

be granted against any person or person's effects, but such only as at the time of granting such writs are not resident or residing within this province, or are about to remove or make their escape out of the same, and shall refuse to give sufficient security to the complainant for his debt or other demand before he depart the said province.

Provided also, That after judgment obtained by the plaintiff upon any attachments against non-residents, the plaintiff shall, before sale and after execution is awarded, find security, who shall undertake for the plaintiff, that if the defendant in the attachment shall, within a year and a day next following, by himself or attorney come into court and disprove or avoid the debt recovered by the plaintiff against him, or shall discharge the same, with costs, that then the plaintiff shall restore to the defendant the goods or effects, or [the] value thereof, by the plaintiff attached and condemned, or so much thereof as shall be disproved or discharged or else that they shall and will do it for him.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 2, 1722-3, Chapter 263; August 22, 1752, Chapter 399; January 22, 1774, Chapter 693; September 28, 1789, and Chapter 1445, supplied and repealed by the two Acts of Assembly passed June 13, 1836, P. L. 580 and 606.

CHAPTER CXLIII.

AN ACT FOR THE TRIAL OF NEGROES.

Whereas some difficulties have arisen within this province about the manner of trial and punishment of negroes committing murder, manslaughter, buggery, burglary, rapes, attempts of rapes and other high and heinous enormities and capital offenses; for remedy thereof, and for the speedy trial and condign punishment of such negro or negroes offending as aforesaid:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, 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 it shall and may be lawful for two justices of the peace of this province, who shall be particularly commissioned by the governor for that service, within the respective counties thereof, and six of the most substantial freeholders of the neighborhood, to hear, examine, try and determine all such offenses committed by any negro or negroes within this province; which said freeholders shall be, by warrant under the hands and seals of the respective justices commissioned as aforesaid, directed to the next constable, summoned to appear at such time and place as the said justices shall therein appoint: which freeholders the said justices shall solemnly attest, well and truly to give their assistance and judgment upon the trial of such negro or negroes; who shall hold a court for the hearing, trying, judging, determining and convicting of such negro or negroes as shall be before them charged or accused of committing any murder, manslaughter, buggery, burglary, rapes, attempts of rapes, or any other high or heinous offense committed, acted or done in any of the respective counties within this province as aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That upon the holding of such court by the said justices and freeholders as aforesaid, it shall and may be lawful for the said justices and freeholders to examine, try, hear, judge, determine, convict, acquit or condemn, according to evidence and full proof, any negro or negroes, for any the crimes or offenses aforesaid, or any other high or capital offense; and, upon due proof and conviction, to pronounce such judgment or sentence in the premises as is agreeable to law and the nature of the offense; or otherwise to acquit, free and discharge such negro or negroes, in case the evidence shall not be sufficient for a conviction therein.

[Section III.] And be it further enacted by the authority aforesaid, That where such negro or negroes shall be convict, and

judgment or sentence shall be pronounced by the respective justices and freeholders as aforesaid, and a warrant by them signed and sealed, to be directed to the high-sheriff of the county where the fact was committed or tried, for the execution of such negro or negroes, the same shall be duly executed, or caused to be duly executed by the said sheriff, on pain of being disabled to act any longer in that post or office.

And if any of the said justices or freeholders neglect or delay to do their duty therein, they shall be liable to be fined by the governor and council, in any sum not exceeding five pounds; to be levied by distress and sale of the goods and chattels of such justices or freeholders so refusing as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That if any negro or negroes within this province shall commit a rape or ravishment upon any white woman or maid, or shall commit murder, buggery or burglary, they shall be tried as aforesaid, and shall be punished by death. And for an attempt of rape or ravishment on any white woman or maid, and for robbing, stealing, or fraudulently taking and carrying away any goods living or dead, above the value of five pounds, every negro, upon conviction of any of the said crimes, shall be whipped with thirty-nine lashes, and branded on the forehead with the letter R or T, and exported out of this province by the master or owner within six months after conviction, never to return into the same, upon pain of death; and shall be kept in prison till exportation, at their master's or owner's or their own charge. And for robbing or stealing any goods as aforesaid, under the value of five pounds, every negro, upon conviction thereof, shall be whipped at the discretion of the justices with any number of lashes not exceeding thirty-nine; and the master or owner of such negro shall make satisfaction to the party wronged for the value, and pay all costs; to be levied by distress and sale of the said master's or owner's goods, if he or they refuse or delay to answer it otherwise.

[Section V.] And be it further enacted by the authority aforesaid, That if any negro shall presume to carry any guns, sword, pistol, fowling piece, clubs or other arms or weapons whatsoever without his master's special license for the same, and be

convicted thereof before a magistrate, he shall be whipped with twenty-one lashes on his bare back.

[Section VI.] And be it further enacted by the authority aforesaid, That for the preventing negroes meeting and accompanying together upon the First-days of the week, or any other day or time, in great companies or numbers; that [*sic*] if any person or persons give notice thereof (and to whom they respectively belong) to any justice of the peace within this province, the same being above the number of four in company and upon no lawful business of their master's or owner's, such negroes so offending shall be publicly whipped at the discretion of one justice of the peace, not exceeding thirty-nine lashes.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III. Repealed by an Act of Assembly passed March 1, 1780, Chapter 881.

CHAPTER CXLIV.

AN ACT TO PREVENT THE IMPORTATION OF INDIAN SLAVES.

Whereas the importation of Indian slaves from Carolina or other places hath been observed to give the Indians of this province some umbrage for suspicion and dissatisfaction:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, 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 if, after the twenty-fifth day of March, in the year one thousand seven hundred and six, any person shall import, or cause to be imported, any Indian slaves or servants whatsoever, from any province or colony in America into this province, by land or water, such only and their children (if any) excepted, as for the space of one year before such importation, shall be proved