

respective district so convened, shall cause the said general return to be delivered to the sheriff of the county in which they shall be thus convened, and shall also cause a duplicate thereof, signed and sealed in the same manner, to be deposited in the office of the prothonotary of such county.

[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That such sheriff, having received the said return, shall, within forty days after such election, deliver or safely transmit the same to the governor, who shall thereupon declare, by proclamation, the name of the person or persons to him returned as duly elected in each respective district, and shall thereafter, as soon as conveniently may be, transmit the returns so to him made, to the house of representatives of the United States.

Passed April 22, 1794. Recorded L. B. No. 5, p. 275, &c.

CHAPTER MDCCLXXVII.

AN ACT FOR THE BETTER PREVENTING OF CRIMES, AND FOR ABOLISHING THE PUNISHMENT OF DEATH IN CERTAIN CASES.

Whereas the design of punishment is to prevent the commission of crimes, and to repair the injury that hath been done thereby to society or the individual, and it hath been found by experience, that these objects are better obtained by moderate but certain penalties, than by severe and excessive punishments. And whereas it is the duty of every government to endeavor to reform, rather than exterminate offenders, and the punishment of death ought never to be inflicted where it is not absolutely necessary to the public safety. Therefore:

[Section I.] (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That no crime whatsoever, hereafter committed (except murder in the first degree) shall be punished with death in the state of Pennsylvania.

(Section II, P. L.) And whereas the several offenses which are included under the general denomination of murder, differ so greatly from each other in the degree of their atrociousness, that it is unjust to involve them in the same punishment.

[Section II.] Be it further enacted by the authority aforesaid, That all murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of willful, deliberate or premeditated killing, or which shall be committed in the perpetration, or attempt to perpetrate, any arson, rape, robbery or burglary, shall be deemed murder of the first degree; and all other kinds of murder shall be deemed murder in the second degree; and the jury, before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, ascertain in their verdict, whether it be murder of the first or second degree; but if such person shall be convicted by confession, the court shall proceed, by examination of witnesses, to determine the degree of the crime, and to give sentence accordingly.

[Section III.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That every person liable to be prosecuted for petit treason, shall in future be indicted, proceeded against and punished, as is directed in other kinds of murder.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That every person duly convicted of the crime of high treason, shall be sentenced to undergo a confinement in the gaol and penitentiary house of Philadelphia, for a period not less than six nor more than twelve years, and shall be kept therein at hard labor, or in solitude, and shall in all things be treated and dealt with as is prescribed by an act, entitled, "An act to reform the penal laws of this state,"¹ or by the provisions of this act; that every person duly convicted of the crime of arson, or as being an accessory thereto, shall be sentenced to undergo a similar confinement, for a period not less than five nor more than twelve years, under the same conditions as are herein expressed in the first clause of this section; that every person duly convicted of the crime of rape, or as being accessory thereto before the fact, shall be sentenced to undergo a similar confinement, for a period not less than ten years nor

more than twenty-one years, under the same conditions as are herein expressed in the first clause of this section; that every person duly convicted of the crime of murder of the second degree, shall be sentenced to undergo a similar confinement, for a period not less than five years nor more than eighteen years, under the same conditions as are herein expressed in the first clause of this section.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That every person who shall be convicted of having, after the passing of this act, safely forged and counterfeited any gold or silver coin, which now is or hereafter shall be passing or in circulation within this state, or of having falsely uttered, paid, or tendered in payment, any such counterfeit or forged coin, knowing the same to be forged and counterfeit, or having aided, abetted or commanded the perpetration of either of the said crimes, or shall be concerned in printing, signing or passing any counterfeit notes of the bank of Pennsylvania, North America, or the United States, knowing them to be such, or altering any genuine notes of any of the said banks, shall be sentenced to undergo a confinement in the gaol and penitentiary house aforesaid, for any time not less than four nor more than fifteen years, and shall be kept, treated and dealt with in the manner aforesaid, and shall also pay such fine as the court shall adjudge, not exceeding one thousand dollars.

[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That whosoever, on purpose and of malice aforethought, by lying in wait, shall unlawfully cut out or disable the tongue, put out an eye, slit the nose, cut off the nose, ear or lip, or cut off or disable any limb or member of another, with intention, in so doing, to maim or disfigure such person, or shall voluntarily, maliciously, and of purpose, pull or put out an eye, while fighting or otherwise, every such offender, his or her aiders, abettors, and counsellors, shall be sentenced to undergo a confinement, in the gaol and penitentiary house aforesaid, for any time not less than two nor more than ten years aforesaid, and shall also pay a fine not exceeding one thousand dollars, three fourth parts whereof shall be for the use of the party grieved.

[Section VII.] (Section VII, P. L.) And be it further eu-

acted by the authority aforesaid, That whosoever shall be convicted of any voluntary manslaughter hereafter committed, shall be sentenced to undergo an imprisonment at hard labor and solitary confinement in the gaol and penitentiary house of Philadelphia, for any time not less than two nor more than ten years, and to give security for his or her good behavior during life, or for any less time, according to the nature and enormity of the offence, shall be sentenced to undergo an imprisonment at hard labor and solitary confinement, in the gaol and penitentiary house aforesaid, for any time not less than six nor more than fourteen years.

[Section VIII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That wheresoever any person shall be charged with involuntary manslaughter happening in consequence of an unlawful act, it shall and may be lawful for the attorney general or other person prosecuting the pleas of the commonwealth, with the leave of the court, to waive the felony, and to proceed against and to charge such person with a misdemeanor, and to give in evidence any act or acts of manslaughter, and such person or persons, on conviction, shall be fined or imprisoned, as in cases of misdemeanor; or the said attorney general, or other person, prosecuting the pleas of the commonwealth, may charge both offences in the same indictment, in which case the jury may acquit the party of one, and find him or her guilty of the other charge.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That all claims to dispensation from punishment by benefit of clergy, or benefit of the act of assembly, entitled, "An act, for the advancement of justice, and more certain administration thereof,"¹ shall be, and hereby are, forever abolished; and every person convicted of any felony heretofore deemed clergyable, shall undergo imprisonment at hard labor and solitary confinement in the gaol and penitentiary house aforesaid, for any time not less than six months and not more than two years, and shall be treated and dealt with as is directed in the act to reform the penal laws of this state, except in those cases where some other specific penalty is prescribed by

the act aforesaid to reform the penal laws of this state, or by this act.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That every person convicted in any county in this state, other than Philadelphia county, of any crime (except murder of the first degree) which now is, or on the fifteenth day of September, one thousand seven hundred and eighty-six, was capital, or a felony of death, without benefit of clergy, or of knowingly uttering counterfeit coin, or of being concerned in printing, signing or passing any counterfeit notes of the banks of Pennsylvania, North America or of the United States, knowing them to be such, or of altering any of the genuine notes of either of the said banks, shall, as soon as possible, be safely removed and conveyed by the sheriff, and at the expense of the commonwealth, to the gaol and penitentiary house aforesaid, and therein be kept during the term of their confinement, in the manner and on the terms mentioned in the thirty-fourth section of the act entitled, "An act to reform the penal laws of this state";¹ and every sheriff who shall neglect to remove and safely deliver at the gaol aforesaid such convict, shall forfeit and pay the sum of one hundred dollars, to be recovered in any court of justice, and applied, one-half to the use of the county in which the offence was committed, the other half to such persons as shall sue for the same.

[Section XI.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That every person convicted of any of the crimes last aforesaid, and who shall be confined in the gaol and penitentiary house aforesaid, shall be placed and kept in the solitary cells thereof, on low and coarse diet, for such part or portion of the term of his or her imprisonment as the court, in their sentence, shall direct and appoint.

Provided, That it be not more than one-half nor less than one-twelfth part thereof. And that the inspectors of the said gaol shall have power to direct the infliction of the said solitary confinement, at such intervals and in such manner as they shall judge best.

(Section XII, P. L.) Whereas it is of importance that the nature of the offence, and the former character and conduct of

the convict should be known by the said inspectors, and their successors in office.

[Section XII.] Bt it further enacted by the authority aforesaid, That whensoever any person shall be convicted of any crime which, on the fifteenth day of September, one thousand seven hundred and eighty-six, was capital, or a felony of death, shall be removed from any county to the gaol and penitentiary house aforesaid, the court before whom such conviction is had, shall, within forty days after such offender is removed from the said county, make and cause to be transmitted to the said inspectors, a report or short account of the circumstances attending the crime committed by such convict, particularly such as tend to aggravate or extenuate the same, and also what character the said convict appeared on the trial to sustain, and whether he had at any time before been convicted of any felony or other infamous crime, which report the said inspectors shall cause to be entered in books or registers to be provided for that purpose.

[Section XIII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person convicted of any crime which, on the said fifteenth day of September, one thousand seven hundred and eighty-six, was capital, or a felony of death, without benefit of clergy, shall commit any such offence a second time, and be thereof legally convicted, he or she shall be sentenced to undergo an imprisonment in the said gaol and penitentiary house at hard labor during life, and shall be confined in the said solitary cells, at such times and in such manner as the inspectors shall direct; and if any person sentenced to hard labor and solitary confinement, by virtue of this or any former act, shall escape, or be pardoned, and after his or her escape or pardon shall be guilty of any such offence, as on the said fifteenth day of September, one thousand seven hundred and eighty-six, was capital, or a felony of death, without benefit of clergy, such person shall be sentenced to undergo an imprisonment for the term of twenty-five years, and shall be confined in the solitary cells aforesaid, at the discretion of the said inspectors.

[Section XIV.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any person shall hereafter be convicted of any crime committed before the passing of

this act, he or she shall be sentenced to undergo such pains and punishment, as by the laws now in force are prescribed and directed, unless such convict shall openly pray the court, before whom such conviction shall be had, that sentence may be pronounced agreeably to the provisions of the act for the like offence, in which case the said court shall comply with the said prayer, and pass such sentence on such convict as they would have passed had the said offence been committed subsequent to the passing of this act.

[Section XV.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That every person convicted of murder of the first degree, his or her aiders, abettors and counsellors, shall suffer death by hanging by the neck.

[Section XVI.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That no person indicted for any crime, the punishment whereof is altered by this act, shall lose any peremptory challenge, to which he or she would have been entitled had this act not been passed, nor be liable to be tried before any court other than the supreme court, or court of oyer and terminer, in the county where the fact was committed.

[Section XVII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if any woman shall endeavor privately, either by herself or the procurement of others, to conceal the death of any issue of her body, male or female, which, if it were born alive, would by the law be a bastard, so that it may not come to light whether it was born dead or alive, or whether it was murdered or not, every such mother, being convicted thereof, shall suffer imprisonment at hard labor in the county gaol of the county where the fact was committed, or in the gaol and penitentiary house aforesaid, for any time not exceeding five years; or shall be fined and imprisoned, at the discretion of the court, according to the nature of the case; and if the grand jury shall, in the same indictment, charge any woman with the murder of her bastard child, as well as with the offence aforesaid, the jury by whom such woman shall be tried, may either acquit or convict her of both offences,

or find her guilty of one and acquit her of the other, as the case may be.

[Section XVIII.] (Section XVIII.) And be it further enacted by the authority aforesaid, That the concealment of the death of any such child shall not be conclusive evidence to convict the party indicted of the murder of her child, unless the circumstances attending it be such as shall satisfy the mind of the jury, that she did wilfully and maliciously destroy and take away the life of such child.

[Section XIX.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the several acts of assembly of this commonwealth and such parts thereof, so far as the same are repugnant to or supplied by this act, and no further, shall be, and hereby are, repealed.

¹Passed April 5, 1790, Chapter 1516.

¹Passed May 31st, 1718, Chapter 236.

¹See Ante.

Repealed by the Act of Assembly passed March 31, 1861, Chapter 376, P. L. 1860, p. 452.

CHAPTER MDCCLXXVIII.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY, FOR MAKING AN ARTIFICIAL ROAD FROM THE BOROUGH OF LANCASTER TO THE RIVER SUSQUEHANNA, AT OR NEAR WRIGHT'S FERRY.

Whereas the improvement of roads and highways is of the first importance to the interest of agriculture and commerce, and the rapid progress of the improvement of the road from Philadelphia to Lancaster evinces a laudable spirit of enterprise among the good people of this state, and affords a reasonable ground of expectation that an extension of the same road westward may be effected. Therefore:

[Section I.] (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by