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ble in other actions. *Penn's Lessee v. Musser*, Huntingdon, May, 1798. *Nisi Prius*, MSS. Reports.

Where a sheriff's vendee has come into possession under defendant's title since the bringing of an ejectment, he will be permitted to be made a co-de-

fendant in the suit. *Lessee of Murray v. Galbraith*. Sup. Court, Middle District, July, 1809, 2 Binney, 59.

For precedents to recover possession by the landlord, under this act, see *Graydon's Justice*, and Appendix to *1 Bache's Manual*.

## CHAPTER DCLII.

*A SUPPLEMENT to the act, entitled An Act for the advancement of justice, and more certain administration thereof. (z)*

TO prevent and deter evil minded persons from committing the offences herein after mentioned, *Be it enacted*, That, if any person or persons, from and after the publication of this act, shall maliciously and voluntarily burn the State-house of this province, or any of the adjoining offices and buildings, or any church, meeting-house, or other building for public worship, or any academy or school-house, or library, belonging to any body politic or corporate, and shall be thereof legally convicted, every such person and persons shall suffer death, without benefit of clergy. (a)

Persons convicted of burning the State-house. &c. to suffer death.

II. *And be it further enacted*, That if any person or persons shall break and enter into any of the houses aforesaid, in the night time, with intent to commit a felony within the same, whether the felonious intent be executed or not, every such person so offending, being thereof legally convicted, shall stand in the pillory during the space of one hour, have his, her or their ears cut off, and nailed to the pillory, be publickly whipped with thirty-nine lashes on the bare back, well laid on, and be committed to the work-house or gaol of the city or county where such offender shall be convicted, during the space of twelve months. (b)

Punishment to be inflicted on persons breaking into any public building in the night.

III. *And be it further enacted*, That if any person or persons shall maliciously and voluntarily break, or take off or from the door of any inhabitant, within this province, any brass or other knocker affixed to such door, or shall maliciously or voluntarily cut, break, or otherwise destroy any leaden, tin or copper spout, or any part thereof, affixed to any such house, every person so offending, being thereof legally convicted, shall forfeit and pay the sum of twenty-five pounds for every such knocker or spout so broken or taken away, or cut, or otherwise destroyed, or be publickly whipped on his, her or their bare backs with twenty-one lashes, well laid on. (c)

Penalty on breaking off the knockers of doors, &c.

(z) For the original act, and a general reference to all the penal laws, see ante. chap. 236, and the notes there subjoined. (*Note to former edition.*)

(a) For the various subjects of arson, see ante. chap. 236, sect. 13, and the note there subjoined. The punishment of arson, or of being accessory thereto, is now, however, commuted into confinement at hard labour, post. chap. 1766, sect. 4. (*Note to former edition.*)

(b) For the general definition of bur-

glary, and its punishment, see ante chap. 236, sect. 12, and the note there subjoined. The punishment of the offence stated in this section is changed to confinement at hard labour, by virtue of the fourth section of the act of the 5th of April, 1790, post. chap. 1505. (*Note to former edition.*)

(c) The punishment of this offence is now changed to confinement at hard labour, post. chap. 1505. (*Note to former edition.*)

IV. *And be it further enacted*, That if any person or persons shall maliciously or voluntarily break, take down, destroy or deface any sign, put up by any inhabitant of this province, to denote his, her or their place of abode, occupation, business or employment, every such person or persons so offending, being thereof legally convicted, shall forfeit and pay the sum of ten pounds for every such offence, or be publickly whipped on his, her or their bare backs, with fifteen lashes, well laid on. (d)

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Or taking down signs.

V. *And be it further enacted*, That one moiety of the fines imposed by this act shall be, and is hereby declared to be, to and for the use of the person or persons injured, and the other moiety to and for the use of the poor of the city, borough, district or township, where the offence shall be committed.

Fines how appropriated.

VI. *Provided always nevertheless*, That nothing in this act contained shall be construed to prevent the commissioners for paving and cleansing the streets of the city of Philadelphia, from taking down or removing any sign put up within the said city contrary to law.

Proviso.

Passed 21st March, 1772.—Recorded A. vol. V. page 531.

(d) The punishment of this offence labour, post. chap. 1505. (Note to former edition.)

CHAPTER DCLIV.

*An ACT for the more easy recovery of Legacies.*

FORASMUCH as the act of general assembly, entitled *An Act for the more easy recovery of legacies* is near expiring, and requires a few, but necessary amendments, *Therefore be it enacted*, That, from and after the publication of this act, it shall and may be lawful for any person or persons, to whom any legacy or bequest of any sum or sums of money, or other goods or chattels, have been or may be made, by the last will and testament of any other person or persons, legally made, to commence, sue and prosecute an action upon the case, debt, detinue, or account-render, as the case may require, for such legacy, after it becomes due, in any of the County Courts for holding of pleas in any of the counties within this province. And if it shall appear that the legacy or legacies is or are due, and there be sufficient assets in the hands of the executors or administrators, with testaments annexed, to discharge the just debts of the testator, and the legacy or legacies bequeathed, the plaintiff or plaintiffs shall recover, with costs of suit, any law, usage or custom, to the contrary notwithstanding.

Legatees may commence, sue and prosecute an action of debt, &c.

II. *Provided always*, That where it shall so happen that there are assets in the hands of any executors or administrators, with testaments annexed, to discharge all the debts of the testator, with an overplus not sufficient to discharge all the legacies which may be given, then an abatement shall be made in proportion to the legacies so given, unless it shall be otherwise provided by the will. And where any legatee or legatees are or may be under age at the time

Abatement to be made, where assets not sufficient, &c.