1897.

QUEENSLAND.

DRAFT

OF A

CODE OF CRIMINAL LAW,

PREPARED FOR

THE GOVERNMENT OF QUEENSLAND

BY

THE HONOURABLE SIR SAMUEL WALKER GRIFFITH, G.C.M.G.,
CHIEF JUSTICE OF THAT COLONY,

TOGETHER WITH

AN EXPLANATORY LETTER TO THE HONOURABLE THE ATTORNEY-General,
A TABLE OF CONTENTS, AND A TABLE OF THE STATUTORY PROVISIONS
PROPOSED TO BE SUPERSEDED BY THE CODE.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND.

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C.A. 89—1897.
Judges' Chambers,
Supreme Court,
Brisbane, 29th October, 1897.

Sir,

In pursuance of the undertaking referred to in my letter of 1st June, 1896, enclosing a Digest of the Statutory Criminal Law of Queensland which it is within the competence of the Parliament of Queensland to repeal or amend, I have now the honour to transmit herewith a Draft of a Code dealing with the whole subject of the Criminal Law of Queensland within the same limits.

For the reasons then stated the Draft Code does not deal with the law embodied in Imperial Statutes which are in force throughout Her Majesty's Dominions irrespective of local legislation, nor with such provisions of the English Criminal Law in force in 1828, whether Statutory Law or Common Law, as are manifestly obsolete or inapplicable to Australia—such as the Acts called the Statutes of Preamunire, Statutes relating to Divine Worship, the Church of England, and the Church of Rome, and the law relating to blasphemy and the offences called Forestalling and Regrating; but an attempt has been made to cover the whole ground of what may be called the Hiring Criminal Law, including Procedure, with the exceptions just stated, and with the further exceptions of (1) offences against Statutes which may be regarded as in the nature of police regulations, having no analogy with or relation to indictable offences; (2) procedure before justices, whether for the purpose of summary conviction or commitment for trial, which is dealt with in "The Justices Act of 1886"; and (3) a few indictable offences which may be regarded as being of a temporary or special nature, and not therefore proper to be embodied in a permanent Code. (a) I have endeavoured to include all the rules of the unwritten Common Law which are relevant to the question of criminal responsibility and the administration of justice in Courts of criminal jurisdiction, as well as all offences at Common Law which are not such as ought manifestly to be abolished, the intention being that upon the enactment of the Code it should also be enacted that no prosecution shall thereafter be commenced for an indictable offence except under the provisions of the Code or some other Statute in force in Queensland. In many instances it has been necessary to depart from existing rules for the purpose of avoiding admitted anomalies or of simplifying the law. The reasons for making such departures and for adopting the suggested rules will be found either in this letter, or, when the departures are in matter of detail, in the form of Notes to the Draft Code itself.

Before explaining the principles which I have followed in the preparation of the Draft Code, it may be convenient to say a few words on the general subject of codification of the law, and as to the materials and authorities to which I have had recourse.

(a) The statutory provisions included in the Digest which have not been repeated since its publication, and which are not proposed to be repeated upon the enactment of the Code, are the following:

37 Vic. No. 3, s. 2, 4 (relating to proceedings of a mixed civil and criminal nature with regard to estates assessed to be vested). (Art. 699)
38 Vic. No. 13, s. 40 as it relates to giving false answers to Shows' Master, which, it is suggested, should be repealed as far as to make the offence a misdemeanour. (Art. 909)
39 Vic. No. 10, s. 3 (prohibiting the punishment of death except under Statute), which should be included in the Act establishing the Code. (Art. 909)
40 Vic. No. 10, s. 3, 6 (prospect duty on coal) which, it is suggested, should be repealed as far as it creates an indictable offence. (Art. 102)
41 Vic. No. 13, s. 4, 5, and 66 Vic. No. 8, s. 4 (relating to musty). (Art. 106)
42 Vic. No. 15, s. 47 (relating to newspapers printed from imported stereotype). (Art. 104)
43 Vic. No. 12, s. 49 (relating to giving up possession of bank-note seals). (Art. 107)
44 Vic. No. 39, s. 6 (policy notes issued to reconstituted banks). (Art. 108)
It must seem strange to the ordinary mind that in the present stage of civilization a great branch of the law, by which everyone is bound, and which is understood to be definitely known and settled, should not be reduced to writing in such a form that any intelligent person able to read can ascertain what it is. Yet it is the fact, as I pointed out in my letter of 1st June, 1890, that the written Criminal Law of Queensland (apart from Imperial Statutes of general application) is scattered through nearly two hundred and fifty Statutes, while the unwritten portion of the Criminal Law, which forms a very large part of it, is only to be found in the books of writers on the subject of the Criminal Law of England, or in the decisions of Courts of criminal jurisdiction.

The desirability, indeed, of a collected and explicit statement of the Criminal Law seems to require no argument.

All the civilized nations of the world, I believe, except some of the English-speaking peoples, have reduced their Criminal Law to the form of a Code. The exceptions include the United Kingdom and the Australian Colonies (but not New Zealand). Most, if not all, of the States of the United States of North America have enacted Criminal Codes.

In 1878 Lord Blackburn, Mr. Justice Barry (of Ireland), Mr. Justice Lush, and Sir James Fitzjames Stephen, were appointed by Royal Commission to be Commissioners to report on the provisions of a Draft Code of Criminal Law which had then lately been prepared in England. They submitted as an Appendix to their Report a Draft Code settled by them, which, with some modifications, was introduced into the House of Commons as a Bill in the session of 1880, but did not become law. I have freely drawn upon the labours of these distinguished lawyers, especially with respect to the statement of rules of the Common Law and the definition of Common Law offences. It would, indeed, be impossible for anyone undertaking the task of drafting a Code of English Criminal Law to do otherwise. Their work did not, however, escape severe criticism, especially from Sir A. Cockburn, then Lord Chief Justice of England, who pointed out some serious defects in the Draft Code as prepared by the Commissioners. (*a) It would be impracticable, without undue prolixity, to refer to all the points discussed in their Report, or in Sir A. Cockburn's letter. I venture, however, to submit the following extracts from the Report as giving a general idea of the nature of the work of codification in general, and of the work of codifying the Criminal Law of England or Queensland in particular:—

"Before proceeding to observe on the provisions of the Draft Code, we deem it expedient to make an attempt to remove certain misconceptions relating to codification which we have reason to believe affect the judgments formed by many persons upon the possibility and the utility of the undertaking. These misconceptions appear to us to originate in a wrong estimate of what can be and is proposed to be effected by codification.

"It is assumed that the object of the process is to reduce to writing the whole of the law upon a given subject, in such a manner that when the Code becomes law every legal question which can arise upon the subject with which it deals will be provided for by its express language. When any particular attempt at codification is judged by this standard, it is easy to show that the standard is not attained.

"It is also common to argue that even if such a standard were obtained, the result would not be beneficial, as it would deprive the law of its 'elasticity'; by which is understood the power which the Courts of Justice are said to possess of adjusting the law to changing circumstances by their decisions in particular cases. It is said that the law of this country is in a state of continual development; that judicial decisions make it more and more precise and definite by settling questions previously undetermined; and that the result is to adjust the law to the existing

(a) Letter from the Lord Chief Justice of England to the Attorney-General, 18th June, 1879. Ordered by the House of Commons to be printed, 28th June, 1879.
habits and wants of the country. To this process, it is said that codification, so far as it goes, would put an end, and that the result would be to substitute a fixed inelastic system for one which possesses the power of adjustment to circumstances."

"In the first place it must be observed that codification merely means the reduction of the existing law to an orderly written system freed from the needless technicalities, obscurities, and other defects, which the experience of its administration has disclosed. The process must be gradual. Not only must particular branches of the law be dealt with separately, but each separate measure intended to codify any particular branch must of necessity be more or less incomplete. No one great department of law is absolutely unconnected with any other. For instance, bigamy is a crime, but in order to know whether a person has committed bigamy it is necessary to know whether his first marriage was valid. The definition of theft, again, involves a knowledge of the law relating to property, and this connects itself with the law of contract and many other subjects."

"It is, however, easy to exaggerate the extent of this incompleteness. Practically, the great leading branches of the law are to a great extent distinct from each other, and there is probably no branch which is so nearly complete in itself as the Criminal Law. . . . A very large and important part of the Criminal Law of this country is already reduced to writing in Statutes, and in particular that portion dealt with by the Criminal Law Consolidation Acts of 1881 (a). And there is no distinction in the nature of the subject between the parts of the Criminal Law which are written and the parts which are not written. High treason is defined by Statute, and so is bribery. Why should it be impossible to define murder or theft?"

"The unwritten portion of the Criminal Law includes the three following parts:—(1) Principles relating to matters of excuse and justification for acts which are prima facie criminal; (2) the definitions of murder, manslaughter, assault, theft, forgery, perjury, libel, and some other offenses of less frequent occurrence and importance; and (3) certain parts of the law relating to procedure. To do for these parts of the Criminal Law what has already been done for the rest of it is no doubt a matter requiring labour and care; but when so much of the work has been already done, it seems unreasonable to doubt, either that the remaining part of the Criminal Law can be reduced to writing, or that when it is written down and made to form one body with the parts already written the whole will [not] be improved."

With respect to the objection of the want of "elasticity" of a Code the Commissioners say—

"In order to appreciate the objection it is necessary to consider the nature of this so-called discretion which is attributed to the judges."

"It seems to be assumed that when a judge is called on to deal with a new combination of circumstances, he is at liberty to decide according to his own views of justice and expediency; whereas, on the contrary, he is bound to decide in accordance with principles already established, which he can neither disregard nor alter, whether they are to be found in previous judicial decisions or in books of recognised authority. The consequences of this are, first, that the elasticity of the Common Law is much smaller than it is often supposed to be; and, secondly, that, so far as a Code represents the effect of decided cases and established principles, it takes from the judges nothing which they possess at present."

"In fact the elasticity so often spoken of as a valuable quality would, if it existed, be only another name for uncertainty. The great richness of the law of England in principles and rules, embodied in judicial decisions, no doubt involves the consequence that a Code adequately representing it must be elaborate and

(a) The Queensland Acts of 1886.
detailed; but such a Code would not (except, perhaps, in the few cases in which the law is obscure) limit any discretion now possessed by the judges. It would simply change the form of the rules by which they are bound.

"The truth is that the expression ‘elasticity’ is altogether misused when it is applied to English law. The great characteristic of the law of this country, at all events of its Criminal Law, is that it is extremely detailed and explicit, and leaves hardly any discretion to the judges."

It was proposed by the Commissioners’ Draft Code that for the future all offences should be prosecuted either under the Code or under some other Statute, and not at Common Law. "The result of this provision," they point out, "would be to put an end to a power attributed to the judges, in virtue of which they have (it has been said) declared acts to be offences at Common Law, although no such declaration was ever made before. And it is, indeed, the withdrawal of this supposed power of the judge to which the argument of want of elasticity is mainly addressed.

After giving instances of the operation of this doctrine, beginning with the Court of Star Chamber, they add—

"In bygone ages when legislation was scanty and rare, the powers referred to may have been useful and even necessary; but that is not the case at the present day. Parliament is regular in its sittings and active in its labours; and if the protection of society requires the enactment of additional penal laws Parliament will soon supply them. If Parliament is not disposed to provide punishment for acts which are upon any ground objectionable or dangerous, the presumption is that they belong to that class of misconduct against which the moral feeling and good sense of the community are the best protection. Besides, there is every reason to believe that the Criminal Law is, and for a considerable time has been, sufficiently developed to provide all the protection for the public peace and for the property and persons of individuals, which they are likely to require under almost any circumstances which can be imagined; and this is an additional reason why its further development ought, in our opinion, to be left in the hands of Parliament. If it should turn out that we have overlooked some Common Law offences, we think it better to incur the risk of giving a temporary immunity to the offender than to leave anyone liable to a prosecution for an act or omission which is not declared to be an offence by the Draft Code itself or some other Act of Parliament."

It may be added that the work of amending the Criminal Law would be greatly facilitated by its codification. It is manifestly much easier to deal with a law completely and definitely stated than with laws the provisions of which have to be collected from a vast number of separate documents. In the latter case the actual effect of a new statutory provision may be very different from that intended.

Sir A. Cockburn, in his letter already mentioned, thus described the work of codification:—"So great and difficult a work as that of stating the Criminal Law in all its voluminous details, with a due regard to arrangement and classification, in language carefully selected, avoiding on the one hand the cumbersome, prolix, inartificial, and bewildering phraseology of our Statutes; and on the other taking care that the terms used shall be sufficiently comprehensive to embrace every case which is intended to come within it."

I accept this language as describing the nature of the task which I have endeavoured to discharge, while fully conscious that it is in the highest degree improbable that the labour of any one man or of any number of men should succeed in a complete and perfect performance of it.

The Lord Chief Justice, however, went on to say that while he could not think that the Commissioners had presented such a Code "we have to thank them for having collected abundant materials for a complete and perfect Code."
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I am therefore encouraged to think that the task, though difficult, is no more impossible in Queensland than in other civilized countries. The manner of its performance must be judged by the Draft itself.

The Commissioners, in their Draft Code, enumerated a considerable number of the circumstances which may afford a defence to a criminal charge (relating principally, however, to offences against the person), but did not attempt any exhaustive statement of the law in this respect. They proposed to formally enact that all rules and principles of the Common Law which render any circumstances a justification or excuse for an act or omission or a defence to a charge should remain in force except so far as they were expressly altered by the Code or inconsistent with it. To this provision Sir A. Cockburn took exception as being "inconsistent with every idea of codification of the law." For, he said, "if it is worth while to codify at all, whatever forms a material part of the law should find its place in the Code." In the Draft now submitted I have attempted to state specifically all the conditions which can operate at Common Law as justification or excuse for acts *prima facie* criminal, but have not formally excluded other possible Common Law defences. It is, however, I think, only with reference to assaults and defamation that any possible Common Law defence could be suggested under circumstances not enumerated in the Code. And I venture to think that the provisions of the Code might with safety, and if with safety certainly with advantage, be made exclusive with respect to these defences.

The Bill of 1880 (like the Draft Code, on which it was founded) was also very far from covering the whole ground of the statutory Criminal Law. It entirely omitted offences punishable on summary conviction, many of which are intimately associated in the statute-book with indictable offences. It also omitted by far the greater number of the penal provisions incidentally contained in Statutes dealing with other subjects than Criminal Law, although these provisions form a very considerable part of the actual Criminal Law. I have, however, thought, for reasons sufficiently indicated in my letter of 1st June, 1896, that it is desirable, as far as possible, to cover the whole ground with the exceptions already stated.

In 1893 the Parliament of New Zealand adopted the Draft Bill of 1889, with some minor alterations, which, however, did not meet the criticisms of Sir A. Cockburn.

In 1888 the Parliament of Italy enacted a Penal Code, the result of labours initiated in the year 1862 and continued by a series of Parliamentary Committees and Royal Commissions under the guidance of eminent lawyers. I have derived very great assistance from this Code, which is, I believe, considered to be, in many respects, the most complete and perfect Penal Code in existence. I have also derived much help from the masterly Ministerial explanation (Relazioni) of Signor Zandrelli, who had charge of this Code during its passage through Parliament in 1888. I have also had frequent recourse to the Penal Code of the State of New York.

In the result I have embodied in the Code a good many provisions which are not to be found in the Bill of 1890, but which I believe to be either correct statements of the Common Law or propositions which will commend themselves as rules that, if they are not, ought to be, recognised as the law. I have also ventured in a few instances (to which special attention is in each case called in the Notes) to suggest the adoption of principles which, perhaps, are not at present recognised by our law. When a statutory provision is plainly an instance only of a general principle, I have felt justified in generalising the provision so as to give effect to the principle.

The law of evidence is a distinct branch of the law, affecting civil as well as criminal proceedings, and a Criminal Code cannot properly be expected to embody it. When, however, special exceptions to the general law of evidence have been
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established with regard to offences in general, or to particular offences, it appeared not improper, and certainly convenient, to embody them in the Code, and I have accordingly done so.

I have throughout the Code intentionally avoided the use of the terms "malice" and "maliciously," which have come to acquire a technical meaning quite different from that which they bear in ordinary language, and of which the use is, I think, as unnecessary as under these circumstances it is misleading. I will refer later to the use of the term "malice" in connection with homicide. When used with respect to injuries to the person or property it means no more than that the offender did the act in question voluntarily (that is, not accidentally), and knowing what he was doing. The general rules of criminal responsibility set out in Section 23 render it unnecessary to express these elements in the definition of an offence. In the case of injuries to the person, unless an intention to cause a specific result is expressly made an element of the offence, actual knowledge of the probable effect of the act is immaterial. With regard, however, to property, an act done not accidentally, but without any intention to cause injury, is ordinarily not punishable as an offence. The existence of the element of intention to do injury in this case is better expressed by the word "wilfully," which has accordingly been used in that connection for that purpose, but the use of which elsewhere in its signification of "not accidentally" is, in view of the rules already mentioned, superfluous. In some cases, when the nature of an offence is such as to involve the element of deliberation, the word "advisedly" (used in the Act 37 Geo. 3, c. 70, relating to inciting to mutiny), has been adopted to express that idea.

DIVISION OF CODE.

The Draft Code is divided into Eight Parts—

I. Introductory, including Interpretation, Application, and General Principles;

II. Offences against Public Order;

III. Offences against the Administration of Law and Justice, and against Public Authority;

IV. Acts Injurious to the Public in General;

V. Offences against the Person, and Conjugal and Parental Rights and Duties, and the Reputation of Individuals;

VI. Offences relating to Property and Contracts (divided into four Divisions—namely, Division I., Stealing and like Offences; Division II., Injuries to Property; Division III., Forgery and like Offences; Division IV., Offences connected with Trade and Breach of Contract);

VII. Preparation to Commit Offences, Conspiracy, and Accessories after the Fact; and

VIII. Procedure.

Many subjects might, perhaps, without impropriety be ranged under more than one of these heads. In cases of doubt, an offence has been placed under the heading which appeared, on weighing the arguments for and against any particular collocation, to offer least objection and be likely to afford most convenience in the practical use of the Code.

PART I.—Introductory.

Definitions.—A Code ought, if possible, to be so framed as to require no definitions of terms in common use in ordinary speech or writing. It certainly ought to be so framed that no term is used in a non-natural sense. For the purpose.
however, of avoiding prolixity, and of embodying the effect of decisions which have attached a definite meaning in the Criminal Law to certain words in common use, it seemed desirable to make a sparing use of the machinery of interpretation clauses. When those rules of interpretation relate exclusively to special parts of the Code, they are placed in the appropriate part. Some general definitions of words which are used in several parts of the Code are placed at the beginning.

Division of Offences.—At present the principal division of offences is into felonies, misdemeanours, and simple offences (a term introduced by “The Justices Act of 1886,” and meaning offences punishable on summary conviction). High treason and piracy, however, apparently form additional classes, although in one instance, at least, piracy is spoken of by the Legislature as felony (28 Vic. No. 12, s. 42). The English Commissioners proposed to abolish the distinction between felonies and misdemeanours, and to call all indictable offences by the name of crimes. But there is, I think, a general consensus or sentiment that grave offences are not all of the same degree of gravity, and that a real distinction in kind does exist between them; and it seems desirable to recognize this fact in a Code. The question then arises—What terms should be used to denote the different classes?

The term “felony” has for many years ceased to have any definite meaning. At one time all felonies (with the exception of what was called simple larceny) were punishable with death, and the term was then practically synonymous with “capital offence.” The enactment, indeed, by the Legislature, that a particular act should be a felony, of itself import a the offender was liable to the punishment of death. But, since the abolition of capital punishment except in a few cases, the term “felony” merely imports that the offender may be arrested without warrant, that a person charged with the offence is entitled on his trial to additional peremptory challenges, and that a conviction for the offence carries with it certain statutory disqualifications. The retention of terms which have ceased to express any definite meaning is obviously undesirable. On the other hand, it is important that it should be known with respect to an offence whether it involves liability to arrest without warrant, and in practice it is convenient that the existence of that liability should be implied by the designation of the offence itself.

The class of “ felonies” is not, however, by any means coextensive with that of offences involving a high degree of guilt. For instance, perjury is not felony, nor are attempts to commit rape or some other very grave offences, although the offenders are liable to long terms of penal servitude—in one case fifteen years.

It is proposed, therefore, to divide offences (other than simple offences) into crimes and misdemeanours—two well-known terms conveying with sufficient clearness the idea of greater or lesser heinousness—to call the more serious offences crimes and the less serious ones misdemeanours, and to provide that a crime involves, unless otherwise stated, the consequence of liability to arrest without warrant. In cases where the crime, although deserving heavy punishment, is of such a nature that this consequence ought not to follow, the law is so stated. And, conversely, when a misdemeanour or simple offence ought to involve that consequence, it is so provided. There seems no reason why treason and piracy should continue to form distinct classes. They are therefore declared to be crimes.

Application of Criminal Law.—In consequence, perhaps, of the insular position of England, the Common Law appears to contain no provision as to the punishment of an offender in a case where several acts or events are collectively necessary to constitute an offence, and where some only of those acts or events occur within the jurisdiction, the rest occurring out of the jurisdiction; such, for instance, as the case of a man who, standing in Queensland territory, shoots a man standing in New South Wales or vice versâ, or a man who sends poison from Queensland to be administered to a man in Victoria or vice versâ, or a man who by a false pretence made in Queensland obtains property in New South Wales. This subject is to some extent dealt with in the Italian Code, and the North American States have asserted
their jurisdiction to deal with the case of criminal acts procured to be done within their jurisdiction by persons who at the time of the act are out of, but afterwards come within, the jurisdiction. Persons who do such acts certainly ought to be punished.

Chapter III. deals with this subject, and asserts the right of Queensland tribunals to punish a man who has actually done acts which, if they were all done in Queensland, would constitute an offence, but has only done some of them within Queensland, or who has, while out of Queensland, procured the commission of an offence in Queensland, and afterwards comes within the jurisdiction, as well as a man who, while in Queensland, procures the commission of an offence elsewhere.

Punishment.—The existing Statutes in almost every case fix a maximum and minimum term for the punishment of penal servitude. But, as in nearly every instance the Court is empowered to award, as an alternative, imprisonment with or without hard labour, and as no minimum term is fixed for this punishment, and as, moreover, under the existing prison laws, there is no practical difference between penal servitude and imprisonment with hard labour, the provisions as to minimum punishment are nugatory.

The punishment for misdemeanours at Common Law is fine or imprisonment (without hard labour unless prescribed by Statute) at the discretion of the Court.

It is proposed to discontinue the use of the expression "penal servitude," and to prescribe the maximum punishment only in all cases, which will much conduct to brevity, and will conform more accurately to the actual state of the facts. The other existing statutory provisions as to modification of the form of punishment are collected in the Chapter (IV.) dealing with this subject.

Criminal Responsibility.—This most important and difficult branch of the law is dealt with in Chapter V. I have appended to several of the sections Notes to which I invite special attention. No part of the Draft Code has occasioned me more anxiety, but I may add that I regard no part of the work with more satisfaction.

PART II.—OFFENCES AGAINST PUBLIC ORDER.

Offences against the Executive and Legislative Power.—I have included in this Part various provisions as to misconduct which in the United Kingdom is treated as a breach of the privileges of Parliament and punished accordingly. The reasons which there exist for not regarding it as a breach of the Criminal Law are, however, not applicable to Queensland. I have no doubt that much of this misconduct is a misdemeanour at Common Law, although never in practice punished as an indictable offence.

Piracy.—It is not within the province of the Legislature of Queensland to deal with the offence of Piracy by the Law of Nations. As, however, the Statute of New South Wales, 2 Vic. No. 10, the provisions of which are incorporated in the Draft, adopts an Imperial Act which cannot be interpreted without a definition of Piracy, it seemed necessary to include that definition in the Code.

PART III.—OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE AND AGAINST PUBLIC AUTHORITY.

Offences relating to the Coin.—On a balance of arguments it appeared desirable to place the law as to these offences under this heading, in analogy to the earlier English laws which regarded them as a form of treason, rather than under the heading of "Forgery," although they involve the act of counterfeiting. So long as the right to make coin is regarded as a prerogative right of the State, offences against that right, although prejudicial to individuals, are undoubtedly offences against Public Authority.
PART IV.—ACTS INJURIOUS TO THE PUBLIC IN GENERAL.

I have added, in the form of Notes to the several sections, some observations which appeared necessary to elucidate the provisions contained in this Part.

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

Assaults and Personal Violence.—In dealing with this subject I have followed the plan adopted in the Defamation Law of 1889—first defining an assault; then declaring that an assault is unlawful and an offence, unless it is authorized or justified or excused by law; and then setting out the various circumstances which afford justification or excuse. The rules stated are for the most part founded on the Draft Code of 1879, and are, I believe, except when otherwise stated, correct statements of the Common Law.

With respect, however, to provocation as an excuse for an assault, I have ventured to submit a rule (st. 275, 276) which is not to be found in the Draft Code of 1879, nor, so far as I know, in a concrete form in any English book. At Common Law an assault is regarded as an offence committed not against the individual person assaulted but “against the peace of Our Lady the Queen, Her Crown and Dignity.” It is not, therefore, excused by anything short of the necessity for self-defence against actual violence, or some other positive conditions justifying the application of force. Provocation may, however, operate as a practical, if not in all cases as a formal, answer to a civil action for an assault. There is no doubt that in actual life some such rule as that stated in st. 276 is assumed to exist, although it is probably not recognized by law. The subject of provocation as reducing the guilt of homicide committed under its influence from murder to manslaughter is covered by authority, but I apprehend that it is of at least equal importance as applied to other cases of personal violence.

Murder.—Murder under the existing law is said to consist in unlawfully causing the death of a person “with malice aforethought.” In the absence of malice aforethought the offence is manslaughter.

The history of the interpretation of this phrase is too long to be set out at length, but the result is that “malice aforethought” does not necessarily imply either ill-will or premeditation. It does not even necessarily involve an intention to cause death, but it includes all the following states of mind:

(1) An intention to kill the person killed or some other person;
(2) An intention to do grievous bodily harm to the person killed or some other person;
(3) Knowledge that the act or omission which causes death is likely to cause death or grievous bodily harm to some person, with or without an intention or wish to cause that result;
(4) An intention to commit any felony;
(5) An intention to oppose by force an officer of justice in the execution of his duty.

It is manifest, however, that the term “malice aforethought” does not in the common language of to-day convey any such ideas. The question whether homicide committed by a man under any of the circumstances above stated should be punishable with death is an entirely different one from that of the definition of the offence which is to be visited with that penalty. It may be remarked that when all felonies were punishable with death there was no apparent anomaly in holding that a man who in attempting to commit a capital offence committed homicide was actuated by malice aforethought, and consequently guilty of murder. But now that felonies are
for the most part not punishable with death, and are in many instances treated as
offences of a comparatively trivial nature, the rule, as an arbitrary and fixed rule
applied to all kinds of felony, that homicide committed in the attempted commission
of a felony is to be deemed to have been committed with "malice aforethought," is
revolting to common sense.

In the jurisprudence of many countries a distinction is made between different
kinds of murder according to their heinousness. Thus we hear of murder in the
"first" and "second" degree, and of murder "with extenuating circumstances." It
has occurred to me that the simplest distinction, and that which best indicates the
different views actually taken by the ordinary mind of different cases of homicide, is
between wilful murder—that is to say, intentional killing, and murder—that is to
say, killing, which, though unintentional, is done under such circumstances as to
warrant the infliction of the last penalty. I have accordingly framed the Chapter
on Homicide (Ch. XXVIII.) on this basis, and have suggested (s. 677) that in the
case of murder, not being wilful murder, sentence of death may (as in other capital
cases except treason and wilful murder) be recorded instead of being actually passed.

The definition of murder has been so framed as to exclude the test of a
"felonious" intention, or (under the proposed nomenclature) intention to commit a
crime, and to substitute the test of an intention to endanger human life, or a reckless
endangering of human life in the prosecution of an unlawful purpose.

In other respects this Chapter embodies, I believe, the existing Common Law,
with the possible exception of Section 321, which supplies a manifest omission, if it
is not already part of the law.

Defamation.—I have adopted the Defamation Law of 1889 in its entirety,
with a few verbal alterations, one of which (in s. 375) is designed to cover the case
of defamation in the case of blind persons or deaf mutes, or by signalling by
helograph or otherwise. Another, in s. 383 (8), removes a possible doubt as to the
construction of the existing Statute.

PART VI.—OFFENCES RELATING TO PROPERTY AND CONTRACTS.

Stealing.—The existing law of larceny is extremely complicated, and can
hardly be understood without a careful study of the history of its development. At
Common Law movable things only could be stolen, and only some moveable things,
not including things growing out of the earth, or deeds relating to realty, or some
animals.

It was necessary that the thing should be fraudulently taken from
the possession of the owner. Consequently a man who converted a thing entrusted
to him for carriage or safe keeping was not guilty of stealing. So a clerk who
embezzled money received by him for his employer was not guilty of stealing, because
his employer had never had possession of it. A great number of other cases of
fraudulent conversion of property were in like manner not held to be larceny.
For instance, in the case of lost property fraudulently converted by the finder, his
liability to the Criminal Law depends upon his believing at the moment of the finding,
and not at the time of the fraudulent conversion, that the owner can be found.
Upon this Common Law an elaborate system has been built up by successive
Statutes, most of which is now contained in the Larceny Act, 29 Vic. No. 6, and
some subsequent Statutes, but much of the law is still unwritten.

The existing law on the subject has been said by a distinguished authority to
be made up of two principal parts: First, a large number of enactments providing
intricate and jealous limited exceptions to the original Common Law principles,
which exceptions have nearly, but not quite, blotted out every one of the rules; and
secondly, statutory provisions punishing special aggravations of the offence of
stealing (c).

In the Draft I have followed for the most part the proposals of the Commissioners of 1878, defining the offence of stealing (or, as they called it, theft) in such a manner as to include all cases of fraudulent conversion of movable property, and then prescribing the different punishments to be awarded in different cases. (6)

In some particulars, however, I have departed from their draft, especially with respect to the ease of the fraudulent conversion of funds held under direction or received by agents for sale. The Draft Code of 1870, after defining theft in such a way as not to include this misconduct, went on to declare that it should be deemed to be theft. I have preferred to declare that property held under such circumstances shall be deemed to be the property of the person beneficially entitled to it. A fraudulent conversion of the property thus falls within the general definition of stealing.

Injuries to Property.—In this Division of Part VI. (which deals entirely with statutory law), I have, while not departing substantially from the existing law, endeavoured to simplify it by adopting the analogy of the provisions relating to stealing. The existing Statute (29 Vic, No. 5) attempts to enumerate every kind of injury to property which is to be treated as an offence, and then adds general provisions including all injuries not enumerated (ss. 69, 54, 55). It is proposed to declare that all willful and unlawful injury to property shall be an offence which, unless otherwise stated, is a misdemeanour, then to provide for the infliction of severer punishment in serious cases, and then to empower justices, as in the case of stealing, to deal summarily with trivial cases.

 Forgery.—As I anticipated in my letter of 1st June, 1896, it has been found practicable to reduce this branch of the law to a comparatively small compass. All, indeed, that is necessary is to define the offence and to declare the punishment to be awarded according to the gravity of the particular case.

Offences relating to Trade and Breach of Contract.—The provisions of this Division do not differ from those of the existing law except in the case of Section 557, relating to the intimidation of workmen and employers, which has been modified so as to bring it into conformity with the modern law legalising Trade Unions.

PART VII.—Preparation to Commit Offences: Conspiracy: Accessories after the Fact.

This Part contains principally statements of unwritten law. I believe they are accurate statements of the existing law of Queensland, with the exception of the definition of an unlawful conspiracy to prevent or obstruct the free exercise of a lawful trade or calling, in which the existing law is qualified by the limitation (in accordance with the English law of 1875) of the object of the conspiracy to acts which would be themselves offences if committed by an individual.

PART VIII.—Procedure.

Arrest.—The rules of law as to arrest appear properly to find place in this Part. They are substantially in the language of the Commissioners of 1878, although in their Draft they placed them under the general heading of matters of justification or excuse.

Effect of Indictment (Chapter LXI).—The existing arbitrary and incomplete rules, which allow in some cases the conviction of a person for an offence different from that charged in the indictment, have been generalised on the basis of the

(6) The result is to make the law of stealing substantially in accord with the ancient Roman and the modern Italian law.
principle that the greater includes the less, so that when a man is charged with committing any offence he may be convicted of any offence which consists in doing some act which he must necessarily have done if he committed the offence charged.

**Practice.**—I have endeavoured to embody in the Draft a complete statement of the existing written and unwritten rules respecting procedure after committal, and have added some rules which dispose of difficulties that not unfrequently arise and have not been authoritatively settled.

**PRINTING OF CODE.**

In accordance with the intention expressed in my letter of 1st June, 1896, the pages are arranged in two columns, the proposed provisions of the Code being printed in the right-hand column, and the sources from which they are derived, or other analogous provisions, being stated or referred to in the left-hand column. When the source is Statute Law, the corresponding provisions of the Statute are reprinted from my Digest of 1896. In other cases the sources or analogous provisions are indicated by a reference to the section of the Draft Bill of 1880 or other authority to which I have had recourse, with such Notes as appeared to be desirable to elucidate any particular provision. When, however, the proposed provision is undoubted Common Law, I have not thought it necessary to do more than say so.

It will be observed that in many cases a rule of justification or excuse is introduced by the words "it is lawful." It must not be forgotten in considering the provisions of the Code that the adoption of a rule thus stated will declare the law as to civil rights as well as with regard to criminal proceedings. If, therefore, the rule is a new one, the right of action as for a wrong will be pro tanto modified.

A table is added of the statutory provisions which would be superseded by the adoption of the Code, with references to the corresponding sections of the Digest, and of the Code, if any.

I hope—to refer once more to my previous letter—that a perusal of the Draft will satisfy the Government and the Legislature that the enactment of a Code of Criminal Law is both desirable and feasible.

I have only to add that the Draft is not drawn in the form of a Bill with enacting and repealing clauses, but is intended to be embodied as a Schedule in a Bill which would establish the Code as from a prescribed future day, repeal all the existing Statutes embodied in it or not intended to be continued in operation, and contain other necessary provisions as to the exclusive operation of the Code, and as to the construction of Statutes affected by the change in nomenclature and other alterations in the law affected by the Code.

I hope to be able to forward a Draft of the necessary Bill very shortly.

I have the honour to be,

Sir,

Your most obedient humble Servant,

S. W. GRIFFITH.

The Honourable The Attorney-General.
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1. In this Digest, unless the contrary appears from the context—

The term "person" includes a corporation:

The term "property" includes goods, chattels, money, valuable securities, and every other matter or thing whether real or personal upon or with respect to which an offence may be committed:

The term "estate" includes horses, mares, geldings, colts, fillies, bulls, cows, oxen, heifers, calves, rams, ewes, sheep, and lambs:

29 Vic. No. 6, s. 1; 55 Vic. No. 15, s. 69; 62 Vic. No. 23, s. 2.

273. In this Division of this Part of this Digest—

The term "document of title to goods" includes a bill of lading, India warrant, dock warrant, warehousekeeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, a bought and sold note, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to:

The term "document of title to lands" includes any deed, map, paper, or parcel of land, or any other document used in the ordinary course of business as proof of the possession or control of lands, or authorising or purporting to authorise, either by indorsement or by delivery, the possessor of such document to transfer or receive any lands thereby represented or therein mentioned or referred to:

The term "valuable security" includes any deed, map, paper, or parcel of land, or any other document used in the ordinary course of business as proof of the possession or control of lands, or authorising or purporting to authorise, either by indorsement or by delivery, the possessor of such document to transfer or receive any lands thereby represented or therein mentioned or referred to:

1. In this Code, unless the context otherwise indicates—

The terms "person" and "owner," and other like terms, when used with reference to property, include corporations of all kinds, and any other associations of persons capable of owning property: They also, when so used, include Her Majesty;

The term "police officer" includes any constable or officer of police;

The term "person employed in the Public Service" includes officers and men of the Defence Force and police officers, and persons employed to execute any process of a Court of Justice: It also includes the Queensland Railway Commissioner, and persons employed by him;

The term "property" includes every thing, animate or inanimate, capable of being the subject of ownership;

The term "money" includes bank notes, bank drafts, cheques, and any other orders, warrants, authorities, or requests, for the payment of money;

The term "valuable security" includes any document which is the property of any person, and which is evidence of the ownership of any property or of the right to recover or receive any property:

The term "dwelling-house" includes any building or structure, or part of a building or structure, which is permanently kept by the owner or occupier for the residence therein of himself, his family, or servants, or any of them: It is immaterial that it is from time to time uninhabited;

A building or structure adjacent to, and occupied with, a dwelling-house is deemed to be part of the dwelling-house if there is a communication between such building or structure and the dwelling-house.
The term “money” includes a cheque or draft on a banker, and any warrant, order, authority, or request, for the payment of money, and any valuable security:

29 Vic. No. 6, ss. 1, 38.

294. In this Chapter the term “night” means the interval between nine of the clock at night and six of the clock in the morning of the next day.

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

29 Vic. No. 3, s. 43; 29 Vic. No. 4, s. 1. [1] The term “have in possession” includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although the actual possession or custody is in another person.

29 Vic. No. 11, s. 7.

3. Any offence which heretofore amounted to petit treason is murder only, and no greater offence.
A person guilty of a simple offence may be summarily convicted by two justices in petty sessions.

An offence not otherwise designated is a simple offence.

Attempts to commit Offences.

4. When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is said to attempt to commit the offence.

It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his part for completing the commission of the offence, or whether the complete fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists of his own motion from the further prosecution of his intention.

It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

The same facts may constitute one offence and an attempt to commit another offence.

Arrest without Warrant.

5. The expression “The offender may be arrested without warrant” means that the provisions of this Code relating to the arrest of offenders or suspected offenders without warrant are applicable to the offence in question, either generally or subject to such conditions, if any, as to time, place, or circumstance, or as to the person authorized to make the arrest, as are specified in the particular case.

Except when otherwise stated, the definition of an offence as a crime imports that the offender may be arrested without warrant.

The expression “The offender cannot be arrested without warrant” means that the provisions of this Code relating to the arrest of offenders or suspected offenders without warrant are not applicable to the crime in question, except subject to such conditions, if

(1) The Italian Code distinguishes between the first and second of these three cases, the first being called “crime seminato,” a minor crime, and visited with double the punishment with which the second case, an interrupted attempt, is visited. The third case is not treated as an attempt in this Code, unless it falls within the last paragraph of this section. The English law calls all these cases “attempts,” and it is impossible to find any suitable word by which to distinguish the third case, which seems to involve a less degree of guilt. It is proposed, however, that the punishment should be less in the third case. (See n. 86.)
any, as to time, place, or circumstance, or as to the person authorised to make the arrest, as are specified in the particular case."

Overt Act.

8. When the manifestation by an overt act of an intention to effect any purpose is an element of an offence, every act of conspiring with any person to effect that purpose, and every act done in furtherance of the purpose by any of the persons conspiring, is deemed to be an overt act manifesting the intention.

Carnal Knowledge.

7. When the term "carnal knowledge" or the term "carnal connection" is used in defining an offence, it is implied that the offence, so far as regards that element of it, is complete upon penetration."

CHAPTER II.

PARTIES TO OFFENCES.

Principal Offenders.

8. When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say—

(a) Every person who actually does the act or makes the omission which constitutes the offence;

(b) Every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;

(c) Every person who aids another person in committing the offence.

Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had himself done the act or made the omission; and he may be charged with himself doing the act or making the omission."

(1) See Accompanying Letter.

(2) This appears to be properly stated as a rule of construction rather than as a rule of evidence.

(3) The agent may be innocent. In that case he would not commit an offence, and, to offence being done, committed by him, there could not be any necessity before the fact. The distinction is important. I believe it is in accordance with existing law, except, perhaps, as to the extent of punishment.
ACCESSORIES BEFORE THE FACT TO OFFENCES.

9. Any person who counsels or procures any other person to commit an offence which is actually committed after such counsel or procurement, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had himself committed the offence.

He may be charged either with himself committing the offence or with counselling or procuring its commission.

When an offense is such that a person who commits it after having been previously convicted of committing any offence or offences is liable, whether on conviction upon indictment or on summary conviction, to an increased punishment, any person who counsels or procures the commission of that offense after having been previously convicted of committing, or of counselling or procuring the commission of, any offense or offences, is liable to the same increased punishment to which a person who commits the offense after having been previously convicted of committing the same offense or offences is liable.

OFFENCES-committed IN PROSECUTION OF COMMON PURPOSE.

10. When two or more persons form a common intention to procure an unlawful purpose in conjunction with another, and in the prosecution of such purpose an offense is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

MODE OF EXECUTION IMATERIAL.

11. When a person counsels another to commit an offense, and an offense is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offense actually committed is the same as that counselled or a different one, or whether the offense is committed in the way counselled, or in a different way, provided in either case that the facts constituting the offense actually committed are a probable consequence of carrying out the counsel.
In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by him.

*Accessories after the Fact.*

12. A person who receives or assists another who is, to his knowledge, guilty of an offence, in order to enable him to escape punishment, is said to become an accessory after the fact to the offence.

But a married woman does not become an accessory after the fact to an offence of which her husband is guilty, by receiving or assisting him in order to enable him to escape punishment; nor by receiving or assisting, in her husband's presence and by his authority, another person who is guilty of an offence in the commission of which her husband has taken part, in order to enable that other person to escape punishment.

CHAPTER III

APPLICATION OF CRIMINAL LAW.

Effect of Changes in Law.

13. A person cannot be punished for doing or omitting to do an act unless the act or omission constituted an offence under the law in force when it occurred; nor unless doing or omitting to do the act under the same circumstances would constitute an offence under the law in force at the time when he is charged with the offence.

If the law in force when the act or omission occurred differs from that in force at the time of the conviction, the offender, cannot be punished to any greater extent than was authorised by the former law, or to any greater extent than is authorised by the latter law.

Application of Code as to Offences Wholly or Partially Committed in Queensland.

14. This Code applies to every person who is in Queensland at the time of his doing any act or making any omission which constitutes an offence.

With regard to offences which are of such a nature that they comprise several elements, if any acts or omissions or events actually
occur which, if they all occurred in Queensland, would constitute an offence, and any of such acts or omissions or events occurs in Queensland, although all or some of the other acts or omissions or events which, if they occurred in Queensland, would be elements of the offence occur elsewhere than in Queensland; then—

(1) If the act or omission which, in the case of an offence wholly committed in Queensland, would be the initial element of the offence, occurs in Queensland, the person who does that act or makes that omission is guilty of an offence of the same kind, and is liable to the same punishment, as if all the subsequent elements of the offence had occurred in Queensland; and

(2) If that act or omission occurs elsewhere than in Queensland, and the person who does that act or makes that omission afterwards comes into Queensland, he is by such coming into Queensland guilty of an offence of the same kind, and is liable to the same punishment, as if that act or omission had occurred in Queensland, and he had been in Queensland when it occurred.

This section does not extend to the case when the only material event which occurs in Queensland is the death in Queensland of a person whose death is caused by an act done or omitted to be done at a place not in Queensland, and at a time when he was not in Queensland.\(^{15}\)

*Offences counselled or procured by Persons out of Queensland.*

15. Any person who, having while out of Queensland counselled or procured the commission of an offence which is actually committed in Queensland, afterwards comes into Queensland, is by such coming into Queensland guilty of an offence of the same kind, and is liable to the same punishment as if he had been in Queensland when the offence was committed.

Any person who, having while out of Queensland procured another to do or omit to do in Queensland an act of such a nature that, if he had himself done the act or made the omission in Queensland, he would have been guilty of an offence, afterwards comes into Queensland, is by such coming into Queensland guilty of an offence of the same kind.

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\(^{15}\) See accompanying note. (Example): A man killed in New South Wales by a shot fired from Queensland, or vice versa; aIRCLE obtained in New South Wales by an act done in Queensland, or vice versa; goods obtained in Queensland by a false pretense made in Victoria or at sea.
Every officer and man of the Active Land Defence Force is, from the time of being called out for active service, and also during the periods of annual drill or training under the laws relating to the Force, and also during any parade or drill of his corps at which he is present, whether in the ranks or as a spectator, and also at any other time when he is in the uniform of his corps, subject to "The Army Act" and all other laws then applicable to Her Majesty's troops in Queensland and not inconsistent with the laws of Queensland relating to the Defence Force.

Every officer and man of the Active Land Defence Force, not being a member of a ship's company, if and while he is attached by the Governor to the Land Force for the purpose of drill, exercise, or active service, is subject to the same laws.

Every officer and man of the Active Marine Defence Force is, from the time of being called out for active service, and also during the periods of annual drill or training under the laws relating to the Force, unless, not being a member of a ship's company, he is for the time being attached by the Governor to the Land Force for the purpose of drill, exercise, or active service, subject to "The Naval Discipline Act" and all other laws then applicable to Her Majesty's Forces in Queensland and not inconsistent with the laws of Queensland relating to the Defence Force.

Offences procured in Queensland to be committed out of Queensland.

16. Any person who while in Queensland procures another to do an act or make an omission at a place not in Queensland of such a nature that, if he had himself done the act or made the omission in Queensland, he would have been guilty of an offence, and that, if he had himself done the act or made the omission, he would have been guilty of an offence under the laws in force in the place where the act or omission is done or made, is guilty of an offence of the same kind and is liable to the same punishment as if the act had been done or the omission had been made in Queensland, but so that the punishment does not exceed that which he would have incurred under the laws in force in the place where the act was done or the omission was made, if he had himself done the act or made the omission.

A prosecution cannot be instituted under the provisions of this section except at the request of the Government of the State having jurisdiction in the place where the act or omission occurs.

17. Officers and men of the Land and Marine Defence Force are, while on duty or in uniform, subject to the special laws relating to that Force, but are not exempt from the provisions of this Code.
(8.) Provided that—

(a) Such an officer or man cannot be subjected to any corporal punishment except death or imprisonment for any contravention of such laws;

(b) The Regulations under the laws relating to the Defence Force may prescribe that any provisions of the Army Act or the Naval Discipline Act, or of such other law as aforesaid, shall not apply to the Defence Force, and if so far as any of the provisions of those Acts are so excluded they have no operation in Queensland.

(9.) An officer or man charged with an offence committed while serving in the Force is liable to be tried by Court-martial, and if convicted to be punished according to the sentence of that Court; but the sentence cannot be carried into effect until it has been approved by the Governor.

(10.) Sentence of death cannot be passed by a Court-martial except for mutiny, desertion to the enemy, treacherously delivering up to the enemy a garment, fort, and, post, or guard, or treacherous correspondence with the enemy.

(11.) The liability of an officer or man to be tried by Court-martial continues during the whole period of his service, and for six months after he is discharged from the Force, or after his corps is relieved from active service, notwithstanding that he has been discharged or that the corps has been so relieved.

(12.) An officer or man may be tried by Court-martial for desertion at any time, whatever time may have elapsed since his desertion.

(13.) Any officer of the Force who, when called out for active service, absents himself without leave from his corps for a longer period than seven days, may be tried by Court-martial as a deserter.

Person not to be Twice Punished for Same Offence.

18. A person cannot be twice punished either under the provisions of this Code or under the provisions of any other law for the same act or omission.

Former Conviction or Acquittal.

19. It is a defence to a charge of any offence to show that the accused person has already been tried, and convicted or acquitted, upon an indictment on which he might have been convicted of the offence with which he is charged, or has already been acquitted upon indictment, or has already been convicted, of an offence of which he might be convicted upon the indictment or complaint on which he is charged.

Common Law. Act, 1554, p. 103.

Common Law. (See Note.)
CHAPTER IV.

PUNISHMENTS.

Kinds of Punishment.

20. The punishments which may be inflicted under this Code are as follows:—

Death;
Imprisonment with hard labour;
Imprisonment in irons;
Imprisonment without hard labour;
Detention in an industrial or reformatory school;
Solitary confinement;
Whipping;
Fine;
Finding security to keep the peace and be of good behaviour.

The punishment of whipping cannot be inflicted upon a female.

Construction of provisions of Code as to Punishments.

21. (1) In the construction of this Code it is to be taken that, except when it is otherwise expressly provided,—

(1) A person liable to imprisonment, either with or without hard labour, for life or for any term of years, may be sentenced to similar imprisonment for any shorter term;
(2) A person liable to imprisonment with hard labour may be sentenced to imprisonment without hard labour;
(3) A person liable to imprisonment, either with or without hard labour, may be sentenced to pay a fine not exceeding five hundred pounds in addition to, or instead of, such imprisonment;
(4) A person liable to a fine of any amount may be sentenced to pay a fine of any lesser amount;
(5) The punishment of solitary confinement or of whipping cannot be inflicted upon a person who is sentenced to imprisonment, with or without hard labour, for a longer term than two years;
(6) A person sentenced on conviction upon indictment to pay a fine may be sentenced to be imprisoned until the fine is paid, in addition to any other punishment to which he is

(1) See Annuajuaying Later.
2 Vic. No. 2, s. 54; 20 Vic. No. 4, s. 97; 20 Vic. No. 5, s. 76; 20 Vic. No. 6, s. 125; 20 Vic. No. 11, s. 71.

600. Any person who is convicted of any of the offences defined in Article 80, or in Chapter XV, or in Articles 126, 162, and 174, or in Chapter XXIII, or in Chapter XXXI, except Article 204, or in Article 293, or in Chapters XXXI, XXXI, XXXII, and XXXIII, or in Chapter XXXIV, except Article 206, or in Article 306, or in Chapter XXXV, except Article 310, or in Articles 316, 330, and 330, or in Chapter XXXIII, or in Articles 322, 323, 325, 327, 329, 330, 337 to 426 inclusive, or in Article 444, except the third, fourth, and tenth definitions therein contained, or in Articles 447, 448, 449, 450, 451 to 458 inclusive, 459, and 460, may, in addition to any other punishment to which he is liable, be required to enter into his own recognisance, with or without sureties, for keeping the peace.

Any person who is convicted of any of the indelible misdemeanours defined in Article 87, or in Chapter XV, or in Articles 161, 165, 183, and 189, or in Article XXXIV, or in Articles 208 to 217 inclusive, or in Article XXVI, except Articles 218, 222, and 225, or in Article XXVII, or in Articles 240, 241, 242, 243, 244, 245 to 311 inclusive, 312, and 450, may, in addition to any other punishment to which he is liable, be required to enter into his own recognisance, with or without sureties, for keeping the peace and being of good behaviour.

A person convicted under the provisions of this Article is imprisoned for a term exceeding one year for not finding sureties.

353. If, in the trial of any person under the provisions set forth in this Chapter, the justices are of opinion that the offence with which he is charged is not proved, or that it is proved, but that it is not explicable to inflict any punishment, they may dismiss the accused person on his finding a surety or sureties to be of good behaviour for a period not exceeding twelve months, or without such sureties, and may in such case, if they think fit, make out and deliver to the accused person a certificate stating the fact of dismissal.

Such a certificate cannot be questioned for want of form.

20 Vic. No. 13, s. 41.

601. When a person convicted of felony is already imprisoned under sentence for another crime, the Court may direct imprisonment for the subsequent offence to commence at the expiration of the imprisonment to which he has been previously sentenced.

When a person convicted of felony is already under sentence either of penal servitude or imprisonment, the Court may, if it is empowered to award a sentence of penal servitude, direct the sentence for the subsequent offence to commence at the expiration of the imprisonment or penal servitude to which he has been previously sentenced, although the aggregate terms of imprisonment or penal servitude respectively may exceed the term for which either of those punishments could be otherwise awarded.

sentenced: but so that the imprisonment for non-payment of the fine does not extend for a term longer than two years;

(7) A person convicted upon indictment of an offence not punishable with death, instead of, or in addition to, any punishment to which he is liable, may be ordered to enter into his own recognisance, with or without sureties, in such amount as the Court thinks fit, that he shall keep the peace and be of good behaviour for a time to be fixed by the Court, and may be ordered to be imprisoned until such recognisance, with sureties if so directed, is entered into: but so that the imprisonment for not entering into the recognisance does not extend for a term longer than one year;

(8) A person convicted of any offence upon summary conviction may, instead of being sentenced to any punishment to which he is liable, be discharged upon his entering into his own recognisance, with or without sureties, in such amount as the justices think fit, that he shall keep the peace and be of good behaviour for a term not exceeding one year.

Calculation of Term of Sentence: Cumulative Sentence: Escaped Prisoners.

22. When a person who is convicted of an offence is undergoing, or has been sentenced to undergo, for another offence, a sentence involving deprivation of liberty, the punishment to be inflicted upon him for the first-mentioned offence may be directed to take effect from the expiration of the deprivation of liberty for the last-mentioned offence.

Except as aforesaid, a sentence of imprisonment with or without hard labour upon a conviction on indictment takes effect from the
54 Vic. No. 17, s. 94.

692. Any person who, being a prisoner in lawful custody under sentence of penal servitude or imprisonment for an indictable offence, escapes from such custody, is, when apprehended, to be returned to the prison from which he escaped, or to some other prison, which the Minister charged with the administration of the law relating to prisons may direct; and in addition to any punishment to which he may be sentenced for the escape, to undergo the punishment which he was undergoing at the time of the escape, for a term equal to that during which he was absent from prison after the escape, notwithstanding that at the time of his apprehension the original sentence may have expired.

29 Vic. No. 13, s. 75.

667. The statutory provisions set forth in this Digest do not affect Her Majesty's royal prerogative of mercy.

CHAPTER V.
CRIMINAL RESPONSIBILITY.

Ignorance of Law.

24. Ignorance of the law does not afford any excuse for an act or omission which would otherwise constitute an offence, unless knowledge of the law by the offender is expressly declared to be an element of the offence.  

Intention: Motive: Bond fide Claim of Right.

25. Subject to the express provisions of this Code relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident.

The result intended to be caused by an act or omission is immaterial, unless the intention to cause a particular result is expressly declared to be an element of the offence constituted, in whole or part, by the act or omission.

Unless otherwise expressly declared, the motive by which a person is induced to do or omit to do an act, or to form an intention, is immaterial so far as regards criminal responsibility.

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32. See, for instance, s. 491. This and the two following sections embody the rule as to some extent: (H. v. Prince, L. R. 5, C.C.L., 164.)

33. See, for instance, s. 383.
A person is not criminally responsible, as for any offence relating to property, for an act done or omitted to be done by him with respect to any property in the exercise of an honest claim of right and without intention to defraud.

Mistake of Fact.

26. A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject.

Extraordinary Emergencies.

27. Subject to the express provisions of this Code relating to acts done upon compulsion or provocation or in self-defence, a person is not criminally responsible for an act or omission done or made under such circumstances of sudden or extraordinary emergency that an ordinary person possessing ordinary power of self-control could not reasonably be expected to act otherwise.

Presumption of Sanity.

28. Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

Insanity.

29. A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is in such a state of mental disease or natural mental infirmity as to deprive him of capacity to understand what he is doing, or of capacity to control his actions, or of capacity to know that he ought not to do the act or make the omission.

(1) Sections 30, 40, 225, 270, 271.
(2) This section gives effect to the principle that no man is expected (for the purposes of the Criminal Law, at all events) to be worse or better than all mankind. It is therefore a rule of the Criminal Law, as it is necessarily a rule upon which no man could be bound to act. It may, perhaps, be said that it gives up nearly all the Common Law rules as to excuse for an act done under any plea of mental disease, but leaves unaltered the ordinary criminal law.
(3) There is, perhaps, no branch of the criminal law which has given rise to more condemnatory and different of opinion than the relation of mental infirmity to criminal responsibility. The rule of the Common Law is generally that mental infirmity is presumed to be even until the contrary is proved. To establish a defence on the ground of insanity it must be clearly proved than at the time of committing the act the accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong. These are the terms in which the rule is stated in the speeches given by the Judges in the House of Lords in McNaghten's case.
In that case, however, the real question was whether the prisoner was the actual agent who engaged in the assault with the intent to cause death, or was merely a participant in the scheme of murder.

The Court said:

"If the prisoner actively participated in the commission of the murder, the question is one of whether he participated as a principal or an accomplice. If he was a principal, he is guilty of murder in the first degree; if an accomplice, he is guilty of murder in the second degree. The degree of guilt depends upon the degree of participation in the commission of the crime."
A person whose mind, at the time of his doing or omitting to do an act, is affected by delusions on some specific matter or matters, but who is not otherwise entitled to the benefit of the foregoing provisions of this section, is criminally responsible for the act or omission to the same extent as if the real state of things had been such as he was induced by the delusions to believe to exist.\(^{39}\)

**Intoxication.**

30. The provisions of the last preceding section apply to the case of a person whose mind is disordered by unintentional intoxication or stupefaction caused by drugs or intoxicating liquor or any other cause.

They do not apply to the case of a person who has intentionally caused himself to become intoxicated or stupefied in order to the commission of an offence, whether the offence with which he is charged or not, or in order to afford excuse for the commission of an offence.

When an intention to cause a specific result is an element of an offence, intoxication, whether complete or partial, and whether intentional or unintentional, may be regarded for the purpose of ascertaining whether such an intention in fact existed.

**Immature Age.**

31. A person under the age of seven years is not criminally responsible for any act or omission.

A person under the age of fourteen years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission.

A male person under the age of fourteen years is presumed to be incapable of having causal knowledge.

**Judicial Officers.**

32. Except as expressly provided by this Code, a judicial officer is not criminally responsible for anything done or omitted to be done by him in the exercise of his judicial functions, although the act done is in excess of his judicial authority, or although he is bound to do the act omitted to be done.

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\(^{39}\) This embodies the opinion of the Judges on the question actually submitted to them in M'Carthy's case.
**Justification and Excuse: Compulsion.**

33. A person is not criminally responsible for an act or omission, if he does or omits to do the act under any of the following circumstances, that is to say—

1. In execution of the law;
2. In obedience to the order of a competent authority to which he is bound by law to obey, unless the order is manifestly unlawful;[1]
3. When the act is reasonably necessary in order to resist actual unlawful violence threatened to him, or in his presence to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial, or fraternal relation, or in the relation of master or servant;
4. When he does or omits to do the act in order to save himself from immediate death or grievous bodily harm threatened to be inflicted upon him by some person actually present and in a position to execute the threats, and believing himself to be unable otherwise to escape the carrying of the threats into execution:

But this protection does not extend to an act or omission which would constitute an offence punishable with death, or an offence of which actual danger to the life or grievous bodily harm to the person of another, or an intention to cause such danger or harm, is an element, nor to a person who has by entering into an unlawful association or conspiracy rendered himself liable to have such threats made to him.[2]

Whether an order is or is not manifestly unlawful is a question of law.

**Compulsion of Husband.**

34. A married woman is not free from criminal responsibility for doing or omitting to do an act merely because the act or omission takes place in the presence of her husband.

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[1] This appears to be a necessary qualification, as in the case of persons subject to military law (s. 276).

[2] The law on this point is very vague. The text subsequently adopts the recommendations of the Commission of 1876, but restricts the exception to capital offences and cases of serious injury to the person. They proposed that it should extend also to injury, robbery, arson, and forcible abduction.

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**Notes:**

- **Common Law.**
  - Compare Bill of 1880, s. 24.
  - Compare German Civil Code of 1890, s. 221.

- **Statute Law.**
  - Compulsor Bill of 1880, s. 50.
  - Compare German Civil Code of 1890, s. 221.

- **Common Law.**
  - Probably Common Law.
  - Bill of 1890, s. 24.

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**Statutes:**

- **Compliance Bill of 1890, s. 24.**
But a married woman is not criminally responsible for doing or omitting to do an act which she is actually compelled by her husband to do or omit to do, and which is done or omitted to be done in his presence, except in the case of an act or omission which would constitute an offence punishable with death, or an offence of which actual danger to the life or grievous bodily harm to the person of another, or an intention to cause such danger or harm, is an element, in which case the presence of her husband is immaterial.\(^{(2)}\)

### No Conspiracy between Husband and Wife Alone.

35. A husband and wife are not criminally responsible for a conspiracy between themselves alone.

### Offences by Partners and Members of Companies with respect to Partnership or Corporate Property.

36. A person who, being a member of a co-partnership, corporation, or joint stock company, does or omits to do any act with respect to the property of the co-partnership, corporation, or company, which, if he were not a member of the co-partnership, corporation, or company, would constitute an offence, is criminally responsible to the same extent as if he were not such member.

### Liability of Husband and Wife for Offences committed by either with respect to the other’s Property.

37. When a husband and wife are living together, neither of them incurs any criminal responsibility for doing or omitting to do any act with respect to the property of the other, except in the case of an act or omission of which an intention to injure or defraud some other person is an element, and except in the case of an act done by either of them when leaving or deserting, or when about to leave or desert, the other.

\(^{(2)}\) The present law on this point is obscure. The protection does not extend to all offences, but in none in which it applies can it be, and often is to be, implied from the mere fact of the husband’s presence. It is submitted that the case should be treated as a particular instance of the general law of complicity, and dealt with in the same way. (Compare c. 22 (I).)
Subject to the foregoing provisions a husband and wife are, each of them, criminally responsible for any act done by him or her with respect to the property of the other, which would be an offence if they were not husband and wife, and to the same extent as if they were not husband and wife.

But neither of them can institute criminal proceedings against the other while they are living together.

Upon the prosecution of a husband on the complaint of his wife for an offence committed with respect to her property, and upon the prosecution of a wife on the complaint of her husband for an offence committed with respect to his property, the wife or husband, as the case may be, is a competent and compellable witness.

In this section the term "property" used with respect to a wife means her separate property.\(^\text{1}\)

**Application of Rules.**

38. The provisions of this Chapter apply to all persons charged with any offence against the Statute Law of Queensland.\(^\text{2}\)

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### PART II.—OFFENCES AGAINST PUBLIC ORDER.

#### CHAPTER VI.

**TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN'S PERSON AND AUTHORITY.**

**Treason.**

39. Any person who—

1. Forms an intention to do either of the following acts, that is to say—
   - To kill the Sovereign; or
   - To kill the eldest son and heir-apparent for the time being of the Sovereign, or the Queen Consort of a reigning King; and manifests such intention by any overt act; or

2. Forms an intention to do any of the following acts, that is to say—
   - To do to the Sovereign any bodily harm tending to Her death or destruction, or maim or wounding, or imprisonment or restraint; or

\(^{1}\) This section expresses the existing law so far as regards the criminal responsibility of the husband. It is understood that the liability of husband and wife should be consecutive.

\(^{2}\) So far as the rules declared in this Chapter differ from the Common Law, they would not apply to persons charged with offences committed against Imperial Law.
To depose the Sovereign 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

To levy war against the Sovereign within any part of the United Kingdom or Queensland, in order to force or constraint to compel the Sovereign to change Her measures or counsels, or in order to put any force or constraint upon Her in order to intimidate or overawe either Houses or either House of Parliament; or

To instigate any foreigner to make an armed invasion of any of Her Majesty's dominions; and manifests such intention by publishing any printing or writing, or by any overt act; or

To assist by any means whatever any public enemy at war with the Sovereign; or

Conspires with any other person to kill the Sovereign or to do Her any bodily harm tending to Her death, or maim or wounding, or imprisonment or restraint; or

Levies war against the Sovereign—With intent to depose the Sovereign 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

In order by force or constraint to compel the Sovereign to change Her measures or counsels, or in order to put any force or constraint upon Her in order to intimidate or overawe any House of Parliament of any of Her Majesty's dominions; or

Instigates any foreigner to make an armed invasion of any part of Her Majesty's dominions; or

In order by any means whetever any public enemy at war with the Sovereign; or

Violates, whether with Her consent or not, a Queen Consort, or the wife of the eldest son and heir-apparent for the time being of the Sovereign, or the eldest daughter, being unmarried, of the Sovereign;

Conspires with any other person to kill the Sovereign or to do Her any bodily harm tending to Her death, or maim or wounding, or imprisonment or restraint; or

Levies war against the Sovereign—With intent to depose the Sovereign 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

Conspires with any other person to levy war against the Sovereign with any such intent or purpose as last aforesaid; or

Instigates any foreigner to make an armed invasion of any part of Her Majesty's dominions; or

Assists by any means whatever any public enemy at war with the Sovereign; or

Violates, whether with her consent or not, a Queen Consort, or the wife of the eldest son and heir-apparent for the time being of the Sovereign; and is guilty of a crime, which is called treason, and is liable to the punishment of death.\(^1\)

Concealment of treason.

Any person who—

(1) Becomes an accessory after the fact to treason; or

(2) Knowing that any person intends to commit treason, does not give information thereof with all reasonable dispatch to a justice or use other reasonable endeavours to prevent the commission of the crime; is guilty of a crime, and is liable to imprisonment with hard labour for life.

\(^{1}\) The text embodies the Common Law as modified by Statute.

\(^{2}\) The words "or use" &c. are a modification of the Common
any of Her Majesty's dockyards, or in course of being built or repaired by contract in any private yard for the use of Her Majesty; or
(c) any of Her Majesty's arsenals, magazines, dockyards, ropeyards, or victualling offices, or any of the buildings included in or belonging to them; or
(d) any timber or materials there placed for building, repairing, or fitting out ships or vessels; or
(e) any place where any such military, naval, or victualling stores or other ammunition of war is or are kept or deposited; or
(f) Causes any such thing to be done; or
(g) Aids in doing any such thing;

is guilty of felony, and is liable on conviction to the punishment of death.

11 Vic. c. 12, s. 8 (United Kingdom).

Treasonable Crimes.

41. Any person who forms an intention to effect any of the following purposes, that is to say—
(a) To dispose the Sovereign 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
(b) To levy war against the Sovereign within any part of Her dominions in order by force or constraint to compel the Sovereign to change Her measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, any House of Parliament of any of Her Majesty's dominions; or
(c) To instigate any foreigner to make an armed invasion of any of Her Majesty's dominions;

and manifests such intention by any overt act, is guilty of a crime, and is liable to imprisonment with hard labour for life.

A person charged with any of the crimes defined in this section is not entitled to be acquitted on the ground that any act proved to have been committed by him constitutes the crime of treason; but a person who has been tried, and convicted or acquitted, on a charge of any such crime cannot be afterwards prosecuted for treason in respect of the same facts.

Time for Proceeding in cases of Treason or Concealment of Treason: Two Witnesses necessary.

42. A person cannot be tried for treason or for either of the crimes defined in the two last

5 & 6 Ti. 6, c. 11, s. 12; 7 & 8 W. 3, c. 3, ss. 2, 4, 5; 36 Geo. 3, c. 7, s. 1; 39 & 40 Geo. 3, c. 93; 11 Vic. c. 12, s. 4.

16. A person cannot be tried for high treason or misprision of treason unless the indictment is presented within three years after the offence is committed.
21.

A person cannot be convicted of high treason or misprision of treason except on his own plea of guilty, or in the case of the offences firstly, thirdly, fourthly, and fifthly defined in Article 14, on the evidence in open Court of two witnesses at the least to one overt act of the kind of treason charged, or the evidence of one witness to the overt act and one other witness to another overt act of the same kind of treason; or, in the case of the offence secondly defined in Article 14, on the evidence in open Court of two witnesses.

This Article does not apply to cases in which the overt act of treason alleged is the killing of the Sovereign, or a direct attempt to endanger the life or injure the person of the Sovereign.

37 Geo. 3, c. 70, ss. 1, 2; 20 Vic. No. 13, s. 46.

19. Any person who maliciously and advisedly endeavours to do any of the following acts, that is to say—
(a) To seduce any person serving in Her Majesty’s Forces by sea or land from his duty and allegiance to Her Majesty; or
(b) To incite any such person to commit an act of mutiny or any traitorous or mutinous practices; or
(c) To incite any such persons to make or endeavour to make a mutinous assembly;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for any term not exceeding two years, or without hard labour and with or without solitary confinement.

A person who has been tried, and convicted or acquitted, on a charge of any of the offences defined in this Article cannot be afterwards prosecuted for high treason or misprision of treason in respect of the same facts.

52 Geo. 3, c. 126, ss. 1, 2, 3; 20 Vic. No. 13, s. 65.

102. Any person who—
(1) Knowingly and wilfully aids an alien enemy of Her Majesty, being a prisoner of war in Queensland, whether such prisoner is confined in a prison or elsewhere or is suffered to be at large on his parole, to escape from his prison or place of confinement, or, if he be at large on his parole, to escape from Queensland, whether by sedimenting the coast or otherwise; or
(2) Being a person who owes allegiance to Her Majesty, after any such prisoner has escaped by sea from any part of Her Majesty’s dominions, knowingly and wilfully aids him in his escape to or towards any other dominion or place;

is guilty of felony, and is liable on conviction to penal servitude for life or for a term of fourteen years or any term not exceeding seven years and not less than three years.

preceding sections unless the indictment is presented within two years after the crime is committed:

Nor can a person charged with treason or with either of such crimes be convicted, except on his own plea of guilty, or on the evidence in open Court of two witnesses at the least to one overt act of the kind of treason alleged, or the evidence of one witness to one overt act, and one other witness to another overt act of the same kind of treason.

This section does not apply to cases in which the overt act of treason alleged is the killing of the Sovereign, or a direct attempt to endanger the life or injure the person of the Sovereign.

Irking to Mutiny.

43. Any person who advises, solicits, counsels, or procures, on a charge of any of thefollowing purposes, that is to say—
(a) To seduce any person serving in Her Majesty’s Forces by sea or land from his duty and allegiance to Her Majesty; or
(b) To incite any such person to commit an act of mutiny or any traitorous or mutinous act; or
(c) To incite any such persons to make or endeavour to make a mutinous assembly;

is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement.

A person who has been tried, and convicted or acquitted, on a charge of any of the crimes defined in this section cannot be afterwards prosecuted for any other crime defined in this Chapter in respect of the same facts.

Assisting Escape of Prisoners of War.

44. Any person who—
(1) Knowingly and advisedly aids an alien enemy of Her Majesty, being a prisoner of war in Queensland, whether such prisoner is confined in a prison or elsewhere or is suffered to be at large on his parole, to escape from himself or otherwise; or
(2) Being a person who owes allegiance to Her Majesty, after any such prisoner has escaped by sea from any part of Her Majesty’s dominions, knowingly and advisedly aids him in his escape to or towards any other dominion or place;
upon the high seas within the territorial waters of Queensland and
him in his escape to or towards any other dominion or place;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

CHAPTER VII.

SEDITION.

Definition of Seditious Intention.

45. An intention to effect any of the following purposes, that is to say—

(a) To bring the Sovereign into hatred or contempt;

(b) To excite disaffection against the Sovereign or the Government or Constitution of the United Kingdom or of Queensland as by law established, or against either House of Parliament of the United Kingdom or of Queensland, or against the administration of justice;

(c) To excite Her Majesty's subjects to attempt to procure the alteration of any matter in the State as by law established otherwise than by lawful means;

(d) To raise discontent or disaffection amongst Her Majesty's subjects;

(e) To promote feelings of ill-will and enmity between different classes of Her Majesty's subjects;

is a seditious intention, unless it is justified by the provisions of the next following section.

Innocent Intentions.

46. It is lawful for any person—

(a) To endeavour in good faith to show that the Sovereign has been mistaken in any of His councils;

(b) To point out in good faith errors or defects in the government or Constitution of the United Kingdom or of Queensland as by law established, or in legislation, or in the administration of justice, with a view to the reformation of such errors or defects;
38 Geo. 3, c. 104, ss. 1, 4, 6, 8; 20 Vic. No. 13, ss. 46, 65.

20. (1) Any person who administers or causes to be administered, or assists at the administering or taking of, any oath, or engagement or obligation in the nature of an oath, purporting or intended to bind the person who takes it to commit high treason or murder or any felony punishable with death, is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for any term not exceeding two years with or without hard labour and with or without solitary confinement.

(2) Any person who takes any such oath, engagement, or obligation, as in this Article mentioned, not being compelled to do so, is guilty of felony, and is liable on conviction to penal servitude for life, or for any less term.

37 Geo. 3, c. 138, ss. 1, 3, 5; 20 Vic. No. 13, s. 65.

21. Any person who—

(1) Administers or causes to be administered, or aids in or is present and assisting at the administering or taking of, any oath, or engagement or obligation in the nature of an oath, purporting or intended to bind the person who takes it to do any of the following things, that is to say,—

(a) To excite in good faith Her Majesty's subjects to attempt to procure by lawful means the alteration of any matter in the State as by law established; or

(b) To point out in good faith in order to their removal any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of Her Majesty's subjects.

Definition of Seditious Enterprises, &c.

47. A seditious enterprise is an enterprise which is undertaken in order to the carrying out of a seditious intention.

Seditious words are words expressive of a seditious intention.

The term "seditious writing" includes anything intended to be read, and any sign or visible representation, which is expressive of a seditious intention.

Unlawful Oaths to commit Capital Offences.

48. Any person who—

(1) Administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit any crime punishable with death; or

(2) Takes any such oath or engagement, not being compelled to do so; or

(3) Attempts to induce any person to take any such oath or engagement; is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement.

Other Unlawful Oaths to commit Offences.

49. Any person who—

(1) Administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the ways following, that is to say,—

(a) To engage in any mutinous or seditious purpose;

(b) To disturb the public peace;

(c) To be of any association, society, or confederacy formed for any such purpose;

(d) To obey the order 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;
(a) Not to inform or give evidence against any associate, confederate, or other person;
(b) Not to reveal or discover any unlawful combination or confederacy, or any illegal act done or to be done, or any illegal oath, engagement, or obligation that may have been administered or tendered to or taken by himself or any other person, or the import of any such oath, engagement, or obligation; or
(c) Takes any such oath, engagement, or obligation, not being compelled to do so;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years.

(d) To be of any association, society, or confederacy, formed for the purpose of doing any such act as aforesaid;
(e) To obey the order 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;
(f) Not to inform or give evidence against any associate, confederate, or other person;
(g) Not to reveal or discover any unlawful association, society, or confederacy, or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person, or the import of any such oath or engagement; or

(2) Takes any such oath or engagement, not being compelled to do so;
(3) Attempts to induce any person to take any such oath or engagement;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Compulsion, how far a Defence.

50. A person who takes any such oath or engagement as is mentioned in the two last preceding sections cannot set up as a defence that he was compelled to do so, unless:

(a) in the case of an oath, engagement, or obligation, mentioned in Article 20, within fourteen days after taking it, or, if he is prevented by actual force or sickness, within fourteen days after the termination of such prevention, or
(b) in the case of an oath, engagement, or obligation, mentioned in Article 21, within four days after taking it, or, if he is prevented by actual force or sickness, within four days after the termination of such prevention,

he declares by information on oath before some justice of the peace, or before a Secretary of State, or a member of the Privy Council, or, if he is on actual service in Her Majesty's Forces by sea or land, by such information or by information to his commanding officer, the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence, and the place where, and the time when, the oath, engagement, or obligation, was administered or taken.

51. A person who has been tried, and convicted or acquitted, on a charge of any of the crimes defined in Articles 20 and 21 cannot be afterwards prosecuted for high treason or for misprision of treason in respect of the same facts.

Effect of Prosecution.
24. Any person who—

(1) Being present at any meeting or assembly of persons held without lawful authority for the purpose of training or drilling themselves, or of being trained or drilled, to the use of arms, or for the purpose of practising military exercises, movements, or evolutions, is so present for the purpose of training or drilling any other person to the use of arms or the practice of military exercises, movements, or evolutions; or

(2) Without lawful authority trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions;

or

(3) Aids in any such training or drilling as is hereinafore in this Article mentioned; is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding seven years, or to imprisonment for a term not exceeding two years.

Any person who is present at any such meeting or assembly for the purpose of being trained or drilled to the use of arms or the practice of military exercise, movements, or evolutions, or who at any such assembly is so trained or drilled, is guilty of a misdemeanour, and is liable on conviction to a fine at the discretion of the Court and to imprisonment for a term not exceeding two years.

A prosecution for any of the offences defined in this Article must be begun within six months after the offence is committed.

52. (1) Any person who—

(a) Without lawful authority trains or drills any other person to the use of arms or the practice of military exercise, movements, or evolutions; or

(b) Is present at any meeting or assembly of persons held without lawful authority, for the purpose of there training or drilling any other person to the use of arms or the practice of military exercise, movements, or evolutions;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

(2) Any person who, at any meeting or assembly held without lawful authority, is trained or drilled to the use of arms or the practice of military exercise, movements, or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled, is guilty of a misdemeanour, and is liable to imprisonment for two years.

The offender may be arrested without warrant.

(3) A prosecution for any of the offences defined in this section must be begun within six months after the offence is committed.

53. Any person who—

(1) Conspires with any person to carry into execution a seditious enterprise; or

(2) Advisedly publishes any seditious words or writing;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

If he has been previously convicted of any such offence he is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

A prosecution for any of the offences defined in this section must be begun within six months after the offence is committed.

A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of one witness.
Geo. 4 No. 2, s. 20; 6 Vic. No. 10, s. 1 [80 Geo. 3 and 1 Geo. 4, c. 8, s. 4].

26. Any person who composes, prints, or publishes, any blasphemous or seditious libel tending to bring into hatred or contempt the Government of Queensland by law established, or to excite Her Majesty's subjects to attempt the alteration of any matter in the State as by law established, otherwise than by lawful means [after having been previously convicted of any such offence], is guilty of a misdemeanour, and is liable on conviction before the Supreme Court to fine and imprisonment at the discretion of the Court.

Defamation of Foreign Princes.

54. Any person who, without such justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read, or any sign or visible representation, tending to expose to hatred or contempt in the estimation of the people of any Foreign State any Prince or person exercising sovereign authority over that State, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Bill of 1880, s. 104.

30 Geo. 3, c. 70, s. 2; 57 Geo. 3, c. 24, ss. 24, 25, 26, 27.

27. Every society or club is an unlawful combination and confederacy—

(a) If its members, according to its rules or according to any provision or agreement for that purpose, are required or admitted to take any such unlawful oath, engagement, or obligation, as is mentioned in Articles 20 and 21, or any oath not required or authorised by law; or

(b) If its members take, or in any manner bind themselves by, any such oath, engagement, or obligation, on becoming, or in order to become, or in consequence of being, members of the society; or

(c) If its members take, subscribe, or assent to, in any manner any test or declaration not required or authorised by law, either on becoming, or in order to become, or in consequence of being, members of the society; or

(d) If the names of the members, or any of them, are kept secret from the society at large; or

(e) If there is any committee or select body of the society or club so chosen or appointed that the members constituting it are not known by the society at large to be members of such committee or select body; or

(f) If there is any officer of the society so chosen or appointed that his election or appointment to such office is not known to the society at large; or

(g) If the names of all the members and of all committees or select bodies of members, and of all officers of the society, are not entered in a book or books to be kept for that purpose, and to be open to the inspection of all the members of the society; or

(h) If the society is composed of different divisions or branches, or of different parts, acting in any manner separately or distinct from each other,
or of which any part has any separate or
distinct officer elected or appointed by or for
such part, or to act as an officer for such
part; or

(i) If the society or club elects, appoints, nomi-
nates, or employs, any committee, delegate,
representative, or missionary, to meet or com-
 municate with any other society or club, or
with any committee, delegate, representative,
or missionary, of any other society or club, or
to induce or persuade any person to become a
member thereof; or

(ii) If the society or club professes for its object
the confiscation and division of land, and the
extinction of the funded property of the realm.

The provisions of this Article do not extend to any
caring or society of Quakers, or to any meeting or society
held or assembled for purposes of a religious or chari-
thistic nature only, in which no other matter or business is
concerned or discussed (nor to any lodge of Freemasons),
so to any declaration approved by justices in general
sessions of the peace.

39 Geo. 3, c. 70, ss. 8, 9; 57 Geo. 3, c. 19, s. 25;
20 Vic. No. 18, s. 86.
28. Any person who—

(1) Becomes, or acts as, a member of any such
society or club as mentioned in the last pre-
ceding Article; or

(2) Directly or indirectly maintains correspondence
or intercourse with any such society, or with
any division, branch, committee, or other select
body, or any officer or member thereof, as such;
or

(3) Aids, abets, or supports any such society by
contribution of money or otherwise;

is guilty of a misdemeanor, and is liable on conviction
for imprisonment for a term not exceeding
seven years or to imprisonment for a term not exceeding
two years.

Or he may be summarily convicted before two justices,
in which case he is liable to a fine not exceeding twenty
pounds and not less than six pounds six shillings and eight
pence, or to imprisonment for a term not exceeding three
months and not less than one month.

39 Geo. 3, c. 70, s. 18; 57 Geo. 3, c. 19, s. 28.
29. Any person who knowingly permits any meeting
of any such society or club, or any division, branch, or
committee, of any such society or club, as is declared by
article 27 to be an unlawful combination and confraternity,
to be held in his house or apartment, is liable to a fine
of five pounds.

Any person who commits any such offence after having
been previously convicted of any such offence is guilty of
the misdemeanor, and is liable on conviction to the same
punishment as a person convicted of any of the offences
defined in the last preceding Article.

39 Geo. 3, c. 70, s. 34.
30. A prosecution for a penalty for any of the
offences defined in the two last preceding Articles must be
began within three months after the offence is committed.
CHAPTER VIII.

OFFENCES AGAINST THE EXECUTIVE AND LEGISLATIVE POWERS.

Interference with Governor or Ministers.

55. Any person who advisedly—

(1) Does any act calculated to interfere with the free exercise by the Governor of the duties or authority of his office; or

(2) Does any act calculated to interfere with the free exercise by a member of the Executive Council of the duties or authority of his office as a member of the Executive Council or as a Minister of State;

is guilty of a misdemeanor, and is liable to imprisonment for three years.

The term "Governor" includes any officer administering the Government.

Interference with the Legislature.

56. Any person who, by force or fraud, interferes or attempts to interfere with the free exercise by either House of Parliament of their authority, or with the free exercise by any member of either House of his duties or authority as such member, is guilty of a misdemeanor, and is liable to imprisonment for three years.\(^\text{(1)}\)

Disturbing the Legislature.

57. Any person who—

(1) Advisedly disturbs either House of Parliament while in session; or

(2) commits any disorderly conduct in the immediate view and presence of either House of Parliament while in session, tending to interrupt its proceedings or to impair the respect due to its authority;

is guilty of a misdemeanor, and is liable to imprisonment for three years.\(^\text{(2)}\)

False Evidence before Parliament.

58. Any person who in the course of an examination before either House of Parliament, or before a committee of either House, knowingly gives a false answer to any lawful and relevant question put to him in the course of the examination is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

\(^\text{(1)}\) See Accompanying Letter.

\(^\text{(2)}\) See accompanying letter.
The offender cannot be arrested without warrant.
A person cannot be convicted of the offence defined in this section upon the uncorroborated testimony of one witness.

**Witnesses Refusing to Attend or Give Evidence before Parliament or Parliamentary Committee.**

59. Any person who—

1. Being duly summoned to attend as a witness or to produce any book, document, or other thing, in his possession, before either House of Parliament, or before a Committee of either House authorised to summon witnesses or to call for the production of such thing, refuses or neglects without lawful excuse to attend pursuant to the summons or to produce anything which he is summoned to produce, and which is relevant and proper to be produced; or

2. Being present before either House of Parliament, or before a Committee of either House authorised to summon witnesses, refuses to answer any lawful and relevant question; is guilty of a misdemeanour, and is liable to imprisonment for two years.

**Member of Parliament receiving Bribes.**

60. Any person who, being a member of either House of Parliament, asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person upon any understanding that his vote, opinion, judgment, or action, in the House of which he is a member, or in any Committee thereof, shall be influenced thereby, or shall be given in any particular manner or in favour of any particular side of any question or matter, is guilty of a crime, and is liable to imprisonment with hard labour for seven years, and is disqualified from sitting or voting as a member of either House of Parliament for seven years. The offender cannot be arrested without warrant.

**Bribery of Member of Parliament.**

61. Any person who—

1. In order to influence a member of either House of Parliament in his vote, opinion, judgment, or action,
upon any question or matter arising in the House of which he is a member or in any Committee thereof, or in order to induce him to absent himself from the House or from any Committee thereof, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any properly or benefit of any kind to, upon, or for, such member, or to, upon, or for, any other person; or

(2) Attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member of either House of Parliament in his vote, opinion, judgment, or action, upon any such question or matter, or to induce him to so absent himself;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years. The offender cannot be arrested without warrant.

CHAPTER IX.

UNLAWFUL ASSEMBLIES; BREACHES OF THE PEACE

Definitions.

62. When three or more persons, with intent to carry out some common purpose, assemble in such a manner, or, being assembled, conduct themselves in such a manner, as to cause persons in the neighbourhood to fear on reasonable grounds that the persons so assembled will simultaneously disturb the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons tumultuously to disturb the peace, they are an unlawful assembly.

It is immaterial that the original assembling was lawful if, being assembled, they conduct themselves with a common purpose in such a manner as aforesaid.

An assembly of three or more persons who assemble for the purpose of protecting the house of any one of them against persons threatening to break and enter the house in order to commit an indictable offence therein is not an unlawful assembly.
When an unlawful assembly has begun to act in so tumultuous a manner as to disturb the peace, the assembly is called a riot, and the persons assembled are said to be riotously assembled.

\[\text{Going Armed so as to Cause Fear.}\]

63. Any person who goes armed in public without lawful occasion in such a manner as to cause terror to any of Her Majesty's subjects is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

\[\text{Punishment of Unlawful Assembly.}\]

64. Any person who takes part in an unlawful assembly is guilty of a misdemeanour, and is liable to imprisonment for one year.

\[\text{Punishment of Riot.}\]

65. Any person who takes part in a riot is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

\[\text{Rioters remaining after Proclamation ordering them to disperse.}\]

66. Whenever any persons, to the number of twelve or more, are riotously assembled, it is the duty of some one of the following persons, that is to say, the sheriff or under-sheriff or a justice of the peace, or, if the assembly is in a municipality, the mayor, to go amongst them, or as near as he can safely come to them, and to command or cause to be commanded with a loud voice that silence be kept while the proclamation next hereinafter mentioned is made, and then openly and with a loud voice to make proclamation, or cause proclamation to be made, in these words or to the like effect:

Our Sovereign Lady the Queen charges and commands all persons being assembled immediately to disperse themselves and peaceably to depart to their habitations or to their lawful business. And if any of them be guilty of tumultuous and riotous assemblage, they shall be liable to imprisonment for two years, with or without hard labour, or to fine, or to both punishment.}

\[\text{23 Vic. No. 18, s. 6.}\]
the proclamation would or ought to have been made if the making thereof had not been so prevented, and who knowing of such prevention continue together and do not disperse themselves within the space of an hour after the time of such prevention, are guilty of felony.

Any person who commits any of the offences defined in this Article is liable on conviction to penal servitude for life or for a term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

Ib. s. 8.

34. A prosecution for any of the offences defined in the two last preceding Articles must be begun within a year after the offence is committed.

29 Vic. No. 5, s. 11.

36. Any persons who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force demolish or pull down or destroy, or begin to demolish, pull down, or destroy—

(a) Any place of divine worship; or
(b) Any house, stable, coachhouse, outhouse, warehouse, office, shop, mill, waterhouse, hay-coast, barn, granary, shed, hovel, or fold; or
(c) Any building or erection used in farming land, or in carrying on any trade or manufacture or any branch of trade or manufacture; or
(d) Any building of any other kind, being a building which belongs to the Queen, or to a local authority, or to a university, or college or hall of a university, or which is devoted or dedicated to public use or ornament, or which was erected or is maintained by public subscription or contribution; or
(e) Any machinery, whether fixed or moveable, prepared for or employed in any manufacture or branch of manufacture; or
(f) Any engine for sinking, working, ventilating, or draining a mine; or
(g) Any shaft, building, or erection, used in conducting the business of a mine; or
(h) Any bridge, wagon-way, or trunk, for conveying materials from a mine; are guilty of felony; and each of them is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

Ib. s. 12.

37. Any persons who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force injure or damage any such building, erection, machinery, engine, shaft, bridge, wagon-way, trunk, or other thing, as in the last preceding Article mentioned, are guilty of a misdemeanour: and each of them is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

and do not disperse themselves within the space of an hour after the making of the proclamation, are guilty of a crime.

When the making of the proclamation is prevented, any persons who, being so assembled, and to whom the proclamation would or ought to have been made if the making thereof had not been so prevented, and who, knowing of such prevention, continue together to the number of twelve or more, and do not disperse themselves within the space of an hour after the time of such prevention, are guilty of a crime.

Any person who commits any of the crimes defined in this section is liable to imprisonment with hard labour for life, with or without solitary confinement.

A prosecution for any of the crimes defined in this section must be begun within a year after the crime is committed.

Rioters demolishing Buildings, &c.

67. Any persons who, being riotously assembled together, unlawfully pull down or destroy, or begin to pull down or destroy—

(a) Any building whatever; or
(b) Any machinery whatever, whether fixed or moveable; or
(c) Any structure used in farming land, or in carrying on any trade or manufacture; or in conducting the business of a mine; or
(d) Any bridge, wagon-way, or trunk, for conveying materials from a mine;

are guilty of a crime: and each of them is liable to imprisonment with hard labour for life, with or without solitary confinement.

Rioters injuring Building, Machinery, &c.

68. Any persons who, being riotously assembled together, unlawfully damage any of the things in the last preceding section mentioned, are guilty of a crime: and each of them is liable to imprisonment with hard labour for seven years.
45. Any persons who, in the number of three or more, assemble together, armed with firearms or other offensive weapons, in order to aid in doing any of the following acts, that is to say—

(a) Unlawfully shipping, unshipping, loading, unloading, moving, or carrying away any goods the importation of which is prohibited, or any goods liable to Customs duties which duties have not been paid or secured;

(b) Receiving or taking any such goods from any person authorized to seize them, or from any person employed by him or assisting him, or from any place where he has put them;

(c) Receiving any person who has been apprehended for any offence made felony by any law relating to the Customs;

(d) Preventing the apprehension of any person guilty of any such offence as last mentioned, or any person aiding in doing any of the acts in this Article mentioned;

are guilty of felony; and each of them is liable on conviction to penal servitude for a term not exceeding ten years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

60. Any persons who assemble together, to the number of three or more, armed with firearms or other offensive weapons, in order to effect or aid in effecting any of the following purposes, that is to say—

(a) The unlawful shipping, unshipping, loading, unloading, moving, or carrying away, of any goods the importation of which is prohibited, or any goods liable to Customs duties which duties have not been paid or secured;

(b) The receiving or taking of any such goods from any person authorized to seize them, or from any person employed by him or assisting him, or from any place where any such person has put them;

(c) The receiving of any person who has been arrested on a charge of any crime relating to the Customs;

(d) The prevention of the arrest of any person guilty of any such crime, or of any person aiding in effecting any of the purposes in this section mentioned;

are guilty of a crime; and each of them is liable to imprisonment with hard labour for seven years.

46. If six or more persons in company are found with any goods liable to forfeiture under any law relating to the Customs, and carrying firearms or other offensive weapons, or disguised, each of them is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

70. Any persons who are found assembled together, to the number of six or more, having with them any goods liable to forfeiture under any law relating to the Customs, and carrying firearms or other offensive weapons, or disguised, are guilty of a crime; and each of them is liable to imprisonment with hard labour for seven years.

5 Rich. 2, St. 1, c. 2, s. 1.

39. Any person who makes an entry upon any land with force or with a multitude of people is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

Bill of 1880, s. 95.

Misdemeanour at Common Law.

Smuggling or Receiving Goods under Arms.

71. Any person who, in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, enters on land which is in the actual and peaceable possession of another is guilty of a misdemeanor, and is liable to imprisonment for one year.

It is immaterial whether he is entitled to enter on the land or not.

Forcible Detainer.

72. Any person who, being in actual possession of land without colour of right, holds possession of it, in a manner likely to cause a breach of the
73. Any person who takes part in a fight in a public highway, or takes part in a fight of such a nature as to alarm the public in any other place to which the public have access, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Challenge to fight a Duel.

74. Any person who challenges another to fight a duel, or attempts to provoke another to fight a duel, or attempts to provoke any person to challenge another to fight a duel, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

75. Any person who fights in a prize fight, or subscribes to or promotes a prize fight, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Assembling for the purpose of Smuggling.

76. Any persons who assemble together, to the number of three or more, for the purpose of unshipping, carrying, or concealing any goods subject to Customs duty and liable to forfeiture under any law relating to the Customs, each of them is liable, on summary conviction before two justices, to the like punishment.

Unlawful Processions.

77. Whenever any persons, to the number of three or more, are assembled together under any of the following circumstances, that is to say,—

(a) Bearing or wearing or having amongst them any firearms or other offensive weapon; or

(1) This is a misdemeanour at common law, being an incitement to commit an offence (s. 590).
(2) This is a misdemeanour at common law, being either an unlawful assembly or an assault.
(b) Pubically exhibiting any banner, emblem, flag, or symbol, the displaying of which is calculated to promote animosity between Her Majesty's subjects of different religious persuasions; or

(c) Being accompanied by any music of a like nature or tendency,

are an unlawful assembly.

Any person who is present at any such assembly is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

(2.) When any such unlawful assembly is held, it is the duty of a justice of the peace to order or repeat aloud, or cause some other person to read or repeat aloud, to the persons assembled a command in these words or to the like effect:

"Our Sovereign Lady the Queen doth command and charge all persons being here assembled immediately to disperse themselves and peaceably to depart upon the pains contained in the Act of the Governor and Legislative Council of New South Wales, passed in the tenth year of the reign of Her Majesty Queen Victoria, intituled 'An Act to prevent Party Processions and certain other Public Disturbances in the Colony of New South Wales'."

Any person who, being one of those so assembled, does not disperse and depart within a quarter of an hour after the giving of the command is liable on summary conviction for a term not exceeding one month.

(3.) Any person who commits any such offence after having been previously convicted of a like offence is liable on like summary conviction to imprisonment for a term not exceeding three months.

(4.) This Article does not apply to a procession or assembly held in the course of a parliamentary election.

634. When any person present at an unlawful assembly, as defined in Article 60, does not disperse within a quarter of an hour after command given as prescribed in that Article, any justice may issue his warrant to apprehend such person in the first instance.

26 Geo. 3, c. 67, ss. 1, 3, 8; 29 Vic. No. 13, s. 85.

38. Any person who, being riotously assembled together to the number of three or more, unlawfully and with force prevent, hinder, or obstruct, the holding, unloading, selling, or navigating, of any ship or vessel, or unlawfully and with force board any ship or vessel with intent to do any of such things, are guilty of a misdemeanour; and each of them is liable on conviction to imprisonment with hard labour for a term not exceeding twelve months and not less than six months.

(1) By the sailing law no more persons constitute a misdemeanour; remaining after command to depart, a simple offence.

(2) There seems to reason why the exception should not extend to all elections.
Any person who commits any such offence after having been previously convicted of a like offence is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years.

A prosecution for any of the offences defined in this Article must be begun within twelve months after the offence is committed.

41. Any person who, being assembled together to the number of more than ten, repair to the Governor or either House of Parliament upon pretence of presenting a petition, complaint, remonstrance, declaration, or address, are guilty of a misdeemeanour: and each of them is liable on conviction to a fine not exceeding one hundred pounds and to imprisonment for the term of three months.

An indictment for the offence defined in this Article must be presented within six months after the offence is committed.

The commission of the offence must be proved by two witnesses.

CHAPTER X.

OFFENCES AGAINST POLITICAL LIBERTY.

Interfering with Political Liberty.

78. Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

If the offender is a public officer, and commits the offence in abuse of his authority as such officer, he is liable to imprisonment with hard labour for three years.

CHAPTER XI.

PIRACY.

Definition of Piracy in General.

79. Any person who on the high seas commits, otherwise than as an act of war and under the authority of some Prince or State, any act which, if it were committed on land, would be robbery as hereinafter defined, is called a pirate, and his act is called piracy.\(^\text{(3)}\)

\(^{(3)}\) See Accompanying Letter.
(3) Unlawfully does any act by which the life of any such person may be endangered, is guilty of felony, and is liable on conviction to the punishment of death.

11 & 12 Wm. 3, c. 7, s. 9; 8 Geo. 1, c. 24, s. 1; 7 Wm. 4 and 1 Vict. c. 88, ss. 3, 4; 2 Vict. No. 10; 29 Vict. No. 18, s. 58.

47. Any person who, within the territorial jurisdiction of Queensland—

(1) Being the master of a ship or a seaman—

(a) Betrays his trust, and turns pirate, enemy, or rebel, and piratically runs away with his ship, or with any large boat, ordnance, ammunition, or merchandise; or

(b) Voluntarily yields up to a pirate his ship or any such thing as last mentioned; or

(c) Brings a false writing message from a pirate, enemy, or rebel; or

(d) Consults or confederates with, or attempts to corrupt, any master or officer of a ship or any seaman with intent that he should run away with or yield up any ship, goods, or merchandise, or turn pirate, or go over to pirates; or

(2) Being on board of a ship—

(e) Lays violent hands on the master of the ship with intent to hinder him from fighting in defence of the ship and goods committed to his trust; or

(f) Confiscates the master of the ship; or

(g) Makes or endeavour to make a revolt in the ship; or

(3) Knowingly—

(h) Trades with a pirate in any manner whatsoever; or

(i) Furnishes a pirate, felon, or robber on the seas, with ammunition, provisons, or stores of any kind; or

(j) Fitts out a ship or vessel with a design to trade with, or supply or correspond with, a pirate, felon, or robber on the seas; or

(k) Consults, confederates, or corresponds, with a pirate or robber on the seas; or

(l) Being a person belonging to any ship or vessel whatever, upon meeting a merchant ship or vessel, forcibly boards or enters it, and throws overboard or destroys any goods or merchandise belonging to it, whether the ship or vessel is seized or not; is deemed to be a pirate, and is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than fifteen years, or to imprisonment for a term not exceeding three years.

11 Wm. 3, c. 7, s. 8; 18 Geo. 2, c. 30, s. 1. (Omitted from Digest.)

Further Definition of Pirates.

80. Any person who does any of the acts following, that is to say—

(1) Being a British subject, and being at any place within the jurisdiction of the Admiralty, commits, under colour of a commission from a Foreign State or Prince, whether such State or Prince is at war with the Sovereign or not, or under pretence of authority from any person whatever, any act of hostility, or any act which, if it were committed on land, would be robbery as hereinafter defined, against another British subject; or

(2) Being a British subject, is in any way adherent to or gives aid to Her Majesty's enemies at any place within the jurisdiction of the Admiralty, during any war; or

(3) Whether being a British subject or not, forcibly enters a British ship at any place within the jurisdiction of the Admiralty, and throws overboard or destroys any part of the goods or merchandise belonging to the ship or laden upon it; or

(4) Being on board a British ship at any place within the jurisdiction of the Admiralty—

(a) Turns pirate, enemy, or rebel, and piratically runs away with the ship, or any boat, ordnance, ammunition, or goods; or

(b) Voluntarily yields up the ship or any such thing as last mentioned to a pirate; or

(c) Brings a soliciting message from a pirate, enemy, or rebel; or

(d) Consults or compiles with, or attempts to corrupt, any master or officer of a ship, or any seaman, with intent that he should run away with or yield up any ship, goods, or merchandise, or turn pirate, or go over to pirates; or

(e) Lays violent hands on the master of the ship, with intent to hinder him from fighting in defence of the ship and goods committed to his trust; or

(f) Confiscates the master of the ship; or
(g) Makes, or endeavours to make, a revolt in the ship; or

(5) Being a British subject in any part of the world, or, whether being a British subject or not, being in any part of Her Majesty's dominions, or on board a British ship in any part of the world, knowingly—

(b) Trades with a pirate in any manner whatever; or

(f) Furnishes a pirate with ammunition, provisions, or stores of any kind; or

(f) Fits out a ship or vessel with a design to trade with, or supply or correspond with, a pirate; or

(k) Conspires or corresponds with a pirate;

is also deemed to be a pirate, and his act is also called piracy.

**Punishment of Piracy.**

81. Any person who, within the territorial jurisdiction of Queensland, commits piracy, is guilty of a crime, and is liable to imprisonment with hard labour for life.

If the crime is committed with respect to a ship or vessel, and if at or immediately before or after the time of committing the crime the offender—

(a) Assails any person on board of or belonging to the ship or vessel, with intent to kill him or to kill any other person; or

(b) Wounds any such person; or

(e) Unlawfully does any act by which the life of any such person is endangered;

the offender is liable to the punishment of death.

**Attempted Piracy with Personal Violence.**

82. Any person who, within the territorial jurisdiction of Queensland, does any of the acts following with intent to commit the crime of piracy with respect to a ship or vessel, that is to say—

(1) Assails any person on board of or belonging to the ship or vessel, with intent to kill him or to kill any other person; or

(2) Wounds any such person; or

(3) Unlawfully does any act by which the life of any such person is endangered;

is guilty of a crime, and is liable to the punishment of death.
Aiding Pirates.

83. Any person who—
(1) Brings a seducing message from a pirate; or
(2) Consults or conspires with, or attempts to corrupt, any master or officer of a ship or any seaman, with intent that he should run away with or yield up any ship, goods, or merchandise, or turn pirate, or go over to pirates; or
(3) Knowingly—
(a) Trades with a pirate in any manner whatever; or
(b) Furnishes a pirate with ammunition, provisions, or stores of any kind; or
(c) Fits out a ship or vessel with a design to trade with, or supply or correspond with, a pirate; or
(d) Conspires or corresponds with a pirate;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

PART III.—OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE AND AGAINST PUBLIC AUTHORITY.

CHAPTER XII.

DISCLOSING OFFICIAL SECRETS.

Disclosure of Secrets relating to Defences by Public Officers.

84. Any person who, being employed in the Public Service, communicates to any person otherwise than in the course of his official duty any plans, documents, or other information relating to any battery, field work, or fortification, in Queensland, or relating to any other defence of Queensland, is guilty of a misdemeanour, and is liable on conviction to fine not exceeding two hundred pounds and not less than fifty pounds, or to imprisonment for a term not exceeding three years and not less than one year.

54 Vict. c. 11, s. 6.
Obtaining Disclosure of Secrets relating to Defences.

85. Any person who procures any person employed in the Public Service to make any such communication as is mentioned in the last preceding section, or without lawful authority obtains information as to any such matter as is therein mentioned, is guilty of a misdemeanour, and is liable to imprisonment for three years, or to a fine of two hundred pounds.

Disclosure of other Official Secrets.

86. Any person who, being employed in the Public Service, publishes or communicates any fact which comes to his knowledge by virtue of his office and which ought to be kept secret, or any document which comes to his possession by virtue of his office and which ought to be kept secret, except to some person to whom he is bound to publish or communicate it, is guilty of a misdemeanour, and is liable to imprisonment for one year.

CHAPTER XIII.

CORRUPTION AND ABUSE OF OFFICE.

Official Corruption.

87. Any person who—

(1) Being employed in the Public Service, and being charged with the performance of any duty by virtue of such employment, not being a duty touching the administration of justice, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of any thing already done or omitted to be done, or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or

(2) Corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, any person employed in the Public Service, or to, upon, or for, any
40. Any person who, being an officer in the public service, takes or accepts from any person, for the performance of his duty as such officer, any reward beyond a proper pay and emoluments, is guilty of a misdemeanour, and liable on conviction to fine and imprisonment at the discretion of the Court, and to make double restitution.

55. Any person who willfully and corruptly accepts or takes any fee or reward not authorised by law for or on account of anything done under the authority of any law relating to goldfields is liable on summary conviction for two years in prison not exceeding fifty pounds, or a fine of immediate payment to imprisonment for a term not exceeding six months with or without hard labour.

51. Any person who, being a Queensland Railway Commissioner—
   (1) Becomes concerned or interested in any contract made by or on behalf of the Corporation of the Queensland Railway Commissioner; or
   (2) Participates or claims to participate in the profits of any such contract, or in any benefit or emolument arising from any such contract; is guilty of a misdemeanour, and is liable on conviction to a fine of five hundred pounds and also, at the discretion of the Court, to imprisonment for a term not exceeding three years.

52. Any person who, being employed by the Queensland Railway Commissioner, becomes concerned or interested, as a director or officer of a registered, incorporated, or joint-stock, company, or otherwise than as a member of the company, in any contract made by or on behalf of the Commissioner with the company, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

59. Any person who, being a warden appointed under the laws relating to goldfields—
   (1) At any time during his tenure of office holds any interest or share in any claim, gold-mining lease, mineral lease, or mining adventure; or
   (2) Adjudicates in any matter in which he is particularly interested; is guilty of a misdemeanour, and is liable on conviction to imprisonment at the discretion of the Court.

82. Any person who, being a Queensland Railway Commissioner, becomes concerned or interested, as a director or officer of a registered, incorporated, or joint-stock, company, or otherwise than as a member of the company, in any contract made by or on behalf of the Commissioner with the company, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

88. Any person who, being employed in the Public Service, takes or accepts from any person, for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, or any promise of such reward, is guilty of a misdemeanour, and is liable to imprisonment for three years.

Public Officers interested in Contracts.

89. Any person who, being employed in the Public Service, acquires or holds, directly or indirectly, a private interest in any contract or agreement which is made on account of the Public Service with respect to any matter concerning the department of the Service in which he is employed, is guilty of a misdemeanour, and is liable to imprisonment for three years, and to be fined at the discretion of the Court.

Officers charged with Administration of Crown Property or with Special Duties.

90. Any person who, being employed in the Public Service, and being charged by virtue of his employment with any judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade, or business, of a special character, acquires or holds, directly or indirectly, a private interest in any property,
53. Any person who, being a commissioner appointed under the laws relating to mineral lands—
(1) Becomes the holder of any interest in a mineral claim or mineral lead or mining venture;
(2) Adjudicates in any matter in which he is pecuniarily interested;
is guilty of a misdemeanor, and is liable on conviction to
fine at the discretion of the Court or to imprisonment for a term not exceeding three years, or to both punishments.

54. Any person who—
(1) (a) Being a person who practises or acts, or being a partner in a partnership, or being a land agent or mining engineer, or as a manager, viewer, agent, or valuer, of mines, or as an arbitrator in differences arising between owners, agents, or managers, of mines; or
(b) Being employed in or about a mine, acts as an inspector of mines under the laws relating to the regulation of mines; or
(2) Being a person who holds, directly or indirectly, any interest in any mine, acts as an inspector of mines under those laws in the district in which the mine in which he holds the interest is situated;
is guilty of a misdemeanor, and is liable on conviction to
fine and imprisonment at the discretion of the Court.

55. Any person who—
(1) Falsely personates another person at a parade of any corps of the Defence Force, or on any other occasion, for any purpose required by "The Defence Act of 1884"; or
(2) Being a commissioned officer of the Defence Force—
(a) Knowingly claims pay on account of drills performed with his corps for a man belonging to another corps; or
(b) Includes in a parade-state or return any man not duly enlisted and attached as a member of the Defence Force; or
(3) Being a commissioned or non-commissioned officer of the Defence Force—
(a) Knowingly signs a false parade-state, roll, pay-list, or return; or
(b) Obtains by false pretences or, with intent to apply the same to his own use or benefit, retains in his own possession any pay or money belonging to any other officer or man of any corps; or
(4) Being a non-commissioned officer or man of the Defence Force, claims or receives pay on account of any drill performed in any other corps than his own proper corps, or in more than one corps during the annual drill in any year;
is guilty of a misdemeanor, and is liable on conviction to fine and imprisonment at the discretion of the Court.

91. Any person who, being employed in the Public Service in such a capacity as to require him or to enable him to furnish returns or statements touching any remuneration payable or claimed to be payable to himself or to any other person, or touching any other matter required by law to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such matter which is, to his knowledge, false in any material particular, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

False Claims by Officials.
A prosecution for any of the offences defined in this Article, if brought against a commissioned officer of the Land Force, must be brought by the Commandant, and if against a commissioned officer of the Marine Force, must be brought by the Naval Commandant, or by some commissioned officer authorized by them respectively.

A prosecution against a man of the Force must be brought on the complaint of the commanding officer or adjutant of the corps, or the commanding officer of the vessel, to which the man belongs.

A prosecution for any of the offences defined in this Article must be begun within six months after the offence is committed.

27 Vic. No.3, s. 45; 32 Vic. No. 5, s. 61.

59. Any person who, being duly appointed by two justices to be a surveyor and valuator for determining the compensation to be paid by the Queensland Railway Commissioner under "The Public Works Lands Acquisition Act of 1879," or by a constructing authority under "The Public Works Lands Acquisition Act of 1879," for lands to be purchased or taken from a person who by reason of absence from Queensland, or any other cause, is prevented from tracing or who cannot be found, or for permanent injury to any such lands—

(1) Corruptly makes a declaration that he has no interest in the lands in question; or

(2) Having made a declaration as by those Acts respectively required, wilfully executes the duty of making a valuation of the lands in question honestly, dishonestly, or with partiality, or otherwise than according to the best of his skill and ability, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

60. Any person who, being duly appointed to be an arbitrator or umpire for determining the amount of compensation to be paid by the Rockhampton Harbour Board to the Council of the Municipality of Rockhampton in respect of the property mentioned in the thirty-seventh section of "The Rockhampton Harbour Boards Act, 1895," and having made a declaration as by that section required, wilfully executes his duty as such arbitrator or umpire dishonestly, or dishonestly, or otherwise than according to the best of his skill and ability, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

Corruption of Surveyor and Valuator.

92. Any person who, being duly appointed under any Statute to be a valuator for determining the compensation to be paid to any person for land compulsorily taken from him under the authority of any Statute, or for permanent injury done to any land under the authority of any Statute—

(1) Acts as such valuator while he has an interest in the land in question; or

(2) Executes unfaithfully, dishonestly, or with partiality, or otherwise than according to the best of his skill and ability, the duty of making a valuation of the land or of the extent of the injury;

is guilty of a misdemeanour, and is liable to imprisonment for three years.

False Certificates by Public Officers.

93. Any person who, being authorized or required by law to give any certificate touching any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificate which is, to his knowledge, false in any material particular is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Other Abuse of Office.

94. Any person who, being employed in the Public Service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another is guilty of a misdemeanour, and is liable to imprisonment for two years.

If the act is done or directed to be done for purposes of gain, he is liable to imprisonment with hard labour for three years.

Compare Italian Penal Code, s. 175.
31. Tic. No. 12, s. 12.

61. Any person who administers an oath, or takes a solemn affirmation or affidavit, touching any matter with respect to which he has not under any statute or ordinance any authority to do so is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

This Article does not apply to any oath, affirmation, or affidavit, administered or taken before a justice in any matter relating to the preservation of the peace or the punishment of offences, or relating to inquiries respecting sudden death, or to proceedings before the Legislative Council or Legislative Assembly or a committee thereof; nor to any oath, affirmation, or affidavit, required by the laws of a country out of Queensland, or for the purpose of giving validity to instruments in writing intended to be used in a country out of Queensland.

95. Any person who administers an oath, or takes a solemn affirmation or affidavit, touching any matter with respect to which he has not, by law any authority to do so, is guilty of a misdemeanour, and is liable to imprisonment for two years, and to be fined at the discretion of the Court.

This Article does not apply to any oath, affirmation, or affidavit, administered or taken before a justice in any matter relating to the preservation of the peace or the punishment of offences, or relating to inquiries respecting sudden death, or to proceedings before either House of Parliament, or a Committee of either House; nor to an oath, affirmation, or affidavit, administered or taken for some purpose which is lawful under the laws of another country, or for the purpose of giving validity to an instrument in writing which is intended to be used in another country.

96. Any person who—

(1) Not being a justice assumes to act as a justice; or

(2) Without authority assumes to act as a person having authority by law to administer an oath or take a solemn affirmation or affidavit, or to do any other act of a public nature which can only be done by persons authorised by law to do so;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

97. Any person who—

(1) Personates any person employed in the Public Service on an occasion when the latter is required to do any act or attend in any place by virtue of his employment; or

(2) Falsely represents himself to be a person employed in the Public Service, and assumes to do any act or to attend in any place for the purpose of doing any act by virtue of such employment;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

A person found committing the offence may be arrested without warrant.
CHAPTER XIV.

CORRUPT AND IMPROPER PRACTICES AT ELECTIONS.

Definitions.

98. In this Chapter—

The term “election” includes any election held under the authority of any Statute providing for the choice of persons to fill any office or place of a public character.

The term “elector” includes any person entitled to vote at an election.

The term “municipal election” includes any election held under any laws relating to local government.

The term “ballot-box” includes any receptacle in which voting-papers are put before being counted at an election.

The term “polling-booth” includes any room or place in which voting at an election is conducted or in which the votes are counted.

Persecution.

99. Any person who votes or attempts to vote in the name of another person at an election, whether the name is that of a person living or dead or of a fictitious person, is guilty of a crime, and is liable to imprisonment with hard labour for two years.

Double Voting.

100. Any person who, being an elector, votes or attempts to vote at an election oftener than he is entitled to vote at the election is guilty of a crime, and is liable to imprisonment with hard labour for two years.

Treason.

101. Any person who—

(1) Corruptly, before, during, or after an election, provides, or pays in whole or in part the expenses of procuring any entertainment to or for any person for the purpose of corruptly influencing any elector to vote or refrain from voting at the election, or for any person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by an elector at the election in the capacity of an elector; or

(2) Being an elector, corruptly accepts any food, drink, or lodging, on account of any such act or omission; is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year, or to a fine of two hundred pounds.
exercise of the franchise by an elector, or by any such means compels or induces an elector to vote or refrain from voting at the election; or

(5) Gives or lends, or agrees to give or lend, or offers or promises, or offers or promises to procure or to endeavour to procure, any money or valuable consideration to or for any person with any of the following motives, that is to say—

(a) in order to induce an elector to vote or refrain from voting at the election; or

(b) corruptly and on account of an elector having voted or refrained from voting at the election; or

(c) as a reward for or in consideration of any person voting or joining in a procession before or during the election; or

(6) Gives or procures, or agrees to give or procure, or offers or promises, or promises to procure or to endeavour to procure, any place or profit in or for any person for either of the two motives last mentioned in the last preceding definition of an offence in this Article contained; or

(7) Does any such act as is mentioned in the two last preceding definitions of offences in this Article contained in order to induce any person to procure or endeavour to procure the return of any person as the elector, or the vote of any elector at the election; or

(8) Upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, as in the two last-mentioned definitions mentioned, procures, or engages or promises or endeavours to procure, the return of any person at the election, or the vote of any person at the election; or

(9) Advances or pays any money, or causes any money to be paid, to or to the use of any other person with the intent that such money shall be expended in bribery at the election; or

(10) Knowingly pays any money, or causes any money to be paid, to any person in discharge or repayment of money wholly or in part expended in bribery at the election; or

(11) Being an elector, does any of the following acts before or during the election, that is to say, receives, gives, or contracts for, any money, gift, loan, valuable consideration, or place, for himself or any other person for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at the election; or

(12) After the election receives any money or valuable consideration on account of any person having voted or refrained from voting, at the election; or

(13) Corruptly transfers any property, or pays any money, to any person for the purpose of enabling that person to be registered as an elector, and thereby of influencing the vote of that person at a future election; or

(14) Is party to any such transfer or payment as last-mentioned which is made on his behalf; or

(15) Being a candidate at the election, convenes or holds a meeting of electors or of his committee in a house licensed for the sale of fermented or spirituous liquors;

is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding two hundred pounds, or to imprisonment for a term not exceeding twelve months with or without hard labour.

Undue Influences.

102. Any person who—

(1) Uses or threatens to use any force or restraint, or does or threatens to do any temporal or spiritual injury, or causes or threatens to cause any detriment of any kind, to an elector in order to induce him to vote or refrain from voting at an election, or to an account of his having voted or refrained from voting at an election; or

(2) By force or fraud prevents or obstructs the free exercise of the franchise by an elector, or by any such means compels or induces an elector to vote or refrain from voting at an election;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year, or to a fine of two hundred pounds.

Bribery.

103. Any person who—

(1) Gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, any person any property or benefit of any kind on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by an elector at an election in the capacity of an elector, or on account of any person acting or joining in a procession during an election, or in order to induce any person to endeavour to procure the return of any person at an election, or the vote of any elector at an election; or

(2) Being an elector, asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him at an election in the capacity of an elector; or

(3) Asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, on
The offenses defined in definitions (1) and (2) of this article are called "corrupt practices." Those defined in definitions (3) and (4) are called "undue influence." Those defined in definitions (5) to (16) are called "bribery": They are all said "corrupt practices."

Account of a promise made by him or any other person to endeavour to procure the return of any person at an election, or the vote of any person at an election; or

(4) Advances or pays any money to or to the use of any other person with the intent that such money shall be applied for any of the purposes before included in this section mentioned, or in discharge or repayment of money wholly or in part applied for any such purpose; or

(5) Corruptly transfers or pays any property or money to any person for the purpose of enabling that person to be registered as an elector, and thereby of influencing the vote of that person at a future election; or

(6) Is privy to any such transfer or payment as last-mentioned which is made for his benefit; or

(7) Being a candidate at an election, convenes or holds a meeting of electors or of his committee in a house licensed for the sale of fermented or spirituous liquors;

is guilty of a misdemeanor, and is liable to imprisonment with hard labour for one year, or to a fine of two hundred pounds.

Further Penalty for Corrupt Practices.

104. Any person convicted of any of the offenses defined in the five last preceding sections committed with respect to a parliamentary election becomes incapable, for three years from the date of the conviction, of being registered as an elector or of voting at any parliamentary election or of holding any judicial office; and, if he holds any such office, the office is vacated.

If the offence is one which has reference to a particular parliamentary election, he becomes also incapable for the like period of being appointed to or of sitting in the Legislative Council, and of being elected to or of sitting in the Legislative Assembly; and, if at the time of the conviction he is a member of either House, his seat is vacated.

Any person convicted of any such offense committed with respect to a municipal election becomes incapable, for two years from the date of the conviction, of holding any municipal office, and, if he holds any such office, the office is vacated.
69 Vic. No. 13, ss. 95, 96, 98, 99, 100, 101, 102.

66. Any person who with reference to a parliamentary election—

(a) Being prohibited by law from voting at the election, and knowing that he is so prohibited, votes at the election; or

(b) Induces or procures any person who is, and whom he knows to be, prohibited by law from voting at the election to vote at the election; or

(c) Before or during the election, and for the purpose of promoting or procuring the election of any candidate at the election, knowingly publishes a false statement of the withdrawal of another candidate at the election; or

(d) Being a candidate at the election, withdraws from being a candidate in pursuance of a corrupt procurement in consideration of a payment or promise of payment; or

(e) Being a candidate, or the agent of a candidate, at the election—

(a) Knowingly provides money for any payment which is contrary to the laws relating to parliamentary elections, or for replacing any money which has been expended in any such payment, and which is not allowed by law to be an exception; or

(b) Corruptly procures any other person to withdraw from being a candidate at the election in consideration of any payment or promise of payment; or

(c) Prints, publishes, or posts, any bill, placard, or poster, which has reference to the election, and which does not bear on the face of it the name and address of the printer and publisher, or causes any such thing to be done; or

(d) Hires or uses for a committee-room at the election, or knowing that the same is intended to be used as a committee-room at the election, lets—

(i) Any premises on which the sale by retail of any intoxicating liquor is authorised by a licence; or

(ii) Any premises where any intoxicating liquor is sold or supplied to members of a club, society, or association which is not a permanent political club; or

(iii) Any part of any such premises, unless it is a part which, having a separate entrance, and having no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied, is ordinarily let for the purpose of chambers or offices or the holding of public meetings or arbitrations;

(iv) The premises of a State School, or of a school which is in receipt of aid from the Consolidated Revenue Fund;

is guilty of an offence, called an illegal practice, and is liable on summary conviction before two justices to a fine not exceeding one hundred pounds. He also becomes incapable for two years from the date of the conviction of being registered as an elector or of voting at any election held for the electoral district in which the illegal practice was committed.

Any person who with reference to a parliamentary election, not being a candidate or the agent of a candidate at the election, does any such act as is mentioned in the

Illegal Practices.

105. Any person who—

(1) Being prohibited by law from voting at an election, and knowing that he is so prohibited, votes at the election; or

(2) Procures any person who is, and whom he knows to be, prohibited from voting at an election to vote at the election; or

(3) Before or during an election, and for the purpose of promoting or procuring the choice of any candidate at the election, knowingly publishes a false statement of the withdrawal of another candidate at the election; or

(4) Before or during an election, and for the purpose of affecting the return of a candidate at the election, knowingly publishes a false statement of fact respecting the personal character or conduct of the candidate;

(5) Being a candidate at an election, procures any other person to withdraw from being a candidate at the election, in consideration of any payment or promise of payment; or

(6) Being a candidate or the agent of a candidate at an election, corruptly procures any other person to withdraw from being a candidate at the election in consideration of any payment or promise of payment; or

is guilty of a misdemeanour, and is liable to imprisonment for one year, or to a fine of two hundred pounds.

If the offence was committed with respect to a parliamentary election, the offender also becomes incapable, for two years from the date of the conviction, of being registered as an elector for the electoral district for which the election with reference to which the offence was committed was held, and of voting at any election held for that district.

Other Illegal Practices.

106. Any person who—

(1) Knowingly provides money for any payment which is contrary to any law relating to elections, or for replacing any money which has been expended in any such payment, and

[1] 36 & 37 Vic., c. 49, s. 1 (United Kingdom).
which is not allowed by law to be an exception; or
(2) Prints, publishes, or posts, any bill, placard, or poster, which has reference to an election, and which does not bear on the face of it the name and address of the printer and publisher; or
(3) hires or uses for a committee-room at an election—
(a) Any part of any premises on which the sale by retail of any intoxicating liquor is authorized by a license; or
(b) Any part of any premises where any intoxicating liquor is sold or supplied to members of a club, society, or association, which is not a permanent political club; unless, in either case, it is a part which has a separate entrance, and has no direct communication with any part of the premises in which intoxicating liquor is sold, and is a part only used for the purpose of chambers or offices or for holding public meetings or arbitrations; or
(4) knowing that the same are intended to be used as a committee-room at an election, lets any part of any such premises, not being such a part as aforesaid, for such use;
is guilty of an offence, and is liable on summary conviction to a fine of one hundred pounds.

Corrupt and Illegal Practices: Time.

107. A prosecution for any of the offences hereinbefore defined in this Chapter must be begun within one year after the offence is committed, or, if it is committed in reference to an election with respect to which a petition is tried by the Elections Tribunal, within three months after the report of the Elections Tribunal is made, whichever period last expires, so that it is commenced within two years after the offence is committed.

The service or execution of process on or against the alleged offender is the commencement of the prosecution, unless such service or execution is prevented by some act in his part, in which case the issue of the process is deemed to be the commencement of the prosecution.
service or execution is prevented by some act on his part, in which case the issue of the process is deemed to be the commencement of the proceeding.

**Interference at Elections.**

108. Any person who—

1. Intrudes into a polling-booth not being lawfully entitled to be in it; or

2. Wilfully interrupts, obstructs, or disturbs, the proceedings at an election;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

A person found committing the offence may be arrested without warrant by direction of the presiding officer.

**Electors attempting to Violate Secrecy of Ballot.**

109. Any person who, having received a ballot-paper from the presiding officer at an election—

(a) Wilfully makes any mark or writing on the ballot-paper otherwise than by striking out the names of the candidates for whom he does not intend to vote; or

(b) Wilfully fails to fold up the ballot-paper in such a manner as to conceal the names of the candidates;

(c) Wilfully fails to deposit the ballot-paper in the ballot-box in the presence of the presiding officer; or

(d) Attempts to leave the polling-booth without depositing the ballot-paper in the ballot-box, or to take the ballot-paper out of the polling-box;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

**Other Attempts of Like Kind.**

110. Any person who—

1. Takes or attempts to take a ballot-paper out of a polling-booth; or

2. Whilst an elector is preparing his ballot-paper in a compartment provided for the use of electors actually voting, wilfully intrudes into the compartment;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

A person found committing the offence may be arrested without warrant by direction of the presiding officer.
Attempts to take the ballot-paper out of the polling-booth; to be apprehended and taken before a justice to be dealt with according to law.

A presiding officer at an election held under the laws relating to municipalities, or at an election held under the laws relating to divisional boards at which the voting is by ballot, or at an election held under "The Brisbane Traffic Act of 1885," may, without warrant, cause any person who is reasonably suspected of—

(a) Knowingly and wilfully making a false answer to any question lawfully put to him by the presiding officer; or
(b) Persuading or attempting to persuade an elector; or
(c) Unlawfully attempting to vote for a person who is entitled to vote at the election; or
(d) Preventing or attempting to leave the polling-booth after having received a ballot-paper and before depositing it in the ballot-box; or
(e) Causing a disturbance at the election; to be apprehended and taken before a justice to be dealt with according to law.

A presiding officer at an election held under the laws relating to divisional boards or under "The Brisbane Traffic Act of 1885," may, without warrant, cause—

(a) Any person who is reasonably suspected of—

(1) knewingly and wilfully making a false answer to any question lawfully put to him by the presiding officer; or
(2) attempting to vote by means of a ballot-paper which has been delivered to another person; or
(3) wilfully and maliciously obstructing the poll by any unnecessary delay in performing any act within the polling-booth; or
(b) Any person who, knowing or being to know that the person is entitled to vote at the election; or
(c) Unlawfully attempting to leave the polling-booth after having received a ballot-paper and before depositing it in the ballot-box; or
(d) Causing a disturbance at the election; to be apprehended and taken before a justice to be dealt with according to law.

A returning officer at an election held under the laws relating to divisional boards at which the voting is by post may, without warrant, cause any person who—

(a) Causes a disturbance at the election; or
(b) Prevents or obstructs the approach of the voting-officer to the voting-boxes; or
(c) Conducts himself in a disorderly manner; to be apprehended and taken before a justice to be dealt with according to law.

Any person who places, or is privy to placing, in a ballot-box in use at a parliamentary election a ballot-paper which has not been lawfully handed to or marked by an elector is guilty of felony, and is liable to conviction to penal servitude for a term not exceeding seven years and not less than two years, or to imprisonment for a term not exceeding two years with or without hard labour.

Proof that at the conclusion of a poll a greater number of ballot-papers is found in a ballot-box in use at a polling-booth, or is removed by the person acting as polling-officer at the polling-booth from the ballot-box at which he presided, than the number of electors to be dealt with at such poll, shall be conclusive evidence that the polling-booth at which he presided was the polling-booth at which the greater number of ballot-papers was deposited.
81. Viz. No. 7, s. 75; 59 Viz. No. 34, Schedule, s. 87.

77. Any person who, at an election held under the laws relating to Divisional Boards at which the voting is by ballot—

(1) Being the presiding officer and being called upon, in the case of an elector who is blind or is unable to read, to strike out from a ballot-paper the name of the candidate or candidates other than the candidate or candidates for whom the elector says that he desires to vote, wilfully fails to do so in the polling-booth, and in the presence and sight of the poll clerks, candidates, and scrutineers then present; or

(2) Being the presiding officer, and whilst an elector is preparing his ballot-paper in a compartment provided for the use of electors actually voting, wilfully allows any other person to be in the compartment;

is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

Any person who, at an election held under "The Brisbane Traffic Act of 1886," does any such act as in this Article mentioned is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding one year with or without hard labour.

87. Any person who—

(23) Being a person claiming to vote at a parliamentary election, wilfully makes a false answer to any question which is lawfully put to him by the presiding officer, and which he is required by law to answer; or

(24) Being a person claiming to vote at a parliamentary election, and being lawfully required to make a declaration before voting, wilfully makes a false declaration;

(is guilty, &c.)

Compare Art. 78, post, p. 50.

Art. 626, supra, p. 61.

71. Any person who—

(1) At or after a parliamentary election, knowingly and wilfully, and without the lawful command of some competent court or tribunal, unseals the fold upon a ballot-paper within which the number of an elector is written, and which fold has been made under the authority of the law; or

of electors who voted at that polling-booth is sufficient evidence that the person who acted as presiding officer at that polling-booth was guilty of either of the offences defined in this section, until the contrary is shown.

Offences by Presiding Officers at Elections.

112. Any person who—

(1) Being a presiding officer at an election, and being called upon, in the case of an elector who is blind or is unable to read, to strike out from a ballot-paper the name of the candidate or candidates other than the candidate or candidates for whom the elector says that he desires to vote, wilfully fails to do so in the polling-booth, and in the presence and sight of the poll clerks, candidates, and scrutineers then present; or

(2) Being a presiding officer at an election, and whilst an elector is preparing his ballot-paper in a compartment provided for the use of electors actually voting, wilfully allows any other person to be in the compartment;

is guilty of a misdemeanour, and is liable on conviction to imprisonment with hard labour for three years.

False Answers to Questions at Elections.

113. Any person who at an election—

(1) Willfully makes a false answer to any question which is lawfully put to him by the presiding officer, and which he is required by law to answer; or

(2) Being lawfully required to make a declaration before voting, willfully makes a false declaration;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant except by direction of the presiding officer.

Interfering with Secrecy at Elections.

114. Any person who—

(1) At or after an election, knowingly and wilfully, and without the lawful command of some competent court or tribunal, unseals the fold upon a ballot-paper within which
(3) Being a person required by law to discharge duties at a parliamentary election, attempts to ascertain or discover, or aids in ascertaining or discovering, the candidate for whom the vote of any person is given at the election, except in the case of a person voting openly; or

(4) Being a person required by law to discharge duties at a parliamentary election places upon a ballot-paper any mark or writing not authorised by law;

is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment for a term not exceeding two years with or without hard labour.

49 Vic. No. 5, s. 119; 50 Vic. No. 33, s. 14.

75. Any person who, in the exercise of his duty at an election held under the laws relating to Municipalities, or at an election to which the statutory provisions expressed in this Act are made applicable, obtained knowledge, or the means of knowledge, of the candidate for whom any person has voted at the election, knowingly and wilfully discloses or discovers, or aids in disclosing or discovering, the fact, otherwise than in answer to a question put in the course of proceedings before some competent court or tribunal, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

79. Any person who, at or after an election held under the law relating to Divisional Boards, at which the voting is by ballot, or at or after an election held under "The Brisbane Traffic Act of 1896"—

(1) Knowingly and wilfully, and without the lawful command of some competent court or tribunal, unfolds the fold upon a ballot-paper within which the number of an elector is written, and which fold has been made under the authority of the law; or

(2) Being a person required by law to discharge duties at an election attempts to ascertain or discover, or aids in ascertaining or discovering, the candidate for whom the vote of any person is given at the election, except in the case of a person voting openly; or

(3) Having, in the exercise of his office at the election, obtained knowledge of the person for whom any elector has voted at the election, discloses such knowledge otherwise than in answer to a question put in the course of proceedings before some competent court or tribunal; or

(4) Being a person required by law to discharge duties at the election, places upon any ballot-paper any mark or writing not authorised by law;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years without hard labour.
51 Vic. No. 7, s. 110.

80. Any person who, having in the exercise of his office at an election under the laws relating to Divisional Boards at which the voting is by post obtained knowledge of the candidate for whom any elector has voted at the election, knowingly and wilfully discloses, or aids in disclosing, such knowledge, otherwise than in answer to a question put in the course of proceedings before some competent court or tribunal, is guilty of a misdemeanor, and is liable on conviction to fine and imprisonment at the discretion of the Court.

60 Vic. No. 94, 2nd Schedule, ss. 38, 40.

49 Vic. No. 13, s. 126; 61 Vic. No. 7, s. 282.

71. Any person who knowingly and wilfully, and without the lawful command of some competent court or tribunal requiring him, or rendering it necessary for him, to do so, breaks the seal of, or opens, a sealed parcel which has been sealed up under the provisions of the laws relating to parliamentary elections, or to elections for Divisional Boards, is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

42 Vic. No. 8, s. 109.

74. Any person who knowingly and wilfully, and without the lawful command of some competent court or tribunal requiring him, or rendering it necessary for him, to do so, breaks the seal of, or opens, a sealed parcel or packet of ballot-papers which has been sealed up under the provisions of the laws relating to municipal elections, is guilty of a misdemeanor, and is liable on conviction to fine and imprisonment at the discretion of the Court.

51 Vic. No. 7, s. 110.

[78. Any person who]

(a) At an election held under the laws relating to Divisional Boards at which the voting is by post—

(1) Votes for or against any candidate beyond the number of votes to which he is entitled to vote; or

(2) Knowingly makes a false statement in a claim to be inserted in a list of parliamentary electors; or

[is guilty, &c.]

60 Vic. No. 94, 2nd Schedule, s. 37.

49 Vic. No. 13, s. 126.

[77. Any person who]

(a) Wilfully makes a false statement in a claim to be inserted in a list of parliamentary electors; or

(b) Wilfully makes, orally or in writing, to a court or tribunal having jurisdiction to deal with the claims of persons to be registered as

Breaking Seal of Packages used at Elections.

115. Any person who knowingly and wilfully, and without the lawful command of some competent court or tribunal, opens or breaks the seal of a sealed parcel which has been sealed up under the provisions of the laws relating to elections, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for two years.

Offences at Elections when Voting is by Post.

116. Any person who at an election at which the voting is by post—

(1) Knowingly makes a false statement in a claim to be inserted in a list of parliamentary electors; or

(2) Knowingly makes, orally or in writing, a false statement in a claim to be inserted in a list of parliamentary electors; or

(3) Attest the signature to a voting-papers of any person not entitled to vote by means of such voting-papers;

is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

False Claims.

117. Any person who—

(1) Makes in a claim to be inserted in a list of electors any statement which is, to his knowledge, false in any material particular; or
electors or as persons claiming to be electors at parliamentary elections a false statement relating to the qualification of any person as an elector; 

(a guilty, &c.)

(2) Makes, orally or in writing, to a court or tribunal having jurisdiction to deal with the claims of persons to be registered as electors or as persons claiming to be electors, a statement relating to the qualification of any person as an elector which is, to his knowledge, false in any material particular;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

A person cannot be convicted of either of the offences defined in this section upon the uncorroborated testimony of one witness.

42 Vic. No. 8, s. 104; 50 Vic. No. 20, s. 14.

73. Any person who, with reference to an election held under the laws relating to municipalities, or to which the statutory provisions expressed in this Article are made applicable, commits any act, or, being a candidate at the election, consents to the committing by his agent of any act, which, if committed with reference to a parliamentary election, would be an act of bribery or corruption [a corrupt practice], is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

51 Vic. No. 7, s. 67; 50 Vic. No. 23, s. 15; 50 Vic. No. 24, Schedule, s. 49.

76. Any person who, with reference to an election held under the laws relating to Divisional Boards, or to which the statutory provisions expressed in this Article are made applicable, or with reference to an election held under "The Brisbane Traffic Act of 1885," commits any act, or, being a candidate at the election, consents to the committing by his agent of any act, which, if committed with reference to a parliamentary election, would be a corrupt practice, is guilty of a misdemeanour, and is liable on conviction to the same punishment as if the act had been committed with reference to a parliamentary election.

24, s. 75; 50 Vic. No. 9, Schedule, s. 37.

77. Any person who at an election held under the laws relating to Divisional Boards at which the voting is by ballot—

(3) Being an elector and having received a ballot-paper from the presiding officer—

(a) Wilfully makes any mark or writing on the ballot-paper otherwise than by striking out the names of the candidates for whom he does not intend to vote; or

(b) Wilfully fails to fold up the ballot-paper in such a manner as to conceal the names of the candidates; or

(c) Wilfully fails to deposit the ballot-paper in the ballot-box in the presence of the presiding officer; or

(d) Wilfully takes a ballot-paper out of the polling-booth; or

(4) Being an elector, and whilst another elector is preparing his ballot-paper in a compartment provided for the use of electors actually voting, wilfully intrudes into the compartment;

(a guilty, &c.)
Any person who—

(1) At an election held under the laws relating to municipalities, or at an election held under the laws relating to Divisional Boards at which the voting is by ballot, or at an election held under "The Brisbane Traffic Act of 1896," or at an election in which the statutory provisions expressed in this definition are made applicable—

(a) Willfully makes a false answer to any question which is lawfully put to him by the presiding officer, and which he is required by law to answer; or

(b) Personates an elector; or

(c) Votes or offers to vote after he is entitled to vote; or

(d) Leaves or attempts to leave the polling-booth after having received a ballot-paper, and without depositing it in the ballot-box; or

(2) At an election held under the laws relating to Divisional Boards at which the voting is by ballot, or at an election held under "The Brisbane Traffic Act of 1896"—

(a) Introduces into a polling-booth in use at the election, not being lawfully entitled to be in the polling-booth; or

(b) Attempts to personate an elector; or

(c) Attempts to vote by means of a ballot-paper which has been delivered to another person; or

(3) Causes a disturbance at the election; or

(a) Knowingly and willfully makes a false declaration when required by law to make a declaration; or

(b) Wilfully obstructs the polling by any unnecessary delay in performing any act within the polling-booth, or by obstructing the approaches to the polling-booth, or conducting himself in a disorderly manner; or

(c) Is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding one year with or without hard labour.

CHAPTER XV.

BARGAINING FOR OFFICES IN PUBLIC SERVICE.

Selling or Trafficking in Offices.

118. Any person who—

(1) Corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him or any other person, with regard to the appointment or contemplated appointment of any person to any office or employment
in the Public Service, or with regard to any application by any person for employment in the Public Service; or

(2) Corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure to, upon, or for, any person any property or benefit of any kind upon account of any such act or omission;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years, and to be fined at the discretion of the Court.

CHAPTER XVI.

OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE.

119. In this Chapter the term "judicial proceeding" includes any proceeding had or taken in any court or tribunal or before any justice, or before an arbitrator or arbitrators, or umpire; and includes proceedings taken in order to institute an action, proceeding, or other proceeding.

Judicial Corruption.

120. Any person who—

(1) Being the holder of a judicial office, corruptly asks, receives, or obtains, or agrees or attempts to receive or
obtain, any property or benefit of any kind for himself or any other person on account of any thing already done or omitted to be done, or to be afterwards done or omitted to be done, by him in his judicial capacity; or

(2) Corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, any person holding a judicial office, or to, upon, or for, any other person, any property or benefit of any kind on account of any such act or omission on the part of the person holding the judicial office;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, and to be fined at the discretion of the Court.

The offender cannot be arrested without warrant.

The term "judicial officer" in this section includes an arbitrator or umpire; but in the case of an offence committed by or with respect to any such person the longest term of imprisonment is seven years.

A prosecution for any of the offences firstly defined in this section cannot be begun except by the direction of a Crown Law Officer.

Official Corruption not Judicial but relating to Offences.

121. Any person who—

(1) Being a justice not acting judicially, or being a person employed in the Public Service in any capacity not judicial for the prosecution or detention or punishment of offenders, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him, with a view to corrupt or improper interference with the due administration of justice, or the procurement or facilitation of the commission of any offence, or the protection of any offender or intending offender from detection or punishment; or

(2) Corruptly gives, confers, or procures, or promises or offers to give or
31 Vic. No. 44, s. 60.

88. Any person who being employed as a juror upon the trial of any cause or matter willfully or corruptly consents to be unlawfully influenced or instructed, or to be persuaded to favour any of the parties to the cause or matter, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

89. Any person who unlawfully attempts to influence or instruct a juror, or to persuade a juror to favour any of the parties to any cause or matter, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

31 Vic. No. 13, s. 63.

85. The forms and ceremonies used in administering an oath are immaterial if the person to whom the oath is administered declares that the form and ceremonies actually used are binding upon him.

4 Vic. No. 5, s. 8; 13 Vic. No. 20, s. 31; 15 Vic. No. 27, s. 117; 27 Vic. No. 4, s. 170; 28 Vic. No. 20, s. 45, 64; 29 Vic. No. 13, s. 27; 30 Vic. No. 21, s. 41; 31 Vic. No. 11, s. 6; 31 Vic. No. 13, s. 18, 29; 31 Vic. No. 18, s. 142; 46 Vic. No. 19, s. 2; 50 Vic. No. 7, s. 58; 55 Vic. No. 34, s. 1.

87. Any person who—
(1) Commits wilful and corrupt perjury, that is to say, willfully and corruptly gives false evidence on oath in a proceeding in a Court of Justice touching any matter which is material to any question then depending in that proceeding; or
(2) Willfully and corruptly gives false evidence in any civil or criminal proceeding in any Court of Justice, although the evidence is not taken on oath, but is taken on solemn affirmation, or affirmation upon honour, or in any other manner authorized by law; or
(3) Willfully gives false evidence in any proceeding in the Supreme Court in its Matrimonial Causes Jurisdiction, or willfully swears, affirms, confess, or to procure or attempt to procure, to, upon, or for, any such person, or to, upon, or for, any other person, any property or benefit of any kind, on account of any such act or omission on the part of the justice or other person so employed; is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, and to be fined at the discretion of the Court.

The offender cannot be arrested without warrant.

Corrupting Jurors.

122. Any person who—
(1) Attempts by threats or intimidation of any kind, or by benefit or promises of benefit of any kind, or by other corrupt means, to influence any person in his conduct as a juror in any judicial proceeding, whether he has been sworn as a juror or not; or
(2) Accepts any benefit or promise of benefit on account of anything to be done by him as a juror in any judicial proceeding, whether he has been sworn as a juror or not, or on account of anything already done by him as a juror in any judicial proceeding; is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Perjury.

123. Any person who in any judicial proceeding knowingly gives false testimony touching any matter which is material to any question then depending in that proceeding, or intended to be raised in that proceeding, is guilty of a crime, which is called perjury.

It is immaterial whether the testimony is given on oath or under any other sanction authorized by law.

The forms and ceremonies used in administering the oath or in otherwise binding the person giving the testimony to speak the truth are immaterial, if he assents to the forms and ceremonies actually used.

It is immaterial whether the false testimony is given orally or in writing.

It is immaterial whether the court or tribunal is properly constituted, or is held in the proper place, or not, if it actually acts as a court or tribunal in the proceeding in which the testimony is given.
or declares falsely in any affidavit or deposition made before any person authorized to administer oaths under "The Matrimonial Causes Jurisdiction Act of 1884"; or

(4) Wilfully and corruptly gives false evidence before the Election Tribunal; or

(5) Wilfully and corruptly gives false evidence upon oath or affirmation before an arbitrator or arbitrators, or an umpire, appointed by or under a rule or order of reference, or by or under a submission to arbitration containing an agreement that it shall be made a rule of Court in which rule or order or submission it is ordered or agreed that the witnesses on the reference shall be examined on oath; or

(6) Takes a false oath to any fact directed or required by law to be sworn to for the purpose of entering a claim in any court in any property seized under the laws relating to distribution; or

(13) Procures any person to commit any of the offences herebefore in this Article defined; or

(15) Having, on any occasion when an oath is required, been permitted, instead of taking an oath, to make a solemn declaration or affirmation in the form prescribed for Quakers, Moravians, or Separatists, wilfully, corruptly, and falsely, gives false evidence under such circumstances that it had been given on oath he would have been guilty of perjury; or

(16) Not being a Separatist, makes on any such occasion a solemn affirmation or declaration in the form prescribed for Separatists; or

(19) Wilfully and corruptly gives false evidence on oath or affirmation in or about any proceeding or matter arising under the laws relating to Joint Stock Companies ("The Companies Acts, 1862 to 1888"); or

(20) Being a woman making complaint to justices of having been deserted by her husband, or of having been left by her husband without sufficient means of support, and being required or permitted, for the purposes of her complaint, to make affidavit before them as to her marriage, falsely deposes in such affidavit to the fact of her marriage with any man for the purpose of obtaining from the justices an order for an allowance to be made by him for her support; is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding seven years with or without hard labour, and with or without solitary confinement; and the Court may (except in the case of the offence hereintofore defined) direct that he be kept in irons for a term not exceeding the first three years of the term of the sentence.

It is immaterial whether the person who gives the testimony is a competent witness or not, or whether the testimony is admissible in the proceeding or not.

The offender cannot be arrested without warrant.

**Punishment of Perjury.**

124. Any person who commits perjury is liable to imprisonment with hard labour for fourteen years.

If the offender commits the crime in order to procure the conviction of another person for a crime punishable with death or with imprisonment with hard labour for life, he is liable to imprisonment with hard labour for life.\(^1\)

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\(^1\) It is conceivable that imprisonment for seven years is an inadequate punishment in many cases. The punishment of keeping in irons is omitted.
Fabricating Evidence.

126. Any person who, with intent to mislead any tribunal in any judicial proceeding—

(1) Fabricates evidence by any means other than perjury or counseling or procuring the commission of perjury; or

(2) Knowingly makes use of such fabricated evidence;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years. The offender cannot be arrested without warrant.

Bribery of Witnesses.

127. Any person who—

(1) Gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, any person, upon any agreement or understanding that the testimony of any person called or to be called as a witness in any judicial proceeding shall be thereby influenced; or

(2) Attempts by any means to induce a person called or to be called as a witness in any judicial proceeding to give false testimony or to withhold true testimony; or

(3) Asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, upon any agreement or understanding that any person shall as a witness in any judicial proceeding give false testimony or withhold true testimony;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years. The offender cannot be arrested without warrant.

Deceiving Witnesses.

128. Any person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Probable Misdemeanour at Common Law,
Compare New York Penal Code, s. 118.
Conspiracy to Defeat Justice.

132. Any person who conspires with another to obstruct, prevent, pervert, or defeat the course of justice is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.
133. Any person who asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, upon any agreement or understanding that he will compound or conceal a crime, or will abstain from, discontinue, or delay, a prosecution for a crime, or will withhold any evidence thereof, is guilty of an indictable offence.

If the crime is such that a person convicted of it is liable to be sentenced to death or imprisonment with hard labour for life, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

If the crime is such that a person convicted of it is liable to be sentenced to imprisonment with hard labour for fourteen years, the offender is guilty of a crime, and is liable to imprisonment with hard labour for three years.

In any other case the offender is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

The offender cannot be arrested without warrant. (1)

Compounding Penal Actions.

134. Any person who, having brought, or under pretence of bringing, an action against another person upon a penal statute in order to obtain from him a penalty for any offence committed or alleged to have been committed by him, compounds the action without the order or consent of the Court in which the action is brought or is to be brought, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Advertising a Reward for the Return of Stolen Property, &c.

135. Any person who—

(1) Publicly offers a reward for the return of any property which has been stolen or lost, and in the advertisement uses any words purporting that no questions will be asked; or

(2) Makes use of any words in any public advertisement purporting that a reward will be given or paid for any property which has been stolen or lost without asking or making any inquiry after the person producing such property; or

(3) Promises or offers in any public advertisement to return to any pawnbrokers or other person who may have bought or advanced money by way of loan upon any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of such property; or

(1) Compare s. 448. The offence of concieving a felony is a mis- demeurour by statute (S. 5 & 6. c. 9) Inception of any wrongful bargain.
(4) Prints or publishes any such advertisement; defrauding the sum of fifty pounds for every such offence to any person who may sue for the same, together with full costs of action.

Money so paid or advanced, or any other sum of money or reward for the return of such property; or

(3) Prints or publishes any such offer; is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds.

**Misdemeanours at Common Law.**

R. v. Badger, 4 Q.B., 446.


Compare New York Penal Code, s. 118.

16 Eliz., c. 5, s. 4; 66 Geo. 3, c. 128, ss. 1, 2.

99. Any person who, in the name of a fictitious plaintiff, or in the name of a real person but without his authority, brings an action against another person upon a penal statute in order to obtain from him a penalty, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court. He also becomes for ever incapable of bringing an action upon a penal statute.

88 Vla. No. 5, s. 214.

100. Any person who, without authority, or knowing the advertisement to be false in any material particular, inserts or causes to be inserted in the *Gazette* or in any newspaper an advertisement purporting to be published under the laws relating to insolvent debtors, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

Bill of 1830, s. 128.

money so paid or advanced, or any other sum of money or reward for the return of such property; or

(3) Prints or publishes any such offer; is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds.

**Justice acting oppressively or without Jurisdiction.**

136. Any person who—

(1) Being a justice and being required or authorized by law to admit an accused person to bail, without reasonable excuse, and in abuse of his office, requires excessive and unreasonable bail; or

(2) Being a justice, wilfully and perversely exercises jurisdiction in any matter in which he has a personal interest;

is guilty of a misdemeanour, and is liable to imprisonment for three years, and to be fined at the discretion of the Court.

**Delay to take Person Arrested before Magistrate.**

137. Any person who, having arrested another upon a charge of an offence, willfully delays to take him before a justice to be dealt with according to law is guilty of a misdemeanour, and is liable to imprisonment for two years.

**Bringing Fictitious Action.**

138. Any person who, in the name of a fictitious plaintiff, or in the name of a real person but without his authority, brings an action against another person is guilty of a misdemeanour, and is liable to imprisonment for two years.

**Inserting Advertisement without Authority of Court.**

139. Any person who, without authority, or knowing the advertisement to be false in any material particular, inserts or causes to be inserted in the *Gazette* or in any newspaper an advertisement purporting to be published under the authority of any Court, or tribunal, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

**Attempting to Pervert Justice.**

140. Any person who attempts, in any way not specially defined in this Code, to obstruct,
prevent, pervert, or defeat, the course of justice is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Maintenance of Litigation.

141. Any person who, having no valuable interest in the subject-matter of a litigation, assists the plaintiff in the litigation by providing money for carrying it on is guilty of a misdemeanour, and is liable to imprisonment for two years.

It is a defence to a charge of the offence defined in this section to prove that the plaintiff in the litigation was a relative of the accused person or stood in some relation to him which rendered the giving of such assistance reasonable and proper, or that the assistance was given without any desire to harass the defendant and in the honest belief that the plaintiff was seeking redress for some wrong or breach of contract sustained by him, and was unable to obtain it without such assistance.

Champerly.

142. Any person who, having no valuable interest in the subject-matter of a litigation assists the plaintiff in the litigation by providing money for carrying it on upon the terms that the subject-matter of the litigation shall be divided between them, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Buying and Selling Disputed Titles.

143. Any person who buys or sells any land of which the title is known by him to be in dispute, to the intent that the buyer may institute or carry on legal proceedings for its recovery in place of the seller, is guilty of a misdemeanour, and is liable to imprisonment for two years.

CHAPTER XVII.

ESCapes: Rescues: Obstructing Officers of Court.

Forcibly Rescuing Capital Offenders.

144. Any person who by force rescues or attempts to rescue from lawful custody an offender under sentence of death, or a person (1) This offence differs from that defined in the preceding sections that the offender is seeking his own gain.
(2) Rescues or attempts to rescue a person convicted of murder while going to execution, or during execution; is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

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Aiding Prisoners to Escape.

145. Any person who—
(1) Aids a prisoner in escaping or attempting to escape from lawful custody; or
(2) Conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner;

is guilty of felony, and is liable to imprisonment with hard labour for seven years.

Escape by Prisoner.

146. Any person who, being a prisoner in lawful custody under sentence of imprisonment or penal servitude for an indictable offence, escapes from such custody is guilty of a crime, and is liable to imprisonment with hard labour for five years.

The offender may be tried, convicted, and punished, notwithstanding that at the time of his apprehension or trial the original term of his sentence may have expired.

Permitting Escape.

147. Any person who, being an officer of a prison and having for the time being the legal custody of a prisoner, wilfully or negligently permits him to escape from custody is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

Harbouring Escaped Prisoners.

148. Any person who knowingly harbours, maintains, or employs a person under sentence of imprisonment or penal servitude, and illegally at large, is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding two hundred pounds and not less than fifty pounds, or to imprisonment for a term not exceeding two years.
108. Any person who—

(1) Rescues an insane person during his conveyance to a hospital or reception house for the insane, or to a house licensed under the laws relating to insane persons for the reception of patients, or to a prison, or during his confinement in any such place; or

(2) Being a superintendent of, or person employed in, any such place, permits by his wilful neglect or connivance a person confined therein as an insane person to escape therefrom, or rescues a person so confined; or

(3) Absents or omits at the escape of any such person;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

109. Any person who receives, removes, retains, conceals, embezzles, or disposes of any part of the property of an insolvent which has been attached under the laws relating to insolvent debtors, knowing the same to have been so attached and with intent to hinder or defeat the attachment, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

110. Any person who wilfully hinders or obstructs any person lawfully charged with the execution of an order or warrant of any court exercising jurisdiction under the laws relating to insolvent debtors is liable, on summary conviction, to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months.

111. Any person who—

(1) Assails, obstructs, or resists a warden, or a person authorized by a warden, in lawfully entering on any claim or land, or any other

Rescuing Insane Persons.

149. Any person who—

(1) Rescues any person during his conveyance as an insane person to a hospital or reception house for the insane, or to a house licensed under the laws relating to insane persons for the reception of patients, or to a prison, or rescues any person during his confinement as an insane person in any such place; or

(2) Being in charge of a person during his conveyance as an insane person to any such place, wilfully permits him to escape from custody; or

(3) Being a superintendent of, or person employed in, any such place, wilfully permits a person confined therein as an insane person to escape therefrom; or

(4) Conceals any such person as aforesaid who has, to his knowledge, been rescued during such conveyance or confinement, or has, to his knowledge, escaped during such conveyance, or from such confinement; is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Removing, &c., Property under Lawful Seizure.

150. Any person who, when any property has been attached or taken under the process or authority of any Court, or under a lawful distress, knowingly, and with intent to hinder or defeat the attachment, process, or distress, receives, removes, retains, conceals, or disposes of, such property, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Obstructing Officers of Courts of Justice.

151. Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any Court of justice is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year, or to a fine of one hundred pounds. Or he may be summarily convicted before two justices, in which case he is liable to imprisonment with hard labour for six months, or to a fine of fifty pounds.

Obstructing Officers of Mineral Fields.

152. Any person who—

(1) Assails, obstructs, or resists any person in the performance of his
or other person in the performance of his duty or exercise of his powers under the provisions of the laws relating to goldfields; or

(2) Having been removed by a warrant under the provisions of those laws from any claim or place, forcibly or clandestinely retakes or retains possession thereof, or any part thereof or share therein, or attempts to do so; or

(3) While a decision of a warrant under those laws declaring the right of any complainant to use or divert any water for mining purposes is in force, resists such complainant or his agent in such use or diversion; or

(4) Upon or in consequence of any decision of a warrant's court against him, resists or attempts to assault the successful party;

is liable on summary conviction before two justices to a fine not exceeding fifty pounds, and in default of payment to imprisonment for a term not exceeding six months.

(2) Forcibly or clandestinely retakes or retains possession of a mining tenement from which he has been removed by order of a Court, or any part thereof or share therein; or

(3) Resists the enjoyment by any person of a mining tenement to which that person has been declared by a Court to be entitled; or

(4) Assaults or threatens to assault any person who has been a successful party in a proceeding in any Court relating to a mining tenement on account of such success;

is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds, and in default of payment to imprisonment with hard labour for six months.

CHAPTER XVIII.

OFFENCES RELATING TO THE COIN.

Definitions.

153. In this Chapter—

The term “current,” applied to coin, includes coin of any of the kinds or denominations of coin which are 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 the United Kingdom or elsewhere:

The term “copper” as applied to coin includes bronze or brass metal;

The term “counterfeit,” used as an adjective, and applied to 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 be apparently intended to resemble or pass for coin of a higher denomination; it includes such coin whether it is or is not in a fit state to be uttered, and whether the counterfeiting is or is not finished;

Used as a verb, the term means making any coin which is counterfeit as so defined;

The terms “gold” and “silver” as applied to coin include every coin of the kind or denomination of coin which is coined in any country or is current in any of Her Majesty’s Mints, or is lawfully current by virtue of any proclamation or otherwise in any part of Her Majesty’s Dominions, whether within the United Kingdom or elsewhere;

The term “metal” includes any mixture or alloy of metals;

The term “copper,” applied to coin, includes any metal of less value than the silver or alloy of silver used in the silver coin of the country in question;

The term “counterfeit” applied to coin, means coin not genuine but resembling or apparently intended to resemble or pass for genuine coin, and includes genuine coin which has been prepared or altered so as to resemble or be apparently intended to resemble or pass for coin of a higher denomination, and also genuine coin which has been clipped or filed, or the size or weight of which has been otherwise diminished, and which has been prepared or
Any person who—

1. Counterfeits any current gold or silver coin; or

2. Gilds or silvers any counterfeit current gold or silver coin; or

3. 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

4. Gilds, files, or alters any current silver coin with intent to make it resemble or pass for current gold coin; or

5. Gilds or silvers, or files or alters, any current copper coin with intent to make it resemble or pass for current gold or silver coin; or

6. Without lawful authority or excuse, to be proved by him—

(a) Buys, sells, receives, pays, or puts off, any counterfeit current gold or silver coin at a lower rate than it imports or was apparently intended to import, or offers to do any such thing; or

(b) Imports or receives into Queensland from beyond the seas any counterfeit current gold or silver coin knowing it to be counterfeit; or

(c) Knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any punch, puncher, matrix, stamp, die, pattern, or mould, in or upon which there is made or impressed the figure, stamp, or apparent resemblance, of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state, or country, or any part of either side thereof, or which is adapted and intended to make or impress any such figure, stamp, or apparent resemblance; or

(d) Makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession, any engraver, edger, or other tool, collars, instrument, or engine, adapted and intended for the making of coins round the edges with letters, graminings, or other marks or figures apparently resembling the marks on the edges of any such coin as last aforesaid, knowing the same to be so adapted and intended; or

(e) Makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession, any press for coinage, or any altered so as to conceal such clipping, filing, or diminution; it includes any such coin whether it is or is not in a fit state to be uttered, and whether the process of preparation or alteration is or is not complete;

The terms “gild” and “silver,” applied to coin, include producing the appearance of gold or silver respectively by any means whatever;

The term “utter” means and includes using, dealing with, or acting upon, and attempting to use, deal with, or act upon, and attempting to induce any person to use, deal with, or act upon, the thing in question as if it were genuine.

29 Vic. No. 4, ss. 2, 3, 6, 7, 24, 25.

154. Any person who makes or begins to make any counterfeit gold or silver coin is guilty of a crime.

If the crime is committed with respect to current coin, he is liable to imprisonment with hard labour for life, with or without solitary confinement.

If the crime is committed with respect to coin of a Foreign Prince or State, he is liable to imprisonment with hard labour of seven years, with or without solitary confinement.

Preparation for Coining Gold and Silver Coin.

155. Any person who—

1. Gilds or silvers any piece of metal of a fit size or figure to be coined, with intent that it shall be coined into counterfeit gold or silver coin; or

2. Makes any piece of metal into a fit size or figure to facilitate the coinage from it of any counterfeit gold or silver coin, with intent that such counterfeit coin shall be made from it; or

3. Without lawful authority or excuse, the proof of which lies on him—

(a) Buys, sells, receives, pays, or disposes of, any counterfeit gold or silver coin at a lower rate than it imports or is apparently intended to import, or offers to do any such thing; or

(b) Brings or receives into Queensland any counterfeit gold or silver coin, knowing it to be counterfeit; or

(c) Makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession, any press for coinage, or any
cutting engine for cutting by force of a screw or of any other contrivance round blanks out of gold, silver, or other metal or mixture of metals; or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine in have been used or to be intended to be used for or in order to counterfeiting any such coin as last aforesaid; or

(f) Knowingly conveys out of any of Her Majesty's mints any punchen, counter punchen, matrix, stamp, die, pattern, mould, edge, edging or other tool, collar, instrument, press, or engine, used or employed in coinage, or any useful part of any of such things, or any coin, bullion, metal, or mixture of metals; is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

20 Vin. No. 4, ss. 18, 19.

117. Any person who—

(1) Counterfeits any gold or silver coin of any foreign prince, state, or country; or

(2) Without lawful authority or excuse, to be proved by him, brings or receives into Queensland any counterfeit gold or silver coin of any foreign prince, state, or country, knowing the same to be counterfeit; or

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding two years with or without hard labour and with or without solitary confinement.

116. Any person who impairs, 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 is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

which is adapted to make the resemblance of both or either of the sides of any gold or silver coin, or any part of either side thereof, knowing the same to be such a stamp or mould, or to be so adapted; or

(d) Makes or mends, or begins or prepares to make or mend, in his possession, or disposes of, any tool, instrument, or machine, which is adapted and intended to be used for making coin round the edges with marks or figures apparently resembling those on the edges of any gold or silver coin, knowing the same to be so adapted and intended; or

(e) Makes or mends, or begins or prepares to make or mend, in his possession, or disposes of, any press for coinage, or any tool, instrument, or machine, which is adapted for cutting blanks out of gold, silver, or other metal, knowing such press, tool, instrument, or machine, to have been used or to be intended to be used for making any counterfeit gold or silver coin; or

(f) Knowingly conveys out of any of Her Majesty's mints any stamp, mould, tool, instrument, machine, or press, used or employed in coinage, or any useful part of any of such things, or any coin, bullion, or metal; is guilty of a crime.

If the crime is committed with respect to current coin, he is liable to imprisonment with hard labour for life, with or without solitary confinement.

If the crime is committed with respect to the coin of a Foreign Prince or State, he is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

Chipping.

156. Any person who deals with any current gold or silver coin in such a manner as to diminish its weight, with intent that when so dealt with it may pass as current gold or silver coin, is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement.
23d, ss. 9, 10, 11, 12.

181. (2.) Any person who utters any counterfeit current gold or silver coin, knowing it to be counterfeit, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding one year with or without hard labour and with or without solitary confinement.

(3.) Utters any counterfeit current gold or silver coin knowing it to be counterfeit, and either on the same day or on any of the ten days next ensuing utters any other counterfeit current gold or silver coin knowing it to be counterfeit; is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

(4.) Any person who commits any of the offences defined in this Article after having been previously convicted of any of those offences or of any felony relating to the coin is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

185. (1.) Any person who utters any counterfeit gold or silver coin of any foreign prince, state, or country, knowing it to be counterfeit, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding six months with or without hard labour.

(2.) Any person who commits any such offence after having been twice previously convicted of a like offence is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

(3.) Any person who commits any such offence after having been previously convicted of a like offence in guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

157. Any person who unlawfully has in his possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution, or any other form, obtained by impairing current gold or silver coin, knowing it to have been so obtained; is guilty, &c.

Possession of Clippings.

158. Any person who utters any counterfeit gold or silver coin, knowing it to be counterfeit, is guilty of a misdemeanour.

If the offence is committed with respect to current coin, he is liable to imprisonment with hard labour for two years, with or without solitary confinement.

If the offence is committed with respect to coin of a Foreign Prince or State, he is liable to imprisonment with hard labour for one year.

A person found committing the offence may be arrested without warrant.

Repeated Uttering of Counterfeit Current Gold or Silver Coin, or Possession of several such Coins.

159. Any person who—

(1) Utters any counterfeit gold or silver coin, knowing it to be counterfeit, and at the time of such uttering has in his possession any other counterfeit gold or silver coin; or

(2) Utters any counterfeit gold or silver coin, knowing it to be counterfeit, and either on the same day or on any of the ten days next ensuing utters any other counterfeit current gold or silver coin knowing it to be counterfeit; or

(3) Has in his possession three or more pieces of counterfeit current gold or silver coin, knowing them to be counterfeit, and with intent to utter any of them; is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years, with or without solitary confinement.

A person found committing the offence may be arrested without warrant.

Offences after Previous Conviction.

160. Any person who commits any of the offences defined in the two last preceding sec...
Any person who—

(1) Counterfeits any current copper coin; or
(2) Has in his possession, sells, or puts off any counterfeit current copper coin at a lower rate of value than it imports or was apparently intended to import, or offers to do any such thing; is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

Any person who commits any such offence after having been previously convicted of any such offence is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

161. Any person who—

(1) Makes or begins to make any counterfeit copper coin; or
(2) Without lawful authority or excuse, the proof of which lies on him, knowingly makes or mends, or begins or prepares to make or mend, or has in his possession, and is adapted and intended for counterfeiting any current copper coin; or
(3) Buys, sells, receives, pays, or disposes of, any counterfeit copper coin at a lower rate of value than it imports or was apparently intended to import, or offers to do any such act; is guilty of an offence.

If the offence is committed with respect to current coin, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

If the offence is committed with respect to coin of a Foreign Prince or State, the offender is guilty of a misdemeanour, and is liable on conviction to imprisonment with hard labour for twelve months. If found committing the offence, he may be arrested without warrant.

If the offence is committed with respect to coin of a Foreign Prince or State, and the offender has been previously convicted of any such offence, he is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

162. Any person who—

(1) Utters any counterfeit current copper coin, knowing it to be counterfeit; or
Ib., 122. Any person who with intent to defraud utters and uses for current gold or silver coin—

(a) Any coin which is not current coin; or

(b) Any medal or piece of metal, or mixed metals resembling in size, figure, and colour the current coin as and for which it is uttered, but being of less value; is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding one year with or without hard labour and with or without solitary confinement.

20 Vic. No. 4, s. 15.

124. Any person who defaces any current coin by stamping thereon any name or words, whether the coin is or is not thereby diminished or lightened, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding one year with or without hard labour.

Ib., 128, supra.

164. Any person who, with intent to defraud, utters as and for current gold or silver coin—

(a) Any coin which is not current coin; or

(b) Any medal or piece of metal, whatever, whether a coin or not, which is of less value than the current coin as and for which it is uttered; is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year, with or without solitary confinement. A person found committing the offence may be arrested without warrant.

Uttering Foreign Coin, Medals, &c., as Current Coin with intent to Defraud.

Ib., s. 8.

165. Any person who, without lawful authority or excuse, the proof of which lies on him, exports or puts on board of a ship or boat, for the purpose of being exported from Queensland any counterfeit current coin whatever, knowing it to be counterfeit, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

Ib., s. 28 [44 Geo. 3, c. 139, s. 6].

166. Any person who, without lawful authority or excuse, to be proved by him, has in his possession more than five pieces of counterfeit coin of any foreign prince, state, or country, whether of gold or silver, or of any metal or mixture of metals of less value than the silver coin—

(2) Has in his possession three or more pieces of counterfeit current copper coin, knowing them to be counterfeit, and with intent to utter any of them; is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year, with or without solitary confinement. A person found committing the offence may be arrested without warrant.

Defacing Coin by Stamping Words thereon.

Having Possession of more than Five Pieces of Counterfeit Foreign Coin.
coin of that prince, state, or country, is liable on summary conviction before two justices to a fine not exceeding forty shillings and not less than ten shillings for every such counterfeit coin found in his possession, and to forfeiture of the counterfeit coin, which is to be destroyed by order of the justices.

In default of immediate payment of the fine he is liable to imprisonment with hard labour for the term of three months unless the fine is sooner paid.

20 Vic. No. 4, s. 17.

127. Any person who utters any gold, silver, or copper coin, which is defaced by the stamping of any names or words thereon, is liable on summary conviction before two justices to a fine not exceeding forty shillings.

But a prosecution for any such offence cannot be commenced without the consent of the Attorney-General.

A tender of payment in money made in any coin so defaced is not a legal tender.

State is guilty of an offence, and is liable on summary conviction to a fine not exceeding forty shillings and not less than ten shillings for every such counterfeit coin found in his possession, and to forfeiture of the counterfeit coin, which is to be destroyed by order of the justices.

In default of immediate payment of the fine, he is liable to imprisonment with hard labour for three months, unless the fine is sooner paid.

Tender of Defaced Coins not Legal Tender: Penalty for Uttering.

167. Any person who utters any current coin which is defaced by the stamping of any name or words thereon is guilty of an offence, and is liable on summary conviction to a fine of forty shillings.

A prosecution for any such offence cannot be commenced without the consent of a Crown Law Officer.

A tender of payment in money made in any coin so defaced is not a legal tender.

CHAPTER XIX.

OFFENCES RELATING TO POSTS AND TELEGRAPHS.

Definition of Terms.

168. In this Chapter—

The term "Post and Telegraph Department" means the Department of State under the control of the Postmaster-General charged with the execution of the laws relating to public posts and telegraphs;

The terms "Post Office" and " Telegraph Office," respectively, mean and include any house, building, room, place, or receptacle, of any kind, provided or appointed by authority of the Postmaster-General for the receipt, despatch, or delivery, of anything sent by post or telegraph, or for the transaction of the business of the Department relating to Posts and Telegraphs respectively;

The term "anything sent by post" includes any letter, newspaper, packet, or parcel, posted or received at a post office for delivery or transmission by post, or in course of transmission by post, and any mail bag, mail box, or mail parcel, sent or received or in course of transmission by post;

The term "letter" includes post-card and packet:

The term "post letter" means any letter or packet transmitted by post under the authority of the Postmaster-General;

A letter is deemed a post letter from the time of its being delivered to a post office to the time of its being delivered to the person to whom it is addressed; and a
The term "post letter-bag" includes a mail bag, or box, or parcel, or other envelope or covering in which post letters are conveyed, whether it does or does not contain post letters.

The term "mail" includes every conveyance of any kind by which post letters are carried, and also a person employed in conveying or delivering post letters, and also every vessel employed by or under the Post Offices of Great Britain or of the Colony of Queensland, or by or under the Authority for the transmission of post letters, and also a ship or vessel employed for the conveyance of post letters under contract, and also a ship of war or other vessel in the service of Her Majesty in respect of letters conveyed by it, and also any railway train in respect of letters conveyed by it.

The term "telegram" means and includes any written or printed or partly written and partly printed message delivered at a telegraph office or post office for transmission by electric telegraph, or delivered from a post office or telegraph office as a message transmitted by electric telegraph for delivery.

A delivery at the house or office of the person to whom anything sent by post is addressed, either to him or to some person apparently authorised to receive it according to the usual manner of delivering that person's letters or telegrams, is deemed a delivery to the person addressed.

A delivery at the house or office of the person to whom anything sent by post or telegraph is addressed, either to him or to some person apparently authorised to receive it according to the usual manner of delivering that person's letters or telegrams, is deemed a delivery to the person addressed.

The term "mail" includes anything sent by post which is in actual course of transmission from one place to another.

The term "mail conveyance" includes any conveyance of any kind by which a mail is carried, and also any vessel employed by or under the Post and Telegraph Department, or the Postal Authority of any other country, or the Admiralty, for the conveyance of mails, whether under contract or not, and also a ship of war or other vessel in the service of Her Majesty in respect of letters conveyed by it.
Tampering with Things sent by Post or Telegraph.

170. Any person who, being employed by or under the Post and Telegraph Department, does with respect to anything which is in course of transmission by post or telegraph any act which he is not authorised to do by virtue of his employment, or knowingly permits any other person to do any such act with respect to any such thing, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

Wilful Misdelivery of Things sent by Post or Telegraph.

171. Any person who, being employed by or under the Post and Telegraph Department, delivers it to a person other than the person to whom it is addressed, or his authorised agent in that behalf, is guilty of a misdemeanor, and is liable to imprisonment at the discretion of the Court.

Sequestration of Letters.

172. Any person who, being charged, by virtue of his employment, with the delivery of anything sent by post or telegraph, wilfully delivers it to a person other than the person to whom it is addressed, or his authorised agent in that behalf, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

Obtaining Letters by False Pretences.

173. Any person who wilfully sequesters or detains anything sent by post or telegraph which is found by him, or which ought to have been delivered to another person, is guilty of a misdemeanor, and is liable on conviction to a fine and imprisonment at the discretion of the Court.

Fraudulent Issue of Money Orders and Postal Notes.

174. Any person who by means of any false pretence induces any person employed by or under the Post and Telegraph Department to deliver to him anything sent by post or telegraph which is not addressed to him, is guilty of a misdemeanor, and is liable on conviction to imprisonment for one year.

451. Any person who unlawfully and with intent to defraud issues a money order or postal note is guilty of felony, and is liable on conviction to imprisonment for a term not exceeding seven years.
458. Any person who, with intent to defraud, sends or attempts to send, by post—
(a) Any thing which contains, or any message, telegram, or other communication or message, concerning a money order, or concerning any money due or recoverable in respect of a money order, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

176. Any person who, being employed by or under the Post and Telegraph Department, and being charged by virtue of his employment with any duty in connection with money orders, sends to any other person, with intent to defraud, any false or misleading letter, telegram, or message, concerning a money order, or concerning any money payable under a money order, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Sending Dangerous Things by Post.

177. Any person who knowingly sends, or attempts to send, by post—
(a) Anything which contains anything, whether living or inanimate, likely to injure any other thing in course of conveyance, or to injure any person; or
(b) Anything which contains an indecent or obscene print, painting, photograph, lithograph, engraving, book, card, or article, or has on it, or in it, or on its cover, any indecent, obscene, or grossly offensive words, marks, or designs,
is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding one hundred pounds, or to imprisonment for a term not exceeding twelve months with or without hard labour.

Retarding Delivery of Mail, &c.

178. Any person who—
(1) Being required by law or by virtue of his employment to do any act, with respect to the receipt, despatch, or delivery, of anything which is or may be transmitted by post or telegraph—
(a) Neglects or refuses to do such act; or
(b) Wilfully delays or contradicts, or permits the detention or delay of, any such thing; or
(2) Being employed by or under the Post and Telegraph Department, negligently loses anything sent by post or telegraph, or negligently delays any, or permits the detention or delay of, anything sent by post or telegraph;
is guilty of an offence, and is liable on summary conviction to a fine of one hundred pounds.
(3) Being a master of a ship arriving at a port in Queensland, makes a false declaration to the effect hereinbefore in this Article stated; or

(4) Being a postmaster, port officer, officer of Customs, master of a ship, or person duly authorized to receive or despatch anything sent by post, neglects or fails to despatch, or retards the despatch of, anything sent by post; or

(5) Being employed by or under the Post and Telegraph Department, negligently loses or wilfully detains or delays anything sent by post, or procures or suffers anything sent by post to be detained or delayed; or

(6) Being a master of a ship, postmaster, or person employed by or under a postmaster, or employed or authorized to receive, sort, carry, or deliver, anything sent by post, or otherwise employed in the business of the Department, offends against, or wilfully neglects or omits to comply with, any provisions of the laws relating to such Department, or of any Regulations made under those laws, for breach or neglect of which no other punishment is provided, or any arrangements duly made under the authority of those laws;

is liable on summary conviction before two justices to a fine not exceeding one hundred pounds.

55 Vic. No. 15, ss. 60, 63, 64, 66.

136. Any person who wilfully obstructs or retards the conveyance or delivery of a mail is liable on summary conviction before two justices to a fine not exceeding fifty pounds.

137. Any person who, being a driver of a vehicle used for the conveyance of mails, or a person in charge of a mail, whether conveyed by a vehicle, or on horseback, or on foot—

(1) Loiters on the road; or
(2) Wilfully misleads or loses time; or
(3) Is under the influence of intoxicating liquor; or
(4) Does not in all possible cases convey the mail at the speed fixed by the Postmaster-General for the conveyance thereof, unless prevented by the weather or the bad state of the roads, or by an accident, the proof whereof lies on the person charged;

is liable on summary conviction before two justices to a fine not exceeding ten pounds.

138. Any person who, with intent to defraud—

(1) Removes from a letter, parcel, or newspaper, which no post any stamp affixed thereon; or
(2) Removes from any stamp previously used, any mark made thereon at a post office; or

Obstructing Mails.

179. Any person who wilfully obstructs or delays the conveyance or delivery of a mail is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds.

Penalty on Mail-coach Driver or Guards

180. Any person who, being a driver of a vehicle used for the conveyance of mails, or being a person in charge of a mail, whether conveyed by a vehicle, or on horseback, or on foot—

(1) Loiters on the road; or
(2) Wilfully misleads or loses time; or
(3) Is under the influence of intoxicating liquor; or
(4) Does not convey the mail at the speed fixed by the Postmaster-General for the conveyance thereof, unless prevented by some cause beyond his control, the proof whereof lies on the person charged;

is guilty of an offence, and is liable on summary conviction to a fine of ten pounds.

Fraudulently Removing Stamps.

181. Any person who, with intent to defraud—

(1) Removes from anything sent by post any stamp affixed thereon; or
(3) Knowingly utters or uses an obliterated or defaced postage stamp;
liable on summary conviction before two justices to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding twelve months with or without hard labour.

On the trial of a person charged with the offence of using an obliterated or defaced postage stamp, proof that the person charged is the writer of the address of the letter, post, or newspaper, on which the stamp is affixed, is proved in evidence that he is the person who affixed the stamp.

55 Vic. No. 15, ss. 90, 97.

139. Any person who—

(1) Knowingly and fraudulently puts into a post office a packet in or upon which, or in or upon the cover whereof, there is any letter, communication, or intelligence, not allowed by law to be there placed; or

(2) Willfully subscribes on the outside of a packet a false statement of its contents; or

(3) Knowingly puts, or causes to be put, into a post office a newspaper, in or upon which, or in or upon the cover of which, there is any character, figure, letter, or number, other than some one or more of the following—that is to say, a mark to indicate a report, article, or paragraph therein, the printed title of the newspaper, the statement in print of the name, occupation, and place of business of the printer, publisher, and vendor, of the newspaper, the name, occupation, and address of the person to whom it is sent, the name of the sender, and the words "newspaper only"; or

(4) Knowingly puts, or causes to be put, into a post office a newspaper in which anything but a supplement is enclosed, or which is accompanied by anything but a supplement; or

(5) Willfully places the words "newspaper only" on any newspaper or thing purporting to be a newspaper, or on the cover thereof, knowing the words to be untrue;

is liable on summary conviction before two justices to a fine not exceeding fifty pounds and not less than one pound.

182. Any person who—

(1) Knowingly and fraudulently puts into a post office anything in or upon which, or in or upon the cover of which, there is any letter, newspaper, or other thing, or any writing or mark, not allowed by law to be there placed; or

(2) Willfully subscribes on the outside of anything sent by post a false statement of its contents; or

(3) Knowingly and fraudulently puts into a post office anything which falsely purports to be a thing falling within any exemption or privilege declared by the laws relating to Posts and Telegraphs;

is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for one year, or to a fine of fifty pounds.

Fraudulent Revision of Postal Laws.

(1) Knowingly and fraudulently puts into a post office anything in or upon which, or in or upon the cover of which, there is any letter, newspaper, or other thing, or any writing or mark, not allowed by law to be there placed; or

(2) Willfully subscribes on the outside of anything sent by post a false statement of its contents; or

(3) Knowingly and fraudulently puts into a post office anything which falsely purports to be a thing falling within any exemption or privilege declared by the laws relating to Posts and Telegraphs;

is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds.
55 Vic. No. 15', s. 86.

141. Any person who, not being an officer of the Post and Telegraph Department authorised to that effect—
(1) Sends or conveys a letter for hire or reward otherwise than by post; or
(2) For hire takes charge of a letter for conveyance;

is liable on summary conviction before two justices to a fine not exceeding fifty pounds.

Every letter sent, conveyed, or taken charge of, to be conveyed otherwise than by post is deemed to have been so sent, conveyed, or taken charge of, for hire or reward, until the contrary is proved.

This Article does not extend to a letter exceeding the prescribed weight, nor to a letter concerning goods sent and to be delivered with it, or containing process of, or proceedings or pleadings in, a court of justice, briefs, causes or instructions for counsel and their opinions thereon respectively, or containing any deed, affidavit, or letter of attorney, nor to a letter sent by a person concerning his private affairs by a special messenger, nor to a letter sent or carried to or from the nearest post office.

Carrying Letters otherwise than by Post.

183. Any person who, not being authorised by the Postmaster-General to do so—
(1) Sends or conveys a letter for hire or reward otherwise than by post; or
(2) Takes charge of a letter for conveyance for hire or reward;

is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds.

Every letter sent, conveyed, or taken charge of, to be conveyed otherwise than by post, is deemed to have been so sent, conveyed, or taken charge of, for hire or reward, until the contrary is proved.

This section does not extend to a letter exceeding the weight prescribed by law for letters sent by post, nor to a letter concerning goods sent and to be delivered with it, or containing process of, or proceedings or pleadings in, a court of justice, briefs or causes or instructions for counsel and their opinions thereon, or containing any deed, affidavit, or power of attorney, nor to a letter sent by a special messenger and concerning the private affairs of the sender, nor to a letter sent or carried to or from the nearest post office.

Illegally making Postal Envelopes or Setting up Post Office or Office for Sale of Stamps, or Obstructing Post Office.

184. Any person who—
(1) Without lawful authority or excuse, the proof of which lies on him—
(a) Makes any envelope, wrapper, card, form, or paper, in imitation of one issued by or under the authority of the Postmaster-General of Queensland or of any other part of Her Majesty's dominions, or by or under the direction of any foreign or colonial postal authority, or bearing thereon any words, letters, or marks, which signify or imply, or may reasonably lead the recipient to believe, that a letter, packet, parcel, or newspaper bearing the same is sent on Her Majesty's service, or on the public service of a foreign country; or
(b) Makes on any envelope, wrapper, card, form, or paper, for the purpose of being issued or sent by post or otherwise, or otherwise issued, any mark in imitation of or similar to, or purporting to be, any stamp or mark of any post office under the Postmaster-General of Queensland or of any other part of Her Majesty's dominions, or under any foreign or colonial postal authority, or any words, letters, or marks which signify or imply, or may reasonably lead the recipient thereof to believe, that a letter, packet, parcel, or newspaper bearing the same is sent on Her Majesty's service, or on the public service of a foreign country; or
(c) Issues or sends by post or otherwise, any envelope, wrapper, card, form, or paper, so marked; or

(2) Without the authority of the Postmaster-General, to be proved by the person charged—

(d) Places or maintains, or permits or causes to be placed or maintained, or to remain in, on, or near, any place belonging to him or under his control, the words “post office,” or any other word or mark which may imply or give reasonable cause to believe that the same is a post office, or a place for the receipt of letters, or that any box is a post office letter box; or

(e) Places, or permits or causes to be placed or to remain, on any vehicle the words “Royal mail,” or any word or mark which may imply or give reasonable cause to believe that the vehicle is used for the conveyance of mails; or

(3) Without the license of the Postmaster-General, to be proved by the person charged—

(f) Sells, offers, or exposes for sale any postage stamp; or

(g) Places, or causes or permits to be placed or to remain, on or near to his house or premises, the words “licensed to sell stamps,” or any word or mark which may imply or give reasonable cause to believe that he is duly licensed to sell postage stamps.

is liable on summary conviction before two justices to a fine not exceeding five pounds.

is guilty of an offence, and is liable on summary conviction to a fine of five pounds.
Any person who—

(1) Wilfully obstructs or incites anyone to obstruct an officer of the Post and Telegraph Department in the execution of his duty; or

(2) Being in a post or telegraph office, or within any premises belonging to a post or telegraph office, or used therewith, wilfully obstructs the course of business of the post or telegraph office, or of the Post and Telegraph Department;

is liable on summary conviction before two justices to a fine not exceeding twenty pounds.

Any person who—

(1) Wilfully obstructs or incites anyone to obstruct an officer of the Post and Telegraph Department in the execution of his duty; or

(2) Being in a post or telegraph office, or within any premises belonging to a post or telegraph office, or used therewith, wilfully obstructs the course of business of the post or telegraph office, or of the Post and Telegraph Department;

is liable on summary conviction before two justices to a fine not exceeding twenty pounds.

Any person who—

(1) Wilfully obstructs a person employed by or under the Post and Telegraph Department in the execution of the duties of his employment; or

(2) Being in a post office or telegraph office, or within any premises appertaining to a post office or telegraph office, or used therewith, wilfully obstructs the business of the office;

is guilty of an offence, and is liable on summary conviction to a fine of twenty pounds.
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55 Vic. No. 15. s. 121.

148. Any person who unlawfully or maliciously—
(1) Cuts, breaks, throws down, injures, or removes, any part of any apparatus used or employed in or about or in the working of an electric telegraph under the control of the Postmaster-General; or
(2) Prevents or obstructs the sending or delivering of a communication by any such telegraph;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

Any justice before whom a person is charged with any such offence may, if he thinks fit, deal with the charge summarily; and in that case the offender is liable on summary conviction to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months.

149. Any person who attempts to commit any of the offences defined in Articles 148 and 149 may, with or without warrant, be apprehended by any other person and delivered to a constable or officer of police, or conveyed before a justice to be dealt with according to law.

150. Any person who negligently breaks or injures any post, wire, or material, belonging to or used in connection with an electric telegraph under the control of the Postmaster-General, is liable on summary conviction before two justices to a fine not exceeding two pounds.

151. Any person who, being employed in a telegraph office, divulges the contents or substance of a telegram otherwise than by delivering the telegram or giving a copy of it, to some person to whom he is authorised to deliver the telegram or give the copy, is liable on summary conviction before two justices to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months with or without hard labour.

189. Any person who wilfully and unlawfully—
(1) Destroys, damages, or removes, any part of any apparatus used in the working of, or in connection with, an electric telegraph under the control of the Postmaster-General; or
(2) Prevents or obstructs the sending or delivering of a communication by any such telegraph;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Any justice before whom a person is charged with any such offence may, if he thinks fit, direct the charge to be dealt with summarily; and in that case the offender is liable on summary conviction to imprisonment for three months, or to a fine of twenty pounds.

A person found committing or attempting to commit any such offence may be arrested without warrant.

190. Any person who attempts to commit any of the offences defined in the last preceding section, is guilty of an offence, and is liable on summary conviction to imprisonment for three months, or to a fine of ten pounds.

191. Any person who negligently destroys or damages any post, wire, or material, used in connection with an electric telegraph under the control of the Postmaster-General, is guilty of an offence, and is liable on summary conviction to imprisonment for a fine of two pounds.

192. Any person who, being employed in a telegraph office, publishes or communicates the contents or substance of a telegram, except to some person to whom he is authorised to deliver the telegram, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for six months, or to a fine of one hundred pounds.
85 Vic. No. 15, s. 120.

152. Any person who, having entered into an agreement with the Postmaster-General for the use by such person of a telegraph line, demands or receives any payment or valuable consideration from any other person for the use of the same, is liable on summary conviction before two justices to a fine not exceeding fifty pounds and not less than two pounds.

87, s. 120.

153. Any person who, without the authority of the Postmaster-General, to be proved by the person charged—
(1) Sets up, maintains, or uses a telegraph line in or on any lands of the Crown, or in or on any public road, street, or highway; or
(2) Wilfully uses a telegraph line that has been set up in or on any such place after the first day of January, 1892;
and in either case neglects to comply with a notice from the Postmaster-General to pay such charges, if any, in respect of the line as may from time to time be fixed by the Governor in Council, is liable on summary conviction before two justices to a fine not exceeding five pounds for every day during which the line continues to be so set up, maintained, or used.

The Postmaster-General may at any time authorise any person to take absolute possession of, and to cut down and destroy, the whole or any part of any telegraph line that has been set up in or on any such place after the said first day of January, 1892.

154. Any person who wilfully obstructs or delays any person duly authorised by the Postmaster-General to enter into a post office or telegraph office and to take possession of anything therein belonging or appertaining to the Post and Telegraph Department, in so entering or taking possession, or in remaining in the post office (or telegraph office), or on the premises where the post office (or telegraph office) is situated, for a reasonable time for that purpose, is liable on summary conviction before two justices to a fine not exceeding twenty pounds.

Making Charges for Use of Telegraph Line without Authority.

193. Any person who, having become entitled under an agreement with the Postmaster-General to the use of a telegraph line, demands or receives any payment or valuable consideration from any other person for the use of the line, is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds.

Fencing or Maintenance of Telegraph Lines without Authority.

194. Any person who, without the authority of the Postmaster-General, the proof of which lies on the person charged—
(1) Sets up, maintains, or uses, a telegraph line on any Crown lands, or on any public road, street, or highway; or
(2) Knowingly uses a telegraph line that has been set up in or on any such lands or place;
and in either case neglects to comply with a notice from the Postmaster-General to pay such charges, if any, in respect of the line as may from time to time be fixed by the Governor in Council, is guilty of an offence, and is liable on summary conviction to a fine of five pounds for every day during which the line continues to be so set up, maintained, or used.

The Postmaster-General may at any time authorise any person to take absolute possession of, and to cut down and destroy, the whole or any part of any telegraph line that has been set up in or on any such lands or place.

Obstructing Possession of Post and Telegraph Officers, &c.

195. Any person who wilfully obstructs or delays any person duly authorised by the Postmaster-General to enter into a post office or telegraph office, and to take possession of anything therein which belongs or appertains to the Post and Telegraph Department, in so entering or taking possession, willfully interferes with any such person who has so entered while he is remaining in the post office or telegraph office, or on the premises where the post office or telegraph office is situated, for a reasonable time for the purpose of taking such possession, is guilty of an offence, and is liable on summary conviction to a fine of twenty pounds.
195. Any person who resists any person who is acting in execution of the laws relating to Posts and Telegraphs is liable on summary conviction to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding two months with or without hard labour.

29 Vic. No. 13, s. 61.

86. Any person who subscribes a certificate or declaration as to the execution of a judgment of death, knowing it to be false or to contain any false statement, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fifteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

8 Geo. 4, No. 2, s. 7; 5 Wm. 4, No. 21, s. 6; 6 Vic. No. 13, s. 9; 7 Vic. No. 10, s. 27; 8 Vic. No. 13, s. 20; 31 Vic. No. 7, s. 3; 31 Vic. No. 83, s. 2; 33 Vic. No. 10, s. 76; 35 Vic. No. 12, s. 3; 38 Vic. No. 12, s. 44; 80 Vic. No. 2, s. 10.

[87. Any person who]

(7) Being required to make a statement on oath or solemn affirmation under the provisions of the laws relating to the solanisation of marriages willfully makes a false statement on such oath or affirmation; or

(8) Willfully makes a false statement in any statement made on oath under the provisions of the laws relating to the registration of deeds or claims to grants (7 Vic. No. 16, 5 Wm. 4 No. 21); or

(9) Being required to make a declaration under 'The Pastoral Leases Act of 1869,' makes a false declaration; or

(10) Willfully and corruptly makes a false statement in an affidavit used or intended to be used in the renewal of a lease or crop; or

(11) Being registered under the Act of the Parliament of the United Kingdom entitled "An Act to Regulate the Qualifications of Practitioners in Medicine and Surgery," makes a false declaration in verification of his claim to be registered as a medical practitioner in Queensland; or

(12) Being required to make and subscribe a declaration under the laws relating to the census, makes and subscribes a false declaration; or

CHAPTER XX.

MISCELLANEOUS OFFENCES AGAINST PUBLIC AUTHORITY.

False Declaration as to Execution of Sentence of Death.

196. Any person who resists a person employed by or under the Post and Telegraph Department while engaged in the execution of his duty under the laws relating to Posts and Telegraphs is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for three months, or to a fine of twenty pounds.

197. Any person who subscribes a certificate or declaration as to the execution of a sentence of death, which is, to his knowledge, false in any material particular, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

False Statements required to be under Oath or Solemn Declaration.

198. Any person who, on any occasion on which a person making a statement touching any matter is required by law to make it on oath or under some sanction which may by law be substituted for an oath, or is required to verify it by solemn declaration or affirmation, makes a statement touching such matter which is, to his knowledge, false in any material particular, and verifies it on oath or under such other sanction or by solemn declaration or affirmation, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.
(17) Being lawfully examined on oath before the Auditor-General, wilfully and corruptly gives
false evidence in the course of the examination; or
(18) After the expiration of sixty days and before
the expiration of three years after the birth of
a child born in Queensland, or within three
years after the arrival in Queensland of a child
under the age of eighteen months, makes appli-
cation to register the birth of the child, and in
the solemn declaration accompanying the appli-
cation, wilfully makes any false statement con-
cerning anything required to be set forth in
it; or
(21) Makes an affidavit or affirmation required to be
made under the laws relating to printing, and
knowingly and wilfully makes in the affidavit
any false statement concerning anything
required by law to be set forth in it, or
knowingly and wilfully omits from the affidavit
a true statement of anything required by law
to be set forth in it; or
(22) Being a managing director, manager, chief
cashier, or clerk, of
a
banking company or
banker, takes a false oath
as to any quarterly
abstract of averages or
other matter as to
which an oath is required to be taken under
the provisions of the laws relating to the
publication of the liabilities and assets of
banks (4 Vic. No. 13);
[is guilty, &c.]
31 Vic. No. 12, ss. 11, 18, 16.
90. Any person who wilfully and corruptly makes a
false declaration in any case in which by law a decla-
ation is authorised to be made, whether in substitution for an
oath or otherwise, knowing the same to be untrue in any
material particular, is guilty of a misdemeanour, and is
liable on conviction to fine and imprisonment at the
discretion of the Court.
20 Vic. No. 15, § 33.
92. Any person who, being a trustee of a cemetery
under the "Cemetery Act 1895," wilfully makes, in a
statutory declaration verifying the account and abstract of
account of the receipts and expenditure of the trustees of
the cemetery for any year, a statement which is false as to
any material particular in the account, is guilty of a
misdemeanour, and is liable on conviction to fine
and imprisionment at the discretion of the Court.
55 Vic. No. 17, s. 20.
93. Any person who, being a member of a registered
friendly society, or registered branch of a friendly society,
or a person claiming through a member of any such society
or branch, and being required by the society or branch to
make a statutory declaration that the total amount to
which he is entitled from one or more of such societies or
branches does not exceed two hundred pounds by way of
a gross sum, together with any bonuses or additions
declared upon assurances not exceeding that amount, nor
fifty pounds a year by way of annuity from any one or
more of such societies or branches, nor two pounds a week
by way of allowance from any one or more of such societies
or branches, knowingly makes a false or fraudulent decla-
ration touching the matter, is guilty of a misdemeanour,
and is liable on conviction to fine and imprisonment at the
discretion of the Court.

**False Declarations and Statements.**

199. Any person who, on any occasion on
which he is permitted or required by law to
make a statement or declaration before any
person authorised by law to permit it to be
made before him, makes a statement or decla-
ration before that person which is, to his know-
ledge, false in any material particular, is guilty
of a misdemeanour, and is liable to imprison-
ment with hard labour for three years.
204. Any person who, within the territorial jurisdiction of Queensland—

(1) Maliciously shoots at a vessel or boat belonging to Her Majesty's navy or in the service of the Revenue; or

(2) Maliciously shoots at, maims, or wounds, any officer of the navy or marines on full pay, or any officer of Customs or any person acting in his aid or assistance or duly employed for the

Evidence.

200. A person cannot be convicted of any of the offences defined in the two last preceding sections upon the unaccompanied testimony of one witness.

Shooting at Customs Boats or Officers.

201. Any person who—

(1) Shoots at a vessel of any kind which is in use by an officer of Customs while engaged in the execution of his duty as such officer; or

(2) Shoots at, wounds, or causes any grievous bodily harm to, an officer of Customs while engaged in the
prevention of smuggling, while such officer or person is engaged in the execution of his duty in the prevention of smuggling; is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fifteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

37 Vic. No. 1, s. 102.

42. Any person who with force assaults, resists, opposes, molests, hinders, or obstructs an officer of Customs, or any person acting in his aid, or any other person employed for the prevention of smuggling, whilst in the execution of his duty, is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding two years with or without hard labour.

78, s. 102.

160. Any person who—

(1) Assails or obstructs an officer of the navy or marines on full pay, or an officer of the Customs, or any person acting in aid of any such officer, or any person duly employed for the prevention of smuggling, while such officer or person is engaged in the execution of his duty under any law relating to the Customs, or in the due seizure of any goods liable to forfeiture under any such law; or

(2) Rescues or attempts to rescue any goods which have been seized under any such law, or causes or attempts to cause any such goods to be rescued; or

(3) Before, at, or after the seizure of any goods under any such law, staves, breaks, or destroys the goods with intent to prevent the seizure or the sequestration of the goods, or attempts to do so;

is liable on summary conviction, before two justices to a fine not exceeding one hundred pounds and not less than ten pounds.

30 Vic. No. 21, s. 11.

156. Any person who assails, resists, molests, hinders, or obstructs, an inspector of distilleries, or any assistant of an inspector of distilleries, in the execution of his duty, is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding two hundred pounds, or to penal servitude for a term of three years, or to imprisonment for a term not exceeding two years with or without hard labour.

5 Wiv. & No. 1, s. 12.

157. Any person who obstructs or hinders a justice, inspector, or constable, and thereby prevents him from entering any premises licensed as a place for slaughtering cattle for the purpose of examining any cattle or skins, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

execution of his duty in the prevention of smuggling, or any person acting in aid of an officer of Customs while so engaged; is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Resisting Officers engaged in Preventing Smuggling.

202. Any person who with violence assaults, obstructs, or resists, an officer of Customs, or any person duly employed for the prevention of smuggling, while engaged in the execution of his duty in the prevention of smuggling, or any person acting in aid of any such officer or person while so engaged, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Resisting Customs Officers.

203. Any person who—

(1) Assails or obstructs an officer of Customs, or any person duly employed for the prevention of smuggling, while engaged in the execution of his duty under any law relating to the Customs, or in the due seizure of any goods liable to forfeiture under any such law, or any person acting in aid of any such officer or person while so engaged; or

(2) Rescues or attempts to rescue any goods which have been seized under any such law, or causes or attempts to cause any such goods to be rescued; or

(3) Before, at, or after the seizure of any goods under any such law, staves, breaks, or destroys, the goods with intent to prevent the seizure or the sequestration of the goods, or attempts to do any such act;

is guilty of an offence, and is liable on summary conviction to a fine of one hundred pounds.

Resisting Public Officers.

204. Any person who in any manner obstructs or resists any public officer while engaged in the discharge or attempted discharge of the duties of his office, or obstructs or resists any person while engaged in the discharge or attempted discharge of any duty imposed on him by law, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.
158. Any person who hinders or obstructs any justice, superintendent of water police, officer of Customs, constable, or water police constable, or any assistant of either, while searching for or endeavouring to secure any person on board, or reasonably suspected to be on board, of any vessel in any port, or in any house or place in which such port, town, or place, the Act of & Vic. No. 17 is in force; or

(2) Resists or attempts to resist any such person as is in this Article mentioned.

is guilty of a misdemeanour, and is liable on conviction to fine at the discretion of the Court or to imprisonment for a term not exceeding six months, or to both punishments. Caparo New York Penal Code, s. 126.

Refusal by Public Officer to Perform Duty.

205. Any person who, being employed in the Public Service, or as an officer of any court or tribunal, wilfully and without lawful excuse omits or refuses to do any act which he is bound to do by virtue of his employment is guilty of a misdemeanour, and is liable to imprisonment for two years, and to be fined at the discretion of the Court.

Neglect of Officers to Suppress Riot.

206. Any person who, being a sheriff, under sheriff, justice, mayor, or police officer, and having notice that there is a riot in his neighbourhood, without reasonable excuse omits to do his duty in suppressing such riot, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Neglect to aid in Suppressing Riot.

207. Any person who, having reasonable notice that he is required to assist any sheriff, under sheriff, justice, mayor, or police officer, in
Any person who, having charge of any waterworks, the property of a Water Authority, refuses on lawful demand to give up peaceable and quiet possession thereof to any person entitled to possession, is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding two hundred pounds and to imprisonment for a term not exceeding twelve months.

A prosecution for the offence defined in this Article must be begun within six months after the offence is committed.

Probable Misdemeanour at Common Law.

It., s. 118.
PART IV.—ACTS INJURIOUS TO THE PUBLIC IN GENERAL.

CHAPTER XXI.

OFFENCES RELATING TO RELIGIOUS WORSHIP.

Offering Violence to Officiating Ministers of Religion.

212. Any person who—

(1) By threats or force prevents or attempts to prevent any minister of religion from lawfully officiating in any place of religious worship, or from performing his duty in the lawful burial of the dead in any cemetery or other burial place; or

(2) By threats or force obstructs or attempts to obstruct any minister of religion while so officiating or performing his duty; or

(3) Assails, or, upon or under the pretence of executing any civil process, arrests, any clergyman or other minister of religion who is engaged in or to the knowledge of the offender about to engage in any of the rites or duties in this Article mentioned, or who to the knowledge of the offender is going to perform the same or returning from the performance thereof;

is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding two years with or without hard labour.

Compares Italian Penal Code, ss. 141, 142.

214. Any person who wilfully and without lawful justification or excuse, the proof of which lies on him, disquiets or disturbs any meeting of persons lawfully assembled for religious worship, or assaults any person lawfully officiating at any such meeting, or any of the persons there

(1) It is conceived that the text represents modern sentiment, with regard to the extent to which prejudice of religious feeling should be protected by the Criminal Law from public attacks upon their creeds. It may be compared with Act, 343 (q. 96), which it is not proposed to rescind, and which represents the sentiment of two hundred years ago.
Any person who, having been educated in, or having at any time made profession of, the Christian religion in Queensland—

(1) Asserts by writing, printing, or advising speaking, that there are more Gods than one; or
(2) Denies, by writing, printing, or advising speaking, the truth of the Christian religion or the Divine authority of the Holy Scriptures of the Old and New Testament;

is guilty of a misdemeanour, and is, upon conviction, to be adjudged incapable of holding any civil or military office, place, or employment, or any profit or advantage appertaining to any such office, place, or employment; and if he holds any such office, place, or employment, it becomes void.

Any person who commits any such offence after having been previously convicted of any such offence is liable on conviction to imprisonment for the term of three years, and is for ever disabled from suing in any court of justice, and from acting as an executor or administrator or guardian, and from receiving any legacy or deed of gift, and from holding any civil or military office.

The case of a first conviction the offender is discharged from all penalties and disabilities incurred by his conviction upon his acknowledging or renouncing the court in which he was convicted, within four months after the conviction, his offence or his erroneous opinion.

A person cannot be prosecuted under this Article for words spoken, unless information of the words is given on oath before a justice within four days after they are spoken, and the prosecution is begun within three months after such information is given.

A person cannot be convicted of any of the offences defined in this Article except upon the evidence of two witnesses.

20 Vic. No. 11, s. 92.

162. Any person who—

(1) Has carnal knowledge of any person against the order of nature; or
(2) Has carnal knowledge of an animal; or
(3) Permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than ten years.

assembled, is guilty of an offence, and is liable, on summary conviction to imprisonment for two months, or to a fine of five pounds.

CHAPTER XXII.

OFFENCES AGAINST MORALITY.

Unnatural Offences.

215. Any person who—

(1) Has carnal knowledge of any person against the order of nature; or
(2) Has carnal knowledge of an animal; or
(3) Permits a male person to have carnal knowledge of him or her against the order of nature;

is guilty of a crime, and is liable to imprisonment with hard labour for life.
183. Any person who attempts to commit any of the offences defined in the last preceding Article is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding ten years and not less than three years, or to imprisonment for a term not exceeding two years, or without hard labour.

56 Vic. & 4th s. 2. 219. In public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Deftlement of Girls under Twelve. 219. Any person who has unlawful carnal knowledge of a girl under the age of twelve years is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without whipping.

Provided that in the case of an offender whose age does not exceed sixteen years, if, having regard to his age and all the circumstances of the case, it appears expedient, the Court, instead of sentencing him to any term of penal servitude or imprisonment, may, in addition to the sentence of whipping, or without such sentence, order him to be sent to an industrial or reformatory school, and to be there detained for a period not exceeding three years and not less than two months.

A prosecution for either of the offences defined in this Article must be begun within two months after the offence is committed.

A person cannot be convicted of either of the offences defined in this Article upon the evidence of one witness only, unless such evidence is corroborated in some material particular by other evidence implicating the accused person.
A person cannot be convicted of either of the offences defined in this section upon the uncorroborated testimony of one witness.

The wife of the accused person is a competent but not a compellable witness.

Householder permitting Defilement of Young Girls on his Premises.

230. Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control of any premises, induces or knowingly permits any girl of such age as is in this section mentioned to resort to or be in or upon such premises for the purpose of being unlawfully carnally known by any man, whether such carnal knowledge is intended to be had by any particular man or not, is guilty of a criminal offence.

(1) If the girl is under the age of twelve years, he is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without whipping.

(2) If the girl is under the age of fourteen years, and of or above the age of twelve years, he is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without whipping.

It is a defence to a charge of any of the offences defined in this Article to prove that the accused person believed and had reasonable cause to believe that the girl was of or above the age of fourteen years.

Attempt to Abuse Girls under Ten.

231. Any person who attempts to have unlawful carnal knowledge of a girl under the age of ten years is guilty of a crime, and is liable to imprisonment with hard labour for ten years, with or without whipping, which may be inflicted once, twice, or thrice.

The offender cannot be arrested without warrant.

The wife of the accused person is a competent but not a compellable witness.

Defilement of Girls between Twelve and Fourteen and of Idiots.

232. Any person who—

(1) Has or attempts to have unlawful carnal knowledge of a girl under the age of fourteen years and of or above the age of twelve years; or
(2) Has or attempts to have unlawful carnal knowledge of a female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile;

signify of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

It is a defence to a charge of the offence firstly defined in this Article to prove that the accused person believed at the time of the commission of the offence that the girl was of or under the age of fourteen years.

A prosecution upon a charge of the offence firstly defined in this Article must be begun within two months after the offence is committed.

55 Vic. No. 24, s. 10.

36 Vic. No. 11, ss. 52, 70; 55 Vic. No. 24, s. 21.

235. Any person who indiscreetly assaults a girl under the age of twelve years is guilty of a misdemeanor, and is liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour, and with or without whipping, which may be inflicted once, twice, or thrice.

The consent of the girl is not a defence to the charge.

236.

Upon a charge of indecently assaulting a female under the age of fourteen years, her consent is not a defence.

55 Vic. No. 24, s. 10.

186. Any person who—

(1) Procures a girl or woman under twenty-one years of age, and not being a common prostitute or of known immoral character, to have unlawful carnal connection, either within or beyond Queensland, with any man; or

(2) Procures a woman or girl to become, either within or beyond Queensland, a common prostitute; or

(3) Procures a woman or girl to leave Queensland, with intent that she may become an inmate of a brothel elsewhere; or

(4) Procures a woman or girl to leave her usual place of abode in Queensland, such place not being a brothel, with intent that she may, for the purposes of prostitution, become an inmate of a brothel within or beyond Queensland; or

(5) Attempts to procure any such act to be done;

is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

A person cannot be convicted of any of the offences defined in this Article upon the evidence of one witness.

(2) Knowing a woman or girl to be an idiot or imbecile, has or attempts to have unlawful carnal knowledge of

her;

is guilty of a misdemeanor, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of either of the offences firstly defined in this section to prove that the accused person believed on reasonable grounds, that the girl was of or under the age of fourteen years.

A prosecution for the offence firstly defined in this section must be begun within two months after the offence is committed.

The wife of the accused person is a competent but not a compellable witness.

Indecent Treatment of Girls under Fourteen.

223. Any person who unlawfully and indecently deals with a girl under the age of fourteen years is guilty of a misdemeanor, and is liable to imprisonment with hard labour for two years.

If the girl is under the age of twelve years, he is liable to imprisonment with hard labour for three years, with or without whipping, which may be inflicted once, twice, or thrice.

It is a defence to a charge of the offence defined in this section to prove that the accused person believed, on reasonable grounds, that the girl was of or under the age of fourteen years.

The wife of the accused person is a competent but not a compellable witness.

Prosecution.

224. Any person who—

(1) Procures a girl or woman who is under the age of twenty-one years, and is not a common prostitute or of known immoral character, to have unlawful carnal connection with a man, either in Queensland or elsewhere; or

(2) Procures a woman or girl to become a common prostitute, either in Queensland or elsewhere; or

(3) Procures a woman or girl to leave Queensland, with intent that she may become an inmate of a brothel elsewhere; or

(4) Procures a woman or girl to leave her usual place of abode in Queensland, such place not being a brothel, with intent that she may, for the
only, unless such evidence is corroborated in some material particulars by other evidence implicating the accused person.

55 Vic. No. 24, s. 18.

169. Any person who—

(1) By threats or intimidation procures or attempts to procure a woman or girl to have unlawful carnal connection, either within or beyond Queensland; or

(2) By false pretences or false representations procures a woman or girl, not being a common prostitute or of known immoral character, to have unlawful carnal connection, either within or beyond Queensland; or

(3) Applies or administers to a woman or girl, or causes a woman or girl to take, any drug or other thing with intent to stupefy or overpower her so as thereby to enable any man to have unlawful carnal connection with her;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

A person cannot be convicted of any of the offences defined in this Article upon the evidence of one witness only, unless such evidence is corroborated in some material particulars by other evidence implicating the accused person.

170. Any person who, with intent that an unmarried girl under the age of eighteen years may be unlawfully carnally known by any man, whether such carnal knowledge is intended to be had by any particular man or not, takes her or causes her to be taken out of the possession and against the will of her father or mother, or any other person having the lawful care or charge of her, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

It is a defence to a charge of any of the offences defined in this Article to prove that the accused person believed and had reasonable cause to believe that the girl was of or above the age of eighteen years.

purposes of prostitution, become an inmate of a brothel, either in Queensland or elsewhere;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of one witness.

The husband or wife of the accused person is a competent but not a compellable witness.

Procuring Detestament of Woman by Threats, or Fraud, or Administering Drugs.

225. Any person who—

(1) By threats or intimidation of any kind procures a woman or girl to have unlawful carnal connection with a man, either in Queensland or elsewhere; or

(2) By any false pretences procures a woman or girl, who is not a common prostitute or of known immoral character, to have unlawful carnal connection with a man, either in Queensland or elsewhere; or

(3) Administers to a woman or girl, or causes a woman or girl to take, any drug or other thing with intent to stupefy or overpower her in order to enable any man, whether a particular man or not, to have unlawful carnal knowledge of her;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of one witness.

The husband or wife of the accused person is a competent but not a compellable witness.

Abduction of Girl under Eighteen with intent to have Carnal Knowledge.

226. Any person who, with intent that an unmarried girl under the age of eighteen years may be unlawfully carnally known by any man, whether a particular man or not, takes her or causes her to be taken out of the possession of her father or mother, or any other person having the lawful care or charge of her, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of any of the offences defined in this section to prove that
171. Any person who—

(1) Detains a woman or girl against her will in or upon any premises with intent that she may be unlawfully carnally known by any man, whether such carnal knowledge is intended to be had by any particular man or not; or

(2) Detains a woman or girl against her will in a brothel;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding five years with or without hard labour.

When a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connection, or is in a brothel, a person is deemed to detain such woman or girl in or upon such premises or in such brothel, if, with intent to compel or induce her to remain in or upon the premises or in the brothel, he withholds from her any wearing apparel or other property belonging to her, or, if after wearing apparel has been lent or otherwise supplied to the woman or girl, by or by the direction of such person or any other person, he threatens the woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, either civil or criminal, can be taken against a woman or girl for taking away or being found in possession of any such wearing apparel as is necessary to enable her to leave a brothel or any premises in or upon which she is for such purpose as aforesaid.

18, s. 19.

Unlawful Detention with Intent to Defile or in a Brothel.

227. Any person who—

(1) Detains a woman or girl against her will in or upon any premises in order to her being unlawfully carnally known by any man, whether a particular man or not; or

(2) Detains a woman or girl against her will in a brothel;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

The husband or wife of the accused person is a competent but not a compellable witness.

When a woman or girl is in or upon any premises in order to her being unlawfully carnally known by any man, whether a particular man or not, or is in a brothel, a person is deemed to detain such woman or girl in or upon such premises in order to her being so unlawfully carnally known, or to detain her in such brothel, if, with intent to compel or induce her to remain in or upon the premises or in the brothel, he withholds from her any wearing apparel or other property belonging to her, or if, after wearing apparel has been lent or otherwise supplied to the woman or girl by or by the direction of such person or any other person, he threatens the woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

It is lawful for a woman or girl to take any such wearing apparel as may be necessary to enable her to leave a brothel or any premises in or upon which she is in order to her being unlawfully carnally known by any man.

Conspiracy to Defile.

228. Any person who conspires with another to induce any woman or girl, by means of any false pretence or other Insubstantial means, to permit any man to have unlawful carnal knowledge of her is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Incest by Man.

229. Any person who carnally knows a woman or girl who is, to his knowledge, his
descendant, or his sister, is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years.

(2.) Any person who attempts to have carnal knowledge of a woman or girl who is his knowledge, his daughter or other lineal descendant, or his sister, or assaults any woman or girl with intent to have unlawful carnal knowledge of her, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding ten years.

It is not a defence to a charge of any of the offences defined in this Article that the carnal knowledge was had, or that the attempt or assault with intent to have carnal knowledge was made, with the consent of the woman or girl.

63 Vict. No. 24, s. 10.

173. Any woman or girl of or above the age of eighteen years who permits her father or other lineal ancestor, or her brother, to have carnal knowledge of her, knowing him to be her father or other lineal ancestor, or her brother, as the case may be, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding five years.

It is a defence to a charge of the offence defined in this Article that the woman or girl was, at the time when she permitted her father or other lineal ancestor, or her brother, to have carnal knowledge of her, acting under his coercion.

Ib., s. 19.

28 Vict. 11, s. 59.

174. Any person who—

(1) Being a woman with child, unlawfully and with intent to procure her own miscarriage, administers to herself any poison or other noxious thing, or uses any instrument or other means whatever; or

(2) Unlawfully and with intent to procure the miscarriage of any woman, whether she is or is not with child, administers to her or causes her to take any poison or other noxious thing, or uses any instrument or other means whatever;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

Ib., s. 60.

[207. Any person who—

(3) Unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing
dughter or other lineal descendant, or his sister, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Any person who attempts to have carnal knowledge of a woman or girl who is, to his knowledge, his daughter or other lineal descendant, or his sister, is guilty of a crime, and is liable to imprisonment with hard labour for ten years.

It is immaterial that the carnal knowledge was had, or that the attempt was made, with the consent of the woman or girl.

The wife of the accused person is a competent but not a compellable witness.

Incest by Adult Female.

230. Any woman or girl of or above the age of eighteen years who permits her father or other lineal ancestor, or her brother, to have carnal knowledge of her, knowing him to be her father or other lineal ancestor, or her brother, as the case may be, is guilty of a crime, and is liable to imprisonment with hard labour for five years.

It is a defence to a charge of the offence defined in this section that the woman or girl was, at the time when she permitted her father or other lineal ancestor, or her brother, to have carnal knowledge of her, acting under his coercion.

The husband of the accused person is a competent but not a compellable witness.

Attempts to Procure Abortion.

231. Any person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement.

The like by Woman with Child.

232. Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other meanswhatever, or permits any such thing or means to be administered or used to her, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Supplying Drugs or Instruments to Procure Abortion.

233. Any person who unlawfully supplies to or procures for any person any thing whatever, knowing that it is intended to be unlawfully
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used to procure the miscarriage of a woman, whether she is or is not with child, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

Indecent Acts in Public.

234. Any person who—

(1) Wilfully does any indecent act in any place to which the public are permitted to have access, whether on payment of a charge for admission or not; or

(2) Wilfully does any indecent act in any place with intent to insult or offend any person;

is guilty of a misdemeanor, and is liable to imprisonment with hard labour for two years.\(^1\)

Obscene Publications and Exhibitions.

235. Any person who knowingly, and without lawful justification or excuse,—

(1) Publicly sells or exposes for sale any obscene book or other obscene printed or written matter, or any obscene picture, photograph, drawing, or model, or any other object tending to corrupt morals; or

(2) Exposes to view in any place to which the public are permitted to have access, whether on payment of a charge for admission or not, any obscene picture, photograph, drawing, or model, or any other object tending to corrupt morals; or

(3) Publicly exhibits any indecent show or performance, whether on payment of a charge for admission to see the show or performance or not;

is guilty of a misdemeanor, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of any of the offences defined in this section to prove that it was for the public benefit that the act complained of should be done.

Whether the doing of any such act is or is not for the public benefit is a question of fact.

Knowledge of Age Immaterial.

236. Except as otherwise expressly stated, it is immaterial, in the case of any of the offences defined in this Chapter committed with respect to a woman or girl under a specified age, that the accused person did not know that the woman or girl was under that age, or believed that she was not under that age.

\(^1\) The second definition is an extension of the Common Law.
Misdemeanour at Common Law. (See Note.)

Compare Bill of 1809, ss. 146, 147.

Misdemeanour at Common Law.

3 Geo. 4, c. 114, s. 1.

175. A person who is convicted of the misdemeanour of keeping a common bawdy-house, or of keeping a common gaming-house, or of keeping a common ill-governed and disorderly house, is liable to fine and imprisonment, with or without hard labour, at the discretion of the Court.

Misdemeanour at Common Law.

14 Vic. No. 9, s. 2.

586. On the trial of a person charged with keeping a common gaming-house or place for gaming, proof that any house, room, premises, or place, is or are kept or used for playing therein at any unlawful game, and that a bank is kept there by one or more of the players exclusively of the others, or that the chances of any game played there are not alike favourable to all the players, including the banker or person who manages the game and against whom the others bet, is sufficient evidence that the house, room, premises, or place, is or are a common gaming-house or place for gaming.

CHAPTER XXIII.

NUISANCES: MISCONDUCT RELATING TO CORPOR.

Common Nuisances.

237. Any person who—

1. Without lawful justification or excuse, the proof of which lies on him, does any act, or omits to do any act with respect to any property under his control, by which act or omission danger is caused to the lives, safety, or health, of the public; or

2. Without lawful justification or excuse, the proof of which lies on him, does any act, or omits to do any act with respect to any property under his control, by which act or omission danger is caused to the property or comfort of the public, or the public are obstructed in the exercise or enjoyment of any right common to all Her Majesty's subjects, and by which injury is caused to the person of some person,

is guilty of a misdemeanour, and is liable to imprisonment for two years.

Bawdry Houses.

238. Any person who keeps a house, room, set of rooms, or place of any kind whatever, for purposes of prostitution, whether of one woman or more, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

Gaming Houses.

239. A person who—

1. Keeps for gain any place to which persons resort for the purpose of playing at any game of chance; or

2. Keeps any place which is kept or used for playing therein at any game of chance, or any game of mixed chance and skill, and in which—

(a) A bank is kept by one or more of the players exclusively of the others; or

(1) The concluding words "and by which," &c., are a limitation of the Common Law.
Any game is played the chances of which are not alike favourable to all the players, including the banker or other persons by whom the game is managed, or against whom the other players stake, play, or bet;

is said to keep a common gaming-house.

Any person who keeps a common gaming house is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

**Betting Houses.**

240. (1.) Any structure which is used for any of the purposes following, that is to say—

(b) any person procured or employed by or acting for or on behalf of any such owner, occupier, keeper, or person, as or for the consideration—
The owner, occupier, or keeper of the place, or any person using the place; or

any person having the care or management, or in any manner conducting the business, of the place; or

(2) For the purpose of any money or other property being paid or received therein by or on behalf of any such owner, occupier, keeper, or person, as or for the consideration—

(c) for securing the paying or giving by some other person of any money or other property on any such event or contingency.

is called a common betting house.
Any person who opens, keeps, or uses a common betting house is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

Or he may be summarily convicted before two justices, in which case he is liable to imprisonment with hard labour for one year, and to a fine of five hundred pounds.

(2) Any person who, being the owner or occupier of any structure, knowingly and wilfully permits it to be opened, kept, or used, as a common betting house by another person, or who has the use or management, or assists in conducting the business, of a common betting house, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for one year, and to a fine of five hundred pounds.

Loterries.

241. Any person who opens, keeps, or uses any place for carrying on a lottery of any kind whatever, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

The term "lottery" includes any scheme or device for the sale, gift, disposal, or distribution, of any property depending upon or to be determined by lot, or chance, whether by the throwing or casting of dice, or the drawing of tickets, cards, lots, numbers, or figures, or by means of a wheel or trained animal, or otherwise howsoever.

This section does not apply to persons acting as members of or under the authority of a voluntary association which is formed for the purpose of the purchase and distribution by chance or otherwise of works of art, or for the distribution by chance or otherwise of money to be applied in the purchase of works of art, amongst the members of the association, and which has obtained the sanction of the Governor in Council or the Attorney-General.

Acting as Keeper of Bawdy Houses, Gaming Houses, Betting Houses, and Lotteries.

242. Any person who appears, acts, or behaves, as master or mistress, or as the person having the care or management, of a bawdy-house, gaming-house, or other disorderly house, is to be taken to be the keeper thereof, whether he is or is not the real keeper.
243. Any person who, without lawful justification or excuse, the proof of which lies on him—

(1) Neglects to perform any duty imposed upon him by law, or undertaken by him, whether for reward or otherwise, touching the burial of a human body or human remains;

or

(2) Improperly or indecently interferes with, or offers any indignity to, any dead human body or human remains, whether buried or not;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

21 Geo. 3, c. 40, ss. 1, 2.

177. Any person who keeps a place which is opened or used on Sunday for public entertainment or amusement, or for publicly debating on any subject, and to which persons are admitted by the payment of money or by tickets sold for money is deemed to keep a disorderly house.

In this Article the term "place to which persons are admitted by the payment of money" includes—

(a) Any house, room, or place, at which persons are supplied with any refreshment on Sundays at any greater price than the usual prices at which the like refreshment is commonly supplied on other days at the same place or at other places where the same is usually sold; and

(b) Any house, room, or place opened or used for any of the purposes aforesaid, at the expense of any number of subscribers or contributors to the carrying on of any such entertainment, or amusement or debate on Sundays, and to which persons are admitted by tickets to which the subscribers or contributors are entitled.

9 Wm. 3, c. 7, ss. 1, 2, 3.

180. Any person who—

(1) Makes or causes to be made, or sells or offers or exposes for sale, any fireworks, or any cake, shell, or implement, for making fireworks; or

(2) Being in occupation of a house or part of a house, permits any fireworks to be thrown or fired from the house or part of a house occupied by him, or from any part or place belonging to it or adjacent to it, into a public highway or passage; or

(3) Throws or fires any fireworks into a public highway or passage, or into a house, shop, or river; commits a common nuisance, and is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

Or he may be summarily convicted before one or more justices, in which case he is liable to a fine, in the case of the offences firstly defined in this Article, of five pounds, and, in the case of the offences secondly and thirdly defined, of one pound, and, in the case of the offences thirdly defined, in default of immediate payment, to imprisonment with hard labour for a term not exceeding one month unless the fine is sooner paid.
181. Any person who—

(1) Being the master of a ship arriving from beyond seas—

(a) Neglects or refuses to give to the pilot, health officer, or other officer first boarding the ship, a written paper containing a true statement of the names of the place and country from which the ship sailed, and the names of all the places at which the ship touched on the voyage, and of the places from which the passengers and goods on board have come;

(b) Delivers to any such officer any such written paper which contains any false statement;

(c) Wilfully omits from any such statement any such information; or

(d) Makes any false statement in answer to any question put to him by any such officer touching the health of the passengers on the voyage, or the cause of the death of any person who has died on board, or of any passenger who has died on shore, in the course of the voyage, or touching the existence of any infectious or contagious disease at any port or place from which the ship sailed or at which it touched, or on board of any other ship with which communication was had during the voyage, or touching the places from which any passenger came before coming on board the ship; or

(2) Being the medical officer of a ship arriving from beyond seas, refuses to answer, or makes a false answer to, any question put to him by the pilot, health officer, or other officer, first boarding the ship, touching the health of the passengers during the voyage, or the cause of the death of any person who has died on board, or of any passenger who has died on shore in the course of the voyage, or touching the existence of any infectious or contagious disease at any port or place from which the ship sailed or at which it touched, or on board of any other ship with which communication was had during the voyage, or touching the places from which any passenger came before coming on board the ship; or

is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding three hundred pounds and to imprisonment for a term not exceeding two years with or without hard labour.

The provisions of this Article apply in the case of ships arriving from any of the Australian Colonies or Fiji—

(a) if at the time of the arrival of the ship there is, or within fourteen days before such arrival, there has been, an infectious or contagious disease on board the ship; or

(b) if the Colony or port from which the ship arrives is a place which is notified by proclamation in force at the time of arrival to be infected with an infectious disease dangerous to the public health; or

(c) if the Governor in Council has directed that ships arriving at any port in Queensland from the Colony or port from which the ship arrives shall not be brought higher up the port than...
same specified place until they have been
beaidy the health officer and admitted to
porate;
otherwics do not apply in the case of such ships.

Prohibitia Misdemeanor at Common Law.
Bill of 1880, s. 149.

19 Vic. No. 13, ss. 5, 7.
182. Any person who—
(1) Knowingly takes into a slaughte-house used
for the slaughte of animals intended for the
food of man the whole or any part of any
animal which has died of any disease; or
(2) Knowingly sells or exposes for sale the whole
or part of any animal which has died of any
disease or of which the melt and spleen are
diseased,

is guilty of a misdeamenour, and is liable on conviction to
imprisonment for a term not exceeding two years with or
without hard labour.

10 Vic. No. 19, s. 1.
184. Any person who—
(1) Puts any poisonous, deleterious, or pernicious,
substance into any spirituous or fermented
liquor, or mixes any such substance with any
such liquor, or causes any such act to be done; or
(2) Sells, or otherwise disposes of, or keeps for sale,
any spirituous or fermented liquor into which
any such substance has been put, or with which
any such substance has been mixed,

is guilty of a misdeamenour, and is liable on conviction to
the fine not exceeding two hundred pounds or to imprison-
ment for a term not exceeding two years with or without
hard labour.

14 Vic. No. 4, ss. 1, 2.
183. Any person who, being a public brewer or maker
of ale, beer, or porter, for sale—
(1) Uses in the brewing of the ale, beer, or porter,
any vitriol, Quassias Indica, mix venesta, to-
bacco, opium, aloes, copperas, Jablo aroma, or
any extract or preparation of any of those
things, or any other deleterious or poisonous
substance; or

Exposing for Sale things unfit for Food.

245. Any person who knowingly exposes
for sale for the food of man, or has in his
possession with intent to sell it for the food of
man, any article which he knows to be unfit for
the food of man, is guilty of a misdemeanour,
and is liable to imprisonment with hard labour
for two years.

Dealing in Diseased Meat.

246. Any person who—
(1) Knowingly takes into a slaughte-house used
for the slaughte of any animals intended for the
food of man the whole or any part of the
carcass of any animal which has died of any disease; or
(2) Knowingly sells or exposes for sale the whole
or part of the carcass of any animal which has died of
any disease or which was diseased

when slaughtered;

is guilty of a misdeamenour, and is liable to
imprisonment with hard labour for two years.

Adulterating Liquor.

247. Any person who—
(1) Puts any deleterious or poisonous
substance into any spirituous or
fermented liquor, or mixes any such
substance with any such liquor; or
(2) Sells or otherwise disposes of, or
keeps for sale, any spirituous or
fermented liquor into which
any such substance has been put, or with which
any such substance has been mixed;

is guilty of a misdeamenour, and is liable on
conviction to imprisonment with hard labour for
two years, or to a fine of two hundred pounds.

Adulteration of Beverages.

248. Any person who, being a public
brewer or maker of any liquor intended to be
used as a beverage for man—
(1) Uses in the brewing or making of
the liquor any deleterious or poisonous
substance; or
(2) Causes or permits any such substance as hereinafter mentioned to be used in the brewing of the ale, beer, or porter; or

(3) Puts any such substance into, or mixes any such substance with, any ale, beer, or porter, intended for sale, or the want of either,

is liable on summary conviction before two justices to a fine of two hundred pounds and to forfeiture of the ale, beer, porter, or worts.

Any person who commits any such offence after having been previously convicted of any such offence is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding five hundred pounds and to imprisonment for a term not exceeding two years, as well as to forfeiture of the ale, beer, porter, or worts.

CHAPTER XXV.

MISCELLANEOUS OFFENCES.

Frauds on Land Laws.

249. Any person who, for the purpose of acquiring land from the Crown, fraudulently evades or attempts to evade any of the provisions of "The Crown Lands Acts, 1881 to 1895," or commits any fraudulent evasion of any of those provisions, is guilty of a misdemeanour, and is liable on conviction to imprisonment with hard labour for a term not exceeding two years.

250. Any person who buys or takes on lease any land, or any estate in any land, from any person who has acquired the land or the estate by means of any fraudulent evasion of the laws relating to the sale or leasing of Crown lands, knowing that the same was so acquired or is so held, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding twelve months with or without hard labour.

And all his interest, if any, in the land is forfeited to Her Majesty.

Clandestine Removal of Uncustomed Goods from Warehouse.

251. Any person who—

(1) Without payment of duty takes out of a warehouse any goods on which Customs duty is payable and has not been paid; or
PART V.—OFFENCES AGAINST THE PERSON AND RELATING TO MARRIAGE AND PARENTAL RIGHTS AND DUTIES AND AGAINST THE REPUTATION OF INDIVIDUALS.

CHAPTER XXXVI.

ASSAULTS AND VIOLENCES TO THE PERSON GENERALLY: JUSTIFICATION AND EXCUSE.

Definition of Assault.

252. A person who strikes, touches, or moves, or otherwise applies force of any kind to, the person of another, either directly or indirectly, without his consent, or with his consent if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without his consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect his purpose, is said to assault that other person, and the act is called an assault.

The term "force" includes heat, light, and electrical force, if applied in such a degree as to cause injury or personal discomfort.

Assault Unlawful.

253. An assault is unlawful and constitutes an offence unless it is authorised or justified or excused by law.

The application of force by one person to the person of another may be unlawful, although it is done with the consent of that person.

(1) The provisions of this Chapter are substantially the same as those of the Draft Code of 1913 and the Bill of 1880 (drafted in New Zealand), with such modifications as are suggested by Sir A. Cockburn's objections and other considerations. It is believed that, except with regard to the defence of provocation, they correctly express the existing law. Where this is doubtful, attention is invited to Note. In the Draft Code and Bill these provisions were placed under the general title of Matters of Justification and Excuse. It is conceived, however, that they are qualifications of the general rule which renders assaults on the person unlawful.

See Accompanying Letters.
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Execution of Sentence.

254. It is lawful for a person who is charged by law with the duty of executing or giving effect to the lawful sentence of a Court to execute or give effect to that sentence.

Execution of Process.

255. It is lawful for a person who is charged by law with the duty of executing the lawful process of a Court, and who is required to arrest or detain another person under such process, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the terms of the process.

Execution of Warrants.

256. It is lawful for a person who is charged by law with the duty of executing a lawful warrant issued by any Court or justice or other person having jurisdiction to issue it, and who is required to arrest or detain another person under such warrant, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the directions of the warrant.

Erroneous Sentence or Process or Warrant.

257. If the sentence was passed, or the process was issued, by a Court having jurisdiction under any circumstances to pass such a sentence or to issue such process, or if the warrant was issued by a Court or justice or other person having authority under any circumstances to issue such a warrant, it is immaterial whether the Court or justice or person had or had not authority to pass the sentence or issue the process or warrant in the particular case; unless the person executing the same knows that the sentence or process or warrant was in fact passed or issued without authority.

Sentence or Process or Warrant without Jurisdiction.

258. A person who executes or assists in executing any sentence, process, or warrant, which purports to be passed or issued by a Court, justice, or other person, and who would be justified, under the provisions of the four last preceding sections, in executing the same if it had been passed or issued by a Court, justice, or person having authority to pass or issue it, is not criminally responsible for any act done in such execution, notwithstanding that the Court, justice, or person, had no authority to pass the
sentence or issue the process or warrant, if in such execution he acted in good faith and in the belief that the sentence, process, or warrant, was that of a Court, justice, or other person, having such authority.

**Arrest of Wrong Person.**

259. A person who, being duly authorised to execute a warrant to arrest one person, arrests another person, believing in good faith and on reasonable grounds that the person arrested is the person named in the warrant, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

Any person who lawfully assists in making such an arrest, believing that the person arrested is the person named in the warrant, or who, being required by the warrant to receive and detain the person named in it, receives and detains the person so arrested, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

Irregular Process or Warrant.

260. When any process or warrant is bad in law by reason of some defect in substance or in form apparent on the face of it, a person who, in good faith and believing that it is good in law, acts in the execution of the process or warrant, is not criminally responsible for anything done in such execution to any greater extent than if the process or warrant were good in law.

Force used in executing Process or in Arrest.

261. It is lawful for a person who is engaged in the lawful execution of any sentence, process, or warrant, or in making any arrest, and for any person lawfully assisting him, to use such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence or process can be executed or the arrest can be made by reasonable means in a less forcible manner.

Duty of persons arresting.

262. It is the duty of a person executing any process or warrant to have it with him, and to produce it if required.

(1) This is, perhaps, only an instance of the general rule declared by s. 26.
It is the duty of a person arresting another, whether with or without warrant, to give notice, if practicable, of the process or warrant under which he is acting or of the cause of the arrest. A failure to fulfil either of the aforesaid duties does not of itself make the execution of the process or warrant or the arrest unlawful, but is relevant to the inquiry whether the process or warrant might not have been executed or the arrest made by reasonable means in a less forcible manner.

Police Officer preventing Escape from Arrest.

263. When a police officer is proceeding lawfully to arrest, with or without warrant, another person for a crime which is such that the offender may be arrested without warrant, and the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the police officer, and for any person lawfully assisting him, to use such force as may be necessary to prevent the escape of the person sought to be arrested, unless such escape can be prevented by reasonable means in a less forcible manner.

But this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm, until the person sought to be arrested has been called upon to surrender.\(1\)

Other cases of preventing Escape from Arrest.

264. When a person who is not a police officer is proceeding lawfully to arrest, without warrant, another person for a crime which is such that the offender may be arrested without warrant, and when any person is proceeding lawfully to arrest another person for any cause other than such a crime, and, in either case, the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the person seeking to arrest him to use such force as may be necessary to prevent his escape, unless such escape can be prevented by reasonable means in a less forcible manner.

But this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

Preventing Escape or Rescue after Arrest.

265. When any person has lawfully arrested another person for any offence, it is lawful for him to use such force as he believes, on reasonable grounds, to be necessary to prevent the escape or rescue of the person arrested.

\(1\) The concluding sentence is not in the Draft Code or Bill. It is, I believe, in accordance with practice, not certainly in accordance with reason.
But, if the offence is not a crime which is such that the offender may be arrested without warrant, this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

Examination of Person of Accused Persons in Custody.

266. When a person is in lawful custody upon a charge of committing any offence, it is lawful for a police officer to search his person, and to take from him anything found upon his person, and to use such force as is reasonably necessary for that purpose.

When a person is in lawful custody upon a charge of committing any offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence, it is lawful for a legally qualified medical practitioner, acting under the written authority of a justice, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person of the person so in custody as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.\(^\text{(1)}\)

Preventing a Breach of the Peace.

267. It is lawful for any person who witnesses a breach of the peace to interfere to prevent the continuance or renewal of it, and to detain any person who is committing or who is about to join in or to renew the breach of the peace, in order to give him into the custody of a police officer, and to use such force as is reasonably necessary for such prevention and is reasonably proportioned to the danger to be apprehended from such continuance or renewal.

It is lawful for a police officer who witnesses a breach of the peace, and for any person lawfully assisting him, to arrest any person whom he finds committing it, or whom he believes, on reasonable grounds, to be about to join in or renew the breach of the peace.

It is lawful for a police officer to receive into custody and detain in custody any person given into his charge as having been a party to a breach of the peace by a person whom the police officer believes, on reasonable grounds, to have witnessed the breach of the peace.

\(^\text{(1)}\) This section presupposes the existing practice, except that in the section now it is proposed to require the written authority of a justice before making a medical examination.
Suppression of Riot.

268. It is lawful for any person to use such force as is necessary to suppress a riot, and is reasonably proportioned to the danger to be apprehended from its continuance.

Suppression of Riot by Magistrates and Police Officers.

269. It is lawful for a justice to use or order to be used, and for a police officer to use, such force as he believes, on reasonable grounds, to be necessary in order to suppress a riot, and as is reasonably proportioned to the danger which he believes, on reasonable grounds, is to be apprehended from its continuance.

Suppression of Riot by Person acting under Lawful Orders.

270. It is lawful for any person acting in good faith in obedience to orders, not manifestly unlawful, given by a justice for the suppression of a riot, to use such force as he believes, on reasonable grounds, to be necessary for carrying such orders into effect.

Whether any particular order so given is or is not manifestly unlawful is a question of law.

Suppression of Riot by Person acting without Order in case of Emergency.

271. When any person, whether subject to military law or not, believes, on reasonable grounds, that serious mischief will arise from a riot before there is time to procure the intervention of a justice, it is lawful for him to use such force as he believes, on reasonable grounds, to be necessary for the suppression of the riot, and as is reasonably proportioned to the danger which he believes, on reasonable grounds, is to be apprehended from its continuance.\(^1\)

Riot: Persons subject to Military Law.

272. It is lawful for a person who is bound by military law to obey the lawful commands of his superior officer to obey any command given him by his superior officer in order to the suppression of a riot, unless the command is manifestly unlawful.

Whether any particular command is or is not manifestly unlawful is a question of law.

\(^1\) This and the two preceding sections are, perhaps, only instances of the general rule declared by s. 26.
Prevention of Crimes and Offences for which an Offender may be Arrested without Warrant: Prevention of Violence by Persons of Unsound Mind.

273. It is lawful for any person to use such force as is reasonably necessary in order to prevent the commission of an offence which is such that the offender may be arrested without warrant, and the commission of which would be likely to cause immediate and grievous injury to the person or property of any person; or in order to prevent any act from being done as to which he believes, on reasonable grounds, that it would, if done, amount to any such offence; or in order to prevent a person whom he believes, on reasonable grounds, to be of unsound mind from doing violence to any person or property. 1)

Defence of Dwelling-houses.

274. It is lawful for any person who is in peaceable possession of a dwelling-house, and for any person lawfully assisting him or acting by his authority, to use such force as he believes, on reasonable grounds, to be necessary in order to prevent the forcible breaking and entering of the dwelling-house, either by night or day, by any person whom he believes, on reasonable grounds, to be attempting to break and enter the dwelling-house with intent to commit any indictable offence therein.

Provocation.

275. The term "provocation," used with reference to an assault, means and includes, except as hereinafter stated, any wrongful act or insult of such a nature as to be likely, when done to an ordinary person, or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial, or fraternal, relation, or in the relation of master or servant, to deprive him of the power of self-control, and to induce him to assault the person by whom the act or insult is done or offered.

When such an act or insult is done or offered by one person to another, or in the presence of another to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give to the latter provocation for an assault.

1) The final proviso is not in the Draft Code or Bill, but is obviously right. I think it is law.
A lawful act is not provocation to any person for an assault. An act which a person does in consequence of incitement given by another person in order to induce him to do the act, and thereby to furnish an excuse for committing an assault, is not provocation to that other person for an assault. An arrest which is unlawful is not necessarily provocation for an assault, but it may be evidence of provocation to a person who knows of the illegality.\(^\text{1}\)

**Defence of Provocation.**

276. A person is not criminally responsible for an assault committed upon a person who gives him provocation for the assault, if he is in fact deprived by the provocation of the power of self-control, and sets upon it the sudden and before time for his passion is cool; provided that the force used is not disproportionate to the provocation, and is not intended, and is not such as is likely, to cause death or to do any bodily injury of such a nature as to be likely to cause death.

Whether any particular act or insult is such as to be likely to deprive an ordinary person of the power of self-control and to induce him to assault the person by whom the act or insult is done or offered, and whether, in any particular case, the person provoked was actually deprived by the provocation of the power of self-control, and whether any force used is or is not disproportionate to the provocation, are questions of fact.

**Prevention of Repetition of Insult.**

277. It is lawful for any person to use such force as is reasonably necessary to prevent the repetition of an act or insult of such a nature as to be provocation to him for an assault.

**Self-defence against Unprovoked Assault.**

278. When a person is unlawfully assaulted, and has not provoked the assault, it is lawful

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\(^{1}\) Little is to be found in the books on the subject of provocation except with reference to homicide. The first paragraph of this section expresses the law as to provocation in that connection. It is asserted that the law following sections express what is in common life assumed to be a general rule of action. It is solemnized that the rule of law must with safety, and under the conditions stated in \(276\), be made to accord with the rules of life, so that justice may not be forced to violate their conscience in order to avoid giving verdicts in accordance with law, his repute in their cause of right. The醴tre Coine and the Bill of 1869 only deals with the subject of provocation as a defence to a criminal charge in connection with homicide, although it is asserted that assaults committed under certain conditions are to be deemed to be provoked or unprompted, but the consequences of the existence of provocation are nowhere expressly stated. See Accompanying Notes.
for him to use such force to the assailant as is reasonably necessary to make effectual defense against the assault, provided that the force used is not intended, and is not such as is likely, to cause death or grievous bodily harm.

If the nature of the assault is such as to cause reasonable apprehension of death or grievous bodily harm, and the person using force by way of defense believes, on reasonable grounds, that he cannot otherwise preserve the person defended from death or grievous bodily harm, it is lawful for him to use any such force to the assailant as is necessary for defense, even though such force may cause death or grievous bodily harm.

Self-defence against Provoked Assault.

279. When a person has unlawfully assaulted another or has provoked an assault from another, and that other assaults him with such violence as to cause reasonable apprehension of death or grievous bodily harm, and to induce him to believe, on reasonable grounds, that it is necessary for his preservation from death or grievous bodily harm to use force in self-defense, he is not criminally responsible for using any such force as is reasonably necessary for such preservation, although such force may cause death or grievous bodily harm.

This protection does not extend to a case in which the person using force which causes death or grievous bodily harm first began the assault with intent to kill or to do grievous bodily harm to some person; nor to a case in which the person using force which causes death or grievous bodily harm endeavoured to kill or to do grievous bodily harm to some person before the necessity of so preserving himself arose; nor, in either case, unless, before such necessity arose, the person using such force declined further conflict, and quitted it or retreated from it as far as was practicable.

Aiding in Self-defence.

280. In any case in which it is lawful for any person to use force of any degree for the purpose of defending himself against an assault, it is lawful for any other person acting in good faith in his aid to use a like degree of force for the purpose of defending such first-mentioned person.

1) It is understood that this is a general rule of law, although I do not know that it is anywhere so expressly laid down.
Defence of Moveable Property against Trespassers.

281. It is lawful for any person who is in peaceable possession of any moveable property, and for any person acting by his authority, to use force in order to resist the taking of such property by a trespasser, or in order to retake it from a trespasser, provided that he does not strike or do bodily harm to the trespasser.

Defence of Moveable Property with Claim of Right.

282. When a person is in peaceable possession of any moveable property under a claim of right, it is lawful for him, and for any person acting by his authority, to use force in order to defend his possession of the property, even against a person who is entitled by law to possession of the property, provided that he does not strike or do bodily harm to such other person.

Defence of Moveable Property without Claim of Right.

283. When a person who is entitled by law to the possession of moveable property attempts to take it from a person who is in possession of the property, but who neither claims right to it, nor acts by the authority of a person who claims right, and the person in possession resists him, it is lawful for the person so entitled to possession to use force in order to obtain possession of the property, provided that he does not strike or do bodily harm to the person in possession.

Defence of Premises against Trespassers: Removal of Disorderly Persons.

284. It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person acting by his authority, to use force in order to prevent any person from wrongfully entering upon such land, structure, vessel, or place, or in order to remove therefrom a person who wrongfully remains therein, provided that he does not strike or do bodily harm to such person.

It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person acting by his authority, to
use force in order to remove therefrom any person who conducts himself in a disorderly manner therein, provided that he does not strike him or do him bodily harm.

The term "place" includes any part of an enclosure or structure, whether separated from the rest of the enclosure or structure by a partition, fence, rope, or any other means, or not.2

**Assertion of Right to Real Property.**

285. It is lawful for any person to enter peaceably in the daytime to take possession of any house, land, or vessel, to the possession of which he, or some person under whose authority he acts, is lawfully entitled.

If any person who is not himself, and does not act by the authority of some person who is, in peaceable possession of the house, land, or vessel, with a claim of right, resists a person so entering, it is lawful for the person so entering to use force in order to obtain possession of the property, provided that he does not strike or do bodily harm to the person resisting him.

If a person is in peaceable possession of the house, land, or vessel, with a claim of right, it is lawful for him, and for any person acting by his authority, to use force in order to defend his possession, provided that he does not strike or do bodily harm to the person entering.

**Exercise of Right of Way or Easement.**

286. It is lawful for any person who is lawfully entitled to enter upon land for the exercise of a right of way or other easement or profit to enter peaceably upon the land for the purpose of exercising such right of way, easement, or profit. But, if he enters or persists in his entry upon the land after notice that his right to use such way or easement or to take such profit is disputed by the person in possession of the land, it is lawful for the person in possession, and for any person acting by his authority, to use force for the purpose of making the person so entering desist from the entry, provided that he does not strike him or do him bodily harm.

**Domestic Discipline.**

287. It is lawful for a parent or a person in the place of a parent, or for a schoolmaster or master, to use, by way of correction, towards

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1. The two last paragraphs are not in the Draft Bill, in which the provision is limited to houses and land, but I apprehend that they are not. The conditions stated would certainly afford a good defense to a civil action.
a child, pupil, or apprentice, under his care such force as is reasonable under the circumstances.

**Discipline of Ship.**

288. It is lawful for the master or other person in command of a vessel on a voyage to use, for the purpose of maintaining good order and discipline on board of the vessel, such force as he believes, on reasonable grounds, to be necessary, and as is reasonable under the circumstances.

**Surgical Operations.**

289. A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time and to all the circumstances of the case.\(^\text{60}\)

**Excessive Force.**

290. In any case in which the use of force by one person to another is lawful the use of more force than is justified by law under the circumstances is unlawful.

**Consent to Death Immaterial.**

291. Consent by a person to the causing of his own death does not affect the criminal responsibility of any person by whom such death is caused.

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**CHAPTER XXVII.**

**DUTIES RELATING TO THE PRESERVATION OF HUMAN LIFE.**

**Duty to provide Necessaries.**

292. It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention, or any other cause, to withdraw himself from such charge, and who is unable to provide himself with the necessaries of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of the unlawful act

\(^{60}\) The provisions as to an unborn child is necessary to view of the provisions of \(\text{s. 220}\).
of the person who has such charge, to provide for that other person the necessaries of life; and he is held to have caused any consequences which result to the life or health of the other person by reason of any omission to perform that duty.

Duty of Head of Family.

293. A person who as head of a family is bound by law to provide the necessaries of life for a child under the age of sixteen years, being a member of his household, is held to have caused any consequences which result to the life or health of the child by reason of any omission to perform that duty, whether the child is helpless or not.

Duty of Masters.

294. It is the duty of every person who as a master or mistress has contracted to provide necessary food, clothing, or lodging, for any servant or apprentice under the age of sixteen years to provide the same: and he or she is held to have caused any consequences which result to the life or health of the servant or apprentice by reason of any omission to perform that duty.

Duty of Persons doing Dangerous Acts.

295. It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act: and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to observe or perform that duty.

Duty of Persons in Charge of Dangerous Things.

296. It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health, of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger: and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.
Duty to do certain acts.

297. When a person undertakes to do any act the omission to do which is or may be dangerous to human life or health, it is his duty to do that act: and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

CHAPTER XXVIII.

HOMICIDE: SUICIDE: CONCEALMENT OF BIRTH.

Killing of a Human Being Unlawful.

298. It is unlawful to kill any person unless such killing is authorised or justified or excused by law.

When a Child becomes a Human Being.

299. A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not, and whether the navel-string is severed or not.

Definition of Killing.

300. Except as hereinafter set forth, any person who causes the death of another, directly or indirectly, by any means whatever, is deemed to have killed that other person.

But a person who by means of false evidence procures the death of a person by the sentence of the law is not deemed to have killed him.

Death by Acts done at Childbirth.

301. When a child dies in consequence of an act done or omitted to be done by any person before, during, or after its birth, the person who did or omitted to do such act is deemed to have killed the child.

Causing Death by Threats.

302. A person who, by threats or intimidation of any kind, or by deceit, causes another person to do an act or make an omission which results in the death of that other person, is deemed to have killed him.

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[1] The provisions of this Chapter are regarded, amongst these otherwise found, as expressing the Common Law.

[2] The provisions as to independent circulation is probably a change in the law.
Killing by Mental Influence.

303. A person who by influence on the mind of another person causes any disorder or disease which results in the death of that other person is deemed to have killed him.\(^{(1)}\)

Acceleration of Death.

304. A person who does any act or makes any omission which hastens the death of another person who, when the act is done or the omission is made, is labouring under some disorder or disease arising from another cause, is deemed to have killed that other person.

When Injury or Death might be prevented by Proper Precaution.

305. When a person causes a bodily injury to another from which death results, it is immaterial that the injury might have been avoided by proper precaution on the part of the person injured, or that his death from that injury might have been prevented by proper care or treatment.

Injuries causing Death in consequence of Subsequent Treatment.

306. A person who causes a bodily injury to another which is of such a nature as to endanger his life or health, and from which death results, is deemed to have killed that other person, although the immediate cause of death was surgical or medical treatment, whether proper or improper, provided that the treatment was applied in good faith.

Limitation as to Time of Death.

307. A person is not deemed to have killed another if the death of that other person does not take place within a year and a day of the cause of death. Such period is reckoned inclusive of the day on which the last unlawful act contributing to the cause of death was done.

When the cause of death is an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the omission ceased.

When the cause of death is in part an unlawful act, and in part an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the last unlawful act was done or the day on which the omission ceased, whichever is the later.

\(^{(1)}\) The Bill of 1850 limited this provision to the case of causing the death of a child or sick person by frightening him. (See the text in accordance with the Criminal Law. (See Wickham v. Bunyan (1857, 2 Q. B. D. 49), decided since the text was in type.) The case would, in point, be difficult of proof, but such cases are not unknown in Australia and the Pacific.
308. Any person who unlawfully kills another is guilty of a crime, which is called wilful murder, murder, or manslaughter, according to the circumstances of the case.

Definition of Wilful Murder.

309. Except as hereinafter set forth, a person who unlawfully kills another, intending to cause his death or that of some other person, is guilty of wilful murder.\(^1\)

Definition of Murder.

310. Except as hereinafter set forth, a person who unlawfully kills another under any of the following circumstances, that is to say—

(1) If the offender intends to do to the person killed or to some other person some bodily injury of such a nature as to be likely to cause death;

(2) If death is caused by means of an act done in the prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life;

(3) If the offender intends to do grievous bodily harm to some person for the purpose of facilitating the commission of a crime which is such that the offender may be arrested without warrant, or for the purpose of facilitating the flight of an offender who has committed or attempted to commit any such crime;

(4) If death is caused by administering any stupefying or overpowering thing for either of the purposes last aforesaid;

(5) If death is caused by wilfully stopping the breath of any person for either of such purposes;

is guilty of murder.

In the first case it is immaterial that the offender did not intend to hurt the particular person who is killed.

In the second case it is immaterial that the offender did not intend to hurt any person.

In the three last cases it is immaterial that the offender did not intend to cause death or did not know that death was likely to result.\(^1\)

(1) See Accompanying Letter.
311. A person who unlawfully kills another under such circumstances as not to constitute murder is guilty of manslaughter.

Killing on Provocation.

312. When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute wilful murder or murder, does the act which causes death in the heat of passion caused by sudden provocation, and before there is time for his passion to cool, he is guilty of manslaughter only.

Punishment of Murder.

313. Any person who commits the crime of wilful murder or murder is liable to the punishment of death.

Attempt to Murder.

314. Any person who—

(1) Attempts unlawfully to kill another;[1]

or

(2) With intent unlawfully to kill another does any act, or omits to do any act which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life;

is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement.

Accessory after the Fact to Murder.

315. Any person who becomes an accessory after the fact to wilful murder or murder is guilty of a crime, and is liable to imprisonment with hard labour for life.

[1] I am unable to understand how there can be an attempt to murder without an attempt to kill.
197. Any person who, knowing the contents thereof, maliciously sends, delivers, or utters, or directly or indirectly causes to be received, any letter or writing threatening to kill or murder any person is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding ten years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

198. Any person who—
(1) Consents and agrees with any other person to murder any person, whether he is a subject of the Queen or not, and whether he is within the Queen's dominions or not; or
(2) is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding ten years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

199. Any person who, when a woman is delivered of a child, endeavours, by any secret disposition of the dead child from being born alive, or prevents the birth of the child, or by any abuse to the child, causes the child to be born dead, is liable on conviction to penal servitude for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

200. Any person who—
(1) Procures another to kill himself; or
(2) Counsels another to kill himself and thereby induces him to do so; or
(3) Aids another in killing himself; is guilty of a crime, and is liable to imprisonment with hard labour for life.

201. Any person who, when a woman is delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born alive and had then died, the would be deemed to have unlawfully killed the child, is guilty of a crime, and is liable to imprisonment with hard labour for life.

202. Any person who, when a woman is delivered of a child, endeavours, by any secret disposition of the dead child from being born alive, or prevents the birth of the child, or by any abuse to the child, causes the child to be born dead, is liable on conviction to penal servitude for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.
325. By person who, with intent to maim, disfigure, or disable, any person, or to do some grievous bodily harm to any person, or to resist or impede the lawful apprehension or detention of my person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Disposition of the dead body of the child, to conceal the birth, whether the child died before, at, or after, its birth, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

**CHAPTER XXIX.**

**OFFENCES ENDANGERING LIFE OR HEALTH.**

Disabling in order to Commit Indictable Offence.

323. Any person who, by means of violence of any kind, and with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission of an indictable offence, renders or attempts to render any person incapable of resisting, is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without whipping, which may be inflicted once, twice, or thrice.

Slapsticking in order to Commit Indictable Offence.

324. Any person who, with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission of an indictable offence, administers, or attempts to administer, any slapsticking or overpowering drug or thing to any person, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Acts Causing or intended to Cause Grievous Bodily Harm.

325. Any person who, with intent to maim, disfigure, or disable, any person, or to do some grievous bodily harm to any person, or to resist or prevent the lawful apprehension or detention of any person—

(1) Unlawfully wounds or causes any grievous bodily harm to any person by any means whatever; or

(2) Unlawfully attempts in any manner to strike any person with any kind of projectile; or

No imprisonment for a term not exceeding two years with or without hard labour, and, if a male, with or without whipping, which may be inflicted once, twice, or thrice.

200. Any person who—

(1) With intent to enable himself or any other person to commit an indictable offence, or with intent to assist any other person in committing an indictable offence—

(a) Attempts, by any means whatever, to check, sunder, or extinguish, any other person; or

(b) Attempts, by any means calculated to check, sunder, or extinguish, any other person, to render any other person incapable, or incapable of resistance;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years with or without hard labour, and, if a male, with or without whipping, which may be inflicted once, twice, or thrice.

201. Any person who—

(1) Unlawfully and maliciously burns, maims, disfigures, disables, or does any grievous bodily harm to any person by the explosion of gunpowder or any other explosive substance; or

(2) Unlawfully and maliciously, and with intent to burn, maim, disfigure, or disable, any person, or to do some grievous bodily harm to any person, and whether any bodily injury is effected by his act or not—

(a) Causes any gunpowder or other explosive substance to explode; or

(b) Sends or delivers any explosive substance or other dangerous or noxious thing to any person; or

(c) Causes any such substance or thing to be taken or received by any person; or

(d) Puts or lays any corrosive fluid or any destructive or explosive substance at any place;

is guilty of felony, and is liable on conviction to penal servitude for life or, for any term not less than three years, with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.
202. Any person who unlawfully and maliciously—
(1) Prevents or impedes any person who is on board of or who has recently quitted a ship or vessel which is in distress, or wrecked, stranded, or cast on shore, in his endeavour to save his life; or
(2) Prevents or impedes any person in his endeavour to save the life of any person so situated as last aforesaid; or
(3) With intent to uninjure, disfigure, or disable any person, or to do some other grievous bodily harm to any person, or to resist or prevent the lawful apprehension or detention of any person—
(a) Wounds or causes any grievous bodily harm to any person by any means whatever; or
(b) Shoots at any person; or
(c) Attempts in any manner to discharge any kind of loaded arms at any person;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

203. Any person who—
(1) Unlawfully and with intent to enable himself or any other person to commit an indictable offence, or to aid any other person in committing an indictable offence—
(a) Administers any chloroform, laudanum, or other stupefying or overpowering matter to, or into, any person; or
(b) Causes any such matter to be taken by any person; or
(c) Attempts to administer any such matter to any person, or to cause any such matter to be administered to, or taken by, any person;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

200. Any person who—
(2) Unlawfully and maliciously, and with intent to endanger the safety of any person traveling or being upon any railway—
(c) Puts or throws anything upon or across the railway; or
(d) Takes up, removes, or displaces, any rail, sleeper, or other thing, belonging to the railway; or
(e) Thres, moves, or diverts, any points or other machinery belonging to the railway; or
(f) Makes, shows, hides, or removes, any signal or light upon or near the railway; or
(g) Does any [other] act or causes any [other] act to be done;

is guilty, &c.

203. Any person who—
(2) Unlawfully and maliciously, and with intent to injure or endanger the safety of any person in

(3) Unlawfully causes any explosive substance to explode; or
(4) Sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
(5) Causes any such substance or thing to be taken or received by any person; or
(6) Puts any corrosive fluid or any destructive or explosive substance in any place; or
(7) Unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person;

is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement, and, if under the age of sixteen years, is also liable to whipping.

Preventing Escape from Wreck.

326. Any person who unlawfully—
(1) Prevents or obstructs any person who is on board of or is escaping from a vessel which is in distress or wrecked or cast ashore, in his endeavours to save his life; or
(2) Obstructs any person in his endeavours to save the life of any person so situated;

is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement.

Intentionally Endangering Safety of Persons Travelling by Railway.

327. Any person who, with intent to injure or to endanger the safety of any person traveling by any railway, whether a particular person or not—
(1) Deals with any object whatever upon or near the railway in such a manner as to affect or endanger the free and safe use of the railway or the safety of any such person; or
(2) Shows any light or signal, or in any way deals with any existing light or signal, upon or near the railway;

is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without whipping, which may be inflicted once, twice, or thrice,
Ih.
88.17, 21.
Any person who unlawfully and maliciously wounds or inflicts my grievous bodily harm upon any other person either with or without my weapon or instrument; or
unlawfully and maliciously, and with intent to injure, aggrieve, or annoy any other person, causes any poison or other noxious thing to be administered to him or taken by him, is guilty of felony, and is liable on conviction to penal servitude for a term of not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a man under the age of sixteen years, with or without whipping.

205.
Any person who unlawfully and maliciously, and with intent to do any bodily injury to any person, places or throws any gunpowder or other explosive substance in, into, upon, against, or near any building, ship, or vessel, whether an explosion takes place or not, and whether any bodily injury is effected by the act or not, is guilty of felony, and is liable on conviction to penal servitude for a term of not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a man under the age of sixteen years, with or without whipping.

206.
Any person who unlawfully and maliciously administers any poison or other noxious thing to any other person, or causes any person or other destructive or noxious thing to be administered to, or taken by him, or any other person, and thereby endangers the life of such person, or does him some grievous bodily harm, is guilty of felony, and is liable on conviction to penal servitude for a term of not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

207.
Any person who—
(1) Unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person either with or without any weapon or instrument; or
(2) Unlawfully and maliciously, and with intent to injure, aggrieve, or annoy any other person, administers to him any poison or other destructive or noxious thing, or causes any poison or other such thing to be administered to him, or taken by him; or
is guilty of a misdemeanour, and is liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour.

208.
Any person who, being legally liable either as a master or mistress to provide for an apprentice or servant food, clothing, or lodging—
(1) Wilfully and without lawful excuse refuses or neglects to provide such food, clothing, or lodging; or

209.
Any person who, being charged with the duty of providing for another the necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is endangered or his health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

302.
Any person who, being charged as a master or mistress with the duty of providing necessary food, clothing, or lodging, for a servant or apprentice under the age of sixteen years, unwillingly fails to perform that duty.
(3) Unlawfully or maliciously does any bodily harm, or causes any bodily harm to be done to such apprentice or servant; whereby in either case the life of such apprentice or servant is endangered, or his health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour.

20 Vic. No. 11, s. 24.

209. Any person who unlawfully abandons or exposes any child under the age of two years, whereby the life of such child is endangered or his health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour.

Ib., s. 29.

210. Any person who sets or places any spring-gun, man-trap, or other engine calculated to destroy human life or to inflict grievous bodily harm, or causes any such thing to be set or placed, with the intent that it may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact with it, or in such a place and manner that it is likely to do so, is guilty of a misdemeanour, and is liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour.

Any person who knowingly and willfully permits any such spring-gun, man-trap, or other engine, which has been set or placed by another person in any place which is then in, or afterwards comes into, his possession or occupation, to continue so set or placed, is deemed to have set and placed the gun, trap, or engine, with the intent aforesaid.

This Article does not make it unlawful to set any gin or trap such as is usually act with the intent of destroying vermin; or to set any spring-gun, man-trap, or engine between sunset and sunrise in a dwelling-house for the protection of the dwelling-house.

Ib., s. 31, 33.

211. Any person who—

(1) By any unlawful act, or by any wilful omission or neglect, endangers the safety of any person who is conveyed or is in or upon a railway, or causes the safety of any such person to be endangered; or

(2) Aids or assists in any unlawful act or any wilful omission or neglect by which the safety of any such person is endangered, or

or in any other manner does any bodily harm or causes any bodily harm to be done to such servant or apprentice, whereby, in either case, the life of such servant or apprentice is endangered, or his health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Endangering Life of Children by Exposures.

333. Any person who unlawfully abandons or exposes a child under the age of two years, whereby the life of such child is endangered, or his health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Setting Man-traps.

334. Any person who sets or places any spring-gun, man-trap, or other engine calculated to destroy human life or to inflict grievous bodily harm, or causes any such thing to be set or placed, in any place with the intent that it may kill or inflict grievous bodily harm upon a trespasser or other person coming in contact with it, or sets or places any such thing in any such place and in any such manner that it is likely to cause any such result, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Any person who knowingly permits any such spring-gun, man-trap, or other engine, which has been set or placed by another person in any such place and in any such manner that it is likely to cause any such result, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

This section does not make it unlawful to set any gin or trap such as is usually set with the intent of destroying vermin; or to set any spring-gun, man-trap, or engine, between sunset and sunrise in a dwelling-house for the protection of the dwelling-house.

Negligent Acts causing Harm.

335. Any person who unlawfully does any act, or omits to do any act which it is his duty to do, by which act or omission bodily harm is actually caused to any person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

(1) See s. 250.
(3) Having the charge of any carriage, vehicle, or horse, by wanton or furious driving, riding, or racing, or other wilful misconduct, or by wilful neglect does any bodily harm, or causes any bodily harm to be done, to any person whatever.

is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

Compare Hill of 1880, s. 194.

215. Any person who—
(1) Sends or attempts to send a ship to sea in such an unseaworthy state that the life of any person is likely to thereby endangered; or
(2) Being a master of a British ship, knowingly takes or attempts to take the ship to sea in such an unseaworthy state that the life of any person is likely to thereby endangered;

is guilty of a misdemeanor, and is liable on conviction to fine and imprisonment at the discretion of the Court.

It is a defence to a charge of any of the offences defined in this Article to prove that the accused person used all reasonable means to ensure the ship being sent to sea in a seaworthy state.

A prosecution for any of the offences defined in this Article cannot be begun without the consent of the Attorney-General.

213. Any person who, being the owner, or master, or agent of the owner, of a steam vessel, is privy to the placing of an undue weight upon the safety-valve of the steam vessel, knowing that the pressure caused by such weight is improper, is guilty of a misdemeanor, and is liable on conviction to fine and imprisonment at the discretion of the Court.

214. Any person who is engineer, or one of the engineers, in charge of the machinery of a steam vessel at any time when there is an undue weight upon the safety-valve of the steam vessel is liable on summary conviction before two justices to a fine not exceeding one hundred pounds.

Endangering Safety of Persons Travelling by Railway.

336. Any person who by any unlawful act, or by any omission to do any act which it is his duty to do, causes the safety of any person travelling by any railway to be endangered, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Endangering Unseaworthy Ships to Sea.

337. Any person who—
(1) Sends or attempts to send a ship to sea in such an unseaworthy state that the life of any person is likely to thereby endangered; or
(2) Being a master of a British ship, knowingly takes or attempts to take the ship to sea in such an unseaworthy state that the life of any person is likely to thereby endangered;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

It is a defence to a charge of any of the offences defined in this section to prove that the going of the ship to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable.

It is a defence to a charge of the offence firstly defined in this section to show that the accused person used all reasonable means to ensure the ship being sent to sea in a seaworthy state.

A prosecution for any of the offences defined in this section cannot be begun without the consent of a Crown Law Officer.

Endangering Steamships by Tampering with Engines.

338. Any person who, being a person having actual control over a steam vessel, is privy to any act or omission with respect to the machinery of the vessel, whereby the safety of any person on board the vessel is endangered, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

The like by Engineers.

339. Any person who is engineer, or one of the engineers, in charge of the machinery of a steam vessel at any time when any act is done or omitted to be done with respect to the machinery of the vessel, whereby the safety of
It is a defence to a charge of the offence defined in this Article to prove that the act was done without the knowledge of the accused person, and without any neglect or default on his part.

41 Vic. No. 8, ss. 108, 109.

216. Any person who—
(1) Being the master or owner of a vessel, after obtaining from any authorised person a certificate that the vessel is so fitted and equipped as to qualify her to obtain a clearance or transit from an officer of Customs, or after obtaining a clearance or transit, and before the vessel leaves the port, removes or allows to be removed from the vessel any articles which had been placed on board with his knowledge or consent, for the purpose of obtaining such certificate, clearance, or transit; or
(2) Knowingly sends or attempts to send by any vessel, or carries or attempts to carry in any vessel, any gunpowder or other explosive substance, or any acid or other thing of a dangerous or destructive nature, under a false description of the goods, or with a false description of the sender thereof;

is guilty of a misdemeanour, and is liable on conviction to a fine and imprisonment at the discretion of the Court.

217. Any person who—
(1) Delivers or causes to be delivered from any vessel any gunpowder or other explosive substance, or any acid or other dangerous or destructive acid, without first giving special notification of the intended delivery to the principal officer of Customs at or nearest to the port or place of delivery; or
(2) Delivers or causes to be delivered from any vessel any such thing as last aforesaid in any package which has not upon it a plain and durable brand or superscription describing the contents and stating the quantity thereof; or
(3) Being in charge of any vessel, knowingly permits any such thing as aforesaid to be landed from any vessel in a package which has not upon it such a brand or superscription as aforesaid, or without such special notification as aforesaid having been first given; or
(4) Discharges, ships, transships, or removes, any gunpowder or other explosive substance except between the hours of sunrise and sunset;

is guilty of a misdemeanour, and is liable on conviction to a fine and imprisonment at the discretion of the Court.

This Article does not apply to any gunpowder the property of Her Majesty while it is under the control of an officer of Her Majesty’s army or navy, or ordinance, or of the Defence Force of Queensland.

41 Vic. No. 8, ss. 165, 166, 189.

any person on board the vessel is endangered, is guilty of an offence, and is liable on summary conviction to a fine of one hundred pounds.

It is a defence to a charge of the offence defined in this section to prove that the act was done without the knowledge of the accused person, and without any neglect or default on his part.

2340. Any person who—
(1) Being a person having actual control over a vessel on board of which any article has been placed with his knowledge or consent in order to the obtaining of permission or authority to leave a port, removes or allows the removal of such article from the vessel after such permission or authority has been obtained; or
(2) Knowingly sends by any vessel, or carries in any vessel, any explosive substance, or any acid or other thing of a dangerous or destructive nature, under a false description of the substance or thing, or with a false description of the sender thereof;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

This Article does not apply to any gunpowder the property of Her Majesty while it is under the control of an officer of Her Majesty’s army or navy, or ordinance, or of the Defence Force of Queensland.
226. Any person who unauthorably assaults any other person is guilty of a misdemeanour, and is liable, on conviction upon indictment, to imprisonment for a term not exceeding one year with or without hard labour.

CHAPTER XXX.

ASSAULTS.

342. Any person who unauthorably assaults another is guilty of a misdemeanour, and is liable, if no greater punishment is provided, to imprisonment with hard labour for one year.

Assault with Intent to Commit Unnatural Offence and Indecent Assault on Males.

343. Any person who—
(1) Assaults another with intent to have carnal knowledge of him or her against the order of nature; or
(2) Indecently assaults any male person;

is guilty of a crime, and is liable to imprisonment with hard labour for ten years.

The offender cannot be arrested without warrant.

Assaults on Persons protecting Wrecks.

344. Any person who unauthorably assaults and uses actual violence to a justice or other person while acting in the execution of his duty in or concerning the preservation of a vessel in distress, or of any vessel or goods wrecked, stranded, or cast on shore, or lying under water, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Assaults occasioning Actual Bodily Harm.

345. Any person who unauthorably assaults any person and thereby causes him actual bodily harm is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Serious Assaults.

346. Any person who—
(1) Assaults any person with intent to commit a crime, or with intent to resist or prevent the lawful arrest or detention of himself or of any other person; or
(2) Assaults, resists, or wilfully obstructs, a police officer while acting in the execution of his duty, or any person acting in aid of a police officer while so acting; or
(3) Unlawfully assaults, resists, or obstructs, any person engaged in the
detains him or attempts to detain him; or to any person acting in aid of any such last-mentioned person

is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

A person is not liable to be punished for the same offence both under the provisions set forth in this Article and under the Act commonly called the Vagrancy Act (15 Vic. No. 4).

223. If any person enters into a forest, chase, or pasture, whether inclosed or not, or into any inclosed land where deer are usually kept, with intent unlawfully to hunt, course, wound, kill, chase, or carry away, any deer, any person entrusted with the care of such deer, and any of his assistants, whether in his presence or not, may demand from the person so entering any gun, firearm, snare, or engine, in his possession, and any dog there brought for hunting, coursing, or killing deer; and, in case the person so entering does not immediately deliver up the same, may seize and take the same from him, for the use of the owner of the deer, and any of those respective places or, upon pursuit made, in any other place to which he may have escaped therefrom.

Any person who unlawfully bests or wounds any person entrusted with the care of the deer, or any of his assistants, in the execution of any of the powers aforesaid, is guilty of felony, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

29 Vic. No. 11, ss. 36, 39.

224. Any person who:

(1) Assaults any person with intent to commit a felony, or with intent to resist or prevent the lawful apprehension or detention of himself or of any other person for any offence; or

(2) Assaults, resists, or wilfully obstructs, any constable or officer of police in the due execution of his duty, or any person acting in his aid; or

(3) Assaults any person in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or in pursuance of any unlawful combination or conspiracy respecting any trade, business, or manufacture, or respecting any person concerned or employed in any trade, business, or manufacture; or

[is guilty, &c.]

lawful execution of any process against any property, or in making a lawful distress, while so engaged; or

(4) Assaults, resists, or obstructs, any person engaged in such lawful execution of process, or in making a lawful distress, with intent to rescue any property lawfully taken under such process or distress; or

(5) Assaults any person in pursuance of any unlawful conspiracy respecting any manufacture, trade, business, or occupation, or respecting any person or persons concerned or employed in any manufacture, trade, business, or occupation, or the wages of any such person or persons;

is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

Any person who unlawfully assaults any other person may, subject to the provisions of this Chapter, be summarily convicted before two justices.

29 Vic. No. 11, s. 40.

227. Any person who unlawfully assaults any other person may, subject to the provisions of this Chapter, be summarily convicted before two justices.

CHAPTER XXXI.

ASSAULTS PUNISHABLE ON SUMMARY CONVICTION.

Jurisdiction of Justices.

347. Any person who unlawfully assaults another may, subject to the provisions of this Chapter, be summarily convicted before two justices.
229. Any person who unlawfully assaults another person is liable on summary conviction before two justices, on the complaint of the party aggrieved, to a fine not exceeding five pounds, inclusive of costs, and in default of payment to imprisonment with or without hard labour for a term not exceeding two months unless the fine and costs are sooner paid, or to imprisonment in the first instance, with or without hard labour, for a term not exceeding two months.

This Article does not authorize justices to hear and determine a charge in which a question arises as to the title to land, or to any interest in or accruing from land, or as to any insolvency, or as to any execution under the process of any court of justice.

230. If the assault is, in the opinion of the justices, of such an aggravated nature that the offender cannot be sufficiently punished under the provisions of the last preceding Article, and if the person assaulted is a male child whose age does not in the opinion of the justices exceed fourteen years, or is a female, the offender is liable upon summary conviction to a fine not exceeding twenty pounds, inclusive of costs, and in default of payment to imprisonment for a term not exceeding six months, unless the fine and costs are sooner paid, or to imprisonment in the first instance, with or without hard labour, for a term not exceeding six months.

The justices may also, if they think fit, require the offender to enter into a recognizance to keep the peace and be of good behaviour for any term not exceeding six months from the expiration of the sentence.

231. When a complaint of an assault has been heard upon the merits before justices, on complaint by or on behalf of the party aggrieved, under either of the last two preceding Articles, and they deem the offence not to be proved, or find the assault to have been justified, or to have been so trivial as not to merit any punishment, and

Some Assaults not to be so dealt with.

348. If the justices find that the assault complained of was accompanied by an attempt to commit a felony, or are of opinion that the case is from any other circumstances a fit subject for a prosecution by indictment, they are required to abstain from any adjudication, and to deal with the case in all respects in the same manner as if they had no authority to hear and determine it finally.

Common Assaults.

349. Any person who unlawfully assaults another is liable on summary conviction to a fine of five pounds, inclusive of costs, and in default of payment to imprisonment with hard labour for two months unless the fine and costs are sooner paid, or to imprisonment with hard labour for two months in the first instance.

If the justices are of opinion that the assault was so trivial as not to deserve any punishment, they may dismiss the complaint.

This section does not authorize justices to deal summarily with a charge of assault on which a question arises as to the title to land, or an estate in land, or to any interest in or accruing from land, or as to any insolvency, or as to the execution of the process of any court of justice.

Aggravated Assaults.

350. If the person assaulted is a male child whose age does not in the opinion of the justices exceed fourteen years, or is a female, and the justices are of opinion that the assault is of such an aggravated nature that the offender cannot be sufficiently punished under the provisions of the last preceding section, the offender is liable on summary conviction to a fine of twenty pounds, inclusive of costs, and in default of payment to imprisonment for six months unless the fine and costs are sooner paid, or to imprisonment with hard labour for six months in the first instance.

The justices may also, if they think fit, require the offender to enter into a recognizance to keep the peace and be of good behaviour for any term not exceeding six months from the expiration of the sentence.

Effect of Summary Conviction or Acquittal.

351. When a complaint of an assault has been heard upon the merits before justices, on complaint by or on behalf of the party aggrieved, under either of the last two preceding sections, and they are of opinion that the
accordingly dismiss the complaint, they are required forthwith to make out a certificate of the fact of such dismissal and to give it to the accused person.

Any person who has obtained such a certificate of dismissal, or who, having been convicted, has paid the fine or endured the punishment adjudged, is released from all further proceedings, civil or criminal, for the same cause.

83 Geo. 3, c. 67, ss. 3, 8, 9; 29 Vic. No. 13, s. 65.

218. Any person who—

(1) Unlawfully and with force hinders or prevents a seaman, keelman, or ship carpenter, from working at or exercising his lawful trade, business, or occupation; or

(2) Wilfully and maliciously assaults or wounds, or uses any violence to, any such person with intent to hinder or prevent him from working at or exercising his lawful trade, business, or occupation;

is guilty of a misdemeanor, and is liable on conviction to imprisonment with hard labour for a term not exceeding twelve months and not less than six months.

Any person who commits any such offence after having been previously summarily convicted of a like offence is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years.

A prosecution for any of the offences defined in this Article must be begun within twelve months after the offence is committed.

This Article does not extend to any act done in the service, or by authority, of the Crown.

29 Vic. No. 11, ss. 37, 38.

232. Any person who—

(1) Beats, or uses any violence or threat of violence to, any person, with intent to deter or hinder him from buying, selling, or otherwise disposing of, or with intent to compel him to buy, sell, or otherwise dispose of, any grain, flour, meal, meal, or potatoes, in any market or other place, or beats, or uses any such violence or threat to, any person who has the care or charge of any such thing whilst on the way to or from any city, town, market, or other place, with intent to stop the conveyance of the same; or

(2) Unlawfully and with force hinders or prevents any seaman, keelman, or master, from working at or exercising his lawful trade, business, or occupation, or wilfully and maliciously assaults, wounds, or uses any violence to, any such person, with intent to hinder or prevent him from working at or exercising his lawful trade, business, or occupation;

is liable on summary conviction before two justices to imprisonment with hard labour for a term not exceeding three months.

A person who has been punished under the provisions set forth in this Article cannot be punished for the same offence by virtue of any other provision of the law.

offence is not proved, or that the assault was so trivial as not to deserve any punishment, and accordingly dismiss the complaint, they are required forthwith to make out a certificate of the fact of such dismissal and to give it to the accused person.

Any person who has obtained such a certificate of dismissal, or who, having been convicted, has paid the fine or endured the punishment adjudged, is released from all further proceedings, civil or criminal, for the same cause.

Assaults in Interference with Freedom of Trade or Work.

352. Any person who assaults another with intent to hinder or prevent him from working at or exercising his lawful trade, business, or occupation, or from buying, selling, or otherwise dealing, with any property intended for sale, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for three months.
[233.] A man who induces a married woman to permit him to have carnal knowledge of her by persecuting her husband commits rape.

29 Vic. No. 11, s. 46.

238. Any person who commits the crime of rape is guilty of felony, and is liable on conviction to the punishment of death.

234. Any person who attempts to commit the crime of rape is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labor.

236. Any person who inhumanly assaults a female is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labor.

241. Any person who—

(1) From motives of gain takes away or detains, against her will, a woman of any age who has any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in real or personal estate, or who is a presumptive heir, co-heir, or co-beneficiary, or the presumptive next of kin, or one of the presumptive next of kin, to anyone having such an interest, with intent to marry her or carnally know her, or with intent to cause her to be married or carnally known by any other person; or

(2) Fraudulently allures, takes away, or detains, any woman who is under the age of twenty-one years, and who has such an interest in property as lastly devised, out of the possession and against the will of her father or mother, or of any other person who has the lawful care or charge of her, with intent to marry her or carnally know her, or with intent to cause her to be married or carnally known by any other person; or

(3) Forcefully takes away or detains against her will, any woman of any age with intent to marry

258. Any person who has carnal knowledge of a woman, not his wife, without her consent, or with her consent, if the consent is obtained by force, or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false and fraudulent representations as to the nature of the act, or, in the case of a married woman, by persecuting her husband, is guilty of a crime, which is called rape.

Punishment of Rape.

254. Any person who commits the crime of rape is liable to the punishment of death.

Attempt to Commit Rape.

255. Any person who attempts to commit the crime of rape is guilty of a crime, and is liable to imprisonment with hard labor for fourteen years. The offender cannot be arrested without warrant.

Indecent Assault on Females.

256. Any person who unlawfully and indecently assaults a woman or girl is guilty of a misdemeanor, and is liable on conviction to imprisonment with hard labor for two years.

Abduction.

257. Any person who—

(1) With intent to marry or carnally know a woman, or to cause her to be married or carnally known by any other person, takes her away, or detains her against her will; or

(2) From motives of gain, and with any such intent as aforesaid, takes or detains a woman who is under the age of twenty-one years, and who has any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any property, or who is a presumptive heir, co-heir, or co-beneficiary, or the presumptive next of kin, to anyone having such an interest, out of the custody or protection of her father or mother,
or other person having the lawful care or charge of her, and against the will of such father or mother or other person;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

A person convicted of either of the offences defined in this section, which was committed with respect to a woman who has such interest in property, or who is a presumptive heiress or co-heiress, or the presumptive next of kin, or one of the presumptive next of kin, to any person who has such an interest as aforesaid, is incapable of taking any estate or interest, legal or equitable, in any 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 as aforesaid, and, if any such marriage has taken place, such property is, upon his conviction, required to be settled in such manner as the Supreme Court may, upon an information at the suit of the Attorney-General, appoint.

Abduction of Girls under Sixteen.

29 Vic. No. 11, s. 56.

242. Any person who unlawfully takes an unmarried girl under the age of sixteen years out of the possession and against the will of her father or mother, or of any other person who has the lawful care or charge of her, or causes any such girl to be so taken, is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

358. Any person who unlawfully takes an unmarried girl under the age of sixteen years out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of such father or mother or other person, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for two years.

It is immaterial that the offender believed the girl to be of or above the age of sixteen years.

It is immaterial that the girl was taken with her own consent or at her own suggestion.

Rule of Evidence.

359. Upon a charge of any of the offences defined in this Chapter, the wife of the accused person is a competent but not a compellable witness.

CHAPTER XXXIII.

OFFENCES AGAINST LIBERTY.

Kidnapping.

360. Any person who forcibly takes or detains another with intent to compel that
other person to work for him against his will is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

361. Any person who unlawfully confines or detains another in any place against his will, or otherwise unlawfully deprives another of his personal liberty, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

If the offender is a person employed in the Public Service, and commits the offence in abuse of his authority he is liable to imprisonment with hard labour for five years.

False Certificates by Officers Charged with Duties Relating to Liberty.

362. Any person who—

1. Being required by law to give any certificate touching any matter by virtue whereof the liberty of any person may be affected, gives a certificate which is, to his knowledge, false in any material particular; or

2. Not being a person authorised by law to give such a certificate as aforesaid, gives such a certificate, and represents himself to be a person authorised to give the same; is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Concealment of Matters affecting Liberty.

363. Any person who—

1. Being required by law to keep any record touching any matter relating to any person in confinement, refuses or neglects to keep such record, or makes in such record an entry which is, to his knowledge, false in any material particular; or

2. Being required by law to give any information to any person touching any person in confinement, or to show to any person any person in confinement, or any place in which a person is confined—

(a) Refuses or neglects to give such information, or to show such person or place, to any person—

(b) Any order relating to a patient admitted to the premises since the last visit of the inspector or official visitor; or
(c) any other document relating to any patient
   detained on the premises which the inspector
   or official visitor requires to be produced; or

(d) any returns required by the inspector or
   official visitor;

is guilty of a misdemeanour, and is liable on conviction to
fine and imprisonment at the discretion of the Court.

48 Vict. No. 8, s. 170.

91. Any person who for any of the purposes of the
laws relating to insane persons—
(1) Wilfully makes, or is privy to making, an
untrue entry in any book required by law to
be kept for those purposes; or

(2) Wilfully makes an untrue statement in any
report required by those laws to be made, or
with reference to anything required by those
laws to be done; or

(3) Not being a legally qualified medical prac-
titioner, signs or describes himself in any
statement or certificate as a legal medical practi-
tioner;

is guilty of a misdemeanour, and is liable on conviction to
fine and imprisonment at the discretion of the Court.

Ib., ss. 18, 22, 41.

225. Any person who—
(1) Not being a committee or other person
authorised under the laws relating to insane
persons, receives an insane person to board or
lodge in any house for reward, or takes the
charge of an insane person for reward, except in
either case for the purpose of the temporary
custody of such person during his removal for
removal for

(2) Receives any person into a hospital for the
insane, or into a place appointed for the re-
tention and temporary treatment of persons com-
mitted under the provisions of the aforesaid
laws, or into a house licensed under the provi-
sions of those laws for the reception and treat-
ment of insane persons, without the production
to him of the documents required by those laws
to be produced before a person is so received; or

(3) When a house has been so licensed for the
reception and treatment of insane persons, and
the license has been revoked, or has expired and
has not been renewed, and there is in the house
after the revocation, or more than two months
after the expiration, of the license an insane
patient;

(c) Keeps the house, or

(e) Has the care and charge of the patient;

is guilty of a misdemeanor, and is liable on conviction to
fine and imprisonment at the discretion of the Court.

364. Any person who detains or assumes
the custody of an insane person contrary to the
provisions of the laws relating to insane persons
is guilty of a misdemeanor, and is liable to
imprisonment for two years.

Unlawful Custody of Insane Person.

365. Any person who threatens to do any
injury, or cause any detriment, of any kind to
another with intent to prevent or hinder that
other person from doing any act which he is
lawfully entitled to do, or with intent to com-
pel him to do any act which he is lawfully
entitled to abstain from doing, is guilty of a
misdemeanour, and is liable to imprisonment
for one year.

Threats.
28 Vic. No. 15, s. 25; 30 Vic. No. 10, s. 4.

238. Any person who—

(1) Celebrates or professes or attempts to celebrate the marriage of any person who is under the age of twenty-one years, and is not a widower or widow, without the written consent of some person authorized by law to give such consent, knowing that such person is under the age of twenty-one years, or, if a written consent is produced, knowing that the consent is not given by a person authorized by law to give it; or

(2) Wilfully celebrates, or professes or attempts to celebrate, any marriage contrary to the provisions of the laws relating to the solemnization of marriage; or

(3) Wilfully celebrates, or professes or attempts to celebrate, any marriage contrary to the provisions of the laws relating to the solemnization of marriage; or

is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding five years, or to both punishments.

239. Any person who—

(1) Wilfully marries a person under the age of twenty-one years [who is not a widower or widow] without the written consent of some person authorized by law to give such consent; or

(2)Induces, or attempts to induce, any person to celebrate marriage without such consent as last aforesaid between persons one of whom is

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CHAPTER XXXIV.

OFFENCES RELATING TO MARRIAGE AND PARENTAL RIGHTS AND DUTIES.

Biposy.

29 Vic. No. 11, s. 58.

337. Any person who being married marries any other person during the life of his or her wife or husband is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

This Article does not apply to the case of a person who marries a second time; and whose wife or husband has been continually absent from him or her for the space of seven years from his last past, and has not been known by him or her to be living within that time, nor to any person who at the time of the second marriage has been divorced from the bond of the first marriage, nor to any person whose first marriage has been declared void by the sentence of a court of competent jurisdiction.

366. Any person who—

(1) Being married, goes through the form of marriage with any other person during the life of his or her wife or husband; or

(2) Goes through the form of marriage with any person whom he or she knows to be married; is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

It is a defence to a charge of either of the offences defined in this section to prove that at the time of committing the alleged offence the wife or husband of the person already married had been continually absent from him or her for the space of seven years then last past, unless it is shown that the accused person knew that such wife or husband was living within that time.

Unlreful Celebration of Marriage.

367. Any person who—

(1) Celebrates, or attempts or professes to celebrate, the marriage of any person who, to his knowledge, is under the age of twenty-one years, and is not a widower or widow, without the written consent of some person authorized by law to give such consent, knowing that such person is under the age of twenty-one years, or, if a written consent is produced, knowing that the consent is not given by a person authorized by law to give it; or

(2) Celebrates, or attempts or professes to celebrate, any marriage contrary to the provisions of the laws relating to the solemnization of marriage; or

is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding five years, or to both punishments.
to the knowledge of the offender under that age (and is not a widower or widow); is guilty of a misdemeanor, and is liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding five years, or to both punishments.

(5) Marries a person who is, to his or her knowledge, under the age of twenty-one years, and is not a widow or widower, without such consent as aforesaid, or with a consent which, to his knowledge, is not given by a person authorized by law to give it, or to celebrate any marriage contrary to or without compliance with the laws relating to the solemnization of marriage; or

is guilty of a misdemeanor, and is liable to imprisonment for five years, and to a fine of five hundred pounds.

Unqualified Persons procuring Registration of Persons Qualified to Celebrate Marriages.

368. Any person who, not being a person entitled to be registered under the laws relating to the solemnization of marriage as a person authorized to celebrate marriages, and knowing that he is not such a person, procures his name to be registered as a person so entitled, is guilty of a misdemeanor, and is liable to imprisonment for two years, and to a fine of two hundred pounds.

Child-stealing.

369. Any person who, with intent to deprive any parent, guardian, or other person who has the lawful care or charge of a child under the age of fourteen years of the possession of such child, or with intent to steal any article upon or about the person of any such child—

(1) Unlawfully, either by force or fraud, leads or takes away, or decoys or entices away, or detains, the child; or

(2) Receives or harbours the child, knowing it to have been so led, taken, decoyed or enticed away, or detained as last aforesaid; is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

This Article does not apply to the case of a person who gets possession of a child, or takes a child out of the possession of a person who has lawful care or charge of the child, if such person claims a right to the possession of the child, or, in the case of an illegitimate child, is its mother or claims to be its father.
22 Vic. No. 6, s. 9.

246. Any person who, being the parent of a child under the age of sixteen years, and being able to maintain such child, wilfully and without lawful or reasonable cause deserts the child and leaves it without means of support, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding twelve months.

Desertion of Children.

370. Any person who, being the parent of a child under the age of sixteen years, and being able to maintain such child, wilfully and without lawful or reasonable cause deserts the child and leaves it without means of support, is guilty of a misdemeanour, and is liable to imprisonment for one year.

CHAPTER XXXV.
DEFAMATION.

Definition of "Periodical."

371. In this Chapter the term "periodical" includes any newspaper, review, magazine, or other writing or print, published periodically.

Definition of Defamatory Matter.

372. Any imputation concerning any person, or any member of his family, whether living or dead, by which the reputation of that person is likely to be injured, or by which he is likely to be induced to shun, or avoid, or ridicule, or despise him, is called defamatory, and the matter of the imputation is called defamatory matter.

Questions of Fact and Law.

373. The question whether any matter is or is not defamatory is a question of fact.

374. Any person who, by spoken words or audible sounds, or by words intended to be read either by sight or touch, or by signs, signals, gestures, or visible representations, publishes any defamatory imputation concerning any person is said to defame that person.

375. Publication is, in the case of spoken words or audible sounds, the speaking of such
being read or seen by any other person than the person defamed, and, in the case of other defamatory matter, the exhibiting of it in public, or causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by any other person than the person defamed.

33 Vict. No. 12, s. 8.
250. It is unlawful to publish defamatory matter unless such publication is protected, or justified, or excused by law.

2b, s. 10.
251. (1) A member of either House of Parliament does not incur any liability as for defamation by the publication of any defamatory matter in the course of a speech made by him in Parliament.
(2) A person who presents a petition to either House of Parliament does not incur any liability as for defamation by the publication of any defamatory matter contained in the petition.
(3) No person incurs any liability as for defamation by publishing, by order or under the authority of either House of Parliament, any paper containing defamatory matter.

2b, s. 11.
252. A person does not incur any liability as for defamation by publishing, in the course of any proceeding held before or under the authority of any court of justice, or in the course of any inquiry made under the authority of any Statute, or under the authority of Her Majesty, or of the Governor in Council, or of either House of Parliament, any defamatory matter.

2b, s. 12.
253. A person appointed under the authority of any Statute, or by or under the authority of Her Majesty, or of the Governor in Council, to hold any inquiry, does not incur any liability as for defamation by publishing any defamatory matter in any official report made by him of the result of such inquiry.

words or making of such sounds in the presence and hearing of any other person than the person defamed, and, in the case of signs, signals, or gestures, the making of such signs, signals, or gestures, so as to be seen or felt by, or otherwise come to the knowledge of, any person other than the person defamed, and, in the case of other defamatory matter, the exhibiting of it in public, or causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by any other person than the person defamed.

Publication of Defamatory Matter prima facie Unlawful.

376. It is unlawful to publish defamatory matter unless such publication is protected, or justified, or excused by law.

Absolute Protection: Privilege of Parliament.
377. (1) A member of either House of Parliament does not incur any liability as for defamation by the publication of any defamatory matter in the course of a speech made by him in Parliament.
(2) A person who presents a petition to either House of Parliament does not incur any liability as for defamation by the publication of any defamatory matter contained in the petition.
(3) A person does not incur any liability for defamation by publishing, by order or under the authority of either House of Parliament, any paper containing defamatory matter.

Absolute Protection: Privileges of Judge, Witnesses, and Others in Courts of Justice.

378. A person does not incur any liability as for defamation by publishing, in the course of a proceeding held before or under the authority of any court of justice, or in the course of any inquiry made under the authority of a Statute, or under the authority of Her Majesty, or of the Governor in Council, or of either House of Parliament, any defamatory matter.

Absolute Protection: Reports of Official Inquiries.

379. A person appointed under the authority of a Statute, or by or under the authority of Her Majesty, or of the Governor in Council, to hold any inquiry, does not incur any liability as for defamation by publishing any defamatory matter in an official report made by him of the result of such inquiry.
Protection: Reports of Matters of Public Interest.

To publish in good faith for the information of the public a fair report of the proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, or of the result of any such proceedings, unless, in the case of proceedings which are not final, the publication has been prohibited by the court, or unless the matter published is blasphemous or obscene;

(4) To publish in good faith the information of the public a fair report of the proceedings of any inquiry held under the authority of any Statute for the discharge of public functions, so far as the matter published relates to matters of public concern;

(7) To publish in good faith the information of the public a fair report of the proceedings of any public meeting, so far as the matter published relates to matters of public concern: The term "public meeting" means a meeting lawfully held for a lawful purpose, and for the bond fide furtherance or discussion of a matter of public concern, or for the advocacy of the candidature of any person for a public office, whether the admission to the meeting was open or restricted.

In the case of a publication of a report of the proceedings of a public meeting in a periodical, it is evidence of a want of good faith if the proprietor, publisher, or editor, has been requested by the person defamed to publish in the periodical a reasonable letter or statement by way of contradiction or explanation of the defamatory matter, and has refused or neglected to publish the same.

To publish in good faith for the information of the public a copy of, or an extract from or abstract of, any paper published by order or under the authority of either House of Parliament;

(3) To publish in good faith the information of the public a fair report of the proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, or of the result of any such proceedings, unless, in the case of proceedings which are not final, the publication has been prohibited by the court, or unless the matter published is blasphemous or obscene;

(4) To publish in good faith the information of the public a fair report of the proceedings of any inquiry held under the authority of any Statute for the discharge of public functions, so far as the matter published relates to matters of public concern;

(6) To publish in good faith the information of the public at the request of any Government department, officer of State, or officer of police, any notice or report issued by such officer, department, or officer, for the information of the public;

(9) To publish in good faith the information of the public a fair report of the proceedings of any local authority, board, or body of trustees or other persons, duly constituted under the provisions of any Statute for the discharge of public functions, so far as the matter published relates to matters of public concern;

(1) To publish in good faith for the information of the public a fair report of the proceedings of either House of Parliament, or of any Committee of either House:

(2) To publish in good faith for the information of the public a copy of, or an extract from an abstract of, any paper published by order or under the authority of either House of Parliament;

(3) To publish in good faith the information of the public a fair report of the proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, or of the result of any such proceedings, unless, in the case of proceedings which are not final, the publication has been prohibited by the court, or unless the matter published is blasphemous or obscene;

(4) To publish in good faith the information of the public a fair report of the proceedings of any inquiry held under the authority of any Statute, or under the authority of Her Majesty, or of the Governor in Council, or an extract from or abstract of, any official report made by the person by whom the inquiry was held:

(5) To publish in good faith for the information of the public at the request of any Government officer or department, officer of State, or officer of police, any notice or report issued by such officer, department, or officer, for the information of the public;

(6) To publish in good faith the information of the public a fair report of the proceedings of any inquiry held under the authority of any Statute for the discharge of public functions, so far as the matter published relates to matters of public concern;

(7) To publish in good faith the information of the public a fair report of the proceedings of any local authority, board, or body of trustees or other persons, duly constituted under the provisions of any Statute for the discharge of public functions, so far as the matter published relates to matters of public concern:

(8) To publish in good faith for the information of the public a fair report of the proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, or of the result of any such proceedings, unless, in the case of proceedings which are not final, the publication has been prohibited by the court, or unless the matter published is blasphemous or obscene;

(9) To publish in good faith the information of the public a fair report of the proceedings of any inquiry held under the authority of any Statute for the discharge of public functions, so far as the matter published relates to matters of public concern;
(7) To publish in good faith for the information of the public a fair report of the proceedings of any public meeting, so far as the matter published relates to matters of public concern.

A publication is said to be made in good faith for the information of the public if the person by whom it is made is not actuated in making it by ill-will to the person defamed, or by any other improper motive, and if the matter of the publication is such as is ordinarily and fairly used in the case of the publication of news.

The term "public meeting" means and includes any meeting lawfully held for a lawful purpose, and for the furtherance or discussion in good faith of a matter of public concern, or for the advocacy of the candidature of any person for a public office, whether the admission to the meeting was open or restricted.

In the case of a publication of a report of the proceedings of a public meeting in a periodical, it is evidence of want of good faith if the proprietor, publisher, or editor, has been requested by the person defamed to publish in the periodical a reasonable letter or statement by way of contradiction or explanation of the defamatory matter, and has refused or neglected to publish the same.

Protection: Fair Comment.

381. It is lawful—

(1) To publish a fair comment respecting any of the matters with respect to which the publication of a fair report in good faith for the information of the public is by the last preceding Article declared to be lawful;

(2) To publish a fair comment respecting the public conduct of any person who takes part in public affairs, or respecting the character of any such person, so far as his character appears in that conduct;

(3) To publish a fair comment respecting the conduct of any public officer or public servant in the discharge of his public functions, or respecting the character of any such person, so far as his character appears in that conduct;

(4) To publish a fair comment respecting the merits of any case, civil or criminal, that has been decided by any court of justice, or respecting the conduct of any person as a judge, party, witness, counsel, solicitor, or officer of the court, in any such case, or respecting the character of any such person, so far as his character appears in that conduct;

(5) To publish a fair comment respecting any published book or other literary production, or respecting the character of the author, so far as his character appears by such book or production;

(6) To publish a fair comment respecting any composition, or work of art, or performance
...the conduct of any person as a judge, party, witness, counsel, solicitor, or officer of the court, in any such case, or respecting the character of any such person, so far as his character appears in that conduct;

(6) To publish a fair comment respecting any published book or other literary production, or respecting the character of the author, so far as his character appears by such book or production;

(7) To publish a fair comment respecting any public entertainment or sports, or respecting the character of any person conducting or taking part therein, so far as his character appears from the matter exhibited;

(8) To publish a fair comment respecting any communication made to the public on any subject.

Whether a comment is or is not fair is a question of fact. If it is not fair, and is defamatory, the publication of it is unlawful.

Protection: Truth.

382. It is lawful to publish defamatory matter if the matter is true, and if it is for the public benefit that the publication complained of should be made.

Qualified Protection: Excuse.

383. It is a lawful excuse for the publication of defamatory matter—

(1) If the publication is made in good faith by a person having over another any lawful authority in the course of a censure passed by him on the conduct of that other in matters to which such lawful authority relates;

(2) If the publication is made in good faith for the purpose of seeking remedy or redress for some private or public wrong or grievance from a person who has, or is reasonably believed by the person making the publication to have, authority over the person defamed with respect to the subject-matter of such wrong or grievance;

(3) If the publication is made in good faith for the protection of the interests of the person making...
the publication, or of some other person, or for the public good;

(4) If the publication is made in good faith in answer to an inquiry made of the person making the publication relating to some subject as to which the person, by whom or on whose behalf the inquiry is made has, or is reasonably believed by the person making the publication to have, an interest in knowing the truth;

(5) If the publication is made in good faith for the purpose of giving information to the person to whom it is made with respect to some subject as to which that person has, or is reasonably believed by the person making the publication to have, such an interest in knowing the truth as to make his conduct in making the publication reasonable under the circumstances;

(6) If the publication is made in good faith on the invitation or challenge of the person defamed;

(7) If the publication is made in good faith in order to answer or refute some other defamatory matter published by the person defamed concerning the person making the publication or some other person;

(8) If the publication is made in good faith in the course of, or for the purposes of, the discussion of some subject of public interest the public discussion of which is for the public benefit.

For the purposes of this section, a publication is said to be made in good faith if the matter published is relevant to the matters the existence of which may excuse the publication in good faith of defamatory matter; if the manner and extent of the publication does not exceed what is reasonably sufficient for the occasion; and if the person by whom it is made is not actuated by ill-will to the person defamed, or by any other improper motive, and does not believe the defamatory matter to be untrue.

For the purposes of this section, a publication is said to be made in good faith if the matter published is relevant to the matters the existence of which may excuse the publication in good faith of defamatory matter if the

a person who has, or whom the person making the publication believes, on reasonable grounds, to have, authority over the person defamed with respect to the subject-matter of such wrong or grievance;

(3) If the publication is made in good faith for the protection of the interests of the person making the publication, or of some other person, or for the public good;

(4) If the publication is made in good faith in answer to an inquiry made of the person making the publication relating to some subject as to which the person by whom or on whose behalf the inquiry is made has, or is believed, on reasonable grounds, by the person making the publication to have, an interest in knowing the truth;

(5) If the publication is made in good faith for the purpose of giving information to the person to whom it is made with respect to some subject as to which that person has, or is believed, on reasonable grounds, by the person making the publication to have, such an interest in knowing the truth as to make his conduct in making the publication reasonable under the circumstances;

(6) If the publication is made in good faith on the invitation or challenge of the person defamed;

(7) If the publication is made in good faith in order to answer or refute some other defamatory matter published by the person defamed concerning the person making the publication or some other person;

(8) If the publication is made in good faith in the course of, or for the purposes of, the discussion of some subject of public interest the public discussion of which is for the public benefit, and if, so far as the defamatory matter consists of comment, the comment is fair.

For the purposes of this section, a publication is said to be made in good faith if the matter published is relevant to the matters the existence of which may excuse the publication in good faith of defamatory matter; if the
When any question arises whether a publication of defamatory matter was or was not made in good faith, and it appears that the publication was made under circumstances which would afford lawful excuse for the publication if it was made in good faith, the burden of proof of the absence of good faith lies upon the party alleging such absence.

**Good Faith.**

When any question arises whether a publication of defamatory matter was or was not made in good faith, and it appears that the publication was made under circumstances which would afford lawful excuse for the publication if it was made in good faith, the burden of proof of the absence of good faith lies upon the party alleging such absence.

**Relevancy and Public Benefit Questions of Fact.**

When any question arises whether a publication of defamatory matter was or was not made in good faith, and it appears that the publication was made under circumstances which would afford lawful excuse for the publication if it was made in good faith, the burden of proof of the absence of good faith lies upon the party alleging such absence.

**Unlawful Publication of Defamatory Matter.**

Any person who unlawfully publishes any defamatory matter concerning another is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding two years with or without hard labour.

**Defamation of Members of Parliament by Strangers.**

Any person who, not being a member of either House of Parliament, unlawfully publishes any false or scandalous defamatory matter touching the conduct of any member or members of either House of Parliament as such member or members, is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding five hundred pounds, and to imprisonment for a term not exceeding two years with or without hard labour.

**Defence in Case of Defamation by Words, Sounds, Signs, Signals, or Gestures.**

In any case other than that of words intended to be read, it is a defence to a prosecution for defamation to prove that the publication was made on an occasion and in a manner and extent of the publication does not exceed what is reasonably sufficient for the occasion; and if the person by whom it is made is not actuated by ill-will to the person defamed, or by any other improper motive, and does not believe the defamatory matter to be untrue.
occasion and under circumstances when the person defamed was not likely to be injured thereby.

**Publishing or Threatening to Publish Defamatory Matter with Intent to Extort Money.**

285. Any person who publishes, or threatens to publish, any defamatory matter concerning any other person, or directly or indirectly threatens to publish, or directly or indirectly proposes to abstain from publishing, or directly or indirectly offers to prevent the publishing of, any defamatory matter concerning any other person, with intent to extort any money or security for money, or any valuable thing, from such person or any other person, or with intent to induce any person to confer or procure for any person any appointment or office of profit or trust, is guilty of a misdemeanour; and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

The provisions of this Article do not affect the provisions of any other Article in respect to the sending or delivery of threatening letters or writings.

286. A proprietor, publisher, or editor, of a periodical is not criminally responsible for defamatory matter published therein if he shows that the matter complained of was inserted without his knowledge and without negligence on his part.

General authority given to the person who actually inserted the defamatory matter to manage or conduct the periodical, as editor or otherwise, and insert therein what in his discretion he thinks fit, is not negligence within the meaning of this Article, unless it is proved that the proprietor, or publisher, or editor, when giving such general authority, meant that it should extend to and authorize the unlawful publication of defamatory matter, or continued such general authority, knowing that it had been exercised by unlawfully publishing defamatory matter in any number or part of the periodical.

**Liability of Proprietor, Publisher, and Editor of Periodicals.**

287. A person does not incur any criminal liability as for defamation by selling any number or part of a periodical unless he knows that such number or part contains defamatory matter, or that defamatory matter is habitually or frequently contained in that periodical.

289. Any person who publishes, or directly or indirectly threatens to publish, or directly or indirectly proposes to abstain from publishing, or directly or indirectly offers to prevent the publication of, any defamatory matter concerning another, with intent to extort any property from such person or any other person, or with intent to induce any person to give or confer or procure, or to attempt to procure, to, upon, or for, any person any property or benefit of any kind, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Protection of Innocent Sellers of Periodicals.

290. Upon a charge against a proprietor, publisher, or editor, of a periodical, of the unlawful publication in the periodical of defamatory matter, it is a defence to prove that the matter complained of was inserted in the periodical without his knowledge and without negligence on his part.

General authority given to the person who actually inserted the defamatory matter to manage or conduct the periodical as editor or otherwise, and to insert therein what in his discretion he thinks fit, is not negligence within the meaning of this section, unless it is proved that the proprietor or publisher or editor, when giving such general authority, meant that it should extend to and authorize the unlawful publication of defamatory matter, or continued such general authority, knowing that it had been exercised by unlawfully publishing defamatory matter in any number or part of the periodical.
269. The sale by a servant of a book, pamphlet, print, or writing, or other thing, whether a periodical or not, does not make the employer responsible in respect of defamatory matter contained therein, unless it is proved that such employer authorized the sale knowing that the book, pamphlet, print, writing, or other thing, contained defamatory matter, or, in the case of a number or part of a periodical, that defamatory matter was habitually or frequently published therein.

270. A criminal prosecution cannot be begun against the proprietor, or publisher, or editor, or any person responsible for the publication, of any periodical, for publishing any defamatory matter therein, without the order of a judge of the Supreme Court, made after notice to the person accused, and after that person has had an opportunity of being heard in opposition to the application for the order.

271. If, on the hearing of a charge of unlawfully publishing defamatory matter the justices are of opinion that a particular case has been made out against the defendant, but that the case is of a trivial nature, they may ask the defendant the following question:

Do you claim to be tried by a jury, or do you consent to the case being dealt with summarily?

And if the defendant consents to the case being dealt with summarily, he may be summarily convicted before two justices, and is liable on such conviction to a fine not exceeding fifty pounds.

Protection of Innocent Sellers of Books.

392. A person is not criminally responsible as for the unlawful publication of defamatory matter merely by reason of selling a book, pamphlet, print, or writing, or other thing not forming part of a periodical, although it contains the defamatory matter, if at the time of the sale he does not know that the defamatory matter is contained therein.

Protection of Employers.

393. An employer is not responsible as for the unlawful publication of defamatory matter merely by reason of the sale by his servant of a book, pamphlet, print, writing, or other thing, whether a periodical or not, containing the defamatory matter, unless it is proved that he authorised the sale, knowing that the book, pamphlet, print, writing, or other thing, contained the defamatory matter, or, in the case of a number or part of a periodical, that defamatory matter was habitually or frequently contained in that periodical.

Prosecution of Newspapers to be by sanction of a Judge after Notice.

394. A criminal prosecution cannot be begun before justices against the proprietor, or publisher, or editor, or any person responsible for the publication, of any periodical, for the unlawful publication of any defamatory matter contained therein, without the order of a judge of the Supreme Court, made after notice to the person accused, and after that person has had an opportunity of being heard in opposition to the application for the order.

Summary Jurisdiction in Trivial Cases of Defamation.

395. If, on the hearing before a justice of a charge of the unlawful publication of defamatory matter, the justice is of opinion that a case has been made out against the defendant, but that the case is of a trivial nature, he may ask the defendant whether he desires to be tried by a jury, or consents to the charge being dealt with summarily: And if the defendant consents to the charge being dealt with summarily, he may be summarily convicted before two justices, and is liable on such conviction to a fine of fifty pounds.
33 Vic. No. 12, s. 45.

272. The statutory provisions set forth in this Chapter do not limit or abridge any protection or privilege existing by law and not therein expressed.

PART VI.—OFFENCES RELATING TO PROPERTY AND CONTRACTS.

DIVISION I.—STEALING AND LIKE OFFENCES.

CHAPTER XXXVI.

STEALING. (1)

Things capable of being Stolen.

396. Every inanimate thing whatever which is the property of any person, and which is moveable, is capable of being stolen.

Every inanimate thing which is the property of any person, and which is capable of being made moveable, is capable of being stolen as soon as it becomes moveable, although it is made moveable in order to steal it.

Every tame animal, whether tame by nature or wild by nature and tamed, which is the property of any person, is capable of being stolen:

But tame pigeons are not capable of being stolen except while they are in a pigeon-house or on their owner's land.

Animals wild by nature, of a kind which is not ordinarily found in a condition of natural liberty in Queensland, which are the property of any person, and which are usually kept in a state of confinement, are capable of being stolen, whether they are actually in confinement or have escaped from confinement.

Animals wild by nature, of a kind which is ordinarily found in a condition of natural liberty in Queensland, which are the property of any person, are capable of being stolen while they are in confinement and while they are being actually pursued after escaping from confinement, but not at any other time.

An animal wild by nature is deemed to be in a state of confinement so long as it is in a den, cage, sty, tank, or other small enclosure, or is otherwise so placed that it cannot escape and that its owner can take possession of it at pleasure.

The term “animal” includes any living creature other than mankind.

(1) See Accompanying Letter.
Vic. No 6, s. 2.

274. All larvenues are of the same nature, whatever may be the value of the property stolen.

Oysters and oyster brood are capable of being stolen while in oyster beds, layings, or fisheries, which are the property of any person, and which are sufficiently marked out, or are known by general repute as his property.

Wild animals in the enjoyment of their natural liberty are not capable of being stolen, but their dead bodies are capable of being stolen.

Everything produced by or forming part of the body of an animal capable of being stolen is capable of being stolen.

Definition of Stealing.

397. (1.) A person who fraudulently takes anything capable of being stolen, or fraudulently converts to his own use or to the use of any other person anything capable of being stolen, is said to steal that thing.

(2.) A person who takes or converts anything capable of being stolen is deemed to do so fraudulently if he does so with any of the following intents, that is to say:—

(a) An intent to permanently deprive the owner of the thing of it;
(b) An intent to permanently deprive any person who has any special property or interest in the thing of such property or interest;
(c) An intent to use the thing as a pledge or security;
(d) An intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform;
(e) An intent to deal with it in such a manner that it cannot be returned in the condition in which it was at the time of the taking or conversion;
(f) In the case of money, an intent to use it at the will of the person who takes or converts it, although he may intend to afterwards repay the amount to the owner.

(3.) The taking or conversion may be fraudulent, although it is effected without secrecy or attempt at concealment.

(4.) In the case of conversion, it is immaterial whether the thing converted is taken for the purpose of conversion, or whether it is at the time of the conversion in the possession of the person who converts it. It is also immaterial that the person who converts the property is the holder of a power of attorney for the disposition of it, or is otherwise authorised to dispose of the property.
fraudulently sells or transfers, or otherwise misappropriates, the same or any part thereof, is guilty of a misdemeanor, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

Compare Bill of 1880, s. 240.

Bill of 1880, s. 233.

29 Vict. No. 6, s. 88.

Provided that a factor or agent is not liable to a prosecution for consigning, depositing, transferring, or delivering, any such goods or documents of title in case the same are not made a security for the payment of any greater sum of money than the amount which at the time of making the consignment, deposit, transfer, or delivery, is justly due to him from his principal, together with the amount of any bill of exchange drawn by or on account of such principal and accepted by the factor or agent.

Bill of 1880, s. 240.

See Arts. 367, post (p. 161), 380, supra.

Compare Bill of 1880, s. 244.

(5.) When a thing converted has been lost by the owner and found by the person who converts it, the conversion is not deemed to be fraudulent if at the time of the conversion the person taking or converting the thing does not know who is the owner, and believes, on reasonable grounds, that the owner cannot be discovered.

(6.) The act of stealing is not complete until the person taking or converting the thing actually moves it or otherwise actually deals with it by some physical act.

Special Cases.

398. (1.) When a wild animal in the enjoyment of its natural liberty has been killed by any person, the taking of the dead body of the animal by that person, or by any person acting under his orders, before it has been reduced into actual possession by the owner of the land on which the animal was killed or on which it died, is not deemed to be stealing.

(2.) When a factor or agent pledges or gives a lien on any goods or document of title to goods entrusted to him for the purpose of sale or otherwise for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving the lien, together with the amount of any bill of exchange or promissory note accepted or made by him for or on account of his principal, such dealing with the goods or document of title is not deemed to be stealing.

(3.) When a servant, contrary to his master's orders, takes from his possession any food in order that it may be given to an animal belonging to or in the possession of his master, such taking is not deemed to be stealing.

Funds held under Direction.

399. When a person receives, either alone or jointly with another person, any money or valuable security, or a power of attorney for the sale, mortgage, pledge, or other disposition of any property, whether capable of being stolen or not, with a direction in either case that such money or any part thereof or the proceeds or any part of the proceeds of such security, or of such mortgage, pledge, or other disposition, shall be applied to any purpose or paid to any person specified in the direction, such money and proceeds are deemed to be the property of the person from whom the money,

(1.) This has been made a special offence in Ireland, punishable by summary conviction (32 & 33 Vict. c. 109, s. 1). It is apparently dealt with in Common Law.
security, or power of attorney, was received until the direction has been complied with:
Provided that if the person receiving the money, security, or power of attorney, and the person from whom he receives it ordinarily deal with each other on such terms that in the absence of any special direction all money paid to the former on account of the latter would be properly treated as an item in a debtor and creditor account between them, the former cannot be charged with stealing the money or any such proceeds unless the direction is in writing.

Funds received by Agents for Sale.

400. When a person receives, either alone or jointly with another person, any property from another on terms authorising or requiring him to sell it or otherwise dispose of it for valuable consideration, and requiring him to pay or account for the proceeds of the property, or any part of such proceeds, or to deliver anything received in exchange for the property, to the person from whom it is received, or some other person, then the proceeds of the property, and anything so received in exchange for it, are deemed to be the property of the person from whom the property was so received, until they have been disposed of in accordance with the terms on which the property was received, unless it is a part of those terms that the proceeds, if any, shall form an item in a debtor and creditor account between him and the person to whom he is to pay them or account for them, and that the relation of debtor and creditor only shall exist between them in respect thereof.

Money received for Another.

401. When a person receives, either alone or jointly with another person, any money on behalf of another, the money is deemed to be the property of the person on whose behalf it is received, unless the money is received on the terms that it shall form an item in a debtor and creditor account, and that the relation of debtor and creditor only shall exist between the parties in respect of it. 19

Stealing by Persons having an Interest in the thing Stolen.

402. When any person takes or converts anything capable of being stolen, under such circumstances as would otherwise amount to

19 This provision seems to be necessary to remove possible doubts. It is a necessary corollary of the other provisions of this Chapter.
Any person who—

(1) Commits the offence of simple larceny; or

(2) Steals, or with intent to steal, ruins, cuts, servers, or breaks, any glass or woodwork belonging to any building whatever, or any metal or any utensil or fixture of any material whatever fixed in or to any building whatever, or any thing made of metal fixed in any land being private property, or for a fence to any dwelling-house, garden, or area, or in any square or street, or in any place dedicated to public use or common, or in any burial ground; or

(3) Steals, or with intent to steal cuts, breaks, roots up, or otherwise destroys or damages, the whole or any part of any tree, sapling, or shrub, or any underwood;

(a) If the value of the thing stolen or the amount of the injury done exceeds five pounds; or

(b) When the thing stolen or damaged is growing in a park, pleasure ground, garden, orchard, or nuence, or in ground adjoining or belonging to a dwelling-house, and such value or amount exceeds one pound; or

(c) Wherever the thing stolen or damaged is growing, if such value or amount is not less than a shilling, and the offender has been twice previously convicted of any such offence; or

(4) Steals any dead wood of the value of not less than one shilling, lying on land in the occupation of another person, after having been twice previously convicted of the like offence; or

stealing, it is immaterial that he himself has a special property or interest therein, or that he himself is the owner of the thing taken or converted subject to some special property or interest of some other person therein; or that he is losses of the thing; and that another person is entitled to the reversion thereof; or that he himself is one of two or more joint owners of the thing; or that he is a director or officer of a corporation or joint stock company or society who are the owners of it.

403. A person who, while a man and his wife are living together, assists either of them in dealing with anything which is, to his knowledge, the property of the other in a manner which would be stealing if they were not married, or receives from either of them anything which is, to his knowledge, the property of the other, and which has, to his knowledge, been obtained from the other by dealing with it in any such manner, is deemed to have stolen the thing, and may be charged with stealing it.

404. Any person who steals anything capable of being stolen is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment with hard labour for three years.

 Punishment of Stealing.
(5) Steals, or with intent to steal destroys or damages, any plant, root, fruit, or vegetable production, which is growing in a garden, orchard, pleasure ground, nursery, grounds, hot-house, green-house, or conservatory, after having been previously convicted of any such offence; or

(6) Steals, otherwise than in the course of catching or fishing for floating fish with a net or other instrument or engine adapted for taking floating fish only, any oyster or oyster brood from any oyster bed, laying, or fishery, which is the property of any other person and is sufficiently marked out or known as such;

guilty of felony, and is, except as otherwise provided, liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement; and, if a male under the age of sixteen years, with or without whipping.

29 Vic. No. 6, s. 28.

299. Any person who—

(1) Steals, or for any fraudulent purpose destroys, cancels, obliterates, or conceals, the whole or any part of any document of title to lands;

is guilty of felony, and is liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

It is a defence to a charge of any of the offence fully defined in this Act to prove that the aforesaid paper, before being charged with the offence, and in consequence of the compulsory process of any court of justice in action or proceeding [and file] instituted by a party improper, or in a compulsory examination or deposition before a court of justice upon the hearing of a matter in executory, disclosed on oath the act alleged to constitute the offence.

Ib., s. 27.

300. Any person who steals, or for any fraudulent purpose destroys, cancels, or obliterates, the whole or any part of any valuable security other than a document of title to lands, in guilty of felony of the same nature and in the same degree, and is punishable in the same manner, as if he had stolen a chattel of like value with the above-mentioned, or deposited, to which the security so stolen [or dealt with] relates, or with the money due on the security so stolen [or dealt with], or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned, or referred to, in or by the security.

Ib., s. 79.

301. Any person who steals any chattel or fixture set to be used by him or her in or with any house or building in guilty of felony, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Ib., ss. 39, 40.

302. Any person who—

(1) Steals the ore of any metal, or any lapsa calcinarii, manganese, or middling, or any weld, black sand, or black lead, or any coal or coaly coal, from any mine, bed, or vein, thereof respectively;

is guilty of felony, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.
304. Any person who steals a pawnbroker's duplicate, or unlawfully takes a pawnbroker's duplicate, with a fraudulent intent (in either case) to deprive the owner thereof of the duplicate or of any article specified in it, is guilty of a misdemeanor, and is liable on conviction to a fine at the discretion of the Court, or to imprisonment for a term not exceeding two years with or without hard labour, or to both punishments.

305. Any person who, being the lessee of a stocking-frame, or of a machine or engine let with a stocking-frame to be used with it, sells or unlawfully disposes of the stocking-frame, machine, or engine, without the consent of the owner, is guilty of a misdemeanor, and is liable on conviction to imprisonment with solitary confinement for a term not exceeding twelve months and not less than three months.

306. When any woollen cloth or woollen goods which has or have been left upon a rack or upon tenter, or any woollen yarn or wool which has been left out to dry, is or are stolen in the night-time, a justice may, upon complaint on oath made by the owner within ten days after the theft, issue his warrant to a constable authorising him to search for the stolen property upon the premises of the person named by the complainant as suspected of the theft.

Any person in whose custody or possession any such thing is found by the constable in the execution of the warrant, and who, on being taken by the constable before a justice, fails to satisfy him that he came lawfully by the property in question, or to produce the person from whom he received it or some credible witness who will depose upon oath as to his right to the possession of the property, is deemed guilty of stealing the same, and is liable on summary conviction before such justices to be ordered to pay to the owner treble the value of the property.

If he has been previously convicted of any such offence, he is liable on like summary conviction to a like order, and also to imprisonment for the term of six months.

If he has been twice summarily convicted of any such offence he must be committed for trial; and unless at the trial he produces the person from whom he obtained the property or possession of the property in question, or otherwise satisfies the jury that he lawfully obtained the property or possession of the property, he is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years.

319. Any person who—

(1) Steals a dog after having been previously convicted of stealing a dog; or

(2) Unlawfully has in his possession or on his premises a stolen dog, or the skin of a stolen dog, knowing that the dog was stolen, or that the skin is the skin of a stolen dog, after having been previously convicted of any such offence;

is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding eighteen months with or without hard labour.

324. Any person who knowingly and fraudulently, without the consent or authority of the owner, and with intent to deprive him, either permanently or temporarily, of
29 Vic. No. 6, s. 20.

292. Any person who, either during the life of the testator or after his death, steals, or for any fraudulent purpose destroys, conceals, obliterates, or conceals, the whole or any part of any will or codicil, whether it relates to real or personal estate or to both, is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour, or to both punishments.

It is a defence to a charge of any of the offences defined in this Article, to prove that the accused person, before being charged with the offence, and in consequence of the compulsory process of a court of justice in an action or proceeding had for the execution of a will, or in a compulsory examination or deposition before a court of justice upon the hearing of a matter in insolvency, disclosed on oath the act alleged to constitute the offence.

41 Vic. No. 26, s. 26.

293. Any person who, with intent to defraud any person interested under a will or codicil, retains or conceals the will or codicil, or endeavours to do so, is guilty of a misdemeanour, and is liable on conviction to house at the discretion of the Court, or to imprisonment for a term not exceeding two years with or without hard labour, or to both punishments.

A prosecution for an offence against the provisions of this Article cannot be begun without the sanction of the Attorney-General given after such previous notice to the accused person as the Attorney-General may direct.

20 Vic. No. 6, s. 46.

133. Any person who—

(1) Steals a post letter-bag; or

(2) Steals a post letter out of a post letter-bag, or from a post office, or from an officer of the post office, or from a mail;

is guilty of larceny, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

Stealing Wills.

I. If the thing stolen is a testamentary instrument, whether the testator is living or dead, the offender is liable to imprisonment with hard labour for life, with or without solitary confinement.

Stealing things sent by Post.

II. If the thing stolen is anything in course of transmission by post, the offender is liable to imprisonment with hard labour for life.

Stealing Cattle; or Woven Goods in Process of Manufacture.

III. If the thing stolen is any of the things following, that is to say—

(a) Any woven article, or any material for making a woven article, exposed during any process of manufacture, the offender is liable to imprisonment with hard labour for fourteen years.
more of those materials mixed with each other or mixed with any other material, to the value of ten shillings, whilst laid, placed, or exposed during any stage, process, or progress, of manufacture in any building, field, or other place; is guilty of felony, and is liable on conviction to imprisonment for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

289. Any person who—

(2) Steals any chattel, money, or valuable security, from the person of another;

Is guilty, &c.] 29 Geo. 3, s. 68.

288. Any person who—

(1) Steals in a dwelling-house any chattel, money, or valuable security, to the value of the whole of five pounds or more; or

(2) Steals any chattel, money, or valuable security, in a dwelling-house, and by any means or手段 puts anyone who is in the dwelling-house in bodily fear; is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

289. Any person who—

(2) Steals any goods or merchandise in any vessel or any kind whatever in any haven, or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river, or canal; or

(3) Steals any goods or merchandise from any deck, wharf, or quay, adjacent to any such haven, port, river, canal, creek, or basin;

Is guilty, &c.] 29 Geo. 3, s. 68.

290. Any person who plunder or steals any part of a ship or vessel in distress, or which is wrecked, stranded, or sunk on shore, or any goods, merchandise, or articles, of any kind belonging to such a ship or vessel, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

299. Any person who—

(2) Steals, or for any fraudulent purpose takes from its place of deposit for the time being, or from any person who has the lawful custody thereof, or unlawfully and maliciously cancels, obliterates, injures, or destroys, the whole or any part of any original document whatever, which belongs to any court of record, or relates to any cause or matter, civil or criminal, begun, depending, or terminated, in any court of record, or of any original document which in any way relates to the business of any office or employment under Her Majesty, and which is in any office appertaining to any court of justice, or in any Government office or public office;

Is guilty, &c.] Compare Bill of 1890, s. 247, and Italian Penal Code, ss. 468, 469.

Stealing from the Person; Stealing Goods in Transit, &c.

IV. If the offence is committed under any of the circumstances following, that is to say—

(1) If the thing is stolen from the person of another;

(2) If the thing is stolen in a dwelling-house, and its value exceeds five pounds, or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling-house;

(3) If the thing is stolen from any kind of vessel or vehicle in which deposit used for the conveyance or custody of goods in transit from one place to another;

(4) If the thing is stolen from a vessel which is in distress or wrecked or stranded;

(5) If the thing is stolen from a public office in which it is deposited or kept;

(6) If the offender, in order to commit the offence, opens any locked room, box, or other receptacle, by means of a key or other instrument; the offender is liable to imprisonment with hard labour for fourteen years.
29 Vic. No. 6, s. 78.

307. Any person who, being a clerk or servant employed in the public service, and—

(a) Being intrusted with any bond, deed, note, bill, dividend, warrant, or warrant for payment of any security or interest or money, or with any security, money, and order, or other effects of or belonging to Her Majesty; or

(b) Having any bond, note, bill, dividend, warrant, or warrant for payment of any security or interest or money, or any security, money, and order, or other effects of any other person, lodged or deposited with him as such clerk or servant;

steals, embezzles, or runs away with the same, or any part thereof, is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

308. Any person who—

(a) Being employed in the public service of Her Majesty; or

(b) Being a constable or other person employed in the police;

steals any chattel, money, or valuable security, which belongs to or is in the possession of or power of Her Majesty, or which is intrusted to or received by him or taken into possession by him by virtue of his employment, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

309. Any person who—

(a) Being employed in the public service of Her Majesty; or

(b) Being a constable or other person employed in the police;

embezzles, or in any manner fraudulently applies or disposes of for his own benefit, or for any purpose except for the public service, any chattel, money, or valuable security, which is intrusted to or received by him, or taken into possession by him by virtue of his employment, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

310. Any person who—

(1) Being employed in the public service of Her Majesty, misapplies or improperly disposes of—

(a) Any moneys which come into his possession or control for or on account of the Consolidated Revenue; or

(b) Any moneys which, by virtue of his office or employment, or of any legal process, come into his possession or control for or on account for or for the use or benefit of any other person; or
(2) Being liable to account for the receipt or expenditure of any public moneys or stores, misappropriation, or improperly disposes of, or willfully damages or destroys, the same; or

(3) Being an officer of a District Court, appropriated to his own use any money or other thing which comes into his possession by virtue of his office, and which ought to be paid or delivered to any other person; or

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding two years with or without hard labour.

An unmixed postal note is public money for the purposes of the definitions of offences finally and secondly contained in this Article.

20 Vic. No. 6, s. 72, 73 [20 Geo. 3, s. 86, s. 1].

311. Any person who, being a clerk or servant—

(1) Steals any chattel, money, or valuable security, belonging to or in the possession or power of his master or employer; or

(2) Fraudulently embezzles any chattel, money, or valuable security, which is delivered to or received by him, or taken into possession by him, for or in the name or on account of his master or employer, or any part of any such thing, although it was not received into the possession of his master or employer otherwise than by the actual possession of the offender; is guilty of felony, and is, in the case of the offences secondly defined in this Article, deemed to have stolen the chattel, money, or security, in question, and is liable on conviction to penal servitude for a term not exceeding fourteen years, and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping.

See Art. 818, post, p. 182.

58 Vic. No. 17, s. 16 (11); 58 Vic. No. 33, s. 6. [273.] The term "clerk" or "servant" [except when used of a person employed in the public service] includes any person employed for any purpose as or in the capacity of a clerk or servant, or as a collector of money, although temporarily only, or although employed also by other persons than the person alleged to be his employer, or although employed to pay as well as receive money, and any person employed as or in the capacity of a commission agent for the collection or disbursement of money, or in any similar capacity, although he has no authority from his employer to receive money or other property on his account:

It also includes any person who acts in the capacity of an officer of a Friendly Society or branch of a Friendly Society.

371. Any person who—

(1) Being a director, public officer, or member, of a body corporate or public company, fraudulently takes or applies for his own use or benefit, or for any use or purpose other than the use or purposes of such body corporate or public company, any of the property of the body corporate or public company, is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years, with or without hard labour and with or without solitary confinement.

Stealing by Clerks and Servants.

VI. If the offender is a clerk or servant, and the thing stolen is the property of his employer, or came into the possession of the offender on account of his employer, he is liable to imprisonment with hard labour for fourteen years.

The term "clerk" or "servant" includes any person employed for any purpose as or in the capacity of a clerk or servant, or as a collector of money, although temporarily only, or although employed also by other persons than the person alleged to be his employer, or although employed to pay as well as receive money, and any person employed as or in the capacity of a commission agent for the collection or disbursement of money, or in any similar capacity, although he has no authority from his employer to receive money or other property on his account:

It also includes any person who acts in the capacity of an officer of a Friendly Society or branch of a Friendly Society.

Stealing by Directors or Officers of Companies.

VII. If the offender is a director or officer of a body corporate or public company, and the thing stolen is the property of the body corporate or company, he is liable to imprisonment with hard labour for seven years.
20 Vic. No. 6, ss. 80, 81, ss. 80, 81.

366. In this Chapter—
The term "misappropriate" means to convert any of the things in respect of which the offence defined by that word is committed to the use or benefit of the offender, or to the use or benefit of any person other than the person by whom the offender was intrusted with such things; and, in the case of property held in trust for a public or charitable purpose, includes converting it to any purpose other than that purpose.

The term "intrusted," used in reference to any person, includes the case in which he is intrusted with the things in question jointly with another person or other persons.

The term "stock" includes any share or interest in any public stock or fund, whether of the United Kingdom or part thereof, or of Queensland or any foreign State, or in any stock or fund of any body corporate, company, or society.

367. Any person who, being a banker, merchant, broker, attorney, solicitor, or other agent, and—

(1) Being intrusted as such with any money or security for the payment of money, with any direction in writing to apply, pay, or deliver, such money or security or any part thereof respectively, or the proceeds or any part of the proceeds of such security, for any purpose or to any person specified in the direction, misappropriates the same in violation of good faith and contrary to the terms of the direction; or

(2) Being intrusted as such with any chattel or valuable security, or any power of attorney for the sale or treatment of any share or interest in any stock, for safe custody or for any special purpose, and without any authority to sell, negotiate, transfer, or pledge the same, sells, negotiates, transfers, pledges, or misappropriates, such chattel or security, or the proceeds of the same or any part thereof, or the share or interest in the stock to which the power of attorney relates or any part thereof, in violation of good faith and contrary to the terms of the direction for which the chattel, security, or power of attorney, was intrusted to him; or

(3) Being intrusted as such with the property of any other person for safe custody, sells, negotiates, transfers, pledges, or misappropriates the same or any part thereof, with intent to defraud;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years and to a fine not exceeding two years with or without hard labour and to a fine not exceeding two years with or without solitary confinement.

The definitions of offences finally and secondly in this Article contained relating to agents do not extend to a person who is a trustee under any instrument whatever, or who is a mortgagee of any property, in respect of any act done by such trustee or mortgagee in relation to the property comprised in, or affected by, the trust or mortgage.

We see they extend to restrain a banker, merchant, broker, attorney, or other agent, from receiving any money which is actually due and payable upon or by virtue of any security according to the tenor and effect thereof is such manner as he might have done if the statutory

VIII. If the thing stolen is any of the things following, that is to say—

(a) Property which has been received by the offender with a power of attorney for the disposition thereof;

(b) Money received by the offender with a direction that the same should be applied to any purpose or paid to any person specified in the direction;

(c) The whole or part of the proceeds of any valuable security which has been received by the offender with a direction that the proceeds thereof should be applied to any purpose or paid to any person specified in the direction;

(d) The whole or part of the proceeds arising from any disposition of any property which has been received by the offender by virtue of a power of attorney for such disposition, such power of attorney having been received by the offender with a direction that such proceeds should be applied to any purpose or paid to any person specified in the direction;

(e) The whole or part of the proceeds of any property received by the offender on terms authorising or requiring him to sell it or otherwise dispose of it for valuable consideration, and requiring him to pay or account for the proceeds or any part of the proceeds, or to deliver anything received in exchange for the property, to any person;

(f) Anything received by the offender in exchange for anything received by him on such terms as last aforesaid:

the offender is liable to imprisonment with hard labour for seven years.
provisions set forth in this Article were not in force, nor from selling, transferring, or otherwise disposing of any securities or effects in his possession upon which he has any lien, claim, or demand, entitling him by law so to do, unless such sale, transfer, or other disposal, extends to a greater number or part of such securities or effects than is requisite for satisfying such lien, claim, or demand.

See Art. 398, supra, p. 152.

369. Any person who—

(1) Being a factor or agent intrusted for the purpose of sale or otherwise with the possession of any goods, or of any document of title to goods, does any of the following acts contrary to or without the authority of his principal, and for the use or benefit of himself or of any person other than the person by whom the possession was intrusted to him, and in violation of good faith, that is to say—

(a) Makes any consignment, deposit, transfer, or delivery, of any goods or document of title so intrusted to him as and by way of a pledge, lien, or security, for any money or valuable security then or thereafter borrowed or received by him, or intended to be thereafter borrowed or received by him; or

(b) Accepts any advance of any money or valuable security on the faith of any agreement to consign, deposit, transfer, or deliver, any such goods or document of title; or

(c) Knowingly and wilfully acts and assists in making any such consignment, deposit, transfer or delivery, or in accepting or procuring any such advance, as aforesaid;

is guilty of a misdemeanor, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

In this Article—

The expression "intrusted with the possession of goods" includes the case when a factor or agent is intrusted with the possession of a document of title to the goods in question, whether he obtained the document of title immediately from the owner of the goods or obtained it by reason of having been intrusted with the possession of the goods or of any other document of title to them:

The term "possession" includes both actual custody of the factor or agent and possession by any other person subject to his control or acting for him:

The terms "pledge" and "lien" used with reference to goods include agreements to pledge or give a lien upon any documents of title relating to the goods:

The expression "advance on the faith of an agreement to consign, deposit, transfer, or deliver goods or documents of title" includes any case where an advance is made to a factor or agent intrusted with and in possession of the goods or document of title in question on the faith of an agreement in writing, whether made direct with the factor or agent or with any person on his behalf, to consign, deposit, transfer, or deliver the goods or documents of title, and where the goods or document of title are actually received by the person who makes the advance without notice that such factor or agent was not authorized to make the pledge or security, although the goods or document of title may not be actually so received until after the advance is made:
The term "advance" includes any payment made, whether by money or bill of exchange, or other negotiable security.

For the purposes of this Article a factor or agent in possession of any such goods or document of title is to be deemed to have been intrusted therewith by the owner unless the contrary is shown.

See s. 398.

29 Vic. No. 28, s. 9.

375. Any person who, being an auctioneer, broker, factor, or agent, or a person acting in the capacity of an auctioneer, broker, factor, or agent, and—

(1) Being intrusted with any chattel for sale or disposal for cash, or with power of sale or disposal for cash, fraudulently misappropriates the same; or

(2) Being intrusted with any property for sale or disposal for cash, or with power of sale or disposal for cash, fraudulently misappropriates any money received by him as proceeds of the sale or disposal thereof; or

(3) Being intrusted with any property for sale or disposal, or with the power of sale or disposal, on terms other than payment in cash, and with a direction in writing given to him by the owner before the sale of the property as to the disposal of the proceeds, misappropriates contrary to the terms of such direction any chattel or money received by him as proceeds of the sale or disposal of the property so intrusted to him;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

29 Vic. No. 6, s. 79.

307. Any person who commits the offence of simple larceny, after having been previously convicted of felony or indictment, is liable on conviction to penal servitude for a term not exceeding ten years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement and, if a male under the age of sixteen years, with or without whipping.

29, 30 Vic. No. 17, s. 196.

308. Any person who commits the offence of simple larceny, or any of the offences defined in Article 307 (except the offence therein lastly defined)—

(a) after having been previously convicted of any of the indictable misdemeanours defined in Articles 291, 293, 294, 295, 296, 297, 301, 302, 303, 304, 305, 306 to 307, inclusive, 374 and 375; or

(b) after having been twice previously summarily convicted of an offence punishable by summary conviction under any of the provisions set forth in Chapter XXXVIII, except Articles 329, 332, 337, 338, 339, and 341, or in Chapter XLI, or in Article 304, or in Chapter XXIV, except

Stealing by Tenants or Lodgers.

IX. If the thing stolen is a fixture or chattel left to the offender to be used by him with a house or lodging, and its value exceeds five pounds, he is liable to imprisonment with hard labour for seven years.

Stealing after Previous Conviction.

X. If the offender, before committing the offence, had been convicted upon indictment of any of the indictable offences defined in this Division of this Part of this Code, or had been twice previously summarily convicted of an offence punishable by summary conviction under this Division of this Part of this Code, whether each of the convictions was in respect of an offence of the same character or not, he is liable to imprisonment with hard labour for seven years.
Article 414, or in Chapter LVII., whether each of the convictions was in respect of an offence of the same description or not; is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

CHAPTER XXXVII.

OFFENCES ANALOGOUS TO STEALING.

Concealing Registers.

405. Any person who, with intent to defraud, conceals or takes from its place of deposit any register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to be sent to any public officer, is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement.

Concealing Wills.

406. Any person who, with intent to defraud, conceals any testamentary instrument, whether the testator is living or dead, is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement.

Concealing Deeds.

407. Any person who, with intent to defraud, conceals the whole or part of any document which is evidence of title to any land or estate in land is guilty of a crime, and is liable to imprisonment with hard labour for three years.

Killing Animals for the purpose of Stealing.

408. Any person who kills any animal capable of being stolen with intent to steal the carcass, or any part of the carcass, is guilty of a crime, and is liable to the same punishment as if he had stolen the animal.
29 Vic. No. 6, s. 30.

[302. Any person who]  
(2) [Serves any such thing from any mine, bed, or vein, stored respectively, with intent to steal the same;]

is guilty, &c.

25 Vic. No. 4, s. 30.

[465. Any person who]  
(4) Knowingly and wilfully and with a fraudulent intent, and without the authority of the owner, uses any registered brand;

is guilty, &c.

29 Vic. No. 6, s. 40.

[302. Any person who]  
(3) Being employed in or about a mine, takes, removes, or conceals, any ore of any metal, or any lapis calaminaris, manganese, manganick, or other mineral, found or being in the mine, with intent to defraud any proprietor of the mine, or any adventurer in the mine, or any workman or minor employed therein;

is guilty, &c.

Bill of 1880, s. 248.

Bill of 1880, s. 249.

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29 Vic. No. 6, s. 12, 13.

316. Any person who unlawfully and wilfully—  
(1) Courses, hunts, snares, or carries away, or kills or wounds, or attempts to kill or wound, any deer kept or being in the inclosed part of any forest, chase, or plain, or in any inclosed land where deer are usually kept; or  
(2) Does any such act with regard to any deer kept or being in the uninclosed part of any forest;

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Seizing with Intent to Steal.

409. Any person who makes anything moveable with intent to steal it is guilty of a crime, and is liable to the same punishment as if he had stolen the thing after it became moveable.

Using Registered Brands with Criminal Intention.

410. Any person who, with intent to facilitate the commission of any crime, brands any animal with a registered brand without the permission of the owner of the brand is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

The term "registered brand" means a brand which is registered under the authority of the laws relating to brands.

Concealing Goods.

411. Any person who fraudulently takes, conceals, or otherwise disposes of, anything capable of being stolen, with intent thereby to deprive some person other than the owner of the thing thereof of any pecuniary benefit which might arise from the possession thereof, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Bringing Stolen Goods into Queensland.

412. Any person who, having at any place not in Queensland obtained any property by any act which if it had been done in Queensland would have constituted the crime of stealing, and which is an offence under the laws in force in the place where it was done, brings such property into Queensland, or has it in his possession in Queensland, is guilty of a crime, and is liable to the same punishment as if he had stolen it in Queensland; but so that the punishment does not exceed that which would be incurred for the same act under the laws in force in the place where the act by which he obtained the property was done.

Hunting Deer in Enclosed Land or after Previous Conviction.

413. Any person who unlawfully—  
(1) Courses, hunts, snares, kills, or wounds, or attempts to kill or wound, any deer, in any enclosed land where deer are usually kept; or  
(2) Does any such act with regard to any deer kept or being in the uninclosed part of any forest;

(1) The provisions of Art. 302 are suspended. Compare Bill of 1880, s. 260.
chase, or purlieu, after having been previously
convicted of my offence relating to doer fur
which a fine may be imposed under any of the
statutory provisions set forth in this Digest,
whether the second offence is or is not of the
same description as the first;
is guilty of felony, and is liable on conviction to imprison-
ment for a term not exceeding two years with or without
hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or
without whipping.

Art. 265, post, p. 266.

317. Any person who unlawfully and wilfully,
between the end of the first hour after sunset and the
beginning of the last hour before sunrise, takes or kills
a hare in any warren or ground lawfully used for the
breeding or keeping of hares, whether enclosed or not,
is guilty of a misdemeanour, and is liable on conviction
to fine or imprisonment at the discretion of the Court.

Art. 620.

318. Any person who, otherwise than by angling
between the beginning of the last hour before sunrise and
the end of the first hour after sunset, unlawfully and wil-
fully takes or destroys any fish in any water which runs
through or is in any land adjoining or belonging to the
dwelling-houses of any person who is the owner of the
water, or has a right of fishery therein, is guilty of a mis-
demeanour, and is liable on conviction to fine or imprison-
ment at the discretion of the Court.

Art. 620.

319. Any person who, without the consent of the
grantor or holder of a bill of sale, and with intent to
defraud, removes or disposes of any chattels comprised in
the bill of sale, otherwise than in the ordinary course of
his business, is guilty of a misdemeanour, and is liable on
conviction to a fine not exceeding three times the amount
of the loss sustained by the grantee or holder of the bill
of sale by reason of the offence, or to imprisonment for a
term not exceeding three years with or without hard
labour.

Fraudulent Disposition of Mortgaged Goods.

416. Any person who, being the mortgagor
of mortgaged goods, removes or disposes of the
goods without the consent of the mortgagee,
and with intent to defraud, is guilty of a mis-
demeanour, and is liable to imprisonment with
hard labour for three years.
The term "mortgaged goods" includes any
goods and chattels of any kind, and any live
animals, and any progeny of any animals, and
any crops or produce of the earth, whether
322. Any person, whether he is a principal or agent, who—

(1) Being the grantor of a mortgage of sheep, cattle, or horses, and of their increase and
progeny, which has been duly registered under the provisions of “The Mercurialis Act of
1867”—

(a) Without the written consent of the mortgagee and with intent to defraud, (b) sells and
disposes of, or stains or boils down, any of the sheep, cattle, or horses, subject to the
mortgage, or causes any of them to be sold and disposed of, or steamed or boiled down;

or

(b) By any means whatever, directly or indirectly, (including) destroys, defeats, invalidates,
or impairs, the right of property of the mortgagor in any sheep, cattle, or horses, subject to the
mortgage; or

(2) Being the grantor of a preferential lien on wool which has been duly registered under the
provisions of “The Mercurialis Act of 1867,” and with intent to defraud, the licencie of the wool
or the value thereof, destroys, defeats, invalidates, or impairs, the right of property of the
licencie in the wool of any of the sheep subject to the lien, (either by selling or delivering any
wool subject to the lien to any person without the written consent of the licencie, or by selling,
steaming, or boiling down, any of the sheep whereon such wool is growing, or by causing
any of them to be sold steamed or boiled down without such written consent, or by any other
means whatever, directly or indirectly; is guilty of a misdemeanour, and is liable on conviction to
 imprisonment for a term not exceeding three years with or without hard
labour, or to both punishments.

323. Any person, whether he is principal or agent, who, being the grantor of a lien on crops which has been duly registered under the provisions of “The Mercurialis Act of 1867”—

(1) By sale or delivery, without the written consent of the licencie, or the product of the crop
subject to the lien, or any part thereof, or by any other means, defrauds the licencie of the crop, or the
value thereof, or any part of either, and thereby, or by any other means, directly or indirectly
destroys, invalidates, or impairs, the right of property of the licencie in the crop or
value, or any part thereof; or

(2) By sale or delivery, without the written consent of the licencie, of the product of the crop
subject to the lien, or any part thereof, or by any other means, defrauds the licencie of the
product or value, or any part of either; is guilty of a misdemeanour, and is liable on conviction to
a fine not exceeding three times the amount of the loss sustained by the licencie by reason of the offence, or to
imprisonment for a term not exceeding three years with or without hard
labour.

d) The draft followed by the square bracket has not been resolved. The enclosed word should be omitted (Back of New South
Wales, 1867, p. 363). It is not, however, proposed to emend the law in this form.
Any person who, between the end of the first hour after sunset and the beginning of the last hour before sunrise—

(a) Unlawfully takes or destroys in any land, whether open or enclosed, any hare, pheasant, partridge, grouse, heath or moor game, black grouse, or bustard; or

(b) Enters or is in any land, whether open or enclosed, with any gun, net, engine, or other instrument, for the purpose of taking or destroying any such animal;

after having been twice previously convicted of any such offence, is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment with hard labour for a term not exceeding two years.

A prosecution for any of the offences defined in this Article must be begun within twelve months after the offence is committed.

CHAPTER XXXVIII.

STEALING WITH VIOLENCE; EXTORTION BY THREATS.

Definition of Robbery.

Any person who steals anything, and, at or immediately before or after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain the thing stolen or to prevent or overcome resistance to its being stolen, is said to be guilty of robbery.

Punishment of Robbery.

Any person who commits the crime of robbery is liable to imprisonment with hard labour for fourteen years.

If the offender is armed with any kind of loaded arms, and at or immediately before or after the time of the robbery he wounds any person by discharging the loaded arms, he is liable to the punishment of death.

If the offender is armed with any offensive weapon or instrument, or is in company with
(2) In company with one or more other person or persons, robs any person or assaults any person with intent to rob; or
(3) Robs any person, and at the time of, or immediately before or immediately after, such robbery, wounds, beats, strikes, or uses any other personal violence to, any person;
6. Any person who—
(1) Robs any person;
(2) Commits robbery with hard labour for a term not exceeding fourteen years; and not less than three years; or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement; and, if in a male, with or without whipping, which may be inflicted once, twice, or thrice.

Attempted Robbery Accompanied by Wounding, or in Company.

420. Any person who assaults any person with intent to steal anything, and, at or immediately before or after the time of the assault, uses or threatens to use actual violence to any person or property in order to obtain the thing intended to be stolen, or to prevent or overcome resistance to its being stolen, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

If the offender is armed with any kind of loaded arms, and at or immediately before or after the time of the assault, wounds any person by discharging the loaded arms, he is liable to the punishment of death.

If the offender is armed with any offensive weapon or instrument, or in company with one or more other person or persons, he is liable to imprisonment with hard labour for life, with or without solitary confinement, and with or without whipping, which may be inflicted once, twice, or thrice.

Loaded Arms.

421. Any arm which is loaded in the barrel or chamber with any explosive substance, and with any solid substance capable of being projected, is deemed to be loaded arms, although an attempt to discharge the same may fail from want of proper priming or from any other cause.

Stealing Animals at Night with Violence.

422. Any person who, between the end of the first hour after sunset and the beginning of the last hour before sunrise—

(a) Unlawfully takes or destroys in any land, whether open or enclosed, any hare, pheasant, partridge, grouse, hen or moor game, black game, or bustard; or
(b) Enters or is on any land, whether open or enclosed, with any gun, net, engine, or other instrument, for the purpose of taking or destroying any such animal;

or assaults or offers violence with any offensive weapon whatever to any person who, being the owner or occupier of one or more other person or persons, or if, at or immediately before or after the time of the robbery, he wounds or uses any other personal violence to any person, he is liable to imprisonment with hard labour for life, with or without solitary confinement, and with or without whipping, which may be inflicted once, twice, or thrice.

1 Geo. 4, c. 69, ss. 2, 4, 13, 18; 29 Vic. No. 14, s. 86.

277. Any person who—

(a) Unlawfully takes or destroys in any land, whether open or enclosed, any hare, pheasant, partridge, grouse, hen or moor game, black game, or bustard; or
(b) Enters or is on any land, whether open or enclosed, with any gun, net, engine, or other instrument, for the purpose of taking or destroying any such animal;

and assaults or offers violence with any offensive weapon whatever to any person who, being the owner or occupier of one or more other person or persons, or if, at or immediately before or after the time of the robbery, he wounds or uses any other personal violence to any person, he is liable to imprisonment with hard labour for life, with or without solitary confinement, and with or without whipping, which may be inflicted once, twice, or thrice.

29 Vic. No. 6, s. 41 [48 Geo. 3, c. 129, s. 2; 20 Vic. No. 10, s. 69].
of the land, or the gamekeeper or servant of either, or any person assisting such gamekeeper or servant, finds the offender on the land where the act is done or in any place to which the offender is pursued, is guilty of a misdemeanor, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment with hard labour for a term not exceeding two years.

A prosecution for any of the offences defined in this Article must be begun within twelve months after the offence is committed.

29 Vic. No. 6, s. 48.

278. Any person who assaults any person with intent to rob is guilty of felony, and is liable on conviction to penal servitude for the term of three years, or to imprisonment with hard labour and with or without solitary confinement.

282. Any person who, with menaces or force, and with intent to steal the same, demands any property, chattel, money, valuable security, or other valuable thing, of any person, is guilty of felony, and is liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

283. It is immaterial whether the menaces or threats mentioned in this Chapter are of violence, injury, or accusation, to be caused or made by the offender or by any other person.

29. Any person who, knowing the contents of the letter or writing—

(i) Sends, delivers, or utters, to any person, or directly or indirectly causes any person to receive, any letter or writing—

(a) Demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security, or other valuable thing; or

(b) Accusing or threatening to accuse any other person of—

(I.) Any offence punishable by law with death or penal servitude for not less than seven years; or

(II.) An assault with intent to commit rape, or an attempt to commit rape; or

(iii) An unnatural offence as defined in Article 162; or

(iv) An assault with intent to commit an unnatural offence, as so defined, or an attempt to commit any such offence; or

(v) Any solicitation, persuasion, promise, or threat, offered or made to any person taking or destroying any such animal;

and assaults any person who, being the owner or occupier of the land, or the servant of either, or any person assisting such owner, occupier, or servant, finds the offender on the land where the act is done or in any place to which the offender is pursued, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

A prosecution for any of the offences defined in this section must be begun within twelve months after the offence is committed.

Assault with Intent to Steal.

423. Any person who assaults any person with intent to steal anything is guilty of a crime, and is liable to imprisonment with hard labour for three years, with or without solitary confinement.

Demanding Property with Menaces with Intent to Steal.

424. Any person who, with intent to steal anything, demands it from any person with threats of any injury or detriment of any kind to be caused to him, either by the offender or by any other person, if the demand is not complied with, is guilty of a crime, and is liable to imprisonment with hard labour for three years, with or without solitary confinement.

Demanding Property by Written Threats.

425. Any person who, with intent to extort or gain anything from any person, and knowing the contents of the writing, causes any person to receive any writing demanding anything from any person without reasonable or probable cause, and containing threats of any injury or detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Attempts at Extortion by Threats.

426. Any person who, with intent to extort or gain anything from any person—

(1) Accuses or threatens to accuse any person of committing any offence;

(2) Demands from any person any property or any money, chattel, or other thing; or

(3) Demands from any person any money, chattel, or other thing, and knowing the contents of the writing, causes any person to receive any writing demanding anything from any person without reasonable or probable cause, and containing threats of any injury or detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with, is guilty of a crime, and is liable to imprisonment with hard labour for life.

[1] See Note to 426. An assault with intent to steal accomplished by actual violence is dealt with in this section. Where the assault is accomplished by threats or by violence or by any other means, it is more properly described as an assault with intent to steal.
whereby to move or induce him to commit
or permit an unnatural offence as so
defined;
with intent to either cause to exist or gain any
property, chattel, money, valuable security, or
other valuable thing, from any person by means
of such letter or writing; or
(2) Accuses or threatens to accuse any person what-
ever of any such offence or act as is hereinbefore
in this Article mentioned as a matter of accusa-
tion or threat of accusation, with intent to extract
or gain any property, chattel, money, valuable
security, or other valuable thing, from any
person whatever;
is guilty of felony, and is liable on conviction to penal
servitude for life or for any term not less than three years,
or to imprisonment for a term not exceeding two years
with or without hard labour and with or without solitary
confinement, and, if a male under the age of sixteen years,
with or without whipping.

is guilty of a crime.

If the accusation or threat of accusation is of—

(c) An offence for which the punish-
ment of death or imprisonment for
life may be inflicted; or
(d) Any of the offences defined in
Chapter XXII., or an attempt to
commit any of such offences; or
(e) An assault with intent to have
carnal knowledge of any person
against the order of nature, or an
unlawful and indecent assault upon
a man; or
(f) An attempt to commit the crime of
rape, or an assault with intent to
commit the crime of rape, or an
unlawful and indecent assault upon
a woman or girl; or
(g) A solicitation or threat offered or
made to any person as an inducement
to commit or permit the
commission of any of the offences
aforesaid;

the offender is liable to imprisonment with
hard labour for life, with or without solitary
confinement, and, if under the age of sixteen
years, is also liable to whipping.

It is immaterial whether the person accused
or threatened to be accused has or has not
committed the offence or act of which he is
accused or threatened to be accused.1

Procuring Execution of Deeds, &c., by
Threats.

437. Any person who, with intent to
defraud, and by means of any unlawful violence
to, or restraint of, the person of another, or by
means of any threat of violence or restraint
be used to the person of another, or by means
of accusing or threatening to accuse any person

(1) An attempt has been made in the last to follow a general
principle of classification, and to generalize the law.
of committing any offence, or of offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any offence, compels or induces any person—

(a) To execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security; or

(b) To write, impress, or affix his name or the name of any other person or of any company, firm, or partnership, or the seal of any body corporate, company, or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security:

is guilty of felony, and is liable on conviction to penal servitude for life, or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

314. Any persons who, to the number of three or more, between the end of the first hour after sunset and the beginning of the last hour before sunrise, enter or are in any wood, whether open or enclosed, for the purpose of taking or destroying any hare, pheasant, partridge, grouse, heath or moor game, black game, or bustard, any one of them being armed with an offensive weapon of any kind, are guilty of a misdemeanour: And each of them is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment with hard labour for a term not exceeding three years.

A prosecution for any of the offences defined in this Article must be begun within twelve months after the offence is committed.
285. Any person who—
(1) Breaks and enters a church, chapel, meeting-house, or other place of divine worship, and commits any felony therein; or
(2) Being in a church, chapel, meeting-house, or other place of divine worship, commits a felony therein, and breaks out of the same; or
(3) Commits burglary; or
(4) En ters the dwelling-house of another person with intent to commit a felony therein, and in either case breaks out of the dwelling-house in the night:

is guilty of felony, and is liable on conviction to penal servitude for life, or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

286. Any person who—
(1) Breaks and enters a dwelling-house, schoolhouse, shop, warehouse, or counting-house, or any building which is within the curtilage of a dwelling-house and occupied with it but is not part of it according to the definition hereinbefore contained, and commits a felony therein; or
(2) Being in a dwelling-house, schoolhouse, shop, warehouse, or counting-house, or in any such other building as last mentioned, commits a felony therein, and breaks out of the same:

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years, and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

287. Any person who—
(1) Enters a dwelling-house in the night with intent to commit a felony therein; or
(2) Breaks and enters a church, chapel, meeting-house, or other place of divine worship, or a dwelling-house, schoolhouse, shop, warehouse, or counting-house, or any building within the curtilage (if a dwelling-house) with intent to commit a felony therein:

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

288. Any person who—
(1) Breaks and enters a church, chapel, meeting-house, or other place of divine worship, and commits any felony therein; or
(2) Being in a church, chapel, meeting-house, or other place of divine worship, commits a felony therein, and breaks out of the same; or
(3) Commits burglary; or
(4) Enters the dwelling-house of another person with intent to commit a felony therein, or being in the dwelling-house of another person commits a felony therein, and in either case breaks out of the dwelling-house in the night:

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without solitary confinement.

If the offence is committed in the night, the offender is liable to imprisonment with hard labour for life, with or without solitary confinement.

290. Any person who enters or is in the dwelling-house of another with intent to commit a crime therein, or

(1) Breaks or enters the dwelling-house of another with intent to commit a crime therein; or
(2) Having entered the dwelling-house of another with intent to commit a crime therein, or having committed a crime in the dwelling-house of another, breaks out of the dwelling-house:

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without solitary confinement.

If the offence is committed in the night, the offender is liable to imprisonment with hard labour for life, with or without solitary confinement.

291. Any person who—
(1) Breaks and enters a schoolhouse, shop, warehouse, or counting-house, or any building which is adjacent to a dwelling-house and occupied with it but is not part of it, and commits a crime therein; or
(2) Having committed a crime in a schoolhouse, shop, warehouse, or counting-house, or in any such other building as last mentioned, breaks out of the building:

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without solitary confinement.
Breaking into Buildings with Intent to Commit Crime.

432. Any person who breaks and enters a school-house, shop, warehouse, or counting-house, or a building which is adjacent to a dwelling-house and occupied with it but is not part of it, with intent to commit a crime therein, is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

Breaking Place of Worship and Committing Crime.

433. Any person who breaks and enters a building ordinarily used for religious worship and commits a crime therein, or having committed a crime in any such building breaks out of it, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Breaking Place of Worship with Intent to Commit a Crime.

434. Any person who breaks and enters a building ordinarily used for religious worship, with intent to commit a crime therein, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Persons Found Armed, &c., with Intent to Commit Crime.

435. Any person who is found under any of the circumstances following, that is to say,—

(a) Being armed with any dangerous or offensive weapon or instrument, and being so armed with intent to break or enter a dwelling-house, and to commit a crime therein;

(b) Being armed as aforesaid by night, and being so armed with intent to break or enter any building whatever, and to commit a crime therein;

(c) Having in his possession by night without lawful excuse, the proof of which lies on him, any instrument of house-breaking;

(d) Having in his possession by day, any such instrument with intent to commit a crime;

(e) Having his face blackened or being otherwise disguised by night without lawful excuse, the proof of which lies on him;
(f) Having his face masked or blackened or being otherwise disguised by day, with intent to commit a crime; or

(g) Being in any building whatever by night with intent to commit a crime therein;

is guilty of a crime, and is liable to imprisonment with hard labour for three years.

If the offender has been previously convicted of a crime relating to property, he is liable to imprisonment with hard labour for seven years.

CHAPTER XL.

OBTAINING PROPERTY OR CREDIT BY FALSE PRETENCES: CHEATING.

Definition.

436. Any representation made by words or otherwise of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be false or does not believe to be true, is a false pretence.

Obtaining Goods by False Pretences.

437. Any person who by any false pretence, and with intent to defraud, obtains from any other person any thing capable of being stolen, or induces any other person to deliver to any person any thing capable of being stolen, is guilty of a crime, and is liable to imprisonment with hard labour for three years, with or without solitary confinement.

It is immaterial whether the thing is obtained or its delivery is induced directly or through the medium of a contract induced by the false pretence.

The offender cannot be arrested without warrant unless found committing the offence.

Obtaining Execution of a Security by False Pretences.

438. Any person who by any false pretence, and with intent to defraud, induces any person to execute, make, accept, indorse, alter, or destroy, the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company or partnership, or the seal of any body corporate, company, or society, upon any paper or parchment, in order that the same may be afterwards made or converted into, or used or dealt with as, a valuable security;
31 Vic. No. 5, s. 206.

508. Any person who (1) in incurring any debt or liability obtains credit under false pretences or by means of any other fraud; is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding twelve months with or without hard labour.

See Art. 500, post, p. 300.

Misdemeanour at Common Law.

Bill of 1856, s. 204.

See Art. 500, post, p. 300.

507. Any person who, being a seller or mortgager of any land, or of any chattels, real or personal, or of a chose in action, which is conveyed or assigned to a purchaser or mortgagee, or being the solicitor or agent of any such seller or mortgager, does either of the following acts with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud, that is to say—

(1) Conceals from the purchaser or mortgagee any settlement, deed, will, or other instrument material to the title, or any incumbrance; or

or converted into or used or dealt with as a valuable security, is guilty of a crime, and is liable to imprisonment with hard labour for three years, with or without solitary confinement.

The offender cannot be arrested without warrant unless found committing the offence.

Obtaining Credit by Fraud.

439. Any person who, when incurring any debt or liability, obtains credit by a false pretence or by means of any other fraud, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Cheating.

440. Any person who by means of any fraudulent trick or device obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, or to pay or deliver to any person any money or goods, or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or device, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

A person found committing the offence may be arrested without warrant.3

Conspiracy to Defraud.

441. Any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public, or any person, whether a particular person or not, or to extort any property from any person, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

Frauds on Sale or Mortgage of Property.

442. Any person who, being a seller or mortgager of any property, or being the solicitor or agent of any such seller or mortgager, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud—

(1) Conceals from the purchaser or mortgagee any instrument material to the title, or any incumbrance; or

3 It is said that in Common Law it is not an offence to do any of the acts mentioned in the law, unless they are of such a nature as to affect the public at large, or are such as are the occasion of such acts as have been avoided or cured by the rule of law, and the manner in which the occurrence of such acts as have been avoided or cured by the rule of law, or the manner in which such acts are to be done, is such as to avoid or cure such acts as have been avoided or cured by the rule of law. It is submitted that the rule explained in this section ought to be, if it is not, the law.
(2) Falsifies any pedigree on which the title depends or may depend;

is guilty of a misdemeanor, and is liable on conviction to fine at the discretion of the Court, or to imprisonment for a term not exceeding two years with or without hard labour or to both punishments.

A prosecution for an offence under this Article cannot be begun without the sanction of the Attorney-General or Solicitor-General, nor without such previous notice to the alleged offender of the application for leave to prosecute as the Attorney-General or Solicitor-General may direct.

3 Geo. 3, c. 5, s. 4; 50 Geo. 3, c. 138, ss. 1, 2.

348. Any person who pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertakes to tell fortunes, or pretends from his skill or knowledge in any occult or crafty science to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found, is guilty of a mis-
demeanour, and is liable on conviction in imprisonment for a term of twelve months, and to fine and further imprison-
ment at the discretion of the Court, and to give security for his good behaviour in such sum and for such time as the Court may think fit, and to imprisonment until such security is given.

Pretending to Exercise Witchcraft or Tell Fortunes.

443. Any person who pretends to exercise or use any kind of witchcraft, sorcery, enchant-
ment, or conjuration, or undertakes to tell fortunes, or pretends from his skill or know-
ledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found, is guilty of a misdemeanor, and is liable on conviction to imprisonment with hard labour for one year.

CHAPTER XII.

RECEIVING STOLEN OR FRAUDULENTLY OBTAINED AND LIKE OFFENCES.

Receiving Stolen Property, &c.

444. Any person who receives anything which has been obtained by means of any in-
dictable offence, or by means of any act done at a place not in Queensland which if it had been done in Queensland would have consti-
tuted an indictable offence, and which is an
offence under the laws in force in the place
where it was done, knowing the same to have been so obtained, is guilty of a crime.

If the offence by means of which the thing
was obtained is a crime, the offender is liable to imprisonment with hard labour for fourteen years, with or without solitary confinement.

In any other case the offender is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

For the purpose of proving the receiving of anything it is sufficient to show that the accused person has, either alone or jointly with some other person, had the thing in his possession, or has aided in concealing it or disposing of it.
be left open or unfastened, between sunset and sunrise, for that purpose; or
(8) Buys or receives any stolen pewter from any person in a clandestine manner;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years, or to imprisonment for a term not exceeding three years and not less than one year with hard labour and with or without whipping.

22 Geo. 3, c. 58, s. 1.

29 Vic. No. 6, s. 2, 3.

A person who knowingly conceals or is privy to concealing stolen goods which are found upon the execution of a warrant to search for goods suspected to be stolen; or

is guilty of a misdemeanour, and is liable on conviction to fine or imprisonment or whipping at the discretion of the Court.

A person who has been convicted under the statutory provisions set forth in this Article cannot be punished under any other [earlier] provision of the law.

445. When a thing obtained by means of an indictable offence, or by means of an act done at a place not in Queensland which if it had been done in Queensland would have constituted an indictable offence, and which is an offence under the laws in force in the place where it was done, has been restored to the owner, or another person has acquired a lawful title to it, a subsequent receiving of the thing is not an offence although the receiver knows that the thing had previously been so obtained.
22 Vic. No. 6, s. 106.

360. Any person who corruptly takes any money or reward, directly or indirectly, under promise or upon account of helping any person to any chatted, money, valuable security, or other property which has been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, by any offence which is a felony or misdemeanour under any of the statutory provisions set forth in Article 192, or in this Division of this Part of this Digest, except Articles 293, 303, 304, 305, 310, 312, 318, 315, 321, 325, 329, 332, 335, 345, 357, 358, 330, and 302, [and except the provisions relating to stealing and embezzlement by a partner or joint beneficial owner], is, unless he has used all diligence to cause the offender to be brought to trial for the offence, guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour, and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping.

29 Vic. No. 6, s. 180.

365. Any person who corruptly takes any money or reward, directly or indirectly, under promise or upon account of aiding any person to recover a dog which has been stolen, or which is in the possession of any person who is not the owner thereof, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding eighteen months with or without hard labour.

Taking Reward for Recovery of Property obtained by Means of Indictable Offences.

446. Any person who receives or obtains, or agrees to receive or obtain, any property or benefit of any kind upon an agreement or understanding that he will help any person to recover anything which has been obtained by means of any indictable offence, or by means of any act done at a place not in Queensland which if it had been done in Queensland would have constituted an indictable offence, and which is an offence under the laws in force in the place where it was done, is, unless he has used all diligence to cause the offender to be brought to trial for the offence, guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

CHAPTER XLIII.

FRAUD BY TRUSTEES AND OFFICERS OF COMPANIES AND CORPORATIONS: FALSE ACCOUNTING.

Trustees Fraudulently Disposing of Trust Property.

447. Any person who, being a trustee of any property, destroys the property with intent to defraud, or with intent to defraud converts the property to any use not authorised by the trust, is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement. The offender cannot be arrested without warrant.
A prosecution for any of the offences defined in this Article cannot be begun without the sanction of the Attorney-General, or Solicitor-General.

If any civil proceedings have been taken against any person to whom the provisions of this Article apply, a person who has taken such civil proceedings cannot begin a prosecution under the provisions of this Article without the sanction of the court or judge before whom the civil proceedings have been had or are pending.

20 Vic. No. 6, s. 1.

[273.] The term "trustee" means a trustee on some express trust created by some deed, will, or instrument in writing, and includes the heir or personal representative of any such trustee, and any other person upon or to whom the duty of the trust has devolved or comes; it includes an executor or administrator, and a liquidator, trustee, or other like officer acting under any law relating to joint stock companies or to insolvent debtors.

If civil proceedings have been taken against a trustee in respect of any act done by him which is an offence under the provisions of this section, he cannot be afterwards prosecuted for the same cause, as for an offence, on the complaint of the person by whom the civil proceedings were taken, without the sanction of the court or judge before whom the civil proceedings were had or are pending.

For the purposes of this section the term "Trustee" includes the following persons and no others, that is to say—

Trustees upon express trusts created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose;

Trustees appointed by or under the authority of a Statute for any such purpose;

Persons upon whom the duties of any such trust as aforesaid devolve;

Executors and administrators;

Liquidators, trustees, and other like officers, acting under any law relating to joint stock companies or to insolvent debtors, by whomsoever appointed or elected.

Directors and Officers of Bodies Corporate or Public Companies Fraudulently Appropriating Property, or Keeping Fraudulent Accounts, or Falsifying Books or Accounts.

448. Any person who—

(1) Being a director or officer of a body corporate or public company, receives or possesses himself as such of any of the property of the body corporate or public company otherwise than in payment of a just debt or demand, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the body corporate or public company or to cause or direct such an entry to be made therein; or

(2) Being a director, manager, public officer, or member, of a body corporate or public company, does any of the following acts with intent to defraud, that is to say—

(a) Destroys, alters, mutilates, or falsifies, any book, paper, writing, or valuable security, belonging to the body corporate or public company;

(b) Makes or causes to be made a false entry, or omits or omits in making any material particular, in any book of account or other document;

[is guilty, &c.]
entry in any such book, document, or account, or is privy to any such act; or

(5) Makes or is privy to making any false entry in any such book, document, or account; or

(6) Omits or is privy to omitting any material particular from any such book, document, or account; is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

False Statements by Officials of Public Companies.

449. Any person who, being a promoter, director, or officer, of a body corporate or public company, either existing or intended to be formed, makes, circulates, or publishes, or conspires in making, circulating, or publishing, any written statement or account which is, to his knowledge, false in any material particular with intent thereby to effect any of the purposes following, that is to say,—

(c) To deceive or defraud any member, shareholder, or creditor, of the body corporate or public company, whether a particular person or not;

(d) To induce any person, whether a particular person or not, to become a member of, or to intrust or advance any property to, the body corporate or public company, or to enter into any security for the benefit thereof;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

Defence.

450. It is a defence to a charge of any of the offences hereinbefore in this Chapter defined to prove that the accused person, before being charged with the offence, and in consequence of the compulsory process of a court of justice in an action or proceeding brought instituted by a party aggrieved, or in a compulsory examination or deposition before a court of justice upon the hearing of a matter in insolvency, disclosed on oath the act alleged to constitute the offence.

A person is not entitled to refuse to answer any question or interrogatory in any civil proceeding in any court or upon the hearing of any matter in insolvency, on the ground that his doing so might tend to show that he had committed any such offence.

437. A person charged with any of the offences hereinbefore in this Chapter defined must be tried at a court held before a Judge of the Supreme Court.
51 Vic. No. 7, s. 283.

312. Any person who, being a member of a Divisional Board or clerk of a Division—
     (1) Wilfully misapplies any money forming part of the divisional fund, or of any other fund under the control of the board; or
     (2) Wilfully or by culpable negligence connives at or concurs in the misapplication of any such money;
     is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

59 Vic. No. 34, s. 35.

313. Any person who, being one of the Commissioners appointed under "The Railways Traffic Act of 1895," or an officer of those Commissioners,—
     (1) Wilfully misapplies any money forming part of the Metropolitan Transit Fund; or
     (2) Wilfully or by culpable negligence connives at or concurs in the misapplication of any such money;
     is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

58 Vic. No. 33, s. 4.

374. Any person who, being a clerk, officer, or servant, or being employed or acting in the capacity of a clerk, officer, or servant, wilfully and with intent to defraud—
     (1) Destroys, alters, mutilates, or falsifies, any book, paper-writing, document, instrument, valuable security, or account, which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer; or
     (2) Makes or concurs in making any false entry in any such book, document, or account; or
     (3) Omit to alter, or concurs in omitting or altering, any material particular from or in any such book, document, or account;
     is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding seven years, or to imprisonment for a term not exceeding two years with or without hard labour.

50 Geo. 8, c. 59.
(OMITTED FROM DIGEST.)

Mis appropriation by Members of Local Authorities.

451. Any person who, being a member of a Local Authority—
     (1) Advisedly misapplies any money forming part of any fund under the control of the Local Authority to any purpose to which, to his knowledge, it cannot lawfully be applied; or
     (2) Advisedly concurs in any such application of any such money;
     is guilty of a misdemeanour and is liable to imprisonment with hard labour for two years. The term "Local Authority" includes any corporation or board constituted or appointed under the authority of a Statute, and charged with the administration of moneys for any purposes of local concern.

Fraudulent False Accounting.

452. Any person who, being a clerk or servant, or being employed or acting in the capacity of a clerk or servant, does any of the acts following with intent to defraud, that is to say—
     (a) Destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account, which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer; or
     (2) Makes or concurs in making any false entry in any such book, document, or account; or
     (3) Omit to alter, or concurs in omitting or altering, any material particular from or in any such book, document, or account;
     is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

False Accounting by Public Officer.

453. Any person who, being an officer charged with the receipt, custody, or management of any part of the public revenue or property, knowingly furnishes any false statement or return of any money or property received by him or entrusted to his care, or of any balance of money or property in his possession or under his control, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.
50 Vic. No. 17, ss. 170, 181, 182, 184.

349. Any person who—

(1) Steals, or attempts to steal, any chattel, money, or valuable security, from the person of another (Art. 277 (2)); or

(2) Commits, or attempts to commit, the offence of simple larceny, or any of the offences defined in Article 200 except the offence therein lastly defined; or

(3) Being a clerk or servant, fraudulently embezzles any chattel, money, or valuable security, which is delivered to or received by him, or taken into possession by him, for or in the name or on account of his master or employer (Art. 311 (2)); or

(4) By any false pretences, and with intent to defraud, obtains, or attempts to obtain, any chattel, money, or valuable security, from any other person (Art. 347); or

(5) Aids or abets in, or counsels or procures, the commission of any of the offences in this Article mentioned;

if his age at the time of committing or attempting to commit the offence did not, in the opinion of the justices before whom he is brought, exceed sixteen years, or if the value of the property in question does not exceed forty shillings, is, subject to the provisions of the next following Article, liable on summary conviction before two justices to a fine not exceeding twenty-five pounds, or to imprisonment for a term not exceeding six months with or without hard labour.

This Article does not apply to a child charged with an indictable offence, if the age of the child at the time of committing the offence did not exceed twelve years.

Ib., ss. 186, 187.

351. When a person is charged before two justices with any of the offences mentioned in Article 349, whatever may be the value of the property in question, and it appears to the justices, after hearing the evidence for the prosecution, that the evidence is sufficient to put the accused person on his trial for the offence with which he is charged, but that the case may properly be disposed of in a summary way, and that the offender may be adequately punished under the provisions of this Article, the justices may reduce the charge to writing and read it to the accused person, and then ask him whether he is guilty or not guilty of the charge; and, if he says that he is guilty, they are to cause a plea of guilty to be entered, and to convict him of the offence, and to pass sentence upon him: And he is liable, on such conviction, to imprisonment for a term not exceeding six months with or without hard labour.

Before the justices ask an accused person under the provisions of this Article whether he is guilty or not guilty, they must explain to him—

(a) That he is entitled to be tried by a jury;

(b) That he is not obliged to plead or answer before them at all; and

(c) That if he does not plead or answer before them he will be committed for trial in the usual course.

454. When a person is charged before two justices with any of the indictable offences following, that is to say—

(i) Stealing anything, without circumstances of aggravation;

(ii) Stealing anything from the person of another;

(iii) Stealing by a clerk or servant of anything which is the property of his employer, or which came into his possession on account of his employer;

(iv) Killing an animal with intent to steal the carcass or any part of the carcass, without circumstances of aggravation;

(v) Making anything moveable with intent to steal it, without circumstances of aggravation;

(vi) Obtaining or procuring the delivery of anything by a false pretence with intent to defraud;

(vii) Obtaining by means of a fraudulent trick or device anything capable of being stolen, or inducing, by means of any such trick or device, the delivery or payment of any money or goods or other thing capable of being stolen;

(viii) Attempting to commit any of the offences aforesaid;

(ix) Receiving anything which has been obtained by means of a crime or misdemeanour of such a nature, or committed under such circumstances, that the offender who committed the crime or misdemeanour might be summarily convicted under the provisions of this section;

(x) Counselling or procuring the commission of any of the offences aforesaid;

then, if the age of the accused person at the time of the alleged commission of the offence was in the opinion of the justices greater than twelve years, and if—

(i) The value of the property in question does not exceed two pounds; or
When a person is brought before justices to be dealt with under the provisions set forth in the last preceding Article, one of the justices must, before the accused person is asked whether he has any cause to show why he should not be convicted, say to him words to the effect following, that is to say—

Do you wish to say anything in answer to the charge? If you do, we will hear it; but if you wish to be tried by a jury you must object now to our dealing with the case in a summary way.

If the accused person, or, in a case where the age of the accused person at the time of committing or attempting to commit the alleged offence did not exceed sixteen years, a parent or guardian of the accused person, does not object to the justices deciding the case in a summary way, they are required to deal with the charge without regard to the provisions of the last preceding Article.

But if the accused person, or a parent or guardian of the accused person, does not object to the justices deciding the case in a summary way, they are required to reduce the charge to writing and to read it to the accused person, and then to ask him whether he is guilty or not guilty of the charge, and if he says that he is guilty, they are to convict him of the offence and proceed to pass sentence upon him; but, if he says that he is not guilty, they must hear his defence and then proceed to decide the case summarily.

If, before the accused person has made his defence, the justices are of opinion that the charge is a fit subject for prosecution by indictment, they are required to abstain from adjudicating and to deal with the case without regard to the provisions set forth in the last preceding Article.

When a person whose age exceeds sixteen years is charged before justices with an indictable offence which is triable summarily under the provisions set forth in this Chapter, and it appears to them that, by reason of the accused person having been previously convicted of some offence on indictment, he is liable, on conviction of the offence charged, to penal servitude, they are not to deal with the case summarily.

The age of the accused person at the time of the alleged commission of the offence did not in the opinion of the justices exceed sixteen years; or

The accused person admits that he is guilty of the offence, and it appears to the justices that the nature of the offence is such, whatever may be the value of the property in question, that the offender may be adequately punished upon summary conviction;

the justices may deal with the charge summarily.

The offender is liable on such summary conviction to imprisonment with hard labour for six months, or to a fine of twenty-five pounds.

Before the accused person is asked to show cause why he should not be convicted, the justices are required to explain to him that he is entitled to be tried by a jury, and is not obliged to make any defence before them, and to ask him whether he objects to the charge being dealt with summarily.

If the accused person, or, in a case where the age of the accused person at the time of the alleged commission of the offence did not, in the opinion of the justices, exceed sixteen years, his parent or guardian, does not object to the justices dealing with the charge summarily, the justices are required to reduce the charge to writing and to read it to the accused person, and then to ask him whether he is guilty or not guilty of the offence; and if he says that he is guilty they are to convict him of the offence, but if he says that he is not guilty they are required to hear his defence, and then deal with the charge summarily.

If the justices find that the charge is proved, they may, whether they impose any punishment or not, order the offender to make restitution of the property, if any, in respect of which the offence was committed, to the owner thereof; and if the property is not at once restored, they may order the offender to pay the amount of its value, to be assessed by them, to the owner, either in one sum or by such instalments, and at such times, as they think fit.

The age of the accused person at the time of the alleged commission of the offence did not in the opinion
354. When a person is convicted of an offence under any provisions not set forth in this Chapter, or the justices to whom a person is tried under those provisions are of opinion that the offence with which he is charged is proved, although they do not convict him, they may order him to make restitution of the property in respect of which the offence was committed to the owner thereof.

If the property is not at once forthcoming, the justices may in either case inquire into and ascertain the value of the property, and may order the accused person to pay the amount of such value to the owner, either in one payment, or by such instalments as the justices may think fit.

Any amount so ordered to be paid may be recovered in the same manner as a fine imposed on a conviction by justices.

29 Vic. No. 6, s. 18.

329. Any person who steals a dog is liable on summary conviction before two justices in a fine not exceeding the value of the dog and twenty pounds in addition, or to imprisonment with hard labour for a term not exceeding six months.

330. Any person who unlawfully has in his possession or on his premises a stolen dog, or the skin of a stolen dog, knowing that the dog was stolen, or that the skin is the skin of a stolen dog, is liable on summary conviction before two justices to a fine not exceeding twenty pounds.

76, s. 21, 32.

331. Any person:
(1) Who steals any bird, beast, or other animal, ordinarily kept in a state of confinement, or for any domestic purpose, and which is not the subject of licence at common law; or
(2) Who wilfully kills any such bird, beast, or animal, with intent to steal it or any part of it; or
(3) In whose possession or on whose premises any such bird or the plumage of any such bird, or any such beast or the skin of any such beast, or any such animal or any part of any such animal is found, and who knows that the bird, beast, or animal, was stolen, or that the plumage is the plumage of a stolen bird, or that the skin is the skin of a stolen beast, or that the part is a part of a stolen animal;

is liable on summary conviction before two justices to a fine not exceeding the value of the bird, beast, or animal, and twenty pounds in addition, or to imprisonment with hard labour for a term not exceeding six months.

Any person who commits any of the offences defined in this Article, defined after having been previously convicted of any of those offences, or commits any of the offences defined after having been previously convicted of any of those offences, is liable on summary conviction before two justices to imprisonment with hard labour for a term not exceeding twelve months.

Any justice may restore to the owner any such bird or any of the plumage of any such bird, or any such beast or the skin of any such beast, or any such animal or any part of any such animal, which has been so stolen or killed, or any dog which has been stolen, and which is found in the possession of the owner or on the premises of any person.

of the justices exceed sixteen years, and his parent or guardian objects to the charge being dealt with summarily; or

(2) If the age of the accused person at that time in their opinion exceeded sixteen years, and it appears that, by reason of his having been previously convicted of some offence on indictment, he is liable, on conviction of the offence charged, to imprisonment for a term of more than three years; or

(3) If for any reason the justices are of opinion that the charge is a fit subject for prosecution by indictment;

the justices are required to abstain from dealing with the case summarily.  9
332. Any person who steals, or with intent to steal destroys or damages, any plant, root, fruit, or vegetable production, which is growing in a garden, orchard, pleasure-ground, nursery-ground, hothouse, greenhouse, or conservatory, is liable on summary conviction before two justices to a fine not exceeding the value of the thing or things stolen or the amount of the injury done, and twenty pounds in addition, or to imprisonment for a term not exceeding six months with or without hard labour.

Is. s. 38, 34.

335. Any person who—
(1) Steals, or with intent to steal cuts, breaks, rots up, or otherwise destroys or damages, the whole or any part of any tree, sapling, or shrub, or any underwood, wherever growing, the value of the thing stolen, or the amount of the injury done, being not less than a shilling; or
(2) Steals, or with intent to steal cuts, breaks, or throws down, any part of a live or dead fence, or any wooden post, pale, wire, or rail, set up or used as a fence, or any stile or gate, or any part of any such thing;

is liable on summary conviction before two justices to a fine not exceeding the value of the thing or things stolen, or the amount of the injury done, and five pounds in addition.

Any person who commits any of the offences firstly in this Article defined after having been previously convicted of any of those offences, or commits any of the offences secondly in this Article defined after having been previously convicted of any of those offences, is liable on summary conviction before two justices to imprisonment with hard labour for a term not exceeding twelve months.

Is. s. 36.

341. Any person who steals any dead wood of the value of not less than a shilling, lying on land in the occupation of another person, is liable on summary conviction before two justices to a fine not exceeding the value of the wood stolen, and five pounds in addition.

If he commits any such offence after having been previously convicted of the like offence, he is liable on summary conviction before two justices to a fine not exceeding ten pounds.

Is. s. 38.

345. Any person who steals, or with intent to steal destroys or damages, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for drying, or for or in the course of any manufacture, and which is growing in any land, whether open or enclosed, which is not a garden, orchard, pleasure ground, or nursery ground, is liable on summary conviction before two justices to imprisonment for a term not exceeding one month with or without hard labour, or to a fine not exceeding the value of the thing or things stolen or the amount of the injury done, and twenty shillings in addition, together with costs, and in default of payment to imprisonment with or without hard labour for a like term, unless the fine and costs are sooner paid.

Any person who commits any such offence after having been previously convicted of any such offence is liable on summary conviction before two justices to imprisonment with hard labour for a term not exceeding six months.
CHAPTER XLIV.

OFFENCES ANALOGOUS TO STEALING PUNISHABLE ON SUMMARY CONVICTION.

Unlawfully using Cattle.

456. Any person who unlawfully uses a horse, mare, gelding, ass, male, camel, bull, cow, ox, ram, ewe, wether, goat, or pig, or the young of any such animal, without the consent of the owner, or of the person in lawful possession thereof, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for twelve months, or to a fine of twenty pounds for every animal so used.

Suspicion of Stealing Cattle or Deer.

457. When any horse, mare, gelding, ass, male, camel, bull, cow, ox, ram, ewe, wether, goat, or pig, or the young of any such animal, is suspected, on reasonable grounds, to have been stolen, any person in whose possession or custody the skin or carcass, or any part of the skin or carcass, of the animal so suspected to have been stolen, is found, is guilty of an offence, unless he proves that he came lawfully by the thing in question; and he is liable on summary conviction to a fine of fifty pounds.

It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the thing so found in his possession or custody.

Illegal Branding.

458. Any person who, knowing that he is not the owner of an animal, brands it, or knowingly permits it to be branded or marked, with his authorised brand or his authorised mark, is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds.

The terms “his authorised brand” and “his authorised mark” mean, respectively, any brand or mark which the offender is authorised by law to use for denoting his ownership of animals of the kind of the animal in question.

Defacing Brands.

459. Any person who—

(1) Alters, defaces, or otherwise renders illegible, any brand or mark upon a horse, bull, cow, ox, heifer, steer, or calf; or
(2) Willfully marks any horse, bull, cow, ox, heifer, steer, or calf, on the ear or elsewhere, by cropping or cutting off more than one-third part thereof; or

(3) Willfully causes, directs, or permits, any such act as is hereinbefore in this Article mentioned to be done; is liable on summary conviction before two justices to a fine not exceeding twenty pounds for every such animal with respect to which the act is done.

48 Vic. No. 21, s. 2.
(Omitted from Digest.)

17 Vic. No. 3, s. 8; 35 Vic. No. 4, s. 38.

346. If the justices before whom any person is brought, charged with any of the offences defined in Articles 226, 227, and 235, are of opinion that there ought to be a prosecution for felony, they may, instead of adjudicating in a summary manner, commit the defendant to take his trial for the felony.

20 Vic. No. 6, s. 14.

333. Any person—

(1) In whose possession or on whose premises any deer, or the head, skin, or any other part of a deer, or any snare or engine for taking deer, is found, and who knows that it is there; or

(2) Who has had possession before another person of, or from whose another person received, any deer, or the head, skin, or any other part of a deer, which has been found in the possession or on the premises of such last-mentioned person, and who, after the last-mentioned person has, being duly called upon to do so, shown that he came lawfully by the thing in question, is called upon to show that he came lawfully by the same,

and who fails to satisfy two justices that he came lawfully by such deer, or such head, skin, or other part of a deer, or, in the case of a snare or engine, that he had a lawful occasion for such snare or engine, and did not keep it for an unlawful purpose, is liable on summary conviction before two justices to a fine not exceeding twenty pounds.

460. A prosecution for any of the offences defined in the two last preceding sections may be begun within six months after the offence is committed, or within one month after the discovery of the offence, whichever is the later period.

Committing for Trial.

461. If the justices before whom any person is brought, charged with any of the offences hereinbefore in this Chapter defined, are of opinion that there ought to be a prosecution for an indictable offence, they may abstain from dealing with the case summarily, and commit the defendant to take his trial for the indictable offence.

Suicides for Taking Deer: Pardon.

462. Any person who—

(1) Knowingly has in his possession, except for some lawful purpose, the proof of which lies on him, any snare or engine for taking or killing deer; or

(2) Knowingly has in his possession any part of the carcass of a deer which is suspected, on reasonable grounds, to have been unlawfully obtained;

is guilty of an offence, unless, in the latter case, he proves that he came lawfully by the part of the carcass in question; and he is liable on summary conviction to a fine of twenty pounds.

It is a defence to a charge of the offence secondly defined in this section to prove that the accused person came lawfully by the part of the carcass in question.
334. Any person who unlawfully and wilfully—
(1) Sets or uses any snare or engine for the purpose of taking or killing deer in enclosed land where deer are usually kept, or in any part of any forest, chase, or parson, whether inclosed or not, or in any fence or bank dividing the same from any land adjoining; or
(2) Destroys any part of the fence of any land where any deer are then kept;

is liable on summary conviction before one justice to a fine not exceeding twenty pounds.

335. Any person in whose possession or on whose premises any thing which belongs to a vessel in distress, or wrecked, or stranded, is found, and which is suspected, on reasonable grounds, to have been unlawfully taken from the vessel, is guilty of an offence and is liable to imprisonment with or without hard labour. The justices are required to order the goods, merchandise, or articles, to be delivered up to the rightful owner.

463. Any person who—
(1) Unlawfully sets or uses any snare or engine for the purpose of taking or killing deer in enclosed land where deer are usually kept, or in any fence or bank dividing any such land from any land adjoining; or
(2) Unlawfully destroys any part of the fence of any land where any deer are then kept;

is guilty of an offence, and is liable on summary conviction to a fine of twenty pounds.

Unlawful Possession of Shipwrecked Goods.

464. Any person in whose possession or on whose premises any thing which belongs to a vessel in distress, or wrecked, or stranded, is found, and which is suspected, on reasonable grounds, to have been unlawfully taken from the vessel, is guilty of an offence unless he proves that he came lawfully by the thing in question; and he is liable on summary conviction to imprisonment with hard labour for six months, or to a fine of an amount equal to the value of the thing so found, and twenty pounds in addition.

The justices are required to order the thing in question to be delivered up to the rightful owner.

It is an answer to a charge of the offence defined in this section to prove that the accused person came lawfully by the thing in question.

Offering Shipwrecked Goods for Sale.

465. Any person who offers or exposes for sale any thing which is suspected, on reasonable grounds, to have been unlawfully taken from a vessel in distress, or wrecked, or stranded, is guilty of an offence unless he proves that he came lawfully by the thing in question; and he is liable on summary conviction to imprisonment with hard labour for six months, or to a fine of an amount equal to the value of the thing in question, and twenty pounds in addition.

Any person employed in the Public Service may seize any such thing so offered for sale.

If the accused person is convicted, the justices before whom the charge is tried are required to order the thing in question to be delivered up to the rightful owner thereof upon
338. Any person who, between the end of the first hour of the sunset and the beginning of the last hour before sunrise—

1. Unlawfully takes or destroys in any land, whether open or enclosed, any hare, pheasant, partridge, grouse, hush or moor game, black game, or bustard; or

2. Enters or is in any land, whether open or enclosed, with any gun, net, engine, or other instrument, for the purpose of taking or destroying any such animal;

is liable on summary conviction before two justices to imprisonment with hard labour for a term not exceeding six months, and at the expiration of that term is required to enter into his own recognizance in twenty pounds, with two sufficient sureties in five pounds, or one sufficient surety in twenty pounds, not to be again convicted of any such offence, and, in default of such sureties, is liable to imprisonment with hard labour for a further term of six months, unless such sureties are sooner found.

Any person who commits any such offence after having been previously convicted of any such offence is liable on summary conviction before two justices to imprisonment with hard labour for a term not exceeding six months, and at the expiration of that term is required to enter into his own recognizance in twenty pounds, with two sufficient sureties in ten pounds, or one sufficient surety in ten pounds, not to be again convicted for two years, and, in default of such sureties, is liable to imprisonment with hard labour for a further term of one year, unless such sureties are sooner found.

3. Any person who unlawfully and wilfully courses, hunts, snares, or carries away, or kills or wounds, or attempts to kill or wound, any deer kept or being in the unenclosed part of any forest, chase, or park, is liable on summary conviction before two justices to a fine not exceeding fifty pounds.

4. Any person who unlawfully and wilfully, and otherwise than in the course of catching or fishing for floating fish with a net or other instrument or engine adapted for taking floating fish only—

1. Uses, for the purpose of taking oysters or oyster brood, a dredge, net, or other instrument or engine, within the limits of an oyster bed, laying, or fishery, which is the property of any other person, and is sufficiently marked out or known as such, whether any oyster or oyster brood are actually taken or not; or

payment of a reasonable reward, to be ascertained by the justices, to the person who seized the same.

It is a defence to a charge of either of the offences defined in this section to prove that the accused person came lawfully by the thing in question.

**Attempting to take Animals by Night.**

466. Any person who, between the end of the first hour after sunset and the beginning of the last hour before sunrise—

1. Unlawfully destroys in any enclosed land any animal capable of being stolen; or

2. Enters or is in any enclosed land, having with him any gun, net, engine, or other instrument, with intent to steal or destroy any such animal;

is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for six months.

**Hunting Deer: First Offence.**

467. Any person who unlawfully courses, hunts, snares, kills, or wounds, or attempts to kill or wound, any deer in any unenclosed land, is guilty of an offence, and is liable on summary conviction to a fine of fifty pounds.

**Unlawfully Dredging for Oysters.**

468. Any person who unlawfully, and otherwise than in the course of catching or fishing for floating fish with a net or other instrument adapted for taking floating fish only—

1. Uses, for the purpose of taking oysters or oyster brood, any net or other instrument within the limits of an oyster bed, laying, or
(2) Drags upon the ground or soil of any such fishery with any net, instrument, or engine; is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding three months with or without hard labour and with or without solitary confinement.

20 Vic. No. 6, s. 24.

340. Any person who—
(1) Unlawfully and wilfully, between the beginning of the last hour before sunrise and the end of the first hour after sunset, unlawfully and wilfully takes or destroys, or attempts to take or destroy, any fish in any water which is private property, or in which there is a private right of fishery, but which is not water running through or being in any land adjoining or belonging to the dwelling-house of any person who is the owner of the water or has a right of fishery therein, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for three months.

342. Any person who—
(1) Unlawfully and wilfully, between the beginning of the last hour before sunrise and the end of the first hour after sunset, takes or kills a hare.

469. Any person who—
(1) Unlawfully sets or uses in a warren or ground lawfully used for the fishery, which is the property of any other person, and which is sufficiently marked out, or is known by general repute as his property; whether any oyster or oyster brood are actually taken or not; or
(2) Drags upon the ground or soil of any such fishery with any net or instrument; is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for three months.

Unlawfully taking Fish.

470. Any person who—
(1) Unlawfully sets or uses in a warren or ground lawfully used for the

Killing Hares in the Daytime.

470. Any person who—
(1) Unlawfully sets or uses in a warren or ground lawfully used for the
in a warren or ground lawfully used for the breeding or keeping of hares, whether enclosed or not; or

(2) At any time unlawfully sets or uses in any such warren or ground any snare or engine for taking hares;

is liable on summary conviction before two justices to a fine not exceeding five pounds.

20 Vic. No. 8, s. 55.

343. Any person in whose possession or on whose premises the whole or any part of any tree, sapling, or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile, or gate, or any part of any thing, being of the value of not less than one shilling, is found, and who knows that it is there, and who fails to satisfy two justices that he came lawfully by the same, is liable on summary conviction before two justices to a fine not exceeding the value of the thing or things so found, and two pounds in addition.

344. Any person who unlawfully and wilfully kills, wounds or takes a house-dove or pigeon under such circumstances as not to amount to larceny at common law is liable on summary conviction before two justices to a fine not exceeding the value of the bird, and two pounds in addition.

Art. 629, post, p. 250.

345. The owner or occupier of any house-dove or pigeon killed under the provisions of the Act of the 3d year of the reign of Edward the fourth, cap. 20, or as aforesaid, may claim his possession or occupation of the same.

29 Vic. No. 5, s. 64; 29 Vic. No. 6, s. 110.

638. When any person is charged on the oath of a credible witness before a justice with any of the offences defined in Chapters XXXVIII and XLIV, except Articles 226, 227, 228, 390, and 414, the justice may, unless where otherwise specially directed, issue his warrant to apprehend the accused person in the first instance.

17 Vic. No. 3, s. 7; 29 Vic. No. 5, s. 63; 29 Vic. No. 6, s. 114.

654. If any person who is summarily convicted of any of the offences defined in Chapter XXXVIII, except Articles 226, 227, 228, and 388, or in Chapter XLIV,

breeding or keeping of hares, whether enclosed or not, any snare or engine for taking hares; or

(2) Between the beginning of the last hour before sunrise and the end of the first hour after sunset, unlawfully takes or kills a hare in any such warren or ground;

is guilty of an offence, and is liable on summary conviction to a fine of five pounds.

Suspicion of Stealing Wood, &c.

471. Any person in whose possession or on whose premises the whole or any part of any tree, sapling, or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile, or gate, or any part of any such thing, which is suspected, on reasonable grounds, to have been stolen, is found, is guilty of an offence unless he proves that he came lawfully by the thing in question; and he is liable on summary conviction to a fine of an amount equal to the value of the thing so found, and two pounds in addition.

It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the thing in question.

Killing or Taking Pigeons.

472. Any person who unlawfully kills or takes a pigeon under such circumstances as not to constitute the offence of stealing, or of killing the pigeon with intent to steal the carcase, is guilty of an offence, and is liable on summary conviction to a fine of an amount equal to the value of the pigeon, and two pounds in addition.

Arrest without Warrant.

473. A person, found committing any of the offences defined in this Chapter may be arrested without warrant.

Warrant in First Instance.

474. A justice may issue a warrant in the first instance for the arrest of any person charged with any of the offences defined in this Chapter.

Effect of Summary Conviction and of Criminal Proceedings.

475. A person who has been summarily convicted of any of the offences defined in this Chapter, except those defined in the first four
20 Vic. No. 6, s. 60.

377. In the case of any offence defined in this Division of this Part of this Digest which is committed maliciously, it is immaterial whether the mischief is conceived against the owner of the property in question or against any other person.

378. In the case of any offence defined in this Division of this Part of this Digest which is committed with an intent to injure or defraud any person, it is immaterial that the offender is in possession of the property against or in respect of which the act constituting the offence is done.

476. An act which causes injury to the property of another, and which is done without his consent, is unlawful unless it is authorized or justified by law.

It is immaterial that the person who does the injury is in possession of the property injured, or has a partial interest in it.

477. When an act which causes injury to property, and which would be otherwise lawful, is done with intent to defraud any person, it is unlawful.

When an act which causes injury to property is done with intent to defraud any person, it is immaterial that the property in question is the property of the offender himself.

478. The term "damage" used in relation to a document, or to a writing or inscription, includes obliterating and rendering illegible, either in whole or in part.

(1) It seems reasonable that a person who is once proceeded against should be free from further proceedings whether the first proceedings are civil or criminal. The complainant should make his election. It is perhaps doubtful how the relating law applies to his civil proceedings. Compare 615.
29 Vic. No. 5, ss. 1, 2, 3, 4, 5, 18, 27; 30 Vic. No. 20.

379. Any person who unlawfully and maliciously—
(1) Sets fire to any place of divine worship; or
(2) Sets fire to a dwelling-house in which any person is; or
(3) With intent to injure or defraud any person sets fire to any house, stable, coachhouse, out-house, warehouse, office, shop, mill, wash-house, hop-past, barn, storehouse, granary, malthouse, or field, or any farm building, or any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof, whether the same is in his own possession or in the possession of any other person; or
(4) Sets fire to any station, engine-house, warehouse, or other building belonging or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation; or
(5) Sets fire to any building other than such as are in this Article before mentioned, and which belongs to the Queen or to any city, borough, or place, or to any university, or college or hall of any university, or is devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution; or
(6) Sets fire to—
(a) A stack of corn, grain, pulse, taro, hay, straw, balm, stubble, or of any cultivated vegetable produce; or
(b) A stack of furze, gorse, heath, fern, turf, peat, coal, chrestal, wood, or bark; or
(c) A stack of wood or bark; or
(7) Sets fire to—
(a) A mine of coal, charcoal, anthracite, or other mineral fuel;
(b) Any building or structure whatever, whether completed or not;
(c) Any vessel, whether completed or not;
(d) Any stack of cultivated vegetable produce, or of mineral or vegetable fuel;
(e) Any building or structure whatever, whether completed or not;
(f) Any vessel, whether completed or not;
(g) Any stack of cultivated vegetable produce, or of mineral or vegetable fuel;
(h) A mine, or the workings, fittings, or appliances of a mine;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding four years with or without hard labour, and, if a male, is also liable to whipping.

Ib. s. 6, Ib.

380. Any person who unlawfully and maliciously sets fire to any building other than such as are mentioned in the last preceding Article is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour, and, if a male, is also liable to whipping.

Ib. s. 44, 49; Ib. [4 Geo. 1. c. 12, s. 1; 48 Geo. 3, c. 113, s. 2; 29 Vic. No. 18, s. 48].

381. Any person who unlawfully and maliciously—
(1) Sets fire to, casts away, or in any way destroys, any ship or vessel, whether complete or in an unfinished state; or
(2) Sets fire to, casts away, or in any way destroys, any ship or vessel, with intent thereby to prejudice any owner or part owner of the ship or vessel, or of any goods on board the same; or any insurer of the ship or vessel, or of the freight thereof, or of any goods on board the same;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years.
or to imprisonment for a term not exceeding two years, with or without hard labour and with or without solitary confinement, and, if a male, is also liable to whipping.

29 Vic. No. 5, s. 7; 30 Vic. No. 20.

387. Any person who unlawfully and maliciously sets fire to anything being in, against, or under any building, under such circumstances that if the building were thereby set fire to he would be guilty of felony, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and, if a male, is also liable to whipping.

Ib., ss. 8, 28, 40; 30 Vic. No. 20.

389. Any person who unlawfully and maliciously attempts by any overt act to do any of the following, that is to say—

(1) To set fire to any building, or to any thing which is in, against, or under, a building, or to any mine, [of coal,annel coal, anthracite, or other mineral fuel,] under such circumstances that, if the same were thereby set fire to, he would be guilty of felony; or

(2) To set fire to, cast away, or destroy, any ship or vessel under such circumstances that if the ship or vessel were thereby set fire to, cast away, or destroyed, he would be guilty of felony;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male, is also liable to whipping.

Ib., s. 10; Ib.

390. Any person who unlawfully and maliciously attempts by any overt act to set fire to—

(a) A stack of corn, grain, pulse, oats, hay, straw, baulm, stubble, or of any cultivated vegetable produce; or

(b) A stack of furze, gorse, heath, fern, turf, peat, charcoal, wood, or bark; or

(c) A tree or wood or bark;

under such circumstances that if the same were thereby set fire to, he would, under any of the statutory provisions set forth in Articles 379 and 388, be guilty of felony, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male, is also liable to whipping.

Ib., s. 17; Ib.; 62 Vic. No. 4.

388. Any person who unlawfully and maliciously sets fire to—

(a) A crop of hay or grass, whether the natural or indigenous product of the soil or not, and whether under cultivation or not, and whether standing or cut; or

(b) A crop of corn, grain, or pulse, or of any cultivated vegetable produce, whether standing or cut; or

(c) Any part of any wood, coppice, or plantation of trees; or

(d) Any heath, gorse, furze, or fern, wherever growing;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding fourteen years and not less than three years, or to immediate arrest for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding fourteen years and not less than three years.

Attempts to Commit Arson.

480. Any person who—

(1) Attempts unlawfully to set fire to anything which is so situated that any such thing as is mentioned in the last preceding section is likely to catch fire from it;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without whipping.

Setting Fire to Crops and Growing Plants.

481. Any person who wilfully and unlawfully sets fire to any of the things following, that is to say—

(a) A crop of cultivated vegetable produce, whether standing or cut;

(b) A crop of hay or grass, whether the natural or indigenous product of the soil or not, and whether under cultivation or not, and whether standing or cut;

(c) Any standing trees, saplings, or shrubs, whether indigenous or cultivated;
exceeding two years with or without hard labour and with or without solitary confinement, and, if a male, is also liable to whipping.

29 Vic. No. 5, s. 19; 30 Vic. No. 20; 52 Vic. No. 4.

396. Any person who &c.

(d) A crop of hay or grass, whether the natural or indigenous product of the soil or not, and whether under cultivation or not, and whether standing or cut; or

(e) A crop of corn, grain, or pulse, or of any cultivated vegetable produce, whether standing or cut; or

(f) Any part of any wood, coppice, or plantation of trees; or

(g) Any heath, gorse, furze, or fern wherever growing;

is guilty &c.[

Art. 385, supra, p. 191.

H. 48 (12 Anne S. 2, c. 18, s. 5; 20 Geo. 2, c. 19, s. 1; 29 Vic. No. 13, s. 46).

386. Any person who—

(1) Unlawfully, and with intent to bring any ship, vessel, or boat, into danger, masks, alters, or removes any light or signal, or exhibits any false light or signal; or

(2) Unlawfully and maliciously does any act which tends to the immediate loss or destruction of any ship, vessel, or boat, and for which no other punishment is provided under the provisions set forth in this Chapter;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Casting away Ships.

483. Any person who—

(1) Wilfully and unlawfully casts away or destroys any vessel, whether complete or not; or

(2) Wilfully and unlawfully does any act which tends to the immediate loss or destruction of a vessel in distress;

(3) With intent to bring a vessel into danger interferes with any light, beacon, mark, or signal, used for purposes of navigation, or for the guidance of seamen, or exhibits any false light or signal;

is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement, and with or without whipping.

Attempts to Cast Away Ships.

484. Any person who attempts unlawfully to cast away or destroy a vessel, whether completed or not, or attempts unlawfully to do any act tending to the immediate loss or destruction of a vessel in distress, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without solitary confinement, and with or without whipping.

Obstructing and Injuring Railways.

485. Any person who unlawfully, and with intent to obstruct the use of a railway or to injure any valuable property upon a railway, deals with any object whatever on or near the railway in such a manner as to affect or endanger
im@isonmenf with hard la6onr for life, with
or without whipping, v-hich
may
be inflicted
once, twice,
or thrice.

Any person mho wilfully and unlaw-
fully Bills, maims, or wounds, any
capable of being stolen is gidty of an
able offenc.

If the animal in quest
gelding, ass, mule,' camel,
ewe, wether, cleer, goat, or pig, or the young
of any such animal, the offencler
is
guilty
of
a crime, and is liable to imprisonment with

in any other
case
the offender is guilty of
misdemeanour, and is liable to imprisonment
with hard labour for two years, or, if the
offence is committed by night, to imprison-
ment with hard labour for three years.

InJuring Animals.

Any person who wilfully and unlaw-
fully kills, maims, or wounds, any animal
capable of being stolen is guilty of an indict-
ble offence.

If the animal in question is a horse, mare,
gelding, ass, mule, camel, bull, cow, ox, ram,
ewe, wether, deer, goat, or pig, or the young
of any such animal, the offender is guilty of
a crime, and is liable to imprisonment with
hard labour for fourteen years, with or with-
out solitary confinement.

In any other case the offender is guilty of a
misdemeanour, and is liable to imprisonment
with hard labour for two years, or, if the
offence is committed by night, to imprison-
ment with hard labour for three years.

Malicious Injuries in General.

Any person who wilfully and unlaw-
fully destroys or damages any property is
guilty of an offenc which, unless otherwise
stated, is a misdemeanour, and he is liable, if
no other punishment is provided, to imprison-
ment with hard labour for two years, or, if
the offence is committed by night, to imprison-
ment with hard labour for three years.
flume, pipe, or any other appliance whatever for holding or conveying water, which has been lawfully constructed under the provisions of the laws relating to Water Authorities, is guilty of a misdemeanor, and is liable on conviction to a fine not exceeding five hundred pounds and to imprisonment for a term not exceeding two years with or without hard labour.

A prosecution for an offence under this Article must be begun within six months after the offence is committed.

59 Vic. No. 34, s. 23.

404. Any person who, otherwise than in pursuance of the written sanction of the Auditor-General, destroys or mutilates any book, document, paper, or writing, belonging to the Metropolitan Traffic Commissioners constituted under "The Brisbane Traffic Act of 1895," or relating to the execution of that Act, is guilty of a misdemeanor, and is liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding two years with or without hard labour.

29 Vic. No. 5, s. 18.

405. Any person who, being possessed of a building, or part of a building, held for a term of years or other less term, or at will, or held over after the termination of a tenancy, unlawfully and maliciously—
(1) Pulls down or demolishes, or begins to pull down or demolish, the same or any part thereof; or
(2) Pulls down or severs from the freehold any fixture which is fixed in or to the building or part of a building;

is guilty of a misdemeanor, and is liable on conviction to fine and imprisonment at the discretion of the Court.

Ib., s. 35.

406. Any person who unlawfully and maliciously throws down, levels, or otherwise destroys, in whole or in part, any turnpike gate or toll-bar, or any wall, chain, rail, post, bar, or other fence, belonging to a turnpike gate or toll-bar, or set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Statute relating thereto, or any house, building, or weighing engine erected for the better collection, ascertainment, or security, of any such toll, is guilty of a misdemeanor, and is liable on conviction to fine and imprisonment at the discretion of the Court.

Ib., s. 53.

412. Any person who unlawfully and maliciously commits any damage, injury, or spoil, to an amount exceeding five pounds, to or upon any real or personal property whatever, either of a public or private nature, such act not being an act for which no punishment is provided under the statutory provisions set forth in Articles 96 and 37, or in this Division of this Part of this Digest, except Articles 304, 400, 402, 405, 404, 411, 413, and 419, is guilty of a misdemeanor, and is liable on conviction to imprisonment for any term not exceeding two years with or without hard labour.

If the offence is committed between the hours of nine of the clock in the evening and six of the clock in the morning the offender is liable to penal servitude for a term not exceeding five years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

60 Vic. No. 24, s. 54.
Punishment in Special Cases.

Destroying or Damaging an Inhabited House or a Vessel with Explosives.

I. If the property in question is a dwelling-house or a vessel, and the injury is caused by the explosion of any explosive substance, and if—

(a) Any person is in the dwelling-house or vessel; or

(1) The destruction or damage actually endangers the life of any person; the offender is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement, and with or without whipping.

Sea Bank, or Sea Wall, Navigation Works, or Bridges.

II. (1) If the property in question is a bank or wall of the sea or of a river, canal, aqueduct, reservoir, or inland water, or a work which appertains to a port, harbour, dock, reservoir, or inland water, and the injury causes actual danger of inundation or damage to any land or building; or

(2) If the property in question is a railway, or is a bridge, viaduct, or aqueduct, which is constructed over a highway, railway, or canal, or over which a highway, railway, or canal passes, and the property is destroyed; or

(3) If the property in question, being a railway or being any such bridge, viaduct, or aqueduct, is damaged, and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, railway, or canal, impassable or dangerous, and the offender is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without solitary confinement, and, if under the age of sixteen years, is also liable to whipping.

Wills and Registers.

III. If the property in question is a testamentary instrument, whether the testator is living or dead, or a register which is authorised or required by law to be kept for...
29 Vic. No. 5, s. 48; 30 Vic. No. 20.

387. Any person who unlawfully and maliciously—
(1) Destroys, defaces, or injures, any article of
manufacturing or preparing any such article
shall be liable for recording. births, baptisms,
marriages, deaths, or burials, or a copy of any
part of such register which is required
by law to be sent to any public officer, the
offender is guilty of a crime, and is liable to
imprisonment with hard labour for life, with
or without solitary confinement.

IV. If the property in question is a vessel
distress, or wrecked, stranded, or cast on shore, or any thing which belongs to such a vessel, the offender
is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with
or without solitary confinement.

V. If the property in question is any part of
a railway, or any work connected with a
railway, the offender is guilty of a crime, and
is liable to imprisonment with hard labour for
fourteen years.

Other things of Special Value.

VI. (1) If the property in question, being a
vessel, whether complete or not, is destroyed; or
(2) If the property in question, being a
vessel, whether complete or not, is
damaged, and the damage is done
with intent to destroy it or render
it useless; or
(3) If the property in question is a
light, beacon, buoy, mark, or signal,
used for purposes of navigation, or
for the guidance of seamen; or
(4) If the property in question is a
bank or wall of the sea, or of a
river, canal, aqueduct, reservoir, or
inland water, or a work which
appertains to a port, harbour, dock,
canal, aqueduct, reservoir, or inland
water, or which is used for the
purpose of lading or unlading goods; or
(5) If the property in question, being a
railway, or being a bridge, viaduct,
or aqueduct, which is constructed
erover a highway, railway, or canal,
or over which a highway, railway,
or canal passes, is damaged, and the
damage is done with intent to
(2) By force enters into any house, shop, building, or place, with intent to commit any such offence as aforesaid in this Article defined; is guilty of felony, and is liable on conviction to penal servitude for life, or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

29 Vic. No. 6, ss. 15, 16, 29, 30, 32, 50.

388. Any person who unlawfully and maliciously—

(1) Cuts, breaks, or destroys—

(a) Any machine or engine, whether fixed or movable, used or intended to be used for performing any agricultural operation; or

(b) Any machine, engine, tool, or implement, whether fixed or movable, prepared for or employed in any manufacture whatever, except the manufacture of silk, woolen, linen, cotton, hair, melon, or alpaca, goods, or of goods of any one or more of those materials mixed with each other or mixed with any other material, or of any framework-window piece, stocking, hose, or lace; or

(c) Any machine or engine used or intended to be used for sheep-washing, wool-spinning, sugar-crushing, cotton-ginning, or for performing any process connected with the preparation of any agricultural or pastoral produce, or any appliance or apparatus in connection with any such engine; or

(2) Damages any such thing as aforesaid in this Article mentioned, with intent to destroy it or to render it useless; or

(3) With intent to destroy or damage a mine or to hinder or delay the working of a mine, does any of the following acts, that is to say—

(a) Causes any water to be conveyed into the mine, or into any subterraneous passage communicating with the mine; or

(b) Pulls down, fills up, or obstructs, any airway, waterway, drain, pit, level, or shaft, if or belonging to any the mine, or damages any such thing with intent to destroy or obstruct it, or to render it useless; such act not being an act done underground by an owner or an adjoining mine in working the same, or by any person duly employed in such working; or

(4) Pulls down or destroys any steam engine or other engine for sinking, drilling, ventilating, or working a mine, or for conveying material to or from any underground mine, or for any other assistance in any such operation, or any appliance or apparatus in connection with any such engine, or any chute, building, or erection, used in conducting the business of a mine, or any bridge, wagonway, or track for conveying material from a mine, whether such engine, chute, building, erection, bridge, wagonway, or track is completed or is an unfinished state; or

(5) Damages any such engine, appliance, apparatus, or other thing as last aforesaid, with intent to destroy it or render it useless; or

(6) With intent to destroy or damage a mine, or to hinder, obstruct, or delay the working of a mine, stops, obstructs, or hinders, the working of any such engine or of any such appliance or apparatus as last aforesaid; or

(7) Wholly or partially cuts through, severe, or breaks, any rope, chain, or tackle, of whatever material, which is used in a mine, or in or upon the railway, bridge, viaduct, or aqueduct, or the highway, railway, canal, or road, passing over or under the same, or any part thereof, dangerous or impassable; or

(6) If the property in question, being anything in process of manufacture, or an agricultural or manufacturing machine, or a manufacturing implement, or a machine or appliance used or intended to be used for performing any process connected with the preparation of any agricultural or pastoral produce, is destroyed; or

(7) If the property in question, being any such thing, machine, implement, or appliance, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or

(8) If the property in question is a shaft or passage of a mine, and the injury is done with intent to damage the mine or to obstruct its working; or

(9) If the property in question is a machine, appliance, apparatus, building, erection, bridge, or road, appertaining to or used with a mine, whether the thing in question is completed or not; or

(10) If the property in question, being a rope, chain, or tackle, of whatever material, which is used in a mine, or upon any way or work appertaining to or used with a mine, is destroyed; or

(11) If the property in question, being any such rope, chain, or tackle, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or

(12) If the property in question is the dam, floodgate, or sluice, of a fishpond, or of any water which is private property, or in which there is a private right of fishery, and—

(e) The injury causes the loss or destruction of any of the fish therein; or

(8) The injury is done with intent to take or destroy any fish in the pond or water; or

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any inclined plane, railway, or other way or other work whatever, in anywise belonging or connected with, or employed in a mine or the working or business of a mine, or unfastens or damages any such thing with intent to destroy it or to render it useless; or
(5) Cuts off, draws up, or removes, any piles, stalls, or other materials, fixed in the ground and used for securing a sea bank or sea wall, or the bank, dam, or wall, of a river, canal, drain, aqueduct, reservoir, pool, port, harbour, dock, quay, wharf, jetty, or lock; or
(9) With intent to obstruct or prevent the carrying on, completion, or maintenance, of the navigation of a navigable river or canal, opens or draws up any floodgate or sluice, or does any other injury or mischief to the river or canal, and thereby obstructs or prevents such carrying on, completion, or maintenance; or
(10) Cuts away, cuts off, removes, alters, defaces, sinks, or destroys, any boat, buoy, buoy-caps, perch, or mark, used or intended for the guidance of seamen or the purpose of navigation, or does any act with intent to do any such thing, or in any other manner injures or conceals any such boat, buoy, buoy-caps, perch, or mark;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

29 Vic. No. 5, s. 33.

399. Any person who unlawfully and maliciously—
(1) Cuts through, breaks down, or otherwise destroys, the dam, floodgate, or sluice, of any fish pond, or of any water which is private property, or in which there is a private right of fishery, and thereby causes the loss of or destruction of any of the fish therein; or
(2) Does any such act with intent to take or destroy any fish in the pond or water; or
(3) With intent to destroy any fish then being or afterwards to be put in such pond or water as last aforesaid, puts any lime or other noxious material in the pond or water; or
(4) Cuts through, breaks down, or otherwise destroys, the dam or floodgate of any reservoir, mill pond, or pool;

is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Deeds and Records.

VII. If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

Art. 299, supra, p. 158.
29 Vic. No. 5, ss. 21, 22, 25.

401. Any person who unlawfully and maliciously—
(1) Cuts, breaks, bars, roots up, or otherwise destroys or damages, the whole or any part of any tree, sapling, or shrub, or any underwood—
(2) If the amount of injury done exceeds five pounds; or
(3) If the article or articles destroyed or damaged are growing in a park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to a dwelling-house, and the amount of the injury done exceeds one pound; or
(4) Destroys, or damages with intent to destroy, any plant, root, fruit, or vegetable production, which is growing in a garden, orchard, nursery ground, hot-house, greenhouse, or conservatory, after having been previously convicted of any such offence;

is guilty of felony, and is liable on conviction to penal servitude for the term of three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

VIII.—

Trees, Shrubs, &c.

(1) If the property in question is the whole or part of a tree, sapling, or shrub, or any underwood, wherever growing, and the amount of the injury done exceeds five pounds; or
(2) If the property in question is the whole or part of a tree, sapling, or shrub, or any underwood, which is growing in a park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or appertaining to a dwelling-house, and the amount of the injury done exceeds one pound; or
(3) If the property in question is anything growing in a garden, orchard, nursery ground, hot-house, greenhouse, or conservatory, and the offender has been previously convicted of any such offence committed with respect to any such property;

the offender is guilty of a crime, and is liable to imprisonment with hard labour for three years, with or without solitary confinement, and, if under the age of sixteen years, is also liable to whipping.

Works of Art, &c.

IX. If the property in question is a book, manuscript, or work of art, or anything kept for the purposes of art, science, or literature, or on painted glass, or a statue or monument, or an ornament, railing, or fence, surrounding any such statue or monument, the offender, if under the age of sixteen years, is also liable to whipping.

Trees, &c. Damaged to the Amount of One Shilling: Third Offence.

X. If the property in question is the whole or part of a tree, sapling, or shrub, or
Any person who unlawfully and maliciously—

(1) Places or throws any gunpowder or other explosive substance into, upon, under, against, or near, any building, with intent to destroy or damage any building, or any engine, machinery, working tools, goods, or chattels; or

(2) Places or throws any gunpowder or other explosive substance into, upon, against, or near, any ship or vessel, with intent to destroy or damage any ship or vessel, or any machinery, working tools, goods, or chattels, whether any explosion takes place or not, and whether any damage is caused or not,

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding ten years with or without hard labour and with or without solitary confinement, and, if a male, is also liable to whipping.

Attempts to Destroy Property by Explosions.

488. Any person who, unlawfully, and with intent to destroy or damage any property, puts any explosive substance in any place whatever, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without solitary confinement, and with or without whipping.

Attempts to Injure Mines.

489. Any person who, with intent to injure a mine or to obstruct the working of a mine—

(1) Unlawfully, and otherwise than by an act done underground in the course of working an adjoining mine,—

(a) Causes water to run into the mine or into any subterraneous passage communicating with the mine; or

(b) Obstructs any shaft or passage of the mine; or

(2) Unlawfully obstructs the working of any machine, appliance, or apparatus, appertaining to or used with the mine, whether the thing in question is completed or not; or

(3) Unlawfully, and with intent to render it useless, unfastens a rope, chain, or tackle, of whatever material, which is used in the mine or upon any way or work appertaining to or used with the mine,

is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement, and with or without whipping.
Interfering with Marine Signals.

490. Any person who wilfully and unlawfully removes, defaces, or renders invisible, any light, beacon, buoy, mark, or signal, used for purposes of navigation, or for the guidance of seamen, or unlawfully attempts to remove, deface, or render invisible, any such thing, is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement, and, if under the age of sixteen years, is also liable to whipping.

Interfering with Navigation Works.

491. Any person who—

(1) Wilfully and unlawfully removes or disturbs any fixed object or materials used for securing a bank or wall of the sea, or of a river, canal, aqueduct, reservoir, or inland water, or for securing any work which appertains to a port, harbour, dock, canal, aqueduct, reservoir, or inland water, or which is used for purposes of navigation or lading or unlading goods; or

(2) Unlawfully does any act with intent to obstruct the carrying on, completion, or maintenance, of the navigation of a navigable river or canal, and thereby obstructs such carrying on, completion, or maintenance;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement, and, if under the age of sixteen years, is also liable to whipping.

Communicating Infectious Diseases to Animals.

492. Any person who wilfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Travelling with Infected Animals.

493. Any person who causes any four-footed animal which is infected with an infectious disease to travel, or, being the owner or one of two or more joint owners of any four-footed animal which is infected with an infectious disease, permits or connives at the travelling

(1) There seems to be no reason why this law should be limited to the case of sheep.
In this Article the term "infected sheep" means and includes—

(a) Any sheep suffering from or affected with scab or carieal, or any other infectious or contagious disease affecting sheep to which the provisions of the laws relating to diseases in sheep have been made applicable by proclamation;

(b) Any sheep which has formed part of a flock containing any sheep suffering from or affected with any such disease as aforesaid;

(c) Any sheep which has been in direct or indirect contact with, or have been on or carried over the same ground as, or have been kept in the same yard as, any sheep suffering from or affected with any such disease as aforesaid;

(d) Any sheep which have within the preceding six months been in direct or indirect contact with, or have been on or carried over the same ground as, or have been kept in the same yard as, any sheep suffering from or affected with any such disease as aforesaid;

(e) Any sheep which, having been included in any of the foregoing definitions, have not afterwards been certified by an inspector to be clean.

48 Vic. No. 28, s. 123.

401A. Any person who wilfully obstructs, removes, or defaces any boundary mark of land leased under the provisions of "The Crown Lands Acts, 1884 to 1895," which has been lawfully made or erected, is guilty of a misdemeanor, and is liable on conviction to fine and imprisonment at the discretion of the Court.

59 Vic. No. 5, s. 37.

409. Any person who, by any unlawful act, or by any wilful omission or neglect, obstructs an engine or carriage using a railway, or causes an engine or carriage using a railway to be obstructed, or aids in any such act, omission, or neglect, is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

Ib., s. 68; 39 Vic. No. 20.

395. Any person who, knowing the contents of the letter or writing, sends, delivers, or utter, or directly or indirectly causes any person to receive, any letter or writing threatening—

(c) To burn or destroy any house, barn, or other building, or any grain, hay, or straw, or other agricultural produce in a stack or stack, or in or under any building; or

(e) To burn or destroy any ship or vessel; or

(c) To kill, maim, or wound, any cattle, [mule, ass, goat, or pig], is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding ten years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male, is also liable to whipping.

Ib., s. 68.

632. Any person found committing any of the offences defined in Chapters XLIII and XLIV, except

of any such animal, contrary to the provisions of the laws relating to infected animals of that kind, is guilty of a misdemeanor, and is liable to imprisonment for two years.

Removing Boundary Marks.

494. Any person who wilfully and unlawfully removes or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

Obstructing Railways.

495. Any person who, by any unlawful act, or by any intentional omission to do any act which it is his duty to do, causes any vehicle in use upon a railway to be obstructed in its passage on the railway, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for two years.

Sending Letters threatening to Burn or Destroy.

496. Any person who, knowing the contents of the writing, causes any person to receive any writing threatening that any building or vessel, whether complete or not, or any slack of cultivated vegetable produce, or any such produce that is in or under a building, shall be burnt or destroyed, or that any four-footed animal capable of being stolen shall be killed, maimed, or wounded, is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement, and with or without whipping.

Arrest without Warrant.

497. A person found committing any of the misdemeanours defined in this Chapter may be

(1) Sec Note to preceding section.
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27 Vic. No. 8, s. 189.

433. Any railway officer or person called by him to be present may detain any person who has committed any of the offences defined in Article 396, and whose name and address are unknown to the railway officer, and may swear him before a justice to be dealt with according to law.

29 Vic. No. 6, s. 63.

413. Any person who unlawfully and maliciously kills, maims, or wounds any dog, bird, beast, or other animal, not being cattle, [nor a mule, ass, goat, or pig,] being either the subject of hourly at common law, or being ordinarily kept in a state of confinement or for some domestic purpose, is liable on summary conviction before two justices to a fine not exceeding the amount of injury done and twenty pounds in addition, or to imprisonment for a term not exceeding six months with or without hard labour.

Any person who commits any such offence after having been previously convicted of any such offence is liable on like conviction to imprisonment with hard labour for a term not exceeding twelve months.

415. Any person who unlawfully and maliciously cuts, breaks, burns, drowns, or in any way destroys, defaces by any description whatsoever, or a wall, tile, or gate, or any part of any such thing, is liable on summary conviction before two justices to a fine not exceeding the amount of the injury done and five pounds in addition.

Any person who commits any such offence after having been previously convicted of any such offence is liable on like conviction to imprisonment with hard labour for a term not exceeding twelve months.

416. Any person who unlawfully and maliciously cuts, breaks, burns, drowns, or otherwise destroys or damages, the whole or any part of any tree, sapling, or shrub, or any underwood, whether growing, and thereby does injury to the amount of one shilling at the least, is liable on summary conviction before two justices to a fine not exceeding the amount of the injury done and five pounds in addition, or to imprisonment with or without hard labour for a term not exceeding three months.

Any person who commits any such offence after having been previously convicted of any such offence is liable on like conviction to imprisonment with hard labour for a term not exceeding twelve months.

ChapterXLVII

SUMMARY CONVICTION FOR CERTAIN OFFENCES.

498. When a person is charged before two justices with any of the indictable offences following, that is to say,—

(a) Wilfully and unlawfully destroying or damaging any property, without circumstances of aggravation;

(b) Wilfully and unlawfully killing, maiming, or wounding, an animal capable of being stolen, without circumstances of aggravation;

then, if the age of the accused person at the time of the alleged commission of the offence was in the opinion of the justices greater than twelve years, and if—

(1) The amount of the injury done does not exceed five pounds; or

(2) The age of the accused person at the time of the alleged commission of the offence did not in the opinion of the justices exceed sixteen years; or

(3) The accused person admits that he is guilty of the offence, and it appears to the justices that the nature of the offence is such, whatever may be the amount of the injury done, that the offender may be adequately punished upon summary conviction;

the justices may, except as hereinafter stated, deal with the charge summarily.

The offender is liable on such summary conviction to imprisonment with hard labour for six months, or to a fine of an amount equal to

(1) See Accompanying Letter.
417. Any person who unlawfully and maliciously destroys, or damages with intent to destroy, any plant, tree, fruit, or vegetable production, which is growing in a garden, orchard, nursery ground, hothouse, greenhouse, or conservatory, is liable on summary conviction before two justices to fine not exceeding the amount of the injury done and twenty pounds in addition, or to imprisonment for a term not exceeding six months with or without hard labour.

418. Any person who unlawfully and maliciously destroys, or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and which is growing in any field, whether open or enclosed, which is not a garden, orchard, or nursery ground, is liable on summary conviction before two justices to imprisonment for a term not exceeding one month with or without hard labour, or to a fine not exceeding the amount of the injury done and twenty shillings in addition, together with the costs, and in default of payment to imprisonment for a like term with or without hard labour, unless the fine and costs are sooner paid.

Any person who commits any such offence after having been previously convicted of any such offence is liable on like conviction to imprisonment with hard labour for a term not exceeding six months.

419. Any person who wilfully or maliciously commits any damage, injury, or spoil, to or upon any real or personal property whatever, either of a public or private nature, including injuries to trees, saplings, shrubs, or underwood, such as growing upon or near which no punishment is provided under the statutory provisions set forth in Articles 38 and 37, or in this Division of this Part of this Digest, except Articles 385, 400, 402, 403, 404, 413, and 414, is liable on summary conviction before two justices to imprisonment for a term not exceeding two months with or without hard labour, or to a fine not exceeding five pounds, together with such further sum as appears to the justices to be a reasonable compensation for the damage, injury, or spoil, as committed, but not exceeding the sum of five pounds, and in default of payment to imprisonment for a like term with or without hard labour, unless the fine and compensation, and the costs, if any, are sooner paid.

This Article does not extend to any case where the person doing the act complained of acted under a fair and reasonable supposition that he had a right to do the act, nor to any trespass which is committed in hunting or fishing, or in the pursuit of game, and which is not wilful and malicious.

the amount of the injury done, to be assessed by the justices, and twenty-five pounds in addition.

The justices may order the offender to pay the amount awarded in respect of the injury either in one sum or by such instalments and at such times as they think fit.

If it appears that the injury complained of was done in the course of hunting or fishing, or in the pursuit of game, and was not done with an intention to destroy or damage the property injured, the justices cannot deal with the case summarily.

Procedure.

499. Such summary jurisdiction is to be exercised in the manner prescribed in Chapter XLIII, with respect to the summary trial and punishment of offenders who may be summarily convicted of indictable offences under the provisions of that Chapter.

If the age of the accused person at the time of the commission of the alleged offence did not in the opinion of the justices exceed sixteen years, and his parent or guardian objects to the charge being dealt with summarily, or if for any reason the justices are of opinion that the charge is a fit subject for prosecution by indictment, they are required to abstain from dealing with the case summarily.

Trivial Charges.

500. If on the trial of any person under the provisions of this Chapter the justices are of opinion that the injury is of so trivial a nature as not to deserve any punishment, they may dismiss the complaint.

Effect of Summary Conviction and of Civil Proceedings.

501. A person who has been summarily convicted of any offence under the provisions of

[1] This and the following notes correspond to ss. 494 and 495 regarding dealing and similar offences. It is submitted that such persons may very well be treated as justices in the case of injuries to property in general, as well as in cases of dealing, from which, so far as the last is the case is concerned, injury to the property is generally easily distinguishable. The present statutory Law is highly technical and somewhat difficult to follow. See especially Art. 419.
this Chapter, and who has paid the fine or sum adjudged to be paid under the conviction, together with the costs, if any, or has suffered the imprisonment adjudged for non-payment thereof, or has suffered the imprisonment adjudged in the first instance, or has received the Royal mercy, or has been discharged from punishment as a first offender, is not liable to any civil proceedings for the same cause at the suit of the person on whose complaint he was convicted.

If civil proceedings have been taken against any person in respect of any act done by him which is an offence of which he might have been convicted under the provisions of this Chapter, he cannot be afterwards prosecuted for the same cause, as for an offence, on the complaint of the person by whom the civil proceedings were taken.\(^1\)

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**DIVISION III.—FORGERY AND LIKE OFFENCES.**

**PERSONATION.**

**CHAPTER XLVIII.**

**FORGERY IN GENERAL: DEFINITIONS.**

**Definitions.**

502. In this Division of this Part of this Code—

The term "document" includes a register or register-book or part of either, and any other book, and any paper, parchment, or other material whatever, used for writing or printing, which is marked with any letters or marks denoting words, or with any other signs capable of conveying a definite meaning to persons conversant with them; but does not include trade marks on articles of commerce; The term "writing" includes an inscription on wood, stone, metal, or other material: It also includes a mere signature; The term "seal" includes any stamp, die, or other thing, of whatever material, from which an impression can be taken by means of pressure or of ink, or by any other means; The term "bank note" includes any negotiable instrument issued by or on behalf of any person or corporation in any part of the world, or issued by the authority of any State, Prince, or Government, and intended to be

\(^1\) This corresponds to s. 479. See Note to that section.
used as equivalent to money, either immediately on issue or at any time afterwards: It also includes a bank bill or bank post bill.

Further Definitions.

503. A document or writing is said to be false—

(a) In the case of a document which is a register or record kept by lawful authority, or an entry in any such register, or which purports to be issued by lawful authority as testifying to the contents of any register or record kept by lawful authority, or as testifying to any fact or event, if any material particular stated in the document is untrue;

(b) If the whole or some material part of the document or writing purports to be made by or on behalf of some person who did not make it or authorise it to be made, or if, in a case when the time or place of making is material, although the document or writing is made by or by the authority of the person by whom it purports to be made, it is falsely dated as to the time or place of making;

(c) If the whole or some material part of the document or writing purports to be made by or on behalf of some person who does not, in fact, exist; or

(d) If the document or writing is made in the name of an existing person, either by that person himself or by his authority, with the fraudulent intention that it should pass as being made by some person, real or fictitious, other than the person who makes it or authorises it to be made.

A seal or mark is said to be counterfeit if it is made without lawful authority, and is in such a form as to resemble a genuine seal or mark, or, in the case of a seal, in such a form as to be capable of producing impressions resembling those produced by a genuine seal.

A representation of the impression of a seal is said to be counterfeit if it is not in fact made by the seal.

The term “resemble,” applied to any thing, includes the case where the thing is made to resemble, or is apparently intended to resemble, the object spoken of.
420. In this Division of this Part of this Digest—
The term "forge" includes altering;
The term "utter" includes offering, disposing of, and
putting off;
The term "knowingly," used in connection with
any word denoting uttering or using in any way, implies
knowledge of the character of the thing uttered or used;
The term "resembling" includes "made to resemble
or apparently intended to resemble".
81 Geo. 2, c. 22, s. 78; 18 Geo. 3, c. 19; 20 Vic. No. 3,
s. 49; 31 Vic. No. 6, s. 11.
421. In the case of an offence which involves the
forgery of anything in writing, or the uttering of anything
forged which is in writing, it is immaterial in what language
the writing is expressed.
In the case of an offence which involves forgery or
the uttering of anything forged it is immaterial whether
the intent to defraud is an intent to defraud Her Majesty
or any private person or a corporation.
Compare Bill of 1880, s. 290.

Definition of Forgery and of Uttering.

504. A person who makes a false document or
writing, knowing it to be false, and with
intent that it may in any way be used or acted
upon as genuine, whether in Queensland or
elsewhere, to the prejudice of any person, or
with intent that any person may, in the belief
that it is genuine, be induced to do or refrain
from doing any act, whether in Queensland or
elsewhere, is said to forge the document or
writing.

A person who makes a counterfeit seal or
mark, or makes an impression of a counterfeit
seal knowing the seal to be counterfeit, or
makes a counterfeit representation of the im-
pression of a genuine seal, or makes without
lawful authority an impression of a genuine
seal, with intent in either case that the thing
so made may in any way be used or acted upon
as genuine, whether in Queensland or elsewhere,
or with intent that any person may, in the
belief that it is genuine, be induced to do or
refrain from doing any act, whether in Queens-
land or elsewhere, is said to forge the seal or
mark.

The term "make a false document or
writing" includes altering a genuine document
or writing in any material part, either by
erasure, obliteration, removal, or otherwise;
and making any material addition to the body
of a genuine document or writing; and adding
to a genuine document or writing any false
date, attestation, seal, or other material matter.

It is immaterial in what language a forged
document or writing is expressed.

It is immaterial that the forger of anything
forged may not have intended that any par-
ticular person should use or act upon it, or that
any particular person should be prejudiced by
it, or be induced to do or refrain from doing
any act.

It is immaterial that the thing forged is
incomplete, or does not purport to be a docu-
ment, writing, or seal, which would be binding
in law for any particular purpose, if it is so
made, and is of such a kind, as to indicate that
it was intended to be used or acted upon.

The term "utter," used with regard to any-
thing forged or counterfeited, means and
includes using, dealing with, or acting upon,
and attempting to use, deal with, or act upon,
and attempting to induce any person to use,
deal with, or act upon, the thing in question
as if it were genuine, or, in the belief that it
is genuine, to do or refrain from doing any act
whether in Queensland or elsewhere.
The term "knowingly," used in connection with any term denoting uttering or using, implies knowledge of the character of the thing uttered or used.

**Certain Matters Immaterial.**

**505.** In the case of an offence which involves the forging or uttering of a document or writing relating to the payment of money, or to the delivery or transfer of any property, or to the creation or performance of any obligation, it is immaterial in what country the money payable under the forged document is or purports to be payable; and if the money payable under it purports to be payable in some country out of Queensland, it is immaterial whether the document is under seal or not.

CHAPTER XLIX.

PUNISHMENT OF FORGERY AND LIKE OFFENCES.

**Punishment of Forgery in General.**

**506.** Any person who forges any document, writing, or seal is guilty of an offence which, unless otherwise stated, is a crime, and is liable, if no other punishment is provided, to imprisonment with hard labour for three years.
(8) Knowingly produces or tenders in evidence any such false entry or forged writing, or causes any such thing to be so produced or tendered; it is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

51 Vic. No. 2, s. 11; 53 Vic. No. 3, s. 8.

460. Any person who—

(1) Willfully makes a false entry in the Register of Copyright or Register of Artistic Works, or willfully causes any such false entry to be made; or

(2) Knowingly tenders in evidence a paper falsely purporting to be a copy of an entry in either of such registers, or causes any such paper to be so tendered;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

465. Any person who—

(1) With intent to defraud, forges, or knowingly utters when forged, any document purporting to be a register, certificate, directory, monthly statement of brands, way-bill, or delivery-note, kept, published, or made out under the laws relating to the registration of brands on horses and cattle, or to be an extract from, or entry in, any of those things; or

(2) Knowingly and unlawfully inserts, or causes or permits to be inserted, in any register, certificate, directory, monthly statement of brands, way-bill, or delivery-note, kept, published, or made out under the laws relating to the registration of brands on horses and cattle, or in any extract from any of such documents, any false entry of any matter relating to a brand; or

(3) Willfully and unlawfully, and with intent to defraud, destroys, defaces, injures, or alters, any such document as last-mentioned, or any extract from, or entry in, any such document, or any part of any of them, or causes any such act to be done;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

466. Any person who—

(1) Forges, or knowingly utters when forged, any document, brand, or mark, purporting to be a document, brand, or mark, made or given under the laws relating to diseases in sheep; or

(2) Knowingly makes or signs a false report, false certificate, respecting sheep, and purporting to be a return, report, or certificate, made under those laws;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years.

467. Any person who—

(1) Forges or procures to be forged, or knowingly utters when forged, a certificate of competency, service, or exemption, purporting to be issued under the laws relating to navigation, or a document purporting to be an official copy of a certificate so issued; or
(2) Fraudulently makes use of any such forged certificate, or of a copy of such a forged certificate; or
(3) Fraudulently makes use of a genuine certificate of competency, service, or exemption, which has been cancelled, or is suspended, or is not his own; or
(4) Makes or aids in making, or procures any other person to make, any false representation, or makes use of any document containing a false representation, or gives false evidence, for the purpose, in either case, of obtaining any such certificate of competency, service, or exemption, for himself or for any other person;

is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

33 Vic. No. 37, ss. 14, 20.

470. Any person who—
(1) Forges or counterfeits a pawnbroker's license, or knowingly produces or allows a forged or counterfeited pawnbroker's license to any person entitled to demand production of such a license; or
(2) With intent to defraud forges, or knowingly utteres when forged, a pawnbroker's duplicate,
is guilty of a misdemeanour, and is liable on conviction to imprisonment to fine at the discretion of the Court, or to imprisonment for a term not exceeding two years with or without hard labour, or to both punishments.

471. Any person who forges, or knowingly utters when forged, any writing purporting to be a certificate or warrantly given under the provisions of the laws relating to the sale of food and drugs, or is guilty of a misdemeanour, and is liable on conviction to imprisonment with hard labour for a term not exceeding two years.

38 Vic. No. 11, s. 87.

472. Any person who forges, or knowingly and with intent to defraud utters when forged, a miner's right, lease, license, or permit, issued or purporting to be issued under the provisions of the laws relating to gold fields, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding twelve months with or without hard labour.

50 Vic. No. 38, s. 11.

473. Any person who knowingly signs any certificate required by the laws relating to the export of Livestock and Meat, which is false in any material particular, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding twelve months.

41 Vic. No. 3, s. 77.

474. Any person who—
(1) Forges or counterfeits, or fraudulently alters, any declaration or certificate required by the provisions of the laws relating to navigation, or any part of any such declaration or certificate, or the signature to any such declaration or certificate; or
(2) Knowingly and wilfully makes a fraudulent declaration or certificate with respect to a vessel which requires a certificate under the provisions of those laws;
is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding fifteen pounds, or to imprisonment for a term not exceeding six months with or without hard labour.
475. Any person who forges or counterfeits a hawkers' and pedlar's license, or travels with a forged or counterfeited hawkers' and pedlar's license, or produces or shows to any person entitled to demand production of a hawkers' and pedlar's license a forged or counterfeited license with intent to use it as a genuine document, is guilty of a misdemeanour, and is liable on conviction to penal servitude for a term not exceeding six months.

26 Vic. No. 11, s. 8.

476. Any person who forges, or knowingly uses when forged, a certificate purporting to be a discharge of any person from any service, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three months with or without hard labour.

20 Vic. No. 9, s. 1.

482. Any person who—
(1) Forges, counterfeits, or knowingly utters when forged or counterfeited, the great seal of the United Kingdom or of Queen Elizabeth, or Her Majesty's privy seal, or any privy seal of Her Majesty, or Her Majesty's privy sign manual, or any of Her Majesty's seals appointed by the twenty-fourth article of the union between England and Scotland to be kept, used, and continued in Scotland, or the great seal of Ireland, or the privy seal of Ireland; or
(2) Forges or counterfeits the stamp or impression of any such seal as aforesaid; or
(3) Knowingly utters any document or instrument whatever having on it or affixed to it—
(a) Any forged or counterfeited stamp or impression resembling the stamp or impression of any such seal as aforesaid; or
(b) The stamp or impression of any such forged or counterfeited seal; or
(4) Forges or knowingly utters any document or instrument having on it or affixed to it any such stamp or impression as in this Article mentioned;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

Ib., ss. 8, 9, 10, 15, 28, 29, 32, 33, 35, 36, 37 [8 Geo. 1, c. 22; 12 Geo. 1, c. 32, s. 9; 3 Geo. 2, c. 25, s. 1]; 15 Geo. 2, c. 10, s. 11; 4 Geo. 3, c. 26, s. 15; 20 Vic. No. 8, s. 51].

483. Any person who, with intent to defraud—
(1) Forges, or knowingly utters when forged—
(a) A transfer of any share or interest of or in any stock, annuity, or other public fund, which is transferable at the Bank of England, or at the Bank of Ireland, or in Queensland, or of or in the capital stock of any body corporate, company, or society, which is established by charter or by virtue of any Act of Parliament; or
(b) A power of attorney or other authority to transfer any share or interest of or in any

Securities, Titles, Registers, &c.

II. If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, any of the things following, that is to say—

(a) A document which is evidence of title to any portion of the public debt of any of Her Majesty's Dominions or of any Foreign State, or to any dividend or
such stock, annuity, public fund, or capital stock, or to receive any dividend or money payable in respect of any such share or interest; or

(e) Any bond commonly called an East India bond, or any bond, debenture, or security issued or made under the authority of any Act of Parliament relating to the East Indies, or any instrument or assignment of any such bond, debenture, or security; or

(f) Any exchange bill, exchange bond, or exchange debenture, or an indorsement on or assignment of any such bill, bond, or debenture, or a Queensland Government debenture, or a receipt or certificate for interest accruing on any such bill, bond, or debenture; or

(g) A bank note, bank bill of exchange, or bank post bill, or an indorsement on or assignment of any such thing; or

(h) A deed, or a bond or writing obligatory, or an assignment of a bond or writing obligatory at law or in equity; or

(i) A will or codicil; or

(j) A bill of exchange or promissory note for the payment of money, or any acceptance, indorsement, or assignment of either; or

(k) An undertaking, warrant, order, authority, or request, for the payment of money, or for the delivery or transfer of any goods or chattels, or of any note, bill, or other security for the payment of money, or for procuring or giving credit, or any indorsement on or assignment of any such document; or

(l) Any accountable receipt, acquittance, or receipt for money or for goods, or for any note, bill, or other security for the payment of money, or any indorsement on or assignment of any such accountable receipt; or

(m) A court roll or copy of a court roll relating to any copyhold or customary estate; or

(n) Forges any name, handwriting, or signature, purporting to be that of a witness attaching the execution of a deed, bond, or writing obligatory; or

(o) Knowingly utters a deed, bond, or writing obligatory, which has on it a forged name, handwriting, or signature, purporting to be that of a witness attaching the execution thereof; or

(p) Knowingly and by virtue of a forged power of attorney or other forged authority demands or endeavours to have any share or interest in any such stock, annuity, or other public fund, as is hereinbefore in this Article mentioned, transferred, or to receive any dividend or money payable in respect thereof;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

7 Vic. No. 10, s. 39; 29 Vic. No. 18, s. 65.

424. Any person who, with intent to defraud or injure any person, forges, countersigns, creates, defaces, destroys, embezzles, or secretes, the whole or any part of any deed or memorial kept in the office of the Registrar of Titles under the laws relating to the Registration of Deeds, or any indorsement on any such instrument, or any interest payable in respect of any such debt, or a transfer or assignment of any such document, or a receipt or certificate for any interest or money payable or accruing on or in respect of any such public debt;
entry or register of any such instrument in any book kept in that office, is guilty of felony, and is liable on conviction to penal servitude for life.

28 Vict. No. 11, s. 6; 36 Vict. No. 23, s. 10; 55 Vict. No. 8, s. 10; 55 Vict. No. 38, s. 10; 59 Vict. No. 32, s. 13; 56 Vict. No. 37, s. 8; 57 Vict. No. 20, s. 8; 58 Vict. No. 31, s. 13.

425. Any person who—

(2) Forge or counterfeits, wholly or in part, any Treasury Bill, Treasury Note, or instrument purporting to be a Treasury Bill or Treasury Note issued under the laws authorising the issue of Treasury Bills or Notes, or any Queensland Government Savings Bank Stock Certificate, or instrument purporting to be a Stock Certificate issued under the laws relating to Queensland Government Savings Bank Stock; or

(2) Forge or counterfeits, obliterates, or wilfully multilicates or defaces, any word, letter, or figure in or upon any such Treasury Bill or Note, Stock Certificate, or instrument;

(2) Unlawfully fills up with any word, letter or figure, any blank space in or upon any such Treasury Bill or Note, Stock Certificate, or instrument, whether issued or not;

(4) Knowingly utters or attempts to utter any such forged counterfeited, obliterated, wilfully multilated or defaced, or unlawfully filled-up Treasury Bill or Note, Stock Certificate, or instrument;

is guilty of felony, and is liable on conviction to penal servitude for life, or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

28 Vict. No. 3, s. 89, 40.

427. Any person who—

(1) Does any of the following acts to or with respect to any register of births, baptisms, marriages, deaths, or burials, authorised or required by law for the time being to be kept, that is to say—

(9) Forgery or fraudulently alters in any such register any entry relating to any birth, baptism, marriage, death, or burial; or

(9) Knowingly and unlawfully alters any such register or any certified copy of any such register or any part of such a copy; or

(9) Knowingly and unlawfully alters any such register or any certified copy of any such register or any part of such a copy; or

(9) Knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death, or burial; or

(9) Knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death, or burial; or

(9) Knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death, or burial; or

(9) Knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death, or burial; or

(9) Knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death, or burial; or

is guilty of felony, and is liable on conviction to penal servitude for life, or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

or giving credit, whether negotiable or not, or an indorsement or assignment of any such document;

(5) An accountable receipt, or an acknowledgement of the deposit, receipt, payment, or delivery, of money or goods, or of any valuable security, or an indorsement or assignment of any such document;

(5) A bill-of-lading, dock warrant, warehousekeeper's certificate, warrant or order for the delivery of goods, or any other document used in the ordinary course of business as proof of the possession or control of goods, or as authorising, or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive the goods represented by the document, or an indorsement or assignment of any such document;

(5) A charter-party, or a shipping document accompanying a bill-of-lading, or an indorsement or assignment of either;

(5) A power of attorney or other authority to execute any such document as is hereinafore in this section mentioned;

(5) The signature of a witness to a deed, bond, or writing obligatory;

(5) A register of births, baptisms, marriages, deaths, or burials, authorised or required by law to be kept, or any entry in any such register;

(5) A copy of any such register or entry as last aforesaid, which is authorised or required by law to be given or sent to or by any person;

(5) A seal used by a registrar appointed to keep any such register as is hereinafore mentioned, or the impression of any such seal, or the signature of any such registrar;

the offender is liable to imprisonment with hard labour for life, with or without solitary confinement.

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(f) Knowingly and wilfully inserts or causes or permits to be inserted therein any false entry of any matter relating to any baptism, marriage, or burial; or

(g) Forges or alters any such copy, or knowingly utters any such copy which is forged or altered; or

(h) Knowingly and wilfully signs or verifies any such copy which is false in any part, knowing the same to be false;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

19 Vic. No. 34, s. 88; 20 Vic. No. 15, s. 86.

428. Any person who—

(1) Forgery or counterfeit any part of a register of births, deaths, or marriages, or any instrument purporting to be a certified copy of part of any such register, or causes any such part or copy to be forged or counterfeited; or

(2) Wilfully inserts, or causes to be inserted, in any such register, or in a certified copy of any part thereof, any false entry of any birth, death, or marriage; or

(3) Wilfully gives any false certificate purporting to be a certificate under the laws relating to the registration of births, deaths, and marriages; or

(4) Certifies any writing to be a copy of or an extract from a register of births, deaths, or marriages, knowing the register to be false in any part thereof or copied or extracted; or

(5) Forges or counterfeits the signature, seal, or stamp, of the Registrar-General or of a District Registrar, or any impression of either; or

(6) Wilfully destroys or injures the whole or part of any such register, or of a certified copy of any part thereof, or causes any such destruction or injury;

is guilty of felony, and is liable on conviction to penal servitude for a fine not exceeding five hundred pounds or to penal servitude for a term not exceeding five years, or to imprisonment for a term not exceeding three years with or without hard labour.

20 Vic. No. 3, s. 5.

429. Any person who with intent to defraud—

(1) Wilfully makes any false entry, or wilfully alters any word or figure, in any book, document, or book of account, kept or retained by public authority, or being a book, document, or book of account—

(2) In which the accounts of the owners of any stock, annuities, or other public funds, which are transferable in Queensland, or the titles to any land or any personal property, or to any estate or interest in either, or to any charge or encumbrance on either, or any particular matter relating to any such title, are entered, kept, unrecorded, abstracted, or registered; or
(b) By which any such titles, estates, interests, charges, or encumbrances, may be wholly or in part authentically, established, released, or discharged; or

c) Which are evidence of any such titles, estates, interests, charges, or encumbrances, or any part of either; or

(2) In any manner wilfully falsifies any such book or document; or

(3) Wilfully makes any transfer of any share, estate, or interest, of or in any such stock, annuity, or other public fund, or in any land or any personal property, in the name of any person who is not the true and lawful owner of such share, estate, or interest; is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

25 Vic. No. 14, s. 142; 29 Vic. No. 14, Sch.

454. Any person—

(1) Who, wilfully and fraudulently—

(a) Procurers any material false entry to be made in the register book kept under the provisions of the "Real Property Act of 1831"; or

(b) Obtains from the Registrar of Titles or a Deputy Registrar of Titles a certificate of title, registration abstract, or any other instrument relating to an estate or interest in land under the provisions of that Act; or

(c) Procures the making of any entry, certificate, memorandum, or endorsement, required by that Act to be made upon any such instrument as last aforesaid; or

(2) Who, knowing that any such instrument as last aforesaid, which purports to be an instrument issued by the Registrar of Titles or a Deputy Registrar of Titles under that Act, has been fraudulently obtained, or has on it any
entry, certificates, memorandum, or endorsement, which has been fraudulently obtained
any or utter such instrument;

is guilty of felony, and is liable on conviction to imprisonment for a term not exceeding four years with hard labour
or solitary confinement.

28 Vict. No. 29, s. 63; 20 Vict. No. 18, s. 65.

430. Any person who—
(1) Forges the seal or signature of any person authorised by the laws of any Part of Her Majesty's dominions to administer oaths in the Court of Admiralty, such seal or signature being attested, suspended, or subscribed, as that of a person so authorised, to any affidavit, declaration, affirmation, or other document, intended to be used in evidence in the Supreme Court in its Matrimonial Causes Jurisdiction;

(2) Forges any seal or signature impressed upon, or affixed or subscribed to, any affidavit, declaration, affirmation, intended to be so used; or

(3) Tenders in evidence any such document as aforesaid which has a false or counterfeit seal or signature impressed upon it, or affixed or subscribed to it, knowing the same to be false or counterfeit;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than seven years, or to imprisonment for a term not exceeding three years and not less than one year with or without hard labour.

32 Geo. 3, c. 148, ss. 6, 7, 8, 9, 10; 29 Vict. No. 3, s. 51.

431. Any person who—
(1) With intent to defraud forges or procures to be forged, or knowingly utters when forged, any contract, assignment, certificate, receipt, or attested copy of a certificate, made out, or purporting to be made out, by any person authorised by any Act of Parliament relating to the redemption or sale of the land tax in Great Britain to make it out; or

(2) With intent to defraud Her Majesty of any duties under the management of the Commissioners of Stamps for Great Britain and Ireland, forges or procures to be forged any stamp, mark, die, or plate, authorised by those Commissioners to be used for denoting, or testifying the payment of, any duties under their management, or for denoting any device appointed by them for the use of stamps to be used with playing cards; or

(3) With intent to defraud Her Majesty of any such duties, forges the impressio of any such stamp, mark, die, or plate, which has been forged, or procures any such act to be done; or

(4) With intent to defraud Her Majesty of any such duties, stamps or marks any material whatever with an impression of any such stamp, mark, die, or plate, which has been forged, or procures any such act to be done; or

(5) Knowingly utters or sells, or exposes for sale, any material whatever having upon it any such forged impression, or the impression of any such forged thing; or

(6) Transposes or removes from one piece of wrought plate of gold or silver to another, or to any vessel or ware of base metal, any

Documents relating to Revenue and Acts of State, &c.

III. If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, any of the things following, that is to say—

(a) The signature of the Governor, or of a member of the Executive Council, or of any of Her Majesty's Principal Secretaries of State or Under Secretaries of State, upon any grant, commission, warrant, or order;

(b) A seal or stamp used for the purposes of the public revenue in Queensland or of any other part of Her Majesty's dominions or in any foreign State;

(c) A document relating to the obtaining or receiving of any money payable on account of the public service of Queensland or any other part of Her Majesty's dominions, or any other property of Her Majesty in any part of Her dominions, or a power of attorney or other authority to execute any such document;

(d) A document made, signed, or issued, by an officer of a Court of Record in Queensland or in any other part of Her Majesty's dominions by virtue of his office; the offender is liable to imprisonment with hard labour for fourteen years, with or without solitary confinement.
impression made with any mark, stamp, or die, duly authorized to be used for denoting duties, or the payment of duties, on gold or silver plate, or procure any such act to be done; or

(7) Stamps or marks any vessel or ware of base metal with a forged mark, stamp, or die, resembling any such last-mentioned mark, stamp, or die, or procure any such act to be done; or

(8) Knowingly sells, exchanges, or exposes for sale, any wrought plate of gold or silver, or any vessel or ware of base metal, which has upon it the impression of any such forged mark, stamp, or die, as last aforesaid, or the forged impression of any such genuine mark, stamp, or die, or the impression of any such mark, stamp, or die, which has been transposed or removed from the plate of wrought gold or silver on which it was originally put; or

(9) With intent to defraud Her Majesty, forges or procures to be forged, or knowingly utters when forged, any debenture or certificate for the payment or return of money required or directed to be given or granted by any Act of Parliament relating to duties of Customs or Excise in the United Kingdom, or any part of or signature on any such debenture or certificate; or

(10) Without lawful authority makes or procures to be made—

(a) Any paper with the words "Excise Office" visible in the substance of the paper; or

(b) Any frame, mould, or instrument, for making any such paper; or

(11) Knowingly and without lawful authority or excuse, the proof of which lies on him, he in his possession any such frame, mould, or instrument, as last mentioned; or

(12) Without lawful authority or excuse, the proof of which lies on him, by any act or contrivance, causes the words "Excise Office" to appear visible in the substance of any paper; or

(13) Without lawful authority makes any mark, stamp, or device, resembling one made or used by direction of the Commissioners of Excise in England or Scotland for marking permits for the removal of excisable goods; is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

9 Geo. 3. c. 30. s. 3; 32 Geo. 3 c. 83. s. 28; 29 Vic. No. 5, s. 61.

432. Any person who—

(1) With intent to receive any wages, pay, allowance of money, or prize money, due or supposed to be due for or on account of the service of any petty officer, non-commissioned officer of marines, seaman, or mariner, on board of any of Her Majesty's ships, forges or procures to be forged—

(a) Any ticket for any such wages or pay, or a duplicate of any such ticket; or

(b) Any certificate of discharge from any of Her Majesty's Naval Hospitals; or

(c) Any remittance bill or duplicate of a remittance bill; or
(2) Knowingly utters a forged ticket for any such wages or pay, or a forged certificate of discharge from any of Her Majesty's Naval Hospitals, or a forged remittance bill or forged duplicate of a remittance bill; or

(3) With intent to defraud, and in order to receive any wages, pay, allowance of money, or prize money, due or supposed to be due to any person who has served, or is supposed to have served, on board of any of Her Majesty's ships, knowingly utters a forged letter of attorney, bill, ticket, certificate, assignment, will, or other authority;

is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

7 Geo. 4, c. 10, s. 88; 29 Vic. No. 19, s. 65.

433. Any person who, with intent to obtain from any person authorized to pay the same payment of any pension, wages, pay, money, allowance of money, prize money, or relief, to which any person is entitled or supposed to be entitled for service done or supposed to be done in Her Majesty's military service, or with intent to defraud—

(1) Forges or procures to be forged the name or handwriting of any person entitled or supposed to be entitled to any such payment as aforesaid, or of any person concerned in making or directing the payment; or

(2) Forges or procures to be forged, or knowingly utters when forged, any writing which purports to be a document or authority concerning any such payment and to be made with a view to obtaining or claiming it;

is guilty of felony, and is liable on conviction to penal servitude for life or for any less term.

38 Vic. No. 12, s. 50.

434. Any person who—

(1) Knowingly and wilfully, and in order to the obtaining or receiving of any part of the Consolidated Revenue Fund, or any money out of the Public Account, or any stores belonging to Her Majesty, forges or counterfeits any writing, or the name, initials, mark, or handwriting, of any other person to any writing, or procures any such act to be done; or

(2) Knowingly, and with intent to defraud, utters or publishes any writing relating to the obtaining or receiving of any part of the Consolidated Revenue Fund, or any money out of the Public Account, or any stores belonging to Her Majesty, which is forged or counterfeited, or which has on it any forged or counterfeited name, initials, mark, or handwriting;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fifteen years and not less than seven years.

29 Vic. No. 3, s. 2.

435. Any person who, with intent to defraud, forges or counterfeits, or knowingly utters when forged or counterfeited, the signature of the Governor, or of the Colonial Secretary, or of any of Her Majesty's Principal Secretaries of State or Under Secretaries of State, to any grant, commission, warrant, or order, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding
Any person who—

(1) Forges a die resembling a die provided or used by the Commissioners under "The Stamp Act, 1894," or a stamp resembling a stamp provided or used by the said Commissioners for the purposes of that Act; or
(2) Knowingly uses such a forged die so as to make a print or impression upon any material whatsoever; or
(3) Fraudulently prints or makes an impression upon any material with a genuine die which has been provided or is used by the said Commissioners for the purposes of that Act; or
(4) Fraudulently, and with intent that use may be made of the stamp or any part of it, removes from any material in any way whatever any stamp which has been provided or is used by the said Commissioners for the purposes of that Act; or
(5) Fraudulently, and with intent that use may be made of any part of it, mutilates any such stamp; or
(6) Fraudulently fixes or places upon any material, or upon any such stamp, any stamp or part of a stamp which has been in any way removed from any other material, or out of or from any other stamp; or
(7) Fraudulently, and with intent that use may be made of the stamp upon any stamped material, erases or otherwise removes, either really or apparently, from such material anything whatsoever written on it; or
(8) Knowingly sells or exposes for sale, or utters, or uses, any forged stamp resembling any such stamp as aforesaid, or any stamp which has been fraudulently printed or impressed (impressed) from a genuine die; or
(9) Knowingly and without lawful excuse, the proof of which lies on him, has in his possession any forged die or stamp resembling any such die or stamp as aforesaid, or any stamp which has been fraudulently printed or impressed (impressed) from a genuine die, or any stamp or part of a stamp which has been fraudulently removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material from which anything has been fraudulently erased, or otherwise either really or apparently removed; or
(10) Proceeds any such act as in this Article mentioned to be done; or
(11) Knowingly aids in doing any such act;

is guilty of felony, and is liable on conviction to penal servitude for a period not exceeding fourteen years, or to imprisonment for a term not exceeding two years with or without hard labour.

28 Vic. c. 3, s. 36.

[437. Any person who, &c.]

(4) Forges or counterfeits any instrument or writing made, or purporting or appearing to be made, by any officer of the Court of Chancery in England or Ireland or of the Supreme Court of Queensland, or by any judge or officer of the Landed Estates Court in Ireland, or by any officer in any court in England or Ireland, or by any cashier or
other officer or clerk of the governor and
company of the Bank of England or Ireland,
or the name, handwriting, or signature of any
such officer, judge, cashier, or clerk; or
(5) Knowingly utters any such instrument or
writing as last aforesaid which has been forged;

[is guilty, &c.]

29 Vic. No. 13, s. 52.

442. Any person who, with intent to procure the
discharge of any person from custody, or otherwise to
prevent the due course of justice, forges or knowingly
utters when forged a certificate of the Registrar of the
Supreme Court as to the judgment of the Court upon a
case stating any question of law arising upon the trial of
any person for an indictable offence and reserved for the
consideration of the Supreme Court, is guilty of felony,
and is liable on conviction to penal servitude for a term
not exceeding ten years, or to imprisonment for a term
not exceeding three years with or without hard labour and
with or without solitary confinement.

31 Vic. No. 4, s. 24.

443. Any person who—
(2) Forges the signature of a British consul-
general, counsel, vice-counsel, or consular agent
appointed by Her Majesty at any foreign port
or place, to any affidavit used or intended to be
used for the purpose of enabling proceedings
to be taken in the Supreme Court against a
person who resides out of the jurisdiction of the
Court; or
(2) Knowingly uses or tenders in evidence for
any such purpose an affidavit which has on it a
forged signature of any such officer;

is guilty of felony, and is liable on conviction to penal
servitude for a term not exceeding seven years, or to
imprisonment with hard labour for a term not exceeding
three years and not less than one year.

29 Vic. No. 3, ss. 89, 91, 92; 31 Vic. No. 13, s. 78;
31 Vic. No. 18, s. 147.

444. Any person who—
(1) Forges the seal of any Court of Record; or
(2) Forges on a summons or order any die, stamp,
or seal, used at the Chambers of a Judge of the
Supreme Court for stamping or sealing sum-
monses or orders, or the stamp or impression
of any such die, stamp, or seal; or
(3) Forges the seal, stamp, signature, impression, or
print, of any document mentioned or referred to in the "Evidence and Discovery Act of
1867"; or
(4) Forges upon any evidentiary document the
signature or official seal of any person law-
fully authorized to administer oaths under the
"Equity Act of 1857"; or
(5) Forges any process of any Court, which is not
a Court of Record, nor a Court of Equity,
Admiralty, or Vice-Admiralty, in Queensland,
England, or Ireland; or
(6) Forges or knowingly utters when forged—
(a) Any record or other original document what-
ever of or belonging to any Court of Record,
or any Court of Equity, Admiralty, or
Vice-Admiralty, in Queensland, England, or
Ireland; or
(b) Any document or copy of a document used or
intended to be used as evidence in any such
Court as last aforesaid; or

Court Seals, Records, Process, Evidence, &c.

IV. If the thing forged purports to be, or
is intended by the offender to be understood to
be or to be used as, any of the things following,
that is to say—

(a) The seal of a Court of Record in
any part of Her Majesty's
dominions, or a seal used at the
Chambers of a Judge of the
Supreme Court for stamping or
sealing summonses or orders;

(b) A seal or signature by virtue
whereof any document can by law
be used as evidence;

(c) Any process of any Court of justice
in any part of Her Majesty's
dominions;

(d) A document issued or made by or
out of or by the authority of any
such Court as last aforesaid;

(e) A document or copy of a document
of any kind, which document or
copy is intended by the offender
to be used as evidence in any such
Court as last aforesaid;

(f) A record or other document of or
belonging to a Court of Record in
any part of Her Majesty's
dominions;

(g) A copy or certificate of any record
of any such Court as last aforesaid;

(h) An instrument, whether written or
printed, or partly written and
partially printed, which is made evi-
dence by any Statute in force in
Queensland;

(i) A document which a justice is
required or authorised by law to
(c) Any copy or certificate of any record of any Court; or

(d) Any instrument, whether written or printed, or partly written and partly printed, which is made evidence by any statute, and for the forging or uttering of which no punishment is set forth in this Chapter; or

(e) Being the clerk of any Court or other officer having the custody of the records of any Court, or the deputy of any such clerk or officer, knowingly utters a false copy or certificate of any record of the Court; or

(f) Not being a clerk or official of a Court having the custody of the records of the Court, nor a deputy of such a clerk or officer, signs or certifies, as such clerk, officer, or deputy, any copy or certificate of a record of the Court; or

(g) Knowingly utters any copy or certificate of any record of any Court which has on it any false or forged name, handwriting, or signature; or

(h) Knowingly tenders in evidence—

(1) Any document mentioned or referred to in the "Statute and Evidence Act of 1867," on which is a false or counterfeit seal, stamp, signature, impression, or print; or

(2) Any judicial or official document on which is a false or counterfeit signature or seal of any person lawfully authorised to administer oaths under the "Equity Act of 1867"; or

(i) Knowingly serves or enforces any forged process of any Court; or

(j) Knowingly delivers or causes to be delivered to any person any paper falsely purporting to be the original or a copy of the process of any Court, to be the original or a copy of a judgment, decree, or order, of any Court of law or equity; or

(k) Knowingly acts or professes to act under any such false process as hereinbefore in this Article mentioned;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

40 Vic. No. 6, s. 23.

445. Any person who—

(1) Forges or counterfeits, or knowingly uses when forged or counterfeited, any stamp purporting to be a stamp authorised to be used for the payment of fees or percentages in the Supreme Court; or

(2) Knowingly uses any such stamp as last mentioned which has been cancelled or previously used;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years, or to imprisonment for a term not exceeding two years with or without hard labour.

36 Vic. No. 38, s. 197.

446. Any person who—

(1) Forges the seal of any process of a District Court; or

(2) Knowingly procures or causes to be procured any forged process purporting to be process of a District Court; or

(3) Knowingly delivers or causes to be delivered to any person a paper falsely purporting to be

make, attest, or issue, and purporting to be made, attested, or issued, by a Justice;

(4) A stamp used for denoting the payment of fees or percentages in any Court of justice;

(5) A licence or certificate required or authorised by law to be given for the celebration of a marriage;

(6) A consent to the marriage of a minor given by a person authorised by law to give it;

(7) A certificate of marriage given under the provisions of the laws relating to the solemnisation of marriage;

(8) A copy of the registry of a marriage;

(9) A stamp issued or made under the laws relating to the Post Office;

(10) A power of attorney or letter of attorney;

(11) The signature of a witness to a power of attorney or letter of attorney;

(12) A contract, or a writing which with other writings constitutes a contract or is evidence of a contract;

(13) An authority or request for the payment of money or for the delivery of property;

(14) An acquittance or discharge, or a voucher of having received any property, or any document which is evidence of the receipt of any property;

(15) Any mark which under the authority of any law is impressed upon or otherwise attached to or connected with any article for the purpose of denoting the quality of the article or the fact that it has been examined or approved by or under the authority of some public body or public officer;

(16) A certificate given under the provisions of the laws relating to quarantine;

the offender is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

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a copy of a summons or other process of a
District Court;

is guilty of felony, and is liable on conviction to penal
servitude for a term not exceeding seven years, or to
imprisonment for a term not exceeding three years with
or without hard labour.

29 Vic. No. 3, s. 38.

447. Any person who forges, or knowingly utters
when forged, a license or certificate for marriage, is guilty
of felony, and is liable on conviction to penal servitude for
a term not exceeding seven years and not less than three
years, or to imprisonment for a term not exceeding two
years with or without hard labour and with or without
solitary confinement.

38 Vic. No. 3, s. 38.

448. Any person who—

(1) Forges any name, handwriting, or signature,
purporting to be that of a witness attesting the execution
of a power of attorney or other authority to transfer any
share, estate, or interest, in any such stock, annuity, public
fund, or capital stock, as is hereinafter in this Chapter mentioned, or in any land or any
personal property, or in any charge or encum-
brance on land or personal property, or to
receive any dividend or money payable in
respect of any such share, estate, or interest; or

(2) Knowingly utters any such power of attorney
or other authority which has on it a
forged name, handwriting, or signature, purporting to
be that of a witness attesting the execution
thereof;

is guilty of felony, and is liable on conviction to penal
servitude for a term not exceeding seven years and not
less than three years, or to imprisonment for a term not
exceeding two years with or without hard labour and with
or without solitary confinement.

56 Vic. No. 15, s. 88.

450. Any person who forges or imitates, or know-
ingly utters when forged or imitated, any stamp issued
or made, or purporting to be issued or made, under the
laws relating to the Post Office, is guilty of felony, and
is liable on conviction to imprisonment for a term not
exceeding seven years with or without hard labour.

50 Vic. No. 25, s. 28.

452. Any person who—

(1) Forges, or knowingly utters when forged, a
certificate given or purporting to be given under
the laws relating to quarantine; or

(2) Knowingly, and with intent to obtain for
in the effect of a true certificate, utters a certifi-
cate given or purporting to be given under
these laws, and the contents of which are
false;

is guilty of felony, and is liable on conviction to penal
servitude for a term not exceeding seven years, or to im-
prisonment for a term not exceeding three years with or
without hard labour.

29 Vic. No. 15, s. 28; 29 Vic. No. 18, s. 65.

453. Any person who—

(1) Forges, or knowingly utters when forged, any
instrument which purports—

(a) To be a consent to the marriage of a minor,
and to be given by a person authorised by
law to give it; or
(b) To be a certificate of marriage, and to be
given under the provisions of the laws re-
lating to the solemnization of marriage; or
(c) To be a copy of the registry of a marriage;
is guilty of felony, and is liable on conviction to penal
servitude or imprisonment with hard labour for a term
not exceeding five years.

29 Vic. No. 9, s. 36.

456. Any person who, with intent to defraud, forges,
or knowingly utters when forged—
(a) a summons, conviction, order, or warrant, of
a justice; or
(b) a recognizance purporting to have been entered
into before a justice or other person authorised
to take it; or
(c) an examination, deposition, affidavit, affirmation,
or solemn declaration, taken or made before a
justice;
is guilty of felony, and is liable on conviction to penal
servitude for a term of three years, or to imprison-
ment for a term not exceeding two years with or
without hard labour and with or without solitary confinement.

Company Bill of 1880, s. 800.

457. Any person who, with or without intent to
defraud—
(1) Forges a telegram or knowingly utters a forged
telegram; or
(2) Knowingly transmits by telegraph as a telegram
e forged communication purporting to be a
telegram;
is guilty of a misdemeanour, and is liable on conviction to
penal servitude for a term not exceeding three years [with
or without hard labour].

Included in Statutory Provisions as to Forgery.

29 Vic. No. 8, s. 49.

[421.] In the case of an offence which involves the
uttering of anything forged, it is immaterial whether the
forgery was committed in Queensland or elsewhere.

V. If the thing forged purports to be, or is
intended by the offender to be understood to be
or to be used as, a message to be sent by
telegraph, or a message received by telegraph,
the offender is liable to the same punishment
as if he had forged a document to the same
effect as the message.

Telegrams.

Utering False Documents and Counterfeit
Seals.

507. Any person who knowingly utters a
false document or writing, or a counterfeit
seal, is guilty of an offence of the same kind
and is liable to the same punishment as if he
had forged the thing in question.

It is immaterial whether the false document
or writing, or counterfeit seal, was made in
Queensland or elsewhere. 6)

Utering Cancelled or Exhausted Documents.

508. Any person who knowingly utters as
and for a subsisting and effectual document
any document which has by any lawful
authority been ordered to be revoked, can-
celled, or suspended, or the operation of which
has ceased by effluxion of time, or by death, or
by the happening of any other event, is guilty
of an offence of the same kind and is liable to
the same punishment as if he had forged the
document.

(1) It is not certain that the guilt of the utterer depends upon the
falsity of the thing uttered. The maker may have been innocent, in
which case he would not be guilty of forgery. It is therefore inaccurate
to define the offence of uttering by a reference to forgery. I suppose
the existing statute law would be so construed.
Ulling Cancelled Stamps.

509. Any person who knowingly utters as and for a valid and uncancelled or an impression of a seal used for any purpose connected with the public revenue of Queensland or of any other part of Her Majesty's dominions, which has been already used, or which has been cancelled, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the stamp or seal.

Procurv Exeavcntion of Documents by False Pretences.

510. Any person who, by means of any false and fraudulent representation as to the nature, contents, or operation, of a document, procures another to sign or execute the document, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

False Representation of Authority.

511. Any person who represents himself to be a person authorised by law to sign a document testifying to the contents of any register or record kept by lawful authority, testifying to any fact or event, and signs such document as being so authorised, when he is not, and knows that he is not, in fact so authorised, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

Obliterating Crossings on Cheques.

512. Any person who, with intent to defraud—

(1) Obliterates, adds to, or alters, the crossing on a cheque or draft on a banker, which is crossed with the name of a banker, or with two transverse lines with the word "bank" or "and company," or any abbreviation thereof, or with the word "credits" followed by the name of any individual or firm; or

(2) Knowingly utters any such crossed cheque or draft which has been so dealt with; is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

513. Any person who, with intent to defraud—

(1) Without lawful authority or excuse, makes, signs, or executes, for or in the name on account of another

[1] This misconduct is as serious as forgery. See preceding Note.
[2] This misconduct obviously ought to be punished as forgery. It may be doubtful whether it falls within the definition of s. 104.
undertaking, warrant, order, authority, or request, for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note, or other security for money; or

(2) Knowingly utters any such bill, note, undertaking, warrant, order, authority, or request, so drawn, made, signed, accepted, or indorsed, without lawful authority or excuse;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

29 Vic. No. 3, s. 41.

448. Any person who, with intent to defraud—

(1) Demands, receives, or obtains, or procures to be delivered or paid to any person, any property whatever, under, upon, or by virtue of any forged instrument whatever, knowing it to be forged, or under, upon, or by virtue of any probate or letters of administration, knowing the same to have been forged, or knowing the grant of probate or letters of administration to have been obtained by false evidence; or

(2) Attempts to do any such act,

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

30 Vic. No. 13, s. 10.

449. Any person who—

(a) Being a justice who has supervised the receipt by telegraph under the provisions of "The Telegraphic Messages Act of 1827" of the contents of a document sent by telegraph; or

(b) Being a person who has received the contents of any document by telegraph under the provisions of that Act;

wilfully and knowingly signs upon a document, which purports to be a copy of a document the contents of which have been so received, a false certificate certifying that it has been duly received under the provisions of that Act, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

20 Vic. No. 3, s. 7.

450. Any person who, being employed in the public service, knowingly and with intent to defraud makes out any document or writing;

or

(2) Knowingly utters any document or writing so made, signed, or executed, by another person;

is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document or writing.

Demanding Property upon Forged Instruments.

514. Any person who procures the delivery or payment to himself or any other person of any money, by virtue of anything forged, knowing it to be forged, or by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been forged, or upon or by virtue of any probate or letters of administration obtained by false evidence, knowing the grant to have been so obtained, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document or thing by virtue whereof he procures the delivery or payment.

Purchasing Forged Bank Notes.

515. Any person who, without lawful authority or excuse, the proof of which lies on him, purchases or receives from any other person, or has in his possession, any forged bank note, forged bank bill of exchange, or forged bank post bill, whether filled up or in blank, knowing it to be forged, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

False Certificates of Message received by Telegraph.

516. Any person who knowingly signs upon a document, which purports to be a copy of a document the contents whereof have been received by telegraph under the provisions of the laws authorising the transmission by telegraph of the contents of documents requiring signature or seal, a false certificate that it has been duly received under the provisions of those laws is guilty of an offence of the same kind, and is liable to the same punishment as if he had forged the document of which it purports to be a copy.

Forging Warrants for Money Payable under Public Authority.

517. Any person who, being employed in the Public Service, knowingly and with intent to

(3) For punishment of the offence, see s. 516.
or delivers any dividend warrant or warrant for payment of any annuity, interest, or salary, which is payable by public authority, for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled, is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding seven years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement.

defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

**False Statements for the Purpose of Registers of Births, Deaths, and Marriages.**

518. Any person who, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which is, to his knowledge, false in any material particular to be made in the register or record is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.\(^{10}\)

**Sending False Certificate of Marriage to Registrar.**

519. Any person who signs or transmits to a person authorised by law to register marriages a certificate of marriage, or any document purporting to be a certificate of marriage, which is, to his knowledge, false in any material particular, is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

520. Any person who knowingly, and with intent to procure the same to be inserted in a register of births, deaths, or marriages, makes any false statement touching any matter required by law to be known and registered, is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding two hundred pounds, or to imprisonment with hard labour for a term not exceeding three years, or to both punishments.

**Attempts to Procure Unauthorised Status.**

521. Any person who—

\(^{10}\) The person making the false entry may be punished, in which case a person consenting to the insertion of the false entry would not be guilty of an offence under any other section. He ought clearly to be punishable.
(4) Knowingly utters or uses any such certificate which has been forged; or
(5) Falsey advertises or publishes that he has obtained such a certificate;
(6) falsely represents to any person that he has obtained any certificate issued by any such authority; or
(7) Falsely advertises or publishes that he has obtained such a certificate;
(8) By any false representation procures himself or any other person to be registered on any register kept by lawful authority as a person entitled to such a certificate, or as a person entitled to any right or privilege, or to enjoy any rank or status;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years.

31 Vic. No. 33, s. 10.

462. Any person who wilfully and by means of a false or fraudulent representation, whether verbal or written, and whether made by himself or any other person, procures or attempts to procure himself to be registered as a legally qualified medical practitioner is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years.

36 Vic. No. 23, s. 26.

463. Any person who—
(1) Wilfully falsifies, or makes a false entry in, the Pharmaceutical Register of Queensland, or the Pharmaceutical List for any year, or wilfully causes any such falsification or false entry to be made; or
(2) Wilfully and by means of a false or fraudulent representation, whether verbal or in writing, and whether made by himself or any other person, procures or attempts to procure himself to be registered as a pharmaceutical chemist;

is guilty of a misdemeanour, and is liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding twelve months, or to both punishments.

28 Vic. No. 5, ss. 1, 3, 9, 11, 15, 18, 20, 24.

469. Any person who, with intent to defraud or to enable another person to defraud—
(1) Forgery or counterfeits a trade mark; or
(2) Applies a trade mark or a forged or counterfeited trade mark to—
   (a) Any chattel or article which is not the manufacture, workmanship, production, or merchandise, of the person denoted or intended to be denoted by the mark, or of the person whose trade mark is so forged or counterfeited; or
   (b) Any chattel or article which is not the particular or peculiar description of manufacture, workmanship, production, or merchandise, denoted or intended to be denoted by the mark; or
   (c) Any thing whatever in, on, or with, which any chattel or article is intended to be sold, written, sold, offered or exposed for sale; or
   (d) Incloses or places any chattel or article in, upon, under, with, or with anything whatever to which a trade mark has been falsely applied, or to which a false or counterfeited trade mark has been applied; or
   (e) Applies or attaches to any chattel or article any case, cover, seal, ticket, label, or other thing, to which a trade mark has been falsely applied, or to which a false or counterfeited trade mark has been applied; or
   (f) Inclosed, places, or attaches, any chattel or article in, upon, under, with, or to, any thing whatever which has on it the trade mark of another person; or
   (g) In the trade mark for two years, and to fine at the discretion of the Court.

And every thing which he has in his possession to which the trade mark or counterfeited trade mark has been so applied, and every instrument which he has in his possession by means of which any such mark has been so applied, or which is intended for applying any such mark, is forfeited to Her Majesty.

The term "trade mark" includes any word or mark of any kind whatever, which is lawfully used by any person to denote that any article
(6) Causes or procures any other person to do any
is guilty of a misdemeanor, and is liable on conviction to
of such acts;
that the discretion of the Court, or to imprisonment
for a term not exceeding two years with or without
is of his manufacture, workmanship, produc-
less exceeding two years with or without hard
or to both punishments, and, in case of a fine, to
or particular description made or sold by him.\(6\)
labour, or to imprisonment until the fine is paid.
and, in case of a fine, to further imprisonment until
His also forfeits to Her Majesty all chattels, articles,
and, in case of a fine, to imprisonment until the fine
he or to any
thing of a peculiar or such
acts;
liable to imprisonment to an
or particular description made or sold by him.
and things, in his possession with respect to which any such
act as thirdly, fourthly, and fifthly in this Article defined
has been done, and all similar chattels, articles, and things,
in his possession made to be used in like manner.
The Court may order any of such forfeited chattels,
first, secondly, and thirdly in this Article defined
hath been done, and all things made to be used in like manner.
The Court may order any of such forfeited chattels,
articles, or things, to be destroyed.
In this Article—
The term "trade mark" includes any name,
signature, word, letter, device, emblem, figure,
sign, seal, stamp, diagram, label, design, or
or other mark of any kind whatever, which is
lawfully used by any person to denote any
chattel or any article of trade, manufacture, or
merchandise, to be of his manufacture, work-
manship, production, or merchandise, or to be
an article or thing of a peculiar or particular
description made or sold by him:
The terms "forge" and "counterfeit" include
making any addition to, or alteration or
imitation of, a trade mark, which causes it to
resemble a genuine trade mark as to be
likely to deceive.
A prosecution for any of the offences defined in this
Article must be begun within three years after the offence
is committed, and within one year after the discovery of
the offence by the person who begins the prosecution.
This Article does not extend to the case where a
person merely applies to a chattel or article, or to any-
thing with which a chattel or article is sold or intended
to be sold, some name, word, or expression, which is
ordinarily used for denoting the class or description of
manufacture of the chattel or article; nor merely sells or
offers or exposes for sale a chattel or article, to which,
or to something sold with which, such a name, word, or
expression, has been applied.

Counterfeiting other Marks.

523. Any person who impresses upon or
otherwise attaches to or connects with any
article, any counterfeit mark of such a nature
that a genuine mark of the same kind is
generally understood to denote that the article
has been examined by some person, and is
certified by him to be of a particular quality,
whether such person is expressly authorised by
law to so examine and certify or not, is guilty
of a misdemeanor, and is liable to imprison-
ment with hard labour for two years.

(6) The provisions set out in this section are expanded in the
existing Statute so as to occupy nearly four pages octavo of long
primer type.
CHAPTER L

FORGERY AND LIKE OFFENCES PUNISHABLE ON SUMMARY CONVICTION.

Sending False Telegrams.

526. Any person who—
(1) Knowingly and without the authority of the pretended sender, sends or delivers, or causes to be sent or delivered, to any officer or servant in the employment of the Postmaster-General for the purpose of being transmitted as a telegram, a message or writing purporting to be sent by another person; or
(2) Wrongfully signs a telegram with the name of another person without that person's authority, or with the name of a fictitious person; or
(3) Willfully alters a telegram; or
(4) Writes, issues, or delivers, a document which purports to be a telegram received through a telegraph office, and which was not so received; is liable on summary conviction before two justices to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding twelve months, or to both punishments.

65 Vic. No. 29, s. 23.

505. Any person who, with intent to mislead or defraud—
(1) Knowingly and without the authority of the pretended sender sends or delivers, or causes to be sent or delivered, to any officer or servant in the employment of the Postmaster-General, any document which purports to be a copy of any rules or of any alterations or amendments of the rules of the Trade Union, but is not a copy of the existing rules or alterations or amendments of the rules of the Trade Union, under the pretense that the document contains the existing rules of the Trade Union; or that there are no other existing rules; or
(2) Represents to any person that any document which is not in fact a copy of the rules of a registered Trade Union is a copy of the rules of a registered Trade Union;
is guilty of a misdemeanour, and is liable on conviction to a fine and imprisonment at the discretion of the Court.

Meaning of Counterfeit.

524. In the two last preceding sections the term "counterfeit" includes any imitation of a genuine mark which is not genuine and which resembles the genuine mark.

Circulating False Copies of Rules or Lists of Members of Societies or Companies.

525. Any person who knowingly, and with intent to deceive or defraud, or to enable another person to deceive or defraud, writes to any person a document which purports to be a copy of the memorandum or articles of association or other constitution of a corporation or joint stock company, or of the rules or by-laws of any corporation or society recognised by law, but is not a true copy thereof; or a document which purports to be a list of the members of any such corporation, company, or society, but is not a true list of such members, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.
468. Any person who, with intent to defraud—

(1) Forges or procures to be forged, or knowingly utters when forged, a register-ticket or any other document required to be obtained or used under the provisions of the Act 17 Vic. No. 36; or

(2) Uses any register-ticket or other document required to be used under the provisions of that Act which does not belong to him; is guilty of a misdemeanour, and is liable on conviction upon indictment to fine and imprisonment at the discretion of the Court, or upon summary conviction before two justices to a fine not exceeding fifty pounds, or to imprisonment with hard labour for a term not exceeding six months.

527. Any person who—

(1) Forges any document purporting to be, or intended by the offender to be understood to be or to be used as, a document required to be obtained or used under the provisions of the laws relating to the engagement or discharge of seamen, or the laws relating to the regulation of factories and shops; or

(2) Utters any document which is required to be obtained or used under the provisions of these laws, and which has been issued to another person, and falsely represents himself to be the person named in the document; is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for one year, or to a fine of fifty pounds.

478. Any person who—

(1) Fraudulently, and with intent that the stamp may be used again, removes an adhesive stamp, or causes an adhesive stamp to be removed, from any instrument; or

(2) Fraudulently, and with intent that the stamp may be used again, affixes an adhesive stamp which has been removed from any instrument to another instrument; or

(3) [Knowingly] Sells or offers for sale or utters an adhesive stamp which has been fraudulently, and with intent that it may be used again, removed from any instrument; or

(4) Utters any instrument which has on it an adhesive stamp that has to his knowledge been fraudulently, and with intent that it may be used again, removed from another instrument; is liable on summary conviction before two justices to a fine not exceeding fifty pounds.

528. Any person who—

(1) Fraudulently, and with intent that the stamp may be used again, removes an adhesive stamp, or causes an adhesive stamp to be removed, from any document; or

(2) Fraudulently, and with intent that the stamp may be used again, affixes an adhesive stamp which has been removed from any document to another document; or

(3) Knowingly utters an adhesive stamp which has been fraudulently, and with intent that it may be used again, removed from any document; or

(4) Knowingly utters any document which has on it an adhesive stamp that has been fraudulently, and

(4) Writes, issues, or delivers, as and for a telegram received through a telegraph office, a writing purporting to be a telegram so received, and which is not a telegram so received; is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for twelve months, and to a fine of one hundred pounds.
Any person who—

(1) Gives to a purchaser a false warranty in writing with respect to an article of food or a drug sold by him, whether as principal or agent; or

(2) Wilfully gives with any article (of food or drug) sold by him a label which falsely describes the article (or drug) sold;

(3) In any proceedings under the laws relating to the sale of food and drugs wilfully applies to an article of food or a drug a certificate or warranty given with respect to another article or drug;

is liable on summary conviction to a fine not exceeding twenty pounds.

Provisions of this Chapter Alternative.

The provisions of this Chapter are alternative and without prejudice to any other provisions of this Code relating to the same matters, but so that an offender cannot be twice convicted for the same act.

CHAPTER II.

PREPARATION FOR FORGERY.

Instruments and Materials for Forger.

Any person who without lawful authority or excuse, the proof of which lies on him, makes, or begins or prepares to make, or uses, or knowingly has in his possession, or in his possession or dispossession, any paper resembling any paper such as is specially provided by the proper authority for the purpose of being used for making any of the things following, that is to say—

(a) Any document acknowledging or being evidence of the indebtedness
part of any such thing, or which has on it any false forged or counterfeit stamp, mark, or impression, resembling wholly or in part, or liable to pass or be mistaken for, the stamp, mark, or impression, of any such die, plate, or instrument, which is or has been so provided, made, or used, for any such purpose as aforesaid; or

(2) Fraudulently uses any, joins with, or fixes or places upon, any vellum, parchment, or paper, any stamp, mark, or impression, that has been removed from any other vellum, parchment, or paper; or

(3) Fraudulently, and with intent to use, or with intent that another person may use, for any instrument or thing in respect whereof any stamp duty is payable, any mark or stamp, which is impressed on or affixed to any (stamped) vellum, parchment, or paper, unless or otherwise gets out from any stamp, or from the vellum, parchment, or paper, any thing therein written, printed, or expressed; or

(4) Knowingly uses, utters, sells, or exposes to sale, or knowingly and without lawful authority or excuse, the proof of which lies on him, has in his possession, any stamped vellum, parchment, or paper from which anything therein written, printed, or expressed has been fraudulently erased or got out;

is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fifteen years and not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

55 Vic. No. 15, s. 80, 90.

481. Any person who, without lawful authority or excuse, the proof of which lies on him—

(1) Makes, or causes or procures to be made, or knowingly has in his possession—

(a) Any plate prepared in such a manner as to be suitable to be used for printing any stamp used for the purposes of the law relating to the post office or to postage or postal-notes; or

(b) Any die or seal prepared in such a manner as to be capable of being used for preparing a plate for printing any such stamp; or

(c) Any plate, die, or seal, intended to imitate any such die, or seal, as aforesaid; or

(d) Any mould, frame, or other instrument, which has on it any word, letter, figure, mark, line, or device, which is peculiar to, and appears in, the substance of any paper provided or used by the Postmaster-General for postage stamps, money orders, or postal-notes; or

(e) Any paper in the substance of which any such word, letter, figure, mark, line, or device, as last aforesaid, or any part of either, appears, and which is intended to imitate the genuine paper; or

(2) Causes any such word, letter, figure, mark, line, or device, to appear in the substance of any paper whatever; or

(3) Takes any impression of any such plate, die, or seal, as hereinbefore in this Article mentioned;

is guilty of felony, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour, or, if a male, to penal servitude for a term not exceeding fourteen years and not less than three years.

of the Government of Queensland, or of the Government of any of Her Majesty’s dominions, or of any foreign Prince or State, or of any person or corporation carrying on the business of banking, to any person; or

(b) Any stamp, license, permit, or other document used for the purposes of the public revenue of Queensland, or of any other part of Her Majesty’s dominions; or

(c) Any bank note; or any machinery or instrument or material for making any such paper, or capable of producing in or on paper any words, figures, letters, marks, or lines, resembling any words, figures, letters, marks, or lines, used in or on any paper specially provided for any such purpose; or

(2) Imprints or makes upon any plate or material any words, figures, letters, marks, or lines, the print whereof resembles, in whole or part, the words, figures, letters, marks, or lines, used in any such document as aforesaid; or

(3) Uses, or knowingly has in his possession or disposes of, any plate or material upon which any such words, figures, letters, marks, or lines, are impressed or made; or

(4) Uses, or knowingly has in his possession or disposes of, any paper on which is written or printed the whole or any part of the usual contents of any such document as aforesaid;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Counterfeit Stamps.

592. Any person who, without lawful authority or excuse, the proof of which lies on him—

(1) Makes or mends, or begins or prepares to make or mend, or uses, or knowingly has in his possession or disposes of, any die, plate, or instrument, capable of making an impression resembling that made by any die, plate, or instrument, used for the purpose of making any
482. Any person who, without lawful authority or excuse, the proof of which lies on him, buys, sells, disposes of, receives, or has in his possession, any such plate, die, or stamp, as is mentioned in the last preceding Article, is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

28 Vic. No. 3, ss. 17, 18 [26 Geo. 3, c. 78, s. 1; 29 Vic. No. 3, s. 51].

483. Any person who, without lawful authority or excuse, the proof of which lies on him—

(1) Makes, uses, sells, exposes to sale, utters, or knowingly has in his possession—

(e) Any paper which has in it curved or waving bar lines, or curved or waving laying wire lines, or which has any number, sum, or amount, expressed, otherwise than in guineas, in a word or words in Roman letters which appear visible in the substance of the paper, or which has in it any device or distinction peculiar to and appearing in the substance of the paper used by the governor and company of the Banks of England and Ireland respectively, for any notes, bills of exchange, or bank post bills of such banks respectively, other than curved or waving lines, or other devices in the nature of watermarks, which are so contrived as not to form the groundwork or texture of the paper, nor to resemble the curved or waving bar lines or laying wire lines or the watermarks of the paper used by the governor and company of those banks respectively; or

(2) Knowingly has in his possession or disposes of any paper or other material which has on it the impression of any such die, plate, or instrument, or any paper which has on it or in it any such words, figures, letters, marks, or lines, as aforesaid; or

(3) Fraudulently, and with intent that use may be made of any such part of any such stamp, mutilates the stamp; or

(4) Fraudulently fixes or places upon any material, or upon any such stamp, any stamp or part of a stamp which has been in any way removed from any other material, or out of or from any other stamp; or

(6) Fraudulently, and with intent that use may be made of any such stamp which has been already impressed upon or attached to any material, erases or otherwise removes, either really or apparently, from such material anything whatever written on it; or

(7) Knowingly has in his possession or disposes of anything obtained or prepared by any such unlawful act as aforesaid; is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Any person who, without lawful authority or excuse, the proof of which lies on him—

(3) Fraudulently, with intent that use may be made of any such part of any such stamp, mutilates the stamp; or

(4) Causes the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, whether in blank or complete, expressed in a word or words in Roman letters otherwise than in guineas, to appear visible in the substance of the paper on which it is written or printed; is guilty of felony, and is liable on conviction to penal servitude for a term not exceeding fourteen years and fine or any term; not less than three years, or to imprisonment for a term not exceeding two years with or without hard labour.

482. Any person who, without lawful authority or excuse, the proof of which lies on him, buys, sells, disposes of, receives, or has in his possession, any such plate, die, or stamp, as is mentioned in the last preceding Article, is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.
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20 Vic. No. 8, ss. 19, 20, 21, 22 [13 Geo. 3, c. 79, s. 2; 41 Geo. 3, c. 57, ss. 1, 2, 3; 52 Geo. 3, c. 138, s. 5; 1 Geo. 4, c. 92, ss 1, 2].

434. Any person who, without lawful authority or excuse, the proof of which lies on him—

(1) Engraves or makes in any manner upon any plate or material whatever any writing purporting to be a bank note, bank bill of exchange, or bank post bill of any body corporate, company, or person, or acting on the business of bankers, or to be a blank bank note, blank promissory note, blank bank bill of exchange, or blank bank post bill, of any such body corporate, company, or person, or to be a part of any such thing, or any name, word, or character, resembling any subscription to a bill of exchange or promissory note issued by any such body corporate, company, or person; or

(2) Uses any such plate or material, or any other instrument or device, for making or printing a bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of any of them, or knowingly has in his possession any such plate, material, instrument, or device; or

(3) Knowingly utters or has in his possession any paper on which is made or printed a blank bank note, blank bank bill of exchange, or blank bank post bill, of any such body corporate, company, or person, or part of any of them, or any name, word, or character, resembling any such subscription; or

(4) Engraves or makes in any manner upon any plate or material whatever any word, number, figure, device, character, or ornament, the impression taken from which is one resembling any part of a bank note, bank bill of exchange, or bank post bill, of any such body corporate, company, or person; or

(5) Uses or knowingly has in his possession any such plate, material, instrument, or device, for impressing or making upon any paper or other material any such word, number, figure, character, or ornament, resembling any part of such a bank note, bank bill of exchange, or bank post bill, as last aforesaid; or

(6) Knowingly utters or has in his possession any paper or other material upon which there is an impression of any such thing as last aforesaid; or

(7) Makes or uses any frame, mould, or instrument, for the manufacture of paper with the name or firm of any body corporate, company, or person, carrying on the business of bankers, other than and except the Banks of England and Ireland respectively, appearing visible in the substance of the paper; or

(8) Knowingly has in his possession any such frame, mould, or instrument as last aforesaid; or

(9) Makes, uses, sells, exposes to sale, utters, or knowingly has in his possession, any paper in the substance of which the name or firm of any such body corporate, company, or person, as last aforesaid, appears visible; or

(10) By any art or contrivance causes the name or firm of any such body corporate, company, or person, as last aforesaid, to appear visible in the substance of the paper upon which it is written or printed; or

(11) Engraves or makes in any manner upon any plate or material whatever any bill of exchange, promissory note, undertaking, or order.
for payment of money, or any part of any such
document, in any language, and, whether in-
tended to be under seal or not, which purports
to be the bill, note, undertaking, or order, of a
foreign prince or state, or of a Minister
or officer in the service of a foreign prince or
state, or of any body corporate or body of a
like nature recognized by any foreign prince
or state, or of any person or company of
persons resident in any country which is not
under Her Majesty’s dominion; or
(2) Uses or knowingly has in his possession any
plate or other material upon which any such
foreign bill, note, undertaking, or order, or any
part of either, is engraved or made; or
(3) Knowingly utters or has in his possession any
paper upon which any part of any such foreign
bill, note, undertaking, or order, is made or
printed;
is guilty of felony, and is liable on conviction to penal
servitude for a term not exceeding fourteen years and not
less than three years, or to imprisonment for a term not
exceeding two years with or without hard labour and with
or without solitary confinement.

29 Vict. No. 2, ss. 10, 11.

485. Any person who, without lawful authority or
excuse, the proof of which lies on him—
(1) Makes, or knowingly has in his possession—
(a) Any paper in the substance of which there
appears any device or thread peculiar to and
appearing in the substance of any paper pro-
vided or used for exchange bills, exchange
bonds, or exchange debentures, or Queensland
Government debentures, or any part of
any such device intended to imitate it; or
(b) Any frame, mould, or instrument, which has
in it any such device as last aforesaid; or
(c) Any machinery for working into the substance
of any paper any thread intended to imitate
any such thread as last aforesaid, or any thread
intended to imitate any such thread; or
(d) Any plate peculiarly employed for printing
any such bills, bonds, or debentures, as herein-
before in this Article mentioned; or
(e) Any die or seal peculiarly used for preparing
any such plate, or for sealing any such bills,
bonds, or debentures, as hereinbefore in this
Article mentioned; or
(f) Any plate, die, or seal intended to imitate
any such plate, die, or seal as hereinbefore
in this Article mentioned; or
(2) Causes to appear in the substance of any paper
any such device or thread as hereinbefore in
this Article mentioned, or any part of any of
them, which is intended to imitate a device or
thread in genuine paper; or
(3) Takes any impression of any such plate, die, or
seal, as hereinbefore in this Article mentioned;
is guilty of felony, and is liable on conviction to penal
servitude for a term not exceeding seven years and not
less than three years, or to imprisonment for a term not
exceeding two years with or without hard labour and with
or without solitary confinement.

In this Article the word “device” includes any word,
letter, figure, mark, line, or other device whatever.

29, s. 12.

486. Any person who, without lawful authority or
excuse, the proof of which lies on him—
(1) Uses or receives, or knowingly has in his
possession, any paper provided by or under
the direction of the Commissioners of Inland Revenue, or Commissioners of Her Majesty's Treasury, in the United Kingdom, or by or under the direction of the Government of Queensland, for the purpose of being used as exchequer bills, exchequer bonds, or exchequer debentures, or Queensland Government debentures, before such paper has been duly stamped, signed, and issued, for public use; or

(2) Buys or receives, or knowingly has in his possession, any such plate, die, or seal, as is mentioned in the last preceding Article;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

56 Vic. No. 15, s. 61.

487. Any person who, without lawful authority or excuse, the proof of which lies on him, buys, sells, disposes of, or receives, or knowingly has in his possession, any paper provided by the Postmaster-General or any other officer duly authorised in that behalf for the purpose of being used for postage stamps, money orders, or postal notes, before such paper has been lawfully issued for public use, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

488. Any person who—

(1) Makes, alters, deals in, sells, or uses, for any postal purpose, or, without lawful authority or excuse, the proof of which lies on him, has in his possession, any imitation or representation, on paper or any other material, of any stamp used for denoting any rate of postage of any of Her Majesty's Dominions or of any foreign country; or

(2) Makes, or without lawful authority or excuse, the proof of which lies on him, has in his possession, any die-plate, instrument, or material, for making any such imitation or representation;

is liable on summary conviction before two justices to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding twelve months with or without hard labour.

Any stamps, and any other such things as aforesaid, which are found in the possession of any person guilty of any of the offences defined in this Article may be seized, and are to be forfeited.

For the purposes of this Article a stamp purporting to denote a rate of postage of any country is to be taken to be a stamp used for postal purposes in that country until the contrary is shown.

Paper for Postal Purposes.

533. Any person who, without lawful authority or excuse, the proof of which lies on him, knowingly has in his possession or disposes of any paper which has been specially provided by the proper authority for the purpose of being used for the purposes of the Post and Telegraph Department, before such paper has been lawfully issued for public use, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Paper and Dies for Postage Stamps.

534. Any person who, without lawful authority or excuse, the proof of which lies on him—

(1) Makes, or begins or prepares to make, or uses for any postal purpose, or has in his possession or disposes of, any imitation or representation, on paper or any other material, of any stamp used for denoting any rate of postage of Her Majesty's Dominions or of any foreign country; or

(2) Makes or mends, or begins or prepares to make or mend, or uses, or has in his possession or disposes of, any die, plate, instrument, or material, for making any such imitation or representation;

is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for one year, or to a fine of fifty pounds: And any stamps, and any other such things as aforesaid, which are found in his possession are forfeited to Her Majesty.

For the purposes of this section a stamp purporting to denote a rate of postage of any country is to be taken to be a stamp used for postal purposes in that country until the contrary is shown.
CHAPTER III.

PRISON.

535. Any person who, with intent to defraud any person, or to induce any person to do or omit to do any act to his prejudice, falsely represents himself to be some other person, living or dead, is guilty of an offence which, unless otherwise stated, is a misdemeanour; and he is liable, if no other punishment is provided, to imprisonment with hard labour for three years.

If the offender commits the offence with intent to obtain any property or to obtain possession of any property, he is guilty of a crime, and is liable to imprisonment with hard labour for life.

536. Any person who, without lawful authority or excuse, the proof of which lies on him, acknowledges in the name of any other person any recognizance, bail, recognizance, or judgment, or any deed or other instrument, before any court, judge, or other person legally authorized in that behalf, is guilty of felony, and is liable on conviction to penal servitude for life or for any term not less than three years, or to imprisonment for a term not exceeding seven years with or without hard labour.

Falsely Acknowledging Deeds, Recognizances, &c.

537. Any person who, without lawful authority or excuse, the proof of which lies on him, makes, in the name of any other person, before any court or person lawfully authorized to take such an acknowledgment, an acknowledgment of liability of any kind, or an acknowledgment of a deed or other instrument, is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without solitary confinement.

(1) The second paragraph of this section is Statute Law in England (2Child Vi. No. 3, s. 27). It is proposed that the subsection described in the first paragraph is a misdemeanour at Common Law.
Personation of a Person named in a Certificate.

537. Any person who utters any document which has been issued by lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognized by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, and falsely represents himself to be the person named in the document, is guilty of an offence of the same kind, and is liable to the same punishment as if he had forged the document.  

Leasing Certificates for Personation.

538. Any person who, being a person to whom any document has been issued by lawful authority, whereby he is certified to be a person possessed of any qualification recognized by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, lends the document to another person with intent that that other may represent himself to be the person named therein, is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

DIVISION IV.—OFFENCES CONNECTED WITH TRADE AND BREACH OF CONTRACT.

CHAPTER LIII.

FRAUDULENT DEBTORS.

Definition.

539. In this Chapter the term “an insolvent” means a person with respect to whom any proceedings have been taken under the provisions of the laws relating to insolvent debtors which result in his affairs being administered under the provisions of those laws for the benefit of his creditors. Such a person is deemed to have been an insolvent from the time when the proceedings were taken, whether that result had or had not happened when the unlawful act in question was done.

(1) It is conceived that the guilt of such an offender does not differ from that of a forger.

(2) The proviso of the existing statute is generalized.
Any person who—

(1) After he has been adjudged insolvent, or after the commencement of a liquidation in which his affairs are liquidated by arrangement under the provisions of the laws relating to insolvent debtors, does any of the following acts, that is to say—

(a) Quits Queensland, and takes with him any part of his property to the amount of twenty pounds, which ought by law to be divided amongst his creditors; or

(b) Makes preparations for doing so; or

(c) Does any such act as aforesaid, and afterwards is adjudged insolvent upon a petition presented within four months after the doing of the act, or has his affairs liquidated by arrangement in a liquidation the commencement of which is within four months after the doing of the act; is guilty of felony, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

It is a defence to a charge of an offence under this Article to prove that the accused person had no intent to defraud.

Ib., s. 208 (6, 11, 12, 13).

Any person who—

(1) After the presentation of a petition on which he is afterwards adjudged insolvent, or after the commencement of a liquidation in which his affairs are liquidated by agreement under the provisions of the laws relating to insolvent debtors, does any of the following acts, that is to say—

(a) Fraudulently removes any part of his property to the value of ten pounds or upwards; or

(b) Fraudulently parts with, alters, or makes any omission in, or is privy to fraudulently parting with, altering, or making any omission in, any document affecting or relating to his property or affairs; or

(c) Does any such act as aforesaid, and afterwards is adjudged insolvent upon a petition presented within four months after the doing of the act, or has his affairs liquidated by arrangement in a liquidation the commencement of which is within four months after the doing of the act; or

(2) After the presentation of a petition on which he is afterwards adjudged insolvent, or after the commencement of a liquidation in which his affairs are liquidated by arrangement, attempts to account for any part of his property by fictitious losses or expenses; or

(3) At a meeting of his creditors attempts to account for any part of his property by fictitious losses or expenses, and afterwards is adjudged insolvent upon a petition presented within four months after his doing so, or has his affairs liquidated by arrangement in a

Abusing with Property in Contemplation of or immediately after Insolvency.

Any person who—

(1) Being an insolvent, departs from Queensland and takes with him, or attempts or prepares to depart from Queensland and to take with him, any part of his property to the amount of twenty pounds, which ought by law to be divided amongst his creditors; or

(2) Departs from Queensland and takes with him, or attempts or prepares to depart from Queensland and to take with him, any part of his property to the amount of twenty pounds, which ought by law, in the event of his becoming insolvent, to be divided among his creditors, and within four months afterwards becomes an insolvent; is guilty of a crime, and is liable to imprisonment with hard labour for three years.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to defraud.

Fraud of Insolvents.

Any person who—

(1) Being an insolvent—

(a) Fraudulently removes any part of his property to the value of ten pounds or upwards; or

(b) Fraudulently parts with, alters, or makes any omission in, or is privy to fraudulently parting with, altering, or making any omission in, any document affecting or relating to his property or affairs; or

(c) Does any such act as aforesaid, and subsequently is adjudged insolvent upon a petition presented within four months after the doing of the act, or has his affairs liquidated by arrangement in a liquidation the commencement of which is within four months after the doing of the act; or

(2) Departs from Queensland and takes with him, or attempts or prepares to depart from Queensland and to take with him, any part of his property to the amount of twenty pounds, which ought by law, in the event of his becoming insolvent, to be divided amongst his creditors, and within four months afterwards becomes an insolvent; is guilty of a crime, and is liable to imprisonment with hard labour for three years.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to defraud.
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liquidation the commencement of which is within four months after his doing so; or

(5) By any false representation or other fraud obtains any property on credit and does not pay for the same, and afterwards is adjudged insolvent upon a petition presented within four months after his so obtaining the property, or has his affairs liquidated by arrangement in a liquidation the commencement of which is within four months after his so obtaining the property; is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

28 Vic. No. 5, s. 204 (4, 14, 15).

495. Any person who—

(1) After the presentation of a petition on which he is afterwards adjudged insolvent, or after the commencement of a liquidation in which his affairs are liquidated by arrangement under the provisions of the laws relating to insolvent debtors—

(a) Conceals any part of his property to the amount of ten pounds; or

(b) Conceals any debt due to or from him; or

(c) Conceals any of the following acts, that is to say—

(a) Conceals any part of his property to the amount of ten pounds; or

(b) Conceals any debt due to or from him; or

(c) Obtains any property on credit under the false pretence of carrying on business and dealing in the ordinary way of trade, and does not pay for the same; or

(d) Pawns, pledges, or disposes of otherwise than in the ordinary way of trade, any property which he has obtained on credit and has not paid for;

and afterwards is adjudged insolvent upon a petition presented within four months after the doing of the act, or has his affairs liquidated by arrangement in a liquidation the commencement of which is within four months after the doing of the act;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

It is a defence to a charge of an offence under this Article to prove that the accused person had no intent to defraud.

16. (9, 10).

496. Any person who—

(1) After the presentation of a petition on which he is afterwards adjudged insolvent, or after the commencement of a liquidation in which his affairs are liquidated by arrangement under the provisions of the laws relating to insolvent debtors, does any of the following acts, that is to say—

(a) Conceals any part of his property to the amount of ten pounds; or

(b) Conceals any debt due to or from him; or

(c) Obtains any property on credit under the false pretence of carrying on business and dealing in the ordinary way of trade, and does not pay for the same; or

(d) Pawns, pledges, or disposes of otherwise than in the ordinary way of trade, any property which he has obtained on credit and has not paid for;

and afterwards is adjudged insolvent upon a petition presented within four months after the doing of the act, or has his affairs liquidated by arrangement in a liquidation the commencement of which is within four months after the doing of the act;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

Other Frauds by Insolvents.

542. Any person who—

(1) Being an insolvent—

(a) Conceals any part of his property to the amount of ten pounds; or

(b) Conceals any debt due to or from him; or

(2) Does any of the following acts, that is to say—

(a) Conceals any part of his property to the amount of ten pounds; or

(b) Conceals any debt due to or from him; or

(c) Obtains any property on credit under the false pretence of carrying on business and dealing in the ordinary way of trade, and does not pay for the same; or

(d) Pawns, pledges, or disposes of otherwise than in the ordinary way of trade, any property which he has obtained on credit and has not paid for;

and within four months afterwards becomes an insolvent;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to defraud.

Falsification of Books by Insolvents.

543. Any person who—

(1) Being an insolvent—

(a) Conceals, destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account, relating to his property or affairs, or any entry in any such book, document, or account, or is privy to such act; or

(b) Makes or is privy to making any false entry in any such book, document, or account; or
(2) Does any such act as aforesaid, and afterwards
is adjudged insolvent upon a petition presented
within four months after the doing of the act,
or has his affairs liquidated by arrangement in
a liquidation the commencement of which is
within four months after the doing of the act;
is guilty of a misdemeanour, and is liable to
imprisonment for a term not exceeding three years
with or
without hard labour.
It is a defence to a charge of an offence under this
Article to prove that the accused person had no intent to
conceal the state of his affairs or to defeat the law.

38 Vls. No. 5, s. 206 (7, 10).

497. Any person who has been adjudged insolvent or
whose affairs are liquidated by arrangement under the pro-
visions of the laws relating to insolvent debtors, and who—

(1) Knowing or believing that a false debt has been
proved by any person under the insolvency or
liquidation, fails for the period of a month to
give information thereof to the trustee in the
insolvency or liquidation;
or
(2) Makes any false representation or commits any
other fraud for the purpose of obtaining the
consent of his creditors or any of them to any
agreement with reference to his affairs or to his
insolvency or liquidation;
is guilty of a misdemeanour, and is liable on conviction
to imprisonment for a term not exceeding three years
with or
without hard labour.

489. Any person who has been adjudged insolvent,
or whose affairs are liquidated by arrangement in pursuance
under the provisions of the laws relating to insolvent debtors,
and who—

(1) Does not to the best of his knowledge and
belief fully and truly discover to the trustee in
the insolvency or liquidation 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; or
(2) Does not deliver up to the trustee in the insolv-
ency or liquidation, or as he directs, all such
part of his real and personal property as is
in his custody or under his control, and which
he is required by law to deliver up; or
(3) Does not deliver up to the trustee in the insolv-
ency or liquidation, or as he directs, all books,
documents, papers, and writings in his custody
or under his control relating to his property or
affairs; or
(4) Makes any material omission in any statement
relating to his affairs:
is guilty of a misdemeanour, and is liable on conviction
to imprisonment for a term not exceeding three years
with or
without hard labour.

(2) Does or is privy to any such act as
aforesaid, and within four months
afterwards becomes an insolvent;
is guilty of a misdemeanour, and is liable to
imprisonment with hard labour for three years.
It is a defence to a charge of any of the
offences defined in this section to prove that
the accused person had no intent to conceal
the state of his affairs or to defraud.

Frauds by Insolvents in course of Insolvency
Proceedings.

544. Any person whose affairs are in course
of administration under the provisions of the
laws relating to insolvent debtors who—

(1) Knows or believes that a false
debt has been proved by any person
in the course of such administration,
fails for the period of a month to
give information thereof to the
trustee of his property; or
(2) Makes any false representation or
commits any other fraud for the
purpose of obtaining the consent of
his creditors or any of them to any
agreement with reference to his
affairs or to any proceedings taken
under or by virtue of such adminis-
tration;
is guilty of a misdemeanour, and is liable to
imprisonment with hard labour for three years.

Failure by Insolvents to Discover Property.

545. Any person whose affairs are in course
of administration under the provisions of the
laws relating to insolvent debtors who—

(1) Fails to fully and truly discover
to the trustee of his property, to
the best of his knowledge and
belief, all his property, real and
personal, and how, and to whom,
and for what consideration, and
when, he disposed of every 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; or
(2) Fails to deliver to the trustee, or
as he directs, any part of his real
and personal property which is in
his custody or under his control,
and which he is required by law to
deliver; or
(3) Fails to deliver to the trustee, or as
he directs, any book, document,
paper, or writing, which is in his
It is a defence to a charge of an offence under this Article to prove that the accused person had no intent to defraud.

38 Vic. No. 5, s. 306 (17).

499. Any person who omits to keep proper books of account showing the true state of his affairs, and who afterwards is adjudged insolvent, or has his affairs liquidated by arrangement under the provisions of the laws relating to insolvent debtors, is guilty of a misdemeanour, and is liable to imprisonment for a term not exceeding three years with or without hard labour.

It is a defence to a charge of an offence under this Article to prove that the accused person had no intention to conceal the true state of his affairs or to defraud.

500. Any person who has been adjudged insolvent, or whose affairs are liquidated by arrangement under the provisions of the laws relating to insolvent debtors, and who after the presentation of the petition for adjudication, or after the commencement of the liquidation, prevents the production of any book, document, paper, or writing, affecting or relating to his property or affairs, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

It is a defence to a charge of an offence under this Article to prove that the accused person had no intent to conceal the state of his affairs or to defeat the law.

501. Any person who, with intent to defraud the creditors of a person who has been adjudged insolvent, or whose affairs are liquidated by arrangement under the provisions of the laws relating to insolvent debtors, receives or accepts any property from the insolvent or liquidating debtor, or any property which forms part of his estate, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding three years with or without hard labour.

502. Any person who, being a creditor in any insolvency or liquidation by arrangement or composition with creditors under the provisions of the laws relating to insolvent debtors, wilfully and with intent to defraud makes a false claim, or a proof, declaration, or statement of account, which is untrue in any material particular, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding twelve months with or without hard labour.

It is a defence to a charge of an offence defined in this section to prove that the accused person had no intention to conceal the state of his affairs or to defraud.

Failure to Keep Proper Books.

503. Any person who omits to keep proper books of account showing the true state of his affairs, and who afterwards becomes an insolvent debtor, is guilty of a misdemeanour and is liable to imprisonment with hard labour for three years.

It is a defence to a charge of the offence defined in this section to prove that the accused person had no intention to conceal the state of his affairs or to defraud.

Concealing Documents.

504. Any person who omits to keep proper books of account showing the true state of his affairs, and who afterwards becomes an insolvent debtor, is guilty of a misdemeanour and is liable to imprisonment with hard labour for three years.

It is a defence to a charge of the offence defined in this section to prove that the accused person had no intention to conceal the state of his affairs or to defraud.

Receiving Insolvent's Property with Intent to Defraud.

505. Any person who, with intent to defraud the creditors of an insolvent, receives any property from the insolvent, or fails to deliver to the trustee of the property of the insolvent any property which forms part of the estate of the insolvent, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Making False Claim in Insolvency.

506. Any person who—

(1) Being a creditor of an insolvent, or being a creditor of a debtor who has taken proceedings for a composition with his creditors under the provisions of the laws relating to insolvent debtors, makes in the insolvency, or in the proceedings for a composition, with intent to defraud,

503. Any person who wilfully conceals any part of the property of a person who has been adjudged insolvent or whose affairs are liquidated by arrangement under the laws relating to insolvent debtors, and does not, within forty-two days after adjudication in the case of insolvency, or within forty-two days after the appointment of the trustee in the case of a liquidation, discover such property to the trustee in the insolvency or liquidation or to the Registrar of the Supreme Court, is liable, on summary conviction before the Supreme Court or before two justices, to imprisonment for a term not exceeding six months with or without hard labour.

The Supreme Court may also, upon proof of the facts to its satisfaction, order him to pay to the trustee the sum of one hundred pounds and double the value of the property so concealed.

508. Any person who-

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

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

is guilty, &c.

38 Vic. No. 18, s. 15.

504. Any person who-

(1) Being a director, manager, or officer, of a Joint Stock Company, does either of the following acts with reference to a proposed reduction of the capital of the company, that is to say—

(a) Wilfully conceals the name of any creditor a proof or declaration of debt or statement of account, which is, to his knowledge, false in any material particular; or

(2) Not being a creditor of an insolvent, or of a person who has taken any such proceedings, makes in the insolvency, or in the proceedings for a composition, with intent to defraud, a proof or declaration of debt;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Concealing Property of Insolvents.

550. Any person who conceals any part of the property of an insolvent, and does not, within forty-two days after the appointment of a trustee of the property of the insolvent, discover such property to the trustee, or to the Registrar of the Supreme Court, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for six months.

Or he may be prosecuted summarily before the Supreme Court, in which case he may be summarily convicted by the Court, and is liable to the like punishment, and the Court may also order him to pay to the trustee the sum of one hundred pounds and double the value of the property so concealed.

Fraudulent Dealing with Property by Debtors.

551. Any person who, with intent to defraud his creditors or any of them,—

(1) Makes any gift, delivery, or transfer of his property, or any charge on his property; or

(2) Conceals or removes any part of his property after or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

CHAPTER LIV.

OTHER OFFENCES.

Concealment by Officers of Companies on Reduction of Capital.

552. Any person who, being a director or officer of a Joint Stock Company, the capital of which is proposed to be reduced—

(1) Conceals the name of any creditor of the company who is entitled to
of the company who is entitled to object to the proposed reduction; or
(i) Wilfully misrepresents the nature or amount of the debt or claim of any creditor of the company; or
(ii) Being a director or manager of a Joint Stock Company, is privy to any such concealment or misrepresentation as aforesaid with reference to a proposed reduction of the capital of the company;

is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

27 Vic. No. 6, s. 137.

376. Any person who, being a director, officer, or contributory, of a company wound up under "The Companies Act, 1867 to 1882," does any of the following acts with intent to defraud or deceive any person, that is to say—
(i) Destroys, mutilates, alters, or falsifies, any book, paper, writing, or security; or
(ii) Makes, or is privy to making, any false or fraudulent entry in any register, book of account, or document, belonging to the company;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour.

31 Vic. No. 36, s. 86.

506. Any person who, being a member of a limited partnership, commits any fraud in the affairs of the partnership, is guilty of a misdemeanour, and is liable on conviction to fine and imprisonment at the discretion of the Court.

Jb., ss. 47, 49.

509. Any person who, being a party or privy to a fraudulent gift, grant, lease, charge, conveyance, bond, action, judgment, or execution—
(i) Knowingly attempts to maintain it as honest to the prejudice of any purchaser for valuable consideration of the thing dealt with by the fraudulent transaction; or
(ii) Assigns or conveys anything which has been so fraudulently assigned or conveyed to him;

is guilty of a misdemeanour, and is liable on conviction to imprisonment for the term of six months.

object to the proposed reduction or
(i) Knowingly misrepresents the nature or amount of the debt or claim of any creditor of the company; or
(ii) Knowingly attempts to maintain it as honest to the prejudice of any party who is a purchaser for valuable consideration of the property dealt with by the fraudulent transaction; or
(iii) Assigns or conveys any property which he has acquired by means of the fraudulent transaction;

is guilty of a misdemeanour, and is liable to imprisonment for three years.

553. Any person who, being a director, officer, or contributory, of a company which is in course of being wound up under the provisions of the laws relating to Joint Stock Companies, does any of the following acts with intent to deceive or defraud, or to make another person to deceive or defraud, that is to say—
(i) Conceals, destroys, alters, or falsifies, any book, document, valuable security, or account, relating to the affairs of the company, or any entry in any such book, document, or account, or is privy to any such act; or
(ii) Makes or is privy to making any false entry in any book, document, or account, belonging to the company;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Frauds by Members of Limited Partnership.

554. Any person who, being a member of a limited partnership, commits any fraud in the affairs of the partnership, is guilty of a misdemeanour, and is liable to imprisonment for three years.

Fraudulent Conveyances, &c.

555. Any person who, being a party or privy to a fraudulent transaction of any kind relating to the acquisition or transfer of property—
(i) Knowingly attempts to maintain it as honest to the prejudice of any person who is a purchaser for valuable consideration of the property dealt with by the fraudulent transaction; or
(ii) Assigns or conveys any property which he has acquired by means of the fraudulent transaction;

is guilty of a misdemeanour, and is liable to imprisonment for one year.
511. Any person who wilfully mixes with meat for which a certificate has been given under the laws relating to the export of Live Stock and meat any meat for which such certificate has not been given, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding twelve months.

512. Any person who—

(1) By violence to the person or property of another, or by threats or intimidation, or by using force or endeavour to force, or by molesting or in any way obstructing another—

(c) Forces, or endeavours to force, any person hired or employed in any manufacture, trade, or business, to depart from his hiring or employment, or to return his work before it is finished; or

(2) Prevents, or endeavours to prevent, any person who is not hired or employed from hiring himself to, or from accepting work or employment from, any other person; or

(3) Uses violence to the person or property of another, or uses threats or intimidation, or molestes or in any way obstructs another—

(e) For the purpose of inducing any person to belong to any club or association, or to contribute to any common fund, or to pay any fine or penalty; or

(d) On account of his not belonging to any particular club or association, or not having contributed or having refused to contribute to any common fund, or having refused to pay any fine or penalty; or

(e) On account of his not having complied, or of his refusing to comply, with any rule, orders, resolutions, or regulations, made in order to obtain an advance of wages or to reduce the rate of wages, or to lessen or alter the hours of working, or to decrease or alter the quantity of work, or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof; or

(3) By violence to the person or property of another, or by threats or intimidation, or by molesting or in any way obstructing another, forces, or endeavours to force, any person carrying on any manufacture, trade, or business, to make any alteration in the mode of carrying on, or to limit the number of his apprentices, or the number or description of his journeymen, workmen, or servants;

is liable on summary conviction before two justices to imprisonment for a term not exceeding three months with or without hard labour.

(a) Prevents, or attempts to prevent, any person who is not employed from accepting employment from any other person;

556. When a mark has been attached to any article, or a certificate has been given with respect to any article, under the authority of any law, for the purpose of denoting the quality of the article, or the fact that it has been examined or approved by or under the authority of some person authorized by law to examine or approve the article, any person who mixes with the article so marked or certified any other article which has not been so examined or approved, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

557. Any person who—

(1) By violence to the person or property of another, or by threats or intimidation of any kind, or by molesting, or in any way obstructing another, or by any physical act, induces or attempts to induce any person employed in any manufacture, trade, business, or occupation, to depart from his employment, or to return his work before it is finished; or

(a) Compels or attempts to compel any person employed in any manufacture, trade, business, or occupation, to depart from his employment, or to return his work before it is finished; or

(b) Prevents, or attempts to prevent, any person who is not employed from accepting employment from any other person;

(2) Uses violence to the person or property of another, or uses threats or intimidation of any kind to another, or by any physical act molestes another—

(c) For the purpose of inducing any person to belong to any club or association, or to contribute to any common fund, or to pay any fine or penalty; or

(d) On account of any person not belonging to any particular club or association, or not having contributed or having refused to contribute to any common fund, or having refused to pay any fine or penalty; or

(e) On the part of any person not belonging to any particular club or association.
A person cannot refuse to give evidence upon a charge of any of the offences defined in this Article on the ground that he is liable to punishment under the provisions herein set forth, but every person who gives his evidence on any such charge is indemnified against any prosecution against himself for having offended in the matter with respect to which he gives evidence.

This Article does not extend—

(a) To persons who meet together for the sole purpose of consulting upon and determining the rates of wages or prices which the persons present at the meeting, or any of them, shall require or demand for his or their work, or the hours or time for which he or they shall work in any manufacture, trade, or business; nor

(b) To any persons who enter into an agreement, verbal or written, among themselves for the purpose of fixing the rate of wages or prices which they, or any of them, shall require or demand for his or their work, or the hours of time for which he or they will work in any manufacture, trade, or business; nor

(c) To any persons who meet together for the sole purpose of consulting upon and determining the rate of wages or prices which the persons present at the meeting, or any of them, shall pay to his or their journeymen, workmen, or servants, for their work, or the hours of time of working in any manufacture, trade, or business; nor

(d) To any persons who enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices which they will pay to his or their journeymen, workmen, or servants for their work, or the hours or time of working in any manufacture, trade, or business; nor

(e) To any person not having complied, or refusing to comply, with any rules, orders, resolutions, or regulations, made or pretended to be made by any person, or persons, or club, or association, in order to obtain an advance of wages or to reduce the rate of wages, or to lessen or alter the hours of working in, or to decrease or alter the quantity of work done in, or to regulate the mode of carrying on, any manufacture, trade, or business, or the management thereof; or

By violence to the person or property of another, or by threats or intimidation of any kind, or by molesting in any way obstructing another, compels, or endeavours to compel, any person carrying on any manufacture, trade, or business, to make any alteration in his mode of carrying on it, or to limit the number of his apprentices, or the number or description of his journeymen, workmen, or servants; or

is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for three months.

A justice who is also a master in the particular manufacture, trade, or business, in or concerning which any of the offences defined in this section is charged to have been committed cannot act as a justice upon a charge of such an offence.

A person cannot refuse to give evidence upon a charge of any of the offences defined in this section on the ground that he is liable to punishment under the provisions thereof, but every person who gives evidence on any such charge is indemnified against any prosecution against himself for having offended in the matter with respect to which he gives evidence.

The action of persons who merely agree together to fix the rate of wages or prices which they will pay or accept for any work or article, or to fix the hours during which they will work in, or carry on, any manufacture, trade, or business, in which they are engaged, or who merely meet together and consult for the purpose of making any such agreement, is not deemed to be a physical act for the purposes of this section.**(1)**

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**(1)** See Accompanying Letter.
PART VII.—PREPARATION TO COMMIT OFFENCES: CONSPIRACY: ACCESSORIES AFTER THE FACT.

CHAPTER LV.

ATTEMPTS AND PREPARATION TO COMMIT OFFENCES.

Attempts to Commit Offences.

558. Any person who attempts to commit any offence is guilty of an offence of the same kind as the offence which he attempted to commit.

When a person who commits an indiciaible offence is punishable on summary conviction, a person who attempts to commit such an offence may also be summarily convicted.1)

Punishment of Attempts to Commit Crimes.

559. Any person who attempts to commit a crime of such a kind that a person convicted of it is liable to the punishment of death or of imprisonment with hard labour for a term of fourteen years or upwards, with or without any other punishment, is liable, if no other punishment is provided, to imprisonment with hard labour for seven years.

Any person who attempts to commit a crime of any other kind is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the crime which he attempted to commit is liable.2)

Punishment of Attempts to Commit Misdemeanours and Simple Offences.

560. Any person who attempts to commit a misdemeanour or a simple offence is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the offence which he attempted to commit is liable.

Reduction of Punishment.

561. When a person is convicted of attempting to commit an offence, if it is proved that he desisted of his own motion from the further prosecution of his intention, without its fulfilment being prevented by circumstances independent of his will, he is liable to one-half

1) It may be decided whether an attempt to commit an offence punishable on summary conviction is an offence at Common Law.
2) In many cases attempts to commit offences are made punishable with the same severity as the offences themselves. There seems no reason why the degree of punishment should not in general vary with the gravity of the offence.
only of the punishment to which he would otherwise be liable. If that punishment is imprisonment with hard labour for life, the greatest punishment to which he is liable is imprisonment with hard labour for seven years.\(^6\)

**Attempts to Procure Commission of Criminal Acts.**

562. Any person who attempts to procure another to do any act or make any omission, whether in Queensland or elsewhere, of such a nature that if the act were done or the omission were made, he would be guilty of an offence, is guilty of an offence of the same kind and is liable to the same punishment as if he had himself attempted to do the same act or make the same omission in Queensland.

Provided that if the act or omission is proposed to be done or made at a place not in Queensland, the punishment cannot exceed that which he would have incurred under the laws in force where the act or omission was proposed to be done or made, if he had himself attempted to do the proposed act or make the proposed omission.

Provided also that in the last-mentioned case a prosecution cannot be instituted except at the request of the Government of the State having jurisdiction in the place where the act or omission was proposed to be done or made.\(^6\)

**Preparation to Commit Crimes with Explosives, &c.**

563. Any person who makes or knowingly has in his possession any explosive substance, or any dangerous or noxious engine, instrument, or thing whatever, with intent by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies defined in Articles 102 and 174, or in the two last preceding Chapters, except Article 204, is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

29 Vic. No. 11, s. 65.

212. Any person who makes or manufactures, or knowingly has in his possession, any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or other thing whatever, with intent by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies defined in Articles 172 and 174, or in the two last preceding Chapters, is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

29 Vic. No. 5, s. 56.

408. Any person who makes, or manufactures, or knowingly has in his possession, any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or other thing whatever, with intent by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies defined in Article 39 or in this Chapter, is guilty of a misdemeanor, and is liable on conviction to imprisonment for a term not exceeding two years with or without hard labour and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

\(^{1}\) See Note to s. 4.
\(^{2}\) See in s. 18.
Threatening Violence.

564. Any person who—
(1) With intent to intimidate or annoy any person, threatens to break or injure a dwelling-house; or
(2) With intent to alarm any person in a dwelling-house, discharges loaded firearms or commits any other breach of the peace;

is guilty of a misdemeanor, and is liable to imprisonment with hard labour for two years.

If the offence is committed in the night the offender is guilty of a crime, and is liable to imprisonment with hard labour for three years.

CHAPTER LVL

CONSPIRACY: INCITEMENT TO COMMIT OFFENCES

Conspiracy to Commit Crime.

565. Any person who conspires with another to commit any crime, or to do any act in any part of the world which if done in Queensland would be a crime, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment with hard labour for seven years; or, if the greatest punishment to which a person convicted of the crime in question is liable is less than imprisonment with hard labour for seven years, then to such lesser punishment.

Conspiracy to Commit other Offences.

566. Any person who conspires with another to commit any offence which is not a crime, or to do any act in any part of the world which if done in Queensland would be an offence but not a crime, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Conspiracy to Defeat the Law.

567. Any person who conspires with another to defeat or prevent the execution or enforcement of any law, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.
Misdemeanour at Common Law.

29 Vic. No. 11, s. 3.

568. Any person who conspires with another to effect any of the purposes following, that is to say—

1. To cause any injury to the person or reputation of any person, or to depreciate the value of any property of any person; or

2. To prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value; or

3. To injure any person in his trade or profession; or

4. To prevent or obstruct, by means of any act or acts which if done by an individual person would constitute an offence on his part, the free and lawful exercise by any person of his trade, profession, or occupation; or

5. To effect any unlawful purpose; or

6. To effect any lawful purpose by any unlawful means;

is guilty of a misdemeanor, and is liable to imprisonment with hard labour for three years.

Incitement to Commit Offences.

569. Any person who incites or attempts to incite any other person to do any act or make any omission, whether in Queensland or elsewhere, of such a nature that, if he had procured the act to be done or the omission to be made, he would be guilty of an offence, is guilty of an offence of the same kind and is liable to the same punishment as if he had himself attempted to do the same act or make the same omission in Queensland.

Provided that if the act or omission is proposed to be done or made at a place not in Queensland, the punishment cannot exceed that which he would have incurred under the laws in force where the act or omission was proposed to be done or made, if he had himself attempted to do the proposed act or make the proposed omission.

Provided also that in the last-mentioned case a prosecution cannot be instituted except at the request of the Government of the State having jurisdiction in the place where the act or omission was proposed to be done or made.

CHAPTER LVII.
ACCESSORIES AFTER THE FACT.

Any person who becomes an accessory after the fact is guilty of a misdemeanour, and is liable, if no other punishment is provided, to imprisonment with hard labour for two years.

Accessories after the Fact to Crimes and some other Offences.

Any person who becomes an accessory after the fact to a misdemeanour, or to any offence of such a nature that the offender may be sentenced on summary conviction to imprisonment with or without hard labour for one year, is guilty of a misdemeanour, and is liable to a punishment equal to one-half of the greatest punishment to which the principal offender is liable on conviction.

If the principal offence is such that an offender is punishable on summary conviction, the accessory may also be summarily convicted.

PART VIII.—PROCEDURE.
CHAPTER LVIII.
ARREST.[1]

Arrest without Warrant generally.

When an offence is such that the offender may be arrested without warrant generally:

(a) It is lawful for a police officer who believes on reasonable grounds that the offence has been committed, and that any person has committed it, to arrest that person without warrant, whether the offence has been actually committed or not, and whether the person arrested committed the offence or not:

(b) It is lawful for any person who is called upon to assist a police officer in the arrest of a person suspected

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[1] It is believed that this Chapter expresses the existing law. It is certainly understood that the practical effect of the rule that certain offenders are liable to arrest without warrant should be explicitly stated.

Comprehensive Bill of 1890, s. 44-49.
o'clock in the evening and six o'clock in the morning, and may convey him, or deliver him to some constable or officer of police, in order to his being conveyed as soon as conveniently may be before a justice to be dealt with according to law.

Any constable or officer of police may take into custody without warrant—

(a) Any person when he finds lying or loitering in any highway, yard, or other place, during the night, and whom he has good cause to suspect of having committed, or being about to commit, any of the offences defined in Articles 29, 102, and 174, or in Chapter XXXIV., or in Chapter XXXV., except Article 204, or in Chapters XXXIX. and XLIX.; or

(b) Any person when he finds lying or loitering in any highway, yard, or other place, between nine o'clock in the evening and six o'clock in the morning, and whom he has good cause to suspect of having committed, or being about to commit, any of the offences defined in Chapters XXXI., XXXII., and XXXIII., or in Chapter XXXIV., except Article 206, or in Chapter XXXV., except Article 210, or in Articles 216, 203, and 300; or

(c) Any person whom he reasonably suspects of having or conveying after sunset and before sunrise any goods suspected to be stolen. Any person so apprehended must be taken, as soon as conveniently may be, before a justice to be dealt with according to law.

9 Geo. 3, c. 60, s. 2.

624. If any person is found between the end of the first hour after sunset and the beginning of the last hour before sunrise—

(a) In any land, whether open or enclosed, unlawfully taking or destroying therein any hare, pheasant, partridge, grouse, teal or moor game, black game, or bustard; or

(b) In any land, or entering any land, whether open or enclosed, with any gun, bow, engine or other instrument for the purpose of taking or destroying any such animal; the owner or occupier of the land, or the gamekeeper or servant of either, or any person assisting such gamekeeper or servant, may apprehend the offender on the land or in any place to which he is pursued, and may deliver him into the custody of a constable or officer of police to be conveyed before two justices to be dealt with according to law.

20 Vic. No. 4, s. 108 [22 Geo. 3, c. 58, s. 4].

629. Any person found committing any of the offences defined in Article 128, or in Chapter XXXI., except Article 231, or in Chapter XXXII., or in Chapter XXXIII., except Article 236, or in Chapter XXXIV., except Articles 308 to 306 inclusive, or in Chapter XXXV., except Articles 310, 312, and 318, or in Chapter XXXVI., except Articles 314 and 315, or in Chapter XXXVII., except Articles 325 to 328 inclusive, 385, and the second and third definitions of offences in Article 340 contained, or in Articles 217, 256, 301, 304, and 305, or in Chapter XXXII., except Article 376, may be immediately apprehended without warrant by any person, and forthwith taken, together with the property, if any, in respect of which the offence is committed before a neighbouring justice to be dealt with according to law.

If any person or persons proves upon oath before a justice that there is reasonable cause to suspect that any of having committed the offence, and who knows that the person calling upon him to assist is a police officer, to assist him, unless he knows that there is no reasonable ground for the suspicion:

(c) It is lawful for any person who finds another committing the offence to arrest him without warrant:

(d) If the offence has been actually committed, it is lawful for any person who believes on reasonable grounds that another person has committed the offence to arrest that person without warrant, whether that other person has committed the offence or not:

(e) If it is lawful for any person who finds another by night, under such circumstances as to afford reasonable grounds for believing that he is committing the offence, and who does in fact so believe, to arrest him without warrant:

(f) It is lawful for a police officer who finds any person lying or loitering in any place by night, under such circumstances as to afford reasonable grounds for believing that he has committed or is about to commit the offence, and who does in fact so believe, to arrest him without warrant.

Arrest without Warrant in Special Cases.

578. When it is provided with respect to an offence that the offender may be arrested without warrant subject to certain conditions, the provisions of the last preceding section apply to the offence in question, subject to those conditions.

Arrest of persons Found committing Offences.

574. (1.) It is lawful for a police officer to arrest without warrant any person whom he finds committing any indictable offence, or committing any simple offence with respect to which it is provided that a person found committing it may be arrested by a police officer without warrant.

(2.) When it is provided with respect to an offence that a person found committing the offence may be arrested without warrant, it is lawful for any person who finds another committing the offence to arrest him without warrant.
person has in his possession or on his premises any property whatever on or with respect to which any such offence has been committed, the justice may grant a warrant to search for such property as in the case of stolen goods. Any person to whom any property is offered to be sold, pawned, or delivered, and who has reasonable cause to suspect that any such offence has been committed; or with respect to such property, is authorised and required, if it is in his power, to apprehend the person offering the same, and forthwith to take him before a justice, together with the property, to be dealt with according to law.

630. If any person—
(1) Offers any goods or chattels to a pawnbroker by way of pawn, pledge, exchange, or sale, and refuses or is unable to give a satisfactory account of himself, or of the means by which he became possessed of the goods or chattels, or willfully gives false information to the pawnbroker or his servant as to whether the goods are or are not his own, or as to his name and place of abode, or as to the name and place of abode of the owner of the goods or chattels; or
(2) Offers any goods or chattels to a pawnbroker under such circumstances that there is reason to suspect that they have been stolen or otherwise illegally or clandestinely obtained; or
(3) Attempts to redeem any goods or chattels pledged with a pawnbroker which he has no colour of right to redeem:
the pawnbroker or his servants may detain him and also the goods or chattels, and may deliver him into the custody of a constable or officer of police to be conveyed before a justice.

If it appears to the justice upon inquiry that there is reason to suspect that the goods or chattels were stolen or illegally or clandestinely obtained, or that the person who attempted to redeem the goods had no colour of right to do so, he may commit the person so brought before him to the custody of a reasonable time to enable further inquiry to be made.

If upon or without such further inquiry it appears to the justice that the goods were stolen or illegally or clandestinely obtained, or that the person who attempted to redeem the goods had no colour of right to do so, the justice is required to commit the offender to prison to be dealt with for any charge of any offence that may be preferred against him. If no charge can be preferred against him under the provisions of any other law than that set forth in this Article, he is liable to be so committed for a term not exceeding three months.

(3.) When it is provided with respect to an offence that a person found committing the offence may be arrested without warrant by a specified person, or specified persons, it is lawful for any such person who finds another committing the offence to arrest him without warrant.

Arrest of Offender committing Indictable Offences by Night.

575. It is lawful for any person who finds another person by night committing any indictable offence to arrest him without warrant.

Arrest during Flight.

576. It is lawful for any person to arrest without warrant any other person whom he believes, on reasonable grounds, to have committed an offence and to be escaping from, and to be freshly pursued by, some person whom, on reasonable grounds, he believes to have authority to arrest him for that offence.

Arrest of persons offering Stolen Property for Sale, &c.

577. It is the duty of every person to whom any property is offered to be sold, pawned, or delivered, and who believes, on reasonable grounds, that the property has been acquired by means of an offence with respect to which it is provided that a person found committing it may be arrested without warrant, to arrest the person offering it, and it is lawful for him to do so without warrant.

Duty of persons Arresting.

578. It is the duty of a person who has arrested another upon a charge of an offence to take him forthwith before a justice to be dealt with according to law.\(^{1}\)

CHAPTER LIX.

JURISDICTION ; PRELIMINARY PROCEEDINGS ; BAIL

Jurisdiction.

579. The jurisdiction of Courts of Justice with respect to the trial of offenders is set forth in the laws relating to the constitution and jurisdiction of those Courts respectively.

\(^{1}\) Compare s. 137.
Preliminary Proceedings on Charges of Indictable Offences.

580. The practice and procedure relating to the examination and committal for trial of persons charged with indictable offences are set forth in the laws relating to Justices of the Peace, their Powers and Authorities.

Bail.

581. The Supreme Court or a Judge thereof may admit to bail any person who has been committed for trial upon a charge of an indictable offence and to whom bail has been refused, or may reduce the bail of any such person to whom bail has been granted.

Summary Convictions: Time.

582. The procedure upon the prosecution of offenders in order to their summary conviction, and for enforcing summary convictions and orders made by justices upon such prosecutions, is to be such as is set forth with respect to like matters in the laws relating to Justices of the Peace, their Powers and Authorities.

A prosecution for a simple offence, or for an indictable offence in order to the summary conviction of the offender must, unless otherwise expressly provided, be begun within six months after the offence is committed.

Place of Trial.

583. (1) A person charged with committing an offence may be tried in any jurisdiction within which any act or omission or event which is an element of the offence takes place.

(2) A person charged with stealing any property may also be tried in any jurisdiction within which he has the stolen property in his possession.

(3) A person charged with stealing anything while employed in the Public Service may also be tried in any jurisdiction within which he is arrested or is in custody.

(4) A person charged with an offence which involves the receiving of any property by him may also be tried in any jurisdiction within which he has the property in his possession.

(5) A person charged with forging anything, or with uttering any false document or writing or counterfeit seal, may also be tried in any jurisdiction within which he is arrested or is in custody.
or utter any other false or counterfeit coin in any other place, either on the day of the first tendering or uttering or within ten days afterwards; or

(3.) Two or more persons, acting in concert in different places, commit any of the offences defined in Chapter XV.; he may be prosecuted and tried before any court which would have jurisdiction to deal with the case if the offence had been actually and wholly committed in either place.

29 Vic. No. 6, s. 76.

517. A person who is charged with any of the offences defined in Articles 516 and 518 may be prosecuted and tried either in the place in which he committed the offence or in any place in which he is apprehended or is in custody.

Zh., s. 110.

518. Any person who has in his possession in one part of Queensland, any chattel, money, valuable security, or other property, which he has stolen or otherwise feloniously taken in another part of Queensland, may be prosecuted and tried either in the place where he stole or took the property or in the place where he has it in his possession.

Zh., ss. 101, 110.

519. Any person who is charged with receiving any chattel, money, valuable security, or other property, knowing the same to have been feloniously or unlawfully stolen, taken, suborned, obtained, embezzled, converted, or disposed of, may, whether he is charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanour only, be prosecuted and tried in any place in which he received the property, or in any place in which he has had the property in his possession, or in any place in which the principal offender may lawfully be tried.

29 Vic. No. 8, s. 44; 31 Vic. No. 4, s. 24; 31 Vic. No. 13, s. 76.

520. A person who is charged with any offence which consists in forging any matter whatever, or in knowingly uttering any forged matter whatever, or with being an accessory, either before or after the fact, to any such offence which is a felony, or with aiding, abetting, or counselling the commission of any such offence which is a misdemeanour, may be prosecuted and tried either in the place in which he committed the offence or in any place in which he is apprehended or is in custody.

29 Vic. No. 7, s. 9; 30 Vic. No. 9, s. 9.

521. In an indictment for the offence of being, within the jurisdiction of the Admiralty, an accessory to a felony committed, the venue in the margin is to be the same as if the offence had been committed in the place in which the accused person is indicted, and the offence is to be averred to have been committed on the high seas.

29 Vic. No. 13, s. 7.

524. If, on the trial before a court holding before a Judge of the Supreme Court, of any person triable in Queensland it appears that the offence alleged against him was not committed within the local limits of the jurisdiction of the court so holding, and that by reason of the alleged offence not having been committed within the

(6.) A person who is charged with counselling or procuring the commission of an offence, or with becoming an accessory after the fact to an offence, may also be tried in any jurisdiction within which the principal offender might be tried.

(7.) A person who is charged with an offence committed out of Queensland, and who may lawfully be tried in Queensland, may be tried in any jurisdiction within which he is arrested or is in custody.
venue such court would, apart from this provision, have no jurisdiction, he is not by reason thereof entitled to be acquitted. But a person so tried is not liable to be afterwards prosecuted on the same facts.

In any such case the judge may, if he thinks fit, at the request of the accused person, discharge the jury from giving any verdict upon the trial, and direct that the accused person be tried before the proper court.

The provisions of this Article do not affect the right of an accused person to plead in the jurisdiction of the Court thereof entitled to be acquitted, but the Court may, at the request of the accused person, discharge the jury from giving a verdict and direct that he be tried before some proper Court, and may remand him for trial accordingly.

If he does not make such request, the trial is to proceed, and the verdict and judgment have the same effect in all respects as if the Court had originally had jurisdiction to try the accused person.

This section does not affect the right of an accused person to plead in the jurisdiction of a Court.11

Change of Place of Trial.

585. When a person has been committed for trial for an indictable offence at a Court held at any place, whether he has been admitted to bail or not, the Supreme Court or a Judge thereof may, on the application of the Crown or of the accused person, and upon good cause shown, order that the trial shall be held at some other place, either before the same Court or before some other Court of competent jurisdiction, at a time to be named in the order.

When an indictment has been presented against any person in the Supreme Court or a Circuit Court, the Court may, on the application of the Crown or the accused person, order that the trial shall be held at some other place other than that named in the margin of the indictment and at a time to be named in the order.

When an order is made under the provisions of this section, the consequences are the same in all respects, and with regard to all persons, as if the accused person had been committed for trial at the place named in the order and at the Sittings named therein; and, if he has been admitted to bail, the recognizances of bail are to be deemed to be enlarged to that time and place accordingly.

The recognizances of any persons who are bound to attend as witnesses are in like manner to be deemed to be enlarged to the same time and place.

Notice of such time and place must be given to the persons bound by the recognizances, otherwise their recognizances cannot be forfeited.12

1 There seems no reason why the provisions of the existing law should not be generalised.
2 It is doubtful in what extent this power already exists. There can be no reason why it should not exist.
CHAPTER LX.

INDICTMENTS.

Nature of Indictments.

586. When a person charged with an indictable offence has been committed for trial and it is intended to put him on his trial for the offence, the charge is to be reduced to writing in a document which is called an indictment.

The indictment is to be signed and presented to the Court by a Crown Law Officer or some other person appointed in that behalf by the Governor in Council.

Ex Officio Informations.

587. A Crown Law Officer may present an indictment in any Court of criminal jurisdiction against any person for any indictable offence, whether the accused person has been committed for trial or not.

An officer appointed by the Governor in Council to present informations in any Court of criminal jurisdiction may present an information in that Court against any person for any indictable offence within the jurisdiction of the Court, whether the accused person has been committed for trial or not.

Arrest of Person Charged in Ex Officio Information.

588. When an indictment has been presented against a person who is not in custody, and has not been committed for trial or held to bail to attend to be tried upon the charge set forth in the indictment, a Judge of the Court in which the indictment is presented may issue a warrant under his hand and seal to arrest the accused person and bring him before a justice of the peace; and such judge or justice may commit him to prison until he gives bail with two sufficient sureties to appear and plead to the information or is discharged by the Court or a Judge.

Compare Bill of 1880, s. 457.

(1) This is substantially the Common Law as to persons against whom an indictment is found by a grand jury, and who are not in custody. The warrant is called a bench warrant.

31 Vic. No. 23, s. 27; 55 Vic. No. 38, s. 39.

523. Indictable offences are to be prosecuted by information in the name of the Attorney-General or Solicitor-General, or of such other person as the Governor in Council [Governor] may appoint, who are respectively to perform the duties of a grand jury until other provision is made by law in that behalf.

20 Vic. No. 13, s. 28.

524. A verdict of murder or manslaughter returned by the jury of a coroner's inquest, and the warrant of committal or recognisances of bail thereupon issued or taken, are, for the purposes of the prosecution or discharge of the person committed or held to bail, equivalent to an ordinary committal or holding to bail by a justice of the peace; and the Attorney-General or other officer for the time being empowered to prosecute offences in the Supreme Court may dispose of or proceed in the case in all respects as if the charge had been investigated before a justice, and the justice had committed the accused person or held him to bail to take his trial.

Punishment.

48 Geo. 3, c. 58, s. 1.

647. When an information is presented in the Supreme Court against any person for a misdemeanor, a Judge of that Court, on the presentation being proved to his by affidavit or certificate, may issue a warrant under his hand and seal to apprehend the accused person and bring him before a Judge of the Supreme Court or a Justice of the peace; and such judge or justice may commit him to prison until he gives bail with two sufficient sureties to appear and plead to the information or is discharged by the Court or a Judge.

Compare Bill of 1880, s. 457.
551. The Solicitor-General may enter a nolle prosequi in any case in which it might be entered by the Attorney-General.

Any person appointed by the Governor in Council under the provisions of the "Supreme Court Act of 1867," to act as Crown Prosecutor, or to present an indictment before the Supreme Court in its criminal jurisdiction, may enter a nolle prosequi upon any indictment presented by him.

Compare Bill of 1883, s. 468.

552. It is not necessary to state any venue in the body of an indictment, but the district, place, or other jurisdiction, named in the margin to be taken to be the venue for all the facts stated in the body of the indictment.

In cases where local description is necessary, such local description must be given in the body of the indictment.

When an indictment for an offence committed in one jurisdiction is lawfully preferred at a Court held in another jurisdiction, the former jurisdiction is deemed the venue, with or without the name of the jurisdiction in which the offender is to be tried, or may be stated in the body of the indictment by way of venue.

20 Vic. No. 17, s. 8.

553. It is not necessary to use the word "fulsomely" or any other like term of art in an indictment, if the nature of the offence charged is otherwise sufficiently set forth.

20 Vic. No. 8, s. 8.

554. In an indictment for any of the offences defined in the sixth definition of offences contained in Article 115, it is sufficient to allege that the accused person bought, sold, received, paid, or put off, or offered to buy, sell, receive, pay, or put off, the counterfeit coin at or for a lower rate of value than the same imported or was apparently intended to import, without stating the lower rate.

13 Vic. No. 18, s. 2; 20 Vic. No. 11, s. 5; 50 Vic. No. 3, s. 8.

555. In an indictment for murder or manslaughter, or for being an accessory to murder or manslaughter, it is not necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, or the value of the thing which caused his death, or to allege that it was of no value, but it is sufficient—

(1) In an indictment for murder, to allege that the defendant wilfully and of his malice aforethought killed and murdered the deceased;

(2) In an indictment for manslaughter, to allege that the defendant unlawfully killed and slew the deceased; and

(3) In an indictment against an accessory to murder or manslaughter, to charge the principal offender with the murder or manslaughter in the manner aforesaid, and then to charge the accused person as an accessory.

5089. A Crown Law Officer may inform any Court, by writing under his hand, that the Crown will not further proceed upon any indictment then pending in the Court.

An officer appointed by the Governor in Council to present indictments in any Court of criminal jurisdiction may inform that Court, by writing under his hand, that the Crown will not further proceed upon any indictment then pending in that Court.

When such information is given to the Court the accused person is to be discharged from any further proceedings upon that indictment.

559. An indictment is to be couched with the name of the Court in which it is presented, and must set forth the offence with which the accused person is charged in such a manner, and with such particulars as to the alleged time and place of committing the offence, and as to the person, if any, alleged to be aggrieved, and as to the property, if any, in question, as may be necessary to inform the accused person of the nature of the charge.

If any circumstance of aggravation is intended to be relied upon, it must be charged in the indictment.

It is sufficient to describe an offence in the words of this Code or of the Statute defining it.

The place of trial is to be named in the margin of the indictment.

5591. The following rules are applicable to all indictments—

(1) Any document or other thing may be described by any name or designation by which it is usually known, and any document may be described by its purport without setting out a copy or facsimile of the whole or any part of it:

(2) A trade-mark may be described by that name, and any other mark may be described in any way which will indicate its nature, without setting out a copy or facsimile of it:

(3) There seems no reason why every prosecutor should not have this power.

General Rules applicable to Indictments.
28 Vic. No. 5, s. 18; 28 Vic. No. 3, ss. 45, 46; 29 Vic. No. 19, s. 10.

533. (1) In an indictment for stealing, embezzling, destroying, concealing, forging, counterfeiting, any instrument, or for obtaining any instrument by false pretences, the instrument may be described by any name or designation by which it is usually known or by its purport, without setting out a copy or fac-simile of the whole or any part of it.

(2) In all other cases in which it is necessary to make any averment in an indictment as to any instrument, whether it consists wholly or in part of writing, print, or figures, the instrument may be described by any name or designation by which it is usually known or by its purport, without setting out a copy or fac-simile of the whole or any part of it.

(3) In an indictment for engraving or making the whole or any part of any instrument, matter, or thing, or for using or having the unlawful possession of any plate or other material on which anything has been engraved or made, or of any paper on which anything has been made or printed, the instrument, matter, or thing, may be described by any name by which it is usually known, without setting out a copy or fac-simile of the whole or any part of it.

(10) In an indictment for any of the offences defined in Article 409 a trade mark, or forged or counterfeited trade mark, may be described by that name, without further description, and without setting out a copy or fac-simile of it.

28 Vic. No. 6, s. 18; 28 Vic. No. 3, ss. 47; 28 Vic. No. 5, s. 62; 28 Vic. No. 23, s. 6.

535. (1) In an indictment—
(a) For obtaining or attempting to obtain any chattel, money, or valuable security, by false pretences; or
(b) For forging or uttering any instrument whatever;

it is sufficient to allege that the accused person did the act charged with intent to defraud, without alleging an intent to defraud any particular person.

(3) In an indictment for any of the offences defined in Article 374 it is sufficient to allege that the accused person did the act charged with intent to defraud, without alleging an intent to defraud any particular person.

(4) In an indictment for any of the offences defined in Division II. of Part VI. of this Digest, in which it is necessary to allege an intent to injure or defraud, it is sufficient to allege that the accused person did the act with intent to injure or defraud, as the case may be, without alleging an intent to injure or defraud any particular person.

(5) In an indictment for any of the offences defined in Article 409, in which it is necessary to allege an intent to defraud or to enable another person to defraud, it is sufficient to allege that the accused person did the act with intent to defraud or with intent to enable some other person to defraud, without alleging an intent to defraud any particular person.

29 Vic. No. 10, s. 15.

[542. An indictment is not open to objection]
Particular Indictments.

592. (1) An indictment for treason must state overt acts of the treason alleged.

(2) In an indictment for an offence which relates to taking or administering an oath or engagement, or to giving false testimony, or to making a false statement on solemn declaration or otherwise, or to procuring the giving of false testimony or the making of a false statement, it is not necessary to set forth the words of the oath or engagement or testimony or statement, but it is sufficient to set forth the purport of the oath or engagement or some material part of it.

(3) In an indictment for an offence which relates to giving false testimony, or procuring or attempting to procure the giving of false testimony, it is not necessary to allege the jurisdiction of the court or tribunal before which the false testimony was given, or intended or proposed to be given.

(4) In an indictment for an offence committed with respect to the Post and Telegraph Department, or to the revenue of that department, or to anything sent by post, or to anything under the control of the Postmaster-General, it is sufficient to allege that any property of which the ownership must be alleged is the property of the Postmaster-General, and to allege that any act which must be alleged to be done with intent to injure or defraud is done with intent to injure or defraud the Postmaster-General.

And in any such case it is sufficient to describe the Postmaster-General by that term alone, without mentioning his name or using any other addition or description.

(5) In an indictment in which it is necessary to mention money, such money may be described simply as money, without specifying any particular form of money.

Such an averment, so far as regards the description of the property, will be sustained by proof of any amount of coin or of any bank note, although the particular
species of coin of which the amount was composed or the particular nature of the bank note is not proved; and, in cases of embezzlement and obtaining money or bank notes by false pretences, by proof that the offender embezzled or obtained any piece of coin, or any bank note, or any portion of the value of either, although such pieces of coin or bank note was delivered to him in order that some part of the value thereof should be returned to the person who delivered the same or to any other person, and has been returned accordingly.

(4.) In an indictment for any felony or misdemeanor in which it is necessary to mention any partners, joint tenants, tenants, or tenants in common, for the purpose of stating the ownership of any property, whether real or personal, which belongs to or is in the possession of more persons than one, or for any other purpose, it is sufficient to name one of such persons, adding the words "and another" or "and others," as the case may be, and, in the case of property, to state that the property belongs to the person so named and another or others, as the case may be.

This provision extends to joint stock companies and trustees.

(6.) In an indictment against a husband for an offence committed by him with respect to his wife's separate property, it is sufficient to allege that the property is the property of the wife.

(5.) In an indictment against a person who is a member of a company which is authorized by law to sue and be sued in the name of a public officer, or who is a member of a corporation, for an offence committed with respect to any property of the company or corporation, such property may be alleged to be the property of such public officer, or of the corporation, as the case may be.

(7.) In an indictment for embezzling or stealing the property of a hospital established under the laws relating to the establishment of hospitals, or for defrauding any such hospital, the property in question may be alleged to be the property of the treasurer of the hospital for the time being.

(8.) In an indictment for any felony or misdemeanor committed with respect to any bridge or building erected or maintained in whole or in part at the expense of a province, county, city, or the like, or with respect to any goods or chattels provided for or at the expense of a province, county, city, or the like, or with respect to any highway at the end of a bridge, or any street building as aforesaid, or to be used in or with any such building, the property, whether real or personal, may be described as belonging to the inhabitants of such province, county, city, or the like, without specifying the names of any of such inhabitants.

(9.) In an indictment for any of the offences defined in Article 223, it is not necessary to allege that the will or contract is the property of any person.

(10.) In an indictment for any of the offences defined in Article 226, or any of the offences defined in Article 227, the vessel, boat, lying, or navigating, may be described either by name or otherwise without stating the name to be in any particular parish, township, or town.

(11.) In an indictment for any of the offences defined in Article 228, relating to anything fixed in a square or street, or in any place dedicated to public use or ornament, or for any of the offences as defined in Article 229, it is not necessary to allege that by proof that the offender obtained or dealt with any coin or anything which is included in the term "money," or any portion of the value of either, in such a manner as to constitute the offence, although such coin or thing was delivered to him in order that some part of the value thereof should be returned to the person who delivered the same or to some other person, and has been returned accordingly.

(6.) In an indictment in which it is necessary to mention any co-owners of property it is sufficient to name one of such persons, adding the words "and another" or "and others," as the case may be, and to state that the property belonged to the person so named and another or others, as the case may be.

(7.) In an indictment against a man for an offence committed by him with respect to his wife's separate property, the property may be alleged to be the property of the husband.

(8.) In an indictment for an offence relating to any property of a company which is authorized to sue and be sued in the name of a public officer, the property may be alleged to be the property of the public officer.

(9.) In an indictment for an offence relating to any property which by any Statute is to be deemed to be the property of any officer of any institution, the property in question may be alleged to be the property of the officer of the institution for the time being by his name of office.

(10.) In an indictment for an offence relating to a testamentary instrument, it is not necessary to allege that the instrument is the property of any person.

(11.) In an indictment for an offence relating to anything fixed in a square or street, or in any place dedicated to public use or ornament, or to anything in or taken from a public
the document or thing in respect of which the offence is committed is the property of any person.

(12.) In an indictment for any of the offences firstly defined in Article 299, the document may be described as being evidence, or as containing evidence, of the title or of part of the title of the person or some one of the persons having an interest, whether vested or contingent, legal or equitable, in the land to which the document relates, and to mention such land or some part thereof.

(13.) An indictment under the statutory provisions set forth in Article 300 for stealing a chattel may be in the form commonly used for larceny. An indictment under the provisions set forth in that Article for stealing a fixture may be in the same form as if the offender were not a tenant or lodger. In either case the chattel or fixture may be described as the property of the owner or person who actually let it to hire.

(14.) In an indictment for any of the offences defined in Article 300 the chattel, money, or valuable security, in question may be described as the property of Her Majesty.

29 Vic. No. 22, s. 30.

534. Upon the prosecution of a person charged with stealing dredge oysters or bank oysters from a portion of oyster ground or from an oyster bed or laying, if it appears that the same were stolen from one or two or more portions of oyster ground, or oyster beds or layoffs, which are contiguous to each other and belong to different persons, but it is uncertain from what particular place they were stolen, they may be described in the indictment as being the property of one or other of such persons, without specifying which of them; and the place from which they were stolen may be described in the indictment as being one or other of such contiguous portions or beds or layoffs, without specifying which of them; and the indictment will be sustained upon proof that the same belonged to and were in the lawful possession of one or other of such persons, and were stolen from one or other of such portions, beds, or layoffs.

535. In an indictment for obtaining or attempting to obtain any chattel, money, or valuable security, by false pretences, it is not necessary to allege that the property in question is the property of any particular person.

29 Vic. No. 6, s. 93.

(1) The provisions of the existing law are generalized and made to apply to times as well as place.
In an indictment for an offence relating to an insolvent it is not necessary to set forth any debt, act of insolvency, adjudication, or other proceeding in any Court, or any order, warrant, or document, made or issued by or out of, or by the authority of, any Court.

**Indictment to contain One Matter of Charge only.**

593. Except as hereinafter stated, an indictment must charge one offence only, and not two or more offences:

Provided that when several distinct crimes or several distinct misdemeanours are alleged to be constituted by the same acts or omissions, or by a series of acts done or omitted to be done in the prosecution of a single purpose, charges of such distinct crimes or misdemeanours may be joined in the same indictment against the same person.

In any such case the several statements of the offences may be made in the same form as in other cases, without any allegation of connection between the offences.

But, if in any such case it appears to the Court that the accused person is likely to be prejudiced by such joinder, the Court may require the prosecutor to elect upon which of the several charges he will proceed, or may direct that the trial of the accused person upon each or any of the charges shall be had separately. 21

**Cases in which several Charges may be Joined.**

594. (1.) In an indictment against a person for stealing money which is the property of his employer, or which came into his possession on account of his employer, the accused person may be charged and proceeded against for the amount of a general deficiency, notwithstanding that such general deficiency is made up of any number of specific sums of money the taking of which extended over any space of time.

If the offence relates to any money or any valuable security, it is sufficient to allege the embezzlement or fraudulent application or disposition to have been of money, without specifying any particular coin or valuable security; and such allegations, so far as regards the description of the property, will be sustained by proof that the offender has embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which the amount was composed is not proved, or by proof that he has embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security was delivered to him in order that some part of the value thereof should be returned to the party who delivered the same to or to some other person, and has been returned accordingly.

(II.) Under the present law charges of any number of offences (not including misdemeanors) or of any number of misdemeanors may be joined in the same indictment. But the practice is so set out in the text.
538. (1.) In an indictment against any one person for stealing he may be charged with any number of distinct acts of stealing, not exceeding three, committed by him against the same person within the space of six months from the first to the last of such acts.

(2.) If upon the trial of an indictment for larceny it appears that the property alleged to have been stolen at one time was taken at different times, the prosecutor is not by reason thereof required to elect upon which act of stealing he will proceed, unless it appears that there were more than three persons or that more than six months elapsed between the first and the last of such takings:

In either of such last-mentioned cases the prosecutor is required to elect to proceed for each number of takings not exceeding three as appear to have taken place within the period of six months from the first to the last of such takings.

(3.) In an indictment for any of the offences defined in Article 309, or of any of the offences secondly defined in Article 311, the accused person may be charged with any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, committed by him against Her Majesty or against the same master or employer, within the space of six months from the first to the last of such acts.

(4.) In an indictment for stealing any property, a count or several counts may be stated for feloniously receiving the same property, or any part thereof, knowing it to have been stolen; and in an indictment for receiving any property knowing it to have been stolen, a count may be stated for feloniously stealing the same property:

When such an indictment is preferred against any person, the prosecutor is not put to his election, but the jury may find a verdict of guilty either of stealing the property or of receiving it, or any part of it, knowing it to have been stolen:

When such an indictment is preferred against two or more persons, the jury may find either all of any of the accused person guilty either of stealing the property or of receiving it, or any part of it, knowing it to have been stolen;

or any of them guilty of stealing the property, and the other or others of them guilty of receiving it, or any part of it, knowing it to have been stolen:

(5.) Any number of accessories at different times to any felony, and any number of receivers at different times of any property which has been stolen, taken, extorted, obtained, embezzled, or otherwise disposed of, in such a manner as to amount to a felony, or of any part or parts thereof, may be charged with substantive libels in the same indictment, and may be tried together, notwithstanding that the principal offender is not included in the same indictment or is not in custody or amenable to justice.

(6.) The abolition of benefit of clergy with respect to persons convicted of felony does not prevent the joinder in an indictment of any counts which might have been joined before such abolition.

(3.) If on the trial of a person charged with stealing it appears that property alleged to have been stolen at one time was stolen at different times, the prosecutor is not by reason thereof required to elect upon which act of stealing he will proceed, unless it appears that there were more than three acts of stealing; or that more than six months elapsed between the first and the last of such acts:

In either of such last-mentioned cases the prosecutor is to be required to elect to proceed in respect of two or three acts of stealing which appear to have taken place within the period of six months from the first to the last of such acts.

(4.) Charges of stealing any property and of receiving the same property, or any part thereof, knowing it to have been stolen, may be joined in the same indictment, and the accused person may, according to the evidence, be convicted either of stealing the property or of receiving it, or any part of it, knowing it to have been stolen.

When such an indictment is preferred against two or more persons, all or any of the accused persons may, according to the evidence, be convicted either of stealing the property or of receiving it, or any part of it, knowing it to have been stolen; or, according to the evidence, one or more of them may be convicted of stealing the property, and the other or others of them of receiving it, or any part of it, knowing it to have been stolen.

(5.) Any number of persons charged with committing or procuring the commission of the same offence, although at different times, or of being accessories after the fact to the same offence, although at different times, and any number of persons charged with receiving, although at different times, any property which has been obtained by means of a crime or misdemeanour, or by means of an act which if it had been done in Queensland would be a crime or misdemeanour and which is an offence under the laws in force in the place where it was done, or any part of any property so obtained, may be charged with substantive offences in the same indictment, and may be tried together notwithstanding that the principal offender or the person who so obtained the property is not included in the same indictment, or is not amenable to justice.

Accessories.

595. A person who counsels or procurers another person to commit an offence, or who

20 Vic. No. 8, ss. 3, 6, 76, 97, 68; 20 Vic. No. 7, s. 0; 20 Vic. No. 13, s. 14.

539. (1.) Any person who is an accessory before the fact to a felony, or counsels, procures, or commands, any other person to commit a felony, may be indicted and con-
visited as an accessory before the fact either together with the principal offender, or after the conviction of the principal offender, or may be indicted and convicted of a substantive offence, whether the principal offender has or has not been convicted or is or is not amenable to justice.

(2) A person who has been duly tried under the foregoing provisions of this Article cannot be afterwards prosecuted for the same offence.

(3) A person who is charged with aiding, abetting, or procuring the commission of an offence punishable on summary conviction, may be charged either with the principal offender or separately.

29 Vic. No. 7, ss. 3, 4.

540. Any person who becomes an accessory after the fact to a felony may be indicted and convicted as an accessory after the fact to the principal offence either together with the principal offender or after the conviction of the principal offender, or may be indicted and convicted of a substantive offence, whether the principal offender has or has not been previously convicted or is or is not amenable to justice.

A person who has been duly tried under the provisions of this Article cannot be afterwards prosecuted for the same offence.

29 Vic. No. 4, s. 36; 29 Vic. No. 6, s. 121.

541. (1) In an indictment for any of the offences defined in Articles 118, 121, and 126, and charged to have been committed after a previous conviction of any such offence, it is sufficient, after charging the subsequent offence, the substance and effect only, without the formal parts, of the indictment and conviction for the previous offence.

(2) In an indictment for any of the offences defined in Article 321, or in Chapter XXXIV, except Article 320, or in Chapter XXXVI, except Article 326, and charged to have been committed after a previous conviction of any felony, misdemeanor, or offence or offences punishable upon summary conviction, it is sufficient, after charging the subsequent offence, to state that the accused person was at a certain time and place, or at certain times and places, convicted of felony, or of an indigible misdemeanor, or of an offence or offences punishable upon summary conviction, as the case may be, without otherwise describing the previous felony, misdemeanor, offence, or offences.

29 Vic. No. 13, s. 15.

542. An indictment is not open to objection—
For want of the averment of any matter which need not be proved; nor
For the omission of the words “as appears by the record,” or of the words “with force of arms,” or of the words “against the peace”; nor
For the insertion of the words “against the form of the statute” instead of “against the form of the statutes,” or vice versa, nor for the omission of either expression; nor
For the designation of any person by a name of office or other descriptive appellation instead of by his proper name; nor
For omitting to state the time at which the offence was committed, unless time is of the essence of the offence, nor for stating the time imperfectly; nor
For stating the offence to have been committed on an impossible day, or on a day that never happened or has not yet happened; nor

ayds another person in committing an offence, or who becomes an accessory after the fact to an offence, may be charged in the same indictment with the principal offender, and may be tried with him or separately, or may be indicted and tried separately, whether the principal offender has or has not been convicted, or is or is not amenable to justice.

Statement of Previous Conviction.

596. In an indictment for an offence charged to have been committed after a conviction for any offence, it is sufficient, after charging the subsequent offence, to state the substance and effect of the indictment or complaint, and the conviction, for the previous offence, and the time and place of such conviction.

Formal Defects.

597. An indictment is not open to objection by reason of the designation of any person by a name of office or other descriptive appellation instead of by his proper name, nor for omitting to state the time at which the offence was committed, unless the time is an essential element of the offence, nor for stating imperfectly the time at which the offence was committed, nor for stating the offence to have been committed on an impossible day, or on a day that never happened or has not yet happened.

An objection to an indictment for a formal defect apparent on its face must be taken by motion to quash the indictment before the jury is sworn, and not afterwards.
For want of a proper or perfect venue; nor
for want of a proper or formal conclusion; nor
for want of or imperfection in the addition of the
accused person.

543. An objection to an indictment for a formal
defect apparent on its face must be taken by demurrer or
motion to quash the indictment before the jury is sworn,
and not afterwards.

The Court before which any such objection is taken
may, if necessary, cause the indictment to be forthwith
amended by correcting the defect, and the trial may then
proceed as if no such defect had appeared.

544. If on the trial of an indictment for any felony
or misdemeanour there appears to be a variance between
the statement in the indictment and the evidence with
respect to the name or description of any person, place, or
ingthing whatever mentioned in the indictment, or with
respect to the ownership of any property mentioned in
the indictment, or it appears that any words that ought
to have been inserted in the indictment have been omitted,
or that any words that ought to have been omitted have
been inserted, the Court may, if it considers that the variance,
omission, or insertion, is not material to the merits of the case,
and that the accused person cannot be prejudiced thereby
in his defence on the merits, order the indictment to be
amended, so far as it is necessary, on such terms, if any,
as to postponing the trial, and directing it to be had
before the same or another jury, as the Court may think
reasonable.

After any such amendment is made the trial is to
proceed, as the appointed time, in the same manner in all
respects, and with the same consequences, both with respect
to the liability of witnesses to be indicted for perjury and
otherwise, as if there had not been any such variance,
omission, or insertion.

If the trial is at nisi prius, the order for the amend-
ment is to be inserted on the process and returned with the
record, and thereupon the proper officer of the Court from
which the record issued is required to amend in accordance
with the order such records as it is necessary to amend.

In other cases the order for amendment is either to
be inserted on the indictment or to be engrossed on
parchment, and filed with the indictment among the
records of the Court.

When the postponed trial is had before another jury,
the Crown and the accused person are respectively
entitled to the same challenges as they were respectively
entitled to before the first jury was sworn.

Verdicts and judgments given after an amendment
have the same force and effect in all respects as if the
indictment had originally been in the same form in which
it is after the amendment is made.

If it becomes necessary to draw up a formal record
in any case in which an amendment has been made, the
record is to be drawn up setting out the indictment as
amended, and without taking any notice of the fact of the
amendment having been made.

Amendment of Indictments.

599. The Court may, in any case, if it thinks
fit, direct particulars to be delivered to the
accused person of any matter alleged in the
indictment, and may adjourn the trial for the
purpose of such delivery.
Summary Convictions.

600. The provisions of this Chapter relating to indictments apply to complaints preferred against offenders upon their trial before justices in order to their summary conviction of an indictable offence.

CHAPTER LXI.

EFFECT OF INDICTMENT.

Offences involving Circumstances of Aggravation.

601. Except as herinafter stated, upon an indictment charging a person with an offence committed with circumstances of aggravation, he may be convicted of any offence which is established by the evidence, and which is constituted by any act or omission which is an element of the offence charged, with or without any of the circumstances of aggravation charged in the indictment.
Charge of Murder or Manslaughter.

602. Upon an indictment charging a person with the crime of wilful murder, he may be convicted of the crime of murder or manslaughter, if either of those crimes is established by the evidence, but not, except as herein expressly provided, of any other offence than that with which he is charged.

Upon an indictment charging a person with the crime of murder, he may be convicted of the crime of manslaughter, if that crime is established by the evidence, but not, except as herein expressly provided, of any other offence than that with which he is charged.

Upon an indictment charging a person with the crime of manslaughter he cannot, except as herein expressly provided, be convicted of any other offence.

Charge of Homicide of Child.

603. Provided that upon an indictment charging a person with the wilful murder of any person, or with unlawfully killing any person, if upon the evidence it appears that the person alleged to have been killed was a child of which a woman had recently been delivered, the accused person may be convicted of the offence of preventing the child from being born alive by an act or omission of such a nature that, if the child had been born alive and had then died, he would be deemed to have unlawfully killed the child, or of the offence of endeavouring by a secret disposition of the dead body of the child to conceal the birth, if either of those offences is established by the evidence.

Charge of Rape and like Offences.

604. Upon an indictment charging a person with the crime of rape or with the crime of having unlawful carnal knowledge of a girl under the age of twelve years, he may be convicted of any offence which is established by the evidence, and of which the unlawful carnal knowledge of a woman or girl, whether of a particular age or description or not, is an element, and blood relationship is not an element, or of which procuring the woman or girl to have unlawful carnal connection with any man is an element.

1) This section exemplifies the present law except so far as it is affected by the proposed distinction between murder and wilful murder.
2) R. & R. 422.
3) R. & R. 224 (1), 226 (1, 2).
he may be convicted of any of the 
offences following, that is to say——

(a) Administering to the woman or 
girl, or causing her to take, any 
drug or other thing, with intent to 
stupefy or overpower her in order to 
enable any man to have unlawful 
carnal knowledge of her; or

(b) Unlawfully and indecently assault-
ing the woman or girl; or

(c) Unlawfully and indecently dealing 
with a girl under the age of twelve 
years or a girl under the age of 
hit,ten years; 

if any such offence is established by the evidence.

Charge of Specific Injury : Charge of Injury with Specific Intent.

605. Upon an indictment charging a person 
with an offence of which the causing of some 
specific result is an element, he may be con-
victed of any offence which is established by 
the evidence, and of which an intent to cause 
that result, or a result of a similar but less 
jurious nature, is an element.

Upon an indictment charging a person with 
an offence of which an intent to cause some 
specific result is an element, he may be convicted 
of any offence which is established by the evi-
dence and of which the unlawful causing of that 
result is an element.

Charge of Injury to Property.

606. Upon an indictment charging a person 
with an offence of which destruction of pro-
erty, or willfully and unlawfully doing any 
specific damage to property, is an element, he 
may be convicted of willfully and unlawfully 
damaging the property, or of willfully and 
unlawfully damaging the property in any 
lesser degree, if either of such offences is estab-
lished by the evidence.

Stealing : False Pretences and Cheating.

607. Upon an indictment charging a person 
with stealing any property, he may be con-
victed of any of the offences following, that 
is to say——

(a) Obtaining or inducing the delivery of 
the property in question by a false 
pretence and with intent to defraud;

(1) S. 228 (3).
(2) S. 251.
(3) The existing provisions are generalised.
(b) Procuring any other person to commit any such offence with regard to the property in question;

(c) Obtaining or inducing the delivery or payment of the property in question by means of a fraudulent trick or device;

if any such offence is established by the evidence.\(^{10}\)

**Charge of Procuring Commission of Offence or Wrongful Act.**

**608.** Upon an indictment charging a person with procuring the commission of any offence, he may be convicted of procuring the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence of which the accused person is alleged to have procured the commission.

Upon an indictment charging a person with procuring another to do an act or make an omission of such a nature that if the accused person had himself done the act or made the omission, he would have been guilty of an offence, he may be convicted of procuring that other person to do any other act or make any other omission which is established by the evidence, and which is of such a nature that if the accused person had himself done that act or made that omission he would have been guilty of an offence, such last-named offence being itself of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence of which the accused person would have been guilty if he had himself done the act or made the omission which he is alleged to have procured to be done or made.\(^{10}\)

**Conviction for Attempt to Commit Offence.**

**609.** Upon an indictment charging a person with committing any offence, he may be convicted of attempting to commit that offence, or of attempting to commit any other offence of which he might be convicted upon the indictment.

Upon an indictment charging a person with procuring the commission of any offence, he may be convicted of attempting to procure the commission of that offence, or of attempting to procure the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging him

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\(^{10}\) This is to some extent new. See s. 610.

\(^{15}\) See s. 6.
with committing the offence of which the accused person is alleged to have procured the commission.

Upon an indictment charging a person with attempting to commit any offence, he may be convicted of attempting to commit any other offence of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence which the accused person is alleged to have attempted to commit.

Upon an indictment charging a person with attempting to procure, or with inciting or attempting to incite, the commission of any offence, he may be convicted of attempting to procure, or of inciting or attempting to incite, the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence of which the accused person is alleged to have attempted to procure, or to have incited or attempted to incite, the commission.

Upon an indictment charging a person with attempting to procure another, or with inciting or attempting to incite another, to do an act or make an omission of such a nature that if he had himself done the act or made the omission he would have been guilty of an offence, he may be convicted of attempting to procure that other person, or of inciting or attempting to incite that other person, to do any other act or make any other omission of such a nature that if he had himself done the act or made the omission he would have been guilty of an offence, such last-mentioned offence being itself of such a nature that a person may be convicted of it upon an indictment charging him with doing the act or making the omission which the accused person is alleged in the indictment to have attempted to procure, or to have incited or attempted to incite, that other person to do or make.

When Evidence shows Circumstances of Aggravation.

610. If, on the trial of a person charged with any indictable offence, the evidence establishes that he is guilty of another offence of such a nature that upon an indictment charging him with it he might have been convicted of the offence with which he is actually charged, he may be convicted of the offence with which he is so charged.

A person so tried is not liable to be afterwards prosecuted for the offence so established.
by the evidence, unless the Court before which
the trial is had thinks fit to discharge the
jury from giving any verdict, and to direct
the accused person to be indicted for that
offence; in which case he may be dealt with
in all respects as if he had not been put upon his
trial for the offence with which he is actually
charged.

Effect of Conviction for Offences other than
that Charged.

611. A person convicted under any of the
foregoing provisions of this Chapter is liable to
the same punishment as if he had been
convicted on an indictment charging him with
the offence of which he is actually convicted.

Corrupt Practices.

612. If, on the trial of a person charged
with an indictable offence relating to elections,
the evidence establishes that he is not guilty
of the offence charged, but is guilty of an
offence relating to elections and punishable on
summary conviction, he may be convicted of
such last-mentioned offence.

Stealing Cattle.

613. If, on the trial of a person charged
with stealing a horse, mare, gelding, ass, mule,
camel, bull, ewe, ox, ram, ewe, wether, goat,
or pig, or the young of any such animal, the
evidence establishes that he is not guilty of the
offence charged, but is guilty of any of the
offences following, that is to say—

(a) Unlawfully using the animal with-
out the consent of the owner, or
of the person in lawful possess-
ion thereof;

(b) Branding or marking the animal, or
knowingly permitting it to be
branded or marked, with his au-
thorised brand or authorised mark,
knowing that he is not the owner
of the animal;

(c) Altering or defacing, or otherwise
rendering undistinguishable, any
authorised brand or mark upon
the animal;

(d) Knowingly permitting any such
act as last aforesaid to be done
by any person over whom he has
control;

he may be convicted of the offence so established
by the evidence.
Effect of Conviction.

614. In any of the cases mentioned in the two last preceding sections the offender is liable to the same punishment as if he had been summarily convicted of the offence of which he is actually convicted.

Illegal Practices.

615. If, on the trial of a person charged with an offence relating to elections and punishable on summary conviction, the evidence establishes that he is guilty of an indictable offence relating to elections, he is not entitled to have the charge dismissed if the evidence also establishes that he did any act or acts such as to constitute the offence with which he is actually charged.

Indictment for Joint Receiving.

616. Upon an indictment charging two or more persons jointly with an offence of which the receiving of any property is an element, if the evidence establishes that one or more of them separately received any part or parts of the property under such circumstances as to constitute an offence, such one or more of the accused persons may be convicted of the offence or offences so established by the evidence.

40 Vic. No. 13, s. 106.

556. If, on the trial of a person charged with any of the offences defined in Articles 81 to 83, it appears that the facts proved amount in law to one of the offences defined in Articles 89 and 91, he is not by reason thereof entitled to be acquitted.

29 Vic. No. 6, s. 89.

504. If, on the trial of two or more persons charged upon indictment with jointly receiving any property, it is proved that one or more of them separately received any part or parts of the property, the jury may, upon the same indictment, convict such of them as are proved to have received any part or parts of the property.

4th, s. 77.

565. (1.) If, on the trial of a person charged with any of the offences defined in Article 305, or any of the offences secondly defined in Article 311, it appears to the jury upon the evidence that he took the property in question in any such manner as to amount in law to larceny, he is not by reason thereof entitled to be acquitted; but the jury may find that he is guilty of the offence charged, but is guilty of simple larceny, or of any of the offences defined in Article 305, or any of the offences firstly defined in Article 311, as the case may be, and as the evidence may warrant; and thereupon he is liable to be punished in the same manner as if he had been convicted upon an indictment charging him with simple larceny, or such other last-mentioned offence.

(2.) And if, on the trial of a person charged with larceny, it appears to the jury upon the evidence that he took the property in question in any such manner as to amount in law to any of the offences defined in Article 305, or any of the offences secondly defined in Article 311, he is not by reason thereof entitled to be acquitted, but the jury may find that he is guilty of larceny, but is guilty of one of such last-mentioned offences, as the case may be, and as the evidence may warrant; and thereupon he is liable to be punished in the same manner as if he had been convicted upon an indictment charging him with such last-mentioned offence.

(3.) A person so tried for any of the offences mentioned in this Article is not liable to be afterwards prosecuted for any other of such offences upon the same facts.

(a) The distinction between larceny and embezzlement being proposed to be abolished, this provision is no longer necessary.
CHAPTER LXII.

TRIAL: ADJOURNMENT: PLEAS: PRACTICE

Right to be Tried.

617. A person committed for trial before any Court for any indictable offence may make application in open Court at any time during the first Sittings of the Court held after his committal to be brought to his trial.

If an indictment is not presented against him at some time during those Sittings, the Court is required, upon motion made on the last day of such Sittings, to admit him to bail, unless it appears upon oath that the witnesses for the Crown could not be produced at those Sittings.

Any person committed as aforesaid, who has made such an application to be brought to his trial, is not indicted and tried at the second Sittings after his commitment, is entitled to be discharged.

Accelerating Trial of Persons not under Committal.

618. When an indictment is presented in any Court against any person who has not been committed for trial or held to bail upon the charge set forth in the indictment, and the accused person is not brought to trial within a year after the indictment is presented, the Court may, upon the application of the accused person or any of the accused persons, if more than one, authorize him to bring on the trial accordingly, unless in the meantime the Court is informed that the Crown will not further proceed upon the indictment.

Adjourment of Trial.

619. The Court before which an indictment is presented may, in any case, if it thinks fit, adjourn the trial of the accused person.

A trial may be adjourned at any period of the trial, whether a jury has or has not been sworn, and whether evidence has or has not been given.

On Adjournment of Trial Accused may be Remanded to another Court having Jurisdiction.

620. When the trial of a person charged with an offence on indictment is adjourned, the

(1) The provisions of this Chapter do not materially alter the existing provisions, except where so stated.

(2) The second paragraph is probably new.
Court may direct the trial to be held either at a later Sitting of the same Court or before some other Court of competent jurisdiction, and may remand the accused person accordingly, and may, in a proper case, admit him to bail, or enlarge his bail if he has already been admitted to bail, and may enlarge the recognizances of the prosecutor and witnesses.

In any such case, the indictment and other proceedings are to be transmitted to the proper officer of the Court to which the accused person is so remanded, if that Court has the same jurisdiction to try him as if he had been originally committed to be tried before it; all the prosecutor and witnesses are bound to attend to give evidence, and the accused person is bound to attend at the trial, at the time and place to which the trial is adjourned, without entering into any fresh recognizances for that purpose, in the same manner as if they had been originally bound by their recognizances to appear and give evidence, at the time and place to which the trial is adjourned. Accused Person to be called upon to Plead to Indictment.

621. At the time appointed for the trial of an accused person, he is to be informed in open Court of the offence with which he is charged, as set forth in the indictment, and is to be called upon to plead to the indictment, and to say whether he is guilty or not guilty of the charge.

The trial is deemed to begin when he is so called upon.

Delivery of Copy of Indictment.

622. When an indictment is presented against any person, the Court is required, upon his application, to order a copy of the indictment to be delivered to him without fee. The accused person may before pleading apply to the Court to quash the indictment on the ground that it is calculated to prejudice or embarrass him in his defence to the charge, or that it is formally defective.

Motion to Quash Indictment.

623. The accused person may before pleading apply to the Court to quash the indictment on the ground that it is calculated to prejudice or embarrass him in his defence to the charge, or that it is formally defective.

60 Geo. 3 and 1 Geo. 4, c. 6, s. 8.

649. When the Attorney-General or Solicitor-General has instituted a prosecution for a misdemeanour in the Supreme Court, the Court is required, upon the application of the defendant, to order a copy of the information to be delivered to him or his solicitor, without fee, unless he has already received a copy thereof.

Before Bill of 1880, s. 455.
Upon such motion the Court may quash the indictment, or may order it to be amended in such manner as the Court thinks just, or may refuse the motion.

Misdemeanor.

624. If the accused person says that he is wrongly named in the indictment, the Court may, on being satisfied by affidavit or otherwise of the truth of the plea, order the indictment to be amended according to the truth; and the trial is to proceed as if the plea had not been pleaded.

Present Law.

625. If the accused person does not apply to quash the indictment, he must either plead to it, or demur to it on the ground that it does not disclose any offence cognizable by the Court. If he pleads, he may plead either—

1. That he is guilty of the offence charged in the indictment, or, with the consent of the Crown, of any other offence of which he might be convicted upon the indictment;

2. That he is not guilty;

3. That he has already been convicted upon an indictment on which he might have been convicted of the offence with which he is charged, or has already been convicted of an offence of which he might be convicted upon the indictment;

4. That he has already been acquitted upon an indictment on which he might have been convicted of the offence with which he is charged, or has already been acquitted upon indictment of an offence of which he might be convicted upon the indictment;

5. That he has already been tried and convicted or acquitted of an offence committed or alleged to be committed under such circumstances that he cannot under the provisions of this Code be tried for the offence charged in the indictment;

6. That he has received the Royal pardon for the offence charged in the indictment; or

7. That the Court has no jurisdiction to try him for the offence.

Two or more pleas may be pleaded together, except that the plea of guilty cannot be pleaded with any other plea to the same charge.

An accused person may plead and demur together. (1)

(1) This is perhaps now.
Defence of Truth of Defamatory Matter to be Specially Plead.

626. A person charged with the unlawful publication of defamatory matter, who sets up as a defence that the defamatory matter is true and that it was for the public benefit that the publication should be made, must plead that matter specially, either with or without the general plea of "Not guilty."

Persons Committed for Sentence.

627. When a person has been committed by a justice for sentence for an offence, he is to be called upon to plead to the indictment in the same manner as other persons, and may plead either that he is guilty of the offence charged in the indictment or, with the consent of the Crown, of any other offence of which he might be convicted upon the indictment.

If he pleads that he is not guilty, the Court, upon being satisfied that he duly admitted before the justice that he was guilty of the offence charged in the indictment, is to direct a plea of guilty to be entered, notwithstanding his plea of not guilty. A plea so entered has the same effect as if it had been actually pleaded.

If the Court is not so satisfied, the plea of not guilty is to be entered, and the trial is to proceed as in other cases when that plea is pleaded.

A person who has been committed for sentence may plead any of the other pleas mentioned in the last preceding section but one.\(^{(1)}\)

Standing Mute.

628. If an accused person, on being called upon to plead to an indictment, will not plead or answer directly to the indictment, the Court may, if it thinks fit, order a plea of "Not guilty" to be entered on behalf of the accused person; and a plea so entered has the same effect as if it had been actually pleaded.

\[^{(1)}\] some of these provisions are probably new.
Trial on Plea to the Jurisdiction.

630. Upon a plea to the jurisdiction of the Court, the Court is to proceed to satisfy itself in such manner and upon such evidence as it thinks fit, whether it has jurisdiction or not, and may ascertain the fact by the verdict of a jury or otherwise. (1)

Trial by Jury.

631. If the accused person pleads any plea or pleas other than the plea of guilty or a plea to the jurisdiction of the Court, he is by such plea, without any further form, deemed to have put himself upon the country for trial; and the Court is required to proceed in the usual manner to order a jury for the trial of such person accordingly.

Demurrer.

632. When an accused person demurs only and does not plead any plea, the Court is to proceed to hear and determine the matter forthwith. If the demurrer is overruled, he is to be called upon to plead to the indictment. (2)

When an accused person pleads and demurs together, it is in the discretion of the Court whether the plea or demurrer shall be first disposed of.

No joinder in demurrer is necessary.

Juries.

633. The law respecting the qualifications of jurors and the summoning of jurors to attend for the trial of persons charged with indictable offences, and the number of challenges allowed to such persons, is set forth in the Statutes relating to Juries and Jurors.

Accused Person to be Informed of his Right of Challenge.

634. When an accused person has demanded to be tried by a jury, the proper officer of the Court is to inform him in open Court that the persons whose names are to be called are the jurors to be sworn for his trial, and is further to inform him that if he desires to challenge any of them he must do so before they are sworn.

Challenge to Array.

635. If the accused person desires to object to the whole panel of jurors, he must do so before any juror is sworn for his trial.

(1) This is perhaps new.
(2) The right to "pled over," as it is called, seems to be doubted under the present law.
Challenges to Individual Jurors for Cause.

636. The Crown or the accused person may object to a particular juror on either of the following grounds, that is to say,—

(1) That the juror is not qualified by law to act as a juror;
(2) That the juror is not impartial as between the Crown and the accused person.

Such objections are in addition to any peremptory challenges to which an accused person is by law entitled.

Time for Challenging.

637. An objection to a juror, either by way of peremptory challenge or by way of challenge for cause, may be made at any time before the officer has begun to recite the words of the oath to the juror, but not afterwards.

Challenges by the Crown.

638. The Crown is not bound to allege or prove any ground of objection to a juror unless and until it appears that a sufficient number of jurors cannot be obtained for the trial if the objections of the Crown are allowed to prevail.

Ascertainment of Facts as to Challenge.

639. If at any time it becomes necessary to ascertain the truth of any matter alleged as cause for challenge, the Court is required to appoint two impartial persons to try the fact. The persons so appointed are to be sworn to try the cause for challenge, and their decision on the fact is final and conclusive.

Want of Understanding of Accused Person.

640. If, when the accused person is called upon to plead to the indictment, it appears to be uncertain, for any reason, whether he is capable of understanding the proceedings at the trial, so as to be able to make a proper defence, a jury of twelve men are to be impanelled, who are to be sworn to find whether he is so capable or no.

If the jury find that he is capable of undertaking the proceedings, the trial is to proceed as in other cases.

If the jury find that he is not so capable, the finding is to be recorded, and the Court may order the accused person to be kept in strict custody in such place and in such manner as the Court thinks fit.
A person so found to be incapable of understanding the proceedings at the trial may be again indicted and tried for the offence.

Jury to be Sworn and Informed of Charge.

641. The jury are to be sworn to give a true verdict according to the evidence upon the issues to be tried by them.

When the jury have been sworn, the proper officer of the Court is to inform them of the charge set forth in the indictment, and of their duty as jurors upon the trial.

Discharge of Juror by Court.

642. If, after a juror has been sworn, it appears to the Court by his own admission that he is not impartial as between the Crown and the accused person, or that for any other reason he ought not to be allowed to act as a juror on the trial, the Court may, without discharging the whole of the jury, discharge that particular juror, and direct another juror to be sworn in his place.\(^1\)

Defence by Counsel.

643. Every person charged with an offence is entitled to make his defence at his trial and to have the witnesses examined and cross-examined by his counsel or solicitor.

The term "counsel" includes any person entitled to audience as an advocate.

Presence of Accused.

644. The trial must take place in the presence of the accused person, unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable, in which case the Court may order him to be removed, and may direct the trial to proceed in his absence.

Provided that the Court may, in any case, if it thinks fit, permit a person charged with a misdemeanour to be absent during the whole or any part of the trial on such conditions as it thinks fit.

Speeches by Counsel.

645. Before any evidence is given at the trial of an accused person the counsel for the Crown is entitled to address the jury for the purpose of opening the evidence intended to be adduced for the prosecution.

When any accused person is defended by counsel, but not otherwise, the proper officer of the Court, at the close of the case for the

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\(^1\) This is to some extent new. The same result may, however, be obtained indirectly if the accused has not been given in charge to the jury.
prosecution, is to ask the counsel for such accused person whether he intends to adduce evidence for the defence, or whether the accused person for whom he appears intends to make a statement, and if the counsel for the accused person or the counsel for any of the accused persons, if more than one, who are defended by counsel, says that he does not intend to adduce evidence, and that the accused person for whom he appears does not intend to make a statement, the counsel for the Crown is entitled to address the jury a second time for the purpose of summing up the evidence already given against such accused person or persons for whom evidence is not intended to be adduced and by whom no statement is intended to be made.

At the close of the evidence for the prosecution the accused person, and each of the accused persons, if more than one, may by himself or his counsel address the jury for the purpose of opening the evidence, if any, intended to be adduced for the defence, and after the whole of the evidence is given may again address the jury upon the whole case.

When an accused person is defended by counsel, he may make a statement to the jury before his counsel addresses the jury upon the whole case. If evidence is adduced for such accused person, the statement may be made either before or after the evidence is adduced. If evidence is adduced for an accused person, the counsel for the Crown is entitled to reply. If evidence is adduced for one or more of several accused persons, but not for all of them, the counsel for the Crown is entitled to reply with respect to the person or persons by whom evidence is so adduced, but not with respect to the other or others of them.

When an accused person, being defended by counsel, makes a statement, the counsel for the Crown is entitled to the same right of reply as if evidence had been adduced for that accused person.

Provided that a Crown Law Officer is entitled to reply in all cases, whether evidence is adduced by any accused person or not.

**Summing up.**

646. After the evidence is concluded and the counsel or the accused person or persons, as the case may be, have addressed the jury, it is the duty of the Court to instruct the jury as to the law applicable to the case, with such observations upon the evidence as the Court thinks fit to make.

(1) The present law on this point is doubtful.
After the Court has instructed the jury they are to consider their verdict.

Judgment not to Separate.

647. Except as hereinafter stated, after the jury have been sworn and the charge has been stated to them by the proper officer, they must not separate until they have given their verdict or are discharged by the Court.

And no person except the officer of the Court who has charge of them is to be allowed to speak to or communicate with any of them without the leave of the Court until they are discharged.

Provided that on the trial of a person charged with any indictable offence other than a crime punishable with death, the Court may, in its discretion, permit the jury to separate before considering their verdict for such period during any adjournment of the trial as the Court may think fit.

If any person disobeys the directions of this section he may be punished summarily as for contempt of court.

The validity of the proceedings is not affected by any such disobedience, but, if the fact is discovered before the verdict is given, the Court, if it is of opinion that such disobedience is likely to prejudice the fair trial of the charge, may discharge the jury, and may direct that a fresh jury be sworn during the same Sittings of the Court, or may adjourn the trial.

Confine of Jury.

648. While the jury are kept together, and until they have given their verdict, they are to be kept during any adjournment of the Court, and while they are considering their verdict, in some private place under the charge of an officer of the Court, and are to be provided with necessary fire and lights and with such reasonable refreshment, if any, as the Court may allow.

649. The Court may in any case, if it thinks fit, direct that the jury shall view any place or thing which the Court thinks it desirable that they should see, and may give any necessary directions for that purpose.

The validity of the proceedings is not affected by disobedience to any such directions, but, if the fact is discovered before the verdict is given, the Court, if it is of opinion that such disobedience is likely to prejudice the fair trial of the charge, may discharge the jury, and may direct that a fresh jury be sworn during the same Sittings of the Court, or may adjourn the trial.

(1) This is probably the present law.
650. In any case in which it appears to the Court that the question whether an accused person ought or ought not to be convicted of an offence may depend upon some specific fact, or that the proper punishment to be awarded upon conviction may depend upon some specific fact, the Court may require the jury to find that fact specially. 10

General Verdict on Charge of Defamation.

651. Subject to the provisions of the last preceding section, the jury, on the trial of a person charged with the unlawful publication of defamatory matter, may give a general verdict of guilty or not guilty upon the whole matter in issue, in like manner as in other cases.

Discharge of Jury.

652. When the trial of an accused person is adjourned after the jury have been sworn, the Court may discharge the jury.

If the jury cannot agree as to the verdict to be given, or if any emergency arises of such a nature as to render it in the opinion of the Court necessary or highly expedient for the ends of justice to do so, the Court may, in its discretion, discharge the jury without giving a verdict, and may direct that a fresh jury be sworn during the same sittings of the Court, or may adjourn the trial.

Such an exercise of discretion is not subject to review by any Court.

Incapacity of Judge.

653. If the presiding Judge becomes incapable of proceeding with the trial or directing the discharge of the jury, it is the duty of some officer of the Court to discharge the jury. 9

In any such case the accused person must remain in custody, and may be again put on his trial. But he has the same rights with respect to admission to bail as upon an original committal for trial for the offence with which he is charged, and any justice may, in a proper case, admit him to bail accordingly.

Incapacity of Juror.

654. If at any time during the trial a juror becomes in the opinion of the Court incapable of continuing to act as a juror, the Court may, in its discretion, discharge the juror under the

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(1) This is in accordance with the present practice.
(2) I suppose this would be held, as necessary, to be the law.
provisions hereinbefore contained, or may, if it thinks fit, and with the consent of the Crown and of the accused person, discharge the jury so becoming incapable, and direct that the trial shall proceed with the remaining jurors. In any such case the verdict of the remaining jurors shall have the same effect as if all the jurors had continued present.

655. The taking of a verdict or any other proceeding of the Court is not invalid by reason of its happening on a Sunday.

Procedure on Charge of an Offence Committed after Previous Conviction.

656. The proceedings upon an indictment for committing an offence after a previous conviction or convictions are required to be as follows, that is to say,

(1) The accused person is in the first instance to be arraigned upon so much only of the indictment as charges the subsequent offence;

(2) If he pleads not guilty, or if the Court orders a plea of not guilty to be entered on his behalf, the jury are to be charged in the first instance to inquire concerning the subsequent offence only:

(3) If the jury find him guilty, or if an arraignment he pleads guilty, he is then, and not before, to be asked whether he had been previously convicted as alleged in the indictment:

(4) If he answers that he had been so previously convicted, the Court may proceed to pass sentence upon him accordingly:

(5) If he denies that he had been so previously convicted, or stands mute of malice, or will not answer directly to the question, the jury are then to be charged to inquire concerning the previous conviction or convictions; and in that case it is not necessary to swear the jury again, but the oath already taken by them is for all purposes deemed to extend to such last-mentioned inquiry:

Provided that, if on the trial of any person charged with a subsequent offence, he offers evidence of his good character the Crown may, in answer thereto, give evidence of his conviction for the previous offence or offences before the verdict of guilty is given, and in that case the jury are required to inquire concerning the previous conviction or convictions at the same time that they inquire concerning the subsequent offence.

Bill of 1865, s. 484.

20 Vic. No. 4, s. 39; 20 Vic. No. 6, s. 121; 20 Vic. No. 13, s. 22.

572. The proceedings upon an indictment for committing an offence after a previous conviction or convictions are to be as follows, that is to say,

(1) The accused person is in the first instance to be arraigned upon so much only of the indictment as charges the subsequent offence:

(2) If he pleads not guilty, or if the Court orders a plea of not guilty to be entered on his behalf, the jury are to be charged in the first instance to inquire concerning the subsequent offence only:

(3) If the jury find him guilty, or if an arraignment he pleads guilty, he is then, and not before, to be asked whether he had been previously convicted as alleged in the indictment:

(4) If he answers that he had been so previously convicted, the Court may proceed to pass sentence upon him accordingly:

(5) If he denies that he had been so previously convicted, or stands mute of malice, or will not answer directly to the question, the jury are then to be charged to inquire concerning the previous conviction or convictions; and in that case it is not necessary to swear the jury again, but the oath already taken by them is for all purposes deemed to extend to such last-mentioned inquiry:

Provided that, if on the trial of any person charged with a subsequent offence, he offers evidence of his good character the Crown may, in answer thereto, give evidence of his conviction for the previous offence or offences before the verdict of guilty is given, and in that case the jury are required to inquire concerning the previous conviction or convictions at the same time that they inquire concerning the subsequent offence.
the jury are required to inquire concerning the previous conviction or convictions at the same time that they inquire concerning the subsequent offence.

Further Pleas.

657. When the issues raised by any plea or pleas, except the plea of not guilty, have been found against an accused person who has not pleaded the plea of not guilty, he is to be called upon to plead afresh, and, if those issues have been tried by a jury, the Court may direct the issues raised by any fresh pleas to be tried by the same jury or by another jury. If the Court directs them to be tried by the same jury, it is not necessary that the jury should be sworn afresh, but the oath already taken by them is to be deemed to extend to the trial of such fresh issues.10

CHAPTER LXIII.

EVIDENCE: PRESUMPTIONS OF FACT.

Accomplices.

658. A person cannot be convicted of an offence on the uncorroborated testimony of an accomplice or accomplices.16

Evidence on Charge of Treason.

659. On the trial of a person charged with treason, evidence cannot be admitted of any overt act not alleged in the indictment.

Evidence on Trials for Perjury and Subornation.

660. On the trial of a person charged with an offence of which the giving of false testimony by any person at the trial of a person

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1. 2 Anne, St. 2, c. 9, s. 3; 31 Vic. No. 13, s. 68.

2. 2 Anne, St. 2, c. 9, s. 3; 31 Vic. No. 13, s. 68.

3. 31 Vic. No. 13, s. 85.

4. 574. Upon the trial of any person for any offence whereon for the defence must be sworn and examined in the same manner as witnesses for the Crown.

5. 575. When a person is indicted for treason or felony the jury are not to be charged to inquire concerning his lands, tenements, or goods, nor whether he fled for such treason or felony.

6. 7 & 8 Vic. c. 9, s. 8.

7. 580. On the trial of a person charged with treason evidence cannot be admitted of any overt act not expressly charged against him in the indictment.


9. 582. On the trial of a person charged with perjury or abetment of perjury, a certificate setting out the reliance and effect only, without the formal part, of an
Evidence of Previous Conviction.

661. On the trial of a person charged with an offence alleged to have been committed after a previous conviction, a certificate setting out the substance and effect only, without the formal parts, of the indictment or complaint, and the proceedings at the trial, and purporting to be signed by the officer having the custody of the records of the Court where the indictment or complaint was tried, or by his deputy, is sufficient evidence of the trial, without proof of the signature or official character of the person who appears to have signed the certificate:

If the previous conviction was a summary conviction, the conviction is presumed not to have been appealed against until the contrary is shown.

Evidence of Relationship on Charge of Incest.

662. On the trial of a person charged with an offence of which carnal knowledge, or an attempt to have carnal knowledge, of a woman or girl, is an element, and of which blood relationship is also an element—

(1) It is sufficient to prove that the woman or girl on whose person or by whom the offence is alleged to have been committed is reputed to be the daughter or other lineal descendant, or sister, of the person charged, or of the person with whom the offence is alleged to have been committed, as the case may be, and it is not necessary to prove that such woman or girl, or any person being her parent or ancestor and being a descendant of the person charged, or of the person with whom the offence is alleged to have been committed, as the case may be, was born in lawful wedlock.

(2) The accused person is, until the contrary is proved, presumed to have had knowledge at the time of the alleged offence of the relationship existing between the woman or girl on whose person or by whom the offence is alleged to have been committed and the person charged with an offence is an element, a certificate setting out the substance and effect only, without the formal parts, of the indictment or complaint, and the proceedings at the trial, and purporting to be signed by the officer having the custody of the records of the Court where the indictment or complaint was tried, or by his deputy, is sufficient evidence of the trial, without proof of the signature or official character of the person who appears to have signed the certificate.

55 Vic. No. 9, s. 15.

585. On the trial of a person charged with any of the offences defined in Articles 172 and 173—

(1) It is sufficient to prove that the woman or girl on whose person or by whom the offence is alleged to have been committed is reputed to be the daughter or other lineal descendant, or sister, of the person charged, or of the person with whom the offence is alleged to have been committed, as the case may be, and it is not necessary to prove that such woman or girl, or any person being her parent or ancestor and being a descendant of the person charged, or of the person with whom the offence is alleged to have been committed, as the case may be, was born in lawful wedlock.

(2) The accused person is, until the contrary is proved, presumed to have had knowledge at the time of the alleged offence of the relationship existing between the woman or girl on whose person or by whom the offence is alleged to have been committed and the person charged with an offence is an element, a certificate setting out the substance and effect only, without the formal parts, of the indictment or complaint, and the proceedings at the trial, and purporting to be signed by the officer having the custody of the records of the Court where the indictment or complaint was tried, or by his deputy, is sufficient evidence of the trial, without proof of the signature or official character of the person who appears to have signed the certificate.

20 Vic. No. 6, s. 30; 20 Vic. No. 5, s. 73; 20 Vic. No. 6, ss. 117, 121.

583. On the trial of a person charged with any of the offences defined in Articles 110, 121, 125, and 261, or in Chapter XXXIV, except Article 380, or in Chapter XXXVI, except Article 315, or in Chapter XXXVIII, except Article 368, or in Chapter XLII, and charged to have been committed after a previous conviction—

(1) A certificate setting out the substance and effect only, without the formal parts, of an indictment or conviction for a previous felony or misdemeanour, purporting to be signed by the officer having the custody of the records of the Court where the accused person was first convicted, or by the deputy of such officer, is, upon proof of the identity of the person of the offender, sufficient evidence of the conviction, without proof of the signature or official character of the person appearing to have signed the certificate or copy:

A fee of six shillings and eightpence and no more may be demanded or taken for such certificate.

(2) If the previous conviction was before justices, a copy of the conviction, certified by the proper officer of the District Court to which the conviction was sent, as provided by Article 380, or proved to be a true copy, is sufficient evidence of the conviction:

(3) In the case of a summary conviction the conviction is presumed not to have been appealed against until the contrary is shown.

55 Vic. No. 9, s. 15.

660. On the trial of a person charged with an offence alleged to have been committed after a previous conviction, a certificate setting out the substance and effect only, without the formal parts, of the indictment, verdict, and judgment, or of the complaint and conviction, purporting to be signed by the officer having the custody of the records of the Court where the accused person was first convicted, or by his deputy, is, upon proof of the identity of the person of the offender, sufficient evidence of the conviction, without proof of the signature or official character of the person appearing to have signed the certificate.

Evidence of Previous Conviction.

661. On the trial of a person charged with an offence alleged to have been committed after a previous conviction, a certificate setting out the substance and effect only, without the formal parts, of the indictment, verdict, and judgment, or of the complaint and conviction, purporting to be signed by the officer having the custody of the records of the Court where the accused person was first convicted, or by his deputy, is, upon proof of the identity of the person of the offender, sufficient evidence of the conviction, without proof of the signature or official character of the person appearing to have signed the certificate:

If the previous conviction was a summary conviction, the conviction is presumed not to have been appealed against until the contrary is shown.

Evidence of Relationship on Charge of Incest.

662. On the trial of a person charged with an offence of which carnal knowledge, or an attempt to have carnal knowledge, of a woman or girl, is an element, and of which blood relationship is also an element—

(1) It is sufficient to prove that the woman or girl on whose person or by whom the offence is alleged to have been committed is reputed to be the daughter or other lineal descendant, or sister, of the person charged, or of the person with whom the offence is alleged to have been committed, as the case may be, and it is not necessary to prove that such woman or girl, or any person being her parent or ancestor and being a descendant of the person charged, or of the person with whom the offence is alleged to have been committed, as the case may be, was born in lawful wedlock.

(2) The accused person is, until the contrary is proved, presumed to have had knowledge at the time of the alleged offence of the relationship existing between the woman or girl on whose person or by whom the offence is alleged to have been committed and the person charged with an offence is an element, a certificate setting out the substance and effect only, without the formal parts, of the indictment or complaint, and the proceedings at the trial, and purporting to be signed by the officer having the custody of the records of the Court where the indictment or complaint was tried, or by his deputy, is sufficient evidence of the trial, without proof of the signature or official character of the person who appears to have signed the certificate.

20 Vic. No. 6, s. 30; 20 Vic. No. 5, s. 73; 20 Vic. No. 6, ss. 117, 121.

583. On the trial of a person charged with any of the offences defined in Articles 110, 121, 125, and 261, or in Chapter XXXIV, except Article 380, or in Chapter XXXVI, except Article 315, or in Chapter XXXVIII, except Article 368, or in Chapter XLII, and charged to have been committed after a previous conviction—

(1) A certificate setting out the substance and effect only, without the formal parts, of an indictment or conviction for a previous felony or misdemeanour, purporting to be signed by the officer having the custody of the records of the Court where the accused person was first convicted, or by the deputy of such officer, is, upon proof of the identity of the person of the offender, sufficient evidence of the conviction, without proof of the signature or official character of the person appearing to have signed the certificate or copy:

A fee of six shillings and eightpence and no more may be demanded or taken for such certificate.

(2) If the previous conviction was before justices, a copy of the conviction, certified by the proper officer of the District Court to which the conviction was sent, as provided by Article 380, or proved to be a true copy, is sufficient evidence of the conviction:

(3) In the case of a summary conviction the conviction is presumed not to have been appealed against until the contrary is shown.

55 Vic. No. 9, s. 15.

660. On the trial of a person charged with an offence alleged to have been committed after a previous conviction, a certificate setting out the substance and effect only, without the formal parts, of the indictment, verdict, and judgment, or of the complaint and conviction, purporting to be signed by the officer having the custody of the records of the Court where the accused person was first convicted, or by his deputy, is, upon proof of the identity of the person of the offender, sufficient evidence of the conviction, without proof of the signature or official character of the person appearing to have signed the certificate:

If the previous conviction was a summary conviction, the conviction is presumed not to have been appealed against until the contrary is shown.

Evidence of Relationship on Charge of Incest.

662. On the trial of a person charged with an offence of which carnal knowledge, or an attempt to have carnal knowledge, of a woman or girl, is an element, and of which blood relationship is also an element—

(1) It is sufficient to prove that the woman or girl on whose person or by whom the offence is alleged to have been committed is reputed to be the daughter or other lineal descendant, or sister, of the person charged, or of the person with whom the offence is alleged to have been committed, as the case may be, and it is not necessary to prove that such woman or girl, or any person being her parent or ancestor and being a descendant of the person charged, or of the person with whom the offence is alleged to have been committed, as the case may be, was born in lawful wedlock.

(2) The accused person is, until the contrary is proved, presumed to have had knowledge at the time of the alleged offence of the relationship existing between the woman or girl on whose person or by whom the offence is alleged to have been committed and the person charged with an offence is an element, a certificate setting out the substance and effect only, without the formal parts, of the indictment or complaint, and the proceedings at the trial, and purporting to be signed by the officer having the custody of the records of the Court where the indictment or complaint was tried, or by his deputy, is sufficient evidence of the trial, without proof of the signature or official character of the person who appears to have signed the certificate.
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charged, or the person with whom the offence is alleged to have been committed, as the case may be.

14 Vic. No. 9, s. 3.

587. On the trial of a person on a charge of keeping or using, or being concerned in the management, conduct of, a common gaming-house or place for gaming, or for gaming in, or permitting any game or gaming in, a common gaming-house or place for gaming, it is not necessary to prove that any person found playing at any game was playing for any money wage or stake.

27 Vic. No. 1, ss. 246, 247.

588. On the trial of any person charged with any of the offences defined in Articles 47, 48, 160, and 204—

(1) The averment in the indictment or complaint that any person therein mentioned was employed for the prevention of smuggling at any time therein stated is sufficient evidence of the fact, unless the contrary is shown;

(2) The evidence of any person that he is or was at any material time an officer of the army or navy or marines on full pay, or an officer of Customs, or other evidence that any person has acted as such an officer, is sufficient evidence of his being or having been such officer without proof of any documentary evidence of his appointment, unless the contrary is shown.

53 Vic. No. 12, s. 30.

591. On the trial of a person charged with unlawfully publishing defamatory matter contained in a periodical, after evidence sufficient in the opinion of the Court has been given of the publication by the accused person of the number or part of the periodical containing the matter complained of, other writings or prints purporting to be other numbers or parts of the same periodical formerly or subsequently published, and containing a printed statement that they were published by or for the accused person, are admissible in evidence on either side, without further proof of publication of them.

58 Vic. No. 29, s. 7.

592. On the trial of a person charged with any of the offences defined in Articles 398, 399, and 401, which relate to money—

(1) An entry in any book of account kept by the accused person, or kept in, under, or subject to,

(2.) The accused person is, until the contrary is proved, presumed to have had knowledge at the time of the alleged offence of the relationship existing between the woman or girl on whose person or by whom the offence is alleged to have been committed and the person charged, or the person with whom the offence is alleged to have been committed, as the case may be.

Evidence of Gaming.

563. On the trial of a person charged with an offence of such a nature that proof that any place was kept or used or resorted to for playing at any game of chance, or of mixed chance and skill, is necessary, it is not necessary to prove that any person there found playing at any game was playing for any money, wage, or stake.

Evidence on Charges of Offences against Customs.

569. On the trial of a person charged with any offence of which the fact that some person was at some particular time an officer of Customs, or was at some particular time employed for the prevention of smuggling, is an element, the averment in the indictment or complaint that any person therein mentioned was an officer of Customs, or was employed for the prevention of smuggling, at any time therein stated is sufficient evidence of the fact, until the contrary is shown.

Evidence on Trial for Defamation.

666. On the trial of a person charged with the unlawful publication of defamatory matter which is contained in a periodical, after evidence sufficient in the opinion of the Court has been given of the publication by the accused person of the number or part of the periodical containing the matter complained of, other writings or prints purporting to be other numbers or parts of the same periodical previously or subsequently published, and containing a printed statement that they were published by or for the accused person, are admissible in evidence on either side, without further proof of publication of them.

Evidence on Charge of Stealing by Clerks or Servants.

666. On the trial of a person charged with stealing, while employed in the Public Service, money which was the property of Her Majesty, or which came into his possession by virtue of
his charge or supervision, purporting to be an entry of the receipt of any money, is prima facie evidence that the money so purporting to have been received was so received by him;

(2) It is not necessary to prove the livery or embodiment by the accused person of any specific sum of money, if there is proof of a general deficiency, or on the examination of the books of account or entries kept or made by him, or kept or made in, under, or subject to, his charge or supervision, or otherwise, and if the jury are satisfied that he stole or fraudulently embezzled the deficient money or any part of it.

his employment, or charged with stealing, while a clerk or servant, money which was the property of his employer, or which came into his possession on account of his employer, an entry in any book of account kept by the accused person, or kept in, under, or subject to, his charge or supervision, purporting to be an entry of the receipt of any money, is evidence that the money so purporting to have been received was so received by him.

On the trial of a person charged with any such offence, it is not necessary to prove the stealing by the accused person of any specific sum of money, if, on examination of the books of account or entries kept or made by him, or kept or made in, under, or subject to, his charge or supervision, or by any other evidence, there is proof of a general deficiency, and if the jury are satisfied that the accused person stole the deficient money or any part of it.

Evidence on Charge of Forging Seals and Stamps.

583. On the trial of any person charged with any of the offences defined in Article 458, any stamp, mark, or impression which has been transmitted to the Governor of Queensland, with a despatch from one of Her Majesty’s Principal Secretaries of State as a genuine stamp, mark, or impression, of a die, plate, or other instrument, provided, made, or used by or under the direction of the Commissioner of Stamps or other lawful authority mentioned in that Article for the purpose of expressing or denoting any stamp duty, is prima facie evidence of such stamp, mark, or impression, or of such die, plate, or instrument, and may be used by the Court and jury and by the witnesses for the purposes of comparison.

Evidence on Charge of Forging Seals and Stamps.

584. (1) On the trial of a person charged with—

(a) Obtaining or attempting to obtain any chattel, money, or valuable security, by false pretences; or;

(b) Forging or uttering any instrument whatever; it is not necessary to prove an intent to defraud any particular person, but it is sufficient to prove that the accused person did the act charged with an intent to defraud.

(2) On the trial of a person charged with any of the offences defined in Division II. of Part VI. of the Digest, which involves an intent to injure or defraud, it is not necessary to prove an intent to injure or defraud any particular person, but it is sufficient to prove that the accused person did the act charged with an intent to injure or defraud, as the case may be.

Intention to Defraud.

585. On the trial of a person charged with any offence of which an intent to injure or deceive or defraud, or an intent to enable another person to deceive or defraud, is an element, it is not necessary to prove an intent to injure or deceive any particular person, or an intent to enable any particular person to deceive or defraud any particular person.
(2.) On the trial of a person charged with any of the 
offences defined in Article 468, which involves an intent 
to defraud or to enable another person to defraud, it is 
not necessary to prove an intent to defraud any 
particular person or an intent to enable any particular person 

to defraud any particular person, but it is sufficient to 
prove that the accused person did the act charged with 

an intent to defraud, or with an intent to enable some
other person to defraud, or with an intent that another
person might be enabled to defraud.

Admissions.

669. An accused person or his counsel may
admit any fact alleged against him, and such
admission is sufficient proof of the fact without
other evidence.\(^{(1)}\)

CHAPTER LXIV.

JUDGMENT.

Acquitted Person Insane during Trial.

670. If on the trial of any person charged
with an indictable offence it is alleged or appears that
he is not of sound mind, the jury are to be
required to consider the matter, and if the jury
find that he is not of sound mind, the finding is
to be recorded, and thereupon the Court is
required to order him to be kept in strict
custody, in such place and in such manner as
the Court thinks fit, until he is dealt with
under the laws relating to insane persons.

A person so found to be not of sound mind
may be again indicted and tried for the offence.

Discharge of Persons Acquitted.

671. If the jury find that the accused person
is not guilty, or give any other verdict which
shows that he is not liable to punishment, he
is entitled to be discharged from the charge of
which he is so acquitted.

Acquittal on Ground of Insanity.

672. Provided that if, on the trial of a person
charged with any indictable offence, it is
alleged or appears that he was not of sound mind
at the time when the act or omission alleged to

\(^{(1)}\) The accused person may admit his guilt by pleading guilty. Why not allow him to admit specific facts?
Convicted Person to be called on to Show Cause.

673. When an accused person pleads that he is guilty of any offence, and when, upon trial, an accused person is convicted of any offence, the proper officer is required to ask him whether he has anything to say why sentence should not be passed upon him: But an omission to do so does not invalidate the judgment.

Arrest of Judgment.

674. A person convicted of an indictable offence, whether on his plea of guilty or otherwise, may at any time before sentence move that judgment be arrested on the ground that the indictment does not disclose any offence.

Upon the hearing of the motion the Court may allow any such amendments of the indictment as it might have allowed before verdict.

The Court may either hear and determine the motion forthwith or may reserve it for the consideration of the Supreme Court as hereinbefore provided. (1)

Sentence.

675. If a motion to arrest the judgment is not made or is dismissed, the Court may either pass sentence upon the offender forthwith or may discharge him on his recognizance, with or without sureties, to appear and receive judgment at some future sittings of the Court, or when called upon.

If the trial was had in a Circuit Court, the recognizance may, in the discretion of the

(1) This and the following section are partly new.
When a person is convicted of any capital felony except murder, and the Court before which he is convicted is of opinion that, under the circumstances of the case, the offender is a proper subject to be recommended for the Royal mercy, the Court may, if it thinks fit, direct the proper officer to ask the offender, and thereupon such officer is required to ask the offender, whether he has anything to say why judgment of death should not be recorded against him.

If the offender does not allege any matter sufficient in law to arrest or bar such judgment, the Court may abstain from pronouncing judgment of death upon him, and may, instead of pronouncing such judgment, order judgment of death to be entered of record.

And thereupon the proper officers shall enter judgment of death on record against the offender in the usual form, as if judgment of death had actually been pronounced by the Court against the offender in open court.

A record of a judgment of death so entered has the like effect to all intents and purposes as if judgment of death had been pronounced in open court, and the offender had been reprimed by the Court.

Court, be conditioned to appear and receive judgment before the Supreme Court at some fixed future time, or when called upon.

If sentence is not passed forthwith, any Judge of the Court may at any subsequent sitting of the Court at which the offender is present pass sentence upon him.

The Court may, before passing sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed.

**Sentence of Death.**

676. The sentence to be pronounced upon a person who is convicted of a crime punishable with death is that he be returned to his former custody, and that at a time and place to be appointed by the Governor in Council he be hanged by the neck until he is dead.

**Recording Sentence of Death.**

677. Provided that when a person is convicted of any crime punishable with death, except treason and willful murder, if the Court is of opinion that, under the circumstances of the case, it is proper that the offender should be recommended for the Royal mercy, the Court may, if it thinks fit, direct the proper officer, instead of asking the offender whether he has anything to say why sentence of death should not be passed upon him, to ask the offender, and thereupon such officer is to ask the offender, whether he has anything to say why judgment of death should not be recorded against him.

In any such case the Court may abstain from pronouncing judgment of death, and may, instead of pronouncing such judgment, order judgment of death to be entered of record.

And thereupon the proper officer is to enter judgment of death on record against the offender in the usual form, as if judgment of death had actually been pronounced by the Court against the offender in open court.

A record of a judgment of death so entered has the same effect in all respects as if judgment of death had been pronounced in open court.

**Pregnant Women.**

678. When sentence of death is passed upon a woman, she may apply for an order to stay execution on the ground that she is with child of a quick child.

(1) See Accompanying Letter.
If such an application is made, the Court is required to direct one or more legally qualified medical practitioners to be sworn to examine the woman in some private place either together or successively, and to ascertain whether she is with child of a quick child or not.

If upon their report, verified on their oaths, it appears that she is with child of a quick child, the Court is required to order that execution of the sentence be respited until she is delivered of a child or until it is no longer possible in the course of nature that she should be delivered.\(^{(1)}\)

### Irons.

679. On a conviction for any crime of which violence to the person of any person, or the circumstance that the offender was armed with any offensive weapon or instrument, or the circumstance that the offender effected his purpose by means of any threats of violence to any person or property, is an element, the Court may direct that the offender be kept in irons for any term not exceeding the first three years of the term of his imprisonment.

### Solitary Confinement.

680. When an offender is sentenced to solitary confinement, the Court is required to give directions in the sentence as to the confinement, and may direct that the offender be kept in solitary confinement for any portions of the term of his imprisonment, whether it is with or without hard labour, not exceeding one month at any one time, and not exceeding three months in any one year.

### Whipping.

681. When an offender is sentenced to whipping, the Court is required to give directions in the sentence as to the whipping, and may direct that the offender be once, or, if so provided in the section of this Code defining the offence, once, twice, or thrice, privately whipped. The number of strokes, which may not exceed fifty at each whipping, and, in the case of an offender under the age of sixteen years, may not exceed twenty-five at each whipping, and the instrument with which they are to be inflicted, must be specified by the Court in the sentence.

\(^{(1)}\) The present law is, in strictness, that a jury of matrons shall be summoned to inquire into the matter.
60 Vic. No. 14, ss. 2, 3, 4, 5, 6.

612. When a person who has not been previously convicted of an offence in Queensland or elsewhere is committed of an offence punishable on summary conviction to the justices, or of any offence for which, by law, a sentence of penal servitude, or of imprisonment with or without hard labour, for a shorter period than three years may be imposed, and for which a sentence of such duration is, in the opinion of the Court, an adequate punishment, and is sentenced upon such conviction to penal servitude or imprisonment for a period exceeding three months, the following provisions come into operation, that is to say:

(1) The Court must proceed to pass sentence upon the offender in the usual form:

(2) The Court may, if it thinks fit, suspend the execution of the sentence, upon the offender entering into a recognizance in such amount as the Court directs, such recognizance being conditional that the offender shall be of good behaviour for a period from the date of the sentence equal to the term of the sentence, or if the term of the sentence is less than twelve months, then for the period of twelve months, and shall not during the like period do or omit to do any act whereby the recognizance would become liable to be forfeited under the provisions hereinafter contained:

A written notice must be given to the offender upon his discharge specifying the conditions under which he will become liable to be so committed to prison:

(3) When such recognizance is entered into the offender is to be discharged from custody, but is liable to be committed to prison to perform his sentence if, during the period specified in the recognizance, any of the conditions hereinafter specified happens with respect to him:

A written notice must be given to the offender upon his discharge specifying the conditions under which he will become liable to be so committed to prison:

(4) When an offender is so committed to prison, the sentence begins to run from the date of the commencement of the sentence, and not from the date of the recognizance, and the expiration of that period the offender is entitled to be discharged:

(5) If the offence has relation to property, or is an offence against the person, the Court may, if it thinks fit, upon suspending the execution of the sentence as hereinafter provided, order the offender to make restitution of the property in respect of which the offence was committed, or to pay compensation for the injury done to such property, or compensation for the injury done to the person injured, as the case may be, and may assess the amount to be paid by the offender in any such case, and may direct whom and to whom and in what manner the amount ordered to be paid is to be paid:

Every such order may be enforced by any Justice in the same manner as orders made by Justices upon summary convictions:

The Court may also, if it thinks fit, require the offender to give security for the performance of any such order, and may make the discharge of the offender from custody conditional upon such security being given:

Suspension of Punishment on First Conviction.

613. When a person who has not been previously convicted in Queensland or elsewhere of an offence of such a nature that, upon conviction, a sentence may be imposed restricting the liberty of the offender for a period of six months or upwards, is convicted of any offence of such a nature that he may be sentenced, upon the conviction, to imprisonment for a period not exceeding three years, the Court may, if it deems fit, suspend the execution of the sentence, that is to say,—

(1) The Court is to proceed to pass sentence upon the offender in the usual form:

(2) The Court may, if it thinks fit, suspend the execution of the sentence, upon the offender entering into a recognizance in such amount as the Court directs, such recognizance being conditional that the offender shall be of good behaviour for a period from the date of the sentence equal to the term of the sentence, or if the term of the sentence is less than twelve months, then for the period of twelve months, and shall not during the like period do or omit to do any act whereby the recognizance would become liable to be forfeited under the provisions hereinafter contained:

A written notice must be given to the offender upon his discharge specifying the conditions under which he will become liable to be so committed to prison:

(3) When such recognizance is entered into the offender is to be discharged from custody, but is liable to be committed to prison to perform his sentence if, during the period specified in the recognizance, any of the conditions hereinafter specified happens with respect to him:

A written notice must be given to the offender upon his discharge specifying the conditions under which he will become liable to be so committed to prison:

(4) When an offender is so committed to prison, the sentence begins to run from the date of the commencement of the sentence, and not from the date of the recognizance, and the expiration of that period the offender is entitled to be discharged:

(5) If the offence has relation to property, or is an offence against the person, the Court may, if it thinks fit, upon suspending the execution of the sentence as hereinafter provided, order the offender to make restitution of the property in respect of which the offence was committed, or to pay compensation for the injury done to such property, or compensation for the injury done to the person injured, as the case may be, and may assess the amount to be paid by the offender in any such case, and may direct whom and to whom and in what manner the amount ordered to be paid is to be paid:

Every such order may be enforced by any Justice in the same manner as orders made by Justices upon summary convictions:

The Court may also, if it thinks fit, require the offender to give security for the performance of any such order, and may make the discharge of the offender from custody conditional upon such security being given:

(1) It is proposed to modify the conditions on which this indulgence may be granted—(1) by disregarding previous convictions for offences for which the maximum term of imprisonment is less than six months; and (2) by disregarding the term of the sentence actually passed, so long as it does not exceed imprisonment for three years.
(9) An offender discharged under the provisions of this Article must, once at least in every three months during the period specified in the recognizance, report his address and occupation to the principal officer of police at the place in which he was convicted, or at such other place as the Commissioner of Police may appoint:

Such report may be made either by the offender personally attending at the place aforesaid, or by post-letter signed by him and addressed to the principal officer of police at that place, unless in any case the Colonial Secretary directs that the report shall be made by the offender personally, in which case it must be made in that manner only.

(7) If, during the period specified in the recognizance—

(d) It is proved to two justices in petty sessions that an offender so discharged has failed to report his address and occupation to the person, at the times, and in the manner lastly prescribed; or

(5) An offender so discharged is charged with an offence punishable by imprisonment, or, on his being required by the [justice or] justices before whom he is charged to give his name and address, he refuses to do so, or gives a false name or a false address; or

(6) An offender so discharged is convicted of any offence under the Act commonly called the Vagrancy Act (15 Vic. No. 4), or of any offence punishable on summary conviction and for which imprisonment for a period exceeding one month may be imposed;

the Court before which the offender is charged or convicted may forfeit the recognizance and commit him to prison to perform his original sentence, or so much thereof, if any, as remains to be performed under the provisions hereinbefore contained, and the Court may grant any necessary warrant for his committal.

But if during the period aforesaid none of the aforesaid events happen, he is discharged from the original sentence, and the conviction on which that sentence was imposed is not on any subsequent conviction against him to be deemed to be a previous conviction for the purposes of any law under which a greater punishment may be inflicted upon a person who has been previously convicted.

the term of the imprisonment does not extend beyond the period specified in the recognizance, and at the expiration of that period the offender is entitled to be discharged:

(6) If the offence has relation to property, or is an offence against the person, the Court or justices may, upon suspending the execution of the sentence as hereinbefore provided, order the offender to make restitution of the property in respect of which the offence was committed, or to pay compensation for the injury done to such property, or compensation for the injury done to the person injured, as the case may be, and may assess the amount to be paid by the offender in any such case, and may direct when and to whom and in what instalments the amount ordered to be paid is to be paid:

Any such order may be enforced by any justice in the same manner as orders made by justices upon summary convictions:

The Court or justices may require the offender to give security for the performance of any such order, and may make the discharge of the offender from custody conditional upon such security being given:

An offender discharged under the provisions of this section must, once at least in every three months during the period specified in the recognizance, report his address and occupation to the principal officer of police at the place in which he was convicted, or at such other place as the Commissioner of Police may appoint:

Such report may be made either by the offender personally attending at the place aforesaid, or by post-letter signed by him and addressed to the principal officer of police at that place, unless in any case the Home Secretary directs that the report shall be made by the offender personally, in which case it must be made in that manner only:
(7) If, during the period specified in the recognizance, any of the events following happen, that is to say,—

(c) If it is proved to two justices in petty sessions that an offender so discharged has failed to report his address and occupation to the person, at the times, and in the manner lastly prescribed; or

(6) If an offender so discharged is charged with a police officer with getting his livelihood by dishonest means, and, on his being brought before two justices in petty sessions, it appears to the justices that there are reasonable grounds for believing that he is getting his livelihood by dishonest means; or

(e) If an offender so discharged is charged with an offence punishable on indictment or summary conviction, and, on his being required by the justices before whom he is charged to give his name and address, he refuses to do so, or gives a false name or a false address; or

(d) If an offender so discharged is convicted of any indictable offence, whether on indictment or summarily, or of any offence punishable on summary conviction and for which imprisonment for a period exceeding one month may be imposed;

the Court or justices before whom the offender is charged or convicted may forfeit the recognizance and commit him to prison to perform his original sentence, or so much thereof, if any, as remains to be performed under the provisions hereinbefore contained; and the Court or justices may grant any necessary warrant for his committal:

But if during the period aforesaid none of the aforesaid events happens, he is discharged from the original sentence; and the conviction on which that sentence was imposed is not on any subsequent conviction against him to be deemed to be a previous conviction for the purposes of any law under which a greater punishment may be inflicted upon a person who has been previously convicted.

Discharge of Offender in certain Cases.

683. When a person is summarily convicted of any offence relating to property, the justices

29 Vic. No. 6, s. 68; 29 Vic. No. 6, s. 118.

619. When a person is summarily convicted before justices of any of the offences defined in Chapter XXXVIII.
may, if it is a first conviction, discharge the offender from punishment upon his making such satisfaction to the person aggrieved for damages, with or without costs, as may be approved by the justices.

Assessment of Value of Property: Appropriation of Fines dependent on Value.

684. On a summary conviction by which any penalty is imposed upon the basis of the value of any property taken, killed, or destroyed, or of the amount of any injury done to any property, such value or amount is to be assessed by the convicting justices, and the amount, when recovered, is to be paid to the person aggrieved, unless he is unknown, or unless the property taken or injured is of a public nature; in either of which cases it is to be applied in the same manner as other fines imposed by justices.

Provided that when several persons join in the commission of the same offence, and an conviction each is adjudged to forfeit a sum equivalent to the value of the property or to the amount of the injury, no further sum than such value or amount is to be paid to the party aggrieved, but the remaining sum or sums forfeited are to be applied in the same manner as fines imposed by justices.

Effect of Summary Conviction for Indictable Offences.

685. When a person has been summarily convicted of an indictable offence, the conviction is to be deemed a conviction of a simple offence only, and not of an indictable offence.
(c) Any conspiracy to cheat or defraud, or to obtain money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert, or defeat, the course of public justice;

(d) Any escape or respite from lawful custody on a criminal charge;

(e) The public and indecent exposure of the person;

(f) The public selling, or exposing for public sale or to public view, of any obscene book, print, picture, or other indecent exhibition;

is liable to imprisonment for any term required by law with or without hard labour, in addition to, or instead of, such fine, if any, as the Court may impose. (c)

CHAPTER LXV.

COST

Costs of Prosecution in Certain Cases.

686. When a person is convicted on indictment of any indictable offence relating to the person of any person, the Court, on the application of the person aggrieved by the offence, may, in addition to any sentence which is passed upon the offender, adjudge him to pay to the person aggrieved his costs of prosecution, together with a sum by way of compensation for any loss of time suffered by him by reason of the offence of which the offender is convicted.

An order for the payment of such costs, or of any sum so awarded by way of compensation, may be enforced in the same manner as a judgment of the Court given in an action.

If any money was found on the person of the offender on his arrest, the Court may order it to be applied towards the payment of any money so ordered to be paid by him.

When an order is made under the provisions of this section for the payment of money by way of compensation to an aggrieved person, the offender is not liable to any civil proceedings for the same cause at the suit of that person.

Costs in Cases of Defamation.

687. (1) In the case of a prosecution of any person on the complaint of a private prosecutor for the publication of defamatory matter, if the defendant pleased the truth of the complaint of a private prosecutor for the publication of defamatory matter, if the defendant pleaded the truth of
the matter published and that the publication was for the
public benefit, then, if the issue is found for the Crown,
the prosecutor is entitled to recover from the defendant:
the costs sustained by him by reason of such plea.
(3) Such costs so to be recovered by the defendant
or prosecution, respectively, are to be taxed by the proper
officer of the Court before which the defendant is tried.
(4) When any person is convicted of publishing any
defamatory matter by means of printing, the prosecutor
may levy the penalty and costs out of any property of
the defendant in like manner as in civil actions, and also
out of the whole of the types, presses, or printing materials,
belonging to the person whose types, presses, or printing
materials, or any part thereof were used in printing such
defamatory matter, to whomsoever the same may belong
at the time of the levy.

(3) In the case of a prosecution of any
person on the complaint of a private prosecutor
on a charge of the unlawful publication of
defamatory matter, if the defendant pleads
the truth of the matter published and that the
publication was for the public benefit, then, if
the issue is found for the Crown, the prosecutor
is entitled to recover from the defendant the
costs sustained by him by reason of such plea.
(3) When any person is convicted of the
unlawful publication of any defamatory
matter which was published by means of print-
ing, the prosecutor may levy the fine, if any,
and costs out of any property of the offender
in like manner as in civil actions, and also out
of the whole of the types, presses, or printing
materials, which, at the time when the offence
was committed, belonged to any person to
whom any types, presses, or printing materials,
used in printing such defamatory matter,
belonged at the time when the offence was
committed, to whomsoever the same may
belong at the time of the levy.

Taxation.
688. Costs of a prosecution or defence must
be taxed by the proper officer of the Court
in which the indictment is presented.
If the indictment is presented in a Circuit
Court, the costs must be taxed by the proper
officer of the Supreme Court.
The term "costs of prosecution" includes
costs incurred by the person aggrieved in order
to the committal of the offender, and costs
incurred by him with the consent of the Crown
for the purposes of the trial.
The term "costs of defence" includes costs
incurred by the person charged both before and
after his committal.\(^\text{(1)}\)

Enforcement of Judgment of Circuit Court.
689. When an order is made by a Circuit
Court under the provisions of this Chapter, it
may be recorded in the Supreme Court, and
may then be enforced in the same manner as a
judgment of that Court given in an action.

CHAPTER LXVI.
EXECUTION OF SENTENCE.

Execution of Sentence of Death.
690. The punishment of death is executed
by hanging the offender by his neck until he
\(^{(1)}\) This and the following sections are not free from doubts and
difficulties that may arise in practice.
by the sheriff, must execute the sentence or cause it to be executed within the walls or within the enclosed yard of the prison of the district in which the conviction was had or of such other prison as the Governor in Council may direct.

The sheriff, or under sheriff, or such deputy, must be present at the execution, together with the superintendent and proper officers of the prison, including the medical officer. All justices who may think fit, and such constables, military guard, and adult spectators as the sheriff, under sheriff, or such deputy, may think fit, may also be present.

All the persons attending the execution must remain in the enclosure until execution has been done according to law, and until the medical officer has signed a certificate in the form following, that is to say,—

"(A.D.), being the medical officer of the end of...

"do hereby declare and certify that I was on the day when the execution of C.D., lately convicted and duly sentenced to death at the Supreme Court in Brisbane, took place, and I further certify that the said C.D. was, in pursuance of such sentence, hung by the neck until his body was dead.

Given under my hand this 11th day of , in the year .

Thou, the undersigned, do hereby declare and certify that I was on the day when the execution of C.D., lately convicted and duly sentenced to death at the Supreme Court in Brisbane, took place, and I further certify that the said C.D. was, in pursuance of such sentence, hung by the neck until his body was dead.

Given under my hand this 11th day of , in the year .

The body of the offender is to be buried at such place as the Governor in Council may direct.

20 Vic. No. 13, s. 64.

607. In any case in which the Governor is authorised, on behalf of Her Majesty, to extend mercy conditionally to any offender under sentence of death, he may extend mercy on condition of the offender being kept in penal servitude for such term as the Governor may think fit, and may also, in any case the first three years of such term of penal servitude, or in any case any term not exceeding in any case the first three years of such term of penal servitude, extend mercy on condition of the offender being kept in penal servitude for any term not exceeding in any case the first three years of such term of penal servitude. Any such extension of mercy is to be signified in writing to the Colonial Secretary, and the Colonial Secretary is to be kept in such place as the Governor in Council may direct.

609. If a person is convicted and sentenced to death and is to be executed by being hung, the execution must be done under such regulations and in such manner as may be prescribed by the Governor in Council.

The body of the offender is to be buried at such place as the Governor in Council may direct.

Commutation of Capital Sentence.
tary is required thereupon to allow the offender the benefit of a conditional pardon, and to make an order that he be held in penal servitude, either in irons or not in irons, according to the direction of the Governor. Such allowance or order has the effect of a valid sentence passed by the Court before which the offender was convicted.

29 Vic. No. 6, s. 124; 29 Vic. No. 11, s. 70; 55 Vic. No. 24, s. 20.

609. A whipping is not in any case to be inflicted after the expiration of six months from the passing of the sentence. When whipping is to be inflicted on a person sentenced to punish a crime, it must be inflicted before he is put to any employment or labour at any place outside the walls of any prison in which he be confined.

692. The punishment of whipping is not in any case to be inflicted after the expiration of six months from the passing of the sentence.

693. When any person is indicted for any indictable offence, the Court before which he is tried must, on the application of counsel for the accused person made during the trial, and may in its discretion, either during or after the trial, without such application, reserve any question of law which arises on the trial for the consideration of the Supreme Court, and may thereupon either respite execution of the judgment until the question has been considered and decided. In either case the Court must either commit the person convicted to prison, or take a recognizance of bail, with one or more sufficient sureties, and in such sum as the Court thinks fit, conditioned to appear at such time or times as the Court may direct, and to receive judgment or to render himself in execution, as the case may be.

The question so reserved to state in a case signed by him, the question of law so reserved, with the special circumstances upon which it arose; and the case is to be transmitted to the Supreme Court at Brisbane.

The question so reserved is to be heard and determined by the Full Court at Brisbane (at some other convenient place), and judgment must be delivered in open Court, after hearing counsel or the parties, if the Attorney-General, or other prosecutor, or the convicted person, desires that the question shall be argued; and thereafter the Court may—

(a) Reverse, affirm, or amend any judgment given at the trial; or

Whipping.

Reservation of Points of Law.

APPEAL: PARDON.

693. When any person is indicted for any indictable offence, the Court before which he is tried must, on the application of counsel for the accused person made during the trial, and may in its discretion, either during or after the trial, without such application, reserve any question of law which arises on the trial for the consideration of the Supreme Court.

If the accused person is convicted, and a question of law has been so reserved, the Court may either pronounce judgment on the conviction and respite execution of the judgment, or postpone the judgment until the question has been considered and decided, and may either commit the person convicted to prison or admit him to bail on recognizance, with or without sureties, and in such sum as the Court thinks fit, conditioned to appear at such time and place as the Court may direct, and to receive judgment, or to render himself in execution, as the case may be.

The presiding Judge is thereupon required to state, in a case signed by him, the question of
(b) Avoid the judgment, and order an entry to be
made on the record, and on the indictment
that in the judgment of the Court the party
convicted ought not to have been convicted; or
(c) Arrest the judgment; or
(d) If no judgment has already been given, order
that judgment be given on the conviction at
some other sitting of the Court in which the
trial was held; or
(e) Make such other order as justice may require.

The judgment and order of the Court is to be certified
by the Registrar, under his hand, and the seal of the Court,
in the form of or to the effect set forth in the Form at the end
of this Article, to the clerk of assize, or clerk of the court,
as the case may be, who is required to enter the same on
the original record in proper form.

The Registrar is also required forthwith to transmit
another certificate of the same tenor, under his hand, to
the sheriff or superintendent of the prison who has the
custody of the convicted person. Such certificate is a
sufficient warrant to the sheriff or superintendent and
to all other persons for the execution of the judgment,
if it is certified to have been affirmed, or as it is certified
to be amended, and execution is thenceupon to be
executed upon the judgment; and the certificate is a sufficient
warrant for the discharge of the convicted person from
further imprisonment if the judgment is reversed, stayed,
or arrested; and in that case the sheriff or superintendent
is required forthwith to discharge him; and if he is at large
on bail, the recognizance of bail is to be vacated at the next
sitting of the Court in which the trial was held. And if
that Court is directed to give judgment, it is required to
proceed to give judgment at its next sitting:

The Supreme Court may, if it thinks fit, cause the case
or the certificate to be sent back for amendment; and
thereupon it is to be amended accordingly, and, if the case
is sent back for amendment, judgment is to be delivered
after it has been amended.

Effect of Order of Full Court.

695. The Registrar is required to certify the
judgment of the Court, under his hand and the
seal of the Court, to the proper officer of the
Court in which the trial was held, who is
required to enter the same on the original
record.

If the convicted person is in custody, the
Registrar is also required forthwith to transmit
another certificate of the same tenor,
under his hand and the seal of the Court,
to the superintendent of the prison who has
the custody of such person. Such
certificate is a sufficient warrant to all persons
for the execution of the judgment, if it is
certified to have been affirmed, or as it is
certified to be amended, and execution is
thereupon to be executed upon the judgment
as affirmed or amended: And, if the judgment
is set aside or arrested, the certificate is a
sufficient warrant for the discharge of the
convicted person from further imprisonment
under that judgment; and in that case the
superintendent is required forthwith to dis-
charge him from imprisonment under that
judgment; and if he is at large on bail, the
recognizance of bail is to be vacated at the next
sittings of the Court in which the trial was
made by one justice only, paid on the conviction exceeds £LIII., except Article viciticin
inent adjiiclged exceeds one month, or the conviction is

insufficient suggestion, nor for any misnomer or misde-
ment cr mutit the record to the court below in ordel: that
such court of error may either pronounce the proper
judgment, or order the record to the court below in ordel:
that the judgment, judgment is to be pronounced upon the
next Sittings of the Court at which the convicted person attends to receive
judgment.

Certain Errors not to avoid Conviction.
696. A conviction cannot be set aside upon
the ground of the improper admission of evi-
dence, if it appears to the Court that the
evidence was merely of a formal character and not material, or was of such a nature that it
could not have affected the jury, nor upon the
ground of the improper admission of evidence
adduced for the defence. [1]

Appeal from Arrest of Judgment.
697. When the Court before which an
accused person is convicted on indictment
arrests judgment, the Court is required, on the
application of counsel for the prosecution, to
reserve a case for the consideration of the Full
Court as hereinbefore provided.

On the hearing of the case the Court may
affirm or reverse the order arresting judgment.
If the order is reversed the Court is to direct
that judgment be pronounced upon the offender,
and he is to be ordered to appear at such time
and place as the Court may direct to receive
judgment, and any justice may issue his
warrant for the arrest of the offender.
An offender so arrested may be admitted
to bail by order of the Supreme Court or a
judge thereof, which may be made at the time
when the order directing judgment to be pro-
nounced is made, or afterwards. [2]

Appeals from Summary Conviction to Supreme
Court.
698. The law respecting appeals to the
Supreme Court by persons aggrieved by summary
convictions is set forth in the Statutes
relating to Justices of the Peace, their Powers
and Authorities.

Appeal from Summary Convictions to District
Court.
699. Any person aggrieved by a summary
conviction of any of the offences defined in this
Code may, if the fine adjudged to be paid on
the conviction exceeds five pounds, or the
imprisonment adjudged exceeds one month, appeal to a District Court.

[1] This is perhaps now. It will be observed that it is limited to
cases where the evidence, wrongly admitted, could not have affected the
jury. The second branch is obviously right, whether it is the present
for any misnomer or misdescription of the officer who returned the jury process or of
jury process reversed for want of

[2] This section is now.
Conditianal Remission

In my case in which the Governor is authorised, on behalf of Her Majesty, to extend the Royal mercy to an offender under sentence of imprisonment or without hard labour, he may extend mercy upon condition of the offender entering into a recognizance conditional as prescribed in Article 612. The offender is thereafter liable to the same obligations, and is liable to be dealt with in all respects in the same manner, as a person discharged upon recognizance under the provisions of that Article.

Conditional Remission of Sentence by Governor.

In any case in which the Governor is authorised, on behalf of Her Majesty, to extend the Royal mercy to an offender under sentence of imprisonment with or without hard labour, he may extend mercy upon condition of the offender entering into a recognizance conditional as in the case of offenders discharged by the Court upon a first conviction. The offender is thereafter liable to the same obligations, and is liable to be dealt with in all respects in the same manner, as a person discharged by the Court upon recognizance upon a first conviction.

Pardon in case of Imprisonment for Non-payment of Money.

The Governor may extend the Royal mercy to any person imprisoned upon conviction of any of the offences defined in Chapters XLII. and XLVII., although he is imprisoned for non-payment of money to some person other than the Crown.

Effect of Pardon.

A pardon by the Governor, on behalf of Her Majesty, has the effect of discharging the convicted person from the consequences of the conviction.

The procedure and practice respecting such appeals are set forth in the last-mentioned Statutes.
A child who is charged with any indictable offence other than murder or manslaughter, and whose age at the period of the commission or attempted commission of the offence did not in the opinion of the justices before whom he is brought exceed the age of twelve years, may be tried in a summary manner before two justices, if they think it expedient to do, and if the parent or guardian of the child so charged, when informed of his right to have the child tried by a jury, does not object to the child being dealt with summarily.

In any such case the justices may, except as hereinafter provided, award a sentence of punishment as might have been awarded if the offender had been convicted on indictment.

Provided that—

1. A sentence of penal servitude cannot be passed, but imprisonment must be substituted for it;
2. When imprisonment is awarded, the time cannot exceed one month;
3. When a fine is imposed, the amount cannot exceed forty shillings; and
4. When the child is a male, the justices may, either in addition to or instead of any other punishment, adjudge that the child be, as soon as practicable, privately whipped with not more than six strokes of a birch rod, cane, or leather strap, in the presence of an inspector of police or other police officer of higher rank than a constable, and also in the presence of the parent or guardian of the child, if it appears to the justices that punishment by a birch rod, cane, or leather strap is required in the case of the child.

(2.) If the parent or guardian of the child is not present, in any such case the justices may, if they think it expedient to do, proceed to deal summarily with the case.

(3.) If the parent or guardian of the child is present, then, whenever during the hearing of the charge the justices become satisfied by the evidence that it is expedient to deal with the case summarily under the provisions of this Article, the justices must cause the charge to be re-read into writing and read to the parent or guardian of the child, and must then address a question to such parent or guardian in the following effect:

Do you desire the child to be tried by a jury, and object to the case being dealt with summarily?

Adding a statement, if they think such statement desirable for the information of such parent or guardian, of the meaning of the case being dealt with summarily, and also a statement of the sitting of the Court at which the child will be tried, and he is committed for trial by a jury.

(4.) The provisions set forth in this Article do not render punishable for an offence any child who is not, in the opinion of the justices before whom he is charged, above the age of seven years and of sufficient capacity to commit crime.

Summary Trial of Children under Twelve Years of Age

Summary Jurisdiction of Justices in Case of Indictable Offences Committed by Children not more than Twelve Years of Age

A child who is charged with committing or attempting to commit any indictable offence other than treason, which murder, murder, or manslaughter, and whose age at the time of the commission or attempted commission of the offence did not in the opinion of the justices before whom he is brought exceed the age of twelve years, may be tried in a summary manner before two justices, if they think it expedient to do, and if the parent or guardian of the child so charged, when informed of his right to have the child tried by a jury, does not object to the child being dealt with summarily.

In any such case the justices may, except as hereinafter provided, award the same kind of punishment as might have been awarded if the offender had been convicted on indictment.

Provided that—

1. When imprisonment is awarded, the term of imprisonment cannot exceed one month;
2. When a fine is imposed, the amount cannot exceed forty shillings; and
3. When the child is a male, the justices may, either in addition to or instead of any other punishment, adjudge that the child be, as soon as practicable, privately whipped with not more than six strokes of a birch rod, cane, or leather strap, in the presence of some police officer of higher rank than a constable, and also in the presence of the parent or guardian of the child.

(2.) If, when a child is charged before justices with committing or attempting to commit an indictable offence, the parent or guardian of the child is not present, the justices may, if they think it expedient to do, proceed to deal summarily with the case.

(3.) If the parent or guardian of the child is present, then, whenever during the hearing of the charge the justices become satisfied by the evidence that it is expedient to deal with the case summarily under the provisions of this Article, the justices must cause the charge to be re-read into writing and read to the parent or guardian of the child, and must then address a question to such parent or guardian in the following effect:

Do you desire the child to be tried by a jury, and object to the case being dealt with summarily?
(5.) The provisions set forth in this Article do not affect any power of justices to send a child to an industrial or reformatory school instead of dealing with him summarily under these provisions.

Do you desire the child to be tried by a jury, or do you consent to the case being dealt with summarily?

Adding a statement, if they think such statement desirable for the information of the parent or guardian, of the meaning of the case being dealt with summarily, and also a statement of the Sittings of the Court at which the child will be tried if he is committed for trial by a jury.

(4.) The provisions of this section do not render punishable for an offence any child who is not, in the opinion of the justices before whom he is charged, above the age of seven years and of sufficient capacity to commit the offence in question.

(5.) The provisions of this section do not affect my power of juries under any Statute to send a child to an industrial or reformatory school, and they may exercise such power instead of dealing with him summarily under this section.

CHAPTER LXIX.

SEIZURE AND DETENTION OF PROPERTY CONNECTED FULLY DETAINED WITH OFFENCES, CUSTODY OF WOMEN UNLAWFULLY DETAINED FOR IMMORAL PURPOSES, RESTITUTION OF PROPERTY UNLAWFULLY ACQUIRED.

Search Warrant.

704. If it appears to a justice, on complaint made on oath, that there are reasonable grounds for suspecting that there is in any house, vessel, or place—

(a) Anything with respect to which any offence which is such that the offender may be arrested without warrant has been, or is suspected, on reasonable grounds, to have been, committed; or

(b) Anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of any such offence; or

(1) Although this is a section dealing with the jurisdiction and provisions of the Inquest Courts Act as well as that of the 1877 Act, the provisions are of an exceptional nature that it has appeared better to embody them in the Code.
(g) Anything whatever used or employed, or intended to be used or employed, in the forgergy of any security, document, or instrument; he may issue a warrant to search for the same.

If any such thing is found upon such search, it may be seized and carried before a justice to be disposed of according to law.

 Anything so seized is, by order of the Court where the offender is tried, or, if there is no trial, by order of a justice, to be defended and destroyed or otherwise disposed of as the Court or justice may direct.

22 Geo. 3, c. 58, s. 2.

643. Upon complaint on oath before a justice that there is reason to suspect that any stolen goods are knowingly concealed in any dwelling-house or any other place named by the complainant, the justice may issue his warrant to search such dwelling-house or place in the daytime.

Bill of 1890, s. 389.

29 Vic. No. 4, s. 27.

636. If any person finds in any place whatever, or in the possession of any person who has the same without lawful authority or excuse—

(c) Any false or counterfeit coin resembling any of the Queen's current gold, silver, or copper, coin, or any coin of any foreign prince, state, or country; or

(b) Any instrument tool or engine whatever adapted and intended for counterfeiting any such coin; or

(a) Any false or counterfeit coin resembling any of the Queen's current gold, silver, or copper, coin, or any coin of any foreign prince, state, or country, which has or has been produced or obtained by diminishing or lightening any of the Queen's current gold or silver coin; the person who so finds the same is required to seize the thing or things found, and to carry the same forthwith before a justice.

If it is proved on the oath of a credible witness before a justice that there is reasonable cause to suspect that any person has been concerned in counterfeiting the Queen's current gold, silver, or copper, coin, or any coin of any foreign prince, state, or country, or has in his possession any such thing as in this Article before mentioned, the justice may issue a warrant directing that any place whatever belonging to, or in the occupation, or under the control of, such suspected person be searched either in the day or in the night, and if any such false or counterfeit coin or any such things as are found in any place so searched, that the same be seized and carried forthwith before a justice.

The justice before whom anything so seized under the provisions of this Article is taken is required, if necessary, to cause the same to be secured for the purpose of being produced in evidence against any person who may be prosecuted for any of the offences defined in Chapter XV.

(e) Anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any such offence;

he may issue his warrant directing a police officer or police officers named therein or all police officers to search such house, vessel, or place, and to seize any such thing if found, and to take it before a justice to be dealt with according to law.

Any such warrant is to be executed by day unless the justice, by the warrant, specially authorizes it to be executed by night, in which case it may be so executed.

Property found on Offenders on Arrest.

705. When, on the arrest of any person on a charge of an offence relating to property, the property in respect of which the offence is committed is found in his possession, the person arresting him may take such property before a justice to be dealt with according to law.

Seizure of Counterfeit Coin, Tools for Coining, &c.

706. If any person finds in any place whatever, or in the possession of any person who has the same without lawful authority or excuse—

(a) Any counterfeit gold, silver, or copper, coin; or

(b) Any tool, instrument, or machine, adapted and intended for making any such counterfeit coin; or

(c) Any filings or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, which are or is suspected, on reasonable grounds, to have been obtained by dealing with any current gold or silver coin in such a manner as to diminish its weight; the person who so finds the same is required to seize the thing or things found, and to take the same forthwith before a justice to be dealt with according to law.

Disposal of Property Seized.

707. When anything is seized or taken under the provisions of this Code, the person seizing or taking it is required forthwith to carry it before a justice.

1. It will be observed that the existing Statute Law is generalized, as recommended by the Commissioners of 1868. The section, however, nearly embodies the existing practice.
And after it has been produced in evidence, or if it is not required to be produced in evidence, it is forthwith to be delivered up to the Colonial Treasurer or to some person authorized by him to receive it.

Bill of 1890, s. 336.

29 Vic. No. 5, s. 57; 29 Vic. No. 11, s. 66; 23 and 24 Vic. c. 149, s. 25.

639. If complaint on oath is made before a justice that there is reasonable cause to suspect that any gunpowder, or other explosive, dangerous, or noxious substance, or any machine, engine, implement, or other thing, is made, kept, or carried, in any building, yard, or other place whatever, or in any vehicle or vessel whatever, for the purpose of being used in committing any of the felonies defined in Articles 56, 102, and 174, or in Chapter XXIII., or in Chapter XXIV., except Article 204, or in Chapters XXIX. and XXXI., the justice may issue a warrant under his hand and seal for searching in the daytime the building, yard, place, vehicle, or vessel, in which the same is suspected to be so made, kept, or carried.

The person acting in the execution of the warrant may seize, restore to proper place, and detain, every such thing found upon search which he has good cause to suspect to be intended to be used in committing any such offence, and the barrels, packages, cases, or other receptacles containing the same; and, in the case of anything so seized in a vessel or vessel, may for twenty-four hours after seizure use for the purpose of removal the carriage or vessel, with the tackling, boas, and accouterments belonging to it, paying afterwards to the owner of the carriage or vessel a sufficient recompense for its use, which is to be settled by

The justice may detain the thing so seized or taken, taking reasonable care for its preservation, until the conclusion of any investigation that may be held with respect to it; and, if any person is committed for trial for any offence committed with respect to the thing so seized or taken, or committed under such circumstances that the thing so seized or taken is likely to afford evidence at the trial, he may further detain it for the purpose of evidence at such trial.

If no person is so committed, the justice is required to direct that the thing be returned to the person from whom it was taken, unless he is authorized or required by law to dispose of it otherwise.

If the thing so seized or taken is anything forged or counterfeited, or is of such a nature that a person who has it in his possession without lawful authority or excuse is guilty of an offence, then, if any person is committed for trial for any offence committed with respect to it or committed under such circumstances as aforesaid and is convicted, the Court before which he is convicted, or, in any other case, any justice, may cause it to be defined or destroyed.

If the thing so seized or taken is of such a nature that a person who has it in his possession, knowing its nature and without lawful authority or excuse, is guilty of an offence, then, as soon as it appears that it will not be required, or further required, in evidence against the person who had it in his possession, it is to be delivered to the Treasurer, or some person authorized by him to receive it.

Explosives.

709. If the thing seized or taken is an explosive substance found in a vessel or vehicle, the person acting in the execution of the warrant may seize, restore to proper place, and detain, every such thing found upon search which he has good cause to suspect to be intended to be used in committing any such offence, and the barrels, packages, cases, or other receptacles containing the same; and, in the case of anything so seized in a vessel or vessel, may for twenty-four hours after seizure use for the purpose of removal the carriage or vessel, with the tackling, boas, and accouterments belonging to it, paying afterwards to the owner of the carriage or vessel a sufficient recompense for its use, which is to be assessed by the justice or justices before whom the suspected offender is brought, and, in case of non-payment immediately after such assessment, may be recovered before two justices in a summary way.
(the) two justices (before whom the suspected offender is brought), and in case of non-payment immediately after such settlement to be recovered before two justices in a summary way. He may detain every such thing and any receptacle seized [until the matter of the suspected offence is disposed of], and is not liable to an action for such detention or for any loss or damage that may happen to the things seized otherwise than by his wilful act or neglect, or the wilful act or neglect of the person to whom he entrusts the keeping thereof.

55 Viz. No. 24, s. 11.

635. If it appears to a justice, on complaint made before him on oath by any parent, relative, or guardian of a woman or girl, or any other person who, in the opinion of the justice, is bound fairly acting in the interest of a woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within his jurisdiction he may issue a warrant, directed to a constable or officer of police, and authorising him to search for such woman or girl, and, when found, to take her to and detain her in a place of safety until she can be brought before a justice; and the justice before whom she is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

The justice issuing the warrant may, by the same or any other warrant, direct any person accused of so unlawfully detaining the woman or girl to be apprehended and brought before a justice, and may direct proceedings to be taken for punishing him according to law.

A woman or girl is deemed to be unlawfully detained for immoral purposes if she—

(a) is under the age of sixteen years; or
(b) being of or over the age of sixteen years, and under the age of eighteen years, is so detained against her will, or against the will of her father or mother or of any other person who has the lawful care or charge of her; or
(c) being of or above the age of eighteen years, is so detained against her will;
and, in either case, is detained for the purpose of being unlawfully carnally known by any man, whether such carnal knowledge is intended to be had by any particular man or not.

Any person authorized by warrant under this Article to search for any woman or girl so detained as aforesaid may enter, and if need be by force, any house, building, or other place, specified in the warrant, and may remove the woman or girl therefrom.

The warrant must be executed by the constable or officer of police, who must, unless the justice otherwise directs, be accompanied by the parent, relative, guardian, or other person, by whom the complaint is made, if such person so desires.

Women Detained for Immoral Purposes.

708. If it appears to a justice, on complaint made on oath by a parent, relative, or guardian, of a woman or girl, or any other person who, in the opinion of the justice, is acting in good faith in the interest of a woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within his jurisdiction, he may issue a warrant, directed to a police officer, and authorising him to search for such woman or girl, and, when found, to take her to and detain her in a place of safety until she can be brought before a justice; and the justice before whom she is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

The justice issuing the warrant may, by the same or any other warrant, direct any person accused of so unlawfully detaining the woman or girl to be apprehended and brought before a justice, and may direct proceedings to be taken for punishing him according to law.

A woman or girl is deemed to be unlawfully detained for immoral purposes if she—

(a) is under the age of sixteen years; or
(b) being of or over the age of sixteen years, and under the age of eighteen years, is so detained against her will, or against the will of her father or mother or of any other person who has the lawful care or charge of her; or
(c) being of or above the age of eighteen years, is so detained against her will;
and, in either case, is detained by any person in order to her being unlawfully carnally known by any man, whether a particular man or not.

A person authorized by warrant under this section to search for a woman or girl may enter, and if need be by force, any house or other place, specified in the warrant, and may remove the woman or girl therefrom.

(1) See s. 227.
The warrant must be executed by the police officer mentioned in it, who must, unless the justice otherwise directs, be accompanied by the parent, relative, guardian, or other person, by whom the complaint is made, if such person so desires.

Coin Suspected to be Diminished or Counterfeit may be Cut.

710. When any coin is tendered as current gold or silver coin to any person who suspects that its weight has been diminished otherwise than by reasonable wearing, or that it is counterfeit, he may cut, break, bend, or deface it. If the weight of any coin so cut, broken, bent, or defaced, turns out to have been diminished other than by reasonable wearing, or the coin turns out to be counterfeit, the person who tendered it must bear the loss; but if it is of the weight and turns out to be lawful coin, the person who cut, broke, bent, or defaced it is required to receive it at the rate for which it was coined.

If a dispute arises whether any coin so cut, broken, bent, or defaced, was so diminished, or whether the coin is counterfeit, the dispute is to be heard and determined in a summary manner by two justices.

The Treasurer and his officers, and the receivers duly appointed of every branch of the revenue, are required to cut, break, or deface, or cause to be broken or defaced, every piece of gold or silver coin tendered to them in payment of any part of the revenue which is unlawfully diminished or counterfeit.

Fishing Tackle.

711. If any person is found taking or destroying, or attempting to take or destroy, fish under such circumstances as to constitute an offence, the owner of the land, water, or fishery, where the offender is so found, or his servant, or any person authorised by him, may demand from the offender any implement for taking or destroying fish which is in his possession; and if the offender does not immediately deliver it up, may seize and take it from him for the use of such owner.

A person who is found angling contrary to the provisions not forth in that Article between the beginning of the last hour before sunrise and the end of the first hour after sunset, and from whom any implement used by anglers is so taken, or by whom any such implement is so delivered up, is by such taking or delivering discharged from any liability to pay any damages or fine for such angling.
implement is so delivered up, is by such taking or delivering, discharged from any liability to pay any fine, whether by way of compensation or not, for such angling.

Restitution of Property.

712. When a person is prosecuted, on the complaint of the owner of property or any person on whom the right to property has devolved by operation of law, on a charge of an indictable offence relating to the unlawful acquisition of the property by him, and is convicted of the offence on indictment, the property is to be restored to the owner.

Such a conviction has the effect of a judgment, and is binding on the offender and any person claiming through him as determining the ownership of the property, but as regards any other person has the effect only of changing the possession of the property, and does not affect any right of property or right of action.

In any such case the Court before which the offender is convicted may order that any personal property which is found in his possession, and which appears to the Court to have been derived, directly or indirectly, from such unlawful acquisition of property, shall be delivered to any person who appears to the Court to be entitled to the property so unlawfully acquired.

This section does not apply to a valuable security, if it appears that the security has been paid or discharged in good faith by some person liable to the payment thereof, or, being a negotiable instrument, has been taken or received by transfer or delivery in good faith by some person for a valuable consideration without any notice and without any reasonable cause to suspect, that the same had been stolen, taken, obtained, extorted, embezzled, converted, or disposed of by any act amounting to a felony or misdemeanor.

CHAPTER LXX.

INFORMATION BY PRIVATE PROSECUTORS FOR INDICTABLE OFFENCES.

Information by leave of the Court by Private Prosecutors.

713. Any person may by leave of the Supreme Court present an information against any other person for any indictable offence not punishable with death, alleged to have been committed by such other person.
The Court may require the prosecutor to file an application for leave to be heard without any such affidavit being filed. An information exhibited by leave of the Court is to be in the name of the accused, and upon the information of the person to whom leave has been granted. (See Rules of Court). The information is to be filed in Court, and is to be heard, tried, and determined in the same manner as any other indictment.

4 W. & M. c. 18, ss. 1, 2.

646. The Registrar of the Supreme Court may not, without express order made by the Court in open court, exhibit, receive, or file, an information for a misdemeanor in the name of a private prosecutor, or issue any process upon any such information, unless a recognizance [bond] in the penalty of twenty (fifty) pounds, entered into by the prosecutor in favour of the defendant, and conditioned to effectually prosecute the information and abide by any orders which the Court may make, has been filed. The recognizance must set out the name of the defendant and the title or profession of the prosecutor, and may be taken by the Registrar, or by any justice of the district where the cause of the information arises. (See Rules of Court of 6th Sept., 1857, Order VIII, r. 4.)

The Registrar is required to make an entry of the recognizance [bond] on record, and to file a memorandum thereof in some public place in his office so that all persons may have access to it without fee.

If:

(a) the defendant appears to the information and pleads a plea on which issue is joined, and the prosecutor does not within a year after issue joined, and at his own expense, procure the information to be tried; or

(b) the prosecutor procures a selle process to be entered on the information; or

(c) the trial of the information a verdict passes for the defendant;

the court may award costs to the defendant, unless in either of the two latter cases the Judge before whom the information is tried certifies upon record in open court at the trial that there was a reasonable cause for exhibiting the information.

If, when costs are awarded, the prosecutor does not pay the costs to the defendant within three months after taxation and demand of payment, the defendant is entitled to the benefits of the recognizance to compel payment thereof.

657. If the defendant is so committed for want of bail, or is otherwise detained in prison, the prosecutor may cause a copy of the information to be delivered to him or to the superintendent of the prison in which he is confined, with a notice endorsed on it to the effect that unless the defendant enters an appearance in the information and pleads or demurs within eight days, an appearance and the plea of not guilty will be entered in his name. Upon filing an affidavit setting forth the delivery of such copy and notice, and in default of appearance and plea in accordance with the exigency of the notice, the prosecutor may enter an appearance and a plea of not guilty to be entered for the defendant, and after the same proceedings may be had as if the defendant had appeared and pleaded a plea of not guilty according to the usual course of the Court.

If on the trial of the information the defendant is acquitted of the offense therein charged against him, the Judge before whom the trial is had may order him to be discharged from custody as to his commitment on these charges.

An information presented by leave of the Court is to be signed by the person on whose application the leave is granted, or some other person appointed by the Court in that behalf, and filed in the Supreme Court.

The person who signs the information is called the prosecutor.

The information is to be entitled "The Queen on the prosecution of the prosecutor (naming him) against the accused person" (naming him), and must state that the prosecutor informs the Court by leave of the Court.

Except as otherwise expressly provided, the information and the proceedings upon it are subject to the same rules and incidents in all respects as an indictment presented by a Crown Law Officer and the proceedings upon such an indictment.

Security to be given by Prosecutor for Costs of Defence.

714. Before the information is presented the prosecutor is to be required to give security, in such amount and in such manner as the Court on giving leave to present the information may direct, that he will prosecute the information without delay, and will pay to the accused person such costs incurred by him in respect of his defence to the charge as the Court may order him to pay.

Service of Information.

715. An office copy of the information is to be served upon the accused person, upon which copy there must be inserted a summons, under the hand of the Registrar and seal of the Court, requiring him to appear and plead to the information within the same time after service within which he would be required to enter an appearance after service of a writ in a civil action.

Plea.

716. The accused person is required within the time so limited to enter an appearance and file his plea in writing in the Supreme Court, and to deliver a copy thereof forthwith to the prosecutor.

Default of Plea.

717. If the accused person does not plead to the information according to the exigency of the summons endorsed on the copy served on him, the prosecutor may serve him with a notice to the effect that unless he pleads
When a person is prosecuted in the Supreme Court for a misdemeanor, and appears in Court in person to answer the information, he is required, upon being charged with the offense, to plead or demur to the information within four days after such appearance, and in default of his pleading or demurring within such four days judgment may be entered against him for want of a plea.

If the defendant appears to the information by his solicitor, a rule requiring him to plead may forthwith be given, and a plea or demurrer to the information may be enforced, or judgment by default may be entered thereon. But the Court or a Judge may, upon sufficient cause shown, allow further time for the defendant to plead or demur to the information.

When the accused person pleads any plea, or when a plea of not guilty is filed for him by the prosecutor, either party may apply to a Judge to appoint the time and place of trial, of which notice is to be given to the accused person.

If the accused person demurs only, and does not plead any plea, and judgment is given against him on demurrer, he is required to plead to the information within such time as the Court or a Judge may allow. If he makes default in doing so, the same proceedings may be taken as if he had made default in pleading in the first instance.

If judgment of conviction is entered against the accused person for want of a plea, he is required to attend to receive the judgment of the Court at a time and place to be appointed by a Judge. If he does not so attend, any justice may issue his warrant to arrest him and bring him before the Court to receive judgment.

In either of the following cases, that is to say—

1) If the accused person pleads to the information, and is not brought to trial within a year after filing his plea; or
CHAPTER LXXI.

MISCELLANEOUS PROVISIONS.

Names of Jury to be given to Person charged with Treason or Concealment of Treason.

722. When a person is to be tried for the crime of treason, or of becoming an accessory after the fact to treason, or of failing, when he knows that any person intends to commit treason, to give information thereof with all reasonable dispatch to a justice or use other reasonable endeavours to prevent the commission of the crime, a list of the jurors, with their christian names and surnames written at full length, and with the true place of abode, title, quality, profession, calling, or business, of every juror, must be given to the person intended to be indicted, in the presence of two credible witnesses, ten days before he is arraigned upon the indictment.

Court may Direct a Person Guilty of Perjury to be Prosecuted.

723. If it appears to any Court that any person has been guilty of perjury in any testimony given before it, the Court may commit him for trial for such perjury before any Court of competent jurisdiction in the same manner as if he had been charged before a justice with the same perjury, and sufficient evidence had been given against him.

A person so committed may be admitted to bail in the same manner as if he had been committed for trial by a justice upon a complaint for the same offence.

The Court or justices may require any person to enter into a recognizance conditioned to prosecute or give evidence against a person so directed to be prosecuted as

(2) If a Crown Law Officer informs the Court that he will not further proceed on the information; or
(3) If the accused person is acquitted upon trial;

the Court may award costs to the accused person, unless in either of the two latter cases the Judge before whom the trial, if any, is had certifies upon record in open court at the trial that there was reasonable cause for presenting the information.

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31 Vic. No. 26, s. 25 [7 & 8 Wm. 3, c. 3, s. 7].

569. When a person is [to be] indicted for high treason or misprision of treason, a list of the jurors, with their christian names and surnames written at full length, and with the true place of abode, title, quality, profession, calling, or business, of every juror, must be given to the person [intended to be] indicted, in the presence of two credible witnesses, ten days before he is arraigned upon the indictment.

29 Vic. No. 13, s. 23 [23 Geo. 2, c. 11, s. 8].

651. If it appears to a judge of any court of record, or to a sheriff or deputy sheriff before whom a writ of inquiry or writ of trial from the Supreme Court is executed, or to justices in special or petty sessions, that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer, or other proceeding, made or taken before him or them, he or they may direct that such person be prosecuted for such perjury, and may commit him for trial for such perjury at the next sittings of the Supreme Court or Circuit Court to be held in the district in which the perjury was committed.

The person so committed may be admitted to bail in the same manner as if he had been committed for trial by a justice upon a complaint for the same offence.

The Court or justices may require any person to enter into a recognizance conditioned to prosecute or give evidence against a person so directed to be prosecuted as
in evidence upon the trial of the person so directed to be
prosecuted, unless it thinks fit to issue a special order to
which the trial is had.

An order for a certificate is to be given without any fee or charge,
directed.

An original of such paper, with an affidavit verifying the
same, and the Court or Judge may then enter the
prosecution, and may order the prosecutor to pay to the
defendant his costs of defence.

The term "Court" includes justices in petty sessions and any person before whom a writ
of inquiry is executed.

The direction cannot, nor can the certificate, be given
in evidence upon the trial of the person so directed to be
prosecuted.

38 Vic. No. 5, s. 216.

652. If, on the examination of any person who has
been adjudged insolvent, or whose affairs are in course of
liquidation by arrangement under the provisions of the
laws relating to insolvent debtors, before a Court which has
jurisdiction to examine him in the insolvency or
liquidation, it appears to the Court that he has been guilty
of perjury or of any of the offences defined in Chapter
XLIX. or in Article 508, the Court may commit him for
trial for such offences before some Court of competent
jurisdiction, or may hold him to bail to appear before a
justice to answer any charge that may be brought against
him for any such offence.

The Court may admit to bail a person so committed.

653. The defendant in a prosecution instituted in
respect of the publication of defamatory matter con-
tained in any paper published by the defendant, or by
his servant, by order or under the authority of either
House of Parliament, may bring before the Court in
which the proceeding is pending, or before a judge
thereof, first giving twenty-four hours' notice of his intention
so to do to the prosecutor, a certificate under the
hand of the President or Clerk of the Legislative Council,
or Speaker or Clerk of the Legislative Assembly, as the
case may be, stating that the paper in respect of which
the prosecution is instituted was published by the defen-
dant, or by his servant, by order or under the authority
of the Council or Assembly, together with an affidavit
verifying such certificate, and the Court or judge is
required thereupon immediately to stay the prosecution,
and may order the prosecutor to pay the defendant his
costs of defence.

In a prosecution instituted in respect of the pub-
lication of a copy of, or an extract from or abstract of, any
such paper, the defendant may, at any stage of the pro-
ceding, lay before the Court or a judge thereof an
original of such paper, with an affidavit verifying the
same; and the Court or judge may thereupon stay the
prosecution, and may order the prosecutor to pay to the
defendant his costs of defence.

Committing of Fraudulent Debtors.

724. If, on the examination of any person whose
affairs are in course of administration under the provisions of the laws relating to
insolvent debtors before a Court which has jurisdiction to examine him in the course of
such administration, it appears to the Court that he has, when incurring any debt or liability,
obtained credit by a false pretence or by means of any other fraud, or has been guilty of any of
the offences defined in Chapter XLI., the Court
may commit him for trial for such offence before some Court of competent jurisdiction,
or may hold him to bail to appear before a justice to answer any charge that may be
brought against him for any such offence.

A person so committed may be admitted
to bail in the same manner as if he had been
committed for trial by a justice.

Staying Prosecution for Publication of
Partlymentary Paper.

725. A person prosecuted on a charge of the
unlawful publication of defamatory matter
which is contained in any paper published by
the defendant, or by his servant, by order or
under the authority of either House of
Parliament, may, at any stage of the pro-
cedings, apply to the Supreme Court or a
Judge thereof or to the Court in which the
proceedings are pending, for an order staying
the prosecution, first giving twenty-four hours' notice of his intention so to do to the
prosecutor; and upon production to the Court or Judge of
a certificate under the hand of the President or Clerk of the Legislative Council, or Speaker or
Clerk of the Legislative Assembly, as the case
may be, stating that the paper in respect of
which the prosecution is instituted was published by the defendant, or by his servant, by
order or under the authority of the Council or Assembly, together with an affidavit verifying
such certificate, the Court or Judge is required
immediately to stay the prosecution, and may
order the prosecutor to pay to the defendant
his costs of defence.
A person prosecuted on a charge of the unlawful publication of defamatory matter which is contained in a copy of, or an extract from or abstract of, any such paper, may, at any stage of the proceedings, apply to the Supreme Court or a Judge thereof, or to the Court in which the proceedings are pending, for an order staying the prosecution; and upon production to the Court or Judge of an original of such paper, together with such a certificate as aforesaid, and an affidavit verifying the same, the Court or Judge may stay the prosecution, and may order the prosecutor to pay to the defendant his costs of defence.

Certificate of Dismissal by Justices.

726. When justices dismiss a complaint of an offence punishable on summary conviction, whether an indictable offence or not, they may, if required and if they think fit, make an order of dismissal, and give the accused person a certificate of dismissal. Such a certificate is a bar to any further prosecution of the accused person for the same cause.

Custody of Girls under Sixteen.

727. When on the trial of a person charged with any of the offences defined in Chapter XXII., relating to women or girls, it is proved to the satisfaction of the Court that the seduction or prostitution of a girl under the age of sixteen has been caused, encouraged, or favoured, by her father, mother, guardian, master, or mistress, the Court may make an order disvesting such father, mother, guardian, master, or mistress, of all authority over her, and may appoint any person or persons who is or are willing to take charge of the girl to be her guardian or guardians until she has attained the age of twenty-one, or any such age under twenty-one as the Court may direct.

The Supreme Court, or a Judge thereof, may from time to time rescind or vary any such order by the appointment of any other person or persons as such guardian or guardians, or in any other respect.

Saving of Civil Remedies.

728. Except as otherwise expressly provided, the prosecution or conviction of a person...
298, or any of the offences firstly defined in Article 296, or any of the offences defined in Articles 387 to 391, inclusive, or in Article 410, does not prevent, lessen, or impeach, any remedy which any person aggrieved by the offence may have irrespective of the provisions set forth in those Articles.

A conviction of an offender for any of the offences defined in Article 299, or any of the offences firstly defined in Article 389, or any of the offences defined in Articles 387 to 391, inclusive, cannot be received in evidence in an action against him.

The provisions of Articles 387 to 391, inclusive, do not affect or prejudice any agreement entered into, or any security given, by a trustee, which has for its object the restoration or repayment of any misappropriated trust property.

29 Vic. No. 4, s. 38; 29 Vic. No. 5, s. 74; 29 Vic. No. 6, s. 118.

661. An action or prosecution against any person for anything done in pursuance of the provisions of Articles 628, 629, 630, 631, 632, or 640, or of Article 689, so far as it relates to anything suspected to be made, kept, or used, for the purpose of committing any of the felonies defined in Article 390 or in Chapter XII., must be brought and tried in the jurisdiction where the fact was committed, and must be commenced within six months after the fact committed, and not otherwise.

Notice in writing of the action, and of the cause of action, must be given to the defendant one month at least before the commencement of the action.

The plaintiff is not entitled to recover in any such action, if tender of sufficient amends is made before action brought, or if a sufficient sum of money is paid into court by the defendant after action.

If a verdict passes for the defendant, or the plaintiff becomes nonsuit, or discontinues the action after issue joined, or if, on demurrer or otherwise, judgment is given against the plaintiff, the defendant is entitled to full costs as between solicitor and client.

If a verdict is given for the plaintiff he is not entitled to costs against the defendant unless the judge before whom the trial takes place certifies his approbation of the action.

29 Vic. No. 13, s. 29.

663. No fees can be taken in any Court of criminal jurisdiction, or before any justice from any person who is charged with committing a felony, or with being an accessory to a felony, or with committing a misdemeanor, for issuing any process for him, or on his behalf, or for taking any recognizance of bail, or issuing any writ of habeas corpus, or recording any appearance or plea to an indictment, or for discharging any recognizance taken from him, or a surety or sureties for him.

Ib. s. 39.

664. Any person who is held to bail or committed to prison for any offence is entitled to require and to have on demand from the person who has the lawful custody thereof, copies of the depositions of the witnesses on whose depositions he has been so held to bail or committed to prison, on payment of a reasonable sum, to be fixed from time to time by the Judges of the Supreme Court, and not exceeding fourpence for each folio of ninety words.

for an offence does not affect any civil remedy which any person aggrieved by the offence may have against the offender.

Limitation of Proceedings.

729. An action or prosecution against any person for anything done in execution of any of the provisions of this Code with respect to the arrest of offenders or the seizure of goods must be commenced within six months after the fact committed, and not otherwise.

Notice in writing of the action, and of the cause of action, must be given to the defendant one month at least before the commencement of the action.

The plaintiff is not entitled to recover in any such action, if tender of sufficient amends is made before action brought, or if a sufficient sum of money is paid into Court by the defendant after action.

If a verdict is given for the defendant, or the plaintiff becomes nonsuit, or discontinues the action, or if, on demurrer or otherwise, judgment is given against the plaintiff, the defendant is entitled to full costs of action as between solicitor and client.

If a verdict is given for the plaintiff he is not entitled to costs against the defendant unless the Judge before whom the trial takes place certifies his approbation of the action.

No Court Fees in Criminal Cases.

730. No fees can be taken in any Court of criminal jurisdiction or before any justice from any person who is charged with committing an indictable offence for any proceeding had or taken in the Court or before the justice with respect to the charge.

Copies of Depositions to be Allowed to Persons Committed for Trial.

731. Any person who is committed for trial or held to bail for any indictable offence is entitled to have on demand from the person who has the lawful custody thereof copies of the depositions of the witnesses on whose depositions he has been so committed or held to bail, on payment of a reasonable sum, to be fixed
Provided that, if the demand is not made before the appointed for the commencement of the sitting of the Court at which the trial of the person on whose behalf the demand is made is to take place, he is not entitled to have any such copy unless the judge is of opinion that the copy may be made and delivered without delay or inconvenience to the trial.

But the judge may postpone the trial on account of the accused person not having previously had a copy of the depositions.

Any person who is tried for any offence is entitled at the time of his trial to inspect without fee or record all depositions, or copies of depositions, which have been taken against him and returned into the Court before which the trial is had.

The Judges of the Supreme Court may prescribe forms of informations, indictments, records, depositions, convictions, warrants, recognizances, and other proceedings, to be used in any Court or before justices in respect of any offences; and every form so prescribed is to be deemed sufficient for the purpose, and sufficiently to state the offence or matter for or in respect of which it is prescribed to be used.

The Judges may also make General Rules, not inconsistent with the provisions of this Code, regulating the proceedings upon the trial of persons charged with indictable offences, and the proceedings upon informations presented by leave of the Court.

Inspector of Depositions at Trial.

Any person who is tried for any offence is entitled at the time of his trial to inspect without fee all depositions, or copies of depositions, which have been taken against him and returned into the Court before which the trial is had.

Forms of Criminal Proceedings.

The Judges of the Supreme Court may make General Rules prescribing forms of complaints, summonses, depositions, indictments, judgments, records, convictions, warrants, recognizances, and other proceedings, to be used in any Court or before justices in respect of any offences; and every form so prescribed is to be deemed sufficient for the purpose, and sufficiently to state the offence or matter for or in respect of which it is prescribed to be used.

The Judges may also make General Rules, not inconsistent with the provisions of this Code, regulating the proceedings upon the trial of persons charged with indictable offences, and the proceedings upon informations presented by leave of the Court.

(1) Folio are now reckoned at seventy-two words. The suggested maximum charge is twopence per folio of seventy-two words instead of fourpence per folio of ninety words as at present.
felony, or an assault with intent to commit a felony, and
two justices before whom the complaint is heard certify
under their hands that it is necessary for the purposes
of public justice that the prosecution shall be conducted
by some officer of police named in the certificate, such
officer is required, upon personal service upon him of
such certificate or a duplicate thereof, to conduct the
prosecution.

9 Geo. 4, c. 60, s. 8; 29 Vic. No. 5, s. 78; 29 Vic. No. 6,
s. 117.

660. The justices before whom any person is con-
victed of any of the offences defined in Chapter XXXVIII,
except Articles 525, 526, 527, and 528, or in Chapter XLIV,
except Article 614, are required to transmit the conviction
to the District Court held for the district where the
offence was committed, to be kept by the proper officer
among the records of the Court.

19 Vic. No. 37, s. 37; 17 Vic. No. 3, s. 11.

663. (a) An action at law does not lie against a justice
for any thing done or commanded to be done by him in
pursuance of the provisions set forth in Articles 529, 530,
and 540, unless there is proof of corruption or malice, nor
unless the action is commenced within three calendar months
after the cause of action arises. (b).

(a) Sec Judicial Act of 1868, s. 359, 360.
(b) The provisions of these four Articles appear to be unnecessary.
## A Table of the Statutory Provisions Proposed to be Superseded by the Code.

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Notes:
- The table lists various statutes and their corresponding sections in the proposed code, indicating which sections are intended to replace or cover the provisions of the outdated statutes.
- The code is designed to simplify and modernize the law, replacing complex and outdated statutes with more streamlined and understandable provisions.
- The table format helps in identifying the specific provisions that are to be superseded and replaced, allowing for a direct comparison between the old and new statutes.
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**Note:** The table continues with similar entries for each state, indicating the articles of the Digest and corresponding sections of the Code. The entries are organized in a tabular format with columns for States, Article of Digest, Section of Code, and Number of Code. The text appears to be a legislative reference guide, possibly related to statutory provisions in Victoria. The specific details of the code and its corresponding provisions are not fully visible in the provided image.
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Price 2d. 6d.] By Authority: EDMUND GREGORY, Government Printer, William street, Brisbane.
1897.
QUEENSLAND.

LETTER

FROM

THE HONOURABLE SIR SAMUEL WALKER GRIFFITH, G.C.M.G.
CHIEF JUSTICE OF QUEENSLAND,

TO

THE HONOURABLE THE ATTORNEY-GENERAL,

FORWARDING A

DRAFT OF A BILL TO ESTABLISH A CODE
OF CRIMINAL LAW.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND.

BRISBANE:
BY AUTHORITY: EDMUND GREGORY, GOVERNMENT PRINTER, WILLIAM STREET.

C. A. 97—1897.

1897.
Judges' Chambers,
Supreme Court,
Brisbane, 29th November, 1897.

Sir,—Referring to the concluding paragraph of my letter of 29th October, with which I had the honour to transmit a Draft of a Code of Criminal Law, I have now the honour to enclose a Draft of a Bill to establish the Code.

The Schedules of the Statutes to be repealed will, of course, require revision up to the date of the actual introduction of the Bill.

This completes the task which I undertook in 1893, and I venture to hope that my labours may be of service to the Colony.

I have the honour to be,

Sir,
Your most obedient humble servant,

S. W. GRIFFITH.

The Honourable the Attorney-General.
WHEREAS it is desirable to Declare, Consolidate, and Amend the Present

Criminal Law: Be it enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "The Criminal Code Act, 189..."

2. On and from the first day of January, one thousand nine hundred...

3. On and from the coming into operation of the Code—

(1) The several Statutes of the Realm mentioned in the Second Schedule to this Act shall be repealed so far as they are in force in Queensland to the extent in the said Schedule indicated;

(2) The several Statutes of New South Wales and Queensland mentioned in the Third Schedule to this Act shall be repealed to the extent in the said Schedule indicated;

(3) The several Statutes of New South Wales and Queensland mentioned in the Fourth Schedule to this Act shall be amended in the manner in the said Schedule indicated, and shall be read and construed as being so amended accordingly.

Provided as follows:—

(1) The repeal of any Statute or part of a Statute set forth in the said Schedules shall not affect the construction of any other Statute, or of any other part of the same Statute, whether as regards the past or the future;

(2) When any enactment not mentioned in the said Schedules has been repealed, confirmed, revived, or perpetuated, by any enactment hereby repealed, such repeal, confirmation, revivor, or perpetuation, shall not be affected by the repeal effected by this Act:

(3) This Act shall not affect the validity, invalidity, effect, or consequences, of anything already done or suffered, or any existing status or capacity, or any right, title, obligation, or liability, civil or criminal, already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim, or demand, or any indemnity, or the proof of any past act or thing; and any action, prosecution, or other proceeding, begun before the coming into operation of the Code, may, subject to the provisions of the Code, be continued as if
this Act had not been passed; and any action, prosecution, or other proceeding, in respect of anything done or omitted to be done before the coming into operation of the Code, may, subject to the provisions of the Code, be brought, taken, and prosecuted, in the same manner as if this Act had not been passed:

(4) This Act shall not, except as expressly therein declared, affect any principle or rule of law or equity, or established jurisdiction, or form or course of pleading, practice, or procedure, notwithstanding that the same respectively may have been in any manner affirmed, recognised, or derived, by, in, or from, any enactment hereby repealed:

(5) This Act shall not revive or restore any jurisdiction, duty, liability, right, title, privilege, restriction, exception, usage, practice, procedure, form of punishment, or other matter or thing, not now existing or in force.

4. From and after the coming into operation of the Code, the following rules shall, unless the context otherwise indicates, apply with respect to the construction of Statutes, Statutory Rules, By-laws, and other instruments, that is to say,—

(1) When in any Statute, Statutory Rule, By-law, or other instrument, public or private, the term "foulness" is used, or reference is made to an offence by the name of foulness, it shall be taken that reference is intended to an offence which is a crime under the provisions of the Code:

(2) When in any Statute, Statutory Rule, By-law, or other instrument, public or private, the term "murder" is used, it shall be taken that reference is intended to the crime of wilful murder or murder:

(3) When in any Statute, Statutory Rule, By-law, or other instrument, public or private, the term "larceny" is used, it shall be taken that reference is intended to the crime of stealing:

(4) When in any Statute, Statutory Rule, By-law, or other instrument, public or private, reference is made to any offence by any specific name, it shall be int nded that reference is intended to the offence which, under the provisions of the Code, is constituted by the act or omission that would heretofore have constituted the offence referred to:

(5) When in any Statute, Statutory Rule, By-law, or other instrument, public or private, reference is made to any of the statutory provisions hereby repealed, it shall be taken that reference is intended to the corresponding provisions or substituted provisions of the Code.

5. From and after the coming into operation of the Code, no person shall be liable to be tried or punished in Queensland as for an indictable offence or simple offence except under the express provisions of the Code or some other Statute Law of Queensland, or under the express provisions of some Statute of the United Kingdom which is in force in Queensland, or which authorises the trial and punishment in Queensland of offenders who have at places not in Queensland committed offences against the laws of the United Kingdom.

6. When by the Code any act is declared to be lawful, no action can be brought in respect thereof.
Except as aforesaid, the provisions of this Act shall not affect:

any right of action which any person would have had against another if this Act had not been passed; nor shall the omission from the Code of any penal provision in respect of any act or omission which before the time of the coming into operation of the Code constituted an actionable wrong affect any right of action in respect thereof.

7. When an offender is punishable under the provisions of the Code, and also under the provisions of some other Statute, he may be prosecuted and convicted under the provisions either of the Code or Statute.

10. If such other Statute; so that he is not twice punished for the same offence.

8. Nothing in this Act or in the Code shall affect the authority of Courts of Record to punish a person summarily for the offence commonly known as "Contempt of Court"; but so that a person cannot be so punished and also punished under the provisions of the Code for the same act or omission.

9. Whenever any amendment is made in the Code, all copies thereof printed by the Government Printer after the amendment shall be so printed as to set forth the actual provisions of the Code after omitting all repealed provisions or words, and embodying all newly enacted or substituted provisions or words.

THE FIRST SCHEDULE.

THE CRIMINAL CODE OF QUEENSLAND.

[Here print the Code (including Table of Contents, but without those words)]. (a).

(a) The following words have been inadvertently omitted at the end of the third paragraph of s. 649—"until he is dealt with under the laws relating to insane persons." (Compare s. 670.)

I propose that (in order to embody the effect of a decision of the Full Court given since the Code was prepared) the third paragraph of s. 627 be altered, so as to read as follows:—"If the Court is not so satisfied, or if, notwithstanding that the accused person pleads that he is guilty, it appears to the Court upon examination of the deposition of the witnesses that he has not in fact committed the offence charged in the indictment or any other offence of which he might be convicted upon the indictment, the plea of not guilty is to be entered," &c.
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<tr>
<th>Reign, Year, and Chapter of Act</th>
<th>Title of Act</th>
<th>Extent of Repeal</th>
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<tbody>
<tr>
<td>3 Ed. I., c. 9</td>
<td>All men shall be ready to pursue Felons.</td>
<td>The whole.</td>
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<td>3 Ed. I., c. 23</td>
<td>None of the King's Officers shall commit Extortion.</td>
<td>The whole.</td>
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<tr>
<td>3 Ed. III., c. 3</td>
<td>No man shall come before the Justices, or go or ride armed.</td>
<td>The whole.</td>
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<tr>
<td>25 Ed. III., St. 5, c. 2</td>
<td>A Declaration which offences shall be adjudged Treason.</td>
<td>The whole not already repealed.</td>
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<tr>
<td>3 Rich. II., St. 1, c. 7</td>
<td>The Penalty where anyone doth enter into Lands where it is not lawful or with Force.</td>
<td>The whole.</td>
</tr>
<tr>
<td>1 Ed. VI., c. 12</td>
<td>An Act for the Repeal of certain Statutes concerning Treasons and Felonies.</td>
<td>The whole not already repealed.</td>
</tr>
<tr>
<td>5 &amp; 6 Ed. VI., c. 11</td>
<td>An Act for the Punishment of divers kinds of Treasons.</td>
<td>The whole not already 15 repealed.</td>
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<tr>
<td>5 &amp; 6 Ed. VI., c. 18</td>
<td>Against Buying and Selling of Offices.</td>
<td>The whole.</td>
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<tr>
<td>1 Mary, Sex. Ill, c. 6</td>
<td>An Act that the Counterfeiting of Strange Coins being current within this Realm the Queen's Highness' Sign-Manual Signet or Privy Seal to be adjudged Treason.</td>
<td>The whole.</td>
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<tr>
<td>1 &amp; 2 P &amp; M., c. 10</td>
<td>An Act whereby certain Offences be made Treasons and also for the government of the King's and Queen's Majesties' Issue.</td>
<td>The whole.</td>
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<tr>
<td>18 Eliz., c. 5</td>
<td>An Act to redress Disorders in common Informers.</td>
<td>The whole.</td>
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<tr>
<td>13 Car. II., St. 1, c. 5</td>
<td>An Act against Tumults and Disorders upon pretence of preparing or presenting public petitions or other Addresses to His Majesty or the Parliament.</td>
<td>The whole.</td>
</tr>
<tr>
<td>31 Car. II., c. 2</td>
<td>An Act for the better securing the Liberty of the Subject and for Prevention of Imprisonment beyond the Sea.</td>
<td>Section 7.</td>
</tr>
<tr>
<td>4 W. &amp; M., c. 18</td>
<td>An Act to prevent malicious informations in the Court of King's Bench and for the more easy retrieval of Outlaws in the same Court.</td>
<td>The whole.</td>
</tr>
<tr>
<td>7 &amp; 8 Wm. III., c. 8</td>
<td>An Act for Regulating of Trials in Cases of Treason and Misprision of Treason.</td>
<td>The whole.</td>
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<tr>
<td>9 Wm. III., c. 7</td>
<td>An Act to prevent the throwing or firing of Squibbs Serpents and other Fireworks.</td>
<td>The whole.</td>
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<tr>
<td>9 Wm. III., c. 26</td>
<td>An Act for the more effectually suppressing of Blasphemy and Profaneness.</td>
<td>The whole.</td>
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<tr>
<td>10 Wm. III., c. 28</td>
<td>An Act for suppressing of Lotteries.</td>
<td>The whole.</td>
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<tr>
<td>11 Wm. III., c. 7</td>
<td>An Act for the more effectual Suppression of Firday.</td>
<td>Sections 8, 9, &amp; 10.</td>
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<tr>
<td>1 Anne St. 2, c. 0, s. 3</td>
<td>An Act for punishing Accessories to Felonies and Receivers of Stolen Goods and to prevent the wilful burning and destroying of Ships.</td>
<td>The whole not already repealed.</td>
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<tr>
<td>13 Anne, c. 21</td>
<td>An Act for the preserving all such Ships and Goods thereof which shall happen to be forced on shore or stranded upon the Coasts of this Kingdom or any other of Her Majesty's Dominions.</td>
<td>Section 5.</td>
</tr>
<tr>
<td>1 Geo. I., St. 2, c. 6</td>
<td>An Act for preventing Tumults and riotous Assemblies and for the more speedy and effectual punishing the Rioters.</td>
<td>The whole not already repealed.</td>
</tr>
<tr>
<td>15 &amp; Geo. I., c. 12</td>
<td>Beginning with the words &quot;An Act for enforcing and making perpetual an Act of the twelfth year of her late Majesty&quot; and ending with the words &quot;such as wilfully burn or destroy ships.&quot;</td>
<td>The whole.</td>
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<tr>
<td>20 &amp; Geo. I., c. 22</td>
<td>Beginning with the words &quot;An Act to prevent the Mischief's by forging Powers&quot; and ending with the words &quot;Instruments founded thereupon.&quot;</td>
<td>The whole.</td>
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<tr>
<td>8 Geo. I., c. 26</td>
<td>An Act for the more effectual suppressing of Piracy.</td>
<td>Section 1.</td>
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<tr>
<td>2 Geo. II., c. 25</td>
<td>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.</td>
<td>The whole not already repealed.</td>
</tr>
<tr>
<td>9 Geo. II., c. 5</td>
<td>Beginning with the words &quot;An Act to repeal the Statute made in the first Year of the Reign of King James the First&quot; and ending with the words &quot;Witchcraft Sorcery Inchantment or Conjuration.&quot;</td>
<td>The whole.</td>
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<tr>
<td>12 Geo. II., c. 28</td>
<td>An Act for the more effectual preventing of excessive and deceitful Gaming.</td>
<td>The whole.</td>
</tr>
<tr>
<td>10 Geo. II., c. 19</td>
<td>An Act to restrain and prevent the excessive increase of Horse races, and for amending an Act made in the last session of Parliament intituled &quot;An Act for the more effectual preventing of excessive and deceitful Gaming.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>16 Geo. II., c. 13</td>
<td>An Act for establishing an Agreement with the Governor and Company of the Bank of England for advancing the sum of one million six hundred thousand Pounds towards the Supply for the Service of the Year one thousand seven hundred and forty-two.</td>
<td>Sections 11, 12.</td>
</tr>
<tr>
<td>15 Geo. II., c. 27</td>
<td>An Act for the more effectual preventing any Cloth or Woollen Goods remaining upon the Back or Tenters or any Woollen Yarn or Wool left out to dry from being stolen or taken away in the Night-time.</td>
<td>The whole.</td>
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<tr>
<td>18 Geo. II., c. 27.</td>
<td>An Act for the more effectually preventing the stealing of Leath, Fustian and Cotton Goods and Wares in Buildings, Fields and Public Places used for Printing, Whitening, Bleaching or Drying the same.</td>
<td>The whole.</td>
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<tr>
<td>18 Geo. II., c. 34.</td>
<td>An Act to explain and make more effectual the Laws in being to prevent excessive and deceitful gaining and to restrain and prevent the excessive Increase of Horse.Races.</td>
<td>The whole.</td>
</tr>
<tr>
<td>20 Geo. II., c. 30.</td>
<td>An Act for allowing Persons accused of High Treason whereby any Corruption of Blood may be made or for Misplication of such Treason to make their full Defences by Counsel.</td>
<td>The whole.</td>
</tr>
<tr>
<td>23 Geo. II., c. 11.</td>
<td>An Act to render Prosecutions for Perjury and Subornation of Perjury more easy and effectual.</td>
<td>The whole.</td>
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<tr>
<td>25 Geo. II., c. 36.</td>
<td>An Act for the better preventing Thefts and Robberies and for regulating Places of Public Entertainment and punishing Persons keeping disorderly Houses.</td>
<td>Sections 1, 8.</td>
</tr>
<tr>
<td>25 Geo. II., c. 37.</td>
<td>An Act for better preventing the horrid crime of Murder.</td>
<td>The whole.</td>
</tr>
<tr>
<td>26 Geo. II., c. 18.</td>
<td>An Act for enforcing the Laws against Persons who shall steal or detain shipwrecked Goods and for the relief of Persons suffering Losses thereby.</td>
<td>Sections 1 to 4, inclusive.</td>
</tr>
<tr>
<td>30 Geo. II., c. 24.</td>
<td>Beginning with the words &quot;An Act for the more effectual Punishment of Persons who shall attain&quot; and ending with the word &quot;Apprentices.&quot;</td>
<td>The whole not already repealed.</td>
</tr>
<tr>
<td>31 Geo. II., c. 22.</td>
<td>Beginning with the words &quot;An Act for granting to His Majesty several Rates and Duties&quot; and ending with the words &quot;the said Rates and Duties.&quot;</td>
<td>Section 78.</td>
</tr>
<tr>
<td>4 Geo. III., c. 25.</td>
<td>Beginning with the words &quot;An Act for establishing an Agreement with the Governor and Company of the Bank of England&quot; and ending with the words &quot;and the fraudulent personating the owners thereof.&quot;</td>
<td>Section 15.</td>
</tr>
<tr>
<td>4 Geo. III., c. 37.</td>
<td>Beginning with the words &quot;An Act for the better establishing a Manufactory of Clothious and Levens&quot; and ending with the words &quot;that part of Great Britain called England.&quot;</td>
<td>Section 10.</td>
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### Criminal Code Bill.

**THE SECOND SCHEDULE—continued:**

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<thead>
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<tr>
<td>7 Geo. III., c. 60.</td>
<td>An Act for amending certain Laws relating to the Revenue of the Post Office and for granting Rate of Postage for the Conveyance of Letters and Parcels between Great Britain and the Isle of Man and within that Island.</td>
<td>The whole.</td>
</tr>
<tr>
<td>9 Geo. III., c. 20.</td>
<td>An Act for the more effectually proceeding against Persons standing Mute on their Arraignment for Felony or Piracy.</td>
<td>The whole.</td>
</tr>
<tr>
<td>12 Geo. III., c. 29.</td>
<td>An Act for the more effectually preventing the Forgery and ending with the words &quot;in Relation to Simon's Wages.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>15 Geo. III., c. 18.</td>
<td>An Act to explain and amend an Act passed in the seventh year of the Reign of his late Majesty King George the Second and ending with the words &quot;Delivery of Goods.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>20 Geo. III., c. 79.</td>
<td>An Act to explain and amend an Act made in the fourth year of his late Majesty King George the Second intituled &quot;An ACT for the more effectually punishing Stealers of Lead or Iron Bars fixed to Houses or any Fences belonging thereto.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>21 Geo. III., c. 66.</td>
<td>An Act to explain and amend an Act made in the twenty-ninth year of the Reign of his late Majesty King George the Second intituled &quot;An ACT for more effectually bringing the Offenders to Justice.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>31 Geo. III., c. 53.</td>
<td>An Act for the more easy Discovery and effectual Punishment of Buyers and Receivers of Stolen Goods.</td>
<td>The whole.</td>
</tr>
<tr>
<td>40 Geo. III., c. 52.</td>
<td>An Act for the better and more effectual Protection of Stocking Frauds and ending with the words &quot;for the use of the Stocking Frauds.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>50 Geo. III., c. 49.</td>
<td>An Act for discontinuing the Judgment which has been required by Law to begin against Women convicted of certain Crimes and substituting another Judgment in lieu thereof.</td>
<td>The whole.</td>
</tr>
<tr>
<td>Reign, Year, and</td>
<td>Title of Act</td>
<td>Exempt of Repeal</td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Chapter of Act.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>32 Geo. III., c.98.</td>
<td>Beginning with the words &quot;An Act for preventing and amending an Act passed in the thirty-first year of the Reign of his late Majesty King George the Second, and ending with the words &quot;on Board any of his Majesty's Ships.&quot;</td>
<td>Section 23.</td>
</tr>
<tr>
<td>38 Geo. III., c. 67.</td>
<td>An Act for better preventing Offences in obstructing destroying or damaging Ships or other Vessels and in obstructing Seamen, Coxswains, and Ship Carpenters from pursuing their lawful Occupations.</td>
<td>The whole not already repealed.</td>
</tr>
<tr>
<td>37 Geo. III., c. 70.</td>
<td>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 or to incite them to Mutiny or Disobedience.</td>
<td>The whole.</td>
</tr>
<tr>
<td>37 Geo. III., c. 122.</td>
<td>Beginning with the words &quot;An Act for the better preventing the forging or counterfeiting the Names of Witnesses to Letters of Attorney&quot; and ending with the words &quot;or for the Receipt of Dividends upon any of such Stocks or Funds.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>37 Geo. III., c. 123.</td>
<td>An Act for more effectually preventing the administering or taking of unlawful Oaths.</td>
<td>The whole.</td>
</tr>
<tr>
<td>39 Geo. III., c. 79.</td>
<td>An Act for the more effectual Suppression of Societies established for seditious and treasonable Purposes and for better preventing treasonable and seditious Practices.</td>
<td>The whole.</td>
</tr>
<tr>
<td>39 Geo. III., c. 55.</td>
<td>An Act to protect Masters against Embezzlements by their Clerks or Servants.</td>
<td>The whole.</td>
</tr>
<tr>
<td>42 Geo. III., c. 118.</td>
<td>An Act to suppress certain Games and Lotteries not authorized by Law.</td>
<td>The whole.</td>
</tr>
<tr>
<td>43 Geo. III., c. 123.</td>
<td>Beginning with the words &quot;An Act for the more effectually providing for the Punishment of Offences&quot; and ending with the words &quot;Accessories to Murders and to Manslaughters.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>43 Geo. III., c. 130.</td>
<td>An Act for preventing the Forgery and Counterfeiting of Foreign Bills of Exchange, and of Foreign Promissory Notes and Orders for the Payment of Money, and for preventing the Counterfeiting of Foreign Copper Money.</td>
<td>The whole not already repealed.</td>
</tr>
</tbody>
</table>
THE SECOND SCHEDULE—continued :

<table>
<thead>
<tr>
<th>Year</th>
<th>Chapter of Act</th>
<th>Title of Act</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>46</td>
<td>Geo. III.</td>
<td>Beginning with the words “An Act for amending the Law with regard to the course of Proceeding on Indictments” and ending with the words “assign the Bail Bonds to the King.”</td>
<td>The whole.</td>
</tr>
<tr>
<td>48</td>
<td>Geo. III.</td>
<td>Beginning with the words “An Act to repeal so much of an Act passed in the eighth year of the Reign of Queen Elizabeth” and ending with the words “Larceny from the Person.”</td>
<td>The whole.</td>
</tr>
<tr>
<td>49</td>
<td>Geo. III.</td>
<td>An Act for the further Prevention of the Sale and Brokerage of Offence.</td>
<td>The whole.</td>
</tr>
<tr>
<td>15</td>
<td>Geo. III.</td>
<td>An Act for the more effectually preventing the Embarrassment of Money or Securities for Money belonging to the Public by any Collector Receiver, or other Person entrusted with the Receipt Care or Management thereof.</td>
<td>The whole.</td>
</tr>
<tr>
<td>52</td>
<td>Geo. III.</td>
<td>An Act for extending the provisions of an Act of the thirteenth year of King George the Second against Persons obtaining Money by false Pretences to Persons so obtaining Bonds and other Securities.</td>
<td>The whole.</td>
</tr>
<tr>
<td>53</td>
<td>Geo. III.</td>
<td>An Act to render more effectual an Act passed in the thirty-seventh year of his present Majesty for the preventing the administering or taking Unlawful Oaths.</td>
<td>The whole.</td>
</tr>
<tr>
<td>52</td>
<td>Geo. III.</td>
<td>Beginning with the words “An Act for the further Prevention of the counterfeiting of Silver Tokens” and ending with the words “the said Governor and Company.”</td>
<td>The whole.</td>
</tr>
<tr>
<td>52</td>
<td>Geo. III.</td>
<td>An Act for amending and reducing into one Act the Provisions contained in any Laws now in force imposing the Penalty of Death for any act done in Breach of or in Resistance to any part of the Laws for collecting his Majesty’s Revenue in Great Britain.</td>
<td>The whole.</td>
</tr>
<tr>
<td>52</td>
<td>Geo. III.</td>
<td>An Act for the more effectual Punishment of Persons selling Prienons of War to escape from his Majesty’s Dominions.</td>
<td>The whole.</td>
</tr>
<tr>
<td>58</td>
<td>Geo. III.</td>
<td>An Act to relieve Persons who impugn the doctrine of the Holy Trinity from certain Penalties.</td>
<td>The whole.</td>
</tr>
<tr>
<td>54</td>
<td>Geo. III.</td>
<td>An Act to alter the Punishment in certain Cases of High Treason.</td>
<td>The whole.</td>
</tr>
<tr>
<td>56</td>
<td>Geo. III.</td>
<td>An Act for removing the Difficulties in the Conviction of offenders stealing Property from Mines.</td>
<td>The whole.</td>
</tr>
<tr>
<td>56</td>
<td>Geo. III.</td>
<td>An Act to abolish the Punishment of the Pillory except in certain Cases.</td>
<td>The whole.</td>
</tr>
</tbody>
</table>
### THE SECOND SCHEDULE—continued:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>57 Geo. III., c. 6,</td>
<td>Beginning with the words &quot;An Act to make perpetual certain parts of an Act of the thirty-sixth year of his present Majesty's Reign, and ending with the words &quot;Treasonable Practices and Attempts.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>57 Geo. III., c. 12.</td>
<td>An Act for the more effectually preventing Seditious Meetings and Assemblies.</td>
<td>The whole.</td>
</tr>
<tr>
<td>60 Geo. III. &amp; 1 Geo. IV., c. 1,</td>
<td>An Act to prevent the Training of Persons to the Use of Arms and to the Practice of Military Evolutions and Exercising.</td>
<td>The whole.</td>
</tr>
<tr>
<td>60 Geo. III. &amp;</td>
<td>An Act to prevent Delay in the Administration of Justice in Cases of Misdemeanor.</td>
<td>The whole.</td>
</tr>
<tr>
<td>1 &amp; 2 Geo. IV., c. 88.</td>
<td>An Act for the Amendment of the Law of Rescue.</td>
<td>The whole.</td>
</tr>
<tr>
<td>2 Geo. IV., c. 38.</td>
<td>An Act for the further and more adequate Punishment of Persons convicted of Manslaughter and of Servants convicted of robbing their Masters, and of Accessories before the fact to Grand Larceny and certain other Felonies.</td>
<td>The whole.</td>
</tr>
<tr>
<td>3 Geo. IV., c. 114.</td>
<td>An Act to provide for the more effectual Punishment of certain Offences by Imprisonment with hard Labour.</td>
<td>The whole.</td>
</tr>
<tr>
<td>5 Geo. IV., c. 107.</td>
<td>Beginning with the words &quot;An Act to prevent the illegal pawning of Clothes and stores belonging to Chelsea Hospital,&quot; and ending with the words &quot;to hold lands purchased under the Will of Colonel Droulay.&quot;</td>
<td>Section 5.</td>
</tr>
<tr>
<td>6 Geo. IV., c. 129.</td>
<td>An Act to repeal the Laws relating to the Combination of Workmen and to make provisions in lieu thereof.</td>
<td>The whole.</td>
</tr>
<tr>
<td>7 Geo. IV., c. 10.</td>
<td>An Act to consolidate and amend several Acts relating to the Royal Hospitals for Soldiers at Chelsea and Kilmainham.</td>
<td>Section 38.</td>
</tr>
<tr>
<td>9 Geo. IV., c. 32.</td>
<td>An Act for amending the Law of Evidence in certain cases.</td>
<td>The whole.</td>
</tr>
<tr>
<td>7 Geo. IV., c. 63.</td>
<td>An Act for the more effectual Prevention of Persons going armed by Night for the Destruction of Game.</td>
<td>The whole.</td>
</tr>
<tr>
<td>1 Wm. IV. &amp; 1 Vic., c. 88.</td>
<td>An Act to amend certain Acts relating to the Crime of Pinery.</td>
<td>The whole.</td>
</tr>
</tbody>
</table>
### THE THIRD SCHEDULE.

**STATUTES OF NEW SOUTH WALES AND QUEENSLAND.**

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
<th>Title or Short Title of Act</th>
<th>Date of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 Geo. IV. No. 2</td>
<td>An Act for preventing the Mischiefs arising from the printing and publishing Newspapers and Papers of a like nature by persons not known and for regulating the printing and publication of such Papers in other respects and also for restraining the Abuse arising from the publication of Blasphemous and Seditious Libels.</td>
<td>Sections 7 and 20.</td>
</tr>
<tr>
<td>5 WM. IV. No. 1</td>
<td>An Act for regulating the Slaughtering of Cattle.</td>
<td>Section 12.</td>
</tr>
<tr>
<td>5 WM. IV. No. 21</td>
<td>An Act for Appointing and Empowering Commissioners to Examine and Report upon Claims to Grants of Land under the Great Seal of the Colony of New South Wales.</td>
<td>The last enactment of Section 6, beginning with the words “And that any person taking a false oath.”</td>
</tr>
<tr>
<td>4 Vic. No. 5</td>
<td>An Act to provide for the Maintenance of Deserted Wives and Children.</td>
<td>Section 5.</td>
</tr>
<tr>
<td>4 Vic. No. 13</td>
<td>An Act to provide for the Periodical Publication of the Debts, and Assets of Banks in New South Wales and its Dependencies and the Registration of the names of the Proprietors thereof.</td>
<td>So much of Section 9 as is contained in the provision beginning with the words “And any managing director” and ending at the end of the section.</td>
</tr>
<tr>
<td>4 Vic. No. 17</td>
<td>An Act for the further and better Regulation and Government of Seamen within the Colony of New South Wales and its Dependencies and for establishing a Water Police.</td>
<td>Section 12.</td>
</tr>
<tr>
<td>5 Vic. No. 19</td>
<td>Beginning with the words “An Act to repeal so much of an Act intituled ‘An Act for preventing the mischiefs arising from the printing and publishing Newspapers and Papers of a like nature by persons not known,” and ending with the words “and further to amend the same.”</td>
<td>Section 1.</td>
</tr>
<tr>
<td>Year and Number of Act</td>
<td>Title or Short Title of Act</td>
<td>Extent of Repeal</td>
</tr>
<tr>
<td>------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>7 Vic. No. 10.</td>
<td>An Act to consolidate and amend the Laws relating to the Registration of Deeds and other Instruments in that part of the Colony of New South Wales not comprehending the District of Port Phillip.</td>
<td>Section 27. The second paragraph of section 28, beginning with the words &quot;and if the said Registrar General.&quot;</td>
</tr>
<tr>
<td>7 Vic. No. 21.</td>
<td>Beginning with the words &quot;An Act to amend an Act&quot; and ending with the words &quot;government of Seamen in the Merchant Service.&quot;</td>
<td>Section 8. 10</td>
</tr>
<tr>
<td>10 Vic. No. 1.</td>
<td>An Act to prevent for a limited time Party Processions and certain other public Exhibitions in the Colony of New South Wales.</td>
<td>The whole. 15</td>
</tr>
<tr>
<td>11 Vic. No. 56.</td>
<td>An Act to enable any Joint Stock Company to sue any of its own Members and to enable any Member of any such Joint Stock Company to sue any such Company and for other purposes.</td>
<td>Section 3. 20</td>
</tr>
<tr>
<td>11 Vic. No. 59.</td>
<td>An Act to enable certain Public Hospitals to Sue and be Sued in the Name of their Treasurers and to provide for the Taking and Holding of Real Property belonging to such Hospitals respectively.</td>
<td>Section 2. 20</td>
</tr>
<tr>
<td>13 Vic. No. 20.</td>
<td>An Act to Prevent Unlawful Distillation and to provide for the Protection of the Revenue arising from the Duties on Spirits.</td>
<td>So much of Section 31 as is contained in the provision beginning with the words &quot;and every person who shall be convicted&quot; and ending at the end of the section. 40</td>
</tr>
<tr>
<td>13 Vic. No. 27.</td>
<td>&quot;The Distilleries Act of 1846.&quot;</td>
<td>So much of section 117 as is contained in the provision beginning with the words &quot;and every person who shall be convicted&quot; and ending at the end of the 45 section.</td>
</tr>
<tr>
<td>13 Vic. No. 36.</td>
<td>An Act to repeal the Law relating to Hawkers and Pedlars in the Colony of New South Wales, and to substitute other Provisions in lieu thereof.</td>
<td>Section 17.</td>
</tr>
<tr>
<td>13 Vic. No. 37.</td>
<td>An Act for regulating the trade or business of Pawnbrokers in New South Wales.</td>
<td>Sections 14, 19, 30, and 81.</td>
</tr>
<tr>
<td>14 Vic. No. 4.</td>
<td>An Act to prevent the Adulteration of Malt Liquors.</td>
<td>Sections 1 and 2.</td>
</tr>
<tr>
<td>Year and Number of Act</td>
<td>Title or Short Title of Act</td>
<td>Extent of Repeal</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>20 Vic. No. 6.</td>
<td>An Act to revive and make perpetual the Act &quot;To prevent for a limited time Party Processions and certain other Public Exhibitions in the Colony of New South Wales.&quot;</td>
<td>The whole.</td>
</tr>
<tr>
<td>26 Vic. No. 14.</td>
<td>&quot;Real Property Act of 1861.&quot;</td>
<td>The first enactment of section 10, ending with the words &quot;twelve calendar months.”</td>
</tr>
<tr>
<td>30 25 Vic. No. 11.</td>
<td>An Act to Legalise Unions.</td>
<td>So much of section 44 as is contained in the words &quot;all and every person who shall falsely and fraudulently forge or alter or procure to be forged or altered or assist in forging or altering any register ticket certificate discharge or other document which shall have been so forged or altered or which does not belong to him shall be deemed guilty of a misdemeanor and may be committed to take his trial for such misdemeanor before the Supreme Court or a Circuit Court or some other Court of general or quarter sessions and may be tried and sentenced to fine or imprisonment at the discretion of the Court or such offender.”</td>
</tr>
</tbody>
</table>

Criminal Code Bill.
### THE THIRD SCHEDULE—continued:

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
<th>Title or Short Title of Act</th>
<th>Restate of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>27 Vic. No. 8.</td>
<td>An Act to make provision for the Construction by the Government of Railways and for the Regulation of the same.</td>
<td>So much of Section 46 as is contained in the words &quot;and any such surveyor shall corruptly make false declaration or having made such declaraion shall wilfully act contrary thereto he shall be guilty of a 10 misdemeanour.&quot; Sections 132 and 133.</td>
</tr>
<tr>
<td>28 Vic. No. 5.</td>
<td>&quot;The Trade Marks Act, 1861.&quot;</td>
<td>Sections 8, 9, 10, 18, 19, and 20.</td>
</tr>
<tr>
<td>29 Vic. No. 6.</td>
<td>&quot;Injuries to Property Act of 1895.&quot;</td>
<td>The whole. 20</td>
</tr>
<tr>
<td>29 Vic. No. 15.</td>
<td>&quot;Criminal Practice Act of 1895.&quot;</td>
<td>The whole. 25</td>
</tr>
<tr>
<td>30 Vic. No. 11.</td>
<td>An Act to regulate the Trial of Offences committed within the jurisdiction of the Admiralty.</td>
<td>Section 9. 20</td>
</tr>
<tr>
<td>30 Vic. No. 21.</td>
<td>&quot;Distillation from Sugar Act.&quot;</td>
<td>Section 11. So much of Section 31 as is contained in the provision beginning with the words &quot;and every person who shall be convicted&quot; and ending at the end of the section.</td>
</tr>
<tr>
<td>31 Vic. No. 4.</td>
<td>&quot;Common Law Process Act of 1897.&quot;</td>
<td>So much of Section 26 as is contained in the provision beginning with the words &quot;Provided always that if any person shall forger and ending with the words &quot;in which the principal offender may be tried.&quot;</td>
</tr>
<tr>
<td>31 Vic. No. 7.</td>
<td>&quot;The Amended Registration Act of 1897.&quot;</td>
<td>So much of Section 9 as is contained in the words &quot;subject in the case of wilful falsehood thereof to the penalties of 20 perjury.&quot;</td>
</tr>
</tbody>
</table>
### THE THIRD SCHEDULE—continued:

<table>
<thead>
<tr>
<th>Year and Section of Act</th>
<th>Title or Short Title of Act</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 Vic. No. 11.</td>
<td>&quot;Jurat Act of 1807.&quot;</td>
<td>So much of Section 6 as is contained in the provision beginning with the words &quot;and if upon such oath or affirmation&quot; and ending at the end of the section.</td>
</tr>
<tr>
<td>10</td>
<td></td>
<td>Sections 11, 12.</td>
</tr>
<tr>
<td>31 Vic. No. 12.</td>
<td>&quot;Oaths Act of 1807.&quot;</td>
<td>So much of Section 13 as is contained in the words &quot;and if any declaration so made shall be false or untrue in any material particular the person wilfully making such false declaration shall be deemed guilty of a misdemeanour.&quot;</td>
</tr>
<tr>
<td>15</td>
<td></td>
<td>Section 16.</td>
</tr>
<tr>
<td>20</td>
<td></td>
<td>So much of Section 18 as is contained in the provision beginning with the words &quot;and if any such person making such solemn affirmation&quot; and ending with the words &quot;to the contrary notwithstanding.&quot;</td>
</tr>
<tr>
<td>25</td>
<td></td>
<td>Section 20.</td>
</tr>
<tr>
<td>31 Vic. No. 19.</td>
<td>&quot;Evidence and Discovery Act of 1807.&quot;</td>
<td>So much of Section 68 as is contained in the words &quot;and if convicted of any wilful perjury in such evidence shall suffer all the punishments, penalties, forfeitures and disabilities which by any law or statute are or may be inflicted upon persons convicted of wilful perjury.&quot;</td>
</tr>
<tr>
<td>30</td>
<td></td>
<td>Section 44.</td>
</tr>
<tr>
<td>36</td>
<td></td>
<td>So much of Section 76 as is contained in the provision beginning with the words &quot;and every person charged&quot; and ending at the end of the section.</td>
</tr>
<tr>
<td>40</td>
<td></td>
<td>Sections 146 and 147.</td>
</tr>
<tr>
<td>31 Vic. No. 18.</td>
<td>&quot;Equity Act of 1807.&quot;</td>
<td>So much of Section 27 as is contained in the words &quot;be guilty of a misdemeanour and being found guilty shall be liable at the discretion of the court to suffer such punishment by fine or imprisonment for any term not exceeding two years with or without hard labour or by both as the court shall award and shall also.&quot;</td>
</tr>
<tr>
<td>43</td>
<td></td>
<td>Sections 27 and 28.</td>
</tr>
<tr>
<td>31 Vic. No. 20.</td>
<td>&quot;Oaths Act of 1807.&quot;</td>
<td>So much of Section 6 as is contained in the words &quot;Provided that any person making a false declaration shall be deemed guilty of perjury.&quot;</td>
</tr>
<tr>
<td>31 Vic. No. 23.</td>
<td>&quot;Supreme Court Act of 1807.&quot;</td>
<td>So much of Section 17 as is contained in the provision beginning with the words &quot;and if any person shall wilfully&quot; and ending at the end of the section.</td>
</tr>
</tbody>
</table>
### THE THIRD SCHEDULE—continued:

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
<th>Title or Short Title of Act</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>5</td>
</tr>
</tbody>
</table>
|                        |                            | So much of Sections 47 and 40 respectively as is contained in the words "and also being thereof lawfully convicted shall suffer imprisonment for one 10 half year without bail or main-price."
|                        |                            | So much of Section 66 as is contained in the words "and shall also be liable to an indictment for a misdemeanour punishable by fine or imprisonment or both in the discretion of the Court by which he shall be tried." |
| 81 Vic. No. 38.        | "Constitution Act of 1867." | Section 38. 20 |
| 34 Vic. No. 12.        | An Act to Extend the Operation of Probable Liens upon certain Crops. | Sections 3 and 5. 25 |
| 38 Vic. No. 5.         | "The Insolvency Act of 1874." | Sections 206 to 214 inclusive, Section 216. 35 |
| 38 Vic. No. 11.        | "The Gold Fields Act, 1874." | Sections 206 to 214 inclusive, Section 216. 35 |
|                        |                            | So much of Section 23 as is contained in the enactment beginning with the words "Any person who forges" and ending with the words "a term not exceeding two years." |
### THE THIRD SCHEDULE—continued:

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
<th>Title or Short Title of Act</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td></td>
<td>Section 77.</td>
</tr>
<tr>
<td>15</td>
<td></td>
<td>So much of Section 89 as is contained in the section beginning with the words &quot;If an undue weight is placed upon the safety valve,&quot; and ending at the end of the section. Section 99.</td>
</tr>
<tr>
<td>20</td>
<td></td>
<td>So much of Section 106 as is contained in the words &quot;Any person who knowingly sends or attempts to send by or carries or attempts to carry in any vessel any dangerous goods as hereinafter is contained under a false description or falsely describes the sender thereof shall be guilty of a misdemeanor.&quot; The second paragraph of Section 106, beginning with the words &quot;And if any person shall so deliver,&quot; and ending at the end of the section. Section 108.</td>
</tr>
<tr>
<td>42 Vic. No. 6.</td>
<td>&quot;The Public Works Lands Repealution Act of 1876.&quot;</td>
<td>So much of Section 41 as is contained in the words &quot;And if any such surveyor shall corruptly make such declaration or having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanor.&quot; Section 55.</td>
</tr>
<tr>
<td>42 Vic. No. 8.</td>
<td>&quot;The Local Government Act of 1878.&quot;</td>
<td>So much of Section 92 as is contained in the words &quot;And every person who shall intrude into such booth or polling-place other than such presiding officer poll clerk candidates scrutineers and electors actually voting shall be deemed guilty of a misdemeanor.&quot; So much of Section 98 as begins with the words &quot;and without any other warrant than this Act&quot; and ends with the words &quot;causing a disturbance at any election.&quot; Sections 108, 109, 110, and 110.</td>
</tr>
<tr>
<td>40</td>
<td></td>
<td>Section 96.</td>
</tr>
<tr>
<td>45</td>
<td></td>
<td>Section 88.</td>
</tr>
<tr>
<td>50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year and Number of Act</td>
<td>Title or Short Title</td>
<td>Extent of repeal</td>
</tr>
<tr>
<td>------------------------</td>
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</tr>
<tr>
<td>48 Vic. No. 8.</td>
<td>&quot;The Insanity Act of 1884.&quot;</td>
<td>So much of Section 22 as is contained in the words &quot;...&quot; and any person offending against this provision shall be guilty of a misdemeanor.&quot;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>So much of Section 33 as is contained in the words &quot;If...&quot; falsely certifies in writing that a person is insane, knowing him not to be insane, he shall be guilty of a misdemeanor.&quot;</td>
</tr>
</tbody>
</table>
|                       |                     | So much of Section 48 as is contained in the words "the Court before which he is brought to be tried shall direct such finding to be recorded, and may thereupon order him to be kept in strict custody, in such place and in such manner as to the Court seems fit, until he is dealt with as next hereinafter provided."
|                       |                     | In any such case."
|                       |                     | The last paragraph of the same section. Section 48. Section 103. So much of Section 168 as is contained in the enactment beginning with the words "Every such superintendent or other officer," and ending at the end of the section. Section 170. |
| 48 Vic. No. 19.        | "The Oaths Act Amendment Act of 1884." | So much of Section 2 as is contained in the words "And if any such person wilfully and corruptly gives false evidence he may be indicted and tried for perjury, and upon conviction thereof shall be liable to the same punishment as if he had taken an oath." |
| 48 Vic. No. 22.        | "The Pharmacy Act of 1884." | This second paragraph of Section 25 beginning with the words "If any person shall wilfully..." and ending at the end of the section. Section 25. |
### The Third Schedule—continued:

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
<th>Title or Short Title</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>48 Vic. No. 27.</td>
<td>&quot;The Defence Act of 1884.&quot;</td>
<td>So much of Section 74 as is contained in the words &quot;be guilty of a misdemeanour, and shall likewise.&quot;</td>
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<tr>
<td>5</td>
<td></td>
<td>So much of the first paragraph of Section 75 as is contained in the words &quot;be guilty of a misdemeanour, and shall.&quot;</td>
</tr>
<tr>
<td>10</td>
<td></td>
<td>So much of the second paragraph of the same section as is contained in the words &quot;be guilty of a misdemeanour, and shall likewise.&quot;</td>
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<td></td>
<td></td>
<td>Section 78.</td>
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<td>20</td>
<td></td>
<td>So much of Section 78 as is contained in the words &quot;and shall cause to be arrested and taken before a justice of the peace any person who is reasonably suspected of perjury as hereinafter defined, or who causes a disturbance.&quot;</td>
</tr>
<tr>
<td>30</td>
<td></td>
<td>So much of Section 76 as is contained in the words &quot;and shall be subject to the same penalties for perjury.&quot;</td>
</tr>
<tr>
<td>35</td>
<td></td>
<td>Sections 41, 44, and 45.</td>
</tr>
<tr>
<td>50 Vic. No. 14.</td>
<td>&quot;The Offenders Probation Act of 1886.&quot;</td>
<td>The last paragraph of Section 113, beginning with the words &quot;When a defendant,&quot; and ending at the end of the section.</td>
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<td></td>
<td></td>
<td>Sections 170 to 190 inclusive.</td>
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<tr>
<td>40</td>
<td></td>
<td>The second paragraph of Section 11, beginning with the words &quot;If the master,&quot; and ending at the end of the section.</td>
</tr>
<tr>
<td>45 50 Vic. No. 22.</td>
<td>&quot;The Oyster Act of 1886.&quot;</td>
<td>The second paragraph of Section 12, beginning with the words &quot;If any such surgeon,&quot; and ending at the end of the section.</td>
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</tbody>
</table>
## THE THIRD SCHEDULE—continued:

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
<th>Title or Short Title</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>51 Vic. No. 2.</td>
<td>&quot;The Copyright Registration Act (Queensland), 1887.&quot;</td>
<td>Section 11.</td>
</tr>
<tr>
<td>51 Vic. No. 7.</td>
<td>&quot;The Divisional Boards Act of 1887.&quot;</td>
<td>So much of Section 67 as is contained in the provision beginning at the beginning of the section and ending with the words &quot;with reference to an election of a member of the Legislative Assembly.&quot; The second paragraph of Section 99, beginning with the words &quot;Any person who intrudes,&quot; and ending at the end of the section.</td>
</tr>
<tr>
<td>53 Vic. No. 7.</td>
<td>&quot;The Mines Regulation Act of 1888.&quot;</td>
<td>So much of Section 6 as is contained in the words &quot;Any person who contravenes the provisions of this section shall be guilty of a misdemeanor.&quot;</td>
</tr>
<tr>
<td>53 Vic. No. 12.</td>
<td>&quot;The Deformation Law of Queensland.&quot;</td>
<td>Sections 4 to 8 inclusive. Sections 10 to 19 inclusive. So much of Section 20 as is contained in the words &quot;or prosecution.&quot; Sections 25 to 33 inclusive. Section 37. Section 38.</td>
</tr>
</tbody>
</table>
THE THIRD SCHEDULE—continued:

<table>
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<tbody>
<tr>
<td></td>
<td>continued:</td>
<td>So much of Sections 40 and 41 as is contained in the words &quot;or prosecution&quot; and in the words &quot;or prosecutor&quot; wherever therein appearing.</td>
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<td>10</td>
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<td>Section 42.</td>
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<td></td>
<td>So much of Section 48 as is contained in the word &quot;alleged&quot; in the first line thereof, and in the words &quot;or prosecution,&quot; and in the words &quot;or prosecutor.&quot;</td>
</tr>
<tr>
<td>15</td>
<td></td>
<td>So much of Section 44 as is contained in the words &quot;and prosecutions.&quot;</td>
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<td>20</td>
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<td>Section 45.</td>
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<td></td>
<td>So much of Section 48 as is contained in the words &quot;or to the misdemeanour of publishing a blasphemous or seditious or obscene libel.&quot;</td>
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<td></td>
<td>So much of Section 15 as is contained in the words &quot;and also (subject as regards her husband to the proviso hereinafter contained) the same remedies and redress by way of criminal proceedings&quot;; and in the words &quot;In any indictment under this section it shall be sufficient to allege such property to be her property&quot;; and in the proviso to the section. Sections 10 and 17.</td>
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<td>Section 20.</td>
</tr>
</tbody>
</table>
| 40                     | "The Safety of Defences Act of 1891."
|                        |                      | Section 6. |
|                        |                      | Sections 63, 64, 65, 66. |
|                        |                      | Section 10. |
|                        |                      | Section 10. |
|                        |                      | Sections 90 and 106. |
|                        |                      | So much of Section 1 as is contained in the provision beginning with the words, "And if any such person," and ending at the end of the section. |
THE THIRD SCHEDULE—continued:

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
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</tr>
</thead>
<tbody>
<tr>
<td>55 Vic. No. 15.</td>
<td>&quot;The Post and Telegraph Act, 1891.&quot;</td>
<td>So much of Section 48 as is contained in the words &quot;Any officer who acts contrary to the direction shall be guilty of a misdemeanor.&quot;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>So much of Section 58 as is contained in the provision beginning with the words &quot;Any master 10 who (except as aforesaid)&quot; and ending at the end of the section.</td>
</tr>
<tr>
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<td></td>
<td>So much of Section 59 as is contained in the provision beginning with the words &quot;Any master 15 who fails&quot; and ending at the end of the section.</td>
</tr>
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<td></td>
<td>So much of Section 60 as is contained in the provision beginning with the words &quot;Any person in any respect offending&quot; and ending at the end of the section.</td>
</tr>
<tr>
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<td></td>
<td>So much of Section 61 as is contained in the provision beginning with the words &quot;Any master 25 who refuses&quot; and ending at the end of the section.</td>
</tr>
<tr>
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<td></td>
<td>So much of Section 62 as is contained in the provision beginning with the words &quot;Any master 35 who refuses&quot; and ending at the end of the section.</td>
</tr>
<tr>
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<td>So much of Section 63 as is contained in the provision beginning with the words &quot;Any master 45 who refuses&quot; and ending at the end of the section.</td>
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<td>Any master 150 inclusive.</td>
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<td></td>
<td></td>
<td>Section 125.</td>
</tr>
<tr>
<td>55 Vic. No. 27.</td>
<td>&quot;The Copyright (Fine Arts) Registration Act, 1892.&quot;</td>
<td>Section 8.</td>
</tr>
<tr>
<td>55 Vic. No. 28.</td>
<td>&quot;The Elections Act of 1892.&quot;</td>
<td>The third and fourth paragraphs of Section 10, beginning respectively with the words &quot;If an elector, having received&quot; and &quot;The returning officer shall 55 direct.&quot;</td>
</tr>
</tbody>
</table>
### THE THIRD SCHEDULE—continued:

<table>
<thead>
<tr>
<th>Year and Number of Act.</th>
<th>Title or Short Title.</th>
<th>Extent of Recital.</th>
</tr>
</thead>
<tbody>
<tr>
<td>56 Vic. No. 35.</td>
<td>An Act to Authorise the Issue of Treasury Bills for the purpose of Securing the Retirement of Treasury Notes.</td>
<td>Section 11.</td>
</tr>
<tr>
<td>57 Vic. No. 10.</td>
<td>&quot;The Stock Returns Act of 1892.&quot;</td>
<td>So much of Section 4 as is contained in the words &quot;be guilty of a misdemeanour or.&quot;</td>
</tr>
<tr>
<td>57 Vic. No. 20.</td>
<td>An Act to Authorise the Issue of Treasury Bills in Aid of the Revenue of the Colony and for other purposes.</td>
<td>Section 9.</td>
</tr>
<tr>
<td>58 Vic. No. 17.</td>
<td>&quot;The Friendly Societies Act of 1904.&quot;</td>
<td>The paragraph numbered 11 of Section 16, beginning with the words &quot;Every person elected or appointed,&quot; and ending with the words &quot;Larceny Act of 1865.&quot; So much of Section 28 as is contained in the words &quot;and any person knowingly making a false or fraudulent declaration in the matter shall be guilty of a misdemeanour.&quot;</td>
</tr>
<tr>
<td>59 Vic. No. 22.</td>
<td>&quot;The Rockhampton Harbour Board Act, 1905.&quot;</td>
<td>So much of the paragraph numbered 16 of Section 37 as is contained in the words &quot;And if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.&quot;</td>
</tr>
</tbody>
</table>
### THE THIRD SCHEDULE—continued:

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
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</thead>
<tbody>
<tr>
<td>59 Vic. No. 34.</td>
<td>&quot;The Brisbane Traffic Act of 1895.&quot;</td>
<td>The second paragraph of Section 23, beginning with the words &quot;Any person who destroys,&quot; and ending at the end of the section. Section 35. The second paragraph of Section 29 of the Schedule, beginning with the words &quot;Every person who intrudes,&quot; and ending at the end of the section. So much of Section 30 of the Schedule as begins with the words &quot;and may without any other warrant than this Act&quot; and ends with the words &quot;conducts himself in a disorderly manner.&quot; The last paragraph of Section 37 of the Schedule, beginning with the words &quot;If any voter,&quot; and ending at the end of the section. Sections 40 and 44 of the Schedule. The first and second paragraphs of Section 46 of the Schedule.</td>
</tr>
<tr>
<td>60 Vic. No. 29.</td>
<td>&quot;The Factories and Shops Act of 1896.&quot;</td>
<td>So much of Section 49 as is contained in the provision beginning with the words &quot;Any person who forges or counterfeits&quot; and ending with the words &quot;imprisonment for a term not exceeding twelve months, with or without hard labour.&quot;</td>
</tr>
</tbody>
</table>
### THE FOURTH SCHEDULE.

<table>
<thead>
<tr>
<th>Year and Number of Act</th>
<th>Title or Short Title of Act</th>
<th>Extent of Repase</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Vic. No. 17.</td>
<td>An Act for the further and better Regulation and Government of Seamen within the Colony of New South Wales and its Dependencies, and for Establishing a Water Police.</td>
<td>Section 13:—Omit the words &quot;deemed guilty of a misdemeanor and upon conviction thereof shall suffer such punishment by fine and imprisonment with or without hard labour or by fine or by imprisonment with or without hard labour for any term not exceeding two years as the Court before which such conviction shall be had shall determine,&quot; and insert the words &quot;liable on summary conviction before two justices of the peace to imprisonment for a term not exceeding six months.&quot;</td>
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<tr>
<td>20 Vic. No. 35.</td>
<td>&quot;Licences in Sheep Act of 1867.&quot;</td>
<td>Section 68:—At the beginning of the section omit the words &quot;Any owner who,&quot; and insert the words &quot;If any&quot;: Omit the words &quot;shall be guilty of a misdemeanor and be liable at the discretion of the Court to be imprisoned for any term not exceeding two years and.&quot;</td>
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<tr>
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<tr>
<td>30</td>
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<tr>
<td>37 Vic. No. 1.</td>
<td>&quot;The Customs Act, 1872.&quot;</td>
<td>Section 95:—Omit the word &quot;Every&quot; at the beginning of the second enactment of the section, and insert the words &quot;If any&quot;: In the same and the following enactment omit the words &quot;shall be deemed guilty of a misdemeanor and shall upon conviction suffer the punishment by law inflicted in cases of misdemeanour. But if such person.&quot;</td>
</tr>
<tr>
<td>44 Vic. No. 14.</td>
<td>&quot;The Duties on Oder Act of 1880.&quot;</td>
<td>Section 2:—At the end of the section omit the words &quot;a misdemeanor,&quot; and insert the words &quot;an offence.&quot;</td>
</tr>
<tr>
<td>45</td>
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<tr>
<td>50</td>
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<tr>
<td>55 Vic. No. 8.</td>
<td>&quot;The Insolvency Act of 1884.&quot;</td>
<td>Section 50:—In the first line of the section omit the word &quot;so.&quot;</td>
</tr>
<tr>
<td>50 Vic. No. 17.</td>
<td>&quot;The Justices Act of 1886.&quot;</td>
<td>Section 197:—Omit the words &quot;this Part of this Act,&quot; and insert the words &quot;the provisions of Chapters XLIII. and XLVII. of the Criminal Code.&quot;</td>
</tr>
<tr>
<td>60</td>
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</tbody>
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Price 10s.

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