

**Criminal Code (Indictable
Offences).**

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B I L L

To establish a Code of Indictable Offences,
the Procedure relating thereto.

*(Prepared and brought in by
Mr. Attorney General, Mr. Solicitor General, and
Mr. Secretary Cross.)*

Criminal Code (Indictable Offences) Bill.

TABLE OF CONTENTS.

A.D. 1878.

**PART I.
INTRODUCTORY PROVISIONS.**

**PART II.
OFFENCES AGAINST PUBLIC ORDER, INTERNAL AND
EXTERNAL.**

**PART III.
OFFENCES BY AND AGAINST PUBLIC OFFICERS AND
AGAINST THE ADMINISTRATION OF JUSTICE.**

**PART IV.
ACTS INJURIOUS TO THE PUBLIC GENERALLY.**

**PART V.
OFFENCES AGAINST THE PERSON, THE CONJUGAL
AND PARENTAL RIGHTS, AND THE REPUTATION
OF INDIVIDUALS.**

**PART VI.
OFFENCES AGAINST RIGHTS OF PROPERTY OR RIGHTS
ARISING OUT OF CONTRACTS.**

**PART VII.
PROCEDURE.**

A.D. 1878.

PART I.

INTRODUCTORY PROVISIONS.

CHAPTER I.

APPLICATION OF THE ACT.

SECT.	PAGE
1. Short title	1
2. Operation of the Act	1
3. Application of the Act	1
4. Place of commission of offences	2
5. Offenders to be tried under this Act	3
6. Interpretation of terms	3

CHAPTER II.

OF PUNISHMENTS.

7. Enumeration of punishments inflicted for offences	4
8. Punishment of death	4
9. Punishment of imprisonment	4
10. Flogging and whipping	5
11. Fine	5
12. Provision for the infliction of minor punishments	5
13. Putting under recognizances	6
14. Previous conviction	7
15. Cumulative sentences	7
16. Punishment of persons under sixteen years of age	8

CHAPTER III.

MATTER OF EXCUSE.

17. Definitions subject to exceptions	9
18. Children under seven	9
19. Children between seven and fourteen	9
20. Insanity	9
21. Drunkenness	10
22. Compulsion	10
23. Necessity	10
24. Ignorance of law	11
25. Ignorance of fact	11
26. Trifling offences	12
27. Rule of evidence	12

CHAPTER IV.

OF PARTIES TO THE COMMISSION OF OFFENCES.

SECT.		PAGE
28.	Who are parties to an offence - - -	12
29.	Where offence committed varies from offence to which the offender is incited - - -	13
30.	Accessory after the fact defined - - -	13
31.	Conspiracy to commit an offence - - -	14
32.	Attempts to commit offences - - -	14
33.	Punishment of offences above defined - - -	15

PART II.

OFFENCES AGAINST PUBLIC ORDER, INTERNAL AND
EXTERNAL.

CHAPTER V.

HIGH TREASON AND OTHER OFFENCES AGAINST THE QUEEN'S AUTHORITY
AND PERSON.

34.	High treason defined - - -	15
35.	Accessories after the fact and misprision - - -	16
36.	Treasonable conspiracies and intentions - - -	17
37.	Definition of overt act - - -	17
38.	Burning ships of war, &c. - - -	17
39.	Inciting to mutiny - - -	18
40.	Assaults on the Queen - - -	18
41.	Contempts against the Queen - - -	19
42.	Application of this chapter - - -	19

CHAPTER VI.

UNLAWFUL ASSEMBLIES, RIOTS, BREACHES OF THE PEACE.

43.	Definition of an unlawful assembly - - -	19
44.	Definition of a riot - - -	19
45.	Punishment of unlawful assembly and riot - - -	20
46.	Affrays and provocation to breaches of the peace - - -	20
47.	Riots punishable with penal servitude for life - - -	20
48.	Riotous damage of houses, &c. - - -	21
49.	Unlawful drilling - - -	21
50.	Three persons armed in pursuit of game by night - - -	21
51.	Forcible entry and detainer defined - - -	22

A.D. 1878.

CHAPTER VII.

UNLAWFUL OATHS, SEDITION WORDS, CONSPIRACIES, AND LIBELS.

SECT.	PAGE
52. Unlawful oaths. Oaths to commit murder or treason -	22
53. Other unlawful oaths - - - - -	22
54. Compulsion, how far a defence - - - - -	23
55. Seditious intention, seditious words, seditious libels, and seditious conspiracies defined - - - - -	24
56. Punishment of seditious offences - - - - -	24

CHAPTER VIII.

OFFENCES RELATING TO FOREIGN COUNTRIES.

57. Violations of ambassadors' privileges - - - - -	25
58. Libels on foreign powers - - - - -	25

CHAPTER IX.

OFFENCES AGAINST PERSONS ON THE HIGH SEAS.

59. Piracy by the law of nations defined - - - - -	25
60. Punishment of piracy - - - - -	26
61. Assisting pirates - - - - -	26
62. Insubordination on board ship - - - - -	27
63. Not fighting pirates - - - - -	27
64. Slave-trading defined - - - - -	27
65. Punishment of slave-trading - - - - -	28
66. Serving on a slave ship as an officer - - - - -	28
67. Serving on a slave ship as a seaman - - - - -	28
68. Application of this chapter - - - - -	29

PART III.

CHAPTER X.

OFFENCES BY AND AGAINST PUBLIC OFFICERS AND AGAINST THE
ADMINISTRATION OF JUSTICE.

69. "Public officer" defined - - - - -	30
70. Extortion and oppression by public officers - - - - -	30
71. Frauds and breaches of trust by officers - - - - -	30

[41 VICT.] *Criminal Code (Indictable Offences).*

v

SECT.	PAGE	A.D. 1878.
72. Neglect of official duty - - -	31	—
73. Refusal to serve an office - - -	31	
74. Disobedience to a statute - - -	31	
75. Disobedience to lawful orders of court, &c. - - -	31	

CHAPTER XI.

BRIBERY. SALE OF OFFICES.

76. Bribery of public officers - - -	32
77. Official corruption - - -	32
78. Bribery of voters - - -	33
79. Undue influence - - -	34
80. Selling offices - - -	34
81. Influencing juries - - -	35
82. Application of certain sections - - -	36

CHAPTER XII.

MISLEADING JUSTICE.

83. False evidence defined - - -	36
84. Punishment of false evidence - - -	36
85. False declaration - - -	37
86. Punishment of making a false declaration - - -	37
87. Conspiracies to bring false accusations - - -	37
88. Attempts to pervert or defeat justice - - -	38

CHAPTER XIII.

ESCAPES, RESCUES, COMPOUNDING OFFENCES.

89. Persons under sentence of transportation or penal servitude being at large - - -	38
90. Assisting escape of prisoners of war - - -	38
91. Escape by prisoner - - -	39
92. Breaking out of prison - - -	39
93. Aiding escape from prison - - -	39
94. Rescue - - -	39
95. Negligent escape - - -	40
96. Agreements not to prosecute - - -	40
97. Champerty, maintenance, and common barrators - - -	40

A.D. 1878.

PART IV.

ACTS INJURIOUS TO THE PUBLIC GENERALLY.

CHAPTER XIV.

OFFENCES AGAINST RELIGION.

SECT.		PAGE
98.	Blasphemous libels - - - -	41
99.	Assaulting ministers of religion - -	41
100.	Disturbing public worship - - - -	42

CHAPTER XV.

OFFENCES AGAINST MORALITY.

101.	Sodomy - - - - -	42
102.	Attempt to commit sodomy - - - -	42
103.	Public indecencies - - - - -	43
104.	Obscene publications - - - - -	43
105.	Defiling girls under age - - - - -	43
106.	Conspiracy to defile - - - - -	44
107.	Preventing the burial of dead bodies and disinterring them - - - - -	44

CHAPTER XVI.

COMMON NUISANCES.

108.	Common nuisance defined - - - -	44
109.	Disorderly houses - - - - -	46
110.	Common bawdy houses - - - - -	46
111.	Common gaming houses - - - - -	46
112.	Evidence that a house is a common gaming house - - - -	46
113.	Common betting houses - - - - -	47
114.	Disorderly places of entertainment - - - -	48

PART V.

OFFENCES AGAINST THE PERSON, THE CONJUGAL
AND PARENTAL RIGHTS, AND THE REPUTATION
OF INDIVIDUALS.

CHAPTER XVII.

OF MATTER OF JUSTIFICATION AND EXCUSE FOR THE INFLICTION OF
DEATH AND BODILY HARM.

SECT.	PAGE
115. Exceptions to definitions of offences - - -	49
116. Execution of lawful sentences - - -	49
117. Keeping the peace - - -	49
118. Prevention of the commission of crimes and arrest of criminals - - -	50
119. Self defence - - -	50
120. Proviso on foregoing sections - - -	50
121. Lawful force - - -	51
122. "Consent" and "Maim" defined - - -	51
123. Injuries by consent - - -	51
124. Surgical operations - - -	51
125. No right to consent to death - - -	52
126. Accident - - -	52

CHAPTER XVIII.

OF CAUSING DEATH BY NEGLIGENCE, AND OF DUTIES TENDING TO THE
PRESERVATION OF LIFE.

127. Death or bodily injury caused by omission to discharge a legal duty - - -	52
128. Death caused by neglect to provide necessaries - - -	53
129. Duty of persons doing acts requiring special skill or knowledge - - -	53
130. Bodily injuries inflicted by negligence - - -	54

CHAPTER XIX.

HOMICIDE.

131. Definition of homicide—when a child becomes a human being - - -	54
132. When an act is the remote cause of death or one of several causes - - -	55
133. When homicide is unlawful - - -	55

A.D. 1878.

CHAPTER XX.

MURDER, MANSLAUGHTER, ATTEMPTS TO COMMIT MURDER,
CONCEALMENT OF BIRTH.

SECT.		PAGE
134.	Murder defined - - - - -	56
135.	Manslaughter defined - - - - -	56
136.	Effect and definition of provocation - - - - -	56
137.	When provocation does not extenuate homicide - - - - -	56
138.	Infanticide - - - - -	57
139.	Suicide - - - - -	57
140.	Punishment of murder - - - - -	57
141.	Attempts to commit murder - - - - -	57
142.	Threats and conspiracies to murder - - - - -	57
143.	Punishment of manslaughter - - - - -	58
144.	Aiding and abetting the commission of suicide - - - - -	58
145.	Attempting to commit suicide - - - - -	58
146.	Concealing the birth of children - - - - -	58

CHAPTER XXI.

BODILY INJURIES AND ACTS CAUSING DANGER TO THE PERSON.

147.	Definitions - - - - -	59
148.	Attempts to strangle in order to commit a crime - - - - -	59
149.	Causing grievous bodily harm - - - - -	60
150.	Attempting to cause grievous bodily harm in certain ways - - - - -	60
151.	Resisting lawful apprehension - - - - -	60
152.	Attempting to injure by blowing up houses or ships - - - - -	60
153.	Attempts to endanger railway passengers - - - - -	60
154.	Preventing escape from wreck - - - - -	61
155.	Striking persons protecting wreck - - - - -	61
156.	Administering poison - - - - -	61
157.	Causing actual bodily harm - - - - -	62
158.	Setting man-traps and spring guns - - - - -	62
159.	Maiming oneself or another by consent - - - - -	62
160.	Negligent acts punishable with two years' imprisonment - - - - -	62

CHAPTER XXII.

ASSAULTS AND INTIMIDATION.

161.	Assault defined—punishment of assaults - - - - -	63
162.	Punishment of assaults with intent to commit sodomy - - - - -	63
163.	Assaults punishable with two years' imprisonment - - - - -	64
164.	Intimidation - - - - -	64

CHAPTER XXIII.

A.D. 1878.

RAPE, KNOWING CHILDREN, AND PROCURING ABORTION.

SECT.		PAGE
165.	Definition of rape - - - - -	65
166.	Punishment of rape and carnal knowledge of girls under twelve - - - - -	65
167.	Carnally knowing children between twelve and thirteen	66
168.	Procuring abortion - - - - -	66

CHAPTER XXIV.

CRIMES AFFECTING CONJUGAL AND PARENTAL RIGHTS—BIGAMY—
ABDUCTION.

169.	Bigamy - - - - -	67
170.	Punishment of bigamy - - - - -	68
171.	Abduction with intent to marry - - - - -	68
172.	Abduction of girl under sixteen - - - - -	69
173.	Stealing children under fourteen - - - - -	69

CHAPTER XXV.

OFFENCES AGAINST CHILDREN BY PARENTS AND OTHERS.

174.	Neglecting servants and apprentices - - - - -	70
175.	Abandoning children under two - - - - -	70

CHAPTER XXVI.

DEFAMATORY LIBELS.

176.	Defamatory libel defined - - - - -	71
177.	Publication defined - - - - -	71
178.	Punishment of defamatory libel - - - - -	72
179.	Publication of the truth not criminal in certain cases - - - - -	72
180.	Publication of matter honestly believed to be true - - - - -	72
181.	Fair discussion of matters of public interest - - - - -	72
182.	Fair comment - - - - -	73
183.	Parliamentary proceedings, and fair comments thereon	73
184.	Publication in a court of justice - - - - -	74
185.	Fair reports of proceedings of courts - - - - -	74

A.D. 1878.

PART VI.

OFFENCES AGAINST RIGHTS OF PROPERTY OR
RIGHTS ARISING OUT OF CONTRACTS.

SECT.	PAGE
186. Interpretation of "person" and "valuable security"	74

CHAPTER XXVII.

THEFT AND SIMILAR OFFENCES.

187. Things capable of being stolen - - -	75
188. Intent to misappropriate - - -	76
189. Theft defined - - -	77
190. Criminal breach of trust defined - - -	77
191. Possession on account of another - - -	77
192. Obtaining property by false pretences - - -	79
193. Fraudulent misappropriation defined - - -	79
194. Saving as to certain offences - - -	79
195. Fraudulent misappropriation by general owners, corpo- rators, co-owners, or trustees - - -	79
196. Husband and wife - - -	80
197. Finding - - -	80
198. Rule of evidence - - -	80
199. Punishment of fraudulent misappropriation - - -	80
200. Concealing certain documents - - -	81
201. Fraudulently concealing ore - - -	82
202. Concealing treasure trove - - -	82
203. Deer stealing - - -	82
204. Killing hares in a warren - - -	82

CHAPTER XXVIII.

FRAUD.

205. Fraudulent false accounting and false statements -	83
206. Definition of cheating - - -	84
207. Punishment of cheating - - -	84
208. Conspiracy to extort or defraud - - -	84
209. Cheating at play - - -	84
210. Obtaining the execution of valuable securities by false pretences - - -	84
211. Obtaining credit, &c., by false pretences - - -	85
212. Concealing deeds and incumbrances - - -	85
213. Protection to offenders in certain cases - - -	85

CHAPTER XXIX.

A.D. 1878.

ROBBERY AND EXTORTION.

SECT.		PAGE
214.	Definition of robbery - - - - -	86
215.	Punishment of robbery - - - - -	86
216.	Stopping of mail - - - - -	86
217.	Punishment of assaults with intent to rob - - - - -	87
218.	Extortion by threats of accusation or threatening letters - - - - -	87
219.	Threatening to publish a libel - - - - -	87
220.	Compelling execution of documents by force - - - - -	88
221.	Demanding with intent to steal - - - - -	88

CHAPTER XXX.

HOUSEBREAKING.

222.	Definitions - - - - -	88
223.	Places of worship - - - - -	89
224.	Breaking dwelling-houses - - - - -	89
225.	Breaking shops, &c. - - - - -	89
226.	Being found in possession of housebreaking instruments - - - - -	90

CHAPTER XXXI.

RECEIVING, &c.

227.	Receiving property unlawfully obtained—rule of evidence - - - - -	90
228.	Receiving when complete - - - - -	91
229.	Corruptly taking reward for restitution of goods - - - - -	91

CHAPTER XXXII.

FORGERY.

230.	A false document defined - - - - -	92
231.	Making a false document - - - - -	92
232.	Definition of forgery - - - - -	92
233.	Punishment of forgery - - - - -	93
234.	Drawing bills, &c. without authority - - - - -	94
235.	Using forged documents - - - - -	94
236.	Using probate, &c. obtained by forgery or false oaths - - - - -	94

CHAPTER XXXIII.

PREPARATIONS FOR FORGERY AND OFFENCES RESEMBLING FORGERY.

237.	Bank note, bank note paper, exchequer bill paper - - - - -	95
238.	Unauthorised dealing with bank note paper and forged bank notes - - - - -	95

A.D.1878.

SECT.	PAGE
239. Dealing in forged bank notes - - -	96
240. Offences relating to stamps - - -	96
241. Forging seals and other instruments - - -	97
242. Defacing registers - - -	97
243. Making false entries in books relating to public funds -	98
244. Officers uttering false certificates - - -	98
245. Trade marks defined - - -	99
246. Forging trade marks - - -	99
247. Legal effect of instruments, and not their designation, to be considered - - -	99
248. Application of the preceding chapters—possession -	100

CHAPTER XXXIV.

PERSONATION.

249. Personation - - -	100
250. Personation of seamen - - -	101
251. Acknowledging recognizance, &c. in false name -	101

CHAPTER XXXV.

OFFENCES RELATING TO THE COIN.

252. Interpretation of terms - - -	102
253. Coining - - -	102
254. Dealing in and importing counterfeit coin - - -	103
255. Making instruments for coining - - -	103
256. Clipping and possession of metal obtained thereby -	103
257. Offences relating to copper coin - - -	104
258. Offences relating to foreign gold and silver coin -	104
259. Coining foreign copper coin - - -	104
260. Possession of counterfeit gold or silver - - -	104
261. Uttering counterfeit gold or silver coin - - -	105
262. Uttering base copper or foreign coin - - -	105
263. Rule of evidence - - -	105

CHAPTER XXXVI.

MISCHIEF.

264. Preliminary - - -	106
265. Arson - - -	106
266. Punishment of arson and attempts to commit arson -	106
267. Mischief by gunpowder - - -	107
268. Injuries to railway trains - - -	107
269. Mischief to ships - - -	108

SECT.	PAGE
270. Injuries to sea walls and works connected with water	- 108
271. Injuries to cattle	- 109
272. Injuries to machinery and to mines	- 110
273. General provision as to mischief	- 110
274. Threats to burn, &c.	- 111
275. Making and possessing gunpowder for certain purposes	111
276. Mischievous breach of contract	- 111

CHAPTER XXXVII.

BANKRUPTCY AND BREACH OF CONTRACT.

277. Absconding with property in contemplation of bankruptcy	- 113
278. Punishment of fraudulent debtors	- 113
279. False claim on bankrupt's estate	- 115
280. Breaches of employer's duty to seamen—leaving seamen behind	- 116
281. Breaches of shipowner's duty to seamen—sending unseaworthy ships to sea	- 117
282. Breach of duty of seamen to each other or other persons on board	- 117

PART VII.

PROCEDURE.

CHAPTER XXXVIII.

INTRODUCTORY PROVISIONS.

283. Power to make rules	- 118
284. Civil remedy not to be suspended by fact that act is a criminal offence	- 119
285. Proceedings against persons acting under this Act	- 119
286. Abolition of distinction between felony and misdemeanor	120

CHAPTER XXXIX.

WHAT OFFENCES TRIABLE IN ENGLAND, AND BY WHAT COURTS.

287. What offences may be tried in England	- 120
288. Jurisdiction of the superior courts	- 121
289. Jurisdiction of the courts of quarter sessions	- 121

A.D. 1878.

CHAPTER XL.

PLACE OF ARREST, COMMITMENT, AND TRIAL.

SECT.		PAGE
290.	Local jurisdiction of courts - - -	- 121
291.	Place of sitting of court - - -	- 121
292.	Local jurisdiction of grand jury - - -	- 122
293.	What justices are to commit for trial, and to what courts	122
294.	For what offences justices may compel appearance -	- 123
295.	For what districts justices may act - - -	- 124
296.	Justices for counties at large may act as such in counties of cities and boroughs and in and for detached parts of counties - - - - -	- 124
297.	Saving as to statutory jurisdiction of police magistrates and other justices - - - - -	- 125
298.	Where warrants may be executed - - -	- 125
299.	Backing warrants - - - - -	- 126
300.	When warrants may be backed - - - - -	- 126
301.	Where and by whom warrants may be backed - - -	- 126
302.	Justice backing a warrant in England may order defen- dant to be brought before him - - -	- 126
303.	Person summarily arrested - - - - -	- 127
304.	Order to change place and mode of trial - - -	- 127
305.	Power to change place of trial from county corporate to adjoining county at large - - - - -	- 129
306.	Court affected by order to take judicial notice of it, and no proof to be required - - - - -	- 129

CHAPTER XLI.

PROCEEDINGS TO COMPEL APPEARANCE. ARREST WITHOUT WARRANT.
INFORMATION. SUMMONS. WARRANT.

307.	Summary arrest of persons found committing offences -	- 129
308.	Summary arrest of persons suspected of having committed offences - - - - -	- 130
309.	Disposal of persons arrested under preceding sections -	- 130
310.	Information - - - - -	- 130
311.	Summons or warrant - - - - -	- 131
312.	Contents of warrant - - - - -	- 131
313.	Irregularities in the warrant immaterial - - -	- 132
314.	Contents of summons. Service of summons - - -	- 132
315.	If person summoned does not appear—warrant - - -	- 132

CHAPTER XLII.

A.D. 1878.

OF PRELIMINARY INQUIRIES BEFORE JUSTICES.

SECT.		PAGE
316.	Justice to hold preliminary inquiry - - -	133
317.	Proceedings on appearance of defendant - - -	133
318.	Calling on the person charged for his defence - - -	133
319.	Evidence to be read to the defendant - - -	134
320.	Calling witnesses for the defence - - -	134
321.	Discretionary powers of the justice - - -	134
322.	Committal or discharge - - -	135
323.	Committals for false evidence - - -	136

CHAPTER XLIII.

PREPARATION OF EVIDENCE FOR THE TRIAL.

324.	Procuring attendance of witnesses - - -	136
325.	Summons how served - - -	137
326.	Warrant if witness fail to appear, warrant in first instance - - -	137
327.	Witness refusing to be examined - - -	137
328.	Depositions to be read to witnesses - - -	138
329.	When depositions may be given in evidence - - -	138
330.	Copy of depositions - - -	139
331.	Prosecutor and witnesses to be bound over to prosecute and give evidence - - -	139
332.	Transmission of documents - - -	140
333.	Witness refusing to be bound over may be imprisoned - - -	141
334.	Taking deposition of witness who is ill, &c. - - -	141
335.	Power to take evidence by commission - - -	142
336.	Search warrants - - -	143

CHAPTER XLIV.

OF THE CUSTODY OF DEFENDANTS.

337.	Defendant to be committed, bailed, or discharged - - -	144
338.	When taking bail is and is not discretionary - - -	144
339.	At what stages of the proceedings bail may be taken - - -	144
340.	In what cases and how the defendant may be committed to prison - - -	146
341.	Committal of the defendant - - -	147
342.	Conveying person committed to prison - - -	147
343.	Bail of persons unable to procure bail on committal - - -	147
344.	Recognizances to be transmitted to court - - -	148

A.D. 1878.	SECT.		PAGE
—	345.	Warrant of deliverance when defendant bailed after confinement	148
	346.	Custody of defendant in case of change of place of trial	148
	347.	Estreating recognizances	149

CHAPTER XLV

ACCUSATION.—NOTICE OF INDICTMENT.—PROCESS ON INDICTMENT.

348.	No one to be tried till he is accused	149
349.	Who may send a bill before a grand jury	150
350.	On acquittal or throwing out of bill, defendant to have costs	151
351.	What orders defendants may obtain before trial	152
352.	If no copy of indictment before bill found	152
353.	Special provisions in the case of treason	153
354.	Criminal information	153
355.	Coroners' inquests	154
356.	Bench warrant and certificate	154
357.	Absconding from justice act of bankruptcy	155

CHAPTER XLVI.

TRIAL OF INDICTABLE OFFENCES.

358.	Arraignment	156
359.	What defendant may require before pleading	157
360.	Time to plead	157
361.	Pleas in abatement and other special pleas. Motions to quash the indictment	157
362.	If the prisoner pleads not guilty, jury to be sworn	158
363.	Challenges to the array	158
364.	If no challenge to array panel to be called	159
365.	Challenges	159
366.	Giving in charge	160
367.	The case for the prosecution	160
368.	Examination of the defendant	161
369.	Case for the defendant	162
370.	Reply	162
371.	Notice to be given of evidence to the opposite side	162
372.	Court may direct the attendance of witnesses	162
373.	Admissions not to be taken on trial of indictable offences	163
374.	Summing up	163
375.	Jury to consider their verdict	163
376.	How if the jury cannot agree	163

SECT.		PAGE	A.D. 1878.
377.	Verdict may be general or special.—Effect	- 163	—
378.	Verdict of not guilty	- 164	
379.	Motion in arrest of judgment on verdict of guilty	- 164	
380.	Motion in arrest of execution	- 164	
381.	Adjournments	- 165	
382.	When jury may be discharged	- 165	
383.	Presence of the defendant	- 166	
384.	View	- 166	
385.	Proceedings on Sunday	- 166	
386.	Insane defendants	- 167	
387.	Stay of proceedings	- 167	

CHAPTER XLVII.

APPEAL.

388.	Court of appeal	- 167
389.	Record	- 168
390.	Special entries on the record at instance of defendant	- 168
391.	Special entry by court	- 168
392.	Appeals. Cases reserved	- 169
393.	Application for a new trial	- 170
394.	Intermediate effects of appeal	- 171

CHAPTER XLVIII.

PLEADING IN CRIMINAL CASES.

395.	Indictments to be drawn according to this Act	- 173
396.	Form of indictments	- 173
397.	Legal effect of finding a true bill	- 174
398.	Variānces	- 175
399.	Of amendments in the indictment	- 175
400.	How parties to offences may be indicted	- 175
401.	When more persons than one may be jointly indicted	- 176
402.	When an indictment is to be divided into separate counts	176
403.	Joinder of counts and proceedings thereon	- 177
404.	Charge of previous conviction	- 177
405.	Where a defendant may be convicted of an offence different from the one charged in the indictment	- 178
406.	How if evidence proves a more serious offence	- 178
407.	What objections may be taken to an indictment and when	- 179
408.	Special pleas	- 179
409.	Special verdicts	- 181

A.D. 1878.	SECT.	PAGE
—	410.	Time for presenting indictment in certain cases - 181
	411.	Venue - - - - - 182
	412.	Application of provisions of chapter - - - 182

CHAPTER XLIX.

COSTS. REWARDS. RESTITUTION.

413.	Secretary of State may make regulations as to amount of costs - - - - -	182
414.	Costs ordered to be paid by county treasurer - - -	182
415.	Costs may be ordered to be paid to prosecutor in all cases - - - - -	183
416.	Costs of defendants' witnesses - - - - -	184
417.	Costs where order for change of place of trial - - -	184
418.	When defendant may be ordered to pay costs - - -	185
419.	When prosecutor may be ordered to pay costs - - -	185
420.	Costs of conveying defendant to gaol - - - - -	186
421.	Rewards and compensation - - - - -	187
422.	Restitution of property - - - - -	187
423.	Compensation to person injured - - - - -	188
424.	Criminal courts to have same power to issue process to compel payment of costs and judgment debt as High Court - - - - -	188
425.	Repeal of Acts - - - - -	188

SCHEDULE OF FORMS.

SCHEDULE OF ENACTMENTS REPEALED.

A
B I L L

TO

Establish a Code of Indictable Offences and the Procedure A.D. 1878.
relating thereto.

BE it enacted by the Queen'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, as follows :

5

PART I.

INTRODUCTORY PROVISIONS.

CHAPTER I.

APPLICATION OF THE ACT.

SECTION 1.

10

SHORT TITLE.

This Act may be cited for all purposes as the Criminal Code (Indictable Offences), 1878:

SECTION 2.

OPERATION OF THE ACT.

15 This Act shall come into force on the _____ day of _____ subject to the provisions herein-after contained.

SECTION 3.

APPLICATION OF THE ACT.

20 Those parts of this Act, for the local application of which no special provision is herein-after made, and which relate to any matter other than procedure, shall extend—

(a.) To all acts done by any person in England, or upon or in any part of the sea contained within the body of any English county, or upon or in any part of the sea adjacent to the coast of
25 England and within one marine league of any part of the coast

[Bill 178.]

B 2

A.D. 1878. of England measured from low-water mark, or deemed by international law to be within the territorial sovereignty of Her Majesty by reason of its adjacency to the said coast.

(b.) To all acts done by any person, whether a natural-born subject of Her Majesty or not, on board any British ship, vessel, or boat, 5 on any part of the sea, or in any place in which the admiral has jurisdiction, or done in or upon the sea by any person who immediately before doing such act was in or upon any such ship, vessel, or boat as aforesaid.

(c.) To all acts done on land out of Her Majesty's dominions 10 in any country or place in which, and by any person over whom Her Majesty has power and jurisdiction, and in which and in regard to whom Her Majesty has directed that the criminal law of England shall be in force: Provided that this Act shall not come into operation in any such country or place until Her Majesty is pleased 15 to direct that it shall do so by an Order in Council, and then only to such an extent as such Order in Council may direct.

(d.) To all offences tried in any Court in Her Majesty's Indian or Colonial Possessions not under the local law of such Possessions but under the law of England: Provided that this Act shall not 20 come into force in any such Possession until a day to be fixed by a proclamation to be issued in India by the Governor-General in Council, and in any Colony by the Governor-General, Governor, Lieutenant-Governor, or other chief officer.

Provided also, that whenever in this Act it is enacted that any 25 enactment shall apply to acts done by Her Majesty's natural born or naturalized subjects, on land out of England, such enactment shall not extend to any part of Her Majesty's dominions out of England, but shall relate to the acts to which it applies only when any person accused of any of them is tried in England. 30

The provisions of this Act which relate to procedure shall apply only to proceedings in England, but they shall extend to all proceedings in relation to indictable offences taken after the day of _____, whenever such offences may have been committed, and although the prosecution of such offences may have 35 been commenced before that day.

No provision as to procedure contained in this Act shall affect any proceedings upon an impeachment in Parliament.

SECTION 4.

PLACE OF COMMISSION OF OFFENCES.

40

(a.) Every offence which consists in displaying an intention by an overt act is committed at every place in which any overt act is done, by which any such intention is displayed.

(b.) Every conspiracy is committed at every place at which any of the conspirators did any overt act in furtherance of their common unlawful purpose, as well as at the place where their unlawful agreement was made. A.D. 1878.

5 (c.) Every murder and manslaughter, and every offence which consists in the infliction of any bodily injury on any person, is committed both at the place of the act or omission which was the cause of death or bodily injury, and at the place where the death of the person killed took place, and at the place where the person injured
10 received such injury.

(d.) Every indictable offence consisting in unlawfully taking or obtaining or appropriating property, or in knowingly receiving property so taken, obtained, or appropriated, or in forging any document, or in using any forged document, is committed as long as and
15 at every place where the offender has the property or document so unlawfully dealt with in his possession or under his control, whether the original offence was committed within Her Majesty's dominions or without.

The parts of this Act which do not relate to procedure shall apply
20 to all offences committed against its provisions on or after the day on which it comes into force, but not to any offence the commission of which was begun before that day, although the offence may have been completed or may have become complete on or after that day.

SECTION 5.

25 OFFENDERS TO BE TRIED UNDER THIS ACT.

Every person who, after this Act comes into force, commits any indictable offence against any provision thereof, shall be proceeded against under such provision or under some other provision of some statute not inconsistent therewith and not repealed thereby, and
30 shall not be proceeded against at common law.

SECTION 6.

INTERPRETATION OF TERMS.

In this Act the following words and expressions are used in the following senses, unless a different intention appears from the
35 context.

Every expression contained in this Act which refers to Her Majesty is intended to refer to Her Majesty, her heirs and successors.

“Superior court” means—

- (a.) The High Court of Justice.
40 (b.) The Central Criminal Court.

A.D. 1878. (c.) The Court of a judge or Commissioner of assize oyer and terminer or gaol delivery.

(d.) The Superior Criminal Courts of the counties palatine.

"Court of quarter session" includes courts of quarter session for counties and other districts, and for boroughs. 5

"Court" includes a single judge acting as such.

"Justice" includes more justices than one acting together.

"Counsel," in relation to courts in which solicitors practise as advocates, includes solicitors.

"District," in relation to the jurisdiction of courts and justices, 10 means any county, riding, division, liberty, city, borough, or place in which any court or justice of the peace is authorised to act, either by any commission or by any statute.

The word "oath," and all other words relating to the swearing of witnesses or jurors, include declarations or affirmations permitted 15 by law to be substituted for oaths, and the act of making such declarations or affirmations.

CHAPTER II. OF PUNISHMENTS.

SECTION 7.

20

ENUMERATION OF PUNISHMENTS INFLICTED FOR OFFENCES.

The following punishments may be inflicted for the offences herein-after defined, that is to say, death, penal servitude, imprisonment, detention in a reformatory school, subjection to police supervision, flogging, whipping, fines. Every such punishment shall be 25 inflicted in the manner now prescribed by law, subject to the provisions herein-after contained.

SECTION 8.

PUNISHMENT OF DEATH.

The punishment of death shall in all cases be inflicted in the 30 manner prescribed by the Capital Punishment Amendment Act, 1868.

SECTION 9.

PUNISHMENT OF IMPRISONMENT.

There shall be three kinds of imprisonment; that is to say,

- (1.) Imprisonment with hard labour;
- (2.) Imprisonment without hard labour; and
- (3.) Simple imprisonment;

35

and every sentence of imprisonment shall specify which of the three kinds of imprisonment is to be inflicted. The punishment of simple imprisonment shall be inflicted in the manner prescribed for misdemeanants of the first division by the Prison Act, 1865. A.D. 1878.

5 No prisoner shall henceforth be sentenced to solitary confinement for any part of the term of his imprisonment.

SECTION 10.

FLOGGING AND WHIPPING.

The punishment of flogging shall consist of the infliction of a number of strokes, not exceeding 50, on a person whose age exceeds 16, by an instrument to be specified by the court.

The punishment of whipping shall consist of the infliction of a number of strokes, not exceeding 25, on a person whose age does not exceed 16 by a birch rod.

15 In each case the court shall in its sentence specify the number of strokes and the instrument to be used.

No flogging or whipping shall take place after the expiration of *six months* from the passing of the sentence.

20 Every flogging or whipping inflicted on any person sentenced to penal servitude shall be inflicted on him before he is removed to a convict prison with a view to his undergoing his sentence of penal servitude.

From the passing of this Act no offender shall be liable to be either flogged or whipped except under the provisions of this or 25 some other Act of Parliament.

No female shall be liable to be flogged or whipped.

SECTION 11.

FINE.

30 Every person sentenced to pay a fine shall be subject to simple imprisonment till such fine is paid.

SECTION 12.

PROVISION FOR THE INFLECTION OF MINOR PUNISHMENTS.

35 Every person liable under this or any other Act of Parliament to be sentenced to penal servitude for life or for any term of years may, unless the contrary is expressed in this Act, and except in the case herein-after provided for, be sentenced to any shorter term of penal servitude not being less than *five years*, or instead thereof to any term of imprisonment not exceeding *two years*, with or without hard labour.

A.D. 1878.

Every person liable under this or any other Act of Parliament to be sentenced for any indictable offence to imprisonment for any term may, unless the contrary is expressed in this Act, be sentenced to imprisonment for any shorter term, and every person liable under this or any other Act of Parliament to be sentenced for any indict- 5
able offence to imprisonment with hard labour, may, unless the contrary is expressed in this Act, be sentenced to imprisonment without hard labour, but no offender against any provision of this Act who is declared to be liable to imprisonment with hard labour for any offence shall be sentenced to simple imprisonment therefor, 10
unless the infliction of such a punishment is expressly authorised.

Every person who by any provision of this Act is declared to be liable to imprisonment generally may be sentenced either to imprisonment without hard labour or to simple imprisonment for any term not exceeding *two years*. 15

No person shall be sentenced for any offence either at common law or under the provisions of any statute to any longer term of imprisonment than *two years*.

Every person who by any provision of this Act is declared to be liable to penal servitude or imprisonment of any kind may, in addition thereto, or instead thereof, be sentenced to pay a fine. 20

Every person who by any provision of this Act is declared to be liable to be flogged or whipped, besides being otherwise punished, may be sentenced to all or any one or more of such punishments.

Every person who by any provision of this Act is declared to be 25
liable to a fine of any specified amount may be sentenced to pay any smaller fine.

SECTION 13.

PUTTING UNDER RECOGNIZANCES.

Every person who under any provision of this or any other Act 30
of Parliament is convicted of any indictable offence for which he is liable to be sentenced to penal servitude or imprisonment or to fine may, in addition thereto or instead thereof, be required to enter into his own recognizances and to find sureties (both or either) to such amount as the court by which he is tried considers reasonable, 35
that he shall keep the peace, be of good behaviour, abstain from repeating or continuing the offence of which he has been convicted, or do or forbear from doing any other act of the same kind which the court may consider proper, or that he will appear and receive judgment when called upon, or be of good behaviour (both or either). 40

SECTION 14.

A.D. 1878.

PREVIOUS CONVICTION.

If any person is convicted of any offence for which he is liable to be sentenced to *two years* imprisonment and hard labour, and for
5 which he is not on a first conviction liable to be sentenced to more than *seven years* penal servitude, and if before committing the offence for which he is so convicted he has either been twice convicted in a summary way in any part of the United Kingdom of offences for which he might have been convicted and sentenced to imprisonment
10 and hard labour upon an indictment, or has in any part of the United Kingdom been convicted upon any indictment and sentenced to imprisonment with hard labour, or to penal servitude, he may be sentenced to penal servitude for any term not exceeding *fourteen years*, and if he is sentenced to penal servitude at all, he shall not
15 be sentenced thereto for a shorter term than *seven years*.

If for the subsequent offence the offender might upon a first conviction have been sentenced to any term of penal servitude exceeding *seven years*, he shall be liable after such a previous conviction or convictions as aforesaid to penal servitude for life, and shall not,
20 if sentenced to penal servitude, be sentenced to any shorter term thereof than *seven years*.

The court having cognizance of the indictment on which any person is convicted who is proved to have been previously convicted, as aforesaid, may, in addition to any other punishment which it
25 may award to him, direct that he shall be subject to the supervision of the police for any period not exceeding *seven years*, commencing immediately after the expiration of the sentence passed on him for the last of such offences.

SECTION 15.

30

CUMULATIVE SENTENCES.

When any person not undergoing punishment for any offence is convicted of two offences for each of which he might have been sentenced to *two years* imprisonment and hard labour he may be sentenced on the second conviction to *seven years* penal servitude
35 in respect of the two offences. If he is convicted of three such offences he may be sentenced upon the third conviction to *fourteen years* penal servitude in respect of the three offences.

When any person undergoing punishment for any such offence is convicted of any other such offence committed previously to his
40 conviction for the offence for which he is undergoing punishment, he may be sentenced to *seven years* penal servitude in respect of the

A.D. 1878. two offences; if he is convicted of two such offences, he may be sentenced to *fourteen years* penal servitude in respect of the three offences.

When any person is convicted of two or more offences for each of which he might be sentenced to penal servitude, he may be sentenced in respect of such two or more offences to a period of penal servitude equal to the sum of the terms of penal servitude to which he might have been sentenced separately, or to penal servitude for life if such sum exceeds *twenty years*.

When any person is convicted of two or more offences for some of which he might be sentenced to penal servitude, and for others to imprisonment with hard labour, he shall be liable to be sentenced in respect of such two or more offences to a term of penal servitude equal to the term of penal servitude to which he might have been sentenced in respect of the offence or offences punishable by penal servitude, and to *three years* additional penal servitude for every two years imprisonment and hard labour to which he might have been sentenced for any offence or offences not punishable with penal servitude.

Provided that, whenever any such sentence as aforesaid is passed upon any person undergoing punishment at the time of his conviction, any period during which he may have been imprisoned or kept in penal servitude under any sentence passed in respect of any such offence shall be deducted from the period to which he is sentenced under this section.

SECTION 16.

PUNISHMENT OF PERSONS UNDER SIXTEEN YEARS OF AGE.

Whenever any offender against any provision of this Act who, in the judgment of the Court, before which he is charged, is under the age of sixteen years is convicted of any offence punishable with penal servitude or imprisonment with hard labour, and is sentenced to be imprisoned for the term of ten days or a longer term, the court may also sentence him to be sent at the expiration of his period of imprisonment to a certified reformatory school, and to be there detained for a period of not less than two years and not more than *five years*.

CHAPTER III.
MATTER OF EXCUSE.

A.D. 1878.

SECTION 17.

DEFINITIONS SUBJECT TO EXCEPTIONS.

5 The provisions of this chapter shall apply to all offences whatever whether at common law or by statute.

SECTION 18.

CHILDREN UNDER SEVEN.

No act done by anyone whose age does not exceed *seven years*
10 shall be an offence.

SECTION 19.

CHILDREN BETWEEN SEVEN AND FOURTEEN.

No act done by any one whose age exceeds *seven* and does not
exceed *fourteen years* shall be an offence, unless it be shown affir-
15 matively that such person had sufficient capacity to know that the
act was forbidden by law.

SECTION 20.

INSANITY.

No act shall be an offence if the person who does it is at the time
20 when it is done prevented, either by defective mental power or by
any disease affecting his mind,

(a.) from knowing the nature of his act; or

(b.) from knowing either that the act is forbidden by law or that
it is morally wrong; or

25 (c.) if such person was at the time when the act was done, by
reason of any such cause as aforesaid, in such a state that he would
not have been prevented from doing that act by knowing that if he
did do it the greatest punishment permitted by law for such an
offence would be instantly inflicted upon him, provided that this
30 provision shall not apply to any person in whom such a state of
mind has been produced by his own default.

An act may be an offence although the mind of the person who
does it is affected by disease or is deficient in power, if such disease
or deficiency does not in fact produce one or other of the effects
35 above mentioned in reference to that act.

A.D. 1878.

SECTION 21.**DRUNKENNESS.**

Voluntary drunkenness is not a disease affecting the mind within the meaning of the provisions herein-before contained; but those provisions apply to involuntary drunkenness, and to any disease 5 caused by voluntary drunkenness, so far as they affect the mind respectively.

If the existence of a specific intention is essential to the commission of an offence, the fact that an offender was drunk when he did the act which, if coupled with that intention, would constitute 10 such offence may be taken into account by the jury in deciding whether he had that intention.

SECTION 22.**COMPULSION.**

A person who is a party to an offence only by reason of his 15 being present at and aiding and abetting in its commission is not guilty of that offence if the offence is committed by open force by more than one other person besides himself, and if during the whole of the time in which he is so present at and aiding and abetting therein he is compelled to be present at and to aid and abet the 20 commission of the offence by threats on the part of the offenders instantly to kill or do him grievous bodily harm if he refuses to do so, and if within a reasonable time after such compulsion has ceased he, with a view to the apprehension of the offenders, gives full information to some justice of the peace or peace officer of the com- 25 mission of such offence, the persons by whom it was committed, so far as they are known to him, and the circumstances connected therewith.

But the fact that a person acted under compulsion in the commission of any offence shall not in any other case be an excuse therefor, 30 except so far as it may operate in mitigation of punishment.

This section shall apply to married women committing offences under compulsion by their husbands, as well as to other persons, and no presumption shall henceforth be made that married women committing offences in the presence of their husbands do so under 35 compulsion by their husbands.

SECTION 23.**NECESSITY.**

No act is an offence which is done only in order to avoid consequences which could not otherwise be avoided, and which if they 40

had followed would have inflicted upon the person doing the act, or upon others whom he was bound to protect, inevitable and irreparable evil, and if no more is done than is reasonably necessary for that purpose, and if the evil intended to be inflicted by such act is
5 neither intended nor likely to be disproportionate to the evil intended to be avoided.

A.D. 1878.

No act which causes harm to the person of another is an offence if the person doing it was, without any fault on his part, so situated at the time that he could not avoid doing the act which caused such
10 harm, without doing some other act which was equally likely to cause harm to some other person (not being himself), and if he did the one act only in order to avoid doing the other.

This section extends to omissions to discharge a legal duty, as well as to acts.

15 Nothing herein contained shall justify any person in any act or omission by which the death of any woman is likely to be caused, in order that any child of which she is pregnant may be born alive.

SECTION 24.

IGNORANCE OF LAW.

20 The fact that an offender is ignorant of the law shall not be an excuse for any offence committed by him, but it may be relevant to the question whether an act was in fact accompanied by an intention or other state of mind which if it existed at the time when the act was done would make it criminal.

SECTION 25.

IGNORANCE OF FACT.

25 An alleged offender shall in general be in the same position as he would have been in if he had acted as he did under that state of facts which he in good faith and on reasonable grounds believed to
30 exist when he did the act alleged to be an offence, provided that if an act in itself immoral is punishable by law only when certain facts exist independent of its immoral character, or if an act in itself punishable by law is punishable with additional severity only if certain facts exist independent of its illegality, every person
35 liable to punishment or to increased punishment, as the case may be, by reason of the existence of such facts shall be liable to such punishment or to such increased punishment, although he was not aware of the existence of such facts, and although he believed in good faith and on reasonable grounds that they did not exist, unless
40 a contrary intention is expressed in the definition of the offence.

A.D. 1878.

SECTION 26.

TRIPLING OFFENCES.

Nothing shall be deemed to be an offence which appears to the court having cognizance of the matter to be of too little importance to be treated as such, or if the justice before whom the case is brought for inquiry is of opinion that there are circumstances in the case which render it inexpedient to inflict any punishment.

SECTION 27.

RULE OF EVIDENCE.

The burden of proving facts showing that any act is not an offence by reason of any of the matters of excuse herein-before specified shall be upon the alleged offender.

Every person shall be presumed to have been of sound mind at the time when any offence with which he is charged was committed, unless the contrary appears or is proved; but the jury may have regard to the appearance and behaviour of the alleged offender in considering the question of his state of mind.

CHAPTER IV.**OF PARTIES TO THE COMMISSION OF OFFENCES.****SECTION 28.**

20

WHO ARE PARTIES TO AN OFFENCE.

Everyone is a party to an indictable offence actually committed :

- (a.) Who actually commits or takes part in its actual commission, either personally or by an innocent agent ; or
- (b.) Who aids or abets any other person in its actual commission ;
- or
- (c.) Who directly or indirectly incites any other person to commit it.

Everyone who counsels, procures, or commands, solicits, encourages, persuades, endeavours to persuade, compels or endeavours to compel another to commit an indictable offence, or proposes to him to do so, incites him to commit that offence within the meaning of this Act ; provided that mere knowledge that another person is about to commit an indictable offence, even if the person possessing such knowledge acts upon it, does not amount to an incitement to commit that offence.

If several persons form a common intention to commit any indictable offence, each of them is a party to every offence committed by any one of them in the execution of their common intention, provided that the commission of such offence was or ought to have
 5 been known to be a probable consequence of the execution of the common intention by the persons who formed the common intention; and provided that it does not appear that any such person changed his intention before the offence was committed.

Every person who is a party to any indictable offence actually
 10 committed, whether such offence is against the provisions of this or any other Act of Parliament now in force or hereafter to be in force, or against the common law, shall be liable to the same consequences in every respect as if he had actually committed that offence.

15 SECTION 29.

WHERE OFFENCE COMMITTED VARIES FROM OFFENCE TO WHICH THE OFFENDER IS INCITED.

A person who incites another to commit an offence which the person incited commits in a way different from that in which he
 20 was incited to commit it, is a party to that offence.

A person who incites another to commit an offence is a party to every offence which the person incited commits in consequence of the incitement, and which the person inciting knew, or ought to have known, to be likely to be committed in consequence of such
 25 incitement.

A person who, having incited another to commit an offence, countermands such incitement before any offence for which he is responsible under the provisions herein-before contained is committed in consequence thereof, is not a party to such offence if the
 30 person incited had notice of the countermand before he committed it.

SECTION 30.

ACCESSORY AFTER THE FACT DEFINED.

An accessory after the fact to an indictable offence is a person who, knowing or having reasonable grounds to believe an indictable
 35 offence to have been committed by another,

Receives, comforts, or assists him, in order to enable him to escape from punishment;

Or rescues him from an arrest for such indictable offence;

Or opposes his apprehension;

A.D. 1878. Or actively conceals or endeavours to conceal or procures or endeavours to procure the concealment of the fact that the offence has been committed ;

Or who having him in lawful custody for such indictable offence, intentionally and voluntarily suffers him to escape, whether or not he has such knowledge or grounds of belief as aforesaid ;

Or who receives from the offender anything acquired by an indictable offence, knowing it to have been so acquired.

Provided that a husband or wife who receives, comforts, or relieves his or her wife or husband, knowing her or him to have committed an indictable offence shall not become thereby an accessory after the fact to such indictable offence :

Provided also, that no person shall become an accessory after the fact to any indictable offence only by reason of his knowing of the indictable offence after its commission, and abstaining from giving information thereof in order to the prosecution of the offender, except in the cases herein-after expressly provided for.

SECTION 31.

CONSPIRACY TO COMMIT AN OFFENCE.

A conspiracy to commit an offence is an agreement between two or more persons to commit that offence or to cause or procure it to be committed.

SECTION 32.

ATTEMPTS TO COMMIT OFFENCES.

An attempt to commit an offence is an act done with intent to commit that offence, forming part of a series of acts which would have constituted its actual commission if that series of acts had not been interrupted either by the voluntary determination of the offender not to complete the commission of the offence, or by other causes.

An act done with intent to commit an offence, the commission of which in the manner proposed was, in fact, impossible, is not an attempt to commit that offence.

The question whether an act is sufficiently near to the actual commission of an offence to constitute an attempt is a question of law.

In cases in which it is an offence to cause any event by an omission to act, such an omission accompanied by an intent that the event should be caused thereby may amount to an attempt to commit the offence.

25

30

40

SECTION 33.

PUNISHMENT OF OFFENCES ABOVE DEFINED.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to the punishments herein-after mentioned, who,—

- (a.) Becomes an accessory after the fact to any indictable offence; or,
- (b.) Incites any person to commit any indictable offence, although such offence is not committed in consequence of such incitement; or,
- 10 (c.) Conspires with any person to commit any offence, whether indictable or punishable on summary conviction, or to cause or procure any such offence to be committed; or,
- (d.) Attempts to commit any indictable offence.

Every such offender shall (unless any special provision is herein-
15 after made for the case) be liable to be imprisoned with hard labour for *two years* if the offence which he attempts or conspires to commit, or incites any person to commit, or to which he becomes accessory after the fact, is punishable with death, penal servitude, or imprisonment with hard labour, and with simple imprisonment if it
20 is otherwise punishable; provided that no person shall be liable to any greater punishment for inciting any person to commit any offence, or for attempting or conspiring to commit, or for becoming an accessory after the fact to any offence than he would have been liable to for committing that offence.

25

PART II.

OFFENCES AGAINST PUBLIC ORDER,
INTERNAL AND EXTERNAL.

CHAPTER V.

HIGH TREASON AND OTHER OFFENCES AGAINST THE
30 QUEEN'S AUTHORITY AND PERSON.

SECTION 34.

HIGH TREASON DEFINED.

High treason is—

- 35 (a.) The forming and displaying by an overt act of an intention to kill Her Majesty the Queen, or to do her any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint; or to kill the eldest son and heir apparent of Her Majesty, or to

[178.]

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A.D. 1878. kill the Queen consort of any King of the United Kingdom of Great Britain and Ireland.

(b.) Conspiring with any person to kill or destroy Her Majesty, or to do her any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint. 5

(c.) Levying war against Her Majesty either,

(i.) With intent to depose Her Majesty from the style, honour, and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland or of any other of Her Majesty's dominions or countries; or 10

(ii.) In order by force or constraint to compel Her Majesty to change her measures or counsels, or in order to intimidate or overawe both Houses or either House of Parliament.

(d.) Instigating any foreigner with force to invade this realm or any other of the dominions of Her Majesty. 15

(e.) Assisting any public enemy at war with Her Majesty in such war by any means whatsoever.

(f.) Violating, whether with her consent or not, a Queen consort, or the eldest daughter of a King or Queen regnant, unmarried, or the wife of the eldest son and heir apparent for the time being of the King or Queen regnant. 20

Everyone who commits high treason shall be guilty of an indictable offence, and shall upon conviction thereof suffer death as in other cases, provided that Her Majesty may, if she think fit, direct by warrant under her sign manual, countersigned by one of Her Majesty's Principal Secretaries of State, that the head of such person shall be severed from his body whilst alive. The head and body of every such offender shall be disposed of in the manner provided for by the Capital Punishment Amendment Act, 1868, in regard to persons executed for murder. 25 30

Provided that no one shall be convicted of any offence against sub-section (b), sub-section (c), sub-section (d), sub-section (e) or sub-section (f) respectively, unless he is proved by two witnesses to have done an overt act forbidden by the sub-section against which he is alleged to have offended, or unless one witness proves that he has done one such overt act, and another witness proves that he has done another such overt act. This proviso shall not extend to offences against sub-section (a). 35

SECTION 35.

ACCESSORIES AFTER THE FACT AND MISPRISION.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for life, who 40

(a.) Becomes an accessory after the fact to high treason; or.

A.D. 1878.

(b.) Who, knowing that any person has committed high treason, does not with all reasonable despatch give information thereof to a justice of the peace or to some other person, in order to the apprehension of the offender.

SECTION 36.

TREASONABLE CONSPIRACIES AND INTENTIONS.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for life, who forms and displays by any overt act any of the intentions herein-after mentioned, or who conspires with any other person to carry any such intention into effect; that is to say,—

(a.) An intention to depose Her Majesty from the style, honour, and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of Her Majesty's dominions or countries;

(b.) An intention to levy war against Her Majesty, within any part of the said United Kingdom, in order by force or constraint to compel her to change her measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, both Houses or either House of Parliament.

(c.) An intention to move or stir any foreigner with force to invade the said United Kingdom or any other of Her Majesty's dominions or countries under the obeisance of Her Majesty.

25

SECTION 37.

DEFINITION OF OVERT ACT.

The expression "overt act" in sections 34 and 36 includes—

The act of publishing any document printed, written, or otherwise rendered legible, expressive of any of the intentions specified in the said sections;

The act of speaking words of advice, consultation, or command in reference to any such intention;

And the act of speaking words explanatory of any conduct connected with the execution of any such intention, but it does not include the act of speaking words expressive of any such intention, unless they are connected as aforesaid with the execution thereof.

SECTION 38.

BURNING SHIPS OF WAR, &c.

Everyone shall be guilty of an indictable offence and shall upon conviction thereof suffer death, who in time of war, and with intent

A.D. 1878. to diminish the force of the Royal Navy, unlawfully and wilfully sets on fire, burns, or otherwise destroys—

(a.) Any of Her Majesty's ships or vessels of war, whether afloat or building, or begun to be built, or under repair in any dockyard, public or private; or 5

(b.) Any of Her Majesty's arsenals, magazines, dockyards, rope-yards, victualling offices, or any of the buildings erected therein or belonging thereto; or

(c.) Any timber or materials there placed for building, repairing, or fitting out ships or vessels; or 10

(d.) Any of Her Majesty's military, naval, or victualling stores or other ammunition of war in any place where any such stores or ammunition of war is kept.

SECTION 39.

INCITING TO MUTINY. 15

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who endeavours—

(a.) To seduce any person serving in Her Majesty's forces by sea or land from his duty and allegiance to Her Majesty; or 20

(b.) To incite or stir up any such person to commit any act of mutiny, or to make or endeavour to make any mutinous assembly, or to commit any traitorous or mutinous practice whatever.

SECTION 40.

ASSAULTS ON THE QUEEN. 25

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude, and (if he is sentenced to imprisonment, instead of penal servitude) to be flogged or whipped, according to his age, as often (not exceeding thrice) as the Court directs, who does any of the following things; that is to say, who— 30

(a.) Produces or has near the person of Her Majesty any arm or destructive or dangerous thing with intent to use the same to injure the person of or to alarm Her Majesty; or who

(b.) Wilfully and with intent to injure the person of or to alarm Her Majesty, or to break the public peace, or so as to endanger the public peace,— 35

(i.) Points, aims, or presents at or near her person any firearm, loaded or not, or any other kind of arm; or

(ii.) Discharges at or near her person any loaded arms; or 40

- (iii.) Discharges or causes to be discharged any explosive material near her person ; or
- (iv.) Strikes, or strikes at, her person in any manner whatever ; or
- (v.) Throws anything at or upon her person ; or
- 5 (vi.) Attempts to do any of the things specified in this subsection.

SECTION 41.

CONTEMPTS AGAINST THE QUEEN.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to imprisonment, who is guilty of any
10 contempt against the person of Her Majesty, or her royal dignity, by means of any contumacious, insulting, or disparaging words, acts, or gestures.

SECTION 42.

APPLICATION OF THIS CHAPTER.

- 15 This chapter shall apply to all acts done by any natural born or naturalized subject of Her Majesty in any part of the world.

CHAPTER VI.

UNLAWFUL ASSEMBLIES, RIOTS, BREACHES OF THE PEACE.

SECTION 43.

20

DEFINITION OF AN UNLAWFUL ASSEMBLY.

An unlawful assembly is an assembly of three or more persons —
(a.) With intent to commit any offence by open force ; or
(b.) With intent to carry out any common purpose, lawful or
25 unlawful, in such a manner as to give persons in the neighbourhood of such assembly reasonable grounds to apprehend a breach of the peace in consequence of such assembly.

An unlawful assembly continues to be an unlawful assembly after it has made and whilst it is making a motion towards the execution
30 of the purpose which makes it unlawful.

SECTION 44.

DEFINITION OF A RIOT.

A riot is a breach of the peace committed by an assembly of three or more persons to the terror of Her Majesty's subjects.

A.D. 1878.

It is immaterial whether the assembly was or was not unlawful when the persons composing it first met together.

SECTION 45.

PUNISHMENT OF UNLAWFUL ASSEMBLY AND RIOT.

Every member of an unlawful assembly shall be guilty of an indict- 5
able offence, and shall be liable upon conviction thereof to imprison-
ment.

Every rioter shall be guilty of an indictable offence, and shall be
liable upon conviction thereof to be imprisoned for *two years* with
hard labour. 10

SECTION 46.

AFFRAYS AND PROVOCATION TO BREACHES OF THE PEACE.

Every person shall be guilty of an indictable offence, and shall be
liable upon conviction thereof to imprisonment, who

(a.) Fights with any other person in any public place to the 15
terror of Her Majesty's subjects; or

(b.) Endeavours by any means to provoke any person to fight
or challenge him the offender to fight or to commit a breach of the
peace.

SECTION 47.

20

RIOTS PUNISHABLE WITH PENAL SERVITUDE FOR LIFE.

Everyone shall be guilty of an indictable offence, and shall be
liable upon conviction thereof to penal servitude for life, who—

(a.) Wilfully and knowingly prevents any person from making
the proclamation appointed to be made in certain cases of riot by an 25
Act passed in the first year of His late Majesty King George I.,
statute 2, chapter 5; or

(b.) Who remains or continues unlawfully, riotously, and tumult-
tuously assembled together with other persons to the number of
twelve for one hour after the proclamation aforesaid was made; 30
or if he knows that its making was prevented, for one hour after
it would have been made if it had not been prevented as aforesaid;
or

(c.) Who, being riotously and tumultuously assembled together
with more than two other persons to the disturbance of the public 35
peace, unlawfully and with force demolishes or pulls down or
destroys any building or any machinery whatever, whether fixed or
moveable, or any structure used in conducting the business of any
mine, or any bridge, waggon way or trunk for conveying minerals
from any mine, or who begins to do any such thing. 40

SECTION 48.

RIOTOUS DAMAGE OF HORSES, &c.

All persons shall be guilty of an indictable offence, and shall be liable on conviction thereof to *seven years* penal servitude, who, being so assembled as is mentioned in subsection (c.) of the last section, unlawfully and with force injure or damage any of the things mentioned in that subsection.

SECTION 49.

UNLAWFUL DRILLING.

10 All assemblies are unlawful which are held in order that the persons assembled may train or drill themselves, or be trained or drilled to the use of arms, or for the purpose of practising military movements or evolutions without lawful authority.

(a.) Every person shall be guilty of an indictable offence, and shall be liable upon conviction thereof to seven years penal servitude, who, without lawful authority—

- (i.) is present at or attends any such assembly for the purpose of training or drilling any other person to the use of arms or the practice of military exercise, movements, or evolutions; or
- 20 (ii.) trains or drills any other person at any such assembly to the use of arms or the practice of military exercise, movements, or evolutions; or
- (iii.) aids or assists therein.

(b.) Every person shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who attends or is present at any such assembly for the purpose of being, or who at any such assembly is, trained or drilled to the use of arms or the practice of military exercise, movements, or evolutions without lawful authority.

30

SECTION 50.

THREE PERSONS ARMED IN PURSUIT OF GAME BY NIGHT.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *fourteen years* penal servitude,—

Who, with two or more other persons together, between the end of the first hour after sunset and the beginning of the last hour before sunrise, unlawfully enters or is on any land, whether open or enclosed, for the purpose of taking or destroying hares, pheasants, partridges, grouse, heath or moor game, black game, bustards, or rabbits, any of such persons being, to the knowledge of the offender, armed with any gun, crossbow, firearms, bludgeon, or other offensive weapon.

A.D. 1878.

SECTION 51.

FORCIBLE ENTRY AND DETAINER DEFINED.

A forcible entry is the act of entering, in order to take possession thereof, upon any lands in a violent manner, whether such violence consists in actual force applied to any other person or in 5 threats, or in breaking open any house or enclosure, or in collecting together an unusual number of persons for the purpose of making such entry, or in other conduct of the same kind.

It is immaterial whether the person making such an entry has or has not a right to enter, provided that a person who so enters upon 10 land of his own, but which is in the custody of his servant or bailiff, shall not commit thereby the offence of forcible entry.

A forcible detainer is the act of detaining any lands wrongfully entered upon by the person detaining them, in a manner which would have rendered an entry upon them for the purpose of taking 15 possession forcible.

Everyone who forcibly enters or forcibly detains any house or land shall be guilty of an indictable offence, and shall be liable upon conviction thereof to simple imprisonment.

CHAPTER VII.

20

UNLAWFUL OATHS, SEDITIOUS WORDS, CONSPIRACIES,
AND LIBELS.

SECTION 52.

UNLAWFUL OATHS. OATHS TO COMMIT MURDER OR TREASON.

Everyone shall be guilty of an indictable offence, and shall upon 25 conviction thereof be liable to penal servitude for life, who—

(a.) Administers, or causes to be administered, or aids or assists at the administering or taking, of any oath, engagement, or obligation in the nature of an oath, purporting or intending to bind the person taking the same to commit high treason or murder or any 30 crime punishable with penal servitude for life on the first offence; or

(b.) Takes any such oath or engagement.

SECTION 53,

OTHER UNLAWFUL OATHS.

Everyone shall be guilty of an indictable offence, and shall be liable 35 upon conviction thereof to *seven years* penal servitude, who—

- (a.) Administers, or causes to be administered, or aids or assists at the administering or taking of any oath, or engagement, or obligation in the nature of an oath, purporting or intending to bind the person taking the same—
- 5 (i.) To engage in any mutinous or seditious purpose ;
(ii.) To disturb the public peace ;
(iii.) To be of any association, society, or confederacy formed for any such purpose ;
10 (iv.) To obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander, or other person not having authority by law for that purpose ;
(v.) Not to inform or give evidence against any associate, confederate, or other person ;
15 (vi.) Not to reveal or discover any unlawful combination or confederacy, or any illegal act done or to be done; or any illegal oath or engagement or obligation which may have been administered or tendered to or taken by any person, or the import of any such oath or engagement or obligation; or who
20 (b.) Takes any such oath or engagement or obligation.

This and the last preceding section shall extend to acts done by Her Majesty's natural born and naturalized subjects in any part of the world.

SECTION 54.

25

COMPULSION, HOW FAR A DEFENCE.

Provided that any person who takes any such oath or engagement as is referred to in either of the last two preceding sections under compulsion, shall be excused from all punishment in respect thereof if within *fourteen days* after the taking thereof, he declares
30 the same, and what he knows touching the same, and the persons by whom, and in whose presence, and when and where such oath or engagement was administered or taken, by information on oath before one of Her Majesty's justices of the peace, or one of Her Majesty's Principal Secretaries of State, or Her Majesty's Privy
35 Council; or if he is in actual service in Her Majesty's forces by sea or land, either by such information on oath as aforesaid, or by information to his commanding officer, and if he makes such declaration within fourteen days after the taking of the oath, or if he is hindered from making it by actual force or sickness then within *four*
40 *days* of the cessation of such hindrance.

A.D. 1878.

SECTION 55.**SEDITIONOUS INTENTION, SEDITIONOUS WORDS, SEDITIONOUS LIBELS, AND SEDITIONOUS CONSPIRACIES DEFINED.**

A seditious intention is an intention—

To bring into hatred or contempt, or to excite disaffection against 5
the person of Her Majesty, her heirs or successors, or the Government
and Constitution of the United Kingdom, or of any part of it, as by
law established, or either House of Parliament, or the administration
of justice ;

Or to excite Her Majesty's subjects to attempt to procure, other- 10
wise than by lawful means, the alteration of any matter in Church
or State by law established ;

Or to raise discontent or disaffection amongst Her Majesty's sub-
jects ;

Or to promote feelings of ill-will and hostility between different 15
classes of such subjects :

Provided that—

No one shall be deemed to have a seditious intention only because 20
he intends to show that Her Majesty has been misled or mistaken
in her measures ;

Or to point out errors or defects in the Government or Consti-
tution of the United Kingdom, or of any part of it, as by law esta-
blished, or in the administration of justice, with a view to the refor-
mation of such alleged errors or defects ;

Or to excite Her Majesty's subjects to attempt to procure by lawful 25
means the alteration of any matter in Church or State by law
established ;

Or to point out, in order to their removal, matters which are
producing, or have a tendency to produce, feelings of hatred and
ill-will between different classes of Her Majesty's subjects. 30

Seditious words are words expressive of or intended to carry
into execution a seditious intention.

A seditious libel is a libel expressive of or intended to carry into
execution a seditious intention.

A seditious conspiracy is an agreement between two or more 35
persons to do anything to give effect to or to carry into execution
a seditious intention.

SECTION 56.**PUNISHMENT OF SEDITIONOUS OFFENCES.**

Everyone who speaks any seditious words or publishes any 40
seditious libel, or is a party to any seditious conspiracy, shall be

guilty of an indictable offence, and shall be liable upon conviction thereof to simple imprisonment. A.D. 1878.

CHAPTER VIII.
OFFENCES RELATING TO FOREIGN COUNTRIES.

5

SECTION 57.

VIOLATIONS OF AMBASSADORS' PRIVILEGES.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to imprisonment, who does any act in violation of any privilege protecting from arrest any ambassador or other public minister of any foreign prince or state authorised and received as such by Her Majesty or any servant of such person registered in the office of a Principal Secretary of State or in the office of the Sheriff of London and Middlesex.

15

SECTION 58.

LIBELS ON FOREIGN POWERS.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to imprisonment, who publishes any libel tending to degrade, revile, or expose to hatred and contempt any foreign prince, ambassador, or foreign dignitary, or any body of persons exercising public authority in any foreign country, with intent to disturb peace and friendship between the United Kingdom and the country to which any such person belongs.

Provided that nothing shall be deemed to be an offence against this section which would not be deemed to be an offence under the provisions of this Act relating to libels if the persons libelled were subjects of Her Majesty.

CHAPTER IX.
OFFENCES AGAINST PERSONS ON THE HIGH SEAS.

SECTION 59.

30

PIRACY BY THE LAW OF NATIONS DEFINED.

Piracy by the law of nations is—

(a.) The act of doing any of the following things without public authority, and under such circumstances that the act if done in England would have been robbery as herein-after defined; that is to

35 say,

[178.]

A.D. 1878.

- (i.) Taking a ship on the high seas or within the jurisdiction of the Admiral from the possession or control of a person lawfully entitled to it, and carrying away either the ship itself or any of its goods, tackle, furniture, or apparel, or any person on board of it without his consent; 5
- (ii.) Carrying away, throwing overboard, or destroying any part of the goods or merchandise on board of any such vessel:
- (b.) The act of cruising on the high seas or in any place where the Admiral has jurisdiction without public authority, and with intent to do any of the things specified in sub-section (a). 10

SECTION 60.

PUNISHMENT OF PIRACY.

Every one who commits piracy shall be guilty of an indictable offence, and shall be liable upon conviction thereof to the following punishments: 15

(a.) He shall suffer death if, with intent to commit, or at the time of, or immediately before or immediately after committing piracy, he assaults with intent to murder any person, or stabs, cuts, or wounds any person or unlawfully does any act by which the life of any person may be endangered. 20

(b.) In all other cases he shall be liable to penal servitude for life.

This section extends to all persons whatever, whether they are or are not subjects of Her Majesty.

SECTION 61.

ASSISTING PIRATES. 25

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life:

(a.) Who fraudulently misappropriates any ship, vessel, or boat, arms, ammunition, or merchandize, with intent that they should be employed in committing piracy; or 30

(b.) Who incites any person to commit piracy, or brings to any person any seducing message from any pirate; or

(c.) Who knowingly trades with any pirate in any way whatever, or knowingly furnishes any pirate with stores of any sort, or knowingly fits out any vessel intended to be used for the purpose of committing piracy, or of trading or corresponding with any pirate; or 35

(d.) Knowingly consults or corresponds with any pirate.

This section extends to all acts done by any natural born or naturalized subject of Her Majesty in any part of the world. 40

SECTION 62.

INSUBORDINATION ON BOARD SHIP.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who being
 5 on board any British ship on the high seas, or within the jurisdiction of the Admiral, forcibly deprives the master of his command, or puts him in confinement, or endeavours to make a revolt in the ship.

SECTION 63.

NOT FIGHTING PIRATES.

10 Everyone shall be guilty of an indictable offence, and shall on conviction thereof be liable to imprisonment, who, being a commander, master, or any officer or seaman, or mariner of any merchant ship which carries guns and arms, does not, when attacked by any pirate,
 15 or by any ship on which any pirate is on board, fight and endeavour to defend himself and his vessel from being taken by such pirate, or who utters any words to discourage the other mariners from defending the ship, so that the ship falls into the hands of such pirate.

SECTION 64.

SLAVE-TRADING DEFINED.

20 Slave-trading is to do or to contract to do any of the following things; that is to say,

- (a.) To deal or trade in, purchase, sell, barter, or transfer slaves or persons intended to be dealt with as slaves;
- 25 (b.) To carry away or remove slaves, or other persons as or in order to their being dealt with as slaves;
- (c.) To import or bring into any place whatsoever slaves or other persons as or in order to their being dealt with as slaves;
- (d.) To ship, tranship, embark, receive, detain, or confine on board
 30 any ship, vessel, or boat, slaves or other persons—
 For the purpose of their being carried away or removed as or in order to their being dealt with as slaves; or
 For the purpose of their being imported into any place whatever as or in order to their being dealt with as slaves;
- 35 (e.) To fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire any ship, vessel, or boat, in order to do any act of slave-trading before mentioned;
- (f.) To lend or advance, or become security for the loan or advance, of money, goods, or effects employed or to be employed in any act of
 40 slave-trading before mentioned;

A.D. 1878.

(g.) To become guarantee or security for agents employed or to be employed in any act of slave-trading before mentioned;

(h.) To engage in any other manner in any act of slave-trading before mentioned, directly or indirectly, as a partner, agent, or otherwise;

(i.) To ship, tranship, lade, receive, or put on board of any vessel money, goods, or effects to be employed in any act of slave-trading before mentioned;

(j.) To take the charge or command, or to navigate, or enter and embark on board any ship, vessel, or boat in any capacity whatever, knowing that such ship, vessel, or boat is employed in any act of slave-trading before mentioned, or is intended to be so employed upon the voyage or upon the occasion in which the embarkation takes place;

(k.) To insure slaves or property employed or intended to be employed in slave-trading.

SECTION 65.

PUNISHMENT OF SLAVE-TRADING.

Everyone shall be guilty of an indictable offence who does any act of slave-trading knowingly and wilfully.

(a.) Every such offender shall be liable to penal servitude for life if he does any of the acts of slave-trading defined in section 64, subsections (a.), (b.), (c.), (d.), or (e.).

(b.) Every such offender shall be liable to penal servitude for fourteen years if he does any of the acts of slave-trading specified in section 64, subsections (f.), (g.), (h.), (i.), or (k.).

SECTION 66.

SERVING ON A SLAVE SHIP AS AN OFFICER.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for fourteen years, who takes charge or command, or navigates, or embarks on board any vessel as captain, master, mate, surgeon, or supercargo, or contracts to do so, knowing that such vessel is actually employed, or is on that voyage or occasion intended to be employed in any act of slave-trading.

SECTION 67.

SERVING ON A SLAVE SHIP AS A SEAMAN.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to two years imprisonment with hard labour, who, with the knowledge mentioned in the last section, does any of the things mentioned in that section, as petty officer, seaman,

marine, or servant, or in any other capacity not specially mentioned therein. A.D. 1878.

Provided that any person who has committed any offence against this section shall cease to be liable to any punishment in respect thereof in either of the following cases; that is to say,

- (i.) If within *two years* after committing the offence he gives information upon oath before any competent magistrate against any owner or part owner, or any captain, master, mate, surgeon, or supercargo, who has committed any offence against section 65 or 66 of this Act, or against any other Act in force for the time being relating to slave-trading, and if he gives evidence against any such person on his trial for any such offence, or,—
- (ii.) If he gives information to any minister, agent, or representative of Her Majesty, so that any person owning such vessel, or navigating or taking charge of the same as captain, master, mate, surgeon, or supercargo, may be apprehended. Every person to whom any such information is offered shall receive the same, and forthwith transmit the particulars thereof to one of Her Majesty's Principal Secretaries of State, and copies of the same to the commanders of Her Majesty's ships whom such information may concern.

Provided also that nothing in this Act contained shall in any way whatever interfere with the recovery of any forfeiture or penalty imposed upon any person by any Act now in force or hereafter to be in force relating to the slave trade; but all such provisions may be enforced, as well as those herein-before contained.

Provided also that nothing in this Act contained shall subject any person to any punishment for holding or taking slaves in cases not herein-before prohibited, or for transferring or receiving any share in any joint-stock company established before the 24th of August 1843, in respect of any slave in the possession of such company before that time, or for selling any slave lawfully in his possession at that time, or to whom he became entitled in good faith before such sale by inheritance, devise, bequest, marriage, or otherwise by operation of law.

The word "slave" in this Act includes all persons holden in servitude as pledges for debt, and commonly called "pawns," or by whatever name they may be known.

SECTION 68.

APPLICATION OF THIS CHAPTER.

The provisions of the four last preceding sections shall extend to acts done by any one owing allegiance to Her Majesty in any part

A.D. 1878. of the world, and offences against these sections shall be extradition crimes within the meaning of the Extradition Act, 1870.

PART III.

CHAPTER X.

OFFENCES BY AND AGAINST PUBLIC OFFICERS AND AGAINST THE ADMINISTRATION OF JUSTICE. 5

SECTION 69.

"PUBLIC OFFICER" DEFINED.

The expression "public officer" in this chapter means a person invested with authority to execute any public duty, and legally bound to do so, but does not include any member of either House of Parliament as such, or any ecclesiastical, naval, or military officer acting in the discharge of duties for the due discharge of which he can be made accountable only by an ecclesiastical, naval, or military court. 15.

SECTION 70.

EXTORTION AND OPPRESSION BY PUBLIC OFFICERS.

Every public officer shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who, in the exercise or under colour of exercising the duties of his office, does any illegal act, or abuses any discretionary power with which he is invested by law, not in consequence of a mistake in good faith as to the law, but from any corrupt motive. 20

Offences against this section, consisting in taking under colour of office from any person any money or valuable thing which is not due from him at the time when it is taken, may be called "extortion." 25

Offences against this section, consisting in inflicting upon any person any injury other than extortion, may be called "oppression."

SECTION 71.

FRAUDS AND BREACHES OF TRUST BY OFFICERS.

Every public officer shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who, in the discharge of the duties of his office, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person. 30

SECTION 72.

NEGLECT OF OFFICIAL DUTY.

Every public officer shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who wilfully and without any reasonable excuse neglects to perform any duty which he is bound by law to perform, whereby the public peace is broken or is not restored or maintained, or whereby the persons or property of Her Majesty's subjects are endangered, provided that the performance of such duty is not attended with greater danger than a man of ordinary firmness may reasonably be expected to encounter, or with greater exertions than a man of ordinary powers of mind and body may reasonably be expected to make.

SECTION 73.

REFUSAL TO SERVE AN OFFICE.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who unlawfully refuses or omits to take upon himself and serve any public office which he is by law required to accept if duly appointed; provided that this enactment shall not extend to any case in which any other penalty is imposed by law for such refusal or neglect, or to any case in which by law or by custom any person is permitted to make any composition in place of serving any office.

SECTION 74.

DISOBEDIENCE TO A STATUTE.

Everyone shall be guilty of an indictable offence, and shall be liable on conviction thereof to imprisonment, who wilfully disobeys any statute of the realm by doing any act which it forbids, or by omitting to do any act which it requires to be done, and which concerns the public or any part of the public, unless it appears from the statute that it was the intention of the Legislature to provide some other penalty for such disobedience, which penalty was intended to be exclusive of all other punishment.

SECTION 75.

DISOBEDIENCE TO LAWFUL ORDERS OF COURT, &c.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who disobeys any lawful order, warrant, or command duly made, issued, or given by Her Majesty, or by any court, public officer, or person acting in any

A.D. 1878. public capacity and duly authorised in that behalf, unless any other penalty or mode of proceeding is expressly provided by law in respect of such disobedience, and is intended to be exclusive of all other punishment therefor.

CHAPTER XI.

5

BRIBERY. SALE OF OFFICES.

SECTION 76.

BRIBERY OF PUBLIC OFFICERS.

(a.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who, being a public officer, accepts or obtains, or agrees to accept or attempts to obtain, from any person for himself or for any other person any valuable thing, advantage, or gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering or attempting to render any service or dis-service to any person with any other public officer. 10 15

(b.) Every person who commits any such offence as aforesaid, with intent or so as to interfere corruptly with the due administration of justice, or to procure or facilitate the commission of any offence indictable or not, or to protect any offender or person intending to commit an offence from detection or punishment, shall be liable to fourteen years penal servitude. 20

(c.) Every person who gives, offers, or promises to give any such valuable thing, advantage, or gratification to any public servant as such motive or reward as aforesaid shall be guilty of the same offence and liable to the same punishment as the public servant to whom it was given, offered, or promised would be liable to if he accepted it. 25

SECTION 77.

30

OFFICIAL CORRUPTION.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to imprisonment, who by any means endeavours to force, persuade, or induce any public officer to do any act which the offender knows to be a violation of such officer's official duty, or to abstain from doing any act which the offender knows it to be the public officer's duty to do. 35

SECTION 78.

BRIBERY OF VOTERS.

Everyone shall be guilty of an indictable offence, and shall be liable on conviction thereof to imprisonment, who—

5 (a.) Directly or indirectly, by himself or by any other person on his behalf ;

In order to induce any voter to vote or refrain from voting at any election of any member to serve in Parliament, or of any person to serve as mayor, alderman, councillor, auditor, or assessor of a
10 borough or ward of a borough, subject to the provisions of the Act passed in the fifth year of the reign of His late Majesty King William IV., chapter seventy-six ;

Or corruptly on account of any such voter's having voted or refrained from voting at any such election ;

15 Or in order to induce any person to procure or endeavour to procure the return of any person at any such election, or the vote of any voter at any such election ;

(i.) Gives, lends, or agrees to give or lend, or offers, or promises, or promises to procure or endeavour to procure, any money or
20 valuable consideration to or for any person whatever ;

(ii.) Gives or procures, or agrees to give or procure, or offers, or promises, or promises to procure or endeavour to procure, any office, place, or employment to or for any person whatever ; or

(b.) Who, in consequence of any such gift, loan, offer, promise,
25 procurement, or engagement (herein-after denoted by the words "bribe" and "bribery"), procures or engages, or promises or endeavours to procure, the return of any person in any such election, or the vote of any voter at any such election ; or

(c.) Who advances or pays, or causes to be paid, any money to
30 or to the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any such election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election ; or

35 (d.) Who, being a voter before or during any such election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any bribe, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any such election ; or

40 (e.) Who after any such election, directly or indirectly, by himself or by any other person on his behalf, receives any bribe on account

A.D. 1878.

of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting :

Provided that nothing in sub-sections (a.), (b.), or (c.) shall extend to any money paid or agreed to be paid for or on account of any legal expenses bonâ fide incurred at or concerning any such election. 5

SECTION 79.**UNDUE INFLUENCE.**

Everyone shall be guilty of an indictable offence, and shall be liable on conviction thereof to imprisonment,

(a.) Who, directly or indirectly, by himself or by any other person 10 on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens the infliction by himself or by or through any other person, of any injury, damage, harm, or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel him to vote or refrain from 15 voting, or on account of his having voted or refrained from voting at any such election as is mentioned in the last section; or

(b.) Who, by abduction, or by duress, or by any fraudulent device or contrivance, impedes, prevents, or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, 20 induces, or prevails upon any voter either to give or to refrain from giving his vote at any such election.

SECTION 80.**SELLING OFFICES.**

Everyone shall be guilty of an indictable offence, and shall be 25 liable on conviction thereof to imprisonment, who does any of the following things in respect of any office, or any appointment to or resignation of any office, or any consent to any such appointment or resignation, that is to say, everyone who, directly or indirectly,

(a.) Sells the same, or receives any reward or profit from the sale 30 thereof, or agrees to do so, or purchases, or gives any reward or profit for the purchase thereof, or agrees or promises to do so; or

(b.) Receives or agrees to receive any reward or profit for any interest, request, or negotiation about any office, or under pretence of using any such interest, making any such request, or being con- 35 cerned in any such negotiation; or

(c.) Gives or procures to be given any profit or reward, or makes or procures to be made any agreement for the giving of any profit or reward for any such request or negotiation as aforesaid; or

(d.) Solicits, recommends, or negotiates in any manner as to any 40

appointment to or resignation of any office in expectation of any reward or profit; or A.D. 1878.

(e.) Keeps any office or place for transacting or negotiating any business relating to vacancies in or the sale or purchase of or appointment to or resignation of offices.

Nothing herein-before contained shall include—

(i.) Any deputation to any office in any case in which it is lawful to appoint a deputy, or any agreement lawfully made in respect of any payment to be made by or to such principal or deputy respectively, out of the fees or profits of such office; or

(ii.) Any annual reservation, charge, or payment made or required to be made out of the profits of any office to any person who has held such office in any commission, or appointment of any person succeeding to such office, or to any agreement made for securing such reservation; provided that the amount of such reservation, and the circumstances and reasons under which it was permitted, are stated in the instrument of appointment of the person succeeding to and holding such office and paying or securing such reservation.

The word "office" in this section includes—

Every office in the gift of the Crown or of any officer appointed by the Crown, and all commissions, civil, naval, and military, and all places or employments in any public department or office whatever in any part of Her Majesty's dominions whatever, and all deputations to any such office and every participation in the profits of any such office or deputation, except any office of which any person is seised of any estate of inheritance, and any office of parkership, or of keeper of any park-house, manor, garden, or chase, and except any office now legally saleable, and in the gift of any person by virtue of any office of which such person is possessed by virtue of any patent or appointment for his life.

Every person who commits any of the said offences shall forfeit to Her Majesty any interest which he may have in any office in respect of which such offence is committed, and shall be disabled from holding the said office perpetually, and it shall not be lawful to dispense him from such disability.

This section applies to acts done by Her Majesty's natural born and naturalized subjects in any part of the world.

SECTION 81.

INFLUENCING JURIES.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who by any means

A.D. 1878. whatever, except the production of evidence and argument in open court, attempts to influence or instruct any jurymen, or to incline him to be more favourable to the one side than to the other in any judicial proceeding, whether any verdict is given or not, and whether such verdict, if given, is true or false.

5

SECTION 82.

APPLICATION OF CERTAIN SECTIONS.

The provisions of sections 70, 71, 72, 76, and 77, shall apply to all Acts done and to all omissions to discharge any legal duty in any part of the world by any person employed by Her Majesty in any civil or military office or employment in any of Her Majesty's Indian or Colonial Possessions in the execution or under colour, or in the exercise of any such office or employment.

10

CHAPTER XII.

MISLEADING JUSTICE.

15

SECTION 83.

FALSE EVIDENCE DEFINED.

False evidence is an assertion as to a matter of fact, opinion, or belief, made, whether upon oath or otherwise, by a witness as part of the evidence given by him in a judicial proceeding, and not believed by him to be true at the time when it is made.

20

If the evidence given is false in fact, the burden of proving that he believed it to be true shall be upon the alleged offender. If the evidence given is true in fact, the burden of proving that the alleged offender believed it to be false shall be upon the prosecutor.

25

The expression "judicial proceeding" means a proceeding in or under the authority of a court of justice, or relating in any way to the administration of justice, or by which any legal right or liability of any person is or is intended to be legally ascertained.

Any number of false statements made in the course of the same judicial proceeding shall constitute only one offence against this section.

30

SECTION 84.

PUNISHMENT OF FALSE EVIDENCE.

Every person who gives false evidence shall be guilty of an indictable offence, and shall upon conviction thereof be liable to the punishments herein-after mentioned; that is to say,

35

(a.) Every such offender shall be liable to penal servitude for life if the false evidence was given in order to procure the conviction of any person for any crime for which such person would be liable upon conviction to be sentenced to death, or penal servitude, or in order to obtain directly, or indirectly, for the offender, or to enable the offender to retain or keep anything of the value of *one hundred pounds* or upwards:

(b.) Every such offender shall be liable in all other cases to penal servitude for *fourteen years*.

10 Everyone shall be guilty of giving false evidence who takes any false oath or make any false declaration for taking which he would, if this Act had not been passed, have been guilty of perjury under the provisions of any Act of Parliament.

No person shall be prosecuted for perjury after the passing of this Act.

SECTION 85.

FALSE DECLARATION.

A false declaration is a declaration as to a matter of fact, opinion, or belief, whether upon oath or otherwise, and whether made in the form of a certificate, official entry, or otherwise, which is made under the provisions of any Act of Parliament now in force, or hereafter to be in force, or before any public officer authorised by law to receive it for the purpose of proving the truth of any matter of which such officer is by law empowered or required to receive proof, or for the purpose of certifying or recording any matter which the person making is empowered by law to certify or record, and which the person making the declaration does not believe to be true at the time when he makes it.

SECTION 86.

30 PUNISHMENT OF MAKING A FALSE DECLARATION.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *two years* imprisonment and hard labour, who makes any false declaration, unless some other punishment has been provided by law for such offence.

35

SECTION 87.

CONSPIRACIES TO BRING FALSE ACCUSATIONS.

Everyone shall be guilty of an indictable offence who conspires with any other person to accuse any person falsely of any offence indictable or not.

40 (a.) Every such offender shall be liable upon conviction to *fourteen*

A.D. 1878. *years* penal servitude, if the offence of which such person is to be falsely accused is punishable by death or penal servitude for life.

(b.) Every such offender shall be liable in all other cases to *seven years* penal servitude.

SECTION 88.

5

ATTEMPTS TO PERVERT OR DEFEAT JUSTICE.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude, who attempts in any way to obstruct, prevent, pervert, or defeat the course of justice, or conspires with any person for any such purpose. 10

It is an offence within the meaning of this section,—

(a.) To dissuade, hinder, or prevent any person lawfully bound to appear and give evidence as a witness from so appearing and giving evidence, or to endeavour to do so;

(b.) To obstruct or in any way to interfere with or knowingly prevent the execution of any legal process civil or criminal. 15

Provided that these particular cases are mentioned by way of example only, and are not intended to restrict the general terms of the definition herein-before contained, or to limit them to cases resembling any of the cases specifically mentioned. 20

CHAPTER XIII.

ESCAPES, RESCUES, COMPOUNDING OFFENCES.

SECTION 89.

PERSONS UNDER SENTENCE OF TRANSPORTATION OR PENAL SERVITUDE BEING AT LARGE.

25

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life,

Who, having been sentenced or ordered to be transported, or kept in penal servitude, or having agreed to transport himself on certain conditions, either for life or for any number of years, is afterwards at large within any part of Her Majesty's dominions, without some lawful cause, before the expiration of the term for which he was ordered to be transported or kept in penal servitude, or agreed to transport himself. 30

SECTION 90.

35

ASSISTING ESCAPE OF PRISONERS OF WAR.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for *fourteen years*, who—

(a.) Assists any alien enemy of Her Majesty, being a prisoner of war in Her Majesty's dominions, whether such prisoner is confined as a prisoner of war in any prison or other place of confinement, or is suffered to be at large on his parole in Her Majesty's dominions or in any part thereof, to escape from such prison or place of confinement, or from Her Majesty's dominions, if at large on his parole; or

(b.) Who (owing allegiance to Her Majesty), after any such prisoner as aforesaid has quitted the coast of any part of Her Majesty's dominions in such his escape, knowingly and wilfully upon the high seas aids or assists such prisoner in his escape towards any other dominions or place.

SECTION 91.

ESCAPE BY PRISONER.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to be imprisoned with hard labour for two years, who, being in lawful custody either under sentence for or upon a charge of any offence escapes therefrom.

SECTION 92.

BREAKING OUT OF PRISON.

Everyone who commits the offence defined in the last section by escaping from any prison shall be liable upon conviction thereof to seven years penal servitude.

SECTION 93.

AIDING ESCAPE FROM PRISON.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to two years imprisonment and hard labour, who aids any prisoner in escaping or attempting to escape from any prison, or who, with intent to facilitate the escape of any prisoner, conveys or causes to be conveyed anything whatever into any prison.

SECTION 94.

RESCUE.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to seven years penal servitude, who rescues any person from lawful custody, either when under sentence for, or when in custody upon, a charge of any offence for which he has been or might be or might have been sentenced to penal servitude: Provided that nothing in this section contained shall prevent

A.D. 1878. any person from being subjected to any other punishment to which he may be rendered liable if by such act he becomes an accessory after the fact to any indictable offence, but no person shall be subjected hereby to more than one punishment in respect of one act.

SECTION 95.

5

NEGLIGENT ESCAPE.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to imprisonment, who by failing to perform any legal duty unintentionally permits a person in his lawful custody to escape therefrom: Provided that no person shall be liable to be prosecuted under this section if before he is so prosecuted he re-takes the escaped person.

SECTION 96.

AGREEMENTS NOT TO PROSECUTE.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to imprisonment, who, without an order made by a court or by a judge of the Supreme Court of Justice,—

(a.) Agrees in respect of any valuable consideration not to prosecute any person for any indictable offence for which he might be imprisoned with hard labour, or to show favour to any person in any such prosecution; or

(b.) Having brought, or under colour of bringing, or of abstaining from bringing, an action against any person under any penal statute in order to obtain from him any penalty, compounds the said action without order or consent of the court, or corruptly abstains from bringing it, whether any offence has in fact been committed or not; or

(c.) Sues any person in the name of a fictitious plaintiff, or in the name of a real person, but without his authority.

SECTION 97.

30

CHAMPERTY, MAINTENANCE, AND COMMON BARRATORS.

From the passing of this Act no one shall be prosecuted for champerty or maintenance, or for being a common barrator.

PART IV.

**ACTS INJURIOUS TO THE PUBLIC
GENERALLY.**

CHAPTER XIV.

OFFENCES AGAINST RELIGION.

SECTION 98.

BLASPHEMOUS LIBELS.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who publishes any
10 blasphemous libel. Whether any particular publication is or is not a blasphemous libel shall be a question of fact: Provided that no one (except a clergyman of the Church of England, charged before an ecclesiastical court with an offence against the laws ecclesiastical) shall be liable to any punishment or disability whatever, either at
15 common law or under the provisions of any statute only for expressing in good faith, or attempting to establish by arguments used in good faith, any opinion whatever upon any religious subject.

SECTION 99.

ASSAULTING MINISTERS OF RELIGION.

20 Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour,—

(a.) Who by threats or force obstructs or prevents, or endeavours to obstruct or prevent, any clergyman or other minister in or from
25 lawfully celebrating divine service or otherwise officiating in any church, chapel, meeting-house, or other place of divine worship, or in or from the performance of his duty in the lawful burial of the dead in any churchyard or other burial place;

(b.) Or who strikes or offers any violence, or arrests upon or
30 under the pretence of executing any civil process any clergyman or other minister engaged in or to the knowledge of the offender about to engage in any of the rites or duties mentioned in the last clause, or to the knowledge of the offender going to perform the same, or returning from the performance thereof.

A.D. 1878.

SECTION 100.

DISTURBING PUBLIC WORSHIP.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who wilfully and without legal justification or excuse disquiets or disturbs any meeting, assembly, or congregation of persons lawfully assembled for religious worship, or in any way disturbs, molests, or misuses any preacher, teacher, or person lawfully officiating at such meeting, assembly, or congregation, or any person or persons there assembled, or who is guilty of any riotous, violent, or indecent behaviour in any place of public worship, whether during the celebration of public worship or at any other time, or in any churchyard or burial ground. 5

CHAPTER XV.

OFFENCES AGAINST MORALITY.

SECTION 101. 15

SODOMY.

Sodomy is the act of a person who—

- (a.) Carnally knows or permits himself or herself to be carnally known by any living creature other than a human being; or,
- (b.) Being a male, carnally knows any man or any woman against the order of nature; or
- (c.) Permits himself or herself to be so carnally known as aforesaid. 20

Everyone who commits sodomy shall be guilty of an indictable offence, and upon conviction thereof shall be sentenced to penal servitude for life, or for any period not less than *ten years*, and to no other punishment. 25

SECTION 102.

ATTEMPT TO COMMIT SODOMY.

Everyone who attempts to commit sodomy, or touches any person, or consents to be touched by any person, with intent to excite or gratify any unnatural lust in himself or in that other person, shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *ten years* penal servitude. 30

SECTION 103.

PUBLIC INDECENCIES.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to be imprisoned with hard labour for
5 *two years*, who does any grossly indecent act in any place to which the public have or are permitted to have access, or which is so situated that what passes there can be seen by any considerable number of persons if they happen to look, or who does any such act in any place intending thereby or so as to insult or offend any person
10 or persons by whom he knows or has reasonable grounds for knowing that such act will or may be observed.

SECTION 104.

OBSCENE PUBLICATIONS.

Everyone shall be guilty of an indictable offence, and shall upon
15 conviction thereof be liable to be imprisoned with hard labour for *two years*, who knowingly and without justification—

(a.) Publicly sells, or exposes for public sale or to public view, any obscene book, print, picture, model, or other object; or

(b.) Publicly exhibits any disgusting object or other indecent
20 exhibition.

A person is justified in publishing or exhibiting such things as are
herein-before referred to if their publication or exhibition is, in the opinion of the jury, for the public good, as being necessary or advantageous to religion or morality, to the administration of justice,
25 the pursuit of science, literature, or art, or other objects of general interest; but the justification ceases if the publication or exhibition is made in such a manner, to such an extent, or under such circumstances as to exceed what the public good, in the opinion of the jury, requires in regard to the particular matter published or exhibited.
30 The motives of the publisher or exhibitor in making any such publication or exhibition are immaterial.

SECTION 105.

DEFILING GIRLS UNDER AGE.

Everyone shall be guilty of an indictable offence, and shall be
35 liable upon conviction thereof to *two years* imprisonment with hard labour, who, by false pretences, or false representations, or other fraudulent means, procures any woman or girl, under the age of *twenty-one years*, to have illicit carnal connexion with any man.

A.D. 1878.

SECTION 106.

CONSPIRACY TO DEFILE.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who conspires with any other person (other than the woman to whom the conspiracy refers) 5 to induce any woman to commit adultery or fornication.

SECTION 107.

PREVENTING THE BURIAL OF DEAD BODIES AND DISINTERRING THEM.

Everyone shall be guilty of an indictable offence, and shall be liable on conviction thereof to imprisonment, who prevents the burial of 10 any dead body, or who, without lawful authority, disinters a dead body; or

who, having the means of doing so without incurring a debt, neglects to perform any legal duty incumbent on him with respect to the burial of any dead body; or 15

who buries or otherwise disposes of any dead body on which to his knowledge an inquest ought to be taken without giving notice to a coroner; or

who, being under a legal duty to do so, fails to give notice to a coroner that a body on which an inquest ought to be held is lying 20 unburied, before such body has putrefied.

CHAPTER XVI.**COMMON NUISANCES.****SECTION 108.**

COMMON NUISANCE DEFINED.

25

A common nuisance is an act or a series of acts or an omission to discharge a legal duty—

(a.) Which obstructs or causes inconvenience or damage to any of Her Majesty's subjects in the exercise or enjoyment of any right common to all Her Majesty's subjects, whether such act or omission 30 is or is not convenient to a number of persons larger than the number so obstructed, inconvenienced, or damaged; or

(b.) Which endangers the life, health, property, or comfort of the public, or of any part of it, either by causing actual danger thereto, or by causing a state of things which must produce such actual 35

danger unless some person exercises in reference thereto a degree of care, skill, or prudence, the continual exercise of which in such situations is unusual. A.D. 1878.

It is a common nuisance within the meaning of this definition—

5 Wilfully to expose or cause to be exposed for sale articles of food unfit for consumption ;

Knowingly or negligently to permit servants to mix unwholesome ingredients in articles of food exposed or offered for sale or sold to any considerable number of persons ;

10 To make for the purposes of trade or otherwise loud noises, or offensive and unwholesome smells, in such places and under such circumstances as to annoy any considerable number of persons in the exercise or enjoyment of rights common to all Her Majesty's subjects ;

15 To keep any inn in a disorderly manner, and to suffer it to be resorted to by persons of bad character, or to refuse without reasonable grounds to entertain therein any properly conducted person ready and willing to pay for such entertainment ;

20 To obstruct any highway, by any work or erection thereon or injury thereto, which renders the highway less commodious to the public than it would otherwise be ;

To omit to repair any public highway or any bridge which the person in default is under a legal obligation to repair ;

25 To prevent the public from having access to any part of any highway by an excessive and unreasonable temporary use thereof, or by so dealing with the land in the immediate neighbourhood of the highway as to prevent the public from using and enjoying it securely ;

30 To divert or obstruct the course of any navigable river so as appreciably to diminish its convenience for purposes of navigation, even though the alteration may, upon the whole, be for the convenience of the public ;

35 Provided that the particular instances of common nuisances herein-before mentioned are mentioned by way of example only, and are not intended to restrict the general terms of the definition of a common nuisance herein-before contained, or to limit them to cases resembling any or all of the cases specially mentioned.

40 Every one shall be guilty of an indictable offence and shall be liable upon conviction thereof to imprisonment, who commits any common nuisance other than common nuisances punishable under the provisions of any statute in a summary way.

A.D. 1878.

SECTION 109.**DISORDERLY HOUSES.**

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment with hard labour, who keeps any disorderly house, that is to say, any common 5 bawdy house, common gaming house, common betting house, or disorderly place of entertainment as herein-after defined.

Any person who appears, acts, or behaves as master or mistress, or as the person having the care, government, or management of any disorderly house, shall be deemed to be the keeper thereof, and shall 10 be liable to be prosecuted and punished as such, although, in fact, he is not the real owner or keeper thereof.

SECTION 110.**COMMON BAWDY HOUSES.**

A common bawdy house is a house, room, set of rooms, or place 15 of any kind whatever, kept for purposes of prostitution.

SECTION 111.**COMMON GAMING HOUSES.**

A common gaming house is a house, room, or place kept or used for playing therein at any game of chance, or any mixed game 20 of chance and skill, in which—

- (i.) A bank is kept by one or more of the players, exclusively of the others; or
- (ii.) In which any game is played the chances of which are not alike favourable to all the players, including among the players 25 the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet.

SECTION 112.**EVIDENCE THAT A HOUSE IS A COMMON GAMING HOUSE.**

The following circumstances shall be deemed to be sufficient evi- 30 dence (until the contrary is proved) that a house, room, or place is a common gaming house, and that the persons found therein were unlawfully playing therein; that is to say,

- (i.) Where any cards, dice, balls, counters, tables, or other instru- 35 ments of gaming used in playing any unlawful game are found in any house, room, or place suspected to be used as a common gaming house, and entered under a warrant or order issued

under an Act passed in the ninth year of Her Majesty's reign, chapter one hundred and nine, to amend the law concerning games and wagers, or about the person of any of those found therein.

- 5 (ii.) Where any constable or officer authorised as aforesaid to enter any house, room, or place is wilfully prevented from, or obstructed, or delayed in entering the same, or any part thereof, or where any external or internal door or means of access to any
10 such house, room, or place so authorised to be entered is found to be fitted or provided with any bolt, bar, chain, or any means or contrivance for the purpose of delaying, preventing, or obstructing the entry into the house, or any part thereof, of any constable or officer authorised as aforesaid, or for giving alarm in case of such entry; or
- 15 (iii.) If any such house, room, or place is found fitted or provided with any means or contrivance for unlawful gaming, or for concealing, removing, or destroying any instruments of gaming.

SECTION 113.

COMMON BETTING HOUSES.

- 20 A common betting house is a house, office, room, or other place—
- (a.) Kept or used for the purpose of betting between persons resorting thereto and
- The owner, occupier, or keeper thereof; or
- 25 Any person using the same; or
- Any person procured or employed by, or acting for or on behalf of, any such person; or
- Any person having the care or management, or in any manner conducting the business thereof; or
- 30 (b.) Kept or used for the purpose of any money or valuable thing being received by or on behalf of any such person as aforesaid, as or for the consideration
- (i.) For any assurance, undertaking, promise, or agreement, express
35 or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse-race or other race, fight, game, sport, or exercise; or
- (ii.) As or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency.

A.D. 1878.

SECTION 114.

DISORDERLY PLACES OF ENTERTAINMENT.

A disorderly place of entertainment is,—

(a.) A house, room, garden, or other place kept for public dancing, music, or other public entertainment of the like kind in the cities of London and Westminster, or within twenty miles thereof, without a license under the provisions of an Act passed in the 25th year of the reign of His late Majesty King George II., intituled “An Act for the better preventing thefts and robberies, and for regulating places of public entertainment and punishing persons keeping disorderly houses;” provided that this definition shall not extend to the theatres royal in Drury Lane and Covent Garden, or the theatre commonly called the Queen’s Theatre in the Haymarket, nor to such performances and public entertainments as are lawfully carried on under or by virtue of Letters Patent or license from the Crown, or the license of the Lord Chamberlain of His Majesty’s household.

(b.) A house, room, or other place opened or used for public entertainment, or amusement, or for publicly debating on any subject whatsoever on any part of the Lord’s Day, called Sunday—

- i. to which persons are admitted by the payment of money or by tickets sold for money;
- ii. at which persons are supplied with tea, coffee, or any other refreshments of eating and drinking on the Lord’s Day at any greater price than the common and usual prices at which the like refreshments are commonly sold upon other days at such house, room, or place, or at coffee houses or other houses where the same are usually sold.

(c.) Any house, room, or place opened or used for any public entertainment, or amusement, or debate on the Lord’s Day at the expense of any number of subscribers or contributors to the carrying on any such entertainment, or amusement, or debate on the Lord’s Day, and to which persons are admitted by tickets to which the subscribers or contributors are entitled.

PART V.

**OFFENCES AGAINST THE PERSON, THE CON-
JUGAL AND PARENTAL RIGHTS, AND THE
REPUTATION OF INDIVIDUALS.**

5

CHAPTER XVII.

**OF MATTER OF JUSTIFICATION AND EXCUSE FOR THE
INFLICTION OF DEATH AND BODILY HARM.**

SECTION 115.

EXCEPTIONS TO DEFINITIONS OF OFFENCES.

- 10 Every definition herein-after contained of any offence against the life or body of any person is subject to the provisions contained in this and in the following chapter.

SECTION 116.

EXECUTION OF LAWFUL SENTENCES.

- 15 No act is an offence which is done in the execution, in the manner prescribed by law by a person who is obliged, or who is duly authorised, to execute it, of a lawful sentence duly passed by a competent court.

- 20 A court which but for some formal defect in its authority or in its proceedings, or but for a mistake made in good faith as to a matter of fact, would have had jurisdiction to pass a sentence, is a competent court within the meaning of this section; but a court which has by law no jurisdiction at all over the case in which sentence is passed is not such a court, and a mistaken belief on the part
25 of the judge, or of the officer who executes the sentence, that it is such a court neither justifies nor excuses his act.

SECTION 117.

KEEPING THE PEACE.

- 30 No one, whether he is a justice of the peace, a peace officer, or a private person, and if a private person, whether he is, and acts as a soldier under military discipline or not, is guilty of an offence by reason of his inflicting death or bodily harm on any person in order to keep the peace, or suppress a riot, or disperse an unlawful assembly, provided that he uses no greater violence and inflicts no

A.D. 1878. greater injury on any person than he in good faith and on reasonable grounds believed at the time when he inflicted it to be necessary for that purpose.

The fact that any such person acted in obedience to the orders of any magistrate or military officer is not in itself a justification of his act, but is relevant to the question whether he did in good faith and on reasonable grounds believe as aforesaid.

SECTION 118.

PREVENTION OF THE COMMISSION OF CRIMES AND ARREST OF CRIMINALS.

The intentional infliction of death or bodily harm is not an offence when it is done by any person

in order to prevent the commission of treason, murder, house-breaking, rape, robbery, arson, piracy, or any other offence attempted to be committed by actual force, and for which the offender might be sentenced to penal servitude on the first conviction,

or, in order lawfully to arrest any person who has committed any offence for which the offender might be sentenced on a first conviction to penal servitude, or in order to retake or keep in lawful custody any such person having escaped, or attempting to escape, from such custody,

or, when it is done by a constable, or other officer of justice, in order to execute a warrant of arrest for any offence, which cannot otherwise be executed.

SECTION 119.

SELF DEFENCE.

The intentional infliction of death or bodily harm is not an offence when it is inflicted by way of self defence against unlawful violence.

SECTION 120.

PROVISO ON FOREGOING SECTIONS.

The intentional infliction of death or bodily harm is not justified in any of the cases specified in the two sections last preceding, unless the person by whom such death or bodily harm was inflicted used every reasonable means in his power to avoid the necessity for inflicting it at all, and to inflict as little harm as was consistent with attaining his object.

No person shall be deemed to have inflicted in self defence any injury inflicted by him on any such person in a fight from which he might, under all the circumstances of the case, have reasonably been expected to withdraw himself before such injury was inflicted; pro-

vided that every person shall be entitled to defend himself, his family, his house, and his property against any unprovoked attack, without being required to withdraw himself in order to avoid any such attack.

A.D. 1878.

5

SECTION 121.

LAWFUL FORCE.

It is not an offence to inflict bodily harm by way of lawful correction, or by any other lawful application of force not hereinbefore mentioned to the person of another; but if the harm inflicted on such an occasion is excessive, the act which inflicts it is unlawful, and, even if there is no excess, it is the duty of every person applying the force to take reasonable precautions against the infliction of other or greater harm than the occasion requires.

SECTION 122.

15

"CONSENT" AND "MAIM" DEFINED.

The word "consent" in sections 123, 124, and 125 means a consent given by a sober and rational person able to form a rational judgment on the matter to which he consents and not procured by force, fraud, or threats of whatever nature.

20

A "maim" is bodily harm, whereby a man is deprived of any member of his body or permanently deprived of the use of it or of any sense or faculty.

SECTION 123.

INJURIES BY CONSENT.

25

The act of inflicting on any person by his own consent bodily injury not amounting to a maim is not an offence, unless it is so inflicted as to amount to a breach of the peace, as in a prize fight or any similar exhibition.

SECTION 124.

30

SURGICAL OPERATIONS.

No one commits an offence by inflicting on another any bodily injury in the nature of a surgical operation performed either by the patient's own consent, or if he is incapable of consenting, then by the consent of any person who has a lawful right to consent thereto, or if no such person's consent can be had, then if it is inflicted in good faith for the benefit of the patient, provided that this section shall be subject to the provisions herein-after contained as to culpable negligence, and to the provisions of Section 159.

A.D. 1878.

SECTION 125.**NO RIGHT TO CONSENT TO DEATH.**

If any person inflicts death upon another person by his consent he commits the same offence as if such consent had not been given.

SECTION 126.

5

ACCIDENT.

It is not an offence to cause death or bodily harm accidentally by an act which is not unlawful.

For the purpose of this section every effect is accidental which is not caused by an act done with the intention of causing it, unless its occurrence as a consequence of the act which does cause it is so probable that a person of ordinary prudence ought, under the circumstances in which the act causing death or bodily harm is done, to take reasonable means to prevent the occurrence of death or bodily harm in consequence thereof, in which case if death or bodily injury occurs by reason of the act done, such death or bodily harm is caused within the meaning of this section by the omission of the precaution which would have prevented its occurrence. 10

For the purpose of this section the expression "unlawful act" includes— 20

- (i.) Acts punishable by law or involving penalties;
- (ii.) Acts constituting actionable wrongs;
- (iii.) Acts injurious to the public as being contrary to public policy or morality.

CHAPTER XVIII.

25

OF CAUSING DEATH BY NEGLIGENCE, AND OF DUTIES TENDING TO THE PRESERVATION OF LIFE.**SECTION 127.****DEATH OR BODILY INJURY CAUSED BY OMISSION TO DISCHARGE A LEGAL DUTY.**

30

Everyone upon whom any duty is imposed by law, or who has by contract or by any wrongful act taken upon himself any duty tending to the preservation of life, and who without lawful excuse neglects to perform that duty, and thereby causes the death of any person, shall be guilty of the same offence as if he had caused that person's death by an act done in the state of mind, as to intent or otherwise, which accompanied the neglect of duty. 35

Provided that no one shall be guilty of an offence only because he causes the death of a person by neglecting to discharge a legal duty, the neglect of which, under all the circumstances of the case, appears to the jury not to have been culpable. A.D. 1878.

5 Provided also, that no one shall be guilty of an offence by reason of the death of any person being caused by the neglect of any servant or agent employed by him to discharge any legal duty which the employer in good faith and on reasonable grounds believed him to be competent to perform, and which he enabled
10 him to perform so far as he was legally bound to do so (except in the case mentioned in the section next following).

No one commits an offence who causes the death of another, even intentionally, by omitting to do anything which it is not his legal duty to do.

15

SECTION 128.**DEATH CAUSED BY NEGLECT TO PROVIDE NECESSARIES.**

When a person dies from want of any necessary of life which any other person is under a legal obligation to provide for him, whether such obligation is imposed by law or undertaken by contract, or in-
20 curred by any wrongful act, the death is not caused by the neglect of the person so bound within the meaning of the last section, unless the person dying is under the control of the negligent person, and is unable from age, health, insanity, or any other cause, to withdraw himself therefrom, or is prevented from so doing by any unlawful
25 means, nor unless he is unable to provide himself with the necessaries for want of which he dies.

If any person whose duty it is to provide for another necessaries of life as aforesaid, delegates the discharge of that duty to any other person, it is the duty of the person delegating his duty, not only to
30 supply the person to whom it is delegated with the means of discharging that duty, but also to use ordinary care to see that it is properly discharged by him.

SECTION 129.**DUTY OF PERSONS DOING ACTS REQUIRING SPECIAL SKILL OR KNOWLEDGE.**

35 It is the legal duty of every person who undertakes (except in case of necessity) to administer surgical or medical treatment, or to do any other lawful act of a dangerous character, and which requires special knowledge, skill, attention, or caution, to employ in doing it a common amount of such knowledge, skill, attention, and caution.

40 It is the legal duty of everyone who does any act which without

A.D. 1878. reasonable precaution is or may be dangerous to human life to employ those precautions in doing it.

What precautions are reasonable in any particular case is a question of fact.

SECTION 130.

5

BODILY INJURIES INFLICTED BY NEGLIGENCE.

The infliction of any bodily injury, other than death, by an omission amounting to culpable negligence to discharge any legal duty is not an offence, except in the cases herein-after expressly provided for.

10

CHAPTER XIX.

HOMICIDE.

SECTION 131.

DEFINITION OF HOMICIDE—WHEN A CHILD BECOMES A HUMAN BEING.

Homicide is the killing of a human being by a human being.

15

A child becomes a human being within the meaning of this definition when it has completely proceeded in a living state from the body of its mother, whether it has or has not breathed, and whether the navel string has or has not been divided, and the killing of such a child is homicide, whether it is killed by injuries inflicted before, 20
dying, or after birth.

A living child in its mother's womb, or a child in the act of birth, even though such child may have breathed, is not a human being within the meaning of this definition, and the killing of such a child is not homicide.

25

Killing is the act of causing the death of a person at any distance of time by some act or omission but for which the person killed would not have died when he did, and which is immediately connected with his death. Whether the connexion between any act or omission and the death of any person caused thereby is immediate or 30
not is a question of fact; provided that the conduct of one person shall not be deemed to be the cause of the conduct of another only because it supplies a motive for such conduct, unless it amounts to an incitement, as herein-before defined.

This section is subject to the provisions contained in the following 35
section.

SECTION 132.

WHEN AN ACT IS THE REMOTE CAUSE OF DEATH OR ONE OF SEVERAL CAUSES.

A person commits homicide, although his act is not the immediate
5 or not the sole cause of death, in the following cases:

(a.) If he inflicts a bodily injury on another which causes surgical
or medical treatment, which causes death. In this case it is im-
material whether the treatment was proper or mistaken, if it was
employed in good faith, and with common knowledge and skill, but
10 the person inflicting the injury does not cause the death if the treat-
ment which was its immediate cause was not employed in good faith,
or was so employed without common knowledge or skill.

(b.) If he inflicts a bodily injury on another, which would not have
caused death if the injured person had submitted to proper surgical
15 or medical treatment, or had observed proper precautions as to his
mode of living.

(c.) If by actual violence or threats of violence he causes a person
to do some act which causes his own death, such act being a mode of
avoiding such violence or threats, which under the circumstances
20 would appear natural to the person injured, and which is done for
that purpose.

(d.) If by any act he hastens the death of a person suffering under
any disease or injury which apart from such act would have caused
death.

(e.) If his act or omission would not have caused death unless it
25 had been accompanied by the acts or omissions of the person killed
or of other persons.

SECTION 133.

WHEN HOMICIDE IS UNLAWFUL.

30 Homicide is unlawful—

(a.) When death is caused by an act done with the intention to
cause death or bodily harm, or which is commonly known to be likely
to cause death or bodily harm, and when the act accompanied with
such intention or knowledge is neither justified nor excused by law.

35 (b.) When death is caused by an omission amounting to culpable
negligence to discharge a legal duty, whether such omission is or is
not accompanied by an intention to cause death or bodily harm.

(c.) When death is caused accidentally by an unlawful act.

A.D. 1878.

CHAPTER XX.

MURDER, MANSLAUGHTER, ATTEMPTS TO COMMIT
MURDER, CONCEALMENT OF BIRTH.

SECTION 134.

MURDER DEFINED.

5

Murder is unlawful homicide, committed with—

(a.) An intention to cause the death of, or grievous bodily harm to, any person, whether such person is the person actually killed or not; or with

(b.) Knowledge that the act or omission to discharge a legal duty 10
which causes death will probably cause the death of, or grievous
bodily harm to, some person, whether such person is the person
actually killed or not, although such knowledge may be accompanied
by indifference whether death or grievous bodily harm is caused or
not, or by a wish that it may not be caused. 15

This section is subject to the provisions of sections 136 and 137.

SECTION 135.

MANSLAUGHTER DEFINED.

Manslaughter is unlawful homicide not amounting to murder.

SECTION 136.

20

EFFECT AND DEFINITION OF PROVOCATION.

Homicide, which would otherwise be murder, is not murder, but manslaughter, if the person who causes death does so in the heat of passion, caused by sudden provocation.

Provocation means any wrongful act or omission of such a nature 25
as to be sufficient to deprive an ordinary person aggrieved thereby
of the power of self-control.

Whether any particular act or omission amounts to provocation shall be a question of fact, provided that no one shall be deemed to give provocation to another only by doing that which he had a legal 30
right to do.

SECTION 137.

WHEN PROVOCATION DOES NOT EXTENUATE HOMICIDE.

Provocation shall not extenuate the guilt of homicide if it is sought or voluntarily provoked by the offender as an excuse for killing or 35
doing bodily harm to any person, nor unless the person provoked is at the time when he does the act actually deprived of the power of self-control by the provocation which he received, and in deciding the question whether this was or was not the case, regard shall be

had to the nature of the act by which the offender causes death, to the time which elapsed between the provocation and the act which caused death, to the offender's conduct during that interval, and to all other circumstances tending to show the state of his mind. A.D. 1878.

5

SECTION 138.

INFANTICIDE.

If a woman causes the death of her child in the act of or immediately after its birth, under such circumstances that she would otherwise be guilty of murder, she shall be deemed to be not guilty of murder, but guilty of manslaughter, if she was at the time when she caused its death deprived by reason of bodily or mental suffering of the power of self-control.

SECTION 139.

SUICIDE.

15 Suicide is the act of a person who kills himself under such circumstances that his act or omission would amount to murder if he caused the death of another person thereby. The word murder in this Act does not include suicide.

SECTION 140.

PUNISHMENT OF MURDER.

20

Every person who commits murder shall be guilty of an indictable offence, and shall upon conviction thereof suffer death.

This section shall extend to acts done in any part of the world by persons owing allegiance to Her Majesty.

25

SECTION 141.

ATTEMPTS TO COMMIT MURDER.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who—

- (a.) Attempts to commit murder; or
- 30 (b.) Is an accessory after the fact, to any murder; or
- (c.) Does any act under such circumstances and with such intent or knowledge that if death had been caused thereby the person doing the act would have been guilty of murder.

SECTION 142.

THREATS, AND CONSPIRACIES TO MURDER.

35

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to ten years penal servitude, who—

- A.D. 1878. — (a.) Unlawfully and without legal justification or excuse sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any document threatening to kill or murder any person; or who
- (b.) Conspires or agrees with any other person to murder any 5 person, or to cause or procure the murder of any person, whether he be a subject of Her Majesty or not, and whether he be within Her Majesty's dominions or not; or who
- (c.) Incites any person to murder any other person, whether he be a subject of Her Majesty or not, and whether he be within 10 Her Majesty's dominions or not.

SECTION 143.

PUNISHMENT OF MANSLAUGHTER.

Everyone who commits manslaughter shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal 15 servitude for life.

This section shall extend to acts done in any part of the world by persons owing allegiance to Her Majesty.

Any person owing allegiance to Her Majesty who in any part of the world becomes accessory after the fact to manslaughter shall be 20 liable to be tried and punished therefor in England.

SECTION 144.

AIDING AND ABETTING THE COMMISSION OF SUICIDE.

Everyone who incites any person to commit suicide, or aids or abets any person in the commission of suicide, shall be guilty of 25 an indictable offence, and shall be liable upon conviction thereof to penal servitude for life.

SECTION 145.

ATTEMPTING TO COMMIT SUICIDE.

Everyone who attempts to commit suicide shall be guilty of an 30 indictable offence, and shall be liable upon conviction thereof to imprisonment.

SECTION 146.

CONCEALING THE BIRTH OF CHILDREN.

Everyone shall be guilty of an indictable offence, and shall be 35 liable upon conviction thereof to *two years* imprisonment and hard labour, who, if any woman is delivered of a child, disposes of its dead body in any manner with intent to conceal the fact that its mother was delivered of it.

No foetus shall be deemed to be a child within the meaning of this section which had not when born reached the period at which it might have been born alive. A.D. 1878.

CHAPTER XXI.

5 BODILY INJURIES AND ACTS CAUSING DANGER TO
THE PERSON.

SECTION 147.

DEFINITIONS.

10 In this and the following chapter the expression "voluntarily causing" includes both causing with intent to cause and causing by means which are commonly known to be likely to cause the effect referred to.

The expression "dangerous instrument" includes—

- 15 (a.) Any instrument for shooting, stabbing, or cutting;
(b.) Any instrument which used as a means of offence is likely to cause death;
(c.) Fire or any heated substance;
(d.) Poison, any corrosive substance, any explosive substance, anything which it is injurious to the human body to inhale or
20 swallow or receive into the body;
(e.) Any living creature.

SECTION 148.

ATTEMPTS TO STRANGLE IN ORDER TO COMMIT A CRIME.

25 Everyone shall be guilty of an indictable offence and shall upon conviction thereof be liable to penal servitude for life, and according to his age to be flogged or whipped once, twice, or thrice;

Who, with intent to commit or to facilitate the commission by any person of any indictable offence,

- 30 (i.) Attempts by any means whatever to choke, suffocate, or strangle any person; or
(ii.) Attempts to render any person incapable of resistance by means calculated to choke, strangle, or suffocate; or
(iii.) Causes or attempts to cause any person to be affected by chloroform, laudanum, or any other stupifying or overpowering
35 thing.

A.D. 1878.

SECTION 149.

CAUSING GRIEVOUS BODILY HARM.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for life, and if a male under 16 to be once whipped, who by any means whatever, or for 5 any purpose whatever, voluntarily causes to any person grievous bodily harm.

SECTION 150.

ATTEMPTING TO CAUSE GRIEVOUS BODILY HARM IN CERTAIN WAYS.

10

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, and if a male under 16 to be once whipped;

(a.) Who for any purpose whatever attempts to cause grievous bodily harm to any person by any dangerous instrument; or 15

(b.) Uses any dangerous instrument in such a manner that if it had caused grievous bodily harm to any person the offender would have committed the offence of voluntarily causing grievous bodily harm to that person.

SECTION 151.

20

RESISTING LAWFUL APPREHENSION.

Everyone shall be guilty of an indictable offence and shall be liable upon conviction thereof to penal servitude for life who resists, or attempts to resist, the lawful apprehension of any person, or to prevent his lawful detainer, either by voluntarily wounding 25 any person or by attempting to do bodily harm to any person by means of any dangerous instrument.

SECTION 152.

ATTEMPTING TO INJURE BY BLOWING UP HOUSES OR SHIPS.

Everyone shall be guilty of an indictable offence, and shall be 30 liable upon conviction thereof to *fourteen years* penal servitude, who attempts to do or does any bodily injury to any person by unlawfully and intentionally placing or throwing any explosive substance in, into, upon, against, near, or under any building, ship, or vessel, whether or not any explosion takes place. 35

SECTION 153.

ATTEMPTS TO ENDANGER RAILWAY PASSENGERS.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, and if a

male under 16 to be once whipped, who with intent to injure or endanger the safety of any person on any railway,

(a.) Does any act calculated to interfere with or directly or indirectly to cause injury to any carriage, engine, or truck thereon, or

5 (b.) Throws anything at, into, or upon, or causes anything to come into contact with any such thing or person, or

(c.) Deals in any way with any signal or light on or near to the railway.

SECTION 154.

10

PREVENTING ESCAPE FROM WRECK.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for life, who unlawfully and intentionally prevents or impedes any person on board of or having quitted any ship or vessel in distress, wrecked, stranded,
15 or cast on shore in his endeavour to save his life, or unlawfully and intentionally prevents or impedes any person in his endeavour to save the life of any person so situated.

SECTION 155.

STRIKING PERSONS PROTECTING WRECK.

20 Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude, who unlawfully and intentionally strikes or wounds any magistrate, officer, or other person lawfully authorised in or on account of the execution of his duty in or concerning the preservation of any
25 vessel in distress, or of any vessel or goods or effects wrecked, stranded, or cast on shore or lying under water.

SECTION 156.

ADMINISTERING POISON.

(a.) Everyone shall be guilty of an indictable offence, and shall be
30 liable upon conviction thereof to *five years* penal servitude who unlawfully, knowingly, and intentionally administers to or causes to be administered to or taken by any other person any poison or other destructive or noxious thing, although no injury may be inflicted thereby.

35 (b.) If by any such offence the life of any person is endangered, or any grievous bodily harm is inflicted on any person, the offender shall be liable to *ten years* penal servitude.

A.D. 1878.

SECTION 157.

CAUSING ACTUAL BODILY HARM.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *five years* penal servitude, who unlawfully and voluntarily wounds or otherwise causes actual bodily 5 harm to any other person, either by any act or by any intentional omission to discharge any legal duty.

SECTION 158.

SETTING MAN-TRAPS AND SPRING GUNS.

Everyone shall be guilty of an indictable offence, and shall be 10 liable upon conviction thereof to *five years* penal servitude—

(a.) who sets any spring-gun, man-trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith; or 15

(b.) who, when any of the engines mentioned in subsection (a) has been set by any other person in any place then in or afterwards coming into his possession or occupation, permits it to continue so set with the intent aforesaid.

Provided that this enactment shall not extend to any gin or trap 20 usually set with the intent of destroying vermin, or to any spring-gun, man-trap, or engine, set from sunset to sunrise in a dwelling-house for the protection thereof.

SECTION 159.

MAIMING ONESELF OR ANOTHER BY CONSENT.

25

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour, who, for any purpose injurious to the public, maims himself, or maims any other person by his consent.

SECTION 160.

30

NEGLIGENT ACTS PUNISHABLE WITH TWO YEARS IMPRISONMENT.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *two years* imprisonment with hard labour;

(a.) Who by any unlawful act, or by any omission to discharge 35 any legal duty amounting to culpable negligence does or causes to be done any bodily harm to any person, or endangers the life of any person; or

(b.) Who by any such act or omission as aforesaid endangers the safety of any person conveyed or being upon any railway. A.D. 1878.

Whether any particular omission to discharge a legal duty amounts to culpable negligence shall be a question of fact.

5

CHAPTER XXII.

ASSAULTS AND INTIMIDATION.

SECTION 161.

ASSAULT DEFINED.—PUNISHMENT OF ASSAULTS.

An assault is—

10 (a.) The act of applying unlawfully and voluntarily any the least actual force to the person of another, or to the dress worn by him, directly or indirectly.

(b.) An attempt unlawfully to apply any the least actual force to the person of another directly or indirectly ;

15 (c.) The act of using a gesture towards another giving him reasonable grounds to believe that the person using that gesture means to apply to his person such actual force as aforesaid ;

(d.) The act of unlawfully and voluntarily depriving another of his liberty,

20 in either case without the consent of the person assaulted, or with such consent if it is obtained by fraud.

Provided that such acts as are reasonably necessary for the common intercourse of life are not assaults if they are done for the purpose of such intercourse only and with no greater force than the occasion

25 requires.

Everyone who commits an assault shall be guilty of an indictable offence, and shall be liable on conviction thereof to *one year's* imprisonment and hard labour or to simple imprisonment.

SECTION 162.

30

PUNISHMENT OF ASSAULTS WITH INTENT TO COMMIT SODOMY.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *ten years* penal servitude, who is guilty of any assault with intent to commit sodomy, or being a male of any indecent assault upon any male person.

[178.]

F

A.D. 1878.

SECTION 163.

ASSAULTS PUNISHABLE WITH TWO YEARS IMPRISONMENT.

Every person shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour,— 5

(a.) Who indecently assaults any female, or

(b.) Who assaults any person with intent to commit an indictable offence or to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, or to rescue any person from lawful custody. 10

(c.) Or who assaults, resists, or wilfully obstructs any peace officer in the due execution of his duty, or any person acting in aid of such officer.

SECTION 164.

INTIMIDATION. 15

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to be fined *twenty pounds*, or to be imprisoned with hard labour for *three months*, who does or conspires with any other person to do any of the following things; (that is to say,)— 20

Who with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing wrongfully and without legal authority,

(i.) Uses violence to or intimidates such other person or his wife or children, or injures his property; or, 25

(ii.) Persistently follows such other person about from place to place; or,

(iii.) Hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or, 30

(iv.) Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or,

(v.) Follows such other person with two or more other persons in a disorderly manner in or through any street or road. 35

Attending at or near the house or place where a person resides or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section. 40

No one shall be proceeded against under this section unless he has been proceeded against as for a summary offence under the Conspiracy and Protection of Property Act, 1875, and has declared that he objects to being tried for such offence by a court of summary
5 jurisdiction.

CHAPTER XXIII.

RAPE, KNOWING CHILDREN, AND PROCURING
ABORTION.

SECTION 165.

10

DEFINITION OF RAPE.

Rape is the act of having carnal knowledge of a woman without her conscious permission, or with her conscious permission if such permission is either extorted by force or fear of bodily harm, or obtained by personating her husband or by falsely pretending that
15 the act is necessary or will be advantageous to her for any medical or surgical purpose.

Provided that a woman shall not be deemed to have consented to any violence preceding or following the act of carnal knowledge only because she consented to such carnal knowledge.

20 Provided that a husband cannot commit rape upon his wife by carnally knowing her himself, though he may do so by compelling her to be so known by any other person.

Provided also, that there shall henceforth be no presumption of law as to the age at which a boy becomes capable of committing
25 rape.

The expression "carnal knowledge" wherever it is used in this Act means the penetration of the organ known to any the least degree by the male organ of generation.

SECTION 166.

30 PUNISHMENT OF RAPE AND CARNAL KNOWLEDGE OF GIRLS UNDER TWELVE.

Everyone shall be guilty of an indictable offence and shall be liable upon conviction thereof to penal servitude for life, who—

(a.) Commits rape; or

[178.]

A.D. 1878. (b.) Carnally knows any girl under the age of *twelve*, even if she consents, whether he knows her age or believes her upon good grounds to be above that age or not.

SECTION 167.

CARNALLY KNOWING CHILDREN BETWEEN TWELVE AND THIRTEEN.

5

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour, who carnally knows, or attempts carnally to know, any girl above the age of *twelve* and under the age of *thirteen years*, even if she consents, and whether he knows her age or believes her upon good grounds to be above that age or not.

SECTION 168.

PROCURING ABORTION.

Everyone shall be guilty of an indictable offence, and shall be liable to the punishments herein-after mentioned, who does any of the following things :—

- (a.) Everyone shall be liable to penal servitude for life—
- (i.) Who being a woman with child unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever, with intent to procure her own miscarriage; or
 - (ii.) Who with intent to procure the miscarriage of any woman, whether she be or be not with child unlawfully administers to or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent; or
 - (iii.) Who causes the death of any living child which has not proceeded in a living state from the body of its mother by any act or omission which would have amounted to murder if such child had been fully born.

30

Provided that no one shall be guilty of any offence who, by means employed in good faith for the preservation of the life of the mother of the child and reasonably necessary for that purpose, causes the death of any such child, or causes any child to die after it is fully born by any such thing done before or during its birth.

35

(b.) Everyone shall be liable to penal servitude for *five years*— A.D. 1878.

Who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever knowing that the same is intended to be unlawfully used or employed with intent
 5 to procure the miscarriage of any woman, whether she be or be not with child, and whether she is or is not aware of such intention.

CHAPTER XXIV.

CRIMES AFFECTING CONJUGAL AND PARENTAL RIGHTS
 --BIGAMY--ABDUCTION.

10

SECTION 169.

BIGAMY.

Bigamy is—

(a.) The act of any person who, whilst any valid marriage subsists between himself and another person, goes through a form of marriage
 15 with any other person in any part of the world, which form is recognised as valid by the law of the place where it is used, whether or not the parties to such form, would, at the time when it is used, be by that law competent to contract marriage, if each of them were then unmarried, and although by the fraud of either of them
 20 the form employed would have been insufficient by that law to constitute a valid marriage if they had been competent to marry each other.

(b.) The act of any person who, being unmarried, knowingly takes part in any such form of marriage as is herein-before mentioned.

25 Provided that no one shall be deemed to commit bigamy by going through such a form of marriage as aforesaid if at the time when he does so he believes in good faith and upon reasonable grounds that the person to whom he is then legally married is dead, or if he has been continually absent from such person for seven years then last
 30 passed, and is not proved to have known that that person was alive at any time during those seven years.

Provided also that when it has been proved that a marriage has been had between any person accused of bigamy and any other person shown to have been alive when the alleged offender went through a
 35 form of marriage with another person, the burden of proving that the first marriage had been dissolved or annulled before the form of marriage was gone through shall be on the defendant.

A.D. 1878.

SECTION 170.

PUNISHMENT OF BIGAMY.

Everyone who commits bigamy shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude. 5

This section shall extend—

- (i.) To acts done by any natural born or naturalised subject of Her Majesty in whatever part of the world either the valid marriage or the form of marriage was performed, and in the case of naturalised subjects of Her Majesty whether both or either took 10 place before or after the alleged offender was naturalised.
- (ii.) To forms of marriage celebrated in any part of Her Majesty's dominions by married aliens owing Her Majesty local allegiance at the time when such form of marriage is celebrated.

But this Act shall not extend to forms of marriage celebrated 15 between an alien and another person out of Her Majesty's dominions, although such alien may have owed local allegiance to Her Majesty both before and after such form of marriage, and may have contracted a valid marriage whilst he owed such allegiance to Her Majesty. 20

SECTION 171.

ABDUCTION WITH INTENT TO MARRY.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *fourteen years* penal servitude, who, with intent to marry or carnally know any woman, or with intent to 25 cause any woman to be married or carnally known by any other person—

(a.) Takes away or detains any woman of any age against her own will; or

(b.) Takes away or detains any woman, being under the age of 30 *twenty-one years*, and having any such interest in property as is herein-after mentioned, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her.

If any woman against whom any such offence is committed has 35 any interest legal or equitable, present or future, absolute, conditional, or contingent in any real or personal estate, or is a presumptive heiress or co-heiress, or presumptive next of kin, or one of the presumptive next of kin to anyone having such interest, any person convicted of any such offence against her shall be incapable 40 of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any interest,

or which comes to her as such heiress, co-heiress, or next of kin, and if any such marriage takes place, such property shall, upon such conviction, be settled in such manner as the High Court may upon any information at the instance of the Attorney-General appoint. If
 5 such property is situated in any other part of Her Majesty's dominions, such settlement shall be made under the direction of such court, and upon the information of such officer as correspond to the High Court and the Attorney-General.

When any person is prosecuted for any offence against this section,
 10 a woman who having been taken away is married to the offender, shall notwithstanding that marriage be competent to be a witness against him.

SECTION 172.

ABDUCTION OF GIRL UNDER SIXTEEN.

15 Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to be imprisoned and kept to hard labour for *two years*, who takes or causes to be taken an unmarried girl under the age of *sixteen years* from any person who has the lawful care or charge of her to any place where that person cannot
 20 exercise control over her, in order that she may there be under the power, charge, or protection of the offender, either permanently or for a time, for some purpose inconsistent with the control which would have been exercised by the person in charge of her if he had not been deprived of it, such taking or causing to be taken being
 25 without the consent of the person from whom the girl is taken or with his consent obtained by fraud.

It is immaterial whether the girl is taken with her own consent or at her own suggestion or against her will.

It is immaterial whether or not the offender knows the age of
 30 the girl, and whether or not he supposes in good faith and on reasonable grounds that she is over sixteen years of age, and whether or not he knows that she is under the lawful care or charge of any person, and whether or not he supposes in good faith and on reasonable grounds that she is not under such care.

35

SECTION 173.

STEALING CHILDREN UNDER FOURTEEN.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude, who—
 with intent to deprive any parent or guardian, or other person
 40 having the lawful care or charge of any child under the age of

A.D. 1878. *fourteen years*, of the possession of such child, or with intent to steal any article about or upon the person of any such child,

(a.) unlawfully leads, or takes away, or decoys or entices away, or detains any such child; or

(b.) receives or harbours any such child, knowing it to have been so dealt with.

Provided that nothing in this section shall extend to any person who gets possession of any child, or takes any child out of the possession of any one who has lawful charge of it, if such person either in good faith claims a right to the possession of the child, or (if it is an illegitimate child) is its mother, or claims to be its father.

CHAPTER XXV.

OFFENCES AGAINST CHILDREN BY PARENTS AND OTHERS.

SECTION 174.

15

NEGLECTING SERVANTS AND APPRENTICES.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *five years* penal servitude, who, being under a legal duty of whatever nature or origin to provide for any person under his charge unable to withdraw himself therefrom, and unable to provide for himself necessary food, clothing, lodging, warmth, or medical aid, intentionally and without lawful excuse omits to provide the same, so that the life of such person is endangered, or his health is or is likely to be permanently injured.

SECTION 175.

25

ABANDONING CHILDREN UNDER TWO.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *five years* penal servitude—

Who unlawfully abandons or exposes any child, being under the age of two years, whereby the life of such child is endangered, or its health has been or is likely to be permanently injured.

The words "abandon" and "expose" include a wilful omission to take charge of the child on the part of a person legally bound to do so, and any mode of dealing with it calculated to leave it exposed to risk without protection.

35

CHAPTER XXVI.

DEFAMATORY LIBELS.

SECTION 176.

DEFAMATORY LIBEL DEFINED.

5 A defamatory libel is matter tending, either directly or by insinuation or irony, to expose any person individually or as a member of a body so small that the matter published of it would naturally be applied to its individual members, to hatred, contempt, or ridicule, such matter being expressed in words legibly marked upon
10 any substance whatever, or expressed by any object signifying such matter otherwise than by words.

SECTION 177.

PUBLICATION DEFINED.

To publish a libel is to deliver it with a view to its being
15 ultimately read, to read it, or to communicate its purport in any other manner, or to exhibit it, to any person other than the person libelled, provided that the person making the publication knows, or has an opportunity of knowing, the contents of the libel if it is expressed in words, or its meaning if it is expressed otherwise.

20 A libel published in the ordinary course of the business of any person whose trade it is to deal in articles of the kind to which the libel belongs shall be deemed to be published, not only by the person who actually sells or exhibits it, but also by his employer, if his employer has given the actual publisher general authority to sell or exhibit for the employer's profit articles of that kind.

Provided that whenever, upon the trial of any person for the publication of a libel, evidence has been given which raises against the defendant a presumption that the libel was published by the act of any other person by his authority, the defendant may prove that
30 such publication was made without his authority, consent, or knowledge, and that the publication did not arise from want of due care or caution on his part, and upon such proof being given the defendant shall not be responsible for any publication to which it relates.

This section shall apply to seditious, blasphemous, and obscene
35 libels, and to libels on foreign powers, as well as to defamatory libels.

A.D. 1878.

SECTION 178.

PUNISHMENT OF DEFAMATORY LIBEL.

Everyone who publishes a defamatory libel (except in the cases provided for in sections 179 to 185, both inclusive) shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *two years* imprisonment and hard labour, or to simple imprisonment.

SECTION 179.

PUBLICATION OF THE TRUTH NOT CRIMINAL IN CERTAIN CASES.

No one commits an indictable offence by publishing defamatory matter which is true if he can prove that the publication thereof in the manner in which it was published was for the public benefit at the time of the publication; provided that no defendant shall be allowed to so prove any such matter unless he pleads it in the manner herein-after provided for.

SECTION 180.

PUBLICATION OF MATTER HONESTLY BELIEVED TO BE TRUE.

No one commits an indictable offence by the publication of defamatory matter if he honestly and on reasonable grounds believes it to be true, and if the relation between him and the person to whom the publication is made is such that he is under any legal, moral, or social duty to publish that matter, or if he is obliged to publish it by way of self defence against matter published by the person defamed by him, or in order to obtain from the person to whom the publication is made redress for any injury which he has or reasonably believes himself to have sustained, or in order to obtain any other object of a similar kind, provided in every such case that the publication does not exceed either in extent or in manner what is reasonably sufficient for the occasion.

When the existence of the relation or facts establishing the duty or right to publish as aforesaid has been proved, the burden of proving that the statement was not honestly believed to be true shall be upon the prosecutor.

Whether such a duty or right as is herein-before referred to exists in any particular case shall be a question of law.

SECTION 181.

FAIR DISCUSSION OF MATTERS OF PUBLIC INTEREST.

No one commits an indictable offence by the publication of defamatory matter which he honestly and on reasonable grounds believes

to be true, if the publication thereof is reasonably necessary to the discussion of a subject of public interest, and if such publication is made in good faith in the course and for the purposes of such discussion. A.D. 1878.

- 5 Whether any particular subject is of public interest, and whether the publication of any matter is reasonably necessary for the discussion of it, shall be questions of fact.

SECTION 182.

FAIR COMMENT.

- 10 No one commits an indictable offence by the publication of defamatory matter consisting of comments upon persons who submit themselves; or upon things submitted by their authors or owners, to public criticism, provided that such comments are fair.

The expression a "fair comment" means a comment which is either true, or which, if false, expresses the real opinion of its author (as to the existence of matter of fact or otherwise), such opinion having been formed with reasonable care and on reasonable grounds.

- 20 The following persons, and such other persons as act in what the court regards as a similar manner, submit their conduct to public criticism within the meaning of this section; that is to say:—

(a.) Every person who takes a public part in public affairs submits his conduct therein to public criticism.

25 (b.) Every person who publishes any book or other literary production, or any work of art, or any advertisement of goods, or who makes any communication upon any subject whatever to the public, submits that book, or literary production, or work of art, or advertisement, or communication, and every matter referred to therein, to public criticism.

30 (c.) Every person who takes part in any public dramatic performance or other public entertainment submits himself to public criticism to the extent to which he takes part in it.

SECTION 183.

PARLIAMENTARY PROCEEDINGS, AND FAIR COMMENTS THEREON.

- 35 No one commits an indictable offence by the publication of defamatory matter contained in any paper, vote, or proceeding of either House of Parliament which such House of Parliament may deem fit or necessary to be published; or

Any extract from or abstract of any such report, paper, vote, or

A.D. 1878. proceeding, if being an extract it is correct, and is not so made as to convey a false impression of the contents of the matter from which it is extracted, or if being an abstract it is substantially accurate; or/

A fair report of any debate in either House of Parliament.

SECTION 184.

5

PUBLICATION IN A COURT OF JUSTICE.

The publication of anything whatever in a judicial proceeding before a court of competent jurisdiction is not a defamatory libel.

SECTION 185.

FAIR REPORTS OF PROCEEDINGS OF COURTS.

10

No one commits the offence of publishing a defamatory libel only by publishing defamatory matter forming part of a fair report of the proceedings of a court of justice, or of a fair report of proceedings before magistrates held with open doors with a view to the committal for trial of a suspected person; but nothing herein contained shall prevent the publication of any such report from being a seditious, blasphemous, or obscene libel.

Such a report is fair when it is substantially accurate, and when it is either complete or condensed in such a manner as to give a just impression of what took place, but this section does not extend to comments made by the reporter, or to reports of observations made by persons not entitled to take part in the proceedings.

PART VI.

**OFFENCES AGAINST RIGHTS OF PROPERTY
OR RIGHTS ARISING OUT OF CONTRACTS.** 25**SECTION 186.**

INTERPRETATION OF "PERSON" AND "VALUABLE SECURITY."

The words "person," "owner," and other words or expressions of the same kind shall throughout this part, when they relate to the party against whom any offence may be committed, include all bodies corporate, societies, and companies capable by law of holding property.

The expression "valuable security" means

- (a.) Any document whereby any legal right is or is intended or purports, or is intended to purport, to be created, extended, restricted, transferred, extinguished, or released.
- 5 (b.) Any document which acknowledges the existence of any legal right or liability, or the extinction, transfer, or other modification of any legal right or liability.
- (c.) Any document which contains a contract or an offer, or an acceptance of an offer, to make a contract, or a note or memorandum
10 of the terms of a contract, or a promise legally binding or intended to be legally binding.
- (d.) Any document whether it is a private document or part of the records or rolls of any court or office which is or is intended to be used as evidence of the title of any person
- 15 (i.) To any property whatever, real or personal, moveable or immovable, corporeal or incorporeal;
- (ii.) To the possession or control of any such property.
- (e.) Any copy of any such document so authenticated as to be capable of being used as legal evidence of the matters asserted by it.
- 20 (f.) Any document containing any order, warrant, authority, or request to give any person any kind of property whatever, or the possession or control over any kind of property whatever, or to give him credit.
- The expression "valuable security" includes maps and other docu-
25 ments which form part of or are referred to in any such document as aforesaid.

CHAPTER XXVII.

THEFT AND SIMILAR OFFENCES.

SECTION 187.

30

THINGS CAPABLE OF BEING STOLEN.

Everything whatever which is the property of any person, and which either is or may be made movable, shall henceforth be capable of being stolen as soon as it becomes movable, even if the act by which it is made movable is the act by which the offence of stealing
35 it is committed.

This provision includes everything which is part of or fixed to or growing out of the land (except as herein-after excepted) or

[178.]

A.D. 1878. which savours of real property; all records and documents whatever, whether public or private; all animals (except wild animals in the enjoyment of their natural liberty, as to the stealing of which the law shall remain unaffected by this Act), fish in a state of confinement; and oysters and oyster brood in oyster beds, layings, 5 and fisheries sufficiently marked out as the property of any person; but it does not include anything under the value of one shilling which is part of, or fixed to, or growing out of the land, except trees, saplings, shrubs, and underwood cultivated for food for man or beast, or for medicine, or for distilling, or for dyeing, or for 10 or in the course of any manufacture, or growing in any garden, orchard, pleasure ground, or nursery ground, or within the curtilage of any dwelling house.

SECTION 188.

INTENT TO MISAPPROPRIATE.

15

An intent to misappropriate is an intent unlawfully, fraudulently, and without any claim of right, founded either on a mistake of fact or on a mistake of law, to deprive the owner permanently of a thing capable of being stolen, by any of the means stated in the definitions herein-after contained of theft, criminal breach of trust, or 20 obtaining property by a false pretence.

The purpose of the offender as to the way in which the thing appropriated is to be disposed of is immaterial.

An intention that the owner shall under any circumstances whatever be permanently deprived of anything is an intention to mis- 25 appropriate within the meaning of this section, although it may be accompanied by an intention to restore the misappropriated property to the owner.

A person who consigns, deposits, transfers, or delivers anything which does not belong to him to any person other than the owner 30 by way of a pledge, lien, or security for advances made before or at the time when the security is given, or to be made afterwards, intends, within the meaning of this section, to deprive the owner permanently of the thing so dealt with although he may intend to redeem it at the time when he so deals with it; but he does 35 not intend to do so fraudulently or without a claim of right if at the time of giving the security he was a factor or agent for the owner of the goods, and if the amount for which he gave the security did not exceed the amount which was or which he honestly believed to be due to him from his principal together with the amount of any 40 bill of exchange drawn upon him by or on account of the principal.

SECTION 189.

THEFT DEFINED.

Theft is—

The act of taking with intent to misappropriate, and without the
5 consent of the owner, or with his consent in the case herein-after
specified, anything capable of being stolen of which the offender is
not in possession when he takes it, whether any other person is or
is not in possession of it.

The act of taking is complete as soon as the thing taken is either
10 caused to move by the offender or touched with intent to move it
by any part of his body or by any instrument.

Taking with the consent of the owner is a taking within the
meaning of this section, if the owner's consent thereto is obtained
by fraud, and if the owner intended to transfer the possession only
15 of the thing taken.

Every person who is in possession of or who has the custody of
anything is for the purposes of this section the owner of that thing
as against every person who cannot show a better title to the posses-
sion of it.

20 Everyone who destroys, cancels, or obliterates any document for
any fraudulent purpose steals that document.

Everyone who kills any animal or bird with intent to steal the
carcass, skin, plumage, or any part of the animal or bird, steals that
animal or bird.

25 **SECTION 190.**

CRIMINAL BREACH OF TRUST DEFINED.

Criminal breach of trust is the act of converting to the use of
the offender or any other person with intent to misappropriate,
anything of which at the time of such conversion the offender is
30 in possession, or of which he has the custody on account of another
person, such conversion being made without the consent of that
person, or with his consent obtained by fraud.

SECTION 191.

POSSESSION ON ACCOUNT OF ANOTHER.

35 Everyone is in possession or has the custody of a thing on account
of another person within the meaning of the last section, when he
is the bailee of that thing for that person, or if it is his duty to
keep it for any person, or to give it, or to account for it, or for the

A.D. 1878. proceeds or any part of the proceeds of it, or to transfer it, or the proceeds or any part of the proceeds of it, to any person, or to dispose of it in any manner whatever for any person or according to any person's directions, or if it is the proceeds or part of the proceeds of anything, or was taken in exchange for or made out of anything with respect to which he was under any such obligation. 5

The word "proceeds" in this section includes coins and all negotiable instruments and valuable securities used as coin received in exchange for other coins, negotiable instruments, and valuable securities, whatever number of such exchanges may have taken place between the receipt of the first-mentioned and the receipt of the last-mentioned coins, negotiable instruments, or valuable securities. 10

A person who by reason of the fact that he has received any coin, negotiable instrument, or valuable security, is under a legal obligation to pay or give either that coin, negotiable instrument, or valuable security, or some other coin, negotiable instrument, or valuable security, either of the same or of a different value, to some other person, and who omits to give to that person both the first and the secondly mentioned coin, negotiable instrument, or valuable security, may commit a criminal breach of trust by such omission, although the first-mentioned coin, negotiable instrument, or valuable security may have been his own property, as against the person to whom he was under the obligation aforesaid. 15 20

Every person who as a trustee, whether solely or jointly with any other person, is in possession of anything capable of being stolen, is in possession of it within the meaning of the last section on account of the person who then is or afterwards is to be beneficially interested therein, whether such person is in existence or not. 25

Provided that no vendor of anything not paid for in whole or in part, and left in his possession or under his control by the purchaser, shall be deemed to be in possession thereof on account of the purchaser within the meaning of the last section, only because the property therein has passed to the purchaser. 30

Every person who is in possession of any document of title giving him power over any property for any person is in possession of the property over which such document of title gives him such power within the meaning of this section. 35

Every director, member, or public officer of any body corporate or public company who has the possession, custody, or control over any of the property of such body corporate or public company is in possession thereof on account of such body corporate or company within the meaning of this section. 40

SECTION 192.

OBTAINING PROPERTY BY FALSE PRETENCES.

Obtaining property by a false pretence is obtaining, with intent to misappropriate it, anything capable of being stolen from any person
5 by persuading him to transfer such property as he may have in it to the offender, or to any other person, by a false pretence that some fact exists or existed which does not or did not in truth exist. Provided that it is not an obtaining of property by false pretences to persuade any person to transfer his proprietary rights in such property,
10 either by a promise not intended to be performed, or by such untrue commendation or depreciation of a thing to be sold as is usual between sellers and buyers.

SECTION 193.

FRAUDULENT MISAPPROPRIATION DEFINED.

15 Every one who commits theft or criminal breach of trust, or who obtains property by any false pretence, is guilty of an indictable offence called fraudulent misappropriation, punishable in the manner herein-after provided for.

SECTION 194.

20 **SAVING AS TO CERTAIN OFFENCES.**

No one who commits any offence herein-after specifically defined shall be deemed to have committed fraudulent misappropriation thereby, although such act may fall within the definition of that offence herein-before contained.

25 **SECTION 195.**

**FRAUDULENT MISAPPROPRIATION BY GENERAL OWNERS, CORPORATORS,
CO-OWNERS, OR TRUSTEES.**

The general owner of a thing in which another person has a special property, a person having a special property in a thing of which
30 another is the general owner, any one of several joint owners or co-partowners of a thing, and a person having the legal estate in anything in which another person is beneficially interested may commit the offence of fraudulent misappropriation in respect of that thing and as against the special owner, the general owner, the other joint-
35 owners or co-partowners, or the person beneficially interested respectively, by dealing with it in such a way and with such an intent as would amount to that offence if the offender had no interest in the thing.

AD. 1878.

SECTION 196.**HUSBAND AND WIFE.**

No act done by a husband or wife with reference to the property of his wife or her husband shall be fraudulent misappropriation, but every person shall be deemed to commit fraudulent misappropriation 5 who knowingly assists any wife or husband in dealing with any property of her husband or his wife in a manner which would amount to that offence if the parties were not married, or who knowingly receives from either any property so dealt with.

SECTION 197.

10

FINDING.

A person who finds and misappropriates lost property does not misappropriate it fraudulently if at the time of such misappropriation he believes in good faith and on reasonable grounds, either that the owner of the property cannot be found without an amount of trouble 15 or expense out of proportion to the value of the property, or that the owner intended to abandon his proprietary rights therein.

SECTION 198.**RULE OF EVIDENCE.**

When a person is charged with criminal breach of trust in respect 20 of property for which he was bound from time to time to account to the owner, and when it is proved that he has accounted for a smaller quantity of property than he was accountable for, he may, if he fails to account for the missing property, be convicted if it is proved that he must have fraudulently misappropriated some property, although 25 there is no evidence of his having fraudulently misappropriated any particular thing.

SECTION 199.**PUNISHMENT OF FRAUDULENT MISAPPROPRIATION.**

Everyone who commits fraudulent misappropriation shall be guilty 30 of an indictable offence, and shall upon conviction thereof be liable to the following punishments; that is to say,

(a.) Every such offender shall be liable to penal servitude for life if the thing misappropriated is alone or together with other things misappropriated at the same time worth £500 or upwards, 35

Or if it is the will, codicil, or other testamentary instrument relating to any kind of property whatever, of any person, either living or dead.

(b.) Every such offender shall be liable to penal servitude for *fourteen years*—

If the thing misappropriated is alone or together with other things 40 misappropriated at the same time worth £100 or upwards, but not worth £500, or

If the thing misappropriated is at the time of the misappropriation the property of the Postmaster General, or of any body of persons exercising his office under authority from Her Majesty, or any person under his or their authority, or is in the possession of any such
 5 person, in the discharge or for the purpose of discharging any of the duties of his office, or is for the purposes of the post office in any post office or place used for the purposes of a post office, or

If the offender was at the time of his offence an officer, clerk, or servant, public or private, or in the capacity of an officer, clerk;
 10 or servant, public or private, of or to the owner of the misappropriated property, and had possession or custody of the misappropriated property as such, or if the thing was stolen, and if at the time of the theft the thing stolen was upon the person of any person, or if it was in a dwelling-house, and the offender put any person therein
 15 in fear by any threat or other means.

(c.) Every such offender shall be liable to penal servitude for *seven years* in all other cases, unless the property misappropriated has a definite money value less than five pounds, in which case the offender shall be liable to be imprisoned with hard labour for two
 20 years.

The value of any document showing the title of any person to any property real or personal, or the right of any person to recover any property real or personal from any person, or to enforce any claim or demand upon any person, is for the purposes of this section equal to
 25 the value of the property or right which it represents, or of the damages which if the claim or demand were not satisfied might be recovered by the person entitled thereto.

When the thing fraudulently misappropriated is a tree, sapling, shrub, live or dead fence, or vegetable production, the punishment
 30 to which the offender is liable shall be determined by the amount of the injury done or by the value of the thing misappropriated, whichever of the two may be the greater.

Every offender against the provisions of this section being a male under *sixteen years* of age shall be liable to be once whipped.

35

SECTION 200.

CONCEALING CERTAIN DOCUMENTS.

Everyone shall be guilty of an indictable offence who for any fraudulent purpose,

40 Conceals any will, codicil, or other testamentary instrument, or any document being or containing evidence of the title or any part of the title of any person to any real estate or to any interest in or out of any real estate,

A.D. 1878. Or unlawfully takes from its place of deposit for the time being, or from any person having the lawful custody of it, or injures the whole or any part of any original document whatever belonging to any court of justice whatever, or any Government or public office whatever. 5

(a.) Every such offender shall be liable upon conviction to penal servitude for life if the thing upon which the offence is committed is a will, codicil, or other testamentary instrument.

(b.) Every other such offender shall be liable to penal servitude for *five years*. 10

SECTION 201.

FRAUDULENTLY CONCEALING ORE.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour, 15

Who, being employed in or about any mine, takes, removes, or conceals any ore of any metal, or other mineral found or being in such mine, with intent to defraud any proprietor of, or any adventurer in, any such mine, or any workman or miner employed therein.

SECTION 202.

20

CONCEALING TREASURE TROVE.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to imprisonment, who conceals from the knowledge of our Lady the Queen the finding of any gold or silver in coin, plate, or bullion hidden in ancient times, and in which 25 no person can show any property, whether the offender found such treasure himself or received it from a person who found it, but was ignorant of its nature.

SECTION 203.

DEER STEALING.

30

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *two years* imprisonment and hard labour, who unlawfully and wilfully courses, hunts, snares, or carries away, kills, wounds, or attempts to kill or wound, any deer kept or being in an inclosed part of any forest, chase, or purlieu, or in 35 any inclosed land where deer are usually kept.

SECTION 204.

KILLING HARES IN A WARREN.

Everyone shall be guilty of an indictable offence, and shall on conviction thereof be liable to imprisonment, who, between the 40

expiration of the first hour after sunset and the beginning of the last hour before sunrise, takes or kills any hare or rabbit in any warren or ground lawfully used for breeding or keeping hares or rabbits, whether inclosed or not. A.D. 1878.

5

CHAPTER XXVIII.

FRAUD.

SECTION 205.

FRAUDULENT FALSE ACCOUNTING AND FALSE STATEMENTS.

Everyone shall be guilty of an indictable offence, and shall be
10 liable upon conviction thereof to *seven years* penal servitude,

(a.) Who, being a director, manager, public officer, or member
of any body corporate or public company, or being a clerk, officer,
or servant, or employed or acting in the capacity of a clerk,
officer, or servant, to any company or body corporate person or
15 persons whatever, or being the partner of any person, wilfully
and with intent to defraud,

(i.) Destroys, alters, mutilates, or falsifies any book, paper,
writing, valuable security, or account which belongs to or is
in the possession of his employer, or partner, or has been
20 received by him for or on behalf of his employer or partner; or

(ii.) Makes or concurs in making any false entry in, or omits or
alters, or concurs in omitting or altering, any material particular
from or in any such book, or any document or account; or,

(b.) Who, being a director, public officer, manager, or member
25 of any body corporate or public company;

(i.) As such receives or possesses himself of any of the property of
such body corporate or public company, otherwise than in
payment of a just debt and demand, and with intent to defraud,
omits to make or to cause and direct to be made, a full and
30 true entry thereof in the books and accounts of such body
corporate or public company; or

(ii.) Makes, circulates, or publishes, or concurs in making, circula-
ting, or publishing, any written statement or account which
he knows to be false in any material particular, with intent to
35 deceive or defraud any member, shareholder, or creditor of
such body corporate or public company; or with intent to
induce any person to become a shareholder or partner therein, or
to intrust or advance any property to such body corporate
or public company, or to enter into any security for the benefit
40 thereof.

SECTION 206.

DEFINITION OF CHEATING.

Cheating is the act of defrauding any person by any deceitful practice calculated to defraud not only some particular person or body of persons, but any considerable number of persons or bodies of persons separately.

SECTION 207.

PUNISHMENT OF CHEATING.

Everyone who cheats any person shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *five years* penal servitude.

SECTION 208.

CONSPIRACY TO EXTORT OR DEFRAUD.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *five years* penal servitude, who conspires with any other person to extort any valuable thing from any person or to defraud any person of any valuable thing.

SECTION 209.

CHEATING AT PLAY.

Everyone shall be guilty of cheating, and shall be liable to be punished accordingly, who wins or endeavours to win from any other person, to himself or any other or others, any sum of money or valuable thing by any fraud in playing at or betting upon any game of chance or skill or of mixed chance and skill.

The offence herein-before defined is complete as soon as the thing won would according to the intention of the parties have become due or payable if there had been no fraud, and whether any such money or valuable thing is actually paid or delivered or not.

SECTION 210.

OBTAINING THE EXECUTION OF VALUABLE SECURITIES BY FALSE PRETENCES.

Everyone shall be guilty of an indictable offence who, with intent to defraud or injure any person, fraudulently causes or induces any person to execute or destroy any valuable security, or causes any one to deal either by alteration or otherwise with any valuable security in such a way as to alter its effect, provided that nothing which under the provisions herein-after contained amounts to forgery shall be an offence under this section.

Everyone who commits the offence herein-before defined shall be liable to the same punishment as if he had fraudulently misappropriated property worth as much as the valuable security so fraudulently dealt with as aforesaid purported to be worth after it was so executed or altered, or before it was so destroyed as aforesaid.

SECTION 211.

A.D. 1878

OBTAINING CREDIT, ETC., BY FALSE PRETENCES.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour, who—

(a.) In incurring any debt or liability, obtains credit under false pretences, or by means of any other fraud; or

(b.) With intent to defraud his creditors, or any of them, makes or causes to be made any gift, delivery, or transfer of or any charge on his property; or

(c.) With intent to defraud his creditors, conceals or removes any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him.

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SECTION 212.

CONCEALING DEEDS AND INCUMBRANCES.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to a maximum punishment of *two years* imprisonment and hard labour, who, being a seller or mortgagor of land, of any chattels, real or personal, or choses in action conveyed or assigned to a purchaser, or mortgagee, or, being the solicitor or agent of any such seller or mortgagor, conceals from the purchaser or mortgagee any instrument material to the title, or any incumbrance; or falsifies any pedigree on which the title does or may depend, in order to induce him to accept the title offered or produced to him, and with intent to defraud.

No prosecution for any offence against this section shall be commenced without the sanction of Her Majesty's Attorney-General, or if his office is vacant of the Solicitor-General. Such previous notice as the Attorney or Solicitor-General directs of the application for leave to prosecute must be given to the person intended to be prosecuted.

30

SECTION 213.

PROTECTION TO OFFENDERS IN CERTAIN CASES.

No one shall be entitled to refuse to answer any claim in the nature of a bill of discovery, or to refuse to answer any question or interrogatory in any civil proceeding in any court, or upon the hearing of any matter in bankruptcy, upon the ground that his doing so might tend to show that he had committed any crime or offence punishable under any provision of this or the next preceding chapter, but no one shall be liable to be convicted of any such crime or

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A.D. 1878. offence by any evidence if he has at any time previous to his being charged with such offence first disclosed such act on oath, or on any declaration equivalent to an oath, in consequence of any compulsory process of any court in any action, suit, or proceeding instituted in good faith by any party aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy. 5

Nothing contained in this or the next preceding chapter shall affect or prejudice any agreement entered into or security given by any trustee having for its object the restoration or repayment of any trust property misappropriated. 10

CHAPTER XXIX.

ROBBERY AND EXTORTION.

SECTION 214.

DEFINITION OF ROBBERY.

15

Robbery is theft of property on the person or in the immediate presence of the owner, in which the taking is effected by actual violence intentionally used to prevent or overcome the owner's resistance, or by threats of injury to his person, property, or reputation. 20

SECTION 215.

PUNISHMENT OF ROBBERY.

(a.) Everyone who commits robbery shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life. 25

(b.) Every such offender may, in addition to the punishment aforesaid, be flogged or whipped, according to his age, once, twice, or thrice, if at the time of committing the offence he is armed with any offensive weapon or instrument, or is together with any other person or persons, or if at the time of or immediately before or immediately after such robbery he uses any personal violence to any person. 30

SECTION 216.

STOPPING OF MAIL.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *fourteen years* penal servitude, who, with intent to rob or search the same, stops any conveyance by which post letters are carried, either by land or on the water, either by 35

the orders of the Postmaster General or of any persons lawfully exercising his office, or by virtue of any contract with any such person. A.D. 1878.

SECTION 217.

5 PUNISHMENT OF ASSAULTS WITH INTENT TO ROB.

(a.) Everyone who assaults any person with intent to rob him shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for *five years*.

10 (b.) Every such offender shall be liable to penal servitude for life, and to be flogged or whipped according to his age, once, twice, or thrice if at the time of committing the offence he is armed with any offensive weapon or instrument, or is together with any other person or persons, or if at the time of or immediately before or immediately after committing the offence he uses any personal violence
15 to any person.

SECTION 218.

EXTORTION BY THREATS OF ACCUSATION OR THREATENING LETTERS.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, and if a
20 male *under sixteen years* of age be once whipped, who—

(a.) With intent to extort or gain anything from any person, accuses or threatens to accuse any person whatever of any offence whatever, or threatens that any person shall be so accused by any other person, whether the person accused or threatened with accu-
25 sation is guilty or not of that offence;

(b.) Sends, delivers, utters, or directly or indirectly causes to be received by any person any document containing any such accusation or threat as last aforesaid, or demanding any such thing or requiring any such conduct from any person with menaces and without any
30 reasonable and probable cause, knowing in either case the contents of such document.

SECTION 219.

THREATENING TO PUBLISH A LIBEL.

Everyone shall be guilty of an indictable offence, and shall upon
35 conviction thereof be liable to *five years* penal servitude, who publishes or threatens to publish any libel, or directly or indirectly proposes to abstain from or offers to prevent the printing or publishing of any matter or thing touching any other person, with intent to extort anything from any person, or to compel any person to confer
40 or procure for any person any appointment or office of profit or trust.

[178.]

A.D. 1878.

SECTION 220.

COMPELLING EXECUTION OF DOCUMENTS BY FORCE.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for life, who, by unlawful violence to or restraint of the person of another, or by the threat that either the offender or any other person will employ such violence or restraint, or by accusing or threatening to accuse any person of any crime, unlawfully compels any person to execute or destroy or cancel any valuable security or deal with any valuable security by alteration or otherwise so as to alter its effect. 10

SECTION 221.

DEMANDING WITH INTENT TO STEAL.

Everyone shall be guilty of an indictable offence and shall be liable upon conviction thereof to penal servitude for *five years*, who with menaces or force demands, either for himself or for any other person, anything capable of being stolen from any person with intent to steal it. 15

CHAPTER XXX.
HOUSEBREAKING.

SECTION 222. 20

DEFINITIONS.

In this chapter the following words are used in the following senses :

“ Night ” means the interval between *nine of the clock at night and six of the clock in the morning.* 25

“ Dwelling-house ” means a permanent building in which the owner or occupier, or any person by their authority, habitually sleeps at night, although at certain intervals it may be unoccupied.

A building occupied with and within the same curtilage with any dwelling-house shall be deemed to be part of the said dwelling-house if there is between such building and dwelling-house a communication, either immediate or by means of a covered and enclosed passage, leading from the one to the other, but not otherwise. 30

The word “ break ” means—

The breaking of any part, internal or external, of the building itself, or the opening by any means whatever (including lifting, in the case of things kept in their places by their own weight) of any door, window, shutter, cellar flap, or other thing intended to cover 35

openings to the house, or to give passage from one part of it to another. A.D. 1878.

An entrance into a house is complete as soon as any part of the body of the person making the entrance or any part of any instrument under his control is within the house.

Every person who obtains entrance into any house or other building by any threat or artifice used for that purpose, or by collusion with any person in the house, or by any chimney or other entrance left open permanently for any necessary purpose, shall be liable to the same consequences as if he had broken and entered that house or building at the same time, under the same circumstances, and with the same intent.

SECTION 223.

PLACES OF WORSHIP.

(a.) Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for *seven years*, who breaks and enters any place of public worship with intent to commit any indictable offence therein.

(b.) Every such offender shall be liable to penal servitude for life if he commits any indictable offence in any such place.

SECTION 224.

BREAKING DWELLING-HOUSES.

(a.) Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *seven years* penal servitude, who either by day or by night, enters any dwelling-house with intent to commit an indictable offence therein.

(b.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *fourteen years* penal servitude, who by day breaks and enters any dwelling-house with intent to commit an indictable offence therein.

(c.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who by night breaks and enters any dwelling-house with intent to commit an indictable offence therein.

After this Act comes into force no person shall be prosecuted for burglary.

SECTION 225.

BREAKING SHOPS, ETC.

(a.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude, who

A.D. 1878. either by day or by night breaks and enters with intent to commit an indictable offence therein any school house, shop, warehouse, counting-house, or building within the curtilage of a dwelling-house, but not so connected therewith as to form part of it under the provisions herein-before contained. 5

(b.) If any such offender commits an indictable offence in any such place as aforesaid, he shall be liable to *fourteen years* penal servitude.

SECTION 226.

BEING FOUND IN POSSESSION OF HOUSEBREAKING INSTRUMENTS.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *five years* penal servitude, 10

Who is by night armed with any dangerous or offensive weapon or instrument whatever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any indictable offence therein; 15

Or by night has in his possession, without lawful excuse (the proof of which excuse shall lie upon him), any key, picklock, crow, jack, bit, or other instrument of housebreaking;

Or by night has his face blackened or otherwise disguised with intent to commit any indictable offence; 20

Or is by night in any dwelling-house or other building whatsoever, with intent to commit any indictable offence therein.

CHAPTER XXXI.

RECEIVING, &c.

SECTION 227.

25

RECEIVING PROPERTY UNLAWFULLY OBTAINED—RULE OF EVIDENCE.

Everyone who receives anything obtained by any offence punishable under any of the provisions of chapters 27, 28, 29, 30, or 32, knowing that thing to have been so obtained, shall be guilty of an indictable offence, and shall be liable to the same punishment as if he had committed the offence by which it was obtained. 30

Whenever any person is being proceeded against for an offence under this section, the following matters may be proved as being relevant to the question whether the defendant knew that the property in respect of which he is being proceeded against was obtained by any such offence as aforesaid; that is to say, 35

(a.) The fact that other property was found in the defendant's possession, which property had been obtained by some such offence

as aforesaid, or by any other offence of the same nature against the law in force at the time, within twelve months of the time when the offence was committed by which the property was obtained for receiving which the defendant is being tried. This fact may be
5 proved at any stage of the proceedings at which evidence may be given for the prosecution.

(b.) The fact that within five years of the time when the property in respect of which he is being proceeded against was found in the defendant's possession he was convicted of any offence
10 involving fraud or dishonesty. Such evidence may not be given unless—

- (i.) Seven days notice in writing has been given to the defendant that proof of such previous conviction is intended to be given; nor unless—
15 (ii.) Evidence has previously been given that the property in respect of which the defendant is being proceeded against was found in his possession.

SECTION 228.

RECEIVING WHEN COMPLETE.

20 The act of receiving referred to in the last section is complete as soon as the offender obtains from the person from whom he receives it control over the thing received.

Things obtained as aforesaid cease to be so obtained as soon as they come into the possession of any person lawfully entitled to be
25 in possession of them.

SECTION 229.

CORRUPTLY TAKING REWARD FOR RESTITUTION OF GOODS.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude,

30 Who corruptly takes any money or reward, directly or indirectly, under pretence or upon account of helping any person to anything whatsoever unlawfully obtained as aforesaid, unless he uses all due diligence to cause the offender to be brought to trial for the same.

Provided that no person shall be liable to any greater punishment
35 for this offence than he would have been liable to if he had committed the offence by which the thing was obtained.

A.D. 1878.

CHAPTER XXXII.

FORGERY.

SECTION 230.

A FALSE DOCUMENT DEFINED.

A false document is a document which, taken as a whole, purports to be what it is not, or to have an operation which it has not, or which is so framed that any person intended to act upon it would reasonably believe it to be what it is not, or to have an operation that it has not.

SECTION 231.

10'

MAKING A FALSE DOCUMENT.

The expression "making a false document" means—

(a.) The act of making the whole or any false part of any document, the whole or any part of which is false within the meaning of the provisions herein-before contained:

15

(b.) The act of altering a genuine document in any material particular by any means whatever. Every genuine document so altered is a false document within the meaning of this section.

(c.) The act of making material additions or omissions in the preparation of a genuine document, so as to procure the execution of a document materially different from that which was intended to be executed. Every document so prepared is a false document, within the meaning of this section.

20

SECTION 232.

DEFINITION OF FORGERY.

25

Forgery is the act of making a false document with an intent to defraud or injure the public or any person, or to pervert the course of justice, or to defeat or evade the provisions of any law.

This expression means an intent, either absolute or conditional, that the false document should be used in such a way as unlawfully to cause one of the consequences aforesaid or a risk of its occurrence,—

30

whether any such consequence was or was not possible in fact; and whether or not the offender when he made the false document thought of the probability that any such consequence or a risk of its occurrence would be caused by the use to be made of the false document;

35

and whether or not the offender knew or had the means of knowing the particular manner in which, or the particular person with respect to whom, such consequence or the risk of its occurrence would or might be caused;

5 and although he may have hoped that such consequence would not follow and may have prevented or endeavoured to prevent it from following.

Every false document made with any such intent as aforesaid is herein-after designated a forged document.

10

SECTION 233.

PUNISHMENT OF FORGERY.

Every person who commits forgery shall be guilty of an indictable offence,

(a.) Every such offender shall be liable to penal servitude for life :

15 (i.) If the false document is or purports to be sealed with the Great Seal of the United Kingdom, Her Majesty's Privy Seal, any Privy Signet of Her Majesty, Her Majesty's Royal Sign Manual, any of Her Majesty's Seals appointed to be kept and continued in Scotland by the twenty-fourth Article of the Union between England and Scotland, the Great Seal of Ireland or the Privy Seal of Ireland, or any Public Seal of any Dominion, Possession, or Colony of Her Majesty, or of any foreign Prince or State; or

20 (ii.) If the false document is or purports to be a will, codicil, or testamentary instrument; or

25 (iii.) If the false document is, or purports to be a valuable security; or

(iv.) If the false document is an entry relating to any birth, baptism, marriage, death, or burial in any register of births, baptisms, marriages, deaths, or burials authorised or required to be kept by the law in force for the time being, or in any copy of any such register required by law to be transmitted to any registrar or other officer; or

30 (v.) If the false document is a stamp required by law to be impressed upon or applied to any document;

35 (b.) Every such offender shall be liable to penal servitude for *fourteen years* :

(i.) If the false document is or purports to be made under any Act in force for the time being relating to the registry of deeds; or,

40 (ii.) If the false document is or purports to be made by any officer of any court of justice in England or Ireland, or by any

A.D. 1878.

cashier or other officer or clerk of the Governor or Company of the Bank of England or Ireland;

(c.) Every such offender shall be liable to penal servitude for *seven years* in all other cases for which no specific punishment is provided by any Act of Parliament in force for the time being. 5

SECTION 234.

DRAWING BILLS, &c. WITHOUT AUTHORITY.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *fourteen years* penal servitude, who, without lawful authority or excuse, makes or executes, draws, signs, 10 accepts, or endorses in the name or on the account of another person by procuration or otherwise any document for forging which the offender would be liable to penal servitude for life, or makes use of or alters any such document, knowing it to be so made, executed, signed, accepted, or endorsed. 15

SECTION 235.

USING FORGED DOCUMENTS.

Everyone shall be guilty of an indictable offence who, with intent to defraud, injure, or pervert the course of justice, uses, attempts to use, utters, sells, or exposes to sale, or acts, or causes or attempts 20 to cause any person to act, under, upon, or by virtue or on the faith of any forged document, knowing it to be forged. Every such offender shall be liable upon conviction to the same punishment as if he had forged that document with the intent with which he used or attempted to use it, or otherwise acted with respect to it. 25

SECTION 236.

USING PROBATE, &c. OBTAINED BY FORGERY OR FALSE OATHS.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *fourteen years* penal servitude, who—

(a.) Demands, receives, obtains, or causes or procures to be deli- 30 vered or paid to any person any thing whatever, under, upon, or by virtue of any probate or letters of administration, knowing that the will, codicil, or testamentary writing on which such probate or letters of administration were obtained to be forged, or knowing the probate or letters of administration to have been obtained by any 35 false oath, affirmation, or affidavit; or

(b.) Endeavours to do any such thing.

CHAPTER XXXIII.

PREPARATIONS FOR FORGERY AND OFFENCES
RESEMBLING FORGERY.

SECTION 237.

5 BANK NOTE, BANK NOTE PAPER, EXCHEQUER BILL PAPER.

In this chapter the following words are used in the following senses:

The word "bank note" includes all valuable securities or negotiable instruments issued by any person or persons, body corporate, or
10 company carrying on the business of banking in any part of the world, or issued by the authority of any foreign prince or state or government, or any governor or other authority lawfully authorised thereto in any of Her Majesty's dominions beyond the seas, and intended to be used as equivalent to or as a substitute for money
15 either immediately upon their issue or at some time subsequent thereto.

The expression "Exchequer bill" includes Exchequer bonds and debentures.

The expression "bank note paper" means any paper made for the
20 purpose of being made into bank notes, and fitted for that purpose either by water marks, laying wire lines, bar lines, threads, colours, or other distinguishing marks in the structure of the paper itself, or by words, numbers, devices, characters, ornaments, colours, or other distinguishing marks impressed upon the paper.

25 The expression "Exchequer bill paper" means any paper provided by or under the directions of the Commissioners of Inland Revenue or of the Treasury for the purpose of being used as Exchequer bills before such paper is duly stamped, signed, and issued for public use.

SECTION 238.

30 UNAUTHORISED DEALING WITH BANK NOTE PAPER AND FORGED BANK NOTES.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for *fourteen years*, who without lawful authority or excuse (the proof whereof shall lie upon him)—

35 (a.) Makes, uses, sells, exposes to sale, or knowingly has in his custody or possession,—

(i.) Any bank note paper or Exchequer bill paper;

[178.]

H

A.D. 1878.

(ii.) Any paper in the structure of which or on which are any of the distinguishing marks of bank note paper or Exchequer bill paper or any words resembling or apparently intended to resemble all or any of the words or any signature appearing on any bank note or Exchequer bill; 5

(iii.) Any frame, mould, instrument, machinery, plate, or device, of whatever nature or material, for making bank note paper or Exchequer bill paper, or for making in or upon any paper any of the distinguishing marks of bank note paper or Exchequer bill paper. 10

(b.) Who engraves or makes in any manner upon any plate or other thing, of whatever nature or material, any of the distinguishing marks of bank note paper or Exchequer bill paper, or any words resembling or apparently intended to resemble all or any of the words or any signature appearing on any bank note or Exchequer bill; or, 15

(c.) Who uses any such plate or other thing as last aforesaid for making or printing any such mark, word, or signature as last aforesaid on any paper.

SECTION 239.

20

DEALING IN FORGED BANK NOTES.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *fourteen years* penal servitude, who purchases or receives from any person, or has in his custody or possession, any forged bank note or forged blank bank note, knowing it to be forged, and without lawful authority or excuse, the proof whereof shall lie upon him. 25

SECTION 240.

OFFENCES RELATING TO STAMPS.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who 30

(a.) Fraudulently cuts, tears, or in any way removes from any material any stamp, with intent that any use should be made of such stamp or of any part thereof;

(b.) Fraudulently mutilates any stamp with intent that any use should be made of any part of such stamp; 35

(c.) Fraudulently fixes or places upon any material or upon any stamp, any stamp or part of a stamp, which whether fraudulently or not has been cut, torn, or in any way removed from any other material or out of or from any other stamp; 40

(d.) Fraudulently erases or otherwise, either really or apparently, removes from any stamped material any name, sum, date, or other matter or thing whatsoever thereon written, with the intent that any use should be made of the stamp upon such material; A.D. 1878.

5 (e.) Knowingly and without lawful excuse (to be proved by him) has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped
10 thing has been fraudulently erased or otherwise, either really or apparently, removed.

SECTION 241.

FORGING SEALS AND OTHER INSTRUMENTS.

Everyone shall be guilty of an indictable offence, who, with
15 intent to defraud or to enable any other person to defraud, makes, uses, sells, or exposes to sale, or who knowingly, and without lawful excuse to be proved by him, has in his custody or possession any counterfeit seal, stamp, die, or other counterfeit instrument fitted to make any seal, stamp, or impression used for authenticating or executing any document or any signature used for authenticating or executing any document which may lawfully be made
20 by a stamp or instrument, or for making any stamp required by law to be impressed upon or applied to any document. Every such offender shall be liable upon conviction to the same punishment as
25 if he had forged the document, signature, or stamp, which such seal, stamp, or instrument would, if genuine, have been fitted to authenticate or make.

SECTION 242.

DEFACING REGISTERS.

30 Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who does any of the following things to any register of births, baptisms, marriages, deaths or burials authorised or required by law to be kept, or to any copy of any register required by law to be trans-
35 mitted to any registrar or other officer; (that is to say,)

(a.) Knowingly and unlawfully destroys, defaces, or injures the whole or any part of any such register or copy, or permits any such register or copy to be so dealt with.

(b.) Unlawfully and for any fraudulent purpose takes any such
40 register or copy from its place of deposit or conceals it.

A.D. 1878.

(c.) Knowingly and unlawfully inserts or causes or permits to be inserted in any such register or copy, or in any certified copy of either, any false entry of any matter relating to any birth, baptism, marriage, death, or burial, or gives any false certificate relating thereto. 5

(d.) Certifies any writing to be a copy or extract from any such register, knowing such register or the part of the register or copy of a register of which it is a copy to be false in any material particular.

(e.) Makes use in any way whatever of any false entry, copy, or writing herein-before mentioned knowing it to be false. 10

SECTION 243.

MAKING FALSE ENTRIES IN BOOKS RELATING TO PUBLIC FUNDS.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for life, who, with intent to defraud, 15

(a.) Makes any false entry or alteration in any book of account kept by the Governor and Company of the Banks of England and Ireland respectively, in which books are kept the accounts of the owners of any stock, annuity, or other public fund transferable for the time being at either of the said banks, or who in any manner wilfully falsifies any of the accounts of any such owners in any of the said books, or 20

(b.) Makes any transfer of any share or interest of or in any stock, annuity, or other public fund transferable for the time being at either of the said banks, in the name of any person other than the owner of such share or interest. 25

SECTION 244.

OFFICERS UTTERING FALSE CERTIFICATES.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude,— 30

(a.) Who, being the clerk of any court or other officer, or deputy of the officer, having custody of the records of any court, knowingly and wilfully utters a false copy of certificate of any record, or 35

(b.) Who, not being such officer or deputy, knowingly and wilfully registers or certifies any copy of any record or any copy of any certificate as such officer or deputy; or

(c.) Who, being in the employment of the Governor and Company of the Bank of England or of the Bank of Ireland, knowingly 40

and with intent to defraud, makes out or delivers any dividend warrant or any warrant for the payment of any annuity, interest or money payable at either of the said banks for an amount greater or less than that to which the person on whose account such 5 warrant is made out is entitled. A.D. 1878.

SECTION 245.

TRADE MARKS DEFINED.

A trade mark is—

(a.) Any word or mark of any kind whatever lawfully used by 10 any person to denote anything to be of the manufacture, production, workmanship, or merchandise of that person, or to be a thing of any particular description sold by that person; or

(b.) Any word, mark, or sign which, in pursuance of any statute in force for the time being relating to registered designs, is to be 15 put or placed upon or attached to anything during the existence of any copyright or other sole right acquired under the provisions of any such statute.

SECTION 246.

FORGING TRADE MARKS.

20 Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour, who, with intent to defraud or to enable another to defraud,—

(a.) Counterfeits any trade mark; or

25 (b.) Makes use of any trade mark or counterfeited trade mark in a manner intended or calculated to deceive any person thereby.

Every person who commits any such offence shall in addition to the punishment herein-before mentioned, forfeit to Her Majesty everything in his possession or power to which any such trade mark 30 or counterfeit trade mark is applied, and everything as to which any person is intended to be deceived by the use made of any trade mark or counterfeit trade mark, and every instrument in his possession or power for applying any such trade mark or counterfeit trade mark.

35

SECTION 247.

LEGAL EFFECT OF INSTRUMENTS, AND NOT THEIR DESIGNATION, TO BE CONSIDERED.

Where by this or any other Act of Parliament in force or to be in force, any person is made liable to punishment for any offence

A.D. 1878. committed with reference to any document designated in that Act by any particular name or description, such name or description shall be taken to refer to the legal effect of such document, and not to the name or description by which it may be usually known.

SECTION 248.

5

APPLICATION OF THE PRECEDING CHAPTERS—POSSESSION.

Every provision of this and of the last preceding chapter shall apply to acts done in England to or with reference to forged or false documents, or other things herein-before referred to made out of England, and to the forging or making in England of documents or other things herein-before referred to, intended to be paid or used or otherwise dealt with in any manner forbidden by this Act out of England. 10

Being in possession of anything is an act within the meaning of this section. 15

Every provision of this and the last preceding chapter which makes the possession of anything an offence, extends to cases in which the thing possessed is in the custody of another person on account of the offender to the offender's knowledge, and to cases in which the thing possessed is kept by the offender in any place out of his own presence, whether such place is or is not occupied by him, and does or does not belong to him, and to cases in which the offender possesses the thing for the benefit of some other person. 20

CHAPTER XXXIV.

25

PERSONATION.

SECTION 249.

PERSONATION.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life: 30

(a.) Who, except in the cases herein-after or by any other statute specially provided for, falsely and deceitfully personates any person, or the heir, executor, or administrator, wife, widow, next of kin, or relation of any person, with intent fraudulently to obtain any land, estate, chattel, money, valuable security, or property; or, 35

(b.) Who falsely and deceitfully personates:

- (i.) Any owner of any share or interest of or in any stock, annuity, or other public fund transferable at the Bank of England or the Bank of Ireland ;
- 5 (ii.) Any owner of any share or interest of or in the capital stock of any body corporate, company, or society established by charter or by virtue of an Act of Parliament ;
- (iii.) Any owner of any dividend or money payable in respect of any such share or interest as aforesaid ;
- 10 And who thereby transfers or endeavours to transfer any share or interest belonging to such owner, or thereby receives or endeavours to receive any money due to any such owner as if such offender were the true and lawful owner.

SECTION 250.

PERSONATION OF SEAMEN.

- 15 Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude.
- Who falsely and deceitfully personates any person entitled or supposed to be entitled to receive any pay, wages, allotment, prize money, bounty money, grant or other allowance in the nature
- 20 thereof, half pay, pension, or allowance from the compassionate fund of the navy payable or supposed to be payable by the Lord High Admiral, or the commissioners for executing his office, or any other money so payable or supposed to be payable, or any effects
- 25 or money in charge or supposed to be in charge of him or them, in order to receive any such thing.

SECTION 251.

ACKNOWLEDGING RECOGNIZANCE, ETC. IN FALSE NAME.

- 30 Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude, who without lawful authority or excuse (the proof of which shall lie on the party accused) acknowledges any recognizance or bail, or any *cognovit actionem*, or judgment, or any deed or other instrument before any court, judge, or other person lawfully authorised in that behalf.

A.D. 1878.

CHAPTER XXXV.

OFFENCES RELATING TO THE COIN.

SECTION 252.

INTERPRETATION OF TERMS.

In this chapter the following words and expressions are used in 5
the following senses:—

“Current,” applied to coin, means coin coined in any of Her Majesty’s mints or lawfully current by virtue of any proclamation or otherwise in any part of Her Majesty’s dominions, whether within 10
the United Kingdom or without.

“Copper,” applied to coin, includes bronze or mixed metal and every other kind of coin inferior in value to silver.

“Counterfeit coin” means coin not genuine, but resembling, or apparently intended to resemble or pass for genuine coin, and includes genuine coin prepared or altered so as to resemble or 15
pass for coin of a higher denomination, and counterfeit coin in an unfinished state.

“Gild” and “silver,” as applied to coin, include casing with gold or silver respectively, and washing and colouring by any means whatsoever with any wash or materials capable of producing the 20
appearance of gold or silver respectively.

“Utter” includes “tender,” and “put off.”

“Having in possession” includes knowingly and wilfully having,—

(a.) in the possession or custody of any other person; or,

(b.) in any place for the use or benefit of the possessor or any 25
other person.

SECTION 253.

COINING.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life: 30

(a.) Who makes any counterfeit gold or silver current coin; or,

(b.) Who gilds or silvers any counterfeit current coin; or,

(c.) Who gilds or silvers any piece of metal or mixture of metals whatever of a fit size and figure to be coined, with intent that it shall be coined into counterfeit current gold or silver coin; or, 35

(d.) Who gilds, silvers, files, or alters any current silver or copper coin with intent to make it resemble or pass for current gold or silver coin.

SECTION 254.

DEALING IN AND IMPORTING COUNTERFEIT COIN.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to penal servitude for life, who, without
5 lawful authority or excuse to be proved by the party accused,—

(a.) Buys, sells, receives, pays, or puts off any counterfeit gold or silver current coin at a lower rate than it imports or was apparently intended to import, or offers to do any such thing, whether or not such coin was in a fit state to be uttered, and whether or not the
10 counterfeiting thereof was finished; or,

(b.) Imports or receives into the United Kingdom from beyond the seas any counterfeit current coin knowing it to be counterfeit.

SECTION 255.

MAKING INSTRUMENTS FOR COINING.

15 Everyone shall be guilty of an indictable offence, and shall be liable on conviction thereof to penal servitude for life, who, without lawful authority or excuse to be proved by the party accused,—

(a.) Makes, mends, begins or proceeds to make or mend, buys, sells, or has in his custody or possession, any machine, tool, or thing
20 specially adapted or intended to be employed in any part of the process of coining current coin or counterfeit coin, knowing that it is so adapted or intended; or,

(b.) Knowingly conveys out of any of Her Majesty's mints any such thing as is mentioned in sub-section (a), or any useful part
25 thereof, or any coin, bullion, metal, or mixture of metals.

SECTION 256.

CLIPPING AND POSSESSION OF METAL OBTAINED THEREBY.

(a.) Everyone shall be guilty of an indictable offence, and shall upon conviction be liable to *fourteen years* penal servitude, who impairs,
30 diminishes, or lightens any current gold or silver coin with intent that when so dealt with it may pass as current gold or silver coin.

(b.) Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *seven years* penal servitude, who has in his custody or possession any filings or clippings, gold or silver
35 bullion, or gold or silver in dust or solution, obtained by impairing current gold or silver coin, knowing it to have been so obtained.

A.D. 1878.

SECTION 257.

OFFENCES RELATING TO COPPER COIN.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude :

(a.) Who counterfeits the Queen's current copper coin ; or 5

(b.) Who (without lawful authority or excuse (the proof whereof shall lie upon him)) knowingly makes or mends, or begins or proceeds to make or mend, or buy or sell, or have in his custody or possession, any instrument, tool, or engine adapted and intended for counterfeiting any of the Queen's current copper coin ; or, 10

(c.) Who buys, sells, receives, pays, or puts off any counterfeit copper coin at a lower rate or value than the same imports or was apparently intended to import.

SECTION 258.

OFFENCES RELATING TO FOREIGN GOLD AND SILVER COIN. 15

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *seven years* penal servitude ;

(a.) Who makes counterfeit gold or silver coin of any foreign prince, state, or country ; or,

(b.) Who brings or receives into the United Kingdom counterfeit 20 gold or silver coin of any foreign prince, state, or country, knowing the same to be counterfeit, without lawful authority or excuse, to be proved by the party accused, whether or not such coin was in a fit state to be uttered, and whether or not the counterfeiting thereof was finished. 25

SECTION 259.

COINING FOREIGN COPPER COIN.

Everyone who makes any counterfeit copper coin of any foreign prince, state, or country shall be guilty of an indictable offence, and shall upon conviction thereof be liable to be imprisoned with 30 hard labour for *two years*.

SECTION 260.

POSSESSION OF COUNTERFEIT GOLD OR SILVER.

Everyone shall be guilty of an indictable offence, and shall upon 35 conviction thereof be liable to *five years* penal servitude, who has in his possession any counterfeit current gold or silver coin, knowing such coin to be counterfeit, and with intent to utter it.

SECTION 261.

UTTERING COUNTERFEIT GOLD OR SILVER COIN.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *two years* imprisonment and hard labour, who utters any counterfeit current gold or silver coin knowing it to be counterfeit.

SECTION 262.

UTTERING BASE COPPER OR FOREIGN COIN.

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to *two years* imprisonment and hard labour:

(a.) Who, without lawful authority or excuse to be proved by him, exports or puts on board any vessel for the purpose of being exported from the United Kingdom any counterfeit current coin whatever, knowing the same to be counterfeit; or,

(b.) Who utters any counterfeit current copper coin, knowing it to be counterfeit; or,

(c.) Who has in his possession any counterfeit current copper coin, knowing it to be counterfeit, and with intent to utter it; or,

(d.) Who, with intent to defraud, utters as current gold or silver coin any coin which is not such coin, or any medal or piece of metal or mixed metal resembling in size, figure, and colour the current coin as which it is uttered, but being of less value; or,

(e.) Who defaces any current coin whatever by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened; or,

(f.) Who utters any counterfeit gold or silver coin of any foreign prince, state, or country, knowing it to be counterfeit; or

(g.) Who utters or has in his possession, intending to utter it, any gold or silver coin, impaired, diminished, or lightened unlawfully, and not by fair use, knowing the same to have been so unlawfully dealt with.

SECTION 263.

RULE OF EVIDENCE.

The fact that any coin is counterfeit may be proved by any witness, and need not be proved by any moneyer or officer of Her Majesty's mint.

A.D. 1878.

CHAPTER XXXVI.

MISCHIEF.

SECTION 264.

PRELIMINARY.

Nothing shall be an offence under any provision contained in this chapter unless it is done without legal justification or excuse, and without any claim of right founded either on a mistake of law or on a mistake of fact, nor unless the offender either intended to cause the event constituting the offence, or knowingly ran the risk of causing it by some act which he knew would probably cause it. 5 10

The provisions of this chapter shall extend as well to cases in which the offender is in possession of any property to which any injury is done as to other cases, and as well to consequences intentionally caused by an omission to discharge any legal duty, as to consequences caused by acts. 15

SECTION 265.

ARSON.

Arson is the act of setting fire—

To any building, hovel, shed, or other permanent erection whatsoever; 20

Or to any stack of cultivated vegetable produce, or of wood or bark, or of any mineral or vegetable fuel, or of gorse, heath, or fern;

Or to any crop of cultivated vegetable produce, or to any wood, coppice, or plantation of trees, or to any heath, gorse, or fern; 25

Or to any mine; 25

Or to any ship, whether in a complete or unfinished state;

Or to any of Her Majesty's military, naval, or victualling stores or other ammunition of war.

SECTION 266.

PUNISHMENT OF ARSON AND ATTEMPTS TO COMMIT ARSON. 30

(a.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who commits arson.

(b.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *fourteen years* penal servitude: 35

(i.) Who attempts to commit arson;

(ii.) Who sets fire or attempts to set fire to anything in, against, or under any building or other thing the setting fire to which

would amount to arson, and which building or other thing is likely to catch fire from the thing set on fire. A.D. 1878.

Every male under sixteen years of age who commits any offence against this section shall be liable to be whipped once.

5

SECTION 267.

MISCHIEF BY GUNPOWDER.

(a.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who by the explosion of gunpowder or other explosive substance throws
10 down or damages the whole or any part of any dwelling-house any person being therein, or the whole or any part of any building so as to endanger the life of any person.

(b.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for *fourteen years*,
15 who places or throws any gunpowder or other explosive substance in, into, upon, under, against, or near any building, ship, or vessel with intent to destroy or damage any such building, ship, or vessel, or any engine, machinery, working tools, fixtures, or chattels, whether or not any explosion takes place, and whether or not any damage is
20 caused thereby.

Every male under sixteen years of age who commits any offence against this section shall be liable to be whipped once.

SECTION 268.

INJURIES TO RAILWAY TRAINS.

25 (a.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life, who, with intent to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage, or truck using any railway, does or causes to be done anything whatever to any part of the railway, or to any
30 machinery or signal belonging to it or near to it, or to any such engine, carriage, or truck.

(b.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour, who by any unlawful act, or by any wilful omission or
35 neglect, obstructs or causes to be obstructed any engine, tender, carriage, or truck using any railway.

Every male under sixteen years of age who commits an offence against this section shall be liable to be whipped once.

[178.]

A.D. 1878.

SECTION 269.

MISCHIEF TO SHIPS.

- (a.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life :
- (i.) Who casts away or in anywise destroys any ship or vessel 5
whatever, whether in a complete or unfinished state ; or,
- (ii.) Who does anything tending to the immediate loss or destruction of any ship, vessel, or boat ; or,
- (iii.) Who, with intent to bring any ship, vessel, or boat into danger, masks, alters, or removes any light or signal, or exhibits 10
any false light or signal.
- (b.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for *fourteen years,*
- (i.) Who destroys any part of any ship or vessel in distress, wrecked, 15
stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel.
- (ii.) Attempts to cast away or destroy any ship or vessel whatever, whether in a complete or unfinished state.
- (c.) Everyone shall be guilty of an indictable offence, and shall be 20
liable upon conviction thereof to penal servitude for *seven years :*
- (i.) Who damages with intent to destroy or render it useless any ship or vessel, whether complete or incomplete, by any means other than fire, gunpowder, or other explosive substance ; or, 25
- (ii.) Who cuts away, casts adrift, removes, alters, defaces, or destroys any boat, buoy, buoy rope, perch, or mark used or intended for the guidance of seamen for the purposes of navigation, or who does any act with intent to do any of the things aforesaid, or who in any other manner injures or conceals any of the 30
things aforesaid.

Every male *under sixteen* who commits any offence against this section shall be liable to be whipped once.

SECTION 270.

INJURIES TO SEA WALLS AND WORKS CONNECTED WITH WATER. 35

- (a.) Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to penal servitude for life :
- (i.) Who breaks down, cuts down, or otherwise damages or destroys—

- Any sea bank or sea wall, or the bank, dam, or wall of or
 belonging to any water, whereby any land or building is,
 or is in danger of being, overflowed or damaged; or,
 Any work belonging to any port, harbour, dock, or reservoir,
 or on or belonging to any navigable river or canal; or,
 Any bridge (whether over any stream of water or not) or
 any viaduct or aqueduct over or under which any high-
 way, railway, or canal passes; or,
 (ii.) Who does any injury with intent and so as thereby to render
 dangerous or impassable any such bridge, viaduct, or aque-
 duct, or any highway, railway, or canal passing over or under
 the same or any part thereof.
 (b.) Everyone shall be guilty of an indictable offence, and shall
 be liable upon conviction thereof to penal servitude for *seven years* :
- (i.) Who cuts off, draws up, or removes any piles, chalk, or other
 materials fixed in the ground and used for securing any sea bank
 or sea wall, or the bank, dam, or wall of any other water; or,
 (ii.) Who, with intent and so as thereby to obstruct and prevent
 the carrying on or completing or maintaining the navigation of
 any navigable river, or canal, opens or draws up any flood-gate,
 or sluice, or does any injury or mischief to such river or canal;
 or,
 (iii.) Who cuts through, breaks down, or otherwise destroys the
 dam, flood-gate, or sluice of any fishpond, or of any water being
 private property, or in which there is any private right of
 fishery, with intent thereby to take or destroy any of the fish
 therein, or so as thereby to cause the loss or destruction of any
 of them; or,
 (iv.) Who puts lime or any other noxious material in any river,
 with intent to destroy any fish then being or afterwards to be
 put therein; or
 (v.) Who cuts through, breaks down, or otherwise destroys the
 dam or flood-gate of any millpond, reservoir, or pool.
- Every male *under sixteen years* of age who commits any offence
 under this section shall be liable to be whipped once.

SECTION 271.

INJURIES TO CATTLE.

Everyone shall be guilty of an indictable offence, and shall upon
 conviction thereof be liable to *fourteen years* penal servitude, who
 kills, maims, wounds, or causes grievous bodily harm to any cattle.

Every tame beast used for food or labour shall be cattle within
 the meaning of this section, whether the person in whose posses-

A.D. 1878.

sion such beast is at the time when the offence is committed upon it uses or intends to use it for either of those purposes or not.

SECTION 272.

INJURIES TO MACHINERY AND TO MINES.

Everyone shall be guilty of an indictable offence, and shall be 5 liable upon conviction thereof to *seven years* penal servitude, and if a male *under sixteen years* of age to be whipped once :

(a.) Who cuts, breaks, destroys, or damages with intent to destroy or render useless any goods, or articles in any stage of manufacture, or who by force enters any house, shop, building, or place with 10 intent to commit any such offence ; or

(b.) Who cuts, breaks, destroys, or damages with intent to destroy or render useless any machine or engine, whether fixed or movable, used or intended to be used for any agricultural operation, or prepared for or employed in any manufacture, other than the manu- 15 facture of woven goods, or any tool or implement, whether fixed or movable, prepared for or employed in any such manufacture ; or

(c.) Who by any unlawful act done to any mine, or to any thing whatever, movable or immovable, used in conducting the business thereof, or by causing any water to flow into it by any means what- 20 ever, destroys or damages the mine or hinders, obstructs, or delays the working thereof, or attempts to do so ; or,

(d.) Who wholly or partially cuts through, severs, breaks, unfastens, or damages with intent to destroy or render useless any rope, chain, or tackle of whatever material used in any mine, or upon any way 25 or work connected therewith, or employed in working it ; or

(e.) Who cuts or otherwise destroys any hop binds growing on poles in any plantation of hops ; or

(f.) Who injures or removes anything whatever forming part of or used in or about any electric or magnetic telegraph, or in the 30 working thereof, or prevents or obstructs in any manner whatever the sending, conveyance, or delivery of any communication by any such telegraph.

SECTION 273.

GENERAL PROVISION AS TO MISCHIEF.

35

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to the punishments herein-after mentioned, who commits any damage, injury, or spoil upon any real or personal property whatever, whether of a public or private nature, to the value of *one pound*, for which no punishment is herein-before 40 provided ; that is to say,

Every such offender shall be liable to *five years* penal servitude if the amount of the damage, spoil, or injury exceeds 20*l.*, and to *two years* imprisonment and hard labour if it does not exceed 20*l.* but does exceed 1*l.* A.D. 1878.

5 The 52nd section of the Act passed in the 25th year of Her Majesty's reign, chapter 97, shall be amended as follows: It shall be read as if for the words "for which no punishment is herein-
" before provided " were substituted the words " the amount of which
" does not exceed *five pounds*, and which is punishable under the
10 " Criminal Code (Indictable Offences), 1878, section 273, or which
" is not punishable under the provisions of that Act."

SECTION 274.

THREATS TO BURN, ETC.

Everyone shall be guilty of an indictable offence, and shall be
15 liable upon conviction thereof to *ten years* penal servitude, who, knowing the contents thereof, sends, delivers, utters, or directly or indirectly causes to be received any document threatening to burn or destroy any building, or any rick or stack of grain, hay, or
20 straw, or other agricultural produce, whether in or under any building or not, or any ship or vessel, or to kill, maim, or wound any cattle.

SECTION 275.

MAKING AND POSSESSING GUNPOWDER FOR CERTAIN PURPOSES.

Everyone shall be guilty of an indictable offence, and shall be
liable upon conviction thereof to *two years* imprisonment and hard
25 labour, who knowingly has in his possession, or makes or manufactures, any gunpowder, explosive substance, dangerous or noxious thing, machine, engine, instrument, or thing with intent thereby, or by means thereof, to commit or for the purpose of enabling any other person to commit any indictable offence punishable under the
30 provisions of this chapter or of chapter XX. or XXI.

SECTION 276.

MISCHIEVOUS BREACH OF CONTRACT.

Everyone shall be guilty of an indictable offence, and shall upon
conviction thereof be liable to be fined *twenty pounds* or to be
35 imprisoned and kept to hard labour for *three calendar months*, who does or conspires with any other person to do any of the following things; that is to say,

(a.) Who wilfully and without legal justification or excuse, or claim of right, founded either on a mistake of law or on a mistake

A.D. 1878. of fact, breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequence of his so doing, either alone or in combination with others, will be to endanger human life, or cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury; or, 5

(b.) Who being employed by a municipal authority, or by any company or contractor upon whom is imposed by Act of Parliament the duty, or who have otherwise assumed the duty, of supplying any city, borough, town, or place, or any part thereof, with gas or water, wilfully and without legal justification or excuse, and without claim of right founded on a mistake either of law or of fact, breaks a contract of service with that authority or company or contractor, knowing, or having reasonable cause to believe, that the probable consequence of his so doing, alone or in combination with others, will be to deprive the inhabitants of that city, borough, town, place, or part, wholly or to a great extent of their supply of gas or water; or, 15

The expression "municipal authority" in this section means—

- (i.) The Metropolitan Board of Works. 20
- (ii.) The Common Council of the City of London.
- (iii.) The Commissioners of Sewers of the City of London.
- (iv.) The town council of any borough for the time being subject to the Act passed in the 6th year of the reign of King William IV., chap. 76., intituled An Act to provide for the regulation of municipal corporations in England and Wales, and any Act amending the same. 25
- (v.) Any commissioners, trustees, or other persons invested by any local Act of Parliament with powers for improving, cleansing, lighting, or paving any town, or any local board. 30

Any municipal authority, company, or contractor authorised or required by or in pursuance of any general or local Act of Parliament to supply any streets of any place with gas, or to supply water on demand to the inhabitants of any place, shall for the purposes of this section be deemed to have imposed upon them respectively by Act of Parliament the duty of supplying such place with gas or water. 35

No one shall be proceeded against under this section unless he has been proceeded against as for a summary offence under the Conspiracy and Protection of Property Act, 1875, and has declared that he objects to being tried for such offence by a court of summary jurisdiction. 40

Nothing in this section shall apply to seamen or to apprentices in the sea service. A.D. 1878.

Every person, and the husband and wife of every person, who is indicted for any offence against this section shall be a competent witness upon the trial of such indictment.

CHAPTER XXXVII.
BANKRUPTCY AND BREACH OF CONTRACT.

SECTION 277.

ABSCONDING WITH PROPERTY IN CONTEMPLATION OF BANKRUPTCY.

10 Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *two years* imprisonment and hard labour, who quits England and takes with him, or attempts or makes preparation for quitting England and for taking with him any part of his property, to the amount of *twenty pounds* or upwards,
15 which ought by law to be divided amongst his creditors, having been adjudged a bankrupt, or having had his affairs liquidated by arrangement after the presentation of a bankruptcy petition against him, or the commencement of his liquidation, or within *four months* before such presentation or commencement, unless the jury
20 is satisfied that he had no intent to defraud.

SECTION 278.

PUNISHMENT OF FRAUDULENT DEBTORS.

Every person adjudged bankrupt, and every person whose affairs are liquidated by arrangement under the law relating to bankruptcy
25 for the time being, shall be guilty of an indictable offence, and shall be liable upon conviction thereof to a maximum punishment of *two years* imprisonment and hard labour :

(a.) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee administering his estate for the
30 benefit of his creditors all his property, real and personal, and how, and to whom, and for what consideration, and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expense of his family, unless the jury is satisfied that he had no
35 intent to defraud ;

(b.) If he does not deliver up to such trustee, or as he directs, all such part of his real and personal property as is in his custody or

- A.D. 1878. — under his control, and which he is required by law to deliver up, unless the jury is satisfied that he had no intent to defraud;
- (c.) If he does not deliver up to such trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless the jury is 5 satisfied that he had no intent to defraud;
- (d.) If after the presentation of a bankruptcy petition against him, or the commencement of the liquidation, or within *four months* next before such presentation or commencement, he conceals 10 any part of his property to the value of *ten pounds* or upwards, or conceals any debt due to or from him, unless the jury is satisfied that he had no intent to defraud;
- (e.) If after the presentation of a bankruptcy petition against him, or the commencement of the liquidation, or within *four months* 15 next before such presentation or commencement, he fraudulently removes any part of his property of the value of *ten pounds* or upwards;
- (f.) If he makes any material omission in any statement relating to his affairs, unless the jury is satisfied that he had no intent to 20 defraud;
- (g.) If, knowing or believing that a false debt has been proved by any person under the bankruptcy or liquidation, he fails for the period of a month to inform such trustee as aforesaid thereof;
- (h.) If after the presentation of a bankruptcy petition against 25 him, or the commencement of the liquidation, he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law;
- (i.) If after the presentation of a bankruptcy petition against 30 him, or the commencement of the liquidation, or within *four months* next before such presentation or commencement, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of any book or document 35 affecting or relating to his property or affairs, unless the jury is satisfied that he had no intention to conceal the state of his affairs or to defeat the law;
- (j.) If after the presentation of a bankruptcy petition against him or commencement of the liquidation, or within *four months* 40 next before such presentation or commencement, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the jury is

satisfied that he had no intent to conceal the state of his affairs or to defeat the law;

(k.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within *four months* 5 next before such presentation or commencement, he fraudulently parts with, alters, or makes any omission, or is privy to the fraudulently parting with, altering, or making any omission, in any document affecting or relating to his property or affairs;

(l.) If after the presentation of a bankruptcy petition against 10 him or the commencement of the liquidation, or at any meeting of his creditors within *four months* next before such presentation or commencement, he attempts to account for any part of his property by fictitious losses or expenses;

(m.) If within *four months* next before the presentation of a 15 bankruptcy petition against him or the commencement of the liquidation, he, by any false representation or other fraud, has obtained any property on credit, and has not paid for the same;

(n.) If within *four months* next before the presentation of a 20 bankruptcy petition against him or the commencement of the liquidation, he, being a trader, obtains, under the false pretence of carrying on business and dealing in the ordinary way in his trade, any property on credit, and has not paid for the same, unless the jury is satisfied that he had no intent to defraud;

(o.) If within *four months* next before the presentation of a 25 bankruptcy petition against him or the commencement of the liquidation, he, being a trader, pawns, pledges, or disposes of, otherwise than in the ordinary way of his trade, any property which he has obtained on credit and has not paid for, unless the jury is satisfied that he had no intent to defraud;

(p.) If he is guilty of any false representation or other fraud for 30 the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs, or his bankruptcy or liquidation.

SECTION 279.

35

FALSE CLAIM ON BANKRUPT'S ESTATE.

Everyone shall be guilty of an indictable offence, and shall be liable upon conviction thereof to *one year's* imprisonment and hard labour,

Who in any bankruptcy or liquidation by arrangement or com- 40 position with creditors in pursuance of the law relating to bankruptcy for the time being in force wilfully and with intent to defraud

A.D. 1878. makes any false claim, or any proof, declaration, or statement of account which is untrue in any material particular.

SECTION 280.

BREACHES OF EMPLOYER'S DUTY TO SEAMEN—LEAVING SEAMEN BEHIND.

Everyone shall be guilty of an indictable offence, and shall upon 5 conviction thereof be liable to imprisonment ;

(a.) Who, being the master or other person belonging to any British ship, wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind, in any place on shore or at sea, in or out of Her Majesty's dominions, any seaman or apprentice 10 belonging to such ship before the completion of the voyage for which such person was engaged, or the return of the ship to the United Kingdom ; or,

(b.) Who being the master of a British ship—

(i.) Discharges any seaman or apprentice in any place situate in 15 any British possession abroad (except the possession in which he was shipped) without previously obtaining the sanction in writing endorsed on the agreement of some public shipping master, or other officer duly sanctioned by the local government in that behalf, or (in the absence of any such functionary) 20 of the chief officer of customs resident at or near the place where the discharge takes place :

(ii.) Discharges any seaman or apprentice at any place out of Her Majesty's dominions without previously obtaining the sanction so endorsed as aforesaid of the British consular officer there or 25 (in his absence) of two respectable merchants resident there :

(iii.) Leaves behind any seaman or apprentice at any place situate in any British possession abroad, on any ground whatever, without previously obtaining a certificate in writing so endorsed as aforesaid from such officer or person as aforesaid, stating 30 the fact and the cause thereof, whether such cause be unfitness or inability to proceed to sea, or desertion or disappearance :

(iv.) Leaves behind any seaman or apprentice at any place out of Her Majesty's dominions, on shore or at sea, on any ground whatever, without previously obtaining the certificate endorsed 35 in manner and to the effect last aforesaid of the British consular officer there, or, in his absence, of two respectable merchants, if there is any such at or near the place where the ship then is.

The said functionaries must, and the said merchants may, examine into the grounds of such proposed discharge, or into the allegation of such unfitness, inability, desertion, or disappearance as aforesaid in a summary way, and may for that purpose, if they think fit so to do, administer oaths, and may either grant or refuse such sanction or certificate as appears to them to be just. A.D. 1

Upon the trial of any person for any of the offences in this section mentioned, the burden of producing the sanction or certificate above mentioned, or proving that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate, shall be upon the persons charged.

SECTION 281.

BREACHES OF SHIPOWNER'S DUTY TO SEAMEN—SENDING UNSEAWORTHY SHIPS TO SEA.

15

Everyone shall be guilty of an indictable offence, and shall upon conviction thereof be liable to imprisonment:

(a.) Who sends or attempts to send or is party to sending or attempting to send a British ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, unless he proves that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable;

(b.) Who being a master of a British ship knowingly takes the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, unless he proves that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable.

Any person accused of any of the offences aforesaid may, for the purpose of giving such proof as is required of him, give evidence in the same manner as any other witness.

SECTION 282.

BREACH OF DUTY OF SEAMEN TO EACH OTHER OR OTHER PERSONS ON BOARD.

35

Every master of, or seaman or apprentice belonging to, any British ship shall be guilty of an indictable offence, and shall be liable upon conviction thereof to imprisonment, who by wilful breach

A.D. 1878.

of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb.

10

PART VII.

PROCEDURE.

CHAPTER XXXVIII.

INTRODUCTORY PROVISIONS.

SECTION 283.

15

POWER TO MAKE RULES.

Subject to the provisions of this Act Her Majesty may at any time, by and with the advice of the Lord Chancellor, the Lord Chief Justice of England, and the other judges of the High Court, or of the greater number of them (of whom the Lord Chancellor and the Lord Chief Justice of England shall be two), cause to be prepared rules providing—

(a.) For the regulation of proceedings incidental to the trial of cases in the High Court either upon an order made to change the place of trial to the High Court from some other court, or upon a criminal information, or upon the finding of a bill by the grand jury of Middlesex; and it shall be lawful by such rules to abolish trials at bar, and to substitute therefor such other mode of trial as may be thought proper.

(b.) For the regulation of all matters relating to proceedings before the Court of Appeal in Criminal Cases not hereby provided for.

(c.) Generally for the regulation of any matters relating to the practice and procedure of the superior courts and courts of quarter session in criminal matters, for which provision is not expressly made by this Act.

35

SECTION 284.

CIVIL REMEDY NOT TO BE SUSPENDED BY FACT THAT ACT IS A CRIMINAL OFFENCE.

From the passing of this Act no civil remedy which any person
5 may have against any other person for any act or omission shall be
suspended or in any way affected by the fact that such act or omission
amounts to a criminal offence; but if upon any civil proceeding
it appears to the court that the act or omission for which the
action is brought amounts to a criminal offence, the court may give
10 the same directions and take the same measures for the prosecution
of the defendant as are herein-after authorised with regard to
persons who appear to the court to have committed perjury.

The word court has the same meaning in this section as in section
323.

15

SECTION 285.

PROCEEDINGS AGAINST PERSONS ACTING UNDER THIS ACT.

The following rules shall be observed as to all actions and
prosecutions commenced against any person for anything done in
pursuance of this Act.

20 (a.) The case shall be tried in the county where the thing com-
plained of was done, unless the person proceeded against consents
to its being tried elsewhere, and the power herein-after given to
the High Court to order the place of trial to be changed shall not
extend to any such prosecution.

25 (b.) The action or prosecution must be commenced within six
months after the thing complained of is done.

(c.) Notice in writing of the plaintiff's intention to bring such
action, and of the cause thereof, must be given to the defendant at
least one month before its commencement.

30 (d.) The defendant may plead in general that the thing complained
of was done in pursuance of this Act, and upon that plea may prove
any special matter in his defence.

(e.) The defendant may tender a sum of money to the plaintiff by
way of amends before the action is brought, or pay a sum of money
35 into court after it is brought, and if such amends appear upon the
trial to be sufficient, the plaintiff shall not be entitled to recover.

(f.) If the defendant becomes entitled to recover costs from the
plaintiff, he shall recover his full costs as between solicitor and

A.D. 1878. client, and have the same remedy as any defendant has by law in other cases.

(g.) If the plaintiff becomes entitled to costs he shall not recover them unless the judge before whom the trial takes place certifies his approval of the action.

5

SECTION 286.

ABOLITION OF DISTINCTION BETWEEN FELONY AND MISDEMEANOR.

From the time when this Act comes into force the distinction between felonies and misdemeanors shall be abolished, and all indictable offences shall be proceeded against in the same manner; 10 provided that nothing herein contained shall affect any specific punishment appointed for any offence by any Act of Parliament now in force: Provided also, that Peers of Parliament shall be entitled to the same privilege in respect of indictable offences, upon conviction of which the offender may be sentenced to death or penal servitude, 15 as they now are with respect to treason and felony: Provided also, that *from the passing of this Act* every disqualification which attaches to a conviction for felony shall attach to a conviction of any offence committed after the passing of this Act for which the offender might when he was convicted have been sentenced to 20 death, transportation, or penal servitude.

CHAPTER XXXIX.

WHAT OFFENCES TRIABLE IN ENGLAND, AND BY WHAT COURTS.

SECTION 287.

25

WHAT OFFENCES MAY BE TRIED IN ENGLAND.

Every person may be proceeded against in England, according to the provisions herein-after contained, for any indictable offence to which this Act extends, or for which he may be tried in England under the provisions of any other statute now or hereafter to be in 30 force.

SECTION 288.

JURISDICTION OF THE SUPERIOR COURTS.

The superior courts shall have jurisdiction to try all indictable offences whatsoever.

5

SECTION 289.

JURISDICTION OF THE COURTS OF QUARTER SESSIONS.

The courts of quarter session shall have jurisdiction to try all offences whatever, except

10 (a.) Offences punishable under the following chapters and sections of this Act, that is to say:—Chapter V., Chapter VII., Chapter IX., Chapter XI., Chapter XII., Section 104, Section 110, Chapter XX., Chapter XXIV., Chapter XXVI., Chapter XXXII., Chapter XXXIV.

(b.) Offences which may be punished by penal servitude for life although the offender has not been previously convicted.

15 (c.) Offences against either House of Parliament or subject to the penalties of *præmunire*.

CHAPTER XL.

PLACE OF ARREST, COMMITMENT, AND TRIAL.

SECTION 290.

20

LOCAL JURISDICTION OF COURTS.

Every court shall have jurisdiction to try any person for any offence for which the court is otherwise competent to try him, wherever such offence may have been committed.

SECTION 291.

25

PLACE OF SITTING OF COURT.

Courts shall sit either in the district for which they act, or in any county of a city, or town corporate, or detached part of a county included in, surrounded by, or adjacent thereto, or if they act for a county of a city or town corporate in any county adjacent thereto, provided that no proceeding before any court shall be invalid only because it took place in any other district than the one in which the

A.D. 1878. court ought to have sat, unless it is made to appear affirmatively that the defendant was actually prejudiced by such error.

SECTION 292.

LOCAL JURISDICTION OF GRAND JURY.

Any person may, subject to the provisions herein-after contained, prefer a bill of indictment against any person for any offence for which he is liable to be tried in England, before any grand jury sitting in England. 5

in and for the district in which the court is to sit before which the prosecutor is bound over to present a bill of indictment under the provisions contained in this Act, or 10

(if the offence was committed in a county of a city or town corporate) in and for the next adjoining county at large, or

(if the prosecutor is not bound over to prosecute) in and for the district in which the offence was committed, or in and for the district in which the alleged offender was or habitually resided at the time when the prosecutor served upon the defendant the notice herein-after mentioned; or 15

in and for any district in which the High Court under the provisions of this Act directs the bill to be preferred. 20

A bill of indictment against any person who is a party to any offence may be preferred before any grand jury before which a bill might be preferred against the person by whom the offence itself was committed.

A bill of indictment against any person charged with receiving property unlawfully obtained may be preferred before any grand jury before which a bill might be preferred against the person by whom the property was so obtained. 25

SECTION 293.

WHAT JUSTICES ARE TO COMMIT FOR TRIAL, AND TO WHAT COURTS. 30

Any justice before whom any person is brought upon a charge of having committed any indictable offence may hold the preliminary inquiry herein-after mentioned, and shall, if he commits the defendant for trial as herein-after mentioned, bind over some person in the manner herein-after provided for to present a bill of indictment against the defendant at a court to be specified in the recognizance taken by such person, or such other court as may be appointed for the trial under the powers herein-after contained. 35

Such court shall in general be the court next to be held in and for the county or district in which, or within 500 yards of any part of the boundary of which, the offence was committed. If the justice has any doubt as to the county or district in which the offence was committed, or if it was committed on a voyage or journey such court may be the court next to be held in and for any county or district in which the justice thinks it probable that the offence may have been committed, or in or for any county or district through any part of which the offender, or the person or thing in respect of whom or which the offence was committed, passed in the course of such journey or voyage. If the offence was committed at sea, or out of England, or in any other case in which the justice considers such a course expedient for the ends of justice or for the convenience of the witnesses, such court may be the next court to be held in and for the district in which the preliminary inquiry herein-after provided for takes place, and no objection shall be taken to the validity of any trial on the ground only that the defendant was ordered to be tried at a wrong place; but if any defendant is aggrieved by any such order he may appeal against it to a judge of the High Court who may amend such order, and whose decision shall be final.

Every justice who acts for any county of a city or town corporate within which Her Majesty has not been pleased to direct a commission of oyer and terminer and gaol delivery to be executed for five years then last past shall, in general, commit all persons who are committed for offences not triable at the quarter sessions to be tried at the next court of oyer and terminer and general gaol delivery for the next adjoining county at large; provided that every such justice shall have the same powers as to committing persons for trial in other counties in special cases as are herein-before given to other justices.

No justice shall commit any person to take his trial before the High Court of Justice.

SECTION 294.

FOR WHAT OFFENCES JUSTICES MAY COMPEL APPEARANCE.

Every justice may issue warrants or summonses as herein-after mentioned for compelling the attendance of defendants before him for the purposes of the preliminary inquiry herein-after provided for,—

(a.) If the offence inquired into is alleged to have been committed in a district in or for which he acts; or

[178.]

A.D. 1878.

(*b.*) If the person alleged to have committed such offence is alleged to reside or be in a district in or for which he acts; or

(*c.*) If the person against whom process is issued is alleged to be a party to an offence committed in any district referred to in sub-section (*a*) or by any person referred to in sub-section (*b*), or if he is 5 alleged to have unlawfully received property which was unlawfully obtained in any district referred to in sub-section (*a*) or by any person referred to in sub-section (*b*).

SECTION 295.

FOR WHAT DISTRICTS JUSTICES MAY ACT.

10

Every justice of the peace may do anything which he is authorised to do by this Act in and for any district for which he is a justice.

Any justice who is a justice for each of two adjoining districts, or for two districts one of which is surrounded by the other, may whilst he is in either of such districts do with respect to the other every- 15 thing which he is by this Act authorised to do in the district in which he is, and every warrant, order, or direction issued or given by him in either of such districts with respect to the other district shall be obeyed by all constables, peace officers, and other persons of such other district in the same manner as if it had been issued or 20 given in the district to which it relates.

SECTION 296.

JUSTICES FOR COUNTIES AT LARGE MAY ACT AS SUCH IN COUNTIES OF CITIES AND BOROUGHS AND IN AND FOR DETACHED PARTS OF COUNTIES.

Any justice of the peace for any county at large, or for any riding 25 or division of such county, may act as such at any place within any city, town, or other precinct, being a county of itself, or otherwise having exclusive jurisdiction, or forming a detached part of another county at large, and situated within, surrounded by, or adjoining to any such county at large, riding, or division respectively. Every- 30 thing so done shall be as valid as if it had been done within such first-mentioned county at large, riding, or division respectively; provided that this enactment shall not empower any justice of the peace for any county at large, riding, or division, not being also a justice for such city, town, or other precinct, or not having autho- 35 rity as a justice of the peace therein, or any constable or other

officer acting under him, to act in any matter arising within any such city, town, or precinct. A.D. 1878.

The acts of any justice, and of any constable or officer in obedience thereto, shall be as good in relation to any detached part of any county at large which is surrounded in whole or in part by the county at large for which such justice acts as if the same were part of the said last-mentioned county at large; and all constables and other officers of such detached part shall obey all warrants, orders, and acts of every such justice, and perform their several duties in respect thereof.

SECTION 297.

SAVING AS TO STATUTORY JURISDICTION OF POLICE MAGISTRATES AND OTHER JUSTICES.

Nothing in this Act contained shall in any way restrict any powers conferred by or under the provisions of any statute or charter upon any stipendiary magistrate or other justice of the peace.

SECTION 298.

WHERE WARRANTS MAY BE EXECUTED.

Any warrant for the apprehension of any person, issued under the provisions herein-after contained, may be executed by apprehending the offender within any district in or for which any justice issuing the warrant has jurisdiction, or in case of fresh pursuit at any place within seven miles of any part of the border of that district, without being backed as herein-after mentioned.

25

SECTION 299.

BACKING WARRANTS.

The expression "to back a warrant" means to make upon the back of a warrant a written order authorising the execution of it within a district other than the one in or for which it was issued.

Every such order may be in the form (E.) in the first schedule hereto, or to the like effect, and shall be signed by the person who makes it, and shall be a sufficient authority to the person who brings it to be backed, and to all peace officers in the district for which it is backed, to execute it in such district by apprehending the person against whom it was granted, and conveying him before the justice by whom the warrant was originally issued, or dealing with him otherwise as herein-after mentioned.

A.D. 1878. — No warrant shall be backed until the handwriting of the justice by whom the warrant was issued has been proved on oath before the person by whom it is to be backed.

SECTION 300.

WHEN WARRANTS MAY BE BACKED.

5

A warrant may be backed when the person against whom it is issued is or resides, or is suspected to be or reside, in the district in which the warrant is backed.

SECTION 301.

WHERE AND BY WHOM WARRANTS MAY BE BACKED.

10

Any warrant issued in any part of the United Kingdom, or in any of the isles of Man, Guernsey, Jersey, Alderney, or Sark, by any justice or other person having authority to issue a warrant or process in the nature of a warrant therein, may be backed by any other such justice or person; provided that no warrant issued by any judge of the High Court in England, or by any justice of oyer and terminer or gaol delivery, shall require to be or shall be backed by any justice in England. 15

The following officers in the Channel Islands may exercise, each in his own local jurisdiction, the powers herein-before given; that is to say, the bailiffs of Jersey and Guernsey respectively, or in their absence the lieutenant bailiffs, the judge of Alderney, or in his absence any jurat of such island, the seneschal of Sark, or in his absence his deputy. 20

SECTION 302.

25

JUSTICE BACKING A WARRANT IN ENGLAND MAY ORDER DEFENDANT TO BE BROUGHT BEFORE HIM.

If the prosecutor or any of the witnesses upon the part of the prosecution are in the district where the person against whom the warrant is issued is apprehended, the officer or other person who apprehends such person may, if so directed by the justice backing the warrant, take him before such justice or before some other justice of the same district; and such justice may thereupon proceed in every respect in the manner herein-after directed with respect to persons charged before a justice of the peace with an offence alleged to have been committed in a district other than that in which such persons have been apprehended. 30 35

SECTION 303.

PERSON SUMMARILY ARRESTED.

Any person who is entitled to arrest any other person without warrant, may arrest him, or cause him to be arrested, in any part of
5 England where he may happen to be at the time of such arrest, and may take him before any justice for the district in which he is so arrested.

SECTION 304.

ORDER TO CHANGE PLACE AND MODE OF TRIAL.

10 The High Court, or any judge thereof, may make any of the orders herein-after mentioned upon the application of any defendant who has been committed for trial for any indictable offence, or who has received notice as herein-after mentioned, of the intention of any
15 person to prefer an indictment against him, or on the application of any person bound over to prosecute or prefer an indictment against any person; that is to say,

(a.) An order that the defendant shall be indicted or tried (both or either) before the High Court or any other competent court
20 other than the court before which but for such order he would have been tried.

(b.) An order that any such case shall be tried by a special jury.

(c.) An order that any such case shall be tried as a civil action.

No order for changing the place of trial shall be made unless the
court is of opinion that an impartial trial cannot be had otherwise,
25 or that some question of law of more than usual difficulty and importance is likely to arise at the trial which can be more properly decided if the order is made than would otherwise be possible, or that the change would be convenient for the public or for the witnesses or the parties.

30 Every order for changing the place of trial shall specify the county or jurisdiction in which the case is to be tried, and it shall be tried in all respects as if the indictment or inquisition had been found in that county or jurisdiction.

The party by whom or at whose instance any such order is made
35 shall forthwith give notice thereof to the other party, and to every person bound over to prosecute or give evidence, and to every person

A.D. 1878.

who has given bail for the appearance of the defendant, and to the person who at the time when the order is made is in possession of the depositions and other documents herein-after mentioned relating to the case. Such notice may be given by serving an office copy of the order on the person to whom it is to be given. 5

If it is ordered that any case shall be tried by a special jury, all the enactments in force for the time being as to the qualifications, the attendance, the drawing up of the panel, and the striking of special juries in civil cases, shall apply to the special juries and jurors to be summoned under this provision. 10

No order shall be made for the trial of any indictment as if it were a civil action, except in the following cases :--

- i. If the defendant is charged with a common assault, a defamatory libel, or a common nuisance.
- ii. If the court or judge making the order is of opinion that the principal object for which the indictment is preferred is to decide some matter of law or private dispute. 15

If any such last-mentioned order is made, all enactments or other rules of law relating to challenging jurors, or to the competency of witnesses, the admissibility of evidence, the taking of evidence, new trials, appeals, and costs shall apply to the trial of such indictments, notwithstanding anything in this Act contained; but nothing herein contained shall affect in any other way the power of the court to pass any sentence or do any other thing which it might have passed or done if no such order had been made. 25

Whenever any order is made under this section the court or judge making it may impose such terms as may seem reasonable on the person at whose instance it is made as to bail, the payment of any costs incurred in consequence of the order, or any other matter.

An appeal shall lie from any order of any judge under this section to a division of the high court. Such appeal must be brought within two days after the order is made, and the decision of the divisional court shall be final. 30

From the passing of this Act no writ of certiorari shall be issued in order to effect any purpose which can be effected by the provisions herein contained. 35

Provided that this section shall not affect in any way any indictment or inquisition charging any peer, or person claiming the privilege of peerage, with any offence not now lawfully triable by a superior court. 40

SECTION 305.

POWER TO CHANGE PLACE OF TRIAL FROM COUNTY CORPORATE TO ADJOINING
COUNTY AT LARGE.

A superior court sitting in and for any county of a city or town
5 corporate or other franchise, except the county of the city of
London, may, upon the prayer of the defendant, direct any indict-
ment found by the grand jury, or any inquisition taken before the
coroner thereof, to be tried before any superior court in and for the
next adjoining county. York shall be considered to be the next
10 adjoining county to Kingston-upon-Hull, and Northumberland as
the next adjoining county to Newcastle-upon-Tyne for the purposes
of this section.

SECTION 306.

COURT AFFECTED BY ORDER TO TAKE JUDICIAL NOTICE OF IT, AND NO PROOF
15 TO BE REQUIRED.

When any of the orders provided for in the last two preceding
sections is made the court whose procedure is affected by it shall
upon its production act upon it, unless it has reason to doubt
whether it is genuine, in which case it shall satisfy itself as to its
20 authenticity by any means which it thinks proper, but neither the
prosecutor nor the defendant shall be entitled to require proof of any
such order or to dispute or bring in question its existence at any
stage of the proceedings or at any subsequent time.

CHAPTER XLI.

25 **PROCEEDINGS TO COMPEL APPEARANCE. ARREST
WITHOUT WARRANT. INFORMATION.
SUMMONS. WARRANT.**

SECTION 307.

SUMMARY ARREST OF PERSONS FOUND COMMITTING OFFENCES.

30 Any person who is found committing any indictable offence may
be apprehended by any person whatsoever without warrant, if the
person making such arrest has reasonable grounds to believe that
the offender may escape punishment or may complete the commis-
sion of the offence if he is not so apprehended.

A.D. 1878.

SECTION 308.

SUMMARY ARREST OF PERSONS SUSPECTED OF HAVING COMMITTED OFFENCES.

Any justice of the peace, sheriff, coroner, police constable, or peace officer may without warrant arrest any person whom he suspects on reasonable grounds of having committed any indictable 5 offence upon a conviction for which the offender would be liable to be sentenced to death, or to penal servitude, or to be imprisoned and kept to hard labour for two years.

Any person whatever may without warrant arrest any such person if such an offence has actually been committed, or if the person 10 arrested is being pursued by hue and cry, but not otherwise.

Any constable or peace officer may arrest without warrant any person whom he finds lying or loitering anywhere between *nine o'clock at night and six o'clock in the morning* whom he suspects on reasonable grounds of having committed or of being about to 15 commit any indictable offence against the person or the property of any person.

Any person to whom any property is offered to be sold, pawned, or delivered, and who has reasonable ground to suspect that any offence has been or is about to be committed on or with respect to 20 such property, may, and if he can shall, without warrant apprehend the person offering the same, and take possession of the property so offered.

Any person who finds any person in possession of any property which he upon reasonable grounds suspects to have been obtained 25 by any indictable offence may arrest such last-mentioned person without any warrant and take possession of the property.

SECTION 309.

DISPOSAL OF PERSONS ARRESTED UNDER PRECEDING SECTIONS.

Every person who arrests any person under any of the provisions 30 herein-before contained shall (if the person making the arrest is not himself a peace officer) deliver the person so arrested to some constable or other peace officer, in order to his being conveyed as soon as reasonably may be before a justice of the peace, to be by him dealt with as herein-after mentioned, or himself convey him before 35 a justice of the peace as soon as reasonably may be.

SECTION 310.

INFORMATION.

Any person who believes upon reasonable and probable cause that an indictable offence has been committed by any person may make 40

a complaint or give information thereof to a justice of the peace having local jurisdiction according to the provisions herein-before contained. A.D. 1878.

SECTION 311.

SUMMONS OR WARRANT.

5

The justice may, upon receiving such complaint or information, issue, as he thinks fit, either a summons or a warrant to compel the attendance before him of the defendant: Any summons or warrant may be issued on Sunday.

10 If a warrant is issued in the first instance, the information shall be in writing in the form (A.) given in the first schedule hereto, or to the like effect, and shall be made upon oath either by the prosecutor, or by a witness or witnesses. If a summons is issued in the first instance, the information may be by words spoken and
15 without oath.

The validity of any proceedings herein-after mentioned shall not be affected either by any defect in the information, or by the fact that a summons or warrant was issued without information.

20 Whenever any person has given to any justice of the peace an information in writing and upon oath as aforesaid, he may, if the justice refuses to issue either a summons or a warrant under the provisions herein contained, require such justice to give to the informant a written certificate of his refusal, which may be in the form (B.) in the first schedule hereto, or to the like effect, and
25 the informant may apply to the High Court, or to any judge thereof, for an order directing such justice to issue a summons or warrant accordingly.

SECTION 312.

CONTENTS OF WARRANT.

30 The warrant shall require the persons to whom it is directed to apprehend the defendant and to bring him before any justice or justices having local jurisdiction to be dealt with according to law. It may be in the form (C.) given in the first schedule hereto, or to the like effect; or if the offence was committed on the high seas
35 or abroad in the form (D.) in the said schedule, or to the like effect.

Every such warrant shall be under the hand and seal of every justice issuing the same, and may be directed either to any constable or other person by name, or generally to the constable of the parish or other place within which it is to be executed, without naming
40 him, or to such constable and all other constables or peace officers in the district or other district within which any justice issuing

A.D. 1878. such warrant has jurisdiction, or generally to all the constables or peace officers within such last-mentioned district. It shall state shortly the offence for which it is issued, and shall name or otherwise describe the offender, and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him 5 before the justice or justices issuing the warrant, or before some other justice or justices of the peace for the same district, to answer to the charge contained in the said information, and to be further dealt with according to law. It shall not be necessary to make such warrant returnable at any particular time, but it shall remain 10 in force until it is executed.

SECTION 313.

IRREGULARITIES IN THE WARRANT IMMATERIAL.

No irregularity or defect in substance or in form in the warrant, and no variance between it and the evidence adduced on the part of 15 the prosecution at the preliminary inquiry herein-after mentioned, shall prevent any justice from proceeding with such hearing or affect the validity of any proceedings thereat or subsequent thereto, but if any such variance appears to such justice or court to be such that the defendant has been thereby deceived or misled, such justice may 20 at the request of the defendant adjourn the hearing of the case to some future day, and in the meantime remand the party so charged, or admit him to bail; in manner herein-after mentioned.

SECTION 314.

CONTENTS OF SUMMONS. SERVICE OF SUMMONS.

The summons shall be directed to the defendant, and shall require him to appear before a justice or justices having local jurisdiction at a time and place to be therein mentioned. It may be in the form (F.) given in the first schedule hereto, or to the like effect. 25

Every such summons shall be served by a constable or other 30 peace officer upon the person to whom it is directed, either by delivering it to him personally, or by leaving it with some person for him at his last or most usual place of abode.

The person by whom the summons is served as aforesaid shall attend at the time and place specified therein for the appearance of 35 the person summoned, in order if necessary to prove its service.

SECTION 315.

IF PERSON SUMMONED DOES NOT APPEAR—WARRANT.

If the person charged does not appear at the time and place appointed, any justice having local jurisdiction may issue his warrant 40

to apprehend the defendant, and to cause him to be brought before him. The provisions herein-before contained as to warrants shall apply to every such warrant. It may be in the form (G.) in the first schedule hereto, or to the like effect. A.D. 1878.

5

CHAPTER XLII.

OF PRELIMINARY INQUIRIES BEFORE JUSTICES.

SECTION 316.

JUSTICE TO HOLD PRELIMINARY INQUIRY.

Whenever any charge of an indictable offence has been made
10 against any person, a preliminary inquiry shall be held according to the provisions herein-after contained, either by one justice or by more justices than one locally competent.

SECTION 317.

PROCEEDINGS ON APPEARANCE OF DEFENDANT.

15 When the defendant appears or is brought before the justice, the justice shall take the evidence of the witnesses called in support of the charge offered on the part of the prosecution.

The evidence of the said witnesses shall be given upon oath and in the presence of the defendant, and he, his counsel or solicitor,
20 shall be entitled to cross-examine them upon facts relevant to the charge, but not unless the justice thinks it necessary or desirable to matters relevant only as affecting their credit.

As the evidence is given, the substance of it shall be taken down in writing in the form of a narrative in the first person,
25 provided that the whole or any part of it may be taken down if the justice thinks fit in the form of question and answer. The evidence so taken down is herein-after called a deposition, and shall be in the form (H.) in the first schedule hereto, or to the like effect.

SECTION 318.

30 CALLING ON THE PERSON CHARGED FOR HIS DEFENCE.

As soon as the justice considers that evidence of the guilt of the defendant sufficient to justify his committal has been given, he shall declare that his intention is to commit the defendant for trial unless he shows cause why he should not be committed.

A.D. 1878.

SECTION 319.

EVIDENCE TO BE READ TO THE DEFENDANT.

When the justice has expressed such conditional intention to commit the defendant as aforesaid, he shall read over or cause to be read over to the defendant the depositions of the witnesses, the witnesses being 5 present or not as may be most convenient. When the depositions have been read over to the defendant he shall be addressed by the justice in these words or to the like effect:

“Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but 10 whatever you do say will be taken down in writing and may be given in evidence against you at your trial.”

Whatever the defendant then says in answer thereto shall be taken down in writing in the form (I.) in the first schedule hereto, or to the like effect, and shall be signed by the justices and kept 15 with the depositions of the witnesses and dealt with as herein-after mentioned.

The defendant, or his counsel or solicitor, may then show cause why the justices should not commit him for trial.

SECTION 320.

20

CALLING WITNESSES FOR THE DEFENCE.

After the proceedings required by the last preceding section are complete, the defendant shall be asked if he wishes to call any witnesses. Every witness whom he may call who testifies to any 25 fact relevant to the case shall be heard, and his deposition shall be taken in the same manner as the depositions of the witnesses for the prosecution, provided that the defendant shall not be entitled to call witnesses before the justice to prove any matter of excuse, the burden of proving which is upon him, nor to justify the publication 30 of what is alleged to be a defamatory libel.

SECTION 321.

DISCRETIONARY POWERS OF THE JUSTICE.

The justice may in his discretion,—

(a.) Permit or refuse permission to the prosecutor, his counsel or attorney, to address him in support of the charge either by way of 35 opening or summing up the case, or by way of reply upon any evidence which may be produced by the person charged;

(b.) Receive further evidence on the part of the prosecutor after hearing any evidence given on behalf of the defendant;

(c.) Adjourn the hearing of the matter from time to time and place to place, if from the absence of witnesses, the inability of a witness who is ill to attend at the place where the justice usually sits, or any other reasonable cause, it appears desirable to do so, provided
5 that no such adjournment shall be for more than eight clear days, the day following that on which the adjournment is made being counted as the first day ;

(d.) Order that no person shall have access to or remain in the room or building in which the inquiry is held (which shall not be
10 an open court) if it appears to him that the ends of justice will be best answered by so doing ;

(e.) Regulate the course of the inquiry in any way which may appear to him desirable, and which is not inconsistent with the provisions of this Act.

15

SECTION 322.

COMMITTAL OR DISCHARGE.

When all the witnesses on the part of the prosecution who are offered or whom the court thinks it necessary to hear, and when all the witnesses produced by the defendant who know any fact or cir-
20 cumstance relevant to the case have been heard respectively, the justice shall either discharge the defendant, if he is of opinion that the evidence given is not sufficient to put him upon his trial, or if he thinks that it is, he shall commit him for trial in the manner herein-after more particularly mentioned ; provided that if a defen-
25 dant is brought before a justice (whether upon a warrant issued by him or upon a warrant backed by him, or otherwise) charged with an offence committed out of the district in which the inquiry is held, but in England, and if the justice thinks the evidence produced before him insufficient to put the defendant upon his trial, the
30 justice shall not discharge the defendant, but shall order him to be taken before some justice in the district and near to the place where the offence is alleged to have been committed, by a person to whom he shall give a warrant for that purpose in the form (J.) in the first schedule hereto, or to the like effect. The justice shall deliver to the
35 said person the information and complaint, depositions and recognizances, taken by him under the provisions of this Act, to be by him delivered to the justice before whom the defendant is to be taken, and such depositions and recognizances shall be deemed to have been taken in the case, and shall be dealt with in the manner
40 herein-after provided for as to other depositions and recognizances ;

[178.]

A.D. 1878. provided also that the fact that a defendant has been discharged upon a preliminary inquiry shall not prevent any justice from holding another such inquiry if he sees cause to do so.

SECTION 323.

COMMITTALS FOR FALSE EVIDENCE.

5

Any court herein-after mentioned to which it appears that any person has given false evidence in any proceeding before it, may either commit such person for trial at the next sitting of any superior court for the district in which such false evidence was given or in which such court sits, or admit him to bail as herein-after 10 mentioned.

Every such court shall in such cases bind over some person to prosecute such offender, and may bind over any person to give evidence against such offender, in the manner herein-after provided for in other cases of persons committed by a justice for an indictable 15 offence.

Whenever any person is bound over to prosecute under this section, the court by which he is so bound over shall give him a certificate that he was directed to prosecute as aforesaid, and upon the production of such certificate he shall be entitled to his costs as 20 herein-after mentioned.

Every such court may also direct any such offender to be taken into custody and to be taken before a justice, and such justice shall thereupon deal with the case in all respects in the same manner as if such offender had been brought before him otherwise. 25

The word "court" in this section includes all the superior courts, civil and criminal, and every division and judge thereof, all courts of quarter session, commissioners of bankruptcy, judges and deputy judges of county courts and courts of record, justices of the peace in special or petty sessions, sheriffs and their lawful deputies, before 30 whom any writ of inquiry or writ of trial from any superior courts are executed.

CHAPTER XLIII.

PREPARATION OF EVIDENCE FOR THE TRIAL.

SECTION 324.

35

PROCURING ATTENDANCE OF WITNESSES.

If it is proved by the oath of one witness before any justice by whom a preliminary examination is held or is to be held, that any

person is likely to give material evidence either for the prosecution or for the defendant, and will not voluntarily appear for the purpose of being examined, the justice shall issue his summons to such person, under his hand and seal, requiring such person to
 5 appear before him at a time and place mentioned therein to give his evidence respecting the charge; such summons may be in the form (K.) in the first schedule hereto or to the like effect.

A.D. 1878.

SECTION 325.

SUMMONS HOW SERVED.

10 Every such summons shall be served upon the person to whom it is addressed either personally or by leaving the same for him with some person at his last or most usual place of abode.

SECTION 326.

WARRANT IF WITNESS FAIL TO APPEAR, WARRANT IN FIRST INSTANCE.

15 If any person so summoned neglects or refuses to appear at the time and place appointed by the said summons, and no just excuse is offered for such neglect or refusal, then (after proof upon oath of such summons having been served as aforesaid) the justice before whom such person ought to have appeared, may issue a warrant
 20 under his hand and seal to bring such person at a time and place to be therein mentioned before him or any other justice in order to testify as aforesaid. The warrant may be in the form (L.) in the first schedule hereto, or to the like effect. If the justice is satisfied by evidence upon oath that it is probable that any person will not
 25 attend to give evidence without being compelled so to do, then, instead of issuing a summons, he may issue a warrant in the first instance. Such warrant may be in the form (M.) in the first schedule, or to the like effect. All provisions herein-before contained as to
 30 the execution and backing of warrants for the arrest of defendants shall apply to every such warrant.

SECTION 327.

WITNESS REFUSING TO BE EXAMINED.

If any person being before any such justice refuses to be examined according to law, or to answer such questions concerning the charge
 35 as shall then be put to him, without offering any just excuse for such refusal, any justice of the peace then present, and having jurisdiction, may by warrant under his hand and seal (which may be in the form (N.) in the first schedule hereto, or to the like effect), commit

[178.]

A.D. 1878. the person so refusing to the prison for the county or place where such person is for any time not exceeding *seven days*, unless he shall in the meantime consent to be examined and to answer.

SECTION 328.

DEPOSITIONS TO BE READ TO WITNESSES.

5

The deposition of every witness called either for the prosecution or by the defendant shall be read over to and signed by the witness and by the justice, or one of the justices before whom the evidence was taken, the defendant, the witness, and the justice by whom the deposition is signed being all present together at the time of such reading and signing. 10

SECTION 329.

WHEN DEPOSITIONS MAY BE GIVEN IN EVIDENCE.

Every document produced to the court before which the trial is had by or from the custody of the proper officer as a deposition shall be presumed to be one, and if it purports to have been taken upon oath, and to have been taken by or before the justice by whom it purports to have been signed, and to have been signed by the justice or one of the justices before whom it purports to have been taken, it shall be presumed to have been so taken, read, and signed, and to have been duly read over to the witness in the presence of the person charged until the contrary is proved, although it may not have been signed by the witness. 15 20

If it is proved at the trial to the satisfaction of the court that any witness whose deposition purports to have been taken on oath and to have been signed by the justice or one of the justices by or before whom it purports to have been taken is dead, or is so ill or in such a state of mind as not to be able to testify (although there may be a prospect of his recovery), or that he is kept out of the way by the defendant, or that he is absent from the United Kingdom; and if it is proved that the deposition was taken in the presence of the defendant, and that he, his counsel, or solicitor, had a full opportunity of cross-examining the witness, the deposition may be read in evidence, unless it is proved that it was not taken on oath, or that it was not taken or signed by or before the justice by or before whom it purports to have been taken or signed, or that it was not read over to the witness in the presence of the justice by whom it purports to be signed and of the person accused. 25 30 35

A deposition shall not be inadmissible in evidence only because it is not signed by the witness by whom it was made. A.D. 1878.

The defendant's statement and examination may be given in evidence at the trial either by the prosecution or by the defendant if it is proved to have been taken in accordance with the provisions of this Act, or if it purports to have been so taken and is not proved not to have been so taken.

SECTION 330.

COPY OF DEPOSITIONS.

- 10 Every person who has been charged with any offence shall upon the completion of the preliminary inquiry be entitled to have from the officer who has custody thereof, on payment of a reasonable sum not exceeding three half-pence for each folio of 90 words, copies—
- 15 (a.) Of the depositions.
 (b.) Of the defendant's statement and examination.
 (c.) Of any documents which may have been put in in evidence at the preliminary inquiry.

SECTION 331.

- 20 PROSECUTOR AND WITNESSES TO BE BOUND OVER TO PROSECUTE AND GIVE EVIDENCE.

When any person is committed for trial, the justice who holds the preliminary inquiry shall bind over the person by whom the complaint was made or information given, or any other person who is willing so to be bound over to prosecute. The justice shall also bind over every witness examined before him, either for the prosecution or for the defence, to give evidence at the court before which the defendant is to be indicted; provided that the evidence given by such witnesses is material to the case, and tends to prove the guilt or innocence of the defendant, and is not evidence to character only.

Every such recognizance shall contain the matters stated in form (O.) in the first schedule hereto, or to the like effect, and shall be acknowledged by the person entering into the same, and shall be subscribed by the justice or one at least of the justices before whom it is acknowledged, and a notice thereof signed by such justice shall at the same time be given to the person bound thereby, which may be in the form (P.) in the first schedule hereto, or to the like effect.

- 40 Every such recognizance shall bind the person entering into it to prosecute or give evidence (both or either), as the case may be,

A.D. 1878. not only before the court before which the defendant is directed to be indicted by the justice, but before any court before which the trial may be directed to be had by competent authority, and not only at the trial so had, but also at any subsequent trial had under any of the provisions herein-after contained, provided that notice is given 5 to such prosecutors or witnesses of any such other or further trial.

In the case of offences against Chapter XXV., and offences consisting in the infliction upon persons under sixteen years of age of bodily injuries, for which the offender might be sentenced to two years imprisonment and hard labour, penal servitude, or death, the 10 clerk to the guardians of the union in which the offence is committed, or if there are no guardians, one of the overseers of the poor of that place may be bound over to prosecute upon the following conditions: -

Two justices of the peace or one stipendiary magistrate before 15 whom the preliminary inquiry took place, must certify under their hands that it is necessary for the purposes of public justice that the prosecution should be conducted by the guardians or overseers, as the case may be.

Such certificate, or a duplicate thereof, must be personally served 20 on the clerk to the board of guardians or on one of the overseers.

The person bound over to prosecute shall conduct the prosecution and pay the costs thereof out of the common fund of the union or the fund in the hands of the guardians or overseers, as the case may be. Such costs may be repaid to them in the manner herein- 25 after provided for.

SECTION 332.

TRANSMISSION OF DOCUMENTS.

The following documents shall be transmitted to the officer of the court before which any person committed for trial is to be tried, that 30 is to say, the information if any, the depositions or examination of witnesses, the defendant's statement and examination, all recognizances entered into by the defendant, his sureties, the witnesses, or the prosecutor, the indictment (if found), and all other documents relating to the offence, and in cases in which the place of trial has 35 been changed after an indictment or inquisition has been found such indictment or inquisition. The said documents shall be transmitted by the justice before whom the preliminary examination is held, or if the place of trial is changed by lawful authority after such transmission is made then by the person who at the time when 40 the order is made is in possession of them. When any order changing

the place of trial is made the person applying for it shall serve it, or an office copy of it, upon the person then in possession of the said documents, who shall thereupon transmit them accordingly. A.D. 1878.

SECTION 333.

5 WITNESS REFUSING TO BE BOUND OVER MAY BE IMPRISONED.

Any witness who refuses to enter into or acknowledge any such recognizance as aforesaid may be committed by the justice by a warrant in the form (Q.) given in the first schedule hereto, or to the like effect to the prison for the place where the trial is to be had, there
10 to be kept until after the trial of the person accused, or until the witness enters into such a recognizance as aforesaid before a justice of the peace having jurisdiction in the place where the prison is situated, provided that if the accused person is discharged any justice having local jurisdiction may order any such witness to be discharged
15 by an order which may be in the form (R.) given in the said schedule, or to the like effect.

SECTION 334.

TAKING DEPOSITION OF WITNESS WHO IS ILL, &c.

If it is proved upon oath before any justice of the peace in or
20 for any district in the United Kingdom, that any person in any district in or for which such justice may act is in the opinion of some registered medical practitioner dangerously ill, not likely to recover, and unable to travel, and that such person is able and willing to give material information as to any indictable offence with which any
25 defendant has been charged before any justice in England (whether the preliminary inquiry has or has not been held or is in progress, but not after the defendant has been discharged), the first-mentioned justice may take the deposition of such person in the manner hereinbefore prescribed, and shall, after taking it, sign it, adding to it by
30 way of heading a statement of his reason for taking it and of the day and place on and at which it was taken, and of the names of the persons, if any, present at the taking thereof.

If such deposition relates to an indictable offence the preliminary inquiry into which has ended, the justice taking it shall send it to
35 the officer of the court before which the trial is to be had. If it relates to an offence with which some person has been charged, and as to which a preliminary inquiry is in progress, the justice who takes the deposition shall send it to the justice before whom such inquiry is being carried on, by whom it shall be forwarded to the
40 officer of the court before which the trial is to take place.

A.D. 1878.

Every deposition so taken shall be a deposition taken in the case to which it relates, and shall be admissible in evidence on the same conditions as other depositions, provided that if any such deposition relates to an offence committed by any defendant who has been committed for trial, it shall be admissible against him, although it 5 may have been taken in his absence, and may not have been read over to the witness in his presence, and although neither he nor his counsel nor his solicitor had an opportunity of cross-examining the witness, if it is proved that the defendant, having such notice as is herein-after provided for, that such deposition was about to be 10 taken, refused or neglected to be present, or to cause his counsel or solicitor to be present when it was taken.

Whenever it is intended to take any such deposition as aforesaid, reasonable notice that it is intended to take it must, if the defendant is in prison, be served upon him, and if he is on bail, must be either 15 served upon him, or left at his last or most usual place of abode. The notice may be in the form (EE.) in the first schedule hereto, or to the like effect. If the defendant is not in prison, the prosecutor must, if required, pay the defendant reasonable travelling expenses to the place where the evidence is to be taken, and every such pay- 20 ment shall be part of the costs of the prosecution. If the defendant is in prison, the judge or justice by whom the prisoner was committed, or any visiting justice of the prison in which he is confined, may by an order in writing direct the gaoler having the custody 25 of the defendant to convey the defendant, or cause him to be conveyed, to the place where the deposition is to be taken, for the purpose of being present when the same is taken, and to take him back to prison when it has been taken, but no such defendant shall be taken to any such place for such a purpose without his consent. The expenses of such conveyance shall be paid out of the funds 30 applicable to the expenses of the prison from which the defendant is taken.

SECTION 335.

POWER TO TAKE EVIDENCE BY COMMISSION.

Any judge of the High Court may, in any criminal case in which 35 it appears necessary for the purposes of justice to do so, make any order for the examination upon oath before any officer of the court, or any other person or persons, and at any place either within the United Kingdom or any other part of Her Majesty's dominions or without, of any witness or person, and may order any deposition so 40 taken to be filed in the court, and may empower either the prosecutor or the prisoner to give such deposition in evidence on such

terms as such judge may direct. An appeal shall lie from any order made by any judge under this section to the High Court, but the decision of any division of the said court shall be final. A.D. 1878.

SECTION 336.

5

SEARCH WARRANTS.

Any justice may issue a warrant under his hand and seal authorising the person to whom it is addressed to search any building, place, or thing whatever for anything on or in respect of which any indictable offence has been or is suspected to have been committed, or which there is reasonable ground to suspect is intended to be used for the purpose of committing any indictable offence, and to seize any such thing and carry it before the justice issuing the warrant, or some other justice of the district, to be by him dealt with according to law; provided that before issuing any such warrant the justice issuing it must be satisfied by the oath of some informant that there is reasonable ground to suspect that the thing to be searched for exists, and that it is in the building, place, or thing which the warrant authorises to be searched.

Any such warrant may, in the discretion of the justice who issues it, authorise the person to whom it is addressed to execute it either between the hours of six in the morning and nine at night only, or at any hour.

If under any such warrant there is brought before any justice any forged document or anything of which the use or possession is unlawful, in the absence of some lawful excuse to be proved by the person in possession thereof, such justice may cause such thing to be defaced or destroyed, although no person may be committed for trial in respect thereof.

If under any such warrant any counterfeit coin or other thing is brought before any justice, the possession of which with knowledge of its nature, or without lawful excuse, to be proved by the person in possession thereof, is an offence under the provisions of Chapter XXXV. of this Act, every such thing shall be delivered up to the officers of Her Majesty's Mint or to the solicitors of Her Majesty's Treasury, or to any person authorised by them respectively to receive the same, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

If the thing to be searched for is gunpowder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have every power and protection which are given by any Act of Parliament in force for the time being to any person

A.D. 1878. lawfully authorised to search for any such thing, and for any purpose, both as to the manner in which such things are to be disposed of and otherwise.

CHAPTER XLIV.
OF THE CUSTODY OF DEFENDANTS.

5

SECTION 337.

DEFENDANT TO BE COMMITTED, BAILED, OR DISCHARGED.

Every defendant who appears or is brought before a justice on a charge of having committed an indictable offence shall, unless and until he is discharged, be either committed to prison or bailed, or set at liberty on his own recognizances, according to the provisions herein-after contained. 10

SECTION 338.

WHEN TAKING BAIL IS AND IS NOT DISCRETIONARY.

Every defendant who can find sureties sufficient in the opinion of the justice to secure his appearance when it is required shall be entitled to be bailed at every stage in the proceedings against him until he appears before the court by which he is to be tried, if he is charged with an offence for which he may be sentenced to simple imprisonment, and for which he cannot be sentenced to death or to penal servitude. 15 20

Every such defendant may, if he is charged with any other offence, except high treason, be bailed at any stage of the proceedings, if in his discretion the justice thinks proper to bail him.

No defendant charged with high treason shall be admitted to bail at any stage of the proceedings, except by order of one of Her Majesty's Secretaries of State or one of the judges of the High Court. Any defendant charged with any offence other than high treason may be admitted to bail by order of a judge of the High Court. 25 30

SECTION 339.

AT WHAT STAGES OF THE PROCEEDINGS BAIL MAY BE TAKEN.

Any court before which any defendant charged with an indictable offence is tried, and any justice before whom he appears may admit such person to bail, or to be at large on his own recognizance at each of the times and on the conditions following, that is to say— 35

(a.) Whenever the preliminary inquiry or trial is for any reason adjourned or interrupted, or if any thing happens which makes or may make it necessary that a new trial should take place, the defen-

defendant may be admitted to bail or be set at liberty on his own recognizance on condition to appear at the time to which the inquiry or trial is adjourned, or till the new trial takes place. If he fails to appear before a justice any justice before whom he ought to have appeared may endorse on his recognizance a certificate of non-appearance. The certificate of non-appearance may be in the form (T.) in the first schedule hereto, or of the like effect, and shall be *prima facie* evidence of his not having appeared.

(b.) When the preliminary inquiry is finished, the defendant may be admitted to bail or set at liberty on his own recognizance on condition to appear at the time and place of trial, and that he will then surrender and take his trial, and not depart the court without leave.

Every such recognizance shall bind the person who enters into it, that the defendant shall do what is required of him not only at the place mentioned in the recognizance, but at any other place at which he may be ordered to be tried.

(c.) When the defendant has been convicted, and the court thinks proper not to pass judgment till a future time, or to suspend the execution of its judgment until any matter is decided by the Court of Appeal, the defendant may be admitted to bail or set at liberty on his own recognizance.

In such cases the condition of the recognizance of the defendant and his sureties shall be that the defendant, if permitted to appeal, shall prosecute the appeal with effect, and that in any event he shall personally appear in court on the day on which judgment is given in the said Court of Appeal, and also, if ordered by the court or a judge thereof, on the day and at the time appointed for any proceeding in the said appeal, and so from day to day, and not to depart that court without leave, and to render the defendant to prison or otherwise obey any order of the court upon the said appeal:

Provided that the defendant shall not be required to attend on any other day than the day when judgment is given, unless four days' notice of the order for his attendance is given either to the defendant or to his solicitor or to the bail personally, or by leaving the same at his or their last known place of abode; Provided also that every such defendant shall be entitled to be bailed if the offence of which he is convicted is one for which he was so entitled to be bailed at every stage of the proceeding against him before trial.

If the defendant is upon his conviction admitted to bail or set at liberty on his own recognizance, the recognizances shall be taken by the court which tried him, and shall be by it transmitted to the

AD. 1878. Court of Appeal in criminal cases. If the defendant is not then admitted to bail, or set at liberty as aforesaid, the recognizances may be taken before a judge of the High Court, or a commissioner appointed to take special bail in actions before the High Court, and every such recognizance shall be filed in the Crown Office according to the practice thereof. When such recognizances are duly filed, the Master of the Crown Office shall make out and deliver to the defendant or his solicitor a certificate thereof in writing under his hand.

The recognizances to be taken may be in the forms (S.) (V.) given in the first schedule hereto, or to the like effect, and whenever any such recognizance is taken notice shall be given to the defendant and to his bail of what they are bound to do in a form similar to the examples given in the forms (U.) (W.) in the first schedule hereto, or to the like effect.

15

SECTION 340.

IN WHAT CASES AND HOW THE DEFENDANT MAY BE COMMITTED TO PRISON.

Any defendant who is not admitted to bail under the provisions of the last preceding section shall be committed to prison for safe custody for the time for which he might have been bailed, and by the court or justice by which or by whom he might have been bailed, subject, in the case of persons so committed by a justice, to the following provisions:

If the justice adjourns the preliminary inquiry under the provisions herein-before contained he may by his warrant (which may be in the form (X.) in the first schedule hereto, or to the like effect) remand the defendant to the prison for the district in which he acts, provided that if any such adjournment is for any period not exceeding three clear days, the justice may, if he thinks fit, give a verbal order to the constable or other person who has the defendant in custody, or to any other constable or person, to continue to keep the defendant in his custody till his next sitting, and to bring him before him at the time appointed for continuing the inquiry.

The justice may, whilst the defendant is under remand and before the expiration of the period for which he has been remanded, order the defendant to be brought before him, and the gaoler or officer in whose custody he then is shall obey the order.

If an order has been made for changing the place of trial, the court before which the defendant is tried may in such cases commit him to the prison in which persons committed for trial before it are confined.

SECTION 341.

COMMITTAL OF THE DEFENDANT.

When the justice has determined to commit for trial any defendant who is not admitted to bail, he shall, by a warrant, which may
5 be in the form (Y.) in the first schedule hereto, or to the like effect, commit him to the prison for the district in or for which he is acting, to be there safely kept until he shall be delivered thence by due course of law.

SECTION 342.

CONVEYING PERSON COMMITTED TO PRISON.

10 The constable or other person to whom the warrant of commitment is directed shall convey the defendant to the prison mentioned in such warrant, and shall there deliver him together with such warrant to the keeper or governor of such prison, who shall thereupon give such
15 constable or other person a receipt for such prisoner, which may be in the form (Z.) in the first schedule hereto, or to the like effect, and which shall set forth the condition in which such prisoner was when he was delivered into the custody of such keeper or governor.

SECTION 343.

20 BAIL OF PERSONS UNABLE TO PROCURE BAIL ON COMMITTAL.

If any defendant entitled to be admitted to bail, or any defendant whom the justice has power to bail, and who in his opinion ought to be bailed, is committed to prison only because he does not at the
25 time of his committal procure sufficient sureties, the justice shall certify on the back of the warrant of commitment (in the form (AA.) in the first schedule hereto, or to the like effect) his consent to the defendant being bailed, and shall state the amount of bail which ought to be required, and any justice of the peace who is at the prison in which such defendant is confined shall admit such defendant
30 to bail accordingly, in the manner herein-before provided.

If it is inconvenient for the surety or sureties to attend at the prison to join with the defendant in the recognizance of bail, the justice may make a duplicate of the certificate aforesaid, which may
35 be in the form (BB.) in the first schedule hereto, or to the like effect, and upon the production of the same to any justice locally competent, such justice may take the recognizance of the surety or sureties in conformity with such certificate. When such recognizance is transmitted to the keeper of such prison, and produced, together with the certificate on the warrant of commitment as aforesaid
40 to any justice of the peace at such prison, such justice shall take

A.D. 1878. — the recognizance of the defendant, and shall order him to be discharged out of custody as to that commitment, as herein-after mentioned.

SECTION 344.

RECOGNIZANCES TO BE TRANSMITTED TO COURT.

5

Whenever under the provisions herein-before contained any defendant is admitted to bail after being committed to prison, the justice who admits him to bail shall forthwith transmit the recognizance or recognizances of bail to the justice, or one of the justices by whom he was committed, to be by him transmitted to the proper officer of the court before which the trial is to be had. 10

SECTION 345.

WARRANT OF DELIVERANCE WHEN DEFENDANT BAILED AFTER COMMITTAL.

Whenever a justice of the peace admits to bail any defendant who is then in prison, such justice shall send to or cause to be lodged with the keeper of such prison a warrant of deliverance, which may be in the form (CC.) in the first schedule hereto, or to the like effect, under his hand and seal, requiring the said keeper to discharge the person so admitted to bail, if he be detained for no other offence, and upon such warrant of deliverance being delivered to or lodged with such keeper he shall forthwith obey the same. 15 20

SECTION 346.

CUSTODY OF DEFENDANT IN CASE OF CHANGE OF PLACE OF TRIAL.

If an order is made for changing the place at which any defendant is to be tried 25

(a.) He shall (if in custody) remain in the custody in which he is till the beginning of the sittings at which he is to be tried. He shall then be taken to the prison in which other prisoners who are to be tried before that court are confined till their trial, and shall be confined there in the same way, and shall be subject to the same liabilities in all respects, and shall be brought before and removed from the court in the same manner as such prisoners. If he is convicted, the court before which he is tried shall have power to direct that the sentence of the court shall be executed upon him either at the place at which it would have been carried out if no order for changing the place of trial had been made; or at the place at which sentences passed upon other persons convicted by the court by which he was tried are executed, and such order shall be carried out. 30 35

Every defendant whose place of trial has been changed shall be in lawful custody as long as he is under the charge of the keeper of the 40

prison to which he was originally committed, or of any person duly authorised by him, or under the charge of the keeper of the prison to which he is removed, or of any person duly authorised by him wherever he may be, whilst every part of the provisions herein-
 5 before contained is being carried out, and whilst he is being moved from place to place for that purpose, or whilst he is under confinement in any prison, or in any county or place through which he is being removed for the purpose of any reasonable delay in his journey.

10

SECTION 347.**ESTREATING RECOGNIZANCES.**

The officer of every court before which indictable offences are tried, shall make a list in writing specifying the name of every person making default in performing the conditions of any recognizance by
 15 which he may be bound to do anything relating to any trial before such court.

The list shall specify the name of every person so making default, the nature of the offence in respect of which every such defaulter or his surety was bound; the residence, trade, profession, or calling of
 20 every such defaulter and his sureties: and it shall state the causes (if known) why every such person has not appeared, and whether by reason of his non-appearance the ends of justice have been defeated or delayed.

Every such list shall be laid before a judge, or in the case of a
 25 court of quarter session for a county, before the chairman or two justices who have attended before the court. The person before whom the list is laid shall examine it, and make such order as to estreating or putting in process any such recognizance as he thinks just, and no officer of any such court shall estreat or put in process
 30 any such recognizance without the written order of such person.

CHAPTER XLV.**ACCUSATION.—NOTICE OF INDICTMENT.—PROCESS ON INDICTMENT.****SECTION 348.**

35

NO ONE TO BE TRIED TILL HE IS ACCUSED.

No person shall be put upon his trial for any indictable offence, although he may have been committed for trial as herein-before mentioned, unless and until he has been accused thereof, —

A.D. 1878.

(a.) By an indictment duly found against him by a competent grand jury, or

(b.) By an information filed by the Attorney-General or by the Master of the Crown Office on the order of the High Court, or

(c.) By an inquisition taken before a coroner. 5

Every such indictment, information and inquisition shall be in the form herein-after provided for, and shall be subject to the provisions as to amendment and otherwise herein-after contained.

No grand jury shall henceforth present that any person has committed an indictable offence of their own knowledge only and without 10 any evidence given on an indictment sent before them.

Any member of any grand jury, who either is or on that occasion acts as foreman thereof, may administer an oath to every person appearing before such grand jury to give evidence in support of any indictment, and no witness need be previously sworn in open court. 15 Giving evidence before a grand jury is giving evidence in a judicial proceeding within the meaning of the provisions herein-before contained as to the offence of giving false evidence. If any person is indicted for giving false evidence before any grand jury, any member of the grand jury shall be competent and may be compelled to give 20 evidence as to what was said by such person.

SECTION 349.

WHO MAY SEND A BILL BEFORE A GRAND JURY.

Any one may present to a grand jury locally competent under the provisions herein-before contained, an indictment against any per- 25 son for any indictable offence, subject to the following provisions :

No indictment shall be preferred for any offence before any grand jury against any person who has not been committed for trial in the manner herein-before provided for, unless the prosecutor of the indictment does the following things, at least one month before he 30 presents the indictment.

(a.) He must serve or cause to be served upon the defendant personally (except in the cases herein-after excepted) the following documents, that is to say :—

(i.) A notice that he intends to prefer such indictment, which 35 notice must be in the form (DD.) given in the first schedule hereto, or to the like effect ;

(ii.) A copy of the indictment which he intends to prefer ; and

(iii.) Affidavits made by the witnesses whom he intends to call in support of the said indictment, setting forth the substance of 40 the evidence which they are prepared to give in support thereof.

It shall not be lawful for any person to prefer any bill of indictment against any person who is not in England or cannot be found without leave for that purpose obtained upon a motion made in open court from the High Court or a division thereof. Such
5 leave shall not be granted unless the Court is of opinion that such a course is conducive to the ends of justice, nor unless it is shown that the person whom it is intended to indict cannot be proceeded against for the offence which he is alleged to have committed in the place where he then is. If such leave is given the court shall
10 impose upon the person to whom it is given such terms as in its opinion are sufficient to secure the service of the said documents on the person intended to be indicted, and shall name the grand jury before which the bill of indictment is to be preferred, and the time within which it is to be preferred, and the grand jury so named shall
15 be competent to inquire into the facts.

(b.) The prosecutor must prove before a justice acting in or for the district in which the court sits before which the indictment is to be tried, that he has given or caused to be given, or otherwise
20 duly served such notices as aforesaid, or complied with the terms so imposed upon him by the court as aforesaid, and he must also deliver to such justice copies of such documents, and unless he is or is acting on behalf of the Attorney-General, or is or is acting on behalf of some other public officer, must require the justice to bind him over in his own recognizance to prosecute such indictment, which
25 the justice shall thereupon do. The justice shall forward such documents and recognizance to the proper officer of the court before which the indictment is to be tried.

(c.) The person against whom the indictment is to be preferred may apply to any judge of a superior court to require any such
30 prosecutor acting in a private capacity to give security that he will pay any costs which he may be ordered to pay by the court before which the trial is had; and if such prosecutor is required to give such security he shall not be permitted to present any such indictment as aforesaid until he has done so.

35 (d.) No witness shall be sent before any grand jury in support of any such indictment as aforesaid unless the conditions herein-before prescribed as to the affidavits herein-before mentioned have been complied with with respect to him.

SECTION 350.

40 ON ACQUITTAL OR THROWING OUT OF BILL, DEFENDANT TO HAVE COSTS.

If any indictment presented under the provisions lastly herein-before contained is thrown out by the grand jury to which it is

A.D. 1878. presented, or is quashed by the court under the provisions hereinafter contained, or if any person against whom such an indictment is presented is acquitted on his trial, the prosecutor shall, unless it is otherwise ordered by the court before which the trial takes place, or would have taken place, if a bill had been found, pay the defendant's costs, to be taxed by the proper officer of the said court and the defendant shall have the same remedies for the recovery thereof as if he had been successful in a civil action. 5

SECTION 351.

WHAT ORDERS DEFENDANTS MAY OBTAIN BEFORE TRIAL. 10

Any defendant who has been committed for trial for any offence except high treason, or being an accessory after the fact to high treason, may apply to any judge of the High Court for an order upon any person bound over to prosecute him for a copy of the indictment which it is intended to present against him. 15

Any defendant who has a copy of any indictment which it is intended to present against him may apply to any judge of the High Court to have it amended.

The indictment presented to the grand jury must correspond with the copy so delivered and amended. 20

Any defendant to whom any prosecutor has given copies of the affidavits of persons intended to be called as witnesses in support of any indictment intended to be presented against him may apply to any judge of the High Court for an order for further and better particulars of the evidence intended to be given by them, or for an order that their depositions may be taken before a justice of the peace. 25

The judge to whom any such application is made may, in his discretion, make or refuse to make any such order as to any such witness, and if any such order is made, the judge who makes it shall have power to direct before whom such deposition shall be taken, and the deposition shall be taken, and when taken shall be dealt with in all respects in the manner herein-before provided for with respect to depositions taken at preliminary inquiries. 30

SECTION 352.

IF NO COPY OF INDICTMENT BEFORE BILL FOUND. 35

If no copy of the indictment has been given to the defendant under any of the provisions herein-before contained, the defendant shall be entitled to have a copy of the indictment from the officer of the court, as soon as the indictment is drawn, reasonable notice being given to the officer that such copy will be required. 40

SECTION 353.

A.D. 1878.

SPECIAL PROVISIONS IN THE CASE OF TREASON.

When any defendant is indicted for high treason, or for being accessory after the fact to high treason, the following documents shall be delivered to him after the indictment has been found, and at least ten days before his arraignment; that is to say,

- (i.) A copy of the indictment.
- (ii.) A list of the witnesses to be produced on the trial to prove the indictment.
- 10 (iii.) A copy of the panel of the jurors who are to try him returned by the sheriff.

The lists of the witnesses and the copy of the panel of the jurors must mention the names, profession, and places of abode of the said witnesses and jurors.

- 15 The said documents must all be given to the defendant at the same time and in the presence of two witnesses.

Provided that this section shall not apply to cases of high treason, or being accessory after the fact to high treason, if the overt act of high treason which the defendant is charged with, or to which he is charged with being accessory, are those which are defined in section 34, subsections (a) and (b) of this Act, but the other provisions herein-before contained shall apply thereto.

SECTION 354.

CRIMINAL INFORMATION.

- 25 Any person may be charged upon a criminal information filed by the Attorney-General or the Master of the Crown Office with any offence other than an offence for which he might on conviction be sentenced to death or penal servitude, and for no other. No person shall be put upon his trial on any such information unless at a reasonable time before such trial he was served with a copy of the information and with affidavits of the witnesses by whom it is intended to prove the case against him showing the substance of the evidence which they are prepared to give.

Every one against whom an information is exhibited in the High Court by the Attorney-General must within four days of its service upon him plead to it, by delivering a written plea to the proper officer of the court. If no such plea is pleaded judgment may be entered against the defendant for want of a plea, unless the court or a judge thereof allows further time to plead.

- 40 If any prosecution upon a criminal information is not brought to trial within *twelve calendar months* from the pleading of the plea,

A.D. 1878. the court may, upon an application on behalf of the defendant, and if it sees fit, authorise the defendant to bring on the trial of such prosecution unless the proceedings are stayed by the Attorney-General. *Twenty days'* notice of his intention to make such application must be given by or on behalf of the defendant to the Attorney-General or Solicitor General.

SECTION 355.

CORONERS' INQUESTS.

No person shall be tried upon any coroners' inquisition, except for murder or manslaughter, or being accessory after the fact to 10 murder or manslaughter, or for concealing treasure. Any person committed for trial by any coroner for any such offence shall be entitled upon requesting the same to a copy of the inquisition and of the depositions of the witnesses upon whose evidence it was taken upon payment of a fee for the same not exceeding three halfpence for 15 every folio of 90 words.

SECTION 356.

BENCH WARRANT AND CERTIFICATE.

When any person against whom an indictment has been found, and who is then at large, does not appear to plead to such indict- 20 ment, whether he is under recognizances to appear or not, the following consequences shall follow:

(a.) The court or any two justices forming part of the court before which the defendant ought to have been tried may issue a warrant for his apprehension which shall be subject to all the pro- 25 visions respecting other warrants herein-before contained, except that it may be executed in every part of England without being backed.

(b.) The officer of the court at which the said indictment is found, or if the place of trial has been changed the officer of the court before which it ought to have been tried, if such order had not been made, 30 shall at any time after the end of the sessions at which the indictment is found, upon application of the prosecutor, or of any person on his behalf, and on payment of a fee of *one shilling*, if the defendant has not pleaded to such indictment, grant to the prosecutor a certificate of such indictment having been found. The certificate 35 may be in the form (FF.) in the first schedule hereto, or to the like effect. Upon production of such certificate to any justice for the district in which the indictment was found, or in which the defendant is or resides or is suspected to reside or be, such justice shall issue his warrant to apprehend the defendant, and to cause him to 40 be brought before him, or before any other justice for the same

district, to be dealt with according to law. The warrant may be in the form (GG.) in the first schedule hereto, or to the like effect. If the defendant is thereupon apprehended and brought before any such justice, and if it is proved upon oath before him that the person so apprehended is the defendant charged and named in such indictment, the justice shall, without further inquiry or examination, commit him for trial by a warrant which may be in the form (HFi.) in the first schedule hereto, or to the like effect, or admit him to bail. If any such defendant is confined in any prison for any other offence than that charged in the said indictment at the time of such application and production of the said certificate as aforesaid, and if it is proved before the justice upon oath that the person so indicted and the person so confined in prison are one and the same person, he shall issue his warrant directed to the keeper of the prison in which the defendant is then confined as aforesaid, commanding him to detain such person in his custody until by Her Majesty's writ of habeas corpus he shall be removed therefrom, for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of his custody by due course of law. Such warrant may be in the form (II.) in the first schedule hereto, or to the like effect.

SECTION 357.

ABSCONDING FROM JUSTICE ACT OF BANKRUPTCY.

Upon the passing of this Act all proceedings to outlawry in criminal cases shall be abolished.

Every person against whom any indictment is found for any indictable offence, and who cannot be apprehended upon any process issued for his apprehension, and who withdraws himself from justice, either by concealing himself in Her Majesty's dominions, or by leaving them, or who escapes after his conviction, or who having been admitted to bail during his trial, or upon his conviction does not surrender to his recognizances and cannot be apprehended, shall commit an act of bankruptcy thereby, but he shall not be adjudicated a bankrupt in respect only of any such act of bankruptcy except as herein-after mentioned.

The Attorney-General, or any person authorised by him, may, upon obtaining leave from the High Court, upon a motion to be made by either the Attorney-General or the Solicitor-General personally present a petition to any court having jurisdiction in bankruptcy under the law in force for the time being, that the person so withdrawing himself from justice be adjudged a bankrupt; provided that at least *one month* before any such motion is made notice in writing that it is intended to be made shall be left at the

A.D. 1878. last or most usual place of abode of the defendant, and the said notice shall also be published as an advertisement three times in the "London Gazette," and also three times in at least one daily newspaper published in London, and in one other newspaper circulating in the place where the defendant resides, and every such publication shall be made at least one month before the motion herein-before mentioned. 5

If such adjudication is made, Her Majesty shall be entitled to any surplus remaining after payment of the creditors of the bankrupt, and of the costs, charges, and expenses of the bankruptcy, 10 provided that if the bankrupt shall, within such time after the adjudication of bankruptcy as shall be fixed by the court making it (which time shall not be less than one year), surrender himself to the court before which he ought to have appeared to take his trial, he shall be entitled to have any such surplus as aforesaid returned 15 to him.

CHAPTER XLVI.

TRIAL OF INDICTABLE OFFENCES.

SECTION 358.

ARRAIGNMENT.

When a prisoner has been accused of an indictable offence in the manner herein-before mentioned, and when the time for his trial has come, he shall be called to the bar of the court before which he is to be tried, and the nature of the charge against him shall be stated to him by the proper officer, and he shall, if he requires it, and if he has not had a copy of the indictment, be permitted to read or to have read to him the indictment against him. 20

Provided that if the case is ordered to be tried as a civil action, or in other cases in which the court so orders, the defendant need not appear or plead in person, but may deliver a plea in writing to the officer of the court at such time after his accusation and before his trial as the High Court directs, either specially or by any general rule made under the powers herein-before contained. 30

If any person against whom any indictment is found is at the time of his trial in the prison belonging to the jurisdiction of the court by which he is to be tried under a warrant of commitment, or under sentence for some other offence, the court may by order in writing direct the governor of the prison to bring up the body of such person in order that he may be so arraigned without writ of habeas corpus, and the governor shall obey such order. 40

SECTION 359.

A.D. 1878.

WHAT DEFENDANT MAY REQUIRE BEFORE PLEADING.

Any defendant who has not been committed for trial by a justice, and who is not accused by a criminal information or a coroner's
5 inquisition, may before he pleads require the prosecutor to prove that he has been duly served with the documents herein-before mentioned, and that the prosecutor (if he was bound to be so) was duly bound over to prosecute, and (if he was required to do so) that he gave such security for costs as he was required to give, and if the pro-
10 secutor fails to give such proof the indictment shall be quashed.

SECTION 360.

TIME TO PLEAD.

When any defendant is called upon to plead he may apply to the court for further time to plead, and the court if it sees fit may
15 allow such time upon such terms as it thinks proper.

SECTION 361.

PLEAS IN ABATEMENT AND OTHER SPECIAL PLEAS. MOTIONS TO QUASH THE INDICTMENT.

When the defendant is called upon to plead, he may plead any
20 such plea in abatement, or special plea in bar, as is specified in the provisions relating to pleading in criminal cases herein-after contained, in which case such proceedings shall be had thereupon as are herein-after provided for.

If the defendant pleads guilty the court shall proceed as if he
25 had been convicted by the verdict of the jury. If the defendant pleads not guilty the court shall proceed in the manner herein-after prescribed.

If the defendant refuses to plead the court shall proceed in the same manner as if he had pleaded not guilty.

30 If the defendant stands mute the court shall cause a jury composed of any twelve men who happen to be present to be sworn to inquire for what cause the defendant stands mute, and whether he can understand or be made to understand the charge against him, and make or be enabled to make his answer to it.

35 If the jury find that the defendant wilfully abstains from pleading, and that he can understand the charge against him, and his answer to it, the court shall proceed as if he had pleaded not guilty.

If the jury find that the defendant stands mute because he does not understand the charge made against him, or because he is
40 unable to make his answer to it, but that he can be made to understand it, or be enabled to make his answer to it either by means of

A.D. 1878.

an interpreter or otherwise, the court shall adjourn the case until means are provided to enable the prisoner to plead and to make his answer to the charge, and shall either commit the prisoner to custody or admit him to bail until such provision is made, provided that if it is found impossible to provide such means it shall be lawful 5. for Her Majesty, if she thinks fit, to direct through one of Her Secretaries of State that the prisoner shall be discharged upon bail upon such terms as may be thought proper, or without bail.

If the jury find that the defendant does not understand the charge, and that he cannot at that time by reason of his state of 10 mind be made to understand it, or that he is not in a fit state of mind to make his defence, he shall be dealt with in the manner herein-after prescribed for dealing with insane prisoners.

SECTION 362.

IF THE PRISONER PLEADS NOT GUILTY, JURY TO BE SWORN. 15

If the prisoner pleads not guilty, a jury shall be impanelled to try him in the following manner:—

The officer of the court shall inform the prisoner that he is about to call over the names of the jury who are to try him, and that if he has any objection to make to any of the jury he 20 may make it as the jurymen come to the book to be sworn, and before they are sworn, and he shall be heard.

This communication may be made to any number of defendants at the same time, and may, if necessary, be repeated to the same defen- 25 dants or some of them as often as occasion may require.

SECTION 363.

CHALLENGES TO THE ARRAY.

When the officer of the court has addressed the defendant as lastly herein-before mentioned, either the defendant or the prosecutor may make any objection which he is by law entitled to make to the 30 array of the petty jurors. The objection shall be made in writing, and may be in the form (K.K.) in the first schedule hereto, or to the like effect. The court shall hear and decide upon the objection, and if it is of opinion that the objection is good in law, and if the party who has not challenged the array denies that the ground of 35 challenge is true in fact, the court shall appoint any two indifferent persons to try whether the alleged ground of challenge is true in fact, or not. If the triers find that the alleged ground of challenge is true in fact, or if they are unable after what the court considers a reasonable time to agree on their verdict, or if the party who has not 40

challenged the array admits that the ground of challenge is true in fact, the court shall direct a new panel to be returned, and shall adjourn the trial until it is returned. A.D. 1878.

SECTION 364.

5 IF NO CHALLENGE TO ARRAY PANEL TO BE CALLED.

If no objection is made to the panel of jurors, the officer of the court shall proceed to call the names of the jurors in any order, or in any manner which the court may direct, in order to secure impartiality, and the jurors who are not sitting on any other jury shall appear. The twelve jurors who first appear shall be sworn or
10 make affirmation according to law, unless they are challenged or directed to stand by as herein-after mentioned, or unless either the prosecutor or the defendant requires the whole panel to be called over before any jurors are called in order to be sworn, so that he
15 may know what jurors are present, in which case no juror shall be called in order to be sworn till all the jurors present have answered to their names.

SECTION 365.

CHALLENGES.

20 Every person indicted for high treason shall be entitled to challenge thirty-five jurors peremptorily.

Every person indicted for any offence other than high treason for which he might, upon conviction, be sentenced to death, shall be entitled to challenge twenty jurors peremptorily.

25 Every person indicted for any other indictable offence shall be entitled to challenge six jurors peremptorily, unless the indictment is directed to be tried as a civil action, in which case the person indicted shall not be allowed to make any peremptory challenge.

Every defendant and every prosecutor shall be entitled to challenge
30 any number of jurors for any cause which according to law is a sufficient reason why they should not try the indictment against the defendant, or on the ground that they are not indifferent between the Queen and the defendant.

If any such challenge is made, the jurors already sworn, or if no
35 jurors have then been sworn then any two persons present whom the court may appoint for that purpose shall be sworn, to try, as the case may be, whether such cause exists, or whether the juror objected to stands indifferent between the Queen and the defendant. If they find that such cause does not exist, or that the juror does stand
40 indifferent, he shall be sworn. If they find that such cause does exist, or that the juror does not stand indifferent, or if they

A.D. 1878. are unable after what in the opinion of the court is a reasonable time in that behalf to agree upon their verdict, he shall not be sworn.

The prosecutor shall have no power to challenge any juror peremptorily, but he may direct any number of jurors not peremptorily challenged by the defendant to stand by until all the jurors have 5 been called who at the time when they are so called are available for the purpose of trying that indictment. If twelve such jurors are not found when all the jurors available have been called, the jurors who were ordered to stand by shall be recalled in any order, or in any manner which the court may direct, in order to secure impar- 10 tiality, and shall be sworn, unless the prosecutor can show cause to the contrary.

If after all the jurors have been once called, and whilst the prosecutor is showing or when he is about to show cause why any juror directed to stand by should not be sworn, other jurors become available 15 for the purpose of trying the indictment, the prosecutor may direct the juror against whom he is showing cause, and other jurors previously directed to stand by, to stand by again until the names of the jurymen who have so become available have been called.

The defendant may be called upon to declare whether he chal- 20 lenges any juror peremptorily, or otherwise, before the prosecutor is called upon to declare whether he challenges such juror or requires him to stand by.

If when all challenges have been made twelve jurors do not remain, the court shall adjourn the trial till a new panel is returned, 25 or till such other time as it thinks proper, and shall in its discretion recommit the defendant to custody or admit him to bail until the time to which the trial is adjourned.

SECTION 366.

GIVING IN CHARGE.

30

When the jury are sworn the officer of the court may give the defendant in charge to the jury in the manner now usual in cases of felony, provided that if he omits to do so the omission shall have no effect upon the subsequent proceedings. The proclamations now usual may be made before and during the trial, but their omission 35 shall have no effect on the validity of the proceedings.

SECTION 367.

THE CASE FOR THE PROSECUTION.

After the defendant has been given in charge to the jury, or when the jury have been sworn, the counsel for the prosecution, if there 40 is one, may open the case against the defendant, and give evidence in

support of the charge. If there is no counsel for the prosecution the witnesses shall be called and examined as the court may direct. If no such evidence is given the defendant shall be acquitted.

If the defendant or any one of several defendants is defended by
5 counsel, such counsel shall at the end of the case for the prosecution, declare whether he intends to give evidence or not for the defendant for whom he appears, and if every such counsel declares that it is not his intention to do so the counsel for the prosecution may address
10 the jury a second time in support of the charge. If no defendant is defended by counsel, the counsel for the prosecution shall not be permitted to address the jury a second time in support of the charge, unless he is entitled to a reply under the provisions herein-after contained.

SECTION 368.

15 EXAMINATION OF THE DEFENDANT.

When the case for the prosecution is ended, the court shall inform the defendant, whether he is defended by counsel or not, that he may make any statement he pleases as to the charge against
20 him, and that if he does so he will after he has made it be questioned by the counsel for the prosecution, or, if there is no counsel for the prosecution, as the court may direct.

The defendant may either make a statement, or if he is defended by counsel he may be examined by his counsel as a witness is examined in chief.

25 After he has been so examined, or after he has made a statement, the counsel for the prosecution may ask him questions in the same manner as if he were a witness under cross-examination, provided that such questions shall be confined to the matter in issue and matters relevant thereto, and shall not be directed to matters
30 affecting the defendant's credit or character. Both the court and the jury (with the permission of the court) may ask the defendant any questions which they might ask of a witness.

After the examination of the defendant is ended, his counsel, if he is defended by counsel, may ask him any questions by way of re-
35 examination. If he is not defended by counsel he shall be allowed to make any explanation he pleases of the statement made or answers given by him, and the court and the jury (with the permission of the court), but not the counsel for the prosecution, may ask him questions thereon.

40 The defendant shall not be sworn as a witness, nor be liable to any punishment for making false statements, either before or during or after his examination.

A.D. 1878.

SECTION 369.

CASE FOR THE DEFENDANT.

When the case for the prosecution is ended, the defendant or his counsel may address the jury in his defence, and may call witnesses in answer to the charge; after which either the defendant or his 5 counsel may address the jury a second time in answer to the charge.

SECTION 370.

REPLY.

The counsel for the prosecution shall be entitled to a reply if any evidence is given in behalf of the defendant or of any one of several 10 defendants, but not otherwise, provided that the Attorney-General or Solicitor-General, or any other counsel instructed by their directions or appearing in their place, shall in all cases be entitled to a reply, whether evidence is given on behalf of the defendant or not.

SECTION 371.

15

NOTICE TO BE GIVEN OF EVIDENCE TO THE OPPOSITE SIDE.

No witness shall be called by the prosecutor at any trial for any indictable offence, unless the prosecutor gives the defendant reasonable notice in writing of his intention to call him, which notice must state the witness's name and address, and the substance of the evidence 20 which he intends to give. The court shall determine what notice is reasonable, regard being had to the time when and the circumstances under which the party intending to call the witness became acquainted with the nature of the witness's evidence, and determined to call him as a witness. No such notice need be given if the pro- 25 secutor first became aware of the evidence which the witness could give on the day on which he is called.

SECTION 372.

COURT MAY DIRECT THE ATTENDANCE OF WITNESSES.

If the court is of opinion that any witness who is not called ought 30 to be called, it may compel him to attend, and if it thinks proper, adjourn the further hearing of the case until he attends, and may examine or cause him to be examined at any stage of the proceedings, and in any way which it thinks conducive to the ends of justice, and may make such order as it thinks proper as to his cross- 35 examination, and as to addresses to be made to the jury on his evidence.

SECTION 373.

A.D. 1878.

ADMISSIONS NOT TO BE TAKEN ON TRIAL OF INDICTABLE OFFENCES.

It shall not be competent to any defendant on his trial for any indictable offence or to his counsel or solicitor to admit any fact
5 alleged against him so as to dispense with proof thereof, otherwise than by pleading guilty; provided that nothing herein contained shall prevent any statement made by the defendant relevant to the matter in issue from being proved as it might have been proved if this Act had not been passed.

10

SECTION 374.

SUMMING UP.

When the case for the defendant is ended, the judge shall, if necessary, sum up.

SECTION 375.

15

JURY TO CONSIDER THEIR VERDICT.

After the summing up of the judge the jury shall consider their verdict. If they desire to leave the court in order to consider it, they shall be kept in some private place under the charge of an officer of the court, where they shall be allowed to have the use of
20 fire and lights, and with the consent of the judge to have reasonable refreshment at their own expense; but no jurymen shall be allowed to withdraw himself from the others, and no person shall be permitted to speak or to communicate in any other way with any jurymen without the leave of the court, provided that the
25 officer of the court who has charge of them may ask them if they are agreed upon their verdict.

SECTION 376.

HOW IF THE JURY CANNOT AGREE.

If the jury are unable to agree upon their verdict, and if the judge
30 is satisfied that it is necessary that they should be discharged, he may discharge them.

SECTION 377.

VERDICT MAY BE GENERAL OR SPECIAL.—EFFECT.

The jury may in their discretion find either that the defendant
35 is guilty, or that he is not guilty, or they may find a special verdict, which shall be drawn up in the manner herein-after provided for.

A.D. 1878.

SECTION 378.

VERDICT OF NOT GUILTY.

If the jury find the prisoner not guilty he shall be immediately discharged from custody, unless he is found not guilty on the ground of insanity, provided that if the grand jury are at that time sitting, the judge may, if he thinks fit, direct that the defendant shall be further detained till the grand jury are discharged.

SECTION 379.

MOTION IN ARREST OF JUDGMENT ON VERDICT OF GUILTY.

If the jury find the prisoner guilty, the officer of the court shall ask him whether he has anything to say why judgment should not be passed upon him according to law.

The defendant may move in arrest of judgment either on the ground that the indictment does not (after any amendment which the court is willing to and has power to make) state any indictable offence, or on the ground that any irregularity has taken place at the trial, by which he has been actually prejudiced, but on no other ground.

Every such motion shall be made in writing, if the defendant is defended by counsel, and if he is not defended may, if the court thinks it necessary, be put into writing as the court may direct, and shall be in either case entered on the record.

The court may in its discretion either hear and determine the matter, or adjourn the hearing thereof till a time to be fixed for that purpose. If the defendant has nothing to say, or if after hearing what he has to say the court is of opinion that judgment should be passed upon him notwithstanding, the court may either proceed to pass sentence upon him according to law, or may postpone the passing of such sentence to a future time; or may discharge him on his own recognizance, or on his own recognizance and that of such other persons as the court thinks fit, to appear and receive judgment when called upon.

SECTION 380.

MOTION IN ARREST OF EXECUTION.

If judgment of death is given against any woman she may move in arrest of execution on the ground that she is pregnant. If such a motion is made the court shall empanel a jury of three registered medical practitioners to examine the woman in some private place.

and to inquire whether she is pregnant or not. If they find that she is pregnant execution shall be arrested till after the birth of her child.

SECTION 381.

5

ADJOURNMENTS.

From the time when the jury have been sworn the trial shall proceed continuously, unless for some sufficient reason the court thinks proper to adjourn it. During every such adjournment the court may, if it thinks fit, direct that the jury shall be kept together
10 during the adjournment, and that during such adjournment proper provision shall be made for preventing them from holding communication with any person on the subject of the trial.

If the court makes any such order all reasonable conveniences shall be provided for the jury at the expense of the sheriff, who
15 shall be repaid the same by the Commissioners of Her Majesty's Treasury.

SECTION 382.

WHEN JURY MAY BE DISCHARGED.

In any of the following cases or in any similar case the jury shall,
20 or may in the discretion of the court as herein-after mentioned, be discharged without giving a verdict, and a new trial shall be had, that is to say,

(a.) If the judge who is trying the case becomes incapable of trying it.

25 (b.) If the counsel for the prosecution or for the defence, or any or either of them, becomes incapable in the course of the trial of continuing to perform his duty therein;

(c.) If in the course of the trial any of the jury become incapable of continuing to perform their duty or misconduct themselves.

30 (d.) If the defendant in the course of the trial becomes incapable of understanding or attending to the proceedings or of defending himself,

(e.) If by reason of any accident or tumult or other similar cause it becomes unsafe or improper to proceed with the trial.

35 (f.) If any material witness becomes incapable of giving evidence, or refuses to give evidence, or absconds, or is kept out of the way either by the prosecution or by the defence.

In case (a) the jury shall be discharged by any other judge or person entitled to act as a judge in the court, or if there is no such
40 person then by the officer of the court, provided that if more judges than one are present at the trial the remaining judge or judges may if they think proper, proceed with the trial.

A.D. 1878.

In cases (*b*), (*c*), and (*f*) it shall be in the discretion of the court whether the jury shall be discharged or not.

In case (*e*) it shall be in the discretion of the court whether the jury shall be discharged or whether the trial shall proceed. If the court directs the trial to proceed it shall discharge any jurymen who have become incapable or misconducted himself, and the remaining jurymen shall have all the powers of a full jury, provided that if more than three of the jury are incapacitated or misconduct themselves the jury shall be discharged.

In case (*d*) the jury shall be discharged, unless the defendant becomes incapable as aforesaid after making his defence, or unless he is defended by counsel, in each of which cases the court shall have a discretion to discharge the jury or not.

In cases not herein-before specifically provided for, but similar to those which are so provided for, the court shall have a discretion to discharge the jury or not.

SECTION 383.

PRESENCE OF THE DEFENDANT.

Every defendant shall be entitled to be present in court during the whole of his trial, so long as he conducts himself properly. If he conducts himself improperly the court may in its discretion direct him to be removed and proceed with the trial in his absence, making such provision as in its discretion appears sufficient for his being informed of what passes at the trial and for the making of his defence.

The court may, if it thinks proper, permit the defendant to be out of court during the whole or any part of any trial on such terms as it thinks proper.

SECTION 384.

VIEW.

The court may, if it appears expedient for the ends of justice, direct that the jury shall have a view of any place, thing, or person referred to on the proceedings in any trial, and shall give directions as to the manner in which and the persons by whom the place, thing, or person shall be shown to such jurors.

SECTION 385.

PROCEEDINGS ON SUNDAY.

It shall be lawful for the court to receive the verdict of the jury, and to take such proceedings as are subsequent thereto, as well on Sundays as on other days.

SECTION 386.

A.D. 1878.

INSANE DEFENDANTS.

If, upon the arraignment of any prisoner he appears to be insane a jury may be empanelled, consisting of any twelve persons who
5 happen to be present, to try whether he is capable of understanding the proceedings and defending himself rationally. If they find that he is the trial shall proceed. If they find that he is not the court shall direct him to be detained during Her Majesty's pleasure.

If any defendant is acquitted of any indictable offence with which
10 he may be charged on the ground of insanity the court shall direct him to be detained during Her Majesty's pleasure.

Her Majesty may from time to time give such directions as she thinks fit as to the custody of any person with regard to whom any such order is made.

15

SECTION 387.

STAY OF PROCEEDINGS.

The Attorney-General may at any time after an indictment or inquisition is found, or after a criminal information has been filed
20 against any person for any indictable offence, and before judgment is given thereon, direct the officer of the court to enter in the record a statement that the proceedings are stayed by the Attorney-General's direction, and on such entry being made all such proceedings shall be stayed accordingly: No nolle prosequi shall henceforth be used for any such purpose.

25

CHAPTER XLVII.

APPEAL.

SECTION 388.

COURT OF APPEAL.

The judges of the High Court, or any five of them, of whom
30 the Lord Chief Justice of England, the Lord Chief Justice of the Common Pleas, or the Lord Chief Baron of the Exchequer shall be one, shall be a Court of Appeal in Criminal Cases, and their decision upon all such cases shall be final, unless they see fit to allow an
35 appeal from their decision to the House of Lords. Appeals shall lie to the said court in the cases herein-after provided for, and no others.

A.D. 1878.

SECTION 389.

RECORD.

The proper officer of every court before which indictable offences are tried shall keep a book in which he shall record the proceedings upon every trial for any such offence in the form and according to the rules prescribed in the first schedule (L.L.), hereto, or to the like effect. 5

No other record than the said book shall be kept or made up, and no other entries than those which are provided for in the said form and rules shall be made unless some special entry is made therein under the provisions herein-after contained. 10

From the passing of this Act, Writs of Error in criminal cases, and all proceedings thereon, shall be abolished.

SECTION 390.

SPECIAL ENTRIES ON THE RECORD AT INSTANCE OF DEFENDANT.

If any defendant thinks that any of the proceedings of the court by which he was tried were irregular or not according to law, he may, either during his trial or after his conviction, apply to the court before which he is being or was tried to direct a special entry to be made on the record showing the nature of the proceedings alleged to be irregular, and if the court refuses to do so he may, by the permission of the Attorney-General, apply to the High Court to order such entry to be made, but no such entry shall be made only on the ground that the court decided wrongly some question of law arising at the trial, except under the provisions next herein-after contained. 15 20 25

If a special entry is directed to be made it shall be drawn up by the officer of the court, and the defendant and the prosecutor, their counsel and solicitors shall be permitted to see it and copy it, and if either of them objects to its terms it shall be settled by the judge or chairman of the court before which the case was tried, or otherwise as the High Court or any judge thereof may direct. 30

Every such special entry shall be made in a form similar to that in which cases have heretofore been stated for the opinion of the Court for Crown Cases Reserved, and every such special entry may be sent back to be amended, and shall be so amended accordingly if the Court of Appeal in Criminal Cases considers it necessary. 35

SECTION 391.

SPECIAL ENTRY BY COURT.

If any question of law arises on the trial of any person for any indictable offence, the court may in its discretion reserve such question 40

for the consideration of the Court of Appeal in Criminal Cases. If the court determines to reserve any such question it shall state the question or questions reserved, with the special circumstances upon which the same have arisen, and shall direct such case to be specially entered in the record, and a copy thereof to be transmitted to the Court of Appeal in Criminal Cases.

A.D. 1878.

SECTION 392.

APPEALS. CASES RESERVED.

If any defendant who has been convicted of an indictable offence obtains leave to make and causes to be made such a special entry on the record, as is herein-before provided for, he may by the permission of the Attorney-General appeal against his conviction upon the ground that any matter stated in any such special entry shows that the court appealed from did something which it ought not to have done, or omitted to do something which it ought to have done.

If the court before which any person is convicted of any indictable offence reserves any question of law for the opinion of the Court of Appeal in Criminal Cases in the manner herein-before mentioned, the Court of Appeal shall consider and determine such question after hearing counsel or the parties, if the prosecutor or defendant thinks it fit that the case should be argued.

In any of the cases aforesaid the court may either

Confirm the judgment of the court appealed from

Or direct that the judgment of the court shall be set aside, notwithstanding the verdict (which order shall have for all purposes the same effect as if the defendant had been acquitted);

Or direct that the judgment of the court shall be set aside, and that instead thereof such judgment shall be given by the court before which the trial took place as ought to have been given at the trial;

Or if such court has not delivered judgment, remit the case to it in order that it may deliver judgment;

Or itself give such judgment as ought to have been given at the trial;

Or direct a new trial if it is of opinion that the jury was misdirected, or that there was any irregularity at the trial by which the defendant was, in fact, prejudiced in his defence, or which made the trial unsatisfactory, or that evidence tendered or objected to by the defendant was improperly rejected or admitted, and that the defendant was substantially wronged or prejudiced thereby;

Or make such other order as justice may require, provided that no conviction shall be set aside, and no new trial directed only

A.D. 1878. because some irregularity not being in the opinion of the court such as is herein-before referred to took place at the trial, or because evidence was improperly admitted or rejected by which no substantial wrong or prejudice was in the opinion of the court done to the defendant. 5

The order or direction of the Court of Appeal in Criminal Cases shall be certified under the hand of the presiding Chief Justice or Chief Baron to the proper officer of the court before which the case was tried, and such order or direction shall be carried into effect, and shall authorise every person affected by it to do 10 whatever is necessary to carry it into effect.

SECTION 393.

APPLICATION FOR A NEW TRIAL.

New trials may be granted after the conviction of any person for any indictable offence in the following cases, and subject to the 15 following provisions:—

(a.) A person who has been convicted of an indictable offence before a superior court may, during or at the end of the sittings at which he was convicted, or if he was convicted at the assizes at any time before the judge has left the circuit town, apply for a new 20 trial to the judge, or to any one of the judges (if there were more than one), who presided at the trial; and thereupon such judge may either grant a new trial absolutely or give the person convicted leave in writing to move the Court of Appeal in Criminal Cases for a new trial, within a time to be specified in such leave, or refuse 25 such application. If such new trial is granted absolutely, the judge who makes the order shall direct either that it shall be had before himself at the same place at which the first trial was had, or at the next sitting of a competent court at that place, or in and for the district in which it is situated. Notice of every such applica- 30 tion shall be given to the prosecutor, and it shall be heard either in open court or otherwise as the judge to whom it is made may direct.

In the case of convictions before a court of quarter sessions such application may be made, during or at the end of the session, 35 to the justice who presided at the trial and to one other justice present at the trial, or to the recorder, or deputy recorder, as the case may be; and if both of the said justices agree that a new trial ought to be had, or if the said recorder or deputy recorder, as the case may be, thinks fit, they or he may order that such a trial shall 40 be had at the next sessions.

(b.) If upon any application for the mercy of the Crown on behalf of any person convicted of an indictable offence one of Her Majesty's Principal Secretaries of State, for any reason, entertains a doubt whether in fact such a person ought to have been convicted, the Secretary of State, before deciding whether he will advise Her Majesty to remit the sentence, may, if he thinks proper, give leave to such person to apply to the Court of Appeal in Criminal Cases for a new trial; such leave shall be in writing, and shall specify the time within which and the grounds upon which such motions may be made.

(c.) If any person is convicted of an indictable offence, and if after such conviction any other person is convicted of the same offence, or if after such conviction any person who was a witness at the trial at which such conviction was had is convicted of having given false evidence at such trial, the person so convicted may make a motion for a new trial in the Court of Appeal in Criminal Cases, on the ground that such subsequent conviction was inconsistent with the first conviction or rendered its justice doubtful, or on the ground that it is doubtful whether such person would have been convicted if such false evidence as aforesaid had not been given, and the said court shall grant a new trial if it is of opinion that either of such grounds is established.

If any new trial is granted under this provision, the conviction on account of which it was granted may be proved at such new trial on behalf of the person originally convicted.

If, on any of the grounds aforesaid, leave to move the Court of Appeal in Criminal Cases for a new trial is granted, the court shall hear such motion within the time specified in that behalf, and shall, if it grants a new trial, make an order stating when, and where, and before whom the new trial shall be had, and such order shall be in all respects of the same force, and the same proceedings shall be had thereon, as if Her Majesty had issued a special commission to the persons named therein for the trial of the person named therein.

Every such motion may be heard before three judges of the said court.

SECTION 394.

INTERMEDIATE EFFECTS OF APPEAL.

The execution of the sentence of a court shall not be suspended by any such proceedings as are herein-before provided for :

(i.) Unless the sentence is that the defendant suffer death, or be flogged or whipped, in either of which cases the sentence shall not be executed until the appeal or question reserved for the court, or the motion for a new trial has been heard and [178.]

A.D. 1878.

decided, or until the expiration of such a period as may be provided for by the general rules to be made by Her Majesty under the powers in this Act contained; or

- (ii.) Unless the court from which the appeal is made, or the High Court of Justice, or any judge thereof, thinks fit to order either that the defendant be admitted to bail, or if he is sentenced to any punishment other than simple imprisonment, that he be treated as an unconvicted prisoner till the appeal is decided.

If the defendant is admitted to bail the following consequences shall follow:—

(a.) If he has been fined, and if he has paid his fine, he shall be entitled to have it repaid to him by any person in whose possession it may be, upon production of the certificate of the Master of the Crown Office herein-before provided for that his recognizances of bail have been duly filed, but no person who, according to the course of the Exchequer, has paid over such fine, or any part of it, to any other person shall be liable to repay it. If the judgment of the court is affirmed upon appeal the defendant shall be imprisoned till his fine is paid, although it may have been repaid.

(b.) If upon the appeal the judgment of the court below is affirmed, and if the judgment or part of the judgment is that the defendant be imprisoned, his imprisonment shall be reckoned to begin from the day when he is in actual custody in the prison in which he may have been adjudged to be imprisoned under such judgment; but if he was discharged from imprisonment on giving bail under the provisions of this Act, the time for which he was so imprisoned before he gave bail shall be deducted from the term of his imprisonment.

(c.) If upon the appeal the judgment is affirmed, and if the defendant is in court, the court may forthwith commit him to custody to be delivered to the keeper of the prison in which he has been adjudged to be imprisoned.

If it is made to appear to any judge of the court that default has been made for four days in rendering the defendant to prison in execution of the judgment, and that the judgment of the court below has been affirmed, the judge may issue his warrant under his hand and seal, and cause the defendant to be apprehended and conveyed to the prison in which he may have been adjudged to be imprisoned in execution of his judgment. Whenever default is made in rendering a defendant to prison in execution of his sentence, and a warrant is issued against him to enforce such render under the provisions hereof, he shall be liable to pay the costs of

such tender as taxed by the Master of the Crown Office, and he shall not be discharged from prison until the costs so taxed are paid, or until he is discharged under an order of the Court of Bankruptcy, if a certificate thereof under the hand of such Master is left with the keeper of the prison in which he is confined.

A.D. 1878.

CHAPTER XLVIII.

PLEADING IN CRIMINAL CASES.

SECTION 395.

INDICTMENTS TO BE DRAWN ACCORDING TO THIS ACT.

10 From the passing of this Act all indictments, criminal informations, and coroners' inquisitions upon which any person is to be tried for any offence shall be drawn and amended according to the provisions herein-after contained and not otherwise.

15 All demurrers and other proceedings, and all rules relating to pleading in criminal cases other than those herein contained, are hereby abolished.

SECTION 396.

FORM OF INDICTMENTS.

20 The indictment shall have a heading stating, in the form (MM.) given in the first schedule hereto, or to the like effect, the matters therein set forth.

The body of the indictment shall be in a tabular form in the manner shown in the examples (NN.), (OO.), (PP.), (QQ.), and (RR.), in the said schedule, or to the like effect.

25 The first column shall refer to the enactment or enactments against which the defendant is said to have offended, or if he is charged with an offence at common law it shall give the name of such offence. Every section and every sub-section of any Act of Parliament shall for this purpose be one enactment.

30 When an offence is defined by one enactment and punishment is provided for it by another enactment reference shall be made to the enactment by which punishment is provided. When an offence consists of something which is forbidden by the joint effect of more enactments than one each shall be referred to.

35 The second column shall contain a particular of the offence of which the defendant is accused. It shall be so framed that when it is read with the depositions or affidavits referred to in the heading of the indictment the defendant may know what facts are

A.D. 1878. alleged to constitute the offence of which he is accused, and that if he is ever accused of the same offence in respect of the same facts he may be able by giving evidence of the record of the indictment and the depositions to prove that he was previously acquitted or convicted thereof. The particular need not set out 5 the facts, circumstances, and intent constituting the offence charged. No greater certainty or detail of statement as to documents, facts, things, persons, or any other subject whatever shall be necessary, or shall be used in it, than is reasonably sufficient for the purposes for which it is herein-before declared to be intended. Facts or 10 documents may be scheduled, and copies of such documents may be attached to the indictment if such a course is convenient.

If the offence charged consists in doing anything with or to any property, it shall not be necessary to state that the property belonged to any particular person, and whether such a statement is made or 15 not it shall be sufficient to prove upon the trial such facts as to ownership as show that the prisoner committed the offence with which he was charged.

In cases of high treason, and in the case of offences against section 36 of this Act, the particular shall state every overt act 20 by which it is alleged that the defendant manifested the intention which he is charged with having formed, and no evidence shall be admitted of any overt act not so stated for the purpose of proving any such intention, though evidence may be given of any such act if it is otherwise relevant to the issue. The power of 25 amending indictments herein-after contained shall not extend to authorise the court to add to the overt acts stated in the particular under these provisions.

The names of the witnesses who appeared before the magistrates or whose affidavits were filed shall be endorsed on the indictment, 30 and the foreman of the grand jury, or the member of the grand jury who acts as foreman, shall initial the names of the witnesses examined before them. The officer of the court shall make a memorandum on the indictment of the date of the trial, and shall sign such memorandum; provided that no omission to do any of 35 these things shall affect the validity of any indictment.

SECTION 397.

LEGAL EFFECT OF FINDING A TRUE BILL.

The legal effect of the grand jury's finding an indictment a true bill shall be to accuse the person named in the heading of the 40 indictment of having committed the offence, or some or one of the

offences, punished by the enactment or enactments, or the part of the common law referred to in the first column, or some other offence of which, according to the provisions herein-after contained, he may lawfully be convicted upon such an indictment.

5 Upon the trial of any such indictment evidence may be given to show that the defendant committed any offence of which he is accused under the provisions herein-before contained upon the occasion referred to in the second column of the indictment, and in the depositions or affidavits.

10 **SECTION 398.**

VARIANCES.

No variance between the facts proved on the trial and the statement of the offence in the second column of the indictment, or in the depositions or affidavits, shall be material, unless the court is of
15 opinion that the defendant has been actually misled and prejudiced in his defence thereby, in which case it may either direct the defendant to be acquitted, or in its discretion, amend the indictment under the provisions herein-after contained, and discharge the jury and order a new trial on such terms as it thinks fit.

20 **SECTION 399.**

OF AMENDMENTS IN THE INDICTMENT.

The court before which any indictment is tried, or any court before which it comes on appeal, is hereby empowered and required at every stage of the proceeding to make every amendment and supply
25 every defect in any part of the indictment which may be necessary to enable it to fulfil the purposes for which it is herein-before declared to be intended; provided that no such amendment shall be made in such a way as to prejudice the defendant in his defence or to subject him upon conviction to a more severe punishment than
30 he would be liable to if he were convicted on the indictment as it stands.

No such amendment, whether made or ordered to be made before or after the verdict, shall affect the validity of the verdict.

SECTION 400.

35 HOW PARTIES TO OFFENCES MAY BE INDICTED.

Every one who is a party to any offence which he did not actually commit may be indicted either for committing that offence or for aiding or abetting any other person in committing it, or for directly or indirectly inciting any other person to commit it.

A.D. 1878.

SECTION 401.**WHEN MORE PERSONS THAN ONE MAY BE JOINTLY INDICTED.**

Every one who is a party to any offence, or an accessory after the fact to any offence, or who is charged with receiving any property, knowing it to have been obtained by any offence, may be 5 indicted for that offence, or for being accessory after the fact thereto, or for such receiving respectively, whether the other parties to the offence have or have not been indicted or convicted, or are or are not amenable to justice, and that either alone as for a substantive offence or jointly with any other party or parties thereto; or with 10 the principal offender or person by whom such property was improperly obtained.

If more defendants than one are jointly indicted for any offence, the effect shall be the same as if as many indictments had been found as could have been found against all the persons indicted 15 taken one by one, or more than one together, or all together, and every amendment may be made, and every other thing may be done in respect of any such joint indictment which might be done in respect of any one of the indictments to which it is equivalent.

When any property has been obtained by any offence punishable 20 under any of the provisions of Chapters XXVII., XXVIII., XXIX., XXX., or XXXII., any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive offences under section 227 of this Act, and may be tried together, although the person by whom the property was so obtained 25 is not indicted with them, or is not in custody or amenable to justice.

SECTION 402.**WHEN AN INDICTMENT IS TO BE DIVIDED INTO SEPARATE COUNTS.**

An indictment shall be divided into separate counts,— 30

(a.) If the defendant is charged with having committed more offences than one.

(b.) If it is uncertain which of several offences the defendant can be proved to have committed.

(c.) If the defendant is charged with having been previously con- 35 victed of any offence his previous conviction of which would render him liable to increased punishment.

Indictments shall be divided into counts in the manner shown in the examples (OO., PP., RR.) in the first schedule hereto, or to the like effect. There shall be a statement on the face of every indictment 40

containing more counts than one showing whether such counts refer to the same or to different facts. A.D. 1878.

A count charging a previous conviction may be in the form shown in the example (OO.) in the first schedule hereto, or to the like effect.

5

SECTION 403.**JOINDER OF COUNTS AND PROCEEDINGS THEREON.**

Any number of counts, either for the same or for different offences, may be included in the same indictment, and the jury may find either generally that the defendant is guilty or not guilty upon the whole indictment, or that he is guilty upon one or some, and not guilty upon other, counts, or in the alternative that he is guilty upon one or more of several counts.

If different counts relate to different facts, and if the court thinks it conducive to the ends of justice to do so, it may direct that the defendant shall be tried separately upon any one or more of such counts. Such order may be made either before or in the course of the trial, and if it is made in the course of the trial the jury shall be discharged from giving a verdict on the counts on which the defendant is directed to be tried separately.

If the jury find the prisoner guilty generally on the whole indictment, the legal effect of such finding shall be to convict him of each of the offences charged against him, and the court may thereupon pass upon him the same sentence as if he had been separately convicted of every such offence, provided that not more than one sentence shall in any case be passed upon any person upon the same facts.

If the defendant is convicted in the alternative of having committed one of several offences, he may be sentenced to any punishment which might have been awarded to him if he had been convicted only of that offence for which the greatest punishment which can be awarded is least severe.

If one judgment is passed upon any such verdict it shall be good if the indictment contains any count in respect of which it might have been passed.

35

SECTION 404.**CHARGE OF PREVIOUS CONVICTION.**

When an indictment contains a count charging the defendant with having been previously convicted, the defendant shall not at the time of his arraignment be required to plead to it unless he plead guilty to the rest of the indictment, nor shall such count be men-

A.D. 1878.

tioned to the jury when the defendant is given in charge to them, nor shall he be tried upon it if he is acquitted on the other counts, but if he is convicted of any other part of the indictment, he shall, before he is called upon to say why judgment should not be passed upon him, be asked whether he has been previously convicted as alleged or not, and if he says that he has not, or does not say that he has, the jury shall be charged to inquire into the matter as in other cases.

SECTION 405.

WHERE A DEFENDANT MAY BE CONVICTED OF AN OFFENCE DIFFERENT FROM THE ONE CHARGED IN THE INDICTMENT. 10

(a.) If the offence charged in the indictment is so defined that if part of the definition were omitted the remainder would constitute an offence, and if so much only of the whole indictment as constitutes such last-mentioned offence is proved, the defendant may, without amending the indictment, be convicted of the offence which he is proved to have committed. 15

(b.) If it is proved that the defendant attempted to commit the offence charged in the indictment, but did not actually commit it, he may, without amending the indictment, be convicted of attempting to commit the offence, whether such attempt is punishable under any special enactment of any statute or under the 33rd section of this Act only. If he is proved to have done any act with intent to commit the offence with which he is charged, and if it is an offence to do such an act with such an intent, he may without amending the indictment be convicted of such last-mentioned offence. 20 25

(c.) If the court is of opinion that there is evidence for the consideration of the jury that the defendant has committed an offence or offences with which he is not charged in the indictment, and of which he cannot be convicted without amending it, and upon his conviction for which he would not be liable to a greater punishment than he would be liable to if he were convicted on the indictment, and that the defendant would not be prejudiced thereby in his defence, the court may in its discretion direct a count or counts to be added to the indictment charging the defendant with such offence or offences, and the jury shall give their verdict thereon in the same way as if such count or counts had formed a part of the original indictment. 30 35

SECTION 406.

HOW IF EVIDENCE PROVES A MORE SERIOUS OFFENCE.

40

If upon the trial of any indictment it appears to the court that there is evidence for the consideration of the jury that the defendant

has committed an offence upon a conviction for which he would be liable to a more severe punishment than could be awarded to him upon a conviction of the offence for which he is being tried, the court may in its discretion discharge the jury from giving any verdict upon the indictment on which the defendant is being tried, and may order the defendant to be indicted for such first-mentioned offence, and if necessary bind over the prosecutor and the witnesses to appear, prosecute, and give their evidence upon the trial of such indictment.

10 The defendant shall not be entitled to be acquitted of the minor offence if the court do not think proper to discharge the jury as aforesaid, but if he is convicted thereof he shall not be liable to be convicted upon the same facts of any other offence of which he might then have been convicted.

15

SECTION 407.

WHAT OBJECTIONS MAY BE TAKEN TO AN INDICTMENT AND WHEN.

If an indictment does not state, and cannot by any amendment authorised by the provisions herein-before contained be made to state, any indictable offence of which the defendant has had notice by depositions or affidavits under the provisions herein-before contained, it shall be quashed either on a motion made before the defendant pleads or on a motion made in arrest of judgment. A written statement of every such motion shall be delivered to the officer of the court by the defendant, and shall be entered upon the record. It may be in the form given in the schedule (SS.), or to the like effect.

25

SECTION 408.

SPECIAL PLEAS.

Special pleas in abatement or in bar of the indictment, and further pleadings thereon, shall be in writing in the form given in form (TT.) in the first schedule hereto, or to the like effect, and shall be entered upon the record.

The following pleas, and no others, may be pleaded in abatement of an indictment:—

35 (a.) A plea that the court has not and that some other court has jurisdiction over the offence or over the offender. If judgment is given in favour of the defendant upon such a plea the court shall send the indictment to be tried before the court which has jurisdiction over the offence or over the offender.

40 (b.) A plea that one or more of the grand jurors by whom the bill was found was not qualified to act as a grand juror. If judg-

A.D. 1878.

ment is given in favour of the defendant upon this plea the court shall, if the grand jury are not discharged, direct the bill to be sent again before the grand jury, and direct the juror or jurors who are not qualified to withdraw themselves therefrom. If the grand jury has been discharged, or if there are not a sufficient 5 number of qualified grand jurors to find a bill, the court shall adjourn the case until a future time, and recommit the defendant to custody, or admit him to bail, and bind over the prosecutor and witnesses to appear before another grand jury.

The following special pleas, and no others, may be pleaded in 10 bar; that is to say:—

- (i.) A plea that the defendant has been previously convicted or acquitted, as the case may be, of the same offence; or
- (ii.) A plea that the defendant has been pardoned for his offence by Her Majesty: or 15
- (iii.) In the case of a defendant charged with a defamatory libel a plea that the defamatory matter published by him was true, and that it was for the public benefit that the matters charged should be published in the manner and at the time when they were published. Every such plea must be in writing, 20 and must set forth the particular fact or facts by reason of which it was for the public good that such matters should be so published, and the defendant must give such notice to the prosecutor of his intention to plead it as the court at the trial may consider reasonable, in default of which notice the court 25 may refuse to permit the plea to be pleaded, or may adjourn the trial of the case upon such terms as it thinks fit. The defendant may in addition to such plea plead that he is not guilty. The prosecutor may reply to such plea that he denies its truth. 30

When notice is given to the prosecutor of the defendant's intention to plead any such plea he may apply to any judge of the High Court for any order in respect thereof for which he might apply if a justification were pleaded in a civil action for libel. 35

If any such special plea, as is firstly or secondly referred to, is pleaded and denied to be true in fact, the court shall impanel a jury of any twelve indifferent persons to try whether such plea is true in fact or not.

If the court holds that the facts alleged by the defendant do not 40 prove the plea, or if the jury finds that it is false in fact, the defendant shall be required to plead to the indictment.

SECTION 409.

SPECIAL VERDICTS.

If the jury wish to find a special verdict the court shall put such questions to them as it thinks necessary to enable itself to raise for the consideration of the Court of Appeal the questions of law which the jury do not wish to decide by their verdict. A special entry shall be made in the record of such questions and of the answers thereto given by the jury, and the court shall also draw up such a statement of the circumstances of the case as will enable the Court of Appeal to understand the object and effect of the said questions and answers, and in the same form as a case reserved for the opinion of the Court of Appeal. The provisions herein-before contained as to settling other special entries in the record shall apply to such statements. The subsequent proceedings upon such a verdict shall be the same as upon a case reserved for the opinion of the Court of Appeal, provided that the court before which the trial is had shall not pass judgment upon the defendant until the Court of Appeal has given its decision.

SECTION 410.

20 TIME FOR PRESENTING INDICTMENT IN CERTAIN CASES.

No indictment shall be presented against any person for high treason, or for being accessory after the fact to any treason more than three years next after the committing of the offence, unless the defendant is charged with an offence against section 34, sub-section 25 (a) or (b) of this Act, or unless the offence was committed out of Her Majesty's dominions or at sea.

No indictment shall be presented against any person for any offence against sections 65, 66, or 67 of this Act after five years from the time when the offence was committed.

30 No indictment shall be presented against any person for any of the offences referred to in the first column of the schedule hereto, unless proceedings are commenced against the offender in respect thereof, either by laying an information before a magistrate, or otherwise within the time limited in that behalf in the second 35 column of the said schedule.

THE SCHEDULE.

	Offence.	Time.
40	Against section 47 sub-section (a), and sub-section (b).	12 months.
	Against section 49 of this Act	6 months.
	Against section 50 of this Act	12 months.
	Against sections 78, 79 of this Act	12 months.
	Against section 93 of this Act	6 months.

A.D. 1878.

SECTION 411.

VENUE.

No venue shall be necessary, and none shall be stated in any indictment.

SECTION 412.

5

APPLICATION OF PROVISIONS OF CHAPTER.

The provisions of this chapter relating to indictments shall apply to criminal informations. Informations shall be in the form (VV.) in the first schedule hereto, or to the like effect. Coroners' in- 10
quisitions charging any person with murder, manslaughter, or the concealment of treasure, shall be in the form (WW.) in the first schedule hereto, or to the like effect.

CHAPTER XLIX.

COSTS. REWARDS. RESTITUTION.

SECTION 413.

15

SECRETARY OF STATE MAY MAKE REGULATIONS AS TO AMOUNT OF COSTS.

One of Her Majesty's Principal Secretaries of State may from time to time make regulations as to the amount of all costs and compensations to be allowed under the provisions of this chapter in respect of any expenses, trouble, or loss of time, for which any 20
person is intended to be indemnified under its provisions, and as to the forms and contents of all orders and certificates relating thereto; and he may revoke and alter the same, and may also revoke or alter any such regulations in force at the passing of this Act.

SECTION 414.

25

COSTS ORDERED TO BE PAID BY COUNTY TREASURER.

All orders for the payment of costs shall be made out by the officer of the court, and shall be delivered to the person entitled to such order upon the payment (if that person is the prosecutor) of 1s., and in other cases of 6d.

The person upon whom the order is made shall upon sight of such order pay the person named therein, or any one duly authorised to receive the same on his behalf, the money mentioned in the order, and shall be allowed the same in his accounts. 30

If the offence in respect of which the order is made was com- 35
mitted on land in England, the order shall be made upon the county treasurer of the district in which the offence was committed,

wherever the defendant may have been tried, except in the case next herein-after provided for.

If the offence was committed in a place which does not contribute to the county rate, the order shall be directed to the treasurer or other officer having the collection or disbursement of any rate in the nature of a county rate levied in such place, if any such rate is levied there, and the money shall be paid out of such rate.

If no such rate is levied in that place, the order shall be directed to the overseers or other officers having the collection or disbursement of any rate or fund for the relief of the poor of that place, and the money shall be paid out of such rate or fund.

If the offence was committed at sea, the order shall be made upon the assistant to the counsel for the affairs of the Admiralty and Navy, who upon sight of such order shall forthwith pay the amount mentioned to the person named therein, or to any one duly authorised to receive it on his behalf.

If the offence was committed on land out of England, the order shall be upon the county treasurer in and for the district in or for which the court sits before which the case was tried.

If there is any doubt as to the place in which the offence was committed, the court before which the case was tried shall, for the purposes of this section, decide the doubt, and its decision shall be final.

25

SECTION 415.

COSTS MAY BE ORDERED TO BE PAID TO PROSECUTOR IN ALL CASES.

Any court before which any indictable offence is tried may order the costs of prosecuting the indictment, and also the cost of attending before the justice by whom the defendant was committed for trial, to be paid to the prosecutor of such indictment, and such order may be made in favour of any person who has in good faith attended the court in obedience to any recognizance or subpoena to prosecute or give his evidence, although no bill of indictment may be found.

The justice before whom any such person so attends may, if he thinks fit, grant him a certificate of the amount of expenses incurred by him in respect of such attendance, and the order of the court for his costs shall not be for any greater amount than the sum allowed by such certificate, nor for any greater amount than the sum to which such person would be entitled under any regulations issued by the Secretary of State under the power herein-before contained.

Provided that nothing herein contained shall affect any provision contained in the Act passed in the 5th year of his late Majesty King

[178.]

A.D. 1878. William IV. chapter 50, in relation to the costs of indictments preferred for not repairing highways.

SECTION 416.

COSTS OF DEFENDANTS' WITNESSES.

The court before which any indictment is tried may include in the 5
order for the payment of the costs of the prosecution the costs of
such of the witnesses called for the defendant as were bound over by
recognizance to give evidence on the part of the accused person.

SECTION 417.

COSTS WHERE ORDER FOR CHANGE OF PLACE OF TRIAL.

10

When any person is tried at any place under an order for changing
the place of trial the following consequences shall follow:—

(a.) If the order is obtained at the instance of the prosecutor
and if the defendant is acquitted, the court may if it thinks fit
order the reimbursement to the defendant of any costs which he 15
may have incurred by reason of such order, and the commis-
sioners of Her Majesty's treasury shall upon receipt of the order
pay such sum.

(b.) The high court or a judge thereof may, before any trial under
any such order, issue a certificate, upon the production of which the 20
commissioner of Her Majesty's treasury may order a sum not exceed-
ing *twenty pounds* to be paid to the defendant to pay the expenses
of the attendance of his witnesses, such sum shall be deducted from
any amount which may afterwards become payable under sub-
section (a.) 25

(c.) The treasurer of the county in which the defendant would
have been tried but for such order, shall pay the keeper of the prison
in which the defendant was confined, or to such person as may be
appointed by lawful authority to receive the same, the actual
expenses incurred by the removal of the defendant to or from such 30
prison and the expenses incurred during his imprisonment there
according to the time for which he was in custody at the average
daily cost of each prisoner. An account in writing of such expenses
shall be made out and signed by the keeper of the prison in which
the defendant was so confined, and delivered to the treasurer of the 35
county against which the claim is made, and shall be conclusive upon
such county unless within one month after receiving it the treasurer
delivers an objection in writing signed by himself to the person who
delivers it.

SECTION 418.

WHEN DEFENDANT MAY BE ORDERED TO PAY COSTS.

Whenever any defendant is convicted of any indictable offence the court may order him to pay the costs of the prosecution in addition
5 to any other sentence which may be passed upon him.

If upon the apprehension of any such person any money was taken from him, the court may order the whole or any part thereof to be applied to any such payment.

Whenever upon a prosecution for a defamatory libel by a private
10 prosecutor a justification is pleaded under the provisions hereinbefore contained and the issue is found for the prosecutor he shall be entitled to recover from the defendant the costs sustained by him by reason of such plea.

Whenever any defendant is convicted of an assault the court
15 may order him to pay the prosecutor such an amount for his costs and loss of time as the court may think proper, and may direct that in default of payment he shall be imprisoned for any term not exceeding three months in addition to his sentence, and may also by
20 a warrant under the hand and seal of the judge or two justices forming part of the court order such sum to be levied by distress and sale of his goods and chattels and to be paid to the prosecutor, and the surplus, if any, to be paid to the owner. If the sum is so levied the imprisonment awarded till payment of such sum shall cease.

Any person who has paid, or is liable to pay, any such costs, may
25 enforce the payment thereof against any such person, or his personal representatives, or his estate, in the same manner as the payment of any costs ordered to be paid by any court of competent jurisdiction in any civil action may be enforced.

Until the recovery of such costs from the person so convicted, or
30 his personal representatives, or his estate, the same shall be paid in the manner hereinbefore provided for, and any money recovered from the person convicted, or from his personal representative, or his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs may have been paid.

35

SECTION 419.

WHEN PROSECUTOR MAY BE ORDERED TO PAY COSTS.

In cases in which the defendant is acquitted, or a bill against him thrown out, and in which the court considers the prosecution frivolous or vexatious, it may order any person by whom in its
40 opinion the prosecution was instituted to pay the defendant his costs, whether such person was bound over to prosecute or not or actually preferred the bill of indictment or not.

A.D. 1878.

In cases in which a defendant is acquitted of a charge of defamatory libel upon an indictment or information by a private prosecutor he shall be entitled to such an order. When such an order is made the defendant shall have the same remedies for the recovery of his costs as he would have had if the payment of costs 5 had been ordered in a civil action.

SECTION 420.

COSTS OF CONVEYING DEFENDANT TO GAOL.

When a defendant is committed for trial, the constable or other officer who conveys him to prison shall be entitled to his expenses 10 for conveying such person to such prison.

The justice who committed the defendant, or any justice of the same district may, and some or one of them shall, ascertain the sum which ought to be paid therefor, and also the sum which ought to be allowed for the constable's expenses in returning, and there- 15 upon such justice shall make an order upon the treasurer of the district or of any other district to which that district is contributory, or, in the county of Middlesex, upon the overseers of the poor of the parish or place within which the offence is alleged to have been committed, for payment to such constable of such sums. 20 The treasurer or overseers, upon such order being produced to them, shall pay the amount thereof to any person who shall present the same to them for payment: Provided, that if it appears to the justices by whom any warrant of commitment is granted that the 25 defendant has money enough to pay the expenses of conveying him to prison, or some part thereof, such justices may order such money, or a sufficient part thereof, to be applied to that purpose. The order may be in the form (Z.) in the first schedule hereto, or to the like effect.

In cases in which a justice before whom a defendant is brought upon a charge of having committed an offence in a different district 30 from the one in or for which he acts, directs the defendant to be taken before a justice in the district in which the offence was committed, the constable who conveys the defendant before the last mentioned justice shall be entitled to have his expenses for so conveying him, and also for returning to the place from whence he 35 came. The expenses shall be ascertained by the justice before whom the defendant is taken, and he shall make an order, which may be in the form (XX.) in the first schedule hereto, or to the like effect upon the officer herein-before referred to for the payment of such expenses, and they shall be paid by such officer in the 40 manner herein-before mentioned.

SECTION 421.

REWARDS AND COMPENSATION.

If any court before which any indictable offence is tried is of opinion that any person has shown special activity or courage in or towards the apprehension of any person charged with committing any indictable offence, it may in its discretion order him to be paid a sum of money by way of reward therefor, which sum of money shall be paid by the sheriff of the district in which the offence was committed, or in which the trial took place, as the court may direct.

10 An order for such payment shall be made out without any fee by the officer of the court which makes the order, and shall upon sight thereof be paid by the person on whom it is made to the person in whose favour it is made, or to any other person duly authorised by him. The Commissioners of Her Majesty's Treasury shall, upon the production of the order receipted, repay the amount to the sheriff.

Provided that if any such order is made by a court of quarter session it shall not be for a greater amount than *5l.*

If it appears to any superior court that any person was killed in attempting to apprehend any person for any indictable offence, such court may direct the sheriff, as aforesaid, to pay such a sum of money as it thinks proper; if the person killed was a married man, to his widow; if he was a widower, to his child or children; if he left neither widow nor children, to his father or mother. If the person killed was a woman, the payment may be directed to be made to her husband; or if she left no husband, to her child or children; or if she left neither husband nor child, to her father or mother.

Payment shall be made in the same manner and by the same person as is herein-before provided in respect of rewards.

SECTION 422.

RESTITUTION OF PROPERTY.

When any person is convicted of any indictable offence, by which any person has been deprived of any property whatever, the court before which he is tried shall, if required, order the property to be restored to the owner thereof, and the owner shall thereupon be entitled to have the same delivered to him, or if it is not in court, to take it wherever he can get it in a peaceable manner, notwithstanding any intermediate sale in market overt or otherwise: Provided that nothing herein contained shall extend to entitle any person to any valuable security, or to any negotiable instrument as against any person who, after the offence was committed, but without

A.D. 1878. notice of it, or reasonable ground to suspect that the security or instrument had been obtained by means of it, discharged or took such instrument or security for a just and valuable consideration.

This section shall not extend to any case in which any trustee, banker, merchant, attorney, factor, broker, or other agent, is convicted of any offence committed by him, as such, in respect of goods with which he was intrusted, or of which he had control by documents of title or otherwise as such, or with respect to documents of title with which he was so intrusted as such.

When any property has been restored to any person under this section, and when it appears to the court that such property had after the offence been sold by the defendant to a person who bought it in good faith and without knowledge of the offence, the court may, upon the application of such purchaser, direct any money found on the defendant not exceeding the amount for which such property was sold to be delivered to such purchaser.

SECTION 423.

COMPENSATION TO PERSON INJURED.

Any court before which any defendant is convicted of any indictable offence, may, if it thinks fit, upon the application of any person aggrieved and immediately after such conviction, award any sum of money not exceeding *one hundred pounds*, by way of satisfaction or compensation for any loss caused by the offence of which the defendant has been convicted, to the aggrieved person or which such aggrieved person might recover damages in an action.

The amount so awarded shall be a judgment debt due from the person so convicted to the person to whom it is awarded.

SECTION 424.

CRIMINAL COURTS TO HAVE SAME POWER TO ISSUE PROCESS TO COMPEL PAYMENT OF COSTS AND JUDGMENT DEBTS AS HIGH COURT.

Every court before which indictable offences may be tried shall have power to issue the same process to compel payment of costs or other sums of money which it is empowered to order to be paid as the High Court of Justice has in regard to costs in civil proceedings and judgment debts.

SECTION 425.

REPEAL OF ACTS.

The Acts referred to in the first column of the second schedule hereto shall be repealed as to England (but not as to Scotland or Ireland), to the extent stated in the second column of the said schedule.

SCHEDULE I.

A.D. 1878.

(A.)

Information and Complaint for an indictable Offence.

5 to wit. } The information and complaint of C.D. of [yeoman .
 taken this day of in the year of our
 Lord 187 before the undersigned, [one] of Her Majesty's justices of the
 peace in and for the said [county] of who saith that [&c., stating
 the offence].

Sworn before [me], the day and year first above mentioned, at

J.S.

10

(B.)

to wit. } day of 187 .

I certify that A.B. has this day laid before me an information in writing
 and upon oath, charging C.D. with [state the offence as in the information],
 and that I have refused to issue either a summons or a warrant against the
 15 said C.D.

J.S.

Justice of the peace for

(C.)

Warrant to apprehend a Person charged with an indictable Offence.

20 To the constable of and to all other peace officers in the
 said [county] of

WHEREAS A.B. of [labourer] hath this day been charged
 upon oath before the undersigned, [one] of Her Majesty's justices of the
 peace in and for the said county of for that he on at
 25 did [&c., stating shortly the offence]: These are therefore to
 command you, in Her Majesty's name, forthwith to apprehend the said A.B.,
 and to bring him before [me], or some other of Her Majesty's justices of the
 peace in and for the said [county], to answer unto the said charge, and to be
 further dealt with according to law.

30 Given under my hand and seal, this day of in the
 year of our Lord at in the [county] aforesaid.

J.S. (L.S.)

A.D. 1878.

(D.)

Warrant to apprehend a Person charged with an indictable Offence committed on the High Seas or Abroad.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the 5
" high seas, out of the body of any county of this realm, and within the
" jurisdiction of the Admiralty of England."

For offences committed abroad for which the person may be indicted in this country the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of the United Kingdom, to 10
" wit, at _____ in the kingdom of _____," or "at
" in the East Indies," or "at _____ in the island of _____ in the
" West Indies," or as the case may be.

(E.)

Indorsement in backing a Warrant.

to wit. } WHEREAS proof upon oath hath this day been made before me 15
} one of Her Majesty's justices of the peace for the said [county]
of _____ that the name of J.S., to the within warrant subscribed, is of
the handwriting of the justice of the peace within mentioned; I do therefore
hereby authorise W.T. who bringeth to me this warrant, and all other persons 20
to whom this warrant was originally directed, or by whom it may lawfully
be executed, and also all constables and other peace officers of the said
[county] of _____ to execute the same within the said last-mentioned
[county],* and to bring the said A.B., if apprehended within the same [county],
before me, or before some other justice or justices of the peace of the same 25
county, to be dealt with according to law.

Given under my hand, this _____ day of _____ 187 .

J.L.

*The words following this asterisk are to be used only where the justice backing the warrant thinks fit, and must be omitted in backing English 30
warrants in Ireland, Scotland, &c., or in backing Irish or Scotch warrants,
&c. in England.

(F.)

Summons to a Person charged with an indictable Offence.

To A.B. of _____ [labourer]. 35

WHEREAS you have this day been charged before the undersigned, [one] of
Her Majesty's justices of the peace in and for the said [county] of
for that you on _____ at _____ [&c., stating shortly the offence]:
These are therefore to command you, in Her Majesty's name, to be and
appear before me on _____ at _____ o'clock in the forenoon at 40
or before such other justice or justices of the peace for the same [county] as
may then be there, to answer to the said charge, and to be further dealt with
according to law. Herein fail not.

Given under my hand and seal, this _____ day of _____ in the year
of our Lord _____ at _____ in the [county] aforesaid. 45

J.S. (L.S.)

(G.)

Warrant where the Summons is disobeyed.

To the constable of _____ and to all other peace officers in the said [county] of _____

5 WHEREAS on the _____ last past A.B. of _____ [labourer] was charged before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of _____ for that [&c., as in the summons]: And whereas [I] then issued [my] summons to the said A.B., commanding him, in Her Majesty's name, to be and appear before [me] on
 10 at _____ o'clock in the forenoon at _____ or before such other justice or justices of the peace for the same [county] as might then be there, to answer to the said charge, and to be further dealt with according to law: And whereas the said A.B. hath neglected to be or appear at the time and place appointed in and by the said summons, although it
 15 hath now been proved to me upon oath that the said summons was duly served upon the said A.B.: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A.B., and to bring him before me, or some other of Her Majesty's justices of the peace in and for the said [county], to answer to the said charge, and to be further dealt with
 20 according to law.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid.

J.S. (I.S.)

(H.)

Depositions of Witnesses.

Depositions.

R. v. A.B.

25

30

Defendant's Name.	Nature of Charge.	Witnesses Names with reference to Folio.	Justices names and time and place of taking Depositions.
A.B.	Obtaining money from C.D. by false pretences at Maidstone.	C.D. - fol. 1 E.F. - fol. 3 G.H. - fol. 5 &c. - &c.	J.S. and T.U., Esqrs., at Maidstone on the 11th and 13th March 1878.

35 THIS deponent C.D. on his [oath] saith as follows [&c., stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is complete let him sign it].

And this deponent E.F., upon his oath, saith as follows [&c.]

[At the end of the depositions]

40

The above depositions of C.D. and E.F. were taken and [sworn] before me at _____ on the day and year first above mentioned, in the presence and hearing of A.B., and were in his and my presence and hearing read over to and signed by the said C.D. and E.F. [If any witnesses do not sign their depositions state the fact.]

45

J.S.

A.D. 1878.

(I.)

Statement of the Accused.

The charge in the caption of these depositions being read to the said *A.B.*, and the witnesses for the prosecution, *C.D.* and *E.F.*, being severally examined in his presence, the said *A.B.* is now addressed by me as follows: "Having 5
" heard the evidence, do you wish to say anything in answer to the charge?
" you are not obliged to say any thing unless you desire to do so; but what-
" ever you say will be taken down in writing, and may be given in evidence
" against you upon your trial;" whereupon the said *A.B.* saith as follows:

[Here state whatever the prisoner may say, and in his very words, as 10
nearly as possible. Get him to sign it if he will.]

A.B.

Taken before me at _____ the day and year first above mentioned.

J.S.

(J.)

15

*Warrant to convey the Accused before a Justice of the County, &c., in which
the Offence was committed.*

To *W.T.*, constable of _____ and to all other peace officers
in the said [county] of _____

WHEREAS *A.B.* of _____ labourer, hath this day been charged before 20
the undersigned, [one] of Her Majesty's justices of the peace in and for the said
county of _____ for that [&c., as in the warrant to apprehend]: And
whereas [I] have taken the deposition of *C.D.*, a witness examined by [me] in
this behalf; but inasmuch as [I] am informed that the principal witnesses to
prove the said offence against the said *A.B.* reside in the [county] of *C.*, where 25
the said offence is alleged to have been committed, These are therefore to com-
mand you the said constable, in Her Majesty's name, forthwith to take and
convey the said *A.B.* to the said [county] of *C.*, and there carry him before
some justice or justices of the peace in and for that [county], and near unto the
[parish of *D.*], where the offence is alleged to have been committed, to answer 30
further to the said charge before him or them, and to be further dealt with
according to law; and [I] hereby further command you the said constable to
deliver to the said justice or justices the information in this behalf, and also
the said deposition of *C.D.* now given into your possession for that purpose,
together with this precept. 35

Given under my hand and seal, this _____ day of _____ in the year
of our Lord _____ at _____ in the [county] aforesaid.

J.S. (L.S.)

(K.)

Summons of a Witness.

To E.F. of [labourer.]

WHEREAS information hath been laid before the undersigned, [one] of Her
 5 Majesty's justices of the peace in and for the said [county] of
 that A.B. [i.e., as in the summons or warrant against the accused], and it
 hath been made to appear to me upon [oath] that you are likely to give
 material evidence for the [prosecution]: These are therefore to require you
 to be and to appear before me on next at o'clock
 10 in the forenoon at or before such other justice or justices of the
 peace for the same county as may then be there, to testify what you shall
 know concerning the said charge so made against the said A.B. as aforesaid.
 Herein fail not.

Given under my hand and seal, this day of in the year
 15 of our Lord at in the [county] aforesaid.

J.S. (L.S.)

(L.)

Warrant where a Witness has not obeyed a Summons.

To the constable of and to all other peace officers in the said
 20 [county] of

WHEREAS information having been laid before the undersigned, [one] of
 Her Majesty's justices of the peace in and for the said [county] of
 that A.B. [i.e., as in the summons]; and it having been made to appear to
 [me] upon oath that E.F. of [labourer] was likely to give material
 25 evidence for the prosecution, I did duly issue my summons to the said E.F.,
 requiring him to be and appear before me on at or before
 such other justice or justices of the peace for the same county as might then
 be there, to testify what he should know respecting the said charge so made
 against the said A.B. as aforesaid: And whereas proof hath this day been
 30 made before me upon oath of such summons having been duly served upon the
 said E.F.: And whereas the said E.F. hath neglected to appear at the time
 and place appointed by the said summons, and no just excuse has been offered
 for such neglect: These are therefore to command you to bring and have the
 said E.F. before me on at o'clock in the forenoon at
 35 or before such other justice or justices of the peace for the same
 [county] as may then be there, to testify what he shall know concerning the
 said charge so made against the said A.B. as aforesaid.

Given under my hand and seal, this day of in the year of
 our Lord at in the [county] aforesaid.

40 J.S. (L.S.)

A.D. 1878.

(M.)

Warrant for a Witness in the first instance.

To the constable of _____ and to all other peace officers in the said
[*county*] of _____

WHEREAS information hath been laid before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [*county*] of _____, that [*de., as in summons*]; and it having been made to appear to [*me*] upon oath that *E.F.* of _____ [*labourer*] is likely to give material evidence for the prosecution, and that it is probable that the said *E.F.* will not attend to give evidence without being compelled so to do: These are therefore to command you to bring and have the said *E.F.* before me on _____ at _____ o'clock in the forenoon, at _____ or before such other justice or justices of the peace for the same [*county*] as may then be there, to testify what he shall know concerning the said charge so made against the said *A.B.* as aforesaid.

Given under my hand and seal, this _____ day of _____ in the year 15
of our Lord _____ at _____ in the [*county*] aforesaid.

J.S. (I.S.)

(N.)

Warrant of Commitment of a Witness for refusing to be sworn or to give Evidence.

To the constable of _____ and to the keeper of the [*house*
of correction] at _____ in the said [*county*] of _____

WHEREAS *A.B.* was lately charged before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [*county*] of _____ for that [*de., as in the summons*]; and it having been made to appear to [*me*] upon oath that *E.F.* of _____ was likely to give material evidence for the prosecution, I duly issued my summons to the said *E.F.*, requiring him to be and appear before me on _____ at _____ or before such other justice or justices of the peace as should then be there, to testify what he should know concerning the said charge so made against the said *A.B.* as aforesaid; and the said *E.F.* now appearing before me [*or being brought before me by virtue of a warrant in that behalf, to testify as aforesaid*], and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do [*or being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are here put to him*], without offering any just excuse for such his refusal: These are therefore to command you the said constable to take the said *E.F.*, and him safely to convey to the [*house of correction*] at _____ in the county aforesaid, and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [*house of correction*] to receive the said *E.F.* into your custody in the said [*house of correction*], and him there safely keep for

the space of _____ days for his said contempt, unless he shall in the meantime consent to be examined and to answer concerning the premises; and for your so doing this shall be your sufficient warrant.

A.D. 1878.

Given under my hand and seal, this _____ day of _____ in the _____ year of our Lord _____ at _____ in the [county] aforesaid.

J.S. (L.S.)

(O.)

Recognizance to prosecute or give Evidence.

10 _____ : BE it remembered, that on the _____ day of _____ in the year of our Lord _____ C.D. of _____ in the township of _____ in the said county, farmer, [or C.D. of No. 2, _____ Street in the parish of _____ in the borough of _____ surgeon, of which said house he is tenant,] personally came before me, one of Her Majesty's
15 justices of the peace for the said county, and acknowledged himself to owe to our Sovereign Lady the Queen the sum of _____ of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, her heirs and successors, if he the said C.D. shall fail in the condition indorsed.

20 Taken and acknowledged, the day and year first above mentioned, at _____ before me

J.S.

Condition to prosecute.

The condition of the within-written recognizance is such, That whereas one
25 A.B. was this day charged before me J.S., justice of the peace within mentioned, for that [i.e., as in the caption of the depositions], if therefore he the said C.D. shall appear at the next court of oyer and terminer or general gaol delivery [or at the next court of general quarter sessions of the peace] to be
30 holden in and for the [county] of _____ * or any other court at which the said defendant may be ordered to be indicted or tried, the said C.D. having due notice of such order, and there prefer or cause to be preferred a bill of indictment for the offence aforesaid against the said A.B., and there also duly prosecute such indictment, then the said recognizance to be void, or else to stand in full force and virtue.

Condition to prosecute and give Evidence.

35 Same as the last form to the asterisk*, and then thus:—"and there prefer
" or cause to be preferred a bill of indictment against the said A.B. for the
" offence aforesaid, and duly prosecute such indictment, and give evidence
" thereon as well to the jurors who shall then inquire of the said offence, as
40 " also to them who shall pass upon the trial of the said A.B., then the said
" recognizance to be void, or else to stand in full force and virtue."

Condition to give Evidence.

45 Same as the last form but one to the asterisk*, and then thus:—"and there
" give such evidence as he knoweth upon a bill of indictment to be then and
" there preferred against the said A.B. for the offence aforesaid, as well to the

A.D. 1878. "jurors who shall there inquire of the said offence as also to the jurors who
 " shall pass upon the trial of the said A.B. if the said bill shall be found a
 " true bill, then the said recognizance to be void, or else to stand in full force
 " and virtue."

(P)

5

*Notice of the said Recognizance to be given to the Prosecutor and his
 Witnesses.*

to wit. } TAKE notice, that you, C.D. of _____ are bound in the
 } sum of _____ to appear at the next court of [general
 quarter sessions of the peace] in and for the county of _____ to be 10
 holden at _____ in the said county, or at any other court at which the
 said A.B. may be ordered to be tried, of which order, if any such order is
 made, due notice will be given to you, and then and there [prosecute and]
 give evidence against A.B.; and unless you then appear there, and [prosecute
 and] give evidence accordingly, the recognizance entered into by you will be 15
 forthwith levied on you. Dated this _____ day of
 184 _____

J.S.

(Q)

Commitment of Witness for refusing to enter into the Recognizance. 20

To the constable of _____ and to the keeper of the
 [house of correction] at _____ in the said [county] of _____
 WHEREAS A.B. was lately charged before the undersigned, [one] of Her
 Majesty's justices of the peace in and for the said [county] of _____
 for that [i.e., as in the summons to the witness], and it having been made to 25
 appear to [me] upon oath that E.F. of _____ was likely to give material
 evidence for the prosecution, [I] duly issued [my summons to the said E.F.,
 requiring him to be and appear] before [me] on _____ at
 or before such other justice or justices of the peace as should then be there,
 to testify what he should know concerning the said charge so made against 30
 the said A.B. as aforesaid; and the said E.F. now appearing before [me], [or
 being brought before [me] by virtue of a warrant in that behalf, to testify as
 aforesaid,] hath been now examined by [me] touching the premises, but being
 by [me] required to enter into a recognizance conditioned to give evidence
 against the said A.B. hath now refused so to do: These are therefore to 35
 command you the said constable to take the said E.F. and him safely to
 convey to the [house of correction] at _____ in the [county] aforesaid,
 and there deliver him to the said keeper thereof, together with this precept;
 and I do hereby command you the said keeper of the said [house of correc-
 tion] to receive the said E.F. into your custody in the said house of correction, 40
 there to imprison and safely keep him until after the trial of the said A.B.
 for the offence aforesaid, unless in the meantime such E.F. shall duly enter
 into such recognizance as aforesaid in the sum of _____ pounds, before
 some one justice of the peace for the said [county], conditioned in the usual
 form to appear at the next court of [oyer and terminer or general gaol] 45

delivery, or general quarter sessions of the peace,] to be holden in and for the [county] of _____ and there to give evidence before the grand jury upon any bill of indictment which may then and there be preferred against the said A.B. for the offence aforesaid, and also to give evidence upon the trial of the said A.B. for the said offence, if a true bill should be found against him for the same.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid.

(R.)

10 Subsequent Order to discharge the Witness.

To the keeper of the [house of correction] at _____ in the [county] of _____

WHEREAS by [my] order dated the _____ day of _____ [instant], reciting that A.B. was lately before them, charged before [me] for a certain offence therein mentioned, and that E.F. having appeared before me, and being examined as a witness for the prosecution in that behalf, refused to enter into a recognizance to give evidence against the said A.B., and I therefore thereby committed the said E.F. to your custody, and required you safely to keep him until after the trial of the said A.B. for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid: And whereas for want of sufficient evidence against the said A.B. the said A.B. has not been committed or holden to bail for the said offence but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E.F. should be detained longer in your custody: These are therefore to order and direct you the said keeper to discharge the said E.F. out of your custody as to the said commitment, and suffer him to go at large.

Given under [my] hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid.

J.S. (L.S.)

(S.)

Recognizance of Bail instead of Remand, on an adjournment of Examination.

35 : Be it remembered, that on the _____ day of _____ in the year of our Lord _____ A.B. of _____ labourer, L.M. of _____ grocer, and N.O. of _____ butcher, personally came before me, one of Her Majesty's justices of the peace for the said [county], and severally acknowledged themselves to owe to our Lady the Queen the several 40 sums following: that is to say, the said A.B. the sum of _____ and the said L.M. and N.O. the sum of _____ each of good and lawful money of Great Britain, to be made and levied of their several goods and chattels,

A.D. 1878. lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said A.B. fail in the condition indorsed.

Taken and acknowledged, the day and year first above mentioned, at before me,

J.S. 5

Condition.

The condition of the within-written recognizance is such, that whereas the within-bounden A.B. was this day [or on last past] charged before me, for that [d.c., as in the warrant]: And whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the day of instant; if therefore the said A.B. shall appear before me on the said day of instant at o'clock in the forenoon, or before such other justice or justices of the peace for the said [county] as may then be there, to answer [further] to the said charge, and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue. 10 15

(T.)

Certificate of nonappearance to be endorsed on the Recognizance.

I hereby certify, that the said A.B. hath not appeared at the time and place in the above condition mentioned, but therein hath made default, by reason whereof the within-written recognizance is forfeited. 20

J.S.

(U.)

Notice of such Recognizance to be given to the Accused and his Sureties.

: Take notice, That you A.B. of are bound in the sum 25 of and your sureties L.M. and N.O. in the sum of each, that you A.B. appear before me J.S., one of Her Majesty's justices of the peace for the [county] of on the day of instant at o'clock in the forenoon, at or before such other justice or justices of the peace for the same [county] as may then be there, to answer further to the charge made against you by C.D., and to be further dealt with according to law; and unless you A.B. personally appear accordingly the recognizances entered into by yourself and sureties will be forthwith levied on you and them. Dated this day of 184 30 35

J.S.

(V.)

Recognizance of Bail.

BE it remembered, that on the day of in the year of our Lord A.B. of labourer, 40 L.M. of grocer, and N.O. of butcher, personally

came before [us] the undersigned, two of Her Majesty's justices of the peace for the said [county], and severally acknowledged themselves to owe to our Lady the Queen the several sums following; (that is to say,) the said A.B. the sum of _____ and the said L.M. and N.O. the sum of _____ each, of
 5 good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said A.B. fail in the condition indorsed.

10 Taken and acknowledged, the day and year first above mentioned at _____ before us,

J.S.
 J.N.

Condition in ordinary Cases.

The condition of the within-written recognizance is such, that whereas the
 15 said A.B. was this day charged before [us], the justices within mentioned, for that [i.e., as in the warrant]; if therefore the said A.B. will appear at the next court of oyer and terminer and general gaol delivery [or court of general quarter sessions of the peace] to be holden in and for the county of _____ or at any other court at which he may be ordered to be tried (of which order,
 20 if made, due notice will be given to him and to you), and there surrender himself into the custody of the keeper of the [common gaol] there, and plead to such indictment as may be found against him by the grand jury, for or in respect of the charge aforesaid, and take his trial upon the same, and not depart the said court without leave, then the said recognizance to be void, or
 25 else to stand in full force and virtue.

(W.)

Notice of the said Recognizance to be given to the Accused and his Bail.

TAKE notice, That you A.B. of _____ are bound in the sum of _____ and your [sureties L.M. and N.O.] in the sum of _____ each, that you A.B.
 30 appear, &c. [as in the condition of the recognizance], and not depart the said court without leave; and unless you the said A.B. personally appear and plead and take your trial accordingly, the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this _____ day of _____ 184 .

J.S.

35

(X.)

Warrant remanding a Prisoner.

To the constable of _____ and to the [keeper of the house of correction] at _____ in the said [county] of _____
 40 WHEREAS A.B. was this day charged before the undersigned [one] of Her Majesty's justices of the peace in and for the said [county] of _____ for that [i.e., as in the warrant to apprehend]; and it appears to me to be
 [178.]

A.D. 1878. necessary to remand the said *A.B.*: These are therefore to command you the said constable, in Her Majesty's name, forthwith to convey the said *A.B.* to the [house of correction] at _____ in the said [county], and there to deliver him to the keeper thereof, together with this precept; and I hereby command you the said keeper to receive the said *A.B.* into your custody in 5 the said house of correction, and there safely keep him until the day of _____ instant, when I hereby command you to have him at _____ at _____ o'clock in the forenoon of the same day before me, or before such other justice or justices of the peace for the said [county] as may then be there, to answer further to the said charge, and to be 10 further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid. 15
J.S. (L.S.)

(Y.)

Warrant of Commitment.

To the constable of _____ and to the keeper of the [house of correction] at _____ in the said [county] of _____ 20

WHEREAS *A.B.* was this day charged before me, *J.S.*, one of Her Majesty's justices of the peace in and for the said [county] of _____ on the oath of *C.D.* of _____, farmer, and others, for that [*&c.*, stating shortly the offence]; These are therefore to command you the said constable of _____ to take the said *A.B.*, and him safely to convey to the [house of correction] at _____ aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [house of correction] to receive the said *A.B.* into your custody in the said [house of correction], and there safely keep him until he shall be thence delivered by due course of law. 30

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid.
J.S. (L.S.)

(Z.)

Gaoler's Receipt to the Constable for the Prisoner, and Justice's Order thereon for Payment of the Constable's Expenses in executing the Commitment. 35

I HEREBY certify, That I have received from *W.T.*, constable of _____ the body of *A.B.*, together with a warrant under the hand and seal of *J.S.*

Esquire, one of Her Majesty's justices of the peace for the [county] of _____ A.D. 1878.
 ; and that the said A.B. was [sober, or as the case may be,] at the
 time he was so delivered into my custody.

		<i>P.K.</i> ,	
5		Keeper of the house of	
		correction [or com-	
		mon gaol] at	
	CONSTABLE'S EXPENSES:	£ s. d.	
10	For conveying the above A.B. from _____ to } [by railway] at _____ per mile - }		
	For conveying him to and from the railway station -		
	For subsistence of prisoner whilst in custody after com- mitment _____ days, at _____ per day -		
	For his lodging _____ nights, at _____ per night -		
15	Constable _____ days, at _____ per day -		
	[One] assistant [if necessary] _____ days, at per day -		
	Total	£	

20 To R.W. Esquire, treasurer of the said [county] of _____
 WHEREAS W.T., constable of _____ in the county of _____, hath
 produced unto me, J.P., one of Her Majesty's justices of the peace in and for the
 said county of _____ (wherein the offence herein-after mentioned is alleged
 to have been committed), the above receipt of P.K., keeper of the [house of
 25 correction] at _____ : And whereas, in pursuance of the statute in such
 case made and provided, I have ascertained that the sum which ought to be
 paid to the said W.T. for conveying the said A.B. from _____ in the said
 county of _____ to the said house of correction _____ is
 and that the reasonable expenses of the said W.T. in returning will amount to
 30 the further sum of _____ making together the sum of _____ :
 These are therefore to order you, as such treasurer of the said county of _____
 to pay unto the said W.T. the said sum of _____ according
 to the form of the statute in such case made and provided, for which payment
 this order shall be your sufficient voucher and authority.

35 Given under my hand, this _____ day of _____ 184 .
J.P.
 Received the _____ day of _____ 184 of the treasurer of the
 [county] of _____ the sum of _____ being the amount of the above
 order.

40 £ _____

(AA.)
*Certificate of Consent to Bail by the committing Justice indorsed on the
 Commitment.*

I HEREBY certify, That I consent to the within-named A.B. being bailed by
 45 recognizance, himself in _____ and [two] sureties in
 each.

J.S.

A.D. 1878.

(BB.)

The like, on a separate Paper.

WHEREAS *A.B.* was on the _____ committed by me to the [house
of correction] at _____ charged with [*&c.*, naming the offence shortly]:

I hereby certify, That I consent to the said *A.B.* being bailed by recogni- 5
zance, himself in _____ and [two] sureties in _____ each. Dated
the _____ day of _____ 184 .

J.S.

(CC.)

Warrant of Deliverance on Bail being given for a Prisoner already 10
committed.

To the keeper of the [house of correction] at _____ in the said
[county] of _____

WHEREAS *A.B.*, late of _____ labourer, hath before [us, two] of 15
Her Majesty's justices of the peace in and for the said county, entered into
his own recognizance, and found sufficient sureties for his appearance at the
next court of oyer and terminer and general gaol delivery [or court of general
quarter sessions of the peace] to be holden in and for the county of
or such other court as might be duly ordered in that behalf to answer
our Sovereign Lady the Queen, for that [*&c.*, as in the commitment], for 20
which he was taken and committed to your said [house of correction]:
These are therefore to command you, in Her said Majesty's name, that if the
said *A.B.* do remain in your custody in the said [house of correction] for
the said cause, and for no other, you shall forthwith suffer him to go at
large. 25

Given under our hands and seals, this _____ day of _____ in the
year of our Lord _____ at _____ in the [county] aforesaid.

J.S. (L.S.)

J.N. (L.S.)

(DD.)

30

Form of Notice of Indictment intended to be presented.

To *A.B.* of [address and description in full]

TAKE notice, that I the undersigned *C.D.* of [full address and description],
intend to present a bill of indictment against you at the next sitting of [the
court of oyer and terminer, quarter sessions, the Central Criminal Court, or 35
as the case may be], to be held in and for _____ at _____
charging you with having committed an offence [state the offence as in
the third column of the forms of indictment herein-after given].

Also take notice that there are left herewith for your information a copy
of the indictment which I intend to prefer, which copy is marked A., and 40
copies of the affidavits of [give the names], being the witnesses on whose

evidence I intend to present it, which copies are marked B. The affidavits show the substance of the evidence which the witnesses making them are prepared to give.

A.D. 1878

(Signed) C.D.

5 Witness to the signature of C.D.
E.F.

(EE.)

Notice of intention to take Deposition of a Witness who is ill.

To A.B. of

10 TAKE notice, that I the undersigned [prosecutor] having proved upon the
oath of before [name and residence of justice],
that [name and full description of witness] is in the opinion of [name and
residence of medical practitioner] dangerously ill, not likely to recover, and
unable to travel, and that [he] is able and willing to give material informa-
15 tion as to [state the offence], which you have been charged before [name of
the justice before whom the defendant has been charged] with committing.
And take notice that the deposition of the said will be taken
at on at o'clock in the morning, on which
occasion, if you think proper, you, your counsel or solicitor may attend and
20 cross-examine the said

(Signed) C.D.

(FF.)

Certificate of Indictment being found.

I HEREBY certify, that at [a court of oyer and terminer and general gaol
25 delivery, or a court of general quarter sessions of the peace,] holden in and for
the [county] of at in the said [county], on
a bill of indictment was found by the grand jury against A.B., therein
described as A.B. late of [labourer], for that he [etc., stating shortly
the offence], and that the said A.B. hath not appeared or pleaded to the said
30 indictment.

Dated this day of 187 .

J.D.

Clerk of the indictments on the circuit
or

35 Clerk of the peace of and for the said [county].

(GG.)

Warrant to apprehend a Person indicted.

To the constable of and to all other peace officers in the said
[county] of

40 WHEREAS it hath been duly certified by J.D., clerk of the indictments
on the circuit [or clerk of the peace of and for the [county]

A.D. 1878.

of [that, &c., stating the certificate]: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A.B., and to bring him before [me], or some other justice or justices of the peace in and for the said [county], to be dealt with according to law.

Given under my hand and seal, this day of in the 5
year of our Lord at in the [county] aforesaid.
J.S. (L.S.)

(HH.)

Warrant of Commitment of a Person indicted.

To the constable of and to the keeper of the [common gaol, 10
or house of correction], at in the said [county] of

WHEREAS by [my] warrant under my hand and seal, dated the
day of after reciting that it had been certified by J.D. [&c., as in
the certificate], [I] commanded the constable of and all other
peace officers of the said county, in Her Majesty's name, forthwith to 15
apprehend the said A.B., and to bring him before [me], the undersigned,
[one] of Her Majesty's justices of the peace in and for the said [county], or
before some other justice or justices of the peace in and for the said [county],
to be dealt with according to law: And whereas the said A.B. hath been
apprehended under and by virtue of the said warrant, and being now brought 20
before [me], it is hereupon duly proved to [me] upon oath that the said A.B.
is the same person who is named and charged in and by the said indictment:
These are therefore to command you the said constable, in Her Majesty's
name, forthwith to take and safely convey the said A.B. to the said [house of
correction] at in the said [county], and there to deliver him to 25
the keeper thereof, together with this precept; and I hereby command you
the said keeper to receive the said A.B. into your custody in the said house
of correction, and him there safely to keep until he shall be thence delivered
by due course of law.

Given under my hand and seal, this day of in the 30
year of our Lord at in the [county] aforesaid.
J.S. (L.S.)

(II.)

Warrant to detain a Person indicted who is already in custody for another Offence. 35

To the keeper of the [common gaol, or house of correction], at
in the said [county] of

WHEREAS it hath been duly certified by J.D., clerk of the indictments on
the circuit [or clerk of the peace of and for the county of],
that [&c., stating the certificate]: And whereas [I am] informed that the said 40
A.B. is in your custody in the said [common gaol] at aforesaid,
charged with some offence or other matter; and it being now duly proved
upon oath before [me] that the said A.B. so indicted as aforesaid, and the
said A.B. in your custody as aforesaid, are one and the same person: These
are therefore to command you, in Her Majesty's name, to detain the said A.B. 45

A.D. 1878.

4.

The proceedings in each case shall be recorded as follows :—

R. v. A.

(Insert Copy or Abstract of the Indictment.)

The defendant pleads not guilty [or guilty]. 5

The following jurors are sworn.

A.B., C.D., &c. [or the same Jury as in R. v. are sworn].

The jury find the defendant guilty [or not guilty].

The court sentences the defendant to _____, or the defendant is discharged [or as the case may be]. 10

5.

In addition to the entries made in every case under Rule 4, special entries shall be made as of course in the following cases :—

(a.) If the defendant pleads in abatement or pleads any special plea or challenges the array in writing or stands mute or makes any motion in writing, every such plea, challenge, and motion and all further pleadings thereon shall be entered in the record, and the further proceedings thereon shall be recorded in the manner herein-after shown. 15

(b.) If the court makes any special order under any of the powers contained in this Act or under any other power, the order shall be recorded. 20

(c.) It shall not be necessary to record any adjournment of the court for necessary refreshment, or for the continuance of the trial from day to day or from Saturday till Monday.

6.

If the court directs any other matter or thing to be recorded it shall be recorded in a manner similar to the foregoing examples. 25

(MM.)

[FORM of the HEADINGS of INDICTMENTS.]

An indictment in the [name of the court].

¹ Name of the defendant [A.] 30

² Committed for trial by [name of committing magistrate] at [place of committal] on [date of committal].

Depositions taken on [date of taking depositions] at [place of taking depositions].

Indictment found a true bill [or no true bill] by the grand jury of [district for which the grand jury act] on the [date]. 35

¹ If the name is unknown, describe the defendant otherwise.

² If no committal for trial, say "Affidavits filed with [name of justice] by [name of prosecutor]

" who was bound over to prosecute by [name of justice] at _____ on _____"

(NN.)

[EXAMPLES of the BODY of the INDICTMENT where an Offence against a single Enactment is charged.]

Offence.	PARTICULAR OF OFFENCE.
5 The Criminal Code (Indictable Offences), 1878, s. 140.	The defendant murdered <i>B.</i> at _____ on _____ 1878.

Offence.	PARTICULAR OF THE OFFENCE.
10 The Criminal Code (Indictable Offences), 1878, s. 84.	The defendant gave false evidence on the trial of <i>B.</i> for the murder of <i>Z.</i> at the Central Criminal Court before the Honourable Mr. Justice _____, on the _____ of 187____, in order to obtain the conviction of <i>B.</i> for murder. Such false evidence consisted of the following assertions:—
15	(a.) I (the defendant) saw <i>B.</i> in the Strand, near Somerset House, at about 3 o'clock in the afternoon of Monday the _____ of _____ 187____.
20	(b.) I (the defendant) heard <i>B.</i> tell <i>C.</i> that he (<i>B.</i>) intended to murder <i>Z.</i>
	(c.) I (the defendant) heard <i>B.</i> ask <i>C.</i> not to say that he (<i>B.</i>) had told <i>C.</i> that he (<i>B.</i>) intended to murder <i>Z.</i> This was at the house of Mr. _____, number _____ Street.

25 [In this example the manner of stating the joint effect of two enactments is shown.]

Offence.	PARTICULAR OF OFFENCE.
The Criminal Code (Indictable Offences), 1878, s. 249, and s. 33, sub-s. (c).	The defendant conspired with <i>B.</i> and <i>C.</i> that <i>B.</i> should perjure <i>D.</i> in order fraudulently to obtain a certain estate.

A.D. 1878.

(OO.)

[Examples showing the manner of joining several counts for different offences.]

Counts.	Offence.	PARTICULARS OF OFFENCE.	
1.	Criminal Code (Indictable Offences), s. 199.	The defendant fraudulently misappropriated the following things by different acts, at the times and places and under the circumstances hereunder mentioned; that is to say—	5
2.		(a.) A gold watch of the value of 30 <i>l.</i> , which he stole from the person of <i>C.D.</i> on (<i>date</i>) at (<i>place</i>).	10
3.		(b.) A horse worth 50 <i>l.</i> , a cart worth 20 <i>l.</i> , and harness worth 5 <i>l.</i> , which he obtained by a false pretence from <i>E.F.</i> on (<i>date</i>) at (<i>place</i>).	15
4.	Previous convictions under Criminal Code (Indictable Offences), s. 214.	(c.) Money and valuable securities worth together 150 <i>l.</i> , of which he was in possession on account of his master, <i>G.H.</i> , and on which he committed criminal breach of trust on (<i>date</i>) at (<i>place</i>). The defendant was convicted of robbery before (<i>name of Court</i>) at (<i>place</i>) on (<i>date</i>).	20

Counts.	Offence.	PARTICULARS OF OFFENCE.	
1.	The Foreign Enlistment Act, 33 & 34 Vict. c. 90.	The defendant committed the following offences by different acts:—	25
2.		s. 4. (a.) He induced <i>B.</i> to accept a commission in the naval service of _____, at war with _____, at (<i>place</i>), on (<i>date</i>).	30
3.		s. 5. (b.) He induced <i>C.</i> to quit England with intent to accept a commission in the military service of _____, at war with _____.	35
4.		s. 8. (c.) He caused to be equipped at _____, a ship called the _____ with intent that it should be employed in the naval service of _____, at war with _____, at (<i>place</i>), on (<i>date</i>).	40
	s. 10. (d.) He caused the warlike force of a certain ship called the _____, to be augmented, such ship being at the time in the service of _____, at war with _____, at (<i>place</i>), on (<i>date</i>).		

(PP.)

[*Example showing the manner of joining several counts where it is doubtful which offence the defendant committed.*]

Counts.	Offence.	PARTICULARS OF OFFENCE.
5	The Criminal Code (Indictable Offences), 1878.	The defendant, with others, committed one or more of the following offences on _____, at _____, by the same acts, that is to say:—
1.	s. 45.	(a.) Unlawful assembly; or,
2.	s. 45.	(b.) Riot; or,
10	3.	(c.) Forcible entry upon certain land at _____, in the occupation of _____; or,
4.	s. 51.	(d.) Forcible detainer of the land referred to in the last count.

(QQ.)

15 [*Examples showing the manner in which documents may be referred to.*]

Offence.	PARTICULAR OF OFFENCE.
20 The Criminal Code (Indictable Offences), 1878. s. 178.	The defendant published a libel defaming <i>B.</i> The libel consists of a letter signed _____ and entitled _____, printed in the 4th page of a newspaper entitled the _____, published at _____ on _____. A copy of the said letter is hereto annexed. The expressions marked with an asterisk refer to <i>B.</i> (Copy of the letter.)

Offence.	PARTICULAR OF OFFENCE.
25 The Criminal Code (Indictable Offences), s. 56.	The defendant published a seditious libel. The libel consists of a pamphlet entitled _____, a copy of which is hereto annexed and marked <i>A.</i> The passages alleged to be seditious occur at pages _____ and are marked in the said pamphlet by lines on the margin on the said pages. (Annex the pamphlet marked <i>A.</i>)
30	

(RR.)

A.D. 1878.

[An example showing the manner of referring to numerous facts by schedules.]

Counts.	Offence.	PARTICULAR OF OFFENCE.	
	The Criminal Code (Indictable Offences), 1878, s. 277.	The defendant, a bankrupt, committed the following offences by different acts. He obtained property on credit from five different persons on seven different occasions, under the false pretence of carrying on business and dealing in the ordinary way of his trade, and did not pay for the same. The names of the five persons, the nature of the property obtained, and the times when it was obtained, appear from Schedule A. hereto annexed. The 1st, 2nd, 3rd, 4th, 5th, 6th, and 7th counts of the indictment refer to the entries marked (a), (b), (c), (d), (e), (f), (g) respectively in the said schedule.	5 10
1	Sub-s. (a)		
2	(b)		
3	(c)		
4	(d)		
5	(e)		
6	(f)		15
7	(g)		
	Sub-s. (a)	The defendant also obtained property by false pretences from four other persons at other times. The names of those persons, the nature of the property obtained, and the times it was obtained, appear from Schedule B. annexed hereto. The 8th, 9th, 10th, and 11th counts of this indictment refer to the entries marked (h), (i), (j), and (k) in that schedule.	20
8	(h)		
9	(i)		
10	(j)		
11	(k)		
	The Criminal Code (Indictable Offences), 1878, s. 233.	The defendant also forged the several documents specified in Schedule C. The 12th, and 13th counts of this indictment relate respectively to the entries marked (l) and (m) in that schedule, which documents are valuable securities, and the 14th and 15th counts to the trienes marked (n) and (o) in that Schedule.	25
12	Sub-s. (b)		
	(l)		
13	(m)		
	Sub-s. (c)		30
14	(n)		
15	(o)		

SCHEDULE A.

Names of Persons.	Nature of Property.	When obtained.	
a. B.	Five bales of silk	10 Jan. 1878.	35
b. B.	Three other bales of silk	15 Jan. 1878.	
c. C.	Ten bales of cloth	2 Feb. 1878.	
d. C.	Four other bales of cloth	9 Feb. 1878.	
e. D.	Twenty yards of calico	10 Dec. 1877.	
f. E.	Six dozen pair of stockings	12 Dec. 1877.	40
g. F.	Fifty yards of linen	18 Dec. 1877.	

SCHEDULE B.

Names of Persons.	Nature of Property.	When obtained.	
h. G.	A gold watch	11 Feb. 1878.	
i. H.	A horse and cart	13 Feb. 1878.	45
j. I.	A picture	19 Jan. 1878.	
k. J.	Twenty-five pounds in gold and bank notes	2 Jan. 1878.	

SCHEDULE C.

Description of Forged Documents.

l.	A bill of exchange for 100 <i>l.</i> purporting to be drawn by A. on B. and to be accepted by B. and to be dated on the 1st Jan. 1878, and to be payable three months after date.	50
m.	A lease purporting to let to A. a house, No. , Street, London, for 14 years.	
n.	A letter purporting to be addressed to A. by Z. containing the terms of a certain contract.	
o.	A certificate purporting to be given by W., and stating, &c.	

(SS.)

Forms of Motions.

The defendant moves the court to quash the indictment [or to arrest judgment] on the ground [that the indictment contains no statement of any
5 indictable offence, or as the case may be].

(TT.)

SPECIAL PLEAS.

Form of a Plea in Abatement.

A. pleads in abatement of the indictment found against him that one of the
10 grand jurors by whom the bill was found, that is to say, B.C., was [state the ground of disqualification], and was as such disqualified to serve on the grand jury.

Replication (in the name of the Officer of the Court, or any person appointed by the Court).

15 J. says that A.'s plea is false in fact [or] says that A.'s plea is bad in law [or] that A.'s plea is both false in fact and would be bad in law if it were true in fact.

[The subsequent proceedings may be thus recorded.]

20 The court impanels B., C., &c. (names of jurors), as a jury to try the truth of A.'s plea.

The jury find for the defendant.

The court orders the indictment to be quashed and another to be sent before the grand jury, and orders that B.C. shall not serve thereon.

or The jury find for the Crown.

25 The court gives judgment that the defendant answer further to the indictment.

Form of a Plea in abatement to the Jurisdiction.

A. pleads in abatement of the indictment that this court has no jurisdiction because the defendant is a peer of parliament, and the offence with which he
30 is charged is one for which he might upon conviction be sentenced to penal servitude.

Form of special Plea in Bar.

The defendant says that he was acquitted (or convicted) of the offence charged in this indictment at (place) on (date).

A.D. 1878.

(VV.)

A CRIMINAL INFORMATION filed by the Attorney-General in the HIGH COURT OF JUSTICE.

Name of the Defendant [A].

Information filed

of

5

Copy of Information delivered to the Defendant [date].

Counts.	Offence.	PARTICULARS OF OFFENCE.						
	Criminal Code (Indictable Offences), 1878, s. 71.	<p>The defendant, holding the office of _____, defrauded Her Majesty of the sum of _____, by corruptly purchasing from B. _____ a quantity of commissariat stores at a price which exceeded their fair value by £ _____, out of which sum B. repaid the defendant the sum of £ _____, for his own use. The particulars of the stores so sold, of their market price, and of the price at which they were purchased by A. from B. are stated in the schedule hereto annexed.</p> <p style="text-align: center;">SCHEDULE.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th data-bbox="699 877 889 940">Stores sold.</th> <th data-bbox="889 877 1094 940">Market Price.</th> <th data-bbox="1094 877 1391 940">Price at which sold to A.</th> </tr> </thead> <tbody> <tr> <td style="height: 100px;"></td> <td></td> <td></td> </tr> </tbody> </table>	Stores sold.	Market Price.	Price at which sold to A.			
Stores sold.	Market Price.	Price at which sold to A.						

10

15

(WW.)

20

WE, the CORONER and JURY whose names are signed hereto [*having viewed the body of B. lying dead at _____, in the County of Middlesex] make the CHARGE hereunto annexed against A. upon our oaths.

(Signed) C. (Coroner), D., E., &c. (Jurymen).

Offence.	PARTICULARS OF OFFENCE.
Criminal Code (Indictable Offences), 1878, s. 140, or s. 143, or s. 202.	<p>The defendant murdered (or unlawfully slew) B. at (place) on (date).</p> <p>The defendant concealed from Her Majesty the finding of certain ancient gold ornaments worth 500<i>l.</i> found in a field near _____, at (place) on (date).</p>

25

* Omit this if the charge is concealing treasure trove.

(XX.)

*Order for Payment of the Constable's Expenses.*To *R.W.*, Esquire, treasurer of the said county of *C.*

WHEREAS *W.T.*, constable of in the county of *A.*, hath by
 5 virtue of and in obedience to a certain warrant of *J.S.*, Esquire, [*one*] of Her
 Majesty's justices of the peace in and for the said county of *A.*, taken and con-
 veyed one *A.B.*, charged before the said *J.S.* with having [*&c.*, *stating shortly*
the offence], from in the said county of *A.* to in
 the said county of *C.*, a distance of miles, and produced the said
 10 *A.B.* before me *S.P.*, one of Her Majesty's justices of the peace in and for the
 said county of *C.*, and delivered him into the custody of by [*my*]
 direction, to answer to the said charge, and further to be dealt with according
 to law: And whereas the said *W.T.* hath also delivered to [*me*] the said war-
 rant, together with the information in that behalf, and also the deposition of
 15 *C.D.* in the said warrant mentioned, and hath proved to [*me*] upon oath the
 handwriting of the said *J.S.* subscribed to the same: And whereas [*I*] have
 ascertained that the sum which ought to be paid to the said *W.T.* for convey-
 ing the said *A.B.* from the said county of *A.* to the said county of *C.*, and taking
 him before [*me*], is the sum of and that the reasonable
 20 expenses of the said *W.T.* in returning will amount to the further sum of
 , making together the sum of : These are therefore to order
 you, as such treasurer of the said county of *C.*, to pay unto the said *W.T.* the
 said sum of according to the form of the statute in such case
 made and provided, for which payment this order shall be your sufficient
 25 voucher and authority.

Given under my hand, this day of 184 .
J.P.

 SCHEDULE II.

ACTS AND PARTS OF ACTS REPEALED.

30 Every description or citation of a portion of an Act is inclusive of the
 words, section, or other part first or last-mentioned, or otherwise referred to
 as forming the beginning or as forming the end of the portion comprised in
 the description or citation.

23 Edw. 1.	-	The statute of breaking prisons.
35 25 Edw.3. st. 5.	-	A declaration what offences shall be adjudged treason.
	c. 2.	
1 Hen. 5. c. 5.	-	An Act beginning with the words "That it is ordained and "established that in every original suit of actions personals," and ending with the words "from the feast of St. Michael "next ensuing forward."

40

[178.]

A.D. 1878.

5 & 6 Edw. 6. c. 11.	An Act for the punishment of divers treasons.	
5 & 6 Edw. 6. c. 16.	An Act against buying and selling of offices.	
5 Eliz. ch. 9. -	An Act for the punishment of such persons as shall procure or commit any wilful perjury.	5
8 Eliz. c. 2. -	An Act whereby the defendant may recover his costs being wrongfully versed. In part, that is to say, section three.	
18 Eliz. c. 5. -	An Act to redress disorders in common informers upon penal laws. In part, that is to say, sections four and five.	10
4 Will. & Mar. c. 18.	An Act to prevent malicious informations in the Court of King's Bench, and for the more easy reversal of outlawries in the same court.	
7 & 8 Will. 3. c. 3.	An Act for regulating of trials in cases of treason and misprision of treason, the whole except sections ten and eleven.	15
9 Will. 3. c. 35.	An Act for the more effectual suppressing of blasphemy and profaneness.	
11 Will. 3. c. 7.	An Act for the more effectual suppression of piracy. The whole except sections eleven, twelve, and eighteen.	
7 Ann. c. 12. -	An Act for preserving the privileges of Ambassadors and other Public Ministers of foreign Princes and States. In part, that is to say, section four.	20
1 Geo. 1. st. 2. c. 5.	An Act for preventing tumults and riotous assemblies, and for the more speedy and effectual punishing the rioters. In part, that is to say, section one from "that if any persons to the number of twelve or more," to "without benefit of clergy," and section five.	25
4 Geo. 1. c. 11.	An Act of which the title begins with the words "An Act for the better preventing," and ends with the words "relating to pirates."	30
8 Geo. 1. c. 24.	An Act for the more effectual suppressing of piracy. In part, that is to say, sections one, three, six.	
12 Geo. 1. c. 29.	An Act to prevent frivolous and vexatious arrests, in part, that is to say, section four.	
2 Geo. 2. c. 25.	An Act for the more effectual preventing and further punishment of forgery, perjury, and subornation of perjury, and to make it felony to steal bonds, notes, or other securities for payment of money.	35
25 Geo. 2. c. 37.	An Act for better preventing the horrid crime of murder.	
12 Geo. 3. c. 24.	An Act for the better securing and preserving His Majesty's dockyards, magazines, ships, ammunition, and stores.	40
33 Geo. 3. c. 67.	An Act for better preventing offences in obstructing, destroying, or damaging ships or other vessels, and in obstructing seamen, keelmen, casters, and ship carpenters from pursuing their lawful avocations.	45
36 Geo. 3. c. 7.	An Act for the safety and preservation of His Majesty's person and Government against treasonable and seditious practices and attempts.	

A.D. 1878.

- 37 Geo. 3. c. 70. An Act for the better prevention and punishment of attempts to seduce persons serving in His Majesty's forces by sea or land from their duty and allegiance to His Majesty, and to incite them to mutiny or disobedience.
- 5 37 Geo. 3. c. 123. An Act for more effectually preventing the administering or taking of unlawful oaths.
- 38 Geo. 3. c. 52. An Act to regulate the trial of causes, indictments, and other proceedings which arise within the counties of certain cities and towns corporate within this kingdom.
- 10 39 & 40 Geo. 3. c. 93. An Act for regulating trials for high treason and misprision of treason.
- 39 & 40 Geo. 3. c. 94. An Act for the safe custody of insane persons charged with offences. In part, that is to say, sections one and two.
- 15 49 Geo. 3. c. 126. An Act for the further prevention of the sale and brokerage of offices. In part, that is to say, sections 1 to 5, both inclusive, sections nine, ten, eleven, and fourteen.
- 51 Geo. 3. c. 100. An Act to amend an Act passed in the thirty-eighth year of his present Majesty's reign, intituled "An Act to regulate the trial of causes, indictments, and other proceedings which arise within the counties of certain cities and towns corporate within this kingdom."
- 20 52 Geo. 3. c. 104. An Act to render more effectual an Act passed in the thirty-seventh year of his present Majesty, for preventing the administering or taking of unlawful oaths.
- 25 54 Geo. 3. c. 146. An Act to alter the punishment in certain cases of high treason.
- 57 Geo. 3. c. 6. An Act of which the title begins with the words "An Act to make perpetual," and ends with the words "treasonable practices and attempts."
- 30 60 Geo. 3. & 1 Geo. 4. c. 1. An Act to prevent the training of persons to the use of arms, and to the practice of military evolutions and exercises. In part, that is to say, section one.
- 60 Geo. 3. & 1 Geo. 4. c. 4. An Act to prevent delay in the administration of justice in cases of misdemeanor.
- 35 1 & 2 Geo. 4. c. 88. An Act for the amendment of the law of rescue.
- 5 Geo. 4. c. 84. An Act for the transportation of offenders from Great Britain. In part, viz., section twenty-two.
- 40 5 Geo. 4. c. 112. An Act to amend and consolidate the laws relating to the abolition of the Slave Trade. In part, that is to say, sections nine, ten, eleven, twelve, and so much of section forty-seven as relates to indictments.
- 7 Geo. 4. c. 64. An Act for improving the administration of criminal justice in England. In part, that is to say, sections one, two, three, five (so far as it relates to Justices), twelve to thirty-one, both inclusive.
- 45 7 & 8 Geo. 4. c. 28. An Act for further improving the administration of justice in criminal cases in England. In part, that is to say, sections ten, eleven, twelve.

A.D. 1878.	9 Geo. 4. c. 69.	An Act for the more effectual prevention of persons going armed by night for the destruction of game. In part, that is to say, section nine.	
	11 Geo. 1. & 1 Will. 4. c. 70.	An Act for the more effectual administration of justice in England and Wales. In part, that is to say, section nine.	5
	4 & 5 Will. 4. c. 67.	An Act for abolishing capital punishment in case of returning from transportation.	
	7 Will. 4. & 1 Vict. c. 36.	An Act, of which the title begins with the words "An Act for consolidating the laws relative to offences against the "Post Office," and ends with the words "in those laws." In part, that is to say, sections twenty-six to thirty, both inclusive.	10
	7 Will. 4. & 1 Vict. c. 88.	An Act to amend certain Acts relating to the crime of piracy.	
	7 Will. 4. & 1 Vict. c. 90.	An Act to amend the laws relative to offences punishable by transportation for life.	15
	7 Will. 4. & 1 Vict. c. 91.	An Act for abolishing the punishment of death in certain cases.	
	3 & 4 Vict. c. 54.	An Act for making further provision for the confinement and maintenance of insane prisoners. In part, that is to say, section three.	20
	5 & 6 Vict. c. 51.	An Act for providing for the further security and protection of Her Majesty's person.	
	6 & 7 Vict. c. 96.	An Act to amend the law respecting defamatory words and libel. In part, that is to say, sections three, four, five, six, seven, eight.	25
	7 & 8 Vict. c. 2.	An Act for the more speedy trial of offences committed on the high seas.	
	8 & 9 Vict. c. 68.	An Act to stay execution of judgment for misdemeanors upon giving bail in error.	30
	9 & 10 Vict. c. 24.	An Act for removing some defects in the administration of criminal justice.	
	11 & 12 Vict. c. 12.	An Act for the better security of the crown and government of the United Kingdom.	
	11 & 12 Vict. c. 42.	An Act to facilitate the performance of the duties of justices of the peace and of sessions within England and Wales with respect to persons charged with indictable offences. In part, that is to say, the first twenty-eight sections and section thirty-two.	35
	11 & 12 Vict. c. 46.	An Act for the removal of defects in the administration of criminal justice.	40
	11 & 12 Vict. c. 78.	An Act for the further amendment of the administration of the criminal law.	
	12 & 13 Vict. c. 45.	An Act to amend the procedure in courts of general and quarter sessions of the peace in England and Wales, and for the better advancement of justice in cases within the jurisdiction of those courts. In part, that is to say, section ten.	45

	14 & 15 Vict. c. 19.	An Act for the better prevention of offences.
5	14 & 15 Vict. c. 55.	An Act to amend the law relating to expenses of prosecutions, and to make further provisions for the apprehension and trial of offenders in certain cases. In part, that is to say, sections two, five, six, seven, eight.
	14 & 15 Vict. c. 100.	An Act for further improving the administration of criminal justice. All that is unrepealed except sections twenty-two, twenty-seven, thirty, and thirty-one.
10	16 & 17 Vict. c. 32.	An Act to make further provision for staying execution of judgment for misdemeanors upon giving bail in error. The whole Act, except section eight.
	17 & 18 Vict. c. 104.	An Act to amend and consolidate the Acts relating to merchant shipping. In part, that is to say, sections two hundred and six, two hundred and seven, two hundred and thirty-nine.
15	19 & 20 Vict. c. 16.	An Act to empower the Court of Queen's Bench to order certain offenders to be tried at the Central Criminal Court.
	19 & 20 Vict. c. 54.	An Act to facilitate the despatch of business before grand juries in England and Wales.
20	22 & 23 Vict. c. 17.	An Act to prevent vexatious indictments for certain misdemeanors.
	22 & 23 Vict. c. 35.	An Act to further amend the law of property, and to relieve trustees. In part, that is to say, section twenty-four, from and inclusive of the words "shall be guilty of a misdemeanor" to and inclusive of the words "the court shall award and," and also from and inclusive of the words "but no prosecution" to the end of the section.
25	23 & 24 Vict. c. 38.	An Act to further amend the law of property. In part, that is to say, section eight.
30	24 & 25 Vict. c. 94.	An Act to consolidate and amend the statute law of England and Ireland relating to accessories to and abettors of indictable offences.
	24 & 25 Vict. c. 96.	An Act to consolidate and amend the statute law of England and Ireland relating to larceny and other similar offences. The whole Act, except the following sections: one, twelve, fourteen, fifteen, sixteen, seventeen from the words "and whosoever shall" to the end of the section, eighteen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, thirty-four, thirty-five, sixty-five, sixty-six, ninety-seven, ninety-nine, one hundred and two, one hundred and five to one hundred and twelve, both inclusive, one hundred and twenty, one hundred and twenty-two one hundred and twenty-three.
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	24 & 25 Vict. c. 97.	An Act to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property. The whole Act, except the following sections: twenty-two, twenty-three, twenty-four, twenty-five, thirty-eight, fifty-two, fifty-three, sixty-two to seventy, both inclusive, seventy-six, seventy-eight, seventy-nine.
45		

A.D. 1878.

24 & 25 Vict. c. 98.	An Act to consolidate and amend the statute law of England and Ireland relating to indictable offences by forgery. The whole Act, except sections forty-seven and forty-eight.	
24 & 25 Vict. c. 99.	An Act to consolidate and amend the statute law of the United Kingdom against offences relating to the coin. The whole Act, except sections twenty-three, twenty-six, twenty-seven, thirty-two, thirty-three, thirty-four, thirty-nine, forty-one, forty-two (so far as it relates to offences not indictable).	5
24 & 25 Vict. c. 100.	An Act to consolidate and amend the statute law of England and Ireland relating to offences against the person. The whole Act, except sections forty-three, forty-four, forty-five, forty-six, sixty-nine, seventy-two, seventy-six, seventy-eight, seventy-nine.	10
25 & 26 Vict. c. 65.	An Act for the more speedy trial of certain homicides committed by persons subject to the Mutiny Act.	15
28 Vict. c. 18.	An Act for amending the law of evidence and practice on criminal trials. In part, that is to say, section two.	
30 & 31 Vict. c. 35.	An Act to remove some defects in the administration of the criminal law. The whole Act, except sections eight and eleven.	20
31 & 32 Vict. c. 116.	An Act to amend the law relating to larceny and embezzlement. In part, that is to say, section one.	
32 & 33 Vict. c. 62.	An Act for the abolition of imprisonment for debt for the punishment of fraudulent debtors, and for other purposes. In part, that is to say, sections eleven, twelve, thirteen, fourteen, seventeen, eighteen, nineteen.	25
33 & 34 Vict. c. 23.	An Act to abolish forfeitures for treason and felony, and to otherwise amend the law relating thereto. In part, that is to say, sections three and four.	
34 & 35 Vict. c. 112.	An Act for the more effectual prevention of crime. In part, that is to say, section nineteen.	30
36 & 37 Vict. c. 71.	The Fishery Act, 1873. In part, that is to say, section thirteen.	
37 & 38 Vict. c. 36.	The False Personation Act, 1874.	35
38 & 39 Vict. c. 24.	The Falsification of Accounts Act, 1875.	
38 & 39 Vict. c. 94.	An Act to amend the law relating to offences against the person.	
38 & 39 Vict. c. 88.	The Merchant Shipping Act, 1875. In part, that is to say, section four.	40