

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1789. Saint John, NB: J. Ryan, 1789.

29 George III – Chapter 7

An Act relating to the punishment of persons convicted of Felony within the Benefit of Clergy

Whereas the punishment of burning in the hand, when any person is convicted of felony within the benefit of clergy, is often disregarded and ineffectual.

I. Be it enacted by the Lieutenant Governor Council, and Assembly, that from and after the passing of this act, when any person shall be lawfully convicted of any felony within the benefit of clergy, for which he, or she, is liable to be burned or marked in the brawn of the left thumb; it shall and may be lawful for the Court, before which any person shall be so convicted, or any Court holden for the same place with the like authority, if such Court shall think fit, instead of such burning or marking, to impose upon such offender, such pecuniary fine, as to the Court in its discretion shall seem meet; or otherwise it shall be lawful, instead of such burning and marking, in any of the cases aforesaid, except in the case of manslaughter, to order and adjudge that such offender shall be once or oftener, but not more than three times, either publicly or privately whipped; such private whipping to be inflicted in the presence of not less than two persons, besides the offender and the officer who inflicts the same, and in case of female offenders, in the presence of females only; And such fine or whipping so imposed or inflicted instead of such burning or marking, shall have the like effects and consequences to the party, on whom the same, or either of them, shall be so imposed or inflicted, 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 as aforesaid.

II. And be it further enacted, That the Court, before which any person shall be so convicted as aforesaid of any of the felonies aforesaid, or any Court holden for the same place with the like authority, may also in its discretion, after such burning or marking, or after such whipping or fine, as may by virtue of this act be inflicted or imposed instead thereof, award and give judgment that such offender as aforesaid, shall be committed to some house of correction, or public work house, or prison, within the county, city, or place, where such conviction shall be, there to be, remain and be kept, without bail or main prize, for such time as such Court shall then judge and award, not less than six months, and not exceeding two years, to be accounted from the time of such conviction: And an entry thereof shall be made of record pursuant to such judgment and award—And such offender so judged and awarded to remain and be kept in such house of correction, public work house, or prison, shall be there set at work, and kept at hard labour, for and during such time, as shall be so adjudged and awarded. And in case such person shall refuse or neglect to work and labour as they ought to do, the master or keeper of such house of correction,

29 George III – Chapter 7

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work house, or prison respectively, is hereby required to give such person such due correction, as shall be fit and necessary in that behalf.