

When a hue and cry is thus raised, the pursuers may proceed as if a felony had been committed, although none may have been, arrest the person against whom it is levied upon suspicion, break open doors upon demand and notice, as in other cases of felony, and even kill the offender if he cannot otherwise be taken. The constable cannot examine into the truth or falsehood of the suggestion of the party who first levied it, for he cannot administer an oath, and the necessity of immediate pursuit gives him no time for inquiry into particulars. In other cases, it will be recollected that to justify the imprisonment of a person upon suspicion, a felony must be averred to have been committed. All who join in the pursuit are under the same protection of the law as those who began it, Fost. 309, 310.

The constable may also, when the hue and cry comes to him, whether the person is certain or uncertain, search suspected places within his town to apprehend the offender; but in this case he must enter by the open door, for if he break open doors to search, he does it at his peril, and is only justifiable if the party be there against whom the hue and cry is levied. If it be against a person by description of his person, clothes, horse, &c., the pursuers may justify the arrest of a person answering to the description, the hue and cry being their warrant, although to arrest a person by description is a process not allowed by the law in other cases. If the hue and cry be upon a robbery, manslaughter, or other felony committed, but the offender is neither known, nor describable by person, clothes, or the like, it must nevertheless be pursued, and the pursuers can do nothing but take such as they have probable cause to suspect, e. g. such as are vagrants, that cannot give an account of where they live, whence they are, or such suspicious persons as come late into their lodgings, and give no reasonable account where they had been and the like. But in such cases, it will lie on the persons making the arrest to shew that they had reasonable grounds for taking the suspected parties under such circumstances, for otherwise this proceeding would be more dangerous than general warrants. For a more particular account of hue and cry see 2 Hale, P. C. 100-104. Suits against the hundreds have not been in use in the province or in the State. See Kilty's note to 27 Eliz. c. 13.

With regard to cap. 4 of this Statute, the part that Kilty appears to have designed to include is from sec. 8; but the latter part is not sensible without the first part. Of course our modern regulations with regard to police have taken the place of the provisions of this chapter. But it is still held that watchmen and beadles have authority at common law to arrest, and detain in prison for examination, persons walking in the streets at night, whom there is reasonable ground to suspect of felony, although there is no proof of a felony having been committed, *Lawrence v. Hedger*, 3 Taunt. 14; and so they may apprehend female street-walkers, *R. v. Bootie*, 2 Burr. 864. The Statute so far as it is applicable, however, establishes the general principle, that, where a party arrested on suspicion breaks from arrest, hue and cry shall be levied upon him.