

CHAP. 29. None shall be condemned without trial.—Justice shall not be sold or deferred.

For the reasons stated in the note on Ch 1, it is not considered proper that this part of the great charter should be incorporated with our laws.

The expressions in the 21st article of the declaration of rights, are nearly the same with those contained in this chapter. The word "privileges," is substituted for "free customs" in the first part, and instead of the words, "nor will we pass upon him or condemn him," which are stated to be an exposition rather than a translation of the latin in the charter: "*nec super eum ibimus, nec super eum mittemus.*" The expressions in the declaration of rights, are, "or deprived of his life, liberty or property." The last part, "we will sell to no man, we will not deny or defer to any man either justice or right," is supplied, though in other words, by the 17th article of the declaration of rights, providing, that every free man, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

CHAP. 30. Merchant strangers coming into this realm shall be well used.

The province having been subject to the laws of England respecting trade, this chapter may be considered as having been binding on the people, which is the effect of it, rather than conferring a right; but see 12 Car. 2, Ch. 18, S. 2.

CHAP. 34. In what case only a woman shall have an appeal of death.

From the application of the common law for the punishment of offences, and the manner of prosecuting for them, it was proper, that the people in the province should have the benefit of the remedial statutes also. This chapter confined the appeal of a woman to the case of the death of her husband; which before, extended to the death of any ancestor.

There was an appeal of murder in the year 1765, the proceedings in which are stated in Harris and M. Henry's Reports; but no other case has been found.

This mode of prosecution is mentioned in the act of 1763, Ch. 23, declaring that nothing therein should extend to any writ, declaration or suit, or appeal of felony, or murder, or to any indictment, &c.

From a view of the present state of our criminal law, and of the constitution, as to the power of granting pardons, it is not considered proper that this chapter should be incorporated with our laws.

CHAP. 36. No land shall be given in mortmain.

The proprietor had, by the 4th section of his charter, a right to erect and found churches, chapels and places of worship. And although there were not in Maryland, any religious houses, such as are the subjects of the statutes under this head, there is reason to believe that they were considered in force in the province. See the conditions of Plantation, (Land Holders Assistant, p. 42.) But on a view of the 34th article of the declaration of rights, it is not considered necessary that this chapter should be incorporated with our laws.

CHAP. 37. A subsidy in respect of this charter, and the charter of the forest, granted to the king.

In the 2d section of this chapter, the grants in the charter were confirmed, so that it was in force as far as these grants were.