

SECTION 386.

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INSANE DEFENDANTS.

If, upon the arraignment of any prisoner he appears to be insane a jury may be empanelled, consisting of any twelve persons who
5 happen to be present, to try whether he is capable of understanding the proceedings and defending himself rationally. If they find that he is the trial shall proceed. If they find that he is not the court shall direct him to be detained during Her Majesty's pleasure.

If any defendant is acquitted of any indictable offence with which
10 he may be charged on the ground of insanity the court shall direct him to be detained during Her Majesty's pleasure.

Her Majesty may from time to time give such directions as she thinks fit as to the custody of any person with regard to whom any such order is made.

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SECTION 387.

STAY OF PROCEEDINGS.

The Attorney-General may at any time after an indictment or inquisition is found, or after a criminal information has been filed
20 against any person for any indictable offence, and before judgment is given thereon, direct the officer of the court to enter in the record a statement that the proceedings are stayed by the Attorney-General's direction, and on such entry being made all such proceedings shall be stayed accordingly: No nolle prosequi shall henceforth be used for any such purpose.

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CHAPTER XLVII.

APPEAL.

SECTION 388.

COURT OF APPEAL.

The judges of the High Court, or any five of them, of whom
30 the Lord Chief Justice of England, the Lord Chief Justice of the Common Pleas, or the Lord Chief Baron of the Exchequer shall be one, shall be a Court of Appeal in Criminal Cases, and their decision upon all such cases shall be final, unless they see fit to allow an
35 appeal from their decision to the House of Lords. Appeals shall lie to the said court in the cases herein-after provided for, and no others.

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SECTION 389.

RECORD.

The proper officer of every court before which indictable offences are tried shall keep a book in which he shall record the proceedings upon every trial for any such offence in the form and according to the rules prescribed in the first schedule (L.L.), hereto, or to the like effect. 5

No other record than the said book shall be kept or made up, and no other entries than those which are provided for in the said form and rules shall be made unless some special entry is made therein under the provisions herein-after contained. 10

From the passing of this Act, Writs of Error in criminal cases, and all proceedings thereon, shall be abolished.

SECTION 390.

SPECIAL ENTRIES ON THE RECORD AT INSTANCE OF DEFENDANT.

If any defendant thinks that any of the proceedings of the court by which he was tried were irregular or not according to law, he may, either during his trial or after his conviction, apply to the court before which he is being or was tried to direct a special entry to be made on the record showing the nature of the proceedings alleged to be irregular, and if the court refuses to do so he may, by the permission of the Attorney-General, apply to the High Court to order such entry to be made, but no such entry shall be made only on the ground that the court decided wrongly some question of law arising at the trial, except under the provisions next herein-after contained. 15 20 25

If a special entry is directed to be made it shall be drawn up by the officer of the court, and the defendant and the prosecutor, their counsel and solicitors shall be permitted to see it and copy it, and if either of them objects to its terms it shall be settled by the judge or chairman of the court before which the case was tried, or otherwise as the High Court or any judge thereof may direct. 30

Every such special entry shall be made in a form similar to that in which cases have heretofore been stated for the opinion of the Court for Crown Cases Reserved, and every such special entry may be sent back to be amended, and shall be so amended accordingly if the Court of Appeal in Criminal Cases considers it necessary. 35

SECTION 391.

SPECIAL ENTRY BY COURT.

If any question of law arises on the trial of any person for any indictable offence, the court may in its discretion reserve such question 40

for the consideration of the Court of Appeal in Criminal Cases. If the court determines to reserve any such question it shall state the question or questions reserved, with the special circumstances upon which the same have arisen, and shall direct such case to be specially entered in the record, and a copy thereof to be transmitted to the Court of Appeal in Criminal Cases.

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SECTION 392.

APPEALS. CASES RESERVED.

If any defendant who has been convicted of an indictable offence obtains leave to make and causes to be made such a special entry on the record, as is herein-before provided for, he may by the permission of the Attorney-General appeal against his conviction upon the ground that any matter stated in any such special entry shows that the court appealed from did something which it ought not to have done, or omitted to do something which it ought to have done.

If the court before which any person is convicted of any indictable offence reserves any question of law for the opinion of the Court of Appeal in Criminal Cases in the manner herein-before mentioned, the Court of Appeal shall consider and determine such question after hearing counsel or the parties, if the prosecutor or defendant thinks it fit that the case should be argued.

In any of the cases aforesaid the court may either

Confirm the judgment of the court appealed from

Or direct that the judgment of the court shall be set aside, notwithstanding the verdict (which order shall have for all purposes the same effect as if the defendant had been acquitted);

Or direct that the judgment of the court shall be set aside, and that instead thereof such judgment shall be given by the court before which the trial took place as ought to have been given at the trial;

Or if such court has not delivered judgment, remit the case to it in order that it may deliver judgment;

Or itself give such judgment as ought to have been given at the trial;

Or direct a new trial if it is of opinion that the jury was misdirected, or that there was any irregularity at the trial by which the defendant was, in fact, prejudiced in his defence, or which made the trial unsatisfactory, or that evidence tendered or objected to by the defendant was improperly rejected or admitted, and that the defendant was substantially wronged or prejudiced thereby;

Or make such other order as justice may require, provided that no conviction shall be set aside, and no new trial directed only

A.D. 1878. because some irregularity not being in the opinion of the court such as is herein-before referred to took place at the trial, or because evidence was improperly admitted or rejected by which no substantial wrong or prejudice was in the opinion of the court done to the defendant. 5

The order or direction of the Court of Appeal in Criminal Cases shall be certified under the hand of the presiding Chief Justice or Chief Baron to the proper officer of the court before which the case was tried, and such order or direction shall be carried into effect, and shall authorise every person affected by it to do 10 whatever is necessary to carry it into effect.

SECTION 393.

APPLICATION FOR A NEW TRIAL.

New trials may be granted after the conviction of any person for any indictable offence in the following cases, and subject to the 15 following provisions:—

(a.) A person who has been convicted of an indictable offence before a superior court may, during or at the end of the sittings at which he was convicted, or if he was convicted at the assizes at any time before the judge has left the circuit town, apply for a new 20 trial to the judge, or to any one of the judges (if there were more than one), who presided at the trial; and thereupon such judge may either grant a new trial absolutely or give the person convicted leave in writing to move the Court of Appeal in Criminal Cases for a new trial, within a time to be specified in such leave, or refuse 25 such application. If such new trial is granted absolutely, the judge who makes the order shall direct either that it shall be had before himself at the same place at which the first trial was had, or at the next sitting of a competent court at that place, or in and for the district in which it is situated. Notice of every such applica- 30 tion shall be given to the prosecutor, and it shall be heard either in open court or otherwise as the judge to whom it is made may direct.

In the case of convictions before a court of quarter sessions such application may be made, during or at the end of the session, 35 to the justice who presided at the trial and to one other justice present at the trial, or to the recorder, or deputy recorder, as the case may be; and if both of the said justices agree that a new trial ought to be had, or if the said recorder or deputy recorder, as the case may be, thinks fit, they or he may order that such a trial shall 40 be had at the next sessions.

(b.) If upon any application for the mercy of the Crown on behalf of any person convicted of an indictable offence one of Her Majesty's Principal Secretaries of State, for any reason, entertains a doubt whether in fact such a person ought to have been convicted, the Secretary of State, before deciding whether he will advise Her Majesty to remit the sentence, may, if he thinks proper, give leave to such person to apply to the Court of Appeal in Criminal Cases for a new trial; such leave shall be in writing, and shall specify the time within which and the grounds upon which such motions may be made.

(c.) If any person is convicted of an indictable offence, and if after such conviction any other person is convicted of the same offence, or if after such conviction any person who was a witness at the trial at which such conviction was had is convicted of having given false evidence at such trial, the person so convicted may make a motion for a new trial in the Court of Appeal in Criminal Cases, on the ground that such subsequent conviction was inconsistent with the first conviction or rendered its justice doubtful, or on the ground that it is doubtful whether such person would have been convicted if such false evidence as aforesaid had not been given, and the said court shall grant a new trial if it is of opinion that either of such grounds is established.

If any new trial is granted under this provision, the conviction on account of which it was granted may be proved at such new trial on behalf of the person originally convicted.

If, on any of the grounds aforesaid, leave to move the Court of Appeal in Criminal Cases for a new trial is granted, the court shall hear such motion within the time specified in that behalf, and shall, if it grants a new trial, make an order stating when, and where, and before whom the new trial shall be had, and such order shall be in all respects of the same force, and the same proceedings shall be had thereon, as if Her Majesty had issued a special commission to the persons named therein for the trial of the person named therein.

Every such motion may be heard before three judges of the said court.

SECTION 394.

INTERMEDIATE EFFECTS OF APPEAL.

The execution of the sentence of a court shall not be suspended by any such proceedings as are herein-before provided for :

(i.) Unless the sentence is that the defendant suffer death, or be flogged or whipped, in either of which cases the sentence shall not be executed until the appeal or question reserved for the court, or the motion for a new trial has been heard and [178.]

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decided, or until the expiration of such a period as may be provided for by the general rules to be made by Her Majesty under the powers in this Act contained; or

- (ii.) Unless the court from which the appeal is made, or the High Court of Justice, or any judge thereof, thinks fit to order either that the defendant be admitted to bail, or if he is sentenced to any punishment other than simple imprisonment, that he be treated as an unconvicted prisoner till the appeal is decided.

If the defendant is admitted to bail the following consequences shall follow:—

(a.) If he has been fined, and if he has paid his fine, he shall be entitled to have it repaid to him by any person in whose possession it may be, upon production of the certificate of the Master of the Crown Office herein-before provided for that his recognizances of bail have been duly filed, but no person who, according to the course of the Exchequer, has paid over such fine, or any part of it, to any other person shall be liable to repay it. If the judgment of the court is affirmed upon appeal the defendant shall be imprisoned till his fine is paid, although it may have been repaid.

(b.) If upon the appeal the judgment of the court below is affirmed, and if the judgment or part of the judgment is that the defendant be imprisoned, his imprisonment shall be reckoned to begin from the day when he is in actual custody in the prison in which he may have been adjudged to be imprisoned under such judgment; but if he was discharged from imprisonment on giving bail under the provisions of this Act, the time for which he was so imprisoned before he gave bail shall be deducted from the term of his imprisonment.

(c.) If upon the appeal the judgment is affirmed, and if the defendant is in court, the court may forthwith commit him to custody to be delivered to the keeper of the prison in which he has been adjudged to be imprisoned.

If it is made to appear to any judge of the court that default has been made for four days in rendering the defendant to prison in execution of the judgment, and that the judgment of the court below has been affirmed, the judge may issue his warrant under his hand and seal, and cause the defendant to be apprehended and conveyed to the prison in which he may have been adjudged to be imprisoned in execution of his judgment. Whenever default is made in rendering a defendant to prison in execution of his sentence, and a warrant is issued against him to enforce such render under the provisions hereof, he shall be liable to pay the costs of

such tender as taxed by the Master of the Crown Office, and he shall not be discharged from prison until the costs so taxed are paid, or until he is discharged under an order of the Court of Bankruptcy, if a certificate thereof under the hand of such Master is left with the keeper of the prison in which he is confined.

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CHAPTER XLVIII.

PLEADING IN CRIMINAL CASES.

SECTION 395.

INDICTMENTS TO BE DRAWN ACCORDING TO THIS ACT.

10 From the passing of this Act all indictments, criminal informations, and coroners' inquisitions upon which any person is to be tried for any offence shall be drawn and amended according to the provisions herein-after contained and not otherwise.

15 All demurrers and other proceedings, and all rules relating to pleading in criminal cases other than those herein contained, are hereby abolished.

SECTION 396.

FORM OF INDICTMENTS.

20 The indictment shall have a heading stating, in the form (MM.) given in the first schedule hereto, or to the like effect, the matters therein set forth.

The body of the indictment shall be in a tabular form in the manner shown in the examples (NN.), (OO.), (PP.), (QQ.), and (RR.), in the said schedule, or to the like effect.

25 The first column shall refer to the enactment or enactments against which the defendant is said to have offended, or if he is charged with an offence at common law it shall give the name of such offence. Every section and every sub-section of any Act of Parliament shall for this purpose be one enactment.

30 When an offence is defined by one enactment and punishment is provided for it by another enactment reference shall be made to the enactment by which punishment is provided. When an offence consists of something which is forbidden by the joint effect of more enactments than one each shall be referred to.

35 The second column shall contain a particular of the offence of which the defendant is accused. It shall be so framed that when it is read with the depositions or affidavits referred to in the heading of the indictment the defendant may know what facts are

A.D. 1878. alleged to constitute the offence of which he is accused, and that if he is ever accused of the same offence in respect of the same facts he may be able by giving evidence of the record of the indictment and the depositions to prove that he was previously acquitted or convicted thereof. The particular need not set out 5 the facts, circumstances, and intent constituting the offence charged. No greater certainty or detail of statement as to documents, facts, things, persons, or any other subject whatever shall be necessary, or shall be used in it, than is reasonably sufficient for the purposes for which it is herein-before declared to be intended. Facts or 10 documents may be scheduled, and copies of such documents may be attached to the indictment if such a course is convenient.

If the offence charged consists in doing anything with or to any property, it shall not be necessary to state that the property belonged to any particular person, and whether such a statement is made or 15 not it shall be sufficient to prove upon the trial such facts as to ownership as show that the prisoner committed the offence with which he was charged.

In cases of high treason, and in the case of offences against section 36 of this Act, the particular shall state every overt act 20 by which it is alleged that the defendant manifested the intention which he is charged with having formed, and no evidence shall be admitted of any overt act not so stated for the purpose of proving any such intention, though evidence may be given of any such act if it is otherwise relevant to the issue. The power of 25 amending indictments herein-after contained shall not extend to authorise the court to add to the overt acts stated in the particular under these provisions.

The names of the witnesses who appeared before the magistrates or whose affidavits were filed shall be endorsed on the indictment, 30 and the foreman of the grand jury, or the member of the grand jury who acts as foreman, shall initial the names of the witnesses examined before them. The officer of the court shall make a memorandum on the indictment of the date of the trial, and shall sign such memorandum; provided that no omission to do any of 35 these things shall affect the validity of any indictment.

SECTION 397.

LEGAL EFFECT OF FINDING A TRUE BILL.

The legal effect of the grand jury's finding an indictment a true bill shall be to accuse the person named in the heading of the 40 indictment of having committed the offence, or some or one of the

offences, punished by the enactment or enactments, or the part of the common law referred to in the first column, or some other offence of which, according to the provisions herein-after contained, he may lawfully be convicted upon such an indictment.

5 Upon the trial of any such indictment evidence may be given to show that the defendant committed any offence of which he is accused under the provisions herein-before contained upon the occasion referred to in the second column of the indictment, and in the depositions or affidavits.

10 **SECTION 398.**

VARIANCES.

No variance between the facts proved on the trial and the statement of the offence in the second column of the indictment, or in the depositions or affidavits, shall be material, unless the court is of
15 opinion that the defendant has been actually misled and prejudiced in his defence thereby, in which case it may either direct the defendant to be acquitted, or in its discretion, amend the indictment under the provisions herein-after contained, and discharge the jury and order a new trial on such terms as it thinks fit.

20 **SECTION 399.**

OF AMENDMENTS IN THE INDICTMENT.

The court before which any indictment is tried, or any court before which it comes on appeal, is hereby empowered and required at every stage of the proceeding to make every amendment and supply
25 every defect in any part of the indictment which may be necessary to enable it to fulfil the purposes for which it is herein-before declared to be intended; provided that no such amendment shall be made in such a way as to prejudice the defendant in his defence or to subject him upon conviction to a more severe punishment than
30 he would be liable to if he were convicted on the indictment as it stands.

No such amendment, whether made or ordered to be made before or after the verdict, shall affect the validity of the verdict.

SECTION 400.

35 HOW PARTIES TO OFFENCES MAY BE INDICTED.

Every one who is a party to any offence which he did not actually commit may be indicted either for committing that offence or for aiding or abetting any other person in committing it, or for directly or indirectly inciting any other person to commit it.

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SECTION 401.**WHEN MORE PERSONS THAN ONE MAY BE JOINTLY INDICTED.**

Every one who is a party to any offence, or an accessory after the fact to any offence, or who is charged with receiving any property, knowing it to have been obtained by any offence, may be 5 indicted for that offence, or for being accessory after the fact thereto, or for such receiving respectively, whether the other parties to the offence have or have not been indicted or convicted, or are or are not amenable to justice, and that either alone as for a substantive offence or jointly with any other party or parties thereto; or with 10 the principal offender or person by whom such property was improperly obtained.

If more defendants than one are jointly indicted for any offence, the effect shall be the same as if as many indictments had been found as could have been found against all the persons indicted 15 taken one by one, or more than one together, or all together, and every amendment may be made, and every other thing may be done in respect of any such joint indictment which might be done in respect of any one of the indictments to which it is equivalent.

When any property has been obtained by any offence punishable 20 under any of the provisions of Chapters XXVII., XXVIII., XXIX., XXX., or XXXII., any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive offences under section 227 of this Act, and may be tried together, although the person by whom the property was so obtained 25 is not indicted with them, or is not in custody or amenable to justice.

SECTION 402.**WHEN AN INDICTMENT IS TO BE DIVIDED INTO SEPARATE COUNTS.**

An indictment shall be divided into separate counts,— 30

(a.) If the defendant is charged with having committed more offences than one.

(b.) If it is uncertain which of several offences the defendant can be proved to have committed.

(c.) If the defendant is charged with having been previously con- 35 victed of any offence his previous conviction of which would render him liable to increased punishment.

Indictments shall be divided into counts in the manner shown in the examples (OO., PP., RR.) in the first schedule hereto, or to the like effect. There shall be a statement on the face of every indictment 40

containing more counts than one showing whether such counts refer to the same or to different facts. A.D. 1878.

A count charging a previous conviction may be in the form shown in the example (OO.) in the first schedule hereto, or to the like effect.

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SECTION 403.**JOINDER OF COUNTS AND PROCEEDINGS THEREON.**

Any number of counts, either for the same or for different offences, may be included in the same indictment, and the jury may find either generally that the defendant is guilty or not guilty upon the whole indictment, or that he is guilty upon one or some, and not guilty upon other, counts, or in the alternative that he is guilty upon one or more of several counts.

If different counts relate to different facts, and if the court thinks it conducive to the ends of justice to do so, it may direct that the defendant shall be tried separately upon any one or more of such counts. Such order may be made either before or in the course of the trial, and if it is made in the course of the trial the jury shall be discharged from giving a verdict on the counts on which the defendant is directed to be tried separately.

If the jury find the prisoner guilty generally on the whole indictment, the legal effect of such finding shall be to convict him of each of the offences charged against him, and the court may thereupon pass upon him the same sentence as if he had been separately convicted of every such offence, provided that not more than one sentence shall in any case be passed upon any person upon the same facts.

If the defendant is convicted in the alternative of having committed one of several offences, he may be sentenced to any punishment which might have been awarded to him if he had been convicted only of that offence for which the greatest punishment which can be awarded is least severe.

If one judgment is passed upon any such verdict it shall be good if the indictment contains any count in respect of which it might have been passed.

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SECTION 404.**CHARGE OF PREVIOUS CONVICTION.**

When an indictment contains a count charging the defendant with having been previously convicted, the defendant shall not at the time of his arraignment be required to plead to it unless he plead guilty to the rest of the indictment, nor shall such count be men-

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tioned to the jury when the defendant is given in charge to them, nor shall he be tried upon it if he is acquitted on the other counts, but if he is convicted of any other part of the indictment, he shall, before he is called upon to say why judgment should not be passed upon him, be asked whether he has been previously convicted as alleged or not, and if he says that he has not, or does not say that he has, the jury shall be charged to inquire into the matter as in other cases.

SECTION 405.

WHERE A DEFENDANT MAY BE CONVICTED OF AN OFFENCE DIFFERENT FROM THE ONE CHARGED IN THE INDICTMENT. 10

(a.) If the offence charged in the indictment is so defined that if part of the definition were omitted the remainder would constitute an offence, and if so much only of the whole indictment as constitutes such last-mentioned offence is proved, the defendant may, without amending the indictment, be convicted of the offence which he is proved to have committed. 15

(b.) If it is proved that the defendant attempted to commit the offence charged in the indictment, but did not actually commit it, he may, without amending the indictment, be convicted of attempting to commit the offence, whether such attempt is punishable under any special enactment of any statute or under the 33rd section of this Act only. If he is proved to have done any act with intent to commit the offence with which he is charged, and if it is an offence to do such an act with such an intent, he may without amending the indictment be convicted of such last-mentioned offence. 20 25

(c.) If the court is of opinion that there is evidence for the consideration of the jury that the defendant has committed an offence or offences with which he is not charged in the indictment, and of which he cannot be convicted without amending it, and upon his conviction for which he would not be liable to a greater punishment than he would be liable to if he were convicted on the indictment, and that the defendant would not be prejudiced thereby in his defence, the court may in its discretion direct a count or counts to be added to the indictment charging the defendant with such offence or offences, and the jury shall give their verdict thereon in the same way as if such count or counts had formed a part of the original indictment. 30 35

SECTION 406.

HOW IF EVIDENCE PROVES A MORE SERIOUS OFFENCE. 40

If upon the trial of any indictment it appears to the court that there is evidence for the consideration of the jury that the defendant

has committed an offence upon a conviction for which he would be liable to a more severe punishment than could be awarded to him upon a conviction of the offence for which he is being tried, the court may in its discretion discharge the jury from giving any verdict upon the indictment on which the defendant is being tried, and may order the defendant to be indicted for such first-mentioned offence, and if necessary bind over the prosecutor and the witnesses to appear, prosecute, and give their evidence upon the trial of such indictment.

10 The defendant shall not be entitled to be acquitted of the minor offence if the court do not think proper to discharge the jury as aforesaid, but if he is convicted thereof he shall not be liable to be convicted upon the same facts of any other offence of which he might then have been convicted.

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SECTION 407.

WHAT OBJECTIONS MAY BE TAKEN TO AN INDICTMENT AND WHEN.

If an indictment does not state, and cannot by any amendment authorised by the provisions herein-before contained be made to state, any indictable offence of which the defendant has had notice by depositions or affidavits under the provisions herein-before contained, it shall be quashed either on a motion made before the defendant pleads or on a motion made in arrest of judgment. A written statement of every such motion shall be delivered to the officer of the court by the defendant, and shall be entered upon the record. It may be in the form given in the schedule (SS.), or to the like effect.

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SECTION 408.

SPECIAL PLEAS.

Special pleas in abatement or in bar of the indictment, and further pleadings thereon, shall be in writing in the form given in form (TT.) in the first schedule hereto, or to the like effect, and shall be entered upon the record.

The following pleas, and no others, may be pleaded in abatement of an indictment:—

35 (a.) A plea that the court has not and that some other court has jurisdiction over the offence or over the offender. If judgment is given in favour of the defendant upon such a plea the court shall send the indictment to be tried before the court which has jurisdiction over the offence or over the offender.

40 (b.) A plea that one or more of the grand jurors by whom the bill was found was not qualified to act as a grand juror. If judg-

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ment is given in favour of the defendant upon this plea the court shall, if the grand jury are not discharged, direct the bill to be sent again before the grand jury, and direct the juror or jurors who are not qualified to withdraw themselves therefrom. If the grand jury has been discharged, or if there are not a sufficient 5 number of qualified grand jurors to find a bill, the court shall adjourn the case until a future time, and recommit the defendant to custody, or admit him to bail, and bind over the prosecutor and witnesses to appear before another grand jury.

The following special pleas, and no others, may be pleaded in 10 bar; that is to say:—

- (i.) A plea that the defendant has been previously convicted or acquitted, as the case may be, of the same offence; or
- (ii.) A plea that the defendant has been pardoned for his offence by Her Majesty: or 15
- (iii.) In the case of a defendant charged with a defamatory libel a plea that the defamatory matter published by him was true, and that it was for the public benefit that the matters charged should be published in the manner and at the time when they were published. Every such plea must be in writing, 20 and must set forth the particular fact or facts by reason of which it was for the public good that such matters should be so published, and the defendant must give such notice to the prosecutor of his intention to plead it as the court at the trial may consider reasonable, in default of which notice the court 25 may refuse to permit the plea to be pleaded, or may adjourn the trial of the case upon such terms as it thinks fit. The defendant may in addition to such plea plead that he is not guilty. The prosecutor may reply to such plea that he denies its truth. 30

When notice is given to the prosecutor of the defendant's intention to plead any such plea he may apply to any judge of the High Court for any order in respect thereof for which he might apply if a justification were pleaded in a civil action for libel. 35

If any such special plea, as is firstly or secondly referred to, is pleaded and denied to be true in fact, the court shall impanel a jury of any twelve indifferent persons to try whether such plea is true in fact or not.

If the court holds that the facts alleged by the defendant do not 40 prove the plea, or if the jury finds that it is false in fact, the defendant shall be required to plead to the indictment.

SECTION 409.

SPECIAL VERDICTS.

If the jury wish to find a special verdict the court shall put such questions to them as it thinks necessary to enable itself to raise for the consideration of the Court of Appeal the questions of law which the jury do not wish to decide by their verdict. A special entry shall be made in the record of such questions and of the answers thereto given by the jury, and the court shall also draw up such a statement of the circumstances of the case as will enable the Court of Appeal to understand the object and effect of the said questions and answers, and in the same form as a case reserved for the opinion of the Court of Appeal. The provisions herein-before contained as to settling other special entries in the record shall apply to such statements. The subsequent proceedings upon such a verdict shall be the same as upon a case reserved for the opinion of the Court of Appeal, provided that the court before which the trial is had shall not pass judgment upon the defendant until the Court of Appeal has given its decision.

SECTION 410.

20 TIME FOR PRESENTING INDICTMENT IN CERTAIN CASES.

No indictment shall be presented against any person for high treason, or for being accessory after the fact to any treason more than three years next after the committing of the offence, unless the defendant is charged with an offence against section 34, sub-section 25 (a) or (b) of this Act, or unless the offence was committed out of Her Majesty's dominions or at sea.

No indictment shall be presented against any person for any offence against sections 65, 66, or 67 of this Act after five years from the time when the offence was committed.

30 No indictment shall be presented against any person for any of the offences referred to in the first column of the schedule hereto, unless proceedings are commenced against the offender in respect thereof, either by laying an information before a magistrate, or otherwise within the time limited in that behalf in the second 35 column of the said schedule.

THE SCHEDULE.

	Offence.	Time.
40	Against section 47 sub-section (a), and sub-section (b).	12 months.
	Against section 49 of this Act	6 months.
	Against section 50 of this Act	12 months.
	Against sections 78, 79 of this Act	12 months.
	Against section 93 of this Act	6 months.

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SECTION 411.

VENUE.

No venue shall be necessary, and none shall be stated in any indictment.

SECTION 412.

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APPLICATION OF PROVISIONS OF CHAPTER.

The provisions of this chapter relating to indictments shall apply to criminal informations. Informations shall be in the form (VV.) in the first schedule hereto, or to the like effect. Coroners' in- 10
 quisitions charging any person with murder, manslaughter, or the concealment of treasure, shall be in the form (WW.) in the first schedule hereto, or to the like effect.

CHAPTER XLIX.

COSTS. REWARDS. RESTITUTION.

SECTION 413.

15

SECRETARY OF STATE MAY MAKE REGULATIONS AS TO AMOUNT OF COSTS.

One of Her Majesty's Principal Secretaries of State may from time to time make regulations as to the amount of all costs and compensations to be allowed under the provisions of this chapter in respect of any expenses, trouble, or loss of time, for which any 20
 person is intended to be indemnified under its provisions, and as to the forms and contents of all orders and certificates relating thereto; and he may revoke and alter the same, and may also revoke or alter any such regulations in force at the passing of this Act.

SECTION 414.

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COSTS ORDERED TO BE PAID BY COUNTY TREASURER.

All orders for the payment of costs shall be made out by the officer of the court, and shall be delivered to the person entitled to such order upon the payment (if that person is the prosecutor) of 1s., and in other cases of 6d.

The person upon whom the order is made shall upon sight of such order pay the person named therein, or any one duly authorised to receive the same on his behalf, the money mentioned in the order, and shall be allowed the same in his accounts. 30

If the offence in respect of which the order is made was com- 35
 mitted on land in England, the order shall be made upon the county treasurer of the district in which the offence was committed,

wherever the defendant may have been tried, except in the case next herein-after provided for.

If the offence was committed in a place which does not contribute to the county rate, the order shall be directed to the treasurer or other officer having the collection or disbursement of any rate in the nature of a county rate levied in such place, if any such rate is levied there, and the money shall be paid out of such rate.

If no such rate is levied in that place, the order shall be directed to the overseers or other officers having the collection or disbursement of any rate or fund for the relief of the poor of that place, and the money shall be paid out of such rate or fund.

If the offence was committed at sea, the order shall be made upon the assistant to the counsel for the affairs of the Admiralty and Navy, who upon sight of such order shall forthwith pay the amount mentioned to the person named therein, or to any one duly authorised to receive it on his behalf.

If the offence was committed on land out of England, the order shall be upon the county treasurer in and for the district in or for which the court sits before which the case was tried.

If there is any doubt as to the place in which the offence was committed, the court before which the case was tried shall, for the purposes of this section, decide the doubt, and its decision shall be final.

25

SECTION 415.

COSTS MAY BE ORDERED TO BE PAID TO PROSECUTOR IN ALL CASES.

Any court before which any indictable offence is tried may order the costs of prosecuting the indictment, and also the cost of attending before the justice by whom the defendant was committed for trial, to be paid to the prosecutor of such indictment, and such order may be made in favour of any person who has in good faith attended the court in obedience to any recognizance or subpoena to prosecute or give his evidence, although no bill of indictment may be found.

The justice before whom any such person so attends may, if he thinks fit, grant him a certificate of the amount of expenses incurred by him in respect of such attendance, and the order of the court for his costs shall not be for any greater amount than the sum allowed by such certificate, nor for any greater amount than the sum to which such person would be entitled under any regulations issued by the Secretary of State under the power herein-before contained.

Provided that nothing herein contained shall affect any provision contained in the Act passed in the 5th year of his late Majesty King

[178.]

A.D. 1878. William IV. chapter 50, in relation to the costs of indictments preferred for not repairing highways.

SECTION 416.

COSTS OF DEFENDANTS' WITNESSES.

The court before which any indictment is tried may include in the 5
order for the payment of the costs of the prosecution the costs of
such of the witnesses called for the defendant as were bound over by
recognizance to give evidence on the part of the accused person.

SECTION 417.

COSTS WHERE ORDER FOR CHANGE OF PLACE OF TRIAL.

10

When any person is tried at any place under an order for changing
the place of trial the following consequences shall follow:—

(a.) If the order is obtained at the instance of the prosecutor
and if the defendant is acquitted, the court may if it thinks fit
order the reimbursement to the defendant of any costs which he 15
may have incurred by reason of such order, and the commis-
sioners of Her Majesty's treasury shall upon receipt of the order
pay such sum.

(b.) The high court or a judge thereof may, before any trial under
any such order, issue a certificate, upon the production of which the 20
commissioner of Her Majesty's treasury may order a sum not exceed-
ing *twenty pounds* to be paid to the defendant to pay the expenses
of the attendance of his witnesses, such sum shall be deducted from
any amount which may afterwards become payable under sub-
section (a.) 25

(c.) The treasurer of the county in which the defendant would
have been tried but for such order, shall pay the keeper of the prison
in which the defendant was confined, or to such person as may be
appointed by lawful authority to receive the same, the actual
expenses incurred by the removal of the defendant to or from such 30
prison and the expenses incurred during his imprisonment there
according to the time for which he was in custody at the average
daily cost of each prisoner. An account in writing of such expenses
shall be made out and signed by the keeper of the prison in which
the defendant was so confined, and delivered to the treasurer of the 35
county against which the claim is made, and shall be conclusive upon
such county unless within one month after receiving it the treasurer
delivers an objection in writing signed by himself to the person who
delivers it.

SECTION 418.

WHEN DEFENDANT MAY BE ORDERED TO PAY COSTS.

Whenever any defendant is convicted of any indictable offence the court may order him to pay the costs of the prosecution in addition
5 to any other sentence which may be passed upon him.

If upon the apprehension of any such person any money was taken from him, the court may order the whole or any part thereof to be applied to any such payment.

Whenever upon a prosecution for a defamatory libel by a private
10 prosecutor a justification is pleaded under the provisions hereinbefore contained and the issue is found for the prosecutor he shall be entitled to recover from the defendant the costs sustained by him by reason of such plea.

Whenever any defendant is convicted of an assault the court
15 may order him to pay the prosecutor such an amount for his costs and loss of time as the court may think proper, and may direct that in default of payment he shall be imprisoned for any term not exceeding three months in addition to his sentence, and may also by
20 a warrant under the hand and seal of the judge or two justices forming part of the court order such sum to be levied by distress and sale of his goods and chattels and to be paid to the prosecutor, and the surplus, if any, to be paid to the owner. If the sum is so levied the imprisonment awarded till payment of such sum shall cease.

Any person who has paid, or is liable to pay, any such costs, may
25 enforce the payment thereof against any such person, or his personal representatives, or his estate, in the same manner as the payment of any costs ordered to be paid by any court of competent jurisdiction in any civil action may be enforced.

Until the recovery of such costs from the person so convicted, or
30 his personal representatives, or his estate, the same shall be paid in the manner hereinbefore provided for, and any money recovered from the person convicted, or from his personal representative, or his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs may have been paid.

35

SECTION 419.

WHEN PROSECUTOR MAY BE ORDERED TO PAY COSTS.

In cases in which the defendant is acquitted, or a bill against him thrown out, and in which the court considers the prosecution frivolous or vexatious, it may order any person by whom in its
40 opinion the prosecution was instituted to pay the defendant his costs, whether such person was bound over to prosecute or not or actually preferred the bill of indictment or not.

A.D. 1878.

In cases in which a defendant is acquitted of a charge of defamatory libel upon an indictment or information by a private prosecutor he shall be entitled to such an order. When such an order is made the defendant shall have the same remedies for the recovery of his costs as he would have had if the payment of costs 5 had been ordered in a civil action.

SECTION 420.

COSTS OF CONVEYING DEFENDANT TO GAOL.

When a defendant is committed for trial, the constable or other officer who conveys him to prison shall be entitled to his expenses 10 for conveying such person to such prison.

The justice who committed the defendant, or any justice of the same district may, and some or one of them shall, ascertain the sum which ought to be paid therefor, and also the sum which ought to be allowed for the constable's expenses in returning, and there- 15 upon such justice shall make an order upon the treasurer of the district or of any other district to which that district is contributory, or, in the county of Middlesex, upon the overseers of the poor of the parish or place within which the offence is alleged to have been committed, for payment to such constable of such sums. 20 The treasurer or overseers, upon such order being produced to them, shall pay the amount thereof to any person who shall present the same to them for payment: Provided, that if it appears to the justices by whom any warrant of commitment is granted that the 25 defendant has money enough to pay the expenses of conveying him to prison, or some part thereof, such justices may order such money, or a sufficient part thereof, to be applied to that purpose. The order may be in the form (Z.) in the first schedule hereto, or to the like effect.

In cases in which a justice before whom a defendant is brought upon a charge of having committed an offence in a different district 30 from the one in or for which he acts, directs the defendant to be taken before a justice in the district in which the offence was committed, the constable who conveys the defendant before the last mentioned justice shall be entitled to have his expenses for so conveying him, and also for returning to the place from whence he 35 came. The expenses shall be ascertained by the justice before whom the defendant is taken, and he shall make an order, which may be in the form (XX.) in the first schedule hereto, or to the like effect upon the officer herein-before referred to for the payment of such expenses, and they shall be paid by such officer in the 40 manner herein-before mentioned.

SECTION 421.

REWARDS AND COMPENSATION.

If any court before which any indictable offence is tried is of opinion that any person has shown special activity or courage in or towards the apprehension of any person charged with committing any indictable offence, it may in its discretion order him to be paid a sum of money by way of reward therefor, which sum of money shall be paid by the sheriff of the district in which the offence was committed, or in which the trial took place, as the court may direct.

10 An order for such payment shall be made out without any fee by the officer of the court which makes the order, and shall upon sight thereof be paid by the person on whom it is made to the person in whose favour it is made, or to any other person duly authorised by him. The Commissioners of Her Majesty's Treasury shall, upon the production of the order receipted, repay the amount to the sheriff.

Provided that if any such order is made by a court of quarter session it shall not be for a greater amount than *5l.*

If it appears to any superior court that any person was killed in attempting to apprehend any person for any indictable offence, such court may direct the sheriff, as aforesaid, to pay such a sum of money as it thinks proper; if the person killed was a married man, to his widow; if he was a widower, to his child or children; if he left neither widow nor children, to his father or mother. If the person killed was a woman, the payment may be directed to be made to her husband; or if she left no husband, to her child or children; or if she left neither husband nor child, to her father or mother.

Payment shall be made in the same manner and by the same person as is herein-before provided in respect of rewards.

SECTION 422.

RESTITUTION OF PROPERTY.

When any person is convicted of any indictable offence, by which any person has been deprived of any property whatever, the court before which he is tried shall, if required, order the property to be restored to the owner thereof, and the owner shall thereupon be entitled to have the same delivered to him, or if it is not in court, to take it wherever he can get it in a peaceable manner, notwithstanding any intermediate sale in market overt or otherwise: Provided that nothing herein contained shall extend to entitle any person to any valuable security, or to any negotiable instrument as against any person who, after the offence was committed, but without

A.D. 1878. notice of it, or reasonable ground to suspect that the security or instrument had been obtained by means of it, discharged or took such instrument or security for a just and valuable consideration.

This section shall not extend to any case in which any trustee, banker, merchant, attorney, factor, broker, or other agent, is convicted of any offence committed by him, as such, in respect of goods with which he was intrusted, or of which he had control by documents of title or otherwise as such, or with respect to documents of title with which he was so intrusted as such.

When any property has been restored to any person under this section, and when it appears to the court that such property had after the offence been sold by the defendant to a person who bought it in good faith and without knowledge of the offence, the court may, upon the application of such purchaser, direct any money found on the defendant not exceeding the amount for which such property was sold to be delivered to such purchaser.

SECTION 423.

COMPENSATION TO PERSON INJURED.

Any court before which any defendant is convicted of any indictable offence, may, if it thinks fit, upon the application of any person aggrieved and immediately after such conviction, award any sum of money not exceeding *one hundred pounds*, by way of satisfaction or compensation for any loss caused by the offence of which the defendant has been convicted, to the aggrieved person or which such aggrieved person might recover damages in an action.

The amount so awarded shall be a judgment debt due from the person so convicted to the person to whom it is awarded.

SECTION 424.

CRIMINAL COURTS TO HAVE SAME POWER TO ISSUE PROCESS TO COMPEL PAYMENT OF COSTS AND JUDGMENT DEBTS AS HIGH COURT.

Every court before which indictable offences may be tried shall have power to issue the same process to compel payment of costs or other sums of money which it is empowered to order to be paid as the High Court of Justice has in regard to costs in civil proceedings and judgment debts.

SECTION 425.

REPEAL OF ACTS.

The Acts referred to in the first column of the second schedule hereto shall be repealed as to England (but not as to Scotland or Ireland), to the extent stated in the second column of the said schedule.

SCHEDULE I.

A.D. 1878.

(A.)

Information and Complaint for an indictable Offence.

5 to wit. } The information and complaint of C.D. of [yeoman .
 taken this day of in the year of our
 Lord 187 before the undersigned, [one] of Her Majesty's justices of the
 peace in and for the said [county] of who saith that [&c., stating
 the offence].

Sworn before [me], the day and year first above mentioned, at

J.S.

10

(B.)

to wit. } day of 187 .

I certify that A.B. has this day laid before me an information in writing
 and upon oath, charging C.D. with [state the offence as in the information],
 and that I have refused to issue either a summons or a warrant against the
 15 said C.D.

J.S.

Justice of the peace for

(C.)

Warrant to apprehend a Person charged with an indictable Offence.

20 To the constable of and to all other peace officers in the
 said [county] of

WHEREAS A.B. of [labourer] hath this day been charged
 upon oath before the undersigned, [one] of Her Majesty's justices of the
 peace in and for the said county of for that he on at
 25 did [&c., stating shortly the offence]: These are therefore to
 command you, in Her Majesty's name, forthwith to apprehend the said A.B.,
 and to bring him before [me], or some other of Her Majesty's justices of the
 peace in and for the said [county], to answer unto the said charge, and to be
 further dealt with according to law.

30 Given under my hand and seal, this day of in the
 year of our Lord at in the [county] aforesaid.

J.S. (L.S.)

A.D. 1878.

(D.)

Warrant to apprehend a Person charged with an indictable Offence committed on the High Seas or Abroad.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the 5
" high seas, out of the body of any county of this realm, and within the
" jurisdiction of the Admiralty of England."

For offences committed abroad for which the person may be indicted in this country the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of the United Kingdom, to 10
" wit, at _____ in the kingdom of _____," or "at
" in the East Indies," or "at _____ in the island of _____ in the
" West Indies," or as the case may be.

(E.)

Indorsement in backing a Warrant.

to wit. } WHEREAS proof upon oath hath this day been made before me 15
} one of Her Majesty's justices of the peace for the said [county]
of _____ that the name of J.S., to the within warrant subscribed, is of
the handwriting of the justice of the peace within mentioned; I do therefore
hereby authorise W.T. who bringeth to me this warrant, and all other persons 20
to whom this warrant was originally directed, or by whom it may lawfully
be executed, and also all constables and other peace officers of the said
[county] of _____ to execute the same within the said last-mentioned
[county],* and to bring the said A.B., if apprehended within the same [county],
before me, or before some other justice or justices of the peace of the same 25
county, to be dealt with according to law.

Given under my hand, this _____ day of _____ 187 .

J.L.

*The words following this asterisk are to be used only where the justice backing the warrant thinks fit, and must be omitted in backing English 30
warrants in Ireland, Scotland, &c., or in backing Irish or Scotch warrants,
&c. in England.

(F.)

Summons to a Person charged with an indictable Offence.

To A.B. of _____ [labourer]. 35

WHEREAS you have this day been charged before the undersigned, [one] of
Her Majesty's justices of the peace in and for the said [county] of
for that you on _____ at _____ [&c., stating shortly the offence]:
These are therefore to command you, in Her Majesty's name, to be and
appear before me on _____ at _____ o'clock in the forenoon at 40
or before such other justice or justices of the peace for the same [county] as
may then be there, to answer to the said charge, and to be further dealt with
according to law. Herein fail not.

Given under my hand and seal, this _____ day of _____ in the year
of our Lord _____ at _____ in the [county] aforesaid. 45

J.S. (L.S.)

(G.)

Warrant where the Summons is disobeyed.

To the constable of _____ and to all other peace officers in the said [county] of _____

5 WHEREAS on the _____ last past A.B. of _____ [labourer] was charged before the undersigned, [one] of Her Majesty's justices of the peace in and for the said [county] of _____ for that [&c., as in the summons]: And whereas [I] then issued [my] summons to the said A.B., commanding him, in Her Majesty's name, to be and appear before [me] on
 10 at _____ o'clock in the forenoon at _____ or before such other justice or justices of the peace for the same [county] as might then be there, to answer to the said charge, and to be further dealt with according to law: And whereas the said A.B. hath neglected to be or appear at the time and place appointed in and by the said summons, although it
 15 hath now been proved to me upon oath that the said summons was duly served upon the said A.B.: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A.B., and to bring him before me, or some other of Her Majesty's justices of the peace in and for the said [county], to answer to the said charge, and to be further dealt with
 20 according to law.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid.

J.S. (I.S.)

(H.)

Depositions of Witnesses.

Depositions.

R. v. A.B.

25

30

Defendant's Name.	Nature of Charge.	Witnesses Names with reference to Folio.	Justices names and time and place of taking Depositions.
A.B.	Obtaining money from C.D. by false pretences at Maidstone.	C.D. - fol. 1 E.F. - fol. 3 G.H. - fol. 5 &c. - &c.	J.S. and T.U., Esqrs., at Maidstone on the 11th and 13th March 1878.

35 THIS deponent C.D. on his [oath] saith as follows [&c., stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is complete let him sign it].

And this deponent E.F., upon his oath, saith as follows [&c.]

[At the end of the depositions]

40

The above depositions of C.D. and E.F. were taken and [sworn] before me at _____ on the day and year first above mentioned, in the presence and hearing of A.B., and were in his and my presence and hearing read over to and signed by the said C.D. and E.F. [If any witnesses do not sign their depositions state the fact.]

45

J.S.

A.D. 1878.

(I.)

Statement of the Accused.

The charge in the caption of these depositions being read to the said *A.B.*, and the witnesses for the prosecution, *C.D.* and *E.F.*, being severally examined in his presence, the said *A.B.* is now addressed by me as follows: "Having 5
 " heard the evidence, do you wish to say anything in answer to the charge?
 " you are not obliged to say any thing unless you desire to do so; but what-
 " ever you say will be taken down in writing, and may be given in evidence
 " against you upon your trial;" whereupon the said *A.B.* saith as follows:

[Here state whatever the prisoner may say, and in his very words, as 10
 nearly as possible. Get him to sign it if he will.]

A.B.

Taken before me at _____ the day and year first above mentioned.

J.S.

(J.)

15

*Warrant to convey the Accused before a Justice of the County, &c., in which
 the Offence was committed.*

To *W.T.*, constable of _____ and to all other peace officers
 in the said [county] of _____

WHEREAS *A.B.* of _____ labourer, hath this day been charged before 20
 the undersigned, [one] of Her Majesty's justices of the peace in and for the said
 county of _____ for that [&c., as in the warrant to apprehend]: And
 whereas [I] have taken the deposition of *C.D.*, a witness examined by [me] in
 this behalf; but inasmuch as [I] am informed that the principal witnesses to
 prove the said offence against the said *A.B.* reside in the [county] of *C.*, where 25
 the said offence is alleged to have been committed, These are therefore to com-
 mand you the said constable, in Her Majesty's name, forthwith to take and
 convey the said *A.B.* to the said [county] of *C.*, and there carry him before
 some justice or justices of the peace in and for that [county], and near unto the
 [parish of *D.*], where the offence is alleged to have been committed, to answer 30
 further to the said charge before him or them, and to be further dealt with
 according to law; and [I] hereby further command you the said constable to
 deliver to the said justice or justices the information in this behalf, and also
 the said deposition of *C.D.* now given into your possession for that purpose,
 together with this precept. 35

Given under my hand and seal, this _____ day of _____ in the year
 of our Lord _____ at _____ in the [county] aforesaid.

J.S. (L.S.)

(K.)

Summons of a Witness.

To E.F. of [labourer.]

WHEREAS information hath been laid before the undersigned, [one] of Her
 5 Majesty's justices of the peace in and for the said [county] of
 that A.B. [i.e., as in the summons or warrant against the accused], and it
 hath been made to appear to me upon [oath] that you are likely to give
 material evidence for the [prosecution]: These are therefore to require you
 to be and to appear before me on next at o'clock
 10 in the forenoon at or before such other justice or justices of the
 peace for the same county as may then be there, to testify what you shall
 know concerning the said charge so made against the said A.B. as aforesaid.
 Herein fail not.

Given under my hand and seal, this day of in the year
 15 of our Lord at in the [county] aforesaid.

J.S. (L.S.)

(L.)

Warrant where a Witness has not obeyed a Summons.

To the constable of and to all other peace officers in the said
 20 [county] of

WHEREAS information having been laid before the undersigned, [one] of
 Her Majesty's justices of the peace in and for the said [county] of
 that A.B. [i.e., as in the summons]; and it having been made to appear to
 [me] upon oath that E.F. of [labourer] was likely to give material
 25 evidence for the prosecution, I did duly issue my summons to the said E.F.,
 requiring him to be and appear before me on at or before
 such other justice or justices of the peace for the same county as might then
 be there, to testify what he should know respecting the said charge so made
 against the said A.B. as aforesaid: And whereas proof hath this day been
 30 made before me upon oath of such summons having been duly served upon the
 said E.F.: And whereas the said E.F. hath neglected to appear at the time
 and place appointed by the said summons, and no just excuse has been offered
 for such neglect: These are therefore to command you to bring and have the
 said E.F. before me on at o'clock in the forenoon at
 35 or before such other justice or justices of the peace for the same
 [county] as may then be there, to testify what he shall know concerning the
 said charge so made against the said A.B. as aforesaid.

Given under my hand and seal, this day of in the year of
 our Lord at in the [county] aforesaid.

40 J.S. (L.S.)

A.D. 1878.

(M.)

Warrant for a Witness in the first instance.

To the constable of _____ and to all other peace officers in the said
[county] of _____

WHEREAS information hath been laid before the undersigned, [one] of Her 5
Majesty's justices of the peace in and for the said [county] of _____, that
[&c., as in summons]; and it having been made to appear to [me] upon oath
that *E.F.* of _____ [labourer] is likely to give material evidence for the
prosecution, and that it is probable that the said *E.F.* will not attend to give
evidence without being compelled so to do: These are therefore to command 10
you to bring and have the said *E.F.* before me on _____ at _____ o'clock
in the forenoon, at _____ or before such other justice or justices of the peace
for the same [county] as may then be there, to testify what he shall know
concerning the said charge so made against the said *A.B.* as aforesaid.

Given under my hand and seal, this _____ day of _____ in the year 15
of our Lord _____ at _____ in the [county] aforesaid.

J.S. (I.S.)

(N.)

*Warrant of Commitment of a Witness for refusing to be sworn or to give
Evidence.*

20

To the constable of _____ and to the keeper of the [house
of correction] at _____ in the said [county] of _____

WHEREAS *A.B.* was lately charged before the undersigned, [one] of Her
Majesty's justices of the peace in and for the said [county] of _____ for that 25
[&c., as in the summons]; and it having been made to appear to [me] upon oath
that *E.F.* of _____ was likely to give material evidence for the prosecution, I
duly issued my summons to the said *E.F.*, requiring him to be and appear before
me on _____ at _____ or before such other justice or justices of the
peace as should then be there, to testify what he should know concerning the
said charge so made against the said *A.B.* as aforesaid; and the said *E.F.* now 30
appearing before me [or being brought before me by virtue of a warrant in
that behalf, to testify as aforesaid], and being required to make oath or affirma-
tion as a witness in that behalf, hath now refused so to do [or being duly
sworn as a witness doth now refuse to answer certain questions concerning
the premises which are here put to him], without offering any just excuse for 35
such his refusal: These are therefore to command you the said constable to
take the said *E.F.*, and him safely to convey to the [house of correction] at
_____ in the county aforesaid, and there deliver him to the said
keeper thereof, together with this precept; and I do hereby command you
the said keeper of the said [house of correction] to receive the said *E.F.* into 40
your custody in the said [house of correction], and him there safely keep for

the space of _____ days for his said contempt, unless he shall in the meantime consent to be examined and to answer concerning the premises; and for your so doing this shall be your sufficient warrant. A.D. 1878.

Given under my hand and seal, this _____ day of _____ in the _____ year of our Lord _____ at _____ in the [county] aforesaid.

J.S. (L.S.)

(O.)

Recognizance to prosecute or give Evidence.

10 _____ : BE it remembered, that on the _____ day of _____ in the year of our Lord _____ C.D. of _____ in the township of _____ in the said county, farmer, [or C.D. of No. 2, _____ Street in the parish of _____ in the borough of _____ surgeon, of which said house he is tenant,] personally came before me, one of Her Majesty's
15 justices of the peace for the said county, and acknowledged himself to owe to our Sovereign Lady the Queen the sum of _____ of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, her heirs and successors, if he the said C.D. shall fail in the condition indorsed.

20 Taken and acknowledged, the day and year first above mentioned, at _____ before me

J.S.

Condition to prosecute.

The condition of the within-written recognizance is such, That whereas one
25 A.B. was this day charged before me J.S., justice of the peace within mentioned, for that [i.e., as in the caption of the depositions], if therefore he the said C.D. shall appear at the next court of oyer and terminer or general gaol delivery [or at the next court of general quarter sessions of the peace] to be
30 holden in and for the [county] of _____ * or any other court at which the said defendant may be ordered to be indicted or tried, the said C.D. having due notice of such order, and there prefer or cause to be preferred a bill of indictment for the offence aforesaid against the said A.B., and there also duly prosecute such indictment, then the said recognizance to be void, or else to stand in full force and virtue.

Condition to prosecute and give Evidence.

35 _____ Same as the last form to the asterisk*, and then thus:—"and there prefer
" or cause to be preferred a bill of indictment against the said A.B. for the
" offence aforesaid, and duly prosecute such indictment, and give evidence
" thereon as well to the jurors who shall then inquire of the said offence, as
40 " also to them who shall pass upon the trial of the said A.B., then the said
" recognizance to be void, or else to stand in full force and virtue."

Condition to give Evidence.

45 _____ Same as the last form but one to the asterisk*, and then thus:—"and there
" give such evidence as he knoweth upon a bill of indictment to be then and
" there preferred against the said A.B. for the offence aforesaid, as well to the

A.D. 1878. "jurors who shall there inquire of the said offence as also to the jurors who
 " shall pass upon the trial of the said A.B. if the said bill shall be found a
 " true bill, then the said recognizance to be void, or else to stand in full force
 " and virtue."

(P)

5

*Notice of the said Recognizance to be given to the Prosecutor and his
 Witnesses.*

to wit. } TAKE notice, that you, C.D. of _____ are bound in the
 } sum of _____ to appear at the next court of [general
 quarter sessions of the peace] in and for the county of _____ to be 10
 holden at _____ in the said county, or at any other court at which the
 said A.B. may be ordered to be tried, of which order, if any such order is
 made, due notice will be given to you, and then and there [prosecute and]
 give evidence against A.B.; and unless you then appear there, and [prosecute
 and] give evidence accordingly, the recognizance entered into by you will be 15
 forthwith levied on you. Dated this _____ day of
 184 _____

J.S.

(Q)

Commitment of Witness for refusing to enter into the Recognizance. 20

To the constable of _____ and to the keeper of the
 [house of correction] at _____ in the said [county] of _____
 WHEREAS A.B. was lately charged before the undersigned, [one] of Her
 Majesty's justices of the peace in and for the said [county] of _____
 for that [i.e., as in the summons to the witness], and it having been made to 25
 appear to [me] upon oath that E.F. of _____ was likely to give material
 evidence for the prosecution, [I] duly issued [my summons to the said E.F.,
 requiring him to be and appear] before [me] on _____ at
 or before such other justice or justices of the peace as should then be there,
 to testify what he should know concerning the said charge so made against 30
 the said A.B. as aforesaid; and the said E.F. now appearing before [me], [or
 being brought before [me] by virtue of a warrant in that behalf, to testify as
 aforesaid,] hath been now examined by [me] touching the premises, but being
 by [me] required to enter into a recognizance conditioned to give evidence
 against the said A.B. hath now refused so to do: These are therefore to 35
 command you the said constable to take the said E.F. and him safely to
 convey to the [house of correction] at _____ in the [county] aforesaid,
 and there deliver him to the said keeper thereof, together with this precept;
 and I do hereby command you the said keeper of the said [house of correc-
 tion] to receive the said E.F. into your custody in the said house of correction, 40
 there to imprison and safely keep him until after the trial of the said A.B.
 for the offence aforesaid, unless in the meantime such E.F. shall duly enter
 into such recognizance as aforesaid in the sum of _____ pounds, before
 some one justice of the peace for the said [county], conditioned in the usual
 form to appear at the next court of [oyer and terminer or general gaol] 45

delivery, or general quarter sessions of the peace,] to be holden in and for the [county] of _____ and there to give evidence before the grand jury upon any bill of indictment which may then and there be preferred against the said A.B. for the offence aforesaid, and also to give evidence upon the trial of the said A.B. for the said offence, if a true bill should be found against him for the same.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid.

(R.)

10 Subsequent Order to discharge the Witness.

To the keeper of the [house of correction] at _____ in the [county] of _____

WHEREAS by [my] order dated the _____ day of _____ [instant], reciting that A.B. was lately before them, charged before [me] for a certain offence therein mentioned, and that E.F. having appeared before me, and being examined as a witness for the prosecution in that behalf, refused to enter into a recognizance to give evidence against the said A.B., and I therefore thereby committed the said E.F. to your custody, and required you safely to keep him until after the trial of the said A.B. for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid: And whereas for want of sufficient evidence against the said A.B. the said A.B. has not been committed or holden to bail for the said offence but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E.F. should be detained longer in your custody: These are therefore to order and direct you the said keeper to discharge the said E.F. out of your custody as to the said commitment, and suffer him to go at large.

Given under [my] hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid.

J.S. (L.S.)

(S.)

Recognizance of Bail instead of Remand, on an adjournment of Examination.

35 : Be it remembered, that on the _____ day of _____ in the year of our Lord _____ A.B. of _____ labourer, L.M. of _____ grocer, and N.O. of _____ butcher, personally came before me, one of Her Majesty's justices of the peace for the said [county], and severally acknowledged themselves to owe to our Lady the Queen the several 40 sums following: that is to say, the said A.B. the sum of _____ and the said L.M. and N.O. the sum of _____ each of good and lawful money of Great Britain, to be made and levied of their several goods and chattels,

A.D. 1878. lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said A.B. fail in the condition indorsed.

Taken and acknowledged, the day and year first above mentioned, at before me,

J.S. 5

Condition.

The condition of the within-written recognizance is such, that whereas the within-bounden A.B. was this day [or on last past] charged before me, for that [d.c., as in the warrant]: And whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the day of instant; if therefore the said A.B. shall appear before me on the said day of instant at o'clock in the forenoon, or before such other justice or justices of the peace for the said [county] as may then be there, to answer [further] to the said charge, and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue. 10 15

(T.)

Certificate of nonappearance to be endorsed on the Recognizance.

I hereby certify, that the said A.B. hath not appeared at the time and place in the above condition mentioned, but therein hath made default, by reason whereof the within-written recognizance is forfeited. 20

J.S.

(U.)

Notice of such Recognizance to be given to the Accused and his Sureties.

: Take notice, That you A.B. of are bound in the sum 25 of and your sureties L.M. and N.O. in the sum of each, that you A.B. appear before me J.S., one of Her Majesty's justices of the peace for the [county] of on the day of instant at o'clock in the forenoon, at or before such other justice or justices of the peace for the same [county] as may then be there, to answer further to the charge made against you by C.D., and to be further dealt with according to law; and unless you A.B. personally appear accordingly the recognizances entered into by yourself and sureties will be forthwith levied on you and them. Dated this day of 184 30 35

J.S.

(V.)

Recognizance of Bail.

BE it remembered, that on the day of in the year of our Lord A.B. of labourer, 40 L.M. of grocer, and N.O. of butcher, personally

came before [us] the undersigned, two of Her Majesty's justices of the peace for the said [county], and severally acknowledged themselves to owe to our Lady the Queen the several sums following; (that is to say,) the said A.B. the sum of _____ and the said L.M. and N.O. the sum of _____ each, of
 5 good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said A.B. fail in the condition indorsed.

10 Taken and acknowledged, the day and year first above mentioned at _____ before us,

J.S.

J.N.

Condition in ordinary Cases.

The condition of the within-written recognizance is such, that whereas the
 15 said A.B. was this day charged before [us], the justices within mentioned, for that [i.e., as in the warrant]; if therefore the said A.B. will appear at the next court of oyer and terminer and general gaol delivery [or court of general quarter sessions of the peace] to be holden in and for the county of _____ or at any other court at which he may be ordered to be tried (of which order,
 20 if made, due notice will be given to him and to you), and there surrender himself into the custody of the keeper of the [common gaol] there, and plead to such indictment as may be found against him by the grand jury, for or in respect of the charge aforesaid, and take his trial upon the same, and not depart the said court without leave, then the said recognizance to be void, or
 25 else to stand in full force and virtue.

(W.)

Notice of the said Recognizance to be given to the Accused and his Bail.

TAKE notice, That you A.B. of _____ are bound in the sum of _____ and your [sureties L.M. and N.O.] in the sum of _____ each, that you A.B.
 30 appear, &c. [as in the condition of the recognizance], and not depart the said court without leave; and unless you the said A.B. personally appear and plead and take your trial accordingly, the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this _____ day of _____ 184 .

J.S.

35

(X.)

Warrant remanding a Prisoner.

To the constable of _____ and to the [keeper of the house of correction] at _____ in the said [county] of _____
 40 WHEREAS A.B. was this day charged before the undersigned [one] of Her Majesty's justices of the peace in and for the said [county] of _____ for that [i.e., as in the warrant to apprehend]; and it appears to me to be
 [178.]

A.D. 1878. necessary to remand the said *A.B.*: These are therefore to command you the said constable, in Her Majesty's name, forthwith to convey the said *A.B.*, to the [house of correction] at _____ in the said [county], and there to deliver him to the keeper thereof, together with this precept; and I hereby command you the said keeper to receive the said *A.B.* into your custody in 5 the said house of correction, and there safely keep him until the day of _____ instant, when I hereby command you to have him at _____ at _____ o'clock in the forenoon of the same day before me, or before such other justice or justices of the peace for the said [county] as may then be there, to answer further to the said charge, and to be 10 further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid. 15
J.S. (L.S.)

(Y.)

Warrant of Commitment.

To the constable of _____ and to the keeper of the [house of correction] at _____ in the said [county] of _____ 20

WHEREAS *A.B.* was this day charged before me, *J.S.*, one of Her Majesty's justices of the peace in and for the said [county] of _____ on the oath of *C.D.* of _____, farmer, and others, for that [*&c.*, stating shortly the offence]; These are therefore to command you the said constable of _____ to take the said *A.B.*, and him safely to convey to the [house of correction] at _____ aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you the said keeper of the said [house of correction] to receive the said *A.B.* into your custody in the said [house of correction], and there safely keep him until he shall be thence delivered by due course of law. 30

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____ at _____ in the [county] aforesaid.
J.S. (L.S.)

(Z.)

Gaoler's Receipt to the Constable for the Prisoner, and Justice's Order thereon for Payment of the Constable's Expenses in executing the Commitment. 35

I HEREBY certify, That I have received from *W.T.*, constable of _____ the body of *A.B.*, together with a warrant under the hand and seal of *J.S.*

Esquire, one of Her Majesty's justices of the peace for the [county] of _____ A.D. 1878.
 ; and that the said A.B. was [sober, or as the case may be,] at the
 time he was so delivered into my custody.

		<i>P.K.</i> ,	
5		Keeper of the house of	
		correction [or com-	
		mon gaol] at	
	CONSTABLE'S EXPENSES:	£ s. d.	
10	For conveying the above A.B. from _____ to _____		
	[by railway] at _____ per mile - }		
	For conveying him to and from the railway station -		
	For subsistence of prisoner whilst in custody after com-		
	mitment _____ days, at _____ per day -		
	For his lodging _____ nights, at _____ per night -		
15	Constable _____ days, at _____ per day -		
	[One] assistant [if necessary] _____ days, at _____		
	per day -		
	Total	£	

20 To R.W. Esquire, treasurer of the said [county] of _____
 WHEREAS W.T., constable of _____ in the county of _____, hath
 produced unto me, J.P., one of Her Majesty's justices of the peace in and for the
 said county of _____ (wherein the offence herein-after mentioned is alleged
 to have been committed), the above receipt of P.K., keeper of the [house of
 25 correction] at _____ : And whereas, in pursuance of the statute in such
 case made and provided, I have ascertained that the sum which ought to be
 paid to the said W.T. for conveying the said A.B. from _____ in the said
 county of _____ to the said house of correction _____ is
 and that the reasonable expenses of the said W.T. in returning will amount to
 30 the further sum of _____ making together the sum of _____ :
 These are therefore to order you, as such treasurer of the said county of _____
 to pay unto the said W.T. the said sum of _____ according
 to the form of the statute in such case made and provided, for which payment
 this order shall be your sufficient voucher and authority.

35 Given under my hand, this _____ day of _____ 184 .
J.P.
 Received the _____ day of _____ 184 of the treasurer of the
 [county] of _____ the sum of _____ being the amount of the above
 order.

40 £ _____

 (AA.)
*Certificate of Consent to Bail by the committing Justice indorsed on the
 Commitment.*

I HEREBY certify, That I consent to the within-named A.B. being bailed by
 45 recognizance, himself in _____ and [two] sureties in
 each.
J.S.

A.D. 1878.

(BB.)

The like, on a separate Paper.

WHEREAS *A.B.* was on the _____ committed by me to the [house
of correction] at _____ charged with [*&c.*, naming the offence shortly]:

I hereby certify, That I consent to the said *A.B.* being bailed by recogni- 5
zance, himself in _____ and [two] sureties in _____ each. Dated
the _____ day of _____ 184 .

J.S.

(CC.)

Warrant of Deliverance on Bail being given for a Prisoner already 10
committed.

To the keeper of the [house of correction] at _____ in the said
[county] of _____

WHEREAS *A.B.*, late of _____ labourer, hath before [us, two] of 15
Her Majesty's justices of the peace in and for the said county, entered into
his own recognizance, and found sufficient sureties for his appearance at the
next court of oyer and terminer and general gaol delivery [or court of general
quarter sessions of the peace] to be holden in and for the county of
or such other court as might be duly ordered in that behalf to answer
our Sovereign Lady the Queen, for that [*&c.*, as in the commitment], for 20
which he was taken and committed to your said [house of correction]:
These are therefore to command you, in Her said Majesty's name, that if the
said *A.B.* do remain in your custody in the said [house of correction] for
the said cause, and for no other, you shall forthwith suffer him to go at
large. 25

Given under our hands and seals, this _____ day of _____ in the
year of our Lord _____ at _____ in the [county] aforesaid.

J.S. (L.S.)

J.N. (L.S.)

(DD.)

30

Form of Notice of Indictment intended to be presented.

To *A.B.* of [address and description in full]

TAKE notice, that I the undersigned *C.D.* of [full address and description],
intend to present a bill of indictment against you at the next sitting of [the
court of oyer and terminer, quarter sessions, the Central Criminal Court, or 35
as the case may be], to be held in and for _____ at _____
charging you with having committed an offence [state the offence as in
the third column of the forms of indictment herein-after given].

Also take notice that there are left herewith for your information a copy
of the indictment which I intend to prefer, which copy is marked A., and 40
copies of the affidavits of [give the names], being the witnesses on whose

evidence I intend to present it, which copies are marked B. The affidavits show the substance of the evidence which the witnesses making them are prepared to give.

A.D. 1878

(Signed) C.D.

5 Witness to the signature of C.D.
E.F.

(EE.)

Notice of intention to take Deposition of a Witness who is ill.

To A.B. of

10 TAKE notice, that I the undersigned [prosecutor] having proved upon the
oath of before [name and residence of justice],
that [name and full description of witness] is in the opinion of [name and
residence of medical practitioner] dangerously ill, not likely to recover, and
unable to travel, and that [he] is able and willing to give material informa-
15 tion as to [state the offence], which you have been charged before [name of
the justice before whom the defendant has been charged] with committing.
And take notice that the deposition of the said will be taken
at on at o'clock in the morning, on which
occasion, if you think proper, you, your counsel or solicitor may attend and
20 cross-examine the said

(Signed) C.D.

(FF.)

Certificate of Indictment being found.

I HEREBY certify, that at [a court of oyer and terminer and general gaol
25 delivery, or a court of general quarter sessions of the peace,] holden in and for
the [county] of at in the said [county], on
a bill of indictment was found by the grand jury against A.B., therein
described as A.B. late of [labourer], for that he [etc., stating shortly
the offence], and that the said A.B. hath not appeared or pleaded to the said
30 indictment.

Dated this day of 187 .

J.D.

Clerk of the indictments on the circuit
or

35 Clerk of the peace of and for the said [county].

(GG.)

Warrant to apprehend a Person indicted.

To the constable of and to all other peace officers in the said
[county] of

40 WHEREAS it hath been duly certified by J.D., clerk of the indictments
on the circuit [or clerk of the peace of and for the [county]

A.D. 1878.

of [that, &c., stating the certificate]: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said *A.B.*, and to bring him before [me], or some other justice or justices of the peace in and for the said [county], to be dealt with according to law.

Given under my hand and seal, this day of in the 5
year of our Lord at in the [county] aforesaid.
J.S. (L.S.)

(H.H.)

Warrant of Commitment of a Person indicted.

To the constable of and to the keeper of the [common gaol, 10
or house of correction], at in the said [county] of

WHEREAS by [my] warrant under my hand and seal, dated the
day of after reciting that it had been certified by *J.D.* [&c., as in
the certificate], [I] commanded the constable of and all other
peace officers of the said county, in Her Majesty's name, forthwith to 15
apprehend the said *A.B.*, and to bring him before [me], the undersigned,
[one] of Her Majesty's justices of the peace in and for the said [county], or
before some other justice or justices of the peace in and for the said [county],
to be dealt with according to law: And whereas the said *A.B.* hath been
apprehended under and by virtue of the said warrant, and being now brought 20
before [me], it is hereupon duly proved to [me] upon oath that the said *A.B.*
is the same person who is named and charged in and by the said indictment:
These are therefore to command you the said constable, in Her Majesty's
name, forthwith to take and safely convey the said *A.B.* to the said [house of
correction] at in the said [county], and there to deliver him to 25
the keeper thereof, together with this precept; and I hereby command you
the said keeper to receive the said *A.B.* into your custody in the said house
of correction, and him there safely to keep until he shall be thence delivered
by due course of law.

Given under my hand and seal, this day of in the 30
year of our Lord at in the [county] aforesaid.
J.S. (L.S.)

(II.)

Warrant to detain a Person indicted who is already in custody for another Offence. 35

To the keeper of the [common gaol, or house of correction], at
in the said [county] of

WHEREAS it hath been duly certified by *J.D.*, clerk of the indictments on
the circuit [or clerk of the peace of and for the county of],
that [&c., stating the certificate]: And whereas [I am] informed that the said 40
A.B. is in your custody in the said [common gaol] at aforesaid,
charged with some offence or other matter; and it being now duly proved
upon oath before [me] that the said *A.B.* so indicted as aforesaid, and the
said *A.B.* in your custody as aforesaid, are one and the same person: These
are therefore to command you, in Her Majesty's name, to detain the said *A.B.* 45

A.D. 1878.

4.

The proceedings in each case shall be recorded as follows :—

R. v. A.

(Insert Copy or Abstract of the Indictment.)

The defendant pleads not guilty [or guilty].

5

The following jurors are sworn.

A.B., C.D., &c. [or the same Jury as in R. v. are sworn].

The jury find the defendant guilty [or not guilty].

The court sentences the defendant to _____, or the defendant is discharged [or as the case may be].

10

5.

In addition to the entries made in every case under Rule 4, special entries shall be made as of course in the following cases :—

(a.) If the defendant pleads in abatement or pleads any special plea or challenges the array in writing or stands mute or makes any motion in writing, every such plea, challenge, and motion and all further pleadings thereon shall be entered in the record, and the further proceedings thereon shall be recorded in the manner herein-after shown.

15

(b.) If the court makes any special order under any of the powers contained in this Act or under any other power, the order shall be recorded.

20

(c.) It shall not be necessary to record any adjournment of the court for necessary refreshment, or for the continuance of the trial from day to day or from Saturday till Monday.

6.

If the court directs any other matter or thing to be recorded it shall be recorded in a manner similar to the foregoing examples.

25

(MM.)

[FORM of the HEADINGS of INDICTMENTS.]

An indictment in the [name of the court].

¹ Name of the defendant [A.]

30

² Committed for trial by [name of committing magistrate] at [place of committal] on [date of committal].

Depositions taken on [date of taking depositions] at [place of taking depositions].

Indictment found a true bill [or no true bill] by the grand jury of [district for which the grand jury act] on the [date].

35

¹ If the name is unknown, describe the defendant otherwise.

² If no committal for trial, say "Affidavits filed with [name of justice] by [name of prosecutor]

" who was bound over to prosecute by [name of justice] at _____ on _____"

(NN.)

A.D. 1878.

[EXAMPLES of the BODY of the INDICTMENT where an Offence against a single Enactment is charged.]

Offence.	PARTICULAR OF OFFENCE.
5 The Criminal Code (Indictable Offences), 1878, s. 140.	The defendant murdered <i>B.</i> at _____ on _____ 1878.

Offence.	PARTICULAR OF THE OFFENCE.
10 The Criminal Code (Indictable Offences), 1878, s. 84.	The defendant gave false evidence on the trial of <i>B.</i> for the murder of <i>Z.</i> at the Central Criminal Court before the Honourable Mr. Justice _____, on the _____ of 187 _____, in order to obtain the conviction of <i>B.</i> for murder. Such false evidence consisted of the following assertions:—
15	(a) I (the defendant) saw <i>B.</i> in the Strand, near Somerset House, at about 3 o'clock in the afternoon of Monday the _____ of _____ 187 _____.
20	(b) I (the defendant) heard <i>B.</i> tell <i>C.</i> that he (<i>B.</i>) intended to murder <i>Z.</i> (c) I (the defendant) heard <i>B.</i> ask <i>C.</i> not to say that he (<i>B.</i>) had told <i>C.</i> that he (<i>B.</i>) intended to murder <i>Z.</i> This was at the house of Mr. _____, number _____ Street.

25 [In this example the manner of stating the joint effect of two enactments is shown.]

Offence.	PARTICULAR OF OFFENCE.
The Criminal Code (Indictable Offences), 1878, s. 249, and s. 33, sub-s. (c).	The defendant conspired with <i>B.</i> and <i>C.</i> that <i>B.</i> should perjure <i>D.</i> in order fraudulently to obtain a certain estate.

A.D. 1878.

(OO.)

[Examples showing the manner of joining several counts for different offences.]

Counts.	Offence.	PARTICULARS OF OFFENCE.	
1.	Criminal Code (Indictable Offences), s. 199.	The defendant fraudulently misappropriated the following things by different acts, at the times and places and under the circumstances hereunder mentioned; that is to say—	5
2.		(a.) A gold watch of the value of 30 <i>l.</i> , which he stole from the person of <i>C.D.</i> on (<i>date</i>) at (<i>place</i>).	10
3.		(b.) A horse worth 50 <i>l.</i> , a cart worth 20 <i>l.</i> , and harness worth 5 <i>l.</i> , which he obtained by a false pretence from <i>E.F.</i> on (<i>date</i>) at (<i>place</i>).	15
4.	Previous convictions under Criminal Code (Indictable Offences), s. 214.	The defendant was convicted of robbery before (<i>name of Court</i>) at (<i>place</i>) on (<i>date</i>).	20

Counts.	Offence.	PARTICULARS OF OFFENCE.	
1.	The Foreign Enlistment Act, 33 & 34 Vict. c. 90.	The defendant committed the following offences by different acts:—	25
2.		s. 4. (a.) He induced <i>B.</i> to accept a commission in the naval service of _____, at war with _____, at (<i>place</i>), on (<i>date</i>).	30
3.		s. 5. (b.) He induced <i>C.</i> to quit England with intent to accept a commission in the military service of _____, at war with _____.	35
4.		s. 8. (c.) He caused to be equipped at _____, a ship called the _____ with intent that it should be employed in the naval service of _____, at war with _____, at (<i>place</i>), on (<i>date</i>).	40
	s. 10. (d.) He caused the warlike force of a certain ship called the _____, to be augmented, such ship being at the time in the service of _____, at war with _____, at (<i>place</i>), on (<i>date</i>).		

(PP.)

[*Example showing the manner of joining several counts where it is doubtful which offence the defendant committed.*]

Counts.	Offence.	PARTICULARS OF OFFENCE.
5	The Criminal Code (Indictable Offences), 1878.	The defendant, with others, committed one or more of the following offences on _____, at _____, by the same acts, that is to say:—
1.	s. 45.	(a.) Unlawful assembly; or,
2.	s. 45.	(b.) Riot; or,
10 3.	s. 51.	(c.) Forcible entry upon certain land at _____, in the occupation of _____; or,
4.	s. 51.	(d.) Forcible detainer of the land referred to in the last count.

(QQ.)

15 [*Examples showing the manner in which documents may be referred to.*]

Offence.	PARTICULAR OF OFFENCE.
20 The Criminal Code (Indictable Offences), 1878, s. 178.	The defendant published a libel defaming <i>B.</i> The libel consists of a letter signed _____ and entitled _____, printed in the 4th page of a newspaper entitled the _____, published at _____ on _____. A copy of the said letter is hereto annexed. The expressions marked with an asterisk refer to <i>B.</i> (Copy of the letter.)

Offence.	PARTICULAR OF OFFENCE.
25 The Criminal Code (Indictable Offences), s. 56.	The defendant published a seditious libel. The libel consists of a pamphlet entitled _____, a copy of which is hereto annexed and marked <i>A.</i> The passages alleged to be seditious occur at pages _____ and are marked in the said pamphlet by lines on the margin on the said pages. (Annex the pamphlet marked <i>A.</i>)
30	

(RR.)

A.D. 1878.

[An example showing the manner of referring to numerous facts by schedules.]

Counts.	Offence.	PARTICULAR OF OFFENCE.	
	The Criminal Code (Indictable Offences), 1878, s. 277.	The defendant, a bankrupt, committed the following offences by different acts. He obtained property on credit from five different persons on seven different occasions, under the false pretence of carrying on business and dealing in the ordinary way of his trade, and did not pay for the same. The names of the five persons, the nature of the property obtained, and the times when it was obtained, appear from Schedule A. hereto annexed. The 1st, 2nd, 3rd, 4th, 5th, 6th, and 7th counts of the indictment refer to the entries marked (a), (b), (c), (d), (e), (f), (g) respectively in the said schedule.	5 10
1	Sub-s. (a)		
2	(b)		
3	(c)		
4	(d)		
5	(e)		
6	(f)		15
7	(g)		
	Sub-s. (a)	The defendant also obtained property by false pretences from four other persons at other times. The names of those persons, the nature of the property obtained, and the times it was obtained, appear from Schedule B. annexed hereto. The 8th, 9th, 10th, and 11th counts of this indictment refer to the entries marked (h), (i), (j), and (k) in that schedule.	20
8	(h)		
9	(i)		
10	(j)		
11	(k)		
	The Criminal Code (Indictable Offences), 1878, s. 233.	The defendant also forged the several documents specified in Schedule C. The 12th, and 13th counts of this indictment relate respectively to the entries marked (l) and (m) in that schedule, which documents are valuable securities, and the 14th and 15th counts to the trienes marked (n) and (o) in that Schedule.	25
12	Sub-s. (b)		
	(l)		
13	(m)		
	Sub-s. (c)		30
14	(n)		
15	(o)		

SCHEDULE A.

Names of Persons.	Nature of Property.	When obtained.	
a. B.	Five bales of silk	10 Jan. 1878.	35
b. B.	Three other bales of silk	15 Jan. 1878.	
c. C.	Ten bales of cloth	2 Feb. 1878.	
d. C.	Four other bales of cloth	9 Feb. 1878.	
e. D.	Twenty yards of calico	10 Dec. 1877.	
f. E.	Six dozen pair of stockings	12 Dec. 1877.	40
g. F.	Fifty yards of linen	18 Dec. 1877.	

SCHEDULE B.

Names of Persons.	Nature of Property.	When obtained.	
h. G.	A gold watch	11 Feb. 1878.	
i. H.	A horse and cart	13 Feb. 1878.	45
j. I.	A picture	19 Jan. 1878.	
k. J.	Twenty-five pounds in gold and bank notes	2 Jan. 1878.	

SCHEDULE C.

Description of Forged Documents.

l.	A bill of exchange for 100 <i>l.</i> purporting to be drawn by A. on B. and to be accepted by B. and to be dated on the 1st Jan. 1878, and to be payable three months after date.	50
m.	A lease purporting to let to A. a house, No. , Street, London, for 14 years.	
n.	A letter purporting to be addressed to A. by Z. containing the terms of a certain contract.	
o.	A certificate purporting to be given by W., and stating, &c.	

(SS.)

Forms of Motions.

The defendant moves the court to quash the indictment [or to arrest judgment] on the ground [that the indictment contains no statement of any
5 indictable offence, or as the case may be].

(TT.)

SPECIAL PLEAS.

Form of a Plea in Abatement.

A. pleads in abatement of the indictment found against him that one of the
10 grand jurors by whom the bill was found, that is to say, B.C., was [state the ground of disqualification], and was as such disqualified to serve on the grand jury.

Replication (in the name of the Officer of the Court, or any person appointed by the Court).

15 J. says that A.'s plea is false in fact [or] says that A.'s plea is bad in law [or] that A.'s plea is both false in fact and would be bad in law if it were true in fact.

[The subsequent proceedings may be thus recorded.]

20 The court impanels B., C., &c. (names of jurors), as a jury to try the truth of A.'s plea.

The jury find for the defendant.

The court orders the indictment to be quashed and another to be sent before the grand jury, and orders that B.C. shall not serve thereon.

or The jury find for the Crown.

25 The court gives judgment that the defendant answer further to the indictment.

Form of a Plea in abatement to the Jurisdiction.

A. pleads in abatement of the indictment that this court has no jurisdiction because the defendant is a peer of parliament, and the offence with which he
30 is charged is one for which he might upon conviction be sentenced to penal servitude.

Form of special Plea in Bar.

The defendant says that he was acquitted (or convicted) of the offence charged in this indictment at (place) on (date).

(XX.)

*Order for Payment of the Constable's Expenses.*To *R.W.*, Esquire, treasurer of the said county of *C.*

WHEREAS *W.T.*, constable of in the county of *A.*, hath by
 5 virtue of and in obedience to a certain warrant of *J.S.*, Esquire, [*one*] of Her
 Majesty's justices of the peace in and for the said county of *A.*, taken and con-
 veyed one *A.B.*, charged before the said *J.S.* with having [*&c.*, stating shortly
the offence], from in the said county of *A.* to in
 the said county of *C.*, a distance of miles, and produced the said
 10 *A.B.* before me *S.P.*, one of Her Majesty's justices of the peace in and for the
 said county of *C.*, and delivered him into the custody of by [*my*]
 direction, to answer to the said charge, and further to be dealt with according
 to law : And whereas the said *W.T.* hath also delivered to [*me*] the said war-
 rant, together with the information in that behalf, and also the deposition of
 15 *C.D.* in the said warrant mentioned, and hath proved to [*me*] upon oath the
 handwriting of the said *J.S.* subscribed to the same : And whereas [*I*] have
 ascertained that the sum which ought to be paid to the said *W.T.* for convey-
 ing the said *A.B.* from the said county of *A.* to the said county of *C.*, and taking
 him before [*me*], is the sum of and that the reasonable
 20 expenses of the said *W.T.* in returning will amount to the further sum of
 , making together the sum of : These are therefore to order
 you, as such treasurer of the said county of *C.*, to pay unto the said *W.T.* the
 said sum of according to the form of the statute in such case
 made and provided, for which payment this order shall be your sufficient
 25 voucher and authority.

Given under my hand, this day of 184 .
J.P.

 SCHEDULE II.

ACTS AND PARTS OF ACTS REPEALED.

30 Every description or citation of a portion of an Act is inclusive of the
 words, section, or other part first or last-mentioned, or otherwise referred to
 as forming the beginning or as forming the end of the portion comprised in
 the description or citation.

23 Edw. 1.	-	The statute of breaking prisons.
35 25 Edw.3. st. 5.	-	A declaration what offences shall be adjudged treason.
	c. 2.	
1 Hen. 5. c. 5.	-	An Act beginning with the words "That it is ordained and "established that in every original suit of actions personals," and ending with the words "from the feast of St. Michael "next ensuing forward."

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5 & 6 Edw. 6. c. 11.	An Act for the punishment of divers treasons.	
5 & 6 Edw. 6. c. 16.	An Act against buying and selling of offices.	
5 Eliz. ch. 9.	An Act for the punishment of such persons as shall procure or commit any wilful perjury.	5
8 Eliz. c. 2.	An Act whereby the defendant may recover his costs being wrongfully versed. In part, that is to say, section three.	
18 Eliz. c. 5.	An Act to redress disorders in common informers upon penal laws. In part, that is to say, sections four and five.	10
4 Will. & Mar. c. 18.	An Act to prevent malicious informations in the Court of King's Bench, and for the more easy reversal of outlawries in the same court.	
7 & 8 Will. 3. c. 3.	An Act for regulating of trials in cases of treason and misprision of treason, the whole except sections ten and eleven.	15
9 Will. 3. c. 35.	An Act for the more effectual suppressing of blasphemy and profaneness.	
11 Will. 3. c. 7.	An Act for the more effectual suppression of piracy. The whole except sections eleven, twelve, and eighteen.	
7 Ann. c. 12.	An Act for preserving the privileges of Ambassadors and other Public Ministers of foreign Princes and States. In part, that is to say, section four.	20
1 Geo. 1. st. 2. c. 5.	An Act for preventing tumults and riotous assemblies, and for the more speedy and effectual punishing the rioters. In part, that is to say, section one from "that if any persons to the number of twelve or more," to "without benefit of clergy," and section five.	25
4 Geo. 1. c. 11.	An Act of which the title begins with the words "An Act for the better preventing," and ends with the words "relating to pirates."	30
8 Geo. 1. c. 24.	An Act for the more effectual suppressing of piracy. In part, that is to say, sections one, three, six.	
12 Geo. 1. c. 29.	An Act to prevent frivolous and vexatious arrests, in part, that is to say, section four.	
2 Geo. 2. c. 25.	An Act for the more effectual preventing and further punishment of forgery, perjury, and subornation of perjury, and to make it felony to steal bonds, notes, or other securities for payment of money.	35
25 Geo. 2. c. 37.	An Act for better preventing the horrid crime of murder.	
12 Geo. 3. c. 24.	An Act for the better securing and preserving His Majesty's dockyards, magazines, ships, ammunition, and stores.	40
33 Geo. 3. c. 67.	An Act for better preventing offences in obstructing, destroying, or damaging ships or other vessels, and in obstructing seamen, keelmen, casters, and ship carpenters from pursuing their lawful avocations.	45
36 Geo. 3. c. 7.	An Act for the safety and preservation of His Majesty's person and Government against treasonable and seditious practices and attempts.	

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- 37 Geo. 3. c. 70. An Act for the better prevention and punishment of attempts to seduce persons serving in His Majesty's forces by sea or land from their duty and allegiance to His Majesty, and to incite them to mutiny or disobedience.
- 5 37 Geo. 3. c. 123. An Act for more effectually preventing the administering or taking of unlawful oaths.
- 38 Geo. 3. c. 52. An Act to regulate the trial of causes, indictments, and other proceedings which arise within the counties of certain cities and towns corporate within this kingdom.
- 10 39 & 40 Geo. 3. c. 93. An Act for regulating trials for high treason and misprision of treason.
- 39 & 40 Geo. 3. c. 94. An Act for the safe custody of insane persons charged with offences. In part, that is to say, sections one and two.
- 15 49 Geo. 3. c. 126. An Act for the further prevention of the sale and brokerage of offices. In part, that is to say, sections 1 to 5, both inclusive, sections nine, ten, eleven, and fourteen.
- 51 Geo. 3. c. 100. An Act to amend an Act passed in the thirty-eighth year of his present Majesty's reign, intituled "An Act to regulate the trial of causes, indictments, and other proceedings which arise within the counties of certain cities and towns corporate within this kingdom."
- 20 52 Geo. 3. c. 104. An Act to render more effectual an Act passed in the thirty-seventh year of his present Majesty, for preventing the administering or taking of unlawful oaths.
- 25 54 Geo. 3. c. 146. An Act to alter the punishment in certain cases of high treason.
- 57 Geo. 3. c. 6. An Act of which the title begins with the words "An Act to make perpetual," and ends with the words "treasonable practices and attempts."
- 30 60 Geo. 3. & 1 Geo. 4. c. 1. An Act to prevent the training of persons to the use of arms, and to the practice of military evolutions and exercises. In part, that is to say, section one.
- 60 Geo. 3. & 1 Geo. 4. c. 4. An Act to prevent delay in the administration of justice in cases of misdemeanor.
- 35 1 & 2 Geo. 4. c. 88. An Act for the amendment of the law of rescue.
- 5 Geo. 4. c. 84. An Act for the transportation of offenders from Great Britain. In part, viz., section twenty-two.
- 40 5 Geo. 4. c. 112. An Act to amend and consolidate the laws relating to the abolition of the Slave Trade. In part, that is to say, sections nine, ten, eleven, twelve, and so much of section forty-seven as relates to indictments.
- 7 Geo. 4. c. 64. An Act for improving the administration of criminal justice in England. In part, that is to say, sections one, two, three, five (so far as it relates to Justices), twelve to thirty-one, both inclusive.
- 45 7 & 8 Geo. 4. c. 28. An Act for further improving the administration of justice in criminal cases in England. In part, that is to say, sections ten, eleven, twelve.

A.D. 1878.	9 Geo. 4. c. 69.	An Act for the more effectual prevention of persons going armed by night for the destruction of game. In part, that is to say, section nine.	
	11 Geo. 1. & 1 Will. 4. c. 70.	An Act for the more effectual administration of justice in England and Wales. In part, that is to say, section nine.	5
	4 & 5 Will. 4. c. 67.	An Act for abolishing capital punishment in case of returning from transportation.	
	7 Will. 4. & 1 Vict. c. 36.	An Act, of which the title begins with the words "An Act for consolidating the laws relative to offences against the "Post Office," and ends with the words "in those laws." In part, that is to say, sections twenty-six to thirty, both inclusive.	10
	7 Will. 4. & 1 Vict. c. 88.	An Act to amend certain Acts relating to the crime of piracy.	
	7 Will. 4. & 1 Vict. c. 90.	An Act to amend the laws relative to offences punishable by transportation for life.	15
	7 Will. 4. & 1 Vict. c. 91.	An Act for abolishing the punishment of death in certain cases.	
	3 & 4 Vict. c. 54.	An Act for making further provision for the confinement and maintenance of insane prisoners. In part, that is to say, section three.	20
	5 & 6 Vict. c. 51.	An Act for providing for the further security and protection of Her Majesty's person.	
	6 & 7 Vict. c. 96.	An Act to amend the law respecting defamatory words and libel. In part, that is to say, sections three, four, five, six, seven, eight.	25
	7 & 8 Vict. c. 2.	An Act for the more speedy trial of offences committed on the high seas.	
	8 & 9 Vict. c. 68.	An Act to stay execution of judgment for misdemeanors upon giving bail in error.	30
	9 & 10 Vict. c. 24.	An Act for removing some defects in the administration of criminal justice.	
	11 & 12 Vict. c. 12.	An Act for the better security of the crown and government of the United Kingdom.	
	11 & 12 Vict. c. 42.	An Act to facilitate the performance of the duties of justices of the peace and of sessions within England and Wales with respect to persons charged with indictable offences. In part, that is to say, the first twenty-eight sections and section thirty-two.	35
	11 & 12 Vict. c. 46.	An Act for the removal of defects in the administration of criminal justice.	40
	11 & 12 Vict. c. 78.	An Act for the further amendment of the administration of the criminal law.	
	12 & 13 Vict. c. 45.	An Act to amend the procedure in courts of general and quarter sessions of the peace in England and Wales, and for the better advancement of justice in cases within the jurisdiction of those courts. In part, that is to say, section ten.	45

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- 14 & 15 Vict. An Act for the better prevention of offences.
c. 19.
- 5 14 & 15 Vict. An Act to amend the law relating to expenses of prosecutions,
c. 55. and to make further provisions for the apprehension and trial of offenders in certain cases. In part, that is to say, sections two, five, six, seven, eight.
- 14 & 15 Vict. An Act for further improving the administration of criminal
c. 100. justice. All that is unrepealed except sections twenty-two, twenty-seven, thirty, and thirty-one.
- 10 16 & 17 Vict. An Act to make further provision for staying execution of
c. 32. judgment for misdemeanors upon giving bail in error. The whole Act, except section eight.
- 17 & 18 Vict. An Act to amend and consolidate the Acts relating to merchant
c. 104. shipping. In part, that is to say, sections two hundred and six, two hundred and seven, two hundred and thirty-nine.
- 15 19 & 20 Vict. An Act to empower the Court of Queen's Bench to order
c. 16. certain offenders to be tried at the Central Criminal Court.
- 19 & 20 Vict. An Act to facilitate the despatch of business before grand
c. 54. juries in England and Wales.
- 20 22 & 23 Vict. An Act to prevent vexatious indictments for certain mis-
c. 17. demeanors.
- 22 & 23 Vict. An Act to further amend the law of property, and to relieve
c. 35. trustees. In part, that is to say, section twenty-four, from and inclusive of the words "shall be guilty of a misdemeanor" to and inclusive of the words "the court shall award and," and also from and inclusive of the words "but no prosecution" to the end of the section.
- 25 23 & 24 Vict. An Act to further amend the law of property. In part, that
c. 38. is to say, section eight.
- 30 24 & 25 Vict. An Act to consolidate and amend the statute law of England
c. 94. and Ireland relating to accessories to and abettors of indictable offences.
- 24 & 25 Vict. An Act to consolidate and amend the statute law of England
c. 96. and Ireland relating to larceny and other similar offences. The whole Act, except the following sections: one, twelve, fourteen, fifteen, sixteen, seventeen from the words "and whosoever shall" to the end of the section, eighteen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, thirty-four, thirty-five, sixty-five, sixty-six, ninety-seven, ninety-nine, one hundred and two, one hundred and five to one hundred and twelve, both inclusive, one hundred and twenty, one hundred and twenty-two one hundred and twenty-three.
- 40 24 & 25 Vict. An Act to consolidate and amend the statute law of England
c. 97. and Ireland relating to malicious injuries to property. The whole Act, except the following sections: twenty-two, twenty-three, twenty-four, twenty-five, thirty-eight, fifty-two, fifty-three, sixty-two to seventy, both inclusive, seventy-six, seventy-eight, seventy-nine.

A.D. 1878.

24 & 25 Vict. c. 98.	An Act to consolidate and amend the statute law of England and Ireland relating to indictable offences by forgery. The whole Act, except sections forty-seven and forty-eight.	
24 & 25 Vict. c. 99.	An Act to consolidate and amend the statute law of the United Kingdom against offences relating to the coin. The whole Act, except sections twenty-three, twenty-six, twenty-seven, thirty-two, thirty-three, thirty-four, thirty-nine, forty-one, forty-two (so far as it relates to offences not indictable).	5
24 & 25 Vict. c. 100.	An Act to consolidate and amend the statute law of England and Ireland relating to offences against the person. The whole Act, except sections forty-three, forty-four, forty-five, forty-six, sixty-nine, seventy-two, seventy-six, seventy-eight, seventy-nine.	10
25 & 26 Vict. c. 65.	An Act for the more speedy trial of certain homicides committed by persons subject to the Mutiny Act.	15
28 Vict. c. 18.	An Act for amending the law of evidence and practice on criminal trials. In part, that is to say, section two.	
30 & 31 Vict. c. 35.	An Act to remove some defects in the administration of the criminal law. The whole Act, except sections eight and eleven.	20
31 & 32 Vict. c. 116.	An Act to amend the law relating to larceny and embezzlement. In part, that is to say, section one.	
32 & 33 Vict. c. 62.	An Act for the abolition of imprisonment for debt for the punishment of fraudulent debtors, and for other purposes. In part, that is to say, sections eleven, twelve, thirteen, fourteen, seventeen, eighteen, nineteen.	25
33 & 34 Vict. c. 23.	An Act to abolish forfeitures for treason and felony, and to otherwise amend the law relating thereto. In part, that is to say, sections three and four.	
34 & 35 Vict. c. 112.	An Act for the more effectual prevention of crime. In part, that is to say, section nineteen.	30
36 & 37 Vict. c. 71.	The Fishery Act, 1873. In part, that is to say, section thirteen.	
37 & 38 Vict. c. 36.	The False Personation Act, 1874.	35
38 & 39 Vict. c. 24.	The Falsification of Accounts Act, 1875.	
38 & 39 Vict. c. 94.	An Act to amend the law relating to offences against the person.	
38 & 39 Vict. c. 88.	The Merchant Shipping Act, 1875. In part, that is to say, section four.	40

**Criminal Code (Indictable
Offences).**

A

B I L L

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

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