

ANNO QUADRAGESIMO TERTIO

GEORGII III. REGIS.

CAP. CXIII.

An Act for the more effectually providing for the Punishment of Offences in wilfully casting away, burning, or destroying Ships and Vessels; and for the more convenient Trial of Accessaries in Felonies; and for extending the Powers of an Act made in the Thirty-third Year of the Reign of King *Henry* the Eighth, as far as relates to Murders, to Accessaries to Murders and to Manslaughters.

[27th *July* 1803.]

Provisions of 4 Geo. 1. c. 12.

WHEREAS in and by a certain Act of Parliament, made in the Fourth Year of the Reign of His late Majesty King *George* the First, intituled, *An Act for enforcing and making perpetual an Act of the Twelfth Year of Her late Majesty, intituled,* ' *An Act for the* ' *preserving of all such Ships and Goods thereof, which shall happen to be* ' *forced on Shore, or stranded upon the Coasts of this Kingdom, or any other*

'*of Her Majesty's Dominions; and for inflicting the Punishment of Death on such as shall wilfully burn or destroy Ships,*' it is, amongst other Things, enacted that if any Owner of, or Captain, Master, Mariner, or other Officer belonging to any Ship, shall, after the Twenty-fourth Day of *June* which shall be in the Year of our Lord One thousand seven hundred and eighteen, wilfully cast away, burn, or otherwise destroy the Ship of which he is Owner, or unto which he belongeth, or in any Manner or Wise direct or procure the same to be done, to the Prejudice of any Person or Persons that shall underwrite any Policy or Policies of Insurance thereon, or of any Merchant or Merchants that shall load Goods thereon, he shall suffer Death: And whereas in and by a certain other Act of Parliament, made in the Eleventh Year of the Reign of His late Majesty King *George* the First, intituled, *An Act to continue several Acts therein mentioned, for preventing Frauds committed by Bankrupts; for encouraging the Silk Manufacture of this Kingdom; for preventing the clandestine Running of Goods; for making Copper Ore of the British Plantations an enumerated Commodity; and for explaining and amending a late Act for the more effectual Punishment of such as shall wilfully burn or destroy Ships*; and reciting, amongst other Things, as is above herein recited, and that some Doubt had arisen touching the Nature of the Offence provided against by the said recited Act, and the Trial and Punishment to be had and inflicted for the same, it was therefore by that Act enacted and declared, that if any Owner of, or Captain, Master, Officer, or Mariner, belonging to any Ship or Vessel, shall, after the Four-and-twentieth Day of *June* One thousand seven hundred and twenty-five, wilfully cast away, burn, or otherwise destroy, the Ship or Vessel of which he is Owner, or to which he belongeth, or in any wise direct or procure the same to be done, with Intent or Design to prejudice any Person or Persons that hath or shall underwrite any Policy or Policies of Insurance thereon, or of any Merchant or Merchants that shall load Goods thereon, or of any Owner or Owners of such Ship or Vessel, the Person or Persons offending therein, being thereof lawfully convicted, shall be deemed and adjudged a Felon or Felons, and shall suffer as in Cases of Felony without Benefit of Clergy; and it was in and by the said Act further declared, that if any of the said Offences, in wilfully casting away, burning, or otherwise destroying, any Ship or Vessel as aforesaid, shall be committed within the Body of any County of this Realm, the same shall be and may be inquired of, tried, determined, and adjudged, in the same Courts, in such Manner and Form as Felonies done within the Body of any County, by the Laws of this Realm, are to be inquired of, tried, determined, and adjudged; and if any of the said Offences shall be committed upon the High Seas, the same shall be inquired of, tried, determined, and adjudged, before such Court, and in such Manner and Form as in and by an Act made in the Eight-and-twentieth Year of the Reign of King *Henry* the Eighth, intituled, *For Pirates*, is directed and appointed for the enquiring, trying, determining, and adjudging of Felonies done upon the High Seas: And whereas the above Provisions in the said, in Part, recited Acts have been found inadequate and ineffectual for the Prevention and Punishment of the Offences therein mentioned: May it therefore please your Majesty that it may be enacted;

and 11 Geo. 1. c. 29. recited.

and

and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Provisions of the said Two several herein, in Part, recited Acts, and every of them, be henceforth repealed.

Recited Provisions repealed.

II. And be it further enacted by the Authority aforesaid, That if any Person or Persons shall, from and after the Sixteenth Day of *July* One thousand eight hundred and three, wilfully cast away, burn, or otherwise destroy, any Ship or Vessel, or in any wise counsel, direct, or procure, the same to be done, and the same be accordingly done with Intent or Design thereby wilfully and maliciously to prejudice any Owner or Owners of such Ship or Vessel, or any Owner or Owners of any Goods loaden on board the same, or any Person or Persons, Body Politick or Corporate, that hath or have underwritten or shall underwrite any Policy or Policies of Insurance upon such Ship or Vessel, or on the Freight thereof, or upon any Goods loaden on board the same, the Person or Persons offending therein being thereof lawfully convicted, shall be deemed and adjudged a principal Felon or Felons, and shall suffer Death as in Cases of Felony without Benefit of Clergy.

Persons wilfully casting away, *etc.* Vessels, shall suffer Death.

III. And be it further enacted by the Authority aforesaid, That if any such Ship or Vessel shall, from and after the Sixteenth Day of *July* in the Year of our Lord One thousand eight hundred and three, be wilfully cast away, burnt, or otherwise destroyed, within the Body of any County of this Realm, that then the said several Offences, as well in wilfully casting away, burning, or otherwise destroying such Ship or Vessel, as in counselling, directing, or procuring the same to be done as aforesaid, shall and may be respectively inquired of, tried, determined, and adjudged, in the same Courts, and in such Manner and Form as Felonies done within the Body of any County, by the Laws of this Realm now are, to be, or by virtue of this Act hereafter may be, inquired of, tried, determined, and adjudged; and if any such Ship or Vessel shall be wilfully cast away, burnt, or otherwise destroyed, on the High Seas, then that the said several Offences, as well in wilfully casting away, burning, or otherwise destroying any such Ship or Vessel, as in counselling, directing, and procuring the same to be done as aforesaid, shall and may be respectively inquired of, tried, determined, and adjudged, before such Court, and in such Manner and Form as in and by an Act made in the Eight-and-twentieth Year of the Reign of King *Henry* the Eighth, intituled, *For Pirates*, is appointed and directed for the inquiring, trying, determining, and adjudging, of Felonies upon the High Seas.

Where such Offences committed within the Body of any County, or on the High Seas, may be tried.

IV. Provided always, and be it further enacted by the Authority aforesaid, That nothing in this Act contained shall extend or be construed to extend to bar or defeat any Prosecution already commenced or hereafter to be commenced for any Offence or Offences already committed, or which shall be committed, against the said Provisions of the said Two several herein, in Part, recited Acts, or either of them, before the said Sixteenth Day of *July* One thousand eight hundred and three, but that such Prosecutions

Act not to bar Prosecutions for Offences against recited Provisions committed before *July* 16, 1803.

ſecutions may be commenced and proceeded in reſpectively, as if the ſaid Proviſions of the ſaid Acts had not been repealed.

Where Acceſſaries before the Fact may be tried.

V. And whereas it is convenient that Acceſſaries to Felonies committed within the Body of any County within the Realm, ſhould be by Law liable to be tried, as well in the County wherein the principal Felony was committed as in the County in which they ſo became Acceſſaries, and alſo that Acceſſaries to Felonies committed upon the High Seas ſhould be by Law liable to be tried by ſuch Court, and in ſuch Manner as by the Act made in the Eight-and-twentieth Year of the Reign of the late King *Henry* the Eighth, is directed in reſpect to Felonies done upon the High Seas; be it therefore enacted by the Authority aforeſaid, That, from and after the ſaid Sixteenth Day of *July* in the ſaid Year of our Lord One thouſand eight hundred and three, in all Caſes whatſoever in which any Perſon or Perſons ſhall hereafter procure, direct, counſel, or command any other Perſon or Perſons to commit, or ſhall abet any other Perſon or Perſons in committing any Felony whatſoever, or ſhall in anywiſe whatſoever become an Acceſſary or Acceſſaries before the Fact to any Felony whatſoever, whether ſuch principal Felony be committed within the Body of any County within this Realm, or upon the High Seas, and whether ſuch procuring, directing, counſelling, commanding, and abetting, or otherwiſe becoming Acceſſary or Acceſſaries before the Fact ſhall have been committed or done within the Body of any County within this Realm, or upon the High Seas, that then and in all ſuch Caſes, the Offence of the Perſon or Perſons ſo procuring, directing, counſelling, commanding, or abetting ſuch Felony, or ſo in anywiſe becoming Acceſſary or Acceſſaries before the Fact to ſuch Felony, ſhall and may be inquired of, tried, determined, and adjudged, in caſe ſuch Principal Felony ſhall have been committed within the Body of any County within this Realm, by the Courſe of the Common Law, either within ſuch County wherein the ſaid principal Felony ſhall have been committed, or within the County wherein the ſaid Offence in procuring, directing, counſelling, commanding, and abetting, or otherwiſe becoming Acceſſary or Acceſſaries before the Fact ſhall have been committed or done; and in caſe the ſaid principal Felony ſhall have been committed upon the High Seas, then the ſaid Offence in procuring, directing, counſelling, commanding, or abetting ſuch Felony, or of ſo becoming an Acceſſary or Acceſſaries before the Fact to the ſame, ſhall and may be inquired of in and by ſuch Court, and in ſuch Manner and Form as in and by the ſaid Act, made in the Eight-and-twentieth Year of the Reign of King *Henry* the Eighth, is appointed and directed for the trying, determining, and adjudging, of Felonies done upon the High Seas: Provided always, that no Perſon or Perſons who ſhall hereafter be Once tried and acquitted, or convicted of any ſuch Offence, in procuring, directing, counſelling, commanding, or abetting, any Felony, or of otherwiſe becoming an Acceſſary or Acceſſaries before the Fact to ſuch Felony, whether the Trial of ſuch Perſon or Perſons ſhall have been had according to the Courſe of the Common Law, as in the Caſe of a Felony committed within the Body of any County in this Realm, or according to the Proviſions contained in the Statute made in the Eight-and-twentieth Year of the Reign of King *Henry* the Eighth, as in the Caſe of a Felony committed on the High Seas, ſhall be liable to be again indicted,

No Perſon ſo tried, ſhall be liable to be again tried for the ſame Offence in any Court.

indicted, profecuted, or tried, for the ſame Offence, in any Court or Juriſdiction whatſoever.

33 Hen. 8. recited, and the Powers therein contained reſpecting Murder, *etc.* ſhall be extended to Acceſſaries before the Fact to Murder and to Manſlaughter.

VI. And whereas by an Act, made and paſſed in the Thirty-third Year of the Reign of King *Henry* the Eighth, intituled, *An Act to proceed, by Commiſſion of* Oyer *and* Terminer, *againſt ſuch Perſons as ſhall confeſs Treaſon, et cetera, without remanding the ſame to be tried in the Shire where the Offence was committed*; certain Powers, Authorities, Proviſions, and Regulations are given and enacted for making Commiſſions of *Oyer* and *Terminer*, for the ſpeedy Trial, Conviction, or Delivery of Perſons examined before the King's Council, or Three of them, upon any Murders or other Offences therein mentioned, and for inquiring of, hearing, and determining ſuch Murders and other Offences, under ſuch Circumſtances, and in ſuch Caſes, as in the ſaid Act are mentioned; which ſaid Act, ſo far as the ſame relates to the Crime of Murder, is ſtill in force and unrepealed; but no Proviſion is therein made for the Trial of Acceſſaries before the Fact in Murder, or for the Trial of the Offence of Manſlaughter, either upon Indictments for that Offence, or for the Crime of Murder, under any Commiſſion to be made or iſſued in purſuance of the ſame Act, whereby Perſons guilty of thoſe Offences, and more particularly when ſuch Murders or Manſlaughters happen to be committed out of the Realm, and not upon the High Seas, may frequently eſcape Puniſhment, to the Encouragement and evil Example of evil Doers, be it therefore enacted by the Authority aforeſaid, That from henceforth all and ſingular the Powers and Authorities in the ſaid laſt recited Act contained reſpecting the Offence of Murder; and the Examination of any Perſon or Perſons upon any Murders by the King's Council, or Three of them; and the making or iſſuing of Commiſſions of *Oyer* and *Terminer* for the Trial, Conviction, or Delivery of Offenders; and the inquiring, hearing, and determining of all ſuch Murders in Manner therein mentioned, and all other the Clauſes, Proviſoes, Conditions, and Declarations concerning the Offence of Murder; and the inquiring, hearing, and Determination thereof; and the Trial, Conviction, or Delivery of ſuch Offenders therein, as in the ſame Act are mentioned, ſhall be, and the ſame are hereby extended to the Offence of procuring, directing, counſelling, commanding, or otherwiſe becoming an Acceſſary or Acceſſaries before the Fact to any Murder or Murders; and alſo to the Offence of Manſlaughter, in like Manner as if thoſe Offences had been expreſsly mentioned in the ſaid laſt recited Act; and in caſe any Offender or Offenders ſhall, in purſuance of this or the ſaid recited Act, be indicted for the Offence of Murder, and upon ſuch Trial it ſhall appear that the Perſon or Perſons, or any of them, ſo indicted and tried is or are guilty of Manſlaughter, and of no greater Offence, the Jury may on ſuch Indictment find the Party or Parties guilty of Manſlaughter only; or in caſe of Doubt or Difficulty, may find a Special Verdict, upon which there ſhall be the like Proceedings, Judgement, and Puniſhment, or Execution, as if the Offence had been committed within the Body of any County within this Realm, and ſuch Trial had been had, and ſuch General or Special Verdict had been found upon an Indictment for Murder, found and tried according to the Courſe of the Common Law by a Jury of the ſame County within which the Offence was committed.

If on the Trial of any Offender for Murder, it ſhall appear he is guilty of Manſlaughter only, the Jury may find accordingly, or a Special Verdict.

Act not to extend to *Ireland*.

VII. Provided, That nothing in this Act contained shall extend, or be construed to extend, to that Part of the United Kingdom called *Ireland*.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1803.