

and I do not find that distresses were mentioned before the revolution, except as to certain fines and levies. The act of February 1777, (alluding to certain resolves of the convention) declared, (Sec. 5.) that it should be lawful for persons to distrain for rent due, and for any magistrate to issue his warrant, as might have been done if the said resolves had not been made.

Under this statute, the distress could not be sold within fifteen days, which is since altered by 2 W. and M. Ch. 5, &c. Beasts of the plough, and sheep were exempted, and distresses were to be reasonable, which is also provided for by the statute of Marlbridge. See 3 Bl. Com. 9; 1 Burrows 588 and 589; and 2 Bac. Abt. title Distress, E.



*Statute of Marlbridge, 52 Hen. 3 —A. D. 1267.*

CHAP. 4. A distress shall not be driven out of the county, and it shall be reasonable.

See the note on 51 Hen. 3. St. 4, *de districtione saccarii*, as to the general extention of the statutes relative to distresses for rent. As to this statute, (which is considered proper to be incorporated with our laws,) see 3 Bl. Com. 12; 2 Bac. Abt. title Distress E, and Espinasse 400. This statute is mentioned in the letter from S. Chase, which has been referred to.

CHAP. 15. In what places a distress shall not be taken.

Although this statute was only in affirmance of the common law, it is considered to have extended with the other statutes concerning distresses for rent, and is proper to be incorporated with our laws. See 3 Com. Dig. 555.

CHAP. 23. A remedy against accomptants.—Fermors shall make no waste.

The first part of this statute is stated in Fitzherbert's *Natura Brevium*, to be out of use in England; but a contrary opinion is given in 2 Inst. 144. See also 3 Coke, 11 and 12; and 2 Bac. Abt. title Execution C, stating that this statute with others introduced the *capias*, which did not before, lie in those cases. The second part is also considered to have been applicable, and as being proper to be incorporated with our laws. See 2 Bl. Com. 281; and 5 Bac. Abt. title Waste, A.



*The statute of Westminster 1, 3 Edw. 1.—A. D. 1275.*

CHAP. 15. Which prisoners be mainpernable and which not.—The penalty for unlawful bailment. (Part.)

The taking of bail in criminal cases has been regulated in the province, and in the state by this statute, together with 3 Hen. 7, Ch. 3; 31 Car. 2, Ch. 2; 1 and 2 Ph. and M. and 1 W. and M. &c. and no act of assembly was passed on the subject before the revolution.

It is incidentally mentioned in the act of 1798, Ch. 106, respecting writs of *habeas corpus*, and by October 1780, Ch. 10, the sheriffs are directed to take bail bonds payable to the state, from all persons taken on any criminal writ for any offence less than felony, and if the criminal is not sufficient and cannot find security, he is to be taken before a magistrate, to be dealt with according to law. See as to this statute, 1 Bac. Abt. title Bail in Criminal Cases, A. and 4 Bl. Com. 294—5—6.