

9. AND BE IT ENACTED, That if any negro or mulatto slave shall be duly convicted of any crime herein mentioned, which may not, in the discretion of the court, under this act, be punished by hanging by the neck, such negro or mulatto slave, instead of confinement in the penitentiary (a), may, in the discretion of the court, be sentenced to receive on his or her bare back any number of lashes, not exceeding one hundred, and the court may also sentence such negro or mulatto slave to be banished from this state, by transportation and sale, into some foreign country, for the benefit of the state or county, as the case may be, with as full power and authority as the governor may now exercise under an act\*, entitled, An act declaring the power of the governor in certain criminal cases, such negro or mulatto slave to be valued and paid for in the manner herein after directed, and nothing in this act contained shall be construed to deprive justices of the peace of any power or authority which they may now exercise by law relative to free negroes and mulattoes, or negro and mulatto slaves.

(a) By 1817, ch. 72, no coloured person to be sentenced to confinement for less than one year; and by 1818, ch. 197, no negro or mulatto slave to be sentenced to undergo a confinement in the penitentiary.

10. AND BE IT ENACTED, That no conviction or attainder shall work corruption of blood or forfeiture of estate: the estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death; if any person be killed by casualty there shall be no forfeiture in consequence thereof; an approver shall never be admitted in any case whatsoever, and a sentence of death shall not be executed in less than twenty days after the judgment.

11. AND BE IT ENACTED, That all claims to dispensation from punishment, by benefit of clergy, shall be and are hereby for ever abolished; and every person convicted of any felony, heretofore deemed clergyable, shall be sentenced to undergo a confinement in the penitentiary for any time not less than one year nor more than five years, to be treated as herein directed, except in those cases where some other specific penalty is herein prescribed; and every person who shall be convicted of any felony heretofore excluded from the benefit of clergy, and not herein specified, shall be sentenced to undergo a confinement in the penitentiary for a period of time not less than five nor more than twenty years, to be treated as this act directs.

12. AND BE IT ENACTED, That if any person be indicted of treason or felony, and he or she shall stand mute, or will not answer to the indictment, the court, in such case, shall notwithstanding proceed to the trial of such person so standing mute, as if he or she had pleaded not guilty, and render judgment thereon accordingly.

13. AND BE IT ENACTED, That in all capital cases, and in all other criminal cases, the punishment whereof upon conviction is confinement in the penitentiary for five years at the least, or the punishment whereof may be extended to twelve years confinement in the penitentiary, and in all cases of larceny, where the money, goods or chattels alleged to have been stolen, shall be valued in the indictment at the sum of one hundred dollars, or upwards, the person indicted shall be allowed the right of peremptory challenge, but in no case shall the accused be admitted to challenge more than

CHAP. 138.

Slaves, in cases not punishable by hanging, may be whipped, transported and sold,

\* 1795, ch. 32.

No conviction or attainder to work corruption of blood or forfeiture of estate.

Benefit of clergy abolished. Punishment of felonies heretofore deemed clergyable and of those not clergyable, & not specified in this act.

Persons indicted of treason or felony, though mute, to be tried.

Peremptory challenge, in what cases allowed, and to what extent.