

such estate, wherein the absent husband shall be made defendant; any law or usage to the contrary in any wise notwithstanding.

Passed 22d February, 1718.—Recorded A. vol. II. page 166. (s)

(s) Where the lessor of the plaintiff claimed under a deed from husband and wife, the wife, in the absence of her husband, was offered as a witness. A release was executed and delivered to her at the bar, by her son, the lessor of the plaintiff, releasing all claims against her husband and herself, under the implied covenant of warranty in the deed. She was at first excepted to by the defendant's counsel, because her husband was not present to accept the release. But on the authority of *Fowler v. Welford*, Dougl. 134, the objection was waived, and the witness was sworn. *Bioren's Lessee v. Kup, Berks, Nisi Prius*, October 1795, MSS. Reports.

An action of *crim. con.* is not supportable by the husband after an agreement of separation made with his wife. MSS. Reports, Supreme Court.

A wife, living separate from her husband, executes a release to him of her right of dower, in consideration of a certain sum being secured to her annually, for life; and after his death, for eight years, receives the same. The jury may presume, from these circumstances, a redelivery of the deed by her. *Evans v. Evans, Lancaster*, April, 1803, *Nisi Prius*, MSS. Reports.

CHAPTER CCXXIX.

An ACT for erecting of houses of correction and work-houses, in the respective counties of this province.

WHEREAS the Proprietary, and first Adventurers, in their principal model of this government, proposed, that for crimes inferior to murder the punishments might be by way of restitution, fine, imprisonment, and such like; and where the offender proved not of ability to make such satisfaction, then he should be kept in prison or house of correction at hard labour; but no effectual care hath been yet taken to erect such houses, by reason whereof many evil-doers escape unpunished, and servants, who, for their neglect and abuses, should be kept to work in such houses, are become incorrigible: Therefore, *Be it enacted*, That from and after the first day of May, which will be in the year of our Lord one thousand seven hundred and eighteen, from time to time, it shall and may be lawful to and for the justices of the peace of the city of Philadelphia, in conjunction with the justices of the peace of the county of Philadelphia, and for the justices of the peace of the other respective counties of this province, assembled at any Quarter Sessions of the peace within the same respective counties, or the major part of them, to set down and make orders for building, erecting, or causing to be built and erected, or provided, one or more houses of correction and work-houses, with convenient back sides or yards thereunto adjoining, in some convenient places within their several counties or towns corporate: For the doing and performing whereof, and for the providing stocks of money, goods, and all other things necessary for the same, all such orders as the said justices, or the major part of them, shall from time to time take, reform or set down in any of the said Quarter Sessions, for erecting or providing such houses, raising the said stocks, and governing of the same, as also for the correcting and punishment of offenders to be

Justices at their Quarter Sessions may make orders for building houses of correction, &c

1718. committed there, shall be of full force, and be duly performed and put in execution. Which said houses shall be purchased, conveyed or assured unto such person or persons as by the justices of the peace, or the major part of them, in their Quarter Sessions of the peace, to be holden within every county of this province, upon trust, to the intent the same shall be used and employed for the keeping, correcting and setting to work of all rogues, vagabonds, or sturdy beggars, and other idle and disorderly persons, who by the laws and usage of Great-Britain, or by the laws of this province, are to be kept, corrected, or set to work in such houses and back sides.

The time limited for the building of the said house.

II. *And be it further enacted*, That within the space of three years, after the twenty-fifth day of March, in the year of our Lord, one thousand seven hundred and eighteen, a house of correction or work-house shall be built in the city of Philadelphia, at the charge of the said city and county of Philadelphia; and a house of correction or work-house shall be built in Chester, at the charge of the county of Chester; and another house of correction or work-house shall be built in Bristol, at the charge of the county of Bucks.

The officers how to be appointed.

III. *And be it further enacted*, That by the major part of the justices of the peace for the said city and county of Philadelphia, and for the counties of Chester and Bucks, respectively, in their respective Quarter Sessions assembled, there shall be elected and chosen, out of the most able and honest inhabitants and freeholders of the said city and county of Philadelphia, and of the said counties of Chester and Bucks, respectively, a President, a Treasurer, and Assistants, for the houses of correction, work-house or work-houses, in the said city and respective counties: And that upon the vacancy, by death or otherwise, of any of the said Presidents, Treasurers or Assistants, in the said respective counties, the power to elect others in their room shall be in the major part of the respective justices of the peace, who, in their General Quarter Sessions, from time to time, shall accordingly supply vacant places.

Who shall be accountable to the justices in their sessions.

IV. And the said President, Treasurer and Assistants, for the time being, shall be accountable for all their disbursements, and other proceedings, to the said justices, or the major part of them, who, at every Quarter Sessions, are hereby directed and required to examine and inspect the accounts and all other proceedings of the said President, Treasurer and Assistants; and in case any notorious neglect, embezzlement, or breach of trust, shall at any time appear to the justices against all or any one of the said officers, by them appointed as aforesaid, then the said justices are hereby empowered to dismiss and displace all such offenders, and to elect others in their room.

Incorporating clause.

V. And that nothing may be wanting to render effectual the good intent of this act in all its parts, *Be it enacted*, That the said President, Treasurer and Assistants, for the time being, respectively, shall for ever hereafter, in name and fact, be bodies politic and corporate in law, to all intents and purposes; and shall have a perpetual succession, and may sue or plead, or be sued and impleaded, by the name of the President, Treasurer and Assistants, for the poor of the said respective counties, in all Courts and places of judicature within this province; and by that name every of the said corporations

shall and may purchase or receive any lands, tenements or hereditaments, not exceeding the yearly value of three hundred pounds per annum, of the gift, alienation or devise, of any person or persons, who are hereby enabled to transfer and grant the same, and any goods and chattels whatsoever, in, to or for the use and benefit of the corporations aforesaid.

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VI. *And be it further enacted,* That the said President, Treasurer and Assistants, or one of them, at least, in each county aforesaid, respectively, shall give punctual and constant attendance at the work-houses and houses of correction to which they respectively belong, there to receive and execute the orders given by the commitments which shall happen to be made from time to time by any justice of the peace, or other magistrate, having legal power to commit and send to the work-houses all vagabonds, unruly servants, and other idle or disorderly persons; and the said officers, in each county respectively, shall make return to every court of Quarter Sessions, duly, of their proceedings in the premises.

The officers to give attendance at the work-houses.

VII. *And be it further enacted,* That when the President, Treasurer and Assistants of any of the said corporations shall certify, under their hands and seals, their want either of a present stock for the beginning of the work, or for supply thereof for the future, and what sum or sums of money they shall think fit for the same, to the justices of the peace of the said respective counties, assembled in their Quarter Sessions, the said justices are hereby required from time to time to set down and ascertain such sum and sums of money, as they shall deem competent for the purposes aforesaid, and cause the same to be raised as county rates are usually levied, so that they do not exceed, for the city and county of Philadelphia, the yearly value of four hundred pounds; for the county of Chester, the yearly value of two hundred pounds; and for the county of Bucks, the yearly value of one hundred pounds.

Upon their certifying the want of stock, &c. the said justices may cause the same to be raised.

VIII. *And be it further enacted,* That the President, Treasurer and Assistants of any of the said corporations, or houses of correction or work-houses, are hereby impowered to choose and entertain all such officers, as shall be needful to be employed in and about the premises, and them, or any of them, to remove, as they shall see cause; and upon such removal, or death of any of them, to choose others, and to make them reasonable allowances for their services out of the said stock; and that all sheriffs, constables, and all other officers and ministers of justice, shall be aiding and assisting to the said corporation or corporations, and to all such officers as shall be employed by them in the execution and performance of the said service.

Under officers how to be chosen. &c.

Passed 22nd February, 1718.—Recorded A. vol. II. page 172. (t)

(t) The whole of this act, is confined to the counties mentioned in the second section.

By the act of 1705, ante, page 56, (chap. 151.) The respective prisons shall be work-houses, until others are provided, &c.

By an act passed March 20th, 1724,

(chap. 283, not printed in this edition,) the county buildings for Bucks were directed to be erected at *New Town*, instead of Bristol. And by an act passed March 1st, 1745-6, the first prison built at *New Town* (a new one having been erected) is declared to be the house of correction and work-house for said county. By an act

1718. passed February 28th, 1810, The seat of justice is removed from New town to a more central situation, to be fixed by commissioners, who have established it at *Doyle's Town*, and a new Court house, prison and county offices are to be erected.

On the 26th February, 1773, an act was passed for erecting a new gaol, work-house, and house of correction in the city of Philadelphia, (chap. 673.)

By an act passed February 28th, 1780, (post. chap. 867,) all Court houses, gaols, prisons and work houses, with the lots, &c. are vested in the commonwealth, for the leases, &c. for which the same were respectively limited and appointed.

By an act passed February 21st, 1767, (chap. 535,) "To prevent the mischiefs arising from the increase of vagabonds, and other idle and disorderly persons, &c." There is a description of what sort of per-

sons shall be deemed idle and disorderly, &c. and a penalty on the constable for neglecting to apprehend them, on notice by the inhabitants, &c. and the manner is prescribed in which the justice is to commit them to the work-house, &c. The manner of proceeding, on presentment being made to the sessions in any county of the want of a work-house, &c. and the justices in sessions are to appoint the keeper of the work-house, &c. with respect to the city of *Philadelphia*, special provisions are made by an act consolidating the poor laws, &c. passed March 29th, 1803, (post. chap. 2337,) by which all preceding acts respecting the poor within the city and liberties are repealed and supplied; and see the second section of the act of April 2d, 1803, (post. chap. 2379.)

See the notes to chap. 236, post. 105.

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, ale-house-keepers and inn-holders, to exact excessive rates for their wine, beer, cyder and other liquors, and also provender for horses, without regard to the plenty and cheapness thereof: *Be it therefore enacted*, 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 cryer at the conclusion of their said respective sessions, and fixed upon the Court-house doors for public view.

The justices, &c. to set prices on liquors, &c.

Penalty on demanding higher prices.

II. And if any public ale-house-keeper, taverner, inn-holder, or public stable-keeper, exceed the prices so set by the justices, and be convict thereof, by oath or affirmation of one or more witnesses, 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 offence, be fined in any sum not exceeding twenty shillings, and for the second offence forty shillings, and give security for their good behaviour; and for the third offence, 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 31st May 1718.—Recorded A. vol. II. page 139.*

* For a reference to the various acts respecting taverns and tavern licences, see ante. chap. 172, and the notes there subjoined.