A DIGEST

OF THE

CRIMINAL LAW

(CRIMES AND PUNISHMENTS).

BY

SIR JAMES FITZJAMES STEPHEN, K.C.S.I., D.C.L.
ONE OF THE JUDGES OF THE HIGH COURT, QUEEN'S BENCH DIVISION,
AND AN HONORARY FELLOW OF TRINITY COLLEGE, CAMBRIDGE.

FOURTH EDITION

London:
MACMILLAN AND CO.;
AND NEW YORK.
1887.

All Rights Reserved.

LONDON:
PRINTED BY WILLIAM CLOWES AND SONS, LIMITED,
STAMFORD STREET AND CHARING CROSS.

TABLE OF CASES CITED.

A.

	PAGE
Abbott, R. *v.*	279
Abraham's Case	253
Addis, R. *v.*	246
Adey's Case	169, 394, 396
Aickle's Case	301
Allen, R. *v.*	153, 193, 199
Allen and Others, R. *v.*	167, 170, 172, 378, 390
Almond, R. *v.*	210
Anderson, R. *v.*	170
Antrobus, R. *v.*	86
Archer, R. *v.*	23
Ardley, R. *v.*	278
Armory *v.* Delamirie	224
Ashwell, R. *v.*	239, 240
Aspinall, R. *v.*	283
Atkinson, R. *v.*	23
Att.-Gen. of Hongkong *v.* Kwok-a-Sing	74
——— *v.* Terry	125
Avery, R. *v.*	241

B.

	PAGE
Badger, R. *v.*	85
Bailey, R. *v.*	268
Barnard, R. *v.*	276
Barnes *v.* Ward	133
Barnett, R. *v.*	185
Barratt, R. *v.*	195
Barrett's Case	167
Barrett, R. *v.*	127
Barronet, *Ex parte*	26
———, R. *v.*	149, 170
Barrow, R. *v.*	193, 194
Barthelemy, R. *v.*	170
Bateman, R. *v.*	300
Batty, R. *v.*	250
Bazeley's Case	223, 254
Beatson *v.* Skene	213
Beaumont, R. *v.*	252
Bembridge, R. *v.*	83, 86, 108
Bennett, R. *v.*	160
Bennett's Case	153
Berriman, R. *v.*	177
Best, R. *v.*	107
Betts, R. *v.*	125
Billingham, R. *v.*	149
Bishop, R. *v.*	28
Biswell, R. *v.*	203
Blades *v.* Higgs	231, 235
Blenkinsop, R. *v.*	300
Boardman, R. *v.*	296
Boden, R. *v.*	234
Boult, R. *v.*	317
Boulton, R. *v.*	229
Bower, R. *v.*	87
Bowron, R. *v.*	83
Bradford, R. *v.*	345
Bradlaugh, R. *v.*	119, 120
Bradlaugh *v.* Newdegate	99
Brain, R. *v.*	158
Brett, *Ex parte*	355, 356
Broadribb, R. *v.*	50
Bromage *v.* Prosser	211
Brooks, R. *v.*	23
Brown, R. *v.*	175, 177, 178, 199
——— and Webb, R. *v.*	199
——— *v.* Mallett	134
Bryan, R. *v.*	278

Case	PAGE
Bubb, R. *v.*	155
Buckner's Case	169
Bullock, R. *v.*	337
Bunce, R. *v.*	238
Buncombe, R. *v.*	23
Bunn, R. *v.*	38
Burdett, R. *v.*	67, 210, 211
Burgess, R. *v.*	107, 173, 175, 242
Burgon, R. *v.*	280
Burns *v.* Nowell	27
Burrell, R. *v.*	201
Burt *v.* Burt	197, 199
Burton, R. *v.*	247, 251
Byrne *v.* Bouder	153
Byron's (Lord) Case	168
Byron (Lord), R. *v.*	170
C.	
Cabbage, R. *v.*	333
Callahan, R. *v.*	249
Camplin, R. *v.*	195
Capital and Counties Bank *v.* Henty	208
Carlisle's Case	282
Carlisle, R. *v.*	217
Carpenter, R. *v.*	249
Carr *v.* Hood	214
——, R. *v.*	160, 250
Cartwright *v.* Green	223, 235, 240, 243, 402
Cary's Case	172
Case, R. *v.*	185
Castlehaven's (Lord), Case	194
Castro, R. *v.*	19
Chadwick, R. *v.*	198, 301
Chambers, R. *v.*	305
Chandler, R. *v.*	206
Chapman, R. *v.*	254
Chapman's Case	98
Charlotte Smith, R. *v.*	154
Cheafor, R. *v.*	231
Cheeseman's Case	39
Child, R. *v.*	51, 336
Chipchase's Case	253
Christian, R. *v.*	287
Clark *v.* Molyneux	212
Clark *v.* Reg.	137
Clarke, R. *v.*	193
Clarke's Case	232
Closs, R. *v.*	284
Coggs *v.* Bernard	226
Collin's Case	39
Collins, R. *v.*	66, 301
Commonwealth *v.* Holmes	25
Coney and Others, R. *v.*	31, 149
Cooke, R. *v.*	223, 297
Cooper, R. *v.*	33, 210, 287
Cory, R. *v.*	230
Coslet's Case	225
Cox *v.* Lee	209
——, R. *v.*	193
Coxhead *v.* Richards	213
Cramp, R. *v.*	180
Crawley, R. *v.*	132
Crawshaw, R. *v.*	131
Cross, R. *v.*	302
Cruse, R. *v.*	22, 31
Crutchley, R. *v.*	24
Cuddey, R. *v.*	170
Cullum, R. *v.*	252
Curgerwen, R. *v.*	198
Curry *v.* Walter	217
Cutler *v.* Dixon	216
D.	
Dale, R. *v.*	88
Danger, R. *v.*	275
Dant, R. *v.*	156
Davenport, R. *v.*	238
Davie's Case	236
Davies, R. *v.*	240
Davis, R. *v.*	395
Davison *v.* Duncan	216
Dawkins *v.* Lord Paulet	217
——— *v.* Lord Rokeby	216
Dawson, R. *v.*	74
Day, R. *v.*	185
Deasy, R. *v.*	42
De Banks, R. *v.*	240
De Berenger, R. *v.*	282

PAGE

Dee, R. v. 194
D'Eon, R. v. 69
Delaval, R. v. 118, 122
Delegal v. Highley 218
Desmond and Others, R. v. 167, 378
Dibdin v. Bostock 214
Dicks, R. v. 23
Dixon v. Bell 151
——, R. v. 132, 284
Dolan, R. v. 294
Donellan's Case 160
Dounes, R. v. 206
Dring, R. v. 294
Dudley and Stephens, R. v. 24, 25
Duffey's Case 32
Duffield, R. v. 108
Dugdale, R. v. 39
Duncan v. Thwaites 218
Dunn, R. v. 18
Dunn, R. v. 301

E.

Eagleton, R. v. 39, 284
Edwards, R. v. 236
Egginton, R. v. 235
Elliot's Case 118, 302
Emmens v. Pottle 210
Enoch, R. v. 158
Ensor, R. v. 208
Errington's Case 166
Evans, R. v. 161, 276, 309
Evans's Case 277
Eyre, R. v. 141

F.

Falcon, R. v. 36
Falkingham, R. v. 207
Fanning, R. v. 199
Farrow, R. v. 180
Featherstone, R. v. 241
Fenton, R. v. 168
Ferens v. O'Brien 229
Ferrall, R. v. 88
Ferrer's (Sir H.) Case 169, 393, 396

PAGE

Firth, R. v. 229
Fisher, R. v. 169
Fitch, R. v. 241, 305
Flattery, R. v. 193, 194
Fletcher, R. v. 162, 290
———— (C.), R. v. 195
———— (N.), R. v. . . . 193, 195
Flowers, R. v. 239
Foote, R. v. 111
Foster, R. v. 278
Foulkes, R. v. 248
Fray's Case 388
French, R. v. 305
Fretwell, R. v. 33, 172
Friend's Case 206
Fullagar, R. v. 287

G.

Gale, R. v. 252
Gallagher, R. v. 42
Gardner, R. v. 245, 280
Garrett, R. v. 245, 279
Gathercole, R. v. 209
Gaylor, R. v. 173
Geach, R. v. 297
George, R. v. 185
Gibbon, R. v. 97
Gibbons, R. v. 28
Giles, R. v. 277
Glover, R. v. 251
Glyde, R. v. 243
Goodbody, R. v. 250
Gordon (Lord G.), R. v. . . . 69
Gotley, R. v. 107
Gray, R. v. 175
Grey (Lord), R. v. 122
Green, R. v. 153
Greenacre, R. v. 173
Greenwood, R. v. 163
Gregory, R. v. 35, 38
Griffiths, R. v. 300
Groombridge, R. v. 195
Grove, R. v. 254
Guelder, R. v. 254
Gurney's Case 96

H.

PAGE

Hadfield, R. v. 300, 345
Haines, R. v. 162
Hale, R. v. 26, 198, 234
Hales, R. v. 234
Hanson, R. v. 132
Hardy, R. v. 345
Harper, R. v. 305
Harring v. Watson 120
Harris, R. v. 88, 119, 318
Harrison v. Bush 212
Harrison's Case 241
Hassall, R. v. 245
Hassell, R. v. 226
Hart, R. v. 200
Harvey v. Farnie 198
———, R. v. 67, 237, 324
Hastings, R. v. 76, 84
Haswell, R. v. 104
Hawkeswood's Case 301
Hawkins, R. v. 253
Haynes, R. v. 284
Hayward, R. v. 172
Hazleton, R. v. 277
Henderson v. Broomhead . . . 216
Hennah, R. v. 180
Henwood v. Harrison 214
Hermann, R. v. 322
Heven, R. v. 282
Hibbert, R. v. 198, 203
Hicklin, R. v. 120
Higgins, R. v. 38
Hill, R. v. 293
Hillman, R. v. 182
Hoare v. Silverlock 217
Hodgkiss, R. v. 98
Hodgson, R. v. . . . 32, 254, 298
Hogan, R. v. 206
Hogg, R. v. 14
Holbrook, R. v. 211
Holland, R. v. 161
Holles, R. v. 238
Holloway, R. v. 233, 234
Holmes's Case 118
Holmes, R. v. 119
Hontson, R. v. 297
Hook, R. v. 155
Hopkins, R. v. 203
Hopley, R. v. 146, 387
Horton, R. v. 28
Hudson, R. v. 280
Huggett's Case . . 169, 393, 394, 395, 396
Hughes, R. v. . 23, 35, 96, 153, 167, 250, 337
Hughes's Case 236
Hunt, R. v. 182, 251
Hunter, R. v. 145
——— v. Sharpe 213

I.

Ides v. Hoare 95
Ingram's Case 93
Ion, R. v. 303
Isaacs, R. v. 180, 182

J.

Jackson, R. v. 85, 193, 277
James, R. v. 51, 87, 297
Jarvis, R. v. 132
Jefferys v. Boosey 108
Jenkins v. Cook 87
Jenkins v. Jones 99
Jenks v. Turpin 127
Jenner v. A'Beckett 214
Jennison, R. v. 277
Jessop, R. v. 277
Jones, R. v. . . 76, 86, 133, 198, 233, 268
Jones's Case 88, 302
Jones (Lloyd), R. v. 254
Jones (Valentine), R. v. . . . 86
Joyce, R. v. 305

K.

Kay, R. v. 223, 308
Kelly, R. v. 30, 31
Kennedy v. Lyell 99

	PAGE
Kennett, R. *v.*	86
Kenrick, R. *v.*	282
Keyn, R. *v.*	68
Kilham, R. *v.*	229, 279
King, R. *v.*	108, 254
Kipps, R. *v.*	203
Kirkham, R. *v.*	171

L.

Labouchere, R. *v.*	208
Lafrier's Case	225
Lake *v.* King	215
Lambert, R. *v.*	254
——— and Perry, R. *v.*	66
Latimer, R. *v.*	182
Laws *v.* Elkingham	346
Lawley (Lady), R. *v.*	100
Leddington, R. *v.*	38
Ledger, R. *v.*	161
Lee's Case	277
Leggetts, R. *v.*	145
Leigh's Case	245
Levet's Case	28
Lewis *v.* Levy	217, 218
———, R. *v.*	175, 282
Lister, R. *v.*	132, 254
Lloyd Jones, R. *v.*	254
Lock, R. *v.*	185
Lolley, R. *v.*	198
Longbottom, R. *v.*	161
Longsheith, R. *v.*	238
Lovell, R. *v.*	236
Low *v.* Telford	55
Lynch, R. *v.*	171
Lynn, R. *v.*	123

M.

Mabbett, R. *v.*	155
M'Athey, R. *v.*	294
MacDaniel and Others, R. *v.*	163
Macdonald, R. *v.*	240
McDonald's Case	249
McGrath, R. *v.*	236
McGregor, R. *v.*	76
——— *v.* Thwaites	218
McGrowther, R. *v.*	24
Mackall, R. *v.*	238
MacNaghten's Case	27
McPherson, R. *v.*	39
Mahoney, R. *v.*	300
Mankletow, R. *v.*	203
Manley, R. *v.*	30
Manning, R. *v.*	234, 336
Marcus, R. *v.*	297
Marriott, R. *v.*	155
Martin, R. *v.*	182
———, R. *v.*	276
———, R. *v.*	301
Mason's Case	170
Masper *v.* Brown	192
Masters, R. *v.*	224
Mawbey, R. *v.*	96
Mawgridge, R. *v.*	170, 383, 394, 396
May, R. *v.*	248
Mazagora, R. *v.*	297
Meadows, R. *v.*	203
Mears, R. *v.*	122
Merry *v.* Green	223, 240, 243
Mertens, R. *v.*	66
Middleton, R. *v.*	223, 239, 240
Millar *v.* Taylor	108
Miller, R. *v.*	293
Millis, R. *v.*	200, 239
Mills, R. *v.*	280
Mitchell, R. *v.*	318
Moah, R. *v.*	254, 318
Mogul Steamship Company *v.* Macgregor	357
Monck *v.* Hilton	136
Moody, R. *v.*	305
Moore, R. *v.*	28, 243
Morby, R. *v.*	153
Morfit, R. *v.*	84, 234
Morgan, R. *v.*	236
Morley's (Lord) Case	169
Morris, R. *v.*	192
Morrison, R. *v.*	229, 305
Moss, R. *v.*	280
Most, R. *v.*	66, 176
Mount, R. *v.*	4

	PAGE
Mucklow, R. *v.*	240
Mulcahy *v.* R.	38, 46
Mullany, R. *v.*	97
Mullins, R. *v.*	133
Munster *v.* Lamb	216
Murphy, R. *v.*	250
Murphy's Case	301
Murray, R. *v.*	224, 253
Mutters (H.), R. *v.*	241, 242

N.

Nash, R. *v.*	297
Naylor, R. *v.*	280
Negus, R. *v.*	248, 250
Nettleton, R. *v.*	250
Newman, R. *v.*	212
———, R. *v.*	287
Norval, R. *v.*	253

O.

O'Connell *v.* R.	66
Ogden, R. *v.*	257
Okey, R. *v.*	84
Oldham, R. *v.*	261
Omichund *v.* Barker	95
Oneby, R. *v.*	171
Opie, R. *v.*	108
Orchard, R. *v.*	118
Osborne, R. *v.*	209
Osmer, R. *v.*	144, 169, 394, 396
Owen, R. *v.*	20
Owens, R. *v.*	337
Oxenham, R. *v.*	240
Oxford, R. *v.*	22

P.

Palmer, R. *v.*	31
Parker, R. *v.*	277, 332
Parkes, R. *v.*	300
Parson, R. *v.*	199
Payne, R. *v.*	103
Pease, R. *v.*	126
Peltier, R. *v.*	69
Perkins, R. *v.*	149
Perry, R. *v.*	177, 202
Person, R. *v.*	249
Peters, R. *v.*	243
———, R. *v.*	356
Phelps, R. *v.*	394, 396
Phetheon, R. *v.*	246
Phillimore *v.* Machon	111, 118
Phillips, R. *v.*	48, 195, 246
——— *v.* Eyre	141
Philpott, R. *v.*	206
Philpott's Case	97
Pierson, R. *v.*	127
Pinckney's Case	284
Pinney, R. *v.*	86, 141
Pitman, R. *v.*	225
Plummer's Case	32
Pocock, R. *v.*	160
Pointon *v.* Hill	135
Poole, R. *v.*	234
Pooley, R. *v.*	110
Portugal, R. *v.*	286
Poulton, R. *v.*	158
Poynton, R. *v.*	225
Pratt, R. *v.*	222, 245
Preston's Case	243, 244
Price, R. *v.*	23, 123
Prince, R. *v.*	28, 203, 238
Probert, R. *v.*	132
Procter *v.* Webster	213
Pym, R. *v.*	161

R.

Randall, R. *v.*	133
Ransford, R. *v.*	39
Raynes, R. *v.*	231
Rea, R. *v.*	199
Read, R. *v.*	195
Reed, R. *v.*	26, 223
Redford *v.* Birley	50
Redman, R. *v.*	256
Regalis *v.* Leader	217
Reid, R. *v.*	406
Renwick Williams' Case	19

PAGE

Rice and Wilton, R. *v.* . . . 127
Richards, R. *v.* 233
Richmond, R. *v.* 309
Rigmaiden's Case 153
Riley, R. *v.* 244
Ritson, R. *v.* 299
Rivaldi, R. *v.* 314
Roberts, R. *v.* 259
Roberts's Case 39
Robertson, R. *v.* 257, 327
Robins, R. *v.* 203, 223
Robinson, R. *v.* 276, 295
Robinson's Case. 237
Robson, R. *v.* 226, 241
Rosinski, R. *v.* 185
Rouverard, R. *v.* 118
Rowe, R. *v.* 235, 243
Rowlands, R. *v.* 108, 281
Rowley's Case 166
Rushall's Case 237
Russel, R. *v.* 125, 133
Russell, R. *v.* . . 33, 133, 172, 332
Rust, R. *v.* 259
Ryland, R. *v.* 206
Rymer, R. *v.* 130

S.

Sadi, R. *v.* 295
St. George, R. *v.* 175, 178
St. John Long, R. *v.* . . 153, 156
Salmon, R. *v.* 33, 156
Santos *v.* Illidge 80
Saunders' Case 34, 160
Saunders, R. *v.* 119, 193
Schlesinger, R. *v.* 96
Schmidt, R. *v.* 294
Schofield, R. *v.* 38
Scott, R. *v.* 124
Scroggs, C.J., R. *v.* 84
Seaman *v.* Netherclift 216
Searing, R. *v.* 230
Self, R. *v.* 163
Seller, R. *v.* 158
Sharman, R. *v.* 317, 318
Sharpe, R. *v.* 124

PAGE

Shepherd, R. *v.* . . 155, 264, 268
Sheppard's Case 300
Sherlock, R. *v.* 88
Sherwood, R. *v.* 169
Shickle, R. *v.* 230, 231
Simon's Case 236
Simpson, R. *v.* 225
Sissinghurst House Case . . . 32
Skeen, R. *v.* 291, 292
Smith, R. *v.* 23, 154, 295, 302, 305
——, (Charlotte), R. *v.* . . . 154
——, (John), R. *v.* 223
——, (L.), R. *v.* 178
——, (M.), R. *v.* 293
——, (W.), R. *v.* 169
Soares, R. *v.* 31
Soley, R. *v.* 50
Somerton, R. *v.* 107
Spencer, R. *v.* 250
Squire, R. *v.* 163
Stainer, R. *v.* 251
Stallion, R. *v.* 332
Stannard, R. *v.* 127
Stedman's Case 170
Steele *v.* Brannan 120
Stephenson, R. *v.* 123
Stevens *v.* Sampson . . . 215, 217
Stevenson, R. *v.* 170
Stewart, R. *v.* 123
Stockdale *v.* Hansard 215
Stokes, R. *v.* 22
Stratton and Others, R. *v.* . . . 25
Swindall, R. *v.* 162

T.

Tabart *v.* Tipper 214
Tatlock, R. *v.* 287
Taylor, R. *v.* 33, 40, 173
Thallmann's Case 119
Thomas, R. *v.* . . . 146, 171, 285
Thompson, R. *v.* 241
————, (G.), R. *v.* 223
————, (H.), R. *v.* 223
———— *v.* Farrer 26
———— *v.* Shakell 214

PAGE

Thorpe, R. v. 248, 252
Thurborn, R. v. 243
Timmins, R. v. 203
Tite, R. v. 248, 250
Todd v. Hawkins 213
——, R. v. 297
Tolfree, R. v. 241
Tollett, R. v. 241
Tomlinson, R. v. 96
Tooley's Case . 169, 394, 395, 396, 398
Topham, R. v. 208
Topping, R. v. 197
Torpey, R. v. 23
Toshack, R. v. 318
Towers, R. v. 163
Townley, R. v. . . 231, 235, 237
Train, R. v. 125
Trainer, R. v. 147
Trebilcock, R. v. 246
Trilloe, R. v. 158
Triquet and Others v. Bath . . 68
Tuff's Case 297
Turner, R. v. 28
Tyree, R. v. 250
Tyson, R. v. 97
Two Sisters 363

U.

United Kingdom Telegraph Co., R. v. 125
Usill v. Hales 217

V.

Van Butcher, R. v. 153
Vann, R. v. 123
Vantandillo, R. v. 131
Vaughan, R. v. 89
Villars v. Moristen 209
Vincent, R. v. 50, 224
Vint, R. v. 69

W.

Wager, R. v. 161
Wakefield, R. v. 202
Walker, R. v. 250

PAGE

Walker's Case 248
Walsh, R. v. 225
Walsh's Case 245
Walters, R. v. . . . 167, 168, 170
Warburton, R. v. 283
Ward, R. v. 317
Wardroper, R. v. 23
Warner, R. v. 395
Wason v. Walter 215
Watson, R. v. 132, 279
Watts, R. v. . . . 134, 229, 253
Webb, R. v. . 118, 233, 234, 284
Webster, R. v. 122, 242
Welch, R. v. 250
Welham, R. v. 38, 370
Wellard, R. v. 119
West, R. v. 244, 277
White v. Crisp 134
——, R. v. . . . 207, 225, 229
Whiteman, R. v. 341
Wild's Case 146
Wiley, R. v. 293
Wilkes's Case 19
Wilkins, R. v. 182
Wilkinson, R. v. 242
Willes v. Bridger 368
Williams, R. v. . . . 84, 185, 193
—— v. Stott 251
Williams's Case 370
Williamson, R. v. 153
Wilson, R. v. . 180, 252, 297, 353
Windsor, R. v. 239
Winnall, R. v. 254
Withers, R. v. 169
Woodward, R. v. 294
Woolley's Case 277
Wright, R. v. 88, 158, 253
Wyat, R. v. 83, 86
Wyate, R. v. 174
Wynn's Case 233

Y.

Young, R. v. 283

Z.

Zuletta, R. v. 80

TABLE OF STATUTES CITED.

	PAGE
Magna Charta	10
3 Edw. 1, c. 9	107
3 Edw. 1, c. 18	99
3 Edw. 1, c. 25	37
3 Edw. 1, c. 34	67
13 Edw. 1, c. 4	118
13 Edw. 1, c. 49	99, 371
28 Edw. 1, c. 11	371
33 Edw. 1	99
1 Edw. 2, st. 2	104
1 Edw. 3, st. 2, c. 14	99
2 Edw. 3, c. 3	49
4 Edw. 3, c. 11	99
20 Edw. 3, c. 4	99, 371
25 Edw. 3, st. 5, c. 2	41, 42, 43, 44
25 Edw. 3, st. 15, c. 2	43
1 Ric. 2, c. 4	99, 371
5 Ric. 2, st. 1, c. 7	65
7 Ric. 2, c. 5	371
7 Ric. 2, c. 15	99
15 Ric. 2, c. 2	55
8 Hen. 6, c. 9	55
11 Hen. 7, c. 1	43
23 Hen. 8, c. 1, s. 3	379
24 Hen. 8, c. 12	113
28 Hen. 8, c. 15, s. 2	74
———, s. 3	74
32 Hen. 8, c. 9	99, 371
33 Hen. 8, c. 9	373
1 Edw. 6, c. 1	87
———, s. 1	113
2 & 3 Edw. 6, c. 1	114
5 & 6 Edw. 6, c. 16	93
———, s. 1	93
1 Eliz. c. 2, s. 2	114
1 Eliz. c. 2, s. 3	113
13 Eliz. c. 2	44
18 Eliz. c. 5, s. 4	100, 107
———, s. 5	107
31 Eliz. c. 11	55
1 Ja. 1, c. 11	198
21 Ja. 1, c. 15	55
3 Car. 2, c. 1	113
13 Car. 2, c. 5	57
14 Car. 2, c. 4, s. 20	113, 114
29 Car. 2, c. 29	111
31 Car. 2, c. 2, s. 11	85
1 W. & M. sess. 2, c. 2	10
———, preamble	9
9 & 10 Will. 3, c. 35	112
9 & 10 Will. 3, c. 77	160
10 Will. 3, c. 23	373
———, s. 1	131
11 & 12 Will. 3, c. 7, s. 7	75
———, ss. 8, 9	76
———, s. 9	33
5 Anne, c. 14, s. 4	26
7 Anne, c. 12, s. 3	68
———, s. 4	68
———, s. 6	68
1 Geo. 1, st. 2, c. 5	142
———, s. 1	51
———, ss. 1, 5	52
———, s. 2	51
———, s. 3	51
8 Geo. 1, c. 24, s. 1	76, 77
———, s. 6	77, 135
12 Geo. 1, c. 29, s. 4	100
2 Geo. 2, c. 25, s. 2	97
9 Geo. 2, c. 5, s. 4	283
12 Geo. 2, c. 28	374
13 Geo. 2, c. 19	374

Statute	Page
18 Geo. 2, c. 30.	75
18 Geo. 2, c. 34.	374
25 Geo. 2, c. 36.	130
25 Geo. 2, c. 36, s. 2	129
——, s. 4	130
——, s. 8	126
25 Geo. 2, c. 37, ss. 4, 7	174
——, s. 9	102
12 Geo. 3, c. 11.	48
12 Geo. 3, c. 24.	330
21 Geo. 3, c. 49, s. 1	130
——, s. 2.	126, 130
30 Geo. 3, c. 48.	45
33 Geo. 3, c. 67.	55
36 Geo. 3, c. 7, s. 1	41, 42
——, s. 4.	42
——, s. 6.	41
37 Geo. 3, c. 70, s. 1	46
37 Geo. 3, c. 123	251
——, ss. 1, 5	59
——, s. 2	60
39 Geo. 3, c. 37, s. 1	74
39 Geo. 3, c. 79.	62
39 Geo. 3, c. 79, preamble, and ss. 1, 2, 3	61
——, s. 5	63
——, s. 6	63
——, ss. 8, 9	63
——, s. 13	63
39 Geo. 3, c. 85.	254
42 Geo. 3, c. 119, s. 2	131
49 Geo. 3, c. 126	94
——, s. 1	93
——, s. 2	93
——, ss. 4, 5	94
52 Geo. 3, c. 104	251
——, ss. 1, 6	59
——, s. 2	60
52 Geo. 3, c. 143, s. 6	307
52 Geo. 3, c. 155, s. 12.	115
52 Geo. 3, c. 156	102
——, ss. 1, 2, 3	103
53 Geo. 3, c. 127, s. 1	111, 118
——, s. 2	111, 118
——, s. 3	111, 118
53 Geo. 3, c. 160	112
54 Geo. 3, c. 146	45
56 Geo. 3, c. 138, s. 2	107
57 Geo. 3, c. 6	41
57 Geo. 3, c. 19.	62
——, s. 23	56
——, ss. 24, 25	61
——, s. 25	63
——, ss. 26, 27.	63
——, s. 28	63
60 Geo. 3 & 1 Geo. 4, c. 1, s. 1	57
60 Geo. 3 & 1 Geo. 4, c. 8.	66
1 Geo. 4, c. 90, s. 1.	74
1 & 2 Geo. 4, c. 88, s. 1	102
3 Geo. 4, c. 114.	51, 97
——, s. 1	126
4 Geo. 4, c. 48	330
——, s. 1.	14
——, s. 2.	14
4 Geo. 4, c. 76	200
——, s. 7.	200
——, s. 21	199
5 Geo. 4, c. 83, s. 3	135
——, ss. 3, 4, 5	138
——, s. 4.	136
——, s. 5.	138
5 Geo. 4, c. 84	4
——, s. 22	106
5 Geo. 4, c. 113, s. 2	78
——, s. 9	79
——, s. 10	80
——, s. 11	81
6 Geo. 4, c. 50, s. 61	89
6 Geo. 4, c. 92	200
6 Geo. 4, c. 105, No. 10	93
7 & 8 Geo. 4, c. 28.	330
——, s. 7	19
——, s. 8	14, 81
——, s. 9	14, 81
——, s. 10	18
——, s. 11	15, 269
——, s. 12	74
7 & 8 Geo. 4. c. 29.	262
——, s. 44	268
7 & 8 Geo. 4, c. 30.	262
——, s. 19	341
7 & 8 Geo. 4, c. 53, s. 56	307
9 Geo. 4, c. 31, s. 1.	194
——, s. 14	177

	PAGE
9 Geo. 4, c. 31, s. 111	193
9 Geo. 4, c. 55	262
9 Geo. 4, c. 56	262
9 Geo. 4, c. 69	54
———, s. 1	347
———, s. 2	348
———, s. 12	54, 347
———, s. 13	54, 347
10 Geo. 4, c. 7, ss. 28, 29	64
———, s. 31	64
———, s. 32	64
———, s. 34	64
———, s. 35	65
———, s. 36	65
———, s. 37	65
11 Geo. 4 & 1 Will. 4, c. 18	200
1 Will. 4, c. 66, s. 1	307
4 & 5 Will. 4, c. 67	106
5 & 6 Will. 4, c. 76	93
6 & 7 Will. 4, c. 30	14
6 & 7 Will. 4, c. 85	200
———, s. 39	200
7 Will. 4 & 1 Vict. c. 15, s. 2	175
7 Will. 4 & 1 Vict. c. 22	200
7 Will. 4 & 1 Vict. c. 23	97, 263
7 Will. 4 & 1 Vict. c. 36, s. 27	264
———, s. 28	264
———, s. 30	294
———, s. 41	264
———, s. 42	264
———, s. 47	264
7 Will. 4 & 1 Vict. c. 88, s. 2	75
———, s. 3	77
7 Will. 4 & 1 Vict. c. 90, s. 5	7
7 Will. 4 & 1 Vict. c. 91	59, 102
———, s. 1	52
———, s. 2, 3	46
———, s. 5	52
———, s. 52	46
1 Vict. c. 81, s. 1	79
1 Vict. c. 90, s. 5	14
1 Vict. c. 91	330
1 & 2 Vict. c. 38, s. 2	136
1 & 2 Vict. c. 82, s. 12	105
1 & 2 Vict. c. 105	95
3 & 4 Vict. c. 9, s. 1	215
———, s. 3	215
5 & 6 Vict. c. 29, s. 24	105
5 & 6 Vict. c. 39, s. 6	291, 292
5 & 6 Vict. c. 51, ss. 1, 2	47
6 & 7 Vict. c. 26, s. 22	105
6 & 7 Vict. c. 96, s. 3	218
———, s. 4	219
———, s. 5	219
———, s. 6	211
———, s. 7	210
7 & 8 Vict. c. 29, s. 1	54
8 & 9 Vict. c. 100, s. 14	28
8 & 9 Vict. c. 106	99
8 & 9 Vict. c. 109	129, 374
———, s. 8	129
———, s. 17	280
8 & 9 Vict. c. 113, s. 4	98
9 & 10 Vict. c. 24, s. 1	2, 14, 59
9 & 10 Vict. c. 59	44
———, s. 4	115
9 & 10 Vict. c. 95, s. 57	309
10 & 11 Vict. c. 58	200
10 & 11 Vict. c. 82	262
11 Vict. c. 12, preamble, &c. s. 3	45
———, s. 2	41
———, s. 4	46
11 & 12 Vict. c. 42	217
———, s. 22	392
11 & 12 Vict. c. 59	262
11 & 12 Vict. c. 78	397
12 & 13 Vict. c. 103, s. 15	249
13 & 14 Vict. c. 26	74
14 & 15 Vict. c. 92	262
14 & 15 Vict. c. 99	98, 99
———, s. 16	95
14 & 15 Vict. c. 100, s. 15	99
———, s. 29	100, 102, 104, 118, 119, 282
16 & 17 Vict. c. 99	2, 4, 14
———, s. 12	15
16 & 17 Vict. c. 119, preamble, and ss. 1, 2	128
17 & 18 Vict. c. 36	98
17 & 18 Vict. c. 38, s. 2	129
17 & 18 Vict. c. 102, s. 2	90, 91, 92
———, s. 3	91, 92
———, s. 5	92

	PAGE
17 & 18 Vict. c. 102, s. 49	91
17 & 18 Vict. c. 104	360
———, s. 206	360
———, s. 207	360
———, s. 208	361
———, s. 239	364
———, s. 243	362
———, ss. 477–479	232
17 & 18 Vict. c. 138, s. 4	127
18 & 19 Vict. c. 63	250
18 & 19 Vict. c. 81	115
20 & 21 Vict. c. 3	2, 4, 14
———, s. 2	15
20 & 21 Vict. c. 83, s. 1	119
21 & 22 Vict. c. 90, s. 40	298
22 & 23 Vict. c. 35, s. 24	281, 282
23 & 24 Vict. c. 32, s. 2	115
23 & 24 Vict. c. 38, s. 8	282
24 & 25 Vict. c. 66, s. 75	286
24 & 25 Vict. c. 94, s. 2	35
———, ss. 3, 4	36
24 & 25 Vict. c. 95	14, 15
24 & 25 Vict. c. 96	15, 220
———, s. 1	258, 263, 267, 290
———, s. 4	240, 262
———, s. 7	15, 262
———, s. 8	262, 269, 274
———, s. 9	262
———, s. 10	265
———, s. 11	262, 265
———, s. 12	349
———, s. 13	349
———, s. 14	349
———, s. 15	349, 350
———, s. 16	350
———, s. 17	347, 350, 351
———, s. 18	230, 270
———, s. 19	270, 271
———, s. 20	270, 271
———, s. 21	230, 270, 271
———, s. 22	270, 271
———, s. 23	269, 271, 272
24 & 25 Vict. c. 96, s. 24	347, 351, 352
———, s. 25	351
———, s. 26	269, 271, 272
———, s. 27	263
———, s. 28	267
———, s. 29	264
———, s. 30	267
———, s. 31	268, 269
———, s. 32	268, 269
———, s. 33	262, 269, 271, 272
———, s. 34	272, 273
———, s. 35	272, 273
———, s. 36	262, 269, 272, 273
———, s. 37	272, 273
———, s. 38	269
———, s. 39	234, 284
———, s. 40	255, 265
———, s. 42	255
———, s. 43	255
———, s. 44	256, 297
———, s. 45	257
———, s. 46	256
———, s. 47	256
———, s. 48	256
———, s. 49	257
———, s. 50	259, 260
———, s. 51	260
———, s. 52	259
———, s. 53	258
———, s. 54	260
———, s. 55	259, 260
———, s. 56	259, 260
———, s. 57	260
———, s. 58	260
———, s. 59	260
———, s. 60	265
———, s. 61	265
———, s. 62	266
———, s. 63	266
———, s. 64	266
———, s. 65	273, 274
———, s. 66	273, 274
———, s. 67	266

PAGE

24 & 25 Vict. c. 96, s. 68 . 248, 254, 266
——, s. 69 . . 266
——, s. 70 . . 266
——, s. 73 . . 265
——, s. 74 . . 267
——, s. 75 . 286, 287
——, ss. 75, 79 . 245
——, s. 76 . . 287
——, s. 77 . . 288
——, s. 78 . 288, 289
——, s. 79 . 288, 289
——, s. 80 . . 289
——, s. 81 . . 290
——, s. 82 . . 290
——, s. 83 . . 290
——, s. 84 . . 291
——, s. 85 . . 291
——, s. 88 . . 275
——, s. 89 . . 278
——, s. 90 . . 275
——, s. 91 . . 295
——, s. 95 . . 295
——, s. 98 . . 36
——, ss. 98–117 37
——, s. 101. . 295
——, s. 117. 15, 18, 37
——, s. 119 . . 9
24 & 25 Vict. c. 97 . . 332, 335
——, s. 1 . . 332
——, s. 2 . . 332
——, s. 3 . . 333
——, s. 4 . . 333
——, s. 5 . . 333
——, s. 6 . . 335
——, s. 7 . . 336
——, s. 8 . . 336
——, s. 9 . . 333
——, s. 10 . . 336
——, s. 11 . . 52
——, s. 12 . . 53
——, s. 13 . . 342
——, s. 14 . . 333
——, s. 15 . . 338
——, s. 16 . . 336
——, s. 17 . . 333
——, s. 18 . . 338

PAGE

24 & 25 Vict. c. 97, s. 19 . . 337
——, s. 20 . . 340
——, s. 21 . . 340
——, s. 22 . . 342
——, s. 23 . . 342
——, s. 24 . . 343
——, s. 25 . . 343
——, s. 26 . . 333
——, s. 27 . . 336
——, s. 28 . . 338
——, s. 29 . 338, 339
——, s. 30 . . 334
——, s. 31 . . 339
——, s. 32 . 339, 340
——, s. 33 . . 334
——, s. 34 . . 343
——, s. 35 . 334, 335
——, s. 36 . . 345
——, s. 37 . . 344
——, s. 38 . . 344
——, s. 39 . . 344
——, s. 40 . . 337
——, s. 41 . . 345
——, s. 42 . 333, 335
——, s. 43 . . 335
——, s. 44 . . 336
——, s. 45 . . 336
——, s. 46 . . 340
——, s. 47 . . 335
——, s. 48 . . 340
——, s. 49 . . 337
——, s. 50 . 256, 337
——, s. 51 . . 346
——, s. 52 . . 346
——, s. 53 . . 346
——, s. 54 . . 341
——, s. 56 . . 36
——, ss. 56–73 . 37
——, s. 73 . 15, 18
——, s. 75 . . 9
24 & 25 Vict. c. 98 . . 303, 307
——, s. 1 . . 303
——, s. 2 . 304, 307
——, s. 3 . . 319
——, s. 4 . . 310
——, s. 6 . . 311
——, s. 7 . . 304

PAGE

24 & 25 Vict. c. 98, s. 8 . . . 304
——, s. 9 . . 315
——, s. 10 . 314, 315
——, s. 11 . . 315
——, s. 12 . . 304
——, s. 13 . . 311
——, s. 14 . . 311
——, s. 15 . . 312
——, s. 16 . . 312
——, s. 17 . . 313
——, s. 18 . . 313
——, s. 19 . . 314
——, s. 20 . . 305
——, s. 21 . . 305
——, s. 22 . . 305
——, s. 23 . . 305
——, s. 24 . . 308
——, s. 25 . . 305
——, s. 26 . 307, 308
——, s. 27 . 309, 310
——, s. 28 . 309, 310
——, s. 29 . . 310
——, s. 30 . . 305
——, s. 31 . 307, 308
——, s. 32 . . 310
——, s. 33 . 307, 308
——, s. 34 . . 319
——, s. 35 . . 310
——, s. 36 . . 305
——, s. 37 . . 306
——, s. 38 . . 308
——, s. 45 . . 303
——, s. 48 . . 307
——, s. 49 . . 36
——, ss. 49, 51 . 37
——, s. 51 . 15, 18
24 & 25 Vict. c. 99 322
——, s. 1 . . 322
——, s. 2 . . 323
——, s. 3 . . 323
——, s. 4 . . 324
——, s. 5 . . 325
——, s. 6 . . 323
——, s. 7 . . 323
——, s. 8 . . 327
——, s. 9 . . 326
——, s. 10 . . 326

PAGE

24 & 25 Vict. c. 99, s. 11 . . 326
——, s. 12 . . 326
——, s. 13 . . 327
——, s. 14 . . 325
——, s. 15 . . 327
——, s. 16 . . 327
——, s. 18 . . 325
——, s. 19 . . 325
——, s. 20 . . 327
——, s. 21 . . 328
——, s. 22 . 326, 327
——, s. 23 . . 327
——, s. 24 . . 323
——, s. 25 . . 324
——, s. 30 . 323, 325, 327
——, s. 35 . . 36
——, ss. 35–38 . 37
——, s. 38 . 15, 18
24 & 25 Vict. c. 100, s. 3 . . 174
——, s. 4 . . 176
——, s. 5 . . 174
——, s. 7 . . 389
——, s. 11 . 174, 175
——, s. 12 . 174, 175
——, s. 13 . 174, 175
——, s. 14 . 174, 175
——, s. 15 . 174, 175
——, s. 16 . . 176
——, s. 17 . . 180
——, s. 18 . . 178
——, s. 19 . . 175
——, s. 20 . . 182
——, s. 21 . . 179
——, s. 22 . . 179
——, s. 23 . . 181
——, s. 24 . . 182
——, s. 26 . 182, 207
——, s. 27 . . 207
——, s. 28 . . 179
——, s. 29 . . 179
——, s. 30 . . 181
——, s. 31 . . 183
——, s. 32 . . 179
——, s. 33 . . 180
——, s. 34 . . 183
——, s. 35 . . 183

Statute	PAGE
24 & 25 Vict. c. 100, ss. 35–71	37
———, s. 36	187
———, s. 37	186
———, s. 38	186
———, s. 39	191
———, s. 40	191
———, s. 41	186
———, s. 42	190, 191
———, s. 43	189
———, s. 44	192
———, s. 45	192
———, s. 46	189
———, s. 47	186, 187
———, s. 48	195
———, s. 52	187
———, s. 53	201
———, s. 54	201
———, s. 55	202
———, s. 56	204
———, s. 57	28, 197
———, s. 58	180
———, s. 59	182
———, s. 60	176
———, s. 61	117
———, s. 62	117, 185
———, s. 63	193
———, s. 64	341
———, s. 67	36, 175
———, s. 70	9
———, s. 71	15, 18
24 & 25 Vict. c. 109, s. 4	340
25 Vict. c. 18, s. 1	9
25 & 26 Vict. c. 88, s. 1	315
———, s. 2	316
———, s. 3	316
———, s. 5	316
———, s. 13	316, 317
———, s. 14	316
26 & 27 Vict. c. 44, s. 1	10, 179, 255
26 & 27 Vict. c. 73, s. 111	319
26 & 27 Vict. c. 103, s. 1	284
27 & 28 Vict. c. 47, s. 2	2, 15
———, s. 4	15
28 & 29 Vict. c. 121, s. 3	340
28 & 29 Vict. c. 124, s. 8	320
28 & 29 Vict. c. 126	5
28 & 29 Vict. c. 126, s. 4	104
———, s. 6	6
———, s. 17	5
———, s. 19	5
———, s. 37	103
———, Sched. I., 16, 31	7
———, Sch. I., 34 redrawn	6
———, Sch. I., 35	6
———, Sch. I., 38	7
———, Sch. I., 61	4
28 & 29 Vict. c. 129, s. 67	18
29 & 30 Vict. c. 117	8
———, s. 14	17
30 & 31 Vict. c. 131, s. 35	319
31 Vict. c. 24	45, 174
———, ss. 2, 16	45, 75
31 & 32 Vict. c. 116	295
———, s. 1	241, 249
———, s. 2	242
31 & 32 Vict. c. 122, s. 37	206
32 & 33 Vict. c. 62, s. 11	353
32 & 33 Vict. c. 62, s. 12	353
———, s. 13	281
———, s. 14	356
32 & 33 Vict. c. 68, s. 4	95
32 & 33 Vict. c. 71	353
33 & 34 Vict. c. 23	14, 372
———, s. 2	13
———, s. 3	12
———, s. 4	12
———, s. 7	14
———, s. 8	13
———, ss. 9–29 inc.	13
———, s. 31	45
33 & 34 Vict. c. 49	95
33 & 34 Vict. c. 58	304
———, s. 3	307
———, s. 21	319
33 & 34 Vict. c. 71	307
33 & 34 Vict. c. 90	69
———, s. 4	69, 70
———, s. 5	70
———, s. 6	72
———, s. 7	70
———, s. 8	70

	PAGE
33 & 34 Vict. c. 90, s. 9	73
———, s. 10	72
———, s. 11	69
———, s. 15	69
33 & 34 Vict. c. 93	226
34 & 35 Vict. c. 31, s. 2	357
34 & 35 Vict. c. 32	186
34 & 35 Vict. c. 108	136
———, s. 7	135
———, ss. 7, 10	138
34 & 35 Vict. c. 112, s. 7	16
———, s. 8	8, 16
———, s. 12	190
———, s. 15	138
———, s. 20	8, 16
35 & 36 Vict. c. 19	27
———, s. 2	81
———, ss. 9, 10	81
35 & 36 Vict. c. 33, s. 24	320
35 & 36 Vict. c. 60, ss. 2, 3	92
36 & 37 Vict. c. 38, s. 3	137
36 & 37 Vict. c. 71, s. 13	340
36 & 37 Vict. c. 85, s. 16	365
37 & 38 Vict. c. 35	200
37 & 38 Vict. c. 36, s. 1	292, 319
38 & 39 Vict. c. 24, s. 2	86, 254
38 & 39 Vict. c. 25, s. 5	285
38 & 39 Vict. c. 51	81
38 & 39 Vict. c. 86	358
———, s. 3	358
———, s. 4	358
———, s. 5	358
———, s. 6	358
———, s. 7	358
39 & 40 Vict. c. 36	54, 94
39 & 40 Vict. c. 36, s. 186	53
———, s. 187	103, 187
———, s. 188	53
———, s. 189	53
39 & 40 Vict. c. 36, s. 193	178
———, s. 255	187
39 & 40 Vict. c. 80, s. 4	362
40 Vict. c. 2, s. 10	315
42 & 43 Vict. c. 54, s. 1	15
42 & 43 Vict. c. 55, s. 2	8
44 & 45 Vict. c. 45	185, 187
44 & 45 Vict. c. 45, s. 2	184
44 & 45 Vict. c. 50, s. 105	190
44 & 45 Vict. c. 60, s. 2	215
45 Vict. c. 3, s. 2	331
———, s. 3	331
———, s. 4	331
———, s. 5	331
———, s. 6	331
———, s. 9	331
45 & 46 Vict. c. 56, s. 22	341
———, s. 23	229
45 & 46 Vict. c. 75	23
———, s. 12	226, 241
———, s. 16	227, 241
46 & 47 Vict. c. 43, s. 2	328
———, s. 3	322
46 & 47 Vict. c. 51, s. 1	92
———, s. 2	92
———, s. 6	93, 320
———, Sch. III.	320
46 & 47 Vict. c. 52, s. 31	356
———, s. 163	354
48 & 49 Vict. c. 69	194
———, s. 2	121
———, s. 3	121, 195
———, s. 4	194, 195, 196
———, s. 5	196
———, s. 6	122
———, s. 7	203
———, s. 11	117
48 & 49 Vict. c. 75, s. 2	190

LIST OF ABBREVIATIONS.

A. & E.	Adolphus & Ellis.
B. & A.	Barnewall & Alderson.
B. & Ad.	Barnewall & Adolphus.
B. & B.	Broderip & Bingham.
B. & C.	Barnewall & Cresswell.
Bell, C. C.	Bell's Crown Cases.
Brooke's Abt.	Brooke's Abridgment.
Burr.	Burrow's Reports.
Cald.	Caldecott's Settlement Cases.
Camp.	Campbell's Reports.
Car. & Mar.	Carrington & Marshman.
Ch. D.	Chancery Division.
C. & K.	Carrington & Kirwan.
Cl. & F.	Clark & Finnelly.
Cox, C. C.	Cox's Criminal Cases.
C. & P.	Carrington & Payne.
C. P. D.	Common Pleas Division.
D. & B.	Dearsly & Bell.
Dear.	Dearsly.
Den.	Dennison's Crown Cases.
Doug.	Douglas.
Ea.	East's Reports.
East, P. C.	East's Pleas of the Crown.
E. & B.	Ellis & Blackburn.
Esp.	Espinasse.
Ex. D.	Exchequer Division.
F. & F.	Foster & Finlason.
Foster	Foster's Crown Cases.
Gen. View Cr. L.	Stephen's General View of the Criminal Law.
Hale, P. C.	Hale's Pleas of the Crown.
Hawk. P. C.	Hawkins's Pleas of the Crown (Curwood's edition).

Kel. . .	Kelynge.
L. & C. . .	Leigh & Cave.
Lew. . .	Lewin's Crown Cases.
L. J. (M.C.) .	Law Journal, Magistrates' Cases.
L. J. (Q.B.) .	Law Journal, Queen's Bench.
L. R. C. C. R. .	Law Reports, Crown Cases Reserved.
L. R. H. L. .	Law Reports, House of Lords.
L. R. P. C. .	Law Reports, Privy Council.
L. T. (N.S.) .	Law Times, New Series.
Mod. . .	Modern Reports.
Moo. . .	Moody's Crown Cases.
Moo. & R. .	Moody & Robinson.
M. & S. . .	Maule & Selwyn.
P. D. . .	Probate Division.
Q. B. . .	Queen's Bench Reports.
Q. B. D. . .	Queen's Bench Division.
Rep. C. L. C. .	Report of the Criminal Law Commission.
W. Rob. . .	W. Robinson's Admiralty Reports.
R. & M. . .	Ryan & Moody.
Roscoe, Cr. Ev. .	Roscoe's Criminal Evidence.
R. & R. . .	Russell & Ryan.
Russ. Cr. . .	Russell on Crimes, 4th edition (where the 5th edition is not referred to).
Salk. . .	Salkeld's Reports.
S. L. C. . .	Smith's Leading Cases.
Starkie, N. P. .	Starkie's Nisi Prius Reports.
Steph. Com. .	Stephen's Commentaries.
St. Tr. . .	State Trials.
T. R. . .	Term Reports.
Ves. . .	Vesey's Reports.
Viner's Abt .	Viner's Abridgment.

CONTENTS.

PART		PAGE
I.	PRELIMINARY	1
II.	OFFENCES AGAINST PUBLIC ORDER—INTERNAL AND EXTERNAL	41
III.	ABUSES AND OBSTRUCTIONS OF PUBLIC AUTHORITY	83
IV.	ACTS INJURIOUS TO THE PUBLIC IN GENERAL	108
V.	OFFENCES AGAINST THE PERSON, THE CONJUGAL AND PARENTAL RIGHTS, AND THE REPUTATION OF INDIVIDUALS	140
VI.	OFFENCES AGAINST RIGHTS OF PROPERTY AND RIGHTS ARISING OUT OF CONTRACTS	220

PART I.

PRELIMINARY.

EXPLANATION OF TERMS 1

CHAPTER I.

OF PUNISHMENTS.

ART.		
1.	Punishments	4
2.	Punishment of Death	4
3.	Punishment of Penal Servitude	4
4.	Punishment of Imprisonment	5
5.	Imprisonment to be separate	5
6.	Hard Labour	5
7.	Employment of Prisoners not sentenced to Hard Labour	7
8.	Solitary Confinement	7
9.	Imprisonment as a Misdemeanant of the First Division	7
10.	Detention in a Reformatory	8
11.	Subjection to Police Supervision	8

ART. PAGE
12. Punishment of Whipping . . 9
13. Fine . . . 10
14. Putting under Recognizances . . 11

CHAPTER II.

CLASSIFICATION OF CRIMES AND GENERAL PROVISIONS AS TO THEIR PUNISHMENT.

15. Treason, Felony, and Misdemeanor . . 12
16. Consequences of a Conviction of Treason or Felony . . 12
17. Recording Sentence of Death . . 14
18. Punishment for Felony if no express Punishment provided—Felonies under the Consolidation Acts . . 14
19. Previous Convictions . . 15
20. Special Offences in the case of Persons twice convicted . . 16
21. Punishment of Persons under Sixteen Years of Age . . 17
22. Punishment of Misdemeanors . . 18
23. Cumulative Punishments . . 18

CHAPTER III.

GENERAL EXCEPTIONS.

24. Definitions subject to exceptions . . 20
25. Children under Seven . . 20
26. Children between Seven and Fourteen . . 20
27. Insanity . . 20
28. Presumption of Sanity . . 22
29. Drunkenness . . 22
30. Married Women . . 23
31. Compulsion . . 23
32. Necessity . . 24
33. Ignorance of Law . . 26
34. Ignorance of Fact . . 27

CHAPTER IV.

PARTIES TO THE COMMISSION OF CRIMES—PRINCIPAL AND ACCESSORY.

35. Principals in First Degree . . 30
36. Innocent Agent . . 30
37. Principals in the Second Degree . . 31
38. Common Purpose . . 32
39. Accessories before the Fact . . 33
40. Where Crime suggested is committed in a different Way . . 34
41. Where Crime committed is probable Consequence of Crime suggested . . 34

ART.		PAGE
42.	Where Instigation is countermanded	35
43.	Instigation to commit a Crime different from the one committed	35
44.	Accessories and Principals in Second Degree treated as Principals in First Degree	35
45.	Accessories after the Fact	36
46.	Punishment of Accessories after the Fact in general and under the Consolidation Acts	36

CHAPTER V.

DEGREES IN THE COMMISSION OF CRIME—INCITEMENT —CONSPIRACY—ATTEMPTS.

47.	Incitement to commit a Crime	38
48.	Conspiracy to commit a Crime	38
49.	Definition of Attempts	38
50.	Attempt—Misdemeanor	40

PART II.

OFFENCES AGAINST PUBLIC ORDER—INTERNAL AND EXTERNAL.

CHAPTER VI.

HIGH TREASON, TREASONABLE FELONIES, AND ASSAULTS ON THE QUEEN.

51.	High Treason by imagining the Queen's Death	41
52.	What amounts to imagining the Queen's Death	41
53.	High Treason by levying War	42
54.	High Treason by adhering to the Queen's Enemies	43
55.	Adherence to a *de facto* King not Treason	43
56.	Killing the King's Wife or Son	43
57.	When Words are Treason	43
58.	Violating the King's Wife, &c.	44
59.	Killing the Chancellor, &c.	44
60.	Punishment for Treason	45
61.	All Principals in Treason	45
62.	Treasonable Felonies	45
63.	Inciting to Mutiny	46
64.	Assaults on the Queen	47

ART. PAGE
65. Contempts against the Queen 48
66. Solemnizing or assisting at Marriage of a Member of the Royal Family 48

CHAPTER VII.

AFFRAYS, UNLAWFUL ASSEMBLIES, ROUTS, RIOTS, TUMULTUOUS PETITIONING, AND UNLAWFUL DRILLING.

67. Sending Challenges and provoking to fight 49
68. Going armed so as to cause fear 49
69. Affray 49
70. Unlawful Assembly 49
71. Routs 50
72. Riots 50
73. Preventing reading Proclamation and continuing to riot after Proclamation 51
74. Riotous Demolition of Houses, &c. 52
75. Riotous Damage of Houses, &c. 53
76. Persons assembled in order to smuggle 53
77. Three Persons armed in pursuit of Game by Night . . 54
78. Riotously preventing the sailing of Ship 55
79. Forcible Entry and Detainer 55
80. Political Meetings in Westminster 56
81. Procuring Signatures to Petition without Authority, and Tumultuous Petitioning 57
82. Unlawful Drilling 57

CHAPTER VIII.

OFFENCES AGAINST INTERNAL TRANQUILLITY BY UNLAWFUL ENGAGEMENTS AND COMBINATIONS AND CONFEDERACIES.

83. Unlawful Oaths—Oaths to commit Murder or Treason . . 59
84. Other Unlawful Oaths 59
85. Compulsion, how far a Defence 60
86. Unlawful Clubs and Societies 61
87. Quakers and Religious and Charitable Societies excepted . . 63
88. Punishment of Members 63
89. Permitting Meetings of Unlawful Clubs 63
90. Jesuits and Monks 64
91. Seditious Words and Libels 65
92. Seditious Conspiracy 65
93. Seditious Intention defined 66
94. Presumption as to Intention 67
95. Spreading False News 67

CHAPTER IX.

OFFENCES AGAINST EXTERNAL PUBLIC TRANQUILLITY —OFFENCES AGAINST FOREIGN NATIONS.

ART.		PAGE
96.	Violation of Ambassadors' Privileges	68
97.	Arrest of Ambassador	68
98.	Punishment	68
99.	Libels on Foreign Powers	69
100.	Interference in Foreign Hostilities	69
101.	Ships, &c., referred to in Article 100 to be forfeited	71
102.	Increasing Force of Ships for Foreign Belligerents, and procuring Enlistment by Misrepresentation	72
103.	Presumption of Knowledge of Purpose for which Ship is built	73

CHAPTER X.

OFFENCES AGAINST PERSONS ON THE HIGH SEAS—PIRACY—SLAVE-TRADING.

104.	Piracy	74
105.	Piracy with Violence	75
106.	Committing Acts of Hostility under Foreign Commission	75
107.	Adhering on the Sea to the Queen's Enemies	75
108.	Boarding Ships and throwing Cargo overboard	76
109.	Masters and Seamen favouring Pirates	76
110.	Trading with Pirates and conspiring with them	77
111.	Punishment for Statutory Piracies	77
112.	Not fighting Pirates	77
113.	Slave Trading defined	78
114.	Piratical Slave Trading	79
115.	Punishment of Slave Trading	80
116.	Serving on a Slave Ship, Felony	80
117.	Serving on a Slave Ship, Misdemeanor	81
117A.	Kidnapping Pacific Islanders	81

PART III.

ABUSES AND OBSTRUCTIONS OF PUBLIC AUTHORITY.

CHAPTER XI.

ABUSES OF AUTHORITY, OPPRESSION, EXTORTION, FRAUD, NEGLECT OF DUTY, REFUSAL TO ACT.

118.	"Public Officer" defined	83
119.	Extortion and Oppression by Public Officers	83

ART. PAGE
120. Illegally imprisoning Subjects beyond the Seas 85
121. Frauds and Breaches of Trust by Officers 85
122. Neglect of Official Duty 86
123. Refusal to serve an Office 87

CHAPTER XII.

DISOBEDIENCE TO LAWFUL ORDERS.

124. Disobedience to a Statute. 88
125. Disobedience to Lawful Orders of Court, &c. . . . 88

CHAPTER XIII.

BRIBERY AND CORRUPTION—SALE OF OFFICES.

126. Judicial Corruption 89
127. Corruption of other Public Officers 89
128. Embracery 89
129. Definition of Bribery of Voters 90
130. Definition of Undue Influence 92
130A. Definition of Treating 92
131. Punishment of Bribery at certain Elections 92
132. Definition of Office 93
133. Selling Offices 93
134. Making Interest for Offices for Reward 94

CHAPTER XIV.

MISLEADING JUSTICE—PERJURY—FALSE SWEARING—SUBORNATION.

135. Perjury defined 95
136. Subornation of Perjury 97
137. Punishment of Perjury and Subornation 97
138. False Swearing 97
139. Forging Instruments of Evidence and tendering them in Proof 98
140. Officers giving False Certificates. 99
141. Maintenance 99
142. Conspiracy to defeat Justice—Dissuading Witnesses from testifying 100

CHAPTER XV.

ESCAPE—RESCUE—PRISON-BREACH—MISPRISIONS—COMPOUNDING OFFENCES.

143. Voluntary Permission by Officers of Escapes by Prisoners . 101
144. Negligent Permission by Officers of Escapes by Prisoners . 101
145. Rescue defined 101
146. Quality of Offence of Rescue 102
147. Felonious Rescues 102

ART.		PAGE
148.	Rescuing Murderers	102
149.	Assisting Escape of Prisoners of War	102
150.	Rescuing Revenue Prisoners	103
151.	Helping to Escape from Prison	103
152.	Escape by Persons in Custody	104
153.	Breaking Prison	104
154.	Escaping from certain Prisons	105
155.	Transports or Persons sentenced to Penal Servitude being at Large	106
156.	Misprision of Treason	106
157.	Misprision of Felony	106
158.	Agreement not to prosecute	107
159.	Compounding Penal Actions	107

PART IV.

ACTS INJURIOUS TO THE PUBLIC IN GENERAL.

CHAPTER XVI.

UNDEFINED MISDEMEANORS.

160.	Acts involving Public Mischief	108

CHAPTER XVII.

OFFENCES AGAINST RELIGION.

161.	Blasphemy defined—Alternative Definitions	110
162.	Heresies	111
163.	Denying Truth of Christianity, &c.	112
164.	Depraving the Lord's Supper	113
165.	Depraving the Book of Common Prayer	113
166.	Clergymen refusing to use the Book of Common Prayer	114
167.	Disturbing Public Worship	115

CHAPTER XVIII.

OFFENCES AGAINST MORALITY.

168.	Sodomy	117
169.	Attempt to commit Sodomy	117
169A.	Outrages on Decency	117
170.	Ecclesiastical Censures for Immorality	118
171.	Public Indecencies	118
172.	Obscene Publications	119
173.	Unlawfully defiling Women	121

ART. PAGE
173A. Householders permitting defilement of Girls on their premises . 122
174. Conspiracy to defile 122
175. Preventing the Burial of Dead Bodies and disinterring them . 122

CHAPTER XIX.

COMMON NUISANCES—DISORDERLY HOUSES.

176. Common Nuisance 125
177. Common Nuisance a Misdemeanor 126
178. Punishment for keeping Disorderly Houses 126
179. Disorderly Houses 127
180. Common Bawdy Houses 127
181. Common Gaming Houses 127
182. Common Betting Houses 128
183. Evidence that a House is a Common Gaming House . . 129
184. Disorderly Places of Entertainment 129
185. Disorderly Inns 130
186. Lotteries 131
187. Nuisances to Health, Life, and Property 131
188. Nuisances by Offensive Trades 132
189. Nuisances to Highways 132
190. Nuisances to Bridges 133
191. Nuisances to Navigable Rivers 133

CHAPTER XX.

VAGRANCY.

192. Idle and Disorderly Persons 135
193. Rogues and Vagabonds 136
194. Incorrigible Rogues 138
195. Punishment of Rogues, Vagabonds, &c. 138

PART V.

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

CHAPTER XXI.

CASES IN WHICH INFLICTION OF BODILY INJURY IS NOT CRIMINAL.

196. Exceptions to Rest of Part V. 140
197. Execution of Lawful Sentences 140

ART. PAGE
198. Suppression of Riots . . . 141
199. Prevention of the Commission of Crimes and Arrest of Criminals 142
200. Private Defence . . . 143
201. Lawful Force . . . 145
202. Superior Orders to employ Force . . . 146
203. Consent to Bodily Injury . . . 147
204. Right to consent to Bodily Injury for Surgical Purposes . 148
205. Surgical Operation on Person incapable of Assent . . . 148
206. Right to consent to Bodily Injury short of Maim . . . 148
207. No Right to consent to Infliction of Death . . . 149
208. No Right to consent to Injury constituting a Breach of the Peace 149
209. Consent to be put in Danger . . . 150
210. Accidental Infliction of Bodily Injury by Lawful Act—What Acts are lawful . . . 150

CHAPTER XXII.

OF CULPABLE NEGLIGENCE AND OF DUTIES TENDING TO THE PRESERVATION OF LIFE.

211. Death or Bodily Injury caused by Omission to discharge a Legal Duty . . . 152
212. Causing Death by Omissions other than those mentioned in Article 211 . . . 154
213. Duty to provide Necessaries of Life . . . 154
214. Delegation of Duty defined in Article 213 . . . 155
215. When direct Performance of Duty impossible . . . 155
216. Duty of Care in doing Dangerous Acts . . . 156
217. Duty of Persons doing Acts requiring Special Skill or Knowledge . . . 156

CHAPTER XXIII.

HOMICIDE.

218. Homicide defined—When a Child becomes a Human Being . . 158
219. Killing defined . . . 158
220. When an Act is the remote Cause of Death or one of several Causes . . . 160
221. When causing Death does not amount to Homicide . . . 162
222. When Homicide is unlawful . . . 163

CHAPTER XXIV.

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

223. Manslaughter and Murder defined . . . 165
224. Effect and Definition of Provocation . . . 168
225. When Provocation does not extenuate Homicide . . . 171

ART.		PAGE.
226.	Provocation to Third Person	172
227.	Suicide—Abetting Suicide	172
228.	Manslaughter on Oneself	173
229.	Accessories before the Fact in Manslaughter	173
230.	Presumption that Killing is Murder	173
231.	Punishment of Murder	174
232.	Punishment of Manslaughter	174
233.	Attempts to commit Murder	174
234.	Threats and Conspiracies to Murder	176
235.	Concealing the Birth of Children	176

CHAPTER XXV.

THE MALICIOUS INFLICTION OF BODILY INJURIES AMOUNTING TO FELONY.

236.	Wounding and Acts endangering Life punishable with Penal Servitude for Life	178
237.	Blowing up Buildings and Ships with Intent to injure—Fourteen Years Penal Servitude	181
238.	Administering Poison with Intent to harm—Ten Years Penal Servitude	181

CHAPTER XXVI.

THE INFLICTION OF BODILY INJURIES NOT AMOUNTING TO FELONY.

239.	Malicious Wounding and similar Acts punishable with Five Years Penal Servitude	182
240.	Negligent Acts punishable with Two Years Imprisonment	183

CHAPTER XXVII.

ASSAULTS, AGGRAVATED AND COMMON, PUNISHABLE ON INDICTMENT.

241.	Assault and Battery and Assault defined	184
242.	Punishment of Assaults with Intent to commit Sodomy	185
243.	Assaults on Persons protecting Wreck	186
244.	Assaults causing actual Bodily Harm	186
245.	Assaults punishable with Two Years Imprisonment	186
246.	Punishment of Common Assault on Indictment	187
247.	Assaults on Officers preventing Smuggling	187

CHAPTER XXVIII.

PUNISHMENT OF ASSAULTS ON SUMMARY CONVICTION.

248.	Assaults punishable on Summary Conviction	189

ART. PAGE

249. Assaults which ought not to be punished on Summary Conviction . . . 189
250. Aggravated Assaults . . . 189
251. Assaults punishable with Three Months Imprisonment . . . 191
252. Punishment of Common Assaults on Summary Conviction . . . 191
253. Certificate of Conviction or Acquittal . . . 192

CHAPTER XXIX.

RAPE, ETC.

253A. Definition of Carnal Knowledge . . . 193
254. Definition of Rape . . . 193
254A. Other provisions as to Rape . . . 194
255. Punishment of Rape and carnally knowing Children under Thirteen . . . 195
256. Carnally knowing Children between Thirteen and Sixteen . . . 195

CHAPTER XXX.

CRIMES AFFECTING CONJUGAL AND PARENTAL RIGHTS —BIGAMY—ABDUCTION.

257. Definition and Punishment of Bigamy . . . 197
258. Principals in Second Degree in Bigamy . . . 199
259. Irregular Marriages under the Marriage Act of 1823 . . . 199
260. Irregular Marriages under the Marriage Act of 1837 . . . 200
261. Abduction with Intent to Marry . . . 201
262. Abduction of Girls under Sixteen . . . 202
262A. Abduction of Girls under Eighteen . . . 203
262B. Detaining Women in Brothels . . . 204
263. Stealing Children under Fourteen . . . 20

CHAPTER XXXI.

OFFENCES AGAINST CHILDREN BY PARENTS AND OTHERS.

264. Neglecting to provide Food, &c., for Children . . . 206
265. Parents not providing Necessaries for Children . . . 206
266. Masters not providing for Apprentices—Abandoning Children under Two . . . 207

CHAPTER XXXII.

LIBELS ON PRIVATE PERSONS.

267. Definition of Libel . . . 208
268. Things capable of being Libels . . . 209
269. Defamatory Matter . . . 209
270. Publication defined . . . 210

ART.		PAGE
271.	When a Libel is Malicious	211
272.	Publication of the Truth	211
273.	Publication of Matter honestly believed to be true	212
274.	Fair Criticism	213
275.	Parliamentary Proceedings, and Fair Comments thereon	215
275A.	Reports of Proceedings of Public Meetings	215
276.	Publication in a Court of Justice	216
277.	Fair Reports of Proceedings of Courts	217
278.	Punishment for Libel	218

PART VI.

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

CHAPTER XXXIII.

PROPERTY—POSSESSION—ASPORTATION—BAILMENT.

279.	Offences against Rights of Property and Rights arising out of Contracts	220
280.	Property in Moveable Things	221
281.	Possession	221
282.	Special Owner	224
283.	Possessor Special Owner as against Stranger	224
284.	Taking and carrying away	224
285.	Bailment defined	226
285A.	Offences relating to Property committed by and against Married Women	226

CHAPTER XXXIV.

THINGS CAPABLE OR NOT OF BEING STOLEN.

286.	Things capable of being stolen	228
287.	Moveable Things—Land—Things fixed to Land	228
288.	Title-Deeds and Choses in Action	228
289.	Water—Gas—Electricity	229
290.	Tame Animals and Wild Animals in Captivity	229
291.	Wild Animals Living and Dead	231
292.	Dead Bodies	231
293.	Things abandoned	231
294.	Things of no Value	232

CHAPTER XXXV.

THEFT IN GENERAL.

295.	Definition of Theft	233

ART. PAGE
296. Theft by taking and carrying away 234
297. Theft by a Servant—Embezzlement 237
298. Theft by a False Pretence 238
299. Theft by taking advantage of a Mistake 239
300. Theft by Bailees 240
301. By and from whom Theft may be committed . . . 240
302. Finding Goods 242
303. Conversion after a Taking amounting to Trespass . . . 244
304. Conversion after Innocent Taking 244
305. Obtaining by False Pretences not Theft 245
306. Temporary Taking is not Theft 246
307. Taking Tame Animal wandering not Theft 246
308. Evidence as to Theft 247

CHAPTER XXXVI.

EMBEZZLEMENT BY CLERKS AND SERVANTS.

309. Embezzlement by Clerks and Servants—Who are Servants . 248
310. The Property embezzled must be the Master's 251
311. Distinction between Embezzlement and other kinds of Theft . 252
312. Evidence as to Embezzlement 254

CHAPTER XXXVII.

ROBBERY AND EXTORTION BY THREATS.

313. Robbery 255
314. Extortion by Threats 255

CHAPTER XXXVIII.

BURGLARY, HOUSEBREAKING, ETC.

315. Definitions 258
316. Robbing Places of Worship—Burglary 259
317. Housebreaking and Commission of Felony 259
318. Entering Dwelling-house with Intent 260
319. Breaking out after committing Felony 260
320. Being found in Possession of Housebreaking Instruments . 260

CHAPTER XXXIX.

PUNISHMENTS FOR STEALING PARTICULAR THINGS AND RECEIVING GOODS UNLAWFULLY OBTAINED.

321. Punishment for stealing Things for which no special Punishment is provided 262
322. Killing Animals with intent to steal equivalent to stealing . 262
323. Stealing and concealing Valuable Securities 263
324. Thefts punishable with Penal Servitude for Life . . . 264

ART. PAGE
325. Thefts punishable with Penal Servitude for Fourteen Years . 265
326. Thefts punishable with Penal Servitude for Seven Years . 267
327. Thefts punishable with Penal Servitude for Five Years . . 267
327A. Theft punishable with Two Years Imprisonment . . 269
328. Sundry Offences resembling Theft—Punished by various Terms of Imprisonment, &c. 270

CHAPTER XL.

OBTAINING PROPERTY BY FALSE PRETENCES AND OTHER CRIMINAL FRAUDS AND DEALINGS WITH PROPERTY.

329. Obtaining Goods, &c., by False Pretences 275
330. Definition of "False Pretence" 276
331. Of "Obtaining" 278
332. Intent to defraud 280
333. Cheating at Play 280
334. Obtaining Credit, &c., by False Pretences 281
335. Concealing Deeds and Incumbrances 281
336. Conspiracy to defraud or extort 282
337. Pretending to exercise Witchcraft 283
338. Cheating 283
339. Servants feeding Horses, &c., against Orders . . . 284
340. Fraudulently concealing Ore 284
341. Taking Marks from Public Stores 285
342. Concealing Treasure Trove 285

CHAPTER XLI.

FRAUDS BY AGENTS, TRUSTEES, AND OFFICERS OF PUBLIC COMPANIES—FALSE ACCOUNTING.

343. Punishment of Misdemeanors in this Chapter . . . 286
344. "Misappropriate" defined 286
345. Misappropriations by Bankers, Merchants, &c. . . . 286
346. Misappropriation under Power of Attorney 288
347. Misappropriation by Factors or Agents 288
348. Clerks, &c., assisting in procuring Advances 289
349. Fraudulent Trustees. 289
350. Frauds by Directors and Public Officers 290
351. Rule of Evidence 291
352. Fraudulent False Accounting 292

CHAPTER XLII.

RECEIVING.

353. Receiving defined 293
354. Receiving Property unlawfully obtained 294

CHAPTER XLIII.

FORGERY IN GENERAL.

ART. PAGE

355. Definition of Forgery—Intent to defraud 296
356. Making a False Document defined 298
357. "Document" 302

CHAPTER XLIV.

PUNISHMENT OF PARTICULAR FORGERIES.

358. "Utter," "Resemble," "Forge" 303
359. Forgeries punishable with Penal Servitude for Life . . 303
360. Forgeries punishable with Fourteen Years Penal Servitude . 307
361. Forgeries punishable with Seven Years Penal Servitude . . 309
362. Making or Possession of Paper, &c., for Forging Bank Notes punishable with Fourteen Years Penal Servitude . . 311
363. Offences relating to Exchequer Bills and Paper used for them, Seven Years Penal Servitude 314
364. Trade-Marks defined 315
365. Forging Trade-Marks 316
366. Forgery at Common Law, Misdemeanor 317

CHAPTER XLV.

PERSONATION.

367. Personation 319
368. Acknowledging Recognizance, &c., in False Name . . 319
368A. Personation in fraud of the Admiralty 320
368B. Personation at Elections 320

CHAPTER XLVI.

OFFENCES RELATING TO THE COIN.

369. Interpretation of Terms 322
370. Coining and Possession of Instruments for Coining—Penal Servitude for Life 323
371. Clipping—Penal Servitude for Fourteen Years . . . 324
372. Coining Copper or Foreign Money—Penal Servitude for Seven Years 325
373. Coining Foreign Copper Money—Penal Servitude for Seven Years 326
374. Uttering and Possessing with Intent to Utter . . . 326
375. Uttering Base Copper or Foreign Coin. 327
375A. Making or Selling Medals resembling Coin 328

CHAPTER XLVII.

MALICIOUS INJURIES TO PROPERTY.

376. Burning Ships of War, &c.—Felony—Death 330

ART. PAGE
376A. Offences committed by or in relation to Explosive Substances . 331
377. Arson, &c.—Penal Servitude for Life . 332
378. Arson, &c.—Fourteen Years Penal Servitude . 335
379. Threats to Burn, &c.—Ten Years Penal Servitude . 337
380. Malicious Mischief—Seven Years Penal Servitude . 337
381. Malicious Mischief—Five Years Penal Servitude . 340
382. Making and Possessing Gunpowder for certain Purposes . 341
383. Sundry Injuries to Property . 341

CHAPTER XLVIII.

OFFENCES RELATING TO GAME, WILD ANIMALS, AND FISH.

384. "Night" and "Game" defined . 347
385. Night Poaching and assaulting Keeper . 347
386. Offences relating to Deer, Hares, Rabbits, and Fish . 348

CHAPTER XLIX.

OFFENCES CONNECTED WITH TRADE AND BREACH OF CONTRACT.

387. Absconding with Property in Contemplation of Bankruptcy . 353
388. Punishment of Fraudulent Debtors . 353
388A. Undischarged Bankrupt obtaining Credit . 356
389. False Claim on Bankrupt's Estate . 356
390. Conspiracies in Restraint of Trade . 357
391. What Acts done in Restraint of Trade are not unlawful . 357
392. Conspiracies in Restraint of Trade, Misdemeanors . 358
393. Criminal Breaches of Contract of Service—Intimidation and Picketing . 358
394. Breaches of Employer's Duty to Seamen—Leaving Seamen behind . 360
395. Breaches of Shipowner's Duty to Seamen—Sending Unseaworthy Ships to Sea . 362
396. Breach of Duty by Seamen to Employers . 362
397. Breach of Duty of Seamen to each other or other Persons on Board . 364
398. Breach of Duty to other Ship in case of a Collision . 365

APPENDIX OF NOTES . 366

INDEX . 409

A DIGEST

OF

THE CRIMINAL LAW.

PART I.

PRELIMINARY.

EXPLANATION OF TERMS.
CHAP. I.—PUNISHMENTS.
CHAP. II.—CLASSIFICATION OF CRIMES AND GENERAL PROVISIONS AS TO THEIR PUNISHMENT.
CHAP. III.—GENERAL EXCEPTIONS.
CHAP. IV.—PARTIES TO THE COMMISSION OF CRIMES—PRINCIPAL AND ACCESSORY.
CHAP. V.—DEGREES IN THE COMMISSION OF CRIME—INCITEMENT—CONSPIRACY—ATTEMPTS.

EXPLANATION OF TERMS.

MAXIMUM PUNISHMENT.

WHENEVER it is stated that any offender is liable, on conviction of any offence, to a specified term of penal servitude as a maximum punishment, the meaning (unless any qualification is specified) is that he may be sentenced to that or to any shorter term of penal servitude not being less than five years, or, instead of such term of penal servitude, to imprisonment for any term not exceeding two years, with or without hard labour.

If the maximum punishment specified is a term of imprisonment with hard labour or a fine, the meaning (unless any qualification is specified) is that the offender may be sentenced to that or to any shorter term of imprisonment, with or without hard labour, or to any smaller fine.

If the maximum punishment specified is a term of hard

labour (as distinguished from imprisonment with hard labour) the meaning is that the offender must be sentenced to imprisonment with hard labour, but may be sentenced for any term not exceeding the term specified.

SOLITARY CONFINEMENT AND WHIPPING.

[1] The letter S at the end of a reference to a statute means that an offender against the enactment referred to may be sentenced to solitary confinement. The letter W that such offender may, if a male under sixteen years of age, be sentenced to whipping.

PENAL SERVITUDE AND TRANSPORTATION.

In cases in which the punishment appointed for an offence by statute is transportation, penal servitude has been uniformly substituted. In cases in which the minimum amount of penal servitude is three years, five years has been uniformly substituted, in order to give the effect of 16 & 17 Vict. c. 99; 20 & 21 Vict. c. 3; and 27 & 28 Vict. c. 47, s. 2; which substituted penal servitude for transportation, and a minimum term of five for a minimum term of three years' penal servitude.

MINIMUM PUNISHMENTS.

It is enacted by 9 & 10 Vict. c. 24, s. 1, that "in all cases where the Court is now (June, 1846) by law empowered or required to award a sentence of transportation exceeding seven years, it shall be lawful for such Court at its discretion to award a sentence of transportation for a term of years not less than seven years, or to award such sentence of imprisonment for any period not exceeding two years, with or without hard labour, as shall to the Court in its discretion appear just under all the circumstances."

The effect of this enactment is given when necessary by substituting the expression "shall be liable to a maximum punishment of —— years penal servitude," for the expression "shall be liable to be transported for —— years."

[1] See Article 5, and note.

To avoid constant repetition of the same references, the Acts mentioned under this and the last heading are not referred to in the notes giving the authorities for the various articles hereinafter contained.

ALTERATIONS IN LANGUAGE OF STATUTES.

The future and the past future are uniformly altered to the present tense. Where "shall" is used as an imperative "must" is substituted. Where the language of a statute appeared needlessly verbose for common purposes, the leading word or an equivalent is preserved in the text, and the words omitted are inserted in a foot note for reference if necessary.

The language of the statutes is in most cases rearranged for the sake of clearness; but the words "redrawn," "condensed," or others of the same sort, indicate the cases in which the greatest alterations have been made.

DRAFT CODE.

The expression "Draft Code" means the Draft Code appended to the Report of the Criminal Code Commission published in 1879, and marked C. 2345.

CHAPTER I.

[1] OF PUNISHMENTS.

ARTICLE 1.

PUNISHMENTS.

THE following punishments are inflicted by the law of England for the crimes hereinafter defined:—Death, penal servitude, imprisonment, detention in a reformatory school, subjection to police supervision, whipping, fines, putting under recognizance.

ARTICLE 2.

PUNISHMENT OF DEATH.

[2] The punishment of death is inflicted by hanging the offender by the neck till he is dead.

ARTICLE 3.

PUNISHMENT OF PENAL SERVITUDE.

[3] The punishment of penal servitude consists in keeping the offender in confinement and compelling him to labour in the manner and under the discipline appointed by the Acts relating to penal servitude.

[1] See 1 Hist. Cr. Law, ch. xiii. p. 457; see Draft Code, Pt. II., ss. 7–18.

[2] As to treatment of prisoners under sentence of death in prison, see 28 & 29 Vict. c. 126, Sch. 1, 61. As to the history of the punishment of death and benefit of clergy, see 1 Hist. Cr. Law, 457–80.

[3] 16 & 17 Vict. c. 99; 20 & 21 Vict. c. 3; 27 & 28 Vict. c. 47; and see 5 Geo. 4, c. 84. The subject of the nature of the punishment of penal servitude is discussed at length in *R. v. Mount*, L. R. 6 P. C. 283. See, too, 1 Hist. Cr. Law, 480–483.

ARTICLE 4.

PUNISHMENT OF IMPRISONMENT.

[1] The punishment of imprisonment consists in the detention of the offender in prison, and in his subjection to the discipline appointed for prisoners during the period expressed in the sentence.

Imprisonment is of three kinds:

(i.) Imprisonment with hard labour.

(ii.) Imprisonment without hard labour.

(iii.) Imprisonment as a misdemeanant of the first division.

Imprisonment of the first and second kinds may, in the cases hereinafter specified, be accompanied or not with solitary confinement.

ARTICLE 5.

IMPRISONMENT TO BE SEPARATE.

[2] All prisoners sentenced to imprisonment with or without hard labour must be prevented from holding any communication with each other, either by every prisoner being kept in a separate cell by day and by night, except when he is at chapel or taking exercise, or by every prisoner being confined to his cell and being subjected to such superintendence during the day as will, consistently with the provisions of the Prisons Act, 1865, prevent his communication with any other prisoner.

ARTICLE 6.

HARD LABOUR.

[3] Hard labour is of two classes, consisting—

(1.) Of work at the tread-wheel, shot-drill, crank, capstan,

[1] See 28 & 29 Vict. c. 126. As to the history of the punishment of imprisonment, see 1 Hist. Cr. Law, 483–7.

[2] 28 & 29 Vict. c. 126, s. 17. This has practically superseded sentences of solitary confinement.

[3] 28 & 29 Vict. c. 126, s. 19.

stone-breaking, or such other like description of hard bodily labour as may be appointed by the justices in sessions assembled with the approval of the Secretary of State.

(2.) Of such other description of bodily labour as may be appointed by [1] the justices in sessions assembled with the approval of the Secretary of State.

[2] Every male prisoner of sixteen years of age and upwards sentenced to hard labour must, during the whole of his sentence, be kept at hard labour of the first class for such number of hours, not more than ten or less than six (exclusive of meals), as may be prescribed by the visiting justices, subject to the following provisions:—

(1.) In cases in which the sentence is for more than three months the visiting justices may, after the expiration of the first three months of the sentence, substitute hard labour of the second for hard labour of the first class.

(2.) If the surgeon certifies that any prisoner is unfit to be kept at either class of hard labour during the whole or any part of the prescribed hours, he shall not be kept to such labour during such time.

(3.) If the sentence is for a period not exceeding fourteen days, prisoners may, in pursuance of rules made by the justices in sessions, be kept in separate confinement at hard labour of the second class during the whole period of their sentences.

[3] Every male prisoner under the age of sixteen sentenced to hard labour, and every female prisoner sentenced to hard labour, must be kept at hard labour of the second-class during such number of hours—not more than ten or less than six (exclusive of meals)—in each day as may be prescribed by the visiting justices, unless the surgeon certifies that he or she is unfit for hard labour.

[1] For the meaning of this expression see 28 & 29 Vict. c. 126, s. 6.
[2] Ibid. Sch. I. 34 (redrawn).
[3] Ibid. Sch. I. 35.

Article 7.

EMPLOYMENT OF PRISONERS NOT SENTENCED TO HARD LABOUR.

[1] Provision must be made by the visiting justices for the employment of all prisoners sentenced to imprisonment without hard labour. The visiting justices must make rules as to the nature and amount of such employment; but no prisoner not sentenced to hard labour can be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

Article 8.

SOLITARY CONFINEMENT.

[2] In cases in which a Court or judge is authorized to direct that an offender shall be kept in solitary confinement, such solitary confinement may not be for any longer period than one month at a time, or more than three months in the space of one year.

Article 9.

IMPRISONMENT AS A MISDEMEANANT OF THE FIRST DIVISION.

[3] Imprisonment as a misdemeanant of the first division is inflicted by confining the offender within the prison. Such a misdemeanant is not to be deemed to be a criminal prisoner.

He is permitted to maintain himself, and to procure or receive, at proper hours, food, wine, malt liqour, clothing, bedding or other necessaries; but subject to examination and to such rules as may be approved by the visiting justices.

[1] 28 & 29 Vict. c. 126, Sch. I. 38.

[2] 7 Will. 4 & 1 Vict. c. 90, s. 5.

[3] 28 & 29 Vict. c. 126, Sch. I. 16, 31. The rules upon which this article is founded, apply in terms to debtors only; but as a misdemeanant of the first division is not to be regarded as a "criminal prisoner," it would seem to follow that he is to be treated as a debtor.

He may be permitted to work and follow his trade or profession, provided such employment does not interfere with the regulations of the prison.

ARTICLE 10.

DETENTION IN A REFORMATORY.

[1] The punishment of detention in a reformatory school is inflicted by detaining the offender in such a school, and subjecting him to the discipline thereof, in the manner provided by the statutes relating to reformatory schools.

ARTICLE 11.

SUBJECTION TO POLICE SUPERVISION.

[2] The punishment of subjection to police supervision consists in the subjection of every person so punished to the following obligations when at large:—

(*a.*) He must notify the place of his residence, and every change of his residence, within the same [3] police district, to the [3] chief officer of police of the district in which his residence is situate. [4] He must comply with this requirement by personally presenting himself and declaring his place of residence to the constable, or person who at the time when such notification is made is in charge of the police station or office of which notice has been given to such holder or person as the place for receiving such notification, or if no such notice has been given in charge of the chief office of such chief officer of police.

(*b.*) Whenever he changes his place of residence from one police district to another, he must notify such change of residence to the chief officer of police of the police district which he is leaving, and to the chief officer of police of the

[1] 29 & 30 Vict. c. 117.
[2] 34 & 35 Vict. c. 112, s. 8 (language slightly altered).
[3] For definitions of "police district," and "chief officer of police," see 34 & 35 Vict. c. 112, s. 20.
[4] 42 & 43 Vict. c. 55, s. 2. The section contains some other very slight additions to the earlier Act.

police district into which he goes to reside. He must make the notifications required to be made in (*a.*) and (*b.*) within forty-eight hours after he comes into the place where they are required to be made.

(*c.*) Once in each month he must—if a male—report himself at such time, and personally, or by letter, as may be prescribed by the chief officer of police of the district, either to such chief officer himself, or to such person as he may direct.

(*d.*) If he fails to do any one of these things within the proper time he is liable to be imprisoned, with or without hard labour, for any period not exceeding one year.

ARTICLE 12.

PUNISHMENT OF WHIPPING.

(*a.*) [1] When no special provisions are made as to the punishment of whipping the number of strokes and the instrument to be used are left to the discretion of the person by whom the whipping is inflicted.

(*b.*) [2] When the punishment of whipping is awarded by order of one or more justices, in exercise of their power of summary conviction, the order awarding such punishment must specify the number of strokes to be inflicted, and the instrument to be used in the infliction of them. In the case of an offender whose age does not exceed fourteen years the number of strokes inflicted must not exceed twelve, and the instrument used must be a birch rod. No such offender may be whipped more than once for the same offence.

(*c.*) [3] When the punishment of whipping is awarded by order of a Court for an indictable offence, under the Larceny Act, 1861, the Malicious Injuries to Property Act, 1861, or

[1] Such was the practice when whipping was inflicted as a common law punishment, and such must still be the practice where no statutory directions are given as to the mode of inflicting it. The only limitation is contained in the declaration of the Bill of Rights against "illegal and cruel punishments" (1 W. & M. sess. 2, c. 2, preamble).

[2] 25 Vict. c. 18, s. 1.

[3] 24 & 25 Vict. c. 96, s. 119; c. 97, s. 75; c. 100, s. 70.

the Offences against the Person Act, 1861, the Court may sentence the offender to be once privately whipped, and the number of strokes and the instrument with which they are to be inflicted must be specified by the Court in the sentence.

(*d*.) [1] When the punishment of whipping is awarded under the Act for the further security of Her Majesty's subjects from personal violence (1863), the Court may direct that the offender—if a male—in addition to the other punishment awarded to him, be once, twice, or thrice privately whipped, subject to the following provisions:—

(i.) In the case of an offender whose age does not exceed sixteen years, the number of strokes at each such whipping must not exceed twenty-five, and the instrument used must be a birch rod.

(ii.) In the case of any other male offender, the number of strokes must not exceed fifty at each such whipping.

(iii.) In each case the Court in its sentence must specify the number of strokes to be inflicted and the instrument to be used.

(iv.) Such whipping must in no case take place after the expiration of six months from the passing of the sentence.

(v.) Every such whipping to be inflicted on a person sentenced to penal servitude must be inflicted on him before he is removed to a convict prison, with a view to undergoing the sentence of penal servitude.

Article 13.

FINE.

[2] The punishment of fining consists in ordering the offender to pay to Her Majesty a sum of money expressed in the sentence. When no particular sum is limited as the maximum amount of a fine, the fine imposed must not be excessive.

[1] 26 & 27 Vict. c. 44, s. 1.
[2] 1 W. & M. sess. 2, c. 2. See also Magna Charta, 'Salvo contenemento suo.'

ARTICLE 14.

PUTTING UNDER RECOGNIZANCES.

The punishment of putting under recognizances consists in ordering the offender to promise to pay to Her Majesty a sum of money expressed in the recognizance if he breaks the condition thereof, and to find other persons to make a similar promise on his behalf and as his sureties. In cases in which the Court or magistrate is authorized to require such securities, they may direct the offender to be imprisoned till he enters into the recognizance and finds the sureties.

CHAPTER II.

[1] CLASSIFICATION OF CRIMES AND GENERAL PROVISIONS AS TO THEIR PUNISHMENT.

ARTICLE 15.

TREASON, FELONY, AND MISDEMEANOR.

EVERY crime is either treason, felony, or misdemeanor. Every crime which amounts to treason or felony is so denominated in the definitions of crimes hereinafter contained. All crimes not so denominated are misdemeanors.

ARTICLE 16.

CONSEQUENCES OF A CONVICTION OF TREASON OR FELONY.

The consequences of a conviction of treason or felony are as follows:—

(*a.*) [2] Every person convicted of treason or felony may be condemned to the payment of the whole or any part of the costs and expenses incurred in and about his prosecution and conviction.

(*b.*) [3] Immediately upon the conviction of any person for felony, the Court before which he is convicted may award any sum of money not exceeding £100, by way of satisfaction or compensation for any loss of property suffered by any person through or by means of such felony, upon the application of such person. Such sum is to be deemed to be a judgment debt due to the person entitled to receive the same from the person so convicted.

[1] 2 Hist. Cr. Law, ch. xx. pp. 192–6.

[2] 33 & 34 Vict. c. 23, s. 3. The section contains various subsidiary provisions as to costs, which do not bear on the punishment of the offence. See 1 Hist. Cr. Law, 487–9.

[3] 33 & 34 Vict. c. 23, s. 4.

(*c.*) [1] Every person sentenced to death, to penal servitude, or to any term of imprisonment with hard labour, or exceeding twelve months:

(i.) Becomes incapable of holding any military or naval office, or any civil office under the Crown, or other public employment, or any ecclesiastical benefice, or of being elected, or sitting, or voting as a member of either House of Parliament, or of exercising any right of suffrage or other parliamentary or municipal franchise whatever in England, Wales, or Ireland.

Such incapacity continues until such person has suffered the punishment to which he has been sentenced, or such other punishment as by competent authority may be substituted for the same, or until he receives a free pardon from Her Majesty,

(ii.) If any such person holds, at the time of his conviction, any military or naval office, or any civil office under the Crown, or other public employment, or any ecclesiastical benefice, or any place, office, or emolument in any university, college, or other corporation, or is entitled to any pension or superannuation allowance, payable by the public or out of any public fund; such office, benefice, employment, or place, forthwith becomes vacant, and such pension or superannuation allowance, or emolument, forthwith determines and ceases to be payable, unless such person receives a free pardon from Her Majesty within two months after such conviction, or [2] before the filling up of such office, benefice, employment, or place, if given at a later period.

(*d.*) [3] Every person sentenced to death, or to penal servitude, or against whom sentence of death is recorded, is disabled from suing any person, from alienating or charging any property, and from making any contract.

(*e.*) [4] The custody and management of the property of any such person may be committed to an administrator, or in-

[1] 33 & 34 Vict. c. 23, s. 2.

[2] I suppose this means if the pardon is given more than two months after the conviction.

[3] 33 & 34 Vict. c. 23, s. 8.

[4] See ss. 9–29 inclusive.

terim curator, appointed in the manner and invested with the powers described in the statute, 33 & 34 Vict. c. 23.

(*f.*) [1] Any person subject to the provisions of clauses (*d.*) or (*e.*) ceases to be affected by them when he dies, or is made bankrupt, or has suffered any punishment to which sentence of death has been commuted, or has undergone the full term of penal servitude to which he was sentenced, or such other punishment as may have been substituted for it by lawful authority, or receives Her Majesty's pardon.

Article 17.

RECORDING SENTENCE OF DEATH.

[2] When any person is convicted of any felony, except murder, punishable with death, the Court may, if it thinks fit, instead of pronouncing judgment of death on such offender, order the same to be entered of record, and a record of every judgment so entered has the same effect as if the judgment had been duly pronounced and the offender reprieved by the Court.

Article 18.

PUNISHMENT FOR FELONY IF NO EXPRESS PUNISHMENT PROVIDED —FELONIES UNDER THE CONSOLIDATION ACTS.

[3] Every person convicted of any felony for which no punishment is specially provided by the law in force for the time being, is liable upon conviction thereof to be sentenced to penal servitude for any period not exceeding seven years, or to be imprisoned with or without hard labour and solitary confinement for any term not exceeding two years, and if a male, to be once, twice, or thrice publicly or privately whipped, in addition to such imprisonment.

[1] 33 & 34 Vict. c. 23, s. 7.

[2] 4 Geo. 4, c. 48, ss. 1, 2 (very much abridged). By 6 & 7 Will. 4, c. 30, the same power was given to the Court in cases of murder (*R.* v. *Hogg*, 2 Mo. & R. 380), but this Act was repealed by 24 & 25 Vict. c. 95. As to the history of the subject see 1 Hist. Cr. Law, 472.

[3] 7 & 8 Geo. 4, c. 28, ss. 8, 9, modified by 1 Vict. c. 90, s. 5; 9 & 10 Vict. c. 24, s. 1; 16 & 17 Vict. c. 99; 20 & 21 Vict. c. 3.

[1] Every person convicted of any felony (except murder) punishable under any of the Criminal Law Consolidation Acts, 1861, may, in addition to any punishment thereby authorized, be required to enter into his own recognizances and to find sureties, both or either, for keeping the peace.

ARTICLE 19.

PREVIOUS CONVICTIONS.

(*a*) [2] If any person is convicted of any felony, not punishable with death on the 1st July, 1827, committed after a previous conviction for felony, he is liable, on such subsequent conviction, to be sentenced to penal servitude for life, or for any term not less than seven years, or to be imprisoned with or without hard labour, and with or without solitary confinement, for any term not exceeding four years, and if a male, to be once, twice, or thrice publicly or privately whipped in addition to such imprisonment.

[1] 24 & 25 Vict. c. 96, s. 117; Ibid. c. 97, s. 73; Ibid. c. 98, s. 51; Ibid. c. 99, s. 38; Ibid. c. 100, s. 71.

[2] 7 & 8 Geo. 4, c. 28, s. 11. By this Act a person convicted of larceny, after a previous conviction, was liable to transportation for life, &c. By 16 & 17 Vict. c. 99, s. 12, it was enacted that no person shall be liable to be transported by reason only of a previous conviction for larceny, but every such person may be sentenced to not more than ten or less than four years penal servitude. This enactment was repealed by 24 & 25 Vict. c. 95, after having been to some extent superseded by 20 & 21 Vict. c. 3, s. 2, which abolished transportation. By 24 & 25 Vict. c. 96, s. 7, it was enacted that a person convicted of simple larceny after a previous conviction for felony should be liable to a maximum punishment of ten years penal servitude (S. W.). Probably this was meant to be a substitute for 7 & 8 Geo. 4, c. 28, s. 11, so far as that section applies to convictions for simple larceny, but they are not in terms inconsistent. Theoretically, therefore, I suppose, a person might on a second conviction for larceny be sentenced to penal servitude for life, or imprisonment with hard labour for four years, and to be thrice publicly whipped. The question of the legality of such a sentence is not likely to occur in practice; see Article 321, note. By 27 & 28 Vict. c. 47, s. 2, a person sentenced to penal servitude, after a previous conviction for felony, could not be sentenced to less than seven years. But this was repealed by 42 & 43 Vict. c. 54, s. 1. Practically, therefore, the net result of all this legislation is as stated in the text. The "simple" larceny of the 24 & 25 Vict. c. 96, obviously means larceny not subjected to any special punishment by reason of any of the aggravating circumstances provided for in that Act. Hale uses the expression "simple" larceny in contradistinction to larceny with violence, which is robbery: 1 Hale, P. C. 503.

Provided that a person convicted of simple larceny after a previous conviction for felony, cannot be sentenced to a longer term of penal servitude than ten years.

(*b*) [1] When any person is convicted of any felony, or of any of the misdemeanors mentioned in the note hereto,[2] and a previous conviction of any felony, or any such misdemeanor is proved against him, the Court having cognizance of the indictment may, in addition to any other punishment which it may award to him, direct that he is to be subject to the supervision of the police for a period of seven years, or such less period as the Court may direct, commencing immediately after the expiration of the sentence passed on him for the last of such crimes.

ARTICLE 20.

SPECIAL OFFENCES IN THE CASE OF PERSONS TWICE CONVICTED.

[3] Every person convicted on indictment of any felony or any such misdemeanor as is mentioned in the note hereto,[4] and having had a previous conviction of any such offence proved against him, is liable to a maximum punishment of a year's imprisonment and hard labour, if at any time within seven years immediately after the expiration of the sentence passed upon him for the last of such offences,

(*a*.) on his being charged by a constable with getting his livelihood by dishonest means, and being brought before a Court of summary jurisdiction, it appears to such Court that there are reasonable grounds for believing that he is getting his livelihood by dishonest means; or if,

[1] 34 & 35 Vict. c. 112, s. 8, and s. 20, which defines the word "crime" employed in s. 8.

[2] Viz., 1. Uttering false or counterfeit coin. 2. Possessing counterfeit gold or silver coin. 3. Obtaining goods or money by false pretences. 4. Conspiracy to defraud. 5. Being found by night armed with intent to break into a dwelling-house. 6. Being found by night, without lawful excuse, with housebreaking implements. 7. Being found by night with face blackened, &c., with intent to commit felony. 8. Being found by night in any dwelling-house or building with intent to commit felony.

[3] 34 & 35 Vict. c. 112, ss. 7, 20.

[4] See Note 2, *supra*.

(*b.*) on being charged with any offence punishable on indictment or summary conviction, and on being required by a Court of summary jurisdiction to give his name and address, he refuses to do so, or gives a false name or false address; or if

(*c.*) he is found in any place, whether public or private, under such circumstances as to satisfy the Court before whom he is brought that he was about to commit or to aid in the commission of any offence punishable on indictment or summary conviction, or was waiting for an opportunity to commit or aid in the commission of any offence punishable on indictment or summary conviction; or if

(*d.*) he is found in or upon any dwelling-house, or any building, yard, or premises, being parcel of or attached to such dwelling-house, or in or upon any shop, warehouse, counting-house, or other place of business, or in any garden, orchard, pleasure-ground, or nursery-ground, or in any building, or erection in any garden, orchard, pleasure-ground, or nursery-ground, without being able to account to the satisfaction of the Court before whom he is brought for his being found on such premises.

ARTICLE 21.

PUNISHMENT OF PERSONS UNDER SIXTEEN YEARS OF AGE.

[1] Whenever any offender who, in the judgment of the Court, justices, or magistrate before whom he is charged is under the age of sixteen years, is convicted, on indictment or in a summary manner, of an offence punishable with penal servitude or imprisonment, and is sentenced to be imprisoned for the term of ten days or a longer term, the Court, justices, or magistrate may also sentence him to be sent at the expiration of his period of imprisonment to a certified reformatory school, and to be there detained for a period of not less than two years and not more than five years.

A youthful offender under ten is not to be so directed to be

[1] 29 & 30 Vict. c. 117, s. 14.

sent to a reformatory school unless he has been previously charged with some crime or offence punishable with penal servitude or imprisonment, or is sentenced by a judge of assize or court of general quarter or quarter sessions.

Article 22.

PUNISHMENT OF MISDEMEANORS.

[1] Every person convicted of a misdemeanor for which no special punishment is provided by law is liable to fine and imprisonment without hard labour (both or either), and to be put under recognizances to keep the peace and be of good behaviour at the discretion of the Court.

[2] Whenever any person convicted of misdemeanor is sentenced to imprisonment without hard labour, the Court or judge before whom such person has been tried may order, if such Court or judge thinks fit, that such person shall be treated as a misdemeanant of the first division.

[3] Any person convicted of any indictable misdemeanor punishable under any one of the Criminal Law Consolidation Acts, 1861, may, in addition to or in lieu of the punishment by such Act provided, be fined and required to enter into his own recognizances, and to find sureties (both or either) for keeping the peace and being of good behaviour, but no person may be imprisoned for more than one year for not finding such sureties.

Article 23.

CUMULATIVE PUNISHMENTS.

[4] Wherever sentence is passed for felony on a person already imprisoned under sentence for another crime, the Court may award imprisonment for the subsequent offence

[1] 1 Russ. Cr. 92; *R. v. Dunn*, 12 Q. B. 1041.

[2] 28 & 29 Vict. c. 126, s. 67.

[3] 24 & 25 Vict. c. 96, s. 117; Ibid. c. 97, s. 73; Ibid. c. 98, s. 51; Ibid. c. 99, s. 38; Ibid. c. 100, s. 71. The provisions of these Acts will be found in Parts V and VI. of the Digest.

[4] 7 & 8 Geo. 4, c. 28, s. 10. When felonies as a rule were capital, there could be no cumulative sentences in regard of them, whether they were charged in different indictments or in different counts of the same indictment. If they were

to commence at the expiration of the imprisonment to which such person was previously sentenced. When such a person is already under sentence either of imprisonment or transportation, the Court, if empowered to pass sentence of penal servitude, may award such sentence for the subsequent offence, to commence at the expiration of the imprisonment or penal servitude to which such person was previously sentenced, although the aggregate term of imprisonment or penal servitude respectively may exceed the term for which either of those punishments could be otherwise awarded.

[1] When an offender is convicted of more misdemeanors than one, he may be sentenced to a separate punishment for each offence, and the Court may, if it thinks fit, direct that the one punishment shall not begin until the other has been undergone.

---

charged in separate indictments, the prisoner having been convicted and sentenced on one, might plead "autrefois attaint" to any subsequent charge. There was no use in passing two sentences of death upon him (see Chitty's Criminal Law, 463). If two felonies were charged in one indictment, the prosecutor was put to his election—as indeed he still is. When death ceased to be the punishment for felonies as such (7 & 8 Geo. 4, c. 28, s. 7) it was necessary to make provision for the punishment of persons already under sentence. Hence the provision in the text. Cumulative punishment in cases of misdemeanor depends on the common law principles.

[1] Opinion of the judges in *Wilkes's Case*, 19 St. Tr. 1132–3, and see *R. v. Castro*, L. R. 5 Q. B. D. 490. In the case of Renwick Williams (1 Leach, 526, A.D. 1790) cumulative sentences, amounting in all to six years' imprisonment, were passed upon three indictments for similar offences.

CHAPTER III.

[1] *GENERAL EXCEPTIONS.*

ARTICLE 24.

DEFINITIONS SUBJECT TO EXCEPTIONS.

EVERY definition hereinafter contained of any crime is subject to the following general exceptions, except in the cases in which the contrary is expressed :—

ARTICLE 25.

CHILDREN UNDER SEVEN.

[2] No act done by any person under seven years of age is a crime.

ARTICLE 26.

CHILDREN BETWEEN SEVEN AND FOURTEEN.

[3] No act done by any person over seven and under fourteen years of age is a crime, unless it be shewn affirmatively that such person had sufficient capacity to know that the act was wrong.

ARTICLE 27.

INSANITY.

[4] No act is a crime if the person who does it is at the time when it is done prevented [[5]either by defective mental power or] by any disease affecting his mind

(*a.*) from knowing the nature and quality of his act; or,

[1] See 2 Hist. Cr. Law, chaps. xviii., xix. pp. 94–186. See Draft Code, Pt. III. ss. 19–70.

[2] 1 Hale, P. C. 27–8; 1 Russ. Cr. 7; Draft Code, s. 20.

[3] *R.* v. *Owen*, 4 C. & P. 236; and see cases collected 1 Russ. Cr. 7–10; Draft Code, s. 20.

[4] The whole subject is discussed at full length in 2 Hist. Cr. Law, ch. xix. pp. 124–196. Cf. Draft Code, s. 22.

[5] The parts of the article bracketed are doubtful.

(*b*.) from knowing that the act is [1]wrong; [[2] or,

(*c*.) from controlling his own conduct, unless the absence of the power of control has been produced by his own default.]

But an act may be a crime although the mind of a person who does it is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act.

Illustrations.

(1.) A kills B under an insane delusion that he is breaking a jar. A's act is not a crime.

(2.) A kills B knowing that he is killing B, and knowing that it is wrong to kill B; but his mind is so imbecile that he is unable to form such an estimate of the nature and consequences of his act as a person of ordinary intelligence would form. A's act is not a crime if the words within the first set of brackets are law. If they are not it is.

(3.) A kills B knowing that he is killing B, and knowing that it is illegal to kill B; but under an insane delusion that the salvation of the human race will be obtained by his execution for the murder of B, and that God has commanded him (A) to produce that result by those means. A's act is a crime if the word "wrong" has the second of the two meanings ascribed to it in the note.[3] It is not a crime if the word "wrong" has the first of those two meanings.

(4.) A suddenly stabs B under the influence of an impulse caused by disease, and of such a nature that nothing short of the mechanical restraint of A's hand would have prevented the stab. A's act is a crime if (*c*.) is not law. It is not a crime if (*c*.) is law.

(5.) A suddenly stabs B under the influence of an impulse caused by disease, and of such a nature that a strong motive, as, for instance, the fear of his own immediate death, would have prevented the act. A's act is a crime whether (*c*.) is or is not law.

(6.) A permits his mind to dwell upon and desire B's death; under the influence of mental disease this desire becomes uncontrollable, and A kills B. A's act is a crime whether (*c*.) is or is not law.

---

[1] The word "wrong" is variously interpreted as meaning:—1. Morally wrong. 2. Illegal. The practical effect of these differences is shewn in Illustrations (4), (5), and (6).

[2] The parts of the article bracketed are doubtful.

[3] In extreme strictness this ought to be, "If the word 'wrong' has the first of these two meanings the criminality of the act would depend upon the question whether the jury thought that God's command under the circumstances altered the moral character of the act."

(7.) A, a patient in a lunatic asylum, who is under a delusion that his finger is made of glass, poisons one of his attendants out of revenge for his treatment, and it is proved that the delusion had no connection whatever with the act. A's act is a crime.

ARTICLE 28.

PRESUMPTION OF SANITY.

[1] Every person is presumed to be sane, and to be responsible for his acts. The burden of proving that he is irresponsible is upon the accused person; but the jury may have regard to his appearance and behaviour in court.

ARTICLE 29.

DRUNKENNESS.

[2] Voluntary drunkenness is not regarded as a disease affecting the mind within the meaning of Article 27; but involuntary drunkenness, and diseases caused by voluntary drunkenness, fall, so far as they affect the mind, within that Article.

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

Illustrations.

(1.) [2] A, in a fit of voluntary drunkenness, shoots B dead, not knowing what he does. A's act is a crime.

(2.) [2] A, under the influence of a drug fraudulently administered to him, shoots B dead, not knowing what he does. A's act is not a crime.

(3.) [2] A, in a fit of delirium tremens caused by voluntary drunkenness, kills B, mistaking him for a wild animal, attacking A. A's act is not a crime.

---

[1] *R.* v. *Oxford*, 9 C. & P. 525; *R.* v. *Stokes*, 3 C. & K. 185; Draft Code, s. 22.

[2] 1 Hale, P. C. 32–3. Illustrations (1), (2), and (3) are founded on this passage.

(4.)[1] A is indicted for inflicting on B an injury dangerous to life with intent to murder B. The fact that A was drunk when he inflicted the injury ought to be taken into account by the jury in deciding whether A intended to murder B or not.

ARTICLE 30.

MARRIED WOMEN.

[2] If a married woman commits a theft or receives stolen goods knowing them to be stolen in the presence of her husband she is presumed to have acted under his coercion, and such coercion excuses her act; but this presumption may be rebutted if the circumstances of the case shew that in point of fact she was not coerced.

It is uncertain how far this principle applies to felonies in general.

It does not apply to high treason or murder.

It probably does not apply to robbery.

It applies to uttering counterfeit coin.

It seems to apply to misdemeanors generally.

ARTICLE 31.

COMPULSION.

[3] An act which if done willingly would make a person a principal in the second degree and an aider and abettor in a crime, may be innocent if the crime is committed by a number of offenders, and if the act is done only because during

[1] *R.* v. *Cruse*, 8 C. & P. 546.

[2] 1 Hale, P. C. 45; 1 Hawk. P. C. 4; *R.* v. *Hughes*, 1 Russ. Cr. 41; *R.* v. *Atkinson*, 1 Russ. Cr. 47; *R.* v. *Smith*, D. & B. 553; *R.* v. *Archer*, R. & M. 143; *R.* v. *Brooks*, Dear. 184; *R.* v. *Wardroper*, Bell, C. C. 249. As to felonies in general, see 1 Russ. Cr. 32–4. As to high treason, murder, and robbery, see 1 Hale, P. C. 45; Dalton, c. 157; 1 Hawk. P. C. 4; *R.* v. *Buncombe*, 1 Cox, C. C. 183; but as to robbery, see Mr. Carrington's argument in *R.* v. *Cruse*, 8 C. & P. 556. In *R.* v. *Torpey*, Mr. Russell Gurney, Recorder of London, held that the doctrine applied to robbery, 12 Cox, C. C. 48–9; cf. Draft Code, s. 23. As to misdemeanors in general, see note to *R.* v. *Price*, 8 C. & P. 20; and 1 Russ. Cr. p. 145, note (b), 5th ed.; see too *R.* v. *Torpey*, 12 Cox, C. C. 48–9. As to uttering, see *R.* v. *Price*, 8 C. & P. 19. As to false swearing, *R.* v. *Dicks*, 1 Russ. Cr. 16. As to the general doctrine, see Note I. The principle is not affected by the Married Women's Property Act, 45 & 46 Vict. c. 75.

[3] Draft Code, s. 23.

the whole of the time in which it is being done, the person who does it is compelled to do it by threats on the part of the [1] offenders instantly to kill him or do him grievous bodily harm if he refuses; but threats of future injury, or the command of any one not the husband of the offender, do not excuse any offence.

Illustrations.

(1.) [2] A, B, and C, engaged in a rebellion, force D to join the rebel army and to do duty as a soldier by threats of death continuing during the whole of his service. D's act is not a crime.

(2.) [3] A mob employed in breaking threshing machines force several persons to go with them, and force each person to give each threshing machine a blow with a sledge hammer; A, one of the persons so forced, runs away as soon as he can. A's act is not a crime.

ARTICLE 32.

NECESSITY.

An act which would otherwise be a crime may in some cases be excused if the person accused can shew that it was done only in order to avoid consequences which could not otherwise be avoided, and which, if they had followed, would have inflicted upon him or upon others whom he was bound to protect inevitable and irreparable evil, that no more was done than was reasonably necessary for that purpose, and that the evil inflicted by it was not disproportionate to the evil avoided.

[4] The extent of this principle is unascertained. It does not extend to the case of shipwrecked sailors who kill a boy, one of their number, in order to eat his body.

[1] 1 Hale, P. C. 43–4, 49, and see Illustrations.

[2] *R.* v. *M'Growther*, 18 St. Tr. 394 (A.D. 1746).

[3] *R.* v. *Crutchley*, 5 C. & P. 133. The report says nothing as to the nature of the force. Probably it was by threats of personal violence. It is singular that the law upon this subject should be so very meagre. The subject is treated at some length in 1 Hale, cc. vii., viii., and ix., pp. 43–52, but in a very unsatisfactory way. It would seem that in all common cases the fact that a crime is done unwillingly and in order to avoid injury, ought to affect rather the punishment than the guilt.

[4] *R.* v. *Dudley & Stephens*, L. R. 14 Q. B. D. 273. In this case the Court commented on the passage in the text, and Lord Coleridge in delivering judgment said (p. 286), "We have the best authority for saying that" my "language was not meant to cover the case then under consideration." I authorized this statement,

Illustrations.

(1.)[1] A, the Governor of Madras, acts towards his council in an arbitrary and illegal manner. The council depose and put him under arrest, and assume the powers of government themselves. This is not an offence if the

---

and on consideration I feel that my language was not vague enough—vague as it was—to represent fully the vagueness of the law. I have slightly altered it, so as to make it more vague. I should have agreed with the rest of the Court had I been a member of it in *R.* v. *Dudley*, though not in all the reasoning of the judgment. I should have based my judgment on the fact that the special verdict found only that if the boy had not been killed and eaten the survivors "would *probably* not have survived"; and on the principle that in this particular class of cases an error on the side of severity is an error on the safe side. Great danger would be involved in admitting a principle which might be easily abused. I could not go so far as to say, as the judgment delivered by Lord Coleridge says, that any case can impose on a man "a duty" (if the word means a legal duty) "not to live but to die." Nor do I agree with what is said on p. 287, which appears to me to base a legal conclusion upon a questionable moral and theological foundation, and to be rhetorically expressed. "It would be a very easy and cheap display of commonplace learning" (it is said with obvious truth) to "quote from" four specified "Greek and Latin authors passage after passage in which the duty of dying for others has been laid down in glowing and emphatic language as resulting from the principles of heathen ethics. It is enough in a Christian country to remind ourselves of the Great Example whom we profess to follow." Whatever estimate may be formed of self-sacrifice, it seems to me to be a duty of which the law can take no notice, if indeed it is a duty at all, which is not a legal question. I can discover no principle in the judgment in *R.* v. *Dudley*. It depends entirely on its peculiar facts. The boy was deliberately put to death with a knife in order that his body might be used for food. This is quite different from any of the following cases—(1) The two men on a plank. Here the successful man does no direct bodily harm to the other. He leaves him the chance of getting another plank. (2) Several men are roped together on the Alps. They slip, and the weight of the whole party is thrown on one, who cuts the rope in order to save himself. Here the question is not whether some shall die, but whether one shall live. (3) The choice of evils. The captain of a ship runs down a boat, as the only means of avoiding shipwreck. A surgeon kills a child in the act of birth, as the only way to save the mother. A boat being too full of passengers to float, some are thrown overboard. Such cases are best decided as they arise. See on the whole subject my History of Criminal Law, II. 108–15. In the United States (*Commonwealth* v. *Holms*, 1 Wall. Jr. 1, quoted at length in Wharton on Homicide, s. 560) shipwrecked sailors and passengers escaping in a boat which could not hold all, the sailors threw some of the passengers overboard. The Court held that the passengers ought to have been preferred to the sailors, unless the presence of all the sailors was required for the common safety, but "under any circumstances it was held the proper method of determining who was to be the first victim out of the particular class was by ballot." I doubt whether an English Court would take this view. It would be odd to say that the two men on the raft were bound to toss up as to which should go.

[1] *R.* v. *Stratton & Others*, 21 St. Tr. 1045; see Lord Mansfield's judgment, pp. 1222–6.

acts done by the council were the only means by which irreparable mischief to the establishment at Madras could be avoided.

(2.) [1] A and B, swimming in the sea after a shipwreck, get hold of a plank not large enough to support both; A pushes off B, who is drowned. This is not a crime.

Article 33.

IGNORANCE OF LAW.

[2] The fact that an offender is ignorant of the law is in no case an excuse for his offence, but it may be relevant to the question whether an act which would be a crime if accompanied by a certain intention or other state of mind, and not otherwise, was in fact accompanied by that intention or state of mind or not.

[3] In interpreting a statute which makes unlawful a continuous act which till the statute passed was not unlawful, it is to be presumed that the legislature intended to allow a reasonable time for the discontinuance of the act so made unlawful, and the ignorance of the agent that the statute had been passed, is a fact relevant to the question whether his discontinuance of it was within such reasonable time or not.

Illustrations.

(1.) [4] A, a foreigner unacquainted with the law of England, kills B in a duel in England. A's act is murder although he may have supposed it to be lawful.

(2.) [5] A, a poacher, sets wires for game, which are taken by B, a gamekeeper, under the authority of an Act of Parliament (5 Anne, c. 14, s. 4), of the existence of which A is ignorant. A forcibly takes the wires from B, and is tried for robbery. His ignorance of the Act is relevant to the question whether he took the wires under a claim of right.

---

[1] Bacon's Maxims, No. 5.

[2] Draft Code, 24.

[3] See Illustration (3). See also *Thompson* v. *Farrer*, L. R. 9 Q. B. D. 444.

[4] *Ex parte Barronet*, 1 E. & B. 1.

[5] *R.* v. *Hale*, 3 C. & P. 409. In *R.* v. *Reed*, Car. & Mar. 308, Coleridge, J., said: "Ignorance of the law cannot excuse any person, but at the same time when the question is with what intent a person takes, we cannot help looking into their state of mind, as if a person takes what he believes to be his own it is impossible to say he is guilty of felony.

(3.)[1] A is in command of a ship on a voyage, which during its continuance is rendered unlawful by the passing of the kidnapping Act, 1872 (35 & 36 Vict. c. 19), but A was not aware that the Act had been passed till a considerable time afterwards, and he continued his voyage in ignorance of the Act. The fact of A's ignorance is relevant to the question whether the particular voyage in which A was engaged was one to which the Act was intended by the legislature to apply.

ARTICLE 34.

IGNORANCE OF FACT.

An alleged offender is in general deemed to have acted under that state of facts which he in good faith and on reasonable grounds believed to exist when he did the act alleged to be an offence.

When an offence is so defined by statute that the act of the offender is not a crime unless some independent fact co-exists with it, the Court must decide whether it was the intention of the legislature that the person doing the forbidden act should do it at his peril, or that his ignorance as to the existence of the independent fact, or his mistaken belief in good faith and on reasonable grounds that it did not exist, should excuse him.

Voluntary or negligent ignorance of any such fact is no excuse for any such offence.

In cases of the infliction of bodily harm or restraint for the purpose of arresting or retaking a person honestly and reasonably but erroneously supposed to be liable to be arrested or retaken, the person inflicting such harm or restraint is not justified by such belief unless the state of facts in the existence of which he erroneously believed would, if it had really existed, have made it his legal duty to act as he did, or would have been such as to make his conduct an act of defence of his person or habitation.

Illustrations.

(1.)[2] A, under an insane delusion, kills B. If the delusion is such that its truth would justify him in doing so, his act is not a crime. The delu-

[1] *Burns* v. *Nowell*, L. R. 5 Q. B. D. 444.
[2] *MacNaghten's Case*, 10 Cl. & Fin. 200.

sion would also be evidence that A did not know he was doing wrong even if its truth would not justify the act.

(2.) [1] A, making a thrust with a sword at a place where, upon reasonable grounds, he supposes a burglar to be, kills a person who is not a burgler. A is in the same situation as if he had killed a burglar.

(3.) [2] A abducts B, a girl under fifteen years of age, from her father's house, believing in good faith and on reasonable grounds that B is eighteen years of age. A commits the offence of abduction, although if B had been eighteen years of age she would not have been within the statute.

(4.) [3] A, in the last illustration, abducts B, in ignorance of her age, and without making any inquiry about it. A commits the offence of abduction.

(5.) [4] A received into her house, not being a registered lunatic asylum, several persons to be medically treated, being persons who were in fact lunatics though A honestly believed on reasonable grounds that they were not lunatics but sufferers under other disorders. Notwithstanding such belief A committed an offence against 8 & 9 Vict. c. 100, s. 14.

(6.) [5] A, a constable, honestly and on reasonable grounds believing B to have committed murder and not being able otherwise to arrest him shoots

---

[1] *Levet's Case*, 1 Hale, 474.

[2] *R.* v. *Prince*, L. R. 2 C. C. R. 151.

[3] *R.* v. *Prince*, Ibid. See judgment of Brett, J., p. 169, and see p. 174. It has been doubted whether a person commits bigamy who contracts a second marriage under a *bonâ fide* belief that the first husband or wife is dead. In *R.* v. *Turner*, 9 Cox, C. C. 145, Martin, B., directed a jury that if a woman had an honest belief that her husband was dead she was not guilty of bigamy, and this ruling was followed by Cleasby, B., in *R.* v. *Horton*, 11 Cox, C. C. 670. In *R.* v. *Gibbons*, 12 Cox, C. C. 237, Brett, J., after consulting Willes, J., held (says the report) "that a *bonâ fide* belief that the husband was dead was no defence, unless the seven years had passed." In that case, however, the "*bonâ fide* belief" appears to have arisen solely from the fact that the woman had not heard of her husband for upwards of six years. It was thus a gratuitous belief, founded on ignorance. It seems to me that if the belief was founded on positive evidence the case would be otherwise. Suppose, *e.g.*, a woman saw her husband fall overboard in the middle of the Atlantic, and saw a boat go out to search for him, and return without him; suppose that she took out administration to his estate, heard nothing of him for five years, and then married again, would she be guilty of bigamy if by some strange chance he had escaped? Surely not. I am informed that this view was taken by Denman, J., and Amphlett, J.A., in a case of *R.* v. *Moore*, tried at Lincoln Spring Assizes, 1877. I think the proviso in 24 & 25 Vict. c. 100, s. 57 (Art. 257), ought clearly to be read not as excluding the general common law principle stated in this Article, but as supplementing and completing it, by providing that a second marriage, after seven years' ignorance as to the life of the first husband or wife, shall not be criminal, although the party so marrying has no positive reason to believe, and perhaps does not believe, that the absent person is dead.

[4] *R.* v. *Bishop*, L. R. 5 Q. B. D. 259.

[5] 2 Hale, P. C. 82, 85.

at him and kills him. A is justified. If A had been a private person his act would have been manslaughter at least.

(7.)[1] B, pretending by way of a practical joke to be a robber, presents an empty pistol at A and demands his money. A, believing that B really is a robber, kills B. A is justified.

(8.) (SUBMITTED.) A breaks into B's house in Cornwall, at 5.45 A.M., local mean time, supposing that it is past six, but forgetting that A's watch is set to London time. A commits burglary.

[1] 1 Hale, P. C. 474.