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PROCEEDINGS  
OF THE  
FIRST GENERAL ASSEMBLY  
OF  
"THE INCORPORATION OF PROVIDENCE PLANTATIONS,"  
AND  
THE CODE OF LAWS  
ADOPTED BY  
THAT ASSEMBLY,  
IN 1647.

2. Under the law for manslaughter, are comprehended those laws that concern self-murder, murder, homicide, misadventure, casual death, cutting out the tongue or eyes, witchcraft, burglary, robbery, burning of houses, forcible entries, rescous and escape, riots, routs and unlawful assemblies, batteries, assaults, threats and their accessories.

3. Under the law for whoremongers, and those that defile themselves with mankind, being the chief of that nature, are comprehended those laws that concern sodomy, buggery, rape, adultery, fornication and their accessories.

4. Under the law for manstealers, being the chief of that nature, are comprehended those laws that concern, theft of men, larceny, trespasses by men or beasts, fraudulent dealing by deceitful bargains, covenants, or conveyances, by barratry conspiracy, champerty and maintenance, by forging or razing records, wills, deeds, leases, bills, &c., and by using false weights and measures, and their accessories.

5. Under the law for liars and perjured persons, being the chief of that nature, are comprehended such as concern perjury itself, breach of covenant, slander, false witness-bearing and their accessories.

And as necessary concomitants hereof, to prevent murder, theft, and perjury, we do jointly agree, in this present Assembly, to make or produce such laws, as concern provision for the poor, so that the impotent shall be maintained, and the able employed: and to prevent poverty, it is agreed, that such laws be made or produced, as concern the ordering of ale-houses, and taverns, drunkenness and unlawful gaming therein, and instead of such to propagate archery, which is both manlike and profitable: and to prevent whoredom and those evils before mentioned, it is agreed, by this present Assembly, to constitute and establish some ordinances touching marriage, probate of wills and intestates.\*

#### *Touching murdering of Fathers and Mothers.*

And first of High Treason. It is agreed and determined by the wisdom of the State of England, under whose command we are, in the first and chiefest place to forbid high treason, and to declare, that it is a grievous offence done or

\* The foregoing division of law, will not commend itself for perspicuity or exactness, to any legal mind. It is difficult to discover the grounds upon which it is made. Some of the particulars of one branch, seem legitimately to belong to some one of the others, and many of them, could as well be classed under one as another. But the code itself is not so prolix, as that much difficulty would result from this arbitrary arrangement.



over others ; for a father, master, schoolmaster, keeper, may with moderation correct those that are under him ; and the constable, serjeant, bailiff, and their aiders, may strike and yet there is no breach of the peace nor of the recognizance. Moreover, we do hereby declare, that he that injureth another by strokes, the party grieved may have his action of battery against him and recover damages for loss of time, cost in healing, pain and debility of body by reason thereof, and shall besides forfeit for the battery to the state for the hazarding thereof, as his peers shall judge him. 35 Hen. 8, 12 ; 9 Ed. 4, 28 ; 19 Hen. 6, 3 ; 1 Ed. 4, 6.

#### *Accessaries.*

And forasmuch as it is commonly seen, that among the transgressors of these laws before set down, there have been accessaries as well as principals, and that as well before as after the fact, that have countenanced and encouraged offenders before, by advice, counsel, persuasion, command, procurement of consent to commit murder, robbery, rape, burglary, &c. ; after, by a felonious and voluntary receiving, relieving, comforting, aiding and assisting such persons known to be transgressors in that kind, it is therefore agreed and ordered by this present Assembly, that accessaries before the fact, if present when the fact is committed are all principals, though they did nothing, 11 Hen. 4 ; if absent, yet are they all felons, the felony being committed. And in matters that are not felony, such accessaries are rather more culpable than the principals, for the rule is in our English laws, that the author offends more than the actor. We do also agree that accessaries after the offence either before attainder, by verdict, confession, or outlawry, or after, shall be severely fined, which yet extends not to any towards another, while he is in prison or under bail, nor to a wife towards her husband. See Stamford, 26.

#### *Touching Whoremongers.*

First of sodomy, which is forbidden by this present Assembly throughout the whole colony, and by sundry statutes of England. 25 Hen. 8, 6 ; 5 Eliz. 17. It is a vile affection, whereby men given up thereto leave the natural use of woman and burn in their lusts one toward another, and so men with men work that which is unseemly, as that Doctor of the Gentiles in his letter to the Romans once spake, i. 27. The penalty concluded by that state under



whose authority we are is felony of death without remedy. See 5 Eliz. 17.

### *Buggery.*

Buggery is forbidden by this present Assembly throughout the whole colony, and also strengthened by the same statutes of England. It is a most filthy lying with a beast as with a woman, and is abomination and confusion, the just reward whereof prepared to our hands is felony of death without remedy. See 5 Eliz. 17.

### *Rape.*

Rape is forbidden by this present Assembly throughout the whole colony, and we do hereby declare that it is when a man through his vile and unbridled affection lyeth with or forceth a woman against her will; like hereunto is the knowing of a maid carnally who is under the age of ten years, though it be with her consent. The penalty we do declare felony of death. See for confirmation 13 Ed. 1, 34. And if the woman consent after, she loseth her dower of lands. 6 Ri. 2, 6. And so doth a married wife that closeth with her adventurer. 13 Ed. 1, 34.\*

\* Crimes in this colony punished capitally, are, petit treason, including treason against the colony, murder, manslaughter as therein defined, witchcraft, burglary, robbery, burning houses or barns having corn in them, sodomy, buggery, and rape. In 1663, the capital offences were, high treason, wilful murder or manslaughter, witchcraft, burglary, robbery, sodomy, and buggery, and so remained without addition until 1719.

The following crimes were capitally punished in New Plymouth in 1636: Treason or rebellion against the king or commonwealth of England or the colony; murder; soleinn compaction or conversing with the devil by way of witchcraft, conjuration, or the like; wilful or purposed burning of ships, or vessels, or houses; rape; and the crimes against nature. 1 *Baylies' Plym.* 237.

Between 1636 and 1671, this catalogue was greatly increased. At the revision of their colony laws at the last date, the following law was passed:

1. It is enacted by this court and the authority thereof, that if any person, having had the knowledge of the true God, openly and manifestly have or worship any other God but the Lord God, he shall be put to death. Exod. xxii. 20; Deut. xiii. 6-10.

2. If any person within this jurisdiction, professing the true God, shall wittingly and wilfully presume to blaspheme the holy name of God, Father, Son, or Holy Ghost, with direct, express, presumptuous or high-handed blasphemy, either by wilful or obstinate denying of the true God, or his creation or government of the world, or shall curse God, Father, Son, or Holy Ghost, such person shall be put to death. Levit. xxiv. 15, 16.

3. Treason against the person of our sovereign lord the king, the state and commonwealth of England, shall be punished by death.

4. That whosoever shall conspire and attempt any invasion, insurrection

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