

Criminal Code (Indictable Offences) Bill.

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SCHEDULE OF FORMS.

SCHEDULE OF ENACTMENTS REPEALED.

A
B I L L

TO

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

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

5 **PART I.**

INTRODUCTORY PROVISIONS.

CHAPTER I.

APPLICATION OF THE ACT.

SECTION 1.

SHORT TITLE.

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

SECTION 2.

OPERATION OF THE ACT.

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

SECTION 3.

APPLICATION OF THE ACT.

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

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

[Bill 178.]

B 2

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

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

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

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

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

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

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

SECTION 4.

PLACE OF COMMISSION OF OFFENCES.

40

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

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

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

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

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

SECTION 5.

25 OFFENDERS TO BE TRIED UNDER THIS ACT.

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

SECTION 6.

INTERPRETATION OF TERMS.

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

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

“Superior court” means—

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

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

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

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

"Court" includes a single judge acting as such.

"Justice" includes more justices than one acting together.

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

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

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

CHAPTER II. OF PUNISHMENTS.

SECTION 7.

20

ENUMERATION OF PUNISHMENTS INFLICTED FOR OFFENCES.

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

SECTION 8.

PUNISHMENT OF DEATH.

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

SECTION 9.

PUNISHMENT OF IMPRISONMENT.

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

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

35

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

A.D. 1878.

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

SECTION 10.

FLOGGING AND WHIPPING.

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

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

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

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

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

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

No female shall be liable to be flogged or whipped.

SECTION 11.

FINE.

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

SECTION 12.

PROVISION FOR THE INFLECTION OF MINOR PUNISHMENTS.

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

A.D. 1878.

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

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

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

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

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

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

SECTION 13.

PUTTING UNDER RECOGNIZANCES.

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

SECTION 14.

A.D. 1878.

PREVIOUS CONVICTION.

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

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

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

SECTION 15.

30

CUMULATIVE SENTENCES.

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

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

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

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

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

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

SECTION 16.

PUNISHMENT OF PERSONS UNDER SIXTEEN YEARS OF AGE.

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

CHAPTER III.
MATTER OF EXCUSE.

A.D. 1878.

SECTION 17.

DEFINITIONS SUBJECT TO EXCEPTIONS.

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

SECTION 18.

CHILDREN UNDER SEVEN.

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

SECTION 19.

CHILDREN BETWEEN SEVEN AND FOURTEEN.

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

SECTION 20.

INSANITY.

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

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

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

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

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

A.D. 1878.

SECTION 21.**DRUNKENNESS.**

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

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

SECTION 22.**COMPULSION.**

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

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

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

SECTION 23.**NECESSITY.**

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

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

A.D. 1878.

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

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

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

SECTION 24.

IGNORANCE OF LAW.

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

SECTION 25.

IGNORANCE OF FACT.

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

A.D. 1878.

SECTION 26.

TRIPLING OFFENCES.

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

SECTION 27.

RULE OF EVIDENCE.

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

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

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

20

WHO ARE PARTIES TO AN OFFENCE.

Everyone is a party to an indictable offence actually committed :

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

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

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

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

15 SECTION 29.

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

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

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

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

SECTION 30.

ACCESSORY AFTER THE FACT DEFINED.

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

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

Or rescues him from an arrest for such indictable offence;

Or opposes his apprehension;

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

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

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

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

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

SECTION 31.

CONSPIRACY TO COMMIT AN OFFENCE.

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

SECTION 32.

ATTEMPTS TO COMMIT OFFENCES.

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

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

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

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

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SECTION 33.

PUNISHMENT OF OFFENCES ABOVE DEFINED.

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

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

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

25

PART II.

OFFENCES AGAINST PUBLIC ORDER,
INTERNAL AND EXTERNAL.

CHAPTER V.

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

SECTION 34.

HIGH TREASON DEFINED.

High treason is—

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

[178.]

C

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

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

(c.) Levying war against Her Majesty either,

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

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

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

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

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

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

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

SECTION 35.

ACCESSORIES AFTER THE FACT AND MISPRISION.

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

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

A.D. 1878.

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

SECTION 36.

TREASONABLE CONSPIRACIES AND INTENTIONS.

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

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

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

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

25

SECTION 37.

DEFINITION OF OVERT ACT.

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

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

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

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

SECTION 38.

BURNING SHIPS OF WAR, &c.

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

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

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

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

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

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

SECTION 39.

INCITING TO MUTINY. 15

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

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

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

SECTION 40.

ASSAULTS ON THE QUEEN. 25

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

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

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

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

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

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

SECTION 41.

CONTEMPTS AGAINST THE QUEEN.

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

SECTION 42.

APPLICATION OF THIS CHAPTER.

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

CHAPTER VI.

UNLAWFUL ASSEMBLIES, RIOTS, BREACHES OF THE PEACE.

SECTION 43.

20

DEFINITION OF AN UNLAWFUL ASSEMBLY.

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

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

SECTION 44.

DEFINITION OF A RIOT.

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

A.D. 1878.

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

SECTION 45.

PUNISHMENT OF UNLAWFUL ASSEMBLY AND RIOT.

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

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

SECTION 46.

AFFRAYS AND PROVOCATION TO BREACHES OF THE PEACE.

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

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

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

SECTION 47.

20

RIOTS PUNISHABLE WITH PENAL SERVITUDE FOR LIFE.

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

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

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

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

SECTION 48.

RIOTOUS DAMAGE OF HORSES, &c.

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

SECTION 49.

UNLAWFUL DRILLING.

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

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

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

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

30

SECTION 50.

THREE PERSONS ARMED IN PURSUIT OF GAME BY NIGHT.

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

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

A.D. 1878.

SECTION 51.

FORCIBLE ENTRY AND DETAINER DEFINED.

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

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

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

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

CHAPTER VII.

20

UNLAWFUL OATHS, SEDITIOUS WORDS, CONSPIRACIES,
AND LIBELS.

SECTION 52.

UNLAWFUL OATHS. OATHS TO COMMIT MURDER OR TREASON.

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

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

(b.) Takes any such oath or engagement.

SECTION 53,

OTHER UNLAWFUL OATHS.

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

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

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

SECTION 54.

25

COMPULSION, HOW FAR A DEFENCE.

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

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A.D. 1878.

SECTION 55.

SEDITIONOUS INTENTION, SEDITIONOUS WORDS, SEDITIONOUS LIBELS, AND SEDITIONOUS CONSPIRACIES DEFINED.

A seditious intention is an intention—

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

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

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

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

Provided that—

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

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

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

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

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

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

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

SECTION 56.

PUNISHMENT OF SEDITIONOUS OFFENCES.

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

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

CHAPTER VIII.
OFFENCES RELATING TO FOREIGN COUNTRIES.

5

SECTION 57.

VIOLATIONS OF AMBASSADORS' PRIVILEGES.

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

SECTION 58.

15

LIBELS ON FOREIGN POWERS.

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

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

CHAPTER IX.
OFFENCES AGAINST PERSONS ON THE HIGH SEAS.

SECTION 59.

30

PIRACY BY THE LAW OF NATIONS DEFINED.

Piracy by the law of nations is—

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

35 say,

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

SECTION 60.

PUNISHMENT OF PIRACY.

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

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

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

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

SECTION 61.

ASSISTING PIRATES. 25

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

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

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

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

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

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

SECTION 62.

INSUBORDINATION ON BOARD SHIP.

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

SECTION 63.

NOT FIGHTING PIRATES.

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

SECTION 64.

SLAVE-TRADING DEFINED.

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

(a.) To deal or trade in, purchase, sell, barter, or transfer slaves or persons intended to be dealt with as slaves;

25 (b.) To carry away or remove slaves, or other persons as or in order to their being dealt with as slaves;

(c.) To import or bring into any place whatsoever slaves or other persons as or in order to their being dealt with as slaves;

30 (d.) To ship, tranship, embark, receive, detain, or confine on board any ship, vessel, or boat, slaves or other persons—

For the purpose of their being carried away or removed as or in order to their being dealt with as slaves; or

For the purpose of their being imported into any place whatever as or in order to their being dealt with as slaves;

35 (e.) To fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire any ship, vessel, or boat, in order to do any act of slave-trading before mentioned;

40 (f.) To lend or advance, or become security for the loan or advance, of money, goods, or effects employed or to be employed in any act of slave-trading before mentioned;

A.D. 1878.

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

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

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

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

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

SECTION 65.

PUNISHMENT OF SLAVE-TRADING.

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

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

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

SECTION 66.

SERVING ON A SLAVE SHIP AS AN OFFICER.

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

SECTION 67.

SERVING ON A SLAVE SHIP AS A SEAMAN.

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

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

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

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

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

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

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

SECTION 68.

APPLICATION OF THIS CHAPTER.

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

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

PART III.

CHAPTER X.

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

SECTION 69.

"PUBLIC OFFICER" DEFINED.

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

SECTION 70.

EXTORTION AND OPPRESSION BY PUBLIC OFFICERS.

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

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

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

SECTION 71.

FRAUDS AND BREACHES OF TRUST BY OFFICERS.

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

SECTION 72.

NEGLECT OF OFFICIAL DUTY.

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

SECTION 73.

REFUSAL TO SERVE AN OFFICE.

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

SECTION 74.

DISOBEDIENCE TO A STATUTE.

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

SECTION 75.

DISOBEDIENCE TO LAWFUL ORDERS OF COURT, &c.

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

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

CHAPTER XI.

5

BRIBERY. SALE OF OFFICES.

SECTION 76.

BRIBERY OF PUBLIC OFFICERS.

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

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

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

SECTION 77.

30

OFFICIAL CORRUPTION.

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

SECTION 78.

BRIBERY OF VOTERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 79.**UNDUE INFLUENCE.**

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

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

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

SECTION 80.**SELLING OFFICES.**

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

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

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

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

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

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

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

Nothing herein-before contained shall include—

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

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

The word "office" in this section includes—

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

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

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

SECTION 81.

INFLUENCING JURIES.

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

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

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SECTION 82.

APPLICATION OF CERTAIN SECTIONS.

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

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CHAPTER XII.

MISLEADING JUSTICE.

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SECTION 83.

FALSE EVIDENCE DEFINED.

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

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

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

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

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SECTION 84.

PUNISHMENT OF FALSE EVIDENCE.

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

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

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

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

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

SECTION 85.

FALSE DECLARATION.

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

SECTION 86.

PUNISHMENT OF MAKING A FALSE DECLARATION.

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

SECTION 87.

CONSPIRACIES TO BRING FALSE ACCUSATIONS.

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

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

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

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

SECTION 88.

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ATTEMPTS TO PERVERT OR DEFEAT JUSTICE.

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

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

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

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

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

CHAPTER XIII.

ESCAPES, RESCUES, COMPOUNDING OFFENCES.

SECTION 89.

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

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

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

SECTION 90.

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ASSISTING ESCAPE OF PRISONERS OF WAR.

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

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

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

SECTION 91.

ESCAPE BY PRISONER.

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

SECTION 92.

BREAKING OUT OF PRISON.

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

SECTION 93.

AIDING ESCAPE FROM PRISON.

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

SECTION 94.

RESCUE.

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

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

SECTION 95.

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NEGLIGENT ESCAPE.

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

SECTION 96.

AGREEMENTS NOT TO PROSECUTE.

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

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

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

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

SECTION 97.

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CHAMPERTY, MAINTENANCE, AND COMMON BARRATORS.

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