

THE  
REVISED STATUTES

OF THE  
STATE OF VERMONT,

PASSED NOVEMBER 19, 1839.

TO WHICH ARE ADDED  
SEVERAL PUBLIC ACTS NOW IN FORCE;

AND TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Vermont.

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PUBLISHED BY ORDER OF THE LEGISLATURE.



Burlington:  
CHAUNCEY GOODRICH.  
1840.



or disability of any of the clerks, county, the presiding officer of or to the sheriff of such county, as aforesaid, who is hereby ful- form the duties enjoined on the ng section.

of the clerks or sheriffs, as the the certificates from the several or each person, in each of said ay deem legal and such as they ed copy of such list in the office pection, and preserve the origi- ion of president and vice presi-

ffs, as aforesaid, shall, within five notice to the persons elected, ne state house in Montpelier, on December, to vote for president tes, agreeably to the laws of the rson, so elected an elector, shall said, on the day before the first said, it shall be the duty of the t, the vacancy thus occasioned. nd sheriffs shall be sworn to a vious to counting the votes giv- president of the United States. e or disability of any town clerk, in this chapter, it shall be the tmen, who is not the presiding he duties of such town clerk, by rs, and the number of votes for ame, and, within three days af- me in the office of such town

ES.

g that he is not a qualified vo for the election of any officers, of this chapter, wilfully give in shall forfeit a sum not exceed- nce.

l knowingly give in, at any such one time of balloting, for the ot exceeding one hundred dol-

eting as aforesaid, any person r or information to the presi- o decide upon the qualification

of voters, touching such person's right to vote, at such election, he shall forfeit a sum not exceeding one hundred dollars.

SECT. 66. If any person shall wilfully aid or abet any one, who is not a legal voter, in voting or in attempting to vote, at any election, as aforesaid, he shall forfeit a sum not exceeding one hundred dol- lars.

SECT. 67. If any person shall, on the same day, vote in more towns than one, for the same officers, he shall forfeit a sum not ex- ceeding one hundred dollars.

SECT. 68. If any person shall be disorderly at any freemen's meeting, held as aforesaid, he shall forfeit a sum not exceeding twen- ty dollars.

SECT. 69. If any person shall wilfully neglect or refuse to per- form and discharge any of the duties required of him respecting elec- tions, by the several provisions of this chapter, he shall forfeit, for each offence, a sum not exceeding two hundred dollars.

SECT. 70. If the presiding officer, at any election mentioned in this chapter, shall, knowingly, receive and count any vote or votes from any person, not a legal voter, or knowingly receive from any le- gal voter, at any one balloting for the same office, more than one vote, he shall forfeit a sum not exceeding five hundred dollars for each offence.

SECT. 71. If any person shall attempt, by bribery, by threats, or by any undue influence whatever, to dictate or control in any way, or alter the vote of any freeman of this state, about to be given in, at any election mentioned in this chapter, he shall forfeit a sum not exceeding two hundred dollars.

SECT. 72. If any person shall, directly or indirectly, give any in- toxicating liquors to any of the freemen, on the day of any election mentioned in this chapter, or at any time prior or subsequent there- to, with a view to influence the vote of any freeman, or as a reward for the same, such person, so offending, shall forfeit a sum not ex- ceeding two hundred dollars.

SECT. 73. The fines and forfeitures, mentioned in this chapter, may be recovered to the use of this state, by information or indict- ment, before the county court in the county where the offence shall be committed.

SECT. 74. The governor, lieutenant governor, treasurer of the state, every member of the senate and house of representatives, and all officers and witnesses, whose duty it is, or shall be, to attend the legislature, shall, in all cases, except for treason, felony, and breach of the peace, be privileged from arrest and imprisonment, during their necessary attendance, and in going to, and returning from, the legislature.

#### OF ELECTION OF SENATORS.

SECT. 75. Senators, to represent this state in the congress of the United States, shall be elected in the following manner :

shall reside more than thirty miles out of the state, not to return before age, sickness, or other bodily infirmity, travelling and appearing at court; out of this state; and in any jail, or the liberties thereof, but escaping therefrom.

g to take the deposition of a witness, the adverse party resides within thirty miles of the place where the deposition is to be given, to the adverse party, or a person served on the adverse party in the same manner, which notice or citation shall specify the time and place of such deposition, and shall be given to the adverse party a reasonable time to appear at such deposition.

led upon to take a deposition out of the state, the person calling upon him, issue a subpoena to him, in the usual manner, and the witness before him, in the usual manner.

m a subpoena, as aforesaid, shall the witness, shall refuse or neglect to appear at such deposition, before the justice mentioned, before the deposition, such justice may issue a writ of attachment for the appearance of such person.

ce of any witness, required to make his deposition, the legal fees of such witness, if he refuse to make his deposition, shall be paid by the party who caused such witness to be taken, and he shall make his deposition under the penalty of commitment.

f deposition, shall be carefully examined, and the witness shall certify such deposition, and deliver the same to the court, sealed up and delivered in the following manner: The deposition taken, superscribed in the following manner: A B was taken and sealed up.

erson interested in any cause, to be used in any court, of any witness, to be used in any court, if the deposition is not taken or drawn up, or returned to the court, with the seal broken, shall be

ses, living without this state, or the laws of this chapter, or the laws of any court shall be allowed in any court

SECT. 10. Any justice or officer, authorized by the laws of the state in which he resides, to take affidavits or depositions to be used in the judicial tribunals of such state, shall have the same power to take a deposition, that is given in this chapter to a justice.

SECT. 11. No deposition, taken without notice to the adverse party, shall be read as evidence in any supreme or county court, unless the same shall have been filed in the office of the clerk of such court, and opened by such clerk and remained subject to the inspection of the adverse party, at least thirty days previous to the session of the court in which such deposition is offered as evidence.

SECT. 12. If any person, upon whom a subpoena shall be legally served, summoning him to appear and testify, in any cause or matter pending in any court in this state, or before auditors, referees, arbitrators or commissioners, there having been tendered to him so much money for his travel and one day's attendance, as is, or shall be allowed by law, does not appear, according to the tenor of such subpoena, having no lawful or reasonable excuse therefor, he shall forfeit the sum of ten dollars, and pay to the party, in whose behalf he shall be subpoenaed, all just damages, which forfeiture and damages shall be recovered by the party aggrieved, before any court proper to try the same.

SECT. 13. When any party, in a cause pending before any court, shall make it appear to such court that he has caused a subpoena to be duly served on any witness to appear and testify in such cause, and has tendered so much money for his travel and attendance as is by law directed, and such witness has neglected to appear, such court may issue an attachment to compel the attendance of such witness.

SECT. 14. Any party or witness, in any cause pending before any of the courts in this state, or before auditors, or referees, shall not be liable to be arrested, imprisoned or detained by virtue of any civil process whatever, while going to, attending at, or returning from such court or the trial of such cause.

SECT. 15. It shall be the duty of any party, producing a witness in the supreme or county court, to procure a certificate, signed and sworn to by such witness, specifying the number of miles from his usual place of abode to the place of trial, and the number of days he attended as a witness, before the travel and attendance of such witness shall be allowed such party in his bill of cost.

SECT. 16. When a certificate shall issue from the clerk of any judicial court, in any other of the United States, certifying that there is a criminal cause pending in such court, and that a person, residing in this state, is supposed to be a material witness in such cause, in behalf of such state or the person accused, any justice in the county in which such witness resides, on application made to him, shall, on the back of such certificate, or paper annexed thereto, issue a summons requiring such witness to appear at the court in which such cause is pending and testify.



THE  
GENERAL STATUTES  
OF THE  
STATE OF VERMONT:

PASSED AT THE  
ANNUAL SESSION OF THE GENERAL ASSEMBLY,  
COMMENCING OCTOBER 9, 1862:

TOGETHER WITH  
CERTAIN OF THE PUBLIC ACTS OF THE YEAR 1862:

TO WHICH ARE PREFIXED  
THE CONSTITUTIONS OF THE UNITED STATES AND THE STATE OF VERMONT.

EDITED AND PUBLISHED IN PURSUANCE OF AN ACT OF THE LEGISLATURE.



PUBLISHED BY THE STATE OF VERMONT.  
1863.

Person neglecting to appear and give his deposition, liable. Proviso. C. S., 34, § 14.

SECT. 17. If any person legally summoned to appear and make his deposition, before authority competent to take the same, the legal fees having been tendered to such witness, does not appear according to the summons, having no lawful or reasonable excuse therefor, he shall forfeit the sum of ten dollars, and shall pay to the party in whose behalf he shall be so summoned, all just damages; which forfeiture and damages shall be recovered by said party before any court proper to try the same. Provided, that no person shall be compelled to travel more than ten miles to give a deposition.

Person summoned as a witness liable if he does not appear. C. S., 34, § 15.

SECT. 18. If any person upon whom a subpoena shall be legally served, summoning him to appear and testify in any cause or matter pending in any court in this state, or before auditors, referees, arbitrators, or commissioners, there having been tendered to him so much money for his travel and one day's attendance as is or shall be allowed by law, does not appear, according to the tenor of such subpoena, having no lawful or reasonable excuse therefor, he shall forfeit the sum of ten dollars, and pay to the party in whose behalf he shall be subpoenaed all just damages, which forfeiture and damages shall be recovered by the party aggrieved before any court proper to try the same.

Court may issue attachment to compel attendance of witness. C. S., 34, § 16.

SECT. 19. When any party in a cause pending before any court shall make it appear to such court that he has caused a subpoena to be duly served on any witness to appear and testify in such cause, and has tendered so much money for his travel and attendance as is by law directed, and such witness has neglected to appear, such court may issue an attachment to compel the attendance of such witness.

Witnesses and parties exempt from arrest. C. S., 34, § 17. 2 Aik. 224. 27 Vt. 762.

SECT. 20. Any party or witness in any cause pending before any of the courts in this state, or before auditors, or referees, shall not be liable to be arrested, imprisoned, or detained by virtue of any civil process whatever, while going to, attending at, or returning from such court or the trial of such cause.

Certificate of witness to be procured or no fees taxed. C. S., 34, § 18.

SECT. 21. It shall be the duty of any party producing a witness in the supreme or county court to procure a certificate signed and sworn to by such witness, specifying the number of miles from his usual place of abode to the place of trial, and the number of days he attended as a witness, before the travel and attendance of such witness shall be allowed such party in his bill of cost.

Witness may be summoned to appear in another state. C. S., 34, § 19.

SECT. 22. When a certificate shall issue from the clerk of any judicial court in any other of the United States, certifying that there is a criminal cause pending in such court, and that a person residing in this state is supposed to be a material witness in such cause in behalf of such state or the person accused, any justice in the county in which such witness resides, on application made to him, shall, on the back of such certificate or paper annexed thereto, issue a summons requiring such witness to appear at the court in which such cause is pending, and testify.

Penalty for not obeying such summons. C. S., 34, § 20, amended.

SECT. 23. If any person so summoned and having tendered to him a sum equal to six cents for every mile's travel from the place of such witness's abode to and from the place where the trial may be, and one dollar at the end of every day for such



Penalty for receiving illegal votes by presiding officer.  
C. S., 1, § 79.

SECT. 73. If the presiding officer, at any election mentioned in this chapter, shall knowingly receive and count any vote or votes from any person not a legal voter, or knowingly receive from any legal voter, at any one balloting for the same office, more than one vote, he shall forfeit a sum not exceeding five hundred dollars for each offence.

Penalty for attempting to control votes by bribery, &c.  
C. S., 1, § 80.

SECT. 74. If any person shall attempt, by bribery, by threats, or by any undue influence whatever, to dictate or control in any way, or alter the vote of any freeman in this state about to be given in, at any election mentioned in this chapter, he shall forfeit a sum not exceeding two hundred dollars.

Penalty for giving intoxicating liquors to freemen.  
C. S., 1, § 81.

SECT. 75. If any person shall, directly or indirectly, give any intoxicating liquors to any of the freemen, on the day of any election mentioned in this chapter, or at any time prior or subsequent thereto, with a view to influence the vote of any freeman, or as a reward for the same, such person so offending shall forfeit a sum not exceeding two hundred dollars.

Fines: how recovered.  
C. S., 1, § 82.

SECT. 76. The fines and forfeitures mentioned in this chapter may be recovered to the use of this state, by information or indictment, before the county court in the county where the offence shall be committed.

Governor, members of legislature, &c., privileged from arrest while attending legislature, except for certain offences.  
C. S., 1, § 83.

SECT. 77. The governor, lieutenant-governor, treasurer of the state, every member of the senate and house of representatives, and all officers and witnesses, whose duty it is, or shall be, to attend the legislature, shall, in all cases, except for treason, felony, and breach of the peace, be privileged from arrest and imprisonment, during their necessary attendance, and in going to and returning from the legislature.

#### ELECTION OF SENATORS.

Mode of electing congressional senators.  
Each house of legislature to vote separately for senator.  
C. S., 1, § 84.

SECT. 78. Senators, to represent this state in the congress of the United States, shall be elected in the following manner:

The senate and house of representatives, in their respective houses, at a time mutually agreed upon for that purpose, shall respectively ballot for the number of senators to be elected, and the name of the person so balloted for, who shall have a majority of the whole number of votes in each house respectively, shall be entered upon the journal of each house, by the clerk or secretary thereof.

Both houses thereupon to meet in joint assembly; person having a majority of votes of both houses elected.  
C. S., 1, § 85.

SECT. 79. Both houses shall immediately thereafter convene in joint assembly, and the journal of each house shall be read by the clerk or secretary thereof, and if the same person shall have received a majority of all the votes in each house, such person shall be declared duly elected senator to represent this state in the congress of the United States.

If no election, the joint assembly to make election.  
C. S., 1, § 86.

SECT. 80. If the same person shall not have received a majority of all the votes in each house, the joint assembly shall then proceed, by ballot, to elect a person for the purpose aforesaid, and the person having a majority of all the votes of said joint assembly shall be declared duly elected a senator to represent this state in the congress of the United States.

Governor to execute certificate of

SECT. 81. It shall be the duty of the governor, or, in his absence, the lieutenant-governor, to certify, under the seal of the

1868, No. 23, p. 28.

## AN ACT RELATING TO APPEALS FROM THE JUDGMENTS OF JUSTICES OF THE PEACE.

SECTION 1. Section seventy of chapter thirty-one of the General Statutes shall be so construed that an appeal from the judgment of a justice of the peace shall be allowed in any case, in which the validity of any tax, or tax-bill, or warrant, shall in good faith be put in issue by the pleadings or by the proof.

SECT. 2. This act shall take effect from its passage.

APPROVED, November 19, 1868.

Appeal from judgment of justice of the peace allowed, whenever validity of any tax, tax-bill, or warrant is in issue.

1868, No. 24, p. 29.

## AN ACT TO CONSTRUE SECTION TWENTY OF CHAPTER THIRTY-SIX OF THE GENERAL STATUTES, RELATING TO DEPOSITIONS AND WITNESSES.

SECTION 1. Section twenty of chapter thirty-six of the General Statutes, shall be so amended as to read as follows:

Any party or witness in any cause pending before any of the courts in this state, or before auditors or referees, and any witness in any criminal cause pending before any of said courts, shall not be liable to be arrested or imprisoned or detained by virtue of any civil process whatever, while going to, attending at, or returning from such court, or the trial of such cause.

SECT. 2. This act shall take effect from its passage.

APPROVED, November 16, 1868.

Party or witness in any civil cause, and witness in criminal cause, not to be arrested by virtue of civil process, while going to, attending at, or returning from court, &c.

1868, No. 26, p. 31.

## AN ACT TO ENABLE OWNERS OF LANDS TO DRAIN THE SAME.

## SECTION

1. Persons desirous of draining land, and who cannot agree with the owner of land adjacent as to mode of drainage, may petition to the county court for such right; citation and petition to be served on each proprietor of lands adjacent.

2. Commissioners to be appointed by

## SECTION

said court; commissioners to report to county court, and upon such report the court may make such order as shall be deemed just.

3. Costs to be assessed in the discretion of the court; recognizance for costs given by petitioner.

SECTION 1. Whenever the owner or owners of any lands in this state may wish to drain the same, and are unable to agree with the proprietor or proprietors of adjacent lands, as to the mode of draining said land or lands, and the damages consequent thereon, said owner or owners may prefer a petition to the county court in the county where such lands are situated, for power to drain said land or lands across lands of adjoining proprietors; and shall at least twelve days before the sitting of the court to which such petition shall be preferred, cause said petition and citation to be duly served on each and every [one] of said adjoining proprietors.

Persons desirous of draining land, and who cannot agree with the owner of land adjacent as to mode of drainage, may petition to the county court for such right; citation and petition to be served on each proprietor of lands adjacent.



THE  
REVISED LAWS

OF  
VERMONT,

345-2

880:

WITH THE PUBLIC ACTS OF 1880,

AND THE

CONSTITUTIONS OF THE UNITED STATES AND THE STATE OF VERMONT.



Published by Authority.

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TO THE STATE OF VERMONT.

1881.



been taxed if the action had been brought in the name of the original payee.

SEC. 1454. Costs shall not be taxed for two judgments in one action at the same term unless there is a hearing on motion for a new trial; nor shall costs be taxed on a motion to chancery or redeem, other than is provided by law.

Two judgments at one term; motion to chancery or redeem. G. S. 125, § 14; R. S. 106, § 13; 1821, p. 29.

SEC. 1455. In actions in which the bankruptcy of the defendant is pleaded, and the defendant prevails solely by reason of such plea, the court may allow or disallow costs against the plaintiff.

When defendant pleads bankruptcy and prevails. G. S. 125, § 25; 1843, No. 3, § 2.

SEC. 1456. A clerk of court who in taxing a bill of cost knowingly includes a greater sum than is provided for by law, or a person practising before a court who knowingly makes up, takes or receives a greater sum in a bill of costs than is provided for by law, or a person who knowingly receives greater fees than are provided for by law, shall pay to the person aggrieved ten times such excess.

Penalty for taxing or taking illegal fees. G. S. 125, §§ 15, 16, 17; R. S. 106, §§ 14, 15, 16; 1821, p. 29; 1802, p. 76. 17 Vt. 479. 36 Vt. 619. 19 Vt. 559. 37 Vt. 20. 22 Vt. 639.

## CHAPTER 80.

### ARREST OF THE BODY, AND REMEDIES BY AND AGAINST BAIL.

#### SECTION

##### PRIVILEGE FROM ARREST.

1457. Privilege of persons attending general assembly.  
1458. Parties and witnesses attending court or trial.

##### ARREST AND COMMITMENT.

1459. Commitment, where made.  
1460. How made.  
1461. Defendant may have copy; committed for want of property or bail.  
1462. Penalty for not delivering copy of process.  
1463. Officer answerable if surety is insufficient.

##### BAILPIECE AND RIGHTS OF BAIL.

1464. Surety to have bailpiece.

#### SECTION

##### 1465. Warrant issued thereon.

1466. Use of warrant.  
1467. Commitment of principal.  
1468. Delivering principal into court.  
1469. Principal committed for want of bail.

##### REMEDIES AGAINST BAIL.

1470. Surety, for what held; how charged.  
1471. *Scire facias* against surety.  
1472. When brought before another justice.  
1473. Insanity of principal a bar.  
1474. Principal surrendered, how long detained.  
1475. If *scire facias* abates or fails on demurrer.

#### PRIVILEGE FROM ARREST.

SEC. 1457. The governor, lieutenant governor, treasurer of the state, members of the general assembly, and officers and witnesses whose duty it is to attend thereon, shall, in all cases except treason, felony and breach of the peace, be privileged from arrest and imprisonment during their necessary attendance on, and in going to and returning from the general assembly.

Persons attending general assembly. G. S. 1, § 77; R. S. 1, § 74; R. 1797, p. 552, § 9; 1791, p. 32.

SEC. 1458. A party or witness in a cause pending in any court in the state, or before auditors, or referees, and a witness in a criminal cause pending in any such court shall not be arrested, imprisoned, or detained by virtue of civil process,

Parties and witnesses attending court or trial. 1868, No. 24; G. S. 36, § 20; R. S. 31, § 14. 2 Aik. 224. 27 Vt. 762.



while going to, attending at, or returning from such court or the trial of such cause.

## ARREST AND COMMITMENT.

## Commitment, where made.

G. S. 33, §§ 59, 60; R. S. 28, §§ 24, 25; R. 1797, p. 92, §§ 37, 38; 1789, p. 17. 45 Vt. 386.

SEC. 1459. When any person authorized by law to serve process is required by law to commit a person to jail, the commitment shall be in the county where the arrest is made, unless otherwise directed by law. If there is no legal jail in the county the commitment shall be made in an adjoining county, in which there is a legal jail.

## How made.

G. S. 33, § 61; R. S. 28, § 26; R. 1797, p. 91, § 35; 1791, p. 8; R. 1787, p. 61. 18 Vt. 454. 41 Vt. 573. 25 Vt. 93.

SEC. 1460. The officer committing a prisoner shall deliver him to the keeper of the jail, within the same, and give the keeper an attested copy of the process, on which the commitment is made, with his return thereon.

## Defendant may have copy; committed for want of property or bail.

G. S. 33, §§ 57, 58; R. S. 28, §§ 22, 23; R. 1797, pp. 86, 91, §§ 28, 35; 1791, p. 8. 22 Vt. 26. 50 Vt. 728.

SEC. 1461. When a defendant is arrested on mesne process, in a civil action, the officer shall deliver him an attested copy thereof if required, and shall commit him to jail unless he exposes sufficient property to secure the officer, or some person becomes surety to the satisfaction of the officer by indorsing his name on the writ as bail.

## Penalty for not delivering copy of process.

G. S. 43, § 23; R. S. 38, § 23. 34 Vt. 77.

SEC. 1462. An officer who does not within six hours deliver a true copy of the warrant or process by which he detains a prisoner, to any person who demands such copy and tenders the fees therefor, shall forfeit to such prisoner two hundred dollars.

## Officer answerable if surety is insufficient.

G. S. 33, § 67; R. S. 28, § 32; R. 1797, p. 87, § 29; R. 1787, p. 147. 1 D. Chip. 199. 1 Vt. 73.

SEC. 1463. The officer taking surety on a writ of attachment shall be answerable to the plaintiff for damages occasioned by the insufficiency of such surety, unless it appears on trial that at the time of taking the surety the same was amply sufficient; and no suit shall be maintained against a person so taking bail when the bail is sufficient.

## BAILPIECE AND RIGHTS OF BAIL.

## Bailpiece.

G. S. 33, § 68; R. S. 28, § 33; 1812, p. 79; R. 1797, p. 88, § 32.

SEC. 1464. When a surety indorses a writ of attachment as bail, the officer shall deliver to him a bailpiece.

## Warrant thereon.

G. S. 33, § 69; R. S. 28, § 34; R. 1797, p. 88, § 32.

SEC. 1465. Upon the presentation of such bailpiece to a justice, the justice shall issue to such surety a warrant directed to any sheriff or constable in the state, commanding him to assist such surety in apprehending the principal.

## Use of warrant.

G. S. 33, §§ 68, 70; R. S. 28, §§ 33, 35; R. 1797, p. 88, § 32.

SEC. 1466. The surety may use such warrant when he has occasion to arrest the principal in order that he may surrender him in court in discharge of his bail on the original process, or upon *scire facias*, or to secure him until a session of the court in which he may be surrendered for that purpose.

## Commitment of principal.

G. S. 33, §§ 69, 71; R. S. 28, §§ 34, 35; R. 1797, p. 88, § 32.

SEC. 1467. The officer apprehending the principal may commit him to jail in the county in which he was arrested on the original process, or in the county in which the process is pending, agreeably to the direction in the warrant; and such commitment shall be considered as a commitment on the original writ, if the same is pending.



No. 75.—AN ACT TO AMEND SECTION 2333 OF THE  
GENERAL LAWS, RELATING TO PARTIES AND  
WITNESSES ATTENDING COURT AND TRIAL.

[H. 172]

*It is hereby enacted by the General Assembly of the State of Vermont:*

SECTION 1. Section 2333 of the General Laws is hereby amended so as to read as follows:

Sec. 2333. *Exemption from arrest.* A party or witness in a cause pending in any court in the state, or before special masters, auditors, referees or commissioners, and a witness in a criminal cause pending in any such court, shall not be arrested, imprisoned or detained by virtue of civil process, and any witness summoned from without the state in a criminal cause pending in any court within the state shall be privileged from the service of papers of any kind whatsoever and from arrest for any cause while going to, attending at or returning from such court or trial of such cause.

SEC. 2. This act shall take effect from its passage.  
Approved March 22, 1919.

No. 76.—AN ACT TO AMEND SECTION 2491 OF THE  
GENERAL LAWS, RELATING TO FORMER AC-  
QUITTAL.

[H. 251]

*It is hereby enacted by the General Assembly of the State of Vermont:*

SECTION 1. Section 2491 of the General Laws is hereby amended so as to read as follows:

Sec. 2491. *Former acquittal a bar.* A person shall not be held to answer on the same or a second complaint, information or indictment for an offense of which he was acquitted by a jury upon the merits on a former trial, but such acquittal may be pleaded in bar of a subsequent prosecution for the same offense, notwithstanding defects in the form or substance of the complaint, information or indictment on which he was acquitted.

SEC. 2. *Application of act.* This act shall take effect from its passage, and shall apply to pending causes.  
Approved April 3, 1919.