

CHAP. 15. An act for the better securing the government, by disarming papists and reputed papists.

This statute referred to the declaration required by 30 Charles 2, St. 2. Ch. 1, which was one of the statutes mentioned in the toleration act, and declared in force by the act of 1706.

CHAP. 18. An act for exempting their majesties protestant subjects, dissenting from the church of England, from the penalties of certain laws.

This is the statute, generally called the toleration act, which (with those mentioned therein) was declared to be in force in the province by the act of 1706; the last section being modified thereby. It is scarcely necessary to remark, that under our government we have no occasion for such provisions, and that neither this statute or those mentioned therein, have ever been in force in the state.

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1 *William and Mary, Stat. 2.*—A. D. 1689.

CHAP. 2. An act declaring the rights and liberties of the subject, and settling the succession of the crown.

See the note on 9 Hen. 3, Ch. 1. Upon comparing the articles contained in this statute, or bill of rights, with those in our declaration in 1776, it appears that the 1st, 2d, 4th, 5th, 6th, 8th, 9th, 10th and 13th articles are (in substance) comprehended in our declaration. The 3d article related to ecclesiastical courts, of which we have none. The 7th provided that the subjects which were *protestants*, might have arms for their defence, suitable to their conditions, and as allowed by law. The confining this privilege to protestants, and requiring the arms to be suitable to their condition were probably the reasons of the article being omitted in our declaration; and although the right is not expressly given there is no law by which it is taken away or rendered doubtful. The 11th article related to juries, which are regulated with us, partly by the 3d article of the declaration of rights, and partly by our acts of assembly. The 12th article related to the granting of fines and forfeitures of particular persons before conviction, which probably had not taken place in the province, and could not in the state, unless by the legislative body; of course this bill of rights is not proper to be incorporated, &c.

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3 *William and Mary.*—A. D. 1691.

CHAP. 9. An act to take away clergy from some offenders, and to bring others to punishment. (Part.)

This statute or a part of it, certainly extended to the province, with others respecting the benefit of clergy. It took away that benefit from persons robbing a dwelling house, wherein there was any or no person, and there are several cases of indictments for such offences apparently under this statute. It also put women on the same footing as men in respect to the benefit of clergy, together with the statutes 21 James 1, Ch. 6, and 4 and 5 W. and M. Ch. 24. See 4 Bl. Com. 362. But the 5th section which made it felony to take away with an intent to steal, embezzle or purloin, any furniture, &c. from lodgings, does not appear (from an examination of the provincial records,) to have extended. The 4th section, which made the receiver of stolen goods an accessory to the felony, did extend to the province, as appears by cases of prosecutions under it, as did also those of 1 Anne, Ch.