

and iv Inches; (25) when xxxiv, then iv and *di.* iii Foot, and iv Inches; (26) when xxxv, then iv and *di.* i Foot, iii Inches and *di.*; (27) when xxxvi, then iv, vii Foot, and iv Inches; (28) when xxxvii, then iv, v Foot, and iv Inches; (29) when xxxviii, \*then iv, iii Foot, and almost *di.*; (30) when xxxix, **158** then iv, i Foot, and almost ix Inches; (31) when xl, then iv.; (32) when xli, then iii, iii q., i Foot, and x Inches; (33) when xlii, then iii, iii q. and vii Inches; (34) when xliii, then iii, and *di.*, iii Foot, and an Inch and *di.*; (35) when xliv, then iii and *di.*, ii Foot, and iii Inches; (36) when xlv, then iii and *di.*, *di* a Foot, and iii Inches.

## STATUTE

### DE FRANGENTIBUS PRISONAM,

Made Anno 1 EDW. II, Stat. 2, and A. D. 1307.

In what case it is Felony to break Prison, in what not.

Concerning Prisoners which break Prison, our Lord the King willet and commandeth, that none from henceforth that breaketh Prison shall have Judgment of Life or Member for breaking of Prison only, except the Cause for which he was taken and imprisoned did require such Judgment, if he had been convict thereupon according to the Law and Custom of the Realm, albeit in times past it hath been used otherwise.

3 Inst. 69, 70. Kel. 87. Fitz. Coron. 134. 2 Inst. 589.

Kilty says that there are in the provincial records several cases of prosecutions under this Statute, in some of which it is particularly mentioned in the indictments. They were in the years of 1706, 1720, '22, '23, '24, and '25, and it appears that in some of them the offenders were sentenced to death.

At common law all prison breaches were felonies, if the party were lawfully in custody for any cause whatsoever, which severity however is mitigated by this Statute, 2 Inst. 588.

It is held that any place whatever, where a person is restrained of his liberty under lawful arrest for a supposed offence, is a prison within this Act, whether the common gaol, the street, the house of the constable or of a private person, or as Lord Coke expresses it, 2 Inst. 589, he that is