

is, and shall be considered as an accessory after the fact, and being convicted thereof, he shall be punished by setting on the gallows the space of one hour, with a rope about his neck, and the other end thereof thrown over the gallows, by fine, imprisonment, by setting in the pillory, by confinement to hard labour, and binding to the good behaviour, or to one or more of these punishments, according to the nature and aggravation of the offence.

Punishment for felonious assaulters.

And be it further enacted by the authority aforesaid, That whosoever shall make an assault with an intent to commit murder, rape or sodomy, and be thereof convicted, shall be sentenced to be set on the gallows with a rope about his or her neck, and the other end thereof cast over the gallows, to be set in the pillory at one or more times or places, not exceeding three, to be whipped not exceeding thirty-nine stripes, be fined, suffer imprisonment, and binding to the good behaviour, or to any one or more of these punishments, according to the nature and aggravation of the offence. *March 15, 1785.*

1784. — Chapter 66.

[January Session, ch. 33.]

Chap. 66 AN ACT FOR THE PUNISHING AND PREVENTING OF LARCENIES.

Punishment for theft.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That whoever shall feloniously steal any money, goods or chattels, any note of the Treasurer of this Commonwealth for the payment of money, any note or certificate of any bank or any public office, securing the payment of money to any person, or certifying that the same is due, any order entitling any person to money, any bill of exchange, bond, obligation, warrant, bill, or promissory note of hand for the payment of money or any valuable property, any record of process belonging to any Court of Justice, or to any public office, any book of account, receipts of money, or other article paid or delivered, adjustments and documents of any kind relating to the payment of money or other article, any indenture or apprenticeship, deed, covenant, indenture or assurance respecting any property, real or personal, and be thereof convicted, every such offender shall be punished by fine or whipping, in the discretion of the Court before whom

the same shall be tried, not exceeding the sum of *One hundred pounds*, or thirty-nine stripes.

And be it further enacted by the authority aforesaid, That if any person shall be convicted of feloniously stealing any of the beforementioned articles from the person of another, whether privily and without his knowledge, or openly and avowedly before his face, he shall be deemed guilty of an higher species of larceny, and shall be punished by whipping, as aforesaid, or by fine, not exceeding *One hundred and fifty pounds*, at the discretion of the Court before whom the conviction shall be.

Persons convicted of stealing from the person of another, how punished.

And be it further enacted by the authority aforesaid, That if any person shall be convicted of the crime of theft, beside the punishment of fine or whipping, as aforesaid, he shall be sentenced to forfeit treble the value of the goods or other articles stolen, to the owner thereof; any of the articles stolen being returned to be accounted part, according to their value. And if any such offender be unable to make restitution or pay such treble damages, the Justices of the Court before whom such conviction is, may further sentence him to make satisfaction to the person from whom such articles were stolen, by service, and he shall be, and hereby is, empowered to dispose of the said convict in service, to any person whomsoever, for such term of time as shall be assigned by the same Justices; or they may sentence the said convict to hard labour for a term of time not exceeding three years, to take place if the owner of the articles stolen doth not sell such convict in thirty days after a sentence therefor.

Persons convicted of theft, to forfeit treble damages.

If unable, how sentenced.

And be it further enacted, That every Justice of the Peace in the county where such offence is committed, is hereby authorised to hear and determine all offences against this law, provided that the treble value of the property stolen exceed not the sum of *Forty shillings*, and may sentence such offender to pay a fine not exceeding the sum of *Forty shillings*, or to be imprisoned for a term not exceeding twenty days, and to make satisfaction as above is directed.

Justices of the Peace authorised to determine offences.

Proviso.

And be it further enacted, That when any person shall be apprehended upon a charge of the said crime of theft, and be admitted to bail, he shall not only recognize to the Commonwealth for his appearance at the Court in such recognizance mentioned, to answer to the said charge, but he shall also enter into another recognizance, with suffi-

Persons apprehended upon a charge of theft, and admitted to bail, — what recognizance required.

If defaulted, the recognizance to be declared forfeited.

cient sureties, to the party injured, for treble the value of the articles which he shall be charged with stealing; and if the accused person shall make default and not appear to take his trial according to his recognizance, in such case the said recognizance shall be declared forfeited, by the Court where the said accused person ought to have appeared, and the party injured shall recover treble damages against the sureties for so much as can be made to appear to be stolen, as if the offender had put himself on his trial and had been convicted; and if the accused person be committed for want of bail and upon trial be convicted and appeal to the Court of General Sessions of the Peace, or to the Supreme Judicial Court, he shall recognize to the party injured to respond the treble damages as aforesaid, as well as to the Commonwealth to prosecute such appeal, before he is liberated.

Persons convicted of a second theft to the value of 40 shillings.

And be it further enacted by the authority aforesaid, That if any person who now is, or who hereafter shall be, convicted, either before a Justice of the Peace or in any Court of General Sessions of the Peace, or Supreme Judicial Court within this Commonwealth, of the crime of theft, shall, thus standing convicted on record, steal any money, goods or chattels, or other articles as before-mentioned, to the value of *Forty shillings*, and be thereof convicted before the Supreme Judicial Court, holden within any of the counties of this Commonwealth, he shall for such offence be set upon the gallows for the space of one hour, with a rope about his neck and one end thereof cast over the gallows, and be severely whipt, not exceeding thirty-nine stripes, and be further sentenced to pay treble the value of the articles stolen, to the party injured; and the same Justices may further sentence him to make satisfaction to the person injured as aforesaid, by service as aforesaid, if he be unable to pay the same, or may sentence such convict to hard labour for a term not exceeding six years, in like manner as is hereinbefore provided.

Punishment.

When the second theft amounts to £.3.

And be it further enacted by the authority aforesaid, That if any person convicted of a second theft in manner aforesaid, or who has heretofore been convicted of a second theft, standing convicted of a former theft, shall steal any money, goods, chattels, or other articles, as before described, to the value of *Three pounds*, and be thereof convicted before the Supreme Judicial Court, in any

county in this Commonwealth, he shall be set upon the gallows for the space of one hour, with a halter about his neck, and one end thereof cast over the gallows, be severely whipped, not exceeding thirty-nine stripes, be branded on the right cheek with the letter T. and be further sentenced to hard labour during his natural life, and wear a chain round his leg with a large clog fastened to the end thereof. Punishment.

And be it further enacted by the authority aforesaid, That if any person shall break up any dwelling house in the day time with an intent to steal or commit any felony, or enter any dwelling house in the night time, without breaking the same, with an intent to steal or to commit any felony, or break up any warehouse, shop, mill, malt-house, barn, stable, out house, or any public building, or other building whatsoever, or any ship or other vessel being within the body of the county, by night or by day, with an intent to steal or commit any felony, and being thereof convicted before the Supreme Judicial Court, shall Persons convicted of breaking up any dwelling house in the day time, or any shop, &c. by night or day, with an intent to steal, &c.

be set upon the gallows for the space of one hour, with a rope about his neck, and one end thereof cast over the gallows, and be severely whipt not exceeding thirty-nine stripes, and shall pay treble the value of all goods or articles stolen, to the person injured, as is before herein provided: And the Justices of the same Court may further sentence him to make satisfaction for the articles stolen, by service, as is hereinbefore provided in case of theft, or sentence him to hard labour for a term of time, not exceeding fifteen years; and if any person being convicted of either of these offences, shall again commit either of the said offences, and be thereof convicted before the Supreme Judicial Court, he shall be branded on both cheeks with the letter B. and be confined to hard labour during life, as before mentioned. Punishment.

And be it further enacted by the authority aforesaid, That whosoever shall comfort, aid, abet, assist, counsel, hire, command or procure any person to commit any of the offences hereinbefore described, or that shall knowingly buy or receive any such stolen goods, chattels, or articles, or that shall knowingly receive, harbour, maintain or conceal any person guilty of any of the offences before described, shall be considered as accessory to the principal offender, and shall suffer the like punishment as he might have received on a first conviction; and in case Persons twice convicted.

Punishment.

Punishment for aiding or abetting persons in committing offences, or receiving stolen goods, &c.

the principal offender be not known or prosecuted, any person committing any of the said crimes, whereby he becomes an accessory, may be prosecuted for a misdemeanor, and on conviction, shall suffer such punishment as the principal offender might have suffered on a first conviction.

And whereas it sometimes happens that persons convicted of theft, and sentenced to make restitution to the party, according to law, are unable to do the same, any otherwise than by service, and their being kept in goal may occasion great charge to the county :

*Be it therefore enacted by the authority aforesaid, That no person convicted of theft, and sentenced for the same, shall be held in prison for or on account of the treble value awarded to the party injured, for more than the space of thirty days next after such sentence given, unless the party injured, or some one in his behalf, will become engaged, or give security to the keeper of the prison to pay and satisfy his charge and expence in keeping such prisoner, both for time past and future, according to the rate allowed for keeping prisoners in the same goal by the Justices of the quarter sessions ; and in case the person injured shall refuse or neglect so to do, and shall not dispose of or take such prisoner in service, the keeper shall no longer be chargeable with such prisoner, but may set him at liberty ; and in every such case the prisoner shall pay and satisfy the costs of Court, his own fees and charges of imprisonment, and if he be unable so to do, upon application made by the keeper of the goal to any two Justices, *quorum unus*, they are hereby empowered to determine the sum to be paid, and to order and enjoin the prisoner to make satisfaction by service, for such reasonable time as they may assign, for which time the keeper may dispose of the prisoner in service to any citizen of the United States, unless the Court before whom the conviction was, shall have sentenced the said prisoner to hard labor, to take effect if the party injured doth not dispose of him as is hereinbefore provided, in which case the said prisoner shall be delivered over by the said prison keeper to hard labour, according to the provisions of law.*

And be it further enacted, That when any person shall be indicted for any high and aggravated crime or misdemeanor by the grand jury, and upon trial of the issue it

No person convicted of theft, to be held in prison on account of treble damages, more than 30 days, unless.

Persons indicted for any high crime, &c. by the grand jury, not found

shall appear to the petit jury that the person accused is not guilty of the whole crime charged in the indictment, but is guilty of so much thereof as shall substantially amount to a crime of a lower nature, the petit jury may find the indicted person guilty of such part only, and not guilty of the whole indictment, and the Court shall proceed to sentence such convict for the crime of which he is found guilty, according to law.

guilty of the whole charge, directions in this case.

And be it further enacted, That the punishment of hard labor mentioned in this or any other law assigning the same, shall be carried into execution at such place and in such manner as may be provided by the law of this Commonwealth.

March 15, 1785.

1784. — Chapter 67.

[January Session, ch. 34.]

AN ACT TO PREVENT FORGERY, AND FOR THE PUNISHMENT OF THOSE WHO ARE GUILTY OF THE SAME.

Chap. 67

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That if any person shall willingly and deceitfully forge, make or alter, or wittingly and deceitfully cause or procure, aid, abet or command the forging, making, or altering any matter of record, or any other matter of a public nature, any false deed, last will or testament, obligation or writing sealed, or any promissory note, bill of exchange, acceptance, assignment or indorsement on them, acquittance or receipt for money or goods, or any warrant, order or request for the payment of money, or delivery of goods or chattels of any kind, any certificate or accountable receipt for money or other things, any lottery ticket, or any assurance of money or other property whatsoever, with intent to defraud any person, or who shall utter or publish, or cause, procure or abet to be uttered and published as true, any of the above false, forged or altered matters as above specified and described, knowing the same to be false, altered and forged, with intent to deceive and defraud any person, upon conviction thereof he shall be punished by setting in the pillory, at one or more times or places, cropping one ear, whipping, imprisoning, fining, and binding to the good behaviour, all or any of these punishments, according to the nature and aggravation of the offence.

Persons guilty of forgery.

Punishment

March 16, 1785.