

7 John. Rep. 314 of five years together, the one of them not knowing the other to be living within that time; nor to any person or persons who are, or shall be, at the time of such marriage, divorced by the sentence or decree of any court having cognizance thereof; nor to any person or persons where the former marriage hath been, or shall be, by the sentence or decree of any such court, declared to be void and of no effect; nor to any person or persons for or by reason of any former marriage had or made, or to be had or made within the age of consent.

### CHAP. XXXI.

*An ACT for apprehending and punishing disorderly Persons.*

Passed 9th February, 1788.

[V. S. v. 1. 4. 122.—J.&V. v. 2. 221.—Gr. v. 2. 52.—K.&R. v. 1. 123.]

Who are to be deemed disorderly persons

17 Geo. 2 c 5  
39 El. c 4  
1 J 1 c 4  
13 and 14  
Car. 2, c 12

I. *BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same,* That all persons who threaten to run away and leave their wives or children to the city or town, and all persons who shall unlawfully return to the city or town from whence they shall respectively have been legally removed by order of two justices of the peace, without bringing a certificate from the city or town whereto they respectively belong; and also all persons who not having wherewith to maintain themselves, live idle without employment, and also all persons who go about from door to door, or place themselves in the streets, highways of passages, to beg in the cities or towns where they respectively dwell, and all jugglers, and all persons pretending to have skill in physiognomy, palmistry, or like crafty science, or pretending to tell fortunes, or to discover where lost goods may be found; and all persons who run away and leave their wives or children, whereby they respectively become chargeable to any city or town; and all persons wandering abroad and lodging in taverns, beer-houses, out-houses, market-places, or barns, or in the open air, and not giving a good account of themselves, and all persons wandering abroad and begging, and all idle persons not having visible means of livelihood, and all common prostitutes, shall be deemed and adjudged disorderly persons; and it shall and may be lawful for any justice of the peace to commit such disorderly persons (being thereof convicted before him, by his own view, or by the confession of such offenders, respectively, or by the oath of one or more credible witness or witnesses) to the bridewell or house of correction, of such city or town, there to be kept at hard labour, for any time not exceeding sixty days, or until the next general sessions of the peace to be holden in and for the city or county in which such offence shall happen.

On conviction to be committed to bridewell or house of correction.

II. *And whereas* doubts have arisen and hereafter may arise, where authority is given to any justice or justices of the peace

to commit offenders to the bridewell or house of correction for offences cognizable before them out of the general sessions of the peace, how long offenders may be there detained, and in what manner treated, where the time and manner of their punishment is not by law expressly directed, limited or appointed; Therefore, *Be it further enacted by the authority aforesaid*, That where any offenders shall be committed as aforesaid by virtue of any law now in being, or hereafter to be made, other than in cases of petit larceny, and the time and manner of their punishment is not expressly limited, directed and appointed, the said justice or justices shall commit such offender to the bridewell or house of correction, there to be kept to hard labour until the next general sessions of the peace, or until discharged by a due course of law; and it shall and may be lawful for two justices (of whom the justice who committed such offender to be one) to discharge such offender before the said general sessions of the peace, if they shall see cause; and if he or she shall not be so discharged, the said general sessions of the peace may either discharge him or her, or continue him or her in custody for such time as they shall see fit, not exceeding six months.

Offenders, unless the punishment be otherwise limited, to be committed until the next sessions of the peace.

May be discharged by two justices,

And sessions may discharge or continue them for six months.

III. *And be it further enacted by the authority aforesaid*, That where any offender against this act shall be committed, as aforesaid, to the bridewell or house of correction, there to remain until the next general sessions of the peace; and the justices at such sessions shall, on examination of the circumstances of the case, adjudge such person to be a disorderly person within the intent and meaning of this act, they may, if they think convenient, order such disorderly person to be detained and kept in the said bridewell or house of correction to hard labour, for any further time not exceeding six months; and during the time of such confinement, to be corrected by whipping, in such manner and at such times and places, as, according to the nature of such person's offence, they in their discretion shall think fit.

Sessions may adjudge them disorderly and detain them for six months at hard labor, and order them to be corrected.

IV. *And be it further enacted by the authority aforesaid*, That where any person offending against this act shall have been committed, as aforesaid, to the bridewell or house of correction, there to remain until the next general sessions of the peace, if upon the examination of the person so committed as aforesaid, the last legal place of settlement of such person cannot be found, the justices shall, at the said general sessions, order such persons to be detained and employed in the bridewell, or house of correction, until they can provide for themselves, or until the justices of the peace at their next general sessions of the peace, can place them out in some lawful calling, as servants, apprentices, mariners, or otherwise; which the said general sessions of the peace are hereby empowered to do, in such manner as they shall think fit.

Sessions may place them out as servants, &c.

V. *And be it further enacted by the authority aforesaid*, That the several gaols in the respective cities and counties in this state, in which no bridewell, or house of correction, is or shall be built, shall be used and considered as houses of correction for all or any of the purposes in and by this act directed, with respect to houses of correction and the government thereof, until there shall be such house or houses of correction built as aforesaid; and

Where gaols to be used as houses of correction.

the keepers of the respective gaols, for the time being, or such persons as they respectively shall appoint, shall be masters or keepers of such gaols as houses of correction, as aforesaid, and shall have the same authority, and be under the same regulations, as in this act are before given and provided, respecting houses of correction; and all and every person and persons ordered to be sent to a house of correction, according to this act, shall be sent to and received in such gaols respectively, and there be kept, taken care of and governed, according to the directions of this act, until such house or houses of correction shall be provided as aforesaid.

VI. *And whereas* there are sometimes persons, who by lunacy or otherwise, are furiously mad, or are so far disordered in their senses that they may be dangerous to be permitted to go abroad; Therefore, *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for any two or more justices of the peace, where such lunatic or mad person shall be found, by warrant under their hands and seals, directed to the constables and overseers of the poor of the city or town, or some of them, to cause such person to be apprehended and kept safely locked up in some secure place within such city, or within the county in which such town shall lie, as such justices shall, under their hands and seals, direct and appoint; and if such justices shall find it necessary, to be there chained, if the last legal place of settlement shall be in such city, or in any town within such county; and if the last legal place of settlement of such person shall not be in such city or county, then such person shall be sent to the place of his or her last settlement, in the manner directed in and by the laws relating to the poor, and shall be locked up or chained, by warrant from two justices of the city or county to which such person shall be so sent in manner aforesaid; and the reasonable charges of apprehending, maintaining, keeping and removing such person, shall be satisfied and paid by the overseers of the poor of the city or town in which such person shall be legally settled as aforesaid, in the manner in and by the said laws directed: *Provided always,* That this act, or any thing therein contained, shall not extend, or be construed to extend to restrain or abridge the power or authority of the chancellor of this state for the time being, touching or concerning such lunatics; or to restrain or prevent any friend or relation of such lunatic, from taking them under their own care and protection.

VII. *And whereas* it often happens that disorderly persons wander from the places of their legal settlement, and are in circumstances sufficient to pay for their passage or journey home; Therefore, *Be it further enacted by the authority aforesaid,* That it shall be lawful for any justice or justices of the peace, before whom any such disorderly person shall be brought, to order such disorderly person to be searched, and his or her bundle to be inspected by a constable, or overseer of the poor of such city or town, in the presence of such justice: and if it shall appear that any such disorderly person hath sufficient wherewithal to pay his or her passage or journey, either in the whole or in part, to the city or town to which he or she shall belong, then the said justice

Two justices may order lunatics, or mad persons, to be confined.

13 Ann. st. 3. c. 23. § 23. 17 Geo. 2, c. 5 § 20.

This act not to restrain the power of the chancellor, nor prevent friends from taking care of them.

Disorderly persons to pay the expence of conveying them to the place where they belong.

or justices shall order so much of the money so found, to be paid, or other effects found with and upon such disorderly person, to be sold, and employed for and towards the expense of taking up and passing such disorderly person to his or her last legal place of settlement; returning the overplus (if any there be) after deducting the charges of such sale, to such disorderly person.

CHAP. XXXII.

An ACT concerning Amendments and Jeofails.

Passed 20th February, 1788.

[V.S. v. 2. 767.—J.&V. v. 2. 224.—Gr. v. 2. 54.—K.&R. v. 1. 127.]

1. *BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same,* That by the misprision of a clerk, in any place wheresoever it be, no record or process shall be annulled or discontinued by mistaking in writing one syllable or one letter too much or too little: But as soon as the thing is perceived, by challenge of the party, or in other manner, it shall be immediately amended in due form, without giving advantage to the party that challengeth the same, because of such misprision. And the justices or judges before whom such plea or record is made, or shall be depending, as well by adjournment as by way of error, or otherwise, shall have power and authority to amend such record and process, as well after judgment as before judgment given, in any such plea, record or process, as long as the same record and process is before them. *And further,* That the judges and justices of the courts and places, in which any record, process, declaration, count, plea, warrant of attorney, writ, panel or return, is or may be while the same remains before them, shall have power to examine such records, declarations, counts, pleas, warrants of attorney, writs, panels and returns, by them and their clerks, and to reform and amend (in affirmance of the judgments of such records and process) all that which to them, in their discretion, shall seem to be misprision of the clerks, in such record, process, declaration, count, plea, warrant of attorney, writ, panel or return, so that by such misprision of the clerk, no judgment shall be reversed nor annulled. And if any record, process, declaration, count, plea, warrant of attorney, writ, panel or return, be certified defective, otherwise than according to the writing which thereof remaineth in the offices, court or places, from whence they be certified, the parties, in affirmance of the judgments of such records and process, shall have advantage to allege that the same writing is variant from the said certificate, and that being found and certified, the same variance shall be, by the said judges or justices, reformed and amended according to the first writing. *And moreover,* That the judges and justices, before whom any misprision or default is or shall be found, in any record or process which now is, or hereafter shall be depending before them, or any of them, as well by way of error as otherwise, or in the returns of the same, made or to be made by sheriffs, coroners, or any other, by misprision of the clerks of any

Mistakes in pleas, records or process, how or when to be amended  
 52 H. 3. c. 11  
 14 Ed. 3. st. 1. c. 6.  
 11 H. 4. c. 3  
 9 H. 5. st. 1. c. 4  
 As well after judgment as before.  
 8 H. 6. c. 12.  
 § 2. etc. 15  
 4 H. 6. c. 3.  
 Courts may order misprisions of clerks to be amended  
 8 H. 6. c. 15.  
 5 Geo. 1. c. 13  
 8. H. 6. c. 12.  
 36 Ed. 3. st. 1. c. 15  
 32. H. 8. c. 30.  
 Variance between a record and the certificate thereof to be amended  
 18 El. c. 14.  
 21 Jac 1. c. 13  
 27 El. c. 5  
 4 Ann c. 16. & 24  
 Courts may order misprisions of clerks, sheriff and other officers to be amended  
 16 & 17 Car. 2. c. 8.  
 4 Geo. 2. c. 26  
 6 Geo. 2. c. 14

ed during the sitting of the legislature, shall be made returnable at the place where the senate shall then sit, without delay, but if issued during the recess of the legislature, shall be made returnable at the next meeting of the senate, wheresoever the same shall be. And the party prosecuting such writ of error shall, without delay, cause a transcript of the said record to be made, and the said judges to whom such writ of error may be directed, or any one of them, shall within fifteen days after notice of the said writ of error, if the same be returnable without delay, or if otherwise, at the day of the return thereof, annex the said transcript to the said writ of error, and endorse a proper return upon the said writ, and return the same. And the said court for the trial of impeachments and the correction of errors, shall have full power, and hereby are authorised and required, to examine all such errors as shall be assigned or found in such record, or in any process or proceeding concerning the same, and to call upon the judges of the supreme court to assign the reasons of such judgment, and thereupon to reverse, or affirm the said judgment, and to give such other judgment therein as the law shall require. And shall then cause the said transcript of the record, with their judgment thereon, and all things touching the same, to be remitted into the supreme court, where such further proceedings shall be thereupon had, as well for execution as otherwise, as may be agreeable to law and justice.

3 John. Rep.  
537.

8 John. Rep.  
558

On appeals  
from chancery  
and court of  
probates.

VIII. *And be it further enacted*, That all persons aggrieved by any sentence, judgment, decree or order of the court of chancery, or court of probates, may appeal from the same or any part thereof, to the said court for the trial of impeachments and the correction of errors; which court, if such appeal be from the court of chancery, shall require the chancellor to assign the reasons of such sentence, judgment, decree or order, and shall have full power to examine, hear and finally determine all such appeals from the said court of chancery, or court of probates, and all matters concerning the same, and to reverse, affirm or alter any such sentence, judgment, decree or order, and to make such other order or decree thereon, as equity and justice shall require; and thereupon to remit the same, with their judgment, decree and order in the premises, and all things concerning the same, into the court so appealed from, where such further proceedings shall be thereupon had, as well for execution as otherwise, as may be agreeable to equity and justice.

8 John. Rep.  
56.

Time limited  
for bringing  
writs of error  
and appeals.

IX. *And be it further enacted*, That all appeals from the said court of chancery, except those from final decrees, and all appeals from the said court of probates, shall be made within fifteen days after making the sentence, judgment, decree or order, appealed from, and all appeals from final decrees in the said court of chancery, and all writs of error upon judgments in the supreme court, shall be brought within five years, after making such decree or rendering such judgment, and not after.

10 & 11. W.3.  
c. 14

Proceedings  
how to be con-  
tinued when a  
quorum of the  
court does not  
meet.

X. *And be it further enacted*, That if at the return of any writ of error, or at the time of entering any such appeal in the said court for the trial of impeachments and the correction of errors, or at any other time, to which the same or the proceedings thereon