

prizes and rewards] as in the said recited act is comprised, limited, mentioned and appointed, and not otherwise.

Passed May 31, 1718. Apparently never considered by the Crown, but allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix IV, Section II, and Hill's letter and Fane's opinion in Appendix V, Section I, and the Acts of Assembly passed June 7, 1712, Chapter 191; February 8, 1766, Chapter 533, and the notes thereto.

CHAPTER CCXXXV.

AN ACT EMPOWERING THE JUSTICES TO SETTLE THE PRICES OF LIQUORS IN PUBLIC HOUSES, AND PROVENDER FOR HORSES IN PUBLIC STABLES.

Whereas it has been the practice of tavern-keepers, alehouse-keepers and innholders to exact excessive rates for their wine, beer, cider and other liquors, and also provender for horses, without regard to the plenty and cheapness thereof:

[Section I.] Be it therefore enacted by William Keith, Esquire, by and with the King's royal approbation Deputy Lieutenant and Governor, under William Penn, Esquire, Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the justices of the peace of the respective counties of this province, and also the mayor, recorder and aldermen of the city of Philadelphia, shall have full power, four times in the year, to wit, at the general sessions of the peace, held for the said counties and city respectively, to set such reasonable prices on all liquors retailed in public houses, and provender for horses in public stables, from time to time, as they shall see fit, which prices shall be proclaimed by the crier at the conclusion of their said respective sessions, and fixed upon the court house doors for public view.

And if any public alehouse-keeper, taverner, innholder or public stable-keeper exceed the prices so set by the justices, and be convict thereof, by oath or affirmation of one or more wit-

nesses, before one or more justices of the peace of the respective counties of this province or city of Philadelphia, every such offender shall, for the first offense, be fined in any sum not exceeding twenty shillings, and for the second offense forty shillings, and give security for their good behavior; and for the third offense, upon conviction in the quarter sessions of the respective counties or city of Philadelphia, five pounds, and not to be recommended to keep a public house or tavern for the space of three years after such conviction.

Passed May 31, 1718. Apparently never considered by the Crown, but allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix IV, Section II, and Hill's letter and Fane's opinion in Appendix V, Section I.

CHAPTER CCXXXVI.

AN ACT FOR THE ADVANCEMENT OF JUSTICE, AND MORE CERTAIN ADMINISTRATION THEREOF.

Whereas King Charles the Second, by his royal charter to William Penn, Esquire, for erecting this country into a province, did declare it to be his will and pleasure that the laws for regulating and governing of property within the said province, as well for the descent and enjoyment of lands as for the enjoyment and succession of goods and chattels, and likewise as to felonies, should be and continue the same as they should be for the time being by the general course of the law in the kingdom of England, until the said laws shall be altered by the said William Penn, his heirs or assigns, and by the freemen of the said province, their delegates or deputies, or the greater part of them.

And whereas it is a settled point that as the common law is the birthright of English subjects, so it ought to be their rule in British dominions. But acts of parliament have been adjudged not to extend to these plantations, unless they are particularly named in such acts.

Now forasmuch as some persons have been encouraged to

transgress certain statutes against capital crimes, and other enormities, because those statutes have not been hitherto fully extended to this province,

Therefore, lest there should be any further failure in that behalf, may it please the governor that it may be enacted,

[Section I.] And be it enacted by William Keith, Esquire, by and with the King's royal approbation Deputy-Lieutenant and Governor, under the said William Penn, Esquire, Proprietary and Governor-in-Chief of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all inquests and trials of high treason shall be according to the due order and course of the common law, observing the directions of the statute laws of Great Britain, relating to the trials, proceedings and judgments in such cases.

[Section II.] And be it further enacted, That the inquiries and trials of all petty treasons, misprision of treason, murder, manslaughter, homicides, and all such other crimes and misprisions as by this act or any other act of assembly of this province are or shall be made capital or felonies of death, which have been or shall be done, committed, perpetrated or happen within this province, shall be as by this act is directed.

And whereas the several crimes declared by this act to be felonies of death are, by the course of the laws of that part of Great Britain called England, to be inquired of and tried by justices, juries and witnesses, upon their oaths. But forasmuch as the greatest part of the inhabitants of this province are such who, for conscience' sake, cannot take an oath in any case, yet without their assistance justice cannot [be] well administered and too great a burden will fall upon the other inhabitants:

[Section III.] Be it therefore enacted by the authority aforesaid, That all and all manner of crimes and offenses, matters and causes whatsoever, to be inquired of, heard, tried and determined by virtue of this or any other act or law of this province, or otherwise, shall and may be inquired of, heard, tried and determined by judges, justices, inquests and witnesses, qualifying themselves according to their conscientious

persuasions respectively, either by taking a corporal oath, or by the solemn affirmation allowed by act of parliament to those called Quakers in Great Britain, which affirmation of such persons as conscientiously refuse to take an oath, shall be accounted and deemed in the law to have the full effect of an oath in any case whatsoever in this province. And that all such persons as shall be convicted of falsely and corruptly affirming or declaring any matter or thing, which, if the same [had been] upon oath, would by law amount to willful and corrupt perjury, shall incur the same penalties, disabilities and forfeitures, as persons convicted of willful perjury do incur by the laws of Great Britain.

And that upon all trials of the said capital crimes, lawful challenges shall be allowed, and learned counsel assigned to the prisoners, and shall have process to compel witnesses to appear for them upon any of the said trials. But before such witnesses shall be admitted to depose or to give any manner of evidence, they shall first take an oath or affirmation "To say the truth, the whole truth, and nothing but the truth," in such manner as the witnesses for the King are by the law of this province obliged to do. And if convicted of any willful perjury in such evidence shall suffer all the punishments, penalties, forfeitures and disabilities which by any of the laws and statutes of Great Britain are or may be inflicted upon persons convicted of willful perjury.

But if any of the said prisoners shall, upon their arraignment for any of the said crimes, stand mute, or not answer directly, or shall peremptorily challenge above the number of twenty persons returned to serve of the jury, he or they so offending shall suffer as a felon convict, and shall lose the benefit of clergy and of this act, in the same manner as he or they should have done if they had been indicted, arraigned, and found guilty, if it appear to the justices, before whom such felons be arraigned, by evidence given before them, or by examination, that the same felonies whereon they are so arraigned had been such felonies by reason whereof they should have lost the benefit of their clergy.

And when any person or persons shall be so as aforesaid

convicted or attainted of any of the crimes, they shall suffer as the laws of Great Britain now do or hereafter shall direct and require in such cases respectively. And it shall and may be lawful for the justices of the court where any of the said attainders or convictions shall happen, to give and pronounce such judgment or sentence against the persons so attainted or convicted, as their crimes respectively require, according to the manner, form and direction of the laws of that part of Great Britain called England in the like cases, and thereupon to award and order execution to be done accordingly.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons shall commit sodomy or buggery, or rape or robbery, which robbery is done by assaulting another on or near the highway, putting him in fear, and taking from his person money or other goods, to any value whatsoever, he or they so offending, or committing any of the said crimes within this province, their counsellors, aiders, comforters and abettors, being convicted thereof as abovesaid, shall suffer as felons, according to the tenor, direction, form and effect of the several statutes in such cases respectively made and provided in Great Britain, any act or law of this province to the contrary in anywise notwithstanding.

[Section V.] And be it further enacted by the authority aforesaid, That if any woman shall be delivered of any issue of her body, male or female, which being born alive should, by law, be deemed a bastard, and that she endeavor privately, either by drowning or secret burying thereof, or any other way, either by herself or the procuring of others, so to conceal the death thereof, as that it may not come to light, whether it were born alive or not, but be concealed, in every such case the mother so offending, being convicted thereof according to the usual course of proceedings in capital crimes within this province, shall suffer death, as in case of murder; except such mother can make proof, by one witness at the least, that the child, whose death was by her so intended to be concealed, was born dead.<sup>1</sup> And if any person or persons shall counsel, advise or direct such woman to kill the child she goes with, and after

<sup>1</sup> Repealed by Act of September 15, 1786, Chapter 1241.

she is delivered of such child, she kills it, every such person so advising or directing shall be deemed accessory to such murder, and shall have the same punishment as the principal shall have.

[Section VI.] And be it further enacted by the authority aforesaid, That the statute against stabbing, made in the first year of the reign of King James the First, chapter eighth, entitled "An act to take away the benefit of the clergy for some kind of manslaughter," shall be duly observed and put in execution in this province, and be of like force and effect as if the same act were [here] repeated and enacted; but that all such persons as shall happen to be present and aiding to the stabbing of another, which by the said act is made murder, shall not be deemed principals but accessories to such stabbing.

[Section VII.] And be it further enacted by the authority aforesaid, That if any person or persons on purpose, and of malice aforethought, and by lying in wait, shall unlawfully cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or lip, or cut off or disable any limbs or members of any of the King's subjects, with intention in so doing to maim or disfigure, in any of the manners before mentioned, such His Majesty's subjects, that then and in every such case, the person or persons so offending, their counsellors, aiders and abettors, knowing of and privy to the offense as aforesaid, shall suffer death, as in the cases of felony, without benefit of clergy.

[Section VIII.] And be it further enacted by the authority aforesaid, That another statute made in the first year of the reign of King James the First, chapter twelfth, entitled "An act against conjuration, witchcraft, and dealing with evil and wicked spirits," shall be duly put in execution in this province, and of like force and effect, as if the same were [here] repeated and enacted.

[Section IX.] And be it further enacted by the authority aforesaid, That if any person or persons shall be so as aforesaid convict of burglary, which is a breaking and entering into a dwelling house of another in the night time, with intent to kill some reasonable creature, or to commit some other felony within the same house, whether the felonious intent be exe-

cutted or not, he or they so offending within this province, being convicted thereof as aforesaid, shall suffer death without benefit of clergy, any law of this province to the contrary notwithstanding.

And if any person or persons shall be so as aforesaid convicted of maliciously and voluntarily burning the dwelling house, barn, stable or outhouse of another, having corn or hay therein, he or they so offending within this province, shall suffer death, any law of this province to the contrary notwithstanding.

[Section X.] And be it further enacted by the authority aforesaid, That if any principal offender in any capital crime, which by the laws of this province for the time being is made felony of death, shall be convicted of any such felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to serve of the jury, it shall and may be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding any such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he or she be convicted, or stand mute, or peremptorily challenge above the number of twenty persons returned to serve of the jury, as he or she should have suffered if the principal had been attainted.

[Section XI.] And be it further enacted by the authority aforesaid, That if any person or persons shall receive, harbor or conceal any of the said robbers or burglars, felons or thieves, or shall receive or buy any goods or chattels, that shall be feloniously taken or stolen by any such robbers or burglars, felons or thieves, knowing the same to be stolen, and being so as aforesaid convicted of either of the said offenses, if he or they pray to have the benefit of this act, in lieu of clergy, judgment of death shall not be given against them upon such conviction, nor execution awarded upon any outlawry for such offense, but they shall be burnt in their hands, in manner as hereinafter directed.

Provided always, That if any such principal robber or bur-

glar, felon or thief, cannot be taken, so as to be prosecuted and convicted for any such offense, nevertheless it shall be lawful to prosecute and punish every such person and persons, buying or receiving any goods stolen by any such principal felon, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, or other such corporal punishment as the court shall think fit to inflict, although the principal felon be not before convict of the said felony. Which punishment shall exempt the offender from [being] punished as accessory, if such principal felon shall afterwards be taken and convicted.

[Section XII.] And be it further enacted by the authority aforesaid, That if any person or persons, who have been indicted or appealed, or hereafter shall be indicted or appealed, for any of the said crimes, did not, or will not, appear to answer such indictment or appeal, the justices before whom the same hath been or shall be taken, shall award a writ called *capias* against every such offender, directed to the sheriff of the county where the party indicted or appealed is by such indictment or appeal supposed to be conversant or inhabit, returnable before the justices of that court, where such party is or shall be so indicted or appealed, at the supreme or provincial court next after the taking of such indictment or appeal; by which writ of *capias* the same sheriff shall be commanded to take the body of him or them so indicted or appealed, if he or they can be found in his bailiwick. And if he or they cannot be found, the sheriff shall make proclamation in every court of quarter-sessions, which shall be held for the said county, where the said party indicted or appealed is supposed to inhabit or be conversant aforesaid, That he or they being so indicted or appealed shall appear before the said justices at the said supreme court, on the day of the return of the said writ of *capias*, to answer our Lord the King, or [to] the party, of the treason, felony or trespass whereof he or they are so indicted or appealed. Which writ shall be delivered to the said sheriff or sheriffs three months before the return thereof; after which writ of *capias* so served and returned, if he who is so indicted or appealed comes not at the said day of return of the said *capias* and yield

his body to the sheriff, he shall be by the justices of the said supreme court pronounced outlawed, and attainted of the crime whereof he is so indicted or appealed as aforesaid. And from that time shall forfeit and lose all his lands and tenements, goods and chattels. Which forfeiture, and all other forfeitures expressed or implied by the said judgments, to be given upon the said capital offenses mentioned in this act, after such criminal's just debts and the reasonable charges of their maintenance in prison are deducted, shall go, one-half to the governor for the time being, towards support of this government, and for defraying the charges of prosecution, trial and execution of such criminals, and the other half or residue thereof shall go to such criminal's wife and children equally. But if he leaves no wife or children, then to the next of his kindred, not descending lower than the second degree, to be claimed within three years after the death of such criminals; otherwise the same shall go to the governor as aforesaid, any law or usage to the contrary notwithstanding.

[Section XIII.] Provided always, and be it further enacted, That where any person or persons charged, committed to prison, or convicted of any of the said capital crimes, being justly indebted to any other person or persons, he or they so indebted may be arrested, or their goods and chattels attached, to answer the suits of their respective creditors, who making due proof that the debts or sums demanded are really and without fraud due, shall recover judgment for the same, and executions may be awarded against the lands, goods and chattels of such defendants, as is usual in other cases.

Provided also, That he or they who shall happen to break prison, shall not have judgment of life or member for breaking of prison only, except the cause for which he or they were taken and imprisoned did require such judgment had he been convict according to law.

[Section XIV.] And be it further enacted by the authority aforesaid, That if any person be convicted of any such felony as is hereby made capital, for which he ought by the laws of Great Britain to have the benefit of his clergy, and shall pray to have the benefit of this act, he shall not be required to read,

but without any reading shall be allowed, taken and reputed to be, and punished as a clerk convict, and burnt, if for murder, with an M upon the brawn of the left thumb; and if for any other felony, with a T in the same place of the thumb. Which marks are to be made by the gaoler in open court, as is usual in Great Britain; which shall be effectual to all intents and purposes, and be as advantageous to him as if he had read as a clerk, any law or usage to the contrary notwithstanding.

And that the said justices, before whom such offender or offenders shall be tried and convicted, shall also, at their discretion, award and give judgment that such offender and offenders shall be committed to some House of Correction or public workhouse within the county, city, town or place where such conviction shall be, there to remain [and be kept] without bail or mainprise for such time as such justices shall then judge and award, not less than six months, and not exceeding two years, to be accounted from the time of such conviction, and an entry thereof shall be made of record, pursuant to such judgment and award; and such offender and offenders, so judged and awarded to remain and be kept in such House of Correction or public workhouse, shall be there set at work and kept at hard labor, for and during such time as shall be so judged and recorded. And in case such person or persons shall refuse or neglect to work and labor as they ought to do, the master or keeper of such House of Correction, or public workhouse, respectively, is hereby required to give such persons such due correction as shall be fit and necessary in that behalf.

[Section XV.] And be it further enacted by the authority aforesaid, That in case any such offender or offenders shall, after such judgment given, escape out of prison, or out of such House of Correction or public workhouse as he, she or they shall be committed unto as aforesaid, such person or persons, being afterwards retaken, shall be brought before one or more of the provincial judges, or before two or more of the justices of the peace of such county, city, town or place, where such offender or offenders shall be so retaken; which judge or justices are hereby required to commit such offender and offenders to some House of Correction, or public workhouse, within such

county, city, town or place, where he, she or they shall be so retaken, there to remain without bail or mainprise for any time not less than twelve months, and not exceeding four years, to be accounted from the time of such retaking, and there be set at work, and kept at hard labor, and receive such due correction as aforesaid.

And in case any master or keeper of any House of Correction, or public workhouse, shall neglect to do his duty as above directed, any judge or justice of gaol delivery, upon complaint and due proof thereof made, upon the oath or affirmation of one or more witnesses to him made, shall be and is hereby empowered to remove such person from his said office.

[Section XVI.] And be it further enacted by the authority aforesaid, That where a man being convicted of any felony, for which he may demand the benefit of his clergy, if a woman be convicted for the same or like offense, upon her prayer to have the benefit of this act, judgment of death shall not be given against her upon such conviction, or execution awarded upon any outlawry for such offense, but shall suffer the same punishment as a man should suffer, that has the benefit of his clergy allowed him in the like case: (That is to say) shall be burnt in the hand, in manner aforesaid; and further, to be kept in prison for such time as the justices in their discretion shall think fit, so as the same do not exceed one year.

But if any man or woman, who have once had the benefit of this act as aforesaid, and shall be again convicted of any other felony, hereby made capital or felony of death, for which a man might have the benefit of his clergy, every such man or woman shall be, and are hereby totally excluded from having any benefit or advantage of this act, but shall suffer pains of death, as in cases where the benefit of the clergy is by law taken away.

[Section XVII.] And be it further enacted by the authority aforesaid, That where any murder or felony hath been or hereafter shall be committed in one county of this province, and one or more persons shall be accessory or accessaries to any such murder or felony in another county, that then an indictment found or taken against such accessory or accessaries, upon the

circumstance of such matter, before justices of the peace, or other justices or commissioners to inquire of felonies in the county, where such offenses of accessory or accessaries, in any manner, have been or shall be committed or done, shall be as good and effectual in law, as if the said principal offense had been committed or done within the same county where the indictment against such accessory hath been or shall be found.

And that the justices of the said supreme court, or two of them, upon suit to them made, shall write to the keepers of the records, where such principal is or shall be hereafter attainted or convict, to certify them whether such principal be attainted, convicted or otherwise discharged of such principal felony; who, upon such writing to them or any of them directed, shall make [sufficient] certificate in writing, under their seal or seals, to the said justices, whether such principal be attainted, convicted, or otherwise discharged or not. And after they who have the custody of such records do certify that such principal is attainted, convicted, or otherwise discharged of such offense by the law, then the justices of gaol delivery, or of oyer and terminer, shall proceed upon every such accessory, in the county where he or they became accessory, in such manner and form as if both the said principal [offense] and accessory had been committed and done in the same county where the offense of accessory was or shall be committed or done.

And that every such accessory, and other offenders above expressed, shall answer upon their arraignments, and receive such trial, judgment, order and execution, and suffer such forfeitures, pains and penalties, as is used in other cases of felony, and as the statute made in the second and third years of King Edward the Sixth, chapter the twenty-fourth, entitled "An act for the trial of murders and felonies committed in several counties," doth direct in such cases; which statute shall be observed in this province, any law or usage to the contrary notwithstanding.

[Section XVIII.] And be it further enacted by the authority aforesaid, That every person who shall unlawfully and corruptly procure any witness to commit willful and corrupt perjury, in any matter or cause depending in suit and variance, in any of the courts of judicature in this province, or shall unlaw-

fully and corruptly procure and suborn any witness to testify upon oath or affirmation in any matter, cause or thing whatsoever, such offender shall forfeit the sum of forty pounds, one-half thereof to the governor, for the support of this government, and the other half to the party grieved. But for want of lands, goods or chattels, to satisfy the said forty pounds, every such offender, being convicted or attainted of perjury or subornation aforesaid, shall, for his said offense, suffer imprisonment by the space of six months, without bail, and stand on the pillory the space of one whole hour, in some market town, or public place where the offense was committed, and shall suffer all [the] other punishments, penalties, forfeitures and disabilities which are inflicted upon such offenders by any law or statute of Great Britain.

And that the statute made in the fifth year of Queen Elizabeth, chapter the ninth, entitled "An act for punishment of such persons as shall procure or commit any willful perjury," shall be observed in this province, and be duly put in execution, as well against those that shall falsify their affirmations, as those who shall falsify their oaths, or be convicted of subornation of perjury.

[Section XIX.] And be it further enacted by the authority aforesaid, That in all cases, where any person or persons have been or shall be found guilty of any of the said crimes, for which judgment of death should or may ensue, and shall be reprieved to prison, without judgment at that time given him, her or them so found guilty, that those who now are or hereafter shall be assigned justices to deliver the gaol where any such guilty persons shall remain, are hereby empowered and authorized to give judgment of death, and award execution against such persons so found guilty and reprieved, as the same justices, before whom such person or persons was or were found guilty, might have done before such reprieve.

And that no manner of process or suit, made, sued or had, before any of the King's justices of the supreme or provincial court, gaol delivery, oyer and terminer, justices of the peace, or other the King's commissioners, in this province, shall not in any wise be discontinued by the making and publishing of

any new commission or association, or by altering the names of the justices of the said supreme court, gaol delivery, oyer and terminer, justices of the peace, or other the King's commissioners, but that the new justices of the said supreme court, jail delivery and of the peace, and of the commissioners, may proceed in every respect, as if the old commissions and justices, and commissioners, had still remained and continued unaltered.

And that no process, pleas, complaints, suits, actions [or] proceedings whatsoever, which now are, or at any time hereafter shall be commenced, sued, brought or depending, before any of the said justices of the supreme court, justices of the courts of common pleas, or other the King's justices, commissioners or magistrates, in this province, shall be discontinued, or put without day, by reason of the death or removal of the proprietary, or his lieutenant-governor of this province, or by the death, new commission; or not coming of the said justices or commissioners, or any of them; but shall stand good and effectual in law, to all intents and purposes, notwithstanding the death or removal of the said proprietary and governor, or of the death, new commission, association, or not coming of the said justices, or any of them.

[Section XX.] And be it further enacted by the authority aforesaid, That if any person or persons, after the first day of October, in this present year one thousand seven hundred and eighteen, shall commit any simple larceny, which is not by this act made felony of death, and be duly convicted thereof at the court of quarter-sessions of the peace, to be held for the respective county where such offense is committed, or where the offender becomes accessory in this province, he, she or they, so offending, their aiders, comforters and abettors, shall, for the first offense, restore the goods and chattels, so stolen, to the right owner or owners thereof, or shall pay him or them the full value of such goods, or so much of them as cannot be restored; which value shall be set by such persons as the court, before whom such offenders are convicted, shall appoint to do the same upon their oaths or affirmations, and the said offenders shall also pay the costs of prosecution, with all such other sums of money as the same court shall allow for such owner

or owners' loss of time, charges and disbursements, in the apprehending and prosecution of such offenders.

And moreover shall forfeit and pay the like value of the goods to the governor, for the support of this government, and shall be committed to the common gaol of the county where they are convicted, there to remain till they make satisfaction for all the sums so to be adjudged or recovered against them; and moreover shall be publicly whipped on his or their bare backs with stripes well laid on, not exceeding twenty-one.

And that he or they who shall so as aforesaid be convicted of the second offense, and his and their aiders, comforters and abettors, shall pay to the right owner or owners of the goods and chattels, so stolen, the full value of such goods and chattels, or of so much of them as are not restored, which value shall be set as aforesaid; and the said offenders shall also pay the costs and charges aforesaid, to be allowed as above mentioned.

And moreover, shall forfeit and pay the double value of the said goods to the governor, for the support of this government, and shall be committed to the common gaol of the county where they are convicted, there to remain till they make satisfaction as aforesaid, and shall be publicly whipped on their bare backs with stripes well laid on, not less than twenty-one, nor exceeding forty.

And he or they who shall be so as aforesaid convicted of the third offense, and his or their aiders or abettors, shall pay to the right owner or owners of such stolen goods the full value thereof, to be set as aforesaid; and the said offenders shall also pay the costs and charges aforesaid, to be allowed as aforesaid; and shall also forfeit and pay the like treble value to the governor, for the support of this government; and shall be committed to the county gaol, there to remain till they make satisfaction as aforesaid and shall be publicly whipped on his or their bare backs with stripes well laid on, not less than thirty-nine nor exceeding fifty.

And that the said justices, before whom such offenders shall be tried and convicted of the third offense, shall also, at their discretion, award and give judgment, that such offenders shall

be sent to some House of Correction, or public workhouse, and there to be set at work, corrected, and remain, without bail, for such time as the said justices shall then judge and award, not less than twelve months, and not exceeding four years, to be accounted from the time of such conviction, and an entry shall be thereof made accordingly, as is hereinabove directed in other cases.

[Section XXI.] Provided always, and be it further enacted by the authority aforesaid, That none of the said imprisonments hereby awarded, as part of the punishment of the said offenders, or any of them, shall stop or avoid the awarding or taking out of executions, to levy so much of the respective sums recovered against them as aforesaid, as such offenders refuse or neglect to pay, when such writs are taken out; which executions shall be directed to the sheriff or coroner of the proper county, requiring him to levy the sums due upon such recoveries [as] aforesaid, of the lands and tenements, goods and chattels, of such offenders, returnable to the court of quarter-sessions next after the date or test of such writs; which shall be executed accordingly, and the lands, goods and chattels thereby seized, shall be sold and conveyed by the said officers; and such sales shall be as available and effectual in law as any other sales of lands taken and sold for payment of debts, by virtue of writs of execution, awarded out of the courts of common pleas in the said respective counties.

[Section XXII.] And be it further enacted by the authority aforesaid, That all the said forfeitures, arising from offenders who shall be convicted of the said simple larcenies, and by this act directed to be applied for support of government, shall be duly levied by the sheriffs of the respective counties, and shall be paid into the treasury of this province, from time to time, as soon as the same can be levied; and the provincial treasurer for the time being shall keep true and just accounts thereof, and shall issue and pay the same to the use and public service of this government.

Provided, That the forfeitures arising from the said simple larcenies, committed within the city of Philadelphia, shall go as their charter directs.



[Section XXIII.] Provided also, and it is hereby enacted and declared, That the testimony of the said owners of stolen goods shall be allowed and taken to be good evidence to convict the said felons for such stealing, and that the law of this province entitled "An act against robbing and stealing,"<sup>1</sup> passed in the fourth year of the late Queen Anne, and another act "directing the punishment of petty larceny under five shillings,"<sup>2</sup> shall be and are hereby repealed.

[Section XXIV.] And be it further enacted by the authority aforesaid, That if any person or persons shall agree or compound, or take satisfaction for any stealing, or goods stolen, such person shall forfeit twice the value of the sums agreed for or taken. But no person shall be debarred from taking his goods back, which are stolen, provided he prosecute the felon.

[Section XXV.] Provided always, and be it further enacted by the authority aforesaid, That no indictment, presentment or inquisition, or any process whatsoever, now depending in any court within this province, for any of the crimes or offenses mentioned in this act, shall be discontinued, abated or quashed for or by reason of this act, or anything therein contained; but that the judges and justices of the respective courts within this province shall proceed to hear, try and determine the said offenses, in such indictments, presentments and inquisitions mentioned to be committed against any act or acts of assembly of this province, as were in force at the time of finding, making or taking the said indictments, presentments and inquisitions, and thereupon to give judgment, and award execution, according to the direction of the said respective acts of assembly upon which the said indictments, presentments or inquisitions are founded, as if the same act or acts of assembly were, by a special clause in this act, continued for that purpose, anything herein contained to the contrary notwithstanding.

Passed May 31, 1718. Confirmed by the Lords Justices in Council May 26, 1719. See Appendix IV, Section I, and (the two Acts of) Assembly passed February 24, 1720-21, Chapters 242, 243; (the four

<sup>1</sup> Passed January 12, 1705-6, Chapter 118.

<sup>2</sup> Passed October 23, 1701, Chapter 107.

acts of) August 26, 1721, Chapters 244, 245, 246, 247; May 5, 1722, Chapter 248; May 12, 1722, Chapter 252; (the three acts of) May 22, 1722, Chapters 255, 256, 258; (the two acts of) March 2, 1722-23, Chapters 262, 263; March 30, 1722-23, Chapter 270; May 9, 1724, Chapter 281; March 20, 1724-25, Chapter 285; August 14, 1725, Chapter 288; August 18, 1727, Chapter 295; (the two acts of) May 19, 1729, Chapters 301, 303; (the three acts of) February 14, 1729-30, Chapters 311, 314, 315; (the two acts of) February 6, 1730-31, Chapters 322, 323; January 19, 1733-34, Chapter 332; March 29, 1734-35, Chapter 338; September 2, 1738, Chapter 347; (the two acts of) February 3, 1742-43, Chapters 354, 359; October 19, 1744, Chapter 362; (the two acts of) March 7, 1745-46, Chapters 368, 369; January 27, 1749-50, Chapter 383; August 18, 1750, Chapter 386; February 9, 1750-51, Chapter 388; (the two acts of) March 11, 1751-52, Chapters 394, 397; August 22, 1752, Chapter 399; April 8, 1758, Chapter 428; April 21, 1759, Chapter 439; June 20, 1759, Chapter 446; April 9, 1760, Chapter 456; March 14, 1761, Chapter 460; February 17, 1762, Chapter 478; March 26, 1762, Chapter 481; (the two acts of) March 4, 1763, Chapters 484, 490; April 2, 1763, Chapter 499; February 3, 1764, Chapter 508; February 8, 1766, Chapter 533; (the three acts of) February 21, 1767, Chapters 548, 555, 557; (the two acts of) May 20, 1767, Chapters 560, 562; February 20, 1768, Chapter 578; February 18, 1769, Chapter 594; (the two acts of) February 24, 1770, Chapters 610, 612; September 29, 1770, Chapter 616; February 9, 1771, Chapter 618; (the seven acts of) March 9, 1771, Chapters 620, 623, 624, 626, 627, 635, 636; October 19, 1771, Chapter 639; (the nine acts of) March 21, 1772, Chapters 641, 645, 647, 648, 650, 652, 657, 660, 662; (the two acts of) February 26, 1773, Chapters 674, 675; September 28, 1773, Chapter 686; (the two acts of) January 22, 1774, Chapters 689, 694; December 24, 1774, Chapter 703; (the three acts of) March 18, 1775, Chapters 706, 707, 709; April 6, 1776, Chapter 719; and the Ordinances passed by the Constitutional Convention, August 1, 1776, Chapters 727, 728; September 5, 1776, Chapter 732; September 12, 1776, Chapter 733; and the Constitution of 1776, Sections 23, 25, 26, 27, 28, 29, 38, 39, 45; and the acts passed January 28, 1777, Chapter 737; January 29, 1777, Chapter 738; February 11, 1777, Chapter 740; February 14, 1777, Chapter 742; February 20, 1777, Chapter 744; (the two acts of) March 14, 1777, Chapters 747, 748; March 17, 1777, Chapter 750; March 20, 1777, Chapter 753; June 18, 1777, Chapter 758; June 19, 1777, Chapter 761; January 2, 1778, Chapter 777; March 6, 1778, Chapter 784; March 13, 1778, Chapter 788; August 19, 1778, Chapter 801; September 7, 1778, Chapter 809; November 17, 1778, Chapter 817; March 15, 1779, Chapter 825; March 16, 1779, Chapter 828; March 29, 1779, Chapter 832; March 30, 1779, Chapter 833; October 9, 1779, Chapter 855; November 25, 1779, Chapter 867; (the two acts of) November 26, 1779, Chapters 869, 879; November 27, 1779, Chapter 874; March 1, 1780, Chapter 881; March 2, 1780, Chapter 883; (the three acts of) March 8, 1780, Chapters 887, 888, 889; March 10, 1780, Chapter 890; March 17, 1780, Chapter 897; March 18, 1780, Chapter 899; May 30, 1780, Chapter 910; September 22, 1780, Chapter 915; September 23, 1780, Chapter 919; March 24, 1781, Chapter 930; April 5, 1781, Chapter 936; April 9, 1781, Chapter 940; April 10, 1781, Chapter 942; June 21, 1781, Chapter 945; October 1, 1781, Chapter 955; December 28, 1781, Chapter