

Chap. 10.

Of Prisons.

a Taylor hath retention of a prisoner for his fees 16 January 1729 *Murdock, Grahams and Robison contra Cowan*, bid. vol. 2 pag. 540 & 8. 75. But that Right doth not extend to the forcing any person without the wits of the prison. Therefore 1 August 1738 David young portmanteau of Gilmadonland being seized by the Lords of Judiciary from the crimes of fire-raising and cursing his parent was found to have been unlawfully secured and re-committed to prison as he was going off from the Bar by the Taylor for his prison dues.

Chap. 11.
Of Correction houses.

Chap. 12.

Of Legal Checks to Unlawful gaming and Wagering.

All Gaming for Money at plays of fortune, as Cards, Dice tables &c. is prohibited by the Civil law l. 2 § 1. *De Aleatoribus*. Which the Doctors extend to such Gaming for good or any other profitable thing, *Prosp. Gamm. de var. ac Divers. Crim. qn. 109 n. 42*. Because thereby one becomes richer by another's loss, and Covets his Neighbour's thing. Besides, that it occasions frequently profane swearing, blasphemy and quarrels. Hence and several legal checks to Unlawful Gaming. Viz. the Master of the house where Unlawful gaming is used may according to the Civil law be offended *Junpina* during the time of playing l. 1 *pro Aleator*. But this severity is now no where observed *Greenweg. & Brownman ad d. l. i.* Such Gamesters of fortune are liable to Unlawful punishment *Prosp. Gamm. ibid. n. 57. Carp. 200. Crim. part. 3 qn. 134 n. 17*. Which they are much more liable to who cheat in Gaming *Prosp. Gamm. ibid. n. 61 & seqq.* Hence lies action to the Loser at a game of fortune, to get back what he lost if paid, and the gamer hath no action of payment of trusted loss. l. ult. *De Aleator*. *Prosp. Gamm. ibid. n. 175. 176. Carp. 201. ibid. n. 23*. Contracts bonds or Wagers made at such Unlawful Gaming, are Null, *Prosp. Gamm. ibid. n. 203 & seqq.* By the Dutch law what is lost upon such or such a Game, cannot be pursued; and any Money so lost and paid, cannot be brought back to. *Voet Comm. ad Tit. pro Aleator. n. 6*. nor are such as grow out of it, actually bound to. *ibid. n. 7.*