

dom of England." This act is superseded by the act of 1809, Ch. 138, Sect. 2, making the counterfeiting of any gold or silver coin in circulation in the state punishable by confinement in the penitentiary.

The result appears to be, that only the 3d and 4th branches of this statute or the 3d and 4th branches of treason described therein, are proper to be continued in force in the state, which branches it is presumed would have the same construction as had formerly been given to them, as was directed in regard to the crimes mentioned in the act of February 1777, Ch. 20.

CHAP. 3. No indictor shall be put upon the inquest of the party indicted.

See Co. Lit. 157 b. and 2 Hale 272. This is one of the causes of challenge *propter affectum*.

CHAP. 10. Every measure shall be according to the king's standard, and shall be struck without heeps.—Saving the rents of lords. (Part.)

See the note on 9 Hen. 3, Ch. 25.

CHAP. 17. Process of exigent shall be awarded in debt, detinue and replevin. (Part.)

This statute is considered to have been in force as far as it gave the writ of *capias* in debt and detinue, and the *capias* in Withernam in replevin, and as proper to be continued, see 3 Bl. Com. 281, and see the notes on 52 Hen. 3, Ch. 23, and 19 Hen. 7, Ch. 9, as to the process of outlawry, which in personal actions, was given by statute only. I do not find any proceedings to shew that it was used therein, or that this statute extended to the province in that respect.



*Statutes made at Westminster, 28 Edw. 3.—A. D. 1354.*

CHAP. 3. No person shall be condemned without his answer.

Notwithstanding what has been stated in the note to the 29th chapter of Magna Charta, as to the 17th and 21st articles of our declaration of rights, it is thought proper that this statute should be incorporated with our laws. Blackstone, speaking of indictment, (4 Vol. 313,) observes: "And if it be found, then process must issue to bring him into court; for the indictment cannot be tried unless he personally appears, according to the rules of equity in all, and the express provision of statute 28 Hen. 3, Ch. 3, in criminal cases, that no man shall be put to death without being brought to answer by due process of law."

The long enjoyment of a right may make people forget the origin of it, but this right (though possibly included) not being expressly mentioned in our declaration of rights, it is proper that this statute should be continued.



*Statutes made at Westminster, 34 Edw. 3.—A. D. 1360.*

CHAP. 1. What sort of persons shall be justices of the peace, and what authority they shall have. (Part.)

As to the first part of this statute, see the note on 1 Edw. 3, Stat. 2, Ch. 16. The observations made therein are also applicable to the general power and authority of justices of the peace, as to