ANNO SEXTO

GEORGII IV. REGIS.

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C A P. XXV.

An Act for defining the Rights of Capital Convicts who receive Pardon, and of Convicts after having been punished for Clergyable Felonies; for placing Clerks in Orders on the same Footing with other Persons, as to Felonies; and for limiting the Effect of the Benefit of Clergy.

[20th *May* 1825.]

WHEREAS it is expedient that the Civil Rights of Persons having been convicted of Capital Felonies, who receive His Majesty's most gracious Pardon, and of Persons having been convicted of Felonies within the Benefit of Clergy, who have undergone the Punishment to which they were adjudged, should be more clearly ascertained than is at present the case; be it therefore 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 in all Cases in which His late Majesty, or the King's Majesty that now is, His Heirs or Successors, hath been or shall be pleased to extend His or Their Royal Mercy to any Offender convicted of any Felony whereby the Offender was, is, or shall be excluded from the Benefit of Clergy, and by Warrant under His or Their Royal Sign Manual, countersigned by One of His or Their Principal Secretaries of State, hath granted or shall grant to such Offender, either a

In case of free Pardons, the Prisoner's Discharge, and in case of Conditional Pardons, the Performance of the Con-

dition, shall have the Effect of a Pardon under the Great Seal.

free Pardon, or a Pardon upon Condition of Transportation, Imprisonment, or any other Punishment, the Discharge of such Offender out of Custody, in case of a free Pardon, and the Performance of the Condition in case of a conditional Pardon, shall have the Effect of a Pardon under the Great Seal for such Offender, as to the Felony whereof he or she was so convicted.

II. And whereas by an Act passed in the Fourth Year of the Reign of King *Henry* the Seventh, intituled *An Act to take away the Benefit of Clergy from certain Persons*, it is enacted, that every Person not within Orders being convicted, and being admitted to the Benefit of his Clergy, shall be marked in the Manner therein mentioned upon the Brawn of the left Thumb, before he be delivered to the Ordinary: And whereas by Four several Acts, passed in the Twenty-first Year of the Reign of King *James* the First, the Third Year, the Fourth and Fifth Years, and the Sixth and Seventh Years of the Reign of King *William* and Queen *Mary*; the First intituled *An Act concerning Women convicted of small Felonies*; the Second intituled *An Act to take away Clergy from some Offenders, and to bring others to Punishment*; the Third intituled *An Act for reviving, continuing, and explaining several Laws therein mentioned, which are expired, and near expiring*; and the Fourth intituled *An Act for continuing several Laws therein mentioned*; the like Benefit is conferred on Women as Men enjoyed by the Benefit of Clergy: And whereas by an Act passed in the Fourth Year of the Reign of the late King *George* the First, intituled *An Act for the further preventing Robbery, Burglary, and other Felonies; and for the more effectual Transportation of Felons, and unlawful Exporters of Wool; and for declaring the Law upon some Points relating to Pirates*; Transportation for Seven Years was substituted for burning in the Hand, in case of certain Larcenies, within the Benefit of Clergy; and by a Provision contained in an Act passed in the Nineteenth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to explain and amend the Laws relating to the Transportation, Imprisonment, and other Punishment of certain Offenders*, (which Provision has been made perpetual by an Act passed in the Thirty-ninth Year of the same Reign), the Court before which any Offender is convicted of any Felony within the Benefit of Clergy, is authorized, if it shall think fit, instead of such burning or marking, to impose upon such Offender a moderate pecuniary Fine, or to order such Offender to be whipped in the Manner therein mentioned; and by the said Provision it is expressly enacted, that the Punishments so thereby substituted for burning or marking, shall have the like Effects and Consequences to the Party on whom they are imposed, with respect to any Discharge from the same or other Felonies, or any Restitution to his or her Estates, Capacities, and Credits, as if he or she had been burned or marked: And whereas the Punishment of Whipping hath been, as to Women, abolished by an Act passed in the First Year of His present Majesty's Reign; and of late Years, in the Cases of many Persons convicted of Clergyable Felony, no pecuniary Fine hath been imposed: And whereas divers other Acts of Parliament have created Felonies within the Benefit of Clergy, and divers others have given the Benefit of Clergy in Cases wherein it was not before allowed, and such Acts have not expressly declared

4 Hen. 7. c. 13.

21 Jac. 1. c. 6. 3 W. & M. c. 9. 4 & 5 W. & M. c. 24. 6 & 7 W. & M. c. 14.

4 G. 1. c. 11.

19 G. 3. c. 74.

1 G. 4. c. 57.

that the Punishments thereby authorized shall be in lieu of burning or marking: And whereas it is expedient that the Benefit intended by the said Act of the Nineteenth Year of the Reign of His said late Majesty, should be extended to all Cases of Punishment inflicted upon Persons convicted of Clergyable Felonies; be it further enacted, That where any Offender hath been or shall be convicted of any Felony within the Benefit of Clergy, and hath endured or shall endure the Punishment to which such Offender hath been or shall be adjudged for such Felony, the Punishment so endured hath and shall have the like Effects and Consequences, to all Intents and Purposes whatsoever, as if he or she had been burned or marked according to the Provisions of the said recited Acts of King *Henry* the Seventh, King *James* the First, and King *William* and Queen *Mary*, or any of them.

Offenders convicted of Clergyable Felonies, enduring the Punishment adjudged, such Punishment shall have the Effect of burning in the Hand.

III. And whereas by an Act passed in the Twenty-eighth Year of the Reign of King *Henry* the Eighth, intituled *An Act that Abjurers in case of Petty Treason shall not have Clergy*, it was enacted, that such as were within Holy Orders should from thenceforth stand and be under the same Pains and Dangers for the Offences therein referred to, and should be used and ordered to all Intents and Purposes as other Persons not being within Holy Orders; which Enactment has been considered to have been repealed by an Act passed in the First Year of the Reign of King *Edward* the Sixth, intituled *An Act for the Repeal of certain Statutes concerning Treasons and Felonies*, or by an Act passed in the First Year of the Reign of Queen *Mary*, intituled *An Act repealing and taking away certain Treasons, Felonies, and Cases of Premunire*: And whereas it is expedient to revive the said Provision of the said Act of King *Henry* the Eighth; be it further enacted, That Clerks in Holy Orders, being convicted of Felony, shall stand and be under the same Pains and Dangers for the same, and shall be used and ordered to all Intents and Purposes as other Persons not being in Holy Orders; any Law, Statute, or Usage to the contrary notwithstanding.

28 Hen. 8. c. 1.

1 E. 6. c. 12.

1 Mar. st. 1. c. 1.

Clerks liable to Punishment as if not in Orders,

IV. And be it further enacted, That the Allowance of the Benefit of Clergy to any Person who shall after the passing of this Act be convicted of any Felony, shall not render the Person to whom such Benefit is allowed dispunishable for any other Felony by him or her committed before the Time of such Allowance, any Law, Custom, or Usage to the contrary notwithstanding.

Benefit of Clergy not to render the Person dispunishable for any other Felony committed before such Allowance.

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