

1785. the principal offender. Under such special circumstances, the court of *Oyer and Terminer* clearly possessed the power of continuing the parties under recognizance.

By the Court. There can be no difficulty in saying, that if principals, the superior offenders, are intitled to the benefits of the law of 1785, the accessories, who are in inferior grades of criminality, must have the same pretensions.

Yeates, J. was of opinion, that the second objection on the part the commonwealth, was well founded. The provisions in the first twelve sections of the law of 1785, all go to the cases of persons committed or detained for any criminal, or supposed criminal matter, to prisoners in actual custody of some officer of justice. The 13th and 14th sections are not to be found in the British statute of 31 Car. 2, c. 2, and are valuable improvements of the rights and liberties of citizens; but they do not respect commitments for criminal matters. The 3d section of the act directs, that the justices of *Oyer and Terminer*, shall, on the last day of the term, next after the commitment of the party, who shall not be indicted and tried, set at liberty the said prisoner, upon bail, &c. This clearly shews, that the legislature did not contemplate a party admitted to bail, as a prisoner under commitment, besides confining the authority and requisition so to act, solely to the court,

before whom the prisoner is to receive his trial. Would not a *habeas corpus* directed to the bail of a supposed offender, be perfectly novel? Could we, or either of us, do an act, which would amount to a legal discharge of the recognizances in the court of *Oyer and Terminer*?

Smith J. said, that the inclination of his mind was, that the *habeas corpus* would not lie to the bail, but declined giving any decided opinion on the point.

By the Court. We have no doubt of the powers of the court of *Oyer and Terminer* of retaining the defendants under bail, to answer the indictment, if their minds were satisfied, either that the witnesses were kept out of the way by the procurement, or threats of the defendants, or that they had prevented the arrest of the principal. It would be monstrous to suppose, that the parties by their own improper conduct, should elude the punishment for a superior offence, by subjecting themselves to a prosecution for a misdemeanor. We must refer the defendants to the court of *Oyer and Terminer*, who are best acquainted with the circumstances of the case: there they will not be treated with oppression; but if the public interests and safety require it, they will administer that preventive justice, which the laws of the government empower them to exercise. *Motion denied.*

CHAPTER MCXXIV.

An ACT to incorporate the Presbyterian congregation in Abington township, in the county of Montgomery.

Passed 22d February, 1785.—Private Act.—Recorded in Law Book No. II. page 425.

CHAPTER MCXXV.

An ACT for erecting part of the county of Lancaster into a separate county.

SECT. I. WHEREAS the inhabitants of the upper parts of Lancaster county have, by petitions, set forth to the General Assembly of this state, that they have long laboured under many inconveniences, from their being situated at so great a distance from the seat of judicature in said county, and have prayed that they may be relieved from the said inconveniences, by erecting them into a separate county. And as it appears but just and reasonable that they should be relieved in the premises;

SECT. II. Be it therefore enacted, and it is hereby enacted, by the Representatives of the Freemen of the commonwealth of Pennsylvania, in General Assembly met, and by the authority of the same, That all that part of Lancaster county, lying within the bounds and

limits herein after described, shall be erected into a separate county, 1785. that is to say; beginning on the west side of the river Susquehanna, opposite to the mouth of Conawaga creek; thence up the middle of the said creek, to Moor's mill; and from thence to the head of said creek; and from thence, by a direct line, to the south-east corner of Heidelberg township, where it strikes the Berks county line; thence north-west, by the line of Berks county, to Mahantango creek; thence along the same by the line of Northumberland county, and, crossing the river Susquehanna, to the line of Cumberland county; thence down the Susquehanna, on the west side thereof, by the line of Cumberland county, and that part of the line of York county, to the place of beginning, on the west side of the river Susquehanna; to be henceforth known, and called, by the name of "Dauphin county."

of Dauphin county.

SECT. III. *And be it further enacted by the authority aforesaid,* That the inhabitants of the said county of Dauphin shall, at all times hereafter, enjoy all and singular the jurisdictions, powers, rights, liberties and privileges whatsoever, which the inhabitants of any other county of this state do, may, or ought to enjoy, by the constitution and laws of this state.

Rights and privileges of the new county.

SECT. IV. *And be it further enacted by the authority aforesaid,* [That the district elections for the said county of Dauphin shall be held, for the townships of Derry and Londonderry, at Hummel's town, in the township of Derry aforesaid; for the township of Upper Paxton, on the north side of Peter's mountain, at Peter Hoffman's, in said township; for the township of Lower Paxton, on the south side of Peter's mountain, and West Hanover, at the court-house of the said county, or at John Harris's until such court-house shall be erected; and for the townships of Lebanon, East Hanover, Heidelberg and Bethel, at the town of Lebanon, in the said township of Lebanon] where they shall elect, at the times, and under the regulations stipulated and directed by the constitution and laws of this state, [a Counsellor,] Representatives to serve them in General Assembly, [Censors,] Sheriffs, Coroners and Commissioners; which said officers, when duly elected and qualified, shall have and enjoy all and singular such powers, authorities and privileges, with respect to their said county, as such officers, elected in and for any other county, may, can, or ought to do. And the said elections shall be conducted in the same manner and form, and agreeable to the same rules and regulations, as now are, or hereafter may be, in force in the other counties of this state.

Elections in the new county, how and where, and for what officers, to be held.

[Supplied by the act of September, 1785.]

SECT. VI. *And be it further enacted by the authority aforesaid,* That the Justices of the Supreme Court of this state shall have like powers, jurisdictions and authorities, in the said county of Dauphin, as in the other counties of this state, and are hereby authorized and empowered to deliver the gaols of the said county of Dauphin, of capital and other offenders, in like manner as they are authorized to do in other counties of this state.

Jurisdiction of the Supreme Court in the new county;

SECT. VII. *And be it further enacted by the authority aforesaid,* That the Justices of the courts of Quarter Sessions and Common Pleas, now commissioned, within the limits of the county of Dauphin, and those that may hereafter be commissioned, or any three

and of the Quarter Sessions, and Common Pleas.

1785. of them, shall and may hold courts of General Quarter Sessions of the peace and Gaol Delivery, and county courts for holding of Pleas, and shall have all and singular such powers, rights, jurisdictions and authorities, to all intents and purposes, as other Justices of the courts of General Quarter Sessions, and Justices of the county courts for holding of Pleas, in the other counties of this state, may, can, or ought to have in their respective counties, which courts shall sit and be held for the said county of Dauphin, near Harris's ferry, [on the third Tuesdays in the months of February, May, August and November,] yearly, for the despatch of the public business of the said county.

Trustees to take assurance of a lot for county buildings.

SECT. VIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for Jacob Awl, Joshua Elder, Andrew Stewart, James Cowden, and William Brown, of Paxton, or any three of them, to take assurance to them, and their heirs, of such lot or piece of ground, as shall be laid out and approved of by the said commissioners, or any three of them, for the erecting a court-house and gaol thereupon, in trust and for the use of the inhabitants of the said county of Dauphin, and thereupon to erect a court-house and prison, sufficient to accommodate the public service of the said county.

who shall give like of- ficial sur- ties.

SECT. XIII. *And be it further enacted by the authority aforesaid,* That [the Sheriffs, Treasurers, collectors of excise, and] all such officers, as have heretofore usually given bail for the faithful discharge of their respective offices, who may hereafter be appointed or elected in the said county of Dauphin, before they or any of them, shall enter upon the execution of their respective offices, shall give sufficient security, in the like sums, in the like manner and form, and for the like uses, trusts and purposes, as such officers are obliged by law, for the time being, to do in the county of Lancaster.

Passed 4th March, 1785.—Recorded in Law Book No. II. page 430. (i)

(i) The sections omitted in this act are entirely obsolete.

§ 5. Apportioned the representation between Dauphin and Lancaster, which was temporary.

§ 9 & 10. Provided for the mode of defraying the expenses of the public buildings, and the limitation of the amount thereof.

§ 11 & 12. Provided for the continuance of the process depending in Lancaster county, and the exercise of the duties of the public officers of Lancaster in and over the new county, until the like officers should be appointed therein.

§ 14. Commissioners appointed to run the boundary lines of the new county.

See the act to appoint and authorize trustees to build a court-house, and offices for the preserving the records of the county of Dauphin, on the lot of land laid out for that purpose in the borough of Harrisburg, and to appropriate the money now in the treasury of the said county, with the emoluments

of the Harrisburg ferry, to discharge the expenses thereof. Passed 5th of April 1793. (chap. 1658.)

By the last enumeration the county of Dauphin contains four thousand seven hundred and seventy-nine taxables. And by act of Assembly of 21st of March, 1808, (chap. 2931,) apportioning the representation in pursuance thereof, this county sends three members to the house of representatives, and one member to the senate.

By an act passed September, 1785. (chap. 1164.) The county of Dauphin was divided into four election districts. The 5th district established 19th September, 1786, (chap. 1231.)

By an act passed 27th of September, 1788. (chap. 1351.) The sixth election district established.

The 7th election district established by act of 12th of February, 1795, (chap. 1782.)

The 8th election district established by act 27th of March, 1795, (chap. 1804.)

The place of holding elections in the

4th district, altered by act of 27th of February, 1798, (chap. 1954.)

The 9th district established by act of 8th of April, 1799, (chap. 2050. § 19.)

A new district, part of Londonderry, and the whole of Anvil township, established 31st of January, 1801, (chap. 2156.)

Halifax District established, and the places of holding elections in Middle and Upper Paxton, altered, 16th of March, 1803, (chap. 2334.)

Londonderry township, made a separate district, 3d of April, 1804, (chap. 2507, § 6.)

East-Hanover township erected into a separate district, and part of West-Hanover annexed to the 3d district, 11th of April, 1807, (chap. 2856. § 13, 14.)

Upper Paxton divided into two districts, and part of *Bethel* township constituted a separate district, 28th of March, 1808, (chap. 2972. § 28, 29.)

By the judiciary act of 24th of February, 1806, the counties of Lancaster, York and Dauphin, compose the second

district. The courts are held in York on the first Mondays in January, April, August and November; in Lancaster on the second Mondays after the commencement of the courts in York, and in Dauphin on the second Mondays after the commencement of the courts in Lancaster.

The term in Dauphin county, continues two weeks, by an act passed 23th of March, 1808, (chap. 2973,) and civil causes may be tried during the first week.

Dauphin county is part of the *Lancaster* district of the supreme court, by the act of March, 11th, 1809.

The quarter sessions in Dauphin county, may be continued during the whole of the first week of the term, by an act passed 10th of March, 1810.

By an act passed 21st of February, 1810, the seat of government of the commonwealth is established at Harrisburg in the county of Dauphin, in the month of October, 1812.

CHAPTER MCXXVI.

An ACT for furnishing the quota of this state towards paying the annual interest of the debts of the United States; and for funding and paying the interest of the public debts of this state. (k)

SECT. XXXIII. *PROVIDED* nevertheless, That all lands which have been, or may hereafter be, granted within this state, to any officers or soldiers of the line of this state, by virtue of any resolution of Congress and law of this state, as a reward for their ser-

Donation lands, not alienated, exempted from taxes.

(k) By the former part of this act, which has been repealed, the revenues of the state were formed into an aggregate fund, for the purpose of discharging the following engagements:—1st. The instalments of the legislative grant to the late proprietaries, as they became due, (chap. 1084, 1119.)—2d. The state's estimated quota of the annual interest of the aggregate debt of the United States, contracted during the late war, amounting to £. 123,932, which sum was directed to be transferred by the executive into the hands of the continental Loan-Officer, yearly, and every year, after the termination of the year 1784, to be applied to the payment of the interest on such continental certificates as were originally issued to the citizens of this state, or to the officers and soldiers of the Pennsylvania line, or quota of troops, &c.—3d. The interest for one year on all debts due from, and assumed by this state, and liquidated ascertained and certified, according to law (debts funded on the excise, and other certificates of depreciation of pay,

excepted,) to be paid by the treasurer, yearly, and every year.—4th. The arrearages of interest on the state debts, whenever there remained in the aggregate fund a residuary sum of £. 15,000. And, in order to strengthen and establish the aggregate fund, thus created, the act also provided that a tax of £. 76,945 17s. 6d. should be assessed, raised and levied, from the estates real and personal, and persons in the city and counties, yearly, and every year, successively, after the year, 1785. By an act of the 1st of March, 1786, a loan was open to receive continental in exchange for state certificates, commonly called new loan certificates (which was the origin of the funding system of Pennsylvania) and providing for the payment of the interest on such new loan certificates, &c. By an act of the 8th of March, 1786, so much of the law in the text, as related to the paying of the £. 123,932, annually, to the continental Loan-Officer, and his distribution of the same, was repealed, and a provision made to pay the balances