

ner always allowed by the laws of this state, which in this respect were the same as those of England. This statute is referred to also in 4 Bl. Com. 347.

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*An ordinance for measuring of land, 33 Edw. 1. Stat. 6.—A. D. 1305.*

We have no act of assembly respecting the measurement of land, but have been regulated therein by the law of England.

In the earliest conditions of plantation that are on record (Land Holder's Assistant, p. 30,) it appears that the governor was authorised to make to certain persons, grants of 2000 acres of land, of *English measure*.

It is stated in Jacob's Law Dictionary, (title Acre,) that according to the statute, 34 Hen. 8, one hundred and sixty perches make an acre, being 40 multiplied by 4, and that the ordinance for measuring land agreed with that account.

There is in Cay's Abridgment a statute mentioned "*compositio ulnar et pert,*" stating that 3 grains of barley dry and round make an inch, 12 inches a foot, 3 feet a yard, 5½ yards a perch, and 40 perches, and 4 in breadth an acre, from Ractal's Abridgment.

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*Statute de frangentibus prisonam, 1 Edw. 2, Stat 2.—A. D. 1307.*

In what caes it is felony to break prison, in what not.

This statute was considered applicable to the circumstances of the people, and was adopted by the provincial court, and still remains in force.

The provision therein, is, that none that break prison shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned, did require such judgment. "Having judgment of life or member," means, according to lord Coke, "being attainted of felony;" but the felony in this case was within the benefit of clergy. See 1 Hale, 612.

There are in the provincial records, several cases of prosecutions under this statute, in some of which it is particularly named in the indictments. They were in the years 1706, 1720, 1722, 1723, 1724 and 1725; and it appears that in some of them the offenders were sentenced to death.

This offence is not mentioned in the act of 1809, Ch. 133, concerning crimes and punishments, although there is a provision in the 32d section, as to escapes from the penitentiary, and in the 7th section as to fugitive felons—i. e. persons who had been convicted and condemned to serve and labour as criminals.

This statute is therefore considered proper to be incorporated, &c. subject however to the directions contained in the 11th section of the act aforesaid, in place of the benefit of clergy.

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*Statutum de carleol de finibus, 15 Edw. 2.—A. D. 1322.*

The conusor of a fine shall come personally before the justices.—Where a commission shall be awarded to take a fine.—Who may admit attornies. (Part.)

The part respecting the admission of attornies is considered to have been in force, and as proper to be incorporated. See the note on 4 Hen. 4, Ch. 18.