

Without repeating what is found in the books concerning the former course of delivering over the persons who were discharged from the sentence of the law to the ordinary, it will be sufficient to state, that it was under the 2d section of this statute, that persons allowed the benefit of clergy were not to be delivered to the ordinary, but (after burning in the hand,) to be enlarged out of prison by the justices. There could be nothing apparently to prevent the justices from detaining the person in prison for a year, according to the power given in the 3d section, but I have not met with any instance of its being done.

As to the 1st section, by which the benefit of clergy was taken away from any person committing a rape, there can be no doubt of its having been practised under, in the province and in the state. See the note on 13 Edw. 1, Ch. 34 as to this section and section 4; and see the act of 1809, Ch. 138. As having some bearing on the offence described in section 4, I shall mention a case in 1743, of an assault on a girl under 10 years of age, and attempting to ravish her. The person was found guilty, and fined 20*l.* and recognized for his good behaviour.



23 Elizabeth.—A. D. 1581.

CHAP. 3. An act for the reformation of errors in fines and recoveries.

See the note on 18 Edw. 1, St. 4.



31 Elizabeth.—A. D. 1589.

CHAP. 2. An act for abridging of proclamations upon fines to be levied at the common law.

See the note on 4 Hen. 7, Ch. 24.

CHAP. 12. An act to avoid horse stealing. (Part.)

See the note on 1 Edw. 6, Ch. 12. The last section of this statute took away the benefit of clergy from accessaries after.



39 Elizabeth.—A. D. 1593.

CHAP. 15. An act that no person robbing any house in the day time, although no person be therein, shall be admitted to have the benefit of clergy.

See the note on 1 Edw. 6, Ch. 12.



43 Elizabeth.—A. D. 1601.

CHAP. 5. An act to prevent perjury and subornation of perjury, and unnecessary expences in suits at law.

See the note on 21 James 1, Ch. 23, last part.