trates. By 1 & 2 P. and M. c. 13, however, "an Act touching bailment of persons," the duties of justices of the peace in taking bail were clearly recognized and regulated, provisions were made for the observance of the Statute of Westminster, and that bail in many cases should only be granted before two justices of the peace in open session instead of as theretofore had been the practice, but giving power to justices and coroners in the city of London and County of Middlesex, and in other cities, boroughs, and towns corporate in England and Wales to let to bail "felons and prisoners in such manner and form as they had been heretofore accustomed," and the said Act "or anything to the contrary notwithstanding." The other old statutes relating to bail were 23 Hen. 6, c. 9, and 3 Hen. 7, c. 3. The state of the law continued virtually the same from that time down to 11 & 12 Vict. c. 42; but from the records of history it is clear that justices of the peace and judges generally had been in the habit of requiring such heavy bail before persons in custody were released as to be prohibitory, and the beneficence of common law in favour of freedom was by a pretence set aside. This was one of the grievances so justly complained of during the reigns of the two last Stuarts, and as a consequence a clause was inserted in the Declaration of Rights, our modern Magna Charta, to the effect that excessive bail should not be required. The next statutory interference with the law of bail was, as above stated, by the 11 & 12 Vict. c. 42, which provides (sect. 23) that where any person shall be brought before a justice of the peace charged with certain felonies, which are mentioned, "or with any misdemeanor for the prosecution of which the costs may be allowed out of the county rate," such justice of the peace "*may*," in his discretion, admit such person to bail, &c.; and it further provides that where any person shall be charged before any justice of the peace with any indictable misdemeanor, other than of the kind before mentioned, such justice "*shall*" admit him to bail in the manner provided by that section, the result being that in accepting or refusing bail the question raised is not the gravity of the misdemeanor, but the mere fact whether the costs of prosecution are payable out of the county rates. This, as might be supposed, leads to many anomalies; for instance, under the game laws—statute 9 Geo. 4, c. 69, s. 9, is very severe against the game offence where three or more persons are in pursuit of game at night, assaulting keepers, &c., and the punishment may be sixteen years' penal servitude, yet as the prosecution for this offence is not paid out of the county rate, bail is compulsory. On the other hand, in a game law prosecution under the Larceny Consolidation Act of 1861, s. 17, the object of which was to make the taking of hares and rabbits a misdemeanor, costs for prosecution are payable out of the county rates, and therefore it is in the discretion of the justice to refuse or accept bail as he pleases. Other instances could be named in which the same anomalous power is left in the hands of committing magistrates. This calls for alteration. Great injustice is sometimes done by a refusal of bail, and no reasonable person could defend a hard and fast line based on such an arbitrary and absurd distinction as the fact whether the costs of a prosecution are payable or not out of the county rate. We have shown that by common statute law every misdemeanor was bailable, as it ought to be; but, now, if an offence against the Highway Act were committed, which is a misdemeanor, and if a true bill was found and the costs for prosecuting it were payable out of the county rates, it would lie in the discretion of the justice to refuse bail. Of course, in all cases where bail is refused, there is an appeal to a judge at chambers; but this is a costly proceeding, and as the class of persons who are brought before magistrates are, as a rule, poor and indigent, it is impossible for them to avail themselves of such a right. This clause in Jervis's Act is unfortunate. We do not wish to depreciate the two consecutive statutes called after the Chief Justice, or facilities they have given in properly conducting indictments and the administration of justice in summary convictions; but, at the same time, their tendency has been to abridge liberty in some most important particulars. Much might be said of the manner in which they have deprived the poor man of one of the most sacred rights of Englishmen, an appeal to a jury; but that is beyond the present inquiry. Another bad effect arises from this state of the law. Many justices