

SODOMY STATUTES (1533-1563)<sup>1</sup>25 HENRY VIII, CH. 6 (1533-1534)<sup>2</sup>

AN ACT FOR THE PUNISHMENT OF THE VICE OF BUGGERY

Forasmuch as there is not yet sufficient and condign<sup>3</sup> punishment appointed and limited by the due course of the laws of this realm for the detestable and abominable vice of buggery committed with mankind or beast, it may therefore please the King's Highness, with the assent of his lords spiritual and temporal,<sup>4</sup> and the commons of this present Parliament assembled, that it may be enacted by authority of the same: that the same offence be from henceforth adjudged felony,<sup>5</sup> and such order and form of process therein to be used against the offenders, as in cases of felony at the common law. And that the offenders being hereof convict by verdict, confession, or outlawry,<sup>6</sup> shall suffer such pains of death and losses, and penalties of their goods, chattels, debts, lands, tenements, and hereditaments<sup>7</sup> as felons been accustomed to do, according to the order of the common laws of this realm. And that no person offending in any such offence shall be admitted to his clergy.<sup>8</sup> And that justices of peace shall have power and authority within the limits of their commissions and jurisdictions to hear and determine the said offence as they use to do in cases of other felonies. This act to endure till the last day of the next Parliament.

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<sup>1</sup> From *The Whole Volume of Statutes at Large*, 2 parts (London, 1587). For a discussion of these statutes, see the introduction to 'Chapter 3: Criminal Pamphlets and the Law' (print anthology, pp. 59-61), and K. Borris, 'Law,' *Same-Sex Desire in the English Renaissance*, pp. 75-87.

<sup>2</sup> 1.637.

<sup>3</sup> *condign* appropriate, adequate.

<sup>4</sup> *lords spiritual and temporal* i.e., peers of the realm who were ecclesiastical lords (bishops and archbishops), and those who were secular lords (barons, earls, dukes, etc.).

<sup>5</sup> Under Common and Statute law in this period, a felony was a serious crime (including, but not limited to, treason, murder, conspiracy, and theft of property over a certain monetary value); if convicted of a felony, a person would be sentenced to death, but he would also forfeit his lands and goods, and might well suffer as well what was called 'corruption of blood.' This last was a very serious consequence of being convicted of a felony, since it meant that the offender's blood/bloodline was thought to have become tainted or 'corrupted' by his crime, so that he and his descendants lost all rights of rank and title; as a result, the convicted person could no longer retain possession of his lands, leave them to his heirs, nor could his descendants inherit from him.

<sup>6</sup> *outlawry* a reference to the process whereby accused persons were compelled to stand trial.

<sup>7</sup> *chattels* a moveable possession; any possession or piece of property other than real estate. *hereditaments* property that could be inherited.

<sup>8</sup> *admitted to his clergy* i.e., persons charged with this felony could not appeal to the 'benefit of clergy,' where literate persons could be exempted from the jurisdiction or sentence of the ordinary courts of law by reading a passage from Scripture aloud.

2-3 EDWARD VI, CH. 29 (1548)<sup>9</sup>  
AN ACT AGAINST SODOMY

Forasmuch as there is not at this present time any sufficient and condign punishment by due course of the laws of this realm for the detestable vice of buggery: be it therefore enacted by the assent of the King's Highness, the lords spiritual and temporal, and the commons in this present Parliament assembled, that all and every offender or offenders in that crime, after the first day of April next ensuing, being thereof convicted or attainted by verdict,<sup>10</sup> confession, outlawry, or otherwise, shall suffer such pains of death, without loss of goods, or lands, or any other commodity, his life only excepted, as felons convicted or attainted of felony been accustomed to do, touching the said pains of death, by the common laws of this realm.<sup>11</sup> And that no such person shall enjoy the privilege or benefit of his or their clergy or sanctuary,<sup>12</sup> and that the justices of peace shall have full power and authority within the limits of their commission and jurisdictions to hear and determine the said offence, touching the said pains of death, as they do and have used to do in cases of felony, saving to the wife and children, the heirs and successors and administrators of the said offender or offenders, and all other persons and bodies politic<sup>13</sup> other than the said offender or offenders, all such right, title, claim, and interest to all and every the said offender or offenders' goods, lands, and hereditaments, as they or any of them might have or ought to have had, if the said offender or offenders had died his or their natural death, or had neither in this case, neither by any other mean[s], offended any of the King's laws.<sup>14</sup>

Provided, that no manner of person be impeached or molested for the said offence by reason of this present act, except the said person be indicted of the said offence within six months next and immediately following the time of committing the same. And that no person be received for witness, or to lay or give evidence against the said offender, as upon whose credit the inquest should inform themselves, which person should take any profit or commodity by the death of the said offender,<sup>15</sup> if he were attainted or convicted of the said crime and offence: nor that any such attainder shall make any corruption of blood to the heir or heirs of such offender or offenders.<sup>16</sup>

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<sup>9</sup> 2.72.

<sup>10</sup> *convicted or attainted by verdict* i.e., either convicted by a jury in a court of common law, or subjected to attainder (convicted by judicial judgment or through an Act of Parliament without recourse to a trial, and suffering all of the consequences of attainder: loss of lands, corruption of blood, etc.).

<sup>11</sup> This act removes the penalty of loss of all goods for those convicted of this felony.

<sup>12</sup> *benefit of clergy* See n8. The claiming of *sanctuary* (exemption from the arrest and prosecution for a serious crime by taking refuge in a church or other sacred space) still occurs today.

<sup>13</sup> *bodies politic* a convicted person's 'artificial or legal body,' which could refer to his part in a business corporation, for example.

<sup>14</sup> Note that this act clarifies that a person convicted of this felony shall not also have his punishment effectively visited upon his family and descendants, since his goods and inheritable property will be treated just as they would have been had he died a natural death.

<sup>15</sup> The act shows a desire to protect those who might (it is implied) be accused of sodomy in order to wrest their goods and lands away from them. In the trial of Mervin, Lord Audley, earl of Castlehaven, this act (had it still been in force) might well have saved his life, since powerful evidence against him was offered by those who had a material interest in his lands: his wife, his daughter-in-law, and his son and heir. See print anthology, pp. 77-85.

<sup>16</sup> *corruption of blood ... offenders* On corruption of blood, see n5.

1 MARY, CH. 1 (1553)<sup>17</sup>

AN ACT REPEALING CERTAIN TREASONS, FELONIES, AND PRAEMUNIRE<sup>18</sup>

Forasmuch as the state of every king, ruler, and governor of any realm, dominion, or commonalty standeth and consisteth more assured by the love and favor of the subject toward their sovereign ruler and governor, than in the dread and fear of laws made with rigorous pains, and extreme punishment for not obeying of their sovereign ruler and governor; and laws also justly made for the preservation of the commonweal<sup>19</sup> without extreme punishment or great penalty are more often for the most part obeyed and kept, than laws and statutes made with great and extreme punishments; and in special<sup>20</sup> such laws and statutes so made, whereby not only the ignorant and rude, unlearned people, but also learned and expert people, minding honesty, are often and many times trapped and snared, yea, many times for words only without other fact or deed done or perpetrated:

The Queen's Most Excellent Majesty, calling to remembrance that many as well honourable and noble persons, as other of good reputation within this her Grace's realm of England, have of late (for words only without other opinion, fact, or deed) suffered shameful death, not accustomed to nobles, her Highness therefore, of her accustomed clemency and mercy, minding to avoid and put away the occasion and cause of like chances hereafter to ensue (trusting her loving subjects will, for her clemency to them showed, love, serve, and obey her Grace the more heartily and faithfully than for dread or fear of pains of body), is contented and pleased that the severity of suchlike extreme, dangerous, and painful laws shall be abolished, annulled, and made frustrate and void.

[...]

And be it further ordained and enacted by the authority aforesaid, that all offences made felony, or limited, or appointed to be within the case of praemunire, by any act or acts of Parliament, statute or statutes, made sithens<sup>21</sup> the first day of the first year of the reign of the late king of famous memory, King Henry VIII, not being felony before, nor within the case of praemunire, and also all and every branch, article, and clause mentioned, or in any wise declared in any of the same statutes, concerning the making of any offence or offences to be felony, or within the case of praemunire, not being felony, nor within the case of praemunire before, and all pains and forfeitures concerning the same, or any of them, shall from henceforth be repealed and utterly void and of none effect.

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<sup>17</sup> 2.199-200.

<sup>18</sup> *praemunire* a writ accusing a person of recognizing the power of the pope [instead of the monarch]. As a devout Catholic, Mary I set about repealing a number of statutes and laws that made recognition of the legal authority of the papacy a crime.

<sup>19</sup> *commonweal* i.e., the commonwealth or the nation (with the older notion of the common good [weal]).

<sup>20</sup> *in special* i.e., especially

<sup>21</sup> *sithens* since

5 ELIZABETH, CH. 17 (1563)<sup>22</sup>

AN ACT FOR THE PUNISHMENT OF THE VICE OF BUGGERY

Wherein the Parliament begun at London, the third day of November, in the one and twentieth year of the late king of most famous memory, King Henry VIII, and after by prorogation<sup>23</sup> holden at Westminster, in the five and twentieth year of the reign of the said late king, there was one act and statute made, entitled ‘An Act for the Punishment of the Vice of Buggery,’ whereby the said detestable vice was made felony, as in the said statute more at large it doth and may appear. Forasmuch as the said statute, concerning the punishment of the said crime and offence of buggery, standeth at this present repealed and void, by virtue of the statute of repeal made in the first year of the reign of the late Queen Mary, sithens which repeal so had and made, divers<sup>24</sup> evil-disposed persons have been the more bold to commit the said most horrible and detestable vice of buggery aforesaid, to the high displeasure of almighty God:

Be it enacted, ordained, and established by the Queen, our sovereign lady, and by the assent of the lords spiritual and temporal, and the commons of this present Parliament assembled, and by the authority of the same, that the said statute before mentioned, made in the five and twentieth year of the said late King Henry VIII, for the punishment of the said detestable vice of buggery, and every branch, clause, article, and sentence therein contained, shall from and after the first day of June next coming, be revived, and from thenceforth shall stand, remain, and be in full force, strength, and effect forever, in such manner, form, and condition as the same statute was at the day of the death of the said late King Henry VIII, the said statute of repeal made in the said first year of the said late Queen Mary, or any word general or special therein contained, or any other act or acts, thing or things to the contrary notwithstanding.

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<sup>22</sup> 2.449.

<sup>23</sup> *prorogation* the discontinuance of the meeting of Parliament (but without its dissolution) until the next scheduled sitting.

<sup>24</sup> *divers* a word expressing multiplicity, without committing the writer to either ‘several’ or ‘many.’