1815); Roop v. Meek, 6 S. & R. 542 (1821); Carl v. Commonwealth, 9 S. & R. 63 (1822); Jourdan v. Jourdan, 9 S. & R. 268 (1823); Irvine v. Hanlin, 10 S. & R. 219 (1823); Lynn v. M'Millen, 3 Pen. & W. 170 (1831); Vicary v. Moore, 2 Watts 451 (1834); Pepper v. Doores, 1 Miles 60 (1835);

M'Mackin v. M'Farland, 1 Miles 319 (1836); 3 Binney 625; Roberts 43

Rhode Island: Sisson v. Seabury, 1 Sumn. 235 (1832)

South Carolina: Fraser v. McLeod, 1 Brev. 198 (1802); Gaillard v. Ball, 1 N. & Mc. 67 (1818); O'Driscoll v. M'Burney, 2 N. & Mc. 58 (1819); City Council v. Price, 1 McCord 299 (1821); Nicks v. Martindale, 1 Harp. 138 (1824); Thomas v. Wilson, 3 McCord 166 (1825); Soloman v. Evans, 3 McCord 274 (1825); Barino v. M'Gee, 3 McCord 452 (1826); M'Lure v. Vernon, 2 Hill 420 (1834); 2 Cooper 412

Tennessee: Slatton v. Jonson, 5 Tenn. 197 (1817); Payton v. Trigg, 5 Tenn. 250 (1817); Johnston v. Dew, 6 Tenn. 224 (1818); Harmon v. Crook, 10 Tenn. 127 (1826); Hill v. State, 10 Tenn. 248 (1829)

Virginia: Carthrae v. Clarke, 32 Va. (5 Leigh) 268 (1834)

## CONIES

An act for continuance and repeal of divers statutes. 3 Car. 1, c. 4 (5) (1627), 7 S.L. 325; 3 Car. 1, c. 5 (1627), 5 S.R. 27

New Jersey: State v. Price, 11 N.J.L. 143 (1829)

New York: Van Wagenen v. Overseers of the Poor, 10 Johns. R. 56 (1813)

## CONSPIRATORS

The remedy against conspirators, false informers, and embracers of juries. 28 Edw. 1, St. 3, c. 10 (1300), 1 S.L. 297; 28 Edw. 1, Artic. sup. Cart., c. 10 (1300), 1 S.R. 139

Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

Who be conspirators, and who be champertors. 33 Edw. 1, St. 2 (1304), S.L. 307; 33 Edw. 1, Ord. Conspir. (1305), 1 S.R. 145

Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

New York: Lambert v. People, 9 Cow. 578 (1827)

Pennsylvania: 3 Binney 608; Roberts 96

South Carolina: State v. DeWitt, 2 Hill 282 (1834); 2 Cooper 404

## CONSTABLES

An act for the rendering justices of the peace more safe in the execution of their office; and for indemnifying constables and others acting in obedience to their war-rants. 24 Geo. 2, c. 44 (1751), 20 S.L. 279

Kentucky: Jarman v. Patterson, 23 Ky. (7 T.B. Mon.) 644 (1828)

Maryland: Kilty 253

Pennsylvania: Mitchell v. Cowgill, 4 Binn. 20 (1811); Litle v. Toland, 6 Binn. 83 (1813); Slocum v. Perkins, 3 S. & R. 295 (1817); Miller v. Smith, 12 S. & R. 145 (1824); Wise v. Wills, 2 Rawle 208 (1828)

South Carolina: Rembert v. Kelly, 1 Harp. 65 (1823)

Federal: The Bolina, 1 Gall. 75 (1812)

## CONTINUANCE OF ACTS

An act for the reviving, continuance, explanation and perfecting of divers statutes. 35 Eliz., c. 7 (1593), 6 S.L. 434; 35 Eliz., c. 7 (1592-93), 4 S.R. 854

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## CONVOCACTION

The submission of the clergy, and restraint of appeals. 25 Hen. 8, c. 19 (1533), 4 S.L. 283; 25 Hen. 8, c. 19 (1533-34), 3 S.R. 460

Delaware: Van Dyke v. Johns, 1 Del. Ch. 93 (1819)

Virginia: Commonwealth v. Posey, 8 Va. (4 Call.) 109 (1787)

## CORDWAINERS

The penalty of a cordwainer using the mystery of a tanner. 2 Hen. 6, c. 7 (1423), 3 S.L. 83; 2 Hen. 6, c. 7 (1423), 2 S.R. 220

New Jersey: Herbert v. Hardenbergh, 10 N.J.L. 222 (1828)

## CORN

An act for the reviving, continuance, explanation and perfecting of divers statutes. 35 Eliz., c. 7 (1593), 6 S.L. 434; 35 Eliz., c. 7 (1592-93), 4 S.R. 854

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act to avoid and prevent divers misdemeanors in lewd and idle persons. 43 Eliz., c. 7 (1601), 7 S.L. 48; 43 Eliz., c. 7 (1601), 4 S.R. 971

Kentucky: Act of 1802, 107, 118 (1803)

An act for continuance and repeal of divers statutes. 3 Car. 1, c. 4 (5) (1627), 7 S.L. 325; 3 Car. 1, c. 5 (1627), 5 S.R. 27

New Jersey: State v. Price, 11 N.J.L. 143 (1829)

New York: Van Wagenen v. Overseers of the Poor, 10 Johns. R. 56 (1813)

An act for the encouragement of trade. 15 Car. 2, c. 7 (1663), 8 S.L. 160; 15 Car. 2, c. 7 (1663), 5 S.R. 449

Massachusetts: Randolph v. Catch Newbery, 1 Rec. Ct. of Asst., Colony of Mass. Bay 152 (1682); Luggar v. Ship Elisabeth, 1 Rec. Ct. of Asst., Colony of Mass. Bay 209 (1686); Brenton v. Katch Salisbury, 1 Rec. Ct. of Asst., Colony of Mass. Bay 251 (1691); Brenton v. Three Brothers, 1 Rec.

Ct. of Asst., Colony of Mass. Bay 261 (1691)

## CORN RICKS

An act to prevent the malicious burning of houses, stacks of corn and hay, and killing or maiming of cattle. 22 & 23 Car. 2, c. 7 (1670), 8 S.L. 340; 22 & 23 Car. 2, c. 7 (1670 & 1671), 5 S.R. 709

South Carolina: Braker v. Knight, 3 McCord 80 (1825); Walker v. Briggs, 1 Hill 118 (1833); State v. Cantrell, 2 Hill 389 (1834); 2 Cooper 411

Tennessee: State v. Wilcox, 11 Tenn. 278 (1832)

## CORONERS

All men shall be ready to pursue felons. 3 Edw. 1, c. 9 (1275), 1 S.L. 81; 3 Edw. 1, c. 9 (1275), 1 S.R. 28

Georgia: Schley 82

Pennsylvania: 3 Binney 600; Roberts 315

Of what things a coroner shall inquire. 4 Edw. 1, St. 2 (1276), 1 S.L. 110; 4 Edw. 1, (1275-76), 1 S.R. 40

Georgia: Schley 90

Maryland: Kilty 210

Pennsylvania: 3 Binney 601; Roberts 100

How many escheators may be in the realm, and how long they shall continue in office. 14 Edw. 3, St. 1, c. 8 (1340), 1 S.L. 475; 14 Edw. 3, St. 1, c. 8 (1340), 1 S.R. 283

Maryland: Cunningham v. Browning, 1 Bla. Ch. 299 (1827)

The authority of the court of star-chamber. Where one inquest shall enquire of the concealment of another. A coroner's duty after

a murder committed. A justice of peace shall certify his recognisances, &c. 3 Hen. 7, c. 1 (1486), 4 S.L. 27; 3 Hen. 7, c. 1 (1487), 2 S.R. 509

Georgia: Schley 137

Maryland: Kilty 228

New York: People v. Crowell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 616; Roberts 102

Virginia: Commonwealth v. Burton, 31 Va. (4 Leigh) 645 (1832)

An act touching bailment of persons. 1 & 2 Phil. & M., c. 13 (1554), 6 S.L. 57; 1 & 2 Phil. & M., c. 13 (1554 & 1554-55), 4 S.R. 259

Georgia: State v. Asselin, Charlt. T.U.P. 184 (1808)

Maryland: Kilty 234

New Jersey: Ludlow v. Ex'rs of Ludlow, 4 N.J.L. 387 (1817)

Ohio: Fight v. State, 7 Hamm., Pt. 1, 180 (6 & 7 Ohio 327) (1835)

Pennsylvania: 3 Binney 621; Roberts 77

South Carolina: Barton v. Keith, 2 Hill 537 (1835); State v. Hill, 2 Hill 607 (1835); 2 Cooper 409

## CORPORATIONS

An act for preventing the inconveniences arising for want of elections of mayors or other chief magistrates of boroughs or corporations being made upon the days appointed by charter or usage for that purpose, and directing in what manner such elections shall be afterwards made. 11 Geo. 1, c. 4 (1724), 15 S.L. 178

Georgia: Schley 349

Pennsylvania: Rose v. Turnpike Company, 3 Watts 46 (1834)

## COSTS

An act that the plaintiff, being nonsuited, shall yield damages to the defendants in actions personal,

by the discretion of the justices. 23 Hen. 8, c. 15 (1531), 4 S.L. 244; 23 Hen. 8, c. 15 (1531-32), 3 S.R. 380

Georgia: Schley 160

Maryland: Kilty 231

Massachusetts: Smith v. Floyd, 18 Mass. (1 Pick.) 275 (1822)

New York: Adm'rs of Tilton v. Williams, 11 Johns. R. 403 (1814); Salisbury's Ex'r v. Heirs of Philips, 12 Johns. R. 289 (1815)

North Carolina: M'Clenahan v. Thomas, 6 N.C. 247 (1813)

Pennsylvania: Muntorf v. Muntorf, 2 Rawle 180 (1828); 3 Binney 619; Roberts 120

South Carolina: Ex'rs of Bordeaux v. Cave, 2 Bail. 6 (1830); 2 Cooper 408

Tennessee: Wallen v. M'Henry's Lessee, 10 Tenn. 310 (1829)

An act where defendants shall not recover any costs. 24 Hen. 8, c. 8 (1532), 4 S.L. 253; 24 Hen. 8, c. 8 (1532-33), 3 S.R. 424

Maryland: Kilty 231

Pennsylvania: 3 Binney 619; Roberts 123

An act for the avoiding of wrongful vexation touching the writ of Latitat. 8 Eliz., c. 2 (1565), 6 S.L. 232; 8 Eliz., c. 2 (1566), 4 S.R. 486

New York: Ex'rs of Morton v. Tenants of Croghan, 20 Johns. R. 106 (1822); Ex Parte Nelson, 1 Cow. 417 (1823)

Pennsylvania: 3 Binney 621; Roberts 125

South Carolina: Smith v. Lewis, 1 N. & Mc. 38 (1817); 2 Cooper 409

An act to prevent inconveniencies arising from delays of causes after issue joined. 14 Geo. 2, c. 17 (1741), 17 S.L. 434

Pennsylvania: Hannum v. Gregg, 2 Yeates 240 (1797)

## COUNTIES

Who shall be assigned justices and keepers of the peace. 1 Edw. 3, St. 2, c. 16 (1327), 1 S.L. 419; 1 Edw. 3, St. 2, c. 16 (1326-27), 1 S.R. 257

Georgia: Schley 118

Maryland: Kilty 216

Massachusetts: Commonwealth v. Leach, 1 Mass. 59 (1804)

## COUNTIES PALATINE

An act for the more effectual preventing frivolous and vexatious arrests, and for the more easy recovery of debts and damages, in the courts of great sessions in the principality of Wales, and in the court of assize in the county palatine of Chester, and for the obviating a doubt which has arisen upon an act made in the fourth year of his present Majesty's reign, intituled, An act that all proceedings in courts of justice, within that part of Great Britain called England, and in the court of exchequer in Scotland, shall be in the English language, so far as the same act doth or may relate to the courts of justice holden within the said principality, and for explaining and amending the said act. 6 Geo. 2, c. 14 (1733), 16 S.L. 379

Maryland: Helms v. Franciscus, 2 Bla. Ch. 544 (1830); Kilty 250

## COUNTY COURTS

At what time shall be kept a county court, sheriff's turn, and a leet. 9 Hen. 3, c. 35 (Magna Charta) (1225), 1 S.L. 12; 9 Hen. 3, (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 48

## COURT OF ADMIRALTY

A remedy for him who is wrongfully pursued in the court of admiralty. 2 Hen. 4, c. 11 (1400), 2 S.L. 412; 2 Hen. 4, c. 11 (1400-01), 2 S.R. 124

Maryland: Kilty 224

South Carolina: 2 Cooper 406

Federal: Bains v. The James, Bald. C.C. 544 (1832)

## COURT OF AUGMENTATIONS

An act establishing the court of augmentations. 27 Hen. 8, c. 27 (1535), 4 S.L. 402; 27 Hen. 8, c. 27 (1535-36), 3 S.R. 569

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## COURT OF COMMON PLEAS

Common pleas shall not follow the King's court. 9 Hen. 3, c. 11 (Magna Charta) (1225), 1 S.L. 6; 9 Hen. 3, (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 39

## COURT OF DELEGATES

The submission of the clergy, and restraint of appeals. 25 Hen. 8, c. 19 (1533), 4 S.L. 283; 25 Hen. 8, c. 19 (1533-34), 3 S.R. 460

Delaware: Van Dyke v. Johns, 1 Del. Ch. 93 (1819)

Virginia: Commonwealth v. Posey, 8 Va. (4 Call) 109 (1787)

For the avoiding of tedious suits in civil and marine causes. 8 Eliz., c. 5 (1565), 6 S.L. 236; 8 Eliz., c. 5 (1566), 4 S.R. 488

Federal: Jennings v. Carson, 1 Pet. Adm. 1 (1792)

## COURT OF EXCHEQUER &amp; EXCHEQUER

What distresses shall be taken for the King's debts, and how it shall be used. 51 Hen. 3, St. 4 (1266), 1 S.L. 39; Temp. Incert. 1 S.R. 197

Maryland: Kilty 208

A sheriff having received the King's debt, shall discharge the debtor. 3 Edw. 1, c. 19 (1275), 1 S.L. 88; 3 Edw. 1, c. 19 (1275), 1 S.R. 32

South Carolina: M'Vaughters v. Elder, 2 Brev. 307 (1809)

The lord chancellor and lord treasurer shall examine erroneous judgements given in the exchequer. 31 Edw. 3, St. 1, c. 12 (1357), 2 S.L. 113; 31 Edw. 3, St. 1, c. 12 (1357), 1 S.R. 351

South Carolina: Muir v. Ex'rs of Muirhead, 2 Brev. 215 (1807)

#### COURT OF THE GENERAL SURVEYORS OF THE KING'S LANDS

The erection of the court of surveyors of the King's lands, the names of the officers there, and their authority. 33 Hen. 8, c. 39 (1541), 5 S.L. 115; 33 Hen. 8, c. 39 (1541-42), 3 S.R. 879

Maryland: Miller v. Lord Proprietary, 1 H. & McH. 543 (1774)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

Federal: United States v. The Anthony Mangin, 2 Pet. Adm. 452 (1802); United States v. Feely, 1 Brock. 255 (1813)

#### COURT OF KING'S BENCH

An act for redress of erroneous judgments in the court commonly called the King's bench. 27 Eliz., c. 8 (1585), 6 S.L. 364; 27 Eliz., c. 8 (1584-85), 4 S.R. 714

Maryland: Ringgold v. Cannell, 2 H. & McH. 408 (1790)

South Carolina: Muir v. Ex'rs of Muirhead, 2 Brev. 215 (1807)

An act for the better discovery of judgments in the courts of King's Bench, Common Pleas, and Exchequer at Westminster. 4 & 5 W. & M., c. 20 (1692), 9 S.L. 220; 4 W. & M., c. 20 (1692), 6 S.R. 412

Maryland: Kilty 243

New York: Vredenberg v. Morris, 1 Johns. Cas. 224 (1800)

Pennsylvania: Levinz v. Will, 1 Dall. 430 (1789); Hurst v. Hurst, 2 Wash. C.C. 69 (1807)

Virginia: Nimmo's Ex'r v. Commonwealth, 14 Va. (4 Hen. & M.) 57 (1809)

#### COURT ROLLS

An act against forgers of false deeds and writings. 5 Eliz., c. 14 (1562), 6 S.L. 202; 5 Eliz., c. 14 (1562-63), 4 S.R. 443

Kentucky: Act of 1802, 107, 118 (1803)

North Carolina: State v. Street, 1 Tayl. 158 (1801); State v. Britt, 14 N.C. 122 (1831)

Pennsylvania: Commonwealth v. Searle, 2 Binn. 332 (1810)

South Carolina: 2 Cooper 409

#### COURT OF STAR CHAMBER

The authority of the court of star-chamber. Where one inquest shall enquire of the concealment of another. A coroner's duty after a murder committed. A justice of peace shall certify his recognisances, &c. 3 Hen. 7, c. 1 (1486), 4 S.L. 27; 3 Hen. 7, c. 1 (1487), 2 S.R. 509

Georgia: Schley 137

Maryland: Kilty 228

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 616; Roberts 102

Virginia: Commonwealth v. Burton, 31 Va. (4 Leigh) 645 (1832)

#### COURT OF WARDS

The erection of the court of wards, and the names and several duties of the officers thereof, in the governance of the King's wards, and their estates. 32 Hen. 8, c. 46 (1540), 5 S.L. 64; 32 Hen. 8, c. 46 (1540), 3 S.R. 802

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

#### COURT OF WARDS & LIVERIES

An act for the explanation of an act made in the thirteenth year of the Queen's majesty's reign,

intituled, An act to make the lands, tenements, goods and chattels of tellers, receivers, &c. liable to the payment of their debts. 27 Eliz., c. 3 (1585), 6 S.L. 353; 27 Eliz., c. 3 (1584-85), 4 S.R. 708

Alabama: Frisbie v. McCarty, 1 Stew. & P. 56 (1831); Killough v. Steele, 1 Stew. & P. 262 (1832)

Kentucky: Taylor v. Eubanks, 10 Ky. (3 A.K. Mar.) 239 (1821)

North Carolina: Jackson v. Marshall's Adm'r, 5 N.C. 323 (1809); O'Daniel v. Crawford, 15 N.C. 197 (1833); Martin v. Cowles, 18 N.C. 29 (1834)

Ohio: Lessee of Burgett v. Burgett, 1 Hamm. 469 (1 Ohio 207) (1824)

An act for taking away the court of wards and liveries, and tenures in capite, and by knights-service, and purveyance, and for settling a revenue upon his Majesty in lieu thereof. 12 Car. 2, c. 24 (1660), 7 S.L. 472; 12 Car. 2, c. 24 (1660), 5 S.R. 259

D.C.: Mauro v. Ritchie, 3 Cranch C.C. 147 (1827)

Georgia: Schley 242

Maryland: Davis v. Jacquin, 5 H. & J. 100 (1820); Mauro v. Ritchie, 3 Cranch C.C. 147 (1827); Corrie's Case, 2 Bla. Ch. 488 (1830); Kilty 238

New York: Jackson v. Schutz, 18 Johns. R. 174 (1820)

North Carolina: Mills v. McAllister, 2 N.C. 350 (1796)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833); 3 Binney 623; Roberts 312

## COURTS OF JUSTICE

Pleas shall be pleaded in the English tongue, and inrolled in Latin. 36 Edw. 3, St. 1, c. 15 (1362), 2 S.L. 156; 36 Edw. 3, St. 1, c. 15 (1362), 1 S.R. 375

Maryland: Kilty 221

## CREDITORS

An act for reviving and continuance of several acts of parliament

therein mentioned. 1 Jac. 2, c. 17 (1685), 8 S.L. 463; 1 Jac. 2, c. 17 (1685), 6 S.R. 19

New Jersey: Orange v. Springfield, 14 N.J.L. 321 (1834)

New York: Foster v. Wilbert, 1 Pai. Ch. 537 (1829)

North Carolina: Davis v. Duke's Adm'r, 1 Tayl. 213 (1801); 1 C. & N. 361 (1801)

Pennsylvania: Lessee of Ware v. Fisher, 2 Yeates 578 (1800); Harris v. Hayes, 6 Binn. 422 (1814); Bevan v. Taylor, 7 S. & R. 397 (1821)

South Carolina: 2 Cooper 411

An act for the more effectual relief of creditors in cases of escapes, and for preventing abuses in prisons and pretended privileged places. 8 & 9 Will. 3, c. 27 (1697), 10 S.L. 89; 8 & 9 Will. 3, c. 27 (1696-97), 7 S.R. 271

D.C.: United States v. Watkins, 4 Cranch C.C. 271 (1833)

Georgia: Schley 297

Maryland: United States v. Watkins, 4 Cranch C.C. 271 (1833); Kilty 244

New Jersey: Ordinary v. Hart, 10 N.J.L. 65 (1828)

New York: Lansing v. Fleet, 2 Johns. Cas. 3 (1800); Peters v. Henry, 6 Johns. R. 121 (1810); Jansen v. Hilton, 10 Johns. R. 549 (1813)

South Carolina: Green v. Alexander, 1 Hill Eq. 138 (1833); Richborough v. West, 1 Hill 309 (1833)

## CRIMINAL MATTER

An act for the better securing the liberty of the subject, and for prevention of imprisonments beyond the seas. 31 Car. 2, c. 2 (1679), 8 S.L. 432; 31 Car. 2, c. 2 (1679), 5 S.R. 935

Georgia: State v. Segar, Charl. T.U.P. 24 (1805); Schley 262

New Jersey: Peltier v. Pennington, 14 N.J.L. 312 (1834)

New York: Case of Yates, Yates Sel. Cas. 1 (1809); Yates v. People, 6 Johns. R. 337 (1810); Goodwin's



Case, 5 Rog. N.Y. City H. Rec. 11 (1820)

Pennsylvania: *Respublica v. Arnold*, 3 Yeates 263 (1801)

South Carolina: *Barton v. Keith*, 2 Hill 537 (1835)

Federal: *United States v. Bollman*, 1 Cranch C.C. 373 (1807)

## THE CROWN

An act for declaring the rights and liberties of the subject, and settling the succession of the crown. 1 W. & M., Sess. 2, c. 2 (1688), 9 S.L. 67; 1 W. & M., Sess. 2, c. 2 (1688), 6 S.R. 142

Maryland: *William's Case*, 3 Bla. Ch. 186 (1831)

An act for the further limitation of the crown, and better securing the rights and liberties of the subject. 12 & 13 Will. 3, c. 2 (1700), 10 S.L. 357; 12 & 13 Will. 3, c. 2 (1700 & 1701), 7 S.R. 636

Maryland: *The Chancellor's Case*, 1 Bla. Ch. 595 (1825)

An act for the further security of his Majesty's person, and the succession of the crown in the protestant line, and for extinguishing the hopes of the pretended prince of Wales, and all other pretenders, and their open and secret abettors. 13 Will. 3, c. 6 (1701), 10 S.L. 399; 13 & 14 Will. 3, c. 6 (1701), 7 S.R. 747

New York: *In re Emmet*, 2 Cai. Term R. 386 (1805)

An act to declare the alterations in the oath appointed to be taken by the act, intituled, An act for the further security of his Majesty's person, and the succession of the crown in the protestant line, and for extinguishing the hopes of the pretended prince of Wales, and all other pretenders, and their open and secret abettors, and for declaring the association to be determined. 1 Anne,

St. 1, c. 22 (1701), 10 S.L. 461; 1 Anne, St. 1, c. 16 (1702), 8 S.R. 66

South Carolina: 2 Cooper 412

An act to give further time for in-rolling such leases granted from the crown, as have not been in-rolled within the respective times therein limited; and for making the pleading of deeds of bargain and sale inrolled, and of fee farm rents, more easy. 10 Anne, c. 18 (1711), 12 S.L. 324; 10 Anne, c. 28 (1711), 9 S.R. 694

Georgia: *Patterson v. Winn*, 30 U.S. (5 Pet.) 233 (1831)

## CURSING & SWEARING

An act for the more effectual suppressing profane cursing and swearing. 6 & 7 Will. 3, c. 11 (1695), 9 S.L. 357; 6 & 7 W. & M., c. 11 (1694), 6 S.R. 591

South Carolina: 2 Cooper 412

## CUSTOMS

The warranty of packing of wool shall be put out. An inquest shall be de Medietate Linguae, where an alien is party. 28 Edw. 3, c. 13 (1354), 2 S.L. 104; 28 Edw. 3, c. 13 (1354), 1 S.R. 348

North Carolina: *State v. Antonio*, 11 N.C. 200 (1825)

Pennsylvania: *Respublica v. Mesca*, 1 Dall. 73 (1783); 3 Binney 611; Roberts 336

A certificate shall be made of goods brought into one port and removed to another. One man shall not enter goods in the name of another. 3 Hen. 7, c. 7 (1487), 4 S.L. 32; 3 Hen. 7, c. 7 (8) (1487), 2 S.R. 516

Maryland: *Blackiston v. Carroll*, 1 Am. Leg. Rec. 46 (1697)

A repeal of the act made, that no man enter goods, but in the owner's name, in the customers books. 1 Hen. 8, c. 5 (1509), 4 S.L. 104; 1 Hen. 8, c. 5 (1509-10), 3 S.R. 3

Ohio: Stewart v. Treasurer, 4 Hamm. 98 (1-4 Ohio 733) (1828)

A subsidy granted to the King of tonnage and poundage, and other sums of money, payable upon merchandize exported and imported. 12 Car. 2, c. 4 (1660), 7 S.L. 362; 12 Car. 2, c. 4 (1660), 5 S.R. 181

Maryland: Blackiston v. Carroll, 1 Am. Leg. Rec. 46 (1697)

An act for preventing frauds, and regulating abuses in his Majesty's customs. 13 & 14 Car. 2, c. 11 (1662), 8 S.L. 78; 14 Car. 2, c. 11 (1662), 5 S.R. 393

Massachusetts: Randolph v. Armitage, 1 Rec. Ct. of Asst., Colony of Mass. Bay 124 (1680)

Federal: Robinson v. Hook, 4 Mas. 139 (1826)

An act for the encouragement of trade. 15 Car. 2, c. 7 (1663), 8 S.L. 160; 15 Car. 2, c. 7 (1663), 5 S.R. 449

Massachusetts: Randolph v. Catch Newbery, 1 Rec. Ct. of Asst., Colony of Mass. Bay 152 (1682); Lugger v. Ship Elisabeth, 1 Rec. Ct. of Asst., Colony of Mass. Bay 209 (1686); Brenton v. Katch Salisbury, 1 Rec. Ct. of Asst., Colony of Mass. Bay 251 (1691); Brenton v. Three Brothers, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691)

An act for making good the deficiencies of several funds therein mentioned; and for enlarging the capital stock of the bank of England; and for raising the publick credit. 8 & 9 Will. 3, c. 20 (1697), 10 S.L. 34; 8 & 9 Will. 2, c. 20 (1696-97), 7 S.R. 218

D.C.: United States v. Watkins, 3 Cranch C.C. 441 (1829)

Maryland: United States v. Watkins, 3 Cranch C.C. 441 (1829)

Federal: United States v. Watkins, 3 Cranch C.C. 441 (1829)

An act for preventing frauds, and abuses in the publick revenues of excise, customs, stamp-duties, post-office, and house-money.

6 Geo. 1, c. 21 (1719), 14 S.L. 262  
South Carolina: State v. Anderson, 1 Hill 327 (1833)

An act for the improvement of his Majesty's revenues of customs, excise and inland duties. 12 Geo. 1, c. 28 (1725), 15 S.L. 318

Federal: The Bolina, 1 Gall. 75 (1812)

An act for indemnifying persons who have been guilty of offences against the laws made for securing the revenues of customs and excise, and for enforcing those laws for the future. 9 Geo. 2, c. 35 (1736), 17 S.L. 63

Federal: The Bolina, 1 Gall. 75 (1812)

#### DAMAGE FEASANT

What distresses shall be taken for the King's debts, and how it shall be used. 51 Hen. 3, St. 4 (1266), 1 S.L. 39; Temp. Incert. 1 S.R. 197b

Maryland: Kilty 208

#### DAMAGES

Several actions wherein damages shall be recovered. 6 Edw. 1, c. 1 (1278), 1 S.L. 119; 6 Edw. 1, St. Glouc., c. 1 (1278), 1 S.R. 47

D.C.: Forrest v. Hanson, 1 Cranch C.C. 63 (1802)

Georgia: Schley 93

Maryland: Forrest v. Hanson, 1 Cranch C.C. 63 (1802); Kiersted v. Rogers, 6 H. & J. 282 (1824); Kilty 210

New Hampshire: Chase v. Hazelton, 7 N.H. 171 (1834)

New Jersey: Martin v. Martin, 14 N.J.L. 125 (1833)

Ohio: Bell v. Bates, 3 Hamm. 380 (3 Ohio 611), (1828)

Pennsylvania: Benner v. Evans, 3 Pen. & W. 454 (1832); 3 Binney 602; Roberts 107

Tennessee: Wallen v. M'Henry's Lessee, 10 Tenn. 310 (1829)

# DAYS IN BANK

The day of the leap-year, and the day before, shall be holden for one day. 21 Hen. 3 (1236), 1 S.L. 32; 40 Hen. 3 (1256), 1 S.R. 7

Georgia: Schley 80

Maryland: Kilty 208

Pennsylvania: 3 Binney 600; Roberts 207

An act for regulating the commencement of the year; and for correcting the calendar now in use. 24 Geo. 2, c. 23 (1751), 20 S.L. 186

Maryland: Kilty 252

An act to amend an act made in the last session of parliament, (intituled, An act for regulating the commencement of the year, and for correcting the calendar now in use). 25 Geo. 2, c. 30 (1752), 20 S.L. 368

Maryland: Kilty 253

# DEATH OF PERSONS PRETENDED TO BE ALIVE

An act for the more effectual discovery of the death of persons pretended to be alive, to the prejudice of those who claim estates after their death. 6 Anne, c. 18 (1707), 11 S.L. 349; 6 Anne, c. 72 (1707), 8 S.R. 830

Georgia: Schley 334

Maryland: Kilty 247

New Jersey: Wambaugh v. Schenck, 2 N.J.L. 229 (1807)

# DEBT

None shall be distrained for a debt that he oweth not. 3 Edw. 1, c. 23 (1275), 1 S.L. 92; 3 Edw. 1, c. 23 (1275), 1 S.R. 33

South Carolina: 2 Cooper 403

Process of exigent shall be awarded in debt, detinue, and replevin. 25 Edw. 3, St. 5, c. 17

(1350), 2 S.L. 59; 25 Edw. 3, St. 5, c. 17 (1351-52), 1 S.R. 322

Maryland: Kilty 220

South Carolina: 2 Cooper 405

An act for relief of poor prisoners for debt or damages. 2 W. & M., Sess. 2, c. 15, Sess. 1, c. 25 (1691), 9 S.L. 128; 2 W. & M., Sess. 2, c. 15 (1690), 6 S.R. 248

Pennsylvania: Rees v. Emerick, 6 S. & R. 286 (1820)

An act for the relief of debtors with respect to the imprisonment of their persons. 2 Geo. 2, c. 22 (1729), 16 S.L. 46

Connecticut: Alsop v. Nichols, 9 Conn. 357 (1832)

Georgia: Adm'rs of Sheftall v.

Adm'rs of Clay, Charlt. T.U.P. 227 (1809)

Indiana: Coe v. Givan, 1 Blackford 367 (1825)

Kentucky: Tribble v. Taul, 23 Ky. (7 T.B. Mon.) 455 (1828)

Maryland: Baltimore Ins. Co. v.

M'Fadon, 4 H. & J. 31 (1815); Strike's Case, 1 Bla. Ch. 57 (1826)

Massachusetts: Stowers v. Barnard, 32 Mass. (15 Pick.) 221 (1834)

New York: Gordon v. Bowne, 2 Johns. R. 150 (1807); Jansen v.

Hilton, 10 Johns. R. 549 (1813); Simpson v. Hart, 1 Johns. Ch. R. 91 (1814); Duncan v. Lyon, 3

Johns. Ch. R. 351 (1818); Dale v. Cooke, 4 Johns. Ch. R. 11 (1819);

Root v. Taylor, 20 Johns. R. 137 (1822); Wheeler v. Raymond, 5

Cow. 231 (1825); Bridge v. Johnson, 5 Wend. 342 (1830)

North Carolina: Roberts v. Jones, 5 N.C. 353 (1810)

Pennsylvania: Kachlin v. Mulhallon, 2 Dall. 237 (1795); Boyd v.

Thompson, 2 Yeates 217 (1797); Commissioners v. Ross, 3 Binn.

539 (1811); Stewart v. Coulter, 12 S. & R. 445 (1825); Crist v.

Brindle, 2 Rawle 121 (1828); Best v. Lawson, 1 Miles 11 (1835)

South Carolina: Sumter v. Welsh,  
1 Brev. 539 (1805); Furman v.  
Elmore (Mackey v. Collins Ex'rs),  
2 N. & Mc. 186 (1812); Aiken v.  
Moore, 1 Hill 432 (1833)

An act for explaining and amending  
an act made in the last session of  
parliament intituled, An act for  
the relief of debtors with respect  
to the imprisonment of their per-  
sons. 3 Geo. 2, c. 27 (1730), 16  
S.L. 179

South Carolina: Sumter v. Welsh,  
1 Brev. 539 (1805)

An act to explain and amend an act  
passed in the second year of the  
reign of his present Majesty, in-  
tituled, An act for the relief of  
debtors with respect to the im-  
prisonment of their persons.

8 Geo. 2, c. 24 (1735), 16 S.L. 535

Connecticut: Alsop v. Nichols, 9  
Conn. 357 (1832)

Delaware: Walker v. State, 2 Del.  
Cas. 437 (1818)

Kentucky: Tribble v. Taul, 23 Ky.  
(7 T.B. Mon.) 455 (1828)

Maryland: Baltimore Ins. Co. v.  
M'Fadon, 4 H. & J. 31 (1815)

Massachusetts: Stowers v. Bernard,  
32 Mass. (15 Pick.) 221 (1834)

New York: Simpson v. Hart, 1  
Johns. Ch. R. 91 (1814); Wheeler  
v. Raymond, 5 Cow. 231 (1825)

North Carolina: Roberts v. Jones,  
5 N.C. 353 (1810)

Pennsylvania: Kachlin v. Mulhallon,  
2 Dall. 237 (1795); Boyd v.  
Thompson, 2 Yeates 217 (1797);  
Stewart v. Coulter, 12 S. & R.  
(2nd ed.) 253 (1825); Best v.  
Lawson, 1 Miles 11 (1835)

South Carolina: Furman v. Elmore,  
2 N. & Mc. 189 (1812)

Georgia: Schley 38

Maryland: Kilty 205

South Carolina: 2 Cooper 403

By the King's protection the parties  
suit shall not be hindred, but his  
execution. 25 Edw. 3, St. 5, c. 19  
(1350), 2 S.L. 59; 25 Edw. 3, St. 5,  
c. 19 (1351-52), 1 S.R. 323

South Carolina: 2 Cooper 405

A prisoner by judgment shall not  
be let at large. Confession of a  
debt to the King to delay another's  
execution. 1 Rich. 2, c. 12 (1377),  
2 S.L. 211; 1 Rich. 2, c. 12 (1377),  
2 S.R. 4

Connecticut: Andrews v. Pardee,  
5 Day 29 (1811)

Georgia: Schley 129

Maryland: Kilty 221

Pennsylvania: Shewel v. Fell, 3  
Yeates 17 (1800); 3 Binney 613;  
Roberts 393

Rhode Island: Steere v. Field, 2  
Mas. 486 (1822)

South Carolina: 2 Cooper 406

## DECEIT

The penalty of a serjeant or  
pleader committing deceit.

3 Edw. 1, c. 29 (1275), 1 S.L. 94;

3 Edw. 1, c. 29 (1275), 1 S.R. 34

Georgia: Schley 89

South Carolina: 2 Cooper 404

## DECLARATION OF USES AND TRUSTS

An act for the amendment of the  
law, and the better advancement  
of justice. 4 Anne, c. 16 (1705),  
11 S.L. 155; 4 & 5 Anne, c. 3  
(1705), 8 S.R. 458

Connecticut: Judson v. Blanchard,  
3 Conn. 579 (1821)

Delaware: Vandegrift v. Haughey,  
1 Del. Cas. 338 (1793); 2 Del.  
Cas. 13 (1793); Evans v. Boggs,  
1 Del. Cas. 18 (1794); 1 Del. Cas.  
349 (1794); Horsey's Ex'rs v.  
Moore, 1 Del. Cas. 122 (1796);  
Robinson v. Ingram, 1 Del. Cas.  
242 (1799); Ford's Lessee v.  
Hays, 1 Del. (1 Harr.) 48 (1832)

## DEBTS DUE TO AND FROM THE KING

How sureties shall be charged to  
the King. 9 Hen. 3, c. 8 (Magna  
Charta) (1225), 1 S.L. 5; 9 Hen. 3  
(Magna Charta) (1224-25), 1 S.R.  
22

Georgia: Moss v. Wood, Charlt.

R.M. 42 (1819); Schley 326

Kentucky: Leather's Rep's v.

M'Glasson, 19 Ky. (3 T.B. Mon.)

223 (1826); Nelson's Heirs v.

Clay's Heirs, 30 Ky. (7 J.J. Mar.)

138 (1832)

Maryland: Gorsuch v. Holmes

(Osborn v. Jones), 4 H. & McH. 5

(1792); Union Bank v. Ridgely,

1 H. & G. 324 (1827); Hammond v.

Hammond, 2 Bla. Ch. 306 (1830);

Buckingham v. Peddicord, 2 Bla.

Ch. 447 (1830); Brown v. Wallace,

2 Bla. Ch. 585 (1830); Addison v.

Bowie, 2 Bla. Ch. 606 (1830);

Salmon v. Clagett, 3 Bla. Ch. 125

(1830); Hall v. McPherson, 3 Bla.

Ch. 529 (1832); Sasscer v.

Walker's Ex'rs, 5 G. & J. 102

(1833); Kilty 245

Massachusetts: Brigham v. Eveleth

(Jones v. Harraden), 9 Mass. 540

(1784); Brigham v. Eveleth, 9

Mass. 538 (1813); Bond v. Cutler,

10 Mass. 419 (1813); Farley v.

Thompson, 15 Mass. 18 (1818);

Jackson v. Steton, 15 Mass. 48

(1818); Parker v. Parker, 34

Mass. (17 Pick.) 236 (1835)

New Hampshire: Chapman v. Sloan,

2 N.H. 464 (1822)

New York: Cheetham v. Lewis, 3

Johns. R. 42 (1808); Lansing v.

Capron, 1 Johns. Ch. R. 617

(1815); Jones v. Clark, 20 Johns.

R. 51 (1822); Kane v. Bloodgood,

7 Johns. Ch. R. 90 (1823); In the

Matter of Hemiup, 2 Pai. Ch. 316

(1830); Oakley's Ex'rs v.

Romeyn's Heirs, 6 Wend. 521

(1831)

North Carolina: Powell v. Hampton,

1 C. & N. 86 (1800); Bickerstaff

v. Dellinger, 1 C. & N. 299 (1801);

Chambers v. Chambers, 10 N.C.

232 (1824); Morrison v. Connelly,

13 N.C. 233 (1829); Briley v.

Sugg, 21 N.C. 366 (1836)

Ohio: Lowther v. Lawrence, Wright

(Ohio) 180 (1833)

Pennsylvania: Rapp v. Elliot, 1

Yeates 185 (1792); Kesselman's

Lessee v. Old, 4 Dall. 168 (1799);

Lessee of Eshelman v. Hoke, 2

Yeates 509 (1799); Griffith v.

Willing, 3 Binn. 317 (1811); Hopkins

v. Deaves, 2 Bro. (Pa.) 93 (1811);

Wentz v. Dehaven, 1 S. & R. 312

(1815); Roop v. Meek, 6 S. & R.

542 (1821); Carl v. Commonwealth,

9 S. & R. 63 (1822); Jourdan v.

Jourdan, 9 S. & R. 268 (1823);

Irvine v. Hanlin, 10 S. & R. 219

(1823); Lynn v. M'Millen, 3 Pen. &

W. 170 (1831); Vicary v. Moore,

2 Watts 451 (1834); Pepper v.

Doores, 1 Miles 60 (1835);

M'Mackin v. M'Farland, 1 Miles

319 (1836); 3 Binney 625; Roberts

43

Rhode Island: Sisson v. Seabury,

1 Sumn. 235 (1832)

South Carolina: Fraser v. McLeod,

1 Brev. 198 (1802); Gaillard v.

Ball, 1 N. & Mc. 67 (1818);

O'Driscoll v. M'Burney, 2 N. &

Mc. 58 (1819); City Council v.

Price, 1 McCord 299 (1821);

Nicks v. Martindale, 1 Harp. 138

(1824); Thomas v. Wilson, 3

McCord 166 (1825); Solomon v.

Evans, 8 McCord 274 (1825);

Barino v. M'Gee, 3 McCord 452

(1826); M'Lure v. Vernon, 2 Hill

420 (1834); 2 Cooper 412

Tennessee: Slatton v. Jonson, 5

Tenn. 197 (1817); Payton v. Trigg,

5 Tenn. 250 (1817); Johnston v.

Dew, 6 Tenn. 224 (1818); Harmon

v. Crook, 10 Tenn. 127 (1826);

Hill v. State, 10 Tenn. 248 (1829)

Virginia: Carthrae v. Clarke, 32 Va.

(5 Leigh) 268 (1834)

## DECLARATIONS TO PRISONERS

An act for delivering declarations  
to prisoners. 4 & 5 W. & M.,

c. 21 (1692), 9 S.L. 222; 4 W. &

M., c. 21 (1692), 6 S.R. 413

Massachusetts: Richmond v. Davis,

Quincy 279 (1768)

Pennsylvania: Barbe v. Davis, 1

Miles 118 (1835); 3 Binney 625;

Roberts 370

South Carolina: 2 Cooper 412

## DEEDS AND MUNIMENTS

Of what things an assise shall lie.  
Certificate of assise. Attachment  
in an assise. 13 Edw. 1, St. 1,  
c. 25 (1285), 1 S.L. 198; 13 Edw.  
1, Westminster 2d, c. 25 (1265),  
1 S.R. 84

Pennsylvania: Barnet v. Ihrie, 17  
S. & R. 174 (1828); 3 Binney 605;  
Roberts 152

An act against forgers of false  
deeds and writings. 5 Eliz., c. 14  
(1562), 6 S.L. 202; 5 Eliz., c. 14  
(1562-63), 4 S.R. 443

Kentucky: Act of 1802, 107, 118  
(1803)

North Carolina: State v. Street, 1  
Tayl. 158 (1801); State v. Britt,  
14 N.C. 122 (1831)

Pennsylvania: Commonwealth v.  
Searle, 2 Binn. 332 (1810)

South Carolina: 2 Cooper 409

An act for relief of such of his  
Majesty's loyal subjects, in that  
part of Great Britain called Scot-  
land, whose title deeds and writ-  
ings were destroyed or carried  
off by the rebels in the late re-  
bellion. 20 Geo. 2, c. 20 (1747),  
19 S.L. 51

New Jersey: Cozens v. Long, 3  
N.J.L. 331, 2 Penning. 764 (1811)

## DEEDS OF GIFT

All deeds of gift made to defraud  
creditors shall be void. 3 Hen. 7,  
c. 4 (1487), 4 S.L. 31; 3 Hen. 7,  
c. 4 (5) (1487), 2 S.R. 513

Georgia: Schley 141

Maryland: Kilty 228

New Hampshire: Carlisle v. Rich,  
8 N.H. 44 (1835)

Pennsylvania: 3 Binney 617;  
Roberts 395

South Carolina: Wilson v. Cheshire,  
1 McCord Eq. 233 (1826); 2 Cooper  
407

Tennessee: Hamilton v. Bradley,  
6 Tenn. 127 (1818)

## DEER

An act for the more effectual dis-  
covery and punishment of deer  
stealers. 3 & 4 W. & M., c. 10  
(1691), 9 S.L. 140; 3 W. & M.,  
c. 10 (1691), 6 S.R. 312

New York: Hart v. Mayor of Albany,  
9 Wend. 571 (1832)

An act for the more effectual  
punishing wicked and evil-disposed  
persons going armed in disguise,  
and doing injuries and violences  
to the persons and properties of  
his Majesty's subjects, and for the  
more speedy bringing the offenders  
to justice. 9 Geo. 1, c. 22 (1722),  
15 S.L. 88

Georgia: State v. Campbell, Charlt.  
T.U.P. 166 (1808)

New Jersey: State v. Gibbons, 4  
N.J.L. 40 (1818)

New York: Platner v. Sherwood,  
6 Johns. Ch. R. 118 (1822)

North Carolina: State v. Ormond,  
18 N.C. 119 (1834)

South Carolina: State v. Cantrell,  
2 Hill 389 (1834)

Tennessee: State v. Pearce, 7 Tenn.  
66 (1823); State v. Wilcox, 11  
Tenn. 278 (1832)

DELAYS IN EXTENDING STATUTES,  
JUDGMENTS AND RECOGNIZANCES

An act to prevent delays in ex-  
tending statutes, judgments and  
recognizances. 16 & 17 Car. 2,  
c. 5 (1664), 8 S.L. 212; 16 & 17  
Car. 2, c. 5 (1664 & 1665), 5 S.R.  
554

South Carolina: Longworth v.  
Screven, 2 Hill 298 (1834)

Virginia: Coleman v. Cocke, 27 Va.  
(6 Rand.) 618 (1828)

## DELAYS IN SUITS OF LAW

An act for prevention of vexations  
and oppressions by arrests, and  
of delays in suits of law. 13 Car.  
2, St. 2, c. 2 (1661), 8 S.L. 27; 13  
Car. 2, St. 2, c. 2 (1661), 5 S.R.  
323

D.C.: Winter v. Simonton, 2 Cranch C.C. 585 (1825)

Maryland: Winter v. Simonton, 2 Cranch C.C. 585 (1825)

New York: Ely v. Morgan, N.Y. City Mayor's Ct. (Living. Jud. Op.) 75 (1802)

Pennsylvania: Henry v. Boyle, 1 Miles 386 (1830); 3 Binney 623; Roberts 131

South Carolina: Stewart v. M'Clure, 1 Brev. 407 (1804); Smith v. Lewis, 1 N. & Mc. 38 (1817); 2 Cooper 411

An act for avoiding unnecessary suits and delays. 17 Car. 2, c. 8 (1665), 8 S.L. 226; 17 Car. 2, c. 8 (1665), 5 S.R. 580

Delaware: Walker v. State, 2 Del. Cas. 437 (1818)

Georgia: Schley 246

Kentucky: Gaines v. Conn's Heirs, 32 Ky. (2 Dana) 231 (1834)

Maryland: Kilty 240

Massachusetts: Grout v. Chamberlin, 4 Mass. 611 (1808); Parker v. Parker, 34 Mass. (17 Pick.) 236 (1835)

New Jersey: Crane v. Alling, 14 N.J.L. 593 (1835)

New York: Griswold v. Stewart, 4 Cow. 457 (1825)

Pennsylvania: Murray v. Cooper, 6 S. & R. 126 (1820); 3 Binney 624; Roberts 369

South Carolina: O'Driscoll v. M'Burney, 2 N. & Mc. 58 (1819); Galpin v. Fishburne, 3 McCord 22 (1825); 2 Cooper 411

Federal: Hatch v. Eustis, 1 Gall. 160 (1812)

## DETINUE

Process of exigent shall be awarded in debt, detinue, and replevin. 25 Edw. 3, St. 5, c. 17 (1350), 2 S.L. 59; 25 Edw. 3, St. 5, c. 17 (1351-52), 1 S.R. 322

Maryland: Kilty 220

South Carolina: 2 Cooper 405

## DILAPIDATIONS

Fraudulent deeds made by spiritual persons to defeat their successors of remedy for dilapidations, shall be void, &c. 13 Eliz., c. 10 (1570), 6 S.L. 281; 13 Eliz., c. 10 (1571), 4 S.R. 544

Georgia: Savannah v. Steam Boat Co., Charlt. R.M. 342 (1830)

New Jersey: State v. Helmes, 3 N.J.L. 1050 (1813)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## DISGUISED PERSONS

An act for the more effectual punishing wicked and evil-disposed persons going armed in disguise, and doing injuries and violences to the persons and properties of his Majesty's subjects, and for the more speedy bringing the offenders to justice. 9 Geo. 1, c. 22 (1722), 15 S.L. 88

Georgia: State v. Campbell, Charlt. T.U.P. 166 (1808)

New Jersey: State v. Gibbons, 4 N.J.L. 40 (1818)

New York: Platner v. Sherwood, 6 Johns. Ch. R. 118 (1822)

North Carolina: State v. Ormond, 18 N.C. 119 (1834)

South Carolina: State v. Cantrell, 2 Hill 389 (1834)

Tennessee: State v. Pearce, 7 Tenn. 66 (1823); State v. Wilcox, 11 Tenn. 278 (1832)

An act to explain and amend an act made in the ninth year of the reign of his late majesty King George the First, intituled, An act for the more effectual punishing wicked and evil disposed persons going armed and disguised, and doing injuries and violences to the persons and properties of his Majesty's subjects; and for the speedy bringing the offenders to justice. 27 Geo. 2, c. 15 (1754), 21 S.L. 183

New Jersey: State v. Gibbons, 4  
N.J.L. 40 (1818)

DISSEISIN

None shall be condemned without trial. Justice shall not be sold or deferred. 9 Hen. 3, c. 29 (Magna Charta) (1225), 1 S.L. 10; 9 Hen. 3 (Magna Charta) (1124-25), 1 S.R. 22

Georgia: Schley 46

South Carolina: 2 Cooper 403

Tennessee: Case of Darby, 3 Wheel.  
Cr. C. 1 (1824)

Of what things an assise shall lie. Certificate of assise. Attachment in an assise. 13 Edw. 1, St. 1, c. 25 (1285), 1 S.L. 198; 13 Edw. 1, Westminster 2d, c. 25 (1285), 1 S.R. 84

Pennsylvania: Barnet v. Ihrle, 17  
S. & R. 174 (1828); 3 Binney 605;  
Roberts 152

An act that wrongful disseisin is no descent in law. 32 Hen. 8, c. 33 (1540), 5 S.L. 48; 32 Hen. 8, c. 33 (1540), 3 S.R. 788

Georgia: Schley 198

Maryland: Kilty 232

Massachusetts: Emerson v.  
Thompson, 19 Mass. (2 Pick.)  
473 (1824)

Pennsylvania: 3 Binney 619;  
Roberts 167

South Carolina: 2 Cooper 409

DISSEISOR

A feoffment of lands or gifts of goods for maintenance shall be void. An assise is maintainable against the pignor of the profits of lands. 1 Rich. 2, c. 9 (1377), 2 S.L. 209; 1 Rich. 2, c. 9 (1377), 2 S.R. 3

Pennsylvania: Adams v. Nicholas,  
1 Miles 90 (1835); 3 Binney 613;  
Roberts 434

South Carolina: Giles v. Pratt, 2  
Hill 439 (1834)

The disseisee shall have an assise against the disseisor taking the profits. 4 Hen. 4, c. 7 (1402), 2 S.L. 428; 4 Hen. 4, c. 7 (1402), 2 S.R. 134

Pennsylvania: 3 Binney 614;  
Roberts 163

An assise, &c. maintainable against the pignor of the profits. 11 Hen. 6, c. 3 (1433), 3 S.L. 183; 11 Hen. 6, c. 3 (1433), 2 S.R. 279

Pennsylvania: 3 Binney 616;  
Roberts 165

DISSENTERS

An act for exempting their Majesties protestant subjects, dissenting from the church of England, from the penalties of certain laws. 1 W. & M., Sess. 1, c. 18 (1688), 9 S.L. 19; 1 W. & M., Sess. 1, c. 18 (1688), 6 S.R. 74

North Carolina: State v. Jasper,  
15 N.C. 323 (1833)

Virginia: Commonwealth v. Daniels,  
4 Va. (2 Va. Cas.) 402 (1824)

DISTRESS AND DISTRESSES

None shall distrain for more service than is due. 9 Hen. 3, c. 10 (Magna Charta) (1225), 1 S.L. 5; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 39

What distresses shall be taken for the King's debts, and how it shall be used. 51 Hen. 3, St. 4 (1266), 1 S.L. 39; Temp. Incert., 1 S.R. 197b

Maryland: Kilty 208

A distress shall not be driven out of the county. And it shall be reasonable. 52 Hen. 3, c. 4 (1267), 1 S.L. 58; 52 Hen. 3, St. Marl., c. 4 (1267), 1 S.R. 20

Georgia: Cook v. King, Charlt.  
T.U.P. 265 (1809)

Maryland: Kilty 209



Pennsylvania: 3 Binney 600;

Roberts 170

South Carolina: 2 Cooper 403

In what places distresses shall not be taken. 52 Hen. 3, c. 15 (1267), 1 S.L. 67; 52 Hen. 3, St. Marl., c. 15 (1267), 1 S.R. 23

Maryland: Kilty 209

Pennsylvania: 3 Binney 600;

Roberts 171

None shall distrain out of his fee, nor drive the distress out of the county. 3 Edw. 1, c. 16 (1275), 1 S.L. 86; 3 Edw. 1, c. 16 (1275), 1 S.R. 31

Maryland: Kilty 210

None shall be distrained for a debt that he oweth not. 3 Edw. 1, c. 23 (1275), 1 S.L. 92; 3 Edw. 1, c. 23 (1275), 1 S.R. 33

South Carolina: 2 Cooper 403

No distress shall be taken but by bailiffs known and sworn. 13 Edw. 1, St. 1, c. 37 (1285), 1 S.L. 212; 13 Edw. 1, Westminster 2d, c. 37 (1285), 1 S.R. 89

Maryland: Kilty 213

South Carolina: 2 Cooper 404

An act for the impounding of distresses. 1 & 2 Phil. & M., c. 12 (1554), 6 S.L. 56; 1 & 2 Phil. & M., c. 12 (1554 & 1554-55), 4 S.R. 258

Maryland: Kilty 234

Pennsylvania: Morrison v. Gross, 1 Bro. (Pa.) 1 (1806); 3 Binney 620; Roberts 171

An act for enabling the sale of goods distrained for rent, in case the rent be not paid in a reasonable time. 2 W. & M., Sess. 1, c. 5 (1689), 9 S.L. 77; 2 W. & M., Sess. 1, c. 5 (1689), 6 S.R. 169

Maryland: Kilty 242

New York: Valentine v. Jackson, 9 Wend. 302 (1832)

North Carolina: Dalglish v. Grandy, 1 C. & N. 22 (1800)

Pennsylvania: Woglam v. Cowperthwaite, 2 Dall. 68 (1790)

South Carolina: Hunter v. Flagg, 1 Brev. 451 (1804); City Council v. Price, 1 McCord 299 (1821); O'Farrell v. Nance, 2 Hill 484 (1834); 2 Cooper 411

## DOWAGERS MARRIED TO COMMONERS

Spiritual persons abridged from having pluralities of livings, and from taking of farms, &c. 21 Hen. 8, c. 13 (1529), 4 S.L. 177; 21 Hen. 8, c. 13 (1529), 3 S.R. 292

Maryland: Miller v. Lord Proprietary, 1 H. & McH. 543 (1774)

## DOWER

A writ of entry in casu proviso, upon a woman's alienation of dower. 6 Edw. 1, c. 7 (1278), 1 S.L. 123; 6 Edw. 1, St. Glouc., c. 7 (1278), 1 S.R. 48

Georgia: Schley 96

Maryland: Kilty 211

Where the wife shall be endowable of lands recovered against her husband. Where the heir may avoid a dower recovered. A remedy for particular tenants losing by default. 13 Edw. 1, St. 1, c. 4 (1285), 1 S.L. 171; 13 Edw. 1, Westminster 2d, c. 4 (1285), 1 S.R. 74

Georgia: Schley 98

Maryland: Kilty 212

Pennsylvania: 3 Binney 603; Roberts 182

Admeasurement of dower for the guardian and the heir, and the process therein. 13 Edw. 1, St. 1, c. 7 (1285), 1 S.L. 180; 13 Edw. 1, Westminster 2d, c. 7 (1285), 1 S.R. 77

Georgia: Schley 102

Maryland: Kilty 212

Pennsylvania: 3 Binney 603; Roberts 185

It is felony to commit rape. A married woman elopeth with an advouterer. The penalty for carrying a nun from her house. 13 Edw. 1, St. 1, c. 34 (1285), 1 S.L. 208; 13 Edw. 1, Westminster 2d, c. 34 (1285), 1 S.R. 87

Delaware: Dixon v. Knowles, 2 Del. Cas. 537 (1820)

Georgia: Schley 108

Maryland: Kilty 213

New York: People v. Schuyler, 6 Cow. 572 (1827)

North Carolina: State v. Dick, 6 N.C. 388 (1818)

Pennsylvania: 3 Binney 606; Roberts 186

South Carolina: Bell v. Nealy, 1 Bail. 312 (1829); 2 Cooper 404

An act for the repeal of certain statutes concerning treasons and felonies. 1 Edw. 6, c. 12 (1547), 5 S.L. 259; 1 Edw. 6, c. 12 (1547), 4 S.R. 18

New York: Woodbeck v. Keller, 6 Cow. 118 (1826)

North Carolina: State v. Seaborn, 15 N.C. 305 (1833)

Pennsylvania: Respublica v. Roberts, 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

## DURESS

Sheriffs shall have the keeping of gaols. A prisoner by duress becometh an approver. 14 Edw. 3, St. 1, c. 10 (1340), 1 S.L. 478; 14 Edw. 3, St. 1, c. 10 (1340), 1 S.R. 284

Georgia: State v. Dews, Charlt.

R.M. 397 (1835); Schley 123

Maryland: Kilty 217

## DWELLING HOUSES

An act for the taking away of the benefit of the clergy from certain offenders. 5 & 6 Edw. 6, c. 9 (1552), 5 S.L. 366; 5 & 6 Edw. 6, c. 9 (1551-52), 4 S.R. 142

Kentucky: Act of 1802, 107, 118 (1803)

New York: Butler's Case, 4 Rog.

N.Y. City H. Rec. 77 (1819)

South Carolina: 2 Cooper 409

Virginia: Commonwealth v. Posey, 8 Va. (4 Call) 109 (1787)

## EARS

The bill for burning of frames.

37 Hen. 8, c. 6 (1545), 5 S.L. 222;

37 Hen. 8, c. 6 (1545), 3 S.R. 994

Kentucky: Act of 1802, 107, 118 (1803)

South Carolina: 2 Cooper 409

## EASTER OFFERINGS

An act for payment of tithes.

2 & 3 Edw. 6, c. 13 (1548), 5 S.L. 307; 2 & 3 Edw. 6, c. 13 (1548), 4 S.R. 55

New Hampshire: Bullard v. Bell, 1 Mas. 243 (1817)

North Carolina: Dowd v. Seawell, 14 N.C. 185 (1831)

Federal: United States v. Colt, Pet. C.C. 145 (1818)

## ECCLESIASTICAL PERSONS

Patrons of abbies shall have the custody of them in the time of vacation. 9 Hen. 3, c. 33 (Magna Charta) (1225), 1 S.L. 12; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 47

## EMBRACEORS

The punishment of a juror taking reward to give verdict, and of embraceors. 38 Edw. 3, St. 1, c. 12 (1363), 2 S.L. 172; 38 Edw. 3, St. 1, c. 12 (1363-64), 1 S.R. 384

Pennsylvania: 3 Binney 612;

Roberts 333

South Carolina: 2 Cooper 406

## ENGLAND AND SCOTLAND

An act for improving the union of the two kingdoms. 7 Anne, c. 21 (1708), 11 S.L. 509; 7 Anne, c. 21 (1708), 9 S.R. 93

Federal: United States v. Cornell, 2 Mas. 91 (1820); United States v. Curtis, 4 Mas. 232 (1826)

## ENGLISH

An act that all proceedings in courts of justice within that part of Great Britain called England, and in the court of exchequer in Scotland, shall be in the English language. 4 Geo. 2, c. 26 (1731), 16 S.L. 248

Maryland: Helms v. Franciscus, 2 Bla. Ch. 544 (1830); Kilty 249  
Tennessee: Martin v. M'Night, 1 Tenn. 380 (1809)

An act for the more effectual preventing frivolous and vexatious arrests, and for the more easy recovery of debts and damages, in the courts of great sessions in the principality of Wales, and in the court of assize in the county palatine of Chester, and for the obviating a doubt which has arisen upon an act made in the fourth year of his present Majesty's reign, intituled, An act that all proceedings in courts of justice, within that part of Great Britain called England, and in the court of exchequer in Scotland, shall be in the English language, so far as the same act doth or may relate to the courts of justice holden within the said principality, and for explaining and amending the said act. 6 Geo. 2, c. 14 (1733), 16 S.L. 379

Maryland: Helms v. Franciscus, 2 Bla. Ch. 544 (1830); Kilty 250

## ERROR

An act for the amendment of writs of error; and for the further preventing the arresting or reversing of judgments after verdict. 5

Geo. 1, c. 13 (1718), 14 S.L. 49

Maryland: Giles v. Perryman, 1 H. & G. 164 (1827); Kilty 248

New Jersey: Hill v. Hill, 1 N.J.L. 261 (1794)

North Carolina: Dudley v. Carmolt, 5 N.C. 339 (1810); Glisson v. Herring, 13 N.C. 156 (1829); West v. Ratledge, 15 N.C. 31 (1833)

Pennsylvania: Thomas v. Culp, 4 S. & R. 271 (1818); Finney v. Crawford, 2 Watts 294 (1834); 3 Binney 626; Roberts 48  
Federal: Wilson v. Berry, 2 Cranch C.C. 707 (1826)

## ESCAPES

No penalty for an escape before it be adjudged. 3 Edw. 1, c. 3 (1275), 1 S.L. 78; 3 Edw. 1, c. 3 (1275), 1 S.R. 28

South Carolina: 2 Cooper 403

Every justice of peace may let a prisoner to mainprise. No officer shall seize the goods of a prisoner until he be attainted. 1 Rich. 3, c. 3 (1483), 4 S.L. 2; 1 Rich. 3, c. 3 (1483-84), 2 S.R. 478

Maryland: Kilty 228

New York: People v. Huggins, 10 Wend. 464 (1833)

Pennsylvania: Morrison v. Gross, 1 Bro. (Pa.) 1 (1806)

South Carolina: 2 Cooper 407

Sheriffs. 19 Hen. 7, c. 10 (1503), 4 S.L. 91; 19 Hen. 7, c. 10 (1503-04), 2 S.R. 654

Georgia: State v. Dews, Charlt. R.M. 397 (1835)

Maryland: Kilty 230

An act for the better preventing escapes out of the Queen's Bench and Fleet prisons. 1 Anne, St. 2, c. 6 (1701), 10 S.L. 482; 1 Anne, St. 2, c. 6 (1702), 8 S.R. 164

Georgia: Schley 313

Maryland: Kilty 245

New York: Lansing v. Fleet, 2 Johns. Cas. 3 (1800)

An act for rendring more effectual an act passed in the first year of her Majesty's reign, intituled, An act for the better preventing escapes out of the Queen's Bench and Fleet Prisons. 5 Anne, c. 9 (1706), 11 S.L. 219; 6 Anne, c. 12 (1706), 8 S.R. 577

Georgia: Schley 332

Maryland: Kilty 247

ESCHEAT AND ESCHÉATORS

How many escheators may be in the realm, and how long they shall continue in office. 14 Edw. 3, St. 1, c. 8 (1340), 1 S.L. 475; 14 Edw. 3, St. 1, c. 8 (1340), 1 S.R. 283

Maryland: *Cunningham v. Browning*, 1 Bla. Ch. 299 (1827)

An escheator shall have no fees, nor commit wastes in wards lands. Lands seised upon an inquest taken before an escheator, shall be letten to ferm. 36 Edw. 3, St. 1, c. 13 (1362), 2 S.L. 154; 36 Edw. 3, St. 1, c. 13 (1362), 1 S.R. 374

New York: *People v. Cutting*, 3 Johns. R. 1 (1808)

By what persons escheators shall find an office, and in what time he shall certify it. A patent made of lands seised upon an inquest. 8 Hen. 6, c. 16 (1429), 3 S.L. 138; 8 Hen. 6, c. 16 (1429), 2 S.R. 252

Maryland: *Cunningham v. Browning*, 1 Bla. Ch. 299 (1827)

Massachusetts: *Wilbur v. Tobey*, 33 Mass. (16 Pick.) 177 (1834)

The act of escheators and commissioners. 1 Hen. 8, c. 8 (1509), 4 S.L. 107; 1 Hen. 8, c. 8 (1509-10), 3 S.R. 4

South Carolina: 2 Cooper 408

An act for finding of offices before escheators. 2 & 3 Edw. 6, c. 8 (1548), 5 S.L. 300; 2 & 3 Edw. 6, c. 8 (1548), 4 S.R. 47

New Jersey: *Den v. Clark*, 10 N.J.L. 217 (1828); *Case of Covenhoven*, 1 N.J. Eq. 19 (1830)

New York: *People v. Cutting*, 3 Johns. R. 1 (1808); *Matter of Wendell*, 1 Johns. Ch. R. 600 (1815); *Matter of Tracy*, 1 Pai. Ch. 580 (1829)

ESSOIN

After issue joined there shall be but one essoin, or one default. 52 Hen. 3, c. 13 (1267), 1 S.L. 66; 52 Hen. 3, St. Marl., c. 13 (1267), 1 S.R. 23

Pennsylvania: 3 Binney 600; Roberts 196

Certain actions wherein after appearance the tenant shall not be essoined. 3 Edw. 1, c. 42 (1275), 1 S.L. 102; 3 Edw. 1, c. 42 (1275), 1 S.R. 37

Pennsylvania: 3 Binney 601; Roberts 197

There shall be no more voucher [fourcher] by essoin. 3 Edw. 1, c. 43 (1275), 1 S.L. 103; 3 Edw. 1, c. 43 (1275), 1 S.R. 37

Pennsylvania: 3 Binney 601; Roberts 197

The husband and wife being impleaded, shall not vouch [fourch] by essoin. 6 Edw. 1, c. 10 (1278), 1 S.L. 125; 6 Edw. 1, St. Glouc., c. 10 (1278), 1 S.R. 49

Pennsylvania: 3 Binney 602; Roberts 198

Essoin after inquest, but none after day given Prece partium. 13 Edw. 1, St. 1, c. 27 (1285), 1 S.L. 202; 13 Edw. 1, Westminster 2d, c. 27 (1285), 1 S.R. 85

Pennsylvania: 3 Binney 605; Roberts 199

Several cases wherein essoins do not lie. 12 Edw. 2, St. 2 (1318), 1 S.L. 357; Temp. Incert., 1 S.R. 217

Pennsylvania: 3 Binney 610; Roberts 200

ESCUAGE

A subsidy in respect of this Charter, and the Charter of the Forest, granted to the King. 9 Hen. 3, c. 37 (Magna Charta)

(1225), 1 S.L. 13; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22  
Georgia: Schley 49

#### ESSOIN DE MALO LECTI

In what case essoin De malo lecti doth lie and where not. 13 Edw. 1, St. 1, c. 17 (1285), 1 S.L. 193; 13 Edw. 1, Westminster 2d, c. 17 (1285), 1 S.R. 82

Pennsylvania: 3 Binney 604; Roberts 199

#### ESSOIN OF ULTRA MARE

In what case essoin ultra mare shall not be allowed. 3 Edw. 1, c. 44 (1275), 1 S.L. 103; 3 Edw. 1, c. 44 (1275), 1 S.R. 37

Pennsylvania: 3 Binney 601; Roberts 198

#### ESTABLISHED RELIGION

An act to retain the Queen's majesty's subjects in their due obedience. 23 Eliz., c. 1 (1581), 6 S.L. 332; 23 Eliz., c. 1 (1580-81), 4 S.R. 657

Connecticut: Barkhamsted v. Parsons, 3 Conn. 1 (1819)

#### ESTREATS

An act for reviving, continuing, and explaining several laws therein mentioned, which are expired and near expiring. 4 & 5 W. & M., c. 24 (1692), 9 S.L. 229; 4 W. & M., c. 24 (1692), 6 S.R. 416

Delaware: Burton v. McCullen, 2 Del. Cas. 20 (1807)

Georgia: Schley 286

Maryland: Sibley v. Williams, 3 G. & J. 52 (1830)

New Jersey: Schenck v. Ex'rs of Schenck, 3 N.J.L. 149, 2 Penning. 562 (1809); Dickerson v. Robinson, 6 N.J.L. 195 (1822)

Pennsylvania: Potts v. Smith, 3 Rawle 361 (1832)

South Carolina: Trescot v. Trescot, 1 McCord Eq. 417 (1826)

#### EXCHEQUER

An act for reviving and continuance of several acts of parliament therein mentioned. 1 Jac. 2, c. 17 (1685), 8 S.L. 463; 1 Jac. 2, c. 17 (1685), 6 S.R. 19

New Jersey: Orange v. Springfield, 14 N.J.L. 321 (1834)

New York: Foster v. Wilbert, 1 Pai. Ch. 537 (1829)

North Carolina: Davis v. Duke's Adm'r, 1 Tayl. 213 (1801); 1 C. & N. 361 (1801)

Pennsylvania: Lessee of Ware v. Fisher, 2 Yeates 578 (1800); Harris v. Hayes, 6 Binn. 422 (1814); Bevan v. Taylor, 7 S. & R. 397 (1821)

South Carolina: 2 Cooper 411

An act for making good the deficiencies of several funds therein mentioned; and for enlarging the capital stock of the bank of England; and for raising the publick credit. 8 & 9 Will. 3, c. 20 (1697), 10 S.L. 34; 8 & 9 Will. 3, c. 20 (1696-97), 7 S.R. 218

D.C.: United States v. Watkins, 3 Cranch C.C. 441 (1829)

Maryland: United States v. Watkins, 3 Cranch C.C. 441 (1829)

Federal: United States v. Watkins, 3 Cranch C.C. 441 (1829)

#### EXCHEQUER CHAMBER

An act for redress of erroneous judgments in the court commonly called the King's bench. 27 Eliz., c. 8 (1585), 6 S.L. 364; 27 Eliz., c. 8 (1584-85), 4 S.R. 714

Maryland: Ringgold v. Cannell, 2 H. & McH. 408 (1790)

South Carolina: Muir v. Ex'rs of Muirhead, 2 Brev. 215 (1807)

#### EXCISE

An act for taking away the court of wards and liveries, and tenures in capite, and by knights-service, and purveyance, and for settling a revenue upon his Majesty in lieu thereof. 12 Car. 2, c. 24 (1660),

7 S.L. 472; 12 Car. 2, c. 24 (1660),  
5 S.R. 259

D.C.: Mauro v. Ritchie, 3 Cranch  
C.C. 147 (1827)

Georgia: Schley 242

Maryland: Davis v. Jacquin, 5 H. &  
J. 100 (1820); Mauro v. Ritchie,  
3 Cranch C.C. 147 (1827); Corrie's  
Case, 2 Bla. Ch. 488 (1830); Kilty  
238

New York: Jackson v. Schutz, 18  
Johns. R. 174 (1820)

North Carolina: Mills v. McAllister,  
2 N.C. 350 (1796)

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833); 3 Binney  
623; Roberts 312

An act for granting to their Majes-  
ties certain rates and duties of  
excise upon beer, ale, and other  
liquors, for securing certain  
recompences and advantages in  
the said act mentioned, to such  
persons as shall voluntarily ad-  
vance the sum of ten hundred  
thousand pounds towards carrying  
on the war against France. 4 W.  
& M., c. 3 (1692), 9 S.L. 159; 4  
W. & M., c. 3 (1692), 6 S.R. 372  
Maryland: Williams' Case, 3 Bla.  
Ch. 186 (1831)

An act to supply the deficiency of  
the money raised by a former act,  
intituled, An act for granting to  
their Majesties certain rates and  
duties of excise upon beer, ale,  
and other liquors, for securing  
certain recompences and advan-  
tages in the said act mentioned, to  
such persons as shall voluntarily  
advance the sum of ten hundred  
thousand pounds towards carrying  
on the war against France. 5 W.  
& M., c. 5 (1693), 9 S.L. 239;  
5 W. & M., c. 5 (1693), 6 S.R. 444  
Maryland: Williams' Case, 3 Bla.  
Ch. 186 (1831)

An act for granting to their Majes-  
ties several rates and duties upon  
tunnage of ships and vessels, and

upon beer, ale, and other liquors,  
for securing certain recompences  
and advantages in the said act  
mentioned, to such persons as  
shall voluntarily advance the sum  
of fifteen hundred thousand pounds,  
towards the carrying on the war  
against France. 5 & 6 W. & M.,  
c. 20 (1694), 9 S.L. 283; 5 & 6  
W. & M., c. 20 (1694), 6 S.R. 483  
Maryland: Williams' Case, 3 Bla.  
Ch. 186 (1831)

An act for making good the defi-  
ciencies of several funds therein  
mentioned; and for enlarging the  
capitol stock of the bank of Eng-  
land; and for raising the publick  
credit. 8 & 9 Will. 3, c. 20 (1697),  
10 S.L. 34; 8 & 9 Will. 3, c. 20  
(1696-97), 7 S.R. 218

D.C.: United States v. Watkins, 3  
Cranch C.C. 441 (1829)

Maryland: United States v. Watkins,  
3 Cranch C.C. 441 (1829)

Federal: United States v. Watkins,  
3 Cranch C.C. 441 (1829)

An act for preventing frauds and  
abuses in the publick revenues of  
excise, customers, stamp-duties,  
post-office, and house-money.  
6 Geo. 1, c. 21 (1719), 14 S.L. 262  
South Carolina: State v. Anderson,  
1 Hill. 327 (1833)

An act for the improvement of his  
Majesty's revenues of customs,  
excise and inland duties. 12 Geo.  
1, c. 28 (1725), 15 S.L. 318  
Federal: The Bolina, 1 Gall. 75  
(1812)

## EXECUTION

He that recovereth debt may sue  
execution by Fieri facias or Elegit.  
13 Edw. 1, St. 1, c. 18 (1285), 1  
S.L. 194; 13 Edw. 1, Westminster  
2d, c. 18 (1285), 1 S.R. 82  
Connecticut: Denison v. Williams,  
4 Conn. 402 (1822); Giddings v.  
Canfield, 4 Conn. 482 (1823)

Maryland: Whittington v. Polk, 1 H. & J. 236 (1802); Jones v. Jones, 1 Bla. Ch. 443 (1829); Duvall v. Waters, 1 Bla. Ch. 569 (1829); Tessier v. Wyse, 3 Bla. Ch. 28 (1830); Hanson v. Barnes' Lessee, 3 G. & J. 359 (1831); Coombs v. Jordan, 3 Bla. Ch. 284 (1831); Cape Sable Co's Case, 3 Bla. Ch. 606 (1832); Mullikin v. Duvall, 7 G. & J. 355 (1835); Miller v. Allison, 8 G. & J. 35 (1836)

Massachusetts: Williams v. Amory, 14 Mass. 20 (1817); Montague v. Gay, 17 Mass. 439 (1821)

Missouri: Scott v. Whitehill, 1 Mo. 764 (1827)

New Jersey: Den v. Steelman, 10 N.J.L. 193 (1828); State v. Stout, 11 N.J.L. 362 (1830); Disborough v. Outcalt, 1 N.J. Eq. 298 (1831);

New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806); Stymets v. Brooks, 10 Wend. 206 (1833); Mason v. Denison, 15 Wend. 64 (1835)

North Carolina: Jones v. Edmonds, 7 N.C. 43 (1819)

Ohio: Stiles v. Murphy, 4 Hamm. 92 (1-4 Ohio 729) (1829)

Pennsylvania: Shaupe v. Shaupe, 12 S. & R. 9 (1824); Allen v. Reesor, 16 S. & R. 10 (1827)

South Carolina: D'Urphey v. Nelson, 1 Brev. 289 (1803); Blake v. Heyward, Bail. Eq. 208 (1831)

Tennessee: Boyd v. Armstrong's Heirs, 9 Tenn. 40 (1821); Ward v. Southerland, 7 Tenn. 462 (1822)

Virginia: Coleman v. Cocke, 27 Va. (6 Rand.) 618 (1828); Wilson v. Jackson's Adm'r, 32 Va. (5 Leigh) 102 (1834)

The process of execution of things recorded within the year, or after. 13 Edw. 1, St. 1, c. 45 (1285), 1 S.L. 224; 13 Edw. 1, Westminster 2d, c. 45 (1285), 1 S.R. 93

Connecticut: Denison v. Williams, 4 Conn. 402 (1822)

D.C.: Offut v. Henderson, 2 Cranch C.C. 553 (1825)

Maryland: Coombs v. Jordan, 3 Bla. Ch. 284 (1831); Kilty 214

Massachusetts: Commonwealth v. Green, 12 Mass. 1 (1815)

New Jersey: Crane v. Alling, 14 N.J.L. 593 (1835)

Pennsylvania: Pommer v. Wells, 1 Ashm. 21 (1820); Pennock v. Hart, 8 S. & R. 369 (1822); Allen v. Reesor, 16 S. & R. 10 (1827); Thompson v. Phillips, Bald. C.C. 246 (1830); Righter v. Rittenhouse, 3 Rawle 273 (1832); 3 Binney 607; Roberts 239

South Carolina: Ex'rs of Grimke v. Mayrant, 2 Brev. 202 (1807)

Virginia: Dykes & Co. v. Woodhouse's Adm'r, 24 Va. (3 Rand.) 287 (1825); Offutt v. Henderson, 2 Cranch C.C. 553 (1825)

For the continuation of debts upon execution. 32 Hen. 8, c. 5 (1540), 5 S.L. 12; 32 Hen. 8, c. 5 (1540), 3 S.R. 750

Pennsylvania: 3 Binney 619; Roberts 241

Virginia: Coleman v. Cocke, 27 Va. (6 Rand.) 618 (1828); Wilson v. Jackson's Adm'r, 32 Va. (5 Leigh) 102 (1834)

An act for new executions to be sued against any which shall hereafter be delivered out of execution by privilege of parliament, and for discharge of them out of whose custody such persons shall be delivered. 1 Jac. 1, c. 13 (1604), 7 S.L. 89; 1 Jac. 1, c. 13 (1603-04), 4 S.R. 1029

Maryland: United States v. Watkins, 4 Cranch C.C. 271 (1833)

South Carolina: Mairs v. Smith, 3 McCord 52 (1825)

An act to avoid unnecessary delays of executions. 3 Jac. 1, c. 8 (1605), 7 S.L. 176; 3 Jac. 1, c. 8 (1605-06), 4 S.R. 1084

Delaware: Brown v. Truit, 1 Del. Cas. lxx (1787)

Maine: Vallance v. Sawyer, 4 Me. 62 (1826)

Maryland: Ringgold v. Cannell, 2 H. & McH. 408 (1790)

New York: Messonnier v. Kauman, 3 Johns. Ch. R. 66 (1817)

North Carolina: Gidney v. Hallsey, 9 N.C. 550 (1823)

Pennsylvania: Henry v. Boyle, 1 Miles 386 (1830); 3 Binney 623; Roberts 245

An act for the relief of creditors against such persons as die in execution. 21 Jac. 1, c. 24 (1623), 7 S.L. 295; 21 Jac. 1, c. 24 (1623-24), 4 S.R. 1233

Georgia: Schley 240

Maryland: United States v. Watkins, 4 Cranch C.C. 271 (1833); Kilty 238

Pennsylvania: Freeman v. Ruston, 4 Dall. 214 (1800); Sharpe v. Speckenagle, 3 S. & R. 463 (1817); 3 Binney 623; Roberts 246

South Carolina: Mairs v. Smith, 3 McCord 52 (1825); 2 Cooper 410

Virginia: Coleman v. Cocke, 27 Va. (6 Rand.) 618 (1828)

## EXECUTORS

Executors may have a writ of accompt. 13 Edw. 1, St. 1, c. 23 (1285), 1 S.L. 196; 13 Edw. 1, Westminster 2d, c. 23 (1285), 1 S.R. 83

Georgia: Schley 107

Pennsylvania: 3 Binney 604

Executors shall have an action of trespass for a wrong done to their testator. 4 Edw. 3, c. 7 (1330), 1 S.L. 434; 4 Edw. 3, c. 7 (1330), 1 S.R. 263

Georgia: Schley 119

Kentucky: Kennedy v. M'Affee's

Ex'x, 11 Ky. (1 Litt.) 169 (1822)

Massachusetts: Pitts v. Hale, 3 Mass. 321 (1807)

New York: Snider v. Croy, 2 Johns. R. 227 (1807)

North Carolina: Smith v. Walker's Ex'rs, 4 N.C. (Part 2) 245 (1815);

Browne v. Blick, 7 N.C. 511 (1819); State v. Antonio, 11 N.C. 200 (1825)

Pennsylvania: North v. Turner,

9 S. & R. 244 (1823); Reist v. Heilbrenner, 11 S. & R. 131 (1824); Lattimore v. Simmons, 13 S. & R. 183 (1825); Penrod v. Morrison, 2 Pen. & W. 126 (1830); 3 Binney 610; Roberts 248

South Carolina: Nettles v. D'Oyley, 2 Brev. 27 (1806); 2 Cooper 405

Tennessee: Douglass v. Morford, 15 Tenn. 79 (1834)

Virginia: Lee v. Cooke's Ex'r, 21 Va. (Gil.) 331 (1821); Catlett's Ex'r v. Russell, 33 Va. (6 Leigh) 344 (1835)

In a writ of debt against divers executors, they shall not fourth by essoin. 9 Edw. 3, St. 1, c. 3 (1335), 1 S.L. 454; 9 Edw. 3, St. 1, c. 3 (1335), 1 S.R. 271

New Jersey: Crane v. Alling, 14 N.J.L. 593 (1835)

Executors of executors shall have the benefit and charge of the first testator. 25 Edw. 3, St. 5, c. 5 (1350), 2 S.L. 54; 25 Edw. 3, St. 5, c. 5 (1351-52), 1 S.R. 321

Georgia: Schley 125

North Carolina: Smith v. Walker's Ex'rs, 4 N.C. (Part 2) 245 (1815)

Pennsylvania: Penrod v. Morrison, 2 Pen. & W. 126 (1830); 3 Binney 611; Roberts 249

South Carolina: 2 Cooper 405

For recovery of arrearages of rents by executors of tenant in fee-simple. 32 Hen. 8, c. 37 (1540), 5 S.L. 53; 32 Hen. 8, c. 37 (1540), 3 S.R. 791

Georgia: Schley 202

Maryland: Kilty 232

New York: Ex'rs of Van Rensselaer v. Ex'rs of Platner, 2 Johns. Cas. 17 (1800); Devisees of Van Rensselaer v. Ex'rs of Platner, 2 Johns. Cas. 24 (1800)

Pennsylvania: 3 Binney 620; Roberts 254



An act to enable creditors to recover their debts of the executors and administrators of executors in their own wrong. 30 Car. 2, c. 7 (1677), 8 S.L. 424; 30 Car. 2, c. 7 (1678), 5 S.R. 890

Maryland: Sibley v. Williams, 3 G. & J. 52 (1830)

New Jersey: Dickerson v. Robinson, 6 N.J.L. 195 (1822)

Pennsylvania: Potts v. Smith, 3 Rawle 361 (1832); 3 Binney 624; Roberts 258

South Carolina: Trescot v. Trescot, 1 McCord Eq. 417 (1826); 2 Cooper 411

An act for reviving, continuing, and explaining several laws therein mentioned, which are expired and near expiring. 4 & 5 W. & M., c. 24 (1692), 9 S.L. 229; 4 W. & M., c. 24 (1692), 6 S.R. 416

Delaware: Burton v. McCullen, 2 Del. Cas. 20 (1807)

Georgia: Schley 286

Maryland: Sibley v. Williams, 3 G. & J. 52 (1830)

New Jersey: Schenck v. Ex'rs of Schenck, 3 N.J.L. 149, 2 Penning. 562 (1809); Dickerson v. Robinson, 6 N.J.L. 195 (1822)

Pennsylvania: Potts v. Smith, 3 Rawle 361 (1832)

South Carolina: Trescot v. Trescot, 1 McCord Eq. 417 (1826)

## EXILE

None shall be condemned without trial. Justice shall not be sold or deferred. 9 Hen. 3, c. 29 (Magna Charta) (1225), 1 S.L. 10; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 46

South Carolina: 2 Cooper 403

Tennessee: Case of Darby, 3 Wheel. Cr. C. 1 (1824)

## EYE

It shall be felony to cut out the tongue, or pull out the eyes of the King's liege people. 5 Hen. 4,

c. 5 (1403), 2 S.L. 448; 5 Hen. 4, c. 5 (1403-04), 2 S.R. 144  
South Carolina: 2 Cooper 406

## FAIRS

The form of acknowledging a statute merchant. The creditor's remedy if his debt be not paid. The King's seals shall be sent to keepers of fairs. Taking of recognisance. 13 Edw. 1, St. 3, c. 1 (1285), 1 S.L. 236; 13 Edw. 1, St. Merchants (1285), 1 S.R. 98

Delaware: Ex Parte Dixon, 1 Del. Ch. 261 (1824)

Maryland: Coombs v. Jordan, 3 Bla. Ch. 284 (1831)

Ohio: Dewitt v. Osburn, 5 Ohio 480 (1832)

South Carolina: Dupont v. Screven, 2 Hill 298 (1834)

## FALSE NEWS

None shall report slanderous news, whereby discord may arise.

3 Edw. 1, c. 34 (1275), 1 S.L. 97; 3 Edw. 1, c. 34 (1275), 1 S.R. 35

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

South Carolina: State v. Lehre, 2 Brev. 446 (1811); 3 Wheel. Cr. C. 282 (1811)

## FAMILIES

The bill for the maintaining artillery, and the debarring of unlawful games. 33 Hen. 8, c. 9 (1541), 5 S.L. 79; 33 Hen. 8, c. 9 (1541-42), 3 S.R. 837

D.C.: United States v. Dixon, 4 Cranch C.C. 107 (1830)

Maryland: United States v. Dixon, 4 Cranch C.C. 107 (1830)

## FARMERS AND FARMS

What distresses shall be taken for the King's debts, and how it shall be used. 51 Hen. 3, St. 4 (1266), 1 S.L. 39; Temp. Incert., 1 S.R. 197b

Maryland: Kilty 208

A remedy against accomptants.  
 Fermors shall make no waste.  
 52 Hen. 3, c. 23 (1267), 1 S.L. 70;  
 52 Hen. 3, St. Marl., c. 23 (1267),  
 1 S.R. 24

Connecticut: Moore v. Ellsworth,  
 3 Conn. 483 (1821)

Georgia: Schley 81

Maryland: Kilty 209

Massachusetts: Sackett v. Sackett,  
 25 Mass. (8 Pick.) 309 (1829)

New Hampshire: Chase v. Hazelton,  
 7 N.H. 171 (1834)

South Carolina: 2 Cooper 403

1 S.L. 81; 3 Edw. 1, c. 9 (1275),  
 1 S.R. 28

Georgia: Schley 82

Pennsylvania: 3 Binney 600;  
 Roberts 315

The punishment of felons refusing  
 lawful trial. 3 Edw. 1, c. 12  
 (1275), 1 S.L. 83; 3 Edw. 1, c. 12  
 (1275), 1 S.R. 29

South Carolina: 2 Cooper 403

Fresh suit shall be made after  
 felons and robberies from town to  
 town, &c. 13 Edw. 1, St. 2, c. 1  
 (1285), 1 S.L. 230; 13 Edw. 1, St.  
 Wynton, c. 1 (1285), 1 S.R. 96

Maryland: Kilty 214

New Jersey: State v. Berry, 9  
 N.J.L. 374 (1828)

Inquiry of felons and robbers, and  
 the country shall answer if they  
 be not taken. 13 Edw. 1, St. 2,  
 c. 2 (1285), 1 S.L. 231; 13 Edw. 1,  
 St. Wynton, c. 2 (1285), 1 S.R. 96

New Jersey: State v. Berry, 9  
 N.J.L. 374 (1828)

Pennsylvania: Smith v. Schell, 13  
 S. & R. 336 (1825)

Process against those that be ap-  
 pealed, indicted, or outlawed in  
 one county, and remain in another.  
 5 Edw. 3, c. 11 (1331), 1 S.L. 446;  
 5 Edw. 3, c. 11 (1331), 1 S.R. 267

South Carolina: 2 Cooper 405

A declaration which offences shall  
 be adjudged treason. 25 Edw. 3,  
 St. 5, c. 2 (1350), 2 S.L. 50; 25  
 Edw. 3, St. 5, c. 2 (1351-52), 1  
 S.R. 319

Maryland: Kilty 217

New Jersey: Denn v. Clark, 1  
 N.J.L. 340 (1795)

South Carolina: State v. Gutridge,  
 1 Bay 281 (1793); 2 Cooper 405

Federal: United States v. Burr,  
 Coombs Trial of Aaron Burr 1  
 (1807); United States v. Burr,  
 8 U.S. (4 Cranch) 470 (1807)

## FATHERS

An act for taking away the court  
 of ward and liveries, and tenures  
 in capite, and by knights-service,  
 and purveyance, and for settling a  
 revenue upon his Majesty in lieu  
 thereof. 12 Car. 2, c. 24 (1660),  
 7 S.L. 472; 12 Car. 2, c. 24  
 (1660), 5 S.R. 259

D.C.: Mauro v. Ritchie, 3 Cranch  
 C.C. 147 (1827)

Georgia: Schley 242

Maryland: Davis v. Jacquin, 5  
 H. & J. 100 (1820); Mauro v.  
 Ritchie, 3 Cranch C.C. 147 (1827);  
 Corrie's Case, 2 Bla. Ch. 488  
 (1830); Kilty 238

New York: Jackson v. Schutz, 18  
 Johns. R. 174 (1820)

North Carolina: Mills v. McAllister,  
 2 N.C. 350 (1796)

Pennsylvania: Magill v. Brown,  
 Bright. N.P. 346 (1833); 3 Binney  
 623; Roberts 312

## FEE FARMS TO THE KING IN CITIES AND TOWNS

Concerning the remitting of fee-  
 farms for three years. 2 & 3  
 Edw. 6, c. 5 (1548), 5 S.L. 299;  
 2 & 3 Edw. 6, c. 5 (1548), 4 S.R.  
 43

Pennsylvania: Magill v. Brown,  
 Bright. N.P. 346 (1833)

## FELONS AND FELONIES

All men shall be ready to pursue  
 felons. 3 Edw. 1, c. 9 (1275),

Every justice of peace may let a prisoner to mainprise. No officer shall seise the goods of a prisoner until he be attainted. 1 Rich. 3, c. 3 (1483), 4 S.L. 2; 1 Rich. 3, c. 3 (1483-84), 2 S.R. 478

Maryland: Kilty 228

New York: People v. Huggins, 10 Wend. 464 (1833)

Pennsylvania: Morrison v. Gross, 1 Bro. (Pa.) 1 (1806)

South Carolina: 2 Cooper 407

An act for the repeal of certain statutes concerning treasons and felonies. 1 Edw. 6, c. 12 (1547), 5 S.L. 259; 1 Edw. 6, c. 12 (1547), 4 S.R. 18

New York: Woodbeck v. Keller, 6 Cow. 118 (1826)

North Carolina: State v. Seaborn, 15 N.C. 305 (1833)

Pennsylvania: Respublica v. Roberts, 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

An act for trial of murders and felonies committed in several counties. 2 & 3 Edw. 6, c. 24 (1548), 5 S.L. 320; 2 & 3 Edw. 6, c. 24 (1548), 4 S.R. 69

New Jersey: State v. Jones, 9 N.J.L. 357 (1828)

North Carolina: State v. Orrell, 12 N.C. 139 (1826)

Pennsylvania: 3 Binney 620; Roberts 401

An act to take examination of prisoners suspected of any manslaughter or felony. 2 & 3 Phil. & M., c. 10 (1555), 6 S.L. 74; 2 & 3 Phil. & M., c. 10 (1555), 4 S.R. 286

Georgia: State v. Asselin, Charl. T.U.P. 184 (1808); Schley 212

Maryland: Kilty 234

North Carolina: State v. Grove, 1 Mart. R. 43 (1794)

Pennsylvania: 3 Binney 621; Roberts 81

South Carolina: State v. Hill, 2 Hill 607 (1835); 2 Cooper 409

An act for punishing of accessories to felonies, and receivers of stolen goods, and to prevent the wilful burning and destroying of ships. 1 Anne, St. 2, c. 9 (1701), 10 S.L. 487; 1 Anne, St. 2, c. 9 (1702), 8 S.R. 168

New York: M'Niff's Case, 1 Rog. N.Y. City H. Rec. 8 (1816)

North Carolina: State v. Sparrow, 7 N.C. 487 (1819)

South Carolina: State v. Council, 1 Harp. 53 (1823); State v. Robbins, 1 N. & Mc. 512 (1819); State v. Wright, 4 McCord 358 (1827); State v. Sims, 2 Bail. 29 (1830); 2 Cooper 412

Tennessee: State v. Evans, 1 Tenn. 211 (1806)

An act for repealing a clause in an act, intituled, An act for the better apprehending, prosecuting, and punishing felons that commit burglaries, house-breaking, or robberies in shops, ware-houses, coach-houses, or stables, or that steal horses. 5 Anne, c. 6 (1706), 11 S.L. 194; 6 Anne, c. 9 (1706), 8 S.R. 563

D.C.: United States v. Norris, 1 Cranch C.C. 411 (1807)

Maryland: United States v. Norris, 1 Cranch C.C. 411 (1807)

An act for the encouraging the discovery and apprehending of housebreakers. 5 Anne, c. 31 (1706), 11 S.L. 282; 6 Anne, c. 31 (1706), 8 S.R. 628

New York: M'Niff's Case, 1 Rog. N.Y. City H. Rec. 8 (1816)

Tennessee: Wright v. State, 13 Tenn. 154 (1833)

Federal: United States v. Moulton, 5 Mas. 537 (1830)

An act for preventing tumults and riotous assemblies, and for the more speedy and effectual punishing the rioters. 1 Geo. 1, St. 2, c. 5 (1714), 13 S.L. 142

Massachusetts: Commonwealth v. Jenkins, Thac. Cr. Cas. 118 (1825)

An act for the further preventing robbery, burglary, and other felonies, and for the more effectual transportations of felons, and unlawful exporters of wool; and for declaring the law upon some points relating to pirates. 4 Geo. 1, c. 11 (1717), 13 S.L. 471

D.C.: United States v. Norris, 1 Cranch C.C. 411 (1807)

Maryland: United States v. Norris, 1 Cranch C.C. 411 (1807)

An act for the further preventing robbery, burglary, and other felonies, and for the more effectual transportation of felons. 6 Geo. 1, c. 23 (1719), 14 S.L. 292

D.C.: United States v. Norris, 1 Cranch C.C. 411 (1807)

Maryland: United States v. Norris, 1 Cranch C.C. 411 (1807)

An act for the more effectual suppressing of piracy. 8 Geo. 1, c. 24 (1721), 14 S.L. 468

Federal: United States v. Howard, 3 Wash. C.C. 340 (1818)

An act for the more effectual punishing wicked and evil-disposed persons going armed in disguise, and doing injuries and violences to the persons and properties of his Majesty's subjects, and for the more speedy bringing of the offenders to justice. 9 Geo. 1, c. 22 (1722), 15 S.L. 88

Georgia: State v. Campbell, Charl. T.U.P. 166 (1808)

New Jersey: State v. Gibbons, 4 N.J.L. 40 (1818)

New York: Platner v. Sherwood, 6 Johns. Ch. R. 118 (1822)

North Carolina: State v. Ormond, 18 N.C. 119 (1834)

South Carolina: State v. Cantrell, 2 Hill 389 (1834)

Tennessee: State v. Pearce, 7 Tenn. 66 (1823); State v. Wilcox, 11 Tenn. 278 (1832)

An act for better securing the monies and effects of the suitors of the court of chancery; and to prevent the counterfeiting of East-India bonds, and indorsements thereon; as likewise indorsements on South-Sea bonds. 12 Geo. 1, c. 32 (1725), 15 S.L. 335

Pennsylvania: Taylor v. Knox, 1 Dall. 158 (1785)

Federal: United States v. Stewart, 4 Wash. C.C. 226 (1818)

An act for the more effectual preventing and further punishment of forgery, perjury and subornation of perjury; and to make it felony to steal bonds, notes or other securities for payment of money. 2 Geo. 2, c. 25 (1729), 16 S.L. 69

New York: People v. Holbrook, 13 Johns. R. 90 (1816)

Pennsylvania: Commonwealth v. Boyer, 1 Binn. 201 (1807)

South Carolina: State v. Washington, 1 Bay 117 (1791); State v. Holly, 2 Bay 262 (1800); State v. Casados, 1 N. & Mc. 91 (1818); State v. Thomas, 2 McCord 527 (1823)

Federal: United States v. Stewart, 4 Wash. C.C. 226 (1818); United States v. Moulton, 5 Mas. 537 (1830); United States v. Gibert, 2 Sumn. 19 (1834)

An act for the more effectual preventing the forging the acceptance of bills of exchange, or the numbers or principal sums of accountable receipts for notes, bills, or other securities for payment of money, or warrants or orders for payment of money, or delivery of goods. 7 Geo. 2, c. 22 (1734), 16 S.L. 477

Maryland: United States v. Book, 2 Cranch C.C. 294 (1822)

South Carolina: State v. Washington,  
1 Bay 117 (1791); State v. Holly,  
2 Bay 262 (1800)

An act to repeal the statute made in the first year of the reign of King James the First, intituled, An act against conjuration, witchcraft, and dealing with evil and wicked spirits, except so much thereof as repeals an act of the fifth year of the reign of Queen Elizabeth, Against conjurations, enchantments, and witchcrafts, and to repeal an act passed in the parliament of Scotland in the ninth parliament of Queen Mary, intituled, Anentis witchcrafts, and for punishing such persons as pretend to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration. 9 Geo. 2, c. 5 (1736), 17 S.L. 3

Pennsylvania: James v. Commonwealth, 12 S. & R. 220 (1825)

An act to render the laws more effectual for preventing the stealing and destroying of sheep, and other cattle. 14 Geo. 2, c. 6 (1741), 17 S.L. 419

New York: Healy's Case, 4 Rog. N.Y. City H. Rec. 36 (1819)

North Carolina: State v. Hall,  
1 Tayl. 126 (1799)

An act for establishing an agreement with the governor and company of the bank of England, for advancing the sum of one million six hundred thousand pounds, towards the supply for the service of the year one thousand seven hundred and forty two. 15 Geo. 2, c. 13 (1742), 18 S.L. 7

Federal: United States v. Stewart,  
4 Wash. C.C. 226 (1818)

An act for the more effectual preventing of robberies and thefts upon any navigable rivers, ports of entry or discharge,

wharfs, and keys adjacent. 24 Geo. 2, c. 45 (1751), 20 S.L. 281  
Federal: United States v. Moulton,  
5 Mas. 537 (1830)

An act for enforcing the laws against persons who shall steal or detain shipwrecked goods; and for the relief of persons suffering losses thereby. 26 Geo. 2, c. 19 (1735), 21 S.L. 53  
Federal: Two Catherines, 2 Mas. 319 (1821)

An act for the better preventing of clandestine marriages. 26 Geo. 2, c. 33 (1753), 21 S.L. 124  
Tennessee: Bashaw v. State, 9 Tenn. 177 (1829)

#### FEOFFMENT

By what words in a feoffment a feoffor shall be bound to warranty. 4 Edw. 1, St. 3, c. 6 (1276), 1 S.L. 116; 4 Edw. 1, St. Bigamy; c. 6 (1276), 1 S.R. 43

Maryland: Kilty 210

New York: Frost v. Raymond, 2 Cai. R. 188 (1804)

All acts made by or against Cestuy que use shall be good against him, his heirs and feoffees in trust. 1 Rich. 3, c. 1 (1483), 4 S.L. 1; 1 Rich. 3, c. 1 (1483-84), 2 S.R. 477

Maryland: Coombs v. Jordan, 3 Bla. Ch. 284 (1831)

#### FEOFFMENT TO USES

Several charges imposed upon the lands and person of Cestuy que use. 19 Hen. 7, c. 15 (1503), 4 S.L. 96; 19 Hen. 7, c. 15 (1503-04), 2 S.R. 660

Maryland: Coombs v. Jordan, 3 Bla. Ch. 284 (1831)

New York: Bogert v. Perry, 17 Johns. R. 351 (1819)

#### FESTIVALS

Certain days wherein fairs and markets ought not to be kept.

27 Hen. 6, c. 5 (1448), 3 S.L. 295;  
27 Hen. 6, c. 5 (1448-49), 2 S.R.  
351

New York: Story v. Elliott, 8 Cow.  
27 (1827)

## FINES AND RECOVERIES

In gifts in tail the donor's will  
shall be observed. The form of  
a formedon. 13 Edw. 1, St. 1,  
c. 1 (1285), 1 S.L. 164; 13 Edw. 1,  
Westminster 2d, c. 1 (1285), 1  
S.R. 71

Connecticut: Hamilton v. Hempstead,  
3 Day 332 (1809)

Delaware: Burton's Lessee v.  
Vaughan, 1 Del. Cas. 268 (1800)

Maryland: Calvert's Lessee v.  
Eden, 2 H. & McH. 279 (1789);  
Kilty 211

New York: Anderson v. Jackson,  
16 Johns. R. 382 (1819); Patterson  
v. Ellis's Ex'rs, 11 Wend. 259  
(1833)

Pennsylvania: 3 Binney 603;  
Roberts 202

Rhode Island: Sisson v. Seabury,  
1 Sumn. 235 (1832)

South Carolina: Warnock v.  
Wightman, 1 Brev. 331 (1804)

Tennessee: Polk v. Faris, 17 Tenn.  
209 (1836)

Virginia: Bells v. Gillespie, 26 Va.  
(5 Rand.) 273 (1827)

The manner of levying of fines:  
what things be requisite to make  
them good, and who are bound by  
them. 18 Edw. 1, St. 4 (1290),  
1 S.L. 259; Modus Lev. Fines,  
1 S.R. 214

Maryland: Chase's Case, 1 Bla.  
Ch. 206 (1828)

Pennsylvania: 3 Binney 608;  
Roberts 261

No exception to a fine that the  
demandant was seised. Fines  
shall be openly read. 27 Edw. 1,  
St. 1, c. 1 (1299), 1 S.L. 278;  
27 Edw. 1, St. Finibus, c. 1  
(1299), 1 S.L. 128

Pennsylvania: 3 Binney 608;  
Roberts 264

The conusor of a fine shall come  
personally before the justices.  
Where a commission shall be  
awarded to take a fine. Who may  
admit attorneys. 15 Edw. 2,  
Statutum de Carleol. de Finibus  
(1322), 1 S.L. 360; St. Fines &  
Attorn., 1 S.R. 215

Maryland: Kilty 215

Pennsylvania: 3 Binney 610;  
Roberts 265

Non-claim of fines shall here-  
after be no bar. 34 Edw. 3, c. 16  
(1360), 2 S.L. 143; 34 Edw. 3,  
c. 16 (1360-61), 1 S.R. 368

Pennsylvania: 3 Binney 612;  
Roberts 266

Inrolling of writs in the common  
place whereupon fines be levied.  
5 Hen. 4, c. 14 (1403), 2 S.L. 454;  
5 Hen. 4, c. 14 (1403-04), 2 S.R.  
147

Pennsylvania: 3 Binney 614;  
Roberts 267

South Carolina: Gough v. Walker,  
1 N. & Mc. 469 (1819)

Who shall be bound by a fine levied  
before the justices of the common  
pleas: And proclamations made  
thereof. 1 Rich. 3, c. 7 (1483),  
4 S.L. 5; 1 Rich. 3, c. 7 (1483-  
84), 2 S.R. 482

Pennsylvania: 3 Binney 616;  
Roberts 268

How often a fine levied in the  
common pleas shall be read and  
proclaimed, and who shall be  
bound thereby. 4 Hen. 7, c. 24  
(1487), 4 S.L. 49; 4 Hen. 7, c. 24  
(1488-89), 2 S.R. 547

New York: Demarest v. Wynkoop,  
3 Johns. Ch. R. 129 (1817)

North Carolina: Benzein v. Robenett,  
16 N.C. 444 (1830); Spencer v.  
Weston's Heirs, 18 N.C. 213 (1835)

Pennsylvania: 3 Binney 617;  
Roberts 271

Tennessee: Armstrong's Heirs v.  
Campbell, 11 Tenn. 201 (1832)

Lessees to enjoy the farm against  
the tenant in tail. 32 Hen. 8, c. 28  
(1540), 5 S.L. 42; 32 Hen. 8, c. 28  
(1540), 3 S.R. 784

Kentucky: Detheridge v. Woodruff,  
19 Ky. (3 T.B. Mon.) 244 (1826);  
Miller v. Shackelford, 33 Ky.  
(3 Dana.) 289 (1835)

Maryland: Kilty 232

New York: Jackson v. Cairns, 20  
Johns. R. 301 (1822); Jackson v.  
Mancius, 2 Wend. 357 (1829)

Pennsylvania: Streaper v. Fisher,  
1 Rawle 155 (1829); 3 Binney 619;  
Roberts 219

Rhode Island: Sisson v. Seabury,  
1 Sumn. 235 (1832)

A recovery of land had by assent  
of the parties against tenant for  
term of life, shall be void, unless  
it be by good title, or assent of  
him in the reversion or remainder.  
32 Hen. 8, c. 31 (1540), 5 S.L. 47;  
32 Hen. 8, c. 31 (1540), 3 S.R. 787

Pennsylvania: Lyle v. Richards,  
9 S. & R. 322 (1823)

For the exposition of the statute  
of fines. 32 Hen. 8, c. 36 (1540),  
5 S.L. 51; 32 Hen. 8, c. 36 (1540),  
3 S.R. 789

Pennsylvania: 3 Binney 620;  
Roberts 274

An act that fines in towns cor-  
porate shall be made as the same  
have been in times past. 34 & 35  
Hen. 8, c. 22 (1542-43), 5 S.L.  
164; 34 & 35 Hen. 8, c. 22 (1542-  
43), 3 S.R. 922

New York: Jackson v. Gilchrist,  
15 Johns. R. 89 (1818)

An act touching proclamations  
upon fines. 1 Mary, Sess. 2, c. 7  
(1553), 6 S.L. 13; 1 Mary, St. 2,  
c. 7 (1553), 4 S.R. 206

Pennsylvania: 3 Binney 620;  
Roberts 277

An act for the avoiding of re-  
coveries suffered by collusion by  
tenants for term of life, and such  
others. 14 Eliz., c. 8 (1572), 6  
S.L. 301; 14 Eliz. c. 8 (1572), 4  
S.R. 600

Pennsylvania: Lyle v. Richards,  
9 S. & R. 322 (1823); 3 Binney  
621; Roberts 231

An act for the reformation of  
errors in fines and recoveries.  
23 Eliz., c. 3 (1581), 6 S.L. 336;  
23 Eliz., c. 3 (1580-81), 4 S.R. 661

Pennsylvania: 3 Binney 622;  
Roberts 278

An act for abridging of proclama-  
tions upon fines to be levied at the  
common law. 31 Eliz., c. 2  
(1589), 6 S.L. 400; 31 Eliz., c. 2  
(1588-89), 4 S.R. 800

Pennsylvania: 3 Binney 622;  
Roberts 281

## FISH AND FISHERIES

No man shall fasten nets to any  
thing over rivers. 2 Hen. 6, c. 15  
(1423), 3 S.L. 92; 2 Hen. 6, c. 19  
(1423), 2 S.R. 225

Pennsylvania: Berryhill v. Wells,  
5 Binn. 56 (1812)

An act for the encouragement of  
trade. 15 Car. 2, c. 7 (1663),  
8 S.L. 160; 15 Car. 2, c. 7 (1663),  
5 S.R. 449

Massachusetts: Randolph v. Catch  
Newbery, 1 Rec. Ct. of Asst.,  
Colony of Mass. Bay 152 (1682);  
Lugger v. Ship Elisabeth, 1 Rec.  
Ct. of Asst., Colony of Mass. Bay  
209 (1686); Brenton v. Katch  
Salisbury, 1 Rec. Ct. of Asst.,  
Colony of Mass. Bay 251 (1691);  
Brenton v. Three Brothers, 1 Rec.  
Ct. of Asst., Colony of Mass. Bay  
261 (1691)

## FLESH (MEAT)

An act for the reviving, continuance, explanation, and perfecting of divers statutes. 35 Eliz., c. 7 (1593), 6 S.L. 434; 35 Eliz., c. 7 (1592-93), 4 S.R. 854

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## FORCIBLE ENTRIES

The penalty where any doth enter into lands where it is not lawful, or with force. 5 Rich. 2, St. 1, c. 7 (1381), 2 S.L. 240; 5 Rich. 2, St. 1, c. 7 (1381), 2 S.R. 20

Connecticut: Bliss v. Bange, 6 Conn. 78 (1826)

Georgia: Ex Parte Putnam, Charl't. T.U.P. 78 (1806)

Maine: Harding's Case, 1 Me. 22 (1820)

Maryland: Kilty 222

New Jersey: Butts v. Voorhees, 13 N.J.L. 13 (1831)

New York: People v. Anthony, 4 Johns. R. 198 (1809)

North Carolina: State v. Mills, 13 N.C. 420 (1830)

Pennsylvania: Commonwealth v. Stoever, 1 S. & R. 480 (1815); Burd v. Commonwealth, 6 S. & R. 252 (1820); Commonwealth v. Keeper of the Prison, 1 Ashm. 140 (1828); Muntorf v. Muntorf, 2 Rawle 180 (1828)

South Carolina: State v. Speirin, 1 Brev. 119 (1802); State v. Huntington, 3 Brev. 111 (1813); State v. Senft, 2 Hill 367 (1834)

The duty of justices of peace when any forcible entry is made into lands. 15 Rich. 2, c. 2 (1391), 2 S.L. 339; 15 Rich. 2, c. 2 (1391), 2 S.R. 78

Georgia: Ex Parte Putnam, Charl't. T.U.P. 78 (1806)

Maryland: Kilty 223

New York: People v. Anthony, 4 Johns. R. 198 (1809); Mather v. Hood, 8 Johns. R. 44 (1811)

Pennsylvania: Commonwealth v. Stoever, 1 S. & R. 480 (1815); 3 Binney 614; Roberts 283

South Carolina: State v. Speirin, 1 Brev. 119 (1802); State v. Huntington, 3 Brev. 111 (1813); State v. Senft, 2 Hill 367 (1834); 2 Cooper 406

The duty of justices of peace where land is entered upon or detained with force. 8 Hen. 6, c. 9 (1429), 3 S.L. 121; 8 Hen. 6, c. 9 (1429), 2 S.R. 244

Connecticut: Bliss v. Bange, 6 Conn. 78 (1826)

Delaware: State v. Stansborough, 1 Del. Cas. 129 (1797); Polk v. Wilson, 1 Del. Cas. 179 (1798)

Georgia: Ex Parte Putnam, Charl't. T.U.P. 78 (1806)

Maryland: Lord Proprietary v. Brown, 1 H. & McH. 428 (1772); Kilty 227

New Jersey: Crane v. Dod, 2 N.J.L. 320, (1 Penning. 340) (1808)

New York: People v. Anthony, 4 Johns. R. 198 (1809); People v. Nelson, 13 Johns. R. 340 (1816)

North Carolina: State v. Johnson, 18 N.C. 324 (1835)

Pennsylvania: Respublica v. Shryber, 1 Dall. 68 (1782); Morrison v. Gross, 1 Bro. (Pa.) 1 (1806); 3 Binney 615; Commonwealth v. Stoever, 1 S. & R. 480 (1815); Roberts 284

South Carolina: State v. Speirin, 1 Brev. 119 (1802); State v. Huntington, 3 Brev. 111 (1813)

An act of explanation or declaration of the statute of octavo Regis H. 6. concerning forcible entries, the indictments thereupon found. 31 Eliz., c. 11 (1589), 6 S.L. 418; 31 Eliz., c. 11 (1588-89), 4 S.R. 809

Delaware: Polk v. Wilson, 1 Del. Cas. 179 (1798)

Maryland: Lord Proprietary v. Brown, 1 H. & McH. 428 (1772); Kilty 236

New York: People v. Anthony, 4 Johns. R. 198 (1809)

Pennsylvania: Commonwealth v. Stoever, 1 S. & R. 480 (1815); 3 Binney 622; Roberts 288



South Carolina: State v. Speirin,  
1 Brev. 119 (1802)

## FOREIGN GOODS

An act for the encouraging and increasing of shipping and navigation. 12 Car. 2, c. 18 (1660), 7 S.L. 452; 12 Car. 2, c. 18 (1660), 5 S.R. 246

Maryland: Randolph v. Tench (1695), 1 Am. Leg. Rec. 7;

Randolph v. Blackmore (1695), 1 Am. Leg. Rec. 22

Massachusetts: Lason v. Brenton, 1 Rec. Ct. of Asst., Colony of Mass. Bay 256 (1691); Brenton v. Three Brothers, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691); Shrimpton v. Brenton, 1 Rec. Ct. of Asst., Colony of Mass. Bay 268 (1692)

Federal: The Ann Green, 1 Gall. 274 (1812); Gelston v. Hoyt, 16 U.S. (3 Wheat.) 246 (1818)

## FOREIGN PLEAS

For abjuration and sanctuaries. 22 Hen. 8, c. 14 (1530), 4 S.L. 208; 22 Hen. 8, c. 14 (1530-31), 3 S.R. 332

North Carolina: State v. Gayner, 1 C. & N. 305 (1801)

South Carolina: 2 Cooper 408

Tennessee: Garner v. State, 13 Tenn. 160 (1833)

An act for the repeal of certain statutes concerning treasons and felonies. 1 Edw. 6, c. 12 (1547), 5 S.L. 259; 1 Edw. 6, c. 12 (1547), 4 S.R. 18

New York: Woodbeck v. Keller, 6 Cow. 118 (1826)

North Carolina: State v. Seaborn, 15 N.C. 305 (1833)

Pennsylvania: Respublica v. Roberts, 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

## FOREIGN PRISONS

An act for the better securing the liberty of the subject, and for prevention of imprisonments

beyond the seas. 31 Car. 2, c. 2 (1679), 8 S.L. 432; 31 Car. 2, c. 2 (1679), 5 S.R. 935

Georgia: State v. Segar, Charl.

T.U.P. 24 (1805); Schley 262

New Jersey: Peltier v. Pennington, 14 N.J.L. 312 (1834)

New York: Case of Yates, 1 Yates Sel. Cas. 1 (1809); Yates v. People, 6 Johns. R. 337 (1810); Goodwin's Case, 5 Rog. N.Y. City H. Rec. 11 (1820)

Pennsylvania: Respublica v. Arnold, 3 Yeates 263 (1801)

South Carolina: Barton v. Keith, 2 Hill 537 (1835)

Federal: United States v. Bollman, 1 Cranch C.C. 373 (1807)

## FORESTALLERS, INGROSSERS AND REGRATERS

The warranty of packing of wool shall be put out. An inquest shall be de Medietate Linguae, where an alien is party. 28 Edw. 3, c. 13 (1354), 2 S.L. 104; 28 Edw. 3, c. 13 (1354), 1 S.R. 348

North Carolina: State v. Antonio, 11 N.C. 200 (1825)

Pennsylvania: Respublica v. Mesca, 1 Dall. 73 (1783); 3 Binney 611; Roberts 336

## FORFEITURES OF WAR

There shall be no forfeiture of lands for treason of dead persons not attainted. 34 Edw. 3, c. 12 (1360), 2 S.L. 141; 34 Edw. 3, c. 12 (1360-61), 1 S.R. 367

South Carolina: 2 Cooper 406

## FORGERY

An act to prevent frivolous and vexatious arrests. 12 Geo. 1, c. 29 (1725), 15 S.L. 331

D.C.: Winter v. Simonton, 2 Cranch C.C. 585 (1825)

Georgia: Central Bank v. Hendrick, Dud. (Ga.) 66 (1831)

Maryland: Anonymous, 4 H. & McH. 159 (1798); Winter v. Simonton, 2 Cranch C.C. 585 (1825); Kilty 249

Pennsylvania: Fisher v. Consequa,  
2 Bro. (Pa.) App. 78 (1809)

An act for the more effectual preventing and further punishment of forgery, perjury and subornation of perjury; and to make it felony to steal bonds, notes or other securities for payment of money.

2 Geo. 2, c. 25 (1729), 16 S.L. 69

New York: People v. Holbrook, 13 Johns. R. 90 (1816)

Pennsylvania: Commonwealth v. Boyer, 1 Binn. 201 (1807)

South Carolina: State v. Washington, 1 Bay 117 (1791); State v. Holly, 2 Bay 262 (1800); State v. Casados, 1 N. & Mc. 91 (1818); State v. Thomas, 2 McCord 527 (1823)

Federal: United States v. Stewart, 4 Wash. C.C. 226 (1818); United States v. Moulton, 5 Mass. 537 (1830); United States v. Gibert, 2 Sumn. 19 (1834)

An act for the more effectual preventing the forging the acceptance of bills of exchange, or the numbers or principal sums of accountable receipts for notes, bills, or other securities for payment of money, or warrants or orders for payment of money, or delivery of goods. 7 Geo. 2, c. 22 (1734), 16 S.L. 477

Maryland: United States v. Book, 2 Cranch C.C. 294 (1822)

South Carolina: State v. Washington, 1 Bay 117 (1791); State v. Holly, 2 Bay 262 (1800)

## FORMA PAUPERIS

A mean to help and speed poor persons in their suits. 11 Hen. 7, c. 12 (1494), 4 S.L. 60; 11 Hen. 7, c. 12 (1495), 2 S.R. 578

Georgia: Schley 144

Maryland: Kilty 229

New Jersey: Sears v. Tindall, 15 N.J.L. 399 (1836)

Pennsylvania: 3 Binney 617; Roberts 116

South Carolina: 2 Cooper 407

Tennessee: Philips v. Rudle, 9 Tenn. 121 (1826); Brumley v. Hayworth, 11 Tenn. 421 (1832)

## FRAMES OF TIMBER

The bill for burning of frames.

37 Hen. 8, c. 6 (1545), 5 S.L. 222;

37 Hen. 8, c. 6 (1545), 3 S.R. 994

Kentucky: Act of 1802, 107, 118 (1803)

South Carolina: 2 Cooper 409

## FRANCHISES IN BOROUGHES AND CORPORATIONS

None shall be condemned upon suggestion without lawful presentment. 25 Edw. 3, St. 5, c. 4 (1350), 2 S.L. 53; 25 Edw. 3, St. 5, c. 4 (1351-52), 1 S.R. 321

Federal: Ex Parte Crane, 30 U.S. (5 Pet.) 190 (1831)

## FRAUDS AND PERJURIES

An act for prevention of frauds and perjuries. 29 Car. 2, c. 3 (1676), 8 S.L. 405; 29 Car. 2, c. 3 (1677), 5 S.R. 839

Alabama: Mayfield v. Clifton, 3 Stew. 375 (1831)

Connecticut: Chapman v. Allen, 1 Kirby 399 (1788); Card v. Grinman, 5 Conn. 164 (1823); Sage v. Wilcox, 6 Conn. 81 (1826); Perkins v. Perkins, 7 Conn. 558 (1829)

Delaware: Wright's Lessee v. Cannon, 1 Del. Cas. 227 (1796); Van Dyke v. Johns, 1 Del. Ch. 93 (1819)

Georgia: Carnochan v. Abrahams, Charlt. T.U.P. 196 (1810); Schley 252

Kentucky: Grant's Heirs v. Craig-miles, 4 Ky. (1 Bibb) 203 (1808); Letcher v. Letcher's Heirs, 27 Ky. (4 J.J. Mar.) 590 (1830)

Maryland: Clayland's Lessee v. Pearce, 1 H. & McH. 29 (1714); Ogden v. Ogden, 1 Bla. Ch. 284 (1827); Jones v. Jones, 1 Bla. Ch. 443 (1829); Duvall v. Waters, 1 Bla. Ch. 569 (1829); Coombs v. Jordan, 3 Bla. Ch. 284 (1831); Kilty 240

- Massachusetts: Powell v. M & B Mfg. Co., 3 Mas. 347 (1824); Russell v. Lewis, 19 Mass. (2 Pick.) 508 (1824)
- New Hampshire: Judge of Probate v. Chamberlain, 3 N.H. 129 (1824); French v. French, 3 N.H. 234 (1825)
- New Jersey: Den v. Morris, 7 N.J.L. 6 (1822); Den v. Steelman, 10 N.J.L. 193 (1828); Lloyd v. Wyckoff, 11 N.J.L. 218 (1830); State v. Stout, 11 N.J.L. 362 (1830); Den v. Mitton, 12 N.J.L. 70 (1830); Disborough v. Outcalt, 1 N.J. Eq. 298 (1831); Story v. Baird, 14 N.J.L. 262 (1834); Den v. Johnson, 15 N.J.L. 116 (1835)
- New York: Jackson v. Woods, 1 Johns. Cas. 163 (1799); Vredenbergh v. Morris, 1 Johns. Cas. 223 (1800); Jackson v. Kniffen, 2 Johns. R. 31 (1806); Frear v. Hardenbergh, 5 Johns. R. 272 (1810); Whitaker v. Whitaker, 6 Johns. R. 112 (1810); Dash v. Van Kleeck, 7 Johns. R. 477 (1811); Jackson v. Wood, 12 Johns. R. 73 (1815); Hotchkiss v. M'Vickar, 12 Johns. R. 403 (1815); Bogert v. Perry, 17 Johns. R. 351 (1819); Prince v. Hazleton, 20 Johns. R. 502 (1822); Farley v. Cleveland, 4 Cow. 432 (1825); People v. Rickert, 8 Cow. 226 (1828); D'Wolf v. Rabaud, 26 U.S. (1 Pet.) 476 (1828); M'Lees v. Hale, 10 Wend. 426 (1833); Sherwood v. Phillips, 13 Wend. 479 (1835)
- North Carolina: Hynes v. Lewis's Ex'rs, 1 Tayl. 44 (1799); Clark's Ex'rs v. Eborn, 6 N.C. 234 (1813); Blount v. Patton, 9 N.C. 237 (1822); Green v. Johnson, 9 N.C. 309 (1823); Den v. Jasper, 14 N.C. 158 (1831)
- Ohio: Lenington v. Campbell, Tap. 137 (1817); Stiles v. Murphy, 4 Hamm. 92 (1-4 Ohio 729) (1829)
- Pennsylvania: Anonymous, 1 Dall. 1 (1754); Lawson v. Morrison, 2 Dall. 286 (1792); Torbert v. Twining, 1 Yeates 432 (1795); Bell v. Andrews, 4 Dall. 152 (1796); Cox v. M'Dougal, 2 Yeates 434 (1798); Hurst v. Hurst, 3 Binn. 347 (1807); 2 Wash. C.C. 69 (1807); Lippincott v. Barker, 2 Binn. 174 (1809); Havard v. Davis, 2 Binn. 406 (1810); Peebles v. Reading, 8 S. & R. 484 (1822); Case of Altemus, 1 Ashm. 49 (1823)
- Rhode Island: Clarke v. Russel, 3 U.S. (3 Dall.) 415 (1799); Taylor v. Luther, 2 Sumn. 228 (1835)
- South Carolina: Osborne v. Huger, 1 Bay 176 (1791); Hammond v. Barber, 1 Brev. 166 (1802); Miller v. Graham, 1 Brev. 448 (1805); Guerard v. Guerard (Wren v. Carnes), 4 Desaus. Eq. 405 (1813); Davis v. Robertson, 1 Mill 71 (1817); Lorent v. South Carolina Ins. Co., 1 N. & Mc. 505 (1819); Sturgineger v. Hannah, 2 N. & Mc. 147 (1819); Caldwell v. M'Kain, 2 N. & Mc. 555 (1820); Stent v. Ex'rs of McLeod, 2 McCord Eq. 354 (1827); Blake v. Heyward, Bail. Eq. 208 (1831); Fyler v. Givens, 3 Hill 48 (1836); 2 Cooper 411
- Tennessee: Allen v. Allen, 2 Tenn. 172 (1812); Jackson v. Dillon's Lessee, 2 Tenn. 261 (1814); Russell v. Stinson, 4 Tenn. 1 (1816); Shute v. Harder, 5 Tenn. 293 (1818); Hurt v. Reeves, 6 Tenn. 49 (1818); Shute v. Harder, 9 Tenn. 3 (1818); Johnson v. Ball, 9 Tenn. 291 (1830); Taylor v. Ross, 11 Tenn. 330 (1832); Thomas' Lessee v. Blackemore, 13 Tenn. 113 (1833); Battle v. Bering, 15 Tenn. 529 (1835); Daley v. Perry, 17 Tenn. 442 (1836); Shields v. Mitchell, 18 Tenn. 1 (1836); Hamrico v. Laird, 18 Tenn. 222 (1836);
- Virginia: Argenbright v. Campbell, 13 Va. (3 Hen. & M.) 144 (1808); Claiborne v. Henderson, 13 Va. (3 Hen. & M.) 322 (1809); Coleman v. Cocke, 27 Va. (6 Rand.) 618 (1828); Worsham's Adm'r v. Worsham's Ex'r, 32 Va. (5 Leigh) 589 (1835)

Federal: *Weightman v. Caldwell*,  
17 U.S. (4 Wheat.) 85 (1819);  
*Arden v. Brown*, 4 Cranch C.C.  
121 (1830); *Cunningham v. Offutt*,  
5 Cranch C.C. 524 (1838)

## FRAUDULENT ASSURANCES

Fraudulent assurances of lands or  
goods, to deceive creditors, shall  
be void. 50 Edw. 3, c. 6 (1376),  
2 S.L. 202; 50 Edw. 3, c. 6 (1376-  
77), 1 S.R. 398

Georgia: *Schley* 128

Maryland: *Kilty* 221

New York: *McCartee v. Orphan*  
Asylum Soc'y, 9 Cow. 437 (1827)

Pennsylvania: 3 Binney 612;

*Roberts* 294

Tennessee: *Hamilton v. Bradley*,  
6 Tenn. 127 (1818)

FRAUDULENT CONVEYANCES &  
DEVISES

An act concerning uses and wills.  
27 Hen. 8, c. 10 (1535), 4 S.L.  
359; 27 Hen. 8, c. 10 (1535-36),  
3 S.R. 539

Alabama: *Gillespie v. Somerville*,  
3 Stew. & P. 447 (1833)

Connecticut: *Bacon v. Taylor*, 1  
*Kirby* 368 (1788)

Delaware: *Van Dyke v. Johns.*, 1  
Del. Ch. 93 (1819); *Blocksom v.*  
*Hudson*, 3 Del. Cas. 74 (1823)

Georgia: *Schley* 163

Kentucky: *Innes v. Crawford*, 5 Ky.  
(2 Bibb) 412 (1811); *Brecken-*  
*ridge's Heirs v. Ormsby*, 24 Ky.  
(1 J.J. Mar.) 236 (1829)

Maryland: *Coombs v. Jordan*, 3  
Bla. Ch. 284 (1831); *Hall v. Hall*,  
6 G. & J. 386 (1834); *Kilty* 231

Massachusetts: *Anonymous*, Quincy  
370 (1770); *Cox v. Edwards*, 14  
Mass. 492 (1782); *Thatcher v.*  
*Omans*, 20 Mass. (3 Pick.) 521  
(1792); *Marshall v. Fisk*, 6 Mass.  
24 (1809); *Hastings v. Dickinson*,  
7 Mass. 153 (1810); *Mitchell v.*  
*Starbuck*, 10 Mass. 5 (1813);  
*Russell v. Lewis*, 19 Mass. (2  
Pick.) 508 (1824); *Durant v.*  
*Ritchie*, 4 Mas. 45 (1825); *Parker*

*v. Nichols*, 24 Mass. (7 Pick.) 111  
(1828); *Norton v. Leonard*, 29  
Mass. (12 Pick.) 152 (1831); *Ayer*  
*v. Ayer*, 33 Mass. (16 Pick.) 327  
(1835)

New Hampshire: *French v. French*,  
3 N.H. 234 (1825)

New Jersey: *Montgomery v. Bruere*,  
4 N.J.L. 260 (1818); *Den v. Craw-*  
*ford*, 8 N.J.L. 90 (1825); *Magniac*  
*v. Thompson*, Bald. C.C. 344  
(1831); *Den v. Richman*, 13 N.J.L.  
43 (1832); *Den v. Johnson*, 15  
N.J.L. 116 (1835)

New York: *Jackson v. Wood*, 12  
Johns. R. 73 (1815); *Bogert v.*  
*Perry*, 17 Johns. R. 351 (1819);  
*McCartee v. Orphan Asylum Soc'y*,  
9 Cow. 437 (1827); *M'Cartee v.*  
*Teller*, 2 Pai. Ch. 511 (1831);  
*McCartee v. Teller*, 8 Wend. 267  
(1831)

North Carolina: *Rhodes v. Holmes*,  
9 N.C. 193 (1822); *State v. Antonio*,  
11 N.C. 200 (1825)

Ohio: *Thompson v. Gibson*, 2 Hamm.  
339 (1-4 Ohio 385) (1826); *Morgan*  
*v. Leslie*, Wright 144 (1832);  
*Lessee of Helfenstine v. Garrard*,  
6 Hamm., Pt. 1, 275 (6 & 7 Ohio  
397) (1835)

Pennsylvania: *Vanhorn's Lessee v.*  
*Harrison*, 1 Dall. 137 (1785);  
*Kennedy v. Nedrow*, 1 Dall. 415  
(1789); *White v. Hart*, 1 Yeates  
221 (1793); *Creacraft v. Dille*, 3  
Yeates 79 (1800); *Lippincott v.*  
*Barker*, 2 Binn. 174 (1809); *Wager*  
*v. Wager*, 1 S. & R. 374 (1815);  
*Magniac v. Thompson*, Bald. C.C.  
344 (1831); 3 Binney 619; *Roberts*  
404

Rhode Island: *Sisson v. Seabury*,  
1 Sumn. 235 (1832)

South Carolina: *Ramsay v. Marsh*,  
2 McCord 252 (1822); *Richards v.*  
*M'Kie*, Harp. Eq. 184 (1824);  
*Escheator of St. Philip's v. Real*  
*Estate of Smith*, 4 McCord 452  
(1828); *Gelzer v. Gelzer*, Bail.  
Eq. 387 (1831); *Henderson v.*  
*Griffin*, 30 U.S. (5 Pet.) 151 (1831);  
2 Cooper 408

Tennessee: Jackson v. Dillon's Lessee, 2 Tenn. 261 (1814); Shute v. Harder, 9 Tenn. 3 (1818); Morgan v. Elam, 12 Tenn. 375 (1833)

Virginia: Claiborne v. Henderson, 13 Va. (3 Hen. & M.) 322 (1809)

An act against fraudulent deeds, alienations, &c. 13 Eliz., c. 5 (1570), 6 S.L. 268; 13 Eliz., c. 5 (1571), 4 S.R. 537

Alabama: Frisbie v. McCarty, 1 Stew. & P. 56 (1831); Killough v. Steele, 1 Stew. & P. 262 (1832);

Connecticut: Fowler v. Frisbie, 3 Conn. 320 (1820); Kimball v. Hutchins, 3 Conn. 450 (1820); Patten v. Smith, 5 Conn. 196 (1824); Swift v. Thompson, 9 Conn. 63 (1831)

Georgia: Schley 214

Kentucky: Taylor v. Eubanks, 10 Ky. (3 A.K. Mar.) 239 (1821); Doyle v. Sleeper, 31 Ky. (1 Dana) 531 (1833)

Maine: The Watchman, 1 Ware 232 (1832)

Maryland: Bohn v. Headley, 7 H. & J. 257 (1826); Duvall v. Waters, 1 Bla. Ch. 569 (1829); Stewart v. Iglehart, 7 G. & J. 132 (1835); Kilty 234

Massachusetts: Clapp v. Leatherbee, 35 Mass. (18 Pick.) 131 (1836); Goodwin v. Hubbard, 15 Mass. 210 (1818); Damon v. Bryant, 19 Mass. (2 Pick.) 411 (1824); Gunn v. Butler, 35 Mass. (18 Pick.) 248 (1836)

New Hampshire: Everett v. Read, 3 N.H. 55 (1824); Coburn v. Pickering, 3 N.H. 415 (1826); Carlisle v. Rich, 8 N.H. 44 (1835)

New Jersey: Magniac v. Thompson, Bald. C.C. 344 (1831)

New York: Sands v. Codwise, 4 Johns. R. 536 (1808); Beals v. Guernsey, 8 Johns. R. 446 (1811); Verplank v. Sterry, 12 Johns. R. 536 (1815); Hendricks v. Robinson, 2 Johns. Ch. R. 283 (1817); Roberts v. Anderson, 3 Johns.

Ch. R. 371 (1818); Reade v. Livingston, 3 Johns. Ch. R. 481 (1818); Anderson v. Roberts, 18 Johns. R. 515 (1820); Jackson v. Myers, 18 Johns. R. 425 (1821); Jackson v. Town, 4 Cow. 599 (1825); Wilder v. Winne, 6 Cow. 284 (1826); Seward v. Jackson, 8 Cow. 406 (1826); Pell v. Tredwell, 5 Wend. 661 (1830); Hall v. Tuttle, 8 Wend. 375 (1832)

North Carolina: Jackson v.

Marshall's Adm'r, 5 N.C. 323 (1809); M'Cree v. Houston, 7 N.C. 429 (1819); Trotter v. Howard, 8 N.C. 320 (1821); Smith v. Niel, 8 N.C. 341 (1821); State v. Antonio, 11 N.C. 200 (1825); Peterson v. Williamson, 13 N.C. 326 (1830); O'Daniel v. Crawford, 15 N.C. 197 (1833); Martin v. Cowles, 18 N.C. 29 (1834)

Ohio: Lessee of Burgett v. Burgett, 1 Hamm. 469 (1-4 Ohio 207) (1824); Brice v. Myers, 5 Ohio 121 (1831)

Pennsylvania: Lessee of Hartley v. M'Anulty, 4 Yeates 95 (1804); Wilt v. Franklin, 1 Binn. 502 (1809); Lessee of Heister v. Fortner, 2 Binn. 40 (1809); Lippincott v. Barker, 2 Binn. 174 (1809); Dawes v. Cope, 4 Binn. 258 (1811); Reichart v. Castator, 5 Binn. 109 (1812); Clow v. Woods, 5 S. & R. 275 (1819); Babb v. Clemson, 10 S. & R. 419 (1824); Matter of Bradway, 1 Ashm. 212 (1829); Lancaster v. Dolan, 1 Rawle 231 (1831); Mateer v. Hissim, 3 Pen. & W. 160 (1831); Magniac v. Thompson, Bald. C.C. 344 (1831); Snyder v. Kunkleman, 3 Pen. & W. 487 (1832); Gilbert v. Hoffman, 2 Watts 66 (1833); Magill v. Brown, Bright. N.P. 346 (1833); Buehler v. Gloninger, 2 Watts 226 (1834); United States v. Mertz, 2 Watts 406 (1834); Adams v. Nicholas, 1 Miles 90 (1835); Foster v. Walton, 5 Watts 378 (1836); Engelbert v. Blanlot, 1 Miles 224 (1836); 3 Binney 621; Roberts 295

Rhode Island: Bean v. Smith, 2 Mas. 252 (1821)

South Carolina: Hamilton v. Greenwood, 1 Bay 171 (1791); Teasdale v. Atkinson, 2 Brev. 48 (1806); Bickley v. Norris, 2 Brev. 252 (1808); Barrineau v. M'Murray, 3 Brev. 204 (1815); Wilson v. Cheshire, 1 McCord Eq. 233 (1826); Reeves v. Harris, 1 Bail. 563 (1830); Lowry v. Pinson, 2 Bail. 324 (1831); State v. Fife, 2 Bail. 337 (1831); Union Bank v. Toomer, 2 Hill Eq. 27 (1834); Gist v. Pressley, 2 Hill Eq. 318 (1835); 2 Cooper 409

Tennessee: Dodson v. Cocke, 1 Tenn. 314 (1808); Reid's Lessee v. Buford, 1 Tenn. 413 (1809); Russell v. Stinson, 4 Tenn. 1 (1816); Hamilton v. Bradley, 6 Tenn. 127 (1818); Porter v. Armstrong, 10 Tenn. 74 (1820); Cains v. Jones, 13 Tenn. 249 (1833)

Virginia: Backhouse v. Jett, 1 Brock 500 (1821); Land v. Jeffries, 26 Va. (5 Rand.) 211 (1827)

Federal: United States v. Hooe, 7 U.S. (3 Cranch) 73 (1805); Sexton v. Wheaton, 21 U.S. (8 Wheat.) 229 (1823)

An act against covinous and fraudulent conveyances. 27 Eliz., c. 4 (1585), 6 S.L. 356; 27 Eliz., c. 4 (1584-85), 4 S.R. 709

Alabama: Frisbie v. McCarty, 1 Stew. & P. 56 (1831); Killough v. Steele, 1 Stew. & P. 262 (1832)

Connecticut: Kimball v. Hutchins, 3 Conn. 450 (1820); Swift v. Thompson, 9 Conn. 63 (1831)

D.C.: Cathcart v. Robinson, 30 U.S. (5 Pet.) 264 (1831)

Georgia: Schley 224

Kentucky: Taylor v. Eubanks, 10 Ky. (3 A.K. Mar.) 239 (1821)

Maine: The Watchman, 1 Ware 232 (1832)

Maryland: Bohn v. Headley, 7 H. & J. 257 (1826); Kilty 235

Massachusetts: Marshall v. Fisk, 6 Mass. 24 (1809); Clapp v. Leatherbee, 35 Mass. (18 Pick.) 131 (1836); Gunn v. Butler, 35 Mass. (18 Pick.) 248 (1836)

New Hampshire: Everett v. Read, 3 N.H. 55 (1824)

New York: Sterry v. Arden, 1 Johns. Ch. R. 261 (1814); Verplank v. Sterry, 12 Johns. R. 536 (1815); Riggs v. Murray, 2 Johns. Ch. R. 565 (1817); Roberts v. Anderson, 3 Johns. Ch. R. 371 (1818); Anderson v. Roberts, 18 Johns. R. 515 (1820); Jackson v. Myers, 18 Johns. R. 425 (1821); Jackson v. Town, 4 Cow. 599 (1825); Seward v. Jackson, 8 Cow. 406 (1826); Pell v. Tredwell, 5 Wend. 661 (1830)

North Carolina: Jackson v. Marshall's Adm'r, 5 N.C. 323 (1809); M'Cree v. Houston, 7 N.C. 429 (1819); State v. Antonio, 11 N.C. 200 (1825); Peterson v. Williamson, 13 N.C. 326 (1830); O'Daniel v. Crawford, 15 N.C. 197 (1833); Clanton v. Burges, 17 N.C. 13 (1831); Martin v. Cowles, 18 N.C. 29 (1834); Tate v. Tate, 21 N.C. 22 (1834)

Ohio: Lessee of Burgett v. Burgett, 1 Hamm. 469 (1-4 Ohio 207) (1824)

Pennsylvania: Wilt v. Franklin, 1 Binn. 502 (1809); Clow v. Woods, 5 S. & R. 275 (1819); Matter of Bradway, 1 Ashm. 212 (1829); Lancaster v. Dolan, 1 Rawle 231 (1829); Mateer v. Hissim, 3 Pen. & W. 160 (1831); Adams v. Nicholas, 1 Miles 90 (1835); Foster v. Walton, 5 Watts 378 (1836); Engelbert v. Blanlot, 1 Miles 224 (1836); 3 Binney 622; Roberts 298

Rhode Island: Bean v. Smith, 2 Mas. 252 (1821)

South Carolina: Teasdale v. Atkinson, 2 Brev. 48 (1806); Barrineau v. M'Murray, 3 Brev. 204 (1815); Gordon v. Goodwin, 2 N. & Mc. 70 (1819); 2 Cooper 410

Tennessee: Dodson v. Cocke, 1 Tenn. 314 (1808); Reid's Lessee

v. Buford, 1 Tenn. 413 (1809);  
Hamilton v. Bradley, 6 Tenn. 127  
(1818); Marshall v. Booker, 9  
Tenn. 13 (1820); Porter v. Arm-  
strong, 10 Tenn. 74 (1820); Cains  
v. Jones, 13 Tenn. 249 (1833)

Virginia: Land v. Jeffries, 26 Va.  
(5 Rand.) 211 (1827)

An act for relief of creditors  
against fraudulent devises. 3 & 4  
W. & M., c. 14 (1691), 9 S.L. 154;  
3 W. & M., c. 14 (1691), 6 S.R. 320

Georgia: Schley 282

Kentucky: Rogers v. Farrar, 22 Ky.  
(6 T.B. Mon.) 421 (1828); Ready's  
Heirs v. Stephenson, 30 Ky. (7 J.J.  
Mar.) 351 (1832)

Maryland: Campbell's Case, 2 Bla.  
Ch. 209 (1830); Hammond v.  
Hammond, 2 Bla. Ch. 306 (1830);  
Coombs v. Jordan, 3 Bla. Ch. 284  
(1831); Kilty 242

Massachusetts: Hays v. Jackson,  
6 Mass. 149 (1809)

New Hampshire: Judge of Probate  
v. Brooks, 5 N.H. 82 (1829)

New Jersey: Den v. Jaques, 10  
N.J.L. 259 (1829)

New York: Labagh v. Cantine, 13  
Johns. R. 272 (1816); Benson v.  
LeRoy, 4 Johns. Ch. R. 651  
(1820); Covell v. Weston, 20  
Johns. R. 414 (1823); Roosevelt  
v. Heirs of Fulton, 7 Cow. 71  
(1827); Thomas v. Van Ness, 4  
Wend. 549 (1830)

Pennsylvania: Gause v. Wiley, 4  
S. & R. 509 (1818)

South Carolina: D'Urphey v.  
Nelson, 1 Brev. 289 (1803);  
Martin v. Latta, 4 McCord 128  
(1827); Vernon & Co. v. Ex'rs  
of Ehrich, 2 Hill Eq. 256 (1835);  
Jones v. Wightman, 2 Hill 579  
(1835); 2 Cooper 412

Tennessee: Russell v. Stinson, 4  
Tenn. 1 (1816); Shute v. Harder,  
5 Tenn. 293 (1818); Pea v.  
Waggoner, 6 Tenn. 1 (1818);  
Shute v. Harder, 9 Tenn. 3 (1818);  
Smith v. Stump's Heirs, 7 Tenn.  
278 (1823)

Virginia: Cohoons v. Purdie, 7 Va.  
(2 Call) 431 (1803); Backhouse v.  
Jett, 1 Brock 500 (1821); Jones v.  
Hobson, 23 Va. (2 Rand.) 483 (1824)

#### FREE ALMS

A writ of nuisance of a house, &c.  
levied and aliened to another. A  
Quod permittat and Juris utrum  
for a parson of a church. In like  
cases like writs be grantable.

13 Edw. 1, St. 1, c. 24 (1285), 1  
S.L. 196; 13 Edw. 1 Westminster  
2d, c. 24 (1285), 1 S.R. 83

Maryland: Kilty 212

New Hampshire: Plumer v. Harper,  
3 N.H. 88 (1824)

Pennsylvania: Martzell v. Stauffer,  
3 Pen. & W. 398 (1832); 3 Binney  
604; Roberts 157

#### FREEHOLD AND FREEHOLDERS

The feoffee shall hold his land of  
the chief lord, and not of the  
feoffer. 18 Edw. 1, St. 1, c. 1  
(1290), 1 S.L. 255; 18 Edw. 1  
(1289-90), 1 S.R. 106

New York: Frost v. Raymond, 2 Cai.  
Term R. 188 (1804); Jackson v.  
Schutz, 18 Johns. R. 174 (1820)

Pennsylvania: Dorsey v. Jackman,  
1 S. & R. 42 (1814); Franciscus v.  
Reigart, 4 Watts 98 (1835)

#### FREIGHT

Re rates of shipping on English  
ships. 32 Hen. 8, c. 14 (1540),  
5 S.L. 24; 32 Hen. 8, c. 14 (1540),  
3 S.R. 760

Federal: Schooner Volunteer, 1  
Sumn. 551 (1834)

#### FRIVOLOUS AND VEXATIOUS SUITS

An act to avoid trifling and frivo-  
lous suits in her Majesty's courts  
in Westminster. 43 Eliz., c. 6  
(1601), 7 S.L. 47; 43 Eliz., c. 6  
(1601), 4 S.R. 971

Illinois: Act of 1819, Laws of Illinois  
1 (1819)

Indiana: Act of 1807, Philbrick, ed.,  
Laws of the Indiana Territory 323  
(1807)

Northwest Territory: Act of 1799,  
Pease, ed., Laws of the Northwest  
Territory 353, 401 (1799)

An act for the better preventing  
frivolous and vexatious suits.  
8 & 9 Will. 3, c. 11 (1697), 10 S.L.  
17; 8 & 9 Will. 3, c. 11 (1696-97),  
7 S.R. 201

Alabama: Carter v. Crews, 2 Port.  
81 (1835)

Delaware: Walker v. State, 1 Del.  
Cas. 561 (1818); Gregg v. Banner,  
2 Del. (2 Harr.) 407 (1837)

D.C.: M'Knight v. Craig's Adm'r,  
10 U.S. (6 Cranch) 183 (1810);  
Tucker v. Lee, 3 Cranch C.C. 684  
(1829)

Georgia: Schley 288

Indiana: Clark v. Goodwin, 1 Blackf.  
74 (1820); Meek v. Ruffner, 2  
Blackf. 23 (1826)

Kentucky: M'Guire v. Trimble, 23  
Ky. (7 T.B. Mon.) 120 (1828);  
Harrison v. Park, 24 Ky. (1 J.J.  
Mar.) 170 (1829); Gaines v.  
Conn's Heirs, 32 Ky. (2 Dana) 231  
(1834)

Maine: Bailey v. Rogers, 1 Me. 186  
(1821); Haven v. Brown, 7 Me.  
421 (1831)

Maryland: Wilmer v. Harris, 5  
H. & J. 1 (1820); Kilty 243

New Hampshire: Mooney v.  
Demerit, 1 N.H. 187 (1818)

New Jersey: Allen v. Smith, 12  
N.J.L. 159 (1831); Graecen v.  
Allen, 14 N.J.L. 74 (1833)

New York: Adm'rs of Kellogg v.  
Willcocks, 2 Johns. R. 377 (1807);  
Peters v. Henry, 6 Johns. R. 278  
(1810); Kip v. Brigham, 7 Johns.  
R. 168 (1810); Clark v. Bush, 3  
Cow. 151 (1824); Griswold v.  
Stewart, 4 Cow. 457 (1825);  
Griswold v. Sedgwick, 3 Wend.  
326 (1829); Wood v. Wood, 3  
Wend. 454 (1830); Jackson v.  
Baker, 2 Edw. 471 (1835)

North Carolina: M'Rae v. Evans,  
13 N.C. 383 (1830); Branch v.  
Elliot, 14 N.C. 86 (1831)

Ohio: Eogle v. Hanlan, Tap. 268  
(1818)

Pennsylvania: Hopkins v. Deaves,  
2 Bro. (Pa.) 93 (1811); Berryhill  
v. Wells, 5 Binn. 56 (1812);  
Taggart v. Cooper, 1 S. & R. 497  
(1815); Shoemaker v. Meyer, 4  
S. & R. 452 (1818); Rees v.  
Tichenor, 1 Miles 183 (1836);  
3 Binney 625; Roberts 139

South Carolina: Ex'r of McIntosh v.  
Adm'r of Wright, Rich. Eq. 385  
(1832)

Tennessee: State Bank v. Vance's  
Adm'r, 17 Tenn. 471 (1836)

Virginia: Hooe v. Pierce, 1 Va.  
(1 Wash.) 212 (1793); Payne v.  
Ellzey, 2 Va. (2 Wash.) 143 (1795);  
Ruffin v. Call, 2 Va. (2 Wash.) 181  
(1796); M'Knight v. Craig's Adm'r,  
10 U.S. (6 Cranch) 183 (1810)

Federal: Hatch v. Eustis, 1 Gall.  
160 (1812)

## FRUIT TREES

The bill for burning of frames.  
37 Hen. 8, c. 6 (1545), 5 S.L. 222;  
37 Hen. 8, c. 6 (1545), 3 S.R. 994

Kentucky: Act of 1802, 107, 118  
(1803)

South Carolina: 2 Cooper 409

## GAME

An act for the better preservation  
of the game. 5 Anne, c. 14 (1706),  
11 S.L. 221; 6 Anne, c. 16 (1706),  
8 S.R. 585

New Jersey: Schooley v. Thorne,  
1 N.J.L. 71 (1791)

## GAMES & GAMING

He that playeth at unlawful games  
prohibited by the statute of 12  
Rich. 2, c. 6, shall be six days  
imprisoned. 11 Hen. 4, c. 4  
(1409), 2 S.L. 481; 11 Hen. 4, c. 4  
(1409-10), 2 S.R. 163

D.C.: United States v. Dixon, 4  
Cranch C.C. 107 (1830)

Maryland: United States v. Dixon,  
4 Cranch C.C. 107 (1830)

Against unlawful games. 17 Edw.  
4, c. 3 (1477), 3 S.L. 445; 17 Edw.  
4, c. 3 (1477-78), 2 S.R. 462.



D.C.: *United States v. Dixon*, 4  
Cranch C.C. 107 (1830)

Maryland: *United States v. Dixon*,  
4 Cranch C.C. 107 (1830)

An act touching the punishment of  
vagabonds for their first offence,  
and for their second offence, and  
of them that do relieve them.  
19 Hen. 7, c. 12 (1503), 4 S.L. 95;  
19 Hen. 7, c. 12 (1503-04), 2 S.R.  
656

D.C.: *United States v. Dixon*, 4  
Cranch C.C. 107 (1830)

Maryland: *United States v. Dixon*,  
4 Cranch C.C. 107 (1830)

The bill for the maintaining artil-  
lery, and the debarring of unlawful  
games. 33 Hen. 8, c. 9 (1541),  
5 S.L. 79; 33 Hen. 8, c. 9 (1541-  
42), 3 S.R. 837

D.C.: *United States v. Dixon*, 4  
Cranch C.C. 107 (1830)

Maryland: *United States v. Dixon*,  
4 Cranch C.C. 107 (1830)

An act against deceitful, disorder-  
ly, and excessive gaming. 16 Car.  
2, c. 7 (1664), 8 S.L. 208; 16 Car.  
2, c. 7 (1664), 5 S.R. 523

D.C.: *United States v. Dixon*, 4  
Cranch C.C. 107 (1830)

Maryland: *United States v. Dixon*,  
4 Cranch C.C. 107 (1830); *Kilty*  
239

South Carolina: *Hasket v. Wootan*,  
1 N. & Mc. 180 (1818); 2 Cooper  
411

An act for the better preventing  
excessive and deceitful gaming.  
9 Anne, c. 14 (1710), 12 S.L. 177;  
9 Anne, c. 19 (1710), 9 S.R. 476

D.C.: *United States v. Dixon*, 4  
Cranch C.C. 107 (1830)

Delaware: *Wilson v. George*, 2 Del.  
Cas. 413 (1818)

Kentucky: *Harrison v. Chiles*, 13  
Ky. (3 Litt.) 194 (1823)

Maryland: *United States v. Dixon*,  
4 Cranch C.C. 107 (1830); *Kilty*  
248

New Jersey: *Boice v. Gibbons*, 8  
N.J.L. 324 (1826)

New York: *Cole v. Smith*, 4 Johns.  
R. 193 (1809); *Bunn v. Riker*, 4  
Johns. R. 426 (1809)

South Carolina: *Hasket v. Wootan*,  
1 N. & Mc. 180 (1818); *Whelloch v.*  
*Bobo*, 1 Harp. 421 (1824); *Atchison*  
*v. Gee*, 4 McCord 211 (1827); *Owen*  
*v. Davis*, 1 Bail. 315 (1829);  
*Corley v. Berry*, 1 Bail. 593 (1830)

An act to restrain and prevent the  
excessive increase of horse races,  
and for amending an act made in  
the last session of parliament,  
intituled, An act for the more ef-  
fectual preventing of excessive  
and deceitful gaming. 13 Geo. 2,  
c. 19 (1740), 17 S.L. 392

South Carolina: *Hasket v. Wootan*,  
1 N. & Mc. 180 (1818)

An act to explain, amend, and  
make more effectual the laws in  
being, to prevent excessive and  
deceitful gamings; and to restrain  
and prevent the excessive increase  
of horse races. 18 Geo. 2, c. 34  
(1745), 18 S.L. 384

Maryland: *Kilty* 251

An act for the more effectual  
punishment of persons who shall  
attain, or attempt to attain, pos-  
session of goods or money, by  
false or untrue pretences; for  
preventing the unlawful pawning  
of goods; for the easy redemption  
of goods pawned; and for prevent-  
ing gaming in publick houses by  
journeymen, labourers, servants  
and apprentices. 30 Geo. 2, c. 24  
(1757), 22 S.L. 114

D.C.: *Forrest v. Hanson*, 1 Cranch  
C.C. 63 (1802)

Maine: *Cross v. Peters*, 1 Me. 376  
(1821)

Maryland: *Forrest v. Hanson*, 1  
Cranch C.C. 63 (1802)

Massachusetts: *Commonwealth v.*  
*Warren*, 6 Mass. 72 (1809)

New Jersey: State v. Gibbons, 4 N.J.L. 40 (1818)

New York: Conger's Case, 4 Rog. N.Y. City H. Rec. 65 (1819); People v. Stone, 9 Wend. 182 (1832); People v. Gates, 13 Wend. 311 (1835)

Federal: United States v. Moulton, 5 Mas. 537 (1830)

## GAOLERS

Inquiry shall be made of gaolers, which by duress compel prisoners to appeal. 1 Edw. 3, St. 1, c. 7 (1327), 1 S.L. 411; 1 Edw. 3, St. 1, c. 7 (1326-27), 1 S.R. 253

South Carolina: 2 Cooper 404

Sheriffs and gaolers shall receive offenders without taking any thing. 4 Edw. 3, c. 10 (1330), 1 S.L. 435; 4 Edw. 3, c. 10 (1330), 1 S.R. 264

South Carolina: 2 Cooper 405

## GAOLS

Sheriffs shall have the keeping of gaols. A prisoner by duress cometh an approver. 14 Edw. 3, St. 1, c. 10 (1340), 1 S.L. 478; 14 Edw. 3, St. 1, c. 10 (1340), 1 S.R. 284

Georgia: State v. Dews, Charl't.

R.M. 397 (1835); Schley 123

Maryland: Kilty 217

## GARDENS (PHYSIC)

An act for the encouragement of trade. 15 Car. 2, c. 7 (1663), 8 S.L. 160; 15 Car. 2, c. 7 (1663), 5 S.R. 449

Massachusetts: Randolph v. Catch Newbery, 1 Rec. Ct. of Asst., Colony of Mass. Bay 152 (1682); Luger v. Ship Elisabeth, 1 Rec. Ct. of Asst., Colony of Mass. Bay 209 (1686); Brenton v. Katch Salisbury, 1 Rec. Ct. of Asst., Colony of Mass. Bay 251 (1791); Brenton v. Three Brothers, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691)

## GOLD AND SILVER

It shall be felony to use the craft of multiplication of gold or silver. 5 Hen. 4, c. 4 (1403), 2 S.L. 448; 5 Hen. 4, c. 4 (1403-04), 2 S.R. 144

Kentucky: Act of 1802, 107, 118 (1803)

## GRAND SERJEANTY

An act for taking away the court of wards and liveries, and tenures in capite, and by knights-service, and purveyance, and for settling a revenue upon his Majesty in lieu thereof. 12 Car. 2, c. 24 (1660), 7 S.L. 472; 12 Car. 2, c. 24 (1660), 5 S.R. 259

D.C.: Mauro v. Ritchie, 3 Cranch C.C. 147 (1827)

Georgia: Schley 242

Maryland: Davis v. Jacquin, 5 H. & J. 100 (1820); Mauro v. Ritchie, 3 Cranch C.C. 147 (1827); Corrie's Case, 2 Bla. Ch. 488 (1830); Kilty 238

New York: Jackson v. Schutz, 18 Johns. R. 174 (1820)

North Carolina: Mills v. McAllister, 2 N.C. 350 (1796)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833); 3 Binney 623; Roberts 312

## GRANTS OF OFFICES

Letters patents shall bear the date of the King's warrant delivered into the chancery. 18 Hen. 6, c. 1 (1439), 3 S.L. 218; 18 Hen. 6, c. 1 (1439), 2 S.R. 301

Maryland: Robins's Lessee v. Bush, 1 H. & McH. 50 (1723)

## GRANTS OF LANDS TO AND FROM THE CROWN

An act for confirmation of letters patents. 18 Eliz., c. 2 (1576), 6 S.L. 310; 18 Eliz., c. 2 (1575-76), 4 S.R. 608

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act for confirmation of grants made to the Queen's Majesty, &c.

and of letters patents made by her Highness to others. 43 Eliz., c. 1 (1601), 7 S.L. 29; 43 Eliz., c. 1 (1601), 4 S.R. 959

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

#### GREAT ASSIZES

How many shall be returned in juries and petit assises, and of what age they shall be. 13 Edw. 1, St. 1, c. 38 (1285), 1 S.L. 213; 13 Edw. 1, Westminster 2d, c. 38 (1285), 1 S.R. 89

Indiana: State v. Miller, 2 Blackf. 35 (1826)

North Carolina: State v. McEntire, 4 N.C. 267 (2 Car. L. Repos. 287) (1815)

Federal: United States v. White, 4 Mas. 158 (1826)

#### GREAT MEN OF THE REALM

The penalty for telling slanderous lyes of the great men of the realm. 2 Rich. 2, St. 1, c. 5 (1378), 2 S.L. 222; 2 Rich. 2, St. 1, c. 5 (1378), 2 S.R. 9

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

South Carolina: State v. Lehre, 2 Brev. 446 (1811); 3 Wheel. Cr. C. 282 (1811)

#### GROCERY WARES

An act for preventing frauds, and regulating abuses in his Majesty's customs. 13 & 14 Car. 2, c. 11 (1662), 8 S.L. 78; 14 Car. 2, c. 11 (1662), 5 S.R. 393

Massachusetts: Randolph v. Armistage, 1 Rec. Ct. of Asst., Colony of Mass. Bay 124 (1680)

Federal: Robinson v. Hook, 4 Mas. 139 (1826)

#### GUARDIANS IN SOCAGE

The authority and duty of guardians in socage. 52 Hen. 3, c. 17 (1267), 1 S.L. 68; 52 Hen. 3, St. Marl., c. 17 (1267), 1 S.R. 24

Pennsylvania: 3 Binney 600; Roberts 312

Tennessee: Wallen v. M'Henry's Lessee, 10 Tenn. 310 (1829); Nelson v. Allen, 9 Tenn. 360 (1830)

#### GUNPOWDER

An act for preventing the mischiefs which may happen by keeping too great quantities of gunpowder in or near the cities of London and Westminster, or the suburbs thereof. 5 Geo. 1, c. 26 (1718), 14 S.L. 111

New York: People v. Sands, 1 Johns. R. 78 (1806)

An act to regulate the making, keeping and carriage of gunpowder, within Great Britain; and to repeal the laws heretofore made for any of those purposes. 12 Geo. 3, c. 61 (1772), 20 (Part 2) S.L. 166

New York: People v. Sands, 1 Johns. R. 78 (1806)

#### HABEAS CORPUS

An act for the better securing the liberty of the subject, and for prevention of imprisonments beyond the seas. 31 Car. 2, c. 2 (1679), 8 S.L. 432; 31 Car. 2, c. 2 (1679), 5 S.R. 935

Georgia: State v. Segar, Charl. T.U.P. 24 (1805); Schley 262

New Jersey: Peltier v. Pennington, 14 N.J.L. 312 (1834)

New York: Case of Yates, Yeates S.C. 1 (1809); Yates v. People, 6 Johns. R. 337 (1810); Goodwin's Case, 5 Rog. N.Y. City H. Rec. 11 (1820)

Pennsylvania: Respublica v. Arnold, 3 Yeates 263 (1801)

South Carolina: Barton v. Keith, 2 Hill 537 (1835)

Federal: United States v. Bollman, 1 Cranch C.C. 373 (1807)

#### HALF SEAL

For the avoiding of tedious suits in civil and marine causes.

8 Eliz., c. 5 (1565), 6 S.L. 236;

8 Eliz., c. 5 (1566), 4 S.R. 488

New Jersey: Jennings v. Carson,  
1 Pet. Adm. 1 (1792)

Federal: Jennings v. Carson, 1 Pet.  
Adm. 1 (1792)

## HEIR

The wardship of an heir within  
age. The heir a knight. 9 Hen. 3,  
c. 3 (Magna Charta) (1225), 1 S.L.  
2; 9 Hen. 3 (Magna Charta) (1224-  
25), 1 S.R. 22

Georgia: Schley 35

No waste shall be made by a  
guardian in wards lands. 9 Hen.  
3, c. 4 (Magna Charta) (1225),  
1 S.L. 3; 9 Hen. 3 (Magna Charta)  
(1224-25), 1 S.R. 22

Georgia: Schley 35

Guardians shall maintain the in-  
heritance of their wards; and of  
bishopsricks, &c. 9 Hen. 3, c. 5  
(Magna Charta) (1225), 1 S.L. 3;  
9 Hen. 3 (Magna Charta) (1224-  
25), 1 S.R. 22

Georgia: Schley 36

Heirs shall be married without  
disparagement. 9 Hen. 3, c. 6  
(Magna Charta) (1225), 1 S.R. 4;  
9 Hen. 3 (Magna Charta) (1224-  
25), 1 S.R. 22

Georgia: Schley 37

In what case nonage of the plain-  
tiff shall not stay an enquest.  
6 Edw. 1, c. 2 (1278), 1 S.L. 120;  
6 Edw. 1, St. Glouc., c. 2 (1278),  
1 S.R. 47

Pennsylvania: 3 Binney 602;  
Roberts 319

Several tenants against whom an  
action of waste is maintainable.  
6 Edw. 1, c. 5 (1278), 1 S.R. 122;  
6 Edw. 1, St. Glouc., c. 5 (1278),  
1 S.R. 48

D.C.: Thruston v. Mustin, 3 Cranch  
C.C. 335 (1828)

Georgia: Schley 95

Maine: Smith v. Follansbee, 13 Me.  
273 (1836)

Maryland: Thruston v. Mustin, 3  
Cranch C.C. 335 (1828); Kilty 211  
Massachusetts: Sackett v. Sackett,  
25 Mass. (8 Pick.) 309 (1829)

New York: Bates v. Shraeder, 13  
Johns. R. 260 (1816)

North Carolina: Browne v. Blick,  
7 N.C. 511 (1819)

Pennsylvania: 3 Binney 602;  
Roberts 417

Where the wife shall be endowable  
of lands recovered against her  
husband. Where the heir may  
avoid a dower recovered. A  
remedy for particular tenants  
losing by default. 13 Edw. 1, St. 1,  
c. 4 (1285), 1 S.L. 171; 13 Edw. 1,  
Westminster 2d, c. 4 (1283), 1 S.R.  
74

Georgia: Schley 98

Maryland: Kilty 212

Pennsylvania: 3 Binney 603;  
Roberts 182

## HEIR OF TENANT BY KNIGHT'S SERVICE IN CAPITE

The relief of the King's tenant of  
full age. 9 Hen. 3, c. 2 (Magna  
Charta) (1225), 1 S.L. 2; 9 Hen. 3  
(Magna Charta) (1224-25), 1 S.R.  
22

Georgia: Schley 34

## HEIRESSSES

An act for the punishment of such  
as shall take away maidens that  
be inheritors, being within the age  
of sixteen years, or that marry  
them without consent of their  
parents. 4 & 5 Phil. & M., c. 8  
(1557), 6 S.L. 104; 4 & 5 Phil. &  
M., c. 8 (1557-58), 4 S.R. 329

D.C.: Mauro v. Ritchie, 3 Cranch  
C.C. 147 (1827)

Maryland: Mauro v. Ritchie, 3  
Cranch C.C. 147 (1827)

South Carolina: State v. Findlay,  
2 Bay 418 (1802); 1 Brev. 107  
(1802); State v. O'Bannon, 1 Bail.  
144 (1829); 2 Cooper 409

## HIDES &amp; SKINS

It shall be felony to convey, or procure to be conveyed, into any ship or other vessel, any leather tanned or untanned, or any salt or untanned hides, or any backs of sole-leather, or any tallow, to the intent to transport the same over the sea, to be sold by way of merchandize. 1 Eliz., c. 10 (1558), 6 S.L. 137; 1 Eliz., c. 10 (1558-59), 4 S.R. 370

Pennsylvania: Levinz v. Will, 1 Dall. 430 (1789)

## HIGHWAYS

In what places distresses shall not be taken. 52 Hen. 3, c. 15 (1267), 1 S.L. 67; 52 Hen. 3, St. Marl., c. 15 (1267), 1 S.R. 23

Maryland: Kilty 209

Pennsylvania: 3 Binney 600; Roberts 171

For bridges and highways. 22 Hen. 8, c. 5 (1530), 4 S.L. 199; 22 Hen. 8, c. 5 (1530-31), 3 S.R. 321

New York: Ontario Bank v. Bunnell, 10 Wend. 186 (1833)

Federal: Bank of the United States v. Deveaux, 9 U.S. (5 Cranch) 61 (1809)

An act to explain, amend, and reduce into one act of parliament, the statutes now in being, for the amendment and preservation of the publick highways within that part of Great Britain called England, and for other purposes. 13 Geo. 3, c. 78 (1773), 30 S.L. 183

New York: Bartlett v. Crozier, 17 Johns. R. 439 (1820)

South Carolina: State v. Dawson, 3 Hill (Pt. 2) 100 (1836)

## HOMICIDE

One person killing another in his own defence, or by misfortune.

An appeal of murther. 6 Edw. 1,

c. 9 (1278), 1 S.L. 124; 6 Edw. 1, St. Glouc., c. 9 (1278), 1 S.R. 49  
South Carolina: 2 Cooper 404

## HORSES

Taking of horses, carts, and wood. 9 Hen. 3, c. 21 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 43

The act that any indictment lacking these words, Vi & armis, shall be good. 37 Hen. 8, c. 8 (1545), 5 S.L. 224; 37 Hen. 8, c. 8 (1545), 3 S.R. 995

Maine: State v. Temple, 12 Me. 214 (1835)

Maryland: Kilty 233

Pennsylvania: 3 Binney 620; Roberts 324

Tennessee: Tipton v. State, 10 Tenn. 542 (1831)

An act to restrain and prevent the excessive increase of horse races, and for amending an act made in the last session of parliament, intituled, An act for the more effectual preventing of excessive and deceitful gaming. 13 Geo. 2, c. 19 (1740), 17 S.L. 392

South Carolina: Hasket v. Wootan, 1 N. & Mc. 180 (1818)

An act to explain, amend, and make more effectual the laws in being, to prevent excessive and deceitful gamings; and to restrain and prevent the excessive increase of horse races. 18 Geo. 2, c. 34 (1745), 18 S.L. 384

Maryland: Kilty 251

## HOSPITALS

Ordinaries shall inquire of, and reform the estates of hospitals. 2 Hen. 5, St. 1, c. 1 (1414), 3 S.L. 8; 2 Hen. 5, St. 1, c. 1 (1414), 2 S.R. 175

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act for erecting of hospitals, or abiding and working houses for the poor. 39 Eliz., c. 5 (1597), 7 S.L. 2; 39 Eliz., c. 5 (1597-98), 4 S.R. 902

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## HOUSES

An act for preventing frauds and abuses in the publick revenues of excise, customs, stamp-duties, post-office, and house-money.

6 Geo. 1, c. 21 (1719), 14 S.L. 262

South Carolina: State v. Anderson, 1 Hill 327 (1833)

## HOUSES OF CORRECTION

Justices of peace shall order the punishment of the mother and reputed father of a bastard, &c. 18 Eliz., c. 3 (1576), 6 S.L. 311; 18 Eliz., c. 3 (1575-76), 4 S.R. 610

New Jersey: State v. Price, 11 N.J.L. 143 (1829)

South Carolina: Rembert v. Kelly, 1 Harper 65 (1823)

An act for punishment of rogues, vagabonds and sturdy beggars. 39 Eliz., c. 4 (1597), 7 S.L. 1; 39 Eliz., c. 4 (1597-98), 4 S.R. 899

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act to amend and make more effectual the laws relating to rogues, vagabonds, and other idle and disorderly persons, and to houses of correction. 17 Geo. 2, c. 5 (1744), 18 S.L. 144

New Jersey: Boice v. Gibbons, 8 N.J.L. 324 (1826)

## HUE AND CRY

Of what things a coroner shall inquire. 4 Edw. 1, St. 2 (1276), 1 S.L. 110; 4 Edw. 1 (1275-76), 1 S.R. 40

Georgia: Schley 90

Maryland: Kilty 210

Pennsylvania: 3 Binney 601; Roberts 100

At what times the gates of great towns shall be shut, and when the night-watch shall begin and end. 13 Edw. 1, St. 2, c. 4 (1285), 1 S.L. 232; 13 Edw. 1, St. Wynton, c. 4 (1285), 1 S.R. 97

Maryland: Kilty 214

An act for the following of hue and cry. 27 Eliz., c. 13 (1585), 6 S.L. 373; 27 Eliz., c. 13 (1584-85), 4 S.R. 720

New Jersey: Schooley v. Thorne, 1 N.J.L. 71 (1791); State v. Berry, 9 N.J.L. 374 (1828)

Pennsylvania: Smith v. Schell, 13 S. & R. 336 (1825)

South Carolina: 2 Cooper 410

An act for the amendment of the law relating to actions on the statute of Hue and Cry. 8 Geo. 2, c. 16 (1735), 16 S.L. 511

Maine: Herman v. Drinkwater, 1 Me. 27 (1820)

## HUSBAND AND WIFE

The husband and wife being impleaded, shall not vouch (fourch) by essoin. 6 Edw. 1, c. 10 (1278), 1 S.L. 125; 6 Edw. 1, St. Glouc., c. 10 (1278), 1 S.R. 49

Pennsylvania: 3 Binney 602; Roberts 198

For recovery of arrearages of rents by executors of tenant in fee-simple. 32 Hen. 8, c. 37 (1540), 5 S.L. 53; 32 Hen. 8, c. 37 (1540), 3 S.R. 791

Georgia: Schley 202

Maryland: Kilty 232

New York: Ex'rs of Van Rensselaer v. Ex'rs of Platner, 2 Johns. Cas. 17 (1800); Devisees of Van Rensselaer v. Ex'rs of Platner, 2 Johns. Cas. 24 (1800)

Pennsylvania: 3 Binney 620; Roberts 254

## INDEMPITATE NOMINIS (WRIT OF)

An Indemptitate Nominis shall be granted upon the wrongful seisure

of another's person, lands, or goods. 37 Edw. 3, c. 2 (1363), 2 S.L. 161; 37 Edw. 3, c. 2 (1363), 1 S.R. 378

South Carolina: 2 Cooper 406

An indentate nominis maintainable by executors, &c. 9 Hen. 6, c. 4 (1430), 3 S.L. 159; 9 Hen. 6, c. 4 (1430-31), 2 S.R. 265

South Carolina: 2 Cooper 407

## IDIOTS

The consor of a fine shall come personally before the justices. Where a commission shall be awarded to take a fine. Who may admit attorneys. 15 Edw. 2, Statutum de Carleol. de Finibus (1322), 1 S.L. 360; St. Fines & Attorn., 1 S.R. 215

Maryland: Kilty 215

Pennsylvania: 3 Binney 610; Roberts 265

His prerogative in the custody of lands of idiots. 17 Edw. 2, St. 1, c. 9 (1324), 1 S.L. 380; Temp. Incert., 1 S.R. 226a

Kentucky: Breckenridge's Heirs v. Ormsby, 24 Ky. (1 J.J. Mar.) 236 (1829)

Maryland: Kilty 216

New York: Matter of Salisbury, 3 Johns. Ch. R. 347 (1818)

His prerogative in the preservation of the lands of lunatics. 17 Edw. 2, St. 1, c. 10 (1324), 1 S.L. 380; Temp. Incert. 1 S.R. 226a

Kentucky: Breckenridge's Heirs v. Ormsby, 24 Ky. (1 J.J. Mar.) 236 (1829)

Maryland: Kilty 216

New York: Matter of Barker, 2 Johns. Ch. R. 232 (1816); Matter of Salisbury, 3 Johns. Ch. R. 347 (1818)

An act to enable idiots and lunatics, who are seised or possessed of estates in fee, or for lives, or

terms of years, in trust, or by way of mortgage, to make conveyances, surrenders or assignments of such estates. 4 Geo. 2, c. 10 (1731), 16 S.L. 228

Georgia: Schley 355

Maryland: Owings' Case, 1 Bla. Ch. 370 (1828); Kilty 249

An act to prevent the marriage of lunatics. 15 Geo. 2, c. 30 (1742), 18 S.L. 56

Maryland: Kilty 251

## IMPEACHMENT BY THE COMMONS IN PARLIAMENT

An act for the further limitation of the crown, and better securing the rights and liberties of the subject. 12 & 13 Will. 3, c. 2 (1700), 10 S.R. 357; 12 & 13 Will. 3, c. 2 (1700 & 1701), 7 S.R. 636

Maryland: The Chancellor's Case, 1 Bla. Ch. 595 (1825)

## INDEMNIFICATION OF OFFICE HOLDERS

An act to indemnify such persons as have omitted to qualify themselves for offices and employments; and to indemnify justices of the peace, deputy lieutenants, officers of the militia, or others, who have omitted to register or deliver in their qualifications within the time limited by law, and for giving further time for those purposes. 5 Geo. 3, c. 4 (1765), 26 S.L. 167

Georgia: Low v. Comm'rs., Charlt. R.M. 302 (1830)

## IMPRISONMENT

None shall be condemned without trial. Justice shall not be sold or deferred. 9 Hen. 3, c. 29 (Magna Charta) (1225), 1 S.R. 10; 9 Hen. 3, (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 46

South Carolina: 2 Cooper 403

Tennessee: Case of Darby, 3 Wheel. Cr. C. 1 (1824)

## INDICTMENT

Jurors in indictments shall be returned by the sheriff, or bailiffs, without the denomination of any.

11 Hen. 4, c. 9 (1409), 2 S.L. 485;

11 Hen. 4, c. 9 (1409-10), 2 S.R. 165

Alabama: Boyington v. State, 2 Port. 100 (1835)

Indiana: Vattier v. State, 4 Blackf. 73 (1835)

North Carolina: State v. McEntire, 4 N.C. (Pt. 2) 287 (1815); State v. Seaborn, 15 N.C. 305 (1833)

Tennessee: Bennett v. State, 8 Tenn. 133 (1827); State v. Duncan, 15 Tenn. 271 (1834)

Virginia: Commonwealth v. Cherry, 4 Va. (2 Va. Cas.) 20 (1815); Commonwealth v. Thompson, 31 Va. (4 Leigh) 667 (1833)

No suit pending before any justices, &c. shall be discontinued by a new commission. 11 Hen. 6, c. 6 (1433), 3 S.L. 186; 11 Hen. 6, c. 6 (1433), 2 S.R. 281

Maryland: Kilty 227

Appeals or indictments of felony committed, in place where there is none such. 18 Hen. 6, c. 12 (1439), 3 S.L. 234; 18 Hen. 6, c. 12 (1439), 2 S.R. 310

South Carolina: 2 Cooper 407

The act that any indictment lacking these words, Vi & armis, shall be good. 37 Hen. 8, c. 8 (1545), 5 S.L. 224; 37 Hen. 8, c. 8 (1545), 3 S.R. 995

Maine: State v. Temple, 12 Me. 214 (1835)

Maryland: Kilty 233

Pennsylvania: 3 Binney 620; Roberts 324

Tennessee: Tipton v. State, 10 Tenn. 542 (1831)

## INFANTS

In what case the nonage of the heir of the disseiser or disseisee shall not prejudice. 3 Edw. 1,

c. 47 (1275), 1 S.L. 105; 3 Edw. 1, c. 47 (1275), 1 S.R. 38

Pennsylvania: 3 Binney 601; Roberts 317

The remedy where a guardian maketh a feoffment of his ward's land. Suit by Prochein Amy. 3 Edw. 1, c. 48 (1275), 1 S.L. 106; 3 Edw. 1, c. 48 (1275), 1 S.R. 38

Tennessee: Nelson v. Allen, 9 Tenn. 360 (1830)

An infant eloined may sue by Prochein Amy. 13 Edw. 1, St. 1, c. 15 (1285), 1 S.L. 193; 13 Edw. 1, Westminster 2d, c. 15 (1285), 1 S.R. 82

Georgia: Schley 104

Maryland: Davis v. Jacquin, 5 H. & J. 100 (1820); Kilty 212

Pennsylvania: 3 Binney 604; Roberts 317

An act to enable infants who are seized or possessed of estates in fee, in trust, or by way of mortgage, to make conveyances of such estates. 7 Anne, c. 19 (1708), 11 S.L. 501; 7 Anne, c. 19 (1708), 9 S.R. 89

Georgia: Schley 341

Maryland: Kilty 247

New York: Livingston v. Livingston, 2 Johns. Ch. R. 537 (1817)

South Carolina: 2 Cooper 412

## INFERIOR COURTS

An act for avoiding vexatious delays caused by removing actions and suits out of inferior courts. 21 Jac. 1, c. 23 (1623), 7 S.L. 292; 21 Jac. 1, c. 23 (1623-24), 4 S.R. 1232

Maryland: Kilty 238

## INFORMERS UPON PENAL LAWS

The remedy against conspirators, false informers, and embracers of juries. 28 Edw. 1, St. 3, c. 10 (1300), 1 S.L. 297; 28 Edw. 1, Artic. sup. Cart., c. 10 (1300), 1 S.R. 139



Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

An act to redress disorders in common informers. 18 Eliz., c. 5 (1576), 6 S.L. 312; 18 Eliz., c. 5 (1575-76), 4 S.R. 615

Georgia: Schley 218

Maryland: Kilty 235

New York: Clark v. Dewey, 5 Johns. R. 251 (1810); Bradway v. Le Worthy, 9 Johns. R. 251 (1812)

An act concerning informers. 31 Eliz., c. 5 (1589), 6 S.L. 402; 31 Eliz., c. 5 (1588-89), 4 S.R. 801

Maryland: Miller v. Lord Proprietary, 1 H. & McH. 543 (1774); Kilty 235

New York: Van Hook v. Whitlock, 2 Edw. 304 (1834)

North Carolina: Bridges v. Smith, 6 N.C. 53 (1811)

4 S.L. 27; 3 Hen. 7, c. 1 (1487), 2 S.R. 509

Georgia: Schley 137

Maryland: Kilty 228

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 616; Roberts 102

Virginia: Commonwealth v. Burton, 31 Va. (4 Leigh) 645 (1832)

## INSURANCE

An act to regulate insurance on ships belonging to the subjects of Great Britain, and on merchandizes or effects laden thereon. 19 Geo. 2, c. 37 (1746), 18 S.L. 510

Maryland: Kilty 252

Massachusetts: Amory v. Gilman, 2 Mass. 1 (1806); Merry v. Prince, 2 Mass. 176 (1806)

New York: Clendining v. Church, 3 Cai. R. 141 (1805); Hastie v. De Peyster, 3 Cai. R. 190 (1805); Deforest v. Fulton Fire Ins. Co., 1 N.Y. Sup. Ct. 94 (1828); Pacific Ins. Co. v. Catlett, 4 Wend. 75 (1829)

Pennsylvania: Pritchett v. Inc. Co. of No. America, 3 Yeates 458 (1803)

An act for the further and better regulation of buildings, and party-walls; and for the more effectually preventing mischiefs by fire within the cities of London and Westminster, and the liberties thereof, and other the parishes, precincts, and places, within the weekly bills of mortality, the parishes of Saint Mary-le-bon, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the county of Middlesex; and for indemnifying, under certain conditions, builders and other persons against the penalties to which they are or may be liable for erecting buildings within the limits aforesaid contrary to law. 14 Geo. 3, c. 78 (1774), 30 S.L. 483

## INQUEST

Nisi prius may be granted as well at the tenants suit as the demandants. 2 Edw. 3, c. 16 (1328), 1 S.L. 429; 2 Edw. 3, St. Northampt., c. 16 (1328), 1 S.R. 260

Pennsylvania: 3 Binney 610; Roberts 357

No indictor shall be put upon the inquest of the party indicted. 25 Edw. 3, St. 5, c. 3 (1350), 2 S.L. 53; 25 Edw. 3, St. 5, c. 3 (1351-52), 1 S.R. 320

Georgia: Schley 124

Maryland: Kilty 220

New York: People v. Vermilyea, 7 Cow. 108 (1827)

Pennsylvania: 3 Binney 611; Roberts 335

South Carolina: 2 Cooper 405

The authority of the court of star-chamber. Where one inquest shall enquire of the concealment of another. A coroner's duty after a murder committed. A justice of peace shall certify his recognisances, &c. 3 Hen. 7, c. 1 (1486),

New York: *Campbell v. Mesier*,  
4 Johns. Ch. R. 334 (1820)

#### INTESTATES' ESTATES

The ordinary chargeable to pay debts as executors. 13 Edw. 1, St. 1, c. 19 (1285), 1 S.L. 194; 13 Edw. 1, Westminster 2d, c. 19 (1285), 1 S.R. 82

Georgia: *Schley* 104

Maryland: *Corrie's Case*, 2 Bla. Ch. 488 (1830)

South Carolina: *Hays v. Harley*, 1 Mill 267 (1817); 2 Cooper 404

Tennessee: *Lasseter v. Turner*, 9 Tenn. 413 (1830)

Virginia: *Dykes & Co. v. Woodhouse's Adm'r*, 24 Va. (3 Rand.) 287 (1825)

An act for the better settling of intestates estates. 22 & 23 Car. 2, c. 10 (St. 2, c. 6) (1670), 8 S.L. 347; 22 & 23 Car. 2, c. 10 (1670 & 1671), 5 S.R. 719

Connecticut: *Heath v. White*, 5 Conn. 228 (1824)

Georgia: *Carnochan v. Abrahams*, *Charlt. T.U.P.* 196 (1810)

Maryland: *State v. Jameson*, 3 G. & J. 442 (1831)

New Hampshire: *Judge of Probate v. Chamberlain*, 3 N.H. 129 (1824)

New Jersey: *Dickerson v. Robinson*, 6 N.J.L. 195 (1822); *Ordinary v. Snook*, 10 N.J.L. 65 (1828)

New York: *Foster v. Wilbert*, 1 Pai. Ch. 537 (1829); *Carow v. Mowatt*, 2 Edw. 56 (1833)

North Carolina: *Davis v. Duke's Adm'r*, 1 Tayl. 213 (1801); 1 C. & N. 361 (1801); *Hoskins v. Miller*, 13 N.C. 360 (1830)

Ohio: *Stewart v. Treasurer*, 4 Hamm. 98 (1-4 Ohio 733) (1828)

Pennsylvania: *Lessee of Ware v. Fisher*, 2 Yeates 578 (1800); *Harris v. Hayes*, 6 Binn. 422 (1814); *Oyster v. Oyster*, 1 S. & R. 422 (1815); *Bevan v. Taylor*, 7 S. & R. 397 (1821); *Reed v. Commonwealth*, 11 S. & R. 441 (1824); *Kendall v. Lee*, 2 Pen. &

W. 482 (1831); *Potts v. Smith*, 3 Rawle 361 (1832)

Rhode Island: *Gardner v. Collins*, 3 Mas. 398 (1824)

South Carolina: *Ordinary v. Phillpot*, 1 Bay 456 (1795); *Guerard v. Guerard* (*Wren v. Carnes*), 4 Desaus. Eq. 405 (1813); *Sturginger v. Hannah*, 2 N. & Mc. 147 (1819); *Ordinary v. Bonner*, 2 Hill 468 (1834); *Edwards v. Barksdale*, 2 Hill Eq. 416 (1836); 2 Cooper 411

Tennessee: *Lasseter v. Turner*, 9 Tenn. 413 (1830); *Sturdevant v. Goodrich*, 11 Tenn. 95 (1832)

Virginia: *Gordon's Adm'r's v. Justices of Frederick*, 15 Va. (1 Munf.) 1 (1810); *Dykes & Co. v. Woodhouse's Adm'r*, 24 Va. (3 Rand.) 287 (1825); *Kirkpatrick v. Gibson*, 2 Brock. 388 (1828)

An act for reviving and continuance of several acts of parliament therein mentioned. 1 Jac. 2, c. 17 (1685), 8 S.L. 463; 1 Jac. 2, c. 17 (1685), 6 S.R. 19

New Jersey: *Orange v. Springfield*, 14 N.J.L. 321 (1834)

New York: *Foster v. Wilbert*, 1 Pai. Ch. 537 (1829)

North Carolina: *Davis v. Duke's Adm'r*, 1 Tayl. 213 (1801); 1 C. & N. 361 (1801)

Pennsylvania: *Lessee of Ware v. Fisher*, 2 Yeates 578 (1800); *Harris v. Hayes*, 6 Binn. 422 (1814); *Bevan v. Taylor*, 7 S. & R. 397 (1821)

South Carolina: 2 Cooper 411

#### INTRUSION

An act to admit the subject to plead the general issue in informations of intrusions brought on the behalf of the King's majesty, and retain his possession till trial. 21 Jac. 1, c. 14 (1623), 7 S.L. 272; 21 Jac. 1, c. 14 (1623-24), 4 S.R. 1221

Tennessee: *M'Donald v. Johns*, 12 Tenn. 258 (1833)

## ISLANDS

An act for the better securing the liberty of the subject, and for prevention of imprisonments beyond the seas. 31 Car. 2, c. 2 (1679), 8 S.L. 432; 31 Car. 2, c. 2 (1679), 5 S.R. 935

Georgia: State v. Segar, Charl't.

T.U.P. 24 (1805); Schley 262

New Jersey: Peltier v. Pennington, 14 N.J.L. 312 (1834)

New York: Case of Yates, Yates

Sel. Ca. (1809); Yates v. People, 6 Johns. R. 337 (1810); Goodwin's Case, 5 Rog. N.Y. City H. Rec. 11 (1820)

Pennsylvania: Respublica v. Arnold, 3 Yeates 263 (1801)

South Carolina: Barton v. Keith, 2 Hill 537 (1835)

Federal: United States v. Bollman, 1 Cranch C.C. 373 (1807)

## JEOfAILS

An act for reformation of jeofails.

18 Eliz., c. 14 (1576), 6 S.L. 329;

18 Eliz. c. 14 (1575-76), 4 S.R. 625

Georgia: Schley 223

Kentucky: Anderson v. Barry, 25

Ky. (2 J.J. Mar.) 265 (1829)

Maryland: Kilty 235

New York: Inglis v. Trustees of

Sailor's Snug Harbor, 28 U.S. (3 Pet.) 99 (1830)

North Carolina: Powell v. Hampton,

1 N.C. (C. & N.) 86 (1800);

Bickerstaff v. Dellinger, 1 N.C.

(C. & N.) 299 (1801); West v.

Ratledge, 15 N.C. 31 (1833)

Pennsylvania: Commonwealth v.

Smith, 2 S. & R. 300 (1816); 3

Binney 621; Roberts 37

Virginia: Jenkins v. Hurt's

Comm'rs, 23 Va. (2 Rand.) 446 (1824)

An act for the further reformation

of jeofails. 21 Jac. 1, c. 13

(1623), 7 S.L. 271; 21 Jac. 1,

c. 13 (1623-24), 4 S.R. 1221

Georgia: Wilson v. Ray, Charl't.

T.U.P. 109 (1807)

Maryland: Giles v. Perryman, 1 H. & G. 164 (1827); Kilty 237

Pennsylvania: Commonwealth v.

Smith, 2 S. & R. 300 (1816);

3 Binney 623; Roberts 38

## JEWS

The form of acknowledging a statute merchant. The creditor's remedy if his debt be not paid.

The King's seals shall be sent to keepers of fairs. Taking of recognisance. 13 Edw. 1, St. 3, c. 1 (1285), 1 S.L. 236; 13 Edw. 1, St. Merchants (1285), 1 S.R. 98

Delaware: Ex Parte Dixon, 1 Del. Ch. 261 (1824)

Maryland: Coombs v. Jordan, 3 Bla. Ch. 284 (1831)

Ohio: Dewitt v. Osburn, 5 Ohio 480 (1832)

South Carolina: Dupont v. Screven, 2 Hill 298 (1834)

## JOINT TENANCY AND TENANT

Waste maintainable by one tenant in common against another.

13 Edw. 1, St. 1, c. 22 (1285), 1 S.L. 196; 13 Edw. 1, Westminster 2d, c. 22 (1285), 1 S.R. 83

Georgia: Schley 106

Maryland: Kilty 212

New York: Hawley v. Clowes, 2

Johns. Ch. R. 122 (1816)

Pennsylvania: 3 Binney 604; Roberts 420

Jointenency pleaded in abatement of a writ, &c. 34 Edw. 1, St. 1, (1306), 1 S.L. 313; 34 Edw. 1, St. Joint-Ten. (1306), 1 S.R. 145

Pennsylvania: 3 Binney 609; Roberts 159

For joint tenants and tenants in common. 31 Hen. 8, c. 1 (1539), 4 S.L. 447; 31 Hen. 8, c. 1 (1539), 3 S.R. 718

Delaware: Ex Parte Burgess, 1 Del. Ch. 233 (1822)

Kentucky: Coleman v. Hutchenson, 6 Ky. (3 Bibb) 209 (1813); Venable

v. Beauchamp, 33 Ky. (3 Dana)  
321 (1835)

Maine: Hanson v. Willard, 12 Me.  
142 (1835)

Maryland: Kilty 231

Massachusetts: Mussey v. Sanborn,  
15 Mass. 155 (1818)

New Jersey: Stevens v. Enders,  
13 N.J.L. 271 (1833)

New York: Devisees of Van Rensselaer v. Ex'rs of Platner, 2  
Johns. Cas. 24 (1800); Bradshaw  
v. Callaghan, 8 Johns. R. 558  
(1811); Gallatien v. Cunningham,  
8 Cow. 361 (1826)

Pennsylvania: Vidal v. Girard, 1  
Miles 322 (1836); Weiser v.  
Weiser, 5 Watts 279 (1836);  
3 Binney 619; Roberts 217

South Carolina: Spann v. Blocker,  
2 N. & Mc. 593 (1820); 2 Cooper  
408

Virginia: Thornton v. Thornton,  
24 Va. (3 Rand.) 179 (1825)

## JUDGES

An act for rendering more effectual the provisions in an act made in the twelfth and thirteenth years of the reign of his late majesty King William the Third (intituled, An act for the further limitation of the crown, and better securing the rights and liberties of the subject) relating to the commissions and salaries of judges. 1 Geo. 3, c. 23 (1760), 23 S.L. 305

Maryland: The Chancellor's Case,  
1 Bla. Ch. 595 (1825)

## JUDGMENTS

Judgments given shall continue until they shall be reversed by attain or error. 4 Hen. 4, c. 23 (1402), 2 S.L. 442; 4 Hen. 4, c. 23 (1402), 2 S.R. 142

South Carolina: 2 Cooper 406

Virginia: Waddy v. Sturman, Jeff. 5 (1731)

An act to prevent arrests of judgment, and superseding executions. 16 & 17 Car. 2, c. 8 (1664), 8 S.L.

213; 16 & 17 Car. 2, c. 8 (1664 & 1665), 5 S.R. 556

Connecticut: Judson v. Blanchard,  
3 Conn. 579 (1821)

Delaware: Long's Adm'r v. Spear,  
1 Del. Cas. 393 (1796)

Georgia: Low v. Comm'rs., Charlt.  
R.M. 302 (1830); Schley 244

Kentucky: Birney v. Haim, 12 Ky.

(2 Litt.) 262 (1822); Leather's  
Rep's v. M'Glasson, 19 Ky. (3 T.B.  
Mon.) 223 (1826); Walton v.  
Kindreds' Adm'x, 21 Ky. (5 T.B.  
Mon.) 388 (1827)

Maine: Morton v. Chase, 15 Me. 188  
(1838)

Maryland: Strike's Case, 1 Bla. Ch.  
57 (1825); Strike v. M'Donald,  
2 H. & G. 191 (1828); Kilty 239

New York: Messonier v. Kauman,  
3 Johns. Ch. R. 66 (1817)

North Carolina: Gidney v. Hallsey,  
9 N.C. 550 (1823)

Ohio: Howe v. Dawson, Tap. 201  
(1817)

Pennsylvania: Henry v. Boyle, 1  
Miles 386 (1830); 3 Binney 624;  
Roberts 39

South Carolina: 2 Cooper 411

## JURY

The authority of justices of Nisi prius. Adjournment of suits. Certain writs that are determinable in their proper counties. A jury may give their verdict at large. None but who were summoned shall be put in assises or juries. 13 Edw. 1, St. 1, c. 30 (1285), 1 S.L. 203; 13 Edw. 1, Westminster 2d, c. 30 (1285), 1 S.R. 85

New Jersey: Springer v. Reeves,  
4 N.J.L. 207 (1818)

New York: People v. Croswell, 3  
Johns. Cas. 337 (1804); 3 Wheel.  
Cr. C. 330 (1804)

Pennsylvania: 3 Binney 605;  
Roberts 326

The remedy against conspirators, false informers, and embracers of juries. 28 Edw. 1, St. 3, c. 10

(1300), 1 S.L. 297; 28 Edw. 1,  
Artic. sup. Cart., c. 10 (1300),  
1 S.R. 139

Maryland: State v. Buchanan, 5 H.  
& J. 317 (1821)

He that challengeth a jury or juror  
for the King shall shew his cause.

33 Edw. 1, St. 4 (1305), 1 S.L. 309;  
33 Edw. (1305), 1 S.R. 143

Georgia: Schley 115

Maryland: Kilty 214

North Carolina: State v. Benton,  
19 N.C. 196 (1836)

Pennsylvania: 3 Binney 609;  
Roberts 328

The punishment of a juror that is  
ambidexter, and taketh money.

5 Edw. 3, c. 10 (1331), 1 S.L. 445;  
5 Edw. 3, c. 10 (1331), 1 S.R. 267

Pennsylvania: 3 Binney 610;  
Roberts 332

South Carolina: 2 Cooper 405

The penalty of a juror taking re-  
ward to give his verdict. 34 Edw.

3, c. 8 (1360), 2 S.L. 139; 34 Edw.  
3, c. 8 (1360-61), 1 S.R. 366

Pennsylvania: 3 Binney 612;  
Roberts 333

South Carolina: 2 Cooper 406

The punishment of a juror taking  
reward to give verdict, and of

embraceors. 38 Edw. 3, St. 1,  
c. 12 (1363), 2 S.L. 172; 38 Edw.  
3, St. 1, c. 12 (1363-64), 1 S.R.  
384

Pennsylvania: 3 Binney 612;  
Roberts 333

South Carolina: 2 Cooper 406

For abjurations and sanctuaries.  
22 Hen. 8, c. 14 (1530), 4 S.L. 208;

22 Hen. 8, c. 14 (1530-31), 3 S.R.  
332

North Carolina: State v. Gayner,  
1 N.C. (C. & N.) 305 (1801)

South Carolina: 2 Cooper 408

Tennessee: Garner v. State, 13  
Tenn. 160 (1833)

For such as stand mute, &c.

25 Hen. 8, c. 3 (1533), 4 S.L. 264;

25 Hen. 8, c. 3 (1533-34), 3 S.R. 439

New York: Butler's Case, 4 Rog.

N.Y. City H. Rec. 77 (1819)

North Carolina: State v. Seaborn,  
15 N.C. 305 (1833)

South Carolina: 2 Cooper 408

An act to make up the jury with  
circumstantibus, where the King  
and Queen's Majesty is a party.

4 & 5 Phil. & M., c. 7 (1557), 6  
S.L. 102; 4 & 5 Phil. & M., c. 7  
(1557-58), 4 S.R. 328

Maryland: Kilty 234

An act for reviving, continuing,  
and explaining several laws there-  
in mentioned, which are expired  
and near expiring. 4 & 5 W. & M.,  
c. 24 (1692), 9 S.L. 229; 4 W. & M.,  
c. 24 (1692), 6 S.R. 416

Delaware: Burton v. McCullen, 2  
Del. Cas. 20 (1807)

Georgia: Schley 286

Maryland: Sibley v. Williams,  
3 G. & J. 52 (1830)

New Jersey: Schenck v. Ex'rs of  
Schenck, 3 N.J.L. 149, 2 Penning.  
562 (1809); Dickerson v. Robinson,  
6 N.J.L. 195 (1822)

Pennsylvania: Pott v. Smith, 3 Rawle  
361 (1832)

South Carolina: Trescot v. Trescot,  
1 McCord Eq. 417 (1826)

An act for making perpetual an  
act for the more easy recovery of  
small tithes; and also an act for  
the more easy obtaining partition  
of lands in coparcenary, joint  
tenancy, and tenancy in common;  
and also for making more effec-  
tual and amending several acts  
relating to the return of jurors.  
3 & 4 Anne, c. 18 (1704), 11 S.L.  
113; 3 & 4 Anne, c. 16 (1704),  
8 S.R. 366

Kentucky: O'Bannon v. Roberts'  
Heirs, 32 Ky. (2 Dana) 54 (1834)

An act for the amendment of the law, and the better advancement of justice. 4 Anne, c. 16 (1705), 11 S.L. 155; 4 & 5 Anne, c. 3 (1705), 8 S.R. 458

Connecticut: Judson v. Blanchard, 3 Conn. 579 (1821)

Delaware: Vandegrift v. Haughey, 1 Del. Cas. 338 (1793); 2 Del. Cas. 13 (1793); Evans v. Boggs, 1 Del. Cas. 18 (1794); 1 Del. Cas. 349 (1794); Horsey's Ex'rs v. Moore, 1 Del. Cas. 122 (1796); Robinson v. Ingram, 1 Del. Cas. 242 (1799); Ford's Lessee v. Hays, 1 Del. (1 Harr.) 48 (1832)

Georgia: Moss v. Wood, Charlt. R.M. 42 (1819); Schley 326

Kentucky: Leather's Rep's v. M'Glasson, 19 Ky. (3 T.B. Mon.) 223 (1826); Nelson's Heirs v. Clay's Heirs, 30 Ky. (7 J.J. Mar.) 138 (1832)

Maryland: Gorsuch v. Holmes (Osborn v. Jones), 4 H. & McH. 5 (1792); Union Bank v. Ridgely, 1 H. & G. 324 (1827); Hammond v. Hammond, 2 Bla. Ch. 306 (1830); Buckingham v. Peddicord, 2 Bla. Ch. 447 (1830); Brown v. Wallace, 2 Bla. Ch. 585 (1830); Addison v. Bowie, 2 Bla. Ch. 606 (1830); Salmon v. Clagett, 3 Bla. Ch. 125 (1830); Hall v. McPherson, 3 Bla. Ch. 529 (1832); Sasscer v. Walker's Ex'rs, 5 G. & J. 102 (1833); Kilty 245

Massachusetts: Jones v. Harraden (Brigham v. Eveleth), 9 Mass. n. 541 (1784); Brigham v. Eveleth, 9 Mass. 538 (1813); Bond v. Cutler, 10 Mass. 419 (1813); Farley v. Thompson, 15 Mass. 18 (1818); Jackson v. Stetson, 15 Mass. 48 (1818); Parker v. Parker, 34 Mass. (17 Pick.) 236 (1835)

New Hampshire: Chapman v. Sloan, 2 N.H. 464 (1822)

New York: Cheetham v. Lewis, 3 Johns. R. 42 (1808); Lansing v. Capron, 1 Johns. Ch. R. 617 (1815); Jones v. Clark, 20 Johns.

R. 51 (1822); Kane v. Bloodgood, 7 Johns. Ch. R. 90 (1823); In the Matter of Hemiup, 2 Pai. Ch. 316 (1830); Oakley's Ex'rs v. Romeyn's Heirs, 6 Wend. 521 (1831)

North Carolina: Powell v. Hampton, 1 C. & N. 86 (1800); Bickerstaff v. Dellinger, 1 C. & N. 299 (1801); Chambers v. Chambers, 10 N.C. 232 (1824); Morrison v. Connelly, 13 N.C. 233 (1829); Briley v. Sugg, 21 N.C. 366 (1836)

Ohio: Lowther v. Lawrence, Wright (Ohio) 180 (1833)

Pennsylvania: Rapp v. Elliot, 1 Yeates 185 (1792); Kesselman's Lessee v. Old, 4 Dall. 168 (1799); Lessee of Eshelman v. Hoke, 2 Yeates 509 (1799); Griffith v. Willing, 3 Binn. 317 (1811); Hopkins v. Deaves, 2 Bro. (Pa.) 93 (1811); Wentz v. Dehaven, 1 S. & R. 312 (1815); Roop v. Meek, 6 S. & R. 542 (1821); Carl v. Commonwealth, 9 S. & R. 63 (1822); Jourdan v. Jourdan, 9 S. & R. 268 (1823); Irvine v. Hanlin, 10 S. & R. 219 (1823); Lynn v. M'Millen, 3 Pen. & W. 170 (1831); Vicary v. Moore, 2 Watts 451 (1834); Pepper v. Doores, 1 Miles 60 (1835); M'Mackin v. M'Farland, 1 Miles 319 (1836); 3 Binney 625; Roberts 43

Rhode Island: Sisson v. Seabury, 1 Sumn. 235 (1832)

South Carolina: Fraser v. McLeod, 1 Brev. 198 (1802); Gaillard v. Ball, 1 N. & Mc. 67 (1818); O'Driscoll v. M'Burney, 2 N. & Mc. 58 (1819); City Council v. Price, 1 McCord 299 (1821); Nicks v. Martindale, 1 Harp. 138 (1824); Thomas v. Wilson, 3 McCord 166 (1825); Solomon v. Evans, 3 McCord 274 (1825); Barino v. M'Gee, 3 McCord 452 (1826); M'Lure v. Vernon, 2 Hill 420 (1834); 2 Cooper 412

Tennessee: Slatton v. Jonson, 5 Tenn. 197 (1817); Payton v. Trigg, 5 Tenn. 250 (1817); Johnston v. Dew, 6 Tenn. 224 (1818); Harmon

v. Crook, 10 Tenn. 127 (1826);  
 Hill v. State, 10 Tenn. 248 (1829)  
Virginia: Carthrae v. Clarke, 32  
 Va. (5 Leigh) 268 (1834)

An act for the better regulation of  
 juries. 3 Geo. 2, c. 25 (1730),  
 16 S.L. 161

Delaware: Wilds v. Green, 2 Del.  
 Cas. 292 (1817)

Federal: United States v. White,  
 4 Mas. 158 (1826); Hall v. Perott,  
 Bald. C.C. 123 (1830)

## JUSTICE

None shall be condemned without  
 trial. Justice shall not be sold or  
 deferred. 9 Hen. 3, c. 29 (Magna  
 Charta) (1225), 1 S.L. 10; 9 Hen.  
 3 (Magna Charta) (1224-25), 1  
 S.R. 22

Georgia: Schley 46

South Carolina: 2 Cooper 403

Tennessee: Case of Darby, 3 Wheel.  
 Cr. C. 1 (1824)

## JUSTICES

None of the King's officers shall  
 commit extortion. 3 Edw. 1, c.  
 26 (1275), 1 S.L. 93; 3 Edw. 1,  
 c. 26 (1275), 1 S.R. 33

D.C.: Swann v. Ringgold, 4 Cranch  
 C.C. 238 (1832)

Virginia: Swann v. Ringgold, 4  
 Cranch C.C. 238 (1832)

Justices shall have authority to  
 punish breakers of the peace.

2 Edw. 3, c. 6 (1328), 1 S.L. 424;  
 2 Edw. 3, c. 6 (1328), 1 S.R. 259

South Carolina: 2 Cooper 404

Justices of assise shall enquire  
 of and punish the misdemeanour  
 of officers and other offenders.

20 Edw. 3, c. 6 (1346), 2 S.L. 25;  
 20 Edw. 3, c. 6 (1346), 1 S.R. 305

South Carolina: 2 Cooper 405

The justices may in certain cases  
 amend defaults in records. 8  
 Hen. 6, c. 15 (1429), 3 S.L. 137;  
 8 Hen. 6, c. 15 (1429), 2 S.R. 252

Connecticut: Judson v. Blanchard,  
 3 Conn. 579 (1821)

Georgia: Schley 134

Kentucky: Jeffrey's Heirs v. Callis,  
 34 Ky. (4 Dana) 465 (1836)

Maryland: Kilty 227

Pennsylvania: 3 Binney 615;  
 Roberts 34

South Carolina: Rep's of Bourdeaux  
 v. Treasurers, 3 McCord 142  
 (1825); 2 Cooper 407

Federal: Wilson v. Berry, 2 Cranch  
 C.C. 707 (1826)

## JUSTICES OF ASSIZE AND GAOL DELIVERY

In what cases only pardon of felony  
 shall be granted. Who shall be  
 justices of assise, &c. 2 Edw. 3,  
 c. 2 (1328), 1 S.L. 421; 2 Edw. 3,  
 c. 2 (1328), 1 S.R. 257

South Carolina: 2 Cooper 404

The authority of justices of assise,  
 gaol-delivery, and of the peace.

4 Edw. 3, c. 2 (1330), 1 S.L. 430;

4 Edw. 3, c. 2 (1330), 1 S.R. 261

Maryland: Kilty 216

North Carolina: State v. Mills, 13  
 N.C. 555 (1830)

Pennsylvania: 3 Binney 610;  
 Roberts 311

South Carolina: 2 Cooper 405

Justices of gaol-delivery, &c. and  
 their associates, shall take an oath.

20 Edw. 3, c. 3 (1346), 2 S.L. 23;

20 Edw. 3, c. 3 (1346), 1 S.R. 304

Maryland: Snowden v. Snowden, 1  
 Bla. Ch. 550 (1829)

Justices of assise shall enquire of  
 and punish the misdemeanour of  
 officers and other offenders.

20 Edw. 3, c. 6 (1346), 2 S.L. 25;

20 Edw. 3, c. 6 (1346), 1 S.R. 305

South Carolina: 2 Cooper 405

Records shall not be amended or  
 impaired after judgment inrolled.

11 Hen. 4, c. 3 (1409), 2 S.L. 481;

11 Hen. 4, c. 3 (1409-10), 2 S.R. 162

Maryland: Kilty 225

## JUSTICES OF EITHER BENCH

The authority of justices of Nisi prius. Adjournment of suits. Certain writs that are determinable in their proper counties. A jury may give their verdict at large. None but who were summoned shall be put in assises or juries. 13 Edw. 1, St. 1, c. 30 (1285), 1 S.L. 203; 13 Edw. 1, Westminster 2d, c. 30 (1285), 1 S.R. 85

New Jersey: Springer v. Reeves, 4 N.J.L. 207 (1818)

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 605; Roberts 326

## JUSTICES OF NISI PRIUS

The authority of justices of Nisi prius. Adjournment of suits. Certain writs that are determinable in their proper counties. A jury may give their verdict at large. None but who were summoned shall be put in assises or juries. 13 Edw. 1, St. 1, c. 30 (1285), 1 S.L. 203; 13 Edw. 1, Westminster 2d, c. 30 (1285), 1 S.R. 85

New Jersey: Springer v. Reeves, 4 N.J.L. 207 (1818)

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 605; Roberts 326

Justices of Nisi Prius shall record nonsuits, defaults, &c. 12 Edw. 2, St. 1, c. 4 (1318), 1 S.L. 354; 12 Edw. 2, St. Ebor., c. 4 (1318), 1 S.R. 178

Pennsylvania: 3 Binney 609; Roberts 357

Justices of Nisi prius may give judgment of a man attainted or acquitted of felony. 14 Hen. 6, c. 1 (1435), 3 S.L. 199; 14 Hen. 6, c. 1 (1435), 2 S.R. 289

South Carolina: 2 Cooper 407

## JUSTICES OF PEACE

Justices shall have authority to punish breakers of the peace. 2 Edw. 3, c. 6 (1328), 1 S.L. 424; 2 Edw. 3, c. 6 (1328), 1 S.R. 259  
South Carolina: 2 Cooper 404

The authority of justices of assise, gaol-delivery, and of the peace. 4 Edw. 3, c. 2 (1330), 1 S.L. 430; 4 Edw. 3, c. 2 (1330), 1 S.R. 261

Maryland: Kilty 216

North Carolina: State v. Mills, 13 N.C. 555 (1830)

Pennsylvania: 3 Binney 610; Roberts 311

South Carolina: 2 Cooper 405

What sort of persons shall be justices of the peace; and what authority they shall have. 34 Edw. 3, c. 1 (1360), 2 S.L. 135; 34 Edw. 3, c. 1 (1360-61), 1 S.R. 364

D.C.: Ex Parte Reed, 4 Cranch C.C. 582 (1835)

Georgia: Schley 126

Maryland: Ex Parte Reed, 4 Cranch C.C. 582 (1835); Kilty 220

Massachusetts: Commonwealth v. Leach, 1 Mass. 59 (1804); Commonwealth v. Knowlton, 2 Mass. 530 (1807)

New York: Ex Parte Rhodes, 2 Wheel. Cr. C. 559 (1816)

Pennsylvania: Commonwealth v. Duane (Commonwealth v. Davies), 1 Binn. 97 (1806); 2 Wheel. Cr. C. (N.Y.) 533 (1807); Kroemer v. Commonwealth, 3 Binn. 577 (1811); 3 Binney 612; Roberts 339

Justices of peace shall imprison none but in the common gaol. 5 Hen. 4, c. 10 (1403), 2 S.L. 452; 5 Hen. 4, c. 10 (1403-04), 2 S.R. 146

Maryland: Kilty 225

All justices of peace shall execute their commission, redress injuries, and maintain the laws. 4 Hen. 7, c. 12 (1487), 4 S.L. 43; 4 Hen. 7, c. 12 (1488-89), 2 S.R. 536



Maryland: Kilty 229

South Carolina: 2 Cooper 407

An act to empower justices of the peace to act in certain cases relating to parishes and places, to the rates and taxes of which they are rated or chargeable. 16 Geo. 2, c. 18 (1743), 18 S.L. 121

New Jersey: Township of Vernon v. Township of Wantage, 2 N.J.L. 311 (1807)

Pennsylvania: Overseers of Upper Dublin v. Overseers of Germantown, 1 Yeates 250 (1793)

An act for the rendering justices of the peace more safe in the execution of their office; and for indemnifying constables and others acting in obedience to their warrants. 24 Geo. 2, c. 44 (1751), 20 S.L. 279

Kentucky: Jarman v. Patterson, 23 Ky. (7 T.B. Mon.) 644 (1828)

Maryland: Kilty 253

Pennsylvania: Mitchell v. Cowgill, 4 Binn. 20 (1811); Little v. Toland, 6 Binn. 83 (1813); Slocum v. Perkins, 3 S. & R. 295 (1817); Miller v. Smith, 12 S. & R. 145 (1824); Wise v. Wills, 2 Rawle 208 (1828)

South Carolina: Rembert v. Kelly, 1 Harp. 65 (1823)

Federal: The Bolina, 1 Gall. 75 (1812)

An act for amending and making more effectual a clause in an act passed in the last session of parliament, for the apprehending of persons in any county or place upon warrants granted by justices of the peace of any other county or place. 24 Geo. 2, c. 55 (1751), 20 S.L. 310

Georgia: Schley 380

232; 13 Edw. 1, St. Wynton, c. 4 (1285), 1 S.R. 97

Maryland: Kilty 214

Justices shall have authority to punish breakers of the peace.

2 Edw. 3, c. 6 (1328), 1 S.L. 424;

2 Edw. 3, c. 6 (1328), 1 S.R. 259

South Carolina: 2 Cooper 404

## THE KING

An act for taking away the court of wards and liveries, and tenures in capite, and by knights-service, and purveyance, and for settling a revenue upon his Majesty in lieu thereof. 12 Car. 2, c. 24 (1660), 7 S.L. 472; 12 Car. 2, c. 24 (1660), 5 S.R. 259

D.C.: Mauro v. Ritchie, 3 Cranch C.C. 147 (1827)

Georgia: Schley 242

Maryland: Davis v. Jacquin, 5 H. & J. 100 (1820); Mauro v. Ritchie, 3 Cranch C.C. 147 (1827); Corrie's Case, 2 Bla. Ch. 488 (1830); Kilty 238

New York: Jackson v. Schutz, 18 Johns. R. 174 (1820)

North Carolina: Mills v. McAllister, 2 N.C. 350 (1796)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833); 3 Binney 623; Roberts 312

An act for reviving and continuance of several acts of parliament therein mentioned. 1 Jac. 2, c. 17 (1685), 8 S.L. 463; 1 Jac. 2, c. 17 (1685), 6 S.R. 19

New Jersey: Orange v. Springfield, 14 N.J.L. 321 (1834)

New York: Foster v. Wilbert, 1 Pai. Ch. 537 (1829)

North Carolina: Davis v. Duke's Adm'r, 1 Tayl. 213 (1801); 1 N.C. (C. & N.) 361 (1801)

Pennsylvania: Lessee of Ware v. Fisher, 2 Yeates 578 (1800);

Harris v. Hayes, 6 Binn. 422

(1814); Bevan v. Taylor, 7 S. & R. 397 (1821)

South Carolina: 2 Cooper 411

## KEEPING THE PEACE

At what times the gates of great towns shall be shut, and when the night-watch shall begin and end. 13 Edw. 1, St. 2, c. 4 (1285), 1 S.L.

## KING'S BENCH PRISON

Sheriffs. 19 Hen. 7, c. 10 (1503),  
4 S.L. 91; 19 Hen. 7, c. 10 (1503-  
04), 2 S.R. 654

Georgia: State v. Dews, Charl't.  
R.M. 397 (1835)

Maryland: Kilty 230

## KING'S DEBTOR

The King's debtor dying, the King  
shall be first paid. 9 Hen. 3,  
c. 18 (Magna Charta) (1225), 1  
S.L. 7; 9 Hen. 3 (Magna Charta)  
(1224-25), 1 S.R. 22

Georgia: Schley 41

Maryland: Griffith v. Griffith's  
Ex'rs, 4 H. & McH. 101 (1798);  
Hammond v. Hammond, 2 Bla.  
Ch. 306 (1829); Kilty 205

South Carolina: 2 Cooper 403

## KING'S LAND

No forfeiture, but a fine shall be  
made for alienation of lands  
holden of the king. 1 Edw. 3,  
St. 2, c. 12 (1327), 1 S.L. 418;  
1 Edw. 3, St. 2, c. 12 (1326-27),  
1 S.R. 256

New York: Jackson v. Schutz, 18  
Johns. R. 174 (1820)

How the King shall be answered  
the mesne rates of lands coming  
to him by his tenant's death.  
28 Edw. 3, c. 4 (1354), 2 S.L. 97;  
28 Edw. 3, c. 4 (1354), 1 S.R. 345  
Federal: Ex Parte Crane, 30 U.S.  
(Pet.) 190 (1831)

## KING'S MINISTERS AND OFFICERS

None shall commit champerty, to  
have part of the thing in question.  
3 Edw. 1, c. 25 (1275), 1 S.L. 93;  
3 Edw. 1, c. 25 (1275), 1 S.R. 33  
New York: Thalimer v. Brinkerhoff,  
20 Johns. R. 386 (1823); Thall-  
himer v. Brinkerhoff, 3 Cow.  
623 (1824)

None of the King's officers shall  
commit extortion. 3 Edw. 1, c.  
26 (1275), 1 S.L. 93; 3 Edw. 1,  
c. 26 (1275), 1 S.R. 33

D.C.: Swann v. Ringgold, 4 Cranch  
C.C. 238 (1832)  
Virginia: Swann v. Ringgold, 4  
Cranch C.C. 238 (1832)

28 Edw. 1, St. 3, c. 11 (1300),  
1 S.L. 298; 28 Edw. 1, Artic. sup.  
Cart., c. 11 (1300), 1 S.R. 139

Georgia: Schley 114

New York: Jackson v. Ketchum, 8  
Johns. R. (1811); Thalimer v.  
Brinkerhoff, 20 Johns. R. 386  
(1823); Thallhimer v. Brincker-  
hoff, 3 Cow. 623 (1824)

North Carolina: 2 Cooper 404

Tennessee: Whitesides v. Martin,  
15 Tenn. 384 (1835)

## KING'S PRIVY SEAL

Which prisoners be mainpernable,  
and which not. The penalty for  
unlawful bailment. 3 Edw. 1,  
c. 15 (1275), 1 S.L. 84; 3 Edw. 1,  
c. 15 (1275), 1 S.R. 30

Georgia: Schley 83

Maryland: Kilty 209

Ohio: Fight v. State, 7 Hamm.,  
Pt. 1, 180, 6 & 7 Ohio 327 (1835)

Rhode Island: Sisson v. Seabury,  
1 Sumn. 235 (1832)

South Carolina: Baston v. Keith,  
2 Hill 537 (1835)

An act for the repeal of certain  
statutes concerning treasons and  
felonies. 1 Edw. 6, c. 12 (1547),  
5 S.L. 259; 1 Edw. 6, c. 12 (1547),  
4 S.R. 18

New York: Woodbeck v. Keller, 6  
Cow. 118 (1826)

North Carolina: State v. Seaborn,  
15 N.C. 305 (1833)

Pennsylvania: Respublica v.  
Roberts, 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

## THE KING'S STYLE AND TITLES

An act for the ratification of the  
King's majesty's stile. 35 Hen. 8,  
c. 3 (1543), 5 S.L. 199; 35 Hen. 8,  
c. 3 (1543-44), 3 S.R. 958

Pennsylvania: Commonwealth v.  
Deacon, 2 Wheel. Cr. C. 1 (1823)

## KING'S SUPREMACY

An act repealing all articles and provisions made against the see apostolick of Rome, since the twentieth year of King Henry the Eighth, and for the establishment of all spiritual and ecclesiastical possessions and hereditaments conveyed to the laity. 1 & 2 Phil. & M., c. 8 (1554), 6 S.L. 34; 1 & 2 Phil. & M., c. 8 (1554 & 1554-55), 4 S.R. 246

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## KING'S WARS, SERVICE IN

They that do go with the King in his wars, may make feoffments of their lands, to the use of their wills without licence, and they shall have their own liveries, and authority to dispose the wardship of their heirs. 7 Hen. 7, c. 3 (1490), 4 S.L. 53; 7 Hen. 7, c. 2 (1491), 2 S.R. 550

New York: M'Cartee v. Orphan Asylum Soc'y, 9 Cow. 437 (1827)

## LABOURERS AND SERVANTS

If a labourer or servant do flee to a city or borough, the chief officer upon request, shall deliver him up. 34 Edw. 3, c. 11 (1360), 2 S.L. 141; 34 Edw. 3, c. 11 (1360-61), 1 S.R. 367

North Carolina: Smith v. Walker's Ex'rs, 4 N.C. (2 Car. Law Repos.) 245 (1815)

An act for the better adjusting and more easy recovery of the wages of certain servants; and for the better regulation of such servants, and of certain apprentices. 20 Geo. 2, c. 19 (1747), 19 S.L. 48

New Jersey: Ackerman v. Taylor, 9 N.J.L. 65 (1827)

An act to amend an act made in third year of the reign of King William and Queen Mary, intituled, An act for the better explanation, and supplying the defects of the

former laws for the settlement of the poor, so far as the same relates to apprentices gaining a settlement by indenture; and also to empower justices of the peace to determine differences between masters and mistresses and their servants in husbandry, touching their wages, though such servants are hired for less time than a year. 31 Geo. 2, c. 11 (1758), 22 S.L. 235

New Jersey: Hopewell v. Amwell, 3 N.J.L. 422 (1808)

## LANDLORD AND TENANT

An act for the better security of rents, and to prevent frauds committed by tenants. 8 Anne, c. 14 (1709), 12 S.L. 68; Anne, c. 18 (1709), 9 S.R. 247

Kentucky: Burket v. Boude, 33 Ky. (3 Dana) 209 (1835)

Maryland: Kilty 248

New York: Alexander v. Mahon, 11 Johns. R. 185 (1814); Brown v. Fay, 6 Wend. 392 (1831)

Pennsylvania: West's Adm'rs v. Sink, 2 Yeates 274 (1798); Obermyer v. Nichols, 6 Binn. 159 (1813); Lichtenthaler v. Thompson, 13 S. & R. 157 (1825); Clifford v. Beems, 3 Watts 246 (1834); Bank of Pennsylvania v. Wise, 3 Watts 394 (1834)

South Carolina: Hunter v. Flaggs, 1 Brev. 451 (1804); Watson v. Hudson, 3 Brev. 60 (1812); City Council v. Price, 1 McCord 299 (1821); Brown v. Duncan, 1 Harp. 337 (1824); Hamilton v. Reedy, 3 McCord 38 (1825); Margart v. Swift, 3 McCord 378 (1825); O'Farrell v. Nance, 2 Hill 484 (1834); 2 Cooper 412

## LANDS

Lands shall not be aliened to the prejudice of the lord's service. 9 Hen. 3, c. 32 (Magna Charta) (1225), 1 S.L. 12; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 47

In gifts in tail the donor's will shall be observed. The form of a formedon. 13 Edw. 1, St. 1, c. 1 (1285), 1 S.L. 164; 13 Edw. 1, Westminster 2d, c. 1 (1285), 1 S.R. 71

Connecticut: Hamilton v. Hempstead, 3 Day 332 (1809)

Delaware: Burton's Lessee v. Vaughan, 1 Del. Cas. 268 (1800)

Maryland: Calvert's Lessee v. Eden, 2 H. & McH. 279 (1789); Kilty 211

Missouri: Mitchell v. State, 3 Mo. 283 (1833)

New York: Anderson v. Jackson, 16 Johns. R. 382 (1819); Patterson v. Ellis's Ex'ers, 11 Wend. 259 (1833)

Pennsylvania: 3 Binney 603; Roberts 202

Rhode Island: Sisson v. Seabury, 1 Sumn. 235 (1832)

South Carolina: Warnock v. Wightman, 1 Brev. 331 (1804)

Tennessee: Polk v. Faris, 17 Tenn. 209 (1836)

Virginia: Bells v. Gillespie, 26 Va. (5 Rand.) 273 (1827)

The acts of wills, wards and primer seisins, whereby a man may devise two parts of his land. 32 Hen. 8, c. 1 (1540), 5 S.L. 1; 32 Hen. 8, c. 1 (1540), 3 S.R. 744

Georgia: Schley 188

Kentucky: Gist's Heirs v. Robinet, etc., 6 Ky. (3 Bibb.) 2 (1813); M'Connell v. Brown, 16 Ky. (Litt. Sel. Ca.) 459 (1821)

New York: Jackson v. Hammond, 2 Cai. Cas. 337 (1805); Jackson v. Varick, 7 Cow. 238 (1827); M'Cartee v. Orphan Asylum Soc'y, 9 Cow. 437 (1827); Patterson Ellis's Ex'rs, 11 Wend. 259 (1833)

Ohio: Lessee of Smith v. Jones, 4 Ohio 115 (1829); Allen v. Little, 5 Ohio 65 (1831)

Pennsylvania: Rossetter v. Simmons, 6 S. & R. 452 (1821); Girard v. Philadelphia, 4 Rawle 323 (1833); Clawges v. Clawges, 2 Miles 34 (1836)

Tennessee: Taul v. Campbell, 15 Tenn. 319 (1835)

## LANDS HOLDEN OF THE KING

No forfeiture, but a fine shall be made for alienation of lands holden of the king. 1 Edw. 3, St. 2, c. 12 (1327), 1 S.L. 418; 1 Edw. 3, St. 2, c. 12 (1326-27), 1 S.R. 256

New York: Jackson v. Schutz, 18 Johns. R. 174 (1820)

## LANDS IN SUIT

The penalty for buying the title of land depending in suit. A remedy for suits where the law faileth. 13 Edw. 1, St. 1, c. 49 (1285), 1 S.L. 229; 13 Edw. 1, Westminster 2d, c. 49 (1285), 1 S.R. 95

New York: Thalimer v. Brinkerhoff, 20 Johns. R. 386 (1823); Thallhimer v. Brinckerhoff, 3 Cow. 623 (1824)

## LANDS IN WARD

No waste shall be made in wards lands; nor in bishops, during the vacation. 3 Edw. 1, c. 21 (1275), 1 S.L. 91; 3 Edw. 1, c. 21 (1275), 1 S.R. 32

Georgia: Schley 89

## LANDS OF FELONS

How long felons lands shall be holden by the King. 9 Hen. 3, c. 22 (Magna Charta) (1225), 1 S.L. 9; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 43

## THE LAW OF THE LAND

No person shall be condemned without his answer. 28 Edw. 3, c. 3 (1354), 2 S.L. 97; 28 Edw. 3, c. 3 (1354), 1 S.R. 345

Maryland: Kilty 220

Pennsylvania: Jacobs v. Commonwealth, 5 S. & R. 315 (1819)

None shall be put to answer an accusation made to the King without presentment. 42 Edw. 3, c. 3

(1368), 2 S.L. 180; 42 Edw. 3, c. 3  
(1368), 1 S.R. 388

Federal: Ex Parte Crane, 30 U.S.  
(5 Pet.) 190 (1831)

#### LEAP YEAR

The day of the leap-year, and the day before, shall be holden for one day. 21 Hen. 3 (1236), 1 S.L. 32; 40 Hen. 3 (1256), 1 S.R. 7

Georgia: Schley 80

Maryland: Kilty 208

Pennsylvania: 3 Binney 600;  
Roberts 207

#### LEASES

Lessees to enjoy the farm against the tenant in tail. 32 Hen. 8, c. 28 (1540), 5 S.L. 42; 32 Hen. 8, c. 28 (1540), 3 S.R. 784

Kentucky: Detheridge v. Woodruff, 19 Ky. (3 T.B. Mon.) 244 (1826); Miller v. Shackelford, 33 Ky. (3 Dana) 289 (1835)

Maryland: Kilty 232

New York: Jackson v. Cairns, 20 Johns. R. 301 (1822); Jackson v. Mancius, 2 Wend. 357 (1829)

Pennsylvania: Streaper v. Fisher, 1 Rawle 155 (1829); 3 Binney 619; Roberts 219

Rhode Island: Sisson v. Seabury, 1 Sumn. 235 (1832)

An act for the more effectual preventing frauds committed by tenants, and for the more easy recovery of rents, and renewal of leases. 4 Geo. 2, c. 28 (1731), 16 S.L. 252

Connecticut: Chalker v. Chalker, 1 Conn. 79 (1814)

Georgia: Schley 357

Maryland: Mackubin v. Whetcroft, 4 H. & McH. 135 (1798); Jones v. Magill, 1 Bla. Ch. 177 (1825); Kilty 249

New Jersey: Farley v. Craig, 11 N.J.L. 262 (1830)

New York: Jackson v. Collins, 11 Johns. R. 1 (1814); Cornell v. Lamb, 2 Cow. 652 (1824); Jackson v. Sheldon, 5 Cow. 448 (1826);

People v. Haskins, 7 Wend. 463 (1831)

Pennsylvania: McCormick v.

Connell, 6 S. & R. 151 (1820); Logan v. Herron, 8 S. & R. 459 (1822)

South Carolina: Marshall v. Giles, 3 Brev. 488 (1814)

An act to enable infants, lunaticks, and femes covert, to surrender leases in order to renew the same. 29 Geo. 2, c. 31 (1756), 21 S.L. 473

Maryland: Kilty 253

An act to enable lunaticks intituled to renew leases, their guardians and committees, to accept of surrenders of old leases, and grant new ones. 11 Geo. 3, c. 20 (1770), 29 S.L. 25

Maryland: Kilty 253

#### LEATHER

It shall be felony to convey, or procure to be conveyed, into any ship or other vessel, any leather tanned or untanned, or any salt or untanned hides, or any backs of sole-leather, or any tallow, to the intent to transport the same over the sea, to be sold by way of merchandize. 1 Eliz., c. 10 (1558), 6 S.L. 137; 1 Eliz., c. 10 (1558-59), 4 S.R. 370

Pennsylvania: Levinz v. Will, 1 Dall. 430 (1789)

#### LETTERS PATENT

An act that the exemplication or Constat of letters patents shall be good and available as the letters patents themselves. 13 Eliz., c. 6 (1570), 6 S.L. 270; 13 Eliz., c. 6 (1571), 4 S.R. 538

Georgia: Patterson v. Winn, 30 U.S. (5 Pet.) 233 (1831)

Maryland: Maxwell's Lessee v. Lloyd, 1 H. & McH. 212 (1763)

An act for confirmation of letters patents. 18 Eliz., c. 2 (1576), 6

S.L. 310; 18 Eliz., c. 2 (1575-76),  
4 S.R. 608

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

An act for confirmation of grants  
made to the Queen's Majesty, &c.  
and of letters patents made by her  
Highness to others. 43 Eliz., c. 1  
(1601), 7 S.L. 29; 43 Eliz., c. 1  
(1601), 4 S.R. 959

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

## LETTERS AND PRIVATE TOKENS

A bill against them that counter-  
feit letters or privy tokens to re-  
ceive money or goods in other  
mens names. 33 Hen. 8, c. 1  
(1541), 5 S.L. 65; 33 Hen. 8, c. 1  
(1541-42), 3 S.R. 827

Maine: Cross v. Peters, 1 Me. 376  
(1821)

New York: James Conger's Case,  
4 Rog. N.Y. City H. Rec. 65 (1819);  
People v. Stone, 9 Wend. 182  
(1832); People v. Gates, 13 Wend.  
311 (1835)

South Carolina: 2 Cooper 409

## LIBERTIES

A confirmation of liberties. 9  
Hen. 3, c. 1 (Magna Charta) (1225),  
1 S.L. 2; 9 Hen. 3 (Magna Charta)  
(1224-25), 1 S.R. 22

Georgia: Schley 34

South Carolina: 2 Cooper 403

All laws, liberties, and customs  
confirmed. 34 Edw. 1, St. 4, c. 4  
(1306), 1 S.L. 320; 25 Edw. 1, c. 4  
(1297), 1 S.R. 125

South Carolina: 2 Cooper 404

An indenture shall be made be-  
tween the sheriff and bailiff of  
liberty of every return. 12 Edw.  
2, St. 1, c. 5 (1318), 1 S.L. 355;  
12 Edw. 2, c. 5 (1318), 1 S.R. 178

Pennsylvania: 3 Binney 609;  
Roberts 392

A confirmation of the liberties of  
the church, and of all statutes not

repealed. 1 Rich. 2, c. 1 (1377),  
2 S.L. 204; 1 Rich. 2, c. 1 (1377),  
2 S.R. 1

New Jersey: Den v. Geiger, 9 N.J.L.  
225 (1827)

## LIBERTIES OF THE SUBJECT

An act for the further limitation of  
the crown, and better securing the  
rights and liberties of the subject.  
12 & 13 Will. 3, c. 2 (1700), 10 S.L.  
357; 12 & 13 Will. 3, c. 2 (1700 &  
1701), 7 S.R. 636

Maryland: The Chancellor's Case,  
1 Bla. Ch. 595 (1825)

## LIFE ESTATES

An act for the more effectual dis-  
covery of the death of persons  
pretended to be alive, to the preju-  
dice of those who claim estates  
after their death. 6 Anne, c. 18  
(1707), 11 S.L. 349; 6 Anne, c. 72  
(1707), 8 S.R. 830

Georgia: Schley 334

Maryland: Kilty 247

New Jersey: Wambaugh v. Schenck,  
2 N.J.L. 229 (1807)

## LIMITATION OF ACTIONS

An act for limitation of actions,  
and for avoiding of suits in law.  
21 Jac. 1, c. 16 (1623), 7 S.L. 273;  
21 Jac. 1, c. 16 (1623-24), 4 S.R.  
1222

Connecticut: French v. Gray, 2  
Conn. 92 (1816)

D.C.: Forrest v. Hanson, 1 Cranch  
C.C. 63 (1802)

Georgia: Wakeman v. Roache, Dud.  
(Ga.) 123 (1832)

Kentucky: Walden v. Heirs of Gratz,  
14 U.S. (1 Wheat.) 292 (1816);  
Reed v. Bullock, 16 Ky. (Litt. Sel.  
Ca.) 510 (1821); South's Heirs v.  
Thomas' Heirs, 23 Ky. (7 T.B.  
Mon.); Bell v. Morrison, 26 U.S.  
(1 Pet.) 351 (1828)

Maryland: Lloyd's Lessee v.  
Hemsley, 1 H. & McH. 28 (1712);  
Lee's Lessee v. Bladen, 1 H. &  
McH. 30 (1714); Johnson v.  
Howard, 1 H. & McH. 281 (1768);  
Drane v. Hodges, 1 H. & McH. 518

(1773); *Lamar v. Jones*, 3 H. & McH. 328 (1793); *Forrest v. Hansen*, 1 Cranch C.C. 63 (1802); *Pancoast's Lessee v. Addison*, 1 H. & J. 350 (1802); *Oliver v. Gray*, 1 H. & G. 204 (1827); *Kilty* 237

Massachusetts: *Brown v. Jones*, 2 Gall. 477 (1815)

New Hampshire: *Bullard v. Bell*, 1 Mas. 243 (1817); *Sherwood v. Sutton*, 5 Mas. 143 (1828)

New Jersey: *Den v. Johnson*, 7 N.J.L. 6 (1822); *Campbell v. Smiths*, 8 N.J.L. 140 (1825); *Belles v. Belles*, 12 N.J.L. 339 (1831); *DeKay v. Darrah*, 14 N.J.L. 288 (1834); *Den ex dem Clark v. Richards*, 15 N.J.L. 347 (1836)

New York: *Smith v. Burtis*, 9 Johns. R. 174 (1812); *Bogardus v. Trinity Church*, 4 Pai. Ch. 178 (1833); *Huntington v. Brinckerhoff*, 10 Wend. 278 (1833); *Wenman v. Mohawk Ins. Co.*, 13 Wend. 267 (1835)

North Carolina: *Wells v. Newbolt*, 1 N.C. (C. & N.) 375 (1802); *Stanley v. Turner*, 1 N.C. (C. & N.) 533 (1804); 5 N.C. 14 (1804); *Pearce v. House*, 4 N.C. (N.C. Term Rys.) 305 (1818); *Gilliam v. Jacobs*, 11 N.C. 310 (1826)

Ohio: *C. Richardson's Adm'rs v. M. Richardson's Adm'rs*, 6 Hamm. 125 (6-7 Ohio 60) (1833)

Pennsylvania: *Lessee of Biddle v. Shippen*, 1 Dall. 19 (1773); *Morris's Lessee v. Vanderen*, 1 Dall. 64 (1782); *Cornogg v. Cornogg's Ex'rs*, 1 Yeates 252 (1793); *Ward v. Hallam*, 1 Yeates 329 (1794); *Penrose v. King*, 1 Yeates 344 (1794); *Stuart v. Harkins*, 3 Binn. 321 (1811); *Lessee of Hall v. Vandegrift*, 3 Binney 374 (1811); *Hinds v. Knox*, 4 S. & R. 417 (1819); *Potts v. Gilbert*, 3 Wash. C.C. 475 (1819); *Thompson v. Smith*, 7 S. & R. 209 (1821); *Parker's Lessee v. Gonsalus*, 10 S. & R. 147 (1823); *Schaffer v. M'Namee*, 13 S. & R. 44 (1825); *Davis v. Shoemaker*, 1 Rawle 135 (1829);

*Reid v. Geoghehan*, 1 Miles 204 (1836)

Rhode Island: *Chomqua v. Mason*, 1 Gall. 342 (1812); *Inman v. Barnes*, 2 Gall. 315 (1814); *Pratt v. Northam*, 5 Mas. 95 (1828); *Sisson v. Seabury*, 1 Sumn. 235 (1832)

South Carolina: *Wightman v. Chauler's Ex'rs*, 2 Brev. 251 (1808); *Rose v. Daniel*, 3 Brev. 438 (1814); *Williams v. McGee*, 1 Mill 85 (1817); *Faysoux v. Prather*, 1 N. & Mc. 296 (1818); *Southgate v. Goldthwaite*, 1 Bail. 367 (1830)

Tennessee: *Weatherhead v. Lessee of Bledsoe's Heirs*, 2 Tenn. 352 (1815); *Pea v. Waggoner*, 6 Tenn. 1 (1818); *Barrow's Lessee v. Navee*, 10 Tenn. 227 (1828); *Tisdale v. Munroe*, 11 Tenn. 320 (1832); *Steel v. Matthews*, 15 Tenn. 313 (1835)

Federal: *Brown v. Jones*, 2 Gall. 477 (1815); *Pratt v. Northam*, 5 Mas. 95 (1828)

## LIMITATION OF PRESCRIPTION

Several limitations of prescription in several writs. 3 Edw. 1, c. 39 (1275), 1 S.L. 100; 3 Edw. 1, c. 39 (1275), 1 S.R. 36

Tennessee: *Smith v. State*, 9 Tenn. 228 (1829)

## LIVERIES

None shall buy nor wear a livery to have maintenance in any quarrel. 8 Hen. 6, c. 4 (1429), 3 S.L. 114; 8 Hen. 6, c. 4 (1429), 2 S.R. 240

New Jersey: *Herbert v. Hardenbergh*, 10 N.J.L. 222 (1828)

The authority of the court of star-chamber. Where one inquest shall enquire of the concealment of another. A coroner's duty after a murder committed. A justice of peace shall certify his recognisances, &c. 3 Hen. 7, c. 1 (1487),

4 S.L. 27; 3 Hen. 7, c. 1 (1487),  
2 S.R. 509

Georgia: Schley 137

Maryland: Kilty 228

New York: People v. Croswell, 3  
Johns. Cas. 337 (1804); 3 Wheel.  
Cr. C. 330 (1804)

Pennsylvania: 3 Binney 616;  
Roberts 102

Virginia: Commonwealth v. Burton,  
31 Va. (4 Leigh) 645 (1832)

## LONDON (CITY OF)

Londoners and none other, shall  
sell victuals by retail. 42 Edw. 3,  
c. 7 (1368), 2 S.L. 182; 42 Edw. 3,  
c. 7 (1368), 1 S.R. 389

New Jersey: Herbert v. Harden-  
bergh, 10 N.J.L. 222 (1828)

An act concerning surgeons to be  
discharged of quests and other  
things. 5 Hen. 8, c. 6 (1513), 4  
S.L. 132; 5 Hen. 8, c. 6 (1513-14),  
3 S.R. 95

Maryland: Kilty 230

Pennsylvania: 3 Binney 618;  
Roberts 337

An act for the better settlement of  
the maintenance of the parsons,  
vicars and curates, in the parishes  
of the city of London burnt by the  
late dreadful fire there. 22 & 23  
Car. 2, c. 15, St. 2, c. 11 (1670),  
8 S.L. 355; 22 & 23 Car. 2, c. 15  
(1670 & 1671), 5 S.R. 725

New York: Le Roy v. Corporation of  
New York, 4 Johns. Ch. R. 352  
(1820)

## LORDS OF THE COUNCIL AND OTHERS

An act for preventing suits against  
such as acted for their Majesties  
service in defence of the kingdom.  
4 & 5 W. & M., c. 19 (1692), 9  
S.L. 220; 4 W. & M., c. 19 (1692),  
6 S.R. 411

Massachusetts: Lanesborough &  
New Ashford, Cush. Elec. Cas.  
168 (1815); Mussey v. Sanborn,  
15 Mass. 155 (1818)

## LOTTERIES

An act for suppressing of lotteries.  
10 & 11 Will. 3, c. 17 (1699), 10  
S.L. 264; 10 Will. 3, c. 23 (1698),  
7 S.R. 532

Pennsylvania: Seidenbender v.  
Charles's Adm'rs, 4 S. & R. 151  
(1818)

## LUNATICS

His prerogative in the preservation  
of the lands of lunaticks. 17 Edw.  
2, c. 10 (1324), 1 S.L. 380; Temp.  
Incert. 1 S.R. 226a

Kentucky: Breckenridge's Heirs v.  
Ormsby, 24 Ky. (J.J. Mar.) 236  
(1829)

Maryland: Kilty 216

New York: Matter of Barker, 2  
Johns. Ch. R. 232 (1816); Matter  
of Salisbury, 3 Johns. Ch. R. 347  
(1818)

An act to enable ideots and luna-  
ticks, who are seised or possessed  
of estates in fee, or for lives, or  
terms of years, in trust, or by  
way of mortgage, to make convey-  
ances, surrenders or assignments  
of such estates. 4 Geo. 2, c. 10  
(1731), 16 S.L. 228

Georgia: Schley 355

Maryland: Owings' Case, 1 Bla. Ch.  
370 (1828); Kilty 249

An act to prevent the marriage of  
lunaticks. 15 Geo. 2, c. 30 (1742),  
18 S.L. 56

Maryland: Kilty 251

An act to enable lunaticks intituled  
to renew leases, their guardians  
and committees, to accept of sur-  
renders of old leases, and grant  
new ones. 11 Geo. 3, c. 20 (1770),  
29 S.L. 25

Maryland: Kilty 253

## MAGNA CHARTA

A confirmation of liberties. 9  
Hen. 3, c. 1 (Magna Charta) (1225),  
1 S.L. 2; 9 Hen. 3 (Magna Charta)  
(1224-25), 1 S.R. 22



Georgia: Schley 34  
South Carolina: 2 Cooper 403

None shall be attached or fore-judged contrary to the great charter, or the law. 5 Edw. 3, c. 9 (1331), 1 S.L. 445; 5 Edw. 3, c. 9 (1331), 1 S.R. 267

South Carolina: 2 Cooper 405

# MAINTENANCE

Clerks shall not commit maintenance. 3 Edw. 1, c. 28 (1275), 1 S.L. 94; 3 Edw. 1, c. 28 (1275), 1 S.R. 33

New York: Thalimer v. Brinkerhoff, 20 Johns. R. 386 (1823); Thallhimer v. Brinkerhoff, 3 Cow. 623 (1824)

Nothing shall be taken to maintain any matter in suit. 28 Edw. 1, St. 3, c. 11 (1300), 1 S.L. 298; 28 Edw. 1, Artic. sup. Cart., c. 11 (1300), 1 S.R. 139

Georgia: Schley 114

New York: Jackson v. Ketcham, 8 Johns. R. 479 (1811); Thalimer v. Brinkerhoff, 20 Johns. R. 386 (1823); Thallhimer v. Brinkerhoff, 3 Cow. 623 (1824)

South Carolina: 2 Cooper 404

Tennessee: Whitesides v. Martin, 15 Tenn. 384 (1835)

Justices of assises, &c. shall enquire of maintainors, conspirators, and champertors. 4 Edw. 3, c. 11 (1330), 1 S.L. 436; 4 Edw. 3, c. 11 (1330), 1 S.R. 264

South Carolina: 2 Cooper 405

None shall maintain any quarrels but their own. 20 Edw. 3, c. 4 (1346), 2 S.L. 23; 20 Edw. 3, c. 4 (1346), 1 S.R. 304

South Carolina: 2 Cooper 405

There shall be no giving of live-ries for maintenance. 1 Rich. 2, c. 7 (1377), 2 S.L. 208; 1 Rich. 2, c. 7 (1377), 2 S.R. 3

North Carolina: Coltraine v. McCain, 14 N.C. 308 (1832)

A feoffment of lands or gifts of goods for maintenance shall be void. An assise is maintainable against the penor of the profits of lands. 1 Rich. 2, c. 9 (1377), 2 S.L. 209; 1 Rich. 2, c. 9 (1377), 2 S.R. 3

Pennsylvania: Adams v. Nicholas, 1 Miles 90 (1835); 3 Binney 613; Roberts 434

South Carolina: Giles v. Pratt, 2 Hill 439 (1834)

The authority of the court of star-chamber. Where one inquest shall enquire of the concealment of another. A coroner's duty after a murder committed. A justice of peace shall certify his recognisances, &c. 3 Hen. 7, c. 1 (1487), 4 S.L. 27; 3 Hen. 7, c. 1 (1487), 2 S.R. 509

Georgia: Schley 137

Maryland: Kilty 228

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 616; Roberts 102

Virginia: Commonwealth v. Burton, 31 Va. (4 Leigh) 645 (1832)

The bill of bracer and buying of titles. 32 Hen. 8, c. 9 (1540), 5 S.L. 17; 32 Hen. 8, c. 9 (1540), 3 S.R. 753

Connecticut: Emerson v. Goodwin, 9 Conn. 422 (1833)

Georgia: Schley 191

Maryland: Kilty 232

Massachusetts: Swett v. Poor, 11 Mass. 549 (1814); Brinley v. Whiting, 22 Mass. (5 Pick. 348) (1827)

New York: Jackson v. Brinkerhoff, 3 Johns. Cas. 101 (1802); Johnson v. Stagg, 2 Johns. R. 510 (1807); Williams v. Jackson, 5 Johns. R. 489 (1809); Thallhimer v. Brinkerhoff, 3 Cow. 623 (1824); People v. Sergeant, 8 Cow. 139 (1828)

Pennsylvania: Morris's Lessee v. Vanderen, 1 Dall. 64 (1782);

Lessee of Hall v. Vandegrift, 3 Binn. 374 (1811); Cresson v. Miller, 2 Watts 272 (1834)

South Carolina: State v. Chitty, 1 Bail. 379 (1830); Giles v. Pratt, 2 Hill 439 (1834); 2 Cooper 408  
Tennessee: Whitesides v. Martin, 15 Tenn. 384 (1835)

MAISONS DE DIEU

An act for erecting of hospitals, or abiding and working houses for the poor. 39 Eliz., c. 5 (1597), 7 S.L. 2; 39 Eliz., c. 5 (1597-98), 4 S.R. 902

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

MALICIOUS MAIMING AND WOUNDING

An act to prevent malicious maiming and wounding. 22 & 23 Car. 2, c. 1 (1670), 8 S.L. 331; 22 & 23 Car. 2, c. 1 (1670 & 1671), 5 S.R. 691

Pennsylvania: Respublica v. Langcake, 1 Yeates 415 (1795); Respublica v. Reiker, 3 Yeates 282 (1801)

South Carolina: 2 Cooper 411

MANDAMUS

An act for preventing the inconveniencies arising for want of elections of mayors or other chief magistrates of boroughs or corporations being made upon the days appointed by charter or usage for that purpose, and directing in what manner such elections shall be afterwards made. 11 Geo. 1, c. 4 (1724), 15 S.L. 178

Georgia: Schley 349

Pennsylvania: Rose v. Turnpike Company, 3 Watts 46 (1834)

MANIFEST OFFENCES

Which prisoners be mainpernable, and which not. The penalty for unlawful bailment. 3 Edw. 1, c. 15 (1275), 1 S.L. 84; 3 Edw. 1, c. 15 (1275), 1 S.R. 30

Georgia: Schley 83

Maryland: Kilty 209

Ohio: Fight v. State, 7 Hamm., Pt. 1, 180 (6 & 7 Ohio 327) (1835)

Rhode Island: Sisson v. Seabury, 1 Sumn. 235 (1832)

South Carolina: Barton v. Keith, 2 Hill 537 (1835)

MANSLAUGHTER

What kind of man-slaughter shall be adjudged murther. 52 Hen. 3, c. 25 (1267), 1 S.L. 71; 52 Hen. 3, c. 25 (1267), 1 S.R. 25

South Carolina: 2 Cooper 403

An act to take examination of prisoners suspected of any man-slaughter or felony. 2 & 3 Phil. & M., c. 10 (1555), 6 S.L. 74; 2 & 3 Phil. & M., c. 10 (1555), 4 S.R. 286

Georgia: State v. Asselin, Charlt. T.U.P. 184 (1808); Schley 212

Maryland: Kilty 234

North Carolina: State v. Grove, 1 N.C. (1 Mart. R.) 43 (1794)

Pennsylvania: 3 Binney 621; Roberts 81

South Carolina: State v. Hill, 2 Hill 607 (1835); 2 Cooper 409

An act to take away the benefit of clergy for some kind of man-slaughter. 1 Jac. 1, c. 8 (1604), 7 S.L. 84; 1 Jac. 1, c. 8 (1603-04), 4 S.R. 1026

South Carolina: 2 Cooper 410

MARINE CAUSES

With what things the admiral and his deputy shall meddle. 13 Rich. 2, St. 1, c. 5 (1389), 2 S.L. 312; 13 Rich. 2, St. 1, c. 5 (1389-90), 2 S.R. 62

Maryland: Kilty 223

South Carolina: 2 Cooper 406

Federal: Gardner v. The New

Jersey, 1 Pet. Adm. 223 (1806);

De Lovio v. Boit, 2 Gall. 398

(1815); United States v. Wiltberger,

18 U.S. 5 Wheat.) 76 (1820); Jenks

v. Lewis, 3 Mas. 503 (1825);

Steele v. Thacher, 1 Ware 85

(1825); Plummer v. Webb, 4 Mas.

380 (1827); *Bains v. Schooner James, Bald. C.C. 544* (1832); *Schooner Volunteer*, 1 Sumn. 551 (1834); *Thomas v. Lane*, 2 Sumn. 1 (1834)

In what places the admiral's jurisdiction doth lie. 15 Rich. 2, c. 3 (1391), 2 S.L. 340; 15 Rich. 2, c. 3 (1391), 2 S.R. 78

Maryland: *Kilty* 223

South Carolina: 2 Cooper 406

Virginia: *Commonwealth v. Gaines*, 4 Va. (2 Va. Cas.), 172 (1819)

Federal: *Gardner v. The New*

*Jersey*, 1 Pet. Adm. 223 (1866); *De Lovio v. Boit*, 2 Gall. 398 (1815); *Ship Grand Turk*, 1 Pai. C.C. 73 (1817); *United States v. Wiltberger*, 18 U.S. (5 Wheat.) 76 (1820); *Steele v. Thacher*, 1 Ware 85 (1825); *Plummer v. Webb*, 4 Mas. 380 (1827); *Bains v. Schooner James, Bald. C.C. 544* (1832); *Schooner Volunteer*, 1 Sumn. 551 (1834); *Thomas v. Lane*, 2 Sumn. 1 (1834)

For the avoiding of tedious suits in civil and marine causes.

8 Eliz., c. 5 (1565), 6 S.L. 236;

8 Eliz., c. 5 (1566), 4 S.R. 488

Federal: *Jennings v. Carson*, 1 Pet. Adm. 1 (1792)

An act declaring the authority of the commissioners appointed by his Majesty under the great seal of Great Britain, for receiving, hearing, and determining appeals in causes of prizes. 22 George 2, c. 3 (1749), 19 S.L. 274

Federal: *Jennings v. Carson*, 1 Pet. Adm. 1 (1792)

## MARRIAGE

For marriages to stand notwithstanding pre-contract. 32 Hen. 8, c. 38 (1540), 5 S.L. 55; 32 Hen. 8, c. 38 (1540), 3 S.R. 792

South Carolina: 2 Cooper 409

An act to restrain all persons from marriage until their former

wives and former husbands be dead. 1 Jac. 1, c. 11 (1604), 7 S.L. 88; 1 Jac. 1, c. 11 (1603-04), 4 S.R. 1028

Pennsylvania: *Miller v. Beates*, 3 S. & R. 490 (1817)

South Carolina: 2 Cooper 410

An act for the better preventing of clandestine marriages. 26 Geo. 2, c. 33 (1753), 21 S.L. 124

Tennessee: *Bashaw v. State*, 9 Tenn. 177 (1829)

## MASTS

An act for the encouraging and increasing of shipping and navigation. 12 Car. 2, c. 18 (1660), 7 S.L. 452; 12 Car. 2, c. 18 (1660), 5 S.R. 246

Maryland: *Randolph v. Tench* (1695), 1 Am. Leg. Rec. 7; *Randolph v. Blackmore* (1695), 1 Am. Leg. Rec. 22

Massachusetts: *Lason v. Brenton*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 256 (1691); *Brenton v. Three Brothers*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691); *Shrimpton v. Brenton*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 268 (1692)

Federal: *The Ann Green*, 1 Gall. 274 (1812); *Gelston v. Hoyt*, 16 U.S. (3 Wheat.) 246 (1818)

## MEDIETATE LINGUAE

The warranty of packing of wool shall be put out. An inquest shall be de Medietate Linguae, where an Alien is party. 28 Edw. 3, c. 13 (1354), 2 S.L. 104; 28 Edw. 3, c. 13 (1354), 1 S.R. 348

North Carolina: *State v. Antonia*, 11 N.C. 200 (1825)

Pennsylvania: *Respublica v. Mesca*, 1 Dall. 73 (1783); 3 Binney 611; *Roberts* 336

An inquest shall be De medietate linguae, where an alien is party. 8 Hen. 6, c. 29 (1429), 3 S.L. 153; 8 Hen. 6, c. 29 (1429), 2 S.R. 261

North Carolina: *State v. Antonio*, 11 N.C. 200 (1825)

Pennsylvania: 3 Binney 615;  
Roberts 397

# MEDITERRANEAN DUTY

An act for preventing frauds, and regulating abuses in his Majesty's customs. 13 & 14 Car. 2, c. 11 (1662), 8 S.L. 78; 14 Car. 2, c. 11 (1662), 5 S.R. 393

Massachusetts: Randolph v.

Armitage, 1 Rec. Ct. of Asst., Colony of Mass. Bay 124 (1680)

Federal: Robinson v. Hook, 4 Mas. 139 (1826)

# MEN OF THE CHURCH

How men of all sorts shall be amerced, and by whom. 9 Hen. 3, c. 14 (Magna Charta) (1225), 1 S.L. 6; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 40

# MERCHANTS

Merchants strangers coming into this realm shall be well used. 9 Hen. 3, c. 30 (Magna Charta) (1225), 1 S.L. 11; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 46

The Statute of Acton-Burnel.

Ordaining the statute-merchant for recovery of debts. 11 or 13 Edw. 1 (1283 or 1285), 1 S.L. 141; 11 Edw. 1 (1283), 1 S.R. 53

Delaware: Ex parte Dixon, 1 Del. Ch. 261 (1824)

Maryland: Watkins v. Worthington, 2 Bla. Ch. 509 (1830); Tessier v. Wyse, 3 Bla. Ch. 28 (1830); Coombs v. Jordan, 3 Bla. Ch. 284 (1831)

The warranty of packing of wool shall be put out. An inquest shall be de Medietate Linguae, where an alien is party. 28 Edw. 3, c. 13 (1354), 2 S.L. 104; 28 Edw. 3, c. 13 (1354), 1 S.R. 348

North Carolina: State v. Antonio, 11 N.C. 200 (1825)

Pennsylvania: Respublica v. Mesca, 1 Dall. 73 (1783); 3 Binney 611; Roberts 336

# MERCHANT STRANGERS

The jurisdiction of the mayor and constables of the staple. All people of the staple shall be ruled by the law-merchant, and not by the common law. 27 Edw. 3, St. 2, c. 8 (1353), 2 S.L. 83; 27 Edw. 3, St. 2, c. 8 (1353), 1 S.R. 336

Maryland: Tessier v. Wyse, 3 Bla. Ch. 28 (1830); Coombs v. Jordan, 3 Bla. Ch. 284 (1831)

# MIDDLESEX

An act for the publick registering of deeds, conveyances, and wills, and other incumbrances which shall be made of, or that may affect any honors, manors, lands, tenements, or hereditaments, within the county of Middlesex, after the twenty ninth day of September, one thousand seven hundred and nine. 7 Anne, c. 20 (1708), 11 S.L. 502; 7 Anne, c. 20 (1708), 9 S.R. 89

New York: Grant v. United States Bank, 1 Cai. Cas. 112 (1804); Jackson v. Burgott, 10 Johns. R. 457 (1813)

Pennsylvania: Lessee of Correy v. Caxton, 4 Binn. 140 (1811)

South Carolina: Thayer v. Davidson, Bail. Eq. 412 (1831)

# MILLWRIGHTS

An act containing divers orders for artificers, labourers, servants of husbandry and apprentices. 5 Eliz., c. 4 (1562), 6 S.L. 159; 5 Eliz., c. 4 (1562-63), 4 S.R. 414

Connecticut: Barkhamsted v. Parsons, 3 Conn. 1 (1819)

New Jersey: State v. Taylor, 3 N.J.L. 58 (2 Penning. 467) (1808); Ackerman v. Taylor, 9 N.J.L. (1827)

North Carolina: Dowd v. Davis, 15 N.C. 61 (1833)

Pennsylvania: Commonwealth v. Sturgeon, 2 Bro. (Pa.) 205 (1810);  
Ex Parte Meason, 5 Binn. 167 (1812)

South Carolina: M'Knight v. Hogg,  
 3 Brev. 44 (1812)

### MISPLEADING

Mispleadings, Jeofails. 32 Hen. 8,  
 c. 30 (1540), 5 S.L. 45; 32 Hen. 8,  
 c. 30 (1540), 3 S.R. 786

Georgia: Schley 196

Maryland: Kilty 232

Pennsylvania: 3 Binney 619;  
Roberts 35

Tennessee: Payton v. Trigg, 5 Tenn.  
 250 (1817)

### MISPRISON OF CLERKS

The justices may amend defaults  
 in records or process after judg-  
 ment given. 9 Hen. 5, St. 1, c. 4  
 (1421), 3 S.L. 61; 9 Hen. 5, St. 1,  
 c. 4 (1421), 2 S.R. 205

Georgia: Schley 130

Maryland: Kilty 226

New Jersey: Probasco v. Probasco,  
 3 N.J.L. 1013 (1813)

Pennsylvania: 3 Binney 615;  
Roberts 31

South Carolina: Rep's of Bourdeaux  
v. Treasurers, 3 McCord 142  
 (1825)

Federal: Wilson v. Berry, 2 Cranch  
 C.C. 707 (1826)

### MIXED ACTIONS

An act for preventing any incon-  
 veniencies that may happen by  
 privilege of parliament. 12 & 13  
 Will. 3, c. 3 (1700), 10 S.L. 360;  
 12 & 13 Will. 3, c. 3 (1700 & 1701),  
 7 S.R. 638

Pennsylvania: Bolton v. Martin,  
 1 Dall. 296 (1788)

### MODUS ADMENSURANDI TERRAM

An Ordinance for Measuring of  
 Land. 33 Edw. 1, St. 6 (1305),  
 1 S.L. 312; Temp. Incert. 1 S.R.  
 206

Georgia: Schley 116

Maryland: Kilty 215

Pennsylvania: Paull v. Lewis, 4  
Watts 402 (1835); 3 Binney 609;  
Roberts 341

### MONASTERIES

Patrons of abbies shall have the  
 custody of them in the time of  
 vacation. 9 Hen. 3, c. 33 (Magna  
 Charta) (1225), 1 S.L. 12; 9 Hen. 3  
 (Magna Charta) (1224-25), 1 S.R.  
 22

Georgia: Schley 47

### MONEY

The jurisdiction of the mayor and  
 constables of the staple. All people  
 of the staple shall be ruled by the  
 law-merchant, and not by the com-  
 mon law. 27 Edw. 3, St. 2, c. 8  
 (1353), 2 S.L. 83; 27 Edw. 3, St. 2,  
 c. 8 (1353), 1 S.R. 336

Maryland: Tessier v. Wyse, 3 Bla.  
 Ch. 28 (1830); Coombs v. Jordan,  
 3 Bla. Ch. 284 (1831)

An act for the repeal of certain  
 statutes concerning treasons and  
 felonies. 1 Edw. 6, c. 12 (1547),  
 5 S.L. 259; 1 Edw. 6, c. 12 (1547),  
 4 S.R. 18

New York: Woodbeck v. Keller, 6  
Cow. 118 (1826)

North Carolina: State v. Seaborn,  
 15 N.C. 305

Pennsylvania: Respublica v. Roberts,  
 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

### MONOPOLIES

An act concerning monopolies and  
 dispensations with penal laws and  
 the forfeitures thereof. 21 Jac. 1,  
 c. 3 (1623), 7 S.L. 255; 21 Jac. 1,  
 c. 3 (1623-24), 4 S.R. 1212

Maryland: Cunningham v. Browning,  
 1 Bla. Ch. 299 (1827)

Massachusetts: Commonwealth v.  
Bean, 3 Wheel. Cr. C. (N.Y.) 67 (1824)

Federal: Evans v. Eaton, 20 U.S.  
 (7 Wheat.) 356 (1822); Mellus v.  
Silsbee, 4 Mas. 108 (1825);  
Whitney v. Emmett, Bald. C.C.  
 303 (1831)

## MORTGAGES

An act to prevent frauds by clandestine mortgages. 4 & 5 W. & M., c. 16 (1692), 9 S.L. 205; 4 W. & M., c. 16 (1692), 6 S.R. 404

Maryland: Kilty 242

Massachusetts: Hooton v. Grout, Quincy 344 (1772); Powell v. M & B Mfg. Co., 3 Mas. 347 (1824)

South Carolina: 2 Cooper 412

An act for the more easy redemption and foreclosure of mortgages. 7 Geo. 2, c. 20 (1734), 16 S.L. 474

Maryland: Moore's Lessee v.

Pearce, 2 H. & McH. 236 (1788); Jones v. Magill, 1 Bla. Ch. 177 (1827); Kilty 251

Massachusetts: Hooton v. Grout, Quincy 343 (1772)

Pennsylvania: Dorrow v. Kelly, 1 Dall. 142 (1785); 3 Binney 626; Roberts 345

Virginia: Faulkner's Adm'x v. Brockenbrough, 25 Va. (4 Rand.) 245 (1826)

## MORTMAIN

No land shall be given in mortmain. 9 Hen. 3, c. 36 (Magna Charta) (1225), 1 S.L. 13; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 49

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

Who shall take the forfeiture of lands given in mortmain. 7 Edw. 1, St. 2 (1279), 1 S.L. 133; 7 Edw. 1 (1279), 1 S.R. 51

Pennsylvania: Leazure v. Hillegas, 7 S. & R. 313 (1821); Magill v. Brown, Bright. N.P. 346 (1833)

Mortmain by recovery of land by default. 13 Edw. 1, St. 1, c. 32 (1285), 1 S.L. 206; 13 Edw. 1, Westminster 2d, c. 32 (1285), 1 S.R. 87

Pennsylvania: Leazure v. Hillegas, 7 S. & R. 313 (1821); Magill v. Brown, Bright. N.P. 346 (1833)

That land shall not be aliened in Mortmain, where there be mesnes, without their consent. 34 Edw. 1, St. 3 (1306), 1 S.L. 318; 20 Edw. 1 (1291-92), 1 S.R. 111

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

Assurances of lands to certain places, persons, and uses, shall be adjudged Mortmain. 15 Rich. 2, c. 5 (1391), 2 S.L. 342; 15 Rich. 2, c. 5 (1391), 2 S.R. 79

New York: M'Cartee v. Orphan Asylum Soc'y, 9 Cow. 437 (1827)

Pennsylvania: Leazure v. Hillegas, 7 S. & R. 313 (1821); Magill v. Brown, Bright. N.P. 346 (1833); Ross v. Barker, 5 Watts 391 (1836)

An act for feoffments and assurances of lands and tenements made to the use of any parish church, chapel, or such like. 23 Hen. 8, c. 10 (1531), 4 S.L. 239; 23 Hen. 8, c. 10 (1531-32), 3 S.R. 378

New York: M'Cartee v. Orphan Asylum Soc'y, 9 Cow. 437 (1827)

Pennsylvania: Leazure v. Hillegas, 7 S. & R. 313 (1821); Magill v. Brown, Bright. N.P. 346 (1833); Ross v. Barker, 5 Watts 391 (1836)

An act to restrain the disposition of lands, whereby the same become unalienable. 9 Geo. 2, c. 36 (1736), 17 S.L. 82

Delaware: Silvers v. Jones, 2 Del. Cas. 632 (1821)

New York: McCartee v. Orphan Asylum Soc'y, 9 Cow. 437 (1827)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

Virginia: A Case, 2 Va. Col. Dec. (Barr. Rep.) 334 (1753)

## MUMMERS

Mummers shall be imprisoned three months, and fined at the justices discretion. The penalty for selling of visors. 3 Hen. 8, c. 9 (1511), 4 S.L. 116; 3 Hen. 8, c. 9 (1511-12), 3 S.R. 30

South Carolina: Ryan v. Baldrick,  
3 McCord 498 (1826)

## MURDER

What kind of man-slaughter shall be adjudged murther. 52 Hen. 3, c. 25 (1267), 1 S.L. 71; 52 Hen. 3, c. 25 (1267), 1 S.R. 25

South Carolina: 2 Cooper 403

The authority of the court of star-chamber. Where one inquest shall enquire of the concealment of another. A coroner's duty after a murder committed. A justice of peace shall certify his recognisances, &c. 3 Hen. 7, c. 1 (1487), 4 S.L. 27; 3 Hen. 7, c. 1 (1487), 2 S.R. 509

Georgia: Schley 137

Maryland: Kilty 228

New York: People v. Croswell,  
3 Johns. Cas. 337; 3 Wheel. Cr.  
C. 330 (1804)

Pennsylvania: 3 Binney 616;  
Roberts 102

Virginia: Commonwealth v. Burton,  
31 Va. (4 Leigh) 645 (1832)

Clergy shall be allowed but once. A convict person shall be marked with the letters M or T. A provision for them which be within orders. 4 Hen. 7, c. 13 (1487), 4 S.L. 45; 4 Hen. 7, c. 13 (1488-89), 2 S.R. 538

D.C.: United States v. Norris, 1  
Cranch C.C. 411 (1807)

Maryland: United States v. Norris,  
2 Cranch C.C. 411 (1807)

South Carolina: 2 Cooper 407

An act for trial of murders and felonies committed in several counties. 2 & 3 Edw. 6, c. 24 (1548), 5 S.L. 320; 2 & 3 Edw. 6, c. 24 (1548), 4 S.R. 69

New Jersey: State v. Jones, 9  
N.J.L. 357 (1828)

North Carolina: State v. Orrell,  
12 N.C. 139 (1826)

Pennsylvania: 3 Binney 620;  
Roberts 401

An act for better preventing the horrid crime of murder. 25 Geo. 2, c. 37 (1752), 20 S.L. 380

Alabama: Charles v. State, 3 Port.  
440 (1836)

South Carolina: State v. Kindred  
Kitchens, 2 Hill 612 (1835)

## MUTUAL DEBTS AND CREDITS

An act to prevent frauds frequently committed by bankrupts. 4 Anne, c. 17 (1705), 11 S.L. 162; 4 & 5 Anne, c. 4 (1705), 8 S.R. 461

Kentucky: Tevebaugh v. Reed, 21 Ky.  
(5 T.B. Mon.) 179 (1827); Tribble  
v. Taul, 23 Ky. (7 T.B. Mon.) 455  
(1828)

New York: Frost v. Carter, 1 Johns.  
Cas. 73 (1799); Murray v. De  
Rottenham, 6 Johns. Ch. R. 52  
(1822)

Rhode Island: Greene v. Darling,  
4 Mas. 201 (1828)

## NATURALIZATION

An act to enable his Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens. 11 & 12 Will. 3, c. 6 (1700), 10 S.L. 319; 11 Will. 3, c. 6 (1698-99), 7 S.R. 590

Georgia: Schley 312

Maryland: M'Creery's Lessee v.  
Somerville, 22 U.S. (9 Wheat.) 354  
(1824)

Massachusetts: Palmer v. Downer,  
2 Mass. 179 note (1801); Merry v.  
Prince, 2 Mass. 176 (1806)

New York: Lessee of Levy v.  
M'Cartee, 31 U.S. (6 Pet.) 102  
(1832); Jackson v. Fitz Simmons,  
10 Wend. 9 (1832)

Pennsylvania: 3 Binney 625;  
Roberts 20

South Carolina: 2 Cooper 412

An act for naturalizing foreign protestants. 7 Anne, c. 5 (1708), 11 S.L. 444; 7 Anne, c. 5 (1708), 9 S.R. 63

D.C.: *Contee v. Godfrey*, 1 Cranch C.C. 479 (1808)

Maryland: *Contee v. Godfrey*, 1 Cranch C.C. 479 (1808)

South Carolina: *Ex Parte Dupont*, 1 Harp. Eq. 5 (1824)

An act to explain a clause in an act made in the seventh year of the reign of her late majesty Queen Anne, for naturalizing foreign protestants, which relates to the children of the natural-born subjects of the crown of England, or of Great Britain. 4 Geo. 2, c. 21 (1731), 16 S.L. 243

New York: *Jackson v. Jackson*, 7 Johns. R. 214 (1810)

South Carolina: *Ex Parte Dupont*, 1 Harp. Eq. 5 (1824)

An act to obviate doubts that may arise upon an act made and passed in the eleventh and twelfth years of the reign of his late majesty King William the Third, intituled, An act to enable his Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens. 25 Geo. 2, c. 39 (1752), 20 S.L. 383

Maryland: *M'Creery's Lessee v. Somerville*, 22 U.S. (9 Wheat.) 354 (1824)

## NAVY

Re rates of shipping on English ships. 32 Hen. 8, c. 14 (1540), 5 S.L. 24; 32 Hen. 8, c. 14 (1540), 3 S.R. 760

Federal: *Schooner Volunteer*, 1 Sumn. 551 (1834)

An act for the encouraging and increasing of shipping and navigation. 12 Car. 2, c. 18 (1660), 7 S.L. 452; 12 Car. 2, c. 18 (1660), 5 S.R. 246

Maryland: *Randolph v. Tench* (1695), 1 Am. Leg. Rec. 7 (1933); *Randolph v. Blackmore* (1695), 1 Am. Leg. Rec. 22 (1933)

Massachusetts: *Lason v. Brenton*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 256 (1691); *Brenton v. Three Brothers*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691); *Shrimpton v. Brenton*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 268 (1692)

Federal: *The Ann Green*, 1 Gall. 274 (1812); *Gelston v. Hoyt*, 16 U.S. (3 Wheat.) 246 (1818)

An act for the increase and encouragement of seamen. 7 & 8 Will. 3, c. 21 (1696), 9 S.L. 419; 7 & 8 Will. 3, c. 21 (1695-96), 7 S.R. 98

Pennsylvania: *Commonwealth v. Leshner*, 17 S. & R. 155 (1828)

## NEW MANUFACTURES

An act concerning monopolies and dispensations with penal laws and the forfeitures thereof. 21 Jac. 1, c. 3 (1623), 7 S.L. 255; 21 Jac. 1, c. 3 (1623-24), 4 S.R. 1212

Maryland: *Cunningham v. Browning*, 1 Bla. Ch. 299 (1827)

Massachusetts: *Commonwealth v. Bean*, 3 Wheel Cr.C.(N.Y.) 67 (1824)

Federal: *Evans v. Eaton*, 20 U.S. (7 Wheat.) 356 (1822); *Mellus v. Silsbee*, 4 Mas. 108 (1825); *Whitney v. Emmett*, Bald. C.C. 303 (1831)

## NIGHT WALKERS

Night-walkers and suspected persons shall be safely kept. 5 Edw. 3, c. 14 (1331), 1 S.L. 448; 5 Edw. 3, c. 14 (1331), 1 S.R. 268

South Carolina: 2 Cooper 405

## NISI PRIUS

Before what persons Nisi prius may be granted. 14 Edw. 3, St. 1, c. 16 (1340), 1 S.L. 483; 14 Edw. 3, St. 1, c. 16 (1340), 1 S.R. 286

Pennsylvania: 3 Binney 611; *Roberts* 358

The bill for the better appearance in the Nisi prius. 35 Hen. 8, c. 6



(1543), 5 S.L. 200; 35 Hen. 8, c. 6  
(1543-44), 3 S.R. 962

Delaware: Wilds v. Green, 2 Del.  
Cas. 292 (1817)

Maryland: Burk v. State, 2 H. & J.  
426 (1809); Kilty 233

#### NONJURING CLERGYMEN

An act for the abrogating of the  
oaths of supremacy and allegiance,  
and appointing other oaths. 1 W.  
& M., Sess. 1, c. 8 (1688), 9 S.L. 5;  
1 W. & M., Sess. 1, c. 8 (1688),  
6 S.R. 57

South Carolina: 2 Cooper 411

#### NON OBSTANTE

An act for declaring the rights and  
liberties of the subject, and settling  
the succession of the crown.  
1 W. & M., Sess. 2, c. 2 (1688),  
9 S.L. 67; 1 W. & M., Sess. 2, c. 2  
(1688), 6 S.R. 142

Maryland: Williams' Case, 3 Bla.  
Ch. 186 (1831)

#### ORPHANS

An act for the punishment of such  
as shall take away maidens that  
be inheritors, being within the age  
of sixteen years, or that marry  
them without consent of their  
parents. 4 & 5 Phil. & M., c. 8  
(1557), 6 S.L. 104; 4 & 5 Phil. &  
M., c. 8 (1557-58), 4 S.R. 329

D.C.: Mauro v. Ritchie, 3 Cranch  
C.C. 147 (1827)

Maryland: Mauro v. Ritchie, 3  
Cranch C.C. 147 (1827)

South Carolina: State v. Findlay,  
2 Bay 418; 1 Brev. 107 (1802);  
State v. O'Bannon, 1 Bail. 14  
(1829); 2 Cooper 409

#### ORDINATIO DE INQUISITIONIBUS

He that challengeth a jury or juror  
for the King shall shew his cause.  
33 Edw. 1, St. 4 (1305), 1 S.L. 309;  
33 Edw. 1 (1305), 1 S.R. 143

Georgia: Schley 115

Maryland: Kilty 214

North Carolina: State v. Benton,  
19 N.C. 196 (1836)

Pennsylvania: 3 Binney 609;  
Roberts 328

#### OFFICES NOT REQUIRING ACTUAL EXERCISE

Sheriffs. 19 Hen. 7, c. 10 (1503),  
4 S.L. 91; 19 Hen. 7, c. 10 (1503-  
04), 2 S.R. 654

Georgia: State v. Dews, Charl't.  
R.M. 397 (1835)

Maryland: Kilty 230

#### OATHS OF ALLEGIANCE AND SUPREMACY

An act repealing all articles and  
provisions made against the see  
apostolick of Rome, since the  
twentieth year of King Henry the  
Eighth, and for the establishment  
of all spiritual and ecclesiastical  
possessions and hereditaments  
conveyed to the laity. 1 & 2 Phil.  
& M., c. 8 (1554), 6 S.L. 34; 1 & 2  
Phil. & M., c. 8 (1554 & 1554-55),  
4 S.R. 246

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

An act for the abrogating of the  
oaths of supremacy and allegiance,  
and appointing other oaths. 1 W.  
& M., Sess. 1, c. 8 (1688), 9 S.L. 5;  
1 W. & M., Sess. 1, c. 8 (1688),  
6 S.R. 57

South Carolina: 2 Cooper 411

#### OFFICE FOUND

No lands shall be granted by  
letters patents, until the King's  
title be found by inquisition. 18  
Hen. 6, c. 6 (1439), 3 S.L. 226;  
18 Hen. 6, c. 6 (1439), 2 S.R. 306  
Massachusetts: Wilbur v. Tobey,  
33 Mass. (16 Pick.) 177 (1834)

#### OFFICERS OF COURTS

Clerks shall not commit mainte-  
nance. 3 Edw. 1, c. 28 (1275),  
1 S.L. 94; 3 Edw. 1, c. 28 (1275),  
1 S.R. 33

New York: Thalimer v. Brinker-  
hoff, 20 Johns. R. 386 (1823);

Thalhimer v. Brinckerhoff, 3 Cow. NUNS  
623 (1824)

## OFFICES

Against buying and selling of offices. 5 & 6 Edw. 6, c. 16 (1552), 5 S.L. 383; 5 & 6 Edw. 6, c. 16 (1551-52), 4 S.R. 151

Maryland: Gresham v. Gassaway, 1 H. & McH. 34 (1718)

Virginia: Goodloe v. Dudley, Jeff. 59 (1739); Salling v. M'Kinney, 28 Va. (1 Leigh) 42 (1829)

## NON OMITTAS

The manner to deliver writs to the sheriff to be executed. The sheriff returneth a liberty where none is. Returning of issues. Resistance of execution of process. 13 Edw. 1, St. 1, c. 39 (1285), 1 S.L. 214; 13 Edw. 1, Westminster 2d, c. 39 (1285), 1 S.R. 90

New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806)

Pennsylvania: 3 Binney 607; Roberts 390

## NONSUIT

An act to prevent inconveniencies arising from delays of causes after issue joined. 14 Geo. 2, c. 17 (1741), 17 S.L. 434

Pennsylvania: Hannum v. Gregg, 2 Yeates 240 (1797)

## NONTENURE OF PARCEL

The exception of nontenure of parcel shall not abate the whole writ. 25 Edw. 3, St. 5, c. 16 (1350), 2 S.L. 58; 25 Edw. 3, St. 5, c. 16 (1351-52), 1 S.R. 322

Kentucky: Speed v. Buford, 6 Ky. (3 Bibb) 57 (1813); Green v. Liter, 12 U.S. (8 Cranch) 229 (1814)

Pennsylvania: 3 Binney 611; Roberts 365

Virginia: Green v. Liter, 12 U.S. (8 Cranch) 229 (1814)

Federal: Green v. Liter, 12 U.S. (8 Cranch) 229 (1814)

It is a felony to commit rape. A married woman elopeth with an advouterer. The penalty for carrying a nun from her house. 13 Edw. 1, St. 1, c. 34 (1285), 1 S.L. 208; 13 Edw. 1, Westminster 2d, c. 34 (1285), 1 S.R. 87

Delaware: Dixon v. Knowles, 2 Del. Cas. 537 (1820)

Georgia: Schley 108

Maryland: Kilty 213

New York: People v. Schuyler, 6 Cow. 572 (1827)

North Carolina: State v. Dick, 6 N.C. 388 (1818)

Pennsylvania: 3 Binney 606; Roberts 186

South Carolina: Bell v. Nealy, 1 Bail. 312 (1829); 2 Cooper 404

## OUTLAWRY AND OUTLAWS

Process of outlawry to lie in actions, on 5 Rich. 2, and in covenant and annuity. 23 Hen. 8, c. 14 (1531), 4 S.L. 243; 23 Hen. 8, c. 14 (1531-32), 3 S.R. 380

Maryland: Kilty 231

## OYER AND TERMINER

In what cases only pardon of felony shall be granted. Who shall be justices of assise, &c. 2 Edw. 3, c. 2 (1328), 1 S.L. 421; 2 Edw. 3, c. 2 (1328), 1 S.R. 257

South Carolina: 2 Cooper 404

Justices of gaol-delivery, &c. and their associates, shall take an oath. 20 Edw. 3, c. 3 (1346), 2 S.L. 23; 20 Edw. 3, c. 3 (1346), 1 S.R. 304

Maryland: Snowden v. Snowden, 1 Bla. Ch. 550 (1829)

## PARLIAMENT

What sort of people shall be chosen, and who shall be the choosers of the knights and burgesses of the parliament. 1 Hen. 5, c. 1 (1413), 3 S.L. 1; 1 Hen. 5, c. 1 (1413), 2 S.R. 170

Maryland: Snowden v. Snowden, 1 Bla. Ch. 550 (1829)

An act to prevent false and double returns of members to serve in parliament. 7 & 8 Will. 3, c. 7 (1696), 9 S.L. 397; 7 & 8 Will. 3, c. 7 (1695-96), 7 S.R. 64

Pennsylvania: Morrison v. Gross, 1 Bro. (Pa.) 1 (1806)

An act for the further regulating elections of members to serve in parliament, and for the preventing irregular proceedings of sheriffs, and other officers, in the electing and returning such members.

7 & 8 Will. 3, c. 25 (1696), 9 S.L. 438; 7 & 8 Will. 3, c. 25 (1695-96), 7 S.R. 109

D.C.: Vowell v. Thompson, 3 Cranch C.C. 428 (1829)

Pennsylvania: Presbyterian Corp. v. Wallace, 3 Rawle 109, Jour. Law (Pa.) 324 (1831)

Federal: Vowell v. Thompson, 3 Cranch C.C. 428 (1829)

An act for preventing any inconveniences that may happen by privilege of parliament. 12 & 13 Will. 3, c. 3 (1700), 10 S.L. 360; 12 & 13 Will. 3, c. 3 (1700 & 1701), 7 S.R. 638

Pennsylvania: Bolton v. Martin, 1 Dall. 296 (1788)

An act for the further explanation and regulation of privilege of parliament in relation to persons in public offices. 2 & 3 Anne, c. 18 (1703), 11 S.L. 58; 2 & 3 Anne, c. 12 (1703), 8 S.R. 274

Pennsylvania: Bolton v. Martin, 1 Dall. 296 (1788)

## PARSONS

A writ of nuisance of a house, &c. levied and aliened to another. A Quod permittat and Juris utrum for a parson of a church. In like cases like writs be grantable. 13 Edw. 1, St. 1, c. 24 (1285), 1 S.L. 196; 13 Edw. 1, Westminster 2d, c. 24 (1285), 1 S.R. 83

Maryland: Kilty 212

New Hampshire: Plumer v. Harper, 3 N.H. 88 (1824)

Pennsylvania: Martzell v. Stauffer, 3 Pen. & W. 398 (1832); 3 Binney 604; Roberts 157

## PARTITION

Joint tenants for term of life or years. 32 Hen. 8, c. 32 (1540), 5 S.L. 47; 32 Hen. 8, c. 32 (1540), 3 S.R. 787

Delaware: Ex Parte Burgess, 1 Del. Ch. 233 (1822)

Maryland: Kilty 232

Massachusetts: Mussey v. Sanborn, 15 Mass. 155 (1818)

Pennsylvania: 3 Binney 619; Roberts 224

South Carolina: 2 Cooper 408

Virginia: Thornton v. Thornton, 24 Va. (13 Rand.) 179 (1825)

An act for the easier obtaining partitions of lands in coparcenary, joint tenancy, and tenancy in common. 8 & 9 Will. 3, c. 31 (1697), 10 S.L. 109; 8 & 9 Will. 3, c. 31 (1696-97), 7 S.R. 283

Maryland: Kilty 244

New Jersey: Stevens v. Enders (Burroughs v. Dunlap), 13 N.J.L. 271 (1833)

New York: Gallatien v. Cunningham, 8 Cow. 361 (1826)

Pennsylvania: M'Kee v. Straub, 2 Binn. 1 (1809)

## PATENTEES

An act concerning grants and gifts made by patentees out of letters patents. 3 & 4 Edw. 6, c. 4 (1549), 5 S.L. 338; 3 & 4 Edw. 6, c. 4 (1549-50), 4 S.R. 104

Georgia: Patterson v. Winn, 30 U.S. (5 Pet.) 233 (1831)

## PEERAGE AND PEERS OF THE REALM

An act for the repeal of certain statutes concerning treasons and felonies. 1 Edw. 6, c. 12 (1547), 5 S.L. 259; 1 Edw. 6, c. 12 (1547), 4 S.R. 18

New York: Woodbeck v. Keller,  
6 Cow. 118 (1826)  
North Carolina: State v. Seaborn,  
15 N.C. 305 (1833)  
Pennsylvania: Respublica v.  
Roberts, 1 Dall. 39 (1778)  
South Carolina: 2 Cooper 409

## PENAL STATUTES

An act for the ease of the subject,  
concerning informations upon  
penal statutes. 21 Jac. 1, c. 4  
(1623), 7 S.L. 260; 21 Jac. 1, c. 4  
(1623-24), 4 S.R. 1214  
Georgia: Schley 239  
Maine: Titus v. Frankfort, 15 Me.  
89 (1838)  
Maryland: Kilty 236  
Federal: Foyles v. Law, 3 Cranch  
C.C. 118 (1827)

## PERJURY

An act for punishment of such as  
shall procure or commit any wil-  
ful perjury. 5 Eliz., c. 9 (1562),  
6 S.L. 189; 5 Eliz., c. 9 (1562-  
63), 4 S.R. 436  
Georgia: A.v.B., Charl't. R.M. 228  
(1822)  
Pennsylvania: Respublica v. Newell,  
3 Yeates 407 (1802); Common-  
wealth v. Lennom, 1 Bro. (Pa.)  
App. 40 (1804); United States v.  
Shellmire, Bald. C.C. 370 (1831);  
3 Binney 621; Roberts 359  
South Carolina: 2 Cooper 409  
Tennessee: Wetherspoon v.  
Killough, 8 Tenn. 38 (1827)  
Federal: United States v. Shellmire,  
Bald. C.C. 370 (1831)

An act to prevent perjury, and  
subornation of perjury, and un-  
necessary expenses in suits of  
law. 43 Eliz., c. 5 (1601), 7 S.L.  
46; 43 Eliz., c. 5 (1601), 4 S.R.  
970  
South Carolina: 2 Cooper 410

An act for laying impositions on  
proceedings at law. 22 & 23  
Car. 2, c. 9, St. 2, c. 5 (1670),  
8 S.L. 347; 22 & 23 Car. 2, c. 9  
(1670 & 1671), 5 S.R. 712

Georgia: Schley 251  
Pennsylvania: Hinds v. Knox, 4  
S. & R. 417 (1819); 3 Binney 624;  
Roberts 138

An act for the more effectual pre-  
venting and further punishment of  
forgery, perjury and subornation  
of perjury; and to make it felony  
to steal bonds, notes or other se-  
curities for payment of money.

2 Geo. 2, c. 25 (1729), 16 S.L. 69  
New York: People v. Holbrook, 13  
Johns. R. 90 (1816)  
Pennsylvania: Commonwealth v.  
Boyer, 1 Binn. 201 (1807)  
South Carolina: State v. Washington,  
1 Bay 117 (1791); State v. Holly,  
2 Bay 262 (1800); State v. Casados,  
1 N. & Mc. 91 (1818); State v.  
Thomas, 2 McCord 527 (1823)  
Federal: United States v. Stewart,  
4 Wash. C.C. 226 (1818); United  
States v. Moulton, 5 Mas. 537  
(1830); United States v. Gibert,  
2 Sumn. 19 (1834)

An act to render prosecutions for  
perjury, and subornation of per-  
jury, more easy and effectual.  
23 Geo. 2, c. 11 (1750), 20 S.L. 11  
Maryland: Kilty 252  
New York: People v. Phelps, 5 Wend.  
9 (1830)  
North Carolina: State v. Carland,  
14 N.C. 114 (1831)  
South Carolina: State v. Hayward,  
1 N. & Mc. 546 (1819)

## PETIT ASSIZES

How many shall be returned in  
juries and petit assises, and of  
what age they shall be. 13 Edw. 1,  
St. 1, c. 38 (1285), 1 S.L. 213;  
13 Edw. 1, Westminster 2d, c. 38  
(1285), 1 S.R. 89

Indiana: State v. Miller, 2 Blackf.  
35 (1826)  
North Carolina: State v. McEntire,  
4 N.C. 267 (2 Car. Law Repos.  
287) (1815)  
Federal: United States v. White,  
4 Mas. 158 (1826)

## PETIT TREASON

A declaration which offences shall be adjudged treason. 25 Edw. 3, St. 5, c. 2 (1350), 2 S.L. 50; 25 Edw., St. 5, c. 2 (1351-52), 1 S.R. 319

Maryland: Kilty 217

New Jersey: Denn v. Clark, 1 N.J.L. 340 (1795)

South Carolina: State v. Gutridge, 1 Bay 281 (1793); 2 Cooper 405

Federal: United States v. Burr, Coombs Trial of Aaron Burr 1 (1807); United States v. Burr, 8 U.S. (4 Cranch) App. 470 (1807)

Of murder. 12 Hen. 7, c. 7 (1496), 4 S.L. 81; 12 Hen. 7, c. 7 (1496-97), 2 S.R. 639

South Carolina: 2 Cooper 408

United States v. Gibert, 2 Sumn. 9 (1834)

An act for the further preventing robbery, burglary, and other felonies, and for the more effectual transportations of felons, and unlawful exporters of wool; and for declaring the law upon some points relating to pirates. 4 Geo. 1, c. 11 (1717), 13 S.L. 471

D.C.: United States v. Norris, 1 Cranch C.C. 411 (1807)

Maryland: United States v. Norris, 1 Cranch C.C. 411 (1807)

An act for the more effectual suppressing of piracy. 8 Geo. 1, c. 24 (1721), 14 S.L. 468

Federal: United States v. Howard, 3 Wash. C.C. 340 (1818)

## PETITION OF RIGHT

The petition exhibited to his Majesty by the lords spiritual and temporal, and commons, in this present parliament assembled, concerning divers rights and liberties of the subjects, with the King's majesty's royal answer thereunto in full parliament.

3 Car. 1, Petition of Right (1627), 7 S.L. 317; 3 Car. 1, c. 1 (1627), 5 S.R. 23

South Carolina: 2 Cooper 410

## PIRATES AND PIRACY

For pirates and robbers on the sea. 27 Hen. 8, c. 4 (1535), 4 S.L. 348; 27 Hen. 8, c. 4 (1535-36), 3 S.R. 533

South Carolina: 2 Cooper 408

For pirates. 28 Hen. 8, c. 15 (1536), 4 S.L. 441; 28 Hen. 8, c. 15 (1536), 3 S.R. 671

Pennsylvania: Ross's Ex'rs v. Rittenhouse, 1 Yeates 443 (1795)

South Carolina: 2 Cooper 408

Federal: United States v. Chapels, 2 Wheel. Cr. C. 205 (1820); Corfield v. Coryell, 4 Wash. C.C. 371 (1823); Bains v. Schooner James, Bald. C.C. 544 (1832);

## PHYSICIANS

For physicians and their privilege.

32 Hen. 8, c. 40 (1540), 5 S.L. 56;

32 Hen. 8, c. 40 (1540), 3 S.R. 793

Maryland: Kilty 233

## PLAINTS

Plaintiffs in assise may abridge their complaints. 21 Hen. 8, c. 3 (1529), 4 S.L. 165; 21 Hen. 8, c. 3 (1529), 3 S.R. 284

New York: Inglis v. Trustees of Sailor's Snug Harbor, 28 U.S. (3 Pet.) 99 (1830)

Pennsylvania: 3 Binney 618; Roberts 166

## PLANTATIONS AND PLANTATION TRADE

An act for the encouragement of trade. 15 Car. 2, c. 7 (1663), 8 S.L. 160; 15 Car. 2, c. 7 (1663), 5 S.R. 449

Massachusetts: Randolph v. Catch Newbery, 1 Rec. Ct. of Asst., Colony of Mass. Bay 152 (1682); Luggier v. Ship Elisabeth, 1 Rec. Ct. of Asst., Colony of Mass. Bay 209 (1686); Brenton v. Katch Salisbury, 1 Rec. Ct. of Asst., Colony of Mass. Bay 251 (1691);

Brenton v. Three Brothers, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691)

An act for preventing frauds, and regulating abuses in the plantation trade. 7 & 8 Will. 3, c. 22 (1696), 9 S.L. 428; 7 & 8 Will. 3, c. 22 (1695-96), 7 S.R. 103

Maryland: The Chancellor's Case, 1 Bla. Ch. 595 (1825)

An act for the better preservation of his Majesty's woods in America, and for the encouragement of the importation of naval stores from thence; and to encourage the importation of masts, yards and bowsprights, from that part of Great Britain called Scotland.

2 Geo. 2, c. 35 (1729), 16 S.L. 102

Maryland: The Chancellor's Case, 1 Bla. Ch. 595 (1825); Duvall v. Waters, 1 Bla. Ch. 569 (1829)

An act for the more easy recovery of debts in his Majesty's plantations and colonies in America.

5 Geo. 2, c. 7 (1732), 16 S.L. 272

Georgia: Telfair v. Stead's Ex'rs, 6 U.S. (2 Cranch) 407 (1805); Forsyth v. Marbury, Charl. R.M. 324 (1830); Schley 365

Maryland: Davidson's Lessee v.

Beatty, 3 H. & McH. 594 (1797);

Barney v. Patterson's Lessee, 6

H. & J. 182 (1824); Jones v.

Jones, 1 Bla. Ch. 443 (1827);

Watkins v. Worthington, 1 Bla. Ch. 530

(1829); Duvall v. Waters, 1 Bla.

Ch. 569 (1829); Campbell's Case,

2 Bla. Ch. 209 (1830); Hammond

v. Hammond, 2 Bla. Ch. 306 (1830);

Watkins v. Worthington, 2 Bla. Ch.

509 (1830); Andrews v. Scotton,

2 Bla. Ch. 629 (1830); Tessier v.

Wyse, 3 Bla. Ch. 28 (1830); Hanson

v. Barnes' Lessee, 3 G. & J. 359

(1831); Tayloe v. Thompson's

Lessee, 30 U.S. (5 Pet.) 358

(1831); Cape Sable Co.'s Case,

3 Bla. Ch. 606 (1832); Kilty 249

Missouri: Scott v. Whitehill, 1 Mo. 764 (1827)

New York: Jackson v. Striker, 1

Johns. Cas. 284 (1800); Waters v.

Stewart, 1 Cai. Cas. 47 (1804);

Catlin v. Jackson, 8 Johns. R. 520

(1811); M'Donald v. Neilson, 2

Cow. 139 (1823)

North Carolina: Baker v. Webb,

2 N.C. 55 (1 Hay. 43) (1794);

Farrar v. Hamilton, 1 N.C. (Tayl.)

10 (1799); Keais v. Shepard's

Heirs, 3 N.C. 198 (2 Hay. 218)

(1802); Jones v. Edmonds, 7 N.C.

43 (1819); Barden v. M'Kinne, 11

N.C. 279 (1826); Frost v.

Etheridge, 12 N.C. 30 (1826);

Ricks v. Blount, 15 N.C. 128 (1833)

Ohio: McArthur v. Porter, 1 Hamm.

99 (1 Ohio 44) (1823)

Pennsylvania: Christie v. Woods,

2 Yeates 213 (1797)

South Carolina: D'Urphey v. Nelson,

1 Brev. 289 (1803); Brown v.

Gilliland, 3 Desaus. Eq. 539 (1813);

Blake v. Heyward, Bail. Eq. 208

(1831); Izard v. Middleton, Bail.

Eq. 228 (1831); Warley v. Warley,

Bail. Eq. 397 (1831); Vernon & Co.

v. Ex'rs of Ehrich, 2 Hill Eq. 257

(1835); Jones v. Wightman, 2 Hill

S.C. 579 (1835)

Tennessee: Russell v. Stinson, 4

Tenn. 1 (1816); Russell v. Stinson,

4 Tenn. 56 (1816); Robertson v.

Maclin, 4 Tenn. 70 (1816); Roberts

v. Busby, 4 Tenn. 299 (1817);

Shute v. Harder, 5 Tenn. 293 (1818);

Pea v. Waggoner, 6 Tenn. 1 (1818);

Hurt v. Reeves, 6 Tenn. 49 (1818);

Shute v. Harder, 9 Tenn. 3 (1818);

Boyd v. Armstrong's Heirs, 9

Tenn. 40 (1821); Porter's Lessee

v. Cocke, 7 Tenn. 30 (1823); Ward

v. Sutherland, 7 Tenn. App. 1

(1823); Combs v. Young's Heirs,

12 Tenn. 218 (1833); Gann v.

Chester, 13 Tenn. 207 (1833);

Shields v. Mitchell, 18 Tenn. 1

(1836)

Virginia: Rogers v. Spalden, Jeff.

58 (1738); 2 Va. Col. Dec. B81

(1739); Harrison v. Halley, 2 Va.

Col. Dec. B80 (1739)

An act for avoiding and putting an end to certain doubts and questions relating to the attestation of wills and codicils concerning real estates in that part of Great Britain called England, and in his Majesty's colonies and plantations in America. 25 Geo. 2, c. 6 (1752), 20 S.L. 323

Connecticut: Clark v. Hoskins, 6 Conn. 106 (1826)

Georgia: Schley 384

Maryland: Kilty 253

New York: Jackson v. Woods, 1

Johns. Cas. 163 (1799)

North Carolina: Allison's Ex'rs v.

Allison, 11 N.C. 141 (1825)

An act for granting certain duties in the British colonies and plantations in America; for continuing amending, and making perpetual, an act passed in the sixth year of the reign of his late majesty King George the Second, (intituled, An act for the better securing and encouraging the trade of his Majesty's sugar colonies in America;) for applying the produce of such duties, and of the duties to arise by virtue of the said act, towards defraying the expenses of defending, protecting, and securing the said colonies and plantations; for explaining an act made in the twenty fifth year of the reign of King Charles the Second, (intituled, An act for the encouragement of the Greenland and Eastland trades, and for the better securing the plantation trade;) and for altering and disallowing several drawbacks on exports from this kingdom, and more effectually preventing the clandestine conveyance of goods to and from the said colonies and plantations, and improving and securing the trade between the same and Great Britain. 4 Geo. 3, c. 15 (1764), 26 S.L. 33

Maryland: Dashiell v. Heron, 1 H. & McH. 385 (1771)

#### PLEA OF MORT d'ANCESTOR

Several actions wherein damages shall be recovered. 6 Edw. 1, c. 1 (1278), 1 S.L. 119; 6 Edw. 1, St. Glouc., c. 1 (1278), 1 S.R. 47

D.C.: Forrest v. Hanson, 1 Cranch C.C. 63 (1802)

Georgia: Schley 93

Maryland: Forrest v. Hanson, 1

Cranch C.C. 63 (1802); Kiersted v.

Rogers, 6 H. & J. 282 (1824);

Kilty 210

New Hampshire: Chase v. Hazelton, 7 N.H. 171 (1834)

New Jersey: Martin v. Martin, 14

N.J.L. 125 (1833)

Ohio: Bell v. Bates, 3 Hamm. 380 (3 Ohio 611) (1828)

Pennsylvania: Benner v. Evans, 3 Pen. & W. 454 (1832); 3 Binney 602; Roberts 107

Tennessee: Wallen v. M'Henry's Lessee, 10 Tenn. 310 (1829)

#### PLEADER

The penalty of a serjeant or pleader committing deceit.

3 Edw. 1, c. 29 (1275), 1 S.L. 94;

3 Edw. 1, c. 29 (1275), 1 S.R. 34

Georgia: Schley 89

South Carolina: 2 Cooper 404

#### PLEA OF SANCTUARY

Punishment of murders. 4 Hen. 8, c. 2 (1512), 4 S.L. 120; 4 Hen. 8, c. 2 (1512), 3 S.R. 49

South Carolina: 2 Cooper 408

#### PLEADINGS

An act for furtherance of justice, in case of demurrer and pleadings.

27 Eliz., c. 5 (1585), 6 S.L. 360;

27 Eliz., c. 5 (1584-85), 4 S.R. 712

Georgia: Schley 231

Kentucky: Pollard v. Taylor, 5 Ky. (2 Bibb) 234 (1810)

Maryland: Kilty 235

Pennsylvania: 3 Binney 622;

Roberts 367

South Carolina: O'Driscoll v.

M'Burney, 2 N. & Mc. 58 (1819);

M'Lure v. Vernon, 2 Hill S.C. 420 (1834)

Virginia: *Commonwealth v. Jackson*, 4 Va. (2 Va. Cas.) 501 (1826); *Carthrae v. Clarke*, 32 Va. (5 Leigh) 268 (1834)

An act for the amendment of the law, and the better advancement of justice. 4 Anne, c. 16 (1705), 11 S.L. 155; 4 & 5 Anne, c. 3 (1705), 8 S.R. 458

Connecticut: *Judson v. Blanchard*, 3 Conn. 579 (1821)

Delaware: *Vandegrift v. Haughey*, 1 Del. Cas. 338 (1793); 2 Del. Cas. 13 (1793); *Evans v. Boggs*, 1 Del. Cas. 18 (1794); 1 Del. Cas. 349 (1794); *Horsey's Ex'rs v. Moore*, 1 Del. Cas. 122 (1796); *Robinson v. Ingram*, 1 Del. Cas. 242 (1799); *Ford's Lessee v. Hays*, 1 Del. (1 Harr.) 48 (1832)

Georgia: *Moss v. Wood*, Charl. R.M. 42 (1819); *Schley* 326

Kentucky: *Leather's Rep's v. M'Glasson*, 19 Ky. (3 T.B. Mon.) 223 (1826); *Nelson's Heirs v. Clay's Heirs*, 30 Ky. (7 J.J. Mar.) 138 (1832)

Maryland: *Gorsuch v. Holmes* (*Osborn v. Jones*), 4 Hen. & McH. 5 (1792); *Union Bank v. Ridgely*, 1 H. & G. 324 (1827); *Hammond v. Hammond*, 2 Bla. Ch. 306 (1830); *Buckingham v. Peddicord*, 2 Bla. Ch. 447 (1830); *Brown v. Wallace*, 2 Bla. Ch. 585 (1830); *Addison v. Bowie*, 2 Bla. Ch. 606 (1830); *Salmon v. Claggett*, 3 Bla. Ch. 125 (1830); *Hall v. McPherson*, 3 Bla. Ch. 529 (1832); *Sasscer v. Walker's Ex'rs*, 5 G. & J. 102 (1833); *Kilty* 245

Massachusetts: *Jones v. Harraden* (*Brigham v. Eveleth*), 9 Mass. n. 540 (1784); *Brigham v. Eveleth*, 9 Mass. 538 (1813); *Bond v. Cutler*, 10 Mass. 419 (1813); *Farley v. Thompson*, 15 Mass. 18 (1818); *Jackson v. Stetson*, 15 Mass. 48 (1818); *Parker v. Parker*, 34 Mass. (17 Pick.) 236 (1835)

New Hampshire: *Chapman v. Sloan*, 2 N.H. 464 (1822)

New York: *Cheetham v. Lewis*, 3 Johns. R. 42 (1808); *Lansing v. Capron*, 1 Johns. Ch. R. 617 (1815); *Jones v. Clark*, 20 Johns. R. 51 (1822); *Kane v. Bloodgood*, 7 Johns. Ch. R. 90 (1823); *In the Matter of Hemiup*, 2 Pai. Ch. 316 (1830); *Oakley's Ex'rs v. Romeyn's Heirs*, 6 Wend. 521 (1831)

North Carolina: *Powell v. Hampton*, 1 C. & N. 86 (1800); *Bickerstaff v. Dellinger*, 1 C. & N. 299 (1801); *Chambers v. Chambers*, 10 N.C. 232 (1824); *Morrison v. Connelly*, 13 N.C. 233 (1829); *Briley v. Sugg*, 21 N.C. 366 (1836)

Ohio: *Lowther v. Lawrence*, *Wright* (Ohio) 180 (1833)

Pennsylvania: *Rapp v. Elliot*, 1 Yeates 185 (1792); *Kesselman's Lessee v. Old*, 4 Dall. 168 (1799); *Lessee of Eshelman v. Hoke*, 2 Yeates 509 (1799); *Griffith v. Willing*, 3 Binn. 317 (1811); *Hopkins v. Deaves*, 2 Bro. (Pa.) 93 (1811); *Wentz v. Dehaven*, 1 S. & R. 312 (1815); *Roop v. Meek*, 6 S. & R. 542 (1821); *Carl v. Commonwealth*, 9 S. & R. 63 (1822); *Jourdan v. Jourdan*, 9 S. & R. 268 (1823); *Irvine v. Hanlin*, 10 S. & R. 219 (1823); *Lynn v. M'Millen*, 3 Pen. & W. 170 (1831); *Vicary v. Moore*, 2 Watts 451 (1834); *Pepper v. Doores*, 1 Miles 60 (1835); *M'Mackin v. M'Farland*, 1 Miles 319 (1836); 3 Binney 625; *Roberts* 43

Rhode Island: *Sisson v. Seabury*, 1 Sumn. 235 (1832)

South Carolina: *Fraser v. McLeod*, 1 Brev. 198 (1802); *Gaillard v. Ball*, 1 N. & Mc. 67 (1818); *O'Driscoll v. M'Burney*, 2 N. & Mc. 58 (1819); *City Council v. Price*, 1 McCord 299 (1821); *Nicks v. Martindale*, 1 Harp. 138 (1824); *Thomas v. Wilson*, 3 McCord 166 (1825); *Soloman v. Evans*, 3 McCord 274 (1825); *Barino v. M'Gee*, 3 McCord 452 (1826); *M'Lure v. Vernon*, 2 Hill 420 (1834); 2 Cooper 412



Tennessee: Slatton v. Jonson, 5 Tenn. 197 (1817); Payton v. Trigg, 5 Tenn. 250 (1817); Johnston v. Dew, 6 Tenn. 224 (1818); Harmon v. Crook, 10 Tenn. 127 (1826); Hill v. State, 10 Tenn. 248 (1829)  
Virginia: Carthrae v. Clarke, 32 Va. (5 Leigh) 268 (1834)

An act for rendring the proceedings upon writs of Mandamus, and informations in the nature of a Quo Warranto, more speedy and effectual; and for the more easy trying and determining the rights of offices and franchises in corporations and boroughs. 9 Anne, c. 20 (1710), 12 S.L. 189; 9 Anne, c. 25 (1710), 9 S.R. 483.

Georgia: Ex Parte Carnochan, Charlt. T.U.P. 216 (1808); Schley 343

Maryland: Kilty 248

New York: People v. Tibbits, 4 Cow. 358 (1825)

Pennsylvania: Commonwealth v. Murray, 11 S. & R. 73 (1824); Commonwealth v. Arrison, 15 S. & R. 127 (1827); Commonwealth v. Mitchell, 2 Pen. & W. 517 (1831)

An act that all proceedings in courts of justice within that part of Great Britain called England, and in the court of exchequer in Scotland, shall be in the English language. 4 Geo. 2, c. 26 (1731), 16 S.L. 248

Maryland: Helms v. Franciscus, 2 Bla. Ch. 544 (1830); Kilty 249

Tennessee: Martin v. M'Night, 1 Tenn. 380 (1809)

An act for the more effectual preventing frivolous and vexatious arrests, and for the more easy recovery of debts and damages, in the courts of great sessions in the principality of Wales, and in the court of assize in the county palatine of Chester, and for the obviating a doubt which has arisen upon an act made in the fourth

year of his present Majesty's reign, intituled, An act that all proceedings in courts of justice, within that part of Great Britain called England, and in the court of exchequer in Scotland, shall be in the English language, so far as the same act doth or may relate to the courts of justice holden within the said principality, and for explaining and amending the said act. 6 Geo. 2, c. 14 (1733), 16 S.L. 379

Maryland: Helms v. Franciscus, 2 Bla. Ch. 544 (1830); Kilty 250

## PLEAS

Pleas shall be pleaded in the English tongue, and inrolled in Latin. 36 Edw. 3, St. 1, c. 15 (1362), 2 S.L. 156; 36 Edw. 3, St. 1, c. 15 (1362), 1 S.R. 375

Maryland: Kilty 221

## PLEAS OF THE CROWN

Holding pleas of the crown. 9 Hen. 3, c. 17 (Magna Charta) (1225), 1 S.L. 7; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 41

## POISONS AND POISONING

An act for the repeal of certain statutes concerning treasons and felonies. 1 Edw. 6, c. 12 (1547), 5 S.L. 259; 1 Edw. 6, c. 12 (1547), 4 S.R. 18

New York: Woodbeck v. Keller, 6 Con. 118 (1826)

North Carolina: State v. Seaborn, 15 N.C. 305 (1833)

Pennsylvania: Respublica v. Roberts, 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

## POLE, CARDINAL

An act repealing all articles and provisions made against the see apostolick of Rome, since the twentieth year of King Henry the Eighth, and for the establishment of all spiritual and ecclesiastical possessions and hereditaments conveyed to the laity. 1 & 2 Phil. & M., c. 8 (1554), 6 S.L. 34; 1 & 2

Phil. & M., c. 8 (1554 & 1554-55),  
4 S.R. 246

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

## POND\$

The bill for burning of frames.  
37 Hen. 8, c. 6 (1545), 5 S.L. 222;  
37 Hen. 8, c. 6 (1545), 3 S.R. 994

Kentucky: Act of 1802, 107, 118  
(1803)

South Carolina: 2 Cooper 409

## POOR

For the provision and relief of the  
poor. 5 & 6 Edw. 6, c. 2 (1552),  
5 S.L. 351; 5 & 6 Edw. 6, c. 2  
(1551-52), 4 S.R. 131

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

Justices of peace shall order the  
punishment of the mother and re-  
puted father of a bastard, &c.  
18 Eliz., c. 3 (1576), 6 S.L. 311;  
18 Eliz., c. 3 (1575-76), 4 S.R. 610

New Jersey: State v. Price, 11  
N.J.L. 143 (1829)

South Carolina: Rembert v. Kelly,  
1 Harper 65 (1823)

An act for the reviving, continu-  
ance, explanation and perfecting  
of divers statutes. 35 Eliz., c. 7  
(1593), 6 S.L. 434; 35 Eliz., c. 7  
(1592-93); 4 S.R. 854

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

An act for the relief of the poor.  
43 Eliz., c. 2 (1601), 7 S.L. 30;  
43 Eliz., c. 2 (1601), 4 S.R. 962

Connecticut: Wethersfield v.

Montague, 3 Conn. 507 (1821)

Maryland: Mulatto Joan v. Shield's  
Lessee, 3 H. & McH. 7 (1790)

New Jersey: Moore v. Ewing, 1  
N.J.L. 144 (1792); Youngs v.  
Overseers, 14 N.J.L. 517 (1834)

New York: Gay v. Ballou, 4 Wend.  
403 (1830); Ontario Bank v.  
Bunnell, 10 Wend. 186 (1833)

Pennsylvania: Commonwealth v.  
Jones, 3 S. & R. 158 (1817)

An act for continuance of divers  
statutes, and for repeal of some  
others. 43 Eliz., c. 9 (1601),  
7 S.L. 50; 43 Eliz., c. 9 (1601),  
4 S.R. 973

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

An act for the better relief of the  
poor of this kingdom. 13 & 14  
Car. 2, c. 12 (1662), 8 S.L. 94;  
14 Car. 2, c. 12 (1662), 5 S.R. 401

New Jersey: Moore v. Ewing, 1  
N.J.L. 144 (1792); Township of  
Vernon v. Township of Wantage,  
2 N.J.L. 293 (1 Penning. 311)  
(1807); Elizabethtown v. Spring-  
field, 3 N.J.L. 67 (2 Penning. 476)  
(1809); Ackerman v. Taylor, 9  
N.J.L. 65 (1827); Orange v.  
Springfield, 14 N.J.L. 321 (1834)

New York: Newburgh Turnpike Co.  
v. Miller, 5 John. Ch. R. 101  
(1821); Malcom v. Rogers, 5 Cow.  
188 (1825)

An act for reviving and continu-  
ance of several acts of parliament  
therein mentioned. 1 Jac. 2, c. 17  
(1685), 8 S.L. 463; 1 Jac. 2, c. 17  
(1685), 6 S.R. 19

New Jersey: Orange v. Springfield,  
14 N.J.L. 321 (1834)

New York: Foster v. Wilbert, 1 Pai.  
Ch. 537 (1829)

North Carolina: Davis v. Duke's  
Adm'r, 1 N.C. (Tayl.) 213 (1801);  
1 N.C. (C. & N.) 361 (1801)

Pennsylvania: Lessee of Ware v.  
Fisher, 2 Yeates 578 (1800);  
Harris v. Hayes, 6 Binn. 422  
(1814); Bevan v. Taylor, 7 S. & R.  
397 (1821)

South Carolina: 2 Cooper 411

An act for the better explanation  
and supplying the defects of for-  
mer laws, for the settlement of  
the poor. 3 & 4 W. & M., c. 11  
(1691), 9 S.L. 142; 3 W. & M.,  
c. 11 (1691), 6 S.R. 314

New York: Gourley v. Allen, 5 Cow.  
644 (1825)

Pennsylvania: Shaeffer v. Jack, 14 S. & R. 426 (1826)

An act for reviving, continuing, and explaining several laws therein mentioned, which are expired and near expiring. 4 & 5 W. & M., c. 24 (1692), 9 S.L. 229; 4 W. & M., c. 24 (1692), 6 S.R. 416

Delaware: Burton v. McCullen, 2 Del. Cas. 20 (1807)

Georgia: Schley 286

Maryland: Sibley v. Williams, 3 G. & J. 52 (1830)

New Jersey: Schenck v. Ex'rs of Schenck, 3 N.J.L. 149 (2 Penning. 562) (1809); Dickerson v. Robinson, 6 N.J.L. 195 (1822)

Pennsylvania: Pott v. Smith, 3 Rawle 361 (1832)

South Carolina: Trescott v. Trescott, 1 McCord Eq. 417 (1826)

An act for amending the laws relating to the settlement, imprisonment and relief of the poor. 9 Geo. 1, c. 7 (1722) 15 S.L. 28

New York: Gourley v. Allen, 5 Cow. 644 (1825)

An act to amend an act made in third year of the reign of King William and Queen Mary, intituled,

An act for the better explanation, and supplying the defects of the former laws for the settlement of the poor, so far as the same relates to apprentices gaining a settlement by indenture; and also to impower justices of the peace to determine differences between masters and mistresses and their servants in husbandry, touching their wages, though such servants are hired for less time than a year. 31 Geo. 2, c. 11 (1758), 22 S.L. 235

New Jersey: Hopewell v. Amwell, 3 N.J.L. 16 (2 Penning. 422) (1808)

debt. 22 & 23 Car. 2, c. 20 (St. 2, c. 16) (1670), 8 S.L. 368; 22 & 23 Car. 2, c. 20 (1670 & 1671), 5 S.R. 734

Maryland: Kilty 240

South Carolina: 2 Cooper 411

An act for relief of poor prisoners for debt or damages. W. & M. Sess. 2, c. 15, (Sess. 1, c. 25) (1691), 9 S.L. 128; W. & M., Sess. 2, c. 15 (1690), 6 S.R. 248

Pennsylvania: Rees v. Emerick, 6 S. & R. 286 (1820)

An act for the relief of debtors with respect to the imprisonment of their persons. 2 Geo. 2, c. 22 (1729), 16 S.L. 46

Connecticut: Alsop v. Nichols, 9 Conn. 357 (1832)

Georgia: Adm'rs of Sheftall v. Adm'rs of Clay, Charl. T.U.P. 227 (1809)

Indiana: Coe v. Givan, 1 Blackf. 367 (1825)

Kentucky: Tribble v. Taul, 23 Ky. (7 T.B. Mon.) 455 (1828)

Maryland: Baltimore Ins. Co. v. M'Fadon, 4 H. & J. 31 (1815) Strike's Case, 1 Bla. Ch. 57 (1826)

Massachusetts: Stowers v. Barnard, 32 Mass. (15 Pick.) 221 (1834)

New York: Gordon v. Bowne, 2 Johns. R. 150 (1807); Jansen v. Hilton, 10 Johns. R. 549 (1813); Simpson v. Hart, 1 Johns. Ch. R. 91 (1814); Duncan v. Lyon, 3 Johns. Ch. R. 351 (1818); Dale v. Cooke, 4 Johns. Ch. R. 11 (1819); Root v. Taylor, 20 Johns. R. 137 (1822); Wheeler v. Raymond, 5 Cow. 231 (1825); Bridge v. Johnson, 5 Wend. 342 (1830)

North Carolina: Roberts v. Jones, 5 N.C. 353 (1810)

Pennsylvania: Kachlin v. Mulhallon, 2 Dall. 237 (1795); Body v. Thompson, 2 Yeates 217 (1797); Commissioners v. Ross, 3 Binn.

## POOR PRISONERS

An act for the relief and release of poor distressed prisoners for

539 (1811); Stewart v. Coulter, 12 S. & R. 445 (1825); Crist v. Brindle, 2 Rawle 121 (1828); Best v. Lawson, 1 Miles 11 (1835)

South Carolina: Sumter v. Welsh, 1 Brev. 539 (1805); Furman v. Elmore (Mackey v. Collin's Ex'rs), 2 N. & Mc. 186 (1812); Aiken v. Moore, 1 Hill 432 (1833)

An act for explaining and amending an act made in the last session of parliament intituled, An act for the relief of debtors with respect to the imprisonment of their persons. 3 Geo. 2, c. 27 (1730), 16 S.L. 179

South Carolina: Sumter v. Welsh, 1 Brev. 539 (1805)

An act to explain and amend an act passed in the second year of the reign of his present Majesty, intituled, An act for the relief of debtors with respect to the imprisonment of their persons. 8 Geo. 2, c. 24 (1735), 16 S.L. 535

Connecticut: Alsop v. Nichols, 9 Conn. 357 (1832)

Delaware: Walker v. State, 2 Del. Cas. 437 (1818)

Kentucky: Tribble v. Taul, 23 Ky. (7 T.B. Mon.) 455 (1828)

Maryland: Baltimore Ins. Co. v. M'Fadon, 4 H. & J. 131 (1815)

Massachusetts: Stowers v. Barnard, 32 Mass. (15 Pick.) 221 (1834)

New York: Simpson v. Hart, 1 Johns. Ch. R. 91 (1814); Wheeler v. Raymond, 5 Cow. 231 (1825)

North Carolina: Roberts v. Jones, 5 N.C. 353 (1810)

Pennsylvania: Kachlin v. Mulhallon, 2 Dall. 237 (1795); Boyd v. Thompson, 2 Yeates 217 (1797); Stewart v. Coulter, 12 S. & R. (2nd ed.) 253 (1825); Best v. Lawson, 1 Miles 11 (1835)

South Carolina: Furman v. Elmore, 2 N. & Mc. 189 (1812)

An act for the relief of insolvent debtors. 1 Geo. 3, c. 17 (1760), 23 S.L. 298

Pennsylvania: Road in Hatfield Township, 4 Yeates 392 (1807)

## POPERY

An act for the further preventing the growth of popery. 11 & 12 Will. 3, c. 4 (1700), 10 S.L. 315; 11 Will. 3, c. 4 (1698-99), 7 S.R. 586

New York: McCartee v. Orphan Asylum Soc'y, 9 Cow. 437 (1827)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

Virginia: Commonwealth v. Martin's Ex'rs, 19 Va. (5 Munf.) 117

## POPE'S SUPREMACY

An act repealing all articles and provisions made against the see apostolick of Rome, since the twentieth year of King Henry the Eighth, and for the establishment of all spiritual and ecclesiastical possessions and hereditaments conveyed to the laity. 1 & 2 Phil. & M., c. 8 (1554), 6 S.L. 34; 1 & 2 Phil. & M., c. 8 (1554-55), 4 S.R. 246

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

## POPISH RECUSANTS

An act for the better discovering and repressing of popish recusants. 3 Jac. 1, c. 4 (1605), 7 S.L. 150; 3 Jac. 1, c. 4 (1605-06) 4 S.R. 1071

Federal: United States v. La Coste, 2 Mas. 129 (1820)

## POST-OFFICE

An act for preventing frauds and abuses in the publick revenues of excise, customs, stamp-duties, post-office, and house-money. 6 Geo. 1, c. 21 (1719), 14 S.L. 262

South Carolina: State v. Anderson, 1 Hill 327 (1833)

## POSTHUMOUS CHILDREN

An act to enable posthumous children to take estates as if born in their father's life-time. 10 & 11 Will. 3, c. 16 (1699), 10 S.L. 263; 10 Will. 3, c. 22 (1698). 7 S.R. 532

Georgia: Schley 310

Maryland: Kilty 245

New York: Stedfast v. Nicoll, 3

Johns. Cas. 18 (1802)

Pennsylvania: 3 Binney 625;

Roberts 322

South Carolina: 2 Cooper 412

## PRECIPE IN CAPITE

In what case a praecipe in Capite is not grantable. 9 Hen. 3, c. 24 (Magna Charta) (1225), 1 S.L. 9; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 44

## PREROGATIVE

His prerogative in the custody of lands of idiots. 17 Edw. 2, St. 1, c. 9 (1324), 1 S.L. 380; Temp. Incert., 1 S.R. 226a

Kentucky: Breckenridge's Heirs v. Ormsby, 24 Ky. (1 J.J. Mar.) 236 (1829)

Maryland: Kilty 216

New York: Matter of Salisbury, 3 Johns. Ch. R. 347 (1818)

His prerogative in the preservation of the lands of lunatics. 17 Edw. 2, c. 10 (1324), 1 S.L. 380; Temp. Incert., 1 S.R. 226a

Kentucky: Breckenridge's Heirs v. Ormsby, 24 Ky. (1 J.J. Mar.) 236 (1829)

Maryland: Kilty 216

New York: Matter of Barker, 2 Johns. Ch. R. 232 (1816)  
Matter of Salisbury, 3 Johns. Ch. R. 347 (1818)

## PRESCRIPTION

An act of limitation with a proviso. 32 Hen. 8, c. 2 (1540), 5 S.L. 7; 32 Hen. 8, c. 2 (1540), 3 S.R. 747

Georgia: Wakeman v. Roache, Dud. (Ga.) 123 (1832)

Kentucky: Reed v. Bullock, 16 Ky. (Litt. Sel. Cas.) 510 (1821)  
Woodruff v. Detheridge, 29 Ky. (6 J.J. Mar.) 368 (1831)

Maryland: Pancoast's Lessee v. Addison, 1 H. & J. 350 (1802)

New Jersey: Den v. Morris, 7

N.J.L. 6 (1822); Stevens v.

Enders, 13 N.J.L. 271 (1833)

Crane v. Alling, 14 N.J.L. 593 (1835)

New York: Bogardus v. Trinity Church, 4 Pai. Ch. 178 (1833)

Pennsylvania: Boehm v. Engle, 1 Dall. 15 (1767); Morris's Lessee v. Vanderen, 1 Dall. 64 (1782); Eakin v. Raub, 12 S. & R. 330 (1825)

Rhode Island: Inman v. Barnes, 2 Gall. 315 (1814); Sisson v. Seabury, 1 Sumn. 235 (1832)

Tennessee: Weatherhead v. Lessee of Bledsoe's Heirs, 2 Tenn. 352 (1815)

## PRESENTMENTS

An act for prevention of vexations and oppressions by arrests, and of delays in suits of law. 13 Car. 2, St. 2, c. 2 (1661), 8 S.L. 27; 13 Car. 2, St. 2, c. 2 (1661), 5 S.R. 323

D. C.: Winter v. Simonton, 2 Cranch C. C. 585 (1825)

Maryland: Winter v. Simonton, 2 Cranch C.C. 585 (1825)

New York: Ely v. Morgan, N.Y. City Mayor's Ct. (Living. Jud. Op.) 75 (1802)

Pennsylvania: Henry v. Boyle, 1 Miles 386 (1830); 3 Binney 623; Roberts 131

South Carolina: Stewart v. M'Clure, 1 Brev. 407 (1804); Smith v. Lewis, 1 N. & Mc. 38 (1817); 2 Cooper 411

## PRINTING PRESSES

An act for reviving and continuance of several acts of parliament therein mentioned.

1 Jac. 2, c. 17 (1685), 8 S.L. 463; 1 Jac. 2, c. 17 (1685), 6 S.R. 19

New Jersey: Orange v. Springfield, 14 N.J.L. 321 (1834)

New York: Foster v. Wilber, 1 Pai. Ch. 537 (1829)

North Carolina: Davis v. Duke's Adm'r, 1 N.C. (Tayl.) 213 (1801); 1 N.C. (C. & N.) 361 (1801)

Pennsylvania: Lessee of Ware v. Fisher, 2 Yeates 578 (1800); Harris v. Hayes, 6 Binn. 422 (1814); Bevan v. Taylor, 7 S. & R. 397 (1821)

South Carolina: 2 Cooper 411

# PRISONS AND PRISONERS

Which prisoners be mainpernable, and which not. The penalty for unlawful bailment. 3 Edw. 1, c. 15 (1275), 1 S.L. 84; 3 Edw. 1, c. 15 (1275), 1 S.R. 30

Georgia: Schley 83

Maryland: Kilty 209

Ohio: Fight v. State, 7 Hamm., Pt. 1, 180 (6 & 7 Ohio 327) (1835)

Rhode Island: Sisson v. Seabury, 1 Summ. 235 (1832)

South Carolina: Barton v. Keith, 2 Hill 537 (1835)

In what case it is felony to break prison, in what not. 1 Edw. 2, St. 2 (1307), 1 S.L. 334; 23 Edw. 1 (1295), 1 S.R. 113

Maryland: Kilty 215

South Carolina: 2 Cooper 404

A Corpus cum cause, or Certiorari to remove him who is in execution at another man's suit. 2 Hen. 5, St. 1, c. 2 (1414), 3 S.L. 10; 2 Hen. 5, St. 1, c. 2, (1414), 2 S.R. 176

Maryland: Kilty 226

An act for relief of debtors with respect to the imprisonment of their persons. 2 Geo. 2, c. 22 (1729), 16 S.L. 46

Connecticut: Alsop v. Nichols, 9 Conn. 357 (1832)

Georgia: Adm'r of Sheftall v. Adm's of Clay, Charlt. T.U.P. 227 (1809)

Indiana: Coe v. Givan, 1 Blackf. 367 (1825)

Kentucky: Tribble v. Taul, 23 Ky. (7 T.B. Mon.) 455 (1828)

Maryland: Baltimore Ins. Co. v. M'Fadon, 4 H. & J. 31 (1815); Strike's Case, 1 Bla. Ch. 57 (1826)

Massachusetts: Stowers v. Barnard, 32 Mass. (15 Pick.) 221 (1834)

New York: Gordon v. Bowne, 2 Johns. R. 150 (1807); Jensen v. Hilton, 10 Johns. R. 549 (1813); Simpson v. Hart, 1 Johns. Ch. R. 91 (1814); Duncan v. Lyon, 3 Johns. Ch. R. 351 (1818); Dale v. Cooke, 4 Johns. Ch. R. 11 (1819); Root v. Taylor, 20 Johns. R. 13 (1822); Wheeler v. Raymond, 5 Cow. 231 (1825); Bridge v. Johnson, 5 Wend. 342 (1830)

North Carolina: Roberts v. Jones, 5 N.C. 353 (1810)

Pennsylvania: Kachlin v. Mulhallon, 2 Dall. 237 (1795); Boyd v. Thompson, 2 Yeates 217 (1797); Commissioners v. Ross, 3 Binn. 539 (1811); Stewart v. Coulter, 12 S. & R. 445 (1825); Crist v. Brindle, 2 Rawle 121 (1828); Best v. Lawson, 1 Miles 11 (1835)

South Carolina: Sumter v. Welsh, 1 Brev. 539 (1805); Furman v. Elmore (Mackey v. Collin's Ex'rs.) 2 N. & Mc. 186 (1812); Aiken v. Moore, 1 Hill 432 (1833)

An act for explaining and amending an act made in the last session of parliament intituled, An act for the relief of debtors with respect to the imprisonment of their persons. 3 Geo. 2, c. 27 (1730), 16 S.L. 179

South Carolina: Sumter v. Welsh, 1 Brev. 539 (1805)

An act to explain and amend an act passed in the second year of the reign of his present Majesty, intituled, An act for the relief of debtors with respect to the imprisonment of their persons. 8 Geo. 2, c. 24 (1735), 15 S.L. 535

Connecticut: Alsop v. Nichols, 9 Conn. 357 (1832)

Delaware: Walker v. State, 2 Del. Cas. 437 (1818)

Kentucky: Tribble v. Taul, 23 Ky. (7 T.B. Mon.) 455 (1828)

Maryland: Baltimore Ins. Co. v. M'Fadon, 4 H. & J. 31 (1815)

Massachusetts: Stowers v. Barnard, 32 Mass. (15 Pick.) 221 (1834)

New York: Simpson v. Hart, 1 Johns. Ch. R. 91 (1814); Wheeler v. Raymond, 5 Cow. 231 (1825)

North Carolina: Roberts v. Jones, 5 N.C. 353 (1810)

Pennsylvania: Kachlin v. Mulhallon, 2 Dall. 237 (1795); Boyd v.

Thompson, 2 Yeates 217 (1797);

Stewart v. Coulter, 12 S. & R.

(2nd ed.) 253 (1825); Best v.

Lawson, 1 Miles 11 (1835)

South Carolina: Furman v. Elmore, 2 N. & Mc 189 (1812)

An act for relief of debtors with respect to the imprisonment of their persons; and to oblige debtors, who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of, and deliver upon oath, their estates for their creditors benefit. 32 Geo. 2, c. 28 (1759), 22 S.L. 487

New York: Van Wezel v. Van Wezel, 3 Pai. Ch. 38 (1831)

#### PRIZES AND PRIVATEERS

An act declaring the authority of the commissioners appointed by his Majesty under the great seal of Great Britain, for receiving

receiving, hearing, and determining appeals in causes of prizes. 22 Geo. 2, c. 3 (1749), 19 S.L. 274  
Federal: Jennings v. Carson, 1 Pet. Adm. 1 (1792)

#### PRODEDENDO

An act for avoiding vexatious delays caused by removing actions and suits out of inferior courts. 21 Jac. 1, c. 23 (1623), 7 S.L. 292; 21 Jac. 1, c. 23 (1623-24), 4 S.R. 1232

Maryland: Kilty 238

#### PROCESS

The manner to deliver writs to the sheriff to be executed. The sheriff returneth a liberty where none is. Returning of issues. Resistance of execution of process. 13 Edw. 1, St. 1, c. 39 (1285), 1 S.L. 214; 13 Edw. 1, Westminster 2d, c. 39 (1285), 1 S.R. 90

New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806)

Pennsylvania: 3 Binney 607; Roberts 390

Justices in certain cases may amend their records according to former statutes. 4 Hen. 6, c. 3 (1425), 3 S.L. 100; 4 Hen. 6, c. 3 (1425-26) 2 S.R. 230

Georgia: Schley 132

Maryland: Kilty 226

Pennsylvania: 3 Binney 615; Roberts 32

Federal: Wilson v. Berry, 2 Cranch C.C. 707 (1826)

#### PROCHEIN AMY

The remedy where a guardian maketh a feoffment of his ward's land. Suit by Prochein Amy. 3 Edw. 1, c. 48 (1275), 1 S.L. 106; 3 Edw. 1, c. 48 (1275) 1 S.R. 38

Tennessee: Nelson v. Allen, 9 Tenn. 360 (1830)

PROCTOR

An act against forgers of false deeds and writings. 5 Eliz., c. 14 (1562), 6 S.L. 202; 5 Eliz., c. 14 (1562-63) 4 S.R. 443

Kentucky: Act of 1802, 107, 118 (1803)

North Carolina: State v. Street, 1 N.C. (Tayl.) 158 (1801); State v. Britt, 14 N.C. 122 (1831)

Pennsylvania: Commonwealth v. Searle, 2 Binn. 332 (1810)

South Carolina: 2 Cooper 409

PROFFER

What distresses shall be taken for the King's debts, and how it shall be used. 51 Hen. 3, St. 4 (1266), 1 S.L. 39; Temp. Incert., 1 S.R. 1976

Maryland: Kilty 208

PROHIBITED GOODS

An act for preventing frauds, and regulating abuses in his Majesty's customs. 13 & 14 Car. 2, c. 11 (1662), 8 S.L. 78; 14 Car. 2, c. 11 (1662), 5 S.R. 393

Massachusetts: Randolph v. Armitage, 1 Rec. Ct. of Asst., Colony of Mass. Bay 124 (1680)

Federal: Robinson v. Hook, 4 Mas. 139 (1826)

PROMISSORY NOTES

An act for giving like remedy upon promissory notes, as is now used upon bills of exchange, and for the better payment of inland bills of exchange. 3 & 4 Anne, c. 9 (1704), 11 S.L. 106; 3 & 4 Anne, c. 8 (1704), 8 S.R. 353

Alabama: Crenshaw v. M'Kiernan, 1 Minor 295 (1824); Robinson v. Crenshaw, 2 Stew. & P. 276 (1832)

Arkansas: Bradley v. Trammel, Hemp. 164 (1832)

Connecticut: Norton v. Lewis, 2 Conn. 478 (1818); Backus v. Danforth, 10 Conn. 297 (1834)

Delaware: Commercial Bank v.

Ross, 1 Del. Cas. 586 (1819)  
D.C.: Lindo v. Gardner, 5 U.S. (1 Cranch) 343 (1803)

Georgia: Schley 320

Illinois: Mason v. Wash, 1 Ill. (Breese) 39 (1822)

Indiana: Bullitt v. Scribner, 1 Blackf. 14 (1818)

Maryland: Lindo v. Gardner, 5 U.S. (1 Cranch) 343 (1803); Patterson v. Maryland Ins. Co., 3 H. & J. 71 (1810); Noland v. Ringgold, 3 H. & J. 216 (1811); Bowie v. Duvall, 1 G. & J. 175 (1829); Duncan v. Maryland Sav. Institution, 10 G. & J. 299 (1838); Kilty 245

Massachusetts: Commonwealth v. Leach, 1 Mass. 59 (1804); Jones v. Fales, 4 Mass. 245 (1808); Coolidge v. Ruggles, 15 Mass. 387 (1819)

New Jersey: Garrettsie v. Van Ness, 2 N.J.L. 17 (1 Penning. 21)(1806); Reed v. Bainbridge, 4 N.J.L. 351 (1817); Ferris v. Saxton, 4 N.J.L. 1 (1818); Youngs v. Little, 15 N.J.L. 1 (1835)

New York: Mott v. Hicks, 1 Cow. 513 (1823)

Ohio: Bank of Chillicothe v. Hutt, Pollack's Unrec. Dec. (Ohio) 160 (1817)

Pennsylvania: Wheeler v. Hughes, 1 Dall. 23 (1776); M'Cullough v. Houston, 1 Dall. 441 (1789); Bixler v. Ream, 3 Pen. & W. 282 (1831); 3 Binney 625; Roberts 375

South Carolina: Fleming v. M'Clure, 1 Brev. 428 (1804); Duncan v. Course, 1 Mill 100 (1817); State v. Casados, 1 N. & Mc. 91 (1818); 2 Cooper 412

Tennessee: Nunnely v. Doherty, 9 Tenn. 26 (1820); Love v. Nelson, 8 Tenn. 237 (1827)

Virginia: Dunlop v. Silver, 5 U.S. (1 Cranch) 367 (1801)

An act for the more effectual preventing the forging the acceptance of bills of exchange,



or the numbers of principal sums of accountable receipts for notes, bills, or other securities for payment of money, or warrants or orders for payment of money, or delivery of goods. 7 Geo. 2, c. 22 (1734), 16 S.L. 477

Maryland: United States v. Book, 2 Cranch C.C. 294 (1822)

South Carolina: State v. Washington, 1 Bay 117 (1791); State v. Holly, 2 Bay 262 (1800)

## PROTECTIONS

A clause to repeal a protection of the King's service. 33 Edw. 1, St. 1 (1304), 1 S.L. 307; Temp. Incert. 1 S.R. 217

South Carolina: States v. Stalmaker, 2 Brev. 1 (1805)

## PUBLIC ACCOUNTS AND ACCOUNTANTS

The masters remedy against their servants, and other accountants. 13 Edw. 1, St. 1, c. 11 (1285), 1 S.L. 188; 13 Edw. 1, Westminster 2d, c. 11 (1285), 1 S.R. 80

Kentucky: Bank of United States v. Dallam, 34 Ky. (4 Dana) 574 (1836)

Maryland: Kilty 212

New Hampshire: Bunker v. Hodgdon, 7 N.H. 263 (1834)

Pennsylvania: Shewel v. Fell, 3 Yeates 17 (1800); 3 Binney 604; Roberts 11

Rhode Island: Steere v. Field, 2 Mas. 486 (1822)

South Carolina: 2 Cooper 404

An act for the explanation of an act made in the thirteenth year of the Queen's majesty's reign, intituled, An act to make the lands, tenements, goods and chattels of tellers, receivers, &c. liable to the payment of their debts. 27 Eliz., c. 3 (1585), 6 S.L. 353; 27 Eliz., c. 3 (1584-85), 4 S.R. 708

Alabama: Frisbie v. McCarty, 1 Stew. & P. 56 (1831); Killough v. Steele, 1 Stew. & P. 262 (1832)

Kentucky: Taylor v. Eubanks, 10 Ky. (3 A.K. Mar.) 239 (1821)

North Carolina: Jackson v. Marshall's Adm'r, 5 N.C. 323 (1809); O'Daniel v. Crawford, 15 N.C. 197 (1833); Martin v. Cowles, 18 N.C. 29 (1834)

Ohio: Lessee of Burgett v. Burgett, 1 Hamm. 469 (1 Ohio 207) (1824)

## PURVEYANCE AND PURVEYORS

Purveyance for a castle. 9 Hen. 3, c. 19 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 42

Taking of horses, carts, and wood. 9 Hen. 3, c. 21 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 43

No purveyance shall be made but for the King, the Queen, and the King's eldest son. 34 Edw. 3, c. 2 (1360), 2 S.L. 136; 34 Edw. 3, c. 2 (1360-61), 1 S.R. 365

New Jersey: Arnold v. Mundy, 6 N.J.L. 1 (1821)

## QUARE IMPEDIT

Justices of Nisi Prius shall record nonsuits, defaults, &c. 12 Edw. 2, St. 1, c. 4 (1318), 1 S.L. 354; 12 Edw. 2, St. Ebor., c. 4 (1318), 1 S.R. 178

Pennsylvania: 3 Binney 609; Roberts 357

## QUARTER SESSIONS

An act to prevent delays of proceedings at the quarter sessions of the peace. 5 & 6 W. & M., c. 11 (1694), 9 S.L. 276; 5 & 6 W. & M., c. 11

(1694), 6 S.R. 470

New Jersey: Ludlow v. Ex'rs of  
Ludlow, 4 N.J.L. 387 (1817)

# RAPE

It is felony to commit rape. A married woman elopeth with an advouterer. The penalty for carrying a nun from her house. 13 Edw. 1, St. 1, c. 34 (1285), 1 S.L. 208; 13 Edw. 1, Westminster 2d, c. 34 (1285), 1 S.R. 87

Delaware: Dixon v. Knowles, 2  
Del. Cas. 537 (1820)

Georgia: Schley 108

Maryland: Kilty 213

New York: People v. Schuyler,  
6 Cow. 572 (1827)

North Carolina: State v. Dick, 6  
N.C. 388 (1818)

Pennsylvania: 3 Binney 606; Roberts  
186

South Carolina: Bell v. Nealy, 1  
Bail. 312 (1829); 2 Cooper 404

An act to take away clergy from the offenders in rape or burglary, and an order for the delivery of clerks convict without purgation. 18 Eliz., c. 7 (1576), 6 S.L. 316; 18 Eliz., c. 7 (1575-76), 4 S.R. 617

D.C.: United States v. Norris, 1  
Cranch C.C. 411 (1807)

Maryland: United States v. Norris,  
1 Cranch C.C. 411 (1807)

South Carolina: 2 Cooper 410

Tennessee: Crenshaw v. State, 8  
Tenn. 122 (1827)

Virginia: Commonwealth v. Bennet,  
4 Va. (2 Va. Cas.) 235 (1820)

# RECEIPT OF FELONS

Which prisoners be mainpernable, and which not. The penalty for unlawful bailment. 3 Edw. 1, c. 15 (1275), 1 S.L. 84; 3 Edw. 1, c. 15 (1275), 1 S.R. 30

Georgia: Schley 83

Maryland: Kilty 209

Ohio: Fight v. State, 7 Hamm., Pt.  
1, 180 (6 & 7 Ohio 327) (1835)

Rhode Island: Sisson v. Seabury, 1  
Sumn. 235 (1832)

South Carolina: Barton v. Keith, 2  
Hill 537 (1835)

# RECEIVERS OF SHERIFFS

A sheriff having received the King's debt, shall discharge the debtor.

3 Edw. 1, c. 19 (1275), 1 S.L. 88;

3 Edw. 1, c. 19 (1275), 1 S.R. 32

South Carolina: M'Vaughters v.  
Elder, 2 Brev. 307 (1809)

# RECOGNIZANCES

For obligations to be taken by two chief justices, the mayor of the staple, and the recorder of London. 23 Hen. 8, c. 6 (1531), 4 S.L. 231; 23 Hen. 8, c. 6 (1531-32), 3 S.R. 372

Maryland: Tessier v. Wyse, 3  
Bla. Ch. 28 (1830); Coombs v.  
Jordan, 3 Bla. Ch. 284 (1831)

Ohio: DeWitt v. Osburn, 5 Ohio  
480 (1832)

An act for continuance of a former act, intituled, Act to prevent delays in extending statutes, judgments and recognizances. 22 & 23 Car. 2, c. 2 (1670), 8 S.L. 334; 22 & 23 Car. 2, c. 2 (1670 & 1671), 5 S.R. 693

South Carolina: Longworth v.  
Screven, 2 Hill 298 (1834)

# RECORDS

A record which is defective by misprison of a clerk, shall be amended. 14 Edw. 3, St. 1, c. 6 (1340), 1 S.L. 474; 14 Edw. 3, St. 1, c. 6 (1340), 1 S.R. 283

Connecticut: Judson v. Blanchard,  
3 Conn. 579 (1821)

Georgia: Schley 122

Maryland: Kilty 216

Pennsylvania: 3 Binney 610; Roberts  
28

South Carolina: O'Driscoll v.

M'Burney, 2 N. & Mc. 58 (1819)

Virginia: Commonwealth v. Winstons,  
26 Va. (5 Rand.) 546 (1827)

Federal: Wilson v. Berry, 2 Cranch C.C. 707 (1826)

No judgment or record shall be reversed for any writ, process, &c., rased. What defects in records may be amended by the judges, and what not. 8 Hen. 6, c. 12 (1429), 3 S.L. 131; 8 Hen. 6, c. 12 (1429), 2 S.R. 248

Connecticut: Judson v. Blanchard, 3 Conn. 579 (1821)

Georgia: Schley 132

Maryland: Kilty 227

Pennsylvania: 3 Binney 615; Roberts 33

South Carolina: O'Driscoll v.

M'Burney, 2 N. & Mc. 58 (1819)

Rep's of Bourdeaux v. Treasurers, 3 McCord 142 (1825); 2 Cooper 407

Virginia: Commonwealth v. Winstons, 26 Va. (5 Rand.) 546 (1827)

Federal: Wilson v. Berry, 2 Cranch C.C. 707 (1826)

The justices may in certain cases amend defaults in records. 8 Hen. 6, c. 15 (1429), 3 S.L. 137; 8 Hen. 6, c. 15 (1429), 2 S.R. 252

Connecticut: Judson v. Blanchard, 3 Conn. 579 (1821)

Georgia: Schley 134

Kentucky: Jeffrey's Heirs v. Callis, 34 Ky. (4 Dana) 465 (1836)

Maryland: Kilty 227

Pennsylvania: 3 Binney 615; Roberts 34

South Carolina: Rep's of Bourdeaux v. Treasurers, 3 McCord 142 (1825); 2 Cooper 407

Federal: Wilson v. Berry, 2 Cranch C.C. 707 (1826)

## REDISSEISIN

Enquiry and punishment of redisseisin. 20 Hen. 3, c. 3 (1235), 1 S.L. 26; 20 Hen. 3, St. Merton, c. 3 (1235-36), 1 S.R. 2

Pennsylvania: 3 Binney 599; Roberts 144

The punishment of those who commit redisseisin. 52 Hen. 3, c. 8 (1267), 1 S.L. 61; 52 Hen. 3, St. Marl., c. 8 (1267), 1 S.R. 21

Pennsylvania: 3 Binney 600; Roberts 146

## REGISTER

An act for the publick registering of all deeds, conveyances, and wills, that shall be made of any honors, manors, lands, tenements, or hereditaments, within the west riding of the county of York, after the nine and twentieth day of September, one thousand seven hundred and four. 2 & 3 Anne, c. 4 (1703), 11 S.L. 15; 2 & 3 Anne, c. 4 (1703), 8 S.R. 253

New York: Grant v. United States Bank, 1 Cai. Cas. 112 (1804)

An act for the publick registering of deeds, conveyances, and wills, and other incumbrances which shall be made of, or that may affect any honors, manors, lands, tenements, or hereditaments, within the county of Middlesex, after the twenty ninth day of September, one thousand seven hundred and nine. 7 Anne, c. 20 (1708), 11 S.L. 502; 7 Anne, c. 20 (1708), 9 S.R. 89

New York: Grant v. United States Bank, 1 Cai. Cas. 112 (1804); Jackson v. Burgott, 10 Johns. R. 457 (1813)

Pennsylvania: Lessee of Correy v. Caxton, 4 Binn. 140 (1811)

South Carolina: Thayer v. Davidson, Bail. Eq. 412 (1831)

## RELEASES

Of what things an assise shall lie. Certificate of assise. Attachment in an assise. 13 Edw. 1, St. 1 c. 25 (1285), 1 S.L. 198; 13 Edw. 1, Westminster 2d, c. 25 (1285), 1 S.R. 84

Pennsylvania: Barnet v. Ihrie, 17 S. & R. 174 (1828); 3 Binney 605; Roberts 152

## RELIEFS

The relief of the King's tenant of full age. 9 Hen. 3, c. 2 (Magna Charta) (1225), 1 S.L. 2; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 34

## RELIGIOUS DOCTRINES

An act for the repeal of certain statutes concerning treasons and felonies. 1 Edw. 6, c. 12 (1547), 5 S.L. 259; 1 Edw. 6, c. 12 (1547), 4 S.R. 18

New York: Woodbeck v. Keller, 6 Cow. 118 (1826)

North Carolina: State v. Seaborn, 15 N.C. 305 (1833)

Pennsylvania: Respublica v. Roberts, 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

## RELIGIOUS HOUSES

A contra formam collationis; and a cessavit to recover lands given in alms. 13 Edw. 1, St. 1, c. 41 (1285), 1 S.L. 218; 13 Edw. 1, Westminster 2d, c. 41 (1285), 1 S.R. 91

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

Connecticut: Chalker v. Chalker, 1 Conn. 79 (1814)

Georgia: Schley 357

Maryland: Mackubin v. Whetcroft, 4 H. & McH. 135 (1798); Jones v. Magill, 1 Bla. Ch. 177 (1825); Kilty 249

New Jersey: Farley v. Craig, 11 N.J.L. 262 (1830)

New York: Jackson v. Collins, 11 Johns. R. 1 (1814); Cornell v. Lamb, 2 Cow. 652 (1824); Jackson v. Sheldon, 5 Cow. 448 (1826); People v. Haskins, 7 Wend. 463 (1831)

Pennsylvania: McCormick v. Connell, 6 S. & R. 151 (1820); Logan v. Herron, 8 S. & R. 459 (1822)

South Carolina: Marshall v. Giles, 3 Brev. 488 (1814)

An act for the more effectual securing the payment of rents, and preventing frauds by tenants. 11 Geo. 2, c. 19 (1738), 17 S.L. 183

Pennsylvania: Hill v. Miller, 5 S. & R. 355 (1819)

South Carolina: DeBow v. M'Clary, 3 McCord 44 (1825)

## RENTS

For recovery of arrearages of rents by executors of tenants in fee-simple. 32 Hen. 8, c. 37 (1540), 5 S.L. 53; 32 Hen. 8, c. 37 (1540), 3 S.R. 791

Georgia: Schley 202

Maryland: Kilty 232

New York: Ex'rs of Van Rensselaer v. Ex'rs of Platner, 2 Johns. Cas. 17 (1800); Devisees of Van Rensselaer v. Ex'rs of Platner, 2 Johns. Cas. 24 (1800)

Pennsylvania: 3 Binney 620; Roberts 254

An act for the more effectual preventing frauds committed by tenants, and for the more easy recovery of rents, and renewal of leases. 4 Geo. 2, c. 28 (1731), 16 S.L. 252

## REPLEVIN

Who may take replevins of distresses. 52 Hen. 3, c. 21 (1267); 1 S.L. 70; 52 Hen. 3, St. Marl., c. 21 (1267), 1 S.R. 24

Pennsylvania: Weaver v. Lawrence, 1 Dall. 156 (1785)

A Recordare to remove a plaint. Pledges to prosecute a suit. Second deliverance. 13 Edw. 1, St. 1, c. 2 (1285), 1 S.L. 166; 13 Edw. 1, Westminster 2d, c. 2 (1285), 1 S.R. 72

Maryland: Kilty 212

New Hampshire: Bell v. Bartlett, 7 N.H. 178 (1834)

New York: Knapp v. Colburn, 4 Wend. 616 (1830); M'Farland v. M'Nitt, 10 Wend. 329 (1833);

Armstrong v. Burrell, 12 Wend.  
302 (1834)

Process of exigent shall be  
awarded in debt, detinue, and  
replevin. 25 Edw. 3, St. 5, c.  
17 (1350), 2 S.L. 59; 25 Edw. 3,  
St. 5, c. 17 (1351-52), 1 S.R.  
322

Maryland: Kilty 220

South Carolina: 2 Cooper 405

## RESTITUTION OF POSSESSION

An act to enable judges and  
justices of the peace to give  
restitution of possession in  
certain cases. 21 Jac. 1, c.  
15 (1623), 7 S.L. 272; 21 Jac.  
1, c. 15 (1623-24), 4 S.R. 1222

Georgia: ExParte Putnam, Charlt.

T.U.P. 78 (1806)

Maryland: Kilty 237

New Jersey: Crane v. Dod, 2

N.J.L. 320 (1808)

New York: People v. Nelson, 13

Johns. R. 340 (1816)

North Carolina: State v. Butler, 1

N.C. (C. & N.) 331 (1801)

Pennsylvania: Respublica v. Sloane,

2 Yeates 229 (1797); Common-

wealth v. Stoeve, 1 S. & R. 480

(1815); 3 Binney 623; Roberts 290

South Carolina: State v. Speirin, 1

Brev. 119 (1802); State v. Senft,

2 Hill 367 (1834); 2 Cooper 410

## RETURNS

What shall be done with them  
that make false return of writs.  
28 Edw. 1, St. 3, c. 16 (1300),  
1 S.L. 300; 28 Edw. 1, Artic.  
sup. Cart., c. 16 (1300), 1 S.R.  
140

Pennsylvania: 3 Binney 608; Roberts  
392

South Carolina: 2 Cooper 404

## REVERSIONERS

A writ of error or attain  
maintainable by him in the  
reversion. 9 Rich. 2, c. 3  
(1385), 2 S.L. 277; 9 Rich. 2, c.  
3 (1385), 2 S.R. 38

Maryland: Kilty 223

New Jersey: Black v. Kirgan, 15

N.J.L. 45 (1835)

New York: Dale v. Roosevelt, 8

Cow. 333 (1826)

Pennsylvania: 3 Binney 613; Roberts  
209

Where he in the reversion may  
be received in a suit commenced  
against the particular tenant. 13  
Rich. 2, St. 1, c. 17 (1389), 2  
S.L. 321; 13 Rich. 2, St. 1, c.  
17 (1389-90), 2 S.R. 66

Pennsylvania: 3 Binney 614; Roberts  
210

The remedy where a tenant  
granteth over his estate, taketh  
the profits, and committeth waste.  
11 Hen. 6, c. 5 (1433), 3 S.L.  
185; 11 Hen. 6, c. 5 (1433), 2  
S.R. 280

Georgia: Schley 135

Maryland: Kilty 227

Pennsylvania: 3 Binney 616

## REVERSIONS

Concerning grantees of reversions  
to take advantage of the conditions  
to be performed by the lessees.  
32 Hen. 8, c. 34 (1540), 5 S.L.  
48; 32 Hen. 8, c. 34 (1540) 3  
S.R. 788

Kentucky: Birney v. Haim, 12 Ky.  
(2 Litt.) 262 (1822)

Maryland: Moale v. Tyson, 2 H.

& McH. 387 (1789); Kilty 232

New Jersey: Farley v. Craig, 11

N.J.L. 262 (1830)

New York: Ex'rs of Platner v.

Devises of Van Rensselaer, 3  
Johns. Cas. 475 (1802); Demarest  
v. Willard, 8 Cow. 206 (1828)

Pennsylvania: 3 Binney 620; Roberts  
227

South Carolina: Ex'rs of M'Crary  
v. Brisbane, 1 N. & Mc. 104  
(1818)

## RIGHTS, BILL OF

An act for declaring the rights  
and liberties of the subject, and

settling the succession of the crown. 1 W. & M., Sess. 2, c. 2 (1688), 9 S.L. 67; 1 W. & M., Sess. 2, c. 2 (1688), 6 S.R. 142

Maryland: Williams Case, 3 Bla. Ch. 186 (1831)

## RIOTS

The sheriffs, and all other the King's officers, shall suppress rioters, and imprison them, and all other offending against the peace. 17 Rich. 2, c. 8 (1393), 2 S.L. 360; 17 Rich. 2, c. 8 (1393-94), 2 S.R. 89

Maryland: Kilty 224

The justices of peace and the sheriffs shall arrest those which commit any riot, &c. inquire of them, and record their offences. 13 Hen. 4, c. 7 (1411), 2 S.L. 490; 13 Hen. 4, c. 7 (1411), 2 S.R. 169

Maryland: Kilty 225

Virginia: Mackaboy v. Commonwealth, 4 Va. (2 Va. Cas.) 268 (1821)

Commissions shall be awarded to enquire of a riot, and of the justices default therein. 2 Hen. 5, St. 1, c. 8 (1414), 3 S.L. 25; 2 Hen. 5, St. 1, c. 8 (1414), 2 S.R. 184

Maryland: Kilty 226

The authority of the court of star-chamber. Where one inquest shall enquire of the concealment of another. A coroner's duty after a murder committed. A justice of peace shall certify his recognisances, &c. 3 Hen. 7, c. 1 (1487), 4 S.L. 27; 3 Hen. 7, c. 1 (1487), 2 S.R. 509

Georgia: Schley 137

Maryland: Kilty 228

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 616; Roberts 102

Virginia: Commonwealth v. Burton, 31 Va. (4 Leigh) 645 (1832)

Riot. 19 Hen. 7, c. 13 (1503), 4 S.L. 95; 19 Hen. 7, c. 13 (1503-04), 2 S.R. 657

Maryland: Kilty 230

Virginia: Mackaboy v. Commonwealth, 4 Va. (2 Va. Cas.) 268 (1821)

An act for preventing tumults and riotous assemblies, and for the more speedy and effectual punishing the rioters. 1 Geo. 1, St. 2, c. 5 (1714), 13 S.L. 142

Massachusetts: Commonwealth v. Jenkins, Thac. Cr. Cas. 118 (1825)

## RIVERS

Defending of banks. 9 Hen. 3, c. 16 (Magna Charta) (1225), 1 S.L. 7; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 41

New York: Rogers v. Jones, 1 Wend. 237 (1828)

No man shall fasten nets to any thing over rivers. 2 Hen. 6, c. 15 (1423), 3 S.L. 92; 2 Hen. 6, c. 19 (1423), 2 S.R. 225

Pennsylvania: Berryhill v. Wells, 5 Binn. 56 (1812)

## ROBBERS AND MURDERERS

Punishment of murders. 4 Hen. 8, c. 2 (1512), 4 S.L. 120; 4 Hen. 8, c. 2 (1512) 3 S.R. 49

South Carolina: 2 Cooper 408

## ROBBERY

An act, that no person robbing any house in the day-time, although no person be therein, shall be admitted to have the benefit of his clergy. 39 Eliz., c. 15 (1597), 7 S.L. 10; 39 Eliz., c. 15 (1597-98) 4 S.R. 914

Kentucky: Act of 1802, 107, 118 (1803)

South Carolina: 2 Cooper 410

An act for the further preventing robbery, burglary, and other felonies, and for the more effectual transporation of felons. 6 Geo. 1, c. 23 (1719), 14 S.L. 292

D.C.: United States v. Norris, 1 Cranch C.C. 411 (1807)

Maryland: United States v. Norris, 1 Cranch C.C. 411 (1807)

An act for the more effectual preventing and further punishment of forgery, perjury and subornation of perjury; and to make it felony to steal bonds, notes or other securities for payment of money. 2 Geo. 2, c. 25 (1729), 16 S.L. 69

New York: People v. Holbrook, 13 Johns. R. 90 (1816)

Pennsylvania: Commonwealth v. Boyer, 1 Binn. 201 (1807)

South Carolina: State v. Washington, 1 Bay 117 (1791); State v. Holly, 2 Bay 262 (1800); State v. Casados, 1 N. & Mc 91 (1818); State v. Thomas, 2 McCord 527 (1823)

Federal: United States v. Stewart, 4 Wash. C.C. 226 (1818); United States v. Moulton, 5 Mas. 537 (1830); United States v. Gibert, 2 Sumn. 19 (1834)

An act for the amendment of the law relating to actions on the statute of Hue and Cry. 8 Geo. 2, c. 16 (1735), 16 S.L. 511

Maine: Herman v. Drinkwater, 1 Me. 27 (1820)

An act for the more effectual preventing of robberies and thefts upon any navigable rivers, ports of entry or discharge, wharfs, and keys adjacent. 24 Geo. 2, c. 45 (1751), 20 S.L. 281

Federal: United States v. Moulton, 5 Mas. 537 (1830)

## ROGUES AND VAGABONDS

An act against vagabonds and beggers. 11 Hen. 7, c. 2 (1494), 4 S.L. 55; 11 Hen. 7, c. 2 (1495), 2 S.R. 569

D.C.: United States v. Dixon, 4 Cranch C.C. 107 (1830)

Maryland: United States v. Dixon, 4 Cranch C.C. 107 (1830)

An act touching the punishment of vagabonds for their first offence, and for their second offence, and of them that do relieve them. 19 Hen. 7, c. 12 (1503), 4 S.L. 95; 19 Hen. 7, c. 12 (1503-04), 2 S.R. 656

D.C.: United States v. Dixon, 4 Cranch C.C. 107 (1830)

Maryland: United States v. Dixon, 4 Cranch C.C. 107 (1830)

Re begging laws. 27 Hen. 8, c. 25 (1535), 4 S.L. 387; 27 Hen. 8, c. 25 (1535-36), 3 S.R. 558

D.C.: United States v. Dixon, 4 Cranch C.C. 107 (1830)

Maryland: United States v. Dixon, 4 Cranch C.C. 107 (1830)

Justices of peace shall order the punishment of the mother and reputed father of a bastard, &c. 18 Eliz., c. 3 (1576), 6 S.L. 311; 18 Eliz., c. 3 (1575-76) 4 S.R. 610

New Jersey: State v. Price, 11 N.J.L. 143 (1829)

South Carolina: Rembert, v. Kelly, 1 Harper 65 (1823)

An act for the reviving, continuance, explanation and perfecting of divers statutes. 35 Eliz., c. 7 (1593), 6 S.L. 434; 35 Eliz., c. 7 (1592-93) 4 S.R. 554

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

An act for punishment of rogues, vagabonds and sturdy beggars. 39 Eliz., c. 4 (1597), 7 S.L. 1; 39 Eliz., c. 4 (1597-98), 4 S.R. 899

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

An act to amend and make more  
effectual the laws relating to  
rogues, vagabonds, and other  
idle and disorderly persons,  
and to houses of correction.  
17 Geo. 2, c. 5 (1744), 18 S.L.  
144

New Jersey: Boice v. Gibbons, 8  
N.J.L. 324 (1826)

# ROME (SEE OF)

For the restraint of appeals.  
24 Hen. 8, c. 12 (1532), 4 S.L.  
257; 24 Hen. 8, c. 12 (1532-  
33), 3 S.R. 427

New York: Bay v. Van Rensselaer,  
1 Pai. Ch. 423 (1829)

An act repealing all articles and  
provisions made against the see  
apostolick of Rome, since the  
twentieth year of King Henry  
the Eighth, and for the estab-  
lishment of all spiritual and  
ecclesiastical possessions and  
hereditaments conveyed to the  
laity. 1 & 2 Phil. & M., c. 8  
(1554), 6 S.L. 34; 1 & 2 Phil.  
& M. c. 8 (1554 & 1554-55),  
4 S.R. 246

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

# SANCTUARY

For abjurations and sanctuaries.  
22 Hen. 8, c. 14 (1530), 4 S.L.  
208; 22 Hen. 8, c. 14 (1530-31),  
3 S.R. 332

North Carolina: State v. Gayner,  
1 N.C. (C. & N.) 305 (1801)

South Carolina: 2 Cooper 408

Tennessee: Garner v. State, 13  
Tenn. 160 (1833)

An act for the repeal of certain  
statutes concerning treasons and  
felonies. 1 Edw. 6, c. 12 (1547),  
5 S.L. 259; 1 Edw. 6, c. 12 (1547),  
4 S.R. 18

New York: Woodbeck v. Keller,  
6 Cow. 118 (1826)

North Carolina: State v. Seaborn,  
15 N.C. 305 (1833)

Pennsylvania: Respublica v. Roberts,  
1 Dall. (1778)

South Carolina: 2 Cooper 409

# SCOTLAND

An act for the better preservation  
of his Majesty's woods in  
America, and for the encour-  
agement of the importation of  
naval stores from thence; and  
to encourage the importation  
of masts, yards and bowsprights,  
from that part of Great Britain  
called Scotland. 2 Geo. 2, c.  
35 (1729), 16 S.L. 102

Maryland: The Chancellor's Case,  
1 Bla. Ch. 595 (1825); Duvall  
v. Waters, 1 Bla. Ch. 569 (1829)

An act for relief of such as  
his Majesty's loyal subjects, in  
that part of Great Britain called  
Scotland, whose title deeds and  
writings were destroyed or  
carried off by the rebels in  
the late rebellion. 20 Geo. 2,  
c. 20 (1747), 19 S.L. 51

New Jersey: Cozens v. Long, 3  
N.J.L. 331 (2 Penning. 764) (1811)

# SEAMEN

An act for reviving and continuance  
of several acts of parliament  
therein mentioned. 1 Jac. 2, c.  
17 (1685), 8 S.L. 463; 1 Jac.  
2, c. 17 (1685), 6 S.R. 19

New Jersey: Orange v. Springfield,  
14 N.J.L. 321 (1834)

New York: Foster v. Wilbert, 1  
Pai. Ch. 537 (1829)

North Carolina: Davis v. Duke's  
Adm'r, Tayl. 213 (1801); C. &  
N. 361 (1801)

Pennsylvania: Lessee of Ware v.  
Fisher, 2 Yeates 578 (1800);  
Harris v. Hayes, 6 Binn. 422 (1814);  
Bevan v. Taylor, 7 S. & R. 397  
(1821)



An act for the increase and encouragement of seamen. 7 & 8 Will. 3, c. 21 (1696), 9 S.L. 419; 7 & 8 Will. 3, c. 21 (1695-96), 7 S.R. 98

Pennsylvania: Commonwealth v. Leshner, 17 S. & R. 155 (1828)

An act for the better regulation and government of seamen in the merchants service. 2 Geo. 2, c. 36 (1729), 16 S.L. 110

Federal: Babbell v. Gardner, Bee Adm. 87 (1796); The Sarah Jane, Bl. & How. 401 (1833); The Union, Bl. & How. 545 (1836)

#### SEDITIONOUS WORDS AND RUMOURS

Against seditious words and rumors. 1 & 2 Phil. & M., c. 3 (1554), 6 S.L. 27; 1 & 2 Phil. & M., c. 3 (1554 & 1554-55), 4 S.R. 240

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

#### SERVANTS

None shall lose his goods by his servants offence. Speedy justice shall be done from day to day, and from hour to hour. 27 Edw. 3, St. 2, c. 19 (1353), 2 S.L. 90; 27 Edw. 3, St. 2, c. 19 (1353), 1 S.R. 340

South Carolina: 2 Cooper 405

A remedy for executors against servants that embezzle their masters goods after his death. 33 Hen. 6, c. 1 (1455), 3 S.L. 320; 33 Hen. 6, c. 1 (1455), 2 S.R. 369

South Carolina: 2 Cooper 407

Servants embezzeling their masters goods to the value of forty shillings, or above, shall be punished as felons. 21 Hen. 8, c. 7 (1529), 4 S.L. 174; 21 Hen. 8, c. 7 (1529), 3 S.R. 289

New York: People v. Hennessey, 15 Wend. 147 (1836)

North Carolina: State v. Higgins, 1 N.C. (1 Mart. R. 62) 59 (1792)

Pennsylvania: 3 Binney 618; Roberts 342

Vermont: State v. White, 2 Tyler 352 (1803)

#### SERVANTS IN HUSBANDRY AND TRADES

No servants in husbandry, or labourer, shall wear any sword, buckler, or dagger. Unlawful games prohibited. 12 Rich. 2, c. 6 (1388), 2 S.L. 302; 12 Rich. 2, c. 6 (1388), 2 S.R. 57

D.C.: United States v. Dixon, 4 Cranch C.C. 107 (1830)

Maryland: United States v. Dixon, 4 Cranch C.C. 107 (1830)

An act containing divers orders for artificers, labourers, servants of husbandry and apprentices. 5 Eliz., c. 4 (1562), 6 S.L. 159; 5 Eliz., c. 4 (1562-63) 4 S.R. 414

Connecticut: Barkhamsted v. Parsons, 3 Conn. 1 (1819)

New Jersey: State v. Taylor, 3 N.J.L. 58 (2 Penning. 467) (1808); Akerman v. Taylor, 9 N.J.L. 65 (1827)

North Carolina: Dowd v. Davis, 15 N.C. 61 (1833)

Pennsylvania: Commonwealth v. Sturgeon, 2 Bro. (Pa.) 205 (1810); Ex Parte Meason, 5 Binn. 167 (1812)

South Carolina: M'Knight v. Hogg, 3 Brev. 44 (1812)

#### SERVICE IN THE KING'S WARS

They that do go with the King in his wars, may make feoffments of their lands, to the use of their wills without licence, and they shall have their own liveries, and authority to dispose the wardship of their heirs. 7 Hen. 7, c. 3 (1490), 4 S.L. 53; 7 Hen. 7, c. 2 (1491), 2 S.R. 550

New York: M'Cartee v. Orphan  
Asylum Soc'y, 9 Cow. 437  
(1827)

### SHEEP AND SHEEP-STEALING

An act to render the laws more effectual for preventing the stealing and destroying of sheep, and other cattle. 14 Geo. 2, c. 6 (1741), 17 S.L. 419

New York: Healy's Case, 4 Rog.  
N.Y. City H. Rec. 36 (1819)

North Carolina: State v. Hall,  
Tayl. 126 (1799)

### SHERIFFS

What distresses shall be taken for the King's debts, and how it shall be used. 51 Hen. 3, St. 4 (1266), 1 S.L. 39; Temp. Incert., 1 S.R. 197b

Maryland: Kilty 208

Which prisoners be mainpernable, and which not. The penalty for unlawful bailment. 3 Edw. 1, c. 15 (1275), 1 S.L. 84; 3 Edw. 1, c. 15 (1275) 1 S.R. 30

Georgia: Schley 83

Maryland: Kilty 209

Ohio: Fight v. State, 7 Hamm., Pt. 1, 180 (6 & 7 Ohio 327) (1835)

A sheriff having received the King's debt, shall discharge the debtor. 3 Edw. 1, c. 19 (1275), 1 S.L. 88; 3 Edw. 1, c. 19 (1275) 1 S.R. 32

South Carolina: M'Vaughters v. Elder, 2 Brev. 307 (1809)

The order of the indictments taken in the sheriff's tourn. 13 Edw. 1, St. 1, c. 13 (1285), 1 S.L. 191; 13 Edw. 1, Westminster 2d, c. 13 (1285), 1 S.R. 81

Connecticut: Andrews v. Pardee, 5 Day 29 (1811)

New York: People v. Dalton, 15 Wend. 581 (1836)

The manner to deliver writs to the sheriff to be executed. The

sheriff returneth a liberty where none is. Returning of issues. Resistance of execution of process. 13 Edw. 1, St. 1, c. 39 (1285), 1 S.L. 214; 13 Edw. 1, Westminster 2d, c. 39 (1285), 1 S.R. 90

New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806)

Pennsylvania: 3 Binney 607; Roberts 390

At what times the gates of great towns shall be shut, and when the night-watch shall begin and end. 13 Edw. 1, St. 2, c. 4 (1285), 1 S.L. 232; 13 Edw. 1, St. Wynton, c. 4 (1285), 1 S.R. 97

Maryland: Kilty 214

What process shall be awarded against those that be appealed by approvers. 28 Edw. 1, St. 2 (1300), 1 S.L. 287; 28 Edw. 1 (1300), 1 S.R. 141

Pennsylvania: 3 Binney 608; Roberts 62

Sheriffs, bailiffs of hundreds, and escheators, shall have sufficient in the county. 4 Edw. 3, c. 9 (1330), 1 S.L. 434; 4 Edw. 3, c. 9 (1330) 1 S.R. 264

South Carolina: 2 Cooper 405

Sheriffs and gaolers shall receive offenders without taking anything. 4 Edw. 3, c. 10 (1330), 1 S.L. 435; 4 Edw. 3, c. 10 (1330) 1 S.R. 264

South Carolina: 2 Cooper 405

The Statute of Winchester confirmed, and every sheriff shall proclaim it. 7 Rich. 2, c. 6 (1383), 2 S.L. 265; 7 Rich. 2, c. 6 (1383) 2 S.R. 33

Maryland: Kilty 222

Every sheriff shall in person continue in his bailiwick, and shall not let it. 4 Hen. 4, c.

5 (1402), 2 S.L. 427; 4 Hen. 4, c. 5 (1402) 2 S.R. 134

Maryland: Gresham v. Gassaway, 1 H. & McH. 34 (1718); Kilty 224

No sheriff shall let to ferm his county or any bailiwick. The sheriffs and bailiffs fees and duties in several cases. 23 Hen. 6, c. 10 (1444), 3 S.L. 269; 23 Hen. 6, c. 9 (1444-45), 2 S.R. 334

D.C.: Winter v. Simonton, 2 Cranch C.C. 585 (1825); Swann v. Ringgold, 4 Cranch C.C. 238 (1832); United States v. Hilliard, 4 Cranch C.C. 644 (1835)

Georgia: Central Bank v. Kendrick, Dud. (Ga.) 66 (1831)

Kentucky: Lampton v. Taylor, 16 Ky. (Litt. Sel. Cas.) 273 (1821)

Maryland: Gresham v. Gassaway, 1 H. & McH. 34 (1718); Gorsuch v. Holmes (Osborn v. Jones), 4 H. & McH. 5 (1797); Winter v. Simonton, 2 Cranch C.C. 585 (1825); Cape Sable Co.'s Case, 3 Bla. Ch. 606 (1832); United States v. Hilliard, 4 Cranch C.C. 644 (1835); Kilty 227

Massachusetts: Long v. Billings, 9 Mass. 479 (1813)

New Jersey: Nottingham v. Giles, 2 N.J.L. 111 (2 Penning. 120) (1806); Howard v. Blackford, 3 N.J.L. 344 (2 Penning. 777) (1811); Reed v. Bainbridge, 4 N.J.L. 351 (1817); Vroom v. Ex'rs of Smith, 14 N.J.L. 479 (1834)

New York: Love v. Palmer, 7 Johns. R. 159 (1810); Strong v. Tompkins, 8 Johns. R. 98 (1811); Newburgh Turnpike Co. v. Miller, 5 Johns. Ch. R. 101 (1821); Malcom v. Rogers, 5 Cow. 188 (1825); Hawley v. James, 16 Wend. 61 (1836)

North Carolina: Joyce v. Williams, Tayl. 27 (1799)

Ohio: Morris v. Marcy, 4 Hamm. 83 (4 Ohio) (1829)

South Carolina: Stewart v. M'Clure, 1 Brev. 407 (1804); Laval v. Gell,

2 Brev. 265 (1809); Blanding v. Rogers, 2 Brev. 394. (1810) Commissioner v. Hanion, 1 N. & Mc. 554 (1819); Saunders v. Hughes, 2 Bail. 504 (1831); Treasurers v. Barksdale, 1 Hill 272 (1833); Virginia Swann v. Ringgold, 4 Cranch C.C. 238 (1823)

The authority of the court of star-chamber. Where one inquest shall enquire of the concealment of another. A coroner's duty after a murder committed. A justice of peace shall certify his recognisances, &c. 3 Hen. 7, c. 1 (1487), 4 S.L. 27; 3 Hen. 7, c. 1 (1487), 2 S.R. 509

Georgia: Schley 137

Maryland: Kilty 228

New York: People v. Crowell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 616; Roberts 102

Virginia: Commonwealth v. Burton, 31 Va. (4 Leigh) 645 (1832)

Sheriffs. 19 Hen. 7, c. 10 (1503), 4 S.L. 91; 19 Hen. 7, c. 10 (1503-04), 2 S.R. 654

Georgia: State v. Dews, Charl't. R.M. 397 (1835)

Maryland: Kilty 230

An act to prevent extortion in sheriffs, under sheriffs, and bailiffs of franchises or liberties, in cases of execution. 29 Eliz., c. 4 (1587), 6 S.L. 390; 29 Eliz., c. 4 (1586-87), 4 S.R. 769

Connecticut: Preston v. Bacon, 4 Conn. 471 (1823)

D.C.: Swann v. Ringgold, 4 Cranch C.C. 238 (1832)

Maryland: Cape Sable Co.'s Case, 3 Bla. Ch. 606 (1832)

North Carolina: Matlock v. Gray, 11 N.C. 1 (1825)

South Carolina: 2 Cooper 410

Virginia: Swann v. Ringgold, 4 Cranch C.C. 238 (1832)

An act for reviving and continuance of several acts of parliament therein mentioned. 1 Jac. 2, c. 17 (1685), 8 S.L. 463; 1 Jac. 2, c. 17 (1685), 6 S.R. 19

New Jersey: Orange v. Springfield, 14 N.J.L. 321 (1834)

New York: Foster v. Wilbert, 1 Pal. Ch. 537 (1829)

North Carolina: Davis v. Duke's Adm'r, Tayl. 213 (1801), C. & N. 361 (1801)

Pennsylvania: Lessee of Ware v. Fisher, 2 Yeates 578 (1800); Harris v. Hayes, 6 Binn. 422 (1814); Bevan v. Taylor, 7 S. & R. 397 (1821)

South Carolina: 2 Cooper 411

An act for the better regulating of the office of sheriffs, and for ascertaining their fees, and the fees for suing out their patents, and passing their accounts. 3 Geo. 1. c. 15 (1716), 13 S.L. 423

Maryland: Cape Sable Co.'s Case, 3 Bla. Ch. 606 (1832)

New Jersey: Allen v. Smith, 12 N.J.L. 159 (1831)

New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806); Adams v. Hopkins, 5 Johns. R. 252 (1810);

South Carolina: Osborne v. Huger, 1 Bay 176 (1791)

An act for the ease of sheriffs with regard to the return of process. 20 Geo. 2, c. 37 (1747), 19 S.L. 86

Maryland: Kilty 252

South Carolina: Osborne v. Huger, 1 Bay 176 (1791)

#### SHERIFFS' TOURN (TURN)

At what time shall be kept a county court, sheriff's turn, and a leet. 9 Hen. 3, c. 35 (Magna Charta) (1225), 1 S.L. 12; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 48

#### SHIPS AND SHIPPING

A ship shall not be lost for a small thing therein not customed. 38 Edw. 3, St. 1, c. 8 (1365), 2 S.L. 171; 38 Edw. 3, St. 1, c. 8 (1363-64), 1 S.R. 384

South Carolina: 2 Cooper 406

Re rates of shipping on English ships. 32 Hen. 8, c. 14 (1540), 5 S.L. 24; 32 Hen. 8, c. 14 (1540), 3 S.R. 760

Federal: Schooner Volunteer, 1 Sumn. 551 (1834)

An act to prevent the delivering up of merchant ships. 16 Car. 2, c. 6 (1664), 8 S.L. 208; 16 Car. 2, c. 6 (1664), 5 S.R. 521

South Carolina: 2 Cooper 411

An act for punishing of accessories to felonies, and receivers of stolen goods, and to prevent the wilful burning and destroying of ships. 1 Anne, St. 2, c. 9 (1701), 10 S.L. 487; 1 Anne, St. 2, c. 9 (1702), 8 S.R. 168

New York: M'Niff's Case, 1 Rog.

N.Y. City H. Rec. 8 (1816)

North Carolina: State v. Sparrow, 7 N.C. 487 (1819)

South Carolina: State v. Council, 1 Harp. 53 (1823); State v. Robbins, 1 N. & Mc. 512 (1819); State v. Wright, 4 McCord 358 (1827); State v. Sims, 2 Bail. 29 (1830); 2 Cooper 412

Tennessee: State v. Evans, 1 Tenn. 211 (1806)

An act for the preserving of all such ships and goods thereof, which shall happen to be forced on shore, or stranded, upon the coasts of this kingdom, or any other of her Majesty's dominions. 12 Anne, St. 2, c. 18 (1713), 13 S.L. 121; 13 Anne, c. 21 (1713), 9 S.R. 971

Federal: Two Catherines, 2 Mas.  
319 (1821)

An act to settle how far owners of ships shall be answerable for the acts of the masters or mariners. 7 Geo. 2, c. 15 (1734), 16 S.L. 465

Maryland: Kilty 250

An act for the more effectual preventing of robberies and thefts upon any navigable rivers, ports of entry or discharge, wharfs, and keys adjacent. 24 Geo. 2, c. 45 (1751), 20 S.L. 281

Federal: United States v. Moulton,  
5 Mas. 537 (1830)

An act for enforcing the laws against persons who shall steal or detain shipwrecked goods; and for the relief of persons suffering losses thereby. 26 Geo. 2, c. 19 (1753), 21 S.L. 53

Federal: Two Catherines, 2 Mas.  
319 (1821)

An act for the encouragement of seamen, and the more speedy and effectual manning his Majesty's navy. 29 Geo. 2, c. 34 (1756), 21 S.L. 481

Pennsylvania: Watson v. Ins. Co.  
of N.A., 1 Binn. 47 (1803)

#### SHOP BOOKS

An act to avoid the double payment of debts. 7 Jac. 1, c. 12 (1609), 7 S.L. 241; 7 Jac. 1, c. 12 (1609-10), 4 S.R. 1169

South Carolina: Lamb v. Hart's  
Adm'r's, 1 Brev. 105 (1802);  
Thomas v. Dyott, 1 N. & Mc.  
186 (1818); 2 Cooper 410

#### SILK

An act for encouraging the silk manufactures of this kingdom, and for securing the duties payable upon the importation of velvets, wrought silks, and silks

mixed with other materials, not manufactured in Great Britain. 26 Geo. 2, c. 21 (1753), 21 S.L. 63

South Carolina: Leonard v. Caskin,  
Bee Adm. 146 (1799)

Federal: Leonard v. Caskin, Bee  
Adm. 146 (1799)

#### SINECURE OFFICES

Sheriffs. 19 Hen. 7, c. 10 (1503),  
4 S.L. 91; 19 Hen. 7, c. 10  
(1503-04), 2 S.R. 654

Georgia: State v. Dews, Charlt.  
R.M. 397 (1835)

Maryland: Kilty 230

#### SLANDER, AND SLANDEROUS LIES AND REPORTS

None shall report slanderous news, whereby discord may arise. 3 Edw. 1, c. 34 (1275),  
1 S.L. 97; 3 Edw. 1, c. 34  
(1275), 1 S.R. 35

New York: People v. Croswell, 3  
Johns. Cas. 337 (1804); 3 Wheel.  
Cr. C. 330 (1804)

South Carolina: State v. Lehre, 2  
Brev. 446 (1811); 3 Wheel. Cr.  
C. 282 (1811)

The punishment of him that telleth lies of the peers or great officers of the realm. 12 Rich. 2, c. 11 (1388), 2  
S.L. 305; 12 Rich. 2, c. 11  
(1388), 2 S.R. 59

New York: People v. Croswell,  
3 Johns. Cas. 337 (1804); 3  
Wheel. Cr. C. 330 (1804)

#### SPECIAL VERDICTS

The authority of justices of Nisi prius. Adjournment of suits. Certain writs that are determinable in their proper counties. A jury may give their verdict at large. None but who were summoned shall be put in assises or juries. 13 Edw. 1, St. 1, c. 30 (1285), 1  
S.L. 203; 13 Edw. 1, Westminster  
2d, c. 30 (1285), 1 S.R. 85

New Jersey: Springer v. Reeves,  
4 N.J.L. 207 (1818)

New York: People v. Croswell, 3  
Johns. Cas. 337 (1804); 3 Wheel.  
Cr. C. 330 (1804)

Pennsylvania: 3 Binney 605; Roberts  
326

## SPIRITUAL COURTS

An act that no person shall be  
cited out of the diocese where he  
or she dwelleth, except in certain  
cases. 23 Hen. 8, c. 9 (1531), 4  
S.L. 237; 23 Hen. 8, c. 9 (1531-  
32), 3 S.R. 377

Ohio: Flight v. State, 7 Hamm., Pt.  
1, 180, (6 & 7 Ohio) 327 (1835)

## SPIRITUAL DIGNITIES

Guardians shall maintain the in-  
heritance of their wards; and of  
bishopsricks, &c. 9 Hen. 3, c. 5  
(Magna Charta) (1225), 1 S.L. 3;  
9 Hen. 3, (Magna Charta) (1224-  
25), 1 S.R. 22

Georgia: Schley 36

No waste shall be made in wards  
lands; nor in bishops, during the  
vacation. 3 Edw. 1, c. 21 (1275),  
1 S.L. 91; 3 Edw. 1, c. 21 (1275),  
1 S.R. 32

Georgia: Schley 89

## SPIRITUAL PERSONS

Spiritual persons abridged from  
having pluralities of livings, and  
from taking of fanns, &c. 21 Hen.  
8, c. 13 (1529), 4 S.L. 177; 21 Hen.  
8, c. 13 (1529), 3 S.R. 292

Maryland: Miller v. Lord Proprie-  
tary, 1 H. & McH. 543 (1774)

Fraudulent deeds made by spir-  
itual persons to defeat their  
successors of remedy for dilap-  
idations, shall be void, &c. 13  
Eliz., c. 10 (1570), 6 S.L. 281; 13  
Eliz., c. 10 (1571), 4 S.R. 544

Georgia: Savannah v. Steam Boat  
Co., Charlt. R.M. 342 (1830)

New Jersey: Den, State v. Helmes.  
3 N.J.L. 600 (2 Penning. 1050)  
(1813)

Pennsylvania: Magill v. Brown,  
Bright N.P. 346 (1833)

## STAMP DUTIES

An act for laying impositions on  
proceedings at law. 22 & 23 Car.  
2, c. 9 (St. 2, c. 5) (1670), 8 S.L.  
347; 22 & 23 Car. 2, c. 9 (1670 &  
1671), 5 S.R. 712

Georgia: Schley 251

Pennsylvania: Hinds v. Knox, 4 S.  
& R. 417 (1819); 3 Binney 624;  
Roberts 138

An act for making good the defi-  
ciencies of several funds therein  
mentioned; and for enlarging the  
capital stock of the bank of Eng-  
land; and for raising the public  
credit. 8 & 9 Will. 3, c. 20 (1697),  
10 S.L. 34; 8 & 9 Will. 3, c. 20  
(1696-97), 7 S.R. 218

D.C.: United States v. Watkins, 3  
Cranch C.C. 441 (1829)

Maryland: United States v. Watkins,  
3 Cranch C.C. 441 (1829)

Federal: United States v. Watkins,  
3 Cranch C.C. 441 (1829)

An act for preventing frauds  
and abuses in the public revenues  
of excise, customs, stamp-duties,  
post-office, and house-money.  
6 Geo 1, c. 21 (1719), 14 S.L.  
262

South Carolina: State v. Anderson,  
1 Hill 327 (1833)

## STANDING ARMY

An act for declaring the rights  
and liberties of the subject,  
and settling the succession of  
the crown. 1 W. & M., Sess.  
2, c. 2 (1688), 9 S.L. 67; 1  
W. & M., Sess. 2, c. 2 (1688),  
6 S.R. 142

Maryland: Williams' Case, 3 Bla.  
Ch. 186 (1831)

## STAPLE

The jurisdiction of the mayor  
and constables of the staple. All  
people of the staple shall be  
ruled by the law-merchant; and  
not by the common law. 27 Edw.

3, St. 2, c. 8 (1353), 2 S.L. 83;  
27 Edw. 3, St. 2, c. 8 (1353), 1  
S.R. 336

Maryland: Tessier v. Wyse, 3 Bla.  
Ch. 28 (1830); Coombs v. Jordan,  
3 Bla. Ch. 284 (1831)

The effect of a recognisance  
knowledged in the staple for  
recovery of a debt. 27 Edw. 3,  
St. 2, c. 9 (1353), 2 S.L. 85; 27  
Edw. 3, St. 2 c. 9 (1353), 1 S.R.  
336

Maryland: Tessier v. Wyse, 3 Bla.  
Ch. 28 (1830); Coombs v. Jordan,  
3 Bla. Ch. 284 (1831)

Ohio: Dewit v. Osburn, 5 Hamm.  
(Ohio) 480 (1832)

Pennsylvania: Shaupe v. Shaupe, 12  
S. & R. 9 (1824)

South Carolina: Dupont v. Screven,  
2 Hill 298 (1834)

The warranty of packing of wool  
shall be put out. An inquest  
shall be de Medietate Linguae,  
where an alien is party. 28 Edw.  
3, c. 13 (1354), 2 S.L. 104; 28  
Edw. 3, c. 13 (1354), 1 S.R. 348

North Carolina: State v. Antonio, 11  
N.C. 200 (1825)

Pennsylvania: Respublica v. Mesca,  
1 Dall. 73 (1783); 3 Binney 611;  
Roberts 336

Of what things the mayor and  
constable of staple shall take  
cognisance. 36 Edw. 3, St. 1,  
c. 7 (1362), 2 S.L. 152; 36 Edw.  
3, c. 7 (1362), 1 S.R. 373

Maryland: Tessier v. Wyse, 3 Bla.  
Ch. 28 (1830); Coombs v. Jordan,  
3 Bla. Ch. 284 (1831)

## STAR CHAMBER

An act for the regulating of the  
privy council, and for taking  
away the court commonly called  
the star-chamber. 16 Car. 1,  
c. 10 (1640), 7 S.L. 338; 16 Car.  
1, c. 10 (1640), 5 S.R. 110

Georgia: Roe v. Savannah, Charl.  
T.U.P. 36 (1805)

## STOCKS AND STOCKJOBING

An act to prevent the infamous  
practice of stock-jobbing. 7  
Geo. 2, c. 8 (1734), 16 S.L. 443

New York: Frost v. Clarkson, 7  
Cow. 24 (1827)

## STOLEN GOODS

At what time restitution shall  
be made of goods stolen. 21  
Hen. 8, c. 11 (1529), 4 S.L.  
175; 21 Hen. 8, c. 11 (1529), 3  
S.R. 291

Georgia: Schley 157

New York: Andrew v. Dieterich,  
14 Wend. 31 (1835)

Pennsylvania: Piscataqua Bank v.  
Turnley, 1 Miles 312 (1836)

South Carolina: 2 Cooper 408

An act for the further preventing  
robbery, burglary, and other  
felonies, and for the more effectual  
transportations of felons, and  
unlawful exporters of wool; and  
for declaring the law upon some  
points relating to pirates. 4

Geo. 1, c. 11 (1717), 13 S.L. 471  
D.C.: United States v. Norris, 1

Cranch C.C. 411 (1807)

Maryland: United States v. Norris,  
1 Cranch C.C. 411 (1807)

An act for the further preventing  
robbery, burglary, and other  
felonies, and for the more effectual  
transportation of felons. 6 Geo.  
1, c. 23 (1719), 14 S.L. 292

D.C.: United States v. Norris, 1  
Cranch C.C. 411 (1807)

Maryland: United States v. Norris,  
1 Cranch 411 (1807)

An act for the more easy dis-  
covery and effectual punishment  
of buyers and receivers of  
stolen goods. 22 Geo. 3, c. 58  
(1782), 34 S.L. 82

Tennessee: Wright v. State, 13  
Tenn. 154 (1833)

## STORES

An act giving further encouragement

for the importation of naval stores, and for other purposes therein mentioned. 8 Geo. 1, c. 12 (1721), 14 S.L. 384

Maryland: The Chancellor's Case, 1 Bla. Ch. 595 (1825); Duvall v. Waters, 1 Bla. Ch. 569 (1829)

An act for the better preservation of his Majesty's woods in America, and for the encouragement of the importation of naval stores from thence; and to encourage the importation of masts, yards and bowsprights, from that part of Great Britain called Scotland. 2 Geo. 2, c. 35 (1729), 16 S.L. 102

Maryland: The Chancellor's Case, 1 Bla. Ch. 595 (1825); Duvall v. Waters, 1 Bla. Ch. 569 (1829)

#### SUBSIDIES

A subsidy in respect of this Charter, and the Charter of the Forest, granted to the King. 9 Hen. 3, c. 37 (Magna Charta) (1225), 1 S.L. 13; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 49

A subsidy granted to the King of tonnage and poundage, and other sums of money, payable upon merchandize exported and imported. 12 Car. 2, c. 4 (1660), 7 S.L. 362; 12 Car. 2, c. 4 (1660), 5 S.R. 18

Maryland: Blackiston v. Carroll (1695), 1 Am. Leg. Rec. 29

An act for granting an aid to her Majesty, by sale of several annuities at the Exchequer, for carrying on the war against France and Spain. 1 Anne, St. 2, c. 5 (1701), 10 S.L. 479; 1 Anne, St. 2, c. 5 (1702), 8 S.R. 163

Maryland: Williams' Case, 3 Bla. Ch. 186 (1831)

#### SUGAR

An act for granting certain duties in the British colonies and plantations in America; for continuing, amending, and making perpetual, an act passed in the sixth year of the reign of his late majesty King George the Second, (intituled, An act for the better securing and encouraging the trade of his Majesty's sugar colonies in America;) for applying the produce of such duties, and of the duties to arise by virtue of the said act, towards defraying the expences of defending, protecting, and securing the said colonies and plantations; for explaining an act made in the twenty fifth year of the reign of King Charles the Second, (intituled, An act for the encouragement of the Greenland and Eastland trades, and for the better securing the plantation trade;) and for altering and disallowing several drawbacks on exports from this kingdom, and more effectually preventing the clandestine conveyance of goods to and from the said colonies and plantations, and improving and securing the trade between the same and Great Britain. 4 Geo. 3, c. 15 (1764), 26 S.L. 33

Maryland: Dashiell v. Heron, 1 H. & McH. 385 (1771)

#### SUGGESTIONS

None shall be condemned upon suggestion without lawful presentment. 25 Edw. 3, St. 5, c. 4 (1350), 2 S.L. 53; 25 Edw. 3, St. 5, c. 4 (1351-52), 1 S.R. 321

Federal: Ex Parte Crane, 30 U.S. (5 Pet.) 190 (1831)

Upon an untrue suggestion in the chancery, damages may be



awarded. 17 Rich. 2, c. 6 (1393),  
2 S.L. 360; 17 Rich 2, c. 6 (1393-  
94), 2 S.R. 88

Maryland: Mayer v. Tyson, 1 Bla.  
Ch. 559 (1829); Kilty 224

#### SUIT FOR LAND

No waste shall be made hanging a  
suit for the land. 6 Edw. 1, c.  
13 (1278), 1 S.L. 127; 6 Edw. 1,  
St. Glouc., c. 13 (1278), 1 S.R. 50

Georgia: Schley 96

Pennsylvania: 3 Binney 603; Roberts  
418

#### SUITS, PREVENTING OF

An act for preventing suits against  
such as acted for their Majesties  
service in defence of the kingdom.  
4 & 5 W. & M., c. 19 (1692), 9  
S.L. 220; 4 W. & M., c. 19 (1692),  
6 S.R. 411

Massachusetts: Lanesborough & New  
Ashford, Cush. Elec. Cas. 168  
(1815); Mussey v. Sanborn, 15  
Mass. 155 (1818)

#### SUMMONS

A sheriff having received the  
King's debt, shall discharge the  
debtor. 3 Edw. 1, c. 19 (1275),  
1 S.L. 88; 3 Edw. 1, c. 19  
(1275), 1 S.R. 32

South Carolina: M'Vaughters v.  
Elder, 2 Brev. 307 (1809)

#### SUNDAY

Certain days wherein fairs and  
markets ought not to be kept.  
27 Hen. 6, c. 5 (1448), 3 S.L.  
295; 27 Hen. 6, c. 5 (1448-49),  
2 S.R. 351

New York: Story v. Elliott, 8 Cow.  
27 (1827)

An act for the better observation  
of the Lord's day, commonly  
called Sunday. 29 Car. 2, c. 7  
(1676), 8 S.L. 412; 29 Car. 2, c.  
7 (1677), 5 S.R. 848

Maryland: Kilty 242

New Jersey: Crocket v. Vanderveer,  
3 N.J.L. 422, 2 Penning. 856 (1811)

New York: Field v. Park, 20 Johns.  
R. 140 (1822); Story v. Elliott,  
8 Cow. 27 (1827); Boynton v.  
Page, 13 Wend. 425 (1835)

#### SUPERSTITIOUS USES

An act for feoffments and as-  
surances of land and tenements  
made to the use of any parish  
church, chapel, or such like.  
23 Hen. 8, c. 10 (1531), 4 S.L.  
239; 23 Hen. 8, c. 10 (1531-32),  
3 S.R. 378

New York: M'Cartee v. Orphan  
Asylum Soc'y, 9 Cow. 437 (1827)

Pennsylvania: Leazure v. Hillegas,  
7 S. & R. 313 (1812); Magill v.  
Brown, Bright. N.P. 346 (1833);  
Ross v. Barker, 5 Watt 391  
(1836)

#### SUSPECTED PERSONS

Of what things a coroner shall  
inquire. 4 Edw. 1, St. 2 (1276),  
1 S.L. 110; 4 Edw. 1 (1275-76),  
1 S.R. 40

Georgia: Schley 90

Maryland: Kilty 210

Pennsylvania: 3 Binney 601; Roberts  
100

#### TALES DE CIRCUMSTANTIBUS

An act declaring that the tenant  
and defendant may have a tales  
de circumstantibus, as well as  
the demandant or plaintiff. 14  
Eliz., c. 9 (1572), 6 S.L. 302;  
14 Eliz., c. 9 (1572), 4 S.R. 600

Maryland: Kilty 235

#### TALLOW

It shall be felony to convey, or  
procure to be conveyed, into  
any ship or other vessel, any  
leather tanned or untanned, or  
any salt or untanned hides, or  
any backs of sole-leather, or  
any tallow, to the intent to trans-  
port the same over the sea, to  
be sold by way of merchandize.  
1 Eliz., c. 10 (1558), 6 S.L. 137;  
1 Eliz., c. 10 (1558-59), 4 S.R.  
370

Pennsylvania: Levinz v. Will, 1  
Dall. 430 (1789)

## TANNERS AND TANNING

The penalty of a cordwainer using  
the mystery of a tanner. 2 Hen.  
6, c. 7 (1423), 3 S.L. 83; 2 Hen.  
6, c. 7 (1423), 2 S.R. 220

New Jersey: Herbert v. Hardenbergh,  
10 N.J.L. 222 (1828)

## THE TEMPLARS

Statutum de Terris Templariorum.  
17 Edw. 2, St. 3 (1324), 1 S.L.  
385; 17 Edw. 2, St. 2 (1323-24),  
1 S.R. 194

Pennsylvania: Magill v. Brown,  
Bright. N.P. 346 (1833)

## TENANTS IN COMMON

Waste maintainable by one  
tenant in common against  
another. 13 Edw. 1, St. 1,  
c. 22 (1285), 1 S.L. 196; 13  
Edw. 1, Westminster 2d, c.  
22 (1285), 1 S.R. 83

Georgia: Schley 106

Maryland: Kilty 212

New York: Hawley v. Clowes, 2  
Johns. Ch. R. 122 (1816)

Pennsylvania: 3 Binney 604; Roberts  
420

For joint tenants and tenants in  
common. 31 Hen. 8, c. 1 (1539),  
4 S.L. 447; 31 Hen. 8, c. 1  
(1539), 3 S.R. 718

Delaware: Ex Parte Burgess, 1  
Del. Ch. 233 (1822)

Kentucky: Coleman v. Hutchenson,  
6 Ky. (3 Bibb) 209 (1813); Venable  
v. Beauchamp, 33 Ky. (3 Dana)  
321 (1835)

Maine: Hanson v. Willard, 12 Me.  
142 (1835)

Maryland: Kilty 231

Massachusetts: Mussey v. Sanborn,  
15 Mass. 155 (1818)

New Jersey: Stevens v. Enders, 13  
N.J.L. 271 (1833)

New York: Devisees of Van Rens-  
selaer v. Ex'rs of Platner, 2  
Johns. Cas. 24 (1800); Bradshaw

v. Callaghan, 8 Johns. R. 558  
(1811); Gallatian v. Cunningham,  
8 Cow. 361 (1826)

Pennsylvania: Vidal v. Girard, 1

Miles 322 (1836); Weiser v.

Weiser, 5 Watts 279 (1836);

3 Binney 619; Roberts 217

South Carolina: Spann v. Blocker,  
2 N. & Mc. 593 (1820); 2 Cooper  
408

Virginia: Thornton v. Thornton, 24  
Va. (3 Rand.) 179 (1825)

An act for making perpetual  
an act for the more easy re-  
covery of small tithes; and  
also an act for the more easy  
obtaining partition of lands in  
coparcenary, joint tenancy, and  
tenancy in common; and also  
for making more effectual and  
amending several acts relating  
to the return of jurors. 3 & 4  
Anne, c. 18 (1704), 11 S.L. 113;  
3 & 4 Anne, c. 16 (1704), 8  
S.R. 366

Kentucky: O'Bannon v. Roberts'

Heirs, 32 Ky. (2 Dana) 54 (1834)

## TENANT BY THE CURTESY

An alienation of land by the  
tenant by the curtesy with  
warrant shall be void. 6 Edw.  
1, c. 3 (1278), 1 S.L. 120; 6  
Edw. 1, St. Glouc., c. 3 (1278),  
1 S.R. 47

Pennsylvania: Vidal v. Girard, 1

Miles 322 (1836); 3 Binney 602;  
Roberts 208

Where the wife shall be endowable  
of lands recovered against her  
husband. Where the heir may  
avoid a dower recovered. A  
remedy for particular tenants  
losing by default. 13 Edw. 1,  
St. 1, c. 4 (1285), 1 S.L. 171;  
13 Edw. 1, Westminster 2d,  
c. 4 (1285), 1 S.R. 74

Georgia: Schley 98

Maryland: Kilty 212

Pennsylvania: 3 Binney 603; Roberts  
182

Where a stranger coming in by a collateral title, not party to the suit, shall be received. 20 Edw. 1, St. 3 (1292), 1 S.L. 265; 20 Edw. 1, St. Def. Right, (1291-92) 1 S.R. 110

Georgia: Schley 112

Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

Pennsylvania: 3 Binney 608; Roberts 413

#### TENANT IN DOWER

Where a stranger coming in by a collateral title, not part to the suit, shall be received. 20 Edw. 1, St. 3 (1292), 1 S.L. 265; 20 Edw. 1, St. Def. Right, (1291-92) 1 S.R. 110

Georgia: Schley 112

Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

Pennsylvania: 3 Binney 608; Roberts 413

Certain alienation made by the wife, of the lands of her deceased husband, shall be void. 11 Hen. 7, c. 20 (1494), 4 S.L. 67; 11 Hen. 7, c. 20 (1495), 2 S.R. 583

Georgia: Schley 146

Maryland: Kilty 229

Pennsylvania: 3 Binney 617; Roberts 211

#### TENANT IN FEE SIMPLE

The erection of the court of surveyors of the King's lands, the names of the officers there, and their authority. 33 Hen. 8, c. 39 (1541), 5 S.L. 115; 33 Hen. 8, c. 39 (1541-42), 3 S.R. 879

Maryland: Miller v. Lord Proprietary, 1 H. & McH. 543 (1774)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

Federal: United States v. The Anthony Mangin, 2 Pet. Adm. 452 (1802); United States v. Feely, 1 Brock. 255 (1813)

#### TENANT IN FREE MARRIAGE

Where the wife shall be endowable of lands recovered against her

husband. Where the heir may avoid a dower recovered. A remedy for particular tenants losing by default. 13 Edw. 1, St. 1, c. 4 (1285), 1 S.L. 171; 13 Edw. 1, Westminster 2d, c. 4 (1285), 1 S.R. 74

Georgia: Schley 98

Maryland: Kilty 212

Pennsylvania: 3 Binney 603; Roberts 182

#### TENANT FOR LIFE

Where the wife shall be endowable of lands recovered against her husband. Where the heir may avoid a dower recovered. A remedy for particular tenants losing by default. 13 Edw. 1, St. 1, c. 4 (1285), 1 S.L. 171; 13 Edw. 1, Westminster 2d, c. 4 (1285), 1 S.R. 74

Georgia: Schley 98

Maryland: Kilty 212

Pennsylvania: 3 Binney 603; Roberts 182

Where a stranger coming in by a collateral title, not party to the suit, shall be received. 20 Edw. 1, St. 3 (1292), 1 S.L. 265; 20 Edw. 1, St. Def. Right, (1291-92) 1 S.R. 110

Georgia: Schley 112

Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

Pennsylvania: 3 Binney 608; Roberts 413

#### TENANT IN TAIL

Where the wife shall be endowable of lands recovered against her husband. Where the heir may avoid a dower recovered. A remedy for particular tenants losing by default. 13 Edw. 1, St. 1, c. 4 (1285), 1 S.L. 171; 15 Edw. 1, Westminster 2d, c. 4 (1285), 1 S.R. 74

Georgia: Schley 98

Maryland: Kilty 212

Pennsylvania: 3 Binney 603; Roberts 182

Where a stranger coming in by a collateral title, not party to the suit, shall be received. 20 Edw. 1, St. 3 (1292), 1 S.L. 265; 20 Edw. 1, St. Def. Right, (1291-92), 1 S.R. 110

Georgia: Schley 112

Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

Pennsylvania: 3 Binney 608; Roberts 413

#### TENANT IN WARD

Of what things an assise shall lie. Certificate of assise. Attachment in an assise. 13 Edw. 1, St. 1, c. 25 (1285), 1 S.L. 198; 13 Edw. 1, Westminster 2d, c. 25 (1285), 1 S.R. 84

Pennsylvania: Barnet v. Ihrrie, 17 S. & R. 174 (1828); 3 Binney 605; Roberts 152

#### TENANTS FOR YEARS

Of what things an assise shall lie. Certificate of assise. Attachment in an assise. 13 Edw. 1, St. 1, c. 25 (1285), 1 S.L. 198; 13 Edw. 1, Westminster 2d, c. 25 (1285), 1 S.R. 84

Pennsylvania: Barnet v. Ihrrie, 17 S. & R. 174 (1828); 3 Binney 605; Roberts 152

Where a stranger coming in by a collateral title, not party to the suit, shall be received. 20 Edw. 1, St. 3 (1292), 1 S.L. 265; 20 Edw. 1, St. Def. Right, (1291-92), 1 S.R. 110

Georgia: Schley 112

Maryland: State v. Buchanan, 5 H. & J. 317 (1821)

Pennsylvania: 3 Binney 608; Roberts 413

Fermors shall enjoy their leases against recoveries by feigned titles, &c. 21 Hen. 8, c. 15 (1529), 4 S.L. 186; 21 Hen. 8, c. 15 (1529), 3 S.R. 297

Georgia: Schley 158

Pennsylvania: 3 Binney 618; Roberts 214

#### THIEVES

That a man killing a thief in his defence, shall not forfeit his goods. 24 Hen. 8, c. 5 (1532), 4 S.L. 252; 24 Hen. 8, c. 5 (1532-33), 3 S.R. 422

South Carolina: 2 Cooper 408

#### TITHES

At what time shall be kept a county court, sheriff's turn, and a leet. 9 Hen. 3, c. 35 (Magna Charta) (1225), 1 S.L. 12; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 48

An act for payment of tithes. 2 & 3 Edw. 6, c. 13 (1548), 5 S.L. 307; 2 & 3 Edw. 6, c. 13 (1548), 4 S.R. 55

New Hampshire: Bullard v. Bell, 1 Mas. 243 (1817)

North Carolina: Dowd v. Seawell, 14 N.C. 185 (1831)

Federal: United States v. Colt, Pet. C.C. 145 (1818)

An act for making perpetual an act for the more easy recovery of small tithes; and also an act for the more easy obtaining partition of lands in coparcenary, joint tenancy, and tenancy in common; and also for making more effectual and amending several acts relating to the return of jurors. 3 & 4 Anne, c. 18 (1704), 11 S.L. 113; 3 & 4 Anne, c. 16 (1704), 8 S.R. 366

Kentucky: O'Bannon v. Roberts' Heirs, 32 Ky. (2 Dana) 54 (1834)

#### TOBACCO

An act for the encouragement of trade. 15 Car. 2, c. 7 (1663), 8 S.L. 160; 15 Car. 2, c. 7 (1663), 5 S.R. 449

Massachusetts: Randolph v. Catch

Newbery, 1 Rec. Ct. of Asst., Colony of Mass. Bay 152 (1682); *Lugger v. Ship Elisabeth*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 209 (1686); *Brenton v. Katch Salisbury*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 251 (1691); *Brenton v. Three Brothers*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691)

#### TONGUE

It shall be felony to cut out the tongue, or pull out the eyes of the King's liege people. 5 Hen. 4, c. 5 (1403), 2 S.L. 448; 5 Hen. 4, c. 5 (1403-04), 2 S.R. 144

South Carolina: 2 Cooper 406

#### TONNAGE AND POUNDAGE

A subsidy granted to the King of tonnage and poundage, and other sums of money, payable upon merchandize exported and imported. 12 Car. 2, c. 4 (1660), 7 S.L. 362; 12 Car. 2, c. 4 (1660), 5 S.R. 181

Maryland: *Blackiston's Ex'rs. v. Carroll* (1696), 1 Am. Leg. Rec. 29

An act for granting his Majesty a further subsidy of tunnage and poundage, towards raising the yearly sum of seven hundred thousand pounds, for the service of his Majesty's household, and other uses therein mentioned, during his Majesty's life. 9 & 10 Will. 3, c. 23 (1698), 10 S.L. 145; 9 Will. 3, c. 23 (1697-98), 7 S.R. 382

South Carolina: *Berney v. Tax-Collector*, 2 Bail. 654 (1831)

#### TOWNS

At what times the gates of great towns shall be shut, and when the night-watch shall begin and end. 13 Edw. 1, St. 2, c. 4 (1285), 1 S.L. 232; 13 Edw. 1, St. Wynton, c. 4 (1285), 1 S.R. 97

Maryland: *Kilty* 214

#### TRADE

An act for the encouragement of trade. 15 Car. 2, c. 7 (1663), 8 S.L. 160; 15 Car. 2, c. 7 (1663), 5 S.R. 449

Massachusetts: *Randolph v. Catch Newbery*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 152 (1682); *Lugger v. Ship Elisabeth*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 209 (1686); *Brenton v. Katch Salisbury*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 251 (1691); *Brenton v. Three Brothers*, 1 Rec. Ct. of Asst., Colony of Mass. Bay 261 (1691)

#### TRANSPORTATION

An act for the further preventing robbery, burglary, and other felonies, and for the more effectual transportations of felons, and unlawful exporters of wool; and for declaring the law upon some points relating to pirates. 4 Geo. 1, c. 11 (1717), 13 S.L. 471

D.C.: *United States v. Norris*, 1 Cranch C.C. 411 (1807)

Maryland: *United States v. Norris*, 1 Cranch C.C. 411 (1807)

An act for the further preventing robbery, burglary, and other felonies, and for the more effectual transportation of felons. 6 Geo. 1, c. 23 (1719), 14 S.L. 292

D.C.: *United States v. Norris*, 1 Cranch C.C. 411 (1807)

Maryland: *United States v. Norris*, 1 Cranch C.C. 411 (1807)

An act for the more easy and effectual conviction of offenders found at large within the kingdom of Great Britain, after they have been ordered for transportation. 16 Geo. 2, c. 15 (1743), 18 S.L. 120

Georgia: *A. v. B., Charl't. R.M.* 228 (1822)

## TREASON

A declaration which offences shall be adjudged treason. 25 Edw. 3, St. 5, c. 2 (1350), 2 S.L. 50; 25 Edw. 3, St. 5, c. 2 (1351-52), 1 S.R. 319

Maryland: Kilty 217

New Jersey: Denn v. Clark, 1

N.J.L. 340 (1795)

South Carolina: State v. Gutridge, 1 Bay 281 (1793); 2 Cooper 405

Federal: United States v. Burr, Coombs Trial of Aaron Burr 1 (1807); United States v. Burr, 8 U.S. (4 Cranch) App. 470 (1807)

There shall be no forfeiture of lands for treason of dead persons not attained. 34 Edw. 3, c. 12 (1360), 2 S.L. 141; 34 Edw. 3, c. 12 (1360-61), 1 S.R. 367

South Carolina: 2 Cooper 406

An act whereby offences be made high treason, and taking away all sanctuaries for all manner of high treasons. 26 Hen. 8, c. 13 (1534), 4 S.L. 337; 26 Hen. 8, c. 13 (1534), 3 S.R. 508

New Jersey: Denn v. Clark, 1

N.J.L. 340 (1795)

An act to proceed by commission of Oyer and Terminer against such person as shall confess treason, &c without remanding the same to be tried in the shire where the offence was committed. 33 Hen. 8, c. 23 (1541), 5 S.L. 107; 33 Hen. 8, c. 23 (1541-42), 3 S.R. 863

New Jersey: Denn v. Clark 1

N.J.L. 340 (1795)

Tennessee: Garner v. State, 13

Tenn. 160 (1833)

Virginia: Commonwealth v. Gaines,

4 Va. (2 Va. Cas.) 172 (1819)

An act for the repeal of certain statutes concerning treasons and felonies. 1 Edw. 6, c. 12 (1547), 5 S.L. 259; 1 Edw. 6, c. 12 (1547), 4 S.R. 18

New York: Woodbeck v. Keller, 6 Cow. 118 (1826)

North Carolina: State v. Seaborn, 15 N.C. 305 (1833)

Pennsylvania: Respublica v. Roberts, 1 Dall. 39 (1778)

South Carolina: 2 Cooper 409

An act whereby certain offences be made treasons, and also for the government of the King's and Queen's majesties issue. 1 & 2 Phil. & M., c. 10 (1554), 6 S.L. 53; 1 & 2 Phil. & M., c. 10 (1554 & 1554-55), 4 S.R. 255

Maryland: Kilty 233

Pennsylvania: Respublica v. M'Carthy, 2 Dall. 86 (1781)

South Carolina: State v. Lehre, 3 Wheel. Cr.C. 282 (1811); 2 Brev. 446 (1811)

Tennessee: Garner v. State, 13 Tenn. 160 (1833)

An act for regulating of trials in cases of treason and misprison of treason. 7 Will. 3, c. 3 (1695), 9 S.L. 389; 7 & 8 Will. 3, c. 3 (1695-96), 7 S.R. 6

Georgia: State v. Calvin, Charlt.

R.M. 142 (1822)

Maryland: Kilty 243

New York: People v. Van Santvoord, 9 Cow. 655 (1821)

Pennsylvania: Respublica v. Roberts, 1 Dall. 39 (1778); Respublica v.

M'Carthy, 2 Dall. 86 (1781)

South Carolina: 2 Cooper 412

Federal: United States v. Cornell, 2 Mas. 91 (1820); United States v. Curtis, 4 Mas. 232 (1826)

## TRESPASS

To whom the only writ of trespass of Oyer and Terminer shall be granted. In what case the writ of Odio & Atia is granted. 13 Edw. 1, St. 1, c. 29 (1285), 1 S.L. 202; 13 Edw. 1, Westminster 2d, c. 29 (1285), 1 S.R. 85

Maryland: Blackiston's Exrx. v.

Carroll (1696), 1 Am Leg. Rec. 29

The authority of justices of Nisi prius. Adjournment of suits. Certain writs that are determinable in their proper counties. A jury may give their verdict at large. None but who were summoned shall be put in assises or juries. 13 Edw. 1, St. 1, c. 30 (1285), 1 S.L. 203; 13 Edw. 1, Westminster 2d, c. 30 (1285), 1 S.R. 85

New Jersey: Springer v. Reeves, 4 N.J.L. 207 (1818)

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr. C. 330 (1804)

Pennsylvania: 3 Binney 605; Roberts 326

What sort of persons shall be justices of the peace; and what authority they shall have. 34 Edw. 3, c. 1 (1360), 2 S.L. 135; 34 Edw. 3, c. 1 (1360-61) 1 S.R. 364

D.C.: Ex Parte Reed, 4 Cranch C.C. 582 (1835)

Georgia: Schley 126

Maryland: Ex Parte Reed, 4 Cranch C.C. 582 (1835); Kilty 220

Massachusetts: Commonwealth v. Leach, 1 Mass. 59 (1804); Commonwealth v. Knowlton, 2 Mass. 530 (1807)

New York: Ex Parte Rhodes, 2 Wheel. Cr.C. 559 (1816)

Pennsylvania: Commonwealth v. Duane (Commonwealth v. Davies), 1 Binn. 97 (1806); 2 Wheel. Cr. C. 533 (1807); Kroemer v. Commonwealth, 3 Binn. 577 (1811); 3 Binney 612; Roberts 339

## TRIAL

None shall be condemned without trial. Justice shall not be sold or deferred. 9 Hen. 3, c. 29 (Magna Charta) (1225), 1 S.L. 10; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 46

South Carolina: 2 Cooper 403

Tennessee: Case of Darby, 3 Wheel. Cr.C. 1 (1824)

An act to redress disorders in common informers. 18 Eliz., c. 5 (1576), 6 S.L. 312; 18 Eliz., c. 5 (1575-76), 4 S.R. 615

Georgia: Schley 218

Maryland: Kilty 235

New York: Clark v. Dewey, 5 Johns. R. 251 (1810); Bradway v. Le Worthy, 9 Johns. R. 251 (1812)

An act to prevent inconveniences arising from delays of causes after issue joined. 14 Geo. 2, c. 17 (1741), 17 S.L. 434

Pennsylvania: Hannum v. Gregg, 2 Yeates 240 (1797)

## UNDER SHERIFFS

An act for swearing of under-sheriffs and other under officers and ministers. 27 Eliz., c. 12 (1585), 6 S.L. 371; 27 Eliz., c. 12 (1584-85), 4 S.R. 719

New Jersey: Allen v. Smith, 12 N.J.L. 159 (1831)

Tennessee: Glasgow's Lessee v. Smith, 1 Tenn. 144 (1805)

An act to prevent extortion in sheriffs, under sheriffs, and bailiffs of franchises or liberties, in cases of execution. 29 Eliz., c. 4 (1587), 6 S.L. 390; 29 Eliz., c. 4 (1586-87), 4 S.R. 769

Connecticut: Preston v. Bacon, 4 Conn. 471 (1823)

D.C.: Swann v. Ringgold, 4 Cranch C.C. 238 (1832)

Maryland: Cape Sable Co.'s Case, 3 Bla. Ch. 606 (1832)

North Carolina: Matlock v. Gray, 11 N.C. 1 (1825)

South Carolina: 2 Cooper 410

Virginia: Swann v. Ringgold, 4 Cranch C.C. 238 (1832)

## UNITED KINGDOM OF GREAT BRITAIN

An act for the more effectual execution of the criminal laws in the two parts of the united kingdom. 13 Geo. 3, c. 31 (1773), 30 S.L. 36

Pennsylvania: Simmons v. Commonwealth, 5 Binn. 617 (1813)

## UNIVERSITIES

An act to restrain the disposition of lands, whereby the same become unalienable. 9 Geo. 2, c. 36 (1736), 17 S.L. 82

Delaware: Silvers v. Jones, 2 Del. Cas. 632 (1821)

New York: M'Cartee v. Orphan Asylum Soc'y, 9 Cow. 437 (1827)

Pennsylvania: Magill v. Brown, Bright. N. P. 346 (1833)

Virginia: A Case, 2 Va. Col. Dec. (Barr. Rep.) 334 (1753)

## USURERS AND USURY

A bill against usury. 37 Hen.

8, c. 9 (1545), 5 S.L. 225; 37

Hen. 8, c. 9 (1545), 3 S.R. 996

Illinois: Act of 1819, Laws of Illinois 1 (1819)

Indiana Territory: Act of 1807,

Philbrick, ed., Laws of the

Indiana Territory 323 (1807)

North West Territory: Act of 1799, Pease, ed., Laws of the Northwest Territory 353, 401 (1799)

South Carolina: Ex Parte Leland, 1 N. & Mc. 460 (1819)

Tennessee: Stump v. Napier, 10 Tenn. 35 (1821)

Virginia: Stribbling v. Bank of the Valley, 26 Va. (5 Rand.) 132 (1827); Whitworth v. Adams, 26 Va. (5 Rand.) 333 (1827)

An act against usury. 13 Eliz., c. 8 (1570), 6 S.L. 276; 13 Eliz., c. 8 (1571), 4 S.R. 542

Illinois: Act of 1819, Laws of Illinois (1819)

Indiana: Act of 1807, Philbrick, ed., Laws of the Indiana Territory 323 (1807)

New York: Jackson v. Henry, 10 Johns. R. 185 (1813)

North West Territory: Act of 1799,

Pease, ed., Laws of the Northwest Territory 353, 401 (1799)

Tennessee: Stump v. Napier, 10 Tenn. 35 (1821)

Virginia: Whitworth v. Adams, 26 Va. (5 Rand.) 333 (1827)

An act against usury. 21 Jac.

1, c. 17 (1623), 7 S.L. 275;

21 Jac. 1, c. 17 (1623-24), 4

S.R. 1223

New York: Mowry v. Bishop, 5 Pai. Ch. 98 (1835)

Tennessee: Stump v. Napier, 10 Tenn. 35 (1821)

Virginia: Whitworth v. Adams, 26 Va. (5 Rand.) 333 (1827)

An act for the restraining the

taking of excessive usury. 12

Car. 2, c. 13 (1660), 7 S.L. 440;

12 Car. 2, c. 13 (1660), 5 S.R. 236

Tennessee: Stump v. Napier, 10 Tenn. 35 (1821)

Virginia: Withworth v. Adams, 26 Va. (5 Rand.) 333 (1827)

## VERDICT

The penalty if a judge or clerk make a false entry, raise a roll, or change a verdict. 8 Rich. 2, c. 4 (1384), 2 S.L. 274; 8

Rich. 2, c. 4 (1384), 2 S.R. 37

Pennsylvania: 3 Binney 613; Roberts 389

South Carolina: 2 Cooper 406

## VEXATIOUS SUITS

An act for ease in pleading troublesome and contentious suits prosecuted against justices of the peace, mayors, constables, and certain other his Majesty's officers, for the lawful execution of their office. 7 Jac. 1, c. 5 (1609), 7 S.L. 226; 7 Jac. 1, c. 5 (1609-10), 4 S.R. 1161

Georgia: Schley 237

Maryland: Kilty 236

Massachusetts: Commonwealth v. Leach, 1 Mass. 59 (1804)



An act to enlarge and make perpetual the act made for ease in pleading against troublesome and contentious suits prosecuted against justices of the peace, mayors, constables and certain other his Majesty's officers, for the lawful execution of their office, made in the seventh year of his Majesty's most happy reign. 21 Jac. 1, c. 12 (1623), 7 S.L. 269; 21 Jac. 1, c. 12 (1623-24), 4 S.R. 1220

Maryland: Kilty 236

Massachusetts: Commonwealth v.

Leach, 1 Mass. 59 (1804); Pearce v. Atwood, 13 Mass. 324 (1816); Sackett v. Sackett, 25 Mass. 309 (8 Pick.) (1829)

Pennsylvania: Kerlin v. Heacock, 3 Binn. 215 (1810)

#### VICAR AND VICARAGES

In appropriations of benefices provision shall be made for the poor and the vicar. 4 Hen. 4, c. 12 (1402), 2 S.L. 433; 4 Hen. 4, c. 12 (1402), 2 S.R. 136

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

#### VIEW OF FRANKPLEDGE

At what time shall be kept a county court, sheriff's turn, and a leet. 9 Hen. 3, c. 35 (Magna Charta) (1225), 1 S.L. 12; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 48

#### VINTNERS

A Statute of the Pillory and Tumbrel, and the Assise of Bread and Ale. 51 Hen. 3, St. 6 (1266), 1 S.L. 47, Temp. Incert., 1 S.R. 201

Pennsylvania: James v. Commonwealth, 12 S. & R. 220 (1825)

#### VOUCHER TO WARRANTY

Several limitations of prescription in several writs. 3 Edw. 1,

c. 39 (1275), 1 S.L. 100; 3 Edw. 1, c. 39 (1275), 1 S.R. 36

Tennessee: Smith v. State, 9 Tenn. 228 (1829)

Voucher to warranty, and counter-pleading of voucher. 3 Edw. 1, c. 40 (1275), 1 S.L. 100; 3 Edw. 1, c. 40 (1275), 1 S.R. 36

Massachusetts: Bates v. Norcross, 34 Mass. (17 Pick.) 14 (1835)

Pennsylvania: 3 Binney 601; Roberts 410

#### WAGER OF LAW

Wager of law shall not be without witness. 9 Hen. 3, c. 28 (Magna Charta) (1225), 1 S.L. 10; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 45

South Carolina: 2 Cooper 403

#### WALES

An act for reviving, continuing, and explaining several laws therein mentioned, which are expired and near expiring. 4 & 5 W. & M., c. 24 (1692), 9 S.L. 229; 4 W. & M., c. 24 (1692), 6 S.R. 416

Delaware: Burton v. McCullen, 2 Del. Cas. 20 (1807)

Georgia: Schley 286

Maryland: Sibley v. Williams, 3 G. & J. 52 (1830)

New Jersey: Schenck v. Ex'rs of Schenck, 3 N.J.L. 149 (2 Penning. 562) (1809); Dickerson v.

Robinson, 6 N.J.L. 195 (1822)

Pennsylvania: Pott v. Smith, 3 Rawle 361 (1832)

South Carolina: Trescot v. Trescot, 1 McCord Eq. 417 (1826)

An act for the more effectual preventing frivolous and vexatious arrests, and for the more easy recovery of debts and damages, in the courts of great sessions in the principality of

Wales, and in the court of assize in the county palatine of Chester, and for the obviating a doubt which has arisen upon an act made in the fourth year of his present Majesty's reign, intituled, An act that all proceedings in courts of justice, within that part of Great Britain called England, and in the court of exchequer in Scotland, shall be in the English language, so far as the same act doth or may relate to the courts of justice holden within the said principality, and for explaining and amending the said act. 6 Geo. 2, c. 14 (1733), 15 S.L. 379

Maryland: Helms v. Franciscus, 2 Bla. Ch. 544 (1830); Kilty 250

#### WARDS AND ESCHEATS

What distresses shall be taken for the king's debts, and how it shall be used. 51 Hen. 3, St. 4 (1266), 1 S.L. 39, Temp. Incert., 1 S.R. 197b

Maryland: Kilty 208

#### WARDSHIP

The wardship of an heir within age. The heir a knight. 9 Hen. 3, c. 3 (Magna Charta) (1225), 1 S.L. 2; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 35

Tenure of the King in socage, and of another by knight's service. Petit serjeanty. 9 Hen. 3, c. 27 (Magna Charta) (1225), 1 S.L. 10; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 45

#### WARRANTY

By what words in a feoffment a feoffor shall be bound to warranty. 4 Edw. 1, St. 3, c. 6 (1276), 1 S.L. 116; 4 Edw. 1, St. Bigamy, c. 6 (1276), 1 S.R. 43

Maryland: Kilty 210

New York: Frost v. Raymond, 2 Cai. R. 188 (1804)

The penalty if a tenant impleaded voucheth, and the vouchee denieth his warranty. 13 Edw. 1, St. 1, c. 6 (1285), 1 S.L. 180; 13 Edw. 1, Westminster 2d, c. 6 (1285), 1 S.R. 77

Pennsylvania: 3 Binney 603; Roberts 412

In a plea of land the tenant voucheth, and the demandant counterpleadeth. 20 Edw. 1, St. 1 (1292), 1 S.L. 261; 20 Edw. 1, St. Vouch. (1291-92), 1 S.R. 108

Pennsylvania: 3 Binney 608; Roberts 435

If the tenant will vouch to warranty a dead man, the demandant may aver that he is dead. 14 Edw. 3, St. 1, c. 18 (1340), 1 S.L. 486; 14 Edw. 3, St. 1, c. 18 (1340), 1 S.R. 287

Pennsylvania: 3 Binney 611; Roberts 415

#### WASTE

A remedy against accomptants. Fermors shall made no waste. 52 Hen. 3, c. 23 (1267), 1 S.L. 70; 52 Hen. 3, St. Marl., c. 23 (1267), 1 S.R. 24

Connecticut: Moore v. Ellsworth, 3 Conn. 483 (1821)

Georgia: Schley 81

Maryland: Kilty 209

Massachusetts: Sackett v. Sackett, 25 Mass. (8 Pick.) 309 (1829)

New Hampshire: Chase v. Hazelton, 7 N.H. 171 (1834)

South Carolina: 2 Cooper 403

Several tenants against whom an action of waste is maintainable. 6 Edw. 1, c. 5 (1278), 1 S.L. 122; 6 Edw. 1, St. Glouc., c. 5 (1278) 1 S.R. 48

D.C.: Thruston v. Mustin, 3 Cranch C.C. 335 (1828)

Georgia: Schley 95

Maine: Smith v. Follansbee, 13 Me. 273 (1836)

Maryland: Thruston v. Mustin, 3 Cranch C.C. 335 (1828); Kilty 211

Massachusetts: Sackett v. Sackett, 25 Mass. (8 Pick.) 309 (1829)

New York: Bates v. Shraeder, 13 Johns. R. 260 (1816)

North Carolina: Browne v. Blick, 7 N.C. 511 (1819)

Pennsylvania: 3 Binney 602; Roberts 417

The process in an action of waste. A writ to enquire of waste. 13 Edw. 1, St. 1, c. 14 (1285), 1 S.L. 192; 13 Edw. 1, Westminster 2d, c. 14 (1285), 1 S.R. 81

Georgia: Schley 103

Maryland: Kilty 212

New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806)

Pennsylvania: 3 Binney 604; Roberts 419

Tenant for life committeth waste, he in the reversion brought an action of waste, and dieth before judgment, his heir brought an action for the same waste. 20 Edw. 1, St. 2 (1292), 1 S.L. 263; 20 Edw. 1, St. Waste, (1291-92) 1 S.R. 109

Georgia: Schley 110

Pennsylvania: 3 Binney 608; Roberts 421

## WATCH AND WARD

At what times the gates of great towns shall be shut, and when the night-watch shall begin and end. 13 Edw. 1, St. 2, c. 4 (1285), 1 S.L. 232; 13 Edw. 1, St. Wynton, c. 4 (1285), 1 S.R. 97

Maryland: Kilty 214

## WEARS

In what places wears shall be put down. 9 Hen. 3, c. 23 (Magna Charta) (1225), 1 S.L. 9; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 44

## WEEKLY BILLS OF MORTALITY

An act for the better preventing mischiefs that may happen by fire. 6 Anne, c. 31 (1707), 11 S.L. 414; 6 Anne, c. 58 (1707) 8 S.R. 793

Georgia: Schley 340

## WEIGHTS AND MEASURES

There shall be but one measure throughout the realm. 9 Hen. 3, c. 25 (Magna Charta) (1225), 1 S.L. 9; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 44

Maryland: Kilty 207

A Statute of the Pillory and Tumbrel, and the Assise of Bread and Ale. 51 Hen. 3, St. 6 (1266), 1 S.L. 47; Temp. Incert. 1 S.R. 201

Pennsylvania: James v. Commonwealth, 12 S. & R. 220 (1825)

Every measure shall be according to the King's standard; and shall be striked without heap; saving the rents of lords. 25 Edw. 3, St. 5, c. 10 (1350), 2 S.L. 56; 25 Edw. 3, St. 5, c. 10 (1351-52), 1 S.R. 321

Maryland: Kilty 220

There shall be but one weight and measure throughout the realm, saving in the county of Lancaster. The weight of wool, and the refuse thereof. 13 Rich. 2, St. 1, c. 9 (1389), 2 S.L. 315; 13 Rich. 2, St. 1, c. 9 (1389-90), 2 S.R. 63

Maryland: Kilty 223

A confirmation of all statutes made touching weights and measures. 11 Hen. 6, c. 8 (1433), 3 S.L. 188; 11 Hen.

6, c. 8 (1433), 2 S.R. 282

Maryland: Kilty 227

For weights and measures. 12 Hen. 7, c. 5 (1496), 4 S.L. 78; 12 Hen. 7, c. 5 (1496-97) 2 S.R. 637

Maryland: Kilty 229

## WIDOW

A widow shall have her marriage, inheritance, and quarentine. The King's widow, &c. 9 Hen. 3, c. 7 (Magna Charta) (1225), 1 S.L. 4; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 37Maryland: Kilty 205Pennsylvania: 3 Binney 599; Roberts 176

A woman shall recover damages in a writ of dower. 20 Hen. 3, c. 1 (1235), 1 S.L. 25; 20 Hen. 3, St. Merton, c. 1 (1235-36) 1 S.R. 1

Georgia: Schley 79Kentucky: Kendall v. Honey, 21 Ky. (5 T.B. Mon.) 282 (1827)Maryland: Kilty 208New Jersey: Fisher v. Morgan, 1 N.J.L. 125 (1792); Martin v. Martin, 14 N.J.L. 125 (1833)New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806); Johnson v. Thomas, 2 Pai. Ch. 377 (1831)Pennsylvania: Barnett v. Barnett, 16 S. & R. 51 (1827); Benner v. Evans, 3 Pen. & W. 454 (1832); 3 Binney 599; Roberts 179Rhode Island: Sisson v. Seabury, 1 Sumn. 235 (1832)South Carolina: Heyward v.

Cuthbert, 1 McCord 386 (1821); Keith v. Trapier, Bail. Eq. 63 (1830)

Widows may bequeath the crop of their lands. 20 Hen. 3, c. 2 (1235), 1 S.L. 25; 20 Hen. 3, St. Merton, c. 2 (1235-36), 1 S.R. 1

Georgia: Schley 79Maryland: Kilty 208Pennsylvania: 3 Binney 599; Roberts 206

## WILLS

The sale of lands by part of the executors, lawful. 21 Hen. 8, c. 4 (1529), 4 S.L. 165; 21 Hen. 8, c. 4 (1529), 3 S.R. 285

Georgia: Schley 153Kentucky Muldrow's Heirs v.

Fox's Heirs, 32 Ky. (2 Dana) 74 (1834)

Maryland: Kilty 230New Jersey: Corlies v. Little, 14 N.J.L. 373 (1834); Crane v. Alling, 14 N.J.L. 593 (1835)New York: Jackson v. Burtis, 14 Johns. R. 391 (1817); Jackson v. Ferris, 15 Johns. R. 346 (1818); Jackson v. Given, 16 Johns. R. 167 (1819); Ogden v. Smith, 2 Pai. Ch. 195 (1830)North Carolina: Blount v. Ex'rs of Blount, 8 N.C. 365 (1821); Wood v. Sparks, 18 N.C. 389 (1835)Ohio: Taylor v. Galloway, 1 Hamm. 232 (1-4 Ohio 107) (1822)Pennsylvania: Lessee of Zebach v. Smith, 3 Binn. 69 (1810)South Carolina: M'Kown v.

Stockdale, 1 N. & Mc. 41 (1817); Chanet v. Villepontaux, 3 McCord 29 (1825); 2 Cooper 408

Virginia: Geddy v. Butler, 17 Va. (3 Munf.) 345 (1812); Jones v. Hobson, 23 Va. (2 Rand.) 483 (1824)

What fees ought to be taken for probate of testaments. 21 Hen. 8, c. 5 (1529), 4 S.L. 167; 21 Hen. 8, c. 5 (1529), 3 S.R. 285

Georgia: Carnochan v. Abrahams, Charlt. T.U.P. 196 (1810); Schley 156

Maryland: Kilty 230

New Hampshire: Judge of Probate v. Chamberlain, 3 N.H. 129 (1824)

New York: Taylor v. Delancy, 2 Cai. Cas. 143 (1805)

North Carolina: Pratt v. Kitterell, 15 N.C. 168 (1833)

Pennsylvania: Case of Altemus, 1 Ashm. 49 (1823); Ellmaker's Estate, 4 Watts 34 (1835); 3 Binney 618; Roberts 250

South Carolina: M'Vauthters v. Elder, 2 Brev. 307 (1809); Hay v. Harley, 1 Mill 267 (1817)

Tennessee: Lasseter v. Turner, 9 Tenn. 413 (1830)

Virginia: Jones v. Hobson, 23 Va. (2 Rand.) 483 (1824)

The bill concerning the explanation of wills. 34 & 35 Hen. 8, c. 5 (1542-43), 5 S.L. 136; 34 & 35 Hen. 8, c. 5 (1542-43), 3 S.R. 901

Georgia: Schley 205

New York: Jackson v. Varick, 7 Cow. 238 (1827); M'Cartee v. Orphan Asylum Soc'y, 9 Cow. 437 (1827); Varick v. Jackson, 2 Wend. 166 (1828)

Ohio: Lessee of Smith v. Jones, 4 Hamm. 115 (1-4 Ohio 744) (1829); Allen v. Little, 5 Ohio 65 (1831)

Pennsylvania: Barnes's Lessee v. Irwin, 2 Dall. 199 (1793); Lessee of Barnes v. Hart, 1 Yeates 221 (1793); Lessee of Caldwell v. Ferguson, 2 Yeates 380 (1798); Rossetter v. Simmons, 6 S. & R. 452 (1821); Magill v. Brown, Bright. N.P. 346 (1833); Girard v. Philadelphia, 4 Rawle 323 (1833)

An act for avoiding and putting an end to certain doubts and questions relating to the attestation of wills and codicils

concerning real estates in that part of Great Britain called England, and in his Majesty's colonies and plantations in America. 25 Geo. 2, c. 6 (1752), 20 S.L. 323

Connecticut: Clark v. Hoskins, 6 Conn. 106 (1826)

Georgia: Schley 384

Maryland: Kilty 253

New York: Jackson v. Woods, 1 Johns. Cas. 163 (1799)

North Carolina: Allison's Ex'rs v. Allison, 11 N.C. 141 (1825)

#### WINCHESTER

The Statute of Winchester confirmed, and every sheriff shall proclaim it. 7 Rich. 2, c. 6 (1383), 2 S.L. 265; 7 Rich. 2, c. 6 (1383) 2 S.R. 33

Maryland: Kilty 222

A woman's suit shall not be deferred by the minority of the heir. 13 Edw. 1, St. 1, c. 40 (1285), 1 S.L. 218; 13 Edw. 1, Westminster 2d, c. 40 (1285), 1 S.R. 91

Pennsylvania: 3 Binney 607; Roberts 321

South Carolina: 2 Cooper 404

#### WITCHCRAFT

An act against conjuration, witchcraft and dealing with evil and wicked spirits. 1 Jac. 1, c. 12 (1604), 7 S.L. 89; 1 Jac. 1, c. 12 (1603-04), 4 S.R. 1028

South Carolina: 2 Cooper 410

An act to repeal the statute made in the first year of the reign of King James the First, intituled, An act against conjuration, witchcraft, and dealing with evil and wicked spirits, except so much thereof as repeals an act of the fifth year of the reign of Queen Elizabeth, Against conjurations, inchantments, and witchcrafts, and to repeal an act

passed in the parliament of Scotland in the ninth parliament of Queen Mary, intituled, Anentis witchcrafts, and for punishing such persons as pretend to exercise or use any kind of witchcraft, sorcery, inchantment, or conjuration. 9 Geo. 2, c. 5 (1736), 17 S.L. 3

Pennsylvania: James v. Commonwealth, 12 S. & R. 220 (1825)

## WIVES

It is felony to commit rape. A married woman elopeth with an advouterer. The penalty for carrying a nun from her house. 13 Edw. 1, St. 1, c. 34 (1285), 1 S.L. 208; 13 Edw. 1, Westminster 2d, c. 34 (1285), 1 S.R. 87

Delaware: Dixon v. Knowles, 2 Del. Cas. 537 (1820)

Georgia: Schley 108

Maryland: Kilty 213

New York: People v. Schuyler, 6 Cow. 572 (1827)

North Carolina: State v. Dick, 6 N.C. 388 (1818)

Pennsylvania: 3 Binney 606; Roberts 186

South Carolina: Bell v. Nealy, 1 Bail. 312 (1829); 2 Cooper 404

## WOMEN

A remedy for a woman inforced to be bound by statute or obligation. 31 Hen. 6, c. 9 (1452), 3 S.L. 317; 31 Hen. 6, c. 9 (1452-53), 2 S.R. 367

South Carolina: 2 Cooper 407

The penalty for carrying a woman away against her will that hath lands or goods. 3 Hen. 7, c. 2 (1487), 4 S.L. 30; 3 Hen. 7, c. 2 (1487), 2 S.R. 512

North Carolina: State v. Hall, 126 (1799)

South Carolina: 2 Cooper 407

An act concerning women convicted of small felonies. 21 Jac. 1, c.

6 (1623), 7 S.L. 263; 21 Jac. 1, c. 6 (1623-24), 4 S.R. 1216  
South Carolina: 2 Cooper 410

An act to take away clergy from some offenders, and to bring others to punishment. 3 & 4 W. & M., c. 9 (1691), 9 S.L. 138; 3 W. & M., c. 9 (1691), 6 S.R. 311

New York: M'Niff's Case, 1 Rog. N.Y. City H. Rec. 8 (1816)

South Carolina: State v. Council, 1 Harp. 53 (1823); State v. Wright, 4 McCord 358 (1827); 2 Cooper 411

Tennessee: Wright v. State, 13 Tenn. 154 (1833); Swaggerty v. State, 17 Tenn. 338 (1836)

Federal: United States v. Moulton, 5 Mas. 537 (1830)

An act for reviving, continuing, and explaining several laws therein mentioned, which are expired and near expiring. 4 & 5 W. & M., c. 24 (1692), 9 S.L. 229; 4 W. & M., c. 24 (1692), 6 S.R. 416

Delaware: Burton v. McCullen, 2 Del. Cas. 20 (1807)

Georgia: Schley 286

Maryland: Sibley v. Williams, 3 G. & J. 52 (1830)

New Jersey: Schenck v. Ex'rs of Schenck, 3 N.J.L. 149 (2 Penning. 562) (1809); Dickerson v. Robinson, 6 N.J.L. 195 (1822)

Pennsylvania: Potts v. Smith, 3 Rawle 361 (1832)

South Carolina: Trescot v. Trescot, 1 McCord Eq. 417 (1826)

## WOMEN BREWERS

A Statute of the Pillory and Tumbrel, and the Assise of Bread and Ale. 51 Hen. 3, St. 6 (1266), 1 S.L. 47; Temp. Incert., 1 S.R. 201

Pennsylvania: James v. Commonwealth, 12 S. & R. 220 (1825)

## WOOD

Taking of horses, carts, and wood. 9 Hen. 3, c. 21 (Magna Charta) (1225), 1 S.L. 8; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 43

## WOOL

The warranty of packing of wool shall be put out. An inquest shall be de Medietate Linguae, where an alien is party. 28 Edw. 3, c. 13 (1354), 2 S.L. 104; 28 Edw. 3, c. 13 (1354), 1 S.R. 348

North Carolina: State v. Antonio, 11 N.C. 200 (1825)

Pennsylvania: Respublica v. Mesca, 1 Dall. 73 (1783); 3 Binney 611; Roberts 336

There shall be but one weight and one measure throughout the realm, saving in the county of Lancaster. The weight of wool, and the refuse thereof. 13 Rich. 2, St. 1, c. 9 (1389), 2 S.L. 315; 13 Rich. 2, St. 1, c. 9 (1389-90), 2 S.R. 63

Maryland: Kilty 223

An act for the further preventing robbery, burglary, and other felonies, and for the more effectual transportations of felons, and unlawful exporters of wool; and for declaring the law upon some points relating to pirates. 4 Geo. 1, c. 11 (1717), 13 S.L. 471

D.C.: United States v. Norris, 1 Cranch C.C. 411 (1807)

Maryland: United States v. Norris, 1 Cranch C.C. 411 (1807)

## WRECK

What shall be adjudged wreck of the sea, and what not. 3 Edw. 1, c. 4 (1275), 1 S.L. 79; 3 Edw. 1, c. 4 (1275), 1 S.R. 28

South Carolina: 2 Cooper 403

Of what things a coroner shall inquire. 4 Edw. 1, St. 2 (1276),

1 S.L. 110; 4 Edw. 1 (1275-76), 1 S.R. 40

Georgia: Schley 90

Maryland: Kilty 210

Pennsylvania: 3 Binney 601; Roberts 100

An act for the preserving of all such ships and goods thereof, which shall happen to be forced on shore, or stranded, upon the coasts of this kingdom, or any other of her Majesty's dominions. 12 Anne, St. 2, c. 18 (1713), 13 S.L. 121; 13 Anne, c. 21 (1713), 9 S.R. 971

Federal: Two Catherines, 2 Mas. 319 (1821)

An act for enforcing the laws against persons who shall steal or detain shipwrecked goods; and for the relief of persons suffering losses thereby. 26 Geo. 2, c. 19 (1753), 21 S.L. 53  
Federal: Two Catherines, 2 Mas. 319 (1821)

## WRIT AD VENTREM INSPICIENDUM

Several cases wherein essoins do not lie. 12 Edw. 2, St. 2 (1318), 1 S.L. 357; Temp. Incert., 1 S.R. 217

Pennsylvania: 3 Binney 610; Roberts 200

## WRIT OF AIEL

Several actions wherein damages shall be recovered. 6 Edw. 1, c. 1 (1278), 1 S.L. 119; 6 Edw. 1, St. Glouc., c. 1 (1278) 1 S.R. 47

D.C.: Forrest v. Hanson, 1 Cranch C.C. 63 (1802)

Georgia: Schley 93

Maryland: Forrest v. Hanson, 1 Cranch C.C. (1802); Kiersted v. Rogers, 6 H. & J. 282 (1824); Kilty 210

New Hampshire: Chase v. Hazelton, 7 N.H. 171 (1834)

New Jersey: Martin v. Martin, 14 N.J.L. 125 (1833)

Ohio: Bell v. Bates, 3 Hamm. 380  
(1-4 Ohio 611) (1828)

Pennsylvania: Benner v. Evans, 3  
Pen. & W. 454 (1832); 3 Binney  
602; Roberts 107

Tennessee: Wallen v. M'Henry's  
Lessee, 10 Tenn. 310 (1829)

The tenant's answer in a writ  
of Cosinage, Aiel, and Besaiel.  
13 Edw. 1, St. 1, c. 20 (1285),  
1 S.L. 194; 13 Edw. 1, West-  
minster 2d, c. 20 (1285), 1 S.R.  
82

Pennsylvania: 3 Binney 604; Roberts  
151

## WRIT OF CERTIORARI CORPUS CUM CAUSA

A Corpus cum causa, or Certiorari  
to remove him who is in exec-  
ution at another man's suit. 2  
Hen. 5, St. 1, c. 2 (1414), 3 S.L.  
10; 2 Hen. 5, St. 1, c. 2 (1414),  
2 S.R. 176

Maryland: Kilty 226

## WRIT IN CONSIMILI CASU

A writ of nuisance of a house, &c.  
levied and aliened to another. A  
Quod permittat and Juris utrum  
for a parson of a church. In  
like cases like writs be grantable.  
13 Edw. 1, St. 1, c. 24 (1285),  
1 S.L. 196; 13 Edw. 1, West-  
minster 2d, c. 24 (1285), 1 S.R.  
83

Maryland: Kilty 212

New Hampshire: Plumer v. Harper,  
3 N.H. 88 (1824)

Pennsylvania: Martzell v. Stauffer,  
3 Pen. & W. 398 (1832); 3  
Binney 604; Roberts 157

## WRIT OF CUI IN VITA

A Cui in vita for the wife. Where  
the wife, or he in reversion  
shall be received. 13 Edw. 1,  
St. 1, c. 3 (1285), 1 S.L. 169;  
13 Edw. 1, Westminster 2d, c.  
3 (1285), 1 S.R. 73

Georgia: Schley 97

Pennsylvania: 3 Binney 603; Roberts  
149

Where the wife shall be endowable  
of lands recovered against her  
husband. Where the heir may  
avoid a dower recovered. A  
remedy for particular tenants  
losing by default. 13 Edw. 1,  
St. 1, c. 4 (1285), 1 S.L. 171; 13  
Edw. 1, Westminster 2d, c. 4  
(1285), 1 S.R. 74

Georgia: Schley 98

Maryland: Kilty 212

Pennsylvania: 3 Binney 603; Roberts  
182

## WRIT OF DECEIT

A writ of deceit shall be main-  
tainable in case of garnishment  
in plea of land. 2 Edw. 3, c.  
17 (1328), 1 S.L. 429; 2 Edw.  
3, St. Northamp., c. 17 (1328),  
1 S.R. 261

Pennsylvania: 3 Binney 610; Roberts  
423

## WRIT OF DOWER

Several cases wherein essoins  
do not lie. 12 Edw. 2, St. 2  
(1318), 1 S.L. 357; Temp. Incert.,  
1 S.R. 217

Pennsylvania: 3 Binney 610; Roberts  
200

## WRIT OF ENTRY IN THE POST

In what case a writ of Entry  
sur disseisin in the Post doth  
lye. 52 Hen. 3, c. 29 (1267),  
1 S.L. 73; 52 Hen. 3, St. Marl.,  
c. 29 (1267), 1 S.R. 25

New York: Malcom v. Rogers, 5  
Cow. 188 (1825)

Pennsylvania: 3 Binney 600; Roberts  
147

## WRIT OF ERROR

Costs, &c. awarded to the plaintiff,  
where the defendant sueth a writ  
of error. 3 Hen. 7, c. 10 (1486),  
4 S.L. 36; 3 Hen. 7, c. 10 (11)  
(1487), 2 S.R. 519



Maryland: Hammond v. Hammond, 2 Bla. Ch. 306 (1830); Kilty 228  
New York: Clason v. Shotwell, 12 Johns. R. 31 (1814)  
Pennsylvania: 3 Binney 617; Roberts 107  
South Carolina: 2 Cooper 407

Writs of error. 19 Hen. 7, c. 20 (1503), 4 S.L. 101; 19 Hen. 7, c. 20 (1503-04), 2 S.R. 664

Maryland: Hammond v. Hammond, 2 Bla. Ch. 306 (1830); Kilty 230  
Pennsylvania: 3 Binney 617; Roberts 109  
South Carolina: 2 Cooper 408

An act against discontinuances of writs of error in the courts of exchequer and King's bench. 31 Eliz., c. 1 (1589), 6 S.L. 398; 31 Eliz., c. 1 (1588-89) 4 S.R. 799  
Kentucky: Chiles v. Harrison, 11 Ky. (1 Litt.) 150 (1822)

#### WRIT OF FORMEDON IN DESCENDER

In gifts in tail the donor's will shall be observed. The form of a formedon. 13 Edw. 1, St. 1, c. 1 (1285), 1 S.L. 164; 13 Edw. 1; Westminster 2d, c. 1 (1285), 1 S.R. 71

Connecticut: Hamilton v. Hempstead, 3 Day 332 (1809)

Delaware: Burton's Lessee v. Vaughn, 1 Del. Cas. 268 (1800)

Maryland: Calvert's Lessee v. Eden, 2 H. & McH. 279 (1789); Kilty 211

Missouri: Mitchell v. State, 3 Mo. 283 (1833)

New York: Anderson v. Jackson, 16 Johns.R. 382 (1819); Patterson v. Ellis's Ex'rs, 11 Wend. 259 (1833)

Pennsylvania: 3 Binney 603; Roberts 202

Rhode Island: Sisson v. Seabury, 1 Sumn. 235 (1832)

South Carolina: Warhock v. Wrightman, 1 Brev. 331 (1804)

Tennessee: Polk v. Faris, 17 Tenn. 207 (1836)

Virginia: Bells v. Gillespie, 26 Va. (5 Rand.) 273 (1827)

#### WRIT OF INDEMPITATE NOMINIS

An Indempitrate Nominis shall be granted upon the wrongful seizure of another's person, lands, or goods. 37 Edw. 3, c. 2 (1363), 2 S.L. 161; 37 Edw. 3, c. 2 (1363), 1 S.R. 378  
South Carolina: 2 Cooper 406

#### WRIT OF INDICUIT

Jointenancy pleaded in abatement of a writ, &c. 34 Edw. 1, St. 1 (1306), 1 S.L. 313; 34 Edw. 1, St. Joint-Ten. (1306), 1 S.R. 145  
Pennsylvania: 3 Binney 609; Roberts 159

#### WRIT OF INQUIRY

That lands shall not be aliened in Mortmain, where there be mesnes, without their consent. 34 Edw. 1, St. 3 (1306), 1 S.L. 318; 20 Edw. 1 (1291-92), 1 S.R. 111

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

#### WRIT OF JURIS UTRUM

Jointenancy pleaded in abatement of a writ, &c. 34 Edw. 1, St. 1 (1306), 1 S.L. 313; 34 Edw. 1, St. J-T. (1306), 1 S.R. 145

Pennsylvania: 3 Binney 609; Roberts 159

#### WRIT OF MORT D'ANCESTOR

What diverse heirs shall have one assise of mortdauncestor. 6 Edw. 1, c. 6 (1278), 1 S.L. 123; 6 Edw. 1, St. Glouc., c. 6 (1278), 1 S.R. 48

Pennsylvania: 3 Binney 602; Roberts 148

#### WRIT OF NISI PRIUS

The authority of justices of Nisi prius. Adjournment of suits. Certain writs that are determinable in their proper counties. A jury may give their verdict at large. None but who were summoned shall be put in assises or juries. 13 Edw. 1, St. 1, c. 30 (1285),

1 S.L. 203; 13 Edw. 1, Westminster 2d, c. 30 (1285), 1 S.R. 85

New Jersey: Springer v. Reeves, 4 N.J.L. 207 (1818)

New York: People v. Croswell, 3 Johns. Cas. 337 (1804); 3 Wheel. Cr.C. 330 (1804)

Pennsylvania: 3 Binney 605; Roberts 326

## WRIT OF NOVEL DISSEISIN

In what case the nonage of the heir of the disseiser or disseisee shall not prejudice. 3 Edw. 1, c. 47 (1275), 1 S.L. 105; 3 Edw. 1, c. 47 (1275), 1 S.R. 38

Pennsylvania: 3 Binney 601; Roberts 317

## WRIT OF NUPER OBIT

Several limitations of prescription in several writs. 3 Edw. 1, c. 39 (1275), 1 S.L. 100; 3 Edw. 1, c. 39 (1275), 1 S.R. 36

Tennessee: Smith v. State, 9 Tenn. 228 (1829)

## WRIT OF PARTITION

An act for the easier obtaining partition of lands in coparcenary, joint tenancy, and tenancy in common. 8 & 9 Will. 3, c. 31 (1697), 10 S.L. 109; 8 & 9 Will. 3, c. 31 (1696-97), 7 S.R. 283

Maryland: Kilty 244

New Jersey: Stevens v. Enders (Burrroughs v. Dunlap), 13 N.J.L. 271 (1833)

New York: Gallatian v. Cunningham, 8 Cow. 361 (1826)

Pennsylvania: M'Kee v. Straub, 2 Binn. 1 (1809)

## WRIT OF PRAECIPE

In what case a Praeipe in Capite is not grantable. 9 Hen. 3, c. 24 (Magna Charta) (1225), 1 S.L. 9; 9 Hen. 3 (Magna Charta) (1224-25), 1 S.R. 22

Georgia: Schley 44

## WRIT OF QUO WARRANTO

How they shall hold their liberties which claim them by prescription or grant. A Quo Warranto shall be pleaded and determined before justices in eyre. 18 Edw. 1, St. 2, (1290), 1 S.L. 257; 18 Edw. 1, St. Quo Warr., (1289-90), 1 S.R. 107

Pennsylvania: 3 Binney 607; Roberts 380

Liberties by prescription or the King's grant. Another new statute of Quo Warranto. (This is taken from the Secunda Pars veterum statutorum, fol. 2a, and is inserted in the editions of Berthelet, Rastal, Pulton, Keble, &c.) 18 Edw. 1, St. 3 (1290), 1 S.L. 259; 18 Edw. 1, St. New Quo Warr., (1289-90), S.R. 107

Pennsylvania: 3 Binney 608; Roberts 382

## WRIT OF QUOD PERMITTAT

A writ of nuisance of a house, &c. levied and aliened to another.

A Quod permittat and Juris utrum for a parson of a church. In like cases like writs be grantable. 13 Edw. 1, St. 1, c. 24 (1285), 1 S.L. 196; 13 Edw. 1, Westminster 2d, c. 24 (1285), 1 S.R. 83

Maryland: Kilty 212

New Hampshire: Plumer v. Harper, 3 N.H. 88 (1824)

Pennsylvania: Martzell v. Stauffer, 3 Pen. & W. 398 (1832); 3 Binney 604; Roberts 157

## WRIT OF RECORDARE

A Recordare to remove a plaintiff. Pledges to prosecute a suit. Second deliverance. 13 Edw. 1, St. 1, c. 2 (1285), 1 S.L. 166; 13 Edw. 1, Westminster 2d, c. 2 (1285), 1 S.R. 72

Maryland: Kilty 212

New Hampshire: Bell v. Bartlett,  
7 N.H. 178 (1834)

New York: Knapp v. Colburn, 4  
Wend. 616 (1830); M'Farland  
v. M'Nitt, 10 Wend. 329 (1833);  
Armstrong v. Burrell, 12 Wend.  
302 (1834)

#### WRIT OF REDISSEISIN

Who may bring a writ of  
Redisseisin, and the punishment  
of the offender therein. 13 Edw.  
1, St. 1, c. 26 (1285), 1 S.L. 201;  
13 Edw. 1, Westminster 2d, c.  
26 (1285), 1 S.R. 85

Pennsylvania: 3 Binney 605; Roberts  
156

#### WRIT OF REPLEGIARE

The masters remedy against  
their servants, and other ac-  
comptants. 13 Edw. 1, St. 1, c.  
11 (1285), 1 S.L. 188; 13 Edw.  
1, Westminster 2d, c. 11 (1285),  
1 S.R. 80

Kentucky: Bank of the United States  
v. Dallam, 34 Ky. (4 Dana) 574  
(1836)

Maryland: Kilty 212

New Hampshire: Bunker v. Hodgdon,  
7 N.H. 263 (1834)

Pennsylvania: Shewel v. Fell, 3  
Yeates 17 (1800); 3 Binney 604;  
Roberts 11

Rhode Island: Steere v. Field, 2  
Mas. 486 (1822)

South Carolina: 2 Cooper 404

granted. In what case the writ  
of Odio & Atia is granted. 13  
Edw. 1, St. 1, c. 29 (1285), 1  
S.L. 202; 13 Edw. 1, Westminster  
2d, c. 29 (1285), 1 S.R. 85

Maryland: Blackiston's Exrx. v.  
Carroll (1696) 1 Am. Leg. Rec.  
29.

#### WRIT OF UNDE NIHIL HABET

The tenant's plea in a writ of  
dower. 3 Edw. 1, c. 49 (1275),  
1 S.L. 106; 3 Edw. 1, c. 49  
(1275), 1 S.R. 38

Maryland: Kilty 210

Pennsylvania: 3 Binney 601; Roberts  
181

#### WRIT VICONTIELS

In which court writs of nuisance  
called Vicountiels, shall be pursued.  
6 Rich. 2, St. 1, c. 3 (1382), 2  
S.L. 254; 6 Rich. 2, St. 1, c.  
3 (1382), 2 S.R. 27

Pennsylvania: 3 Binney 613; Roberts  
163

#### WRIT OF WARRANTY OF CHARTER

Voucher to warranty, and  
counter-pleading of voucher. 3  
Edw. 1, c. 40 (1275), 1 S.L. 100;  
3 Edw. 1, c. 40 (1275), 1 S.R.  
36

Massachusetts: Bates v. Norcross,  
34 Mass. (17 Pick.) 14 (1835)

Pennsylvania: 3 Binney 601; Roberts  
410

#### WRIT OF SUBPOENA

None shall sue a Subpoena until  
he find surety to satisfy the  
defendant his damages, if he do  
not verify his bill. 15 Hen. 6,  
c. 4 (1436), 3 S.L. 211; 15 Hen. 6,  
c. 4 (1436-37), 2 S.R. 296

Maryland: Snowden v. Snowden, 1  
Bla. Ch. 550 (1829); Mayer v.  
Tyson, 1 Bla. Ch. 559 (1829)

#### WRIT OF TRESPASS AD AUDIENDUM ET TERMINANDUM

To whom the only writ of trespass  
of Oyer and Terminer shall be

#### WRITS

Inquisitions of life and member.  
9 Hen. 3, c. 26 (Magna Charta)  
(1225), 1 S.L. 10; 9 Hen. 3  
(Magna Charta) (1224-25), 1 S.R.  
22

Georgia: Schley 45

He that recovereth debt may sue  
execution by Fieri facias or  
Elegit. 13 Edw. 1, St. 1, c. 18  
(1285), 1 S.L. 194; 13 Edw. 1,  
Westminster 2d, c. 18 (1285),  
1 S.R. 82

Connecticut: Denison v. Williams, 4 Conn. 402 (1822); Giddings v. Canfield, 4 Conn. 482 (1823)

Maryland: Whittington v. Polk, 1 H. & J. 236 (1802); Jones v. Jones, 1 Bla. Ch. 443 (1829); Duvall v. Waters, 1 Bla. Ch. 569 (1829); Tessier v. Wyse, 3 Bla. Ch. 28 (1830); Hanson v. Barnes' Lessee, 3 G. & J. 359 (1831); Coombs v. Jordan, 3 Bla. Ch. 284 (1831); Cape Sable Co.'s Case, 3 Bla. Ch. 606 (1832); Mullikin v. Duvall, 7 G. & J. 355 (1835); Miller v. Allison, 8 G. & J. 35 (1836)

Massachusetts: Williams v. Amory, 14 Mass. 20 (1817); Montague v. Gay, 17 Mass. 439 (1821)

Missouri: Scott v. Whitehill, 1 Mo. 764 (1827)

New Jersey: Den v. Steelman, 10 N.J.L. 193 (1828); State v. Stout, 11 N.J.L. 362 (1830); Disborough v. Outcalt, 1 N.J. Eq. 298 (1831)

New York: Tillotson v. Cheetham, 2 Johns. R. 63 (1806); Stymets v. Brooks, 10 Wend. 206 (1833); Mason v. Denison, 15 Wend. 64 (1835)

North Carolina: Jones v. Edmonds, 7 N.C. 43 (1819)

Ohio: Stiles v. Murphy, 4 Hamm. 92 (1-4 Ohio 729) (1829)

Pennsylvania: Shaupe v. Shaupe, 12 S. & R. 9 (1824); Allen v. Reesor, 16 S. & R. 10 (1827)

South Carolina: D'Urphey v. Nelson, 1 Brev. 289 (1803); Blake v. Heyward, Bail. Eq. 208 (1831)

Tennessee: Boyd v. Armstrong's Heirs, 9 Tenn. 40 (1821); Ward v. Southerland, 7 Tenn. 462 (1822)

Virginia: Coleman v. Cocke, 27 Va. (6 Rand.) 618 (1828); Wilson v. Jackson's Adm'x, 32 Va. (5 Leigh) 102 (1834)

Pennsylvania: Magill v. Brown, Bright. N.P. 346 (1833)

In which original writs additions of the defendants names shall be put. 1 Hen. 5, c. 5 (1413), 3 S.L. 3; 1 Hen. 5, c. 5 (1413), 2 S.R. 171

Maine: State v. Bishop, 15 Me. 122 (1838)

Maryland: Kilty 226

Pennsylvania: 3 Binney 614; Roberts 366

Rhode Island: Sisson v. Seabury, 1 Sumn. 235 (1832)

## YARD LAND

An act for the reviving, continuance, explanation and perfecting of divers statutes. 35 Eliz., c. 7 (1593), 6 S.L. 434; 35 Eliz., c. 7 (1592-93), 4 S.R. 854

Pennsylvania: Magill v. Brown, Bright N.P. 346 (1833)

## YORK

An act for the public registering of all deeds, conveyances, and wills, that shall be made of any honors, manors, lands, tenements, or hereditaments, within the West Riding of the county of York, after the nine and twentieth day of September, one thousand seven hundred and four. 2 & 3 Anne, c. 4 (1703), 11 S.L. 15; 2 & 3 Anne, c. 4 (1703), 8 S.R. 253

New York: Grant v. United States Bank, 1 Cai. Cas. 112 (1804)

No man shall depart from the King's court without remedy. 13 Edw. 1, St. 1, c. 50 (1285), 1 S.L. 229; 13 Edw. 1, Westminster 2d, c. 50 (1285), 1 S.R. 95

PART IV

TWO COLONIAL RE-ENACTMENT-BY-REFERENCE STATUTES

## COLONY OF NEW YORK ACT OF 1767

An Act to declare the Extension of several Acts of Parliament made since the Establishment of a Legislature in this Colony: and not declared in the said Act to extend to the Plantations.

[Passed, December 24, 1767.]

WHEREAS divers Acts of Parliament passed since the Establishment of a Legislature in this Colony, have nevertheless been practised upon us extending to this colony; tho' they are not declared in the said Acts to extend to the Plantations: and sundry Acts have been since passed, which it would be expedient to extend to this Colony; And it being conducive to the common Weal, as well as agreeable to his Majesty's most gracious Intentions; that the Laws of this Colony should conform as nearly as Possible to the Laws of England; therefore and to prevent all Doubts and Scruples relative to former proceedings, wether Consonant to the Law as it stood before or since the passing such modern Statutes.

BE it enacted by his Excellency the Governor, the Council and the General Assembly and it is hereby enacted by the Authority of the same; that the several Acts of Parliament or so much thereof as are hereinafter particularly mentioned shall be deemed to be in full Force and Effect within this Colony; to wit the fifth, sixth and seventh Sections of an Act made in the first Year of the Reign of King James the second, entitled "an Act for reviving and continuance of several Acts of Parliament therein mentioned: together with the several Acts of Parliament, by the said fifth Section made perpetual." Also an Act made in the second Year of King William and Queen Mary, intitled, "an Act for enabling the Sale of Goods distrained, for Rent, in case the Rent be not paid in a reasonable Time." ALSO one Act of Parliament made in the third and fourth Years of the Reign of King William and Queen Mary, intitled "An Act for relief of Creditors against fraudulent Devises." Also the twelfth Section of an Act of Parliament made in the fourth and fifth Years of the Reign of King William and Queen Mary intitled, "An Act for reviving, continuing and explaining several Laws therein mentioned, which are expired and near expiring." Also an Act of Parliament made in the fourth and fifth Years of King William and Queen Mary intitled, "An Act for delivering Declarations to

Prisoners." Also an Act made in the fifth and Sixth Years of King William and Queen Mary, intituled, "An Act to take away the Process for the Capiatur Fine in the several Courts at Westminster, except what relates to six Shillings and Eight Pence to be paid by the Plaintiff in Satisfaction of the said Fine." Also the second Section of one Act passed in the Sixth and seventh Years of King William the third, intituled, "An Act for continuing several Laws therein mentioned." Also all the Clauses, but the eleventh, twelfth and thirteenth of an Act of Parliament passed in the Seventh Year of King William the third, intituled, "An Act for regulating of Tryals in Cases of Treason and Misprison of Treason." Also an Act made in the eighth and ninth Years of King William the third, intituled, "An Act for the better preventing Frivolous and Vexatious Suits." Also an Act made in the tenth and eleventh Years of King William the third, intituled, "an Act for limiting certain Times within which Writs of Error shall be brought for the reversing Fines, Common Recoveries and Antient Judgments. ["] Also one other Act of Parliament in the same Year last mentioned, intituled, "an Act to enable Posthumous Children to take Estates as if born in their Fathers life time:" Also one Act of Parliament made in the first Year of the Reign of Queen Ann, entitled "an Act for punishing of Accessaries to Felonies and receivers of Stolen Goods; and to prevent the wilfull burning and destroying of Ships:" Also the first, second and third Clauses of an Act passed in the third and fourth Years of the Reign of Queen Ann, intituled, "an Act for giving like Remedy upon promisory Notes as is now used upon Bills of Exchange; and for the better payment of Inland Bills of Exchange." Also one Act passed in the Fourth Year of Queen Anne, intituled, "an Act for the Amendment of the Law; and the better advancement of Justice." Also the third Section of one Act passed in the seventh Year of Queen Ann, intituled, "an Act for making perpetual an Act for the better preventing the counterfeiting the current Coin of this Kingdom; as also an Act for giving like Remedy upon promisory Notes as issued upon Bills of Exchange and for the better payment of Inland Bills of Exchange; and also for continuing several Acts made in the fourth and fifth Years of her Majesties Reign for preventing Frauds committed by Bankrupts." And also an Act passed in the Eighth Year of the Reign of Queen Ann, intituled, "An Act for the better Security of Rents and to prevent Frauds committed by Tenants." And also another Act of Parliament passed in the ninth Year of Queen Ann, intituled, "An Act for the better preventing of excessive and deceitful Gaming;" excepting the Eighth Clause of the said Act. "And also

an Act for the amendment of Writts of Error and for the further preventing the Arresting or reversing of Judgments after Verdict;" passed in the fifth Year of King George the First. And also one Act of Parliament passed in the second Year of the Reign of King George the second, intituled, "An Act for the more effectual preventing and further Punishment of Forgery, Perjury and Subornation of Perjury and to make it Felony to Steal Bonds, Notes or other Securities for payment of Money;" except the second Clause thereof. And also one other Act of Parliament passed in the Fourth Year of the Reign of King George the second, intituled, "An Act for the more effectual preventing Frauds committed by Tenants and for the more easy recovery of Rents and renewal of Leases." And also one Act of Parliament passed in the Sixth Year of the Reign of King George the second, intituled, "An Act for the relief of Parishes and other places from such Charges as may arise from Bastard Children born within the same." And also one Act of Parliament passed in the seventh Year of the Reign of King George the second, intituled, "An Act to settle how far Owners of Ships shall be answerable for the Acts of the Masters or Mariners." Also one Act of Parliament passed in the Year last mentioned, intituled "An Act for the more easy Redemption and Foreclosure of Mortgages." And also one Act of Parliament passed in the Year last mentioned, intituled, "an Act for the more effectual preventing the forging the Acceptance of Bills of Exchange or the Numbers or Principal Sums of accountable Receipts for Notes, Bills or other Securities for payment of Money or Warrants or Orders for payment of Money or delivery of Goods." Also one Act passed in the twelfth Year of the Reign of King George the Second, intituled, "an Act for explaining and amending an Act made in the eighth Year of the Reign of King Richard the second, intituled no Man of Law shall be Justice of Assize or Goal delivery in his own Country["]; And another Act made in the thirty third Year of the Reign of King Henry the eighth, intituled an Act that "none shall be Justice of Assize in his own Country &c." And also one Act of Parliament passed in the twenty third Year of the Reign of King George the second, intituled, "An Act to render prosecutions for Perjury and Subornation of Perjury more easy and effectual." And also one Act of Parliament passed in the twenty sixth Year of the Reign of King George the second, intituled, "An Act to confirm certain Acts and Orders made by Justices of the Peace being of the Quorum, Notwithstanding any defect in not expressing therein that such Justices of the Peace are of the Quorum."



## PROVINCE OF NORTH CAROLINA ACT OF 1749

An Act to put in Force in this Province, the several Statutes of the Kingdom of England, or South-Britain, therein particularly mentioned.

I. Whereas many of the Statute Laws of the Kingdom of England, or South-Britain, by Reason of the different Way of Agriculture, and the different Productions of the Earth of this Province, from that of England are altogether Useless, and many others, which otherwise are very apt and good, either by reason of their Limitation to particular Places, or because in themselves they are only Executive by such nominal Officers as are not in, not suitable for the Constitution of this Government, are thereby become impracticable here.

II. Be it therefore Enacted, by his Excellency Gabriel Johnston, Esq., Governor, by and With the Advice and Consent of his Majesty's Council, and General Assembly of this Province, and it is hereby Enacted, by the Authority of the same, That the several Statutes of the Kingdom of England intituled as followeth, and made and Enacted in such Years of the Reigns of the Kings and Queens of England as before the Titles of the several Statutes, as in this Act set down, are, and are hereby to be in as full Force, Power, and Virtue, as if the same had been specially Enacted and made for this Province, or as if the same had been made and Enacted there in, by any General Assembly thereof: That is to say:

### MAGNA CHARTA.

9. Henry III. Chap. 1. An Act for Confirmation of Liberties.
8. How Sureties shall be charged to the King.
14. How men of all sorts shall be amerced, and by whom.
18. The King's Debtor dying, the King shall be first paid.
28. Wager of Law shall not be, without Witness.
29. None shall be condemned without Tryal; Justice shall not be sold or deferred.

34. In what only Case a Woman shall have an Appeal of Death.

MERTON.

- 10 Henry III. Chap. 1. A Woman shall recover Damages in a Writ of Dower.
2. Widows may bequeath the Crops of their Lands.
9. He is a Bastard that is born before the Marriage of his Parents.

STATUTE THE SECOND.

- 33 Edwd. I. Who be Conspirators, and who be Champartors.

STATUTE THE THIRD.

The Punishment of such as commit Champarty.

STATUTE THE FOURTH.

- 34 Edwd. I. Chap. 1. The King, or his Heirs, shall have no Tallage, or Aid, without Consent of Parliament.
4. All Laws, Liberties, and Customs, confirmed.

STATUTE THE SECOND.

- 1 Edwd. II. In What Case it is Felony to break Prison, and what not.
- 1 Edwd. III. Chap. 7. Inquiry shall be made of Gaolers, which by Duress compelled Prisoners to appeal.
6. Justices shall have Authority to punish Breakers of the Peace.
8. No commands under the King's Seal shall disturb or delay Justice.
- 1 Edwd. III. Chap. 2. The Authority of Justices of Assize, Gaol Delivery, and of the Peace.
7. Executors shall have Action of Trespass for a wrong done to their Testator.

- |                    |     |                                                                                                      |
|--------------------|-----|------------------------------------------------------------------------------------------------------|
|                    | 9.  | Sheriffs, Bailiffs of Hundreds, and Escheator, shall have sufficient in the County.                  |
|                    | 10. | Sheriffs and Gaolers, shall receive Offenders without any Thing taken.                               |
|                    | 11. | Justices of Assize, &c., shall enquire of Maintainers, Conspirators, and Champartors.                |
| 5 Edwd. III. Chap. | 9.  | None shall be attached, or forejudged, contrary to the Great Charter, or the Law.                    |
|                    | 10. | The Punishment of a Juror that is ambixeter and taketh Money.                                        |
|                    | 11. | Process against those that be appealed, indicted, or outlawed, in one County, and remain in another. |
|                    | 14. | Night Walkers, and suspected Persons, shall be safely kept.                                          |
| 10 ————— Chap.     | 2.  | Pardons shall not be granted contrary to the Statute of 2 Ed. III. Chap. 2.                          |
| 20 ————— Chap.     | 4.  | None shall maintain any quarrel but their own.                                                       |
| ————— Chap.        | 6.  | Justices of Assize shall enquire of, and punish the Misdemeanors of Officers, and other Offenders.   |

## STATUTE THE FIFTH.

- |                     |    |                                                                  |
|---------------------|----|------------------------------------------------------------------|
| 25 Edwd. III. Chap. | 2. | A Declaration which Offences shall be adjudged Treason.          |
|                     | 3. | No Indictor shall be put upon the Inquest of the Party Indicted. |

## MARLBURIDGE.

- |                     |     |                                                                             |
|---------------------|-----|-----------------------------------------------------------------------------|
| 52 Henry III. Chap. | 4.  | A Distress shall not be drawn out of the County and it shall be reasonable. |
|                     | 5.  | What kind of Manslaughter shall be adjudged Murder.                         |
|                     | 17. | The Authority and Duty of Guardians in Socage.                              |
|                     | 23. | A Remedy against Accomptants. Farmers, shall make no Waste.                 |

WESTMINSTER THE FIRST.

- |           |       |     |                                                                     |
|-----------|-------|-----|---------------------------------------------------------------------|
| Edward I. | Chap. | 3.  | No Penalty for an Escape, before it be adjudged.                    |
|           |       | 4.  | What shall be adjudged Wreck of the Sea, and what not.              |
|           |       | 6.  | Amerciaments shall be reasonable, and according to the Offence.     |
|           |       | 12. | The Punishment of Felons refusing lawful Tryals.                    |
|           |       | 14. | Appeal against the Principal, and Accessory.                        |
|           |       | 23. | None shall be distrained for a Debt be oweth not.                   |
|           |       | 25. | None shall commit Champerty, to have Part of the thing in Question. |
|           |       | 29. | Penalty on a Serjeant or Pleader, committing Deceit.                |

GLOUCESTER.

- |            |       |    |                                                                                       |
|------------|-------|----|---------------------------------------------------------------------------------------|
| 6 Edwd. I. | Chap. | 9. | One Person killing another in his own Defence, or by Misfortune, an Appeal of Murder. |
|------------|-------|----|---------------------------------------------------------------------------------------|

WESTMINSTER THE SECOND.

- |             |       |     |                                                                                                                          |
|-------------|-------|-----|--------------------------------------------------------------------------------------------------------------------------|
| 13 Edwd. I. | Chap. | 10. | In Gifts in Tail, the Donor's Will shall be observed, The Form of a Formedon.                                            |
|             |       | 11. | The Masters Remedy against their Servants, and other Accomptants.                                                        |
|             |       | 12. | The Appellant being acquitted, the Appellor, and Abettors shall be punished: There shall be no Essoign for the Appellor. |
|             |       | 19. | The Ordinary Chargeable, to pay Debts, as Executors.                                                                     |
|             |       | 34. | It is Felony to commit a Rape; a married woman with an Advouterer.                                                       |
|             |       | 37. | No Distress shall be taken, but by Bailiffs, known and sworn.                                                            |
|             |       | 40. | A Woman's Suit shall not be deferred by the Minority of the Heir.                                                        |

## ARTICULI SUPER CHARTAS.

- 23 Edwd. I. Chap. 10. The Remedy against Conspirators, false Informers, and Embracers of Juries.
11. Nothing shall be taken to Maintain any Matter in Suit.
12. What Distress shall be taken for the King's Debt, and how it shall be used.
16. What shall be done with them that make false Return of Writs.
4. None shall be condemned upon Suggestion without lawful Presentment.
5. Executors of Executors shall have the Benefit and Charge of the first Testator.
17. Process of Exigent shall be awarded in Debt, Detinue, and Replevin.
19. By the King's Protection the Party's Suit shall not be hindered, but his Execution.
- 34 ————— Chap. 8. The Penalty of a Juror, taking Reward to give his Verdict.
12. There shall be no forfeiture of Lands for Treason of dead Persons, not attained.
- 37 ————— Chap. 2. An Indemptitate Nominis shall be granted, upon the wrong seizure of another Person's Lands or Goods.
- 38 ————— Chap. 8. A Ship shall not be lost for a small Thing therein not customary.
12. The Punishment of a Juror taking a Reward to give his Verdict; and of Embracers.
- 42 ————— Chap. 3. None shall be put to answer an Accusation made to the King, without Presentment.
10. Children born beyond the Sea in the King's Dominions, shall be inheritable in England.
- 50 ————— Chap. 6. Fraudulent Assurances of Lands or Goods to deceive Creditors, shall be void.

## STATUTE THE FIFTH.

- |                     |     |                                                                                                                                                 |
|---------------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 Richard II. Chap. | 12. | A Prisoner by Judgment shall not be at large: Confession of a Debt to the King, to delay another Execution.                                     |
| 8 ————— Chap.       | 4.  | The Penalty of a Judge or Clerk, making any false Entry, erase a Roll, or change a Verdict.                                                     |
| 13 ————— Chap.      | 5.  | With what Things the Admiral, and his Deputy, shall meddle.                                                                                     |
| 15 ————— Chap.      | 2.  | The Duty of Justices of the Peace, when any forcible Entry is made into Lands.                                                                  |
|                     | 3.  | In What Places the Admiral's Jurisdiction doth lie.                                                                                             |
| 2 Henry VI. Chap.   | 11. | A Remedy for him who is wrongfully pursued in the Court of Admiralty.                                                                           |
| 4 ————— Chap.       | 18. | The Punishment of an Attorney found in Default.                                                                                                 |
|                     | 23. | Judgments given shall continue, until they be reversed by Attaint or Error.                                                                     |
| 5 ————— Chap.       | 5.  | It shall be Felony to cut out the Tongue, or pull out the Eyes, of the King's Liege People.                                                     |
| 8 Henry VI. Chap.   | 9.  | Duty of Justices of the Peace, where Land is entered upon, or detained, with Force.                                                             |
|                     | 12. | No Judgment or Records shall be reversed by any Writ, Process, &c., erased: Which Defect in Records may be amended by the Judges and which not. |
|                     | 15. | The Justices may, in certain Cases, amend Defaults in Records.                                                                                  |
| 9 ————— Chap.       | 4.  | An <u>Indemptitate Nominis</u> maintainable by Executors.                                                                                       |
| 14 ————— Chap.      | 1.  | Justices of <u>Nisi Prius</u> may have Judgment of a Man attainted or acquitted of Felony.                                                      |
| 18 ————— Chap.      | 6.  | No lands shall be granted until the King's Title be found, in Inquisition.                                                                      |
|                     | 12. | Appeals or Indictments of Felony, committed in a Place where there is none such.                                                                |

- |                     |     |                                                                                                                                          |
|---------------------|-----|------------------------------------------------------------------------------------------------------------------------------------------|
| 31 ————— Chap.      | 9.  | A Remedy for a Woman enforced to be bound by the Statute or Obligation.                                                                  |
| 33 ————— Chap.      | 1.  | A Remedy for Executors against Servants, that embezzle their Master's Goods after his Death.                                             |
| 1 Rich. III. Chap.  | 3.  | Every Justice of Peace may let a Prisoner to Mainprize: No Officer shall seize the Goods of a Prisoner until he be attainted.            |
| 3 Hen. VII. Chap.   | 2.  | The Penalty of carrying a Woman away against her Will, that hath Land or Goods.                                                          |
|                     | 3.  | Justices of the Peace may let Prisoners to Bail: The Sheriff shall certify the Names of all his Prisoners at the Gaol Delivery.          |
|                     | 4.  | All Deeds of Gifts made to defraud Creditors shall be void.                                                                              |
|                     | 10. | Cost, &c., awarded to the Plaintiff, where the Defendant sueth a Writ of Error.                                                          |
| 4 ————— Chap.       | 12. | All Justices of the Peace shall execute their Commission, redress Injuries, and maintain Law.                                            |
|                     | 13. | Clergy shall be allowed but once: A Convict Person shall be marked with the Letter M. or T. A Provision for them which be within Orders. |
| 11 ————— Chap.      | 12. | A Means to help and speed poor Persons in their Suits.                                                                                   |
| 12 ————— Chap.      | 7.  | For Murders.                                                                                                                             |
| 19 ————— Chap.      | 9.  | Process in Actions upon the Case sued in the King's Bench, and Common Pleas.                                                             |
|                     | 20. | Writs of Error.                                                                                                                          |
| 1 Henry VIII. Chap. | 8.  | The Act of Escheators and Commissioners.                                                                                                 |
| 4 ————— Chap.       | 2.  | Punishment of Murders.                                                                                                                   |
| 21 ————— Chap.      | 4.  | The Sales of Lands by Part of the Executors, lawful.                                                                                     |
|                     | 11. | At what Times Restitution shall be made of Goods stolen.                                                                                 |
| 22 ————— Chap.      | 14. | For Abjurations and Sanctuaries, the Sixth Paragraph only, in these Words                                                                |

following: And that no Person, arraigned for Petit Treason, Murder, or Felony, be, from henceforth, admitted to any peremptory Challenge above the Number of Twenty.

- |         |       |       |     |                                                                                                                                           |
|---------|-------|-------|-----|-------------------------------------------------------------------------------------------------------------------------------------------|
| 23      | ————— | Chap. | 1.  | An Act concerning Convicts in Petit Treason, Murder, &c.                                                                                  |
|         |       |       | 3.  | An Act against Perjury, and untrue Verdicts.                                                                                              |
|         |       |       | 15. | An Act that the Plaintiff being non-suited, shall yield Damages to the Defendant, in Actions Personal, by the Discretion of the Justices. |
| 24      | ————— | Chap. | 5.  | That a man killing a Thief in his Defence, shall not forfeit his Goods.                                                                   |
| 25      | ————— | Chap. | 3.  | For such as shall stand Mute, &c.                                                                                                         |
|         |       |       | 6.  | The Punishment for the Vice of Buggery.                                                                                                   |
| 27      | ————— | Chap. | 4.  | For Pirates, and Robbers on the Sea.                                                                                                      |
|         |       |       | 10. | The Act Concerning Uses and Wills.                                                                                                        |
| 28      | ————— | Chap. | 15. | For Pirates.                                                                                                                              |
| 31      | ————— | Chap. | 1.  | For Joint Tenants, and Tenants in Common.                                                                                                 |
|         |       |       | 5.  | For the Continuation of Debts upon Execution.                                                                                             |
| 32      | ————— | Chap. | 9.  | The Bill of Bracery, and buying of Titles.                                                                                                |
|         |       |       | 1.  | The Act of Wills, Primer Seisins, whereby a Man may devise Two Parts of his Lands.                                                        |
|         |       |       | 30. | Mispleadings, Jeofails.                                                                                                                   |
|         |       |       | 32. | Joint Tenants for time of Life, or Years.                                                                                                 |
|         |       |       | 33. | An Act that wrongfully Disseisin is no Descent in Law.                                                                                    |
|         |       |       | 37. | For Recovery of Arrearages of Rents by Executors of Tenants, in Fee Simple.                                                               |
| 33      | ————— | Chap. | 1.  | A Bill against them that Counterfeit Letters, or privy Tokens, to receive Money or Goods in other Men's Names.                            |
| 34 & 35 | ————— | Chap. | 8.  | The Bill concerning the Explanation of Wills.                                                                                             |
| 37      | ————— | Chap. | 6.  | The Bill for burning of Frames.                                                                                                           |



- |                           |           |                                                                                                                                                                            |
|---------------------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 Edward VI,              | Chap. 12. | An Act for the Repeal of certain Statutes concerning Treason and Felonies, &c. Paragraph the 13th, Wilful killing by Poisoning, shall be adjudged Murder.                  |
| 2 & 3 —————               | Chap. 33. | A Bill for Horse, and Horse-stealers.                                                                                                                                      |
| 5 & 6 —————               | Chap. 9.  | An Act for taking away Benefit of Clergy, for certain offenders.                                                                                                           |
|                           | 10.       | An Act for the avoiding of Clergy from divers Persons.                                                                                                                     |
| 1 Mary,                   | Chap. 6.  | Counterfeiting of strange Coins, &c., adjudged Treason.                                                                                                                    |
| 1 & 2 Philip<br>and Mary, | Chap. 11. | Bringing in of Counterfeit Coin into this Realm, shall be punished as Traitors.                                                                                            |
|                           | 13.       | An Act touching Bailment of Persons.                                                                                                                                       |
| 2 & 3 —————               | Chap. 10. | An Act to take examination of Prisoners suspected of any Manslaughter or Felony.                                                                                           |
| 4 & 5 —————               | Chap. 4.  | An Act that accessories in Murder, and divers felonies, shall not have Benefit of Clergy.                                                                                  |
|                           | 8.        | An Act for the Punishment of such as shall take away young women that be Inheritors being within the Age of Sixteen Years, or marry them without Consent of their Parents. |
| 5 Elizabeth,              | Chap. 9.  | An Act for Punishment of such Persons as shall procure or commit any wilful Perjury.                                                                                       |
|                           | 11.       | Clipping, &c., of Coins, for Gain sake, shall be high Treason.                                                                                                             |
|                           | 14.       | An Act against Forgers of false Deeds and Writings.                                                                                                                        |
|                           | 17.       | An Act for the Punishment of the Vice of Buggery.                                                                                                                          |
| 8 —————                   | Chap. 2.  | The Defendant shall recover Costs and Damages, where the Plaintiff doth delay or discontinue his Suit, or his Non-Suit, &c.                                                |
|                           | 4.        | An Act to take away Benefit of Clergy from certain Offenders for Felony.                                                                                                   |
| 13 —————                  | Chap. 5.  | An Act against fraudulent Deeds, Alienations, &c.                                                                                                                          |

- |            |       |       |     |                                                                                                                                                                                                   |
|------------|-------|-------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18         | ————— | Chap. | 7.  | An Act to take away Benefit of Clergy from Offenders in Rape, and Burglary; and an Order for the Delivery of Clerks convict, without Purgation.                                                   |
|            |       |       | 14. | An Act for reformation and Jeofails.                                                                                                                                                              |
| 27         | ————— | Chap. | 4.  | An Act against covinous and fraudulent Conveyances.                                                                                                                                               |
|            |       |       | 5.  | An Act for Furtherance of Justice, in Case of Demurrer in Pleadings.                                                                                                                              |
|            |       |       | 13. | An Act for the following of Hue and Cry.                                                                                                                                                          |
| 31         | ————— | Chap. | 11. | An Act of Explanation or Declaration of the Statute <u>Octavo Regis</u> , <u>Henry 6</u> , concerning forcible Entries, and the Indictments thereupon found.                                      |
| 39         | ————— | Chap. | 9.  | An Act for taking away Clergy from Offenders against a certain Statute, made in the Third Year of the reign of <u>Henry 7</u> , concerning the taking away Women against their Wills, unlawfully. |
|            |       |       | 15. | An Act that no Person, robbing any House in the Day Time, altho' no Person be therein, shall be admitted to have the Benefit of his Clergy.                                                       |
| 43         | ————— | Chap. | 5.  | An Act to prevent Perjury and Subornation of Perjury and unordinary Expences in Suits of Law.                                                                                                     |
|            |       |       | 8.  | An Act against fraudulent Administration of Intestates' Goods.                                                                                                                                    |
| 1 James I. |       | Chap. | 8.  | An Act to take away the Benefit of Clergy from some Kind of Manslaughter.                                                                                                                         |
|            |       |       | 11. | An Act to restrain all Persons from Marriage, until their former Wives, and former Husbands, be dead.                                                                                             |
| 4          | ————— | Chap. | 3.  | An Act to give Cost to the Defendant, upon a Non-suit of the Plaintiff, or a Verdict against him.                                                                                                 |
| 21         | ————— | Chap. | 6.  | An Act concerning Women convicted of small Felonies.                                                                                                                                              |
|            |       |       | 13. | An Act for the further Reformation of Jeofails.                                                                                                                                                   |

15. An Act to enable Judges and Justices of the Peace, to give Restitution of Possession in certain Cases.
24. An Act for the Relief of Creditors, against such Persons as die in Execution.
27. An act to prevent the destroying and murdering Bastard Children.
- 3 Charles I. The Petition exhibited to his Majesty, by the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, concerning divers Rights and Liberties of Subjects.

## STATUTE THE SECOND.

- 13 Charles II. Chap. 6. An Act declaring the sole Right of the Militia to be in the King, and for the present ordering and disposing of the same.
- 16 ————— Chap. 6. An Act to prevent the delivering up of Merchant Ships.
7. An Act against deceitful, disorderly, and excessive Gaming.
- 16 & 17 ——— Chap. 8. An Act to prevent Arrests of Judgments, and superceeding Executions.
- 17 ————— Chap. 7. An Act for a more speedy and Effectual Proceeding upon Distresses and Avowries for Rents.
8. An Act for avoiding unnecessary Suits and Delays.
- 22 & 23 Chas. II, Ch. 1. An Act to prevent malicious maiming and wounding: Paragraph the 7th, Malicious maiming made Felony, and Paragraph the 8th, Forfeitures.
7. An Act to prevent Malicious burning of Houses, stacks of Corn and Hay, and killing or Maiming of Cattle.
10. An Act for the better settling of Intestates Estates.
- 29 ————— Chap. 3. An Act for preventing Frauds and Perjuries.
- 30 ————— Chap. 7. An Act to enable Creditors to recover their Debts of the Executors and

- Administrators of Executors in their own Wrong.
- 31 ————— Chap. 2. An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonment beyond the Seas.
- 1 James II Chap. 17. An Act for reviving and Continuance of several Acts of Parliament therein mentioned; only Paragraph the 5th, 6 and 7, relating to the Act for the better settling Intestates' Estates.
- 1 Wil. & Mary Chap. 8. An Act for the Abrogating the Oaths of Supremacy and Allegiance, and appointing other Oaths.
18. An Act for exempting their Majesty's Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws.
- Session 2. Chap. 2. An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown.
- 2 ————— Chap. 5. An Act for enabling the Sale of Goods distrained for Rent, in Case the Rent be not paid in a reasonable Time.
- 3 & 4 ————— Chap. 9. An Act to take away Clergy from some Offenders and to bring others to Punishment.
14. An Act for Relief of Creditors, against fraudulent Devices.
- 4 & 5 ————— Chap. 16. An Act to prevent Frauds, by clandestine Mortgages.
- 7 Wil. III. Chap. 3. An Act for regulating Tryals in Cases of Treason, and Misprison of Treason.
- 7 & 8 ————— Chap. 24. An Act requiring the Practitioners of the Law to take the Oaths, and subscribe the Declaration therein mentioned.
- 8 & 9 ————— Chap. 10. An Act for the better preventing frivolous and vexatious Suits.
- 9 & 10 ————— Chap. 15. An Act for determining Differences by Arbitration.
17. An Act for the better Payment of Inland Bills of Exchange.
- 10 & 11 ————— Chap. 16. An Act to enable posthumus Children to take Estates, as if born in their Father's Lifetime.

- |                        |     |                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11 & 12 ——— Chap.      | 6.  | An Act to enable his Majesty's natural born Subjects to inherit the Estate of their Ancestors, either Lenial or Collateral, notwithstanding their Father or Mother are Aliens.                                                                                                                                                                                                                  |
| 12 & 13 Wil. III Chap. | 2   | An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subjects.                                                                                                                                                                                                                                                                                   |
| 1 Anne, Chap.          | 22. | An Act to declare the alterations in the Oath appointed to be taken, by the Act, intituled, An Act for the further security of his Majesty's Person and the Succession of the Crown in the Protestant Line; and for extinguishing the Hopes of the pretended Prince of Wales, and all other Pretenders, and their open and secret Abettors; and for declaring the Association to be determined. |
|                        | 9.  | An Act for Punishment of Accessories to Felonies, and Receivers of Stolen Goods; and to prevent the wilful burning and destroying of Ships.                                                                                                                                                                                                                                                     |
| 3 & 4 ——— Chap.        | 9.  | An Act for giving like Remedy upon Promisory Notes as is now used upon Bills of Exchange, and for the better Payment of inland Bills of Exchange.                                                                                                                                                                                                                                               |
| 4 & 5 ——— Chap.        | 16. | An Act for the Amendment of the Law, and the better Advancement of Justice.                                                                                                                                                                                                                                                                                                                     |
| 6 ——— Chap.            | 18. | An Act concerning Life Estates.                                                                                                                                                                                                                                                                                                                                                                 |
| 7 ——— Chap.            | 19. | An Act to enable Infants, who are seized or possessed of Estates in Fee, in Trust, or by way of Mortgage, to make Conveyances of such Estates.                                                                                                                                                                                                                                                  |
| 8 ——— Chap.            | 17. | An Act for the better Security of Rents, and to prevent Frauds, committed by Tenants.                                                                                                                                                                                                                                                                                                           |
| 9 ——— Chap.            | 14. | An Act against unlawful Gaming; Sections 1, 2, 3, 6, and 7, only.                                                                                                                                                                                                                                                                                                                               |
| 12 Stat. I. Chap.      | 7.  | First, Second, and Third Sections only.                                                                                                                                                                                                                                                                                                                                                         |
|                        | 18. | An Act for the preserving all Ships and Goods thereof, which shall happen                                                                                                                                                                                                                                                                                                                       |

|            |       |     |                                                                                                               |
|------------|-------|-----|---------------------------------------------------------------------------------------------------------------|
|            |       |     | to be forced on Shore, or stranded, upon the Coasts of this Kingdom, or any other of his Majesty's Dominions. |
| 2 Geo. II. | Chap. | 22. | Section the 11th only, concerning Debts.                                                                      |
| 4 ———      | Chap. | 28. | An Act concerning Rents.                                                                                      |
| 5 ———      | Chap. | 7.  | An Act for the more easy Recovery of Debts in his Majesty's Plantations and Colonies in America.              |
|            |       | 25. | An Act to direct the Proceeding in Chancery against Persons beyond the Sea.                                   |
| 7 ———      | Chap. | 20. | Section 1, 2, and 3 only, concerning Mortgages.                                                               |
| 8 ———      | Chap. | 24. | Section the 5th, concerning Debts.                                                                            |
| 11 ———     | Chap. | 19. | Twelfth and 13th Sections only, concerning Ejectment.                                                         |

III. And be it further Enacted, by the Authority aforesaid, That in any of the above enumerated Statutes, where any Reference is made to any former Statute, as to the Penalty, or Manner of Recovery, or Execution of the said Statutes, or where the said Statutes are explained, or continued, or made perpetual, or confirmed, or clergy allowed by any other Statute; that in such Case, the said Statute so referred to, or that doth explain, continue, make perpetual, or confirm the above enumerated Statutes or allow Clergy for the Offence or Offences in any of them mentioned, are hereby declared to be of as full Force in this Province, as if particularly enumerated in this Act IV. And be it further Enacted, by the Authority aforesaid, That all the Statutes of the Kingdom of England, relating to the Allegiance of the People to his present Majesty King George, and his lawful Successors, and the several Public Oaths, and subscribing the Test, required of the People of England in General, by any of the said Statutes of the said Kingdom, and also all such Statutes in the Kingdom of England as declare the Rights and Liberties of the Subject and Enact the better securing the same; as to so much of the said Statute as relates to the above mentioned Particulars of the Allegiance of the People to their Sovereign, the Public Oaths, and subscribing the Test, required of them, and the declaring and securing the Rights and Liberties of the Subjects, are hereby Enacted and Declared to extend to, and to be of full Force in this Province, as if particularly enumerated in this Act.

V. And for the better putting in Force, and Execution of, all and every the before enumerated Statutes, Sections, and

Paragraphs of Statutes; Be it Enacted, by the Authority aforesaid, and it is hereby Enacted and declared, That the General Assembly of this Province, and the several Members thereof, shall have the same Power and Authority in any Matter or Thing relating to the said Statutes, or that is given by the same to the Parliament of England, or the Members thereof; and his Excellency the Governor, and the Council of this Province, for the Time being, shall have all the Power and Authority relating to the Execution of the said enumerated Statutes, as by the same, or by any other of the Laws of England, are given to the Lord Chancellor, or the Lord Keeper of the Great Seal of England; That the Chief Justice of this Province, and his Associates, for the Time being, shall have all the Power and Authority in the Execution of any of the said enumerated Statutes, as the Chief Justice, or any of the Justices or Judges of the Courts of the King's Bench, or Common Pleas, or any Justices of the Sessions or Commissioners of Oyer and Terminer and Gaol Delivery, in the Kingdom of England, can or may have or do: And that the Justices of the Peace in this Province, shall have the Powers of the Justices of the Peace in the Kingdom of England and every officer, Minister, or Under Officer of this Province, shall have and execute the same Power and Authority of every Justice, Officer, Minister, or Under-Officer of the same Name, Stile, and usual Office, Employment, and Authority in the Kingdom of England, in and about the Execution of the Premises, to all Intents, Constructions, and Purposes whatsoever, except such Officer or Officers, the Manner and Method of whose Duty and Office, is circumscribed and directed by the Laws of this Province.

VI. And be it further Enacted, by the Authority aforesaid, That all and every Part of the Common Law of England, where the same is not altered by the above enumerated Acts, or inconsistent with the particular Constitutions, Customs, and Laws of this Province, excepting so much thereof as hath Relation to the ancient Tenures, which are taken away by the Act of Parliament, made in the Twelfth Year of the Reign of King Charles the Second, Chapter the Twenty Fourth, intituled, An Act for taking away the Court of Wards and Liveries, and Tenure in Capite, and by Knights Service and Purveyance, &c., whereby it is Enacted, That all tenures by the Common Law, whether held of the King or any other Person or Persons, are turned into free and common Soccage; and which Statute, as to that Part of it which doth Enact, That all Tenures be turned into free and Common Soccage; is hereby Enacted and declared to be of as full Force in this

Province, as if particularly enumerated by this Act; and also excepting that Part of the Common Law which relates to Matters of Ecclesiastical, which are inconsistent with, or repugnant to, the Settlement of the Church, of England in this Province, by the Acts of Assembly thereof; be, and is hereby made and declared to be in as full Force and Virtue within this Province, as the same is, or ought to be, within the said Kingdom of England: And that the Governor for the Time being, with his Council, constituting a Court of Chancery in this Province, shall have Power to put in Execution, and cause to be put in Execution in this Province, so much of the said Common Law, (except as before excepted,) as the Lord Chancellor, or Lord Keeper of the Great Seal of Great Britain, may do in the Kingdom of England: And the Chief Justice of this Province for the Time being, and his Associates, may put in Execution so much of the said Common Law of England within this Province, (except as before excepted) as any of the Justices or Judges of any of the Courts of King's Bench, and Common Pleas, or Commissioners of Oyer and Terminer and General Gaol Delivery, may do in the said Kingdom of England: And every Officer, Minister, or Under-Officer, of this Province, shall Execute so much of the said Laws of this Province (except as before excepted) as any Officer, Minister or Under-Officer, of the same Name, Stile, Power, and Authority in the Kingdom of England, may or ought to execute within the same.

VII. And be it further Enacted, by the Authority aforesaid, That every Person respectively whatsoever, who derives any Authority or Power, Judicial or Ministerial, from and by this Act, who shall, or doth neglect, refuse or omit to do and execute all or any such Things which by the Acts before enumerated, or made of Force in this Province by this Act, or required to be done and executed, shall undergo such Penalties, forfeit such Sum or Sums of Money, Loss of Place or Office, for each such Neglect, Refusal, or Omission, as every respective Magistrate, Officer, Minister, and other Person whatsoever within the Kingdom of England, ought to undergo, forfeit, and suffer, by every of the said several and respective Acts; to be prosecuted, recovered, and disposed, according to the Directions of the said several Acts, in any of the Courts of Record within this Province, except where the Punishment of any of the above mentioned Offences is particularly mentioned and appointed, by any Law now in Force in this Government.

VIII. And be it further Enacted, by the Authority aforesaid, That the Governor, the Chief Justice of the Court of Common



Pleas, for the Time being, and his Associates, and every other Officer, Minister, Under-Officer, and every other Person whatsoever, concerned in the Execution of any of the above enumerated Acts, shall and may take such and so much Fees, for the doing and executing every Matter and Thing contained within the said Acts, as by the several Acts of Assembly of this Province, made for the ascertaining Officers' Fees, they may or ought to take and receive; any Thing in any of the Statutes mentioned in this Act to the contrary, notwithstanding.

IX. And be it further Enacted, by the Authority aforesaid, That every Court of Record within this Province, shall be taken for, and have and execute, the Power of the King's or Queen's Court, mentioned in any of the before recited Acts.

X. And be it further Enacted, That all Conveyances or Settlements of Lands or Tenements made in this Province, by Way of Bargain and Sale, or otherwise, shall be as good and effectual in Law, to all Intents and Purposes whatsoever, as if the Statute for transferring Uses into Possession, had been made of Force in this Province at the Time of such Conveyances made.

XI. And be it further Enacted, by the Authority aforesaid, That all the Statute Laws of the Kingdom of England, which are not enumerated and made of Force in this Province by this Act, (such only excepted which relate to, or concern his Majesty's Customs, and the Acts of Trade and Navigation,) are hereby declared not adapted, or applicable to, the Circumstances of this Province.

XII. Provided nevertheless, and be it hereby Enacted and Declared, That because few of the Statute Laws of the Kingdom of England, made since the Eleventh Year of the Reign of his present Majesty King George the Second, have been transmitted to this Province; It is hereby Enacted, That all Statute Laws made within the Kingdom of England since the said Eleventh Year of the Reign of his said Majesty King George the Second, shall be deemed, construed, and taken, to have such and the same Relation and Force in this Province, and all his Majesty's Subjects, inhabiting or dwelling in the same, as the same might, could, or ought to have had, if this Act had never been made.

XIII. Provided also, That this Act or any enumerated Act, or Clause, or Paragraph, or Section, or any Act therein contained, shall not be Construed or extended to alter the full course of Proceedings in the several Courts of Judicature in the Province; and the Manner of Drawing, balloting, or choosing of Jurymen, as the same is prescribed by the Laws of this Province in that

Case made and Provided, and all other Acts of Assembly of this Province, relating to the regulating Proceedings of the Courts of Judicature in this Province, are hereby declared to be of as full Force and Virtue, as if this Act had never been made; and the above enumerated Statutes of the Kingdom of England, are hereby Enacted to be put in Execution in this Province, as to the substantial Parts, and so as not to alter the usual Proceedings in our Courts in this Province, and the said Jury Acts: Any particular Clauses or Paragraphs in the Above enumerated Acts, with Respect to the particular Circumstances of England, being, or seeming to be to the contrary hereof, in anywise, notwithstanding.