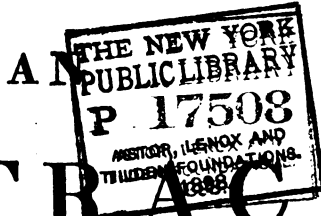


Cotton, John, 1585-1652, compiler,



1846
A B S T R A C T

OF THE

L A W E S

OF

N E W E N G L A N D

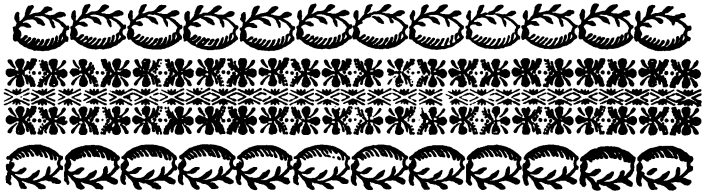
As they are novv established.

L O N D O N ,

Printed for *F. Coules*, and *W. Ley* at Paules Chain,

1 6 4 1 .
M. T.

C. R.



The Table of the Chapters.

CHAP. I.

Of Magistrates.

Page 3

CHAP. II.

Of the free Burgesses and free Inhabitants.

5

CHAP. III.

Of the protection and provision of the Countrey.

6

CHAP. IV.

Of the right of Inheritance.

8

CHAP. V.

Of Commerce.

10

CHAP. VI.

Of Trespasses.

11

Of

The Table of the Chapters.

CHAP. VII.

Of Crimes. 12

CHAP. VIII.

Of other Crimes lesse hainous such as are to be punished with some Corporall punishment or Fine. 14

CHAP. IX.

Of the triall of Causes, whether Civill or Criminall, and the execution of Sentence. 15

CHAP. X.

Of the Cause's Criminall betweene our People and Forraine Nations. 16

FINIS.



AN ABSTRACT Of the Lawes of New ENGLAND.

C H A P. I.

Of Magistrates.

First, All Magistrates are to be chosen.
 First, By the free Burgesses. Deut. 1. 13.
 Secondly, Out of the free Burgesses. 17.15.
 Thirdly, Out of the ablest men and Ex.18.21.
 most approved amongst them.

Fourthly, Out of the ranck of No- Ecl.10.17.
 ble men or Gentlemen among them, the best that God Ier.30.21.
 shall send into the Countrey, if they be qualified-with
 gifts fit for Government, either eminent above others,
 or not inferior to others.

2 The Governor hath power with the Assistants
 to governe the whole Countrey, according to the Laws
 established hereafter mentioned; He hath power of
 himselfe, and in his absence the Deputy Governor, to
 moderate all publike actions of the Common-wealth, as

First, To send out warrants for the calling of the Iosh.24.1.
 generall Court.

Secondly, To order and ransacke all actions in the
 Court where he sitteth: as, to gather Suffrages and
 Voyces, and to pronounce Sentences according to the
 greater part of them.

3 The power of the Governor with the rest of the
 Counsellors, is

First, To consult and provide for the maintenance Num.11.4.
 of the State and People. to 16.

Secondly, To direct in all matters wherein Appeale Ex.18.22.
 is made to them from inferiour Courts. Deu. 17.8.9.

Thirdly, To preserve Religion. Ex.32.25.27

4 To

2 Cor. 19.11. 4 To oversee the Forts and Munion of the Coun-
 32 23. 45 6. trey, and to take order for the protection of the Coun-
 Ex. 17.9. trey from forraine invasion, or intestine sedition, as
 Prov.24.5. need shall require, with consent of the people to en-
 terprise wars.

And because these great affaires of the State cannot
 be attended, nor administred, if they be after chang-
 1 Kings 12.6 ed; therefore the Counsellors are to be chosen for life,
 unlesse they give just cause of removall, which if they
 do, then they to be removed by the Generall Court.

4 The power of the Governor, sitting with the
 Ex. 18. 22. Counsellors and Assistants, is to heare and determine
 all causes whether Civill or Criminall, which are
 Deu.1.16.17. brought before him through the whole Common-
 wealth: Yet reserving liberty of Appeale from him to
 the generall Court.

Deu. 16.18. 5 Every Town is to have Iudges within them-
 selves, whose power shall be once in the month, or
 in three months at the furthest to heare and determine
 both Civill Causes and Pleas of lesse value, and
 crimes also, which are not capitall: Yet reserving
 liberty of Appeale to the Court of Governor and As-
 sistants.

6 For the better expedition and execution of Ius-
 Deu. 16.18. tice, and of all affaires incident unto every Court.

Ier. 36. 10. Every Court shall have certaine Officers, as a Secre-
 & 12. tary to inroll all the Acts of the Court: And besides
 Ministers of Iustice, to attach, and fetch, and set per-
 sons before the Magistrates: and also to execute the
 Sentence of the Court upon offenders: And for the
 same end, it shall be lawfull for the Governor or any
 1 Sam. 20. one or two of the Counsellors, or Assistants, or Iudg-
 24.25. es, to give warrant to an Officer, to fetch any delin-
 quent before them, and to examine the cause, and if
 Deu. 5.26:27 he be found culpable of that crime, to take order by
 surety or safe custody for his apparance at the Court.

And further for the same end, and to prevent the
 offendours lying long in prison, it shall be lawfull for
 the Governor, with one of the Counsell, or any two
 of the Assistants or Iudges, to see execution done upon
 any offenders for any crime that is not capitall, ac-
 cording to the Lawes established: Yet still reserving a
 liberty of Appeale from them to the Court, and from
 an Inferiour Court to an Higher Court.

C H A P .

C H A P . II.

Of the free Burgesses and free Inhabitants.

First, All the free Burgesses excepting such as were admitted men before the establishment of Churches in the Country, shall be received and admitted out of the members of some or others of the Churches in the Country, such Churches as are gathered or hereafter shall be gathered with the consent of other Churches already established in the Country, and such members as are admitted by their own Church unto the Lords-Table.

2 These free Burgesses shall have power to choose in their owne Townes fit and able men out of themselves, to be the ordinary Iudges of inferiour Causes, in their own Town, and against the approach of the Generall Court to choose two or three, as their Deputies and Committees, to joyne with the Governour and Assistants of the whole Country, to make up and constitute the Generall Court.

3 This Generall Court shall have power,

First, By the Warrant of the Governor or deputy Governor, to assemble once every quarter or halfe a yeare or oftner, as the affaires of the Country shall require, and to sit together till their affaires bee dispatched.

2 To call the Governour and all the rest of the publike Magistrates and Officers into place, and to call them also to account for the breach of any Laws established, or other misdeameanour, and to censure them as the quality of the fact may require.

Thirdly, To make and repeale Laws.

Fourthly, To dispose all Laws in the Country, and to assigne them to severall Towns or persons, as shall be thought requisite.

Fifthly, To impose a leavy of moneys, for the publike service of the Common-wealth, as shall be thought requisite for the provision and protection of the whole.

Sixthly, To heare and determine all causes, wherein appeale shall be made unto them, or which they shall see cause to assume, into their own cognisance or judicature.

Seventhly, To assist the Governors and Counsellors in the maintenance of the purity and unity of Religion, and accordingly to set forward and uphold all such good causes as shall be thought fit, for that end, by the advice with consent of the Churches, and to repress the contrary.

Eighthly,

Eighthly, In this generall Court nothing shall be concluded but with Common consent of the greater part of the Governors, or Assistants, together with the greater part of the Deputies of the Towns, unlesse it be in election of Officers, where the liberty of the people is to be preferred, or in judging matters of offence against the Law, wherein both parties are to stand to the direction of the Law.

Ninthly, All the housholders of every Town, shalbe accompted as the free Inhabitants of the Countrey, and accordingly shall enjoy freedome of Commerce and Inheritance of such lands, as the generall Court or the severall Townes wherein they dwell shall allot unto them, after they have taken an Oath, or given other security to be true and faithfull to the State, and subject to the good and wholesome Laws established in the Countrey by the generall Court.

CHAP. III.

Of the protection and provision of the Countrey.

1 First, A Law to be made (if it be not made already) for the trayning of all men in the Countrey fit to beare armes unto the exercise of military Discipline; and withall another Lawe to be made for the maintenance of military Officers and Forts.

2 Because fishing is the chiefe staple commodity of the Countrey, therefore all due encouragement to be given, unto such hands as shall set forwards the trade of fishing; and for that end a Law to be made. That whosoever shall apply themselves to set forward the trade of fishing, as Fisher-men, Marriners and Shipwrights, shall be allowed, man for man, or some or other of the Labourers of the Countrey, to plant and to reape for them, in the season of the yeare, at the publike charge of the Commonwealth, for the space of these seven yeares next ensuing; and such Labourers to be appointed and paid by the Treasurer of the Common-wealth.

3 Because no Common-wealth can maintaine either their authority at home, or their honour and power abroad, without a sufficient Treasury: a Law therefore to be made for the electing and furnishing of the Treasury of the Common-wealth, which is to be supplied and furnished.

1 By the yearely payment.

First

First, Of one penny, or halfe penny an Acre of Land to be occupied throughout the Countrey.

Land in common by a Towne to be paid for out of the Stocke or Treasury of the same Town.

Secondly, Of a penny for every beast, Horse or Cow.

Thirdly, Of some proportionable rate upon Marchants.

This rate to be greater or lesse as shall be thought fit.

2 By the payment of a barrel of Gun-powder, or such goods, or other munitions out of every ship, that bringeth forraine Commodities.

3 By fines and mulcts upon trespassers beasts.

4 A Treasurer to be chosen by the free Burgesses out of the Assistants, who shall receive and keep the Treasury and make disbursements out of it, according to the direction of the generall Court, or of the Governor or Counsellors, whereof they are to give an account at the generall Court.

It shall pertaine also to the Office of the Treasurer, to survey and oversee all the munitions of the Countrey, as Cannons, Culvering, Muskets, Powder, Match, Bullets, and to give account thereof to the Governor and Counsell.

5 A Treasury also or Magazin, or Storehouse to be erected, and furnished in every Town, as *Deut.* 14. 28. distinct from the Treasury of the Church, that provision of Corne and other necessaries, may be laid up at the best hand, for the reliefe of such poore, as are not members of the Church; and that out of it such Officers may be maintained, as Captaines and such like, who do any publike service for the Town: But chiefly this Treasury will be requisite for the preserving of the livelyhood of each Town within it selfe.

That in case the Inheritance of the Lands belong to any Towne, come to be alienated from the Townesmen, which may unavoidably fall out: Yet a supply may be had and made to the livelyhood of the Town by a reasonable Rent charge, upon such alienations laid by the common consent of the Land-owners and Townesmen, and to be paid unto the Treasury of the Town.

This Treasury to be supplied.

1 First, By the yearely payment of some small rate upon Acres of Land.

2 By fines or amerciaments put upon trespassours beasts.

A Town Treasurer to be appointed for the oversight and ordering of this chosen out of the free Burgesses of the same Town, who is to dispose of things under his charge, according to the directions of the Iudges of the Towne, and to give account at the Townes Court to the Iudges and free Burgesses of the Town or to some elected by them.

C H A P .

C H A P. I V.

Of the right of Inheritance.

First, Forasmuch as the right of disposals of the Inheritance of all Lands in the Countrey, lyeth in the Generall Court, whatsoever Lands are given and assigned by the Generall Court, to any Town or person shall belong and remaine as right of Inheritance to such Townes and their successors, and to such persons and to their heires and Assignes as their propriety for ever.

Whatsoever Lands belong to any Town, shall be given and assigned by the Town or by such Officers therein, as they shall appoint unto any person, the same shall belong and remaine, unto such person and his heires and assignes as his proper right for ever.

3 And in dividing of Lands to the severall persons in each Town, as regard is to be had partly to the number of the persons in family : To the more assigning the greater allotment, to the fewer lesse, and partly by the number of beasts, by the which a man is fit to occupy the Land assigned to him, and subdue it : Eminent respect (in this case may be given to men of eminent quality and descent) in assigning unto them more large and honorable accommodations, in regard of their great disbursements to publike charges.

4 Forasmuch as all Civill affaires are to be administered and ordered, so as may best conduce to the upholding and setting forward of the worship of God in Church fellowship. It is therefore ordered, that wheresoever the Lands of any mans Inheritance shall fall, yet no man shall set his dwelling house above the distance of halfe a mile or a mile at the furthest, from the meeting of the Congregation, where the Church doth usually assemble for the worship of God.

5 Inheritances are to descend naturally to the next of kinne, according to the Law of Nature, delivered by God.

6 If a man have more Sonnes than one, then a double portion to be assigned, and bequeathed to the eldest Son, according to the Law of Nature, unlesse his own demerit do deprive him of the dignity of his Birth right.

7 The will of a Testatour, is to be approved, or disallowed

Num. 26.
53 54.
Num. 35. 3.

Num. 17. 7.
to 11.

Deu. 21. 17.

1 Chr. 5. 1.

disallowed by the Court of Governours, and Assistants, or by the Court of Iudges in each Towne ; yet not to be disallowed by the Court of Governours, unlesse it appeare either to be counterfeit or unequall, either against the Law of God, or against the publike weale, or against the due right of the Legatours.

8 As God in old time, in the Common-wealth of *Israell*, forbad the alienation of Lands from one Tribe to another, so to prevent the like inconvenience in the alienation of Lands, from one Towne to another it were requisite to be ordered.

1 First, that no free Burgesse, or free Inhabitant of any Town shall sell the Land allotted to him in the Towne, (unlesse the free Burgesse of the Towne give consent unto such sale, or refuse to give due price answerable to what other offer without fraud) but to some one or other of the free Burgesses, or free inhabitants of the same Towne.

2 That if such Lands be sould to any others, the sale shall be made with reservation of such a rent charge to be paid to the Town Stock, or Treasury of the Towne, as either the former occupiers of the Land were wont to pay towards all the publike charges thereof; whether in Church or Town, or at least after the rate of three shillings the acre or some such like proportion, more or lesse, as shall be thought fit.

3 That if any free Burgesses, or free Inhabitants of any Towne, or the heire of any of their Lands, shal remove their dwelling from one Towne to another, none of them shall carry away the whole benefit of the Lands which they possessed, from the Townes whence they remove: But if they shall keepe the right of Inheritance, in their own hands, & not sell it as before, then, they shall reserve a like proportion of Rent charge out of their Land, to be paid to the publike Treasury of the Towne, as hath beene wont to be paid out of it to the publike charges of the Town and Church, or at least after the rate of three or five shillings an Acre, as before.

4 That if the Inheritance of a free Burgesse, or free Inhabitants of any Town fal to his daughters, as it wil do for defect of heires males, that then if such daughters doe not marry to some of the Inhabitants of the same Towne where their Inheritance lyeth, nor sell their

their Inheritance to some of the same Towne as before, that then they reserve a like proportion of rent charge out of their Lands to be paid to the publike Treasury of the Towne, as hath beene wont to be paid out of them, to the publike charge of the Towne and Church; or at least after the rate of three or five shillings an Acre, provided alwayes that nothing be payed to the maintenance of the Church out of the Treasury of the Church or Towne, but by the free consent and direction of the free Burgesses of the Towne.

CHAP. V.

Of Commerce.

First it shall be lawfull for the Governour with one or more of the Counsell, to appoint a reasonable rate of prizes upon all such commodities as are out of the Ships, to be bought and sould in the Countrey.

2 In trucking or trading with the *Indians* no man shall give them for any commodity of theirs, Silver or Gold, or any weapons of war, either Guns or Gunpowder, nor Sword, nor any other munition, which might come to be used against our selves.

3 To the intent that all oppression in buying and selling may be avoyded, it shall be lawfull for the Iudges in every Towne, with the consent of the free Burgesses to appoint certaine select men, to set reasonable rates upon all comodities, and proportionably to liminit the wages of workemen and labourers, and the rates agreed upon by them, and ratified by the Iudges, to bind all the Inhabitants of the Towne. The like course to be taken by the Governour, and Assistants, for the rating of prizes throughout the Countrey, and all to be confirmed if need be by the generall Court.

4 Iust weights and ballances to be kept betweene buyers and sellers, and for default thereof the profit so wickedly and corruptly gotten, with as much more added thereto, is to be forfeited to the publike Treasury of the Common-wealth.

Lev. 19. 35.
36.

Pro. 11. 1.
and 16. 11.
and 20. 10.

5 If

5 If any borrow ought of his neighbour upon a pledge, the lender shall not make choyce of what pledge he will have, nor take such pledge as is of dayly necessary use unto the debtor, or if he do take it, he shall restore it againe the same day. Deu. 24. 10. 11, 12, 13. Exod. 22. 26. 27.

6 No increase to be taken of a poore brother or neighbour, for any thing lent unto him. Ex. 22. 25. Lev. 25. 36. 37.

7 If borrowed goods be lost or hurt in the owners absence, the borrower is to make them good, but in the owners presence wherein he seeth his goods no otherwise used than with his consent, the borrower shall not make them good: If they were hired, the hire is to be paid and no more. Ex. 22. 14, 15.

C H A P . V I .

Of Trespasses.

1 **I**F a man's Swine or any other beast, or a fire kindled, breake out into another mans field or corne, he shal make full restitution both of the dammage made by them, and of the losse of time, which others have had in carrying such Swine or beasts unto the owners, or to the fould. Ex. 22. 5, 6.

But if a man put his beasts or Swine into anothers field, restitution is to be made of the best of his owne, though it were much better than that which were destroyed or hurt.

2 If a man kills another mans beast, or digge and open a pit, and leave it uncovered, and a beast fall into it; he that killed the beast, or the owner of the pit shall make restitution. Lev. 24. 18. Ex. 21. 34.

3 If any man's beast kill the beast of another, the owner of the beast shall make restitution. Exo. 21. 35.

4 If a man's Oxe or other beast, gore or bite and kill a man or a woman, whether Child or of riper age, the beast shall be killed, and no benefit of the dead beast reserved to the owner, but if the Oxe or beast were wont to push or bite in times past, and the owner hath beene tould it, and hath not kept him in; then both the Oxe or beast shall be forfeited and killed, and the owner also put to death, or fined to pay what the Iudges and the persons dampnified shall lay on him. Ex. 21. 28, 23, 30, 31.

5 If

5 If a man deliver goods to his neighbour to keepe, and they be said to be lost or stolne from him, the keeper of the goods shall be put to his oath touching his own innocency, which if he take, & no evidence
 Ex. 22. 11. appeare to the contrary, he shall be quit, but if he be
 12. found false or unfaithfull, he shall pay double unto his neighbour.

But if a man take hire for the goods committed to him, and they be stolne, the keeper shall make restitution: But if the beast so kept for hire dye or be hurt, or be driven away, no man seeing it, then oath shall be taken of the keeper, that it was without his default, and it shall be accepted: but if the beast be torne in peeces, and a peece be brought for witness, it excuseth the keeper.

CHAP. VII.

Of Crimes.

ANd first, of such as deserve capitall punishment, or cutting off from a mans people, whether by death or banishment.

- | | |
|---|--|
| <i>Blasphemy.</i>
Lev. 24. 11
to 16. | 1 First, Blasphemy which is a cursing of God by Atheisme or the like, to be punished with death. |
| <i>Idolatry.</i>
Deu: 13. 10
15, 16. | 2 Idolatry to be punished with death. |
| <i>Witchcraft.</i>
Ex. 22: 18.
20. 27. | 3 Witchcraft which is fellowship by covenant with a familiar Spirit to be punished with death. |
| <i>Consulters with witches.</i>
Lev. 19. 31.
<i>Consulters with witches.</i>
Zac. 13. 3. | 4 Consulters with Witches not to be tollerated, but either to be cut off by death, or by banishment. |
| <i>Heresie.</i>
Zac. 13. 3. | 5 Heresie which is the maintenance of some wicked errors, overthrowing the foundation of Christian Religion, which obstinacy if it be joyned with endeavour, to seduce others thereunto to be punished with death: because such an Hereticke no less than an Idolater seeketh to thrust the soules of men from the Lord their God. |
| <i>False worship.</i>
Ex. 32. 27,
28. | 6 To worship God in a molten or graven Image, to be punished with death. |
| <i>Scandalous liuers.</i>
1 Cor. 5. 5. | 7 Such members of the Church, as doe wilfully reject to walke after due admonition, and conviction, the Churches establishment, and their christian admonition and censures, shall be cut off by banishment. |
| | 8 Whosoever |

8 Whosoever shall revile the Religion and Worship of God, and the Government of the Church as it is now established, to be cut off by banishment.

Revilers of Religion.

9 Wilfull perjury, whether before the judgement seat or in private conference, to be punished with death.

Wilful perjury.

10 Rash perjury whether in publike or in private, to be punished with banishment, just it is that such a mans name should be cut off from his people, who prophans so grossly the name of God before his people.

Rash perjury.

11 Profaning of the Lords day, in a carelesse and scornfull neglect or contempt thereof to be punished with death.

Sabbath Breakers.
Num 15.35.

12 To put in practice the betraying of the Country, or any principall fort therein to the hand of any forraigne State, *Spanish, French, Dutch*, or the like: contrary to the allegiance we ow, and professe to our Dread Sovereign Lord King *Charles*, His Heires and Successors; whilst he is pleased to protect us as his loyal subjects, to be punished with death.

Treason.

13 Vnreverend and dishonorable carriage to Magistrates, to be punished with banishment for a time, till they acknowledge their fault, and professe reformation.

Vnreverend to Magistrates.
Num. 12.1.
14, 15.

14 Reviling of the Magistrates in highest rancke amongst us, to wit of the Governours and Counsell to be punished with death.

Reviling the Magistrate.

15 Rebellion, Sedition, or Insurrection, by taking up armes against the present Government established in the Country to be punished with death.

Rebellion &c.
1 King 22.
8, 9. & 44.

16 Rebellious children whether they continue in riot or drunkennesse after due correction from their parents, or whether they curse or smite their Parents, to be put to death.

Rebellious Children.
Deu. 21.18.
19. 20.

17 Murther which is a wilfull man-slaughter, not in a mans necessary and just defence, nor casually committed, but out of hatred or cruelty, to be punished with death.

Murther.
Ex. 21. 12,
13.
Num. 35.
16, 17, 18.

18 Adultery which is the defiling of the marriage bed, to be punished with death. Defiling of a woman espoused, is a kind of Adultery, and punishable by death, of both parties; but if a woman be forced, then by the death of the man only.

to 33.
Gen. 9. 6.
Adultery.
Lev. 20. 10.
Deu. 22.
22, 23.
Deu. 24.25.

19 Incest, 26.

Incest. 19 Incest, which is the defiling of any neer of kin,
Lev. 20. 11. within the degrees prohibited in *Leviticus*, to be pun-
12 19. 20. ished with death.

Sodomy. 20 Vnnaturall filthinesse to be punished with death,
whether Sodomy, which is carnall fellowship of man
with man, or woman with woman.

Buggery. Or Buggery which is carnall fellowship of man or
woman, with beasts or fowles.

Pollution
&c. 21 Pollution of a woman known to be in her flow-
Lev. 20. 18. ers to be punished with death.
19.

Whordome. 22 Whordome of a maiden in her fathers house,
Ex. 21. 16. kept secret till after her marriage with another, to be
Deu. 24. 7. punished with death.

Man-steal- 23 Man-stealing to be punished with death.
ing.

False wit- 24 False witness bearing to be punished with
nesse. death.

C H A P . V I I I .

*Of other Crimes lesse hainous such as are to
be punished with some Corporall punish-
ment or Fine.*

1 **F**irst rash and prophane swearing and cursing to be
punished.

1 First, with losse of honour, or office, if he be
Magistrate, or Officer : meet it is, their name should be
dishonoured who dishonour Gods name.

2 With losse of freedome.

3 With disability to give Testimony.

4 With corporall punishment either by stripes, or
by branding him with a hot iron, or boring through the
tongue, who hath bored and pierced Gods name.

2 Drunkenesse, as transforming Gods Image into
a beast, is to be punished with the punishment of
Pro. 26. 3. beasts : A whip for the horse, and a rod for the fooles
backe.

3 Forcing or a maid or a rape is not to bee punished
with death by Gods Law, but

1 First, with Fine or penalty to the father of the
maid.

Deut. 22. 8. 2 With marriage of the maide defiled, if shee and
9. her father consent.

3 With

3 With corporall punishment of stripes for his wrong, as a reall slander: And it is worse to make a whore, than to say one is a whore.

4 Fornication to be punished.

Ex. 22. 16.

1 First, with marriage of the maide, or giving her a sufficient Dowrie.

2 Secondly, with stripes though fewer, from the equity of the former Cause.

5 Mayming or wounding of a freeman, whether free Burgesse, or free Inhabitant, to be punished with a Fine; to pay

First, for his cure.

Ex. 21. 18, 19.

Secondly, for his losse.

And with losse of member for member, or some valuable recompence.

Lev. 24. 19, 20.

But if it be but the mayming or wounding of a servant, the servant is to go forth free from such a service.

Ex. 21. 26, 27.

6 If a man steale a beast, if it be found in his hand, he shall make restitution two for one; if it be kild & sould, restitution is to be made, of five Oxen for one: If the Theefe be not able to make restitution, then he to be sould by the Magistrate for a slave, till by his labour he may make due restitution.

Ex. 22. 4, & 1, 22, 3.

7 If a Theefe bee found breaking a house by night, if he be slaine, his smiter is guiltlesse, but in the day time, the Theefe is to make full restitution, as before, or if he be not able, then to be sould as before.

Ex. 22, 2, 3.

8 Slanders are to be punished,

First, with a publike acknowledgment as the slander was publike.

Secondly, by mulcts or Fine of Money, when the slander bringeth damage.

Thirdly, by stripes if the slander be grosse, or odious, against such persons whom a man ought to honour and cherish: whether they be his Superiours, or in some degrees of equality with himselfe and his wife.

CHAP. IX.

Of the triall of Causes, whether Civil or Criminall, and the execution of Sentence.

IN the tryall of all Causes, no judgement shall passe, but either upon confession of the party, or upon the Testimony of two witnesses.

Deu. 19.10. 17. 6.

2 Triall

2 Triall by judges shall not be denied, where either the delinquent requireth it in causes Criminall, or the Plaintife or Defendant in Civill causes, partly to prevent suspicion of partiality, of any Magistrates in the Court.

3 The Jurours are not to be chosen by any Magistrates, or Officers, but by the free Burgesses of each Town, as can give best light, to the Causes depending in Court, and who are least obnoxious to suspicion of partiality: And the Jurours then chosen, to be nominated to the Court, and to attend the service of the Court.

4 The sentence of judgement given upon Criminall causes, and persons shall be executed in the presence of the Magistrates, or some of them at least.

5 No free-man whether free-Burgesse, or free-Inhabitant to be imprisoned, but either upon conviction or at least probable suspicion, or some crime formerly mentioned, and the cause of his imprisonment, be declared and tried at the next Court following, at the furthest.

6 Stripes are not to be inflicted, but when the crimes of the offendour are accompanied with childish or brutish folly, or with lewd filthinesse, or with stubborn insolency, or with brutish cruelty, or with idle vagrancy: But when stripes are due, not above 40 are to be inflicted.

CHAP. X.

Of causes Criminall between our People and Forraine Nations.

Mat. 7. 12. 1 **I**N case any of our people should do wrong to any of another Nation, upon complaint made to the Governour or some other of the Counsell or Assistants, the fact is dilligently to be inquired into, and being found to be true, restitution is to be made of the goods of offenders, as the case shall require, according to the quality of the crime.

Deuter. 20. 10. 11. 2 In case the people of another Nation have done any important wrong, to any of ours, right is first to be demanded of the Governor of that people, and Iustice upon
upon

upon the malefactors, which if it bee granted and performed, then no breach of peace to follow. 2 Sam. 20.
18, 19.

3 If right and Iustice be denied, and it will not stand with the honour of God and safety of our Nation, that the wrong be passed over, then war is to be undertaken and denounced.

4 Some Minister is to be sent forth to go along with the Army for their instruction and encouragement. Deut. 20.
2, 3, 4.

5 Men betrothed and not married, or newly married, or such as have newly built or planted, and not received the fruits of their Labours, and such as are fainthearted men, are not to be pressed or forc'd against their wils to go forth to wars. Deut. 20.
5, 6, 7, 8.
& 24. 5.

6 Captaines are to be chosen by the Officers.

7 All wickednesse is to bee removed out of the Campe by severe discipline. Deut. 23.
9, 14.

8 And in war from men of a corrupt or false Religion, is not to be accepted, much lesse sought for. 2 Chro. 25.
7, 8.

9 Women, especially such as have not lyen by man, little children and cattell, are to be spared and reserved for spoyle. Deu. 20.1.

10 Fruit Trees, whilst they may bee of use for meat to our owne Souldiers, are not to be cut down or destroyed, and consequently no Corne. Deut. 20.
19, 20.

11 The spoyles got by warre are to be divided into two pars, between the Souldiers and the Common-wealth that sent them forth. Num. 31.
21.

12 A Tribute from both is to be levyed to the Lord, and given to the Treasury of the Church, a fift part out, of the Common-wealth's part, and a 500 part out of the Souldiers part. Num. 31.
18. & 47.

13 If all the Souldiers return again in peace, not one lacking, it is acceptable to the Lord, if they offer over and above the former Tribute, a voluntary oblation unto the Treasury of the Church for a memoriall of the Redemption of their lives, by the especiall providence and Salvation of the Lord of Hoasts.

{ The Lord is our Iudge,
 The Lord is our Law-giver, Isay. 33. 22.
{ The Lord is our King, He will save us.

FINIS.