



ANNO TRICESIMO NONO ET QUADRAGESIMO

VICTORIÆ REGINÆ.

A.D. 1876.

No. 38.

An Act for consolidating and amending the Statute Law of the Province of South Australia relating to Criminal Offences and other matters.

[Assented to, 27th October, 1876.]

WHEREAS it is expedient to consolidate and amend the Statute Law of the Province of South Australia relating respectively to offences against the person, malicious injuries to property, larceny, forgery, coining, offences of a public nature, accessories and abettors, criminal procedure, and certain other enactments—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

PRELIMINARY.

1 This Act may be cited as “The Criminal Law Consolidation Act, 1876.”

2. This Act shall be divided into nine parts, namely—

PART I.—Repeal:

PART II.—Offences against the Person:

PART III.—Malicious Injuries to Property:

PART IV.—Larceny and similar Offences:

PART V.—Forgery:

PART VI.—Offences relating to the Coin:

PART

The Criminal Law Consolidation Act—1876.

PART VII.—Offences of a Public Nature :

PART VIII.—Accessories and Abettors :

PART IX.—Miscellaneous, Procedure, &c.

PART I.

Repeal of Acts and parts of Acts mentioned in Schedule A.

Repeal not to affect offences, &c., committed before the commencement of this Act.

3. The several Acts and parts of Acts in the Schedule hereto annexed marked A are hereby repealed.

4. Every offence which shall have been wholly or partly committed against any of the said Acts or parts of Acts before this Act comes into operation shall be dealt with, inquired of, tried, determined, and punished, and every penalty in respect of any such offence shall be recovered in the same manner as if the said Act and parts of Acts had not been repealed, and every act duly done and every warrant or other instrument duly made or granted before this Act comes into operation shall continue and be of the same force and effect as if the said Acts and parts of Acts had not been repealed, and every right, liability, privilege, and protection, in respect of any matter or thing committed or done before this Act comes into operation, shall continue and be of the same force and effect as if the said Acts and parts of Acts had not been repealed, and every action, prosecution, or other proceeding which shall have been commenced before this Act comes into operation, or shall thereafter be commenced in respect of any such matter or thing, may be prosecuted, continued, and defended in the same manner as if the said Acts and parts of Acts had not been repealed, and nothing herein contained shall be deemed to repeal any Act or law not hereby expressly repealed, and the provisions herein contained shall be deemed to be cumulative to any such Act or law, except so far as inconsistent therewith, in which case the provisions of this Act shall be substituted for such Act or law inconsistent with this Act.

PART II.

PART II.

OFFENCES AGAINST THE PERSON.

Homicide :

Murder.
24 and 25 Vic., c. 100,
s. 51.

5. Whosoever shall be convicted of murder shall suffer death as a felon

Sentence for murder.

6. Upon every conviction for murder the Court shall pronounce sentence of death, but it shall not be necessary to express the time for the execution thereof. If no time for the execution be expressed in the sentence, it shall take place on the twenty-eighth day after the day on which the sentence was pronounced.

7. Sentence

The Criminal Law Consolidation Act.—1876.

PART II.

7. Sentence of death passed on any person by the Supreme Court of the said Province, or by any Judge thereof, shall be carried into execution by the Sheriff, within the walls or within the enclosed yard of the Prison, at Adelaide, or of such other prison as the Governor shall by writing under his hand direct.

Execution to be carried into effect within the walls of a prison.

8. The body of every person executed as aforesaid shall be buried within the precincts of the prison in which the execution shall have taken place.

Body to be buried in a prison.

9. The Sheriff, and such of the officers of the prison as the Sheriff may require, including the medical officer in attendance on the occasion, shall be present at every such execution, together with any Justices of the Peace, Ministers of Religion, and Officers of Police who may desire to attend, and such guard and adult spectators as the Sheriff may think fit to admit.

Sheriff, officers of the prison, &c., to witness execution.

10. Each of the persons aforesaid who may attend or be present at any such execution shall continue and remain within the walls or enclosed yard of the prison until the sentence shall have been carried into execution and completed according to law, and until the said Medical Officer shall have signed a certificate in the form set forth in the Schedule to this Act annexed, marked B; and the Sheriff, officers of the prison, and such other persons present shall before their departure from the prison subscribe a declaration according to the form set forth in the Schedule annexed hereto, marked C.

Medical Officer to sign certificate, and witnesses to sign declaration.

11. The Coroner or Special Magistrate of the district in which the prison shall be situate wherein any sentence of death shall have been carried into execution upon the body of any person, or in the absence of such Coroner or Special Magistrate, a Justice of the Peace shall, as soon as conveniently may be, hold an inquest upon the body of such person, and the Jury empannelled on such inquest shall inquire and find whether such sentence was duly carried into execution.

Inquest to be held on the body of every person executed.

12. Any person who shall subscribe any certificate or declaration as aforesaid, knowing the same to be false, or to contain any false statement, or who shall bury or remove from such prison any such body until after such inquest shall have been duly held, shall be deemed guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Punishment for making false declaration.

13. Every such certificate and declaration as aforesaid shall be forthwith transmitted by the Sheriff to the Master of the said Supreme Court, and shall be entered and kept as a record of the said Court, and shall be published in the *Government Gazette* on three separate occasions.

Certificate &c., to be recorded and published in *Government Gazette*.

14. The Governor may, by writing under his hand, order that any sentence of death which shall have been lawfully passed on any aboriginal native of the said Province, may be publicly carried into execution at the place at which the crime in respect of which such sentence shall have been passed was committed

Aboriginal natives may be executed where the crime was committed.

The Criminal Law Consolidation Act.—1876.

PART II.

mitted, or as near to such place as may be convenient, and may order that after such sentence shall have been executed the body of any such aboriginal native shall be buried at the place of execution, or at such other place as the Governor may deem expedient, and the provisions of this Act contained in the seven last preceding clauses regulating the execution of criminals shall not be applicable to the public execution of any aboriginal native.

Conspiring or soliciting to commit murder.

24 & 25 Vic., c. 100, sec. 4.

15. All persons who shall conspire, confederate, and agree to murder any person, whether he be a subject of Her Majesty or not, and whether he be within the Queen's dominions or not, and whosoever shall solicit, encourage, persuade, or endeavor to persuade, or shall propose to any person to murder any other person, whether he be a subject of Her Majesty or not, and whether he be within the Queen's dominions or not, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or for any term not more than ten years nor less than three years, with hard labor.

Manslaughter.

24 & 25 Vic., c. 100, s. 5.

16. Whosoever shall be convicted of manslaughter shall be liable to be imprisoned for life, or for any less term, with or without hard labor, or shall pay such fine as the Court shall award, in addition to, or without any, such other discretionary punishment as aforesaid.

Information for murder or manslaughter.

Same, s. 6.

17. In any information for murder or manslaughter, or for being an accessory to any murder or manslaughter, it shall not be necessary to set forth the manner in which, or the means by which the death of the deceased was caused, but it shall be sufficient in every information for murder to charge that the defendant did feloniously, wilfully, and of his malice aforethought kill and murder the deceased, and it shall be sufficient in any information for manslaughter to charge that the defendant did feloniously kill and slay the deceased, and it shall be sufficient in any information against any accessory to any murder or manslaughter to charge the principal with the murder or manslaughter (as the case may be) in the manner hereinbefore specified, and then to charge the defendant as an accessory in the manner heretofore used and accustomed.

Excusable homicide. Same, s. 7.

18. No punishment or forfeiture shall be incurred by any person who shall kill another by misfortune or in his own defence, or in any other manner without felony.

Petit treason.

Same, s. 8.

19. Every offence which before the commencement of the Imperial Act of the ninth year of King George the Fourth, chapter thirty-one, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or as accessories, shall be dealt with, tried and punished, as principals and accessories in murder.

Provision for the trial and punishment of murder when the

20. Where any person being feloniously stricken, poisoned, or otherwise hurt at any place within the said Province shall die of such stroke, poisoning, or hurt, upon the sea, or at any place out of the

The Criminal Law Consolidation Act.—1876.

the limits of the said Province, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory to murder or manslaughter, may be dealt with, tried and punished, in the said Province in the same manner in all respects as if the offence had been wholly committed within the said Province.

PART II.

cause of death only happens in South Australia.

Same sec. 10.

Attempts to Murder :

21. Whosoever shall administer to, or cause to be administered to, or to be taken by, any person, any poison, or other destructive thing, or shall by any means whatsoever wound, or cause any grievous bodily harm to any person with intent in any of the cases aforesaid to commit murder, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or for any term not less than three years, with hard labor, and may be whipped.

Administering poison or wounding with intent to murder.

24 & 25 Vic., c. 100, s. 11.

22. Whosoever by the explosion of gunpowder, or other explosive substance, shall destroy or damage any building with intent to commit murder shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or for any term not less than three years, with hard labor, and may be whipped.

Destroying or damaging a building with gunpowder with intent to murder.

Same s. 12.

23. Whosoever shall set fire to any ship or vessel, or any part thereof, or any part of the tackle, apparel, or furniture thereof, or any goods or chattels being therein, or shall cast away or destroy any ship or vessel with intent in any of such cases to commit murder, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor, and may be whipped.

Setting fire to or casting away a ship with intent to murder.

Same s. 13.

24. Whosoever shall attempt to administer to, or shall attempt to cause to be administered to, or to be taken by any person, any poison or other destructive thing, or shall shoot at any person, or shall, by drawing a trigger, or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall attempt to drown, suffocate, or strangle any person, with intent in any of the cases aforesaid, to commit murder, shall, whether any bodily injury be effected or not, be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor, and may be whipped.

Attempting to administer poison, or shooting or attempting to shoot, or attempting to drown, &c., with intent to murder.

24 & 25 Vic., c. 100, s. 14.

25. Whosoever shall, by any means other than those specified in any of the preceding sections of this Act, attempt to commit murder shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or for any term not less than three years, with hard labor, and may be whipped.

By any other means attempting to commit murder.

Same s. 15.

Letters threatening to Murder :

26. Whosoever shall maliciously send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof,

Sending letters threatening to murder.

Same s. 16

*The Criminal Law Consolidation Act.—1876.*PART II.

thereof, any letter or writing threatening to kill or murder any person, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding ten years, and not less than three years, with hard labor.

Acts causing, or tending to cause, Danger to Life or Bodily Harm :

Impeding a person endeavoring to save himself from shipwreck.

Same s. 17.

27. Whosoever shall unlawfully and maliciously prevent or impede any person, being on board of or having quitted any ship or vessel which shall be in distress or wrecked, stranded or cast on shore, in his endeavour to save his life, or shall unlawfully and maliciously prevent or impede any person in his endeavour to save the life of any such person, as in this section first aforesaid, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Shooting, or attempting to shoot, or wounding with intent to do grievous bodily harm.

Same s. 18.

28. Whosoever shall unlawfully and maliciously, by any means whatsoever, wound or cause any grievous bodily harm to any person, or shoot at any person, or by drawing a trigger or in any other manner attempt to discharge any kind of loaded arms at any person with intent in any of the cases aforesaid to maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

What shall constitute loaded arms.

Same s. 19.

29. Any gun, pistol, or other arms which shall be loaded in the barrel with gunpowder, or any other explosive substance, and ball, shot, slug, or other destructive material, shall be deemed to be loaded arms within the meaning of this Act, although the attempt to discharge the same may fail from want of proper priming, or from any other cause.

Inflicting bodily injury with or without a weapon.

Same s. 20.

30. Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without a weapon or instrument, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Party accused may be acquitted of the felony and found guilty of the misdemeanor of wounding.

31. If upon the trial of any information for any felony, except for murder or manslaughter, where the information shall allege that the person accused did wound any person, the jury shall be satisfied that the person accused is guilty of the wounding charged in such information, but are not satisfied that he is guilty of the felony charged in such information, then, and in every such case, the jury may acquit him of such felony and find him guilty of unlawfully wounding, and thereupon he shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

32. Whosoever

The Criminal Law Consolidation Act.—1876.

PART II.

32. Whosoever shall by any means whatsoever attempt to choke, suffocate, or strangle any other person, or shall by any means calculated to choke, suffocate, or strangle, attempt to render any other person insensible, unconscious, or incapable of resistance, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor, and may be whipped.

Attempting to choke, &c., in order to commit any indictable offence.

Same s. 21.

33. Whosoever shall unlawfully apply or administer to, or cause to be taken by, or attempt to apply or administer to, or attempt to cause to be administered to, or taken by any person any chloroform, laudanum, or other stupefying or overpowering drug, matter, or thing with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years with hard labor, and may be whipped.

Using chloroform, &c., to commit any indictable offence.

Same s. 22.

34. Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison, or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding ten years, and not less than three years, with hard labor.

Maliciously administering poison, &c., so as to endanger life, or inflict grievous bodily harm.

Same s. 23.

35. Whosoever shall unlawfully and maliciously administer to, or cause to be administered to, or taken by any other person, any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Maliciously administering poison, &c., with intent to injure, aggrieve, or annoy any other person.

Same s. 24.

36. If, upon the trial of any person for any felony in the last but one preceding section mentioned, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanor in the last preceding section mentioned, then, and in every such case, the jury may acquit the accused of such felony, and find him guilty of such misdemeanor, and thereupon he shall be liable to be punished in the same manner as if convicted upon an information for such misdemeanor.

If the jury be not satisfied that any person charged is guilty of felony, but guilty of a misdemeanor, they may find him guilty accordingly.

Same s. 25.

37. Whosoever being legally liable, either as a husband, parent, guardian, committee, master, mistress, nurse, or otherwise, to provide for any person as a wife, child, ward, lunatic, idiot, apprentice, servant, infant, or otherwise, necessary food, clothing, or lodging, shall wilfully and without lawful excuse refuse or neglect to provide

Not providing food, &c., for wives, children, &c., whereby life endangered.

Same s. 26.

the

*The Criminal Law Consolidation Act.—1876.***PART II.**

the same, or shall unlawfully and maliciously do, or cause to be done, any bodily harm to any such person as a wife, child, ward, lunatic, idiot, apprentice, servant, infant, or otherwise, so that the lives of such respective persons shall be endangered, or the health of such person or persons shall have been, or shall be likely to be permanently injured, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Exposing children whereby life endangered.

Same, s. 27.

38. Whosoever shall unlawfully abandon or expose any child, being under the age of two years, whereby the life of such child shall be endangered, or the health of such child shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Causing bodily injury by gunpowder.

Same, s. 28.

39. Whosoever shall unlawfully or maliciously, by the explosion of gunpowder or other explosive substance burn, maim, disfigure, disable, or do any grievous bodily harm to any person shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person with intent to do grievous bodily harm.

Same, s. 29.

40. Whosoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to, or cause to be taken or received by, any person any explosive substance or any other dangerous or noxious thing, or put or lay at any place, or cast or throw at or upon, or otherwise apply to any person any corrosive fluid or any destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Placing gunpowder near a building, ship, &c., with intent to do bodily injury to any person.

Same s. 30.

41. Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any building, ship, or vessel any gunpowder or other explosive substance with intent to do any bodily injury to any person shall, whether or not any explosion take place, and whether or not any bodily injury be effected, be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding fourteen years, and not less than three years, with hard labor.

Setting spring-guns, &c., with intent to inflict grievous bodily harm.

Same s. 31.

42. Whosoever shall set or place, or cause to be set or placed any spring-gun, man-trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming into contact therewith, shall be guilty of a misdemeanor, and being convicted thereof shall

be

The Criminal Law Consolidation Act.—1876.

PART II.

be liable to be imprisoned for any term not exceeding two years, with hard labor; and whosoever shall knowingly and wilfully permit any such spring-gun, man-trap, or other engine which may have been set or placed in any place then being in or afterwards coming into his possession or occupation by some other person to continue so set or placed shall be deemed to have set and placed such gun, trap, or engine with such intent as aforesaid: Provided that nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as may have been or may be usually set or placed with the intent of destroying vermin: Provided also, that nothing in this section shall be deemed to make it unlawful to set or place, or caused to be set or placed, or to be continued set or placed from sunset to sunrise any spring gun, man-trap, or other engine which shall be set or placed in a dwelling-house for the protection thereof.

43. Whosoever shall unlawfully and maliciously throw, or cause to fall, or strike at, against, into, or upon any engine, tender, carriage, or truck used upon any railway, any wood, stone, or other matter or thing with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage, or truck, or in or upon any other engine, tender, carriage or truck of any train of which such first mentioned engine, tender, carriage, or truck shall form part, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life, or any less term, with hard labor.

Casting stone, &c., at a railway carriage with intent to endanger the passengers.

Same s. 33.

44. Whosoever shall unlawfully and maliciously put or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing with intent in any of the cases aforesaid to endanger the safety of any person travelling or being upon such railway shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Placing wood, &c., on a railway with intent to endanger the safety of persons travelling thereon.

Same s. 32.

45. Whosoever by any unlawful act or by any wilful omission or neglect shall endanger or cause to be endangered the safety of any person conveyed or being in or upon a railway, or shall aid or assist therein shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Doing or omitting anything to endanger passengers by railway.

Same s. 34.

46. Whosoever being the rider of any horse or other animal, or having the charge of any carriage or vehicle, shall by wanton or furious riding, driving, or racing, or other wilful misconduct, or by wilful

Injuring persons by furious riding or driving.

Same, s. 35.

*The Criminal Law Consolidation Act.—1876.***PART II.**

wilful neglect, do or cause to be done any bodily harm to any person whatsoever, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Assaults:

Assaults occasioning harm.

47. Whosoever shall be convicted upon an information before the Supreme Court of any assault occasioning actual bodily harm shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Same s. 47.

Common assault.
Same s. 47.

48. Whosoever shall be convicted upon an information before the Supreme Court of any common assault shall be liable to be imprisoned for any term not exceeding one year, with or without hard labor.

Obstructing or assaulting a clergyman or other minister in the discharge of his duties.

49. Whosoever shall by threats or force obstruct or prevent, or endeavor to obstruct or prevent, any clergyman or other minister in or from celebrating Divine Service, or otherwise officiating in any church, chapel, meeting-house, or other place of Divine Worship, or in or from the performance of his duty in the lawful burial of the dead in any cemetery or other burial place, or shall strike or offer any violence to, or shall upon any civil process or under the pretence of executing any civil process arrest any clergyman or other minister who is engaged in, or to the knowledge of the offender is about to engage in, any of the rites or duties in this section aforesaid, or who to the knowledge of the offender shall be going to perform the same or returning from the performance thereof, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Same, s. 36.

Assaulting a magistrate, &c., on account of his preserving wreck.

50. Whosoever shall assault and strike or wound any magistrate, officer, or other person whomsoever lawfully authorized in or on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years with hard labor.

Same, s. 37.

Assault with intent to commit felony, or on peace officers, &c.

51. Whosoever shall assault any person with intent to commit felony, or shall assault, resist, or wilfully obstruct any peace officer in the due execution of his duty, or any person acting in aid of such officer, or shall assault any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Same, s. 38.

Assaults on seamen, &c.

52. Whosoever shall unlawfully and with force hinder or prevent any seaman from working at or exercising his lawful trade, business,

or

The Criminal Law Consolidation Act.—1876.

PART II.

or occupation, or shall beat or use any violence to any such person with intent to hinder or prevent him from working at or exercising the same, shall, on conviction thereof before any Special Magistrate or two Justices of the Peace, be liable to be imprisoned for any term not exceeding six months, with hard labor.

Same, s. 40.

53. Whosoever, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade business or manufacture, or respecting any person concerned or employed therein, shall unlawfully assault any person, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Assaults arising from combination.

Same, s. 41.

54. Where any person shall unlawfully assault or beat any other person, any Special Magistrate or two Justices of the Peace, upon complaint by or on behalf of the party aggrieved, may hear and determine such offence in a summary way, and the offender shall on conviction thereof either be committed to prison for any term not exceeding two months, with or without hard labor, or else shall forfeit and pay such fine as shall appear to such Special Magistrate or two Justices to be meet, not exceeding together with costs (if ordered) the sum of Five Pounds; and if such fine as shall be so awarded together with the costs (if ordered) shall not be paid, either immediately after the conviction or within such period as the said Special Magistrate or Justices shall at the time of conviction appoint, the said Special Magistrate or Justices shall commit the offender to prison, there to be imprisoned for any term not exceeding two months, with hard labor, unless such fine and costs be sooner paid.

Summary punishment for common assault or battery.

Same, s. 42.

55. If the Special Magistrate or Justices, upon the hearing of any such case of assault or battery upon the merits where the complaint was preferred by or on behalf of the party aggrieved under the preceding section, shall deem the offence not to be proved, or shall find the assault or battery to have been justified or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, he or they shall forthwith make out a certificate under his or their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

Certificate of dismissal.

Same, s. 44.

56. If any person against whom any such complaint, as before mentioned, shall have been preferred by, or on behalf of, the party aggrieved, shall have obtained such certificate, or having been convicted, shall have paid the whole amount adjudged to be paid, or shall have suffered the imprisonment with hard labor awarded, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

Certificate or conviction shall be a bar to any other proceedings.

Same s. 45.

57. Subject to the provisions of this Act, an Ordinance of the Governor and Legislative Council, No. 6, of 1850—“To facilitate the

Provisions of Ordinance No. 6, of 1850,

the

The Criminal Law Consolidation Act.—1876.

PART II.

to apply to summary convictions.

the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders"—shall be applicable to all proceedings taken under the three last preceding sections of this Act; and in any case of the adjudication of a pecuniary penalty thereunder, and of imprisonment for non-payment thereof, together with costs (if costs are awarded), the conviction may be in the form contained in Schedule No. 12 to the said Ordinance.

Where assault of an aggravated nature offender may be committed to the Supreme Court, or be dealt with under the Minor Offences Procedure Act, 1869.

58. If it shall appear to the Special Magistrate or Justices upon the hearing of any complaint for any of the matters mentioned in the four last preceding sections, that the offence is of such an aggravated nature that it cannot, in his or their opinion, be sufficiently punishable under the provisions of the said four last preceding sections of this Act, such Special Magistrate or Justices may either commit the person charged with such offence for trial before the Supreme Court, or may, with the consent of the person so charged, proceed to deal with and determine the case in manner prescribed by, and in accordance with, the provisions of "The Minor Offences Procedure Act, 1869;" and in the latter case such Special Magistrate or Justices shall have power, on conviction, to award any of the punishments mentioned in the said Act.

These provisions not to apply to certain cases.

24 & 25 Vic., c. 100 s. 46.

59. In case the Special Magistrate or Justices shall find the assault or battery complained of to have been accompanied by any attempt to commit felony, he or they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if he or they had no authority finally to hear and determine the same: Provided that nothing herein contained shall authorize any Justices to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements, or hereditaments, or any interest therein or accruing therefrom, or as to any insolvency, or any execution under the process of any Court of Justice.

Rape, Defilement, and Abduction of Women and Girls:

Rape.

Same s. 48.

60. Whosoever shall be convicted of the crime of rape shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than four years, with hard labor, and may be whipped.

Attempt to commit rape.

61. Whosoever shall be convicted of any attempt to commit, or of an assault with intent to commit, the crime of rape, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Procuring the defilement of a woman under age
Same s. 50, 49.

62. Whosoever shall, by false pretences, false representations, or other fraudulent means, procure any woman or girl under the age of twenty-one years, to have any illicit carnal connexion with any man, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor and may be whipped.

63. Whosoever

The Criminal Law Consolidation Act.—1876.

PART II.

63. Whosoever shall unlawfully and carnally know and abuse any girl under the age of twelve years shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than four years, with hard labor, and may be whipped. Carnally knowing a girl under 12. 38 & 39 Vic., c. 94, s. 3.
64. Whosoever shall be convicted of any attempt, or assault with intent, unlawfully and carnally to know and abuse any girl under the age of twelve years, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor, and may be whipped. Attempting to carnally know a girl under 12 years.
65. Whosoever shall unlawfully and carnally know and abuse any girl being above the age of twelve years and under the age of thirteen years, whether with or without her consent, shall be guilty of a misdemeanor, and, being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with hard labor, and may be whipped. Carnally knowing a girl between twelve and thirteen years, whether with or without consent. 38 & 39 Vic., c. 94, s. 4.
66. Whosoever shall be convicted of any indecent assault upon any woman or girl, shall be liable to be imprisoned for any term not exceeding two years, with hard labor. Indecent assault.
67. No child under the age of twelve years shall be deemed capable of consenting to any indecent assault. Child under twelve incapable of consent.
68. Where any woman of any age shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or shall be a presumptive heiress or coheiress, or presumptive next of kin, or one of the presumptive next of kin to anyone having such interest; whosoever shall, from motives of lucre, take away or detain such woman against her will, with intent to marry her or carnally know her, or to cause her to be married or carnally known by any other person; and whosoever shall fraudulently allure, take away, or detain such woman, being under the age of eighteen years, out of the possession, and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor; and whosoever shall be convicted of any offence against this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she shall have any such interest, or which shall come to her as such heiress, coheiress, or next of kin, as aforesaid; and if any such marriage as aforesaid shall have taken place, such property shall upon such conviction be settled in such manner as the Supreme Court shall, upon any information at the suit of the Attorney-General, appoint. Abduction of a woman against her will, from motives of lucre. 24 and 25 Vic., c. 100, s. 53. Fraudulent abduction of a girl under age, &c.
69. Whosoever shall by force take away or detain against her will any woman of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, Forcible abduction of any woman with intent to marry her.

The Criminal Law Consolidation Act.—1876.

PART II.

Same, s. 54.

person, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Abduction of a girl under sixteen years of age.

70. Whosoever shall unlawfully take, or cause to be taken, any unmarried girl, being under the age of sixteen years, out of the possession, and against the will of her father or mother, or of any other person having the lawful care or charge of her, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Unnatural Offences.

Sodomy and bestiality.

Same s. 61.

71. Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned for life, or any term not less than ten years, with hard labor, and may be whipped.

Attempting to commit an infamous crime.

72. Whosoever shall attempt to commit, either with mankind or with any animal, the abominable crime of buggery, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor, and may be whipped.

Incest defined.

73. Any persons being related, either as parent and child, or brother and sister, who shall unlawfully intermarry with each other, or who shall commit fornication or adultery with each other, shall be deemed to have been guilty of the crime of incest.

Punishment for incest.

74. Whosoever shall be convicted of the crime of incest shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Carnal knowledge defined.

Same, s. 63.

75. Whenever upon the trial for any offence punishable under this Act, it shall be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only.

Child Stealing:

Child stealing.

Same, s. 56

76. Whosoever shall unlawfully, either by force or fraud, lead or take away, or decoy, or entice away, or detain any child under the age of fourteen years, with intent to deprive any parent, guardian, or other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong, and whosoever shall with any such intent receive or harbor any such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away, or detained, as in this section before mentioned, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor: Provided that no person who shall have claimed any right to the possession of such child, or shall be the mother,

The Criminal Law Consolidation Act.—1876.

PART II.

mother, or shall have claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child, or taking such child out of the possession of any person having the lawful charge thereof.

Bigamy:

77. Whosoever being married shall marry any other person during the life of the former husband or wife, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with hard labor: Provided that nothing in this section contained, shall extend to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any Court of competent jurisdiction.

Bigamy.

Same, s. 57.

Attempt to produce Abortion:

78. Every woman being with child who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, and whosoever with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her, or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Administering drugs or using instruments to procure abortion.

Same, s. 58.

79. Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Procuring drugs, &c., to cause abortion.

Same, s. 59.

Concealing the Birth of a Child:

80. If any woman shall be delivered of a child, every person who shall, by any secret disposition of the dead body of the said child, whether such child died before, at, or after its birth, endeavor to conceal the birth thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years, with hard labor: Provided that if any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the jury by whose verdict such person shall be acquitted to find, in case it shall so appear in evidence, that the child had recently been born, and that such person did, by some secret dis-

Concealing the birth of a child.

Same, s. 60.

Proviso.

position

The Criminal Law Consolidation Act.—1876.

PART II.

position of the dead body of such child endeavor to conceal the birth thereof, and thereupon the Court may pass such sentence as if such person had been committed upon an indictment for the concealment of the birth.

PART III.

PART III.

MALICIOUS INJURIES TO PROPERTY.

Injuries by Fire to Buildings and Goods therein :

Setting fire to a church, chapel, &c.

24 & 25 Vic., c. 97, s. 1;

81. Whosoever shall unlawfully and maliciously set fire to any church, chapel, meeting-house, or other place of Divine Worship, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life, or for any term not less than seven years, with hard labor.

Setting fire to a dwelling-house, any person being therein.

Same, s. 2,

82. Whosoever shall unlawfully and maliciously set fire to any dwelling-house, any person being therein, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life, or any term not less than seven years, with hard labor.

Setting fire to a house, tent, outhouse, &c.

Same, s. 3,

83. Whosoever shall unlawfully and maliciously set fire to any house, tent, stable, coachhouse, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, hovel, shed, or fold, or to any farm building, or to any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof, whether the same shall then be in the possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person, shall be guilty of felony, and being convicted shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Setting fire to any railway station, &c.

Same, s. 4,

84. Whosoever shall unlawfully and maliciously set fire to any station, engine-house, warehouse, or other building belonging or appertaining to any railway, port, dock, or harbor, or to any canal or other navigation, or to any jetty, wharf, or landing place, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life, or any term not less than seven years, with hard labor.

Setting fire to any public building.

24 & 25 Vic., c. 97, s. 5.

85. Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this Act before mentioned, belonging to Her Majesty, or used by or for any department of Government, or belonging to any Corporation or District Council or University, or shall set fire to any other building devoted or dedicated to public use, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than seven years, with hard labor.

Setting fire to other buildings.

Same s. 6.

86. Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this Act before mentioned, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

87. Whosoever

The Criminal Law Consolidation Act.—1876.

87. Whosoever shall unlawfully and maliciously set fire to any matter or thing, being in, against, or under any building, under such circumstances that if the building were thereby set fire to the offence would amount to felony, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

PART III.

Setting fire to goods in any building, the setting fire to which is felony.
Same s. 7.

88. Whosoever shall unlawfully and maliciously, by any overt act, attempt to set fire to any building, or any matter or thing in, against, or under any building, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Attempting to set fire to buildings.

Same s. 8.

Injuries by Explosive Substances to Buildings, &c. :

89. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroy, throw down, or damage the whole or any part of any dwelling-house, any person being therein, or of any building whereby the life of any person shall be endangered, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or for any term not less than seven years, with hard labor.

Destroying or damaging a house with gunpowder, any person being therein, &c.

Same s. 9.

90. Whosoever shall unlawfully and maliciously place or throw in, into, upon, under, against, or near any building any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods, or chattels, shall, whether or not any explosion take place, and whether or not any damage be caused, be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Attempting to destroy buildings with gunpowder.

Same s. 10.

Injuries to Buildings by Rioters, &c. :

91. If any persons riotously and tumultuously assemble together to the disturbance of the public peace shall unlawfully and with force demolish, or pull down, or destroy, or begin to demolish, pull down, or destroy, any church, chapel, or meeting-house, or other place of Divine Worship, or any house, stable, coachhouse, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, or fold, or any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof, or any other building whatsoever, whether public or private, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture, or in any branch thereof, or any steam engine or other engine for sinking, working, ventilating, or draining any mine, or any building, or erection used in connexion with such mine, or any bridge, tramway, or other convenience used for conveying minerals from any mine, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life or any term not less than seven years with hard labor.

Rioters demolishing buildings, &c.

Same s. 11.

92. If

The Criminal Law Consolidation Act.—1876.

PART III.

Rioters injuring buildings, &c.

Same, s. 12.

Proviso.

92. If any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force injure or damage any church, chapel, meeting-house, place of Divine Worship, house, stable, coach-house, out-house, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, or other thing, as is in the last preceding section mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with hard labor: Provided that if upon trial of any person for any felony in the last preceding section mentioned the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any offence in this section mentioned, then the jury may find him guilty thereof, and he may be punished accordingly.

Injuries to Buildings by Tenants:

Tenants of houses, &c., maliciously injuring them.

Same, s. 13.

93. Whosoever being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, shall unlawfully and maliciously pull down or demolish, or begin to pull down or demolish, the same or any part thereof, or shall unlawfully and maliciously pull down or sever from the freehold any fixture being fixed in or to such dwelling-house or building, or part of such dwelling-house or building, shall be guilty of a misdemeanor, and on being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labor.

Injuries to Manufactures, Machinery, &c.:

Destroying goods in process of manufacture, certain machinery, &c.

Same, s. 14.

94. Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any goods or article of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials mixed with each other or mixed with any other material, or any framework, knitted piece, stocking, hose, or lace, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process, or progress of manufacture, or shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any warp or shute of silk, woollen, linen, cotton, hair, mohair, or alpaca, or any one or more of those materials mixed with each other or mixed with any other material, or shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or render useless, any loom, frame, machine, engine, rack, tackle, tool, or implement, whether fixed or moveable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles, or shall by force enter into any house, shop, building, or place with intent to commit any of the offences in this section mentioned, shall be guilty of felony, and being convicted thereof

The Criminal Law Consolidation Act.—1876.

PART III.

thereof shall be liable to be imprisoned for life, or any less term, with hard labor.

95. Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any machine or engine, whether fixed or moveable, used, or intended to be used for sowing, reaping, mowing, threshing, ploughing, or draining, wool-pressing or woolwashing, or for performing any other agricultural or pastoral operation, or any machine or engine, or any tool or implement, whether fixed or moveable, prepared for or employed in any manufacture or industry whatsoever (except in the manufacture of those articles mentioned in the last preceding section) shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Destroying machines in other manufactures, agricultural machines, &c.

s. 15, same.

Injuries to Corn, Trees, and Vegetable Productions:

96. Whosoever shall unlawfully and maliciously set fire to any crop of hay, corn, grain, or pulse, or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice, or plantation of trees, or to any grass, stubble, scrub, heath, gorse, furze, or fern, wheresoever the same may be growing or standing, or to any hedge or fence, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or any term not less than three years, with hard labor.

Setting fire to crops of corn, &c.

s. 16, same.

97. Whosoever shall unlawfully and maliciously set fire to any stack of corn, grain, pulse, hay, straw, stubble, or of any cultivated vegetable produce, or of any furze, gorse, heath, fern, coals, charcoal, wood, or bark, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Setting fire to stacks.

s. 17, same.

98. Whosoever shall unlawfully and maliciously, by any overt act, attempt to set fire to any such matter or thing as in either of the last two preceding sections mentioned, under such circumstances that if the same were thereby set fire to, the offender would be under any of such sections guilty of felony, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor, and may be whipped.

Attempting to set fire to any crops, &c.

s. 18, same.

99. Whosoever shall unlawfully and maliciously cut, break, bark, root-up, or otherwise destroy or damage the whole or any part of any tree, sapling, shrub, or hopbonds, or any underwood, growing in any park, plantation, pleasure grounds, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the injury shall exceed One Pound) shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor, and may be whipped.

Destroying or damaging trees, shrubs, &c., over £1 in value.

Same.
ss. 20 and 21.

100. Whosoever

The Criminal Law Consolidation Act.—1876.

PART III.

Damaging trees, &c.,
under £1 in value.

Same.
s. 22, 23, and 24.

100. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, shrub, or underwood, wheresoever the same may be growing, (the injury done being less than One Pound) or any plant, root, fruit, or vegetable production growing in any garden, orchard, nursery ground, hothouse, greenhouse, or conservatory, or any cultivated root or plant used for the food of man or beast, or for any other purpose whatsoever, and wheresoever the same may be growing, shall, on conviction before a Special Magistrate or two Justices of the Peace, either be committed to gaol for any term not exceeding six months with hard labor, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding Five Pounds, as to such Special Magistrate or Justices shall seem meet, and may be whipped.

Damaging trees under
£1 in value, after
previous summary
conviction.

101. Whosoever after having been summarily convicted of any of the offences in the last preceding section mentioned shall afterwards commit any of the offences in the last preceding section mentioned shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor, and may be whipped.

Injuries to Fences:

Destroying, &c.,
fences, walls, &c.

Same, s. 25.

Second offence.

102. Whosoever shall unlawfully and maliciously cut, break, throw down, or in anywise destroy any fence of any description whatsoever, or any wall or gate, or any part thereof respectively, shall, on conviction thereof before a Special Magistrate or two Justices of the Peace, for the first offence forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding Five Pounds, as to the said Special Magistrate or Justices shall seem meet; and whosoever having been convicted of any such offence shall afterwards commit any of the said offences in this section before mentioned shall be liable to be imprisoned for any term not exceeding six months, with hard labor, as the convicting Special Magistrate or Justices shall think fit.

Injuries to Mines:

Setting fire to a coal
mine, or timbering of
any mine.

Same, s. 26.

103. Whosoever shall unlawfully and maliciously set fire to any mine of coal, cannel coal, anthracite, or other mineral fuel, or to the timbering of the shafts or underground workings of any mine shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life, or any less term, with hard labor.

Attempting to set fire
to a mine, &c.

Same, s. 27.

104. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any mine or timbering of any mine, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

105. Whosoever

The Criminal Law Consolidation Act.—1876.

PART III.

105. Whosoever shall unlawfully and maliciously cause any water to be conveyed or run into any mine, or into any subterranean passage communicating therewith, with intent thereby to destroy or damage such mine, or to hinder or delay the working thereof, or shall with the like intent unlawfully and maliciously pull down, fill up, or obstruct, or damage with intent to destroy, obstruct, or render useless, any airway, waterway, drain, pit, level, or shaft of or belonging to any mine, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Conveying water into a mine, obstructing the shaft, &c.

Same, s. 28.

106. Whosoever shall unlawfully and maliciously pull down or destroy, or damage with intent to destroy or render useless, any steam-engine or other engine for sinking, draining, ventilating, or working, or for in anywise assisting in sinking, draining, ventilating, or working any mine, or any appliance or apparatus in connexion with any such steam or other engine, or any staith, building, or erection used in conducting the business of any mine, or any bridge, waggonway, or trunk for conveying minerals from any mine, whether such engine, staith, building, erection, bridge, waggon-way, or trunk be completed or in an unfinished state, or shall unlawfully and maliciously stop, obstruct, or hinder the working of any such steam or other engine, or of any such appliance or apparatus as aforesaid, with intent thereby to destroy or damage any mine, or to hinder, obstruct, or delay the working thereof, or shall unlawfully and maliciously wholly or partially cut through, sever, break, or unfasten, or damage with intent to destroy or render useless, any rope, chain, or tackle, of whatsoever material the same shall be made, used in any mine, or in and upon any inclined plane, railway, or other way, or other work whatsoever, in anywise belonging or appertaining to, or connected with, or employed in any mine or the working or business thereof, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Damaging, obstructing, &c., steam engines, &c., for working mines.

Same, s. 29.

Injuries to Sea and River Banks and Works on Rivers, &c. :

107. Whosoever shall unlawfully and maliciously break down or cut down, or otherwise damage or destroy any sea bank, or sea wall, or the bank, dam, or wall, of or belonging to any river, canal, creek, drain, reservoir, pool, or marsh, whereby any land or building shall be, or shall be in danger of being, overflowed or damaged, or shall unlawfully and maliciously throw, break, or cut down, level, undermine, or otherwise destroy any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towingpath, drain, watercourse, or other work belonging to any port, harbor, dock, or reservoir, or on or belonging to any navigable river or canal, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life or for any less term, with hard labor.

Destroying sea bank, wall, &c., dams, wharfs, &c.

Same, s. 30.

108. Whosoever

The Criminal Law Consolidation Act.—1876.

PART III.

Removing piles of any sea bank, &c., or doing any damage to obstruct the navigation of a river, &c.

Same, s. 31.

108. Whosoever shall unlawfully and maliciously cut off, draw up, or remove any piles or other material fixed in the ground, and used for securing any sea bank or sea wall, or the bank, dam, or wall of any river, canal, creek, drain, aqueduct, marsh, reservoir, pool, port, harbor, dock, quay, wharf, jetty, or lock, or shall unlawfully and maliciously open or draw up any flood-gate or sluice, or do any other injury or mischief to any navigable river or canal with intent, and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Injuries to Ponds, &c. :

Breaking down the dam of any fishery, &c., or mill dam, or poisoning fish.

Same, sec. 32.

109. Whosoever shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam, floodgate, or sluice of any fishpond, or of any water which shall be private property, or in which there shall be any right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully and maliciously put any lime or other noxious material in any such pond or water with intent thereby to destroy any of the fish that may then be or that may thereafter be put therein, or shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam or floodgate of any mill pond, reservoir, or pool, or other place used for storing water, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Poisoning water in rivers, &c.

110. Whosoever shall unlawfully and maliciously put, cast, or throw any poison or other noxious material into any river, creek, lake, waterhole, well, reservoir, tank, or other place used for storing water, with intent to injure any person, or with intent to destroy any animal, shall (whether any injury be actually caused or not) be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor.

Injuries to Bridges, &c. :

Injury to a bridge, &c.

Same s. 33.

111. Whosoever shall unlawfully and maliciously pull or throw down, or in anywise destroy, any bridge, public or private (whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct, or aqueduct any highway, railway, or canal shall pass, or do any injury with intent and so as thereby to render such bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor.

Injuries to Railways, Telegraphs, &c. :

Placing wood, &c., on railway with intent

112. Whosoever shall unlawfully and maliciously put, place, cast, or

The Criminal Law Consolidation Act.—1876.

or throw upon or across any railway, any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do, or cause to be done, any other matter or thing with intent in any of the cases aforesaid to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage, or truck using such railway, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor, and may be whipped.

PART III.

to obstruct or overthrow any engine, &c.

Same s. 35.

113. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall obstruct, or cause to be obstructed, any engine or carriage using any railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Obstructing engines or carriages on railways.

Same, s. 36.

114. Whosoever shall unlawfully and maliciously cut, break, throw down, destroy, injure, or remove any battery, machinery, wire, cable, post, insulator, or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, or in the working thereof, or shall unlawfully and maliciously prevent or obstruct in any manner whatsoever the sending, conveyance, or delivery of any communication by any such telegraph, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Injuries to telegraphs.

Same, s. 37.

115. Whosoever shall unlawfully and maliciously, by any overt act, attempt to commit any of the offences in the last preceding section mentioned, shall, on conviction thereof before a Special Magistrate or two Justices of the Peace, either be imprisoned for three months or any less term, with hard labor, or else shall forfeit and pay such sum of money not exceeding Five Pounds as to the convicting Special Magistrate or Justices shall seem meet.

Attempts to injure such telegraphs.

Same, s. 38.

Injuries to Works of Art:

116. Whosoever shall unlawfully and maliciously destroy or damage any book, manuscript, picture, print, statue, bust, or vase, or any other article or thing kept for the purposes of art, science, or literature, or as an object of curiosity, in any museum, gallery, cabinet, library, institute, or other repository, which gallery, cabinet, library, or other repository is either at all times or from time to time open for the admission of the public, or of any considerable number of persons, to view the same, either by the permission of the proprietor thereof or by the payment of money before

Destroying or damaging works of art in museums, churches, &c., or in public places.

Same s. 39.

The Criminal Law Consolidation Act—1876.

PART III.

Proviso.

before entering the same, or any picture, statue, monument, or other memorial of the dead, painted glass, or other ornament or work of art, in any church, chapel, meeting-house, or other place of Divine Worship, or in any building belonging to Her Majesty, or used for any Government department, or in any street, square, churchyard, burial-ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing, or fence surrounding such statue or monument, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor, and may be whipped: Provided that nothing herein contained shall be deemed to affect the right of any person to recover by action at law damages for the injury so committed.

Injuries to Cattle, &c. :

Killing, maiming,
wounding, &c., cattle.

Same s. 40.

117. Whosoever shall unlawfully and maliciously kill, maim, wound, or disfigure any horse, mare, gelding, colt, filly, mule, or ass, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep, or lamb, or any camel, llama, alpaca, goat, or pig, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with or without hard labor.

Attempting to
kill, &c., cattle.

118. Whosoever shall unlawfully and maliciously attempt to kill, maim, poison, or injure any of the animals mentioned in the last preceding section, or who shall unlawfully and maliciously place poison in such a position as to be easily partaken of by any such animals, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with or without hard labor.

Killing, maiming, &c.,
other animals.

Same, s. 41.

119. Whosoever shall unlawfully and maliciously kill, maim, wound, or disfigure any dog, bird, beast, or other animal not described in the two last preceding sections, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall, on conviction thereof before a Special Magistrate or two Justices of the Peace, be imprisoned for any term not exceeding six calendar months, with hard labor, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding Twenty Pounds, as to the said Special Magistrate or Justices shall seem meet: Provided that nothing contained in the two last preceding sections shall be deemed to affect the right of any person to destroy any goats, pigs, dogs, poultry, or rabbits, in the manner provided in "The Impounding Act, 1858."

Proviso.

Injuries to Ships:

Setting fire to ships,
&c.

Same, s. 42.

120. Whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor.

121. Whosoever

The Criminal Law Consolidation Act.—1876.

PART III.

121. Whosoever shall unlawfully and maliciously set fire to, or cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor.
- Setting fire to ships to prejudice the owners or underwriters.
Same, s. 43.
122. Whosoever shall unlawfully and maliciously, by any overt act, attempt to set fire to, cast away, or destroy any ship or vessel, under such circumstances that if the ship or vessel were set fire to, cast away, or destroyed, the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.
- Attempting to set fire to a ship.
Same, s. 44.
123. Whosoever shall unlawfully and maliciously place or throw in, into, or upon, against, or near any ship or vessel, any gunpowder, or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working tools, goods, or chattels, shall, whether or not any explosion take place, and whether or not any injury be effected, be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor, and may be whipped.
- Placing gunpowder near a vessel with intent to damage it.
Same, s. 45.
124. Whosoever shall unlawfully and maliciously damage, otherwise than by fire, gunpowder, or other explosive substance, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same or render the same useless, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.
- Damaging ships otherwise than by fire.
Same, s. 46.
125. Whosoever shall unlawfully mask, alter, or remove any light or signal, or unlawfully exhibit any false light or signal, with intent to bring any ship, vessel, or boat into danger, or shall unlawfully and maliciously do anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinbefore provided, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor, and may be whipped.
- Exhibiting false signals, &c.
Same s. 47.
126. Whosoever shall unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall unlawfully and maliciously do any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall in any other manner unlawfully and maliciously injure or conceal any boat, buoy, buoy-rope, perch, or mark used or intended to be used for the guidance of seamen, or for the purpose of navigation, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or any term not less than three years, with hard labor.
- Removing or concealing buoys and other sea marks.
Same s. 48.

The Criminal Law Consolidation Act.—1876.

PART III.

Destroying wrecks or any articles belonging thereto.

Same s. 49.

127. Whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore; or any goods, merchandise, or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Sending Letters threatening to Burn or Destroy :

Sending letters threatening to burn or destroy houses, &c.

Same s. 50.

128. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn, or other building, or any stack of grain, hay, straw, or other agricultural produce wheresoever the same may be situate; or any ship or vessel; or to kill, maim, or wound any of the animals mentioned in section one hundred and fifteen of this Act, except goats and pigs, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding ten years, with hard labor.

Injuries not before Provided for :

Persons committing malicious injuries not before provided for exceeding the amount of Five Pounds;

Additional punishment if injury committed at night.

129. Whosoever shall unlawfully and maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, the damage, injury, or spoil being to an amount exceeding Five Pounds, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor; and in case any such offence shall be committed in the night, shall be liable to be imprisoned for any term not exceeding five years, with hard labor.

Persons committing damage to any property in any case not previously provided for may be imprisoned or fined.

Proviso.

130. Whosoever shall wilfully or maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall, on conviction thereof before a Justice of the Peace, either be imprisoned for any term not exceeding three months, or else shall forfeit and pay such sum not exceeding Five Pounds as to the Justice shall seem meet, and also such further sum of money not exceeding Five Pounds for the damage, injury, or spoil so committed, such last-mentioned sum to be paid to the party aggrieved: Provided, that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass not being wilful and malicious, committed in hunting, fishing, or in the pursuit of game, but that every such trespass shall be punishable in the same manner as if this Act had not been passed.

Malice against owner of property unnecessary.

131. Every punishment and forfeiture by this Act imposed on any person maliciously committing any offence, whether the same be punishable

The Criminal Law Consolidation Act.—1876.

punishable upon information or upon summary conviction, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

PART III.

Same, s. 58.

132. Every provision of this Act, not hereinbefore so applied shall apply to every person who, with intent to injure or defraud any other person, shall do any of the acts hereinbefore made punishable, although the offender shall be in possession of the property against or in respect of which such act shall be done.

Provisions of this Act shall apply to persons in possession of the property injured.

Same s. 59.

PART IV.

PART IV.

LARCENY AND SIMILAR OFFENCES.

133. In the interpretation of this part of this Act—

The term “document of title to goods” shall include any bill of lading, India warrant, dock warrant, warehousekeeper’s certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to:

Interpretation of terms—“Document of title to goods.”

24 and 25 Vic., c. 96, s. 1.

The term “document of title to lands” shall include any deed, map, paper, or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real estate, or to any interest in or out of any real estate:

“Document of title to lands.”

s. 1.

The term “valuable security” shall include any order or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the said Province or of any other part of Her Majesty’s dominions, or of any foreign State, or in any fund of any body corporate, company, or society, whether within the said Province or elsewhere, or to any deposit in any bank, and shall also include any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money or for payment of money, whether of the said Province or elsewhere, and any document of title to lands or goods as hereinbefore defined:

“Valuable security.”

24 and 25 Vic., c. 96, s. 1.

The term “property” shall include every description of real and personal property, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and shall also include, not only such property as shall have been originally in the possession or under the

“Property.”

the

The Criminal Law Consolidation Act.—1876.

PART IV.

24 and 25 Vic.,
s. 1.

the control of any party, but also any property into or for which the same may have been converted or exchanged, and any thing acquired by such conversion or exchange, whether immediately or otherwise :

"Trustee."

24 and 25 Vic., c. 96,
s. 1.

The term "trustee" shall mean a trustee on some express trust created by some deed, will, or instrument in writing, and shall include the heir or personal representative of any such trustee, and any other person upon or to whom the duty of such trust shall have devolved or come, and also all executors and administrators, receivers under any Act of the Parliament, or under any order or decree of the Supreme Court of the said Province, and all assignees in insolvency.

Larceny in General:

Bailees fraudulently
converting property
guilty of larceny.24 and 25 Vic., c. 96,
s. 3.

134. Whosoever being a bailee of any chattel, money, or valuable security, shall fraudulently take or convert the same to his own use or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny, and may be convicted thereof upon an information for larceny and punished according.

Punishment for sim-
ple larceny.24 and 25 Vic., c. 96,
s. 4.

135. Whosoever shall be convicted of simple larceny, or of any felony hereby made punishable like simple larceny, shall (except in the cases hereinafter otherwise provided for) be liable, at the discretion of the Court, to be imprisoned for any term not exceeding two years, with hard labor.

Three larcenies
within six months
may be charged in
one information.24 and 25 Vic., c. 96,
s. 5.

136. It shall be lawful to insert several counts in the same information against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six calendar months from the first to the last of such acts, and to proceed thereon for all or any of them.

Information where
the taking has been
at different times.24 and 25 Vic., c. 96,
s. 6.

137. If upon the trial of any information for larceny it shall appear that the property alleged in such information to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings ; and in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appears to have taken place within the period of six months from the first to the last of such takings.

Larceny after a
previous conviction
for felony.24 and 25 Vic., c. 96,
s. 7.

138. Whosoever shall commit the offence of simple larceny after a previous conviction for felony, whether such conviction shall have taken place upon an information before the Supreme Court, or under the Minor Offences Procedure Act, 1869, shall be liable to be imprisoned for any term not exceeding ten years, with hard labor.

139. Whosoever

The Criminal Law Consolidation Act.—1876.

PART IV.

139. Whosoever shall commit the offence of simple larceny, or any offence hereby made punishable like simple larceny, after having been previously convicted of any indictable misdemeanor punishable under this part of this Act, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Larceny after a previous conviction for misdemeanor.
24 and 25 Vic., c. 96, s. 8.

Larceny of Cattle and other Animals :

140. Whosoever shall steal any horse, mare, gelding, colt, filly, mule, or ass ; or any bull, cow, ox, heifer, or calf ; or any ram, ewe, sheep, or lamb ; or any camel, llama, alpaca, goat, or pig shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Stealing horses, cattle, &c.
24 and 25 Vic., c. 96, s. 10.

141. Whosoever shall wilfully kill any animal, with intent to steal the carcase, skin, or any other part of the animal so killed, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Killing animals, with intent to steal the carcase, &c.
24 and 25 Vic., c. 96, s. 11.

142. Whosoever shall unlawfully and wilfully snare or carry away, or kill or wound, or attempt to kill or wound, any deer, llama, or alpaca, kept, or being in any inclosed land wherein such animals shall be usually kept, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Stealing deer, &c., in inclosed land.
24 & 25 Vic., c. 96, s. 13.

143. Whosoever shall steal any dog, or shall unlawfully have in his possession or on his premises any stolen dog, or the skin of any stolen dog, knowing such dog or the skin thereof to have been stolen, shall, on conviction thereof, before any Special Magistrate, or two Justices of the Peace, either be committed to prison and kept to hard labor for any term not exceeding six months, or shall forfeit and pay over and above the value of the said dog, such sum of money not exceeding Twenty Pounds, as to the said Special Magistrate or Justices shall seem meet; and whosoever, having been convicted of such offence, either against this or any former Act of Parliament, shall afterwards be guilty of any such offences as in this clause before mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding eighteen months, with hard labor.

Stealing dogs, &c.
24 & 25 Vic., c. 96, s. 18.

Second offence.

144. Whosoever shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of aiding any person to recover any animal which shall have been stolen, or which shall be in the possession of any person not being the owner thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding eighteen months, with hard labor.

Taking reward to restore stolen animals.
24 and 25 Vic., c. 96, s. 20.

145. Whosoever

The Criminal Law Consolidation Act.—1876.

PART IV.

Stealing birds, beasts, or fish, ordinarily kept in confinement, and not the subjects of larceny.

24 and 25 Vic., c. 96, s. 1.

Second offence.

145. Whosoever shall steal any bird, beast, or other animal, or any fish ordinarily kept in a state of confinement or for any domestic purpose, not being the subject of larceny at common law, or shall wilfully kill any such bird, beast, animal, or fish, with intent to steal the same or any part thereof, shall, on conviction thereof before a Special Magistrate or two Justices of the Peace, either be committed to prison, with or without hard labor, for any term not exceeding six months, or else shall forfeit and pay, over and above the value of such bird, beast, or other animal, or fish, such sum of money not exceeding Twenty Pounds, as to such Special Magistrate or Justices shall seem meet; and whosoever having been convicted of any such offence shall afterwards be convicted of any offence in this clause before-mentioned, shall be liable to be imprisoned and kept to hard labor for any term not exceeding twelve months, as the convicting Special Magistrate or Justices shall think fit.

Persons found in possession of stolen birds, &c., liable to penalties.

24 and 25 Vic., c. 96, s. 22.

146. If any such stolen bird, beast, fish, or other animal, or any part thereof, shall be found in the possession or on the premises of any person, any Special Magistrate or two Justices of the Peace may restore the same respectively to the owner thereof; and any person in whose possession or on whose premises such bird, beast, or fish, or other animal, or any part thereof, shall be so found, knowing the same to be stolen, shall, on conviction, be liable for the first offence to such forfeiture, and for every subsequent offence to such punishment, as any person convicted of stealing any bird, beast, or fish, is made liable to by the last preceding section.

Killing pigeons.

24 and 25 Vic., c. 96, s. 23.

147. Whosoever shall unlawfully and wilfully kill, wound, or take any house dove or pigeon under such circumstances as shall not amount to larceny at common law, shall, on conviction before a Justice of the Peace, forfeit and pay, over and above the value of the bird, any sum not exceeding Two Pounds.

Stealing or dredging for oysters in oyster fisheries.

24 and 25 Vic., c. 96, s. 26.

148. Whosoever shall steal any oysters, or oyster brood, from any oyster bed, laying, or fishery, named in any licence as is mentioned in "The Oyster Fishery Act, 1873," of this Province, being the property of any other person, and sufficiently marked out or known as such, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned, with hard labor, for two years or any less term; and whosoever shall unlawfully and wilfully use any dredge, or any net, instrument, or engine whatsoever, within the limits of any oyster bed, laying, or fishery, being the property of any other person, and sufficiently marked out or known as such, for the purpose of taking oysters or oyster brood, although none shall be actually taken, or shall unlawfully and wilfully, with any net, instrument, or engine, drag upon the ground or soil of any such fishery, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three months, with or without hard labor, and it shall be sufficient in any information to describe, either by name or otherwise, the bed, laying, or fishery, in which any of the said offences shall have been

Information.

been

The Criminal Law Consolidation Act.—1876.

been committed, without stating the same to be in any particular locality: Provided, that nothing in this section contained shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery with any net, instrument, or engine adapted for taking floating fish only.

PART IV.

Proviso as to floating fish.

As to Larceny of Written Instruments:

149. Whosoever shall steal, or shall for any fraudulent purpose destroy, cancel, or obliterate, the whole or any part of any valuable security, other than a document of title to lands, shall be guilty of felony, of the same nature and in the same degree, and punishable in the same manner, as if he had stolen any chattel of like value, with the share, interest, or deposit to which the security so stolen may relate, or with the money due on the security so stolen, or secured thereby, and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned, or referred to in or by the security.

Bonds, bills, notes, &c.

24 and 25 Vic., c. 96,
s. 27.

150. Whosoever shall steal, or shall for any fraudulent purpose destroy, cancel, obliterate, or conceal the whole or any part of any document of title to lands shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with hard labor; and in every information for any such offence relating to any document of title to lands, it shall be sufficient to allege such document to be or to contain evidence of the title or of part of the title of the person or some one of the persons having an interest, whether vested or contingent, legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof.

Deeds, &c., relating to real property.

24 & 25 Vic., c. 96,
s. 28.

Form of information.

151. Whosoever shall, either during the life of the testator or after his death, steal, or for any fraudulent purpose destroy, cancel, obliterate, or conceal, the whole or any part of any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with hard labor, and it shall not be necessary in any information for such offence to allege that such will, codicil, or other instrument is the property of any person: Provided that nothing in this or the last preceding section mentioned, nor any proceeding, conviction, or judgment, to be had or taken thereupon, shall prevent, lessen, or impeach any remedy at law or equity which any party aggrieved by any such offence might or would have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of any of the felonies in this and the last preceding section mentioned, by any evidence whatsoever, in respect of any act done by him, if he shall at any time

Wills or codicils.

24 & 25 Vic., c. 96,
s. 29.

Other remedies not affected.

previously

The Criminal Law Consolidation Act.—1876.

PART IV.

previously to his being charged with such offence have first disclosed such act on oath, in consequence of any compulsory process of any Court of Law or Equity, in any action, suit, or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any Court upon the hearing of any matter in insolvency.

Stealing records, or
other legal documents.
Same, s. 30.

Form of information.

152. Whosoever shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously cancel, obliterate, injure, or destroy the whole or any part of any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or of any original document whatsoever of or belonging to any Court of Record, or relating to any matter, civil or criminal, begun, depending, or terminated in any such Court, or of any bill, petition, answer, interrogatory, deposition, affidavit, order, or decree, or of any original document whatsoever of or belonging to any Court of Equity, or relating to any cause or matter begun, depending, or terminated in any such Court or of any original document, in anywise relating to the business of any office or employment under Her Majesty, or any public or Government business, and being or remaining in any office appertaining to any Court of Justice, or in any Government or public office, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor; and it shall not in any information for such offence be necessary to allege the article in respect of which the offence is committed is the property of any person.

Larceny of things Attached to or Growing on Land:

Glass, wood, metal,
&c., fixed to houses
and land.

24 & 25 Vic., c. 96,
s. 31.

153. Whosoever shall steal, or shall rip, cut, sever, or break with intent to steal, any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, or of both, respectively fixed in or to any building whatsoever, or anything made of metal fixed in any land being private property, or for a fence to any dwelling-house, or garden, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground or cemetery, shall be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny; and in case of any such thing fixed in any such square, street, or place as aforesaid, it shall not be necessary to allege the same to be the property of any person.

Trees, &c., in pleasure
grounds.

24 & 25 Vic. c. 96,
s. 32.

154. Whosoever shall steal, or shall cut, break, root up, or otherwise destroy, or damage, with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, respectively growing in any pleasure ground, garden, or other enclosed land, shall (in case the value of the article stolen or the amount of injury done shall

The Criminal Law Consolidation Act.—1876.

PART IV.

shall exceed the sum of one shilling), be guilty of felony, and being convicted thereof, shall be liable to be punished, as in the case of simple larceny.

155. Whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles, or the injury done, being to the value of one shilling at least, shall, on conviction thereof before a Special Magistrate or two Justices of the Peace, forfeit and pay over and above the value of the article or articles stolen, or injury done, such sum of money not exceeding Five Pounds as to the said Special Magistrate or Justices shall seem meet; and whosoever, having been convicted of any offence either against this or any former Act of Parliament, shall afterwards commit any offence in this section mentioned, and shall be convicted thereof, shall be committed and kept to hard labor for any term not exceeding twelve months as the convicting Special Magistrate or Justices shall think fit; and whosoever having been twice convicted of any such offence shall afterwards commit any of the offences in this section before mentioned, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Trees, &c., elsewhere.

24 & 25 Vic., c. 96,
s. 33.

Offences after a previous conviction.

156. Whosoever shall steal, or shall cut, break, or throw down with intent to steal, any part of any live or dead fence, or any wooden post, pale, wire, or rail, set up or used as a fence, or any stile or gate, or any part thereof respectively, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Fences, gates, &c.

24 and 25 Vic., c. 96
s. 34.

157. Whosoever shall steal, or shall destroy or damage with intent to steal, any plant, root, fruit, or vegetable production, growing in any garden, orchard, pleasure ground, nursery ground, hothouse, or greenhouse, or shall steal any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, shall on conviction thereof before a Special Magistrate or two Justices of the Peace, either be committed to prison and kept to hard labour for any term not exceeding six months, or else shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of injury done, such sum of money not exceeding Twenty Pounds, as to the Special Magistrates or Justices shall seem meet; and whosoever having been so convicted shall afterwards commit any of the offences in this section before mentioned shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Plants, &c., in gardens, &c.

24 and 25 Vic., c. 96
s. 37.

Second offence.

Larceny from Mines or Mineral Lands:

158. Whosoever shall steal, or sever with intent to steal, any gold

Ore, metal, &c.

E

OR

The Criminal Law Consolidation Act.—1876:

PART IV.

24 and 25 Vic., c. 96,
s. 38.

or the ore of any metal, metalliferous stone, or any coal, from any mine, bed, or vein thereof respectively, or from any claim, or from any land comprised in any lease for mining purposes, granted or to be granted by or on behalf of the Crown, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Fraudulently re-
moving ore, &c., from
mines.

159. Whosoever being employed in or about any mine or claim, or any land comprised in such lease as aforesaid, shall take, remove, or conceal any gold, or the ore of any metal, or other mineral found or being in such mine, claim, or land, with intent to defraud any proprietor of or any adventurer in such mine, claim, or land, or any workman or miner employed therein, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Larceny from the Person, and other like Offences:

Robbery from the
person.

160. Whosoever shall rob any person, or shall steal any chattel, money, or valuable security from the person of another, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding fourteen years and not less than two years, with hard labor.

24 and 25 Vic., c. 96,
s. 40.

On trial for robbery
Jury may convict of
an assault with intent
to rob.

161. If, upon the trial of any person upon any information for robbery, it shall appear to the Jury upon the evidence that the prisoner did not commit the crime of robbery, but that he did commit an assault with intent to rob, the prisoner shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the prisoner is guilty of an assault with intent to rob, and thereupon such prisoner shall be liable to be punished in the same manner as if he had been convicted upon an information for feloniously assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

24 and 25 Vic., c. 96,
s. 41.

Assault with intent to
rob.

24 and 25 Vic., c. 96,
s. 43.

162. Whosoever shall assault any person with intent to rob shall be guilty of felony, and being convicted thereof, shall (save and except in the cases where a greater punishment is provided by this Act) be liable to be imprisoned for any term not exceeding three years, with hard labor, and may be whipped.

Robbery or assault by
a person armed, or by
two or more, or
robbery and wound-
ing.

24 and 25 Vic., c. 96,
s. 43.

163. Whosoever shall, being armed with any offensive weapon or instrument, rob, or assault with intent to rob, any person, or shall, together with one or more other person or persons, rob, or assault with intent to rob, any person, or shall rob any person, and at the time of or immediately before or immediately after such robbery shall wound, beat, strike, or use any other personal violence to any person, shall be guilty of felony, and being convicted thereof, shall be imprisoned for life, or for any term not less than three years, with hard labor, and may be whipped.

164. Whosoever

The Criminal Law Consolidation Act.—1876.

PART IV.

164. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing demanding of any person, with menaces and without any reasonable or probable cause, any property, chattel, money, valuable security, or other valuable thing, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Letters demanding money by menaces.

24 and 25 Vic., c. 96, s. 44.

165. Whosoever shall, with menaces or by force, demand any property, chattel, money, valuable security, or other valuable thing, of any person with intent to steal the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor, and may be whipped.

Demanding money, &c., with menaces by force, with intent to steal.

24 and 25 Vic., c. 96, s. 45.

166. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing, accusing or threatening to accuse any other person of any crime punishable by law with death, or imprisonment for a longer term than two years, or of any assault with intent to commit a rape, or of any attempt or endeavor to commit any rape, or of any infamous crime as hereinafter defined, with a view or intent in any such case to extort or gain by means of such letter or writing any property, chattel, money, valuable security, or other valuable thing, from any person, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or for any term not less than three years, with hard labor, and may be whipped; and the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt or endeavor to commit the same abominable crime, and every solicitation, persuasion, promise, or threat, offered or made to any person whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act.

Letter threatening to accuse of a crime, with intent to extort.

24 and 25 Vic., c. 96, s. 46.

Infamous crime defined.

167. Whosoever shall accuse, or threaten to accuse, either the person to whom such accusation or threat shall be made or any other person, of any of the infamous or other crimes in the last preceding section mentioned, with the view or intent, in any of the cases last aforesaid, to extort or gain from such person so accused or threatened to be accused, or from any other person, any property, chattel, money, valuable security, or valuable thing, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Accusing or threatening to accuse with intent to extort.

24 and 25, Vic., c. 96, s. 47.

168. Whosoever shall publish or threaten to publish any libel upon any other person, or shall directly or indirectly threaten to print or publish, or shall directly or indirectly propose to abstain from printing or publishing, or shall directly or indirectly offer to prevent the printing or publishing of any matter or thing touching any

Threatening to publish a libel with intent to extort.

The Criminal Law Consolidation Act.—1876.

PART IV.

any other person, with intent to extort any money, or security for money, or any valuable thing, from such or any other person, or with intent to induce any person to confer or procure for any person any appointment, or office of profit or trust, shall, being convicted thereof, be liable to be imprisoned for any term not exceeding three years, with hard labor.

Inducing a person by violence or threats to execute deeds, &c., with intent to defraud.

169. Whosoever, with intent to defraud or injure any other person, shall by any unlawful violence to or restraint of, or threat of violence to or restraint of, the person of another, or by accusing or threatening to accuse any person of any treason, felony, or infamous crime as hereinbefore defined, compel or induce any person to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or co-partnership, or the seal of any body corporate, company, or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into, or used or dealt with as a valuable security, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or for any term not less than three years, with hard labor.

24 and 25 Vict.,
c. 96, s. 48.

It shall be immaterial from whom the menaces proceed.

24 and 25 Vict., c. 96,
s. 49.

170. It shall be immaterial whether the menaces or threats hereinbefore mentioned be of violence, injury, or accusation to be caused or made by the offender or any other person.

Sacrilige, Burglary, or Housebreaking:

Breaking and entering a church or chapel, and committing any felony.

24 and 25 Vict., c. 96,
s. 50.

171. Whosoever shall break and enter any church, chapel, meeting-house, or other place of Divine Worship, and commit any felony therein, or being in any church, chapel, meeting-house, or other place of Divine Worship, shall commit any felony therein and break out of the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Burglary.

24 and 25 Vict., c. 96,
s. 52.

172. Whosoever shall be convicted of the crime of burglary shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

“Night” defined.

Same.

173. For all purposes of this Act the night shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day.

Burglary by breaking out.

24 and 25 Vict., c. 96,
s. 51.

174. Whosoever shall enter the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house shall commit any felony therein, and shall in either case break out of the said dwelling-house in the night, shall be deemed guilty of burglary, and may be punished accordingly.

The Criminal Law Consolidation Act.—1876.

PART IV.

175. No building, although within the same curtilage with any dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for any of the purposes of this Act, unless there shall be a communication between such building and dwelling-house, either immediate, or by means of a covered and enclosed passage leading from the one to the other.
- What building within the curtilage shall be deemed part of the dwelling-house.
24 & 25 Vic., c. 96, s. 53.
176. Whosoever shall enter any dwelling-house in the night, with intent to commit any felony therein, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.
- Entering a dwelling-house in the night with intent to commit any felony.
24 & 25 Vic., c. 96, s. 54.
177. Whosoever shall break and enter any building, and commit any felony therein, such building being within the curtilage of a dwelling-house, and occupied therewith, but not being part thereof, according to the provision hereinbefore mentioned, or being in any such building, shall commit any felony therein, and break out of the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.
- Breaking into any building within the curtilage which is no part of the dwelling-house, and committing any felony.
24 & 25 Vic., c. 96, s. 55.
178. Whosoever shall break and enter any dwelling-house, school-house, shop, warehouse, or counting-house, and commit any felony therein, or being in any dwelling-house, school-house, shop, warehouse, or counting-house, shall commit any felony therein, and break out of the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.
- Breaking into any house, shop, warehouse, &c., and committing any felony.
24 & 25 Vic., c. 96, s. 56.
179. Whosoever shall break and enter any dwelling-house, church, chapel, meeting-house, or other place of Divine Worship, or any building within the curtilage, shop, warehouse, school-house, or counting-house, with intent to commit any felony therein, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.
- Housebreaking, &c., with intent to commit any felony.
24 & 25 Vic., c. 96, s. 57.
180. Whosoever shall be found by night, armed with any dangerous or offensive weapon or instrument whatever, with intent to break or enter into any dwelling-house, or other building whatsoever, and to commit any felony therein, or shall be found by night having in his possession, without lawful excuse (the proof of which excuse shall lie on such person), any picklock, key, crow, jack, bit, or other implement of housebreaking; or shall be found by night having his face blackened, or otherwise disguised, with intent to commit any felony, or shall be found by night in any dwelling-house or other building whatsoever, with intent to commit any felony therein, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor and may be whipped.
- Being armed with intent to break or enter any house in the night.
24 & 25 Vic., c. 96, s. 58.
181. Whosoever shall be convicted of any such misdemeanor, as in the last preceding section mentioned, committed after a previous conviction,
- The like, after a previous conviction for felony, &c.

The Criminal Law Consolidation Act.—1876.

PART IV.

24 & 55 Vic., c. 96,
s. 59.

conviction, either for felony or such misdemeanor, shall, on such subsequent conviction, be liable to be imprisoned for any term not exceeding ten years, with hard labor.

Larceny in the House :

Stealing in a dwelling-
house to the value of
Five Pounds.

24 & 25 Vic., c. 96,
s. 60.

182. Whosoever shall steal in any dwelling-house any chattel, money, or valuable security to the value in the whole of Five Pounds or more, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Stealing in a dwelling
house, any person
therein put in bodily
fear.

24 & 25 Vic., c. 96,
s. 61.

183. Whosoever shall steal any chattel, money, or valuable security in any dwelling-house, and shall, by any menace or threat, put any one being therein in bodily fear, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Larceny in Manufactories :

Stealing goods in pro-
cess of manufacture.

24 & 25 Vic., c. 96,
s. 62.

184. Whosoever shall steal, to the value of Ten Shillings, any woollen, linen, hempen, or cotton yarn, or any goods or article of silk, woollen, linen, cotton, alpaca, or mohair, or of any one or more of those materials mixed with each other or mixed with any other material, whilst laid, placed, or exposed during any stage, process, or progress of manufacture, in any building, field, or other place, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Larceny in Ships, Wharfs, &c. :

Stealing from ships, &c

24 & 25 Vic., c. 96,
s. 63.

185. Whosoever shall steal any goods or merchandise in any vessel, barge, or boat of any description whatsoever, or the gear, fittings, or other articles belonging to the same, in any haven, or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river, or canal, or shall steal any goods or merchandise from any dock, wharf, or quay adjacent to any such haven, port, river, canal, creek, or basin, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Stealing from ship in
distress.

24 & 25 Vic., c. 96,
s. 64.

186. Whosoever shall plunder or steal any part of any ship or vessel which shall be in distress or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Persons in possession
of shipwrecked goods

187. If any goods, merchandise, or articles of any kind, belonging to any ship or vessel in distress or wrecked, stranded, or cast on shore,

The Criminal Law Consolidation Act.—1876.

shore, shall be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being taken or summoned before a Special Magistrate or two Justices of the Peace, shall not satisfy the Special Magistrate or Justices that he came lawfully by the same, then the same shall, by order of the Special Magistrate or Justices, be forthwith delivered over to or for the use of the rightful owner thereof; and the offender shall, on conviction of such offence before the Special Magistrate or Justices, be imprisoned for any term not exceeding six months, or else shall forfeit and pay, over and above the value of the goods, merchandise, or articles, such sum of money not exceeding Twenty Pounds, as to such Special Magistrate or Justices shall seem meet.

PART IV.

not giving a satisfactory account.

24 & 25 Vict. c. 96,
s. 65.

Larceny or Embezzlement by Clerks or Servants, or Persons
in the Public Service, &c. :

188. Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall steal any chattel, money, or valuable security belonging to or in the possession or power of his master or employer, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Larceny by clerks or
servants.

24 and 25 Vict., c. 96,
s. 67.

189. Whosoever, being a clerk or servant, or, being employed for the purpose or in the capacity of a clerk or servant, shall fraudulently embezzle any chattel, money, or valuable security, which shall be delivered to or received or taken into possession by him for or in the name or on the account of his master or employer, or any part thereof, shall be deemed to have feloniously stolen the same from his master or employer, although such chattel, money, or security was not received into the possession of such master or employer otherwise than by the actual possession of his clerk, servant, or other person so employed, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Embezzlement by
clerks or servants.

24 and 25 Vict., c. 96,
s. 68.

190. Every person being employed for the purpose or in the capacity of clerk or servant, or as a collector of moneys, and although temporarily only, shall be deemed a clerk or servant within the meaning of the last preceding section.

Definition of clerk or
servant.

191. Whosoever being a clerk, officer, or servant, or any person employed or acting in the capacity of a clerk, officer, or servant, shall wilfully and with intent to defraud, destroy, alter, mutilate, or falsify any book, paper, writing, valuable security, or account which belongs to, or is in the possession of, his employer, or has been received by him for or on behalf of his employer, or shall wilfully and with intent to defraud, make, or concur in making any false entry in, or omit or alter, or concur in omitting or altering, any material particular from or in any such book, or any document or account, the person so offending shall be guilty of a misdemeanor, and

Falsification of
accounts, &c.

38 & 39 Vic., c. 24,
s. 1.

The Criminal Law Consolidation Act.—1876.

PART IV.

and being convicted thereof, shall be liable to be imprisoned, for any term not exceeding seven years, with hard labor.

Larceny by persons in the Public Service of the Government.

24 and 25 Vict., c. 96, s. 69.

192. Whosoever, being employed in the Public Service of Her Majesty, shall steal any chattel, money, or valuable security, belonging to or in the possession or power of Her Majesty, or intrusted to or received or taken into possession by him by virtue of his employment, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Embezzlement by persons in the Public Service of the Government.

24 and 25 Vict., c. 96, s. 70.

193. Whosoever, being employed in the Public Service of Her Majesty, and intrusted by virtue of such employment with the receipt, custody management, or control of any chattel, money, or valuable security, shall embezzle any chattel, money, or valuable security which shall be intrusted to or received or taken into possession by him by virtue of his employment, or any part thereof, or in any manner fraudulently apply or dispose of the same, or any part thereof, to his own use or benefit, or for any purpose whatsoever except for the Public Service, shall be deemed to have feloniously stolen the same from Her Majesty, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor; and in any information to be preferred against any offender under this and the last preceding clause, it shall be sufficient to lay the property of any such chattel, money, or valuable security in Her Majesty.

Property may be laid in Her Majesty.

Embezzlement, general deficiency in accounts.

194. On the prosecution of any person for the larceny or embezzlement by him as clerk or servant of any money the property of his master or employer, the books of account or entries of receipts and payments kept or made by him as such clerk or servant shall be admissible in evidence against him, and any such person may be convicted without showing the larceny or embezzlement of any specific sum of money, if there shall be proof of a general deficiency, on the examination of such books or entries, or otherwise, and the jury shall be satisfied that the accused stole or fraudulently embezzled the deficient money, or any part thereof.

Distinct acts of embezzlement may be charged in the same information.

24 and 25 Vict., c. 96, s. 71.

195. For preventing difficulties in the prosecution of offenders in any case of embezzlement, fraudulent application or disposition herebefore mentioned, it shall be lawful to charge in the information and proceed against the offender for any number of distinct acts of embezzlement, or of fraudulent application or disposition, which may have been committed by him against Her Majesty or against the same master or employer; and in every such information, where the offence shall relate to any money or any valuable security, it shall be sufficient to allege the embezzlement, or fraudulent application or disposition, to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender shall be proved to have embezzled or fraudulently applied

or

The Criminal Law Consolidation Act.—1876.

PART IV.

or disposed of any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved; or if he shall be proved to have embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to some other person, and such part shall have been returned accordingly.

196. If, upon the trial of any person for embezzlement, or fraudulent application or disposition as aforesaid, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, or fraudulent application or disposition, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose or in the capacity of a clerk or servant, or as a person employed in the Public Service, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for such larceny; and if, upon the trial of any person for such larceny, it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, or fraudulent application or disposition as aforesaid, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, or fraudulent application or disposition, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for such embezzlement, fraudulent application or disposition; and no person so tried for embezzlement, fraudulent application or disposition, or larceny, as aforesaid, shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition, or embezzlement, upon the same facts.

Persons prosecuted for any embezzlement not to be acquitted if the offence turn out to be larceny, but to be convicted of larceny, and *vice versa*.

24 and 25 Vict., c. 96, s. 72.

197. If any person being a member of any co-partnership, or being one of two or more beneficial owners of any money, goods or effects, bills, notes, securities, or other property, shall steal or embezzle any such money, goods or effects, bills, notes, securities, or other property of, or belonging to any such co-partnership, or to such joint beneficial owners, every such person shall be liable to be dealt with, tried, convicted, and punished for the same, as if such person had not been or was not a member of such co-partnership, or one of such beneficial owners.

Member of co-partnership guilty of converting to his own use, &c., property of co-partnership, liable to be tried as if not such member.

31 & 32 Vic., c. 116, s. 1.

Larceny by Tenants or Lodgers:

198. Whosoever shall steal any chattel or fixture let to be used by him or her in or with any house or lodging, whether the contract shall

Tenant or lodger stealing chattel or fixture

*The Criminal Law Consolidation Act.—1876.***PART IV.**

let to hire with house
or lodgings.

24 & 25 Vict., c. 96,
s. 74.

shall have been entered into by him or her. or by her husband, or by any person on behalf of him or her or her husband, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor; and in every case of stealing any such chattel or fixture it shall be lawful to prefer an information in the common form, as for larceny, and to lay the property in the owner or person letting to hire.

Frauds by Trustees, Agents, Bankers, or Factors:

Agent, banker, &c.,
embezzling money, or
selling securities, &c.,
entrusted to him.

24 & 25 Vic., c. 96,
s. 75.

Or goods, &c., in-
trusted to him for
safe custody.

Punishment.

Not to affect trustees
or mortgagees.

Nor bankers, &c.,
receiving money due
on securities.

199. Whosoever, having been intrusted, either solely or jointly with any other person as a banker, merchant, broker, attorney, or other agent, with any money, or security for the payment of money with any direction in writing to apply, pay, or deliver such money or security, or any part thereof respectively, or the proceeds, or any part of the proceeds of such security, for any purpose, or to any person specified in any such direction, shall, in violation of good faith, and contrary to the terms of such direction, in anywise convert to his own use or benefit, or the use or benefit of any person other than the person by whom he shall have been so intrusted, such money, security, or proceeds, or any part thereof respectively; and whosoever, having been intrusted, either solely or jointly with any other person as a banker, merchant, broker, attorney, or other agent, with any chattel or valuable security, or any power of attorney, for the sale or transfer of any share or interest in any public stock or fund, whether of the Province of South Australia or elsewhere, or in any stock or fund of any body corporate, company, or society for safe custody, or for any special purpose, without any authority to sell, negotiate, transfer, or pledge, shall, in violation of good faith, and contrary to the object or purpose for which such chattel, security, or power of attorney shall have been intrusted to him, sell, negotiate, transfer, pledge, or in any manner convert to his own use or benefit, or the use or benefit of any person other than the person by whom he shall have been so intrusted, such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney shall relate, or any part thereof, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor; but nothing in this section contained relating to agents shall affect any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or personal, in respect of any act done by such trustee or mortgagee, in relation to the property comprised in, or affected by, any such trust or mortgage, nor shall restrain any banker, merchant, broker, attorney, or other agent from receiving any money which shall be or become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed, nor from selling, transferring, or otherwise disposing of

The Criminal Law Consolidation Act.—1876.

of any securities or effects in his possession upon which he shall have any lien, claim, or demand entitling him by law so to do, unless such sale, transfer, or other disposal shall extend to a greater number or part of such securities or effects as shall be requisite for satisfying such lien, claim, or demand.

PART IV.

Or disposing of securities on which they have a lien.

200. Whosoever, being a banker, merchant, broker, attorney, or agent, and being intrusted either solely or jointly with any other person, with the property of any other person for safe custody, shall, with intent to defraud, sell, negotiate, transfer, pledge, or in any manner convert or appropriate the same, or any part thereof, to or for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Bankers, &c., fraudulently selling, &c., property entrusted to their care.

24 & 25 Vic., c. 96, s. 76.

201. Whosoever, being intrusted, either solely or jointly, with any other person, with any power of attorney, for the sale or transfer of any property, shall fraudulently sell, or transfer, or otherwise convert the same or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Persons under powers of attorney fraudulently selling property.

24 & 25 Vic., c. 96, s. 77.

202. Whosoever, being a factor or agent intrusted, either solely or jointly with any other person, for the purpose of sale or otherwise, with the possession of any goods, or of any document of title to goods, shall, contrary to, or without the authority of, his principal in that behalf, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, make any consignment, deposit, transfer, or delivery of any goods or document of title so intrusted to him, as in this section before mentioned, as and by way of a pledge, lien, or security for any money or valuable security borrowed or received by such factor or agent at or before the time of making such consignment, deposit, transfer, or delivery, or intended to be thereafter borrowed or received, or shall, contrary to or without such authority, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, accept any advance of any money or valuable security on the faith of any contract or agreement to consign, deposit, transfer, or deliver any such goods or document of title, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor; and every clerk or other person who shall knowingly and wilfully act and assist in making any such consignment, deposit, transfer, or delivery, or in accepting or procuring such advance, as aforesaid, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to the punishment in this section above mentioned: Provided that no such

Factors obtaining advances on the property of their principals.

24 & 25 Vict., c. 96, s. 78.

Punishment.

Clerks wilfully assisting.

such

The Criminal Law Consolidation Act.—1876.

PART IV.

Cases excepted where the pledge does not exceed the amount of their lien.

such factor or agent shall be liable to any prosecution for consigning, depositing, transferring, or delivering any such goods or documents of title, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such consignment, deposit, transfer, or delivery was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal, and accepted by such factor or agent.

Definitions. Term
"Intrusted."

24 & 25 Vict., c. 96,
s. 79.

Pledge.

"Possessed."

"Advance."

"Contract or agreement."

"Advance."

Possession to be evidence of entrusting.

Trustees fraudulently disposing of property.

24 & 25 Vict., c. 96,
s. 80.

203. Any factor or agent intrusted as aforesaid, and possessed of any such document of title, whether derived immediately from the owner of such goods or obtained by reason of such factor or agent having been intrusted with the possession of the goods, or of any other documents of title thereto, shall be deemed to have been intrusted with the possession of the goods represented by such document of title; and every contract pledging or giving a lien upon such document of title as aforesaid, shall be deemed to be a pledge of and lien upon the goods to which the same relates; and such factor or agent shall be deemed to be possessed of such goods or document, whether the same shall be in his actual custody or shall be held by any other person subject to his control, or for him, or on his behalf; and where any loan or advance shall be *bonâ fide* made to any factor or agent intrusted with and in possession of any such goods, or document of title, on the faith of any contract or agreement in writing to consign, deposit, transfer, or deliver such goods or documents of title, and such goods or document of title shall actually be received by the person making such loan or advance, without notice that such factor or agent was not authorized to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or document of title within the meaning of the last preceding section, though such goods or document of title shall not actually be received by the person making such loan or advance till the period subsequent thereto; and any contract or agreement, whether made direct with such factor or agent, or with any clerk or other person on his behalf, shall be deemed a contract or agreement with such factor or agent; and any payment made, whether by money or bill of exchange, or other negotiable security, shall be deemed to be an advance within the meaning of the last preceding section; and a factor or agent in possession as aforesaid of such goods or document shall be taken for the purposes of the last preceding section, to have been intrusted therewith by the owner thereof, unless the contrary be shown in evidence.

204. Whosoever, being a trustee of any property for the use or benefit, either wholly or partially, of some other person, or for any public or charitable purpose, shall, with intent to defraud, convert, or appropriate the same, or any part thereof, to or for his own use or benefit, or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable

The Criminal Law Consolidation Act.—1876.

charitable purpose, as aforesaid, or otherwise dispose of or destroy such property, or any part thereof, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor: Provided that no prosecution under this section shall be commenced without the sanction of the Attorney-General.

PART IV.

No prosecution without consent of the Attorney-General.

205. Whosoever, being the promoter of a public company, registered or incorporated, or intended to be registered or incorporated, shall knowingly make, circulate, or publish, or cause to be made, circulated, or published, any untrue statement or advertisement, with intent to defraud, or to induce any person to become a shareholder or partner in such company, whereby such person may be defrauded, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor: Provided that nothing in this Act shall prevent a shareholder recovering by civil process all his actual loss from the estate of any promoter so offending.

Promoters of companies making untrue statements, &c.

Proviso.

206. Whosoever, being a director, member, or public officer of any body corporate or public company, shall fraudulently take or apply for his own use or benefit, or for any use or purposes other than the use or purposes of such body corporate or public company, any of the property of such body corporate or public company, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Directors, &c., of any body corporate or public company fraudulently appropriating property.

24 & 25 Vic., c. 96, s. 81.

207. Whosoever, being a director, public officer, or manager of any body corporate or public company, shall as such receive or possess himself of any of the property of such body corporate or public company otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make, or to cause or direct to be made, a full and true entry thereof in the books and accounts of such body corporate or public company, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Directors, &c., keeping fraudulent accounts.

24 & 25 Vic., c. 96, s. 82.

208. Whosoever, being a director, manager, public officer, or member of any body corporate or public company, shall, with intent to defraud, destroy, alter, mutilate, or falsify any book, paper, writing, or valuable security belonging to the body corporate or public company, or make, or concur in the making, of any false entry, or omit, or concur in omitting, any material particular, in any book of account or other document, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Directors, &c., wilfully destroying books, &c.

24 & 25 Vic., c. 96, s. 83.

209. Whosoever, being a director, manager, or public officer, of any body corporate or public company, shall make, circulate, or publish, or concur in making, circulating, or publishing any written statement

Directors, &c., publishing fraudulent statements.

The Criminal Law Consolidation Act.—1876.

PART IV.

24 & 25 Vic., c. 96,
s. 84.

statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

No person to be exempt from answering questions in any Court, but no person making a disclosure in any compulsory proceeding to be liable to prosecution.

24 & 25 Vic., c. 96,
s. 85.

210. Nothing in any of the eleven last preceding sections of this Act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any Court, or upon the hearing of any matter in insolvency, and no person shall be liable to be convicted of any of the misdemeanors in any of the said sections mentioned by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being charged with such offence have first disclosed such act on oath, in consequence of any compulsory process of any Court of law or equity, in any action, suit, or proceeding which shall have been *bond fide* instituted by any party aggrieved, or if he shall have first disclosed the same in a compulsory examination or deposition before any Court upon the hearing of any matter in insolvency.

No remedy at law or equity shall be affected.

24 & 25 Vic., c. 96,
s. 86.

211. Nothing in any of the twelve last preceding sections of this Act contained, nor any proceeding, conviction, or judgment to be had or taken thereon against any person under any of the said sections, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any offence against any of the said sections might have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

Conviction not to be received in evidence in civil suits.

Misdemeanors under this part of the Act to be tried by Supreme Court.
24 & 25 Vic., c. 96,
s. 87.

212. All misdemeanors committed by trustees, agents, bankers, factors, or other persons, for offences mentioned in the last thirteen preceding sections of this Act shall be tried at the Supreme Court.

Obtaining Money, &c., by False Pretences :

False pretences.

24 & 25 Vic., c. 96,
s. 88.

213. Whoever shall, by any false pretence, obtain from any other person any chattel, money, or valuable security, with intent to defraud, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor: Provided that if, upon the trial of any person indicted for such misdemeanor, it shall be proved that he obtained the property in question in such manner as to amount in law to larceny, he shall not by reason thereof be entitled

No acquittal, because the offence amounts to larceny.

*The Criminal Law Consolidation Act.—1876.*PART IV.

entitled to be acquitted of such misdemeanor ; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts: Provided also, that it shall be sufficient in any information for obtaining or attempting to obtain such property by false pretences to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud, any particular person, and without alleging any ownership of the chattel, money, or valuable security ; and on the trial of any such information it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

Form of information.

Evidence.

214. Whosoever shall, by any false pretence, cause or procure any money to be paid, or any chattel or valuable security to be delivered to any other person, for the use or benefit, or on account of the person making such false pretence, or of any other person with intent to defraud, shall be deemed to have obtained such money, chattel, or valuable security, within the meaning of the last preceding section.

Where any money is caused to be paid or delivered to any person other than the person making the false pretence.

24 & 25 Vic., c. 96 s. 89.

215. Whosoever, with intent to defraud or injure any other person, shall, by any false pretence, fraudulently cause or induce any other person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or co-partnership, or the seal of any body corporate, company, or society, upon any paper or parchment, in order that the same may be afterwards made or converted into, or used or dealt with, as a valuable security, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Inducing persons by fraud to execute deeds, &c.

Same, s. 90.

Receiving Stolen Goods :

216. Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling, or otherwise disposing whereof shall amount to a felony, either at common law or by virtue of this Act, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed of, shall be guilty of felony, and may be prosecuted and convicted either as an accessory after the fact, or for a substantive felony, and, in the latter case, whether the principal felon shall, or shall not have been previously convicted, or shall or shall not be amenable to justice ; and every such receiver, howsoever convicted, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor: Provided that no person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Receiving where the principal is guilty of felony.

24 & 25 Vic., c. 96, s. 91.

Proviso.

217. In any information containing a charge of feloniously stealing any property it shall be lawful to add a count, or several counts, for feloniously

Information for stealing and receiving.

The Criminal Law Consolidation Act.—1876.

PART IV.

24 & 25 Vic., c. 96,
s. 92.

feloniously receiving the same, or any part or parts thereof, knowing the same to have been stolen; and in any information for feloniously receiving any property knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing the same; and where any such information shall have been preferred and found against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who shall try the same to find a verdict of guilty, either of stealing the property, or of receiving the same, or any part or parts thereof, knowing the same to have been stolen; and if such information shall have been preferred and found against two or more persons, it shall be lawful for the jury who shall try the same to find all or any of the said persons guilty, either of stealing the property or of receiving the same, or any part or parts thereof, knowing the same to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other, or others, of them guilty of receiving the same, or any part or parts thereof, knowing the same to have been stolen.

Separate receivers
may be included in
the same information
in the absence of the
principal.

24 & 25 Vic., c. 96,
s. 93.

218. Whenever any property whatsoever shall have been stolen, taken, extorted, obtained, embezzled, or otherwise disposed of, in such a manner as to amount to a felony, either at common law or by virtue of this Act, any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive felonies in the same information, and may be tried together, notwithstanding that the principal felon shall not be included in the same information, or shall not be in custody or amenable to justice.

On an information for
jointly receiving, per-
sons may be convicted
of separately receiv-
ing.
24 & 25 Vic., c. 96,
s. 94.

219. If, upon the trial of any two or more persons prosecuted for jointly receiving any property, it shall be proved that one or more of such persons separately received any part or parts of such property, it shall be lawful for the jury to convict such of the persons as shall be proved to have received any part or parts of such property.

Receiving where the
principal has been
guilty of a misdemea-
nor.

220. Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, converting, or disposing whereof is made a misdemeanor by this Act, knowing the same to have been unlawfully stolen, taken, obtained, converted, or disposed of, shall be guilty of a misdemeanor, and may be prosecuted and convicted thereof, whether the person guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Receivers of property
where the original
offence is punishable
on summary convic-
tion.
24 & 25 Vic., c. 96,
s. 97.

221. Where the stealing or taking of any property whatsoever is by this Act punishable on summary conviction, either for every offence or for the first or second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall, on conviction thereof before
a Special

The Criminal Law Consolidation Act.—1876.

a Special Magistrate or two Justices of the Peace, be liable to be imprisoned for any term not exceeding one year, with hard labor.

PART IV.

Restitution and Recovery of Stolen Property :

222. If any person guilty of any such felony or misdemeanor as is mentioned in this Act, in stealing, taking, obtaining, extorting, embezzling, converting, or disposing of, or in knowingly receiving any chattel, money, valuable security, or other property whatsoever, shall be prosecuted for any offence by or on the behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and in every case aforesaid the Court before whom any person shall be tried for any such felony or misdemeanor shall have power to order the restitution thereof in a summary manner: Provided that if such property shall have been expended in the purchase of goods, and the price thereof, or the goods so purchased shall be in the custody, or under the control of the person so convicted, the said Court may order such moneys or goods to be handed over to the person entitled to restitution. And the Court (although the prisoner may be acquitted), if satisfied that any property as aforesaid has been stolen, may in like manner order restitution: Provided that if it shall appear before any award or order made that any valuable security shall have been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate liable to the payment thereof, or being a negotiable instrument shall have been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice, or without any reasonable cause, to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, in such case the Court shall not award or order the restitution of such security: Provided also, that nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker, or other agent intrusted with the possession of goods, or documents of title to goods, for any misdemeanor against this Act.

Owner on conviction of offender to have restitution of his property.

24 & 25 Vic., c. 96, s. 100.

Restitution although prisoner acquitted.

Proviso as to valuable and negotiable securities.

Not to apply to prosecutions of trustees.

223. Whosoever shall corruptly take any money or reward, directly or indirectly, under pretence, or upon account of helping any person to any chattel, money, valuable security, or other property whatsoever, which shall by any felony or misdemeanor have been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, as in this Act before mentioned, shall (unless he shall have used all due diligence to cause the offender to be brought to trial for the same) be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Taking a reward for helping to the recovery of stolen property without bringing the offender to trial.

24 & 25 Vic., c. 96, s. 101.

224. Whosoever shall advertise publicly a reward for the return of any property whatsoever which shall have been stolen and shall in such advertisement use any words purporting that no

Advertising a reward for the return of stolen property, &c.

*The Criminal Law Consolidation Act.—1876.***PART IV.**

Same s. 102.

questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan upon any property stolen the money so paid or advanced, or any other sum of money or reward for the return of such property, or shall print or publish any such advertisement, shall forfeit the sum of Fifty Pounds for every such offence, one-half of the said sum to be paid into the Treasury for the public uses of the said Province, and the other half to be paid to the informer; the same to be sued for by action of debt in any Court of competent jurisdiction, with full costs of suit.

False Personation, &c.:

Personation in order to obtain property.

37 & 38 Vic., c. 36.
s. 1.

Proviso.

225. If any person shall falsely and deceitfully personate any person, or the heir, executor, or administrator, wife, widow, next of kin, or relation of any person, with intent fraudulently to obtain any land, estate, chattel, money, valuable security, or property, he shall be guilty of felony, and upon conviction, shall be liable to be imprisoned with hard labor for life, or any term not less than five years: Provided that nothing in this section contained shall prevent any person from being proceeded against and punished under any other Act, or at common law, in respect of an offence (if any) punishable, as well under this Act as under any other Act, or at common law.

As to Piracy:

Piracy.

28 H. 8, c. 16, ss. 1, 4.
1 Vic., c. 88, ss. 1, 3, 5.

226. Whosoever shall commit any robbery upon the high seas, or in any haven, river, creek, or place within the jurisdiction of the Admiralty of England, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or for any less term, with hard labor.

Piracy and attempt to murder.

1 Vic., c. 88, s. 2.

227. Whosoever, with intent to commit, or at the time of, or immediately before, or immediately after, committing, the crime of piracy in respect of any ship or vessel, shall assault, with intent to murder any person being on board of, or belonging to, such ship or vessel, or shall wound any such person, or unlawfully do any act by which the life of such person may be endangered, shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Robbery or other act of hostility at sea under color of a Foreign commission.

11 & 12 W. 3, c. 7,
s. 8.
18 G. 2, c. 30, s. 1.
1 Vic., c. 88, ss. 3, 5.

228. Whosoever, being a natural born subject of Her Majesty, or a denizen of the United Kingdom of Great Britain and Ireland, shall commit any piracy or robbery, or any act of hostility against any other of Her Majesty's subjects, upon the high seas, or in any haven, river, creek, or place within the jurisdiction of the Admiralty of England, under color of any Commission from any Foreign Prince or State, or pretence of authority from any person whatsoever,

The Criminal Law Consolidation Act.—1876.

soever, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or for any less term, with hard labor.

PART IV.

229. Whosoever, being a commander or master of any ship, or a seaman or mariner, shall, in any place within the jurisdiction of the Admiralty, betray his trust, and turn pirate, enemy, or rebel, and piratically or feloniously run away with, or yield up voluntarily to any pirate his ship, or any barge, boat, ordnance, ammunition, goods, or merchandise, or shall bring any seducing messages from any pirate, enemy, or rebel, or consult, combine, or confederate with, or attempt or endeavor to corrupt any commander, master, officer, or mariner to yield up or run away with any ship, goods, or merchandises, or turn pirate, or go over to pirates; and whosoever shall lay violent hands on his commander, whereby to hinder him from fighting in the defence of his ship and goods committed to his trust, or shall confine his master, or make, or endeavor to make, a revolt in the ship, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or for any less term, with hard labor.

Piracy by master or seaman of ship.

11 & 12 W. 3, c. 7,
s. 9.
1 Vic., c. 88, ss. 3, 5.

230. Whosoever belonging to any ship or vessel whatsoever, upon meeting any merchant ship or vessel on the sea, or in any port, haven, or creek whatsoever, shall forcibly board or enter into such ship or vessel, and although he shall not seize and carry off such ship or vessel, shall throw overboard or destroy any part of the goods or merchandises belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or for any less term, with hard labor.

Forcibly boarding a ship, and throwing the goods overboard.

8 G. 1, c. 25, ss. 1, 4.
1 Vic., c. 88, ss. 3, 5.

231. Whosoever shall in anywise trade with any pirate, by truck, barter, exchange, or in any other manner, or shall furnish any pirate, felon, or robber upon the seas with any ammunition, provision, or stores of any kind, or shall fit out any ship or vessel knowingly, and with a design to trade with, or supply, or correspond with any pirate, felon, or robber upon the seas, or shall in any way consult, combine, confederate, or correspond with any pirate, felon, or robber upon the seas, knowing him to be guilty of any such piracy, felony, or robbery, shall be guilty of felony, and being convicted thereof, be liable to be imprisoned for life, or for any less term, with or without hard labor.

Trading with pirates.

G. 1, c. 24, s. 1.
& 23 C. 2, c. 11.
Vic., c. 88, ss. 3, 5.

PART V.

PART V.

FORGERY.

Forging the Public Seal of the Province:

232. Whosoever shall forge or counterfeit, or shall utter, knowing the same to be forged or counterfeited, the public seal of the Province, or shall forge or counterfeit the stamp or impression of the seal aforesaid, or shall utter any document or instrument whatsoever

Forging the Public Seal, &c.

ever

The Criminal Law Consolidation Act.—1876.

PART V.

ever, having thereon or affixed thereto the stamp or impression of any such forged or counterfeited seal, knowing the same to be the stamp or impression of such forged or counterfeited seal, or any forged or counterfeited stamp or impression made, or apparently intended to resemble the stamp or impression of the seal aforesaid, knowing the same to be forged or counterfeited, or shall forge, or alter, or utter, knowing the same to be forged or altered, any document or instrument having the said stamp or impression thereon or affixed thereto, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labour.

Forging Private Securities:

Forging deeds, bonds,
wills, bills of exchange,
&c.

24 and 25 Vic., c. 98,
s. 20, 21, 22, 23.

233. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any deed, or any bond or writing obligatory, or any assignment at law or in equity of any such bond or writing obligatory, or shall forge any name, handwriting, or signature purporting to be the name, handwriting, or signature of a witness attesting the execution of any deed, bond, or writing obligatory, or shall offer, utter, dispose of, or put off any deed, bond, or writing obligatory, having thereon any such forged name, handwriting, or signature, knowing the same to be forged, or any will, testament, codicil, or testamentary instrument, or any bill of exchange, or any acceptance, indorsement, or assignment of any bill of exchange, or any promissory note for the payment of money, or any indorsement or assignment of any such promissory note, or any undertaking, warrant, order, authority, or request for the payment of money, or for the delivery or transfer of any goods or chattels, or of any note, bill, or other security for the payment of money, or for procuring or giving credit, or any indorsement on or assignment of any such undertaking, warrant, order, authority, or request, or any accountable receipt, acquittance, or receipt for money or for goods, or for any note, bill, or other security for the payment of money, or any indorsement on or assignment of any such accountable receipt, with intent, in any of the cases aforesaid, to defraud, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labour.

Forging Transfers of Stock, &c.:

Forging transfers of
stock, &c.

24 and 25 Vic., c. 98
s. 2.

234. Whosoever shall forge, or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any transfer of any share, or interest of or in, the capital stock of any body corporate, company, or society which now is, or hereafter may be established, or shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any power of attorney or other authority, to transfer any share or interest of or in any such capital stock aforesaid, or to receive any dividend or money payable in respect of any such share or interest, or shall demand or endeavor to have any such share or interest transferred, or to receive any dividend or money payable in respect thereof, by virtue of any such forged or altered power of attorney or other authority,
knowing

The Criminal Law Consolidation Act.—1876.

PART V.

knowing the same to be forged or altered, with intent in any of the cases aforesaid to defraud, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor.

235. Whosoever shall falsely and deceitfully personate any owner of any share or interest of or in the capital stock of any body corporate, company, or society which now is, or hereafter may be, established, or any owner of any dividend or money payable in respect of any such share or interest as aforesaid, and shall thereby transfer or endeavor to transfer any share or interest belonging to any such owner, or thereby receive, or endeavor to receive, any money due to any such owner, as if such offender were the true and lawful owner, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor.

Personating the owner of certain stock, and transferring, or receiving, or endeavoring to transfer or receive the dividends.

24 and 25 Vic., c. 98, s. 3.

236. Whosoever shall forge any name, handwriting, or signature purporting to be the name, handwriting, or signature of a witness, attesting the execution of any power of attorney or other authority to transfer any share or interest of, or in any such capital stock, as is in either of the last two preceding sections mentioned, or to receive any dividend or money payable in respect of any such share or interest, or shall offer, utter, dispose of, or put off any such power of attorney or other authority with any such forged name, handwriting, or signature thereon, knowing the same to be forged, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Forging attestation to power of attorney for transfer of stock.

24 and 25 Vic., c. 98, s. 4.

As to Making and Engraving Plates, &c., for Bank Notes, &c.:

237. Whosoever shall make or use any frame, mould, or instrument for the manufacture of paper, with the name or firm of any person or persons, body corporate, or company, carrying on the business of bankers, appearing visible in the substance of the paper without the authority of such person or persons, body corporate, or company, the proof of which authority shall lie on the party accused, or whosoever shall, without lawful excuse, the proof whereof shall lie on the party accused, knowingly have in his custody or possession any such frame, mould, or instrument, or whosoever shall without such authority, to be proved as aforesaid, manufacture, use, sell, expose to sale, utter, or dispose of, or shall without lawful excuse to be proved as aforesaid, knowingly have in his custody or possession any paper in the substance of which the name or firm of any such person or persons, body corporate, or company, carrying on the business of bankers, shall appear visible, or whosoever shall, without such authority to be proved as aforesaid, cause the name or firm of any such person or persons, body corporate, or company, carrying on the business of bankers, to appear visible in the substance of the paper upon which the same shall be written or printed shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Making, or having mould for making, paper with the name of any bankers making or having such paper.

238. Whosoever

*The Criminal Law Consolidation Act.—1876.***PART V.**

Engraving on plate, &c., any bill of exchange or promissory note of any bankers, or using such plate, or uttering or having any paper upon which part of such bill or note is printed.

24 and 25 Vic., c. 98, s. 17.

238. Whosoever shall engrave or in anywise make upon any plate whatever, or upon any wood, stone, or other material, any bill of exchange or promissory note for the payment of money, or any part of any bill of exchange or promissory note for the payment of money, purporting to be the bill or note or part of the bill or note of any person or persons, body corporate, or company carrying on the business of bankers, without the authority of such person or persons, body corporate, or company, the proof of which authority shall lie on the party accused; or whosoever shall engrave or make upon any plate whatever, or upon any wood, stone, or other material, any word or words resembling or apparently intended to resemble any subscription subjoined to any bill of exchange or promissory note for the payment of money issued by any such person or persons, body corporate, or company carrying on the business of bankers without such authority, to be proved as aforesaid; or whosoever shall without such authority, to be proved as aforesaid, use, or shall without lawful excuse, to be proved by the party accused, knowingly have in his custody or possession any plate, wood, stone, or other material upon which any such bill or note or part thereof, or any word or words resembling or apparently intended to resemble such subscription, shall be engraved or made; or whosoever shall without such authority, to be proved as aforesaid, knowingly offer, utter, dispose of, or put off, or shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper upon which any part of such bill or note, or any word or words resembling or apparently intended to resemble any such subscription, shall be made or printed, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor.

Making or accepting any bill, note, &c., by procuration, without lawful authority, or uttering same, &c.

24 and 25 Vic., c. 98, s. 24.

239. Whosoever, with intent to defraud, shall draw, make, sign, accept, or indorse any bill of exchange or promissory note, or any undertaking, warrant, order, authority, or request, for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note, or other security for money, by procuration or otherwise, for, in the name, or on the account of any other person, without lawful authority or excuse, or shall offer, utter, dispose of, or put off any such bill, note, undertaking, warrant, order, authority, or request so drawn, made, signed, accepted, or indorsed, by procuration or otherwise, without lawful authority or excuse as aforesaid, knowing the same to have been so drawn, made, signed, accepted, or indorsed as aforesaid, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Forging Bank Notes:

Forging bank notes, &c.

24 and 25 Vic., c. 98, s. 12.

240. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any note or bill of exchange of any body corporate, company, or person carrying on the business of bankers, commonly called a bank note, a bank bill

The Criminal Law Consolidation Act.—1876.

PART V.

bill of exchange, or bank post bill, or any indorsement on, or assignment of, any bank note, bank bill of exchange, or bank post bill, with intent to defraud, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned, with hard labor, for life, or any term not less than three years.

241. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall purchase or receive from any other person, or have in his custody or possession, any forged bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same to be forged, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Purchasing, or receiving, or having forged bank notes.

24 and 25 Vic., c. 98, s. 13.

242. Whenever any cheque or draft on any banker shall be crossed with the name of a banker, or with two transverse lines with the words "and company," or any abbreviation thereof, whosoever shall obliterate, add to, or alter any such crossing, or shall offer, utter, dispose of, or put off any cheque or draft whereon any such obliteration, addition, or alteration has been made, knowing the same to have been made, with intent, in any of the cases aforesaid, to defraud, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Obliterating crossings on cheques.

24 and 25 Vic., c. 98, s. 25.

243. Whosoever shall forge or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatsoever, either within the said Province or elsewhere, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Forging debentures.

24 and 25 Vic., c. 98, s. 26.

Forging Records, Process, Instruments of Evidence, &c. :

244. Whosoever shall forge or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any record, writ, return, panel, process, rule, order, warrant, interrogatory, deposition, affidavit, affirmation, recognizance, *cognovit actionem*, or warrant of attorney, or any original document whatsoever of or belonging to any Court of Record, or any bill, petition, process, notice, rule, answer, pleading, interrogatory, deposition, affidavit, affirmation, report, order, or decree, or any original document whatsoever of, or belonging to, any Court of Equity in the said Province, or any document or writing, or any copy of any document or writing, used, or intended to be used, as evidence in any Court in this section mentioned, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned, for any term not exceeding seven years, with hard labor.

Forging proceedings of Courts of Record or Courts of Equity.

24 and 25 Vic., c. 98, s. 27.

245. Whosoever,

The Criminal Law Consolidation Act.—1876.

PART V.

Forging copies or certificates of records, process of Courts not of record, and using forged process.

Same sec. 28.

245. Whosoever, being the Clerk of any Court, or other officer, having the custody of the records of any Court, or being the deputy of any such clerk or officer, shall utter any false copy or certificate of any record, knowing the same to be false, and whosoever, other than such clerk, officer, or deputy, shall sign or certify any copy or certificate of any record as such clerk, officer, or deputy; and whosoever shall forge or fraudulently alter, or offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any copy or certificate of any record, or shall offer, utter, dispose of, or put off any copy or certificate of any record having thereon any false or forged name, handwriting, or signature, knowing the same to be false or forged; and whosoever shall forge the seal of any Court of Record, or shall forge or fraudulently alter any process of any Court other than such Courts as in the last preceding section mentioned, or shall serve or enforce any forged process of any Court whatsoever, knowing the same to be forged, or shall deliver or cause to be delivered to any person any paper falsely purporting to be any such process, or a copy thereof, or to be any judgment, decree, or order of any Court of Law or Equity, or a copy thereof, knowing the same to be false, or shall act or profess to act under any such false process, knowing the same to be false, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Forging instruments made evidence by any Act of Parliament.

Same sec. 29.

246. Whosoever shall forge, or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any instrument, whether written or printed, or partly written and partly printed, which is or shall be made evidence by any Act passed or to be passed, and for which offence no punishment is herein provided, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Forging Registers of Deeds:

Forgery as to the registry of deeds.

Same sec. 31.

247. Whosoever shall forge, or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any memorial, affidavit, affirmation, entry, certificate, endorsement, memorandum, or entry into the Register Book document, or writing, made or issued under the provisions of any Act passed or hereafter to be passed for or relating to the registry of deeds, or the registration of title to lands, or shall forge, or counterfeit the seal of, or belonging to, any office for the registry of deeds, or the registration of title to land, or of the Register-General, or any stamp or impression of any such seal, or shall forge any name, hand-writing, or signature purporting to be the name, handwriting, or signature of any person to any such memorial, affidavit, affirmation, entry, memorandum, entry in Register Book, certificate, endorsement, document, or writing which shall be required, or directed to be signed by, or by virtue of any Act passed or to be passed, or shall offer, utter, dispose of, or put off any such memorial

The Criminal Law Consolidation Act.—1876.

PART V.

memorial or other writing as in this section before mentioned, having thereon any such forged stamp or impression of any such seal, or any such forged name, handwriting, or signature, knowing the same to be forged, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Forging Orders, &c., of Justices of the Peace :

248. Whosoever, with intent to defraud, shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any summons, conviction, order, or warrant of any Justice of the Peace, or any recognizance purporting to have been entered into before any Justice of the Peace, or other officer authorized to take the same, or any examination, deposition, affidavit, affirmation, or solemn declaration, taken or made before any Justice of the Peace, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Forging orders of Justices' recognizances, affidavits, &c.

False Copies of Record, &c.

249. Whosoever belonging to, or employed in the Supreme Court, or any other Court having the custody of records, shall certify any writing as a true and authentic copy of a record in the custody of the same Court, knowing the same to be false in any material part, or shall counterfeit the signature of any officer of the Court for the purpose of counterfeiting a certified copy of a record ; or shall forge or counterfeit the seal of the Supreme Court, or such other Court as aforesaid, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

False copies of record, forging seal of the office, &c.

250. Whosoever, being a clerk, or other officer of any Criminal Court whatsoever, and having the custody of the records of such Court ; or, being the deputy of such clerk or officer, shall utter a false certificate of any information and conviction for a previous felony ; or whosoever, other than such clerk, officer, or deputy, shall sign any such certificate as such clerk, officer, or deputy, or shall utter any such certificate with a false or counterfeit signature thereto, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years with hard labor.

False certificate of a previous conviction.

251. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any certificate of, or copy certified by, the Chief Justice or any Judge, or any certificate of, or copy certified by an associate, or his deputy, or the clerk of any Local Court, as the case may be, or of any determination of any of the Judges in any criminal case reserved for their opinion upon any question of law, with the intent to cause any person to be discharged from custody, or otherwise prevent the due course of justice, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding six years with hard labor.

Penalty for forgery of certificates, &c.

252. Whosoever

The Criminal Law Consolidation Act.—1876.

PART V.

Forging seal or signature to certain documents or tendering the same in evidence.

252. Whosoever shall forge the seal, stamp, or signature of any certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or of any certified copy of any document, by-law, entry in any register or other book, or other proceeding receivable in evidence of any particular in any Court of Justice or before any legal tribunal, or either House of Parliament or any committee of either House, or in any judicial proceeding under any Act of Parliament passed or to be passed, or shall tender in evidence any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, by-law, entry in any register or other book, or of any other proceeding with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, whether such seal, stamp, or signature be that of or relating to any corporation or company established or to be hereafter established, or shall forge the signature of any Judge of the Supreme Court attached or appended to any decree, order, certificate, or other judicial or official document, or shall tender in evidence any order, decree, certificate, or other judicial or official document with a false or counterfeit signature of any Judge thereto, knowing the same to be false or counterfeit, or shall print any copy of any private Act or of the journals of either House of Parliament, which copy shall falsely purport to have been printed by the Government Printer, or shall tender in evidence any such copy knowing that the same was not printed by the said Government Printer, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor: Provided, that whenever any such document as in this section before mentioned shall have been received in evidence by virtue of any Act of Parliament, the Court, Judge, Commissioner, or other person officiating judicially who shall have admitted the same shall, on the request of any party against whom the same is so received, be authorized, at its or at his own discretion, to direct that the same shall be impounded and be kept in the custody of some officer of the Court or other proper person, until further order touching the same shall be given, either by such Court or the Court to which such officer belonged, or by the persons or person who constituted such Court, or by some one of the said Judges, on application being made for that purpose.

Proviso.

Falsely Acknowledging Recognizances, &c.:

Acknowledging recognizance, bail, cognovit, &c.

24 and 25, Vic., c. 98, s. 34.

253. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall, in the name of any other person, acknowledge any recognizance or bail, or any *cognovit actionem*, or judgment, or any deed or other instrument, before any Court, Judge, or other person lawfully authorized in that behalf, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with hard labor.

Forging or uttering false certificates of quarantine.

254. Whosoever shall knowingly or wilfully forge or counterfeit, interline, erase, or alter, or procure to be forged or counterfeited, interlined,

The Criminal Law Consolidation Act.—1876.

PART V.

interlined, erased, or altered, any certificate directed or required to be granted by any Act of Parliament now in force or hereafter to be passed in the said Province touching quarantine; or shall publish any such forged or counterfeited, interlined, erased, or altered certificate, knowing the same to be forged or counterfeited, interlined, erased, or altered; or shall knowingly or wilfully utter and publish any such certificate, with the intent to obtain the effect of a true certificate to be given thereto, knowing the contents of such certificate to be false, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Demanding Property upon Forged Instruments:

255. Whosoever, with intent to defraud, shall demand, receive, or obtain, or cause or procure to be delivered or paid to any person, or endeavor to receive or obtain, or to cause or procure to be delivered or paid to any person, any chattel, money, security for money, or other property whatsoever, under, upon, or by virtue of any forged or altered instrument whatsoever, knowing the same to be forged or altered, or under, upon, or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration shall have been obtained to have been forged or altered, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years, with hard labor.

Demanding property upon forged instruments.

24 and 25 Vic., c. 98, s. 38.

Other Matters:

256. Where by this or any other Act any person is, or shall hereafter be made liable to punishment for forging or altering, or for offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any instrument or writing designated in such Act by any special name or description, and such instrument or writing, however designated, shall be in law a will, testament, codicil, or testamentary writing, or a deed, bond, or writing obligatory, or a bill of exchange, or a promissory note for the payment of money, or an indorsement on or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, order, authority, or request for the payment of money, or an indorsement on, or assignment of, an undertaking, warrant, order, authority, or request for the payment of money, within the true intent and meaning of this Act, in every such case the person forging or altering such instrument, or writing, or offering, uttering, or disposing of, or putting off, such instrument or writing, knowing the same to be forged or altered, may be informed against as an offender against this Act, and punished accordingly.

Forging any instrument, however designated, which is in law a will, bill of exchange, &c.

Same, s. 39

257. Where

The Criminal Law Consolidation Act.—1876.

PART V.

Forging in South Australia documents purporting to be made or actually made out of South Australia; forging, &c., in South Australia, bills of exchange, &c., purporting to be payable out of South Australia.

Same, s. 40.

7, 1859, s. 9.

257. Where the forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this Act expressed to be an offence, if any person shall, in the said Province, forge or alter, or offer, or utter, dispose of, or put off, knowing the same to be forged or altered, any such writing or matter, in whatsoever place or country out of the said Province, whether under the dominion of Her Majesty or not, such writing or matter may purport to be made or may have been made, and in whatever language the same or any part thereof may be expressed, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in the said Province; and if any person shall, in the said Province, forge or alter, or offer, utter, or dispose of, or put off, knowing the same to be forged or altered, any bill of exchange, or promissory note for the payment of money, or any endorsement or assignment of any bill of exchange or promissory note for the payment of money or any acceptance of any bill of exchange, or any undertaking, warrant, order, authority, or request for the payment of money, or for the delivery or transfer of any goods or security, or any deed, bond, or writing obligatory for the payment of money (whether such deed, bond, or writing obligatory shall be made only for the payment of money, or for the payment of money together with some other purpose), or any indorsement on, or assignment of any such undertaking, warrant, order, authority, or request, deed, bond, or writing obligatory, in whatever place or country, whether under the dominion of Her Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, authority, request, deed, bond, or writing obligatory, may be or may purport to be payable, and in whatever language the same respectively or any part thereof may be expressed, and whether such bill, note, undertaking, warrant, order, authority, or request, be or be not under seal, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the money had been payable, or had purported to be payable in the said Province.

Forgeries not already specified.

258. Whosoever shall forge any instrument or matter, the forging of which is not punishable under any of the preceding sections, or under any other Act of the Parliament of South Australia, shall, on conviction, be liable to be imprisoned for any term not exceeding fourteen years with hard labor.

Description of instrument in informations for forgery.

24 and 25 Vic., c. 98, s. 42.

7, 1859, s. 10.

259. In any information for forging, altering, offering, uttering, disposing, or putting off any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or facsimile thereof, or otherwise describing the same or the value thereof.

The Criminal Law Consolidation Act.—1876.

260. In any information for engraving or making the whole or any part of any instrument, matter, or thing whatsoever, or for using or having the unlawful custody or possession of any plate or other material upon which the whole or any part of any instrument, matter, or thing whatsoever, shall have been engraved or made, or for having the unlawful custody or possession of any paper upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by which the same may be usually known, without setting out any copy or facsimile of the whole or any part of such instrument, matter, or thing.

PART V.

Description of instrument in informations for engraving, &c.

24 and 25 Vic., c. 98, s. 43.

261. It shall be sufficient in any information for forging, altering, uttering, offering, disposing of, or putting off any instrument whatsoever, where it shall be necessary to allege an intent to defraud, to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and on the trial of any such offence it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

Intent to defraud particular persons need not be alleged or proved.

24 and 25 Vic., c. 98, s. 44.

262. Where the having any matter in the custody or possession of any person is in this part of the Act expressed to be an offence, if any person shall have any such matter in his personal custody or possession, or shall knowingly and wilfully have any such matter in the actual custody or possession of any other person, or shall knowingly and wilfully have any such matter in any dwelling-house or other building, lodging, apartment, field, or other place, open or enclosed, whether belonging to, or occupied by, himself or not, and whether such matter shall be so had for his own use or for the use or benefit of another, every such person shall be deemed and taken to have such matter in his custody or possession within the meaning of this Act.

Interpretation as to criminal possession.

Same s. 45.

263. If it shall be made to appear, by information on oath or affirmation before a Justice of the Peace, that there is reasonable cause to believe that any person has in his custody or possession, without lawful authority or excuse, any note or bill of any body corporate, company, or person carrying on the business of bankers, or any frame, mould, or implement for making paper in imitation of the paper used for such notes or bills, or any such paper, or any plate, wood, stone, or other material having thereon any words, forms, devices, or characters capable of producing, or intending to produce, the impression of any such note or bill, or any part thereof, or any tool, implement, or material used or employed, or intended to be used or employed, in or about any of the operations aforesaid, or any forged security, document, or instrument whatsoever, or any machinery, frame, mould, plate, die, seal, paper, or other matter or thing used or employed, or intended to be used or employed, in the forgery of any security, document, or instrument whatsoever, such Justice may, if he think fit, grant a warrant to search for the same ; and

Search for paper or implements employed in any forgery, and for forged instruments.

Same s. 46.

*The Criminal Law Consolidation Act.—1876.***PART V.**

and if the same shall be found upon such search, it shall be lawful to seize and carry the same before some Justice of the Peace to be by him disposed of according to law; and all such matters and things so seized, as aforesaid, shall, by order of the Court where any such offender shall be tried, or in case there shall be no such trial, then, by order of some Justice of the Peace, be defaced and destroyed, or otherwise disposed of, as such Court or Justice shall direct.

PART VI.**PART VI.****OFFENCES RELATING TO THE COIN.**

Interpretation of terms.

24 and 25 Vic., c. 99, s. 1

Current gold and silver coin.

Copper coin.

False or counterfeit coin.

Current coin.

What shall be possession.

264. In the interpretation of, and for the purposes of this part of this Act, the expression "The Queen's Current Gold or Silver Coin," shall include any gold or silver coin coined in any of Her Majesty's mints, or lawfully current by virtue of any proclamation or otherwise, in any part of Her Majesty's dominions, whether within the United Kingdom or otherwise; and the expression "The Queen's Copper Coin," shall include any copper coin, and any coin of bronze or mixed metal coined in any of Her Majesty's mints, or lawfully current by virtue of any proclamation or otherwise, in any part of Her Majesty's said dominions; and the expression "False or Counterfeit Coin resembling or apparently intended to resemble and pass for any of the Queen's current gold or silver coin," shall include any of the current coin which shall have been gilt, silvered, washed, coloured, or cased over, or in any manner altered, so as to resemble, or be apparently intended to resemble, or pass for, any of the Queen's current coin of a higher denomination; and the expression "The Queen's Current Coin," shall include any coin coined in any of Her Majesty's mints, or lawfully current by virtue of any proclamation or otherwise, in any part of Her Majesty's said dominions, and whether made of gold, silver, copper, bronze, or mixed metal; and where the having, any matter in the custody or possession of any person is mentioned in this part of the Act, it shall include, not only the having of it by himself in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully having it in any dwelling-house or other building, lodging, apartment, field, or other place, open or enclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or benefit, or that of any other person.

Counterfeiting gold and silver coin.

24 & 25 Vic., c. 99, s. 2.

265. Whosoever shall falsely make or counterfeit any coin resembling, or apparently intended to resemble, or pass for, any of the Queen's current gold or silver coin, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Coloring counterfeit coin or any pieces of metal with intent to make them pass for gold or silver coin.
The same, s. 3.

266. Whosoever shall gild or silver, or shall, with any wash or materials capable of producing the color or appearance of gold or of silver, or by any means whatsoever, wash, case over, or color any

The Criminal Law Consolidation Act.—1876.

PART VI.

any coin whatsoever resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin ; or shall gild or silver, or shall, with any wash or materials capable of producing the color or appearance of gold or of silver, or by any means whatsoever, wash, case over, or color any piece of silver or copper, or of coarse gold or of coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into false and counterfeit coin, resembling, or apparently intended to resemble, or pass for, any of the Queen's current gold or silver coin ; or shall gild, or shall with any wash or materials capable of producing the color or appearance of gold, or by any means whatsoever, wash, case over, or color any of the Queen's current silver coin, or file, or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold coin ; or shall gild or silver, or shall, with any wash or materials capable of producing the color or appearance of gold or silver, or by any means whatsoever wash, case over, or color any of the Queen's current copper coin, or file, or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold or silver coin, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Coloring or altering genuine coin with intent to make it pass for a higher coin.

267. Whosoever shall impair, diminish, or lighten any of the Queen's current gold or silver coin, with intent that the coin so impaired, diminished, or lightened may pass for the Queen's current gold or silver coin, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for eight years, or any term not less than three years, with hard labor.

Impairing the gold or silver coin with intent, &c.

268. Whosoever shall unlawfully have in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution, or otherwise, which shall have been produced or obtained by impairing, diminishing, or lightening any of the Queen's current gold or silver coin, knowing the same to have been so produced or obtained, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Unlawful possession of filings or clippings of gold or silver coin.

24 & 25 Vic., c. 99, 5.

269. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off any false or counterfeit coin, resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin at or for a lower rate or value than the same imports, or was apparently intended to import, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor ; and in any information for any such offence, as in this section aforesaid, it shall be sufficient to allege that the party accused did buy, sell, receive, pay, or put off, or did offer to buy, sell, receive, pay, or put off the false

Buying or selling, &c., counterfeit gold or silver coin for lower value than its denomination.

Same, s. 6.

The Criminal Law Consolidation Act.—1876.

[PART VI.]

false or counterfeit coin at or for a lower rate or value than the same imports, or was apparently intended to import, without alleging at or for what rate, price, or value the same was bought, sold, received, paid, or put off, or offered to be bought, sold, received, paid, or put off.

Importing counterfeit coin.

270. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall import or receive into the said Province, or export from the said Province, any false or counterfeit coin, resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

Sec. 7 and 8.

Uttering counterfeit gold or silver coin.

271. Whosoever shall tender, utter, or put off any false or counterfeit coin, resembling or apparently intended to resemble, or pass for any of the Queen's current gold or silver coin (knowing the same to be false or counterfeit) shall be guilty of a felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Same, s. 9.

Uttering accompanied by possession of other counterfeit coin, or followed by a second uttering.

272. Whosoever shall tender, utter, or put off, any false or counterfeit coin, resembling or apparently intended to resemble, or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and shall, at the time of such tendering, uttering, or putting off, have in his custody or possession, besides the false or counterfeit coin so tendered, uttered, or put off, any other piece of false or counterfeit coin, resembling, or apparently intended to resemble, or pass for any of the Queen's current gold or silver coin, or shall, either on the day of such tendering, uttering, or putting off, or within the space of ten days then next ensuing, tender, utter, or put off, any false or counterfeit coin resembling, or apparently intended to resemble, or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of a felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Same, s. 10.

Having three or more pieces of counterfeit gold or silver coin in possession, &c., with intent, &c.

273. Whosoever shall have in his custody or possession three or more pieces of false or counterfeit coin, resembling, or apparently intended to resemble, or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same, or any of them, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

24 & 25 Vic., c. 99, s. 11.

Every second offence of uttering, &c., after a previous conviction, shall be felony.

274. Whosoever having been convicted, either before or after the passing of this Act, of any misdemeanor in the last preceding section mentioned, or of any felony against this or any former Act relating to the coin, shall afterwards commit any misdemeanor

Same s. 12.

in

The Criminal Law Consolidation Act.—1876.

PART VI.

in the said section mentioned, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any term not less than three years, with hard labor.

275. Whosoever shall, with intent to defraud, tender, utter, or put off, as or for any of the Queen's current gold or silver coin, any coin not being such current gold or silver coin, or any medal or piece of metal, or mixed metals, resembling in size, figure, and color the current coin as or for which the same shall be so tendered, uttered, or put off, such coin, medal, or piece of metal, or mixed metals, so rendered, uttered, or put off, being of less value than the current coin as or for which the same shall be so tendered, uttered, or put off, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year, with hard labor.

Uttering foreign coin, medals, &c., as current coin, with intent to defraud.

Same, s. 13.

276. Whosoever shall falsely make or counterfeit any coin resembling, or apparently intended to resemble or pass for any of the Queen's current copper coin; and whosoever, without lawful authority or excuse (the proof whereof shall be on the party accused), shall knowingly make or mend, or begin to proceed to make or mend, or buy or sell, or have in his custody or possession, any tool, instrument, or engine adapted and intended for the counterfeiting of any of the Queen's current copper coin; or shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any false or counterfeit coin resembling, or apparently intended to resemble, or pass for, any of the Queen's current copper coin, at or for a lower rate or value than the same imports, or was apparently intended to import, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, nor less than three years, with hard labor.

Counterfeiting, &c., copper coin.

Same, s. 14.

277. Whosoever shall tender, utter, or put off any false or counterfeit coin, resembling, or apparently intended to resemble or pass for any of the Queen's current copper coin, knowing the same to be false or counterfeit, or shall have in his custody or possession three or more pieces of false or counterfeit coin, resembling, or apparently intended to resemble, or pass for, any of the Queen's current copper coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same, or any of them, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year, with hard labor.

Uttering base copper coin.

24 & 25 Vic. c. 99
15.

278. Whosoever shall deface any of the Queen's current gold, silver, or copper coin, by stamping thereon any names, words, letters, or figures, whether such coin shall or shall not be thereby diminished or lightened, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year, with hard labor.

Defacing the coin by stamping words, &c. thereon.

Same, s. 16.

279. No tender of payment of money made in any gold, silver, or copper coin, so defaced by stamping as in the last preceding section mentioned

Tender of coin so defaced not to be a legal

*The Criminal Law Consolidation Act.—1876.***PART VI.**

- tender, and penalty for uttering the same.
Same, s. 17.
- Counterfeit foreign gold and silver coin.
Same s. 18.
- Bringing such counterfeit coin into the Province,
Same, s. 19.
- Penalty for uttering such counterfeit coin,
Same, s. 20.
- Second offence of uttering counterfeit foreign coin.
- Persons counterfeiting foreign coin other than gold and silver coin.
Same, c. 22.
- Making, mending, or having possession of any coining tools felony.
- mentioned, shall be allowed to be a legal tender; and whosoever shall tender, utter, or put off any coin so defaced shall, on conviction before a Special Magistrate or two Justices of the Peace, be liable to pay a sum not exceeding Forty Shillings: Provided that it shall not be lawful for any person to proceed for such penalty without first obtaining the consent of the Attorney-General.
280. Whosoever shall make or counterfeit any kind of coin, not being the Queen's current gold or silver coin, but resembling, or apparently intended to resemble, or pass for, any gold or silver coin of any foreign prince, state, or country, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, and not less than three years, with hard labor.
281. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall bring or receive into the said Province any such false or counterfeit coin, resembling, or apparently intended to resemble, or pass for, any gold or silver coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for seven years, or any term not less than three years, with hard labor.
282. Whosoever shall tender, utter, or put off any such false or counterfeit coin, resembling, or apparently intended to resemble, or pass for, any gold or silver coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding six months, with hard labor.
283. Whosoever, having been so convicted as in the last preceding section mentioned, shall afterwards commit the like offence of tendering, uttering, or putting off any such false or counterfeit coin as aforesaid, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding five years, with hard labor.
284. Whosoever shall falsely make or counterfeit any kind of coin not being the Queen's current coin, but resembling or apparently intended to resemble or pass for any copper coin, or any other coin made of any metal or mixed metals of less value than the silver coin of any foreign prince, state, or country, shall be guilty of a misdemeanor, and being convicted thereof shall be liable for the first offence to be imprisoned for any term not exceeding one year with hard labor, and for the second offence to be imprisoned for any term not exceeding five years with hard labor.
285. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall knowingly make or mend, or begin or proceed to make or mend, or buy or sell, or have

The Criminal Law Consolidation Act.—1876.

PART VI.

have in his custody or possession any puncheon, counter-puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which will make or impress, or which shall be adapted and intended to make or impress, the figure, stamp, or apparent resemblance of both or either of the sides of any of the Queen's current gold or silver coin, or of any coin of any foreign prince, state, or country, or any part or parts of both or either of such sides; or shall make or mend, or begin or proceed to make or mend, or shall buy or sell, or have in his custody or possession any edger, edging or other tool, collar instrument, or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any such coin as in this section aforesaid, knowing the same to be so adapted and intended as aforesaid; or shall make or mend, or begin or proceed to make or mend, or shall buy or sell, or have in his custody or possession, any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance round blanks out of gold, silver, or other metal or mixture of metals, or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been used or intended to be used for, or in order to, the false making or counterfeiting of any such coin as in this section aforesaid, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or for any term not less than three years, with hard labor.

Same s. 24.

286. Where any coin shall be tendered as the Queen's current gold or silver coin, to any person who shall suspect the same to be diminished, otherwise than by reasonable wearing, or to be counterfeit, it shall be lawful for such person to cut, break, bend, or deface, such coin, and if any coin so cut, broken, bent, or defaced, shall appear to be diminished, otherwise than by reasonable wearing, or to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same shall be of due weight, and shall appear to be lawful coin, the person cutting, breaking, bending, or defacing the same is hereby required to receive the same at the rate it was coined for; and if any dispute shall arise whether the coin so cut, broken, bent, or defaced, be diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in a summary manner, by a Special Magistrate or two Justices of the Peace, who are hereby empowered to examine upon oath as well the parties, as any other person, in order to the decision of such dispute.

Coin suspected to be diminished or counterfeit, may be cut by any person to whom it is tendered.

Same s. 26.

Who shall bear the loss.

287. Where, upon the trial of any person charged with any offence against this Act, it shall be necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall be sufficient to prove the same to be false or counterfeit by the evidence of any two credible witnesses.

What shall be sufficient proof of coin being counterfeit.

Same, s. 29.

288. Every offence of falsely making or counterfeiting any coin, or of buying, selling, receiving, paying, tendering, uttering, or putting off, or of offering to buy, sell, receive, pay, utter, or put off,

When the counterfeiting coin shall be complete.

The Criminal Law Consolidation Act.—1876.

PART VI.

Same s. 30.

off, any false or counterfeit coin, against the provisions of this Act, shall be deemed to be complete, although the coin so made, or counterfeited, or bought, sold, received, paid, tendered, uttered, or put off, or offered to be bought, sold, received, paid, uttered or put off, shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

PART VII.

PART VII.

OFFENCES OF A PUBLIC NATURE.

Offences against Public Justice:

Compounding a felony without leave of the Court.

18 Eliz., c. 5, s. 4.

289. Whosoever shall, by color or pretence of process, or, without process, upon color or pretence of any matter of offence against the penal law, make any composition, or take any money, reward, or promise of reward, for himself or to the use of any other, without the order or consent of the Supreme Court, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Rescuing a murderer.

25 Geo. 2, c. 37, s. 9.

290. Whosoever shall by force set at liberty or rescue, or attempt to rescue or set at liberty, any person out of prison who shall be committed for or found guilty of murder, or rescue or attempt to rescue any person convicted of murder going to execution or during execution, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor.

Perjury and subornation.

291. Whosoever shall be convicted of wilful and corrupt perjury or subornation of perjury, shall be liable to be imprisoned for any term not exceeding four years, with hard labor: and in all cases in which an oath may lawfully be and shall have been administered to any person, either as a juryman, or a witness, or a deponent in any proceeding, civil or criminal, in any Court of Law or Equity in the said Province, or an appointment to any office or employment, or on any occasion whatever, such person is bound by the oath administered, provided the same shall have been administered in such form and with such ceremonies as such person may declare to be binding; and every such person, in case of wilful false swearing, may be convicted of the crime of perjury, in the same manner as if the oath had been administered in the form and with the ceremonies most commonly adopted.

False declaration.

292. Whosoever, being by law authorized to make an affirmation or declaration in lieu of an oath, shall wilfully, falsely, and corruptly affirm or declare any matter or thing, which if the same had been sworn in the usual form would have amounted to the crime of wilful and corrupt perjury, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Form of information for perjury and like offences.

293. In every information for perjury, or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making,

The Criminal Law Consolidation Act.—1876.

PART VII.

making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing was taken, made, signed, or subscribed, without setting forth the bill, answer, information, declaration, or any part of any proceeding, either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

294. In every information for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly to take, make, sign, or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, whenever such perjury or other offence shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner in the last preceding section mentioned, and then to allege that the defendant unlawfully, wilfully, and corruptly did cause and procure the said person the said offence, in manner and form aforesaid, to do and commit; and whenever such perjury or other offence shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things by the last preceding section rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Form of information for subornation of perjury and like offences.

295. It shall be lawful for the Judges or any Judge of the Supreme Court, or for any Commissioner of Insolvency, or any Judge of any Court of Record, or for any Special Magistrate, or any Justices or Justice of the Peace, or for the Sheriff or his lawful deputy or other officer of the Supreme Court before whom any writ of inquiry or writ of trial from the Supreme Court shall be executed, in case it shall appear to him or them that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer, or other proceeding made or taken before him or them, to direct such person to be prosecuted for such perjury, in case there shall appear to him or them a reasonable cause for such prosecution, and thereupon such person shall be immediately taken before a Justice of the Peace, to be dealt with according to law.

Court may order prosecution.

14 & 15 Vic., c. 100, s. 19.

296. Whosoever, being a Justice of the Peace or other person, shall knowingly administer, or cause or allow to be administered, or receive, or cause or allow to be received, any oath, affidavit, or solemn affirmation touching any matter or thing whereof such Justice or other person has not jurisdiction or cognizance by some Statute in force at the time being, shall be guilty of a misdemeanor, and,

Justices unlawfully administering oaths.

The Criminal Law Consolidation Act.—1876.

PART VII.

Proviso.

and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year: Provided that nothing in this section contained shall extend to any oath, affidavit, or solemn affirmation before any Justice in any matter or thing touching the preservation of the peace, or the prosecution, trial, or punishment of offences, or touching any proceedings before either House of Parliament or any committee thereof respectively, or to any proceedings before any Commission, nor to any oath, affidavit, or affirmation which may be required by the laws of any foreign country to give validity to instruments in writing designed to be used in such foreign countries respectively.

Associate or others exacting fees from prisoners acquitted.

297. Whosoever, being an associate, clerk of a Court, or any other officer, shall exact any fee or gratuity from any prisoner on his entrance or commitment to or discharge from prison, or from any person who shall be charged with any felony or misdemeanor before any Court of Criminal Jurisdiction, and who on his trial shall be acquitted, or who shall be discharged in any other way, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year, with hard labor.

Gaoler exacting fees from prisoners.

298. Whosoever, being a gaoler, shall exact from any prisoner any fee or gratuity for or on account of the entrance, commitment, or discharge of such prisoner, or shall detain any prisoner in custody for nonpayment of any fee or gratuity, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year, with hard labor.

Offences against the Public Peace :

Forcible entry.

5 Ric. 2, c. 8.

21 Jac. 1, c. 15.

31 Eliz., c. 11.

Proviso.

299. No one from henceforth shall make any entry into any lands or tenements, whether freehold, or holden for a term of years, or by elegit, but in case where entry is given by law, and in that case not with a strong hand, nor with a multitude of people, but only in a peaceable and easy manner; and whosoever shall do the contrary shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with hard labor: Provided that no restitution upon any information of forcible entry, or holding with force, be made to any person if the person so informed against has had the occupation or has been in quiet possession by the space of three whole years together next before the day of such information being so found, and his estate therein not ended or determined: which the party informed against may allege for stay of restitution, and restitution to stay until that be tried, if the other will deny or traverse the same; and if the same allegation be tried against the same person so informed against, then the same person so informed against to pay such costs and damages to the other party as shall be assessed by the Court before whom the same shall be tried.

The Criminal Law Consolidation Act.—1876.

300. If any persons, to the number of twelve or more, being unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace, and being required or commanded by any Special Magistrate, or Justice of the Peace, or by the Sheriff of the Province, or by the Mayor of the City of Adelaide or Mayor of any Corporate town, where such assembly shall be, by proclamation to be made in the Queen's name, in the form hereinafter directed, to disperse themselves, and peaceably to depart to their habitations or lawful business, shall, to the number of twelve or more (notwithstanding such proclamation made), unlawfully, riotously, and tumultuously remain or continue together for the space of one hour after such command or request made by proclamation, then such persons continuing together to the number of twelve or more, after such command or request made by proclamation, shall be guilty of felony, and every offender therein, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor: and the order and form of the proclamation to be made by the authority of this Act shall be as follows, that is to say—The Special Magistrate, or other persons authorized by this Act to make the said proclamation, shall, among the said rioters, or as near to them as he can safely come, with a loud voice command, or cause to be commanded, silence to be kept while proclamation is making, and after that shall openly and with loud voice make, or cause to be made, proclamation in these words:—

“ Our Sovereign Lady the Queen chargeth and commandeth all persons being assembled immediately to disperse themselves, and peaceably to depart to their habitations or to their lawful business. God save the Queen.”

And every such Special Magistrate, Justice of the Peace, Sheriff, or Mayor aforesaid is hereby authorized, empowered, and required, on notice or knowledge of any such unlawful, riotous, and tumultuous assembly, to resort to the place where such unlawful, riotous, and tumultuous assembly shall be, of persons to the number of twelve or more, and there to make, or cause to be made, proclamation in manner aforesaid.

301. Whosoever shall wilfully and knowingly oppose, obstruct, or in any manner wilfully and knowingly hinder, or hurt any person that shall begin to proclaim, or go to proclaim, according to the proclamation by the last preceding section directed to be made, whereby such proclamation shall not be made, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, or any less term, with hard labor; and also all persons so being unlawfully, riotously, and tumultuously assembled, to the number of twelve or more, as in the last preceding section mentioned, to whom proclamation should or ought to have been made if the same had not been hindered as aforesaid, shall likewise, in case they or any of them, to the number of twelve, or more, shall continue together and not disperse themselves within one hour after such hindrance so made, having knowledge of such hindrance so made, be guilty of felony, and, being convicted thereof, shall

PART VII.

Rioters remaining after proclamation.

1 G. 1st c. 5, s. 1.

Rioters opposing the making of proclamation.

1 G. 1st c. 5, s. 1.

*The Criminal Law Consolidation Act.—1876.***PART VII.**

shall be liable to be imprisoned for life, or any less term, with hard labor.

Seamen, &c., riotously preventing ship being loaded.

33 G. 3, c. 67, s. 1.

302. If any seamen, ship carpenters, or other persons riotously assembled together, to the number of three or more, shall unlawfully and with force prevent, hinder, or obstruct the loading or unloading, or the sailing or navigating of any ship, or other vessel, or shall unlawfully and with force board any ship, or other vessel, with intent to prevent, hinder, or obstruct the loading or unloading, or the sailing or navigating of such ship, or other vessel, every such offender shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year, with hard labor.

Offending a second time.

33 G. 3, c. 67, s. 1.

303. Whosoever, after being convicted of any offence in the last preceding section mentioned, shall afterwards offend again in a like manner, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding eight years, with hard labor: Provided that no person shall be prosecuted by virtue of either this or of the last preceding section for any offence therein mentioned, unless the prosecution be commenced within one year after the offence committed.

Defamatory libel.

6 & 7 Vic., c. 96, s. 5.

304. Whosoever shall maliciously publish any defamatory libel, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to a fine or imprisonment, or both; such imprisonment not to exceed one year, and such fine not to exceed Five Hundred Pounds.

Publishing defamatory libel knowing it to be false.

6 & 7 Vic., c. 96, s. 4.

305. Whosoever shall maliciously publish any defamatory libel, knowing the same to be false, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned, for any term not exceeding two years, and to pay such fine, not exceeding One Thousand Pounds, as the Court may award.

Plea in such cases.

6 & 7 Vic., c. 96, s. 6.

306. On the trial of any information for a defamatory libel, the defendant having pleaded such plea as in this section mentioned, the truth of the matters charged may be inquired into, but shall not amount to a defence unless it was for the public benefit that the said matters charged should be published; and to entitle the defendant to give evidence of the truth of such matters charged as a defence to such information it shall be necessary for the defendant, in pleading to the said information, to allege the truth of the said matters charged in the manner now required in pleading a justification to an action for defamation, and further to allege that it was for the public benefit that the said matters charged should be published, and the particular fact or facts by reason whereof it was for the public benefit that the said matters charged should be published; to which plea the prosecutor shall be at liberty to reply generally, denying the whole thereof; and if after such plea the defendant shall be convicted on such information it shall be competent

The Criminal Law Consolidation Act.—1875.

PART VII.

competent for the Court, in pronouncing sentence, to consider whether the guilt of the defendant is aggravated or mitigated by the said plea and by the evidence given to prove or disprove the same: Provided, that the truth of the matters charged in the alleged libel complained of by such information shall in no case be inquired into without such plea of justification: Provided also, that in addition to such plea it shall be competent for the defendant to plead a plea of not guilty: Provided also, that nothing in this section contained shall take away or prejudice any defence under the plea of not guilty which it is now competent for the defendant to make under such plea to any action or information for defamatory words or libel.

307. It shall be lawful for any person who now is or hereafter shall be a defendant in any civil or criminal proceeding commenced or prosecuted in any manner soever, for or on account or in respect of the publication by such person or his servant, by or under the authority of either House of Parliament, of any report, paper, votes, or proceedings of either House of Parliament as such House of Parliament shall deem fit or necessary to be published, to bring before the Court in which such proceeding shall have been or shall be so commenced or prosecuted, first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceeding, a certificate under the hand of the President of the Legislative Council for the time being, or of the Clerk of said Council, or of the Speaker of the House of Assembly, or of the Clerk of the said House, stating that the report, paper, votes, or proceedings, as the case may be, in respect whereof such civil or criminal proceeding shall have been commenced or prosecuted, was published by such person, or by his servant or servants, by order or under the authority of the Legislative Council or of the House of Assembly, as the case may be, together with an affidavit verifying such certificate; and such Court or Judge shall thereupon immediately stay such civil or criminal proceeding, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act; and in case of any such proceeding for or on account or in respect of the publication of any copy of such report, paper, votes, or proceedings, it shall be lawful for the defendant at any stage of the proceedings to lay before the Court or Judge such report, paper, votes, or proceedings, and such copy, with an affidavit verifying such report, paper, votes, or proceedings and the correctness of such copy; and the Court or Judge shall immediately stay such civil or criminal proceeding, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act.

Proceedings when stayed.

3 Vic., c. 9, s. 1.

308. Whenever upon the trial of any information for the publication of a libel, under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication
K
against

Evidence.

6 & 7 Vic., c. 96, s. 7

The Criminal Law Consolidation Act.—1876.

PART VII

against the defendant by the act of any other person by his authority, it shall be competent for such defendant to prove that such publication was made without his authority, consent, or knowledge, and that the said publication did not arise from want of due care or caution on his part; and in any civil or criminal proceeding to be commenced or prosecuted for printing any extract from or abstract of such report, paper, votes, or proceedings, as in the last preceding section mentioned, it shall be lawful to give in evidence under the general issue such report, paper, votes, or proceedings, and to show that such extract or abstract was published *bonâ fide* and without malice, and if such shall be the opinion of the jury a verdict of not guilty shall be entered for the defendant.

Verdict.

G. 3, c. 60, s. 1.

309. Upon the trial of any information for making or publishing a libel, where any issue is joined on the plea of not guilty, the jury may give a general verdict of guilty or not guilty upon the whole matter put in issue, and shall not be required or directed by the Court or Judge before whom such information shall be tried to find the defendant guilty merely on proof of the publication by such defendant of the paper charged to be a libel, and of the sense ascribed to the same in such information: Provided that nothing in this section contained shall extend, or be construed to extend, to prevent the jury from finding a special verdict in their discretion as in other criminal cases: Provided also that on every such trial the Court or Judge shall give their or his opinion and directions to the jury on the matter in issue, in like manner as in other criminal cases.

Costs in such cases.

Vic., c. 96, s. 8.

310. In the case of any information by a private prosecutor for the publication of any defamatory libel, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the said defendant by reason of such information; and upon a special plea of justification to such information, if the issue be found for the prosecutor, he shall be entitled to recover from the defendant the costs sustained by the prosecutor by reason of such plea; such costs so to be recovered by the defendant or prosecutor respectively to be taxed by the Master of the Supreme Court.

Master appointed to tax costs.

Offences against Public Trade:

Destroying granaries, &c., or taking grain therefrom.

G. 3, c. 9, s. 2.

311. Whosoever, with intent to prevent or hinder any corn, meal, flour, malt, or grain from being lawfully carried or removed from any place whatsoever, shall wilfully and maliciously pull or throw down, or otherwise destroy, any storehouse or granary, or other place in which corn, meal, flour, malt, or grain shall be then kept, or shall unlawfully enter any such storehouse, granary, or other place, and take and carry away any corn, flour, meal, malt, or grain therefrom, or shall throw abroad or spoil the same, or any part thereof, or shall unlawfully enter on board any ship, barge, boat, or vessel,

The Criminal Law Consolidation Act.—1876.

PART VII.

vessel, and wilfully and maliciously take and carry away, cast or throw out therefrom, or otherwise spoil or damage any corn, flour, meal, malt, or grain therein, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with hard labor.

Offences relating to the Buying or Selling of Offices :

312. Whosoever shall sell, or bargain for the sale of, or receive, have, or take any money, fee, gratuity, loan of money, reward, or profit, directly or indirectly, or any promise, agreement, covenant, contract, bond, or assurance, or shall by any way, device, or means contract or agree to receive or have any money, fee, gratuity, loan of money, reward, or profit, directly or indirectly, or purchase, or bargain for the purchase of, or give or pay any money, fee, gratuity, loan of money, reward, or profit, or shall by any way, means, or device, contract or agree to give or pay any money, fee, gratuity, loan of money, reward, or profit, directly or indirectly, for any office, commission, place, or employment of profit or emolument under the Crown in South Australia, or for any deputation thereto, or for any part, parcel, or participation of the profits thereof, or for any appointment or nomination thereto or resignation thereof, or for the consent or voice of any person to any such appointment, nomination, or resignation, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor: Provided that nothing in this section contained shall extend to prevent or make void any deputation to any office in any case in which it is lawful to appoint a deputy, or any agreement, contract, bond, or assurance lawfully made in respect of any allowance, salary, or payment made, or agreed to be made, by or to such principal or deputy respectively, out of the fees or profit of such office.

Buying and selling offices.

49 G 3, c. 126, s. 3.

Proviso.

313. Whosoever shall receive, have, or take any money, fee, reward, or profit, directly or indirectly, or take any promise, agreement, covenant, contract, bond, or assurance, or by any way, means, or device, contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, for any interest, solicitation, petition, request, recommendation, or negotiation whatever made, or to be made, or pretended to be made, or under any pretence of making, or causing to be made, or procuring to be made, any interest, solicitation, petition, request, recommendation, or negotiation in or about, or in anywise touching, concerning, or relating to any nomination, appointment, or deputation to, or resignation of, any such office, commission, place, or employment as in the last preceding section mentioned, or under any pretence for using, or having used any interest, solicitation, petition, request, recommendation, or negotiation in or about any such nomination, appointment, deputation, or resignation; or for obtaining or having obtained the consent or voice of any person to such nomination, appointment, deputation, or resignation; and whosoever shall give,

Receiving money for using interest to obtain place.

Same, s. 4.

or

*The Criminal Law Consolidation Act.—1876.*PART VII.

or pay, or cause, or procure to be given, or paid any money, fee, gratuity, loan of money, reward, or profit, or make, or cause, or procure to be made, any promise, agreement, covenant, contract, bond, or assurance, or by any way, means, or device, contract or agree to give or pay, or cause or procure to be given or paid, any money, fee, gratuity, loan of money, reward, or profit for any solicitation, petition, request, recommendation, or negotiation whatever, made or to be made, that shall in anywise touch, concern, or relate to any nomination, appointment, or deputation to, or resignation of, any such office, commission, place, or appointment, or for obtaining, or having obtained, directly or indirectly, the consent or voice of any person to any such nomination, appointment, deputation, or resignation; and whosoever shall, for, or in expectation of gain, fee, gratuity, loan of money, reward or profit, solicit, recommend, or negotiate in any manner for any person in any matter that shall in anywise touch, concern, or relate to any such nomination, appointment, deputation, or resignation, or for the obtaining, directly or indirectly, the consent or voice of any person to any such nomination, appointment, or deputation, or resignation, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years with hard labor.

Keeping or advertising places for transacting such negotiations.

314. Whosoever shall open, or keep open any house, room, or office, or place for the soliciting, transacting, or negotiating in any manner whatever any business relating to vacancies in, or the sale or purchase of, or appointment, nomination, or deputation to, or resignation, transfer, or exchange of any offices, commissions, places, or employments whatever, in or under any public department, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years with hard labor.

Offences against Morality, Public Health, &c :

Lewdness.

315. Whosoever shall lewdly expose his person in any street, road, or public place, or within view thereof, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year, with hard labor, and may be whipped; and whosoever, after having been convicted of such offence, shall afterwards commit the said offence, shall on conviction be liable to be imprisoned for two years with hard labor, and shall be whipped.

Second offence.

Persons suffering from dangerous infectious diseases entering public conveyances without notice.

29th and 30th Vict.,
c. 90, s. 38.

316. If any person, suffering from any dangerous infectious disorder, shall enter any railway carriage, or public conveyance, without notifying the fact to the guard of the railway carriage, or the owner or driver of such conveyance, such person shall, on being convicted of such offence before a Special Magistrate or two Justices of the Peace, be liable to a penalty of not exceeding Fifty Pounds.

Persons with infectious diseases exposing themselves, or persons

317. Any person suffering from any dangerous infectious disorder, who wilfully exposes himself, without proper precaution against spreading the said disorder, in any street, road, public place, railway carriage,

The Criminal Law Consolidation Act.—1876.

PART VII.

carriage, or public conveyance, and any person in charge of one so suffering who so exposes the sufferer, and any owner or driver of a public conveyance who does not immediately provide for the disinfection of his conveyance after it has, with the knowledge of such owner or driver, conveyed any such sufferer, and any person who without previous disinfection gives, lends, sells, transmits, or exposes any bedding, clothing, or other things which have been exposed to infection from such disorders, shall, on conviction of such offence before a Special Magistrate or two Justices of the Peace, be liable to a penalty of not exceeding Fifty Pounds.

in charge of such sufferers causing exposure, &c.

Same, s. 38.

318. If any person knowingly lets any house, room, or part of a house in which any person suffering from any dangerous infectious disorder has been lodging or residing, to any other person, without having such house, room, or part of house, and all articles therein liable to retain infection, disinfected to the satisfaction of an Inspector of the Board of Health, or of a legally qualified medical practitioner, as testified by a certificate to be given by him, such person shall, on conviction of such offence before a Special Magistrate or two Justices of the Peace, be liable to a penalty of not exceeding Fifty Pounds. For the purpose of this section, the holder of a publican's licence shall be deemed to let part of a house to any person admitted as a guest into his licensed house.

Persons letting houses in which infected persons have been lodging.

Same, s. 39.

319. Whosoever shall throw, cast, or fire, or be aiding or assisting in the throwing, casting, or firing of any squibs, crackers, rockets, or other fireworks in or into any public street, house, shop, highway, road, or passage, shall be guilty of a misdemeanor, and being convicted thereof before a Special Magistrate or two Justices of the Peace shall be liable to be imprisoned for any term not exceeding six months, with hard labor.

Nuisance by fireworks.

Offences against Religion, &c. :

320. Whosoever shall wilfully interrupt or disturb any congregation meeting, or assembly of persons assembled for religious worship, by noise, profane discourse, rude, or indecent behaviour, or by any unnecessary noise, either within the place where such congregation or such meeting is held, or so near thereto as to disturb the order and solemnity of such congregation, meeting, or assembly, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Disturbing congregations assembled for religious worship.

321. Whosoever shall in any way wilfully disturb, molest, or misuse, any preacher, teacher, or person officiating at any congregation, meeting, or assembly of persons assembled for religious worship, or any person present at such congregation, meeting, or assembly, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

Disturbing, molesting, or misusing preachers, &c.

322. Whosoever shall pretend to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertake to

Persons pretending to witchcraft, &c.

tell

The Criminal Law Consolidation Act,—1876.

PART VII.

tell fortunes, or pretend from his skill or knowledge in any occult or crafty science to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with hard labor.

As to Threats and Molestation :

Penalty for threats, molestation, and obstruction.

323. Every person who shall do any one or more of the following acts, that is to say—

- i. Use violence to any person or any property :
- ii. Threaten or intimidate any person in such manner as would justify a Justice of the Peace, on complaint made to him, to bind over the person so threatening or intimidating to keep the peace :
- iii. Molest or obstruct any person in manner defined by this section :

With a view to coerce such person—

34 & 35 Vic., c. 32, s. 1.

- i. Being a master, to dismiss or to cease to employ any workman ; or, being a workman, to quit any employment, or to return work before it is finished :
- ii. Being a master, not to offer, or being a workman, not to accept, any employment or work :
- iii. Being a master or workman, to belong or not to belong to any temporary or permanent association or combination :
- iv. Being a master or workman, to pay any fine or penalty imposed by any temporary or permanent association or combination :
- v. Being a master, to alter the mode of carrying on his business, or the number or description of any persons employed by him :

shall be liable to be imprisoned for any term not exceeding three months.

Definition of molesting or obstructing.

324. A person, for the purposes of the last preceding section, shall be deemed to molest or obstruct another person in any of the following cases, that is to say—

- i. If he persistently follow such person about from place to place :
- ii. If he hide any tools, clothes, or other property owned or used by such person, or deprive him of or hinder him in the use thereof :
- iii. If he watch or beset the house or other place where such person resides or works, or carries on business, or happens to be, or the approach to such house or place ; or if with two or more other persons he follow such person in a disorderly manner in or through any street or road : Nothing

The Criminal Law Consolidation Act.—1876.

Nothing in this or the last preceding section shall prevent any person from being liable to any other or higher punishment than is provided for any offence by this section, so that no person be punished twice for the same offence: Provided that no person shall be liable to any punishment for doing or conspiring to do any act on the ground that such act restrains or tends to restrain the free course of trade, unless such act is one of the acts hereinbefore specified in this section, and is done with the object of coercing as hereinbefore mentioned.

PART VII.

Proviso.

PART VIII.

PART VIII.

ACCESSORIES AND ABETTORS.

As to Accessories Before the Fact:

325. Whosoever shall become an accessory before the fact to any felony, whether the same be a felony at common law or by virtue of any Act in force in the said Province, or to be hereafter passed, may be informed against, tried, convicted, and punished in all respects as if he were a principal felon.

Accessories before the fact may be tried and punished as principals.

24 & 25 Vict. c. 94, s. 1.

326. Whosoever shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any Act in force in the said Province, or to be hereafter passed, shall be guilty of felony, and may be prosecuted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be prosecuted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished; and the offence of the person so counselling, procuring, or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any Court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the sea or on land, whether within the said Province or without: Provided, that no person who shall be once duly tried for any such offence, whether as an accessory before the fact, or as for a substantive felony, shall be liable to be again prosecuted or tried for the same offence.

Accessories before the fact may be tried as such, or as substantive felons.

Same, s.

327. Every accessory before the fact to any felony, whether the same be a felony at common law, or by virtue of any Act in force in the said Province, or to be hereafter passed, shall be punishable, with death or otherwise, in the same manner as the principal.

Punishment of accessories before the fact.

As to Accessories After the Fact:

328. Whosoever shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue

Trial and conviction of accessories after the fact.

of

The Criminal Law Consolidation Act.—1876.

PART VIII.

24 and 25 Vict. c. 94,
s. 3.

of any Act passed in the said Province, or to be passed, may be prosecuted, tried, and convicted either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be prosecuted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished; and the offence of such person, howsoever prosecuted, may be inquired of, tried, determined, and punished by any Court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason of which such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed either on the sea or on land, whether within the said Province or without: Provided that no person who shall be once duly tried for any such offence, whether as an accessory after the fact or as for a substantive felony, shall be liable to be again prosecuted or tried for the same offence

Proviso.

Punishment of accessories after the fact.

329. Every accessory after the fact to any felony (except where it is otherwise specially enacted), whether the same be a felony at common law or by virtue of any Act in force in the said Province, or to be hereafter passed, shall be liable to be imprisoned, in any Common Gaol or Labor Prison, for any term not exceeding two years, with or without hard labor; and it shall be lawful for the Court, if it shall think fit, to require the offender to find sureties for keeping the peace, in addition to such punishment: Provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

Same, s. 4.

As to Accessories Generally:

Prosecution of accessory after principal has been convicted but not attainted.

330. If any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die or be pardoned, or otherwise delivered before attainder; and every such accessory shall upon conviction suffer the same punishment as he would have suffered if the principal had been attainted.

24 and 25 Vict. c. 94,
s. 5.

As to Abettors in Misdemeanors:

Abettors in misdemeanors.

331. Whosoever shall aid, abet, counsel, or procure the commission of any misdemeanor, whether the same be a misdemeanor at common law or by virtue of any Act in force in the said Province, or to be hereafter passed, shall be liable to be prosecuted and punished as a principal offender.

Same, s. 8.

As to other Matters:

Any number of accessories may be

332. Any number of accessories at different times, to any felony, and any number of receivers at different times, of property which shall have

The Criminal Law Consolidation Act.—1876.

PART VIII.

have been stolen at one time, may be charged with substantive felonies in the same information, and may be tried together, notwithstanding the principal felon shall not be included in the same information, or shall not be in custody or amenable to justice.

charged in the same information.

Same, s. 6.

PART IX.

MISCELLANEOUS, PROCEDURE, &c.

PART IX.

As to Informations :

333. It shall not be necessary to state any venue in the body of any information, but "South Australia" named in the margin thereof shall be taken to be the venue for all the facts stated in the body of such information: Provided that, in cases where local description is or hereafter shall be required, such local description shall be given in the body of the information.

Venue in the margin sufficient, except where local description is necessary.

334. Any person may be put upon his trial at any Criminal Session of the Supreme Court for any crime or offence whatsoever, upon an information presented to the said Court in the name and by the authority of Her Majesty's Attorney-General of the Province aforesaid, and every provision of the Common Law and of Acts of Parliament for the time being in force within the said Province relating to indictments and to the manner and form of pleading thereto and to the trial thereon, and generally to all matters subsequent to the finding of the indictment, shall apply to any information to be so presented as aforesaid.

Persons to be tried on informations presented in the name of the Attorney-General.

335. In every case in which any person shall have been lawfully committed to take his trial at any Criminal Session as aforesaid, it shall be incumbent upon the Attorney-General to present, or cause to be presented against such person, an information for the offence in respect whereof he shall have been committed, or for such offence as shall appear by the depositions taken against such person to be chargeable against him: Provided that if upon examining the depositions taken in any case the said Attorney-General shall be of opinion that there is no reasonable ground for putting the person so committed as aforesaid upon his trial for any offence whatsoever, he may certify such his opinion under his hand in the form contained in Schedule D of this Act to the Judges of the Supreme Court, any one of whom may, if the person accused is in prison, thereupon, by warrant in the form contained in Schedule E to this Act, direct the sheriff or gaoler in whose custody such person shall be, immediately to discharge the person named in such certificate from imprisonment, in respect of the offence mentioned in the said warrant; and in case the person mentioned in such certificate shall be on bail, the recognizance of bail taken from any such person or his sureties shall, on the Attorney-General so certifying, become void.

Information to be presented to the Supreme Court.

Certificate may be given by Attorney-General.

Prisoner may be discharged out of custody if no additional evidence procurable.

Bail may be discharged.

336. It shall be lawful for the Master, or other chief officer to be appointed by the Court in that behalf, by leave of such Court to file a criminal

Supreme Court may grant criminal informations.

*The Criminal Law Consolidation Act.—1876.*PART IX.

criminal information in any case in which by leave of the Court the Clerk of the Crown, or Master of the Crown Office may file an information in Her Majesty's Court of Queen's Bench at Westminster, and upon such information being filed the same recognizances shall be entered into by the party at whose instance it is procured to be exhibited, as are required by the Law of England in the like case, and which recognizances may be taken before a Judge or the Master, or such other chief officer as aforesaid, and shall be returned forthwith into the Supreme Court, or before a Special Magistrate or two Justices of the Peace, and thereupon the same proceedings shall, as nearly as circumstances will permit, be had upon such information as are prescribed by the practice of Her Majesty's Court of Queen's Bench aforesaid, with regard to criminal informations filed therein, by leave of the Court.

Court may cause records to be amended in certain cases.

9 G. 4, c. 15.
11 & 12 Vict., c. 45,
s. 10.
14 & 15 Vict., c. 100,
s. 1.

337. It shall be lawful for any Judge or Court sitting on the trial of any indictable offence, if such Judge or Court shall see fit so to do, to cause the record whereon the trial is pending, when any variance shall appear between any matter in writing or in print produced in evidence and the recital or setting forth thereof upon such record, to be forthwith amended in such particular by some officer of the Court; and whenever on the trial for any felony or misdemeanor there shall appear to be any variance between the statement in the record and the evidence offered in proof thereof, in the name of any county, hundred, city, town corporate, district, township, or place mentioned or described in any such record, or in the name or description of any person therein stated or alleged to be the owner of any property, real or personal, which shall form the subject of any offence charged therein, or in the name or description of any person, therein stated or alleged to be injured or damaged, or intended to be injured or damaged by the commission of such offence, or in the Christian name or surname, or both Christian name and surname, or other description whatsoever, of any person whomsoever therein named or described, or in the name or description of any matter or thing whatsoever therein named or described, or in the ownership of any property therein named or described, or in any other particular, it shall be lawful for the Court before which the trial shall be had, if it shall consider that the party accused cannot be prejudiced thereby in his defence, to order such record to be amended, according to the proof, by some officer of the Court or other person, both in that part of the record where such variance occurs and in every other part of the record which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury as such Court shall think reasonable; and after any such amendment as in this section mentioned the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had occurred; and the order for the amendment shall be endorsed on the information and filed, together with

The Criminal Law Consolidation Act.—1876.

PART IX.

with the information, among the records of the Court: Provided that in all such cases where the trial shall be so postponed it shall be lawful for the Court to respite the recognizances of the prosecutor and witnesses, and of the party accused, and his surety or sureties, if any, accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the party accused shall be bound to attend to be tried, at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and prosecute or give evidence at the time and place to which such trial shall have been so postponed: Provided also, that where any such trial shall be had before another jury the Crown and the party accused shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn: Provided also, that the word "record" in this section shall include every pleading which may form part of the record.

338. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act shall be of the same force and effect in all respects as if the information had originally been in the words and form in which it was after such amendment was made; and if it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in case where any amendment shall have been so made, such record shall be drawn up in the words and form in which the information shall be after such amendment, without taking notice of the fact of amendment.

Verdict and judgment valid after amendments, &c.

14 & 15 Vict., c. 100, s. 2.

339. No plea setting forth an attainder shall be pleaded in bar of an information unless the attainder be for the same offence as that charged in the information, and no information shall be abated by reason of any dilatory plea of misnomer of the party offering such plea, if the Court shall be satisfied by affidavit or otherwise of the truth of such plea; but in such case, the Court shall forthwith cause the information to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

Pleas of attainder and pleas dilatory, &c.

7 G. 4, c. 64, s. 19.

340. No information for any offence shall be held bad or insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or the words "with force and arms," or of the words "against the peace" or for the insertion of the words "against the form of the Statute," instead of "against the form of the Statutes," or *vice versa*, nor for that any person mentioned in the information is designated by the name of office or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent

What defects shall not vitiate an information.

14 & 15 Vict., c. 100, s. 24.
7 G. 4, c. 64, s. 20.

to

*The Criminal Law Consolidation Act.—1876.***PART IX.**

to the finding of the information or on an impossible day or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor the omission or improper insertion of the word "feloniously," nor for the want of or imperfection in the addition of the accused, nor for the want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the value or price, or the amount of damage, injury, or spoil, is not of the essence of the offence.

Formal objections to informations when to be taken.

341. Every objection to any information for any formal defect apparent on the face thereof, shall be taken by demurrer, or motion to quash such information, before the jury are sworn, and not afterwards; and every Court before which any such objection is taken, may thereupon cause the information to be forthwith amended in such particular by some officer of the Court, and thereupon the trial shall proceed as if no such defect had appeared.

Court may amend formal defects.
14 & 15 Vict., c. 100,
s. 25.

Description in information of offence created, &c., by statute.
G. 4, c. 64, s. 21.

342. Where the offence charged in any information for any felony or misdemeanor has been created by any Statute, or subjected to a greater degree of punishment by any Statute, the information shall, after verdict, be held sufficient to warrant the punishment prescribed by the Statute if it described the offence in the words of the Statute.

Unnecessary to state that jurors have affirmed.

343. Whenever, in any legal proceedings whatever, legal proceedings may be set out, it shall not be necessary to specify that any particular persons who acted as jurors had made affirmation instead of oath, but it may be stated that they served as jurymen, in the same manner as if no Act had passed for enabling persons to serve as jurymen without oath.

6 & 7 Vict., c. 51, s. 2.

In informations for offences committed on the property of partners, it may be laid in any one partner by name, and others.

344. In any information wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named, and another or others, as the case may be; and whenever in any information it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner in this section before-mentioned; and this provision shall be construed to extend to all joint stock companies, executors, administrators, and trustees.

7 G. 4, c. 64, s. 14.

A party indicted for felony or misdemeanor may be found guilty of an attempt to commit the same, and punished accordingly.

345. If upon the trial of any person charged with any felony or misdemeanor it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be

at

The Criminal Law Consolidation Act.—1876.

PART IX.

at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for attempting to commit the particular felony or misdemeanor charged in the said information; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

14 & 15 Vict., c. 100,
s. 6.

346. In every information for an offence against the person not being capital, where such offence includes an assault, a count may be added for such assault; and in every information for rape a count may be added for an indecent assault.

In informations for offence against the person a count may be added for an assault, &c.

347. If upon the trial of any person for any misdemeanor it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be prosecuted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

Person tried for misdemeanor not to be acquitted if the offence turn out to be felony, unless the Court so direct.

14 & 15 Vict., c. 100,
s. 12.

348. Wherever it shall be necessary in any information to mention or make any averment as to any instrument, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may usually be known, or by the purport thereof, without setting out any copy or facsimile of the whole or any part thereof, or otherwise describing the same or the value thereof.

Description of instruments in informations.

14 & 15 Vict., c. 100,
s. 7.

349. In every information in which it shall be necessary to mention or make any averment as to any money or any note of any Bank, it shall be sufficient to describe such money or bank-note simply as money, without specifying any particular coin or bank-note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank-note, although the particular species of coin of which such amount was composed, or the particular nature of the bank-note, shall not be proved; and in cases of embezzlement and obtaining money or bank-notes by false pretences, by proof that the offender embezzled or obtained any piece of coin or any bank-note, or any portion of the value thereof, although such piece of coin or bank-note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to some other person, and such part shall have been returned accordingly.

Coin and bank-notes may be described simply as money.

14 & 15 Vict., c. 100,
s. 18.

The Criminal Law Consolidation Act.—1876.

PART IX.

As to Removal of Informations by *Certiorari*:

Motion by party indicted for *certiorari* in term time to be made in open Court.

5 & 6 W. & M., c. 11, s. 2.

350. No writ of *certiorari* whatsoever, at the prosecution of any party indicted, shall be hereafter granted, awarded, or directed in term time out of the Supreme Court, to remove any information for any misdemeanor before trial had, from before the Court of Oyer and Terminer, or any other Court, unless such *certiorari* shall be granted or awarded upon motion of counsel, and by rule of Court made for the granting thereof, before the Judge or Judges of the said Court sitting in open Court.

Writs of *certiorari* granted in vacation.

5 & 6 W. & M., c. 11, s. 4.
1 & 2 Vict., c. 45.

351. In vacation, writs of *certiorari* may be granted by any Judge of the Supreme Court; and the name of such Judge, and also the name of such person at whose instance the same is granted, shall be endorsed on the said writ.

Motion by prosecutor for *certiorari* in term time to be made in open Court.

5 & 6 W. 4, c. 33, s. 1.

352. No writ of *certiorari* shall issue from the Supreme Court for removing into that Court any information from any Court of Oyer and Terminer or Gaol Delivery, or any other Court, at the instance of the prosecutor or any other person, except Her Majesty's Attorney-General, without motion first made in the Supreme Court, or before some Judge of the Supreme Court, and leave obtained to remove such information, in the same manner as where such application is made on the part of any defendant.

Informations not to be removed by *certiorari*, except on affidavit that a fair trial cannot be had.

16 & 17 Vict., c. 30, s. 4.

353. No information, except against bodies corporate not authorized to appear by attorney in the Court in which information is preferred, shall be removed into the Supreme Court by writ of *certiorari*, either at the instance of the prosecutor or of the defendant (other than the Attorney-General acting on behalf of the Crown), unless it be made to appear to the Court from which the writ is to issue, by the party applying for the same, that a fair and impartial trial of the case cannot be had in the Court below, or that some question of law of more than usual difficulty and importance is likely to arise upon the trial, or that a view of the premises in respect whereof the information is preferred, or a special jury, may be required for the satisfactory trial of the same.

Recognizance to be entered into by persons before the allowance of the writ of *certiorari*.

5 & 6 W. & M., c. 11, s. 2.
8 & 9 W. 3, c. 33.
5 & 6 W. 4, c. 33, s. 2.
1 & 2 Vict., c. 45, s. 1.

354. Every person proceeded against in any Court of Oyer and Terminer, Gaol Delivery, or any other Court, who shall obtain a writ of *certiorari* for removing any information whatever to the Supreme Court, not being in custody for want of bail to answer the information, shall, before the allowance of such writ, enter into a recognizance before some Judge of the Supreme Court, or before a Justice of the Peace of the said Province in such sum, and with such sureties, as the Supreme Court or any such Judge shall, by endorsement on the same writ, order and direct; and if any such person shall be in custody for want of bail to answer the charge contained in such information he shall be detained in custody until the like recognizances as are in this section directed to be entered into previous to the allowance of such writ of *certiorari* shall have been entered into, or until he be discharged by due course of law.

355. The

The Criminal Law Consolidation Act.—1876.

PART IX.

355. The condition of the recognizance shall be, that the party proceeded against shall at the return of such writ appear and plead to the said information in the Supreme Court, and shall appear from day to day in the said Court, and not depart until he shall be discharged by the said Court, and that he shall, at his own costs and charges, cause or procure the issue that shall be joined upon the said information or any plea relating thereunto, to be tried at the next Criminal Sitting of the said Court after the *certiorari* shall be returnable, if the said Court shall not appoint any other time for the trial thereof, and if any other time shall be appointed by the Court, then at such other time; and that he shall give due notice of such trial to the prosecutor or his attorney (except in cases where the writ of *certiorari* is awarded at the instance of Her Majesty's Attorney-General); and further, that he shall, in case he shall be convicted, pay to the prosecutor his costs incurred subsequent to the removal of such information.

Condition of such recognizance.

5 & 6 W. & M., c. 11, s. 2.
3 & 9 W. 3, c. 33, s. 2.
5 & 6 W. 4, c. 33, s. 2.
16 & 17 Vict., c. 30, s. 5.

356. Whenever any such writ of *certiorari* shall be awarded at the instance of the prosecutor (not being Her Majesty's Attorney-General), the prosecutor shall enter into a recognizance (to be acknowledged in the same manner as is required in cases of writs of *certiorari* awarded at the instance of a defendant) with the condition following, that is to say, that the prosecutor shall pay to the defendant, in case he shall be acquitted, his costs incurred subsequent to such removal.

Special condition in recognizance of prosecutor.

16 & 17 Vict., c. 30, s. 5.

357. The costs hereinbefore respectively mentioned shall be taxed by the Master of the Supreme Court, or otherwise, according to the course of such Court; and for the recovery thereof the person entitled thereto shall, at the expiration of ten days after demand made of the person at whose instance the writ of *certiorari* was awarded, and on oath made of such demand and of refusal of payment, have a writ of attachment granted against such last mentioned person by the said Court for such contempt; and the said Court may also order the said recognizance to be estreated.

How costs shall be taxed and recovered.

16 & 17 Vict., c. 30, s. 6.

358. The recognizances, taken as aforesaid, shall be certified into the Supreme Court with the *certiorari* and information to be there filed; and the name of the prosecutor, if he be the party grieved or injured, or some public officer, shall be endorsed on the back of the said information; and if the person at whose instance any writ of *certiorari* shall be awarded shall not, before the allowance thereof, enter into such recognizance as hereinbefore provided, the Court to which such writ may be directed shall and may proceed to the trial of the said information, as if such writ of *certiorari* had not been awarded.

If recognizances not entered into, Court below may proceed to trial.

5 & 6 W. & M., c. 11, s. 2.
16 & 17 Vict., c. 30, s. 7.

359. If the defendant prosecuting such writ of *certiorari* be convicted of the offence for which he was proceeded against, the Court shall give reasonable costs to the prosecutor, if he be the party grieved or injured, or be a Justice of the Peace, Mayor, Bailiff, Constable,

Civil officers prosecuting shall have reasonable costs, if defendant convicted.

5 & 6 W. & M., c. 11, s. 3.

*The Criminal Law Consolidation Act.—1876.***PART IX.**

Constable, or any other civil officer, who shall prosecute upon the account of any fact committed or done, that concerned him as officer to prosecute or present, which costs shall be taxed by the Master of the Supreme Court; and the prosecutor for the recovery of such costs, shall, at the expiration of ten days after demand and on oath made of such demand, and of refusal of payment, have a writ of attachment granted against the defendant by the said Court for such his contempt; and the recognizance shall not be discharged till the costs so taxed shall be paid.

Certiorari may issue before information found.

60 G 3, and 1 G. 4, c. 4, s. 4.

360. Where any person shall be prosecuted for any misdemeanor by any information at any Court having Criminal Jurisdiction, a writ of *certiorari* may be applied for and issued before such information has been found or filed, in the like cases, in the same manner, and upon the same terms and conditions as if such writ of *certiorari* had been applied for after such information had been found or filed.

When a *certiorari* is delivered to any Court to remove any information, such Court shall bind the prosecutor and witnesses to appear on the trial.

1 G. 4, c. 4, s. 9.

361. Whenever any writ of *certiorari* shall be delivered to any Court for the purpose of removing any information from such Court, such Court shall require any person who shall be attending such Court under any recognizance or subpoena to prosecute, or to prosecute and give evidence, or to give evidence upon the trial of such information, to enter into a recognizance, in such sum of money as to such Court shall seem fit, to prosecute, or to prosecute and give evidence, or to give evidence, as the case may be, upon the trial of such information, whenever and wherever the same shall be tried.

Where a *certiorari* is delivered to any Court to remove any information, such Court may bail or commit any defendant who has appeared there under any recognizance.

1. G. 4, c. 4, s. 9.

362. Whenever any writ of *certiorari* shall be delivered to any Court for the purpose of removing any information from such Court, it shall be lawful for such Court either to require any person who shall be attending such Court under any recognizance to take his trial upon such information, to enter into such recognizance, with so many sureties, and in such sum or sums of money, and with such condition for his appearance and taking his trial upon such information, whenever and wherever the same shall be tried, as to such Court shall seem fit, or to commit such person to prison, there to remain until he shall be removed under the provisions of this Act or otherwise be delivered by due course of law.

Where a *certiorari* is delivered to any Court, the Court shall not discharge any defendant then in prison.

1 G. 4, c. 4, s. 11.

363. Whenever any writ of *certiorari* shall be delivered to any Court for the purpose of removing any information from such Court, and any person charged with any offence by such information shall then be in prison, such person shall not be discharged by such Court out of prison, but shall remain therein until he shall be removed under the provisions of this Act or otherwise discharged by due course of law.

As to Compelling Attendance after Information Found:

Warrant by Judge of

364. Whenever any person shall be charged with any offence for which

The Criminal Law Consolidation Act.—1876.

which he may be prosecuted in the Supreme Court, not being treason, and the same shall be made appear to any Judge of the said Court by affidavit or certificate of the information against such person in the said Court for such offence, it shall be lawful for such Judge to issue his warrant under his hand and seal, and thereby to cause such person to be apprehended and brought before him or some other Judge, or before some one of Her Majesty's Justices of the Peace for the said Province, in order to his being bound to the Queen's Majesty, with or without two sufficient sureties, in such sum as in the said warrant shall be expressed, with condition to appear in the said Court at the time mentioned in such warrant, and to answer to all and singular informations for any such offence; and in case any such person shall neglect or refuse to become bound as aforesaid, it shall be lawful for such Judge or Justice respectively to commit such person to the prison of the district or place where the offence shall have been committed, or where he shall have been apprehended, there to remain until he shall become bound as aforesaid, or shall be discharged by order of one of such Judges; and the recognizance to be thereupon taken shall be returned and filed in the said Court, and shall continue in force until such person shall have been acquitted of such offence, or in case of conviction, shall have received judgment for the same, unless sooner ordered by the same Court to be discharged; and where any person, either by virtue of such warrant of commitment as aforesaid, or by virtue of any writ of *capias ad respondendum* issued out of the said Court, is now detained or shall hereafter be committed to and detained in any prison for want of bail, it shall be lawful for the prosecutor of such information to cause a copy thereof to be delivered to such person, or to the gaoler, keeper, or turnkey, of the prison wherein such person is or shall be so detained, with a notice thereon endorsed, that unless such person shall within eight days from the time of such delivery of a copy of the information as aforesaid, cause an appearance and also a plea or demurrer to be entered in the same Court to such information, an appearance and a plea of not guilty will be entered thereto in the name of such person; and in case he shall thereupon for the said space of eight days after such delivery of a copy of the information as aforesaid neglect to cause an appearance and also a plea or demurrer to be entered in the same Court to such information, it shall be lawful for the prosecutor of such information, upon an affidavit being made and filed in the said Court of the delivery of a copy of such information, with such notice endorsed thereon as aforesaid, to such person, or to such gaoler, keeper, or turnkey, as the case may be, which affidavit may be made before any Judge or Commissioner of the Supreme Court authorized to take affidavits in such Courts, to cause an appearance and the plea of not guilty to be entered in the said Court to such information for such person, and such proceedings shall be had thereupon as if the defendant in such information had appeared and pleaded not guilty according to the usual course of the same Court; and if upon the trial of such information any defendant so committed and detained as aforesaid shall be acquitted of all the offences therein

PART IX.

Supreme Court, and proceedings thereon.

48 G. 3, c. 58, s. 1.

When prosecutor may enter plea of not guilty, and proceed to trial.

*The Criminal Law Consolidation Act.—1876.***PART IX.**

therein charged upon him, it shall be lawful for the Judge before whom such trial shall be had to order that such defendant shall be forthwith discharged out of custody as to his commitment as aforesaid, and such defendant shall be thereupon discharged accordingly.

As to Estreating Recognizances:

Schedule of fines and forfeitures to be prepared by Associate.

365. The Associate, or Clerk of Arraignment shall, at the end of every sitting or session of the said Court, prepare a schedule of all fines and recognizances imposed and forfeited during such sitting or session, which schedule shall contain the names, residences, and descriptions of the parties, the amount of the sum imposed upon or forfeited by each respectively, and the reason of such fine or forfeiture, and shall be certified by the declaration of such Associate or Clerk of Arraignment made before a Judge of the said Court, and shall be filed of record in such Court, and the Associate or Clerk of Arraignment shall thereupon deliver to the Sheriff a precept under the seal of the said Court, in the form in Schedule F to this Act, requiring him to summon the persons named in the schedule aforesaid.

Sheriff to issue summons to parties named in Schedule.

366. The Sheriff shall thereupon issue a written demand and summons in the form in Schedule G to this Act, and shall cause the same to be served upon each person named in the said schedule, either personally or by causing the same to be left at his usual or last known place of abode fourteen days at least before the first day of the then ensuing term, and shall duly return the said precept into the said Court, according to the exigency thereof, with an account of all sums collected and received by him thereunder.

Schedule to be brought into Court on first day of term. Sheriff and all parties to attend.

367. On the first day of every term every such schedule shall, by the Associate or Clerk of Arraignment, be brought into Court, and the Sheriff shall also attend the said Court and answer such questions as shall be put to him respecting such fines and forfeitures, and the names of the several parties against whom any fines or recognizances shall therein be set, which shall not have been paid to the Sheriff, shall be called; and unless such parties respectively shall show good and sufficient cause why the said fines and forfeited recognizances should not be paid to the use of our Lady the Queen, the Court shall direct the Master or Chief Clerk to issue and deliver to the Sheriff a writ of *feri facias*, in the form in Schedule H to this Act, for levying the same; and in like manner, on a return by the Sheriff of the writ of *feri facias*, certifying that any of the parties therein mentioned have no effects whereon the sums set against their respective names can be levied, a writ of *capias*, in the form in Schedule I to this Act, shall issue against the parties in default, and such writs shall be executed by the Sheriff according to the exigency thereof respectively.

As to Arraignments and Pleadings:

Plea of "Not Guilty" and cases of refusal to lead

368. If any person being arraigned upon any information shall plead thereto "Not guilty," he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial; and the Court shall, in the usual manner, proceed to the trial
of

The Criminal Law Consolidation Act.—1876.

PART IX.

of such person accordingly. And if any person being so arraigned, shall stand mute, of malice, or is dumb, or will not answer directly to the information, in every such case it shall be lawful for the Court to order a plea of "Not guilty" to be entered on behalf of such person, and the plea so entered shall have the same effect as if such person had actually pleaded the same.

7 & 8 G. 4, c. 28, ss. 1 & 2.

369. In any plea of *autrefois convict* or of *autrefois acquit*, it shall be sufficient for the accused to allege that he has been lawfully convicted or acquitted, as the case may be, of the said offence charged in the information, without specifying the time or place of such previous conviction or acquittal.

Form of plea of *autrefois convict* or *autrefois acquit*.
14 & 15 Vict., c. 100, s. 28.

370. No person prosecuted shall be entitled to traverse or postpone the trial of any information found against him at any Court of Criminal Jurisdiction: Provided that if the Supreme Court, upon the application of the defendant, or otherwise, shall be of opinion that he ought to be allowed a further time either to prepare for his defence or otherwise, such Court may adjourn the trial of such person to the next subsequent Court or Sessions, upon such terms as to bail or otherwise as to the Supreme Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent Court or Sessions, without entering into any fresh recognizance for that purpose: Provided, that nothing in this section contained shall extend to any prosecution by information in the nature of a *quo warranto*.

Provisions as to traversing informations.

14 & 15 Vict., c. 100 s. 27.

As to Charging the Jury:

371. When any person shall be charged for treason or felony, the jury impannelled to try such person shall not be charged to inquire concerning his lands, tenements, or goods, or whether he fled for such treason or felony.

Jury shall not inquire of prisoner's lands, &c. nor whether he fled.
7 & 8 G, 4, c. 28, s. 5.

As to Defence by Counsel:

372. All persons tried for felonies or misdemeanors shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto, by counsel learned in the law, or by attorney practising as counsel, in like manner as is now permitted.

Prisoners may make their defence by counsel.
6 & 7 W. 4, c. 114, s. 1.

373. A Judge, upon application being made to him for that purpose, and upon being satisfied that any person accused of any offence punishable with death has not means sufficient to retain counsel or summons witnesses for his defence, may order such sum as such Judge shall deem sufficient to be paid by the Sheriff for those purposes, which sum shall be paid by the Sheriff to such persons as the Judge shall direct, in like manner as he now pays expenses of witnesses for the prosecution.

Judge may assign Counsel to prisoner.

374. All persons who after the passing of this Act, shall be held to bail or committed to prison for any offence, shall be entitled to require

Copies of depositions to be allowed to prisoners.

The Criminal Law Consolidation Act.—1876.

PART IX.

6 & 7 W. 4, c. 114,
s. 3.

require and have, on demand (from the person who shall have the lawful custody thereof, and who is hereby required to deliver the same), copies of the examinations of the witnesses respectively, upon whose depositions they have been so held to bail or committed to prison, on payment of a reasonable sum for the same, not exceeding Fourpence for each folio, or, by the order of a Judge, without the payment of any fee: Provided that if such demand be not made before the day appointed for the commencement of the Session at which the trial of the person on whose behalf such demand shall be made is to take place, such person shall not be entitled to have any copy of such examination of witnesses, unless the Judge presiding at such trial shall be of opinion that such copy may be made and delivered without delay or inconvenience to such trial; but it shall nevertheless be competent for such Judge presiding at such trial, if he shall think fit, to postpone such trial on account of such copy of the examination of witnesses not having been previously obtained by the party charged.

Prisoners entitled to inspect depositions on trial.

6 & 6 W. 4, c. 114, s. 4.

375. Every accused person shall be entitled at the time of his trial to inspect, without fee or reward, all depositions which have been taken against him, and returned into or which shall be in the Court before which such trial shall be had.

As to Evidence:

On trials for perjury and subornation, a certificate of the trial of the information on which the perjury was committed sufficient evidence of such trial.

14 and 15 Vict., c. 100,
s. 22.

376. A certificate containing the substance and effect only (omitting the formal part) of the information and trial for any felony or misdemeanor, purporting to be signed by the Associate or other officer having the custody of the records of the Court where such information was tried, or by the deputy of such Associate or other officer, shall upon the trial of any information for perjury or subornation of perjury be sufficient evidence of the trial of such information for felony and misdemeanor, without proof of the signature or official character of the person appearing to have signed the same.

Unsworn testimony of children may be received in certain cases.

Proviso.

377. In every prosecution for felony or misdemeanor where the testimony of a child under the age of ten years may be required, the Judge, Coroner, Justice, or Justices of the Peace, having jurisdiction in the matter to which the testimony relates, shall receive such testimony without administering any form of oath, and without any formality, except that such Judge, Coroner, Justice, or Justices, as the case may be, shall, before receiving such testimony, explain to such child that he or she is required to truthfully tell what he or she knows about the matter to which his or her testimony relates; and the testimony so taken shall be available as evidence for all purposes whatsoever: Provided that such testimony, if taken by a Coroner, Justice or Justices of the Peace, shall be reduced to writing, and be certified under the hand of such Coroner, Justice, or Justices, as aforesaid.

Effect of the evidence so given.

378. The effect of such unsworn testimony shall be according to the weight and credibility which, in the opinion of the Judge, Coroner,

The Criminal Law Consolidation Act.—1876.

Coroner, Justice, or Justices, or of the jury, as the case may be, ought to be attached thereto as evidence given without the sanction of an oath.

PART IX.

As to Persons Charged for a Subsequent Felony :

379. Whosoever shall be convicted of any felony, not punishable with death, committed after a previous conviction for felony, shall on such subsequent conviction be liable to be imprisoned for life or for any less term, with hard labor: Provided that no person shall be liable to be imprisoned for more than ten years, by reason only of a conviction for larceny after a previous conviction for felony.

Punishment on conviction for a subsequent felony.

7 & 8 G. 4, c. 28, s. 11.

Punishment for larceny after previous conviction for felony.

16 & 17 Vict., c. 99, s. 12.

380. Where any person shall have been convicted of any felony as in the last preceding section mentioned, and shall afterwards be prosecuted for any felony committed subsequent to such conviction, it shall be sufficient in any such information, after charging such subsequent offence, to state the substance and effect only (omitting the formal part) of the information and conviction for the previous offence; and a certificate containing the substance and effect only (omitting the formal part) of the information and conviction for the previous offence, purporting to be signed by the Associate or other officer having, or purporting to have, the custody of the records of the Court where the offender was first convicted, or by the deputy of such Associate or officer shall, upon proof of the identity of the person of the offender, be sufficient evidence of the previous conviction, without proof of the signature or official character or authority of the person appearing to have signed the same, or of his custody or right to the custody of the records of the Court, and the proceedings upon any information for committing any offence after a previous conviction shall be as follows, that is to say—the offender shall in the first instance be arraigned upon so much only of the information as charges the subsequent offence; and if he plead not guilty, or if the Court order a plea of not guilty to be entered on his behalf, the jury shall be charged in the first instance to inquire concerning such subsequent offence only, and if they find him guilty, or if on arraignment he plead guilty, he shall then and not before be asked whether he has been previously convicted as alleged in the information, and if he answer that he has been so previously convicted, the Court may proceed to sentence him accordingly, but if he deny that he had been so previously convicted, or stand mute of malice, or is dumb, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction, and in such case it shall not be necessary to swear the jury, but the oath already taken by them shall for all purposes be deemed to extend to such last-mentioned inquiry: Provided that if upon the trial of any person for any such subsequent offence such person shall give evidence of his good character, it shall be lawful for the prosecutor in answer thereto to give evidence of the conviction of such person for the previous offence before such verdict of guilty shall be returned, and the jury shall inquire concerning such previous conviction at the same time that they inquire concerning such subsequent offence.

What shall be sufficient evidence of conviction for a previous offence.

As to

The Criminal Law Consolidation Act.—1876.

PART IX.

As to Insane Persons Tried for Offences:

When person charged with treason, felony, or misdemeanor, is acquitted on the ground of insanity, jury to find so specially, and the Court to order him to be kept in custody till the Governor's pleasure be known.

39 & 40 G. 3, c. 94, s. 1.
3 & 4 Vict., c. 54, s. 3.

381. In all cases where it shall be given in evidence upon the trial of any person charged with treason, felony, or misdemeanor, that such person was insane at the time of the commission of such offence, and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of the committing of such offence, the Court before whom such trial shall be had shall order such person to be kept in strict custody, in such place and in such manner as to the Court may seem fit, until the Governor's pleasure shall be known; and it shall thereupon be lawful for the Governor to give such order for the safe custody of such person so found to be insane, during his pleasure, in such hospital, prison, or other place, and in such manner as to him shall seem fit.

Where person indicted for any offence is found to be insane by a jury impannelled on arraignment, the Court to order him to be kept in custody till the Governor's pleasure be known.

39 & 40 G. 3, c. 94,
s. 2.

382. If any person charged with any offence shall be insane, and shall upon arraignment be found so to be by a jury lawfully impannelled for that purpose, so that such person cannot be tried upon the information, or if upon the trial of any person so charged such person shall appear to the jury charged in the information to be insane, it shall be lawful for the Court before whom any such person shall be brought to be arraigned or tried as aforesaid to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until the Governor's pleasure shall be known; and if any person charged with any offence shall be brought before any Court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such Court to order a jury to be impannelled to try the sanity of such person; and if the jury so impannelled shall find such person to be insane, it shall be lawful for the Court to order such person to be kept in strict custody, in such hospital, prison, or other place, and in such manner as to such Court shall seem fit until the Governor's pleasure shall be known; and in all cases of insanity so found it shall be lawful for the Governor to give such order for the safe custody of such person so found to be insane, during his pleasure, in such hospital, prison, or other place, and in such manner as to him shall seem fit.

As to Arrest of Judgment:

What shall not be sufficient to stay or reverse judgment after verdict.

7 G. 4, c. 64, s. 21.

383. No judgment after verdict upon any information for any felony or misdemeanor shall be stayed or reversed for want of a similitur, nor by reason that the jury process has been awarded to a wrong officer upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the jury who has not been returned as a juror by the Sheriff or other officer.

As to Judgment:

When prisoner relieved without judgment.

384. In case any person shall be found guilty of treason or felony,

The Criminal Law Consolidation Act.—1876.

felony, for which judgment of death may ensue, and shall be reprieved without judgment at that time given against him, the Supreme Court, or the Judge, or Judges who at any time thereafter shall be assigned by the Governor to deliver the gaol where such person found guilty shall remain, shall have full power and authority to give judgment of death against such person so found guilty and reprieved as such Court or Judge, or Judges before whom such person was found guilty might have done if such person had been tried before him or them.

PART IX.

ment of death given against him, such judgment may be given at any time thereafter by Judge of Gaol Delivery.

1 Edw. 6, c. 7, s. 5.

385. Whenever any person shall be convicted of any treason or felony punishable by death, except murder, and the Court before which such offender shall be convicted shall be of opinion that under the particular circumstances of the case such offender is a fit and proper subject to be recommended for the Royal mercy, it shall be lawful for such Court, if it shall think fit so to do, to direct the proper officer then being present in Court to require and ask, whereupon such officer shall require and ask, if such offender has or knows anything to say why judgment of death should not be recorded against such offender; and in case such offender shall not allege any matter or thing sufficient in law to arrest or bar such judgment, the Court shall and may, and is hereby authorized to abstain from pronouncing judgment of death upon such offender, and instead of pronouncing such judgment to order the same to be entered of record, and thereupon such proper officer shall and may and is hereby authorized to enter judgment of death on record against such offender in the usual and accustomed form, and in such and the same manner as is now used, and as if judgment of death had actually been pronounced in open Court against such offender, by the Court before which such offender shall have been convicted.

Court may abstain from pronouncing sentence of death on persons convicted of treason or felony, except murder.

4 G. 4, c. 48, s. 1.
6 & 7 W. 4, c. 30, s. 2

386. A record of every such judgment so entered as in the last preceding section mentioned shall have the like effect to all intents and purposes, and be followed by the same consequences, as if such judgment had actually been pronounced in open Court, and the offender had been reprieved by the Court.

Record of judgment to have the same effect as if pronounced.

4 G 4, c. 48, s. 2.

387. No plea or process which shall have been made upon any information under any Commission of the Peace shall be discontinued by any new Commission of the Peace, but every such plea and process shall stand in force, and the Justices of the Peace assigned by such new Commission of the Peace, after that they shall have the same informations, pleas, and processes before them, shall have full power and authority to continue the said pleas and processes, and the same pleas and processes, and all that depends upon them, to hear and finally determine, in the same manner as the other Justices might and ought to have done if no new Commission had been made.

Justices of the Peace under a new Commission shall have the same powers as Justices under a former Commission.

11 H. 6, c. 6.

388. Wherever sentence shall be passed for felony on a person already imprisoned under sentence for another offence, it shall be lawful

Sentence upon person already imprisoned

*The Criminal Law Consolidation Act.—1876.***PART IX.**

under another
sentence.

7 & 8 G. 4, c. 28, s. 10.

Punishment for
certain offences.

14 & 15 Vic., c. 100,
s. 29.
3 G. 4, c. 114.

lawful for the Court to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced.

389. Whenever any person shall be convicted of any one of the offences hereinafter mentioned as a misdemeanor at common law, that is to say—any attempt to commit a felony; any nuisance, keeping a common gaming-house, a common bawdy-house, or a common ill-governed and disorderly house; any cheat or fraud punishable at common law; any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime; or to obstruct, prevent, pervert, or defeat the course of public justice; any escape or rescue from lawful custody on a criminal charge; or any public selling, or exposing for public sale or to public view, of any obscene book, print, picture, or other indecent exhibition, it shall be lawful for the Court to sentence the offender to be imprisoned for any term not exceeding two years, with hard labor.

As to Costs, Expenses, and Compensations:

Governor, with the
advice of the Execu-
tive Council, may
make regulations as to
costs, expenses, and
compensations, and as
to certificates to be
granted by examining
Magistrate.

390. It shall be lawful for the Governor, by Proclamation to be published in the *Government Gazette*, to make regulations as to the rates and scales of payment of all or any costs, expenses, and compensations to be allowed or ordered to be paid under this Act or any other Act to prosecutors and witnesses, and to persons attending the Court in obedience to any recognizance or subpœna, in case of criminal prosecutions, and (except as hereinafter mentioned) to persons who may have been active in or towards the apprehension of persons charged with offences, and also regulations as to the rates or scales of payment according to which certificates may be granted by the examining Magistrate, in respect of the expenses of any prosecutor or witness for the prosecution, or other person, for attending before such Magistrate, and of any compensation for trouble and loss of time therein, in any case where any Court or Judge is empowered under this Act or any other Act to order payment of such expenses or compensation, and concerning the forms of such certificates, and the details or particulars to be inserted therein of the expenses, trouble, and loss of time to which such certificates relate; and from time to time to alter any such regulations, or to make new regulations in relation to any of the matters in this section before mentioned, and such regulations for the time being shall be binding on all Courts and persons whomsoever.

Court may order pay-
ment of expenses of
prosecution in all cases
of felony and misde-
meanor.

391. The Court before which any person shall be prosecuted or tried for any felony or misdemeanor is hereby authorized and empowered, at the request of any person who shall appear on recognizance or subpœna to prosecute or give evidence against any person accused of any felony or misdemeanor, to order payment to the witnesses for the prosecution, of such sums of money as to the Court shall seem reasonable and sufficient to reimburse such witnesses for the expenses they shall have severally incurred in attending before the examining
Magistrate,

The Criminal Law Consolidation Act.—1876.

PART IX.

Magistrate, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein; and although no information shall be established, it shall be lawful for the Court, where any person shall, in the opinion of the Court, *bonâ fide* have attended the Court in obedience to any such recognizance or subpœna, to order payment unto such person of such sum of money as to the Court shall seem reasonable and sufficient to reimburse such person for the expenses which he shall have *bonâ fide* incurred, by reason of attending before the examining Magistrate, and by reason of such recognizance and subpœna, and also to compensate such person for trouble and loss of time; and the amount of the expenses of attending before the examining Magistrate, and compensation for trouble and loss of time therein, shall be mentioned in the certificate of the Magistrate, granted before the trial or attendance in Court, if such Magistrate shall think fit to grant the same.

392. Every order for payment to any prosecutor or other person as in the last preceding section mentioned, shall be forthwith made out and delivered by the proper officer of the Court unto such prosecutor or other person, and shall be made upon the Sheriff, who is hereby authorized and required, upon sight of every such order, forthwith to pay to the person named therein, or to any one duly authorized to receive the same on his behalf, the money in such order mentioned, and shall be allowed the same in his accounts.

Order for payment to be made out by proper officer of Court, and paid by Sheriff.

7 G. 4, c. 64, s. 24.

393. When any person shall appear to any Judge or Court to have been active in or towards the apprehension of any person charged with any felony, every such Court or Judge is hereby authorized and empowered, to order the Sheriff to pay to the person who shall appear to the Court or Judge to have been active in or towards the apprehension of any person so charged, such sum of money as to the Court or Judge shall seem reasonable and sufficient to compensate such person for his expenses, exertions, and loss of time in or towards such apprehension: Provided that nothing herein contained shall prevent the said Court or Judge from also allowing to any such persons, such costs, expenses, and compensation as Courts are by this Act empowered to allow to witnesses.

Judge may order compensation to those who have been active in the apprehension of offenders.

7 G. 4, c. 64, s. 28.

394. The order for payment to any person in respect of such apprehension as in the last preceding section is mentioned, shall be forthwith made out and delivered by the proper officer of the Court unto such person, and the Sheriff for the time being is hereby authorized and required, upon sight of the order, forthwith to pay to such person, or to any one duly authorized on his behalf, the money in such order mentioned; and every such Sheriff may duly apply for repayment of the same to the Treasurer, who, upon inspecting such order, together with the acquittance of the person entitled to receive the money thereon, shall forthwith order repayment to the Sheriff of the money so by him paid, without any fee or reward whatever.

Such orders to be paid by the Sheriff, who may obtain repayment on application to Treasury.

7 G. 4, c. 64, s. 25.

*The Criminal Law Consolidation Act.—1876.***PART IX.**

Where man killed in attempting to arrest certain offenders, Court may order compensation to his family.

7 G. 4, c. 64, s. 30.

Expenses and compensation to be ascertained according to such regulations, and Magistrate's certificate not to be conclusive.

14 and 15, Vict., c. 55, ss. 6, 7.

Not to interfere with payments for extraordinary courage, &c.

395. If any man shall happen to be killed in endeavoring to apprehend any person who shall be charged with any felony or misdemeanor, it shall be lawful for the Court before whom such person shall be tried to order the Sheriff to pay, from any funds which may be provided for that purpose by Parliament, to the widow of the man so killed, in case he shall have been married, or to his child or children in case his wife shall be dead, or to his father or mother in case he shall have left neither wife nor child, such sum of money as to the Court in its discretion shall seem meet; and the order for payment of such money shall be made out and delivered by the proper officer of the Court unto the party entitled to receive the same, or unto some one on his behalf to be named in such order by the direction of the Court; and every such order shall be paid by and repaid to the Sheriff in the manner in the last preceding section mentioned.

396. Where any Court or Judge empowered under this Act or any other Act in this behalf shall order payment to any witness for the prosecution, or to any person attending the Court in obedience to any recognizance or subpoena, in the case of any prosecution for felony or misdemeanor, or of any costs or expenses incurred, or of any compensation for trouble or loss of time, or order payment to any person who may appear to have been active in or towards the apprehension of any person charged with any offence, of compensation for expenses, exertions, and loss of time, in or towards such apprehension, the amount of such costs, expenses, or compensation shall be ascertained by the proper officer of the Court, according to the regulations made as aforesaid; and where the expenses and compensation in respect of attending before any examining Magistrate are so ordered to be paid, such expenses and compensation shall also be ascertained by the proper officer of the Court, according to such regulations, but the amount thereof as so ascertained shall not exceed the amount mentioned in the certificate of the examining Magistrate; and, save as aforesaid, the certificate of any examining Magistrate shall not be conclusive as to the amount to be allowed for expenses of attendance before him, or for compensation for trouble or loss of time therein: Provided that nothing in this Act, or in any regulations made under this Act, shall interfere with or affect the power of any Court to order payment to any person, who shall appear to such Court to have shown extraordinary courage, diligence, or exertion in or towards any such apprehension, of such sum as such Court shall think reasonable and adjudged to be paid in respect of such extraordinary courage, diligence, or exertion. The Supreme Court or any Judge may order any money or property in the hands of the police, taken from any prisoner, to be paid or given over to such prisoner's order for the purpose of his defence, except where, in the opinion of the Judge, the same shall be required for the purpose of identification or otherwise at the trial, or except where the said property shall be the subject of a criminal prosecution

The Criminal Law Consolidation Act.—1876.

As to the Court of Criminal Appeal:

PART IX.

397. If upon the trial of any person convicted of any treason, felony, or misdemeanor before any Judge of the Supreme Court or Court of Oyer and Terminer or Gaol Delivery, or before any Justice or Justices of the Peace or other Court of Criminal Jurisdiction, any question of difficulty in point of law shall have arisen, it shall be lawful for such Judge, Court, or Justices in its discretion, to reserve such question of law for the consideration and determination of the Judges of the Supreme Court, and in any such case to respite execution of the judgment on such conviction, or postpone the judgment until such question of law shall have been considered and decided; and such case shall be stated by such Court, Judge, or Justices if the Supreme Court shall upon motion make a Rule or Order for that purpose, which Rule or Order the Supreme Court is hereby authorized to make; and in either case the Court in its discretion, shall commit the person convicted to prison, or shall take a recognizance of bail, with one or two sufficient sureties, and in such sum as the Court shall think fit, conditioned to appear at such time or times as the Court shall direct, and receive judgment, or to render himself in execution as the case may be.

Questions of law may be reserved for consideration of Judges.

11 & 12 Vict., c. 78
s. 1.

398. The Judge, Court, or Justices by whom such question of law may have been so reserved, shall thereupon state, in a case setting forth the question of law which shall have been so reserved, with the special circumstances upon which the same shall have arisen; and the Judge, Justices, or other person presiding in such Court shall sign and transmit the same within a reasonable time to the Judges of the Supreme Court; and the said Judges shall thereupon have full power and authority to hear and finally determine the said question or questions, and thereupon to affirm, amend, or reverse any judgment which shall have been given on the information on the trial whereof such question or questions shall have arisen, or to avoid such judgment, and to order an entry to be made on the record, that in the judgment of the said Judges, the party convicted ought not to have been convicted, or to arrest the judgment, or order judgment to be given thereon at some other Session or sitting of the Court where the question arose, if no judgment shall have been before that time given, or to make such other order as justice may require; and such judgment and order (if any) of the said Judges, shall be certified under the hand of the presiding Chief Justice or Senior Justice Judge, to the Clerk of Arraignment, or Associate, or his deputy, who shall enter the same on the original record in proper form; and a certificate of such entry, under the hand of the Clerk of Arraignment, or Associate, or his deputy, in the form, as near as may be, or to the effect mentioned in the next succeeding section of this Act, with the necessary alterations to adapt it to the circumstances of the case, shall be delivered or transmitted by him to the Sheriff or gaoler in whose custody the person convicted shall be; and the said certificate shall be a sufficient warrant to such Sheriff or gaoler, and all other persons, for the execution

Questions reserved to be certified to the Judges.

11 & 12 Vict., c. 78,
s. 2.

*The Criminal Law Consolidation Act.—1876.***PART IX.**

execution of the judgment, as the same shall be so certified to have been affirmed or amended, and execution shall be thereupon executed on such judgment, and for the discharge of the person convicted from further imprisonment, if the judgment shall be reversed, avoided, or arrested, and in that case such Sheriff or gaoler shall forthwith discharge him, and also the next Court having jurisdiction shall vacate the recognizance of bail, if any; and if the Court shall be directed to give judgment, the said Court shall proceed to give judgment accordingly.

Form of certificate.
11 & 12 Vict., c. 78.
Schedule.

399. The certificate mentioned in the last preceding section shall be in the following form, or to the same effect—

Whereas at [*describe the Court*] held on before
, or at and A.B., late of
laborer, having been found guilty of felony or misdemeanor,
and judgment thereupon given, that [*state the substance*], the
Court before whom he was tried reserved a certain question
of law for the consideration of the Judges of the Supreme
Court, and execution was thereupon respited in the meantime
[*or judgment was postponed*]:

This is to certify, that the Judges of the said Supreme Court
having met at the Supreme Court House, in the City of
Adelaide, on the day of it was considered
by the said Judges there that the judgment aforesaid should
be annulled, and an entry made on the record that the said
A.B. ought not, in the judgment of the said Judges, to have
been convicted of the felony aforesaid; and you are therefore
hereby required forthwith to discharge the said A.B. from your
custody. (Signed) E. G.

Clerk of Arraignment of the Supreme Court.

To the Sheriff of the Province of South Australia and the Gaoler
of and all others whom it may concern.

Quorum of Judges.

400. The jurisdiction and authorities to review by this Act given to the Judges of the Supreme Court shall and may be exercised by the said Judges or two of them (but if by two only, the Judge before whom the case in which the question of law arose shall not be one) and the judgment or judgments of the said Judges shall be delivered in open Court, after hearing counsel or the parties, in case the prosecutor or the person convicted shall think it fit that the case shall be argued, in like manner as other judgments of the Supreme Court are now delivered.

Their judgment to be
delivered in open
Court.

11 & 12 Vict., c. 78,
s. 3.

Case or certificate may
be sent back for
amendment.
11 & 12 Vict., c. 78
s. 4.

401. The Judges, when a case has been reserved for their opinion, shall have power, if they think fit, to cause the case or certificate to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended.

Apprehension of Offenders and other Proceedings:

Persons committing
offences may be

402. Any person found committing any offence, punishable either
upon

The Criminal Law Consolidation Act.—1876.

PART IX.

upon information or upon summary conviction by virtue of this Act, or found in possession of any property on or in respect to which there is reasonable cause to believe that any felony or misdemeanor has been committed, and that such person either committed such felony or misdemeanor, or unlawfully received such property, knowing such felony or misdemeanor to have been committed, may be immediately apprehended, without a warrant, by any person, and forthwith taken, together with such property (if any), before a Justice of the Peace, to be dealt with according to law.

arrested by any person.

24 & 25 Vic., c. 96,
s. 103.

403. Any constable, peace officer, or any other person may take into custody without a warrant any person he may find lying or loitering in any highway, yard, or other place during the night, and whom he shall have good cause to suspect of having committed, or being about to commit, any felony in this Act mentioned, and shall take such person as soon as reasonably may be before a Justice of the Peace, to be dealt with according to law; and if any person so liable to be apprehended under this Act, or any Act relating to the criminal law, shall assault or offer any violence to any person hereinbefore authorized to apprehend or detain him, or to any person acting in his aid and assistance, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years, with hard labor.

Persons loitering at night and suspected of any felony, &c., may be apprehended.

Punishment:

404. Whenever imprisonment may by law be awarded for any offence under this Act, the Court in its discretion may direct that the offender shall not be kept to hard labor or to any labor, any law or regulation to the contrary notwithstanding.

Exemption from hard labor by the Court.

405. Whenever imprisonment may by law be awarded for any offence under this Act, the Court in its discretion may, by the sentence to be passed on the offender, direct that he be kept in solitary confinement for any portion of his imprisonment or imprisonment with hard labor, not exceeding one month at any one time, and not exceeding three months in any one year.

Solitary confinement.

406. Whenever whipping may by law be awarded by the Supreme Court for any offence under this Act committed by any male adult above the age of sixteen years, the Court may, in addition to the other punishment awarded, sentence the offender to be once, twice, or thrice privately whipped, and the number of strokes, not to exceed fifty at each whipping, shall be specified by the Court in the sentence.

Whipping for adult male offenders.

407. When any person being a male under the age of sixteen years shall have been convicted of any offence under this Act, it shall be lawful for the Court before which such person shall have been convicted, to sentence such offender, instead of or in addition to any other

Whipping for boys under sixteen years of age.

*The Criminal Law Consolidation Act.—1876.***PART IX.**

other punishment authorized by this Act, to be once, twice, or thrice privately whipped, and the number of strokes not to exceed twenty-five at each whipping, shall be specified by the Court in the sentence.

Whippings to be within six months from date of sentence.

408. All whipping shall take place within six months from the passing of the sentence.

Sheriff to prescribe the form of instrument to be used.

409. It shall be lawful for the Sheriff, with the approval of the Governor, to prescribe the form and kind of instrument to be used in the whipping of offenders sentenced as aforesaid.

No *certiorari*, &c.

410. No summary conviction under this Act shall be quashed for want of form, or be removed by *certiorari* into the Supreme Court, and no warrant of commitment shall be held void by reason of any defect therein: Provided that it be therein alleged that the person has been convicted, and there be a good and valid conviction to sustain the same.

Fine and sureties for keeping the peace.

411. Whenever any person shall be convicted of any misdemeanor punishable under this Act, the Court may, in addition to or in lieu of any punishment by this Act authorized, fine the offender, and require him to enter into his own recognizances and to find sureties both or either for keeping the peace and being of good behaviour, and in case of any felony punishable under this Act, the Court may require the offender to enter into his own recognizances and to find sureties, both or either for keeping the peace, in addition to any punishment by this Act authorized: Provided that no person shall be imprisoned for not finding sureties under this clause for more than one year.

24 & 25 Vic., c. 96, s. 117.

Interpretation of terms.

412. In the construction of this Act, and of all Acts relating to the criminal law of the said Province, heretofore or hereafter to be passed, the word "indictable" shall be understood to mean liable to prosecution by information; the word "information" shall be understood to include "inquisition" and "presentment"; and the terms "finding of the information" shall be understood to include "the taking of an inquisition," the "exhibiting of an information," and "the making a presentment;" and the word "person" shall be understood to include bodies politic and corporate as well as individuals; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

Commencement of Act.

413. This Act shall commence and take effect on and from the first day of January, one thousand eight hundred and seventy-seven.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

A. MUSGRAVE, Governor.

SCHEDULES

The Criminal Law Consolidation Act.—1876.

SCHEDULES REFERRED TO.

SCHEDULE A.

Part I.—Acts adopting Imperial Acts.

No. of Act.	Title.	Extent of Repeal.
14 of 1842	An Act for adopting certain Acts of Parliament passed in the first year of the reign of Her Majesty Queen Victoria, in the Administration of Justice in South Australia in like manner as other Laws of England are applied therein. Which said Acts are as follows:— 1 Vic., c. 23, "An Act to abolish the Punishment of the Pillory." 1 Vic., c. 85, "An Act to amend the Laws relating to Offences against the Person." 1 Vic., c. 86, "An Act to amend the Laws relating to Burglary and Stealing in Dwelling-houses." 1 Vic., c. 87, "An Act to amend the Laws relating to Robbery and Stealing from the Person." 1 Vic., c. 88, "An Act to amend certain Acts relating to the crime of Piracy." 1 Vic., c. 89, "An Act to amend the Laws relating to Burning or Destroying Buildings and Ships." 1 Vic., c. 90, "An Act to amend the Law relative to Offences punishable by Transportation for Life." 1 Vic., c. 91, "An Act for abolishing the Punishment of Death in certain cases."	The whole, except so far as regards 1 Vic., c. 23, an Act to abolish the punishment of the pillory.
1 of 1845	An Ordinance to assimilate the Law of this Province to the Law of England, relative to the Punishment for Malicious Injuries to Property heretofore Punishable with Death; and relative to the Punishment for Rape and carnally knowing and abusing any girl under ten years of age. Adopting the following Acts:— 4 & 5 Vic., c. 56, "An Act for taking away the Punishment of Death in certain cases and substituting other punishments in lieu thereof." 6 & 7 Vic., c. 10, "An Act for removing doubts as to the punishment which may be awarded under the provisions of an Act of the fourth and fifth years of Her present Majesty, "For taking away the Punishment of Death in certain cases," for certain offences therein specified."	The whole.
8 of 1845	An Ordinance for adopting a certain Act of Parliament intituled "An Act to abolish the Punishment of Death in cases of Fergery," in the Administration of Justice in South Australia, in like manner as other Laws of England are applied therein. Which said Act is as follows:— 1 Vic., c. 84, "An Act to abolish the Punishment of Death in certain cases."	The whole.
17 of 1846.	An Ordinance for adopting certain Acts passed in the Imperial Parliament, which was held in the sixth and seventh years of the reign of Her Majesty Queen Victoria, in the Administration of Justice in South Australia, in like manner as other Laws of England are applied therein. Which said Acts are as follows:— 6 & 7 Vic., c. 85, "An Act for improving the Law of Evidence." 6 & 7 Vic., c. 96, "An Act to amend the Law respecting Defamatory Words and Libel."	So much of the said Ordinance as adopts s. 2 and 3 of 6 & 7 Vic., c. 85, and ss. 4, 5, 6, 7 and 8 of 6 & 7 Vic., c. 96.
4 of 1852	An Act to adopt a certain Act of Parliament intituled "An Act for further improving the Administration of Criminal Justice." Which said Act is as follows:— 14 & 15 Vic., c. 100, "An Act for further improving the Administration of Criminal Justice."	The whole.

*The Criminal Law Consolidation Act.—1876.**Part II.—Other Acts.*

No. of Act.	Title.	Extent of Repeal.
4 of 1846.	An Ordinance to provide for the Payment of Allowances to Witnesses in Criminal Cases.	The whole.
2 of 1849.	An Ordinance for the Removal of Defects in the Administration of Criminal Justice.	The whole.
3 of 1849.	An Ordinance for the further amendment of the Administration of the Criminal Law.	The whole.
14 of 1850.	An Ordinance to amend the Laws of the Province of South Australia relative to Larceny and other offences connected therewith.	The whole.
11 of 1851.	An Act to alter the Fees payable to Witnesses in Criminal Cases.	The whole.
10 of 1852	An Act to provide for the trial of offenders without the intervention of Grand Juries.	The whole.
11 of 1853.	An Act to make further provision for the Administration of Justice in respect of offences committed by the Aboriginal Natives of South Australia.	The whole.
10 of 1854.	An Act to amend the Criminal Law.	The whole. except s. 1. previously repealed by 8 of 1869-70, and 14 (still in force.)
15 of 1855-6.	An Act to make provision for the more effectual protection of Railways and Electric Telegraphs.	The whole.
23 of 1858.	An Act to regulate the Execution of Criminals.	The whole.
2 of 1859.	An Act for consolidating the Statute Law in force in South Australia relating to Indictable Offences of a public nature.	The whole.
3 of 1859.	An Act for consolidating the Statute Law in force in South Australia relating to accessories to, and abettors of, Indictable Offences.	The whole.
4 of 1859.	An Act for consolidating the Statute Law in force in South Australia relating to Indictable Offences against Property, by Larceny and other offences connected therewith.	The whole.
5 of 1859.	An Act for consolidating the Statute Law in force in South Australia relating to Indictable Offences (not being Treason) against Her Majesty the Queen and Her Government.	The whole.
6 of 1859.	An Act for consolidating the Statute Law in force in South Australia relating to Criminal Procedure by Indictment or Information by the Attorney-General, by virtue of the Act No. 10, of the year 1852, intituled "An Act to provide for the trial of offenders without the intervention of Grand Juries."	The whole.
7 of 1859.	An Act for consolidating the Statute Law in force in South Australia relating to Indictable Offences by Forgery.	The whole.
8 of 1859.	An Act for consolidating the Statute Law in force in South Australia relating to Indictable Offences against Property by Malicious Injuries.	The whole.
9 of 1859.	An Act for consolidating the Statute Law in force in South Australia relating to Indictable Offences against the Person.	The whole.
1 of 1861.	An Act to amend an Act, No. 23, of 22 Victoria, intituled "An Act to regulate the Execution of Criminals."	The whole.
2 of 1861.	An Act to amend an Act for consolidating the Statute Law in force in South Australia relating to Criminal Procedure by Indictment or Information by the Attorney-General, by virtue of an Act, No. 10, of the year 1852, intituled "An Act to provide for the trial of offenders without the intervention of Grand Juries."	The whole.
1 of 1863.	An Act to make provision for the Punishment of Frauds committed by trustees, bankers, and other persons entrusted with property.	The whole.
3 of 1866-7.	An Act for the further security of the persons of Her Majesty's subjects from Personal Violence and for other purposes.	The whole.
24 of 1870-71.	An Act to amend the Law relating to Assaults.	The whole.
19 of 1874.	An Act to amend the Law relating to the Punishment of certain Offences against Women and Children, and to facilitate the reception of evidence in certain cases, and for other purposes.	The whole.

The Criminal Law Consolidation Act.—1876.

SCHEDULE B.

I, _____, being the Medical Officer in attendance on the execution of _____, at the prison at _____, do hereby certify and declare that the said _____ was, in pursuance of the sentence of the Court, hanged by the neck until his body was dead.

Given under my hand this _____ day of _____ in the year of our Lord, one thousand eight hundred and _____ at the said prison.

Medical Officer.

SCHEDULE C.

We, the undersigned do hereby testify and declare that we have this day been present at the prison _____ when the extreme penalty of the law was carried into execution on the body of _____ convicted at the Criminal Sessions the Supreme Court [*or the Circuit Court as the case may be*], held on the _____ day of _____, and sentenced to death, and that the said _____ was in pursuance of the said sentence, hanged by his neck until his body was dead.

Dated this _____ day of _____ A.D., 18 _____, at the said prison.

Sheriff.
Gaoler.
Turnkey.
Constables.
Justices of the Peace.
Other spectators.

SCHEDULE D.

In the Supreme Court. }
Criminal Jurisdiction. }

This is to certify that I decline to file any information against A.B., a person lawfully committed for trial at the Criminal Sessions to be held at _____ upon a charge of [*state charge*]. Given under my hand this _____ day of _____ 18 _____.

Attorney-General.

To their Honors the Judges of the Supreme Court.

SCHEDULE E.

In the Supreme Court. }
Criminal Jurisdiction. }

Whereas A.B. is detained in your custody under a warrant upon a charge of [*as in certificate*], and it has been certified to the Judges of this Court by Her Majesty's Attorney-General that he declines to file any information against the said A.B. for the said offence, you are therefore hereby required forthwith to discharge the said A.B. from your custody under the said warrant. Given under my hand this _____ day of _____ 18 _____.

A Judge of the Supreme Court.

To the Sheriff and to the Keeper of
Her Majesty's Prison at _____

SCHEDULE F.

The Criminal Law Consolidation Act.—1876.

SCHEDULE F.

Form of summons to show cause why fines, &c., should not be levied by process of the Court.

Victoria by the Grace of God, &c.

To our Sheriff of South Australia.

We command you to demand of the several persons named in the Schedule here-under written [*or annexed hereto, as the case may be*] the several fines, forfeitures, and sums of money set against their respective names as due to us for the several causes specified in the said Schedule, and that you summon such of them as shall make default in payment thereof to appear before our Supreme Court at Adelaide, on the day of *(the first day of Term)* at o'clock in the forenoon, then and there to show cause why the same should not be levied by process of the Court, and have there then this writ, and all sums of money received by you in pursuance thereof. Witness, &c.

(Seal).

(Signed)

Chief Clerk of the Supreme Court.

Schedule referred to.

Names of Persons of whom Fines and Forfeitures are to be demanded.	Amount of sums to be demanded.	Causes of Fines and Forfeitures.
John Doe.....	Forty Pounds.	For so much money, acknowledged by him to be due to us by a certain recognizance entered into by on the day of under a condition that should appear at the then next Criminal Sessions of the Supreme Court to answer to an information to be preferred against him for a certain felony, and forfeited by reason of the non-appearance of the said according to the said condition.
Robert Dodd	Ten Pounds.	For fine imposed upon the said Robert Dodd, for his default, in not appearing as a juror at the last Criminal Sessions of the Supreme Court.

(Signed)

Chief Clerk of the Supreme Court.

SCHEDULE G.

Form of the demand and summons by the Sheriff.

To _____ of _____
 On behalf of Her Majesty, I hereby demand of you the payment of the sum of _____ [*set out the cause of the fine or forfeiture as in the Schedule to the Writ of Summons*] and in default of your paying the same to me before the day of _____ (*the return of the writ*) at ten of the clock in the forenoon, then and there to shew cause why the same should not be levied by process of the Court.

Given under my hand and seal of office the _____ day of _____ 18 _____ Sheriff.

SCHEDULE H.

The Criminal Law Consolidation Act.—1876.

SCHEDULE H.

Victoria, &c.

To our Sheriff of South Australia, greeting.

We command you that of the goods and chattels, lands and tenements, of the several persons named in the Schedule hereto in your bailiwick, you cause to be made the several sums of money set against their respective names as due to us for the several causes mentioned in the said Schedule, and whereof they are severally convicted, as appears to us of record and have the said several sums of money in our said Supreme Court on the day of to be rendered to us, and have there then this writ. Witness, &c.

(Signed)

Chief Clerk of the Supreme Court.

Schedule referred to

*(Same as in Writ of Summons.)*Form of writ of *feri facias* to levy fines, &c.

SCHEDULE I.

Victoria, &c.

To our Sheriff of South Australia, greeting.

Whereas by our writ we lately commanded you that of the goods and chattels, lands and tenements, of the several persons named in the Schedule hereto in your bailiwick, you should cause to be made the several sums of money set against their respective names as due to us for the several causes mentioned in the said Schedule, and you the said Sheriff, at a certain day now past, returned to us that the said several persons had no effects in your bailiwick whereof you could cause to be made the several sums of money or any part thereof. Therefore we command you that you take the said several persons and safely keep them so that you may have their bodies before our Supreme Court at Adelaide, on the day of to satisfy us the said several sums of money aforesaid, and have you there then this writ.

(Signed)

Chief Clerk of the Supreme Court.

Schedule referred to

*(Same as in the Writ of Summons.)*Form of writ of *capias ad satisfaciendum* for the recovery of fines.