

27 Hen. 8.—A. D. 1535.

CHAP. 4. For pirates and robbers on the sea.

The provisions in this statute appear to have been included in that of 28 Hen. 8, Ch. 15, which is the one spoken of by the English writers on criminal law. See the note under that statute.



28 Hen. 8.—A. D. 1536.

CHAP. 1. An act that abjurers in petty treason shall not have clergy.

This statute continued those of 22 Hen. 8, Ch. 14, and 25 Hen. 8, Ch. 3. As to the last section, subjecting persons in holy orders to the same pains with others, see 1 Edw. 6, Ch. 12, as mentioned in 4 Bl. Com. 360.

CHAP. 15. For pirates.

By this statute, a jurisdiction was established, for trying, according to the course of the common law, the crime of piracy, which had been cognizable by the admiralty courts, proceeding by the rules of the civil law. The trials under this statute, were by the expressions, confined to shires and places within the realm of England, and therefore it could not have been practised under in the province. But the opinion entertained by the governor in 1637, against the extention of the English statutes, would at any rate have prevented a recurrence to it at that time; and accordingly, in the case of Thomas Smith, the assembly adopted the outrageous proceedings for his punishment, which are noted in Bacon's edition of the laws. A bill was also proposed in the session of 1637, for the attainder of William Cleyborne, who had been before indicted and found guilty of murder, piracy and sedition; the piracy consisting in the warfare which he had made on Chesapeake bay, from his settlement on Kent Island.

At the same session, after the trial of Smith, the house of delegates proceeded to an enquiry as to the killing of a captain Warren, by captain Cornwallis, (who was one of the members, and retired thereon,) in an expedition on the bay; and he was acquitted.

There is also among the council records of the same year, a pardon granted by the proprietor to T. A. for piracy, though the particulars of his conviction, if it took place, are not to be found.

It will be recollected, that among the less capital offences enumerated in the act of 1642, which has been mentioned, that of piracy was included, and that they were all to be determined as near as might be to the laws of England.

There were in 1659 and 1662, some proceedings before the provincial court relating to piracy, one of which may require to be noticed. The following bill was sent to the grand jury. "Let it be enquired for the lord proprietary, whether R. G. &c. did not on the day of within the points of Carlisle Bay, in Barbadoes, the ship called the St. George of Amsterdam, then riding at anchor, from J. D. feloniously take and carry away against the peace, &c." Endorsed by the grand jury—"Ignoramus as to this rule and government." By the court; "It appearing by the several examinations of all the aforesaid persons, that they did surprise the vessel St. George and her lading at the Barbadoes without any commission therefor, on pretence that the vessel and her goods were lawful prize; yet for want of sufficient testimony and power to take cognizance of the said fact, as done within the jurisdiction, the said persons cannot be condemned therefor, but banished as turbulent persons.