

The Book of the General Laws and Liberties Concerning the Inhabitants of the Massachusetts (1648)

(from <http://www.law.du.edu/russell/lh/ah/docs/lawslibertyes.html>, as edited to modernize language)

TO OUR BELOVED BRETHREN AND NEIGHBOURS the Inhabitants of the Massachusetts, the Governor, Assistants and Deputies assembled in the General Court of that Jurisdiction with grace and peace in our Lord Jesus Christ.

So soon as God had set up Political Government among his people Israel he gave them a body of laws for judgment both in civil and criminal causes. These mere brief and fundamental principles, yet withal so full and comprehensive as out of them clear deductions were to be drawn to all particular cases in future times.

For a Common-wealth without laws is like a Ship without rigging and steering. Nor is it sufficient to have principles or fundamentals, but these are to be drawn out into so many of their deductions as the time and condition of that people may have use of. And it is very unsafe & injurious to the body of the people to put them to learn their duty and liberty from general rules, nor is it enough to have laws except they be also just. Therefore among other privileges which the Lord bestowed upon his peculiar people, these he calls them specially to consider of, that God was nearer to them and their laws were more righteous than other nations. God was said to be amongst them or near to them because of his Ordinances established by himself, and their laws righteous because himself was their Law-giver: yet in the comparison are implied two things, first that other nations had something of God's presence amongst them. Secondly that there was also some what of equity in their laws, for it pleased the Father (upon the Covenant of Redemption with his Son) to restore so much of his Image to lost man as whereby all nations are disposed to worship God, and to advance righteousness: which appears in that of the Apostle Rom. I. 21. They knew God &c: and in the 2. 14. They did by nature the things contained in the law of God. But the nations corrupting his Ordinances (both of Religion, and Justice) God withdrew his presence from them proportionally whereby they were given up to abominable lusts Rom. 2. 21. Whereas if they had walked according to the light & law of nature they might have been preserved from such moral evils and might have enjoyed a common blessing in all their natural and civil Ordinances: now, if it might have been so with the nations who were so much strangers to the Covenant of Grace, what advantage have they who have interest in this Covenant, and may enjoy the special presence of God in the purity and native simplicity of all his Ordinances by which he is so near to his own people. This hath been no small privilege, and advantage to us in New England that our Churches, and civil State have been planted, and grown up (like two twins) together like that of Israel in the wilderness by which wee were put in mind (and had opportunity put into our hands) not only to gather our Churches, and set up the Ordinances of Christ Jesus in them according to the Apostolic pattern by such light as the Lord graciously afforded us: but also withal to frame our civil Polity, and laws according to the rules of his most holy word whereby each do help and strengthen other (the Churches the civil Authority, and the civil Authority the Churches) and so both prosper the better without such emulation, and contention for privileges or priority as have proved the misery (if not ruin) of both in some other places.

For this end about nine years since wee used the help of some of the Elders of our Churches to compose a model of the Judicial laws of Moses with such other cases as might be referred to them, with intent to make use of them in composing our laws, but not to have them published as the laws of this Jurisdiction: nor were they voted in Court. For that book entitled The Liberties &c: published about seven years since (which contains also many laws and orders both for civil & criminal causes, and is commonly (though without ground) reported to be our Fundamentals that wee own as established by Authority of this Court, and that after three year experience & general approbation: and accordingly we have inserted them into this volume under the several heads to which they belong yet not as fundamentals, for divers of them have since been repealed, or altered, and more may justly be (at least) amended hereafter as further experience shall discover defects or inconveniences for Nihil simus natum et perfectum.

The same must we say of this present Volume, we have not published it as a perfect body of laws sufficient to carry on the Government established for future times, nor could it be expected that we should promise such a thing. For if

it be no disparagement to the wisdom of that High Court of Parliament in England that in four hundred years they could not so compile their laws, and regulate proceedings in Courts of justice &c: but that they had still new work to do of the same kind almost every Parliament: there can be no just cause to blame a poor Colony (being unfurnished of Lawyers and Statesmen) that in eighteen years hath produced no more, nor better rules for a good, and settled Government then this Book holds forth: nor have you (our Brethren and Neighbors) any cause, whether you look back upon our Native Country, or take your observation by other States, & Commonwealths in Europe) to complain of such as you have employed in this service; for the time which hath been spent in making laws, and repealing and altering them so often, nor of the charge which the Country has been put to for those occasions, the Civilian gives you a satisfactory reason of such continual alterations additions &c: Crefcit in Orbe dolus.

These Laws which were made successively in divers former years, we have reduced under several heads in an alphabetical method, that so they might the more readily be found, & that the divers laws concerning one matter being placed together the scope and intent of the whole and of every of them might the more easily be apprehended: we must confess we have not been so exact in placing every law under its most proper title as we might, and would have been: the reason was our hasty endeavor to satisfy your longing expectation, and frequent complaints for want of such a volume to be published in print: wherein (upon every occasion) you might readily see the rule which you ought to walk by. And in this (we hope) you will find satisfaction, by the help of the references under the several heads, and the Table which we have added in the end. For such laws and orders as are not of general concernment we have not put them into this book, but they remain still in force, and are to be seen in the book of the Records of the Court, but all general laws not here inserted nor mentioned to be still of force are to be accounted repealed.

You have called us from amongst the rest of our Brethren and given us power to make these laws: we must now call upon you to see them executed: remembering that old & true proverb, The execution of the law is the life of the law. If one sort of you [that is]: non-Freemen should object that you had no hand in calling us to this work, and therefore think yourselves not bound to obedience &c. Wee answer that a subsequent, or implicit consent is of like force in this case, as an express precedent power: for in putting your persons and estates into the protection and way of subsistence held forth and exercised within this Jurisdiction, you doe tacitly submit to this Government and to all the wholesome laws thereof, and so is the common repute in all nations and that upon this Maxim. Qui sentit commodum sentire debet et onus.

If any of you meet with some law that seems not to tend to your particular benefit, you must consider that laws are made with respect to the whole people, and not to each particular person: and obedience to them must be yielded with respect to the common welfare, not to thy private advantage, and as thou yields obedience to the law for common good, but to thy disadvantage: so another must observe some other law for thy good, though to his own damage; thus must we be content to bear one another's burden and so fulfill the Law of Christ.

That distinction which is put between the Laws of God and the laws of men becomes a snare to many as it is misapplied in the ordering of their obedience to civil Authority; for when the Authority is of God and that in way of an Ordinance, Romans 13. I, and when the administration of it is according to deductions, and rules gathered from the word of God, and the clear light of nature in civil nations, surely there is no humane law that tends to common good (according to those principles) but the same is immediately a law of God, and that in way of an Ordinance which all are to submit unto and that for conscience sake. Romans 13. 5.

By order of the General Court.

INCREASE NOWEL

SECR.

THE BOOK OF THE GENERAL LAWS AND LIBERTIES ♦

FORASMUCH as the free fruition of such Liberties, Immunities, privileges as humanity, civility &

Christianity call for as due to every man in his place, & proportion, without impeachment & infringement hath ever been, & ever will be the tranquility & stability of Churches & Commonwealths; & the denial or deprival thereof the disturbance, if not ruin of both:

It is therefore ordered by this Court, & Authority thereof, That no mans life shall be taken away; no mans honor or good name shall be stained; no mans person shall be arrested, restrained, banished, dismembered nor any ways punished; no man shall be deprived of his wife or children; no mans goods or estate shall be taken away from him; nor any ways [interfered with] under color of Law or countenance of Authority unless it be by the virtue or equity of some express law of the Country warranting the same established by a General Court & sufficiently published; or in case of the defect of a law in any particular case by the word of God. And in capital cases, or in cases excommunicate, condemned or other, shall have full power and liberty to make their Wills & Testaments & other lawful Alienations of their lands and estates. [1641] see children.

Actions.

All Actions of debt, accounts, slander, and Actions of the case concerning debts and accounts shall henceforth be tried where the Plaintiff pleases; so it be in the jurisdiction of that Court where the Plaintiff, or Defendant dwells: unless by consent under both their hands it appear they would have the case tried in any other Court. All other Actions shall be tried within that jurisdiction where the cause of the Action doth arise. [1642]

2 It is ordered by this Court & Authority thereof, That every person impleading another in any court of Assistants, or County court shall pay the sum of ten shillings before his case be entered, unless the court see cause to admit any to sue in forma pauperis. [1642]

3 It is ordered by the Authority aforesaid, That where the debt or damage recovered shall amount to ten pounds in every such case to pay five shillings more, and where it shall amount to twenty pounds or upward there to pay ten shillings more then the first ten shillings, which said additions shall be put to the Judgment and Execution to be levied by the Marshall and accounted for to the Treasurer. [1647]

4 In all actions brought to any court the Plaintiff shall have liberty to withdraw his action or to be non-suited before the Jury have given in their verdict; in which case he shall always pay full cost and charges to the Defendant, and may afterward renew his suit at another Court. [1641] see Causes. see Records.

Age.

It is ordered by this Court & the Authority thereof, that the age for passing away of lands, or such kind of hereditaments, or for giving of votes, verdicts or sentences in any civil courts or causes, shall be twenty and one years: but in case of choosing of Guardians, fourteen years. [1641 1647]

Ana-Baptists.

Forasmuch as experience hath plentifully & often proved that since the first arising of the Ana-Baptists about a hundred years past they have been the Incendiaries of Commonwealths & the Infectors of persons in main matters of Religion, & the Troublers of Churches in most places where they have been, & that they who have held the baptizing of Infants unlawful, have usually held other errors or heresies together therewith (though as heretics use to doe they have concealed the same until they espied a fit advantage and opportunity to vent them by way of question or scruple) and whereas divers [*2] of this kind have since our coming into New-England appeared amongst ourselves, some whereof as others before them have denied the Ordinance of Magistracy, and the law fullness of making war, others the lawfulness of Magistrates, and their Inspection into any breach of the first Table: which opinions if connived at by us are like to be increased among us & so necessarily bring guilt upon us, infection, & trouble to the Churches & hazard to the whole Common-wealth:

It is therefore ordered by this Court & Authority thereof, that if any person or persons within this Jurisdiction shall

either openly condemn or oppose the baptizing of Infants, or go about secretly to seduce others from the approbation or use thereof, or shall purposely depart the Congregation at the administration of that Ordinance; or shall deny the Ordinance of Magistrates, or their lawful right or authority to make war, or to punish the outward breaches of the first Table, and shall appear to the Court willfully and obstinately to continue therein, after due means of conviction, every such person or persons shall be sentenced to Banishment. [1644] * * *

Arrests.

It is ordered and decreed by this Court & Authority thereof, That no mans person shall be arrested or imprisoned for any debt or fine if the law can find any competent means of satisfaction otherwise from his estate. And if not his person may be arrested and imprisoned, where he shall be kept at his own charge, not the Plaintiffs, till satisfaction be made; unless the Court that had cognizance of the cause or some superior Court shall otherwise determine: provided nevertheless that no mans person shall be kept in prison for debt but when there appears some estate which he will not produce, to which end any Court or Commissioners authorized by the General Court may administer an oath to the party or any others suspected to be privy in concealing his estate, but shall satisfy by service if the Creditor require it but shall not be sold to any but of the English nation. [1641: 1647] see sect 1. page 1. * * *

Bakers.

It is ordered by this Court and Authority thereof, that henceforth every Baker shall have a distinct mark for his bread, & keep the true assizes as hereafter is expressed viz. When wheat is ordinarily sold and these several rates hereafter mentioned the plain white loaf by avoirdupois weight shall weigh when wheat is by the bushel

at 3 ss. od.	The white	wheaten	Household	
	11 ounces 1 gr.	17 ounce 1 gr.	23 ounce o.	
at 3	6	10	1	15 1 20 2.
at 4	0	09	1	14 0 18 2.
at 4	6	08	1	11 3 16 2.
at 5	0	07	3	11 2 15 2.
at 5	6	07	0	10 2 14 0.
at 6	0	06	2	10 0 13 0.
at 6	6	06	0	09 2 12 2.

and so proportionally: under the penalty of forfeiting all such bread as shall not be of the several assizes as is aforementioned to the use of the poor of the town where the offence is committed, and otherwise as is hereafter expressed: and for the better execution of this present Order; there shall be in every market town, and all other towns needful, one or two able persons annually chosen by each town, who shall be sworn at the next county Court, or by the next Magistrate, unto the faithful discharge of his or their office; who are hereby authorized to enter into all houses, either with a Constable or without where they shall suspect or be informed of any bread baked for sale: & also to weigh the said bread as oft as they see cause: and to seize all such as they find defective. As also to weigh all butter made up for sale; and bringing unto, or being in the town or market to be sold by weight: which if found light after notice once given shall be forfeited in like manner. The like penalty shall be for not marking all bread made for sale. and the said officer shall have one third part of all forfeitures for his pains; the rest to the poor as aforesaid. [1646]

Bills.

It is ordered by the Authority of this Court that any debt, or debts due upon bill, or other specialty assigned to another; shall be as good a debt & estate to the Assignee as it was to the Assigner at the time of it~~s~~'s assignation. And that it shall be lawful for the said Assignee to sue for and recover the said debt, due upon bill, and so assigned, as fully as the original creditor might have done, provided the said assignment be made upon the backside of the bill or specialty. [1647] see usury.

Bond-slavery.

It is ordered by this Court and authority thereof, that there shall never be any bond-slavery, villainage or captivity amongst us; unless it be lawful captives, taken in just wars, and such strangers as willingly sell themselves, or are sold to us: and such shall have the liberties and Christian usages which the law of God established in Israel concerning such persons doth morally require, provided, this exempts none from servitude who shall be judged thereto by Authority. [1641] * * *

Burglary and Theft.

Forasmuch as many persons of late years have been, and are apt to be injurious to the goods and lives of others, notwithstanding all care and means to prevent and punish the same; - - -

It is therefore ordered by this Court and Authority thereof that if any person shall commit Burglary by breaking up any dwelling house, or shall rob any person in the field, or high ways; such a person so offending shall for the first offence be branded on the forehead with the letter (B) If he shall offend in the same kind the second time, he shall be branded as before and also be severally whipped: and if he shall fall into the like offence the third time he shall be put to death, as being incorrigible. And if any person shall commit such Burglary, or rob in the fields or house on the Lords day [*5] besides the former punishments, he shall for the first offence have one of his ears cut off. And for the second offence in the same kind he shall loose his other ear in the same manner. And if he fall into the same offence a third time he shall be put to death if it appear to the Court he did it presumptuously. [1642 1647]

2 For the prevention of Pilfering and Theft, it is ordered by this Court and Authority thereof; that if any person shall be taken or known to rob any orchard or garden, that shall hurt, or steal away any grafts or fruit trees, fruits, linen, woolen, or any other goods left out in orchards, gardens, backsides, or any other place in house or fields: or shall steal any wood or other goods from the water-side, from men~~s~~' doors, or yards; he shall forfeit treble damage to the owners thereof. And if they be children, or servants that shall trespass herein, if their parents or masters will not pay the penalty before expressed, they shall be openly whipped. And forasmuch as many times it so falls out that small thefts and other offences of a criminal nature, are committed both by English & Indian, in towns remote from any prison, or other fit place to which such malefactors may be committed till the next Court, it is therefore hereby ordered; that any Magistrate upon complaint made to him may hear, and upon due proof determine any small offences of the aforesaid nature, according to the laws here established, and give warrant to the Constable of that town where the offender lives to levy the same: provided the damage or fine exceed not forty shillings: provided also it shall be lawful for either party to appeal to the next Court to be held in that Jurisdiction, giving sufficient caution to prosecute the same to effect at the said Court. And every Magistrate shall make return yearly to the Court of Jurisdiction, wherein he lives of what cases he hath so ended. And also the Constables of all such fines as they have received. And where the offender hath nothing to satisfy such Magistrate may punish by stocks, or whipping as the cause shall deserve, not exceeding ten stripes. It is also ordered that all servants & workmen embezzling the goods of their masters, or such as set them on work that make restitution and be liable to all laws & penalties as other men. [1646]

CAPITAL LAWES.

IF any man after legal conviction shall HAVE OR WORSHIP any other God, but the LORD GOD: he shall be put to death. Exodus. 22. 20. Deut. 13. 6. & 10. Deut. 17. 2. 6.

2. If any man or woman be a WITCH, that is, has or consults with a familiar spirit, they shall be put to death. Exodus. 22. 18. Leviticus 20. 27. Deut. 18. 10. 11.

3. If any person within this Jurisdiction whether Christian or Pagan shall wittingly and willingly presume to BLASPHEME the holy Name of God, Father, Son or Holy-Ghost, with direct, express, presumptuous, or high-handed blasphemy, either by willful or obstinate denying the true God, or his Creation, or Government of the world: or shall curse God in like manner, or reproach the holy Religion of God as if it were but a politick device to keep ignorant men in awe; or shall utter any other kind of Blasphemy of the like nature & degree they shall be put to death. Leviticus 24. 15. 16.

4. If any person shall commit any willful MURDER, which is Manslaughter, committed upon premeditated malice, hatred, or cruelty not in a man's necessary and just defense, nor by mere casualty against his will, he shall be put to death. Exodus. 21. 12. 13. Numb. 35. 31.

5. If any person slays another suddenly in his ANGER, or CRUELTY of passion, he shall be put to death. Leviticus 24. 17. Numb. 35. 20. 21.

6. If any person shall slay another through guile, either by POISONING, or other such devilish practice, he shall be put to death. Exodus. 21. 14.

7. If any man or woman shall LYING WITH ANY BEAST, or bruit creature, by carnal copulation; they shall surely be put to death: and the beast shall be slain, & buried, and not eaten. Lev. 20. 15. 16.

8. If any man LIES WITH [A MAN] as he lies with a woman, both of them have committed abomination, they both shall surely be put to death: unless the one party were forced (or be under fourteen years of age in which case he shall be severely [***6**] punished) Leviticus 20. 13.

9. If any person commit ADULTERY with a married or espoused wife; the Adulterer & Adulteress shall surely be put to death. Lev. 20. 19. & 18. 20. Deuteronomy 22. 23. 27.

10. If any man STEALETH A MAN, or Man-kind, he shall surely be put to death. Exodus 21. 16.

11. If any man rise up by FALSE-WITNES wittingly, and of purpose to take away any mans life: he shall be put to death. Deut. 19. 16. 18. 16.

12. If any man shall CONSPIRE, and attempt any Invasion, Insurrection, or public Rebellion against our Commonwealth: or shall endeavor to surprise any Town, or Towns, Fort, or Forts therein; or shall treacherously & perfidiously attempt the Alteration and Subversion of our frame of Polity, or Government fundamentally he shall be put to death. Numb. 16. 2 Sam. 3. 2 Sam. 18. 2 Sam. 20.

13. If any child, or children, above sixteen years old, and of sufficient understanding, shall CURSE, or SMITE their natural FATHER, or MOTHER; he or they shall be put to death: unless it can be sufficiently testified that the Parents have been very unchristianly negligent in the education of such children; or so provoked them by extreme, and cruel correction; that they have been forced thereunto to preserve themselves from death or maiming. Exodus. 21. 17. Lev. 20. 9. Exodus. 21. 15.

14. If a man have a stubborn or REBELLIOUS SON, of sufficient years & understanding [that is] sixteen years of age, which will not obey the voice of his Father, or the voice of his Mother, and that when they have chastened him will not harken unto them: then shall his Father & Mother being his natural parents, lay hold on him, & bring him to the Magistrates assembled in Court & testify unto them that their Son is stubborn & rebellious & will not obey their voice and chastisement, but lives in sundry notorious crimes, such a son shall be put to death. Deut. 21. 20. 21.

15. If any man shall RAVISH any maid or single woman, committing carnal copulation with her by force, against

her own will; that is above the age of ten years he shall be punished either with death, or with some other grievous punishment according to circumstances as the Judges, or General court shall determine. [1641]

Cask & Cooper.

It is ordered by this Court and authority thereof, that all cask used for any liquor, fish, or other commodities to be put to sale shall be of London assize, and that fit persons shall be appointed from time to time in all places needful, to gage all such vessels or cask & such as shall be found of due assize shall be marked with the Gagers mark, & no other who shall have for his pains four pence for every ton, & so proportionally. And every County court or any one Magistrate upon notice given them shall appoint such Gagers to view the said cask, & to see that they be right, & of sound & well seasoned timber, & that every Cooper have a distinct brand-mark on his own cask, upon pain of forfeiture of twenty shilling in either case, & so proportionally for lesser vessels. [1642 1647] * * *

Fornication.

It is ordered by this Court and Authority thereof, That if any man shall commit Fornication with any single woman, they shall be punished either by enjoining to Marriage, or Fine, or corporal punishment, or all or any of these as the Judges in the courts of Assistants shall appoint most agreeable to the word of God. And this Order to continue till the Court take further order. [1642] * * *

Gaming.

UPON complaint of great disorder by the use of the game called Shuffle-board, in houses of common entertainment, whereby much precious time is spent unfruitfully and much waste of wine and beer occasioned, it is therefore ordered and enacted by the Authority of this Court;

That no person shall henceforth use the said game of Shuffle-board in any such house, nor in any other house used as common for such purpose, upon pain for every Keeper of such house to forfeit for every such offence twenty shillings: and for every person playing at the said game in any such house, to forfeit for every such offence five shillings: Nor shall any person at any time play or game for any money, or money-worth upon penalty of forfeiting treble the value thereof: one half to the party informing, the other half to the Treasury. And any Magistrate may hear and determine any offence against this Law. [1646 1647] * * *

Heresy.

ALTHOUGH no humane power be Lord over the Faith & Consciences of men, and therefore may not constrain them to believe or profess against their Consciences: yet because such as bring in damnable heresies, tending to the subversion of the Christian Faith, and destruction of the souls of men, ought duly to be restrained from such notorious impiety, it is therefore ordered and decreed by this Court;

That if any Christian within this Jurisdiction shall go about to subvert and destroy the Christian Faith and Religion, by broaching or maintaining any damnable heresy; as denying the immortality of the Soul, or the resurrection of the body, or any sin to be repented of in the Regenerate, or any evil done by the outward man to be accounted sin: or denying that Christ gave himself a Ransom for our sins, or shall affirm that wee are not justified by his Death and Righteousness, but by the perfection of our own works; or shall deny the morality of the fourth commandment, or shall endeavor to seduce others to any the heresies aforementioned, every such person continuing obstinate therein after due means of conviction shall be sentenced to Banishment. [1646] * * *

Idleness.

It is ordered by this Court and Authority thereof, that no person, Householder or other shall spend his time idly or unprofitably under pain of such punishment as the Court of Assistants or County Court shall think meet to inflict.

And for [***26**] this end it is ordered that the Constable of every place shall use special care and diligence to take knowledge of offenders in this kind, especially of common coasters, unprofitable fowlers and tobacco takers, and present the same unto the two next Assistants, who shall have power to hear and determine the cause, or transfer it to the next Court. [1633]

Jesuits.

THIS Court taking into consideration the great wars, combustions and divisions which are this day in Europe: and that the same are observed to be raised and fomented chiefly by the secret underminings, and solicitations of those of the Jesuitical Order, men brought up and devoted to the religion and court of Rome; which hath occasioned divers States to expel them their territories; for prevention whereof among our selves, It is ordered and enacted by Authority of this Court,

That no Jesuit, or spiritual or ecclesiastical person [as they are termed] ordained by the authority of the Pope, or Sea of Rome shall henceforth at any time repair to, or come within this Jurisdiction: And if any person shall give just cause of suspicion that he is one of such Society or Order he shall be brought before some of the Magistrates, and if he cannot free himself of such suspicion he shall be committed to prison, or bound over to the next Court of Assistants, to be tried and proceeded with by Banishment or otherwise as the Court shall see cause: and if any person so banished shall be taken the second time within this Jurisdiction upon lawful trial and conviction he shall be put to death. Provided this Law shall not extend to any such Jesuit, spiritual or ecclesiastical person as shall be cast upon our shores, by ship-wreck or other accident, so as he continue no longer then till he may have opportunity of passage for his departure; nor to any such as shall come in company with any Messenger hither upon public occasions, or any Merchant or Master of any ship, belonging to any place not in enmity with the State of England, or our selves, so as they depart again with the same Messenger, Master of Merchant, and behave themselves inoffensively during their abroad here. [1647] * * *

Inn-keepers, Tippling, Drunkenness.

Forasmuch as there is a necessary use of houses of common entertainment in every Common-wealth, and of such as retail wine, beer and victuals; yet because there are so many abuses of that lawful liberty, both by persons entertaining and persons entertained, there is also need of strict Laws and Rules to regulate such an employment: It is therefore ordered by this Court and Authority thereof;

That no person or persons shall at any time under any pretence or color whatsoever undertake to be a common Victual, Keeper of a Cooks shop or house for common entertainment, Taverne, or public seller of wine, ale, beer or strong water (by re-tale) nor shall any sell wine privately in his house or out of doors by a less quantity or under a quarter cask: without approbation of the selected Townsmen and License of the Shire Court where they dwell: upon pain of forfeiture of five pounds for every such offence, or imprisonment at pleasure of the Court, where satisfaction cannot be had.

And every person so licensed for common entertainment shall have some inoffensive Sign obvious for strangers direction, and such as have no such Sign after three months so licensed from time to time shall lose their license: and others allowed in their stead. And any licensed person that sell beer shall not sell any above two-pence the ale-quart: upon penalty of three shillings four pence for every such offence. And it is permitted to any that will sell beer out of doors at a penny the ale-quart and under.

Neither shall any such licensed person aforesaid suffer any to be drunken, or drink excessively [that is] above half a pint of wine for one person at one time; or to continue tippling above the space of half an hour, or at unreasonable times, or after nine of the clock at night in, or about any of their houses on penalty of five shillings for every such offence.

And every person found drunken ...so that he be thereby bereaved or disabled in the use of his understanding, appearing in his speech or gesture in any of the said houses or elsewhere shall forfeit ten shillings. And for

excessive drinking three shillings four pence. And for continuing above half an hour tippling two shillings six pence. And for tippling at unreasonable times, or after nine a clock at night five shillings: for every offence in these particulars being lawfully convict thereof. And for want of payment such shall be imprisoned until they pay: or be set in the Stocks one hour or more [in some open place] as the weather will permit not exceeding three hours at one time.

Provided notwithstanding such licensed persons may entertain sea-faring men, or land travelers in the night-season, when they come first on shore, or from their journey for their necessary refreshment, or when they prepare for their voyage or journey the next day early; so there be no disorder among them; and also Strangers, Lodgers or other persons in an orderly way may continue in such houses of common entertainment during meal times, or upon lawful business what time their occasions shall require.

Nor shall any Merchant, Cooper, Owner or Keeper of wines or other persons that have the government of them suffer any person to drink to excess, or drunkenness, in any their wine-Cellars, Ships or other vessels or places where wines doe lye; on pain to forfeit for each person so doing ten shillings.

And if any person offend in drunkenness, excessive or long drinking the second time they shall pay double Fines. And if they fall into the same offence the third time they shall pay treble Fines. And if the parties be not able to pay the Fines then he that is found drunk shall be punished by whipping to the number of ten stripes: and he that offends in excessive or long drinking shall be put into the stocks for three hours when the weather may not hazard his life or limbs. And if they offend the fourth time they shall be imprisoned until they put in two sufficient Sureties for their good behavior.

And it is farther ordered that if any person that keeps or hereafter shall keep a common house of entertainment, shall be lawfully convicted the third time for any offence against this Law: he shall (for the space of three years next ensuing the said conviction) be disabled to keep any such house of entertainment, or sell wine, beer or the like; unless the Court aforesaid shall see cause to continue them.

It is farther ordered that every In-keeper, or Victualer shall provide for the entertainment of strangers ~~of~~ s horses [that is] one or more enclosures for Summer and hay and provender for Winters with convenient stable room and attendance under penalty of two shillings six pence for every days default, and double damage to the party thereby wronged (except it be by inevitable accident).

And it is farther ordered by the Authority aforesaid, that no Taverner or seller of wine by retail, licensed as aforesaid shall take above nine ponds profit by the Butt or Pipe of wine (and proportionally for all other vessels) toward his waste in drawing and otherwise: out of which allowance every such Taverner or Vintner shall pay fifty shillings by the Butt or Pipe and proportionally for all other vessels to the Country. For which he shall account with the Auditor general or his Deputy every six months and discharge the same. All which they may doe by selling six pence a quart in re-tale (which they shall no time exceed) more than it cost by the Butt, beside the benefit of their art and mystery which they know how to make use of. And every Taverner or Vintner shall give a true account and notice unto the Auditor or his Deputy of every vessel of wine he buys from time to time within three day; upon pain of forfeiting the same or the value thereof.

And all such as retail strong waters shall pay in like manners two pence upon every quart to the use of the Country, who also shall give notice to the Auditor or his Deputies of every case and bottle or other quantity they buy within three days upon pain of forfeiture as before.

Also it is ordered that in all places where week day Lectures are kept, all Taverners, Victualers and Tablers that are within a mile of the Meeting-house, shall from time to time clear their houses of all persons able to go to the Meeting, during the time of the exercise (except upon extraordinary cause, for the necessary refreshing of strangers unexpectedly repairing to them) upon pain of five shillings for every such offence over and besides the penalties incurred by this Law for any other disorder.

It is also ordered that all offences against this Law may be heard and determined by any one Magistrate, who shall hereby have power by Warrant to fend for parties, and witnesses, and to examine the said witnesses upon oath and the parties without oath, concerning any of these offences: and upon due conviction either by view of the said Magistrate, or affirmation of the Constable, and one sufficient witness with circumstances concurring, or two witnesses, or confession of the party to levy the said several fines, by Warrant to the Constable for that end, who shall be accountable to the Auditor for the same.

And if any person shall voluntarily confess his offence against this Law in any the particulars thereof, his oath shall be taken in evidence and stand good against any other offending at the same time.

Lastly, it is ordered by the Authority aforesaid that all Constables may, and shall from time to time duly make search throughout the limits of their towns upon Lords days, and Lecture days, in times of Exercise; and also at all other times, so oft as they shall see cause for all offences and offenders against this Law in any of the particulars thereof. And if upon due information, or complaint of any of their Inhabitants, or other credible persons whether Taverner, Victualer, Tabler or other; they shall refuse or neglect to make search as aforesaid, or shall not to their power perform all other things belonging to their place and Office of Constableship: then upon complaint and due proof before any one Magistrate within three months after such refusal or neglect; they shall be fined for every such offence ten shillings, to be levied by the Marshal as in other cases by Warrant from such Magistrate before whom they are convicted, or Warrant from the treasurer upon notice from such Magistrate. [1645 1646 1647] See Gaming, Licenses. ***

Lying.

Whereas truth in words as well as in actions is required of all men, especially of Christians who are the professed Servants of the God to Truth; and whereas all lying is contrary to truth, and some sorts of lies are not only sinful (as all lies are) but also pernicious to the Public-weal, and injurious to particular persons; it is therefore ordered by this Court and Authority thereof,

That every person of the age of discretion [which is accounted fourteen years] who shall wittingly and willingly make, or publish any Lye which may be pernicious to the public weal, or tending to the damage or injury of any particular person, or with intent to deceive and abuse the people with false news or reports: and the same duly proved in any Court or before any one Magistrate (who hath hereby power granted to hear, and determine all offences against this Law) such person shall be fined for the first offence ten shillings, or if the party be unable to pay the same then to be set in the stocks so long as the said Court or Magistrate shall appoint, in some open place, not exceeding two hours. For the second offence in that kind whereof any shall be legally convicted the sum of twenty shillings, or be whipped upon the naked body not exceeding ten stripes. And for the third offence that way forty shillings, or if the party be unable to pay, then to be whipped with more stripes, not exceeding fifteen. And if yet any shall offend in like kind, and be legally convicted thereof, such person, male or female, shall be fined ten shillings a time more than formerly: or if the party so offending be unable to pay, then to be whipped with five, or six more stripes than formerly not exceeding forty at any time.

The aforesaid fines shall be levied, or stripes inflicted either by the Marshal of that Jurisdiction, or Constable of the Town where the offence is committed [*36] according as the Court or Magistrate shall direct. And such fines so levied shall be paid to the Treasury of that Shire where the Cause is tried.

And if any person shall find himself grieved with the sentence of any such Magistrate out of Court, he may appeal to the next Court of the same Shire, giving sufficient security to prosecute his appeal and abide the Order of the Court. And if the said Court shall judge his appeal causeless, he shall be double fined and pay the charges of the Court during his Action, or corrected by whipping as aforesaid not exceeding forty stripes; and pay the costs of Court and party complaining or informing, and of Witnesses in the Case.

And for all such as being under age if discretion that shall offend in lying contrary to this Order their Parents or Masters shall give them due correction, and that in the presence of some Officer if any Magistrate shall so appoint.

Provided also that no person shall be barred of his just Action of Slander, or otherwise by any proceeding upon this Order. [1645] ***

Masters, Servants, Laborers

1. It is ordered by this Court and the Authority thereof, that no servant, either man or maid shall either give, sell or truck any commodity whatsoever without license from their Masters, during the time of their service under pain of Fine, or corporal punishment at the discretion of the Court as the offence shall deserve.

2. And that all workmen shall work the whole day allowing convenient time for food and rest.

3. It is also ordered that when any servants shall run from their masters, or any other Inhabitants shall privily go away with suspicion of ill intentions, it shall be lawful for the next Magistrate, or the Constable and two of the chief Inhabitants where no Magistrate is to press men and boats ... at the public charge to pursue such persons by Sea or Land and ring them back by force of Arms.

4. It is also ordered by the Authority aforesaid, that the Free-men of every town may from time to time as occasion shall require agree amongst themselves about the prices and rates of all workmen labors and servants wages. And every person inhabiting in any town, whether workman, laborer or servant shall be bound to the same rates which the said Freemen, or the greater part shall bind themselves unto: and whosoever shall exceed those rates so agreed shall be punished by the discretion of the Court of that Shire, according to the quality and measure of the offence. And if any town shall have cause of complaint against the Freemen of any other town for allowing greater rates, or wages then themselves, the Quarter Court of that Shire shall from time to time set order therein.

5. And for servants and workmen wages, it is ordered, that they may be paid in corn, to be valued by two indifferent Freemen, chosen the one by the Master, the other by the servant or workman, who also are to have respect to the value of the work or service, and if they cannot agree then a third man shall be chosen by the next Magistrate, or if no Magistrate be in the town then by the next Constable, unless the parties agree the price themselves. Provided if any servant or workman agree for any [*39] particular payment, then to be paid in specie, or consideration for default therein. And for all other payments in corn, if the parties cannot agree they shall choose two indifferent men, and if they cannot agree then a third as before.

6. It is ordered, and by this Court declared, that if any servant shall flee from the tyranny and cruelty of his, or her Master to the house of any Freeman of the same town, they shall be there protected and sustained till due order be taken for their relief. Provided due notice thereof be speedily given to their Master from whom they fled, and to the next Magistrate or Constable where the party so fled is harbored.

7. Also that no servant shall be put off for above a year to any other, neither in the life time of their Master, nor after their death by their Executors or Administrators, unless it be by consent of Authority assembled in some Court, or two Assistants: otherwise all, and every such Assignment to be void in Law.

8. And that if any man smite out the eye, or tooth of his man-servant, or maid-servant; or otherwise maim, or much disfigure them (unless it be by mere casualty) he shall let them go free from his service, and shall allow such farther recompense as the Court shall adjudge him.

9. And all servants that have served diligently and faithfully to the benefit of their Masters seven years shall not be sent away empty: and if any have been unfaithful, negligent, or unprofitable in their service, notwithstanding the good usage of their Masters, they shall not be dismissed till they have made satisfaction according to the judgment of Authority. [1630 1633 1635 1636 1641]

◆***

Poor.

It ordered by this Court and Authority thereof; that any Shire Court, or any two Magistrates out of Court shall have power to determine all differences about lawful settling, and providing for poor persons; and shall have power to dispose of all unsettled persons into such towns as they shall judge to be most fit for the maintenance, and employment of such persons and families, for the ease of the Country. [1639] * * *

Strangers.

It is ordered by this Court and the Authority thereof; that no Town or person shall receive any stranger resorting hither with intent to reside in this Jurisdiction, nor shall allow any Lot or Habitation to any, or entertain any such above three weeks, except such person shall have allowance under the hand of some one Magistrate, upon pain of every Town that shall give, or sell any Lot or Habitation to any not so licensed such Fine to the Country as that County Court shall impose, not exceeding fifty pounds, nor less than ten pounds. And of every person receiving any such for longer time then is here expressed or allowed, in some special cases as before, or in case of entertainment of friends resorting from other parts of this Country in amity with us, shall forfeit as aforesaid, not exceeding twenty pounds, nor less than four pounds: and for every month after so offending, shall forfeit as aforesaid not exceeding ten pounds, nor less than forty shillings. Also, that all Constables shall inform the Courts of new comers which they know to be admitted without license, from time to time. [1637 1638 1647] See Fugitives, Lib. com: Trials. ***

Suits, vexatious suits.

It is ordered and decreed, and by this Court declared; that in all Cases where it appears to the Court that the Plaintiff hath willingly & wittingly done wrong to the Defendant in commencing and prosecuting any Action, Suit, Complaint or Indictment in his own name or in the name of others, he shall pay treble damages to the party grieved, and be fined forty shillings to the Common Treasury. [1641 1646]

Swine.

It is ordered by this Court, and by the Authority thereof; that every *Township* within this Jurisdiction shall henceforth have power, and are hereby required from time to time to make Orders for preventing all harms by swine in corn, meadow, pastures and gardens; as also to impose penalties according to their best discretion: and to appoint one of their Inhabitants by *Warrant* under the hands of the Select-men, or the Constable where no Select-men are, to levy all such Fines and Penalties by them in that case imposed (if the Town neglect it).

And where Towns border each upon other, whose Orders may be various, satisfaction shall be made according to the Orders of that Town where the damage is done.

But if the swine be sufficiently ringed and yoked, as the Orders of the Town to which they belong doeth require, then where no fence is, or that it be insufficient through which the swine come to trespass, the Owner of the land or fence shall bear all damages. * * *

Tobacco.

This Court finding that since the repealing of the former Laws against Tobacco, the same is more abused then before doth therefore order,

That no man shall take any *tobacco* within twenty poles of any house, or so near as may endanger the same, or near any Barn, corn, or hay-cock as may occasion the firing thereof, upon pain of ten shillings for every such offence, besides full recompence of all damages done by means thereof. Nor shall any take *tobacco* in any Inn or common Victualing-house, except in a private room there, so as neither the Master of the said house nor any other Guests there shall take offence thereat, which if any doe, then such person shall forthwith forbear, upon pain of two shillings sixpence for every such offence. And for all Fines incurred by this Law, one half part shall be to the Informer the other to the poor of the town where the offence is done. [1638 1647]

Torture

It is ordered, decreed, and by this Court declared; that no man shall be forced by torture to confess any crime against himself or any other, unless it be in some Capital case, where he is first fully convicted by clear and sufficient evidence to be guilty. After which, if the Case be of that nature that it is very apparent there be other Conspirators or Confederates with him; then he may be tortured, yet not with such tortures as be barbarous and inhumane.

2 And that no man shall be beaten with above forty stripes for one Fact at one time. Nor shall any man be punished with whipping, except he have not otherwise to answer the Law, unless his crime be very shameful, and his course of life virtuous and *profligate*. [1641]