

In the case of *Jenkins v. Purcel*, 1 Str. 707, the defendant's counsel, finding a mistake in the record while the jury were being sworn, said they would make no defence. To avoid a nonsuit and save the costs, the plaintiff's counsel refused to pray a *tales*, and though twelve had been sworn, yet there having been no actual prayer of a *tales*, the cause was suffered to remain for want of jurors.

By sec. 11 of Art. 50<sup>1</sup> of the Code, the several Courts of the State are authorized to summon *tales-men* where, without such *tales-men*, there would not be twenty of the original panel, exclusive of the jury charged, from whom a jury can be formed. By the Act of 1867, ch. 329,<sup>2</sup> *tales-men* are permitted to be drawn from the list of jurymen provided for by the Act, or from the community at large. And in Baltimore City, provision is made by the Act of 1868, ch. 175,<sup>3</sup> for the summoning of *tales-men* from those entered in the jury-book, or from any of the jurymen in attendance on other Courts.

This provision is like that of 7 & 8 W. 3, c. 32, s. 3, which directed the sheriff to return such freeholders, &c., to serve on the *tales*, as should be returned upon some other panel and then attending the Court; upon which it was held that *tales-men* could only be taken from the panel of the jury summoned to try the other cause, and not from the bystanders, Tidd Prac. 858.

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<sup>1</sup> Code 1911, Art. 51, sec. 15.

<sup>2</sup> Code 1911, Art. 51, sec. 9.

<sup>3</sup> See now Balto. City Code, sec. 610.

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## STATUTES

Made at WESTMINSTER, Anno 37 HEN. VIII. and A. D. 1545.

### CAP. VIII.

The Act whereby any Indictment lacking these Words, *Vi & Armis*, shall be good.

Where before this time it was, and yet is commonly used in all Indictments and Inquisitions of Treason, Murder, Felony, Trespass, and divers other, to have comprised and put in every the same Indictments and Inquisitions these Words, *Vi & Armis*, and in divers of the same Indictments, to declare the manner of the Force and Arms; that is to say, *Vi & armis, videlicet, baculis, cultellis, arcubus, & sagittis*, or such other