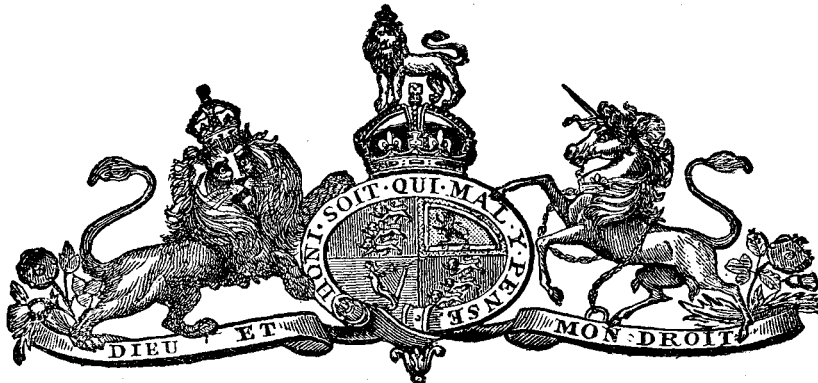


TASMANIA.



1924.

ANNO QUARTO DECIMO
GEORGII V. REGIS.

No. 69.

ANALYSIS.

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| <ol style="list-style-type: none"> 1. Short title. 2. Establishment of Code. 3. Repeal.
Saving. 4. Construction of statutes. 5. Trial by police magistrate in certain cases. 6. Proceedings to be under the Code or other statute. | <ol style="list-style-type: none"> 7. Proceedings to be initiated by indictment. 8. Saving of Common Law defences. 9. Civil remedies.
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Civil remedies not to be suspended. 10. Contempt of court. 11. Outlawry and forfeiture abolished. 12. Rules of Court. 13. Saving of prerogative of mercy. |
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AN ACT to declare, consolidate, and amend ^{A.D.} **1924.**
the Criminal Law, and to establish a Code
of Criminal Law. [4 April, 1924.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

- 1** This Act may be cited as “The Criminal Code Act, 1924.” Short title.
- 2**—(1) After the passing of this Act, the provisions contained in the Code of Criminal Law set forth in the First Schedule to this Act, and hereinafter called “the Code,” shall be the law of this State with respect to the several matters therein dealt with. Establishment of Code.
- (2) The said Code may be cited as “The Criminal Code.”

Criminal Code.

A.D. 1924.

Repeal.

9 Geo. IV c. 83.

Saving.

Construction of statutes.

Trial by police magistrate in certain cases.

3—(1) After the passing of this Act no penal enactment contained in any Imperial Act, not having the force of law in this State otherwise than by virtue of the provisions of Section Twenty-four of "The Australian Courts Act, 1828," shall continue in force or be applied in the administration of justice in this State.

(2) The several Acts mentioned in the Second Schedule to this Act shall be repealed to the extent in the said schedule indicated.

(3) The repeal of any statute or part of a statute set forth in the said schedule shall not affect the construction of any other statute, or of any other part of the same statute.

4—(1) After the passing of this Act every statute shall, for the purposes of this Act, be read and construed as if any offence therein mentioned for which the offender may be prosecuted on indictment or information (however such offence may be therein described or referred to) were described or referred to as a crime as defined by the Code; and all provisions of this Act relating to crimes generally shall apply to every such offence.

(2) Where in any statute reference is made to proceedings upon information in the Supreme Court, the same shall be construed as a reference to proceedings upon indictment.

(3) Nothing herein contained shall be construed to affect the construction of any statute, or of any provision thereof, referring or relating to summary proceedings.

5—(1) Where in any unrepealed statute, passed before the passing of this Act, it is provided that any offence therein created, defined, or made punishable shall be punishable by any term of imprisonment not exceeding Two years (whether such offence is described as a misdemeanor or otherwise), or that any offence shall be a misdemeanor, and no specific punishment is thereby provided for the same, every such offence shall be punishable summarily before a police magistrate as herein provided.

(2) In every such case, as aforesaid, a police magistrate shall have power to impose upon any person convicted of any such offence a term of imprisonment not exceeding One year, or such shorter period as may be provided by such statute, in addition to any fine or other punishment (if any) authorised thereby, or otherwise.

(3) In any case in which the term of imprisonment authorised by any such statute exceeds One year the police magistrate before whom any person is charged with an offence thereunder may—

- i. If such person demands to be tried by jury: or
- ii. If, in his opinion, the charge should be tried upon indictment—

commit such person for trial upon indictment under the Code.

(4) A person so committed shall thereupon be dealt with under the provisions of the Code relating to proceedings upon indictment, and may be punished in manner provided by such statute as aforesaid.

Criminal Code.

6 After the passing of this Act no person shall be proceeded against as for a crime as defined by the Code, except under the provisions of this Act, or of some other Act, or of some Commonwealth Act, or of some Imperial Act in force in this State.

A.D. 1924.

Proceedings to be under the Code or other statute.

7 All proceedings in the Supreme Court against any person for a crime shall be initiated by indictment, and shall be prosecuted in accordance with the provisions of the Code relating thereto.

Proceedings to be initiated by indictment.

8 All rules and principles of the Common Law which render any circumstances a justification or excuse for any act or omission, or a defence to a charge upon indictment, shall remain in force and apply to any defence to a charge upon indictment, except in so far as they are altered by, or are inconsistent with, the Code.

Saving of Common Law defences.

9—(1) Where by the Code any act is declared to be lawful, no action shall be brought in respect thereof.

Civil remedies.

(2) Except as aforesaid, the provisions of this Act shall not affect any right of action which any person would have had against another if this Act had not been passed; nor shall the omission from the Code of any penal provision in respect of any act or omission which before the passing of this Act constituted an actionable wrong affect any right of action in respect thereof.

Saving.

(3) No civil remedy for any act or omission shall be suspended by reason that such act or omission amounts to a criminal offence.

Civil remedies not to be suspended.

10 Nothing in this Act shall affect the authority of courts of record to punish a person summarily for the offence commonly known as "contempt of court"; but no person shall be so punished and also punished under the provisions of the Code for the same act or omission.

Contempt or court.

11—(1) After the passing of this Act no proceedings in outlawry shall be taken, and no judgment of outlawry shall be pronounced, against any person.

Outlawry and forfeiture abolished.

(2) No confession, verdict, inquest, conviction, or judgment of or for any treason, felony, or other crime, shall hereafter cause any attainder or corruption of blood or any forfeiture or escheat other than any fine or penalty imposed by the sentence of the Court.

12 The judges of the Supreme Court may from time to time make rules of Court prescribing all such matters and things as are required to be prescribed or as may be necessary or desirable for giving effect to the provisions of the Code; and such rules may provide for all matters relating to procedure and practice on appeals to the Court of Criminal Appeal, and in all proceedings before courts of trial, and all matters incidental thereto respectively.

Rules of Court.

13 Nothing herein contained shall affect His Majesty's Royal prerogative of mercy.

Saving of prerogative of mercy.

Criminal Code.

A.D. 1924.

FIRST SCHEDULE.**THE CRIMINAL CODE.****PART I.****INTRODUCTORY.****CHAPTER I.****INTERPRETATION.**Construction
of terms.

1. In the Code, unless the contrary intention appears—

- “Carnal knowledge” means the penetration to any the least degree of the organ alleged to have been known, by the male organ of generation:
- “Chapter” means chapter of the Code:
- “Claim of right” means a claim of right which is made in good faith:
- “Company” means a company incorporated in this State or elsewhere:
- “Consent” means a consent freely given by a rational and sober person so situated as to be able to form a rational opinion upon the matter to which he consents. A consent is said to be freely given when it is not procured by force, fraud, or threats of whatever nature:
- “Crime” means an offence punishable upon indictment:
- “Criminally responsible” means liable to punishment as for an offence; and the term “criminal responsibility” means liability to punishment as for an offence:
- “Crown Law Officer” means the Attorney-General or Solicitor-General, or any person appointed by the Governor to institute or prosecute criminal proceedings in the Supreme Court:
- “Grievous bodily harm” means any bodily injury of such a nature as to endanger or be likely to endanger life, or to cause or be likely to cause serious injury to health:
- “Have in possession” includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question:
- “Instigate” means to counsel, procure, or command:
- “Judicial officer” means a person having authority by law to hear and determine any question or matter or to hold any enquiry, and includes an arbitrator or umpire:
- “Night” means the interval between Nine of the clock in the evening and Six of the clock in the morning of the next day:
- “Offence” means any breach of the law for which a person may be punished summarily or otherwise:
- “Owner” means His Majesty or any other person or body of persons, corporate or unincorporate, capable of owning property:
- “Police officer” means any constable or member of the Police Force:
- “Property” includes everything animate or inanimate capable of being the subject of ownership:
- “Public officer” means a person holding any public office, or who discharges any duty in which the public are interested, whether such person receives payment for his services or not:
- “Railway” includes every kind of way on which vehicles are borne upon a rail or rails, whatever may be the means of propulsion:
- “Section” means section of the Code.
- “Ship” includes every kind of vessel used in navigation not propelled by oars:

Criminal Code.

“Valuable security” includes every document forming the title, or evidence of the title, to any property of any kind whatever: A.D. 1924.

“Vessel” includes a ship, or boat, and every other kind of vessel used in navigation.

“Writing” includes anything expressed in words, characters, or symbols, and intended to be read.

2.—(1) An attempt to commit a crime is an act or omission done or made with intent to commit that crime, and forming part of a series of events which would constitute its actual commission if it were not interrupted. Definition of attempts.

(2) The offence of attempting to commit a crime may be committed, although the offender voluntarily desists from the actual commission of the crime itself, and whether under the circumstances it was possible to commit such crime or not.

(3) The point at which such a series of events as aforesaid begins depends upon the circumstances of each particular case.

(4) Whether an act or omission is, or is not, too remote to constitute an attempt to commit a crime is a question of law.

CHAPTER II.

PERSONS SUBJECT TO PUNISHMENT FOR A CRIME.

3.—(1) Where a crime is committed, each of the following persons is deemed to be a party to, and to be guilty of, the crime, and may be charged with actually committing it— Parties to crimes deemed to be principal offenders.

i. Every person who actually commits the crime:

ii. Every person who does any act or makes any omission for the purpose of enabling or aiding another person to commit the crime:

iii. Every person who abets another person in committing the crime: and

iv. Every person who instigates any other person to commit the crime.

(2) Any person who instigates another to do any act or make any omission of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted a crime on his part, is guilty of the same crime as if he had himself done the act or made the omission; and may be charged with himself committing that crime.

4. Where two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose a crime is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the crime. Crimes committed in prosecution of common purpose.

5. Where a person instigates another to commit a crime, and a crime is actually committed after such instigation by the person instigated, it is immaterial whether the crime actually committed is the same as that instigated or not, or whether the crime is committed in the manner suggested or not; provided in either case that the facts constituting the crime actually committed are a probable consequence of carrying out the instigation. Mode of execution immaterial.

In any such case the instigator is deemed to have himself committed the crime actually committed.

6.—(1) A person who receives or assists another who is, to his knowledge, guilty of a crime, in order to enable him to escape punishment, is said to become an accessory after the fact to such crime. Accessories after the fact.

(2) A married woman does not become an accessory after the fact to a crime of which her husband is guilty, by receiving or assisting him in order to enable him to escape punishment; nor by receiving or assisting, in her husband's presence and by his authority, another person who is guilty of a crime in the commission of which her husband has taken part, in order to enable that other person to escape punishment; nor does a husband become accessory after the fact to a crime of which his wife is guilty by receiving or assisting her in order to enable her to escape punishment. Wives and husbands: when not accessory.

Criminal Code.

A. D. 1924.

CHAPTER III.

APPLICATION OF CRIMINAL LAW.

Effect of changes
in law.

7.—(1) No person shall be punished as for a crime if at the time of his trial the act or omission with which he is charged no longer constitutes a crime.

(2) If the law in force when a crime was committed differs from that in force at the time of the conviction therefor, the offender shall not be punished to any greater extent than was authorised by the former law, or than is authorised by the latter law.

Application of Code
as to crimes
partially com-
mitted in this State.

8.—(1) If in any case any facts occur which, if they all occurred in this State, would together constitute a crime, and any of such facts occurs in this State, any person who in this State does any act or makes any omission which, if all such facts occurred in this State, would make him a party to such crime, shall be guilty of such crime.

(2) Any person who, outside this State, does any act or makes any omission which, if done or made in this State, would make him a party to such crime, shall, if he come into this State, be deemed by so doing to be guilty of such crime.

Instigation in this
State of crimes
committed
elsewhere.

9.—(1) Any person who in this State instigates another to do an act or make an omission outside this State, which act or omission would constitute a crime on his part both in this State, if done or made by him here, and in the place where it occurs, if done or made by him there—is guilty of the same crime as if he had himself done the act or made the omission in this State, but the punishment shall not exceed that provided by the law in force in the place where the act or omission was done or made.

(2) No person shall be prosecuted under the provisions of this section except at the request of the Government of the State having jurisdiction where such act or omission is done or made.

Military and
Naval Forces.

10. Officers and men of the Military and Naval Forces are at all times subject to the provisions of the Code.

Person not to be
twice punished for
same crime.

11. Where a person is punishable under the Code, and also under any other statute, or under two or more sections of the Code or of any other statute, he may be tried and punished under the Code or such other statute or under either of such sections, as the case may be; but he shall not be punished twice in respect of the same act or omission, unless his act or omission renders him guilty of unlawfully causing the death of any person, and such death occurs after he has been once punished.

CHAPTER IV.

CRIMINAL RESPONSIBILITY.

Ignorance of law.

12. The fact that an offender is ignorant of the law is not an excuse for any offence committed by him, but it may be relevant to the question whether or not an act or omission which would constitute an offence if accompanied by a certain intention or state of mind was in fact accompanied by that intention or state of mind.

Intention: Motive.

13.—(1) No person shall be criminally responsible for an act, unless it is voluntary and intentional; nor, except as hereinafter expressly provided, for an event which occurs by chance.

(2) Except as otherwise expressly provided, no person shall be criminally responsible for an omission, unless it is intentional.

(3) Any person who with intent to commit an offence does any act or makes any omission which brings about an unforeseen result which, if he had intended it, would have constituted his act or omission some other offence, shall, except as otherwise provided, incur the same criminal responsibility as if he had effected his original purpose.

Criminal Code.

- (4) Except where it is otherwise expressly provided, the motive by which a person is induced to do any act or make any omission is immaterial. **A.D. 1924.**
14. Whether criminal responsibility is entailed by an act or omission done or made under an honest and reasonable, but mistaken, belief in the existence of any state of facts the existence of which would excuse such act or omission, is a question of law, to be determined on the construction of the statute constituting the offence. **Mistake of fact.**
15. Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved. **Presumption of sanity.**
- 16.—(1) A person is not criminally responsible for an act done or an omission made by him— **Insanity.**
- I. When afflicted with mental disease to such an extent as to render him incapable of—
 - (a) Understanding the physical character of such act or omission :
or
 - (b) Knowing that such act or omission was one which he ought not to do or make: or
 - II. When such act or omission was done or made under an impulse which, by reason of mental disease, he was in substance deprived of any power to resist.
- (2) The fact that a person was, at the time at which he is alleged to have done an act or made an omission, incapable of controlling his conduct generally is relevant to the question whether he did such act or made such omission under an impulse which by reason of mental disease he was in substance deprived of any power to resist.
- (3) A person whose mind at the time of his doing an act or making an omission is affected by a delusion on some specific matter, but who is not otherwise exempted from criminal responsibility under the foregoing provisions of this section, is criminally responsible for the act or omission to the same extent as if the fact which he was induced by such delusion to believe to exist really existed.
- (4) For the purpose of this section the term "mental disease" includes natural imbecility.
- 17.—(1) The provisions of Section Sixteen shall apply to a person suffering from disease of the mind caused by intoxication. **Intoxication**
- (2) Intoxication which renders the accused incapable of forming the specific intent essential to constitute the offence with which he is charged shall be taken into consideration with the other facts proved in order to determine whether or not he had that intent.
- (3) Evidence of intoxication not amounting to any such incapacity as aforesaid shall not rebut the presumption that a person intends the natural and probable consequences of his acts.
- 18.—(1) No act or omission done or made by a person under seven years of age is an offence. **Immature age.**
- (2) No act or omission done or made by a person under fourteen years of age is an offence unless it be proved that he had sufficient capacity to know that the act or omission was one which he ought not to do or make.
- (3) A male person under fourteen years of age shall be conclusively presumed to be incapable of having carnal knowledge.
19. A judicial officer is not criminally responsible for anything done or omitted to be done by him in good faith in the exercise of his judicial functions, although the act done is in excess of his judicial authority, or although he is bound to do the act omitted to be done. **Judicial officers.**
- 20.—(1) Except as provided by Section Sixty-four, compulsion by threats of immediate death or grievous bodily harm, from a person actually present at the commission of the offence, shall be an excuse for the commission, by a person subject to such threats, and who believes that such threats will be executed, and **Compulsion**

Criminal Code.

A.D. 1924.

who is not a party to any association or conspiracy the being a party to which rendered him subject to compulsion, of any offence other than treason, murder, piracy, offences deemed to be piracy, attempting to murder, rape, forcible abduction, robbery with violence, robbery, causing grievous bodily harm, and arson.

Married women.

(2) A married woman shall be in the same position as regards compulsion by her husband as if she were unmarried.

Execution of sentence.

21.—(1) It is lawful for a person who is charged by law with the duty of executing or giving effect to the lawful sentence of a court, and for every person lawfully assisting him, to execute or give effect to that sentence.

Execution of process.

(2) It is lawful for a person who is charged by law with the duty of executing the lawful process of a court, and who is required to arrest or detain another person under such process, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the terms of the process.

Execution of warrants.

(3) It is lawful for a person who is charged by law with the duty of executing a lawful warrant issued by any court or justice or other person having jurisdiction to issue it, and who is required to arrest or detain another person under such warrant, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the directions of the warrant.

Erroneous sentence or process or warrant.

22. If a sentence was passed or process issued by a court having jurisdiction under any circumstances to pass such a sentence or to issue such a process, or if a warrant was issued by a court or justice or other person having authority under any circumstances to issue such a warrant, it is immaterial whether the court or justice or person had or had not authority to pass the sentence or issue the process or warrant in the particular case, unless the person executing the same knows that the sentence or process or warrant was in fact passed or issued without authority.

Sentence or process or warrant without jurisdiction.

23. A person who executes or assists in executing any sentence, process, or warrant which purports to be passed or issued by a court or justice or other person, and who would be justified in executing the same if it had been passed or issued by a court, justice, or person having authority to pass or issue it, is not criminally responsible for any act done in such execution, notwithstanding that the court or justice or person had no authority to pass the sentence or issue the process or warrant, if in such execution he acted in good faith and in the belief that the sentence, process, or warrant was that of a court or justice, or other person having such authority.

Arrest of wrong person.

24.—(1) A person who, being duly authorised to execute a warrant to arrest one person, arrests another person, believing in good faith and on reasonable grounds that the person arrested is the person named in the warrant, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

(2) Any person called upon to assist in any such arrest who assists therein, and any person required to receive and detain persons lawfully arrested who receives or detains such person, in the belief in any of such cases that such person is the person named in the warrant, is not criminally responsible to any greater extent than if the person arrested had been the person named in the warrant.

Irregular process or warrant.

25. When any process or warrant is bad in law by reason of some defect in substance or in form apparent on the face of it, a person who, in good faith and believing that it is good in law, acts in the execution of the process or warrant, is not criminally responsible for anything done in such execution to any greater extent than if the process or warrant were good in law.

Force used in executing process or in arrest.

26.—(1) It is lawful for any person who is justified or protected in the execution of any sentence, process, or warrant, or in making an arrest, to use such force as may be reasonably necessary to overcome any force used in resisting such execution or arrest.

Criminal Code.

(2) It is lawful for a person who is justified or protected from criminal responsibility in the execution of any sentence, process, or warrant, to cause such damage to property as he may believe in good faith and on reasonable grounds to be necessary for the purpose of effecting such execution. A.D. 1924.

27.—(1) It is lawful for a police officer to arrest without warrant any person whom he finds committing a crime. Arrest without warrant.

(2) In any case where any of the crimes specified in Appendix A hereto has been committed it is lawful for a police officer to arrest without warrant any person whom he believes on reasonable grounds to have committed such crime.

(3) In any case where a police officer believes on reasonable grounds that any of the crimes specified in Appendix A hereto has been committed it is lawful for him to arrest without warrant any person whom he believes on reasonable grounds to have committed such crime.

(4) It is the duty of every person to arrest without warrant any person whom he finds committing any of the crimes in Appendix A hereto.

(5) In any case where any of the crimes specified in Appendix B hereto has been committed it is lawful for any person to arrest without warrant any person whom he believes on reasonable grounds to have committed such crime.

(6) It is lawful for any person to arrest without warrant any person whom he sees committing a breach of the peace or whom he believes on reasonable grounds to be about to commit or renew a breach of the peace.

(7) It is lawful for any person who finds another lying or loitering in any place by night under such circumstances as to afford reasonable grounds for believing that he has committed, or is about to commit, a crime, and who does in fact so believe, to arrest him without warrant.

(8) It is lawful for any person to arrest without warrant any person whom he believes on reasonable grounds to have committed a crime, and to be escaping from, and to be freshly pursued by, some person whom he believes on reasonable grounds to have authority to arrest him for that offence.

(9) In every case under this section in which it is lawful for a police officer to arrest any person it is his duty to do so.

28. In any case where any person is called upon by a police officer to assist him in making an arrest it is the duty of such person to assist such officer therein, unless such person knows the arrest to be illegal. Assisting police officers.

29. Nothing in the Code shall take away or diminish any authority given by any other statute in force for the time being to arrest, detain, or put restraint upon any person. Saving of statutory powers.

30.—(1) Where a police officer is proceeding lawfully to arrest a person, with or without warrant, and the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the police officer, and for any person lawfully assisting him, to use such force as may be reasonably necessary to prevent the escape of the person sought to be arrested. Police officer preventing escape from arrest.

(2) Where a police officer has lawfully arrested any person, it is lawful for him to use such force as he believes on reasonable grounds to be necessary to prevent the escape or rescue of the person so arrested.

(3) This section shall not authorise the use of force which is intended or is likely to cause death or grievous bodily harm, except in a case where the person sought to be arrested is suspected on reasonable grounds of having committed any of the crimes specified in Appendix B hereto, nor until the person sought to be arrested has been called upon to surrender.

31.—(1) It is lawful for any person who is proceeding lawfully to arrest another person to use such force as may be reasonably necessary to prevent his escape. Other cases of preventing escape from arrest.

(2) This section shall not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

Criminal Code.

A.D. 1924.

Preventing escape
or rescue after
arrest.

32.—(1) Where any person has lawfully arrested another person it is lawful for him to use such force as he believes on reasonable grounds to be necessary to prevent the escape or rescue of the person arrested.

(2) This section shall not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

Examination of
body of accused
persons in custody.

33.—(1) Where a person is in lawful custody upon a charge of committing any crime, it is lawful for a police officer to search him, and to take from him anything found upon, in, or about his clothing, and to use such force as is reasonably necessary for these purposes.

(2) Where a person is in lawful custody upon a charge of committing any crime of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his body will afford evidence as to the commission of the crime, it is lawful for a legally-qualified medical practitioner, acting at the request of a police officer, and for any person acting in good faith in his aid and under his direction, to make such an examination of the body of the person so in custody as is reasonably necessary in order to ascertain any facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose; and it is lawful for a police officer to take prints of any part of the body of the person in custody.

Suppression of riot.

34.—(1) It is lawful for any person to use such force as is necessary to suppress a riot, and is reasonably proportioned to the danger to be apprehended from the continuance of the riot.

(2) It is lawful for a police officer to use such force as he believes on reasonable grounds to be necessary in order to suppress a riot, not being disproportioned to the danger which he believes on reasonable grounds is to be apprehended from the continuance of the riot.

Suppression of riot
by magistrates
and police officers.

35. It is lawful for a sheriff or justice to use or order to be used such force as he believes on reasonable grounds to be necessary in order to suppress a riot, not being disproportioned to the danger which he believes on reasonable grounds is to be apprehended from the continuance of the riot.

Suppression of riot
by person acting
under lawful
orders.

36.—(1) It is lawful for any person acting in good faith in obedience to an order, not manifestly unlawful, given by a sheriff or justice for the suppression of a riot, to use such force as he believes on reasonable grounds to be necessary for carrying such order into effect.

(2) It is a question of law whether any particular order is manifestly unlawful or not.

Suppression of riot
by person acting
without order in
case of emergency.

37. Where any person, whether subject to military law or not, believes on reasonable grounds that serious mischief will arise from a riot before there is time to procure the intervention of a sheriff or justice, it is lawful for him to use such force as he believes on reasonable grounds to be necessary for the suppression of the riot, not being disproportioned to the danger which he believes on reasonable grounds is to be apprehended from the continuance of the riot.

Riot: Persons
subject to
military law

38.—(1) It is lawful for a person who is bound by military law to obey the lawful commands of his superior officer to obey any command given him by such officer for the suppression of a riot, unless the command is manifestly unlawful.

(2) It is a question of law whether any particular command is manifestly unlawful or not.

Prevention of
certain crimes.

39. It is lawful for any person to use such force as he believes on reasonable grounds to be necessary in order to prevent the commission of a crime, the commission of which would be likely to cause immediate and serious injury to any person or property, or in order to prevent any act being done which he believes on reasonable grounds would, if done, amount to any such crime.

Criminal Code.

A.D. 1924.

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Defence of dwelling-house.

40. It is lawful for any person who is in peaceable possession of a dwelling-house, and for any person lawfully assisting him or acting by his authority, to use such force as the person using the same believes on reasonable grounds to be necessary to prevent the forcible breaking and entering of the dwelling-house by any person whom he believes on reasonable grounds to be attempting to break or enter the dwelling-house with intent to commit any crime therein, or to eject therefrom any person who has unlawfully entered the dwelling-house, and whom he believes on reasonable grounds to intend to commit a crime therein.

Defence of premises against trespassers: Removal of disorderly persons.

41. It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person lawfully assisting him or acting by his authority, to use such force as the person using the same believes on reasonable grounds to be necessary to prevent any person from wrongfully entering upon such land, structure, vessel, or place, or to remove therefrom a person who wrongfully remains therein or conducts himself therein in a disorderly manner; provided that any such force is not intended and is not likely to cause death or grievous bodily harm.

Defence of possession of real property with claim of right.

42. It is lawful for a person in peaceable possession of any land or structure, with a claim of right, and for any person lawfully assisting him or acting by his authority, to use such force as he believes on reasonable grounds to be necessary to defend his possessions against any person whether entitled by law to the possession of the property or not, provided that such force is not intended and is not likely to cause death or grievous bodily harm.

Defence of movable property against trespassers.

43. It is lawful for any person in peaceable possession of any movable property, and for any person lawfully assisting him or acting by his authority, to use such force as he believes on reasonable grounds to be necessary to resist the taking of such property by a trespasser, or to retake it from a trespasser; provided that such force is not intended and is not likely to cause death or grievous bodily harm to the trespasser.

Defence of movable property with claim of right.

44. It is lawful for a person in peaceable possession of any movable property under a claim of right, and for any person lawfully assisting him or acting by his authority, to use such force as is necessary to defend his possession of the property against any person whether entitled by law to possession thereof or not; provided that such force is not intended and is not likely to cause death or grievous bodily harm.

Defence of movable property without claim of right.

45. It is lawful for a person entitled by law to the possession of movable property to take it from a person who is in possession of the property, but who neither claims right to it nor acts by the authority of a person so claiming, and if the person in possession resists him, to use such force as is necessary to obtain possession of the property; provided that such force is not intended and is not likely to cause death or grievous bodily harm.

Self-defence against unprovoked assault.

46.—(1) A person unlawfully assaulted, not having provoked such assault, is justified in repelling force by force if the force he uses is not meant to cause death or grievous bodily harm, and is no more than is necessary for the purpose of self-defence.

(2) A person so assaulted as aforesaid is justified in causing death or grievous bodily harm to his assailant if, from the violence with which the assault was originally made, or with which the assailant pursues his purpose, he acts under a reasonable apprehension that his assailant will cause death or grievous bodily harm to him, and if he believes on reasonable grounds that he cannot otherwise preserve himself therefrom.

Self-defence against provoked assault.

47.—(1) A person who has without justification assaulted another, or has provoked an assault from that other, may nevertheless justify force subsequent to such assault, if he uses such force under reasonable apprehension of death or grievous bodily harm from the violence of the party first assaulted or provoked, and in the belief on reasonable grounds that it is necessary for his own preservation from death or grievous bodily harm.

Criminal Code.

A.D. 1924.

(2) This section shall not justify any assault commenced with intent to cause death or grievous bodily harm; nor an assault by any person who endeavours to cause death or grievous bodily harm before the necessity for preserving himself arises; nor to any person so assaulting or provoking another, unless before such necessity as aforesaid arises he declines further conflict, and quits or retreats from it as far as practicable.

Provocation.

48. Provocation within the meaning of the two last preceding sections may be given by blows, words, or gestures.

Prevention of assault with insult.

49.—(1) Every one is justified in using force in defence of his own person, or of the person of any one under his protection, against an assault accompanied with insult, if he uses no more force than is necessary to prevent such assault or the repetition of it.

(2) This section shall not justify the wilful infliction of any hurt or mischief disproportionate to the insult which it was intended to prevent.

Domestic discipline.

50. It is lawful for a parent or a person in the place of a parent, or for a schoolmaster, to use, by way of correction, towards a child or pupil respectively under his care, such force as is reasonable under the circumstances.

Surgical operations

51.—(1) It is lawful for a person to perform in good faith and with reasonable care and skill a surgical operation upon another person, with his consent and for his benefit, if the performance of such operation is reasonable, having regard to all the circumstances.

(2) In the case of a child too young to exercise a reasonable discretion in such a matter, such consent as aforesaid may be given by his parent or by any person having the care of such child.

(3) In the case of a person in such a condition as to be incapable of giving such consent as aforesaid, such operation may be performed without such consent.

Excessive force.

52. A person authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes such excess.

Consent to injuries.

53. No person has a right to consent to the infliction—

I. Of death upon himself:

II. Except as provided in Section Fifty-one, of an injury likely to cause death: or

III. Of a maim for any purpose injurious to the public—

and any consent given in contravention hereof shall have no effect as regards criminal responsibility.

Liability of husband and wife for offences committed by either with respect to the other's property.

54.—(1) Except as provided in Subsection (2) hereof, no married person shall be convicted of any offence alleged to have been committed by him or her during cohabitation with respect to the property of the other spouse.

(2) Every such person as aforesaid shall be criminally responsible for any offence committed with respect to any such property when leaving or deserting or about to leave or desert the other spouse; and for any offence committed with intent to defraud any person other than such spouse.

(3) In any proceedings instituted by a married person against the other spouse for an offence alleged to have been committed by such spouse in respect of any property of such person, such person shall be a competent and compellable witness.

Liability of married persons generally.

55. Except as hereinbefore expressly provided, a married person incurs the same criminal responsibility in respect of his or her acts and omissions as if such person were unmarried.

Criminal Code.

A.D. 1924.

PART II.

CRIMES AGAINST PUBLIC ORDER.

CHAPTER V.

TREASON AND OTHER CRIMES AGAINST THE SOVEREIGN'S PERSON AND AUTHORITY.

56. Any person who—

Treason.

- i. Kills the King, or does him any bodily harm tending to his death, or maim or wounding, or imprisonment or restraint:
 - ii. Kills the eldest son and heir-apparent for the time being, or the Queen Consort, of the King:
 - iii. Forms an intention to do any such act as aforesaid, and manifests such intention by any overt act:
 - iv. Conspires with any other person to kill the King, or to do him any bodily harm tending to his death, or maim or wounding, or imprisonment or restraint:
 - v. Levies war against the King—
 - (a) With intent to depose him from the style, honour, and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of His Majesty's dominions;
 - (b) In order by force or constraint to compel the King to change his measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, any House of Parliament of any of His Majesty's dominions:
 - vi. Conspires with any other person to levy war against the King with any such intent or purpose as last aforesaid:
 - vii. Instigates any foreigner to make an armed invasion of any part of His Majesty's dominions:
 - viii. Assists by any means whatever any public enemy at war with the King:
 - ix. Violates, whether with her consent or not, a Queen Consort, or the wife of the eldest son and heir-apparent for the time being of the King: or
 - x. Does any act which by the law of England constitutes treason—
- is guilty of a crime, which is called treason, and, except as provided in Section Three hundred and eighty-nine, shall, upon conviction, be sentenced to death.
- Charge: Treason.

57. Every person who is an accessory after the fact to treason shall be guilty of treason; but no such person shall be tried for knowingly comforting or receiving a traitor till such traitor has been convicted.

Accessories.

58. Any person who, knowing that any person has committed, or having reasonable grounds for believing that any person intends to commit, treason, does not give information thereof with all reasonable despatch to a justice, is guilty of a crime.

Concealment of treason.

Charge: Failing to give information of treason.

59. Any person who forms an intention to effect any of the following purposes—

Treasonable crimes.

- i. To depose the King from the style, honour, and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of His Majesty's dominions:

Criminal Code.

A.D. 1924:

- II. To levy war against the King within any part of his dominions in order by force or constraint to compel the King to change his measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe, any House of Parliament of any of His Majesty's dominions: or
- III. To instigate any foreigner to make an armed invasion of any of His Majesty's dominions—
- and manifests such intention by any overt act, is guilty of a crime.
Charge: Manifesting a treasonable intention.

Evidence of treason.

60.—(1) No one shall be convicted of treason (unless he pleads guilty) except upon the evidence of two witnesses to one overt act of the kind of treason with which he is charged, or upon the evidence of one witness to one such act and one other witness to another such act.

Limitation of time in treason charges.

(2) No one shall be liable to be indicted or tried for treason unless the indictment is filed within three years next after the crime was committed.

(3) The provisions of this section shall apply only to treason other than by killing His Majesty, or cases where the overt act alleged is any attempt to injure his person in any manner whatever, every of which crimes may be proved by the like evidence as any other crime.

Overt act.

61. For the purposes of this chapter—
- I. Every act of conspiring with any person to effect any intention mentioned in this chapter:
 - II. Every act done in furtherance of such purpose by any of the persons so conspiring:
 - III. The writing of any words expressive of such intention: and
 - IV. The speaking of any such words if accompanied by or explanatory of any act in furtherance of such intention—
- shall be deemed to be an overt act manifesting such intention.

Inciting traitorous conduct.

62. Any person who advisedly attempts to effect any of the following purposes—
- I. To seduce any person serving in His Majesty's forces by sea or land from his duty and allegiance to His Majesty:
 - II. To incite any such person to commit an act of mutiny or any traitorous or mutinous act: or
 - III. To incite any such person to make or endeavour to make a mutinous assembly, or to commit any traitorous or mutinous practice whatever—
- is guilty of a crime.
Charge: Inciting mutiny.

CHAPTER VI.

SEDITION: LIBELS ON FOREIGN POWERS.

Unlawful oaths to commit crimes, &c.

63. Any person who—
- I. Administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it—
 - (a) To commit any crime:
 - (b) To be of any association, society, or confederacy formed for the purpose of committing any crime:
 - (c) To obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law to give such orders or commands:

Criminal Code.

(d) Not to inform or give evidence against any associate, confederate, or other person: or A.D. 1924.

(e) Not to reveal or discover any unlawful association, society, or confederacy, or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to, or taken by, himself or any other person, or the import of any such oath or engagement: or

11. Takes any such oath or engagement, not being compelled to do so—
is guilty of a crime.

Charge: Administering [*or taking*] [*or being concerned in*] an unlawful oath.

64. Compulsion shall not be a defence to the taking of any such oath or engagement as aforesaid, unless the accused, within Fourteen days after taking it, or, if he is prevented by actual force or sickness, within Fourteen days after the termination of such prevention, declares by information on oath before a justice of the peace, or, if he is on actual service in His Majesty's forces by sea or land, either by such information or by information to his commanding officer, the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence, and the place where, and the time when, the oath or engagement was administered or taken. Compulsion: how far a defence.

65.—(1) Any person who—

I. Without lawful authority trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions: Unlawful drilling.

II. Is present at any meeting or assembly of persons held without lawful authority for the purpose of so training or drilling any other person:

III. At any such meeting or assembly as aforesaid is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions: or

IV. Is present at any such meeting or assembly for the purpose of being so trained or drilled—

is guilty of a crime.

Charge: Unlawful drilling.

(2) A prosecution for any of the crimes mentioned in this section shall be commenced within Six months after the crime is committed.

66.—(1) An intention to effect any of the following purposes—

I. To bring the Sovereign into hatred or contempt: Definition of seditious intention.

II. To excite disaffection against the Sovereign or the Constitution or Government of the United Kingdom, or of the Commonwealth, or of this State, as by law established; or against either House of Parliament of the United Kingdom, the Commonwealth, or this State, or against the administration of justice in the United Kingdom, the Commonwealth, or this State:

III. To excite His Majesty's subjects to attempt to procure otherwise than by lawful means the alteration of any matter affecting any such Constitution or Government as aforesaid:

IV. To raise discontent or disaffection amongst His Majesty's subjects: or

V. To promote feelings of ill-will and enmity between different classes of His Majesty's subjects—

is a seditious intention.

(2) An intention—

I. To endeavour in good faith to show that the Sovereign has been mistaken in any of his counsels:

II. To point out in good faith errors or defects in the Government or Constitution of the United Kingdom, the Commonwealth, or this State as by law established, or in the legislation or administration of justice in the United Kingdom, the Commonwealth, or this State, with a view to the reformation of such errors or defects:

Criminal Code.

A.D. 1924.

- III. To excite in good faith His Majesty's subjects to attempt to procure by lawful means the alteration of any such Constitution or government or of any matter affecting the same: or
- IV. To point out in good faith, in order to their removal, any matters which are producing, or have a tendency to produce, feelings of ill-will and enmity between different classes of His Majesty's subjects—
- is not a seditious intention within the meaning of this section.

Sedition.

- 67.—(1) Any person who—
- I. Conspires with any person to carry into execution a seditious intention: or
 - II. Knowingly publishes any words or writing expressive of a seditious intention—
- is guilty of a crime.
- Charge: Sedition.
- (2) A prosecution for any of the crimes mentioned in this section shall be commenced within Six months after the crime is committed.
- (3) No person shall be convicted of any crime under this section upon the testimony of one witness, unless the same is corroborated in some material particular by other evidence implicating the accused person.

Libels on foreign powers.

- 68.—(1) Any person who, without lawful justification, publishes any writing tending to degrade, revile, or expose to hatred or contempt the people or government of any foreign State, or any officer or representative thereof in high authority, is guilty of a crime.
- Charge: Libel on people [*or* Government] [*or* representative] of a foreign State.
- (2) A fair comment on a matter of public interest shall not amount to a crime under this section.

CHAPTER VII.

CRIMES AGAINST THE EXECUTIVE AND LEGISLATIVE POWER.

Interference with Governor or Ministers.

69. Any person who does any act intended to interfere with the free exercise by the Governor, or by any member of the Executive Council, or by a Minister of the Crown, of any of the duties or authorities of his office is guilty of a crime.
- Charge: Interfering with an executive officer.

Interference with Parliament.

- 70.—(1) Any person who, by force or fraud, or by threats or intimidation of any kind, interferes with the free exercise by either House of Parliament of its authority, or with the free exercise by any member of either House of his duty or authority as such member, is guilty of a crime.
- Charge: Interfering with Parliament.

Unlawfully influencing members of Parliament.

- (2) Any person who, directly or indirectly, by fraud, or by threats or intimidation of any kind, influences a member of either House of Parliament in the exercise of his duty or authority as such member, or induces him to absent himself from the House or from any Parliamentary committee, is guilty of a crime.
- Charge: Unlawfully influencing a member of Parliament.

Member of Parliament receiving bribes.

71. Any person who, being a member of either House of Parliament, solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, upon any understanding that the exercise by him of his duty or authority as such member shall be in any manner influenced or affected, is guilty of a crime.
- Charge: Receiving [*or* soliciting] a bribe as a member of Parliament.

Criminal Code.

72. Any person who, in order to influence a member of either House of Parliament in his exercise of his duty or authority as such member, or in order to induce him to absent himself from the House or from any Parliamentary committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for such member, or any other person, is guilty of a crime.

Charge: Bribing [or offering to bribe] a member of Parliament.

A.D. 1924.

Bribery of member of Parliament.

CHAPTER VIII.

UNLAWFUL ASSEMBLIES: BREACHES OF THE PEACE.

73.—(1) An assembly of three or more persons—

I. With an intent to effect any common purpose, lawful or unlawful, in such a manner that firm and courageous persons in the neighbourhood of such assembly have reasonable grounds for alarm: and

II. With an intent to assist each other in resisting any person opposing the execution of the common purpose: and

III. Who manifest such intentions as aforesaid in such a manner as to give firm and courageous persons in the neighbourhood of such assembly reasonable grounds to apprehend a breach of the peace—

is an unlawful assembly.

Unlawful assembly.

(2) Persons lawfully assembled may become an unlawful assembly if they form and manifest such intentions as aforesaid in manner aforesaid.

Lawful assembly becoming unlawful.

(3) An unlawful assembly which has begun to put into execution the common purpose is a riot.

Riot.

74. Any person who takes part in an unlawful assembly is guilty of a crime. Charge: Taking part in an unlawful assembly.

Taking part in unlawful assembly.

75. Any person who takes part in a riot is guilty of a crime. Charge: Rioting.

Rioting.

76.—(1) Whenever any persons, to the number of twelve or more, are riotously assembled, it is the duty of every sheriff and justice who has notice thereof to go amongst them, or as near as he can safely come to them, and to command or cause to be commanded with a loud voice that silence be kept while the proclamation next hereinafter mentioned is made, and then openly and with a loud voice to make proclamation, or cause proclamation to be made, in these words, or to the like effect:

Proclamation upon a riot.

Our Sovereign Lord the King charges and commands all you persons here assembled immediately to disperse yourselves and peaceably to depart to your habitations or to your lawful business, failing which you will be guilty of a crime, and will be liable to be imprisoned. God Save the King!

(2) The performance of such duty as aforesaid by any one of the persons above mentioned shall absolve the others of them from responsibility therefor.

77.—(1) Any person who wilfully, and by force, obstructs or hurts any person who goes to make, or begins to make, any such proclamation, is guilty of a crime.

Opposing riot proclamation.

Charge: Opposing the making of a riot proclamation.

(2) All persons who—

I. Being riotously assembled, continue together to the number of twelve or more, and do not disperse themselves within the space of one hour after the making of the proclamation: or

Disobeying riot proclamation

Criminal Code.

A.D. 1924.

- ii. Being so assembled, in any case where the making of such proclamation has been prevented, and who, knowing of such prevention, continue together to the number of twelve or more, and do not disperse themselves within the space of one hour after the time of such prevention—
are guilty of a crime.
Charge—
Under i. : Disobeying a riot proclamation.
Under ii. : Knowing that the making of a riot proclamation has been prevented, failing to disperse.
- (3) No person shall be prosecuted under the provisions of this section unless such prosecution is commenced within twelve months after the crime is committed.
- Being armed in public. 78. Any person who goes armed in public without lawful occasion in such a manner as to alarm the public is guilty of a crime.
Charge: Being unlawfully armed in public.
- Forcible entry. 79.—(1) Any person who without lawful authority enters in a violent manner, whether by actual force or by such a show of force as to deter opposition, any lands or tenements in the peaceable possession of another, for the purpose of taking possession thereof, whether or not he has a right of entry thereto, is guilty of a crime.
Charge: Forcible entry.
- Forcible detainer (2) Any person who having wrongfully entered any lands or tenements detains the same in manner aforesaid is guilty of a crime.
Charge: Forcible detainer.
- Affray 80.—(1) An affray is the fighting of two or more persons in any public place to the terror of His Majesty's subjects.
(2) Every person who takes part in an affray is guilty of a crime.
Charge: Taking part in an affray.
- Duelling 81.—(1) Any person who takes part in a duel is guilty of a crime.
Charge: Duelling.
- Inciting to duelling. (2) Any person who challenges another to fight a duel, or provokes another to fight or to challenge another to fight a duel, is guilty of a crime.
Charge: Inciting to duelling.
- Prize fight. 82.—(1) Any person who fights in a prize fight, or subscribes to or promotes or encourages a prize fight, is guilty of a crime.
Charge: Taking part [*or being concerned*] in a prize fight.
(2) A boxing contest or exhibition which is held with the consent of the Commissioner of Police shall not be deemed to be a prize fight.

CHAPTER IX.

CORRUPTION AND ABUSE OF OFFICE.

Corruption of public officers.

83. Any person who—
- i. Being a public officer, corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted, or to be done or omitted, by him in or about the discharge of the duties of his office: or
 - ii. Corruptly gives, confers, or procures, or promises or offers to give, confer, or procure, or attempt to procure, to, upon, or for any public officer, or any other person, any property or benefit of any kind on account of anything done or omitted, or to be done or omitted, by such officer in or about the discharge of the duties of his office—
is guilty of a crime.

Criminal Code.

Charge—

A.D. 1924.

Under I.: Official corruption.

Under II.: Bribery of a public officer.

84.—(1) Any public officer who, under colour of office and otherwise than in good faith, demands, takes, or accepts from any person for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, is guilty of a crime.

Extortion by public officers.

Charge: Extortion as a public officer.

(2) Any public officer who, in the exercise or under colour of exercising his office, wilfully and unlawfully inflicts upon any person any bodily harm, imprisonment, or other injury is guilty of a crime.

Oppression.

Charge: Oppression.

85.—(1) Any public officer who knowingly holds, directly or indirectly, any personal interest in any contract made by or on behalf of the Government of this State concerning any public matter is guilty of a crime.

Public officers interested in contracts.

Charge: Being interested in a contract as a public officer.

(2) A person is not deemed to be interested in any such contract as aforesaid because he is a shareholder in a company of more than twenty members which is a party thereto, unless he is a director of such company.

86. Any person appointed to act as a valuator or arbitrator to determine the value of any land, or of any injury done to any property who—

Corruption of valuator.

I. Having to his knowledge any substantial interest in such property acts as such valuator or arbitrator without disclosing the fact that he holds such interest to the person appointing him: or

II. Acts corruptly or dishonestly as such valuator or arbitrator—
is guilty of a crime.

Charge: Dishonest dealing as a valuator [*or as an arbitrator*].

87. Where by any statute any person is authorised or required to certify to any fact, any such person who gives a certificate which to his knowledge is false in any material particular is guilty of a crime.

False statutory certificates.

Charge: Giving a false certificate.

88. Any person who knowingly and unlawfully administers any oath or takes any declaration or affirmation in contravention of the provisions of "The Evidence Act, 1910," is guilty of a crime.

Administering extra-judicial oaths.
1 Geo. V. No. 20.Charge: Unlawfully administering an oath [*or taking a declaration or affirmation*].

PART III.

CRIMES CONCERNING THE ADMINISTRATION OF LAW AND JUSTICE AND AGAINST PUBLIC AUTHORITY.

CHAPTER X.

CRIMES RELATING TO THE ADMINISTRATION OF JUSTICE.

89. In this chapter the term "judicial proceeding" means any proceeding before any court, tribunal, or person having by law power to hear, receive, and examine evidence on oath.

Definition of judicial proceeding.

90.—(1) Any person who—

Judicial corruption.

I. Being a judicial officer, corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted, or to be done or omitted, by him in his judicial capacity: or

Criminal Code.

A.D. 1924.

- II. Corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to, upon, or for any judicial officer, or any other person, any property or benefit of any kind on account of anything done or omitted, or to be done or omitted, by such judicial officer—

is guilty of a crime.

Charge: Judicial corruption.

(2) No person shall be prosecuted under Paragraph I. of Subsection (1) hereof, without the consent in writing of the Attorney-General.

Official corruption,
not judicial but
relating to
offences.

91. Any person who—

- I. Being a public officer employed in an administrative capacity for the detection, prosecution, detention, or punishment of offenders, corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, on account of anything done or omitted, or to be done or omitted, by him, contrary to his duty as such officer: or

- II. Corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to, upon, or for any such officer as aforesaid, or any other person, any property or benefit of any kind on account of anything done or omitted, or to be done or omitted, by such officer as aforesaid—

is guilty of a crime.

Charge—

Under I.: Corruption as an officer of justice.

Under II.: Bribing [*or offering a bribe to*] an officer of justice.

Maintenance.

92.—(1) Any person who, without reasonable justification or excuse, assists, or promises or agrees to assist, another by any means (other than the giving of lawful evidence) in any suit or proceeding in a court of law in which the person so assisting has no concern or valuable interest, is guilty of a crime.

Charge: Maintenance.

(2) In any proceedings under this section it shall be a defence to show that the act alleged to have been done was done in good faith, either for the purpose of assisting a person whom the accused believed on reasonable grounds to be in need of such assistance, or for any purpose which the accused believed on reasonable grounds to be for the public good.

(3) The fact that the relationship of close personal friendship or near kinship existed between the accused and the person assisted shall, if proved, be taken into account in determining the question whether the act alleged to have been done by the accused was or was not done in good faith.

Corrupting or
threatening jurors.

93. Any person who—

- I. By any means whatever, except the production of evidence and argument in open court, influences any juror, whether he has been sworn or not, in any judicial proceeding, whether a verdict is given or not:

- II. Does or threatens any injury, or causes or threatens any detriment of any kind, to any person on account of anything done by him as a juror in any judicial proceeding, or for the purpose of influencing him as such juror: or

- III. Accepts, or agrees to accept, any benefit on account of anything done or to be done by him as a juror in any judicial proceeding, whether he has been sworn as a juror or not—

is guilty of a crime.

Charge: Embracery.

Perjury.

94.—(1) Any person lawfully sworn as a witness, or as an interpreter, in a judicial proceeding who wilfully makes a statement, ~~material in that proceeding~~, which he knows to be false or does not believe to be true, is guilty of a crime.

Charge: Perjury.

Am. 1924/No. 34.

A. 2.

Criminal Code.

(2) For the purposes of this section a statement is deemed to be made in a judicial proceeding if it is made on oath for the purposes of any such proceeding, whether before or after the same is commenced, before a person authorised by law to administer such oath and to record or authenticate such statement. A.D. 1924.

(3) A statement made by a person lawfully sworn in this State for the purposes of a judicial proceeding—

- I. In any other part of His Majesty's dominions:
 - II. In any lawfully constituted British tribunal in any place by sea or land outside His Majesty's dominions: or
 - III. In a tribunal of any foreign State—
- shall be deemed to be made in a judicial proceeding in this State.

~~(4) The question whether a statement on which perjury is assigned was material in the proceeding is a question of law.~~

(5) It is immaterial whether the court or tribunal in which a judicial proceeding was pending was properly constituted, or was held in the proper place, or not, if it acted as a court or tribunal in the proceeding in which the statement was made.

(6) It is immaterial whether the person who made the statement was a competent witness or not, or whether the statement was admissible as evidence in the proceeding or not.

95. Any person who—

- I. Being required or authorised by law to make any statement on oath for any purpose, and being lawfully sworn, wilfully makes a statement ~~which is material for that purpose, and~~ which he knows to be false, or does not believe to be true: or
- II. Wilfully uses any false affidavit or statutory declaration for any purpose for which the use of an affidavit or statutory declaration is authorised by any statute—

is guilty of a crime.

Charge—

- Under I.: False swearing.
Under II.: Using false affidavit [or declaration.]

False swearing, &c.

Il.

96. No person shall be convicted of any crime under the provisions of Section Ninety-four or Section Ninety-five solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Evidence on charge of perjury, &c.

97. Any person who, with intent to mislead a judicial tribunal—

- I. Fabricates evidence in any manner whatever: or
- II. Knowingly makes use of fabricated evidence—

is guilty of a crime.

Charge—

- Under I.: Fabricating evidence.
Under II.: Using fabricated evidence.

Fabricating evidence.

98. Any person who—

- I. Solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, in consideration for any agreement or understanding that any person shall as a witness in any judicial proceeding give false evidence: or
- II. Gives, confers, or procures, or offers to give, confer, procure, or attempt to procure, any property or benefit of any kind to, upon, or for any person, as a consideration for any agreement or understanding that any person called or to be called as a witness in any judicial proceeding shall give false evidence—

is guilty of a crime.

Charge—

- Under I.: Corruption with regard to a witness.
Under II.: Corrupting a witness.

Corruption of witnesses.

Repealed, 1924/No. 34, s. 2.

Criminal Code.

A.D. 1924.

Suppressing
evidence.

99. Any person who, with intent to mislead any tribunal in any judicial proceeding, or to pervert or defeat the course of justice, wilfully destroys, alters, or conceals any evidence, or anything likely to be required as evidence in any judicial proceeding, is guilty of a crime.

Charge: Suppressing evidence.

Interfering with
witnesses

100. Any person who, with intent to pervert or obstruct the due course of justice, wilfully prevents, obstructs, or dissuades any person from attending as a witness before any tribunal, or from giving any evidence or producing anything to be used as evidence before such tribunal is guilty of a crime.

Charge: Interfering with a witness.

Falsifying evidence
as a shorthand
writer.

1 Geo. V. No. 20.

101. Any shorthand writer licensed under the provisions of "The Evidence Act, 1910," who—

I. Wilfully falsifies or incorrectly records any evidence, ruling, direction, or summing up which it is his duty to take down or record:

II. Permits any person to falsify any such thing or any transcript thereof: or

III. Wilfully certifies as correct any note or transcript of any such thing which is false in any material particular—

is guilty of a crime.

Charge: Falsifying evidence as a shorthand writer.

Compounding
crimes.

102.—(1) Any person who solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, as a consideration for any agreement or understanding that he will compound or conceal a crime, or will abstain from, discontinue, or delay a prosecution for a crime, is guilty of a crime.

Charge: Compounding a crime.

(2) This section shall not apply to any case of common assault or defamation of a private person, or to any case where the court in which any proceedings have been taken in respect of the crime compounded shall have sanctioned any such agreement as aforesaid.

Compounding
penal actions

103. Any person who, having brought, or under pretence of bringing, an action against another person upon a penal statute for the recovery of a penalty, compounds the action without the order or consent of the court in which the action is brought, is guilty of a crime.

Charge: Compounding a penal action.

Bringing fictitious
action on penal
statute.

104. Any person who, in the name of a fictitious plaintiff, or in the name of a real person but without his authority, brings an action against another person upon a penal statute for the recovery of a penalty, is guilty of a crime.

Charge: Bringing a fictitious action on a penal statute.

Perverting justice.

105. Any person who does any act or makes any omission with intent in any way whatever to obstruct, prevent, pervert, or defeat the due course of justice or the administration of the law, is guilty of a crime.

Charge: Perverting justice.

CHAPTER XI

ESCAPES: RESCUES: OBSTRUCTING OFFICERS OF COURTS.

Escaping from
custody.

106.—(1) Any person who, being in lawful custody, under any conviction or upon any charge of an offence, escapes from such custody, is guilty of a crime.

Charge: Escape.

Rescue

(2) Any person who rescues any such person as aforesaid from such lawful custody is guilty of a crime.

Charge: Rescue.

Criminal Code.

107. Any person who—

- I. Conveys anything, or causes anything to be conveyed, into a prison with intent to facilitate the escape of a prisoner:
- II. Wilfully or negligently permits any person in lawful custody under a conviction or on a charge of an offence to escape: or
- III. Harbours, maintains, or employs a person who is, to his knowledge, an offender under sentence and illegally at large—

is guilty of a crime.

Charge—

Under I. and II.: Facilitating escape of a prisoner.

Under III.: Harbours an offender.

A.D. 1924.

Aiding escape.
Harbouring
offenders.

108. Any person who—

- I. Rescues any person lawfully ordered to be conveyed as a criminal lunatic to any asylum, hospital, or house, either during the time of his conveyance thereto or of his confinement therein: or
- II. Being an officer or servant in any asylum or hospital, or keeper of, or servant in, any house, voluntarily and intentionally permits any such person as aforesaid to escape from such asylum, hospital, or house—

is guilty of a crime.

Charge: Assisting escape of a criminal lunatic.

Assisting escape of
criminal lunatic.

109. Any person who by force rescues or takes from the person lawfully in custody thereof any goods which have been legally seized and are in the custody of the law is guilty of a crime.

Charge: Rescuing goods legally seized.

Rescuing
property lawfully
seized.

CHAPTER XII.

MISCELLANEOUS CRIMES AGAINST PUBLIC AUTHORITY.

110. Any public officer who discloses (except to some person to whom he is authorised to publish or communicate the same) any fact which comes to his knowledge, or the contents of any document which comes to his possession, by virtue of his office and which it is his duty to keep secret, is guilty of a crime.

Charge: Disclosing official secrets.

Disclosure of
official secrets.

111. Any person who—

- I. Corruptly solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted, or to be done or omitted, by him or any other person with regard to the appointment of any person to any public office, or the employment of any person as a public officer, or with regard to any application by any person for appointment or employment as aforesaid: or
- II. Corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to, upon, or for any person any property or benefit of any kind on account of anything done or omitted, or to be done or omitted, as aforesaid—

is guilty of a crime.

Charge: Bargaining for a public office.

Bargaining for
public offices.

112. Any person who subscribes a certificate or declaration as to the execution of a sentence of death which, to his knowledge, is false in any material particular, is guilty of a crime.

Charge: Subscribing a false certificate [or declaration] as to execution of sentence of death.

False declaration
as to execution of
sentence of death.

Criminal Code.

A.D. 1924.

False statutory
declarations and
other false state-
ments.

113.—(1) Any person who wilfully makes a statement false in a material particular, if the statement is made—

- I. In a statutory declaration :
- II. In an abstract, account, balance-sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return, or other document which he is authorised or required to make, attest, or verify by any public general act for the time being in force: or
- III. In any oral declaration or oral answer which he is required to make by, under, or in pursuance of any public general act for the time being in force—

shall be guilty of a crime.

Charge: Making a false declaration [*or* statement].

Evidence.

(2) No person shall be convicted under the provisions of this section solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Resisting public
officers.

114.—(1) Any person who assaults, resists, or wilfully obstructs any police officer in the due execution of his duty, or any other person lawfully assisting him therein, is guilty of a crime.

Charge: Assaulting [*or* obstructing] a police officer.Resisting lawful
apprehension.

(2) Any person who assaults, resists, or wilfully obstructs any person lawfully arresting or about to arrest any person is guilty of a crime.

Charge: Resisting lawful apprehension.

Omission by public
officer to perform
duty.

115.—(1) Any public officer who wilfully and without lawful excuse omits to do any act which it is his duty to do as such officer is guilty of a crime

(2) No person shall be prosecuted under this section without the consent in writing of the Attorney-General.

Charge: Omitting to perform duty as a public officer.

Neglect to aid in
suppressing riot.

116. Any person who, having reasonable notice that he is required to assist any sheriff, justice, or police officer in suppressing a riot, omits without reasonable excuse so to do, is guilty of a crime.

Charge: Neglecting to aid in suppressing a riot.

Neglect to aid in
arresting offenders

117. Any person who, having reasonable notice that he is required to assist any sheriff, justice, or police officer in arresting any person, or in preserving the peace, omits, without reasonable excuse, so to do, is guilty of a crime.

Charge: Neglecting to aid in the arrest of an offender [*or* preserving the peace.]Disobedience
to lawful
authority

118.—(1) Any person who, without lawful excuse, disobeys any order, warrant, or command duly made, issued, or given by any court, officer, or person acting in any public capacity and duly authorised in that behalf, is guilty of a crime.

Charge: Disobedience to lawful authority.

(2) Where by any statute any such disobedience as aforesaid is in any particular case expressly made punishable as in such statute provided, no proceedings in respect thereof shall be taken under this section.

PART IV.

ACTS INJURIOUS TO THE PUBLIC IN GENERAL.

CHAPTER XIII.

CRIMES RELATING TO RELIGION.

Blasphemy.

119.—(1) Any person who, by words spoken or intended to be read, wilfully publishes a blasphemous libel is guilty of a crime.

Charge: Blasphemy.

Criminal Code.

(2) The question whether any matter so published is or is not blasphemous is a question of fact. A.D. 1924.

(3) It is not an offence under this section to express in good faith and in decent language, or to attempt to establish by arguments used in good faith and conveyed in decent language, any opinion whatever upon any religious subject.

(4) No person shall be prosecuted under this section without the consent in writing of the Attorney-General.

120. Any person who—

i. By threats or force obstructs or prevents any minister of religion in or from lawfully officiating in any place of religious worship, or in or from performing his duty in the lawful burial of the dead in any cemetery or other burial place: or Interfering with an officiating minister.

ii. Upon any civil process, or under the pretence of executing any civil process, arrests any minister of religion who is engaged in, or is, to the knowledge of the offender, about to engage in, any of the offices or duties aforesaid, or who is, to the knowledge of the offender, going to perform the same or returning from the performance thereof—

is guilty of a crime.

Charge: Interfering with an officiating minister.

121. Any person who wilfully and without lawful justification or excuse disturbs or disturbs any meeting lawfully assembled for religious worship, or in any way disturbs, molests, or misuses any preacher, teacher, or person lawfully officiating at such meeting, is guilty of a crime. Disturbing religious worship.

Charge: Disturbing religious worship.

CHAPTER XIV.

CRIMES AGAINST MORALITY.

122. Any person who—

i. Has carnal knowledge of any person against the order of nature: Unnatural crimes.

ii. Has carnal knowledge of an animal: or

iii. Consents to a male person having carnal knowledge of him or her against the order of nature—

is guilty of a crime.

Charge: Unnatural carnal knowledge.

123. Any male person who, whether in public or private, commits any indecent assault upon, or other act of gross indecency with, another male person, or procures another male person to commit any act of gross indecency with himself or any other male person, is guilty of a crime. Indecent practices between males

Charge: Indecent practice between male persons.

124.—(1) Any person who has unlawful carnal knowledge of a girl under the age of eighteen years is guilty of a crime. Defilement of girls under eighteen.

Charge: Defilement of a girl under eighteen years of age.

(2) In any case in which the accused person is under the age of twenty-one years, it is a defence to a charge under this section to prove that he in fact believed on reasonable grounds that the girl was over the age of eighteen years.

(3) In any case in which the accused person is under the age of twenty-one years, and the girl is over the age of sixteen years, the consent of the girl shall be a defence to a charge under this section.

(4) In any case in which the accused person is under the age of fifteen years and the girl is over the age of twelve years, the consent of the girl shall be a defence to any such charge.

Criminal Code.

A. D. 1924.

(5) In any case in which the accused person is under the age of sixteen years, and the girl is of the same age or older than such person, her consent shall be a defence to any such charge.

(6) Except as hereinbefore provided the consent of the girl shall in no case be a defence to any such charge.

Householder permitting defilement of young girls on his premises.

125. Any person who, being the owner or occupier of any premises, or having or acting or assisting in the management or control of any premises, induces or knowingly permits any girl under the age of eighteen years to resort to or be in or upon such premises for the purpose of being unlawfully carnally known by any other person, whether a particular person or not, is guilty of a crime.

Charge: Permitting the defilement of a young girl on premises.

Defilement of insane persons.

126.—(1) Any person who, knowing a female to be insane, has unlawful carnal knowledge of her, is guilty of a crime.

Charge: Defilement of an insane person.

Defectives.
11 Geo. V. No. 50.

(2) Any person who has unlawful carnal knowledge of a female who is a defective within the meaning of "The Mental Deficiency Act, 1920," and who is under care or treatment in, or on leave from, an institution or certified house under the provisions of that Act, knowing her to be such a defective as aforesaid, is guilty of a crime.

Charge: Defilement of a defective.

(3) In any proceedings under this section it shall not be necessary to allege or prove that the accused person knew that the person carnally known was insane or such a defective as aforesaid.

(4) In any such case it shall be a defence to prove that the accused did not know, and that he did not have reasonable grounds for believing that such person was insane, or such a defective, as the case may be.

Indecent assault.

127.—(1) Any person who unlawfully and indecently assaults a female is guilty of a crime.

Charge: Indecent assault.

(2) In any case in which it is provided that the consent of a girl to the act charged shall be a defence to a charge under Section One hundred and twenty-four, the like consent to an act charged under this section given under the like conditions as to the age of the parties shall be a defence to a charge under this section.

(3) Except as hereinbefore provided, the consent of a person under eighteen years of age, shall be no defence to a charge under this section unless the accused is of the same age as, or younger than, such person.

Procuration.

128. Any person who—

I. Procures a female under the age of twenty-one years, who is not a common prostitute or of known immoral character, to have unlawful carnal connection with any other person, either in this State or elsewhere:

II. Procures a female to become a common prostitute, either in this State or elsewhere:

III. Procures a female to leave this State with intent that she may become an inmate of, or frequent, a brothel elsewhere: or

IV. Procures a female to leave her usual place of abode in this State, such place not being a brothel, with intent that she may for the purposes of prostitution become an inmate of, or frequent, a brothel, either in this State or elsewhere—

is guilty of a crime.

Charge: Procuration.

Procuring defilement of woman by threats, or fraud, or administering drugs.

129. Any person who—

I. By threats or intimidation of any kind procures a woman or girl to have unlawful carnal connection, either in this State or elsewhere:

Criminal Code.

11. By any false pretence or false representation procures a female, who is not a common prostitute or of known immoral character, to have unlawful carnal connection, either in this State or elsewhere: or
111. Administers to a female, or causes her to take, any drug or other thing with intent to stupefy or overpower her in order to enable any man, whether a particular man or not, to have unlawful carnal knowledge of her—

A.D. 1924.

is guilty of a crime.

Charge: Procuring defilement of a female.

130.—(1) Any person who—

- i. Detains a female against her will in or upon any premises in order to her being unlawfully carnally known by any man, whether a particular man or not: or

Unlawful detention in a brothel, or with intent to defile.

- ii. Detains a female against her will in a brothel—

is guilty of a crime.

Charge—

Under i.: Detaining a female with intent to defile.

Under ii.: Detaining a female in a brothel.

(2) A person is deemed to detain a female who is in or upon any such premises or brothel if, with intent to compel or induce her to remain therein, he withholds from her any wearing apparel or other property belonging to her; or if he threatens her with legal proceedings if she takes away any wearing apparel lent or supplied to her by any person.

(3) It is lawful for a female so in or upon any such premises or brothel as aforesaid to take away such wearing apparel as may be necessary to enable her to leave such premises or brothel.

131. For the purposes of this chapter a defective, within the meaning of Section One hundred and twenty-six, is incapable of giving a consent.

Defectives incapable of giving consent.

132.—(1) Any person who, having the custody, charge, or care of a girl under the age of eighteen years causes or encourages the seduction, prostitution, or unlawful carnal knowledge by any person, of such girl, is guilty of a crime.

Encouraging seduction.

Charge: Causing or encouraging defilement of a girl under eighteen years of age.

(2) For the purposes of this section and Section Four hundred and twenty-eight, a person shall be deemed to have caused or encouraged the seduction or prostitution or unlawful carnal knowledge (as the case may be) of a girl who has been seduced or became a prostitute or been unlawfully carnally known if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, a prostitute or person of known immoral character.

133.—(1) Any male person who has carnal knowledge of a female who is to his knowledge his grand-daughter, daughter, sister, or mother, is guilty of a crime.

Incest.

Charge: Incest.

(2) The consent of any such female as aforesaid shall be no defence to a charge under Subsection (1) hereof.

Consent no defence.

(3) Any female of or above the age of sixteen years who, with consent, permits her grandfather, father, brother, or son to have carnal knowledge of her, knowing him to be her grandfather, father, brother, or son, as the case may be, is guilty of a crime.

Female over sixteen.

Charge: Permitting incest.

(4) In this section the terms "brother" and "sister" respectively include half-brother and half-sister; and the provisions of this section apply whether the relationship between the person charged with a crime under this section and the person with whom such crime is alleged to have been committed is or is not traced through lawful wedlock.

Relationship.

(5) In any proceedings against any person in respect of a crime under this section the husband or wife of such person shall be a competent and compellable witness.

Criminal Code.

A.D. 1924.

Abortion.

134.—(1) Any woman who, being pregnant, unlawfully administers to herself, with intent to procure her own miscarriage, any poison or other noxious thing or with such intent unlawfully uses any instrument or other means whatsoever, is guilty of a crime.

(2) Any person who, with intent to procure the miscarriage of a woman, whether she be pregnant or not, unlawfully administers to her, or causes her to take, any poison or other noxious thing, or with such intent unlawfully uses any instrument or other means whatsoever, is guilty of a crime.

Charge: Administering poison [*or using means*] to procure abortion.

Aiding in intended abortion.

135. Any person who unlawfully supplies to or procures for any other person anything whatever, knowing that it is intended to be unlawfully used with intent to procure the miscarriage of a woman, whether she is or is not pregnant, is guilty of a crime.

Charge: Aiding in intended abortion.

Corroboration.

136.—(1) No person shall be convicted of any crime under the provisions of any of the foregoing sections of this chapter, or of an attempt to commit the same, on the evidence of the person in respect of whom the crime is alleged to have been committed or attempted, unless the evidence of such person is corroborated in some material particular by other evidence implicating the accused.

(2) The provisions of Subsection (1) hereof shall not apply to any proceedings under Section One hundred and twenty-three or Section One hundred and thirty-three if the person in respect of whom the crime is alleged to have been committed was not a consenting party to, or an accomplice in, such crime.

Indecency.

137. Any person who wilfully—

i. Does any ~~grossly~~ indecent act in any place to which the public have access or in the public view: or

ii. Does any such act in any place with intent to insult or offend any other person—

is guilty of a crime.

Charge: Indecency.

Obscene publications.

138.—(1) Any person who knowing, or having a reasonable opportunity of knowing, the nature thereof—

i. Publicly sells or exposes for public sale, or to public view, or distributes to the public, any obscene book or other printed or written matter, or any picture, photograph, model, or other object tending to corrupt morals: or

ii. Publicly exhibits any disgusting object or indecent show—
is guilty of a crime:

Charge: Publishing [*or exhibiting*] obscene matter.

(2) In any prosecution for a crime under this section it shall be a defence to prove that the act alleged was done for the public good.

(3) The questions whether any such act as aforesaid was capable of being for the public good, and whether there is any evidence in the circumstances of excess beyond the requirements of the public good, are questions of law.

(4) The questions whether any such act as aforesaid was for the public good, and whether there was any such excess as aforesaid, are questions of fact.

Misconduct in respect of human remains.

139. Any person who—

i. Neglects to perform any duty, either imposed upon him by law or undertaken by him, with reference to the burial of any dead human body or human remains: or

ii. Improperly or indecently interferes with or offers any indignity to any dead human body or human remains, whether buried or not—

is guilty of a crime.

Charge—

Under i.: Neglecting duty as to burial.

Under ii.: Interfering with human remains.

*Am. 1924 No. 34,
S. 2.*

Criminal Code.

A.D. 1924.

CHAPTER XV.

COMMON NUISANCES.

140.—A common nuisance is an unlawful act or an omission to discharge a legal duty, such act or omission being one which endangers the lives, safety, health, property, or comfort of the public, or by which the public are obstructed in the exercise or enjoyment of any right common to all His Majesty's subjects.

Common nuisance defined.

141. A person who commits any common nuisance which endangers the lives, safety, or health of the public, or which occasions injury to the person of any individual, is guilty of a crime.

Common nuisances that are punishable.

Charge: Creating a nuisance.

142. Anyone convicted upon indictment for any common nuisance, other than those mentioned in Section One hundred and forty-one, shall not be punished as for a crime, but all such proceedings or judgments may be taken and had as heretofore to abate or remedy the mischief done by such nuisance to the public right.

Common nuisances that are not punishable.

143.—(1) A person who keeps any disorderly house—that is to say, any common bawdy-house, common gaming-house, or common betting-house—is guilty of a crime.

Disorderly houses.

Charge: Keeping a disorderly house.

(2) A common bawdy-house is a house, room, set of rooms, or place of any kind whatever kept for purposes of prostitution.

Common bawdy-houses.

(3) Any one who appears to be or acts or behaves as master or mistress, or as the person having the care, government, or management, of any such disorderly house, shall be deemed to be the keeper thereof, and shall be liable to be prosecuted and punished as such, although, in fact, he or she is not the real owner or keeper thereof.

(4) The owner of any house, or any tenant, lessee, or occupier thereof, or of any part thereof, who knowingly permits such house or any part thereof to be kept as a disorderly house shall be liable to be prosecuted and punished as if he were the keeper of such house.

PART V.

CRIMES AGAINST THE PERSON.

CHAPTER XVI.

DUTIES RELATING TO THE PRESERVATION OF HUMAN LIFE.

144.—(1) It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention, or any other cause to withdraw himself from such charge, and who is unable to provide himself with the necessaries of life, to provide such necessaries for that other person.

Duty to provide necessaries.

(2) It is immaterial how such charge arose.

145. It is the duty of every person who, as head of a family, has the charge of a child under the age of Sixteen years, being a member of his household, to provide the necessaries of life for such child.

Duty of head of family.

146. For the purposes of Sections One hundred and forty-four and One hundred and forty-five, the expression "necessaries of life" shall include medical and surgical aid and medicine.

What are necessaries in certain cases.

147. It is the duty of every person who as a master or mistress has contracted to provide necessary food, clothing, or lodging for any servant or apprentice under the age of Sixteen years, to provide the same.

Duty of masters

Criminal Code.

A.D. 1924.

Delegation of duty.

148. In any case in which a person has authorised another to discharge on his behalf any of the duties mentioned in Sections One hundred and forty-four, One hundred and forty-five, and One hundred and forty-seven, it is the duty of such other person to discharge such duty; and it is the duty of such firstmentioned person to use reasonable care to ensure the discharge of such duty.

Duty of persons doing dangerous acts.

149.—(1) Subject to the provisions of Subsection (2) hereof, it is the duty of a person who undertakes to administer surgical or medical treatment to another, or to do any other lawful act of a dangerous character which requires special knowledge, skill, attention, or caution, to employ in so doing a reasonable amount of such knowledge, skill, attention, and caution.

(2) In a case of necessity, and where no person having such knowledge or skill as aforesaid can be procured by reasonable means to do such act, it is lawful for a person not having such knowledge or skill to do such act, but it is his duty to employ in so doing such amount of attention and caution as is reasonable in the circumstances.

Duty of persons in charge of dangerous things.

150. It is the duty of every person who has anything in his charge or under his control, or who erects, makes, or maintains anything which, in the absence of precaution or care in its use or management may endanger human life, to take reasonable precautions against, and to use reasonable care to avoid, such danger.

Duty to do certain acts.

151. When a person undertakes to do any act the omission to do which is or may be dangerous to human life or health, it is his duty to do that act.

Omission of duty.

152. A person who without lawful excuse omits to perform any of the duties mentioned in this chapter shall be criminally responsible for such omission if the same causes the death of any person to whom such duty is owed, or endangers his life, or permanently injures his health.

CHAPTER XVII.

HOMICIDE: SUICIDE: CONCEALMENT OF BIRTH.

Definition of homicide: killing

153.—(1) Homicide is the killing of a human being by another.

(2) Killing is causing the death of a person by an act or omission but for which he would not have died when he did, and which is directly and immediately connected with his death.

(3) The question whether an act is directly and immediately connected with a person's death is a question of fact depending upon the circumstances of each particular case.

When a child becomes a human being.

(4) A child becomes a human being when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not, and whether the navel-string is severed or not.

(5) The killing of any such child is homicide if it dies in consequence of injuries received before, during, or after birth.

(6) If two or more persons conspire to bring against any person any charge of a crime punishable with death, and to support the same by false evidence, or to give false evidence upon any such charge, with intent thereby to secure the conviction of such person upon such charge, and by means of any such false evidence such person is so convicted and executed, each of the persons so conspiring is deemed to have caused his death.

(7) Except as hereinbefore provided, procuring by false evidence the conviction and execution of any person shall not be deemed to be homicide.

Special cases of homicide.

154. A person is deemed to have killed another in the following cases where his act or omission is not the immediate, or not the sole, cause of death—

1. Where he causes bodily injury to the other which requires surgical or medical treatment, and such treatment causes death, if such treatment is applied in good faith, and with reasonable knowledge and skill, but not otherwise:

Criminal Code.

- II. Where he causes bodily injury to the other which causes death, though it would not have caused death if the other had submitted to proper treatment or had observed proper precautions: A.D. 1924.
- III. Where by actual violence, or threats, or intimidation of any kind, or by deceit, he causes the other to do an act or make an omission likely to cause death, and which he knows, or ought to have known, the other would be likely to do, and which causes the death of the other:
- IV. Where by any act or omission he hastens the death of another who is suffering under any disease or injury which would itself have caused death:
- V. Where his act or omission causes death, but would not have caused death unless it had been accompanied by the acts or omissions of the person killed or of other persons.

155.—(1) A person is not criminally responsible for the death of another if such death takes place more than a year after the injury causing it. Limitation of time.

(2) In any case in which death is caused by a series of injuries such period shall be computed from the infliction of the last of such injuries.

156.—(1) Homicide may be culpable or not culpable. Culpable homicide.

(2) Homicide is culpable when it is caused—

- I. By an act intended to cause death or bodily harm, or which is commonly known to be likely to cause death or bodily harm, and which is not justified under the provisions of the Code:
- II. By an omission amounting to culpable negligence to perform a duty tending to the preservation of human life, although there may be no intention to cause death or bodily harm: or
- III. By any unlawful act.

(3) The question what amounts to culpable negligence is a question of fact, to be determined on the circumstances of each particular case.

(4) For the purposes of this chapter it is unlawful—

- I. To cause death in the manner described in Paragraph III. of Section One hundred and fifty-four:
 - II. To wilfully frighten a child of tender years: or
 - III. To wilfully frighten a sick person knowing such person to be sick.
- (5) Homicide that is not culpable is not punishable.

157.—(1) Subject to the provisions of Section One hundred and sixty, culpable homicide is murder if it is committed— Cases in which homicide is murder.

- I. With an intention to cause the death of any person, whether of the person killed or not:
- II. With an intention to cause to any person, whether the person killed or not, bodily harm which the offender knew to be likely to cause death in the circumstances, although he had no wish to cause death:
- III. By means of any unlawful act or omission which the offender knew, or ought to have known, to be likely to cause death in the circumstances, although he had no wish to cause death or bodily harm to any person:
- IV. With an intention to inflict grievous bodily harm for the purpose of facilitating the commission of any of the crimes hereinafter mentioned or the flight of the offender upon the commission, or attempted commission, thereof:
- V. By means of administering any stupefying thing for either of the purposes mentioned in Paragraph IV. hereof: or
- VI. By wilfully stopping the breath of any person by any means for either of such purposes as aforesaid—

although, in the cases mentioned in Paragraphs IV., V., and VI. hereof the offender did not intend to cause death, and did not know that death was likely to ensue.

Criminal Code.

A.D. 1924.

(2) The following are the crimes referred to in Paragraph iv. hereof—

Piracy, and offences deemed to be piracy; murder; escape or rescue from prison or lawful custody; resisting lawful apprehension; rape; forcible abduction; robbery with violence; robbery; burglary; arson.

Murder.

158. Any person who commits murder is guilty of a crime, and, except as provided in Section Three hundred and eighty-nine, shall, upon conviction, be sentenced to death.

Charge: Murder.

Manslaughter.

159.—(1) Culpable homicide not amounting to murder is manslaughter.

(2) Any person who commits manslaughter is guilty of a crime.

Charge: Manslaughter.

Provocation.

160.—(1) Culpable homicide, which would otherwise be murder, may be reduced to manslaughter if the person who causes death does so in the heat of passion caused by sudden provocation.

(2) Any wrongful act or insult of such a nature as to be sufficient to deprive an ordinary person of the power of self-control, and which, in fact, deprives the offender of the power of self-control, is provocation, if the offender acts upon it on the sudden, and before there has been time for his passion to cool.

(3) Whether the conditions required by Subsection (2) hereof were or were not present in the particular case is a question of fact.

(4) No one shall be held to give provocation to another only by doing that which he had a legal right to do, or by doing anything which the offender incited him to do in order to provide the offender with an excuse for killing or doing bodily harm to any person.

(5) Whether or not an illegal arrest amounts to provocation depends upon all the circumstances of the particular case, and the fact that the offender had reasonable grounds for believing, and did, in fact, believe, that the arrest was illegal, shall be taken into consideration in determining the question whether there was provocation or not.

Accessory after the fact to murder.

161. Any person who becomes accessory after the fact to murder is guilty of a crime.

Charge: Being accessory after the fact to murder.

Written threat to murder.

162. Any person who, knowing the contents thereof, wilfully, and with intent thereby to intimidate or influence any person, causes such person to receive any writing threatening to kill him or any other person, is guilty of a crime.

Charge: Threatening to Murder.

Aiding suicide.

163. Any person who instigates or aids another to kill himself is guilty of a crime.

Charge: Instigating [*or aiding*] suicide.

Attempting to commit suicide

164. Any person who attempts to kill himself is guilty of a crime.

Charge: Attempting Suicide.

Causing death of a child before birth.

165.—(1) Any person who causes the death of a child which has not become a human being in such a manner that he would have been guilty of murder if such child had been born alive is guilty of a crime.

Charge: Causing the death of a child before birth.

(2) No one commits a crime who by any means employed in good faith for the preservation of its mother's life causes the death of any such child before or during its birth.

Criminal Code.

166.—(1) Any person who, when a woman is delivered of a child, by any secret disposition of the dead body of the child, whether the child died before, at, or after, its birth, endeavours to conceal the birth thereof, is guilty of a crime.

Charge: Concealment of Birth.

(2) The provisions of this section shall not apply to a case in which the child has not reached such a stage of maturity as would in the ordinary course of nature render it probable that such child would live.

A.D. 1924.

Concealment
of birth.

167. Any person who wilfully and unlawfully burns or cremates, or otherwise destroys, any human remains, or renders the same incapable of identification, is guilty of a crime.

Charge: Unlawfully destroying human remains [or unlawfully rendering human remains incapable of identification.]

Unlawful destruc-
tion of human
remains.

CHAPTER XVIII.

CRIMES ENDANGERING LIFE OR HEALTH.

168. Any person who, by any means whatever calculated to choke, suffocate, or strangle, or by any violent means whatever renders any person incapable of resistance, with intent thereby to facilitate the commission of an offence, or to facilitate the flight of an offender after the commission or attempted commission of an offence, is guilty of a crime.

Charge: Disabling with intent to facilitate the commission of an offence [or the flight of an offender].

Disabling in order
to commit offence.

169. Any person who administers any stupefying or overpowering drug or thing to any person, with intent thereby to facilitate the commission of an offence, or to facilitate the flight of an offender after the commission or attempted commission of an offence, is guilty of a crime.

Charge: Administering a drug with intent to facilitate the commission of an offence [or flight of an offender].

Administering drug
to facilitate offence.

170.—(1) Any person who, with intent to maim, disfigure, or disable any person, or to do any grievous bodily harm to any person, or to resist or prevent the lawful arrest or detention of any person—

- I. Wounds or does any actual bodily harm to any person by any means whatever:
- II. Strikes any person in any manner with any kind of offensive weapon:
- III. Causes any explosive substance to explode:
- IV. Sends or delivers any explosive substance or other dangerous or noxious thing to any person:
- V. Causes any such substance or thing to be taken or received by any person:
- VI. Puts any corrosive fluid or any destructive or explosive substance in any place: or
- VII. Unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to any person—

is guilty of a crime.

Charge: Committing an unlawful act intended to cause bodily harm.

Acts intended to
cause grievous
bodily harm or
prevent apprehen-
sion.

(2) A person who, by actual violence or threats of immediate violence, causes any other person to do any act for the purpose of avoiding or escaping from such violence, whereby such other person suffers actual bodily harm, is deemed to have caused such bodily harm to such other person.

Criminal Code.

A.D. 1924.

Preventing escape
from wreck.

171. Any person who unlawfully—
- i. Prevents or obstructs any person who is on board, or is escaping from, a vessel which is in distress or wrecked or cast ashore, in his endeavour to save his life: or
 - ii. Obstructs any person in his endeavour to save the life of any person so situated—
- is guilty of a crime.

Charge: Preventing escape from a wreck.

Wounding or
causing grievous
bodily harm.

172. Any person who unlawfully wounds or causes grievous bodily harm to any person by any means whatever is guilty of a crime.

Charge: Wounding [*or causing grievous bodily harm*].Intentionally
endangering
persons on
railways.

173. Any person who, with intent to injure or endanger the safety of any person on any railway—

- i. Places anything upon or across any railway:
 - ii. Does any act likely to interfere with, injure, endanger, or obstruct any engine, carriage, or other vehicle on any railway:
 - iii. Shoots or throws anything at, into, or upon, or causes anything to come in contact with, any such engine, carriage, or other vehicle, or any person:
 - iv. Does anything whatever to any part of any railway, or to any points, machinery, or signal belonging to or near to such railway, or to any engine, carriage, or other vehicle thereon:
 - v. Deals in any way with any signal or light on or near to any railway or makes or shows any false signal or light, or makes any sign whatever on or near to any railway: or
 - vi. Wilfully omits to do any act which it is his duty to do—
- is guilty of a crime.

Charge: Intentionally endangering persons on a railway.

Wantonly
endangering
persons on
railways.

174. Any person who unlawfully, and wilfully or recklessly, in a manner likely to injure or endanger the safety of any person on any railway—

- i. By any act or omission endangers or obstructs any engine, carriage, or other vehicle on any railway:
 - ii. Does any act likely to interfere with or to cause injury to any engine, carriage, or other vehicle on any railway:
 - iii. Shoots or throws anything at, into, or upon, or causes anything to come in contact with, any engine, carriage, or other vehicle, or any person:
 - iv. Does anything whatever to any part of any railway, or to any points, machinery, or signal belonging to or near to any railway, or to any engine, carriage, or other vehicle thereon:
 - v. Deals in any way with any signal or light on or near to any railway, or makes or shows any false signal or light, or makes any sign whatever on or near to any railway: or
 - vi. By any culpable neglect of duty endangers the safety of any person conveyed or being upon any railway—
- is guilty of a crime.

Charge: Wantonly endangering persons on a railway.

Unlawfully
administering
poison with intent
to harm.

175. Any person who unlawfully, and with intent to injure or annoy any person, administers or causes any poison or other noxious thing to be administered to, or taken by, such person, and thereby endangers his life, or does him any grievous bodily harm, is guilty of a crime.

Charge: Causing injury by poison.

Administering a
noxious thing.

176. Any person who unlawfully, and with intent to injure or annoy any person, administers, or causes any poison or other noxious thing to be administered to, or taken by, any person, is guilty of a crime.

Charge: Administering poison.

Criminal Code.

177. Any person whose legal duty it is to provide the necessaries of life for any person, and who, without lawful excuse, fails to do so, whereby the life of that person is or is likely to be endangered or his health is or is likely to be permanently injured, is guilty of a crime. A.D. 1924.

Charge: Failing to supply necessaries. Failure to supply necessaries.

178. Any person over the age of fourteen years who, having the custody, care or control of a child under the age of fourteen years, wilfully illtreats, neglects, abandons, or exposes such child, or causes such child to be illtreated, neglected, abandoned, or exposed in a manner likely to cause such child unnecessary suffering or injury to health, is guilty of a crime. Ill-treatment of children.

Charge: Illtreating a child.

179.—(1) Any person who, with intent to cause death or grievous bodily harm to any person, sets or places, or causes to be set or placed, in any place any spring-gun, man-trap, or other engine calculated to cause death or grievous bodily harm, or knowingly and with such intent allows any such thing to remain so set or placed in any place under his control, is guilty of a crime. Setting man-traps, &c.

Charge: Setting a spring-gun [*or* man-trap] [*or*, allowing a spring-gun [*or* man-trap] to remain set].

(2) This section shall not apply to any gin or trap set for the purpose of catching or destroying vermin; nor to a spring-gun, man-trap, or engine set or maintained only during the night in a dwelling-house for the protection thereof.

180.—(1) Any person who in any river or inland waters in this State— Unseaworthy ships.

i. Causes, or is a party to causing, to be used or employed for the carriage of passengers or goods any ship that is in such an unseaworthy state that the life of any person is likely to be thereby endangered: or

ii. Being the master of any such ship, knowingly uses the same— is guilty of a crime.

Charge: Using an unseaworthy ship.

(2) Any person who, in or upon any ship, does any act with respect to such ship or any part thereof, or omits to perform any duty with respect thereto, knowing in either case that the safety of any person on such ship is or is likely to be thereby endangered, is guilty of a crime. Endangering life on ships.

Charge: Endangering life on a ship.

(3) Any master, seaman, or apprentice belonging to any ship who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness— Breaches of duty by seamen.

i. Does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship: or

ii. Refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board such ship, from immediate danger to life or limb—

is guilty of a crime.

Charge: Breach of duty as a seaman.

(4) In every case of collision between two vessels it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, or passengers (if any) to render to the other vessel, her master, crew, and passengers (if any) such assistance as may be practicable and necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance; and any person failing, without reasonable cause, to perform any such duty as aforesaid is guilty of a crime. Breaches of duty respecting collisions.

Charge: Failing to assist vessel in collision.

(5) For the purposes of this section the term "ship" means a ship employed exclusively in trading or going from place to place in any river or inland waters in this State, or employed in carrying passengers therein. Application section.

Criminal Code

A.D. 1924.

Defences.

(6) In any proceedings under Subsection (1) hereof it shall be a defence to prove—

- I. That the use of such vessel was reasonable and justifiable under the circumstances: or
- II. That the accused, not being such master as aforesaid, used all reasonable means to ensure the ship being in a seaworthy state when so used.

Making and possession of dangerous things.

181. Any person who makes or knowingly has in his possession any explosive substance, or any dangerous or noxious engine, instrument, or thing whatever, with intent by means thereof to commit or for the purpose of enabling any other person by means thereof to commit any crime, is guilty of a crime.

Charge: Making [or having in possession] a dangerous thing, with intent to facilitate crime.

CHAPTER XIX.

ASSAULTS.

Definition of assault.

182.—(1) An assault is the act of intentionally applying force to the person of another, directly or indirectly, or attempting or threatening by any gesture to apply such force to the person of another if the person making the attempt or threat has, or causes the other to believe on reasonable grounds that he has, present ability to effect his purpose; or the act of depriving another of his liberty.

Words.

(2) Words alone cannot constitute an assault.

Common intercourse of life.

(3) An act which is reasonably necessary for the common intercourse of life if done only for the purpose of such intercourse and which is not disproportionate to the occasion, does not constitute an assault.

Consent.

(4) Except in cases in which it is specially provided that consent cannot be given, or shall not be a defence, an assault is not unlawful if committed with the consent of the person assaulted unless the act is otherwise unlawful, and the injury is of such a nature, or is done under such circumstances, as to be injurious to the public, as well as to the person assaulted, and to involve a breach of the peace.

Aggravated assault.

183. Any person who—

I. Assaults any person with intent to commit a crime, or to resist or prevent the lawful apprehension or detainer of himself or of any other person: or

II. Assaults, resists, or wilfully obstructs any person in the lawful execution of any process against any lands or goods, or in the making of any lawful distress, or with intent to rescue any goods taken under such process or distress—

is guilty of a crime.

Charge: Aggravated assault.

Common assault.

184. Any person who unlawfully assaults another is guilty of a crime.

Charge: Assault.

CHAPTER XX.

RAPE: ABDUCTION.

Rape.

185. Any person who has carnal knowledge of a female not his wife without her consent is guilty of a crime, which is called rape.

Charge: Rape.

Criminal Code

186.—(1) Any person who, by force, takes away or detains any female against her will with intent that she shall be married to, or carnally known by any person, is guilty of a crime. A.D. 1924.
—
Forcible abduction

Charge: Forcible abduction.

(2) Any person who takes away or detains any female against her will with intent as aforesaid, is guilty of a crime. Abduction.

Charge: Abduction.

187.—(1) Any person who, from motives of lucre, takes away or detains against her will any female who has any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any property, or who is a presumptive heiress or co-heiress, or the presumptive next of kin, or one of the presumptive next of kin, to any person who has such an interest, with intent that she shall be married to, or carnally known by, any person, is guilty of a crime. Abduction from motives of lucre.

Charge: Abduction from motives of lucre.

(2) Any person who, from motives of lucre, fraudulently allures or entices away any such female as aforesaid who is under the age of twenty-one years, out of the possession and against the will of her father or mother, or of any other person having the lawful charge or care of her, with any such intent as aforesaid, is guilty of a crime.

Charge: Abduction of a girl under twenty-one from motives of lucre.

(3) A person convicted of a crime under this section shall be incapable of taking any estate, share, or interest (legal or equitable), in any property of such female, or which comes to her as such heiress, co-heiress, or next of kin; and if he has married her, such property shall be settled, upon his conviction, in such manner as the Supreme Court, upon a petition by the Attorney-General, may appoint.

188.—(1) Any person who takes any unmarried girl 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 charge or care of her, with intent that she shall be unlawfully carnally known by any person, whether a particular person or not, is guilty of a crime. Abduction of young girl with intent to defile.

Charge: Abduction of a girl under eighteen with intent to defile.

(2) In any proceedings under this section in which the accused person was under the age of twenty-one years at the time when the crime was alleged to have been committed it shall be a defence to prove that he believed on reasonable grounds that the girl was of or above the age of eighteen years.

189. Any person who unlawfully takes away, or causes to be taken away, any unmarried girl under the age of eighteen years out of the possession and against the will of her father or mother or other person having the lawful charge or care of her, is guilty of a crime. Abduction of young girl.

Charge: Abduction of a girl under eighteen.

190. In any proceedings under Section One hundred and eighty-eight or Section One hundred and eighty-nine, it shall be a defence to prove that the accused person did not know, or have reasonable grounds for believing, that the girl was in the lawful charge of the person out of whose possession she was taken; but it shall not be a defence that the girl was taken with her consent or at her own suggestion; or, except as aforesaid, that the accused believed her to be of or above the age of eighteen years. Defence.

191.—(1) Any person who unlawfully, by force or fraud takes away, or decoys or entices away, or detains, any child under the age of fourteen years, with intent to deprive any parent, guardian, or other person having the lawful charge or care of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, is guilty of a crime. Abduction of children.

Charge: Abduction of a child.

Criminal Code.

A.D. 1924.

(2) Any person who, with any such intent as aforesaid, receives or harbours any such child, knowing it to have been so taken, decoyed, or enticed away, or detained, is guilty of a crime.

Charge: Harbours an abducted child.

(3) In any proceedings under Subsection (1) hereof, it shall be a defence to prove that the accused—

- I. Acted upon a claim of right to the possession of such child:
- II. Is the mother of such child, if the child is illegitimate: or
- III. Acted in good faith upon a claim that he is the father of such child if the child is illegitimate.

Evidence of husband or wife.

192. In any proceedings under any of the provisions of this chapter, the husband or wife of the accused shall be a competent, but not a compellable, witness.

CHAPTER XXI.

CRIMES RELATING TO MARRIAGE.

Bigamy.

193.—(1) Any married person who goes through the form of marriage with any person, other than his or her spouse, is guilty of a crime.

(2) Any person who knowingly goes through the form of marriage with a married person is guilty of a crime.

Charge (in each case): Bigamy.

(3) For the purposes of this section the term "married person" means a person who has been legally married and whose spouse is living, and whose marriage has not been dissolved or annulled by a court of competent jurisdiction; and the expression "form of marriage" means a marriage ceremony in such form as to be valid by the law of this State, although either of the parties thereto may by any act, default, or disqualification have been incapable of contracting a valid marriage.

(4) In any proceedings under this section, it shall be a defence to prove that the spouse of the married person had been continually absent from him or her for a period of seven years prior to the alleged crime, unless it is shown that the accused within such period knew such spouse to be living.

(5) In any proceedings under this section it shall be a defence to prove that the accused believed in good faith and on reasonable grounds that the spouse of any such married person was dead when the act of bigamy was committed.

(6) In any such proceedings the spouse of any such married person as aforesaid may be called as a witness, either for the prosecution or defence, without the consent of the accused.

Breach of marriage laws.

194.—(1) Any person who knowingly and wilfully—

- I. Solemnises an invalid marriage:
 - II. Solemnises a marriage, either of the parties to which is under the age of twenty-one years without the consent required by law:
 - III. Professes to solemnise any marriage without lawful authority so to do:
 - IV. Solemnises any marriage in any place, or at any time, not authorised by law: or
 - V. Being authorised to issue certificates of marriages, issues any such certificate at a time, or in a manner, prohibited by law—
- is guilty of a crime.

Charge: Breach of marriage law.

(2) A prosecution under the provisions of this section shall be commenced within three years after the crime is committed.

Criminal Code.

A.D. 1924.

CHAPTER XXII.

CRIMES RELATING TO INSANE PERSONS AND DEFECTIVES.

195. Any person who wilfully receives into custody or detains any insane person, or any defective within the meaning of "The Mental Deficiency Act, 1920," without lawful authority so to do, is guilty of a crime.

Illegally receiving, &c., insane persons and defectives.
11 Geo. V. No. 50.

Charge: Illegally receiving [*or detaining*] an insane person [*or a defective*].

CHAPTER XXIII.

DEFAMATION.

196. In this chapter the term "Periodical" includes any newspaper, review, magazine, or other writing or print, published periodically.

Definition of periodical.

197.—(1) Any imputation concerning any person, or any member of his family, whether such member of his family be living or dead, by which the reputation of that person is likely to be injured, or by which he is likely to be injured in his profession or trade, or by which other persons are likely to be induced to shun or avoid or ridicule or despise him, is called defamatory, and the matter of the imputation is called defamatory matter.

Definition of defamatory matter

(2) Any such imputation may be expressed either directly, or by insinuation or irony.

198.—(1) The question whether any matter is or is not defamatory is a question of fact.

Functions of judge and jury.

(2) The question whether any matter alleged to be defamatory is or is not capable of bearing a defamatory meaning is a question of law.

199. Any person who by words, either spoken or intended to be read, or by signs or visible representations, publishes any defamatory imputation concerning any person, is said to defame that person.

Definition of defamation.

200. Publication is, in the case of words spoken, the speaking of such words in the hearing of any other person than the person defamed; and, in the case of other defamatory matter, to deliver or read or exhibit it, or cause it to be delivered or read or exhibited, or in any other manner to communicate its contents, or any part thereof to any person other than the person defamed: Provided, that the person making the publication knows or has the opportunity of knowing the contents or nature of the document or other thing containing the defamatory matter.

Publication.

201. It is unlawful to publish defamatory matter, unless such publication is protected, or justified, or excused by law.

Publication of defamatory matter is *prima facie* unlawful.

Absolute Protection.

202.—(1) A member of either House of Parliament does not incur any liability as for defamation by the publication of any defamatory matter in the course of a speech made by him in Parliament.

Privilege of Parliament.

(2) A person who presents a petition to either House of Parliament does not incur any liability as for defamation by the publication to that House of Parliament of any defamatory matter contained in the petition.

Petitions.

(3) No person incurs any liability as for defamation by publishing, by order or under the authority of either House of Parliament, any paper containing defamatory matter.

Parliamentary papers.

Criminal Code.

A.D. 1924.

Privileges of judges, witnesses, and others in courts of justice.

203. No person incurs any liability as for defamation by publishing in the course of any proceeding held before or under the authority of any court of justice, or in the course of any inquiry made under the authority of any statute, or under the authority of His Majesty, or of the Governor in Council, or of either House of Parliament, any defamatory matter.

Reports of official inquiries.

204. Any person appointed under the authority of any statute, or by or under the authority of His Majesty, or of the Governor in Council, to hold any inquiry, does not incur any liability as for defamation by publishing any defamatory matter in an official report made by him of the result of such inquiry.

Publication of matters of public interest. Proceedings of Parliament.

205.—(1) It is lawful—

I. To publish in good faith for the information of the public a fair report of the proceedings of either House of Parliament, or of any committee thereof :

Parliamentary papers.

II. To publish in good faith for the information of the public a copy of, or an extract from or abstract of, any paper published by order or under the authority of either House of Parliament :

Proceedings of courts of justice.

III. To publish in good faith for the information of the public a fair report of the public proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, or of the result of any such proceedings, unless in the case of proceedings which are not final the publication has been prohibited by the court, or unless the matter published is blasphemous or obscene :

Proceedings of official inquiries

IV. To publish in good faith for the information of the public a fair report of the proceedings of any inquiry held under the authority of any statute, or under the authority of His Majesty, or of the Governor in Council, or an extract from or abstract of any such proceedings, or a copy of, or an extract from or abstract of, any official report made by the person by whom the inquiry was held :

Public notifications by Government.

V. To publish in good faith for the information of the public at the request of any Government Office, Government Department, officer of State, or officer of Police, any notice or report issued by such department or officer for the information of the public :

Proceedings of local authorities.

VI. To publish in good faith for the information of the public a fair report of the proceeding of any local authority, board, or body of trustees or other persons duly constituted under the provisions of any statute for the discharge of public functions :

Public meetings.

VII. To publish in good faith for the information of the public a fair report of the proceedings of any public meeting, so far as the matter published relates to matters of public concern.

The term "public meeting" means a meeting lawfully held for a lawful purpose, and for the *bonâ fide* furtherance or discussion in good faith of a matter of public concern, or for the advocacy of the candidature of any person for a public office, whether the admission to the meeting was open or restricted.

Definition of publication in good faith for the information of the public.

(2) A publication is said to be made in good faith for the information of the public if the person by whom it is made is not actuated in making it by ill-will to the person defamed, or by any other improper motive; and if the manner of the publication is such as is ordinarily and fairly used in the case of the publication of news.

Exception.

(3) In the case of a publication of a report of the proceedings of a public meeting in a periodical, it is evidence of a want of good faith if the proprietor, publisher, or editor has been requested by the person defamed to publish in the periodical a reasonable letter or statement by way of contradiction or explanation of the defamatory matter, and has refused or neglected to publish the same forthwith.

Criminal Code.

206.—(1) It is lawful—

A.D. 1924.

- | | |
|---|--------------------------------------|
| I. To publish a fair comment respecting any of the matters with respect to which the publication of a fair report in good faith for the information of the public is by the last preceding section declared to be lawful: | Fair comment.
Public proceedings. |
| II. To publish a fair comment respecting the public conduct of any person who takes part in public affairs, or respecting the character of any such person, so far as his character appears in that conduct: | Public conduct of public men. |
| III. To publish a fair comment respecting the conduct of any public officer or public servant in the discharge of his public functions, or respecting the character of any such person, so far as his character appears in that conduct: | Public conduct of public officers. |
| IV. To publish a fair comment respecting the merits of any case, civil or criminal, which has been decided by any court of justice, or respecting the conduct of any person as a judge, party, witness, counsel, solicitor, or officer of the court, in any such case, or respecting the character of any such person, so far as his character appears in that conduct: | Proceedings in courts of justice. |
| V. To publish a fair comment respecting any published book or other literary production, or respecting the character of the author, so far as his character appears by such book or production: | Books. |
| VI. To publish a fair comment respecting any composition or work of art or performance publicly exhibited, or respecting the character of the author or performer or exhibitor, so far as his character appears from the matter exhibited: | Public exhibitions or performances. |
| VII. To publish a fair comment respecting any public entertainment or sports, or respecting the character of any person conducting or taking part therein, so far as his character appears from the matter of the entertainment or sports, or the manner of conducting the same: | Public entertainments. |
| VIII. To publish a fair comment respecting any communication made to the public on any subject. | Communications to the public. |

(2) Whether a comment is or is not fair is a question of fact. If it is not fair, and is defamatory, the publication of it is unlawful.

207. It is lawful to publish defamatory matter if the matter is true, and if it is for the public benefit that the publication should be made.

208.—(1) It is a lawful excuse for the publication of defamatory matter—

- | | |
|--|---|
| I. If the publication is made in good faith by a person having over another any lawful authority in the course of a censure passed by him on the conduct of that other in matters to which such lawful authority relates: | Excuse on personal grounds.
Censure by persons in authority. |
| II. If the publication is made in good faith for the purpose of seeking remedy or redress for some private or public wrong or grievance from a person who has, or is reasonably believed by, the person making the publication to have, authority over the person defamed with respect to the subject-matter of such wrong or grievance: | Seeking redress. |
| III. If the publication is made in good faith for the protection of the interests of the person making the publication, or of some other person, or for the public good: | Interest. |
| IV. If the publication is made in good faith in answer to an inquiry made of the person making the publication relating to some subject as to which the person by whom or on whose behalf the inquiry is made, has, or is believed on reasonable grounds by the person making the publication to have, an interest in knowing the truth: | Answer to inquiries. |

Criminal Code.

A.D. 1924.

Information.

v. If the publication is made in good faith for the purpose of giving information to the person to whom it is made with respect to some subject as to which that person has, or is reasonably believed by the person making the publication to have, such an interest in knowing the truth as to make his conduct in making the publication reasonable under the circumstances:

Challenge.

vi. If the publication is made in good faith on the invitation or challenge of the person defamed:

Defence.

vii. If the publication is made in good faith in order to answer or refute some other defamatory matter published by the person defamed concerning the person making the publication or some other person:

Public discussion.

viii. If the publication is made in good faith in the course of, or for the purposes of, the discussion of some subject of public interest the public discussion of which is for the public benefit.

Definition of good faith.

(2) For the purposes of this section, a publication is said to be made in good faith if the matter published is relevant to the matters the existence of which may excuse the publication in good faith of defamatory matter; if the manner and extent of the publication do not exceed what is reasonably sufficient for the occasion; and if the person by whom it is made is not actuated by ill-will to the person defamed, or by any other improper motive, and does not believe the defamatory matter to be untrue.

Burden of proof of good faith.

209. When any question arises whether a publication of defamatory matter was or was not made in good faith, and it appears that the publication was made under circumstances which would afford lawful excuse for the publication if it was made in good faith, the burden of proof of the absence of good faith lies upon the party alleging such absence.

Relevancy and public benefit questions of fact.

210. Whether any defamatory matter is or is not relevant to any other matter, and whether the public discussion of any subject is or is not for the public benefit, are questions of fact.

Trivial matters not in writing.

211. In any case other than that of words intended to be read, it is a good defence to a prosecution for defamation to prove that the publication was made on an occasion and under circumstances when the person defamed was not likely to be injured thereby.

Publication of defamatory matter

212. Any person who unlawfully publishes any defamatory matter concerning another is guilty of a crime.

Charge: Defamation.

Defence of truth to be specially pleaded

213. Any person charged with the unlawful publication of defamatory matter who sets up as a defence that the defamatory matter is true, and that it was for the public benefit that the publication complained of should be made, must plead that matter specially, either with or without the general plea of not guilty.

Defendant competent witness.

214. Any person charged before a court of criminal jurisdiction with the unlawful publication of defamatory matter, and the husband or wife of the person so charged, shall be competent, but not compellable, witnesses at any stage of the charge.

Jury may give general verdict.

215. Upon the trial of any person for the unlawful publication of defamatory matter, the jury may give a general verdict of guilty or not guilty upon the whole matter put in issue, in like manner as in other criminal cases.

Publishing or threatening to publish a libel, &c., with intent to extort money.

216.—(1) Any person who publishes, or threatens to publish, any defamatory matter concerning any other person, or directly or indirectly threatens to publish, or directly or indirectly proposes to abstain from publishing, or directly or indirectly offers to prevent the publication of, any defamatory matter con-

Criminal Code.

cerning any other person with intent to extort any money, or security for money, or any valuable thing, from such person, or any other person, or with intent to induce any person to confer or procure for any person any appointment or office of profit or trust, is guilty of a crime. A. D. 1924.

Charge; Publishing [*or* threatening to publish] [*or* proposing to abstain from publishing] defamatory matter with intent to extort.

(2) Nothing herein contained shall alter or affect any law now in force in respect to the sending or delivery of threatening letters or writings.

217.—(1) Upon a charge against a proprietor, publisher, or editor of a periodical of the unlawful publication in the periodical of defamatory matter, it is a defence to prove that the matter complained of was inserted in the periodical without his knowledge and without negligence on his part. Liability of proprietor, publisher, and editor of periodicals.

(2) General authority given to the person who actually inserted the defamatory matter to manage or conduct the periodical as editor or otherwise and to insert therein what in his discretion he thinks fit, is not negligence within the meaning of this section, unless it is proved that the proprietor or publisher or editor when giving such general authority meant that it should extend to and authorise the unlawful publication of defamatory matter, or continued such general authority, knowing that it had been exercised by unlawfully publishing defamatory matter in any number or part of the periodical.

218. No person incurs any liability as for defamation by selling any number or part of a periodical, unless he knows that such number or part contains defamatory matter, or that defamatory matter is habitually or frequently contained in that periodical. Protection of innocent sellers of periodicals.

219. No person incurs any liability as for defamation by selling a book, pamphlet, print, or writing or other thing not forming part of a periodical, although it contains defamatory matter, if at the time of the sale he does not know that the defamatory matter is contained therein. Protection of innocent sellers of books, &c.

220. The sale by a servant of a book, pamphlet, print, or writing, or other thing, whether a periodical or not, does not make his employer responsible in respect of defamatory matter contained therein, unless it is proved that such employer authorised the sale knowing that the book, pamphlet, print, writing, or other thing contained the defamatory matter, or, in the case of a number or part of a periodical, that defamatory matter was habitually or frequently published in that periodical. Protection of employers.

221. No prosecution shall be instituted for the publication of any defamatory matter, without the order of a judge of the Supreme Court in chambers, made after notice to the person accused, and after such person has had an opportunity of being heard in opposition to the application for the order. Prosecution by private prosecutor to be by sanction of a judge after notice.

222. On the trial of an indictment for unlawfully publishing defamatory matter contained in a periodical, after evidence sufficient in the opinion of the Court has been given of the publication by the accused of the number or part of the periodical containing the matter complained of, other writings or prints purporting to be other numbers or parts of the same periodical formerly or subsequently published shall be admissible in evidence on either side, without further proof of publication of them. Evidence.

223. The accused in any prosecution in respect of the publication of defamatory matter contained in any paper published by him, or by his servant, by order or under the authority of either House of Parliament, may bring before the Court in which the proceeding is pending, or before any judge thereof, first giving twenty-four hours' notice of his intention so to do to the prosecutor, a certificate under the hand of the President or Clerk of the Legislative Council, or Speaker or Clerk of the House of Assembly, as the case may be, stating that the paper in respect whereof such prosecution is instituted was published by the accused Proceedings for publication of Parliamentary paper to be stayed.

Criminal Code.

A.D. 1924.

or by his servant, by order or under the authority of the Council or Assembly, together with an affidavit verifying such certificate; and such court or judge shall thereupon immediately stay such prosecution, and may order the prosecutor to pay the defendant his costs of defence.

Proceedings to be stayed when commenced in respect of the publication of a copy of the authenticated report, &c., on affidavit verifying such copy being laid before the court.

224. In any prosecution in respect of the publication of a copy of, or an extract from, or abstract of, any such paper, as is mentioned in Section Two hundred and twenty-three, the accused may at any stage of the proceedings lay before the court or a judge thereof an original of such paper, with an affidavit verifying the same, and the court or judge may thereupon stay such prosecution, and may order the prosecutor to pay the accused his costs of defence.

On private prosecution defendant entitled to costs on acquittal.

225.—(1) In the case of a prosecution of any person on an indictment preferred by a private prosecutor for the publication of defamatory matter, if the accused is acquitted he shall be entitled to recover from the prosecutor the costs sustained by him by reason of such prosecution, unless the court otherwise orders.

Costs when truth pleaded.

(2) In the case of a prosecution of any person on an indictment preferred by a private prosecutor on a charge of the publication of defamatory matter, if the accused person pleads the truth of the matter published and that the publication was for the public benefit, then, if that issue is found for the Crown, the prosecutor shall be entitled to recover from the accused the costs sustained by him by reason of such plea.

(3) Such costs so to be recovered by the accused or prosecutor respectively shall be taxed by the Registrar of the Supreme Court.

PART VI.

CRIMES RELATING TO PROPERTY.

CHAPTER XXIV.

STEALING.

Definition of stealing.

226.—(1) A person who, without the consent of the owner thereof, fraudulently and without claim of right—

I. Takes: or

II. Being lawfully in the possession thereof, whether as a servant of the owner or as a bailee or part owner thereof, converts to his own use or to the use of any person other than the owner—

anything capable of being stolen, with intent permanently to deprive the owner thereof, steals such thing.

Taking.

(2) In this chapter—

I. The term “takes” includes obtaining possession—

(a) By any trick;

(b) By intimidation;

(c) Through a mistake on the part of the owner, if the taker knows of such mistake; or

(d) By finding, if at the time of the finding the taker believes that the owner can be discovered by reasonable means:

Owner

II. The term “owner” includes any part owner or person having possession or control of, or a special property in, anything capable of being stolen.

Exception.

(3) A servant who takes anything out of the possession of his master with intent to apply it to his master's use, and who so applies it, or who converts anything belonging to his master to his master's use, does not steal the thing, although such taking or conversion is wrongful.

Criminal Code.

227.—(1) Every movable thing which is the property of any person is capable of being stolen. A.D. 1924.

(2) A thing which is attached to or forms part of any real property becomes capable of being stolen as soon as it is completely severed therefrom. Things capable of being stolen.

(3) A person shall not acquire any property in the dead body of an animal wild by nature only by reason of such animal dying on his land.

228. A person shall be guilty of stealing a thing, although at the time of taking or converting the same he does not intend permanently to deprive the owner thereof, if he takes or converts it fraudulently and with intent— Special cases of stealing.

- I. To use the same, or to allow any other person to use the same, as a pledge or security:
- II. To use or deal with the same in such a manner that it cannot be returned to the owner in the form in which it was when he took or converted it: or
- III. In the case of money, to use it at his own will, although he intends to repay to the owner an equivalent amount of money.

229.—(1) Any person who, having received, either solely or jointly with any other person, any money, valuable security, or other thing whatsoever on terms requiring the person receiving the same to account for or pay the same, or the proceeds thereof, or any part of such proceeds, to any other person, though not requiring him to deliver over in specie the identical money, valuable security, or other thing received, fraudulently converts to his own use or to the use of any other person, or fraudulently omits to account for the same or any part thereof, or to account for or pay any part of the proceeds which he was required to account for or pay as aforesaid, is deemed to steal the property so converted or not paid or accounted for. Stealing by agent.

(2) For the purposes of this section, if it be part of the said terms that the money or other thing received, or the proceeds thereof, shall form an item in a debtor and creditor account between the person receiving the same, and the person to whom he is to account for or pay the same, and that such last mentioned person shall rely only on the personal liability of the other as his debtor in respect thereof, the proper entry of any part of such proceeds in such account shall be deemed a sufficient accounting for the part of the proceeds so entered.

(3) A factor or agent shall not be guilty of stealing by pledging or giving a lien on any goods or document of title to goods intrusted to him for the purpose of sale or otherwise if such pledge or lien is for any sum of money not exceeding the amount due to him from his principal at the time of pledging or giving a lien on the same, together with the amount of any bill of exchange or promissory note accepted or made by him for or on account of his principal.

230. Any person who, being entrusted, either solely or jointly with any other person, with any power of attorney for the sale, mortgage, pledge, or other disposition of any property, real or personal, fraudulently sells, mortgages, pledges, or otherwise disposes of the same or any part thereof, or fraudulently converts the proceeds of any sale, mortgage, pledge, or other disposition of such property, or any part of such proceeds, to some purpose other than that for which he was entrusted with such power of attorney, shall be deemed to have stolen the property so mortgaged, pledged, or disposed of, or converted if the same is capable of being stolen, or money to the value thereof if otherwise. Stealing by person holding power of attorney.

231.—(1) Any person who, having received, either solely or jointly with any other person, any money or valuable security, or any other property, with a direction that such money or any part thereof, or the proceeds or any part of the proceeds of such security or property, shall be applied to any purpose or paid to any person specified in such direction, in violation of good faith and contrary to such direction, fraudulently applies to any other purpose, or pays to any other person such money or proceeds or any part thereof, shall be deemed to have stolen the property so applied or paid. Stealing by misappropriation.

Criminal Code.

A.D. 1924.

(2) Where the person receiving such money, security, or power of attorney, and the person from whom he receives it, deal with each other on such terms that all money paid to the former would in the absence of any such direction be properly treated as an item in a debtor and creditor account between them, this section shall not apply unless such direction is in writing.

Assisting married persons to take property.

232. Any person who, while a husband and wife are living together, assists either of them in doing, with respect to the property of the other, any act which would constitute stealing if they were not married, knowing that such property is being so dealt with, is deemed to steal such property.

Stealing electricity.

233. Any person who fraudulently or wantonly abstracts, takes, uses, diverts, or causes to be diverted or wasted, any electricity or electric current the property of any other person, is deemed to steal the same.

Stealing.

234. Any person who steals anything is guilty of a crime.
Charge: Stealing.

CHAPTER XXV.

CRIMES ANALAGOUS TO STEALING.

Unlawfully dealing with registers and records.

235. Any person who wilfully and unlawfully conceals or destroys any public register or record required to be kept under the provisions of any public general statute or with intent to defraud, removes the same from its proper place of deposit, is guilty of a crime.

Charge: Unlawfully dealing with a register [*or* record].

Unlawfully dealing with wills and documents of title.

236. Any person who retains, conceals, cancels, or destroys the whole or any part of any will or other testamentary instrument (whether the testator is living or dead), or of any document which is evidence of title to any property, or of any encumbrance over or dealing with any land, with intent to defraud, is guilty of a crime.

Charge: Unlawfully dealing with a testamentary instrument [*or* document of title.].

Killing animals with intent to steal.

237. Any person who kills any animal with intent to steal the same or any part thereof is guilty of a crime.

Charge: Killing an animal with intent to steal.

Severing with intent to steal.

238. Any person who severs anything attached to, or forming part of, any real property with intent to steal the same or any part thereof is guilty of a crime.

Charge: Severing with intent to steal.

Unlawfully branding animals.

239. Any person who unlawfully brands any animal with a brand registered under any Act with intent to defraud is guilty of a crime.

Charge: Unlawfully branding an animal.

CHAPTER XXVI.

ROBBERY AND EXTORTION.

Robbery with violence.

240.—(1) Any person who—

- I. Being armed with any offensive weapon or instrument, or being together with one other person or more, robs or assaults with intent to rob, any person: or
 - II. Robs any person, and, at the time of or immediately before or immediately after such robbery, uses any personal violence to the person robbed or to any person in his company or coming to his assistance—
- is guilty of a crime, which is called robbery with violence.

Charge: Robbery with violence.

Criminal Code.

(2) Any person who robs any person is guilty of a crime, which is called robbery. A.D. 1924.

Charge: Robbery. Robbery.

(3) Any person who assaults any person with intent to rob shall be guilty of a crime. Assault with intent to rob.

Charge: Assault with intent to rob.

(4) "To rob" means to steal from the person of another, either by force intentionally used to prevent or overcome resistance, or by means of threats. Definition of robbery.

241.—(1) Any person who—

- i. Utters, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property or valuable thing:
- ii. Utters, knowing the contents thereof, any letter or writing accusing or threatening to accuse any other person (whether living or dead) of any crime with intent to extort or gain thereby any property or valuable thing from any person: or
- iii. With intent to extort or gain any property or valuable thing from any person, accuses or threatens to accuse that person or any other person (whether living or dead) of any crime—

is guilty of a crime. Demanding money, &c., with menaces.

Charge: Demanding property with menaces.

(2) Any person who, with intent to defraud or injure any other person—

- i. By any unlawful violence to, or restraint of, the person of another: or
- ii. By accusing or threatening to accuse any person (whether living or dead) of any crime—

compels or induces any person to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a crime.

Charge: Procuring the execution of a document by threats.

242. Any person who, with menaces or by force, demands of any person anything capable of being stolen with intent to steal the same, is guilty of a crime. Demanding with menaces with intent to steal.

Charge: Demanding property with menaces with intent to steal.

CHAPTER XXVII.

BURGLARY, HOUSEBREAKING, AND LIKE CRIMES

243. In this chapter—

i. "Dwelling-house" means—

- (a) A permanent building, the whole or any part of which is kept by the owner or occupier for the residence therein of himself, his family, or servants, or any of them, although it may at intervals be unoccupied;
- (b) Any temporary building, erection, or structure whatever, or tent, fixed to the soil or attached thereto, and kept by the owner or occupier for the residence therein of himself or his family, or any of them;
- (c) A building occupied with and within the same curtilage with any dwelling-house shall be deemed to be part of the said dwelling-house, if there is between such building and such dwelling-house a communication, either immediate or by means of a covered and enclosed passage, leading from the one to the other, but not otherwise: and
- (d) Any such place as aforesaid in which the owner or occupier, or any person with the permission of the owner or occupier, dwells temporarily or from time to time;

Definition of dwelling-house.

Criminal Code.

A.D. 1924.

II. The term "building," as hereinafter used, shall include every such building, erection, structure, and tent as aforesaid:

III. "To break" means to break any part, internal or external, of a building, or to open by any means whatever (including lifting anything kept in place by its own weight), any door, window-shutter, cellar-flap, or other thing intended to cover any opening to a building, or to give passage from one part to another part thereof; or to move in any the slightest degree any such thing (not being an open and unfastened door); or to enter by any chimney or ventilator; and any person who gains entrance into a building by any threat or artifice used for that purpose, or by means of collusion with any person therein, is deemed to have broken and entered such building:

IV. "To enter" includes the effecting an entrance to any building with or by any part of the body of the person entering, or any part of any instrument carried or used by him for the purpose of—

(a) Gaining entry thereto;

(b) Abstracting or taking anything therefrom or attempting so to do; or

(c) Committing any crime therein.

Burglary.

244. Any person who—

i. Breaks and enters the dwelling-house of another by night with intent to commit a crime therein: or

ii. Breaks out of a dwelling-house by night after—

(a) Committing a crime therein; or

(b) Having entered the same by day or night with intent to commit a crime therein—

is guilty of a crime, which is called burglary.

Charge: Burglary.

Housebreaking.

245. Any person who does any act by day in circumstances which if such act were done by him at night, would render him guilty of burglary, is guilty of a crime, which is called housebreaking.

Charge: Housebreaking.

Entering dwelling-house with intent to commit a crime.

246. Any person who unlawfully enters or is in any dwelling-house with intent to commit a crime therein is guilty of a crime.

Charge: Unlawfully entering [or being in] a dwelling-house with intent to commit a crime.

Breaking other buildings.

247.—(1) Any person who, with respect to any of the buildings in this section mentioned, does any act in circumstances which, if such act were done by him at night with respect to a dwelling-house, would render him guilty of burglary, is guilty of a crime.

Charge: Breaking a building other than a dwelling-house.

(2) The buildings to which this section shall apply are: any church, school-house, shop, store, warehouse, counting-house, office, garage, pavilion, factory, or workshop; or any building belonging to His Majesty, or to any public department, or to any municipal or other public authority.

Being armed, &c., with intent to commit a crime

248. Any person who is found—

i. Armed with any dangerous or offensive weapon or instrument, with intent to commit a crime under this chapter:

ii. Having in his possession without lawful excuse any instrument of housebreaking:

iii. Having his face masked or blackened, or being otherwise disguised, with intent to commit a crime: or

iv. In any dwelling-house by night with intent to commit a crime therein—

is guilty of a crime.

Charge: Being found prepared for the commission of a crime.

Criminal Code.

A.D. 1924.

CHAPTER XXVIII.

FALSE PRETENCES, CHEATING, AND FRAUDS CONCERNING TITLES.

249. In this chapter—

Definitions.

“ False pretence ” means a false representation of fact, made by words or otherwise, which the person making it knows to be false or does not believe to be true; but does not include—

False pretence.

- i. A promise as to future conduct not intended to be kept, unless such promise is based upon a fact falsely alleged to exist, or implies the existence of a fact which does not exist:
- ii. Untrue commendation or untrue depreciation of an article, unless such untrue commendation or untrue depreciation is made by means of a definite false assertion as to some matter of fact capable of being positively determined.

“ Obtains ” means an obtaining by the offender from the owner, with an intent on the part of the offender to deprive the owner permanently and entirely of the thing obtained, and it includes cases in which things are obtained by a contract which is obtained by a false pretence, unless the obtaining under the contract is merely remotely connected with the false pretence.

Obtaining.

250. Any person who by any false pretence, and with intent to defraud, obtains from any person anything capable of being stolen, or induces any person to deliver to any person anything capable of being stolen, is guilty of a crime.

Obtaining goods by false pretences.

Charge: Obtaining goods by a false pretence.

251. Any person who by any false pretence, and with intent to defraud, induces any person to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a crime.

Obtaining execution of a security by false pretences.

Charge: Obtaining execution of a valuable security by a false pretence.

252. Any person who, with intent to defraud, by means of any trick or device, obtains from any person, or induces any person to deliver to any person, anything capable of being stolen, is guilty of a crime.

Cheating.

Charge: Cheating.

253. Any person who unlawfully, and without claim of right takes, removes, or conceals anything capable of being stolen, with intent thereby to obtain for himself or for any person not lawfully entitled thereto, any payment for work done in respect of such thing, or with intent to deprive of any such payment any person entitled to the same, is guilty of a crime.

Fraud in respect of payment for work.

Charge: Fraud in respect of payment for work.

254.—(1) Any person who, being a seller or mortgagor of any property, or being the solicitor or agent of any such seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud—

Fraud on sale of mortgage of property.

- i. Conceals from the purchaser or mortgagee any instrument material to the title, or any incumbrance: or
 - ii. Falsifies any pedigree on which the title depends or may depend—
- is guilty of a crime.

Charge: Fraud on Disposition of Property.

Criminal Code.

A.D. 1924.

Proceedings to be
by leave of judge.

(2) No proceedings shall be instituted under this section without the leave of a judge of the Supreme Court, which may be granted upon the *ex parte* application of the prosecutor, or, if the judge so directs, upon summons to be served upon the person against whom the proceedings are intended.

Fraud as to land
under Real
Property Act.

28 Vict. No. 16.

255. Any person who, with intent to defraud, by any false statement or other fraudulent means, procures the issue or registration of any certificate of title or other instrument, or the recording of any false entry affecting the title to, or any dealing with, any land held under "The Real Property Act," or is in any way privy to so doing, is guilty of a crime.

Charge: Fraud in relation to land under "The Real Property Act."

Salting mines.

256. Any person who, with intent to defraud, places or inserts, or causes to be placed or inserted, in any mine or place or in any sample or specimen, real or pretended, of any mineral or substance usually obtained from a mine, any valuable substance or thing calculated or intended to deceive any person as to the value of any mine or place, is guilty of a crime.

Charge: Salting a mine.

Concealing mining
discoveries.

257. Any person who with intent to defraud any co-partner or other person having a joint interest with him in any mine or mining tenement or any place that is being or is intended to be worked, searched, or prospected for any valuable substance or thing, conceals from any such person any valuable discovery made, or any substance or thing found therein or thereon, is guilty of a crime.

Charge: Fraudulently concealing a mining discovery.

CHAPTER XXIX.

RECEIVING STOLEN PROPERTY AND REWARDS FOR RECOVERY THEREOF.

Receiving
stolen property.

258.—(1) Any person who, without lawful excuse, receives or has in his possession any stolen property, knowing it to be stolen property, is guilty of a crime.

Charge: Receiving stolen property.

(2) For the purposes of the Code "stolen property" shall include anything capable of being stolen which has been obtained in this State or elsewhere under circumstances which constitute, or which, if they had occurred in this State would constitute, a crime under any of the provisions of chapters XXIV. to XXVII. inclusive, but shall not include any such thing which, after having been so obtained, has been returned to its owner, or to which any person has acquired a lawful title completed by delivery.

(3) In any proceedings under this section—

- i. The fact that the accused had in his possession other stolen property which had been obtained as aforesaid within twelve months preceding the date of his alleged crime: and
- ii. The fact that within three years preceding his being charged with the crime the accused had been convicted of a crime under any of the provisions of Chapters XXIV. to XXVII. inclusive—

may be given in evidence against the accused in support of the averment of guilty knowledge.

(4) The facts mentioned in Subsection (3) hereof shall not be admissible unless—

- i. Seven days notice in writing has been given to the accused of the intention to prove such fact; and
- ii. Evidence has previously been given that the stolen property in respect of which the accused is charged was found or had been in his possession.

Criminal Code.

259. Any person who corruptly takes or agrees to take any reward, directly or indirectly, under pretence or on account of helping any person to recover any stolen property, is (unless he has used all due diligence to cause to be brought to trial the person who stole or obtained such property) guilty of a crime.

Charge: Corruptly taking a reward for recovery of stolen property.

A D. 1924.

Taking rewards for stolen property.

CHAPTER XXX.

FRAUDS BY TRUSTEES AND COMPANY OFFICERS: FALSE ACCOUNTING: SECRET COMMISSIONS.

260.—(1) Any trustee who, with intent to defraud, destroys the trust property or any part thereof, or converts the same or any part thereof to any use not authorised by the trust, is guilty of a crime.

Charge: Fraudulently dealing with trust property.

Fraudulent dealing by trustees.

(2) In this section "Trustee" means—

- I. Trustees upon express trust created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose:
- II. Trustees appointed by or under the authority of a statute for any such purpose:
- III. Persons upon whom the duties of any such trust as aforesaid devolve:
- IV. Executors and administrators: and
- V. Receivers, assignees, liquidators, trustees, and other like officers acting under any law relating to companies, bankrupts, or insane persons, by whomsoever appointed or elected.

(3) No prosecution shall be instituted under this section against a trustee by any person who has taken civil proceedings against such trustee in respect of the same matter except by leave of the judge of the court in which such civil proceedings were taken or are pending.

261. Any person who—

- I. Being a director or officer of a corporation or company, receives or possesses himself as such of any of the property of the corporation or company, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company, or to cause or direct such entry to be made therein: or
- II. Being a director or officer, member, or contributory of a corporation or company, with intent to defraud—
 - (a) Destroys, alters, mutilates, or falsifies any book, document, valuable security, or account which belongs to the corporation or company, or any entry in any such book, document, or account, or is privy to any such act: or
 - (b) Omits or is privy to omitting any material particular from any such book, document, or account—

is guilty of a crime.

Charge—

Under I.: Misappropriation as a company officer.

Under II.: Fraud against a company as an officer [or member] [or contributory].

Officers of companies fraudulently appropriating property, or falsifying accounts.

262. Any person being—

- I. A director, officer, or auditor of a company: or
- II. Engaged or interested in the formation, flotation, or registration of any body of persons as a company—

who makes, circulates, or publishes or is privy to making, circulating, or publishing any written statement or account which is to his knowledge false in any material particular, with intent to deceive or defraud any member or creditor of

False statements by promoters and officers of companies.

*Criminal Code.***A.D. 1924.**

such company, or to induce any person, whether a particular person or not, to become a member of such company or to apply for any share in such intended company, or to entrust or advance any property to such company, or to any person for any such intended company, or to enter into any security for the benefit of such company or intended company is guilty of a crime.

Charge: Fraudulent statement as a promoter [*or officer*] of a company.

Defence.

263.—(1) In any proceedings under any of the foregoing provisions of this chapter it shall be a defence to prove that the accused person, before being charged with the crime, and in consequence of the compulsory process of a court of justice in an action or proceeding instituted in good faith by a party aggrieved, or in a compulsory examination or deposition before a court of justice, disclosed on oath the act alleged to constitute the crime.

(2) In any such proceedings as aforesaid a statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy or in any statement verified by oath filed for the purposes of any such matter, or in any compulsory examination in the winding-up of a company, shall not be admissible in evidence against such person.

(3) No person shall be entitled to refuse to answer any question or interrogatory in any civil proceeding in any court, on the ground that his doing so might tend to show that he had committed any crime under the foregoing provisions of this chapter.

Fraudulent false accounting.

264. Any person, being a clerk or servant, or being employed or acting in the capacity of a clerk or servant, who, with intent to defraud—

- i. Destroys, alters, mutilates, or falsifies any book, document, valuable security or account, which belongs to or is in the possession of his employer, or has been received by him on account of his employer, or any entry in any such book, document, or account, or is privy to any such act: or
- ii. Omits or is privy to omitting any material particular from any such book, document, or account—

is guilty of a crime.

Charge: Fraud as a clerk or servant.

False accounting by public officer.

265. Any public officer charged with the receipt, custody, or management of any part of the public revenue or property who knowingly furnishes any false statement or return of any money or property received by him or entrusted to his care, or of any balance of money in his possession or under his control, is guilty of a crime.

Charge: Falsely accounting as a public officer.

Secret commissions.

266.—(1) Any person who—

- i. Corruptly gives or agrees to give, or offers to an agent, or to any other person on his behalf: or
- ii. Being an agent, corruptly solicits, receives, obtains, or agrees to accept for himself or any person other than his principal—

any gift or consideration as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to the principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to the same, is guilty of a crime.

Charge: Corruption in relation to business.

Corruptly using false documents.

(2) Any person who knowingly gives to an agent, or any agent who knowingly receives or uses with intent to deceive his principal, any receipt, account, or other document in respect of which his principal is interested, or which relates to any dealing, transaction, or matter in which his principal is interested, and which contains any statement which is false or erroneous, or defective in any material particular, is guilty of a crime.

Charge: Corruptly using a false document.

Criminal Code.

(3) For the purposes of this section—

A.D. 1924.

I. "Agent" includes any person employed by or acting for another, and any person serving under the Crown or under any corporation or public body:

Definitions.

II. "Consideration" means any kind of valuable consideration:

III. "Principal" includes any employer.

(4) In any proceedings under this section, where it is proved that any consideration has been solicited or received by an agent from, or given or offered to an agent by, any person having business relations with the principal, the burden of proving that such consideration was not solicited, received, given, or offered in contravention of the provisions of this section shall be on the accused.

Burden of proof.

(5) In any such proceedings as aforesaid it shall be a defence to prove that the consideration was solicited, received, given, or offered with the principal's knowledge, and that he was aware of all facts material to the transaction.

Defence.

CHAPTER XXXI.

ARSON AND OTHER UNLAWFUL INJURIES TO PROPERTY.

267.—(1) Every injury to property which is caused with intent to defraud is unlawful, although caused by the owner of such property.

Injuries to property.

(2) No person is justified in causing any injury to property by the fact that he has a partial interest therein.

(3) An act causing injury to property shall not constitute a crime under this chapter unless it is done wilfully and without claim of right.

268. Any person who unlawfully sets fire to any building, erection, or structure whatever attached to the soil, whether the same is completed or not, or to any stack of cultivated vegetable produce, or of timber, or of mineral or vegetable fuel, or to any mine, or to any ship or vessel, whether completed or not, is guilty of a crime, which is called arson.

Arson.

Charge: Arson.

269. Any person who unlawfully sets fire to any property not comprised in Section Two hundred and sixty-eight is guilty of a crime.

Unlawfully setting fire to property.

Charge: Unlawfully setting fire to property.

270. Any person who unlawfully—

I. Casts away or destroys any ship, whether complete or not:

II. Does any act which tends to the immediate loss or destruction of a ship in distress: or

III. With intent to bring a vessel into danger, interferes with any light, beacon, mark, or signal, used for purposes of navigation, or for the guidance of seaman, or exhibits any false light or signal—

is guilty of a crime.

Casting away ships and endangering vessels.

Charge—

Under I.: Casting away [or destroying] a ship.

Under II. and III.: Endangering a vessel.

271. Any person who, with intent to obstruct the use of a railway or to injure any property thereon, does any of the acts or makes any of the omissions specified in Section One hundred and seventy-four, is guilty of a crime:

Unlawfully interfering with railways.

Charge: Unlawfully interfering with a railway.

Criminal Code.

A. D. 1924.

Injuring public utilities.

272. Any person who unlawfully does any act or makes any omission causing damage or injury to—

- I. Any public reservoir, waterworks, or water-supply, or any spring or stream supplying the same:
- II. Any gasworks, electric light or power plant, machinery, works, or appliances used for supplying light or power to the public: or
- III. Any public bridge, whether over any stream or not, or any viaduct or aqueduct, over or under any of which any railway, highway, or canal shall pass, whereby any such thing as aforesaid is destroyed or rendered dangerous or impassable—

is guilty of a crime.

Charge: Unlawfully injuring a public utility.

Unlawful injuries in general.

273. Any person who unlawfully destroys or injures any property is guilty of a crime.

Charge: Unlawfully injuring property.

Killing or wounding cattle.

274.—(1) Any person who unlawfully kills, maims, or wounds any cattle, is guilty of a crime.

Charge: Unlawfully killing [*or maiming*] [*or wounding*] cattle.

(2) For the purposes of this section "cattle" includes horses, oxen, mules, asses, sheep, and swine, of any sex or age.

Interfering with boundary marks.

275. Any person who unlawfully, and with intent to defraud, moves, destroys, or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land, is guilty of a crime.

Charge: Interfering with a boundary mark.

Sending letters threatening to burn or destroy. &c.

276. Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening that any property shall be unlawfully burnt, destroyed, or injured, is guilty of a crime.

Charge: Causing a person to receive a letter threatening injury to property.

CHAPTER XXXII.

FORGERY AND UTTERING.

Definitions.

277.—(1) In this chapter—

"To forge" means to make a false document in order that it may be used as genuine, and in the case of a seal or die, to counterfeit such seal or die; and the doing of any such act is forgery:

"To utter" means to use, offer, publish, deliver, dispose of, tender in payment or in exchange, expose for sale or exchange, exchange, tender in evidence or put off any forged document, seal, or die, with intent to defraud, knowing the same to be forged wheresoever the same may have been forged:

"Bank note" means any note or bill of exchange of any person, body corporate, or company carrying on the business of banking in any part of the world, and includes a bank bill, bank post bill, blank bank note, blank bank bill of exchange, and blank bank post bill:

"Die" includes any plate, type, tool, or implement whatsoever, and also any part of any die, plate, type, tool, or implement, and any stamp or impression thereof, or any part of such stamp or impression:

"Revenue paper" means any paper provided by the proper authority for the purpose of being used for stamps, licences, permits, post-office money orders, or postal orders, or for any purpose whatever connected with the public revenue:

Criminal Code.

“ Seal ” includes any stamp or impression of a seal or any stamp or impression made or apparently intended to resemble the stamp or impression of a seal, as well as the seal itself: A.D. 1924.

“ Stamp ” includes a stamp impressed by means of a die as well as an adhesive stamp:

“ Treasury bill ” includes exchequer bill, exchequer bond, exchequer debenture, inscribed stock certificate, and war bond.

(2) A document is false within the meaning of this section if the whole or any material part thereof purports to be made by or on behalf or on account of any person who did not make it nor authorise its making; or, if, though made by or on behalf or on account of the person by whom or by whose authority it purports to have been made, the time or place of making, if material, or, in the case of a document identified by number or mark, the number or any distinguishing mark identifying the document, is falsely stated therein; and, in particular, a document is false if—

- I. Any material alteration, whether by addition, insertion, obliteration, erasure, removal or otherwise has been made therein:
- II. If the whole or some material part purports to be made by or on behalf of a fictitious or deceased person: or
- III. Though made in the name of an existing person it is made by him or by his authority with the intention that it should pass as having been made by some person, real or fictitious, other than the person who made or authorised it.

(3) For the purposes of this chapter—

- I. It is immaterial in what language a document is expressed or in what country it is expressed to take effect:
- II. Forgery of a document may be complete even if the document when forged is incomplete, or is not or does not purport to be such a document as would be binding in law:
- III. In any case in which the crossing of a document is authorised or recognised by law, the crossing is a material part of the document.

(4) Any person who, by means of any false representation as to the nature, contents, or operation, of a document, procures another to sign or execute the document, is deemed to have forged the document, and the document is deemed to be forged. Procuring execution of documents by false pretences.

278. Any person who forges any document, seal, or die, with intent to defraud, is guilty of a crime. Forgery.

Charge: Forgery.

279. Any person who utters any forged document, seal, or die, is guilty of a crime. Uttering.

Charge: Uttering.

280. Any person who, with intent to defraud, demands, receives, or obtains or procures to be delivered, paid, or transferred to any person any property whatever upon or by virtue of— Obtaining property by false documents.

- I. Any forged document whatsoever, knowing it to be forged: or
- II. Any probate or letters of administration knowing the testamentary writing on which such probate or letters of administration shall have been obtained to have been forged or knowing such probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit—

is guilty of a crime.

Charge—

Under I.: Obtaining property on a forged document.

Under II.: Obtaining property on a document obtained by false evidence.

Criminal Code.

A.D. 1924.

Purchasing, &c.,
forged bank notes.

281. Any person who, without lawful authority or excuse, purchases or receives from any person, or has in his possession, a forged bank note, knowing it to be forged, is guilty of a crime.

Charge: Unlawfully purchasing [*or receiving*] [*or having in possession*] a forged bank note.

Falsifying registers
and records.

282. Any person having the actual custody of any register or record required by any public general statute to be kept who makes, or permits to be made therein, any entry which to his knowledge is false in any material particular, is guilty of a crime.

Charge: Falsifying [*or permitting the falsification of*] a register [*or record*].

Procuring
unauthorised
status.

283. Any person who—

- i. By any representation, which he knows to be false, procures to be issued to any person by any person thereunto authorised by any public general statute a document certifying that the holder thereof is entitled to any right, privilege, or status:
- ii. With intent to defraud, falsely represents to any person that he has obtained, or is the holder of, any such document: or
- iii. By any representation which he knows to be false, procures himself or any other person to be registered as a person entitled to any such document, or as a person entitled to any right, privilege, or status—

is guilty of a crime.

Charge—

Under i. and iii.: Procuring unauthorised status.

Under ii.: Fraudulently misrepresenting status.

Supplying false
copies of rules, &c.

284. Any person who, with intent to deceive or defraud, gives or sends to any person a document which purports to be a copy of the memorandum or articles of association or other constitution of a corporation or company, or of the rules or by-laws of any corporation, company, or society, constituted under the authority of any statute, or to be a copy of a list of the members of any such corporation, company, or society, knowing that the same is not a true copy thereof, is guilty of a crime.

Charge: Fraudulently using a false copy of a document relating to a company or society.

Being in possession
of materials for
forgery.

285. Any person who—

- i. Makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as—
 - (a) Special paper, such as is provided and used for making any bank note or treasury bill: or
 - (b) Revenue paper:
- ii. Makes, uses, or knowingly has in his custody or possession, any frame, mould, or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines, or devices peculiar to and used in or on any such paper:
- iii. Engraves or in anywise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines, or devices, the print whereof resembles, in whole or in part, any words, figures, letters, marks, lines, or devices peculiar to and used in or on any bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of any part of His Majesty's dominions, or of any foreign state, or in any stock, annuity, fund, or debt of any body corporate, company, or society, whether within or without His Majesty's dominions:
- iv. Uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, figures, letters, marks, lines, or devices have been engraved, or in anywise made as aforesaid: or

Criminal Code.

v. Uses or knowingly has in his custody or possession, any paper upon which any such words, figures, letters, marks, lines, or devices have been printed, or in anywise made as aforesaid—
is guilty of a crime. A.D. 1924.

Charge: Unlawfully using [*or having in possession*] materials for forgery.

286. Any person who, without lawful authority or excuse, purchases, receives, or knowingly has in his custody or possession—
Being unlawfully in possession of revenue paper, &c.

I. Any special paper provided and used for making treasury bills or any revenue paper, before such paper has been duly stamped, signed, and issued for public use:

II. Any die peculiarly used in the manufacture of any such paper: or

III. Any forged representation or imitation of any such thing as aforesaid—

is guilty of a crime.

Charge: Unlawfully purchasing [*or having in possession*] revenue paper [*or a die for revenue-paper.*]

287. Any person who, with intent to defraud—

I. Knowing the same to be forged, uses any forged stamp or die:

II. Uses any genuine stamp or seal which, for the purpose of being again used, has been removed from any document or thing to which it had been affixed or attached, or upon which it had been impressed:

III. Removes for such purpose as aforesaid any stamp or seal from any material upon which it had been used: or

IV. Erases or removes from any stamped material any figure, letter, or word with intent that the stamp thereon may be again used—

is guilty of a crime.

Charge: Fraudulently using a stamp [*or seal*] [*or die*].

Fraudulently using stamps, &c.

PART VII.

FRAUDS BY PERSONATION AND RELATING TO TRADE.

CHAPTER XXXIII.

PERSONATION.

288. Any person who, with intent to defraud, falsely represents himself to be some person, living or dead, other than he is, is guilty of a crime. Personation in general.

Charge: Personation.

289. Any person who personates any person called as a witness in a judicial proceeding, or as a juror, is guilty of a crime. Personating witnesses and jurors.

Charge: Personating a witness [*or juror.*]

290. Any person who, with intent to defraud or to exercise any unlawful authority, personates any public officer, or falsely represents himself to be a public officer, is guilty of a crime. Personating public officers.

Charge: Personating [*or falsely assuming authority of*] a public officer.

291. Any person who, without lawful authority or excuse, makes, in the name of any other person, before any court or person lawfully authorised to take the same, an acknowledgement of liability of any kind, or of a deed or other instrument, is guilty of a crime. Falsely acknowledging deeds, recognisances, &c.

Charge: Falsely acknowledging a liability [*or an instrument.*]

Criminal Code.

A.D. 1924.

CHAPTER XXXIV.

FRAUDULENT DEBTORS.

Insolvents.

4 Vict. No. 32.

292. For the purposes of this chapter "an insolvent" means a person who has been adjudged bankrupt, or whose affairs are in course of liquidation by arrangement under "The Bankruptcy Act, 1870," and who, in either case, has not been granted a discharge; and the insolvency of such a person shall be deemed to commence on the date of the order of adjudication, or of the resolution that his affairs be liquidated by arrangement, as the case may be; and "bankruptcy petition" includes a petition for liquidation by arrangement.

Crimes by insolvents

Not discovering property.

Failing to deliver up property.

Failing to deliver up documents.

Concealing property, &c.

Fraudulently removing property.

Fraudulent statements.

Failing to disclose false claims.

Preventing production of documents.

293. An insolvent shall, in each of the cases following, be guilty of a crime—

I. If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee all his property, real and personal, and how and to whom, and for what consideration and when, he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, failing to make full discovery of property.

II. If he does not deliver up to the trustee, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, failing to deliver up property.

III. If he does not deliver up to the trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, failing to deliver up documents.

IV. If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals any part of his property, to the value of Ten Pounds or upwards, or conceals any debt due to or from him, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, concealing property [*or liabilities*].

V. If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he fraudulently removes any part of his property to the value of Ten Pounds or upwards.

Charge: Being an insolvent, fraudulently removing property.

VI. If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud.

Charge: Being an insolvent, making fraudulent statement of affairs.

VII. If, knowing or believing that a false debt has been proved by any person under the insolvency, he fails for the period of a month to inform the trustee thereof.

Charge: Being an insolvent, failing to inform trustee of false claim.

VIII. If, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law.

Charge: Being an insolvent, preventing production of documents.

Criminal Code.

- ix. If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals, destroys, parts with, mutilates, alters, makes any omission in, or otherwise falsifies, or is privy to the concealment, destruction, parting with, mutilation, alteration, omission in, or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law.

A.D. 1924.

Fraudulently dealing with documents.

Charge: Being an insolvent, fraudulently dealing with documents.

- x. If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs, or to defeat the law.

Making false entries.

Charge: Being an insolvent, making a false entry.

- xi. If, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within six months next before such presentation, he attempts to account for any part of his property by alleging fictitious losses or expenses.

Alleging fictitious losses, &c.

Charge: Being an insolvent, alleging fictitious losses [or expenses].

- xii. If, within six months next before the presentation of a bankruptcy petition by or against him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same.

Obtaining credit by fraud.

Charge: Being an insolvent, obtaining credit by fraud.

- xiii. If, within six months next before the presentation of a bankruptcy petition by or against him, he obtained under the false pretence of carrying on business, and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud.

Obtaining credit by false pretences.

Charge: Being an insolvent, obtaining credit by a false pretence.

- xiv. If, within six months next before the presentation of a bankruptcy petition by or against him, he pawns, pledges, or disposes of any property which he has obtained on credit and has not paid for, unless, in the case of a trader, such pawning, pledging, or disposing is in the ordinary way of his trade, and unless in any case he proves that he had no intent to defraud.

Fraudulently disposing of property obtained on credit.

Charge: Being an insolvent, fraudulently disposing of property obtained on credit.

- xv. If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his insolvency.

Fraudulently misleading creditors.

Charge: Being insolvent, fraudulently misleading creditors.

294. An insolvent who—

- i. Either alone or jointly with any other person obtains credit to the extent of Ten Pounds or upwards from any person without informing that person that he is an insolvent: or
- ii. Engages in any trade or business under a name other than that under which he became an insolvent without disclosing to all persons with whom he enters into any business transactions the name under which he became an insolvent—

Concealing insolvency.

shall be guilty of a crime.

Charge—

Under i.: Being an insolvent, obtaining credit without disclosing insolvency.

Under ii.: Being an insolvent, changing trade name, without disclosing former name.

Criminal Code.

A.D. 1924.

Incurring losses
by speculation.
Failing to account
for losses.

295.—(1) An insolvent who, having been engaged in any trade or business, and having outstanding at the date of the commencement of his insolvency any debts contracted in the course and for the purposes of such trade or business—

- I. Has, within two years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations, and such gambling or speculations are unconnected with his trade or business:
- II. Has, between the date of the presentation of the petition and the date of his becoming an insolvent, lost any part of his estate by such gambling or rash and hazardous speculations as aforesaid: or
- III. On being required by the trustee at any time, or by the court, in the course of his public examination, to account for the loss of any substantial part of his estate incurred within a period of a year next proceeding the date of his becoming an insolvent, he fails to give a satisfactory explanation of the manner in which such loss was incurred—

shall be guilty of a crime.

Charge: Under I. and II.: Being an insolvent incurring losses by speculation.

Under III.: Being an insolvent, failing to account for losses.

(2) In determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration.

(3) A prosecution shall not be instituted against any person under this section except by order of the Supreme Court, nor where the insolvency occurs within two years from the first day of April, one thousand nine hundred and twenty-four.

Frauds on
creditors.

296.—(1) If any person—

- I. In incurring any debt or liability has, with intent to defraud, obtained credit by a false pretence or by means of any other fraud:
- II. With intent to defraud his creditors or any of them, has made or caused to be made any gift or transfer of, or charge on, his property: or
- III. With intent to defraud his creditors or any of them, has concealed or removed any part of his property since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against him—

he shall be guilty of a crime.

Charge: Fraud on a creditor.

(2) For the purposes of this section a person who obtains a judgment against any such person shall be deemed to have been a creditor at the date on which any such act as aforesaid is alleged to have been done, if the suit or action in which such judgment is obtained had been instituted at that date.

PART VIII.

CONSPIRACIES AND CRIMES RELATING TO OTHER CRIMES.

CHAPTER XXXV.

CONSPIRACIES; INCITING; ATTEMPTS; ACCESSORIES.

Conspiracy.

297.—(1) Any person who conspires with another—

- I. To kill any person, whether a subject of His Majesty or not, and whether he is in this State or elsewhere, under circumstances which, if he were killed in this State, would constitute murder:

Criminal Code.

II. To obstruct, prevent, pervert, or defeat the due course of justice, or the administration of the law, whether such purpose is to be effected in this State or elsewhere: A.D. 1924.

III. To commit any crime:

IV. To cheat or defraud the public, or any particular person, or class of persons:

v. To extort, by any means, any property whatever from any person:

VI. To inflict by any unlawful means any injury or harm upon the public, or any particular person or class of persons:

VII. To facilitate the seduction of a woman:

VIII. To do any act involving, and known to be likely to involve, public mischief: or

IX. To do any act without lawful justification or excuse with intent thereby to injure any person—

is guilty of a crime.

Charge: Conspiracy.

(2) A husband and wife are not criminally responsible for any conspiracy between themselves only.

(3) Nothing in this section shall affect the provisions of "The Trades Unions Act, 1889," or of "The Conspiracy and Protection of Property Act, 1889."

55 Vict. No. 27.
53 Vict. No. 28.

298. Any person who incites another to commit a crime is guilty of a crime.

Charge: Inciting to commit [*specify particular crime*].

Inciting to commit crimes.

299. Any person who attempts to commit a crime is guilty of a crime.

Charge: Attempting to commit [*specify particular crime*].

Attempts to commit crimes.

300. Any person who becomes an accessory after the fact to any crime is guilty of a crime.

Charge: Being an accessory after the fact to [*specify particular crime*].

Accessories after the fact.

PART IX.

PROCEDURE.

CHAPTER XXXVI.

DUTIES AS TO ARREST AND DETAINER.

301.—(1) It is the duty of a person executing any process or warrant to have it with him, and to produce it if required.

(2) It is the duty of a person arresting another, whether with or without warrant, to give notice, if practicable, of the process or warrant under which he is acting, or of the cause of the arrest.

(3) A failure to fulfil either of the aforesaid duties shall not of itself deprive the person executing the process or warrant or making the arrest, or his assistants, of protection from criminal responsibility, but shall be relevant to the question whether the process or warrant might not have been executed or the arrest made by reasonable means in a less forcible manner.

Duty of persons arresting.

302. It is the duty of every police officer to arrest any person against whom an accusation has been made to him of having committed a crime for which he may be arrested without warrant, unless he has reasonable grounds for believing such accusation to be without foundation.

Duties of police officers.

303.—(1) It is the duty of any person who has arrested another on a charge of any offence to take him, or cause him to be taken, before a justice without delay, to be dealt with according to law.

(2) It is the duty of every police officer to receive into custody any person arrested by a private person and charged with an offence, and to cause him to be taken without delay before a justice, to be dealt with according to law.

Duties after arrest.

Criminal Code.

A.D. 1924.

CHAPTER XXXVII.

BAIL: TRIAL BY POLICE MAGISTRATE.

Bail

304.—(1) The Supreme Court may admit to bail any person who has been committed for trial, or is in custody, upon a charge of a crime, although bail has been previously refused to such person, or may reduce the bail of any such person to whom bail has been granted.

Procedure on application for bail.

(2) An application under this section may be made to a judge in chambers upon summons. A copy of such summons shall be served upon the Crown Solicitor or the Solicitor-General.

Continuous bail.

305. Where a person is remanded on bail the recognisance may be conditioned for his appearance at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned, but this provision shall not affect the power of the court to vary the order at any subsequent hearing.

Recognisances of sureties.

306. Where as a condition of the release of any person he is required to enter into a recognisance with sureties, the recognisances of the sureties may be taken separately, and either before or after the recognisance of the principal, and if so taken the recognisances of the principal and sureties shall be as binding as if they had all been taken together.

Place of trial.

307.—(1) A person charged with committing a crime may be tried at any place in the State at which sittings of the Supreme Court in its criminal jurisdiction are appointed to be held.

(2) In any case in which the court or a judge orders that an accused person shall be tried at any place other than that at which he has been committed to take his trial, every recognisance, whether of bail or otherwise, conditioned for the appearance of any person at the trial of such accused person, shall be deemed to have reference to the time and place mentioned in such order.

(3) Notice of any such order as aforesaid shall be given as may be prescribed to all persons bound by any such recognisances, and upon proof that such notice has been duly given any such recognisance may be forfeited if the condition thereof has not been observed as herein provided.

Trial before police magistrate.

308.—(1) In any case in which it appears to a judge upon the depositions taken upon the committal of any person for trial that the punishment provided in this section will be adequate for the circumstances of the particular case, he may order that the accused shall be tried summarily before a police magistrate as hereinafter provided.

(2) Any such order as aforesaid may provide for the time and place of trial, and for admitting the accused person to bail, and the provisions of Section Three hundred and seven shall apply to any recognisances in any such cases in the same manner as if such order were made under that section.

(3) Where in any case any such order as aforesaid is made, the police magistrate hearing such case in pursuance thereof shall, for the purposes of the conduct of the trial of the accused, have the powers and jurisdiction of a judge on the trial of an accused person upon indictment.

(4) A police magistrate to whom the trial of any person has been remitted under the provisions of this section shall, upon conviction of the accused person, have power to inflict a sentence of imprisonment for any term not exceeding twelve months, or to impose a fine not exceeding One hundred Pounds, or both such imprisonment and such fine.

(5) No order shall be made for the imprisonment for nonpayment of any fine imposed under the provisions of this section for any term exceeding six months.

Criminal Code.

(6) In any case in which the trial of an accused person has been so remitted as aforesaid, to the police magistrate before whom he was committed for trial, he may be tried upon the depositions taken upon his committal for trial, and such other evidence as may be adduced upon either side. A.D. 1924.

(7) The provisions of this section shall apply only to cases in which the accused person shall have applied for an order to be made hereunder.

(8) Every such application as aforesaid shall be made to a judge in chambers upon summons, to be served as may be prescribed, or as the judge may direct.

(9) Every conviction and sentence made or imposed under the provisions of this section shall be subject to appeal in the same manner in every respect as a conviction or sentence in the Supreme Court, and for the purposes of any such appeal the police magistrate before whom the accused person was so tried as aforesaid shall be deemed to be the judge of the court of trial.

309.—(1) In any case in which an indictment has been presented against any person who has not been committed for trial, and in any case in which any accused person does not attend to be tried upon an indictment, a judge may issue a warrant under his hand for the arrest of such person. Arrest of accused in certain cases.

(2) In any such case the person so arrested shall be held to take his trial but may in a proper case be granted bail in the meantime.

CHAPTER XXXVIII.

INDICTMENTS.

310. Every indictment shall be signed by a Crown law officer and filed in the Supreme Court. Indictment.

311.—(1) An indictment shall be intituled "In the Supreme Court of Tasmania," with the addition of the name of the place of trial, and shall contain and be sufficient if it contains a statement of the specific crime or crimes with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge. Contents of indictments.

(2) Except as provided in Subsection (3) hereof, charges of more than one crime may be joined in the same indictment, if those charges are founded on the same facts, or are, or form part of, a series of crimes of the same or a similar character. In any other case an indictment shall charge one crime only. More than one charge in indictment.

(3) No indictment for murder shall contain a charge of any other crime. Exception.

(4) The statement of the crime charged in an indictment, or where more than one crime is charged in the same indictment, the statement of each crime, with the particulars thereof, shall be set out in a separate paragraph, called a count. Counts in indictments.

(5) Where an indictment contains more than one count the counts shall be numbered consecutively. Counts to be numbered.

(6) Where there are more counts than one in an indictment each count shall be regarded as a separate indictment. Each count a separate indictment.

312.—(1) The statement of a crime in an indictment shall describe the crime shortly, in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the crime. Statement of crimes.

(2) The words following the word "Charge" at the foot of any section or subsection of the Code or of any statute together with a reference to such section or subsection, shall be a sufficient statement of a crime under that section or subsection. Charge words sufficient.

313. Where a person is to be charged with attempting to commit, or with inciting, instigating, aiding, or abetting the commission of, or as an accessory after the fact to, a crime, it shall be sufficient to use the charge appropriate to such crime, with such additional words as will indicate that such person is charged with attempting to commit, or inciting, instigating, aiding, or abetting the commission of, or as an accessory after the fact to, such crime. Charge against accessories.

Criminal Code.

A.D. 1924.

Farticulars.

Statutory particu-
lars.Alternative
statements.Acts must be
established.Form of
indictment.Form of indict-
ment a guide.General rule as to
description.

Time and place.

Money.

Statements in
proceedings
for perjury.

Obtaining money.

Description of
property.

314.—(1) After the statement of the crime particulars of such crime shall be set out in ordinary language, avoiding as far as possible the use of technical terms.

(2) Where any statute limits the particulars of a crime which are required to be given in an indictment, nothing in this section shall require any more particulars to be given than those so required.

(3) The omission of any fact from the particulars shall not vitiate the count to which they are appended if the particulars are sufficient to describe with reasonable clearness the nature of the charge.

315.—(1) Where an enactment constituting a crime states the crime to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities, or intentions or other matters stated in the alternative in the enactment may be stated in the alternative in the count charging the crime.

(2) This section shall not be construed to authorise the statement of more than one crime in one count.

316. Nothing in this chapter shall affect or diminish in any respect the obligation to establish by evidence according to law any acts or omissions or intentions which are legally necessary to constitute the crime with which the accused person is charged, or otherwise affect the law of evidence in criminal cases.

317.—(1) An indictment shall conform as nearly as may be to the forms set out in Appendix C hereto, the statement of the crime and the particulars thereof being varied according to the circumstances of each particular case. Figures and abbreviations may be used in an indictment for expressing anything which is commonly expressed thereby.

(2) The forms of indictment set forth in Appendix C shall be taken as a guide as to what particulars are necessary.

318.—(1) It shall be sufficient to describe any place, time, matter, act, or omission whatsoever to which it is necessary to refer in any indictment in ordinary language in such a manner as to indicate the same with reasonable clearness.

(2) In any case in which the time or place at which any crime is alleged to have been committed cannot be stated precisely, it shall be sufficient to state the same as nearly as may be practicable.

(3) In an indictment in which it is necessary to mention money, such money may be described simply as money, without specifying any particular form of money.

319. In an indictment for a crime which relates to giving false testimony, or procuring or attempting to procure the giving of false testimony, it is not necessary to allege the jurisdiction of the court or tribunal before which the false testimony was given, or intended or proposed to be given, or to set forth the proceedings or any part of the proceedings in the course of which the crime is alleged to have been committed.

320. In an indictment for obtaining property by a false pretence, or for stealing by a clerk or servant, or person acting in the capacity of a clerk or servant, an averment as to obtaining or stealing money shall be sustained by proof that the accused obtained or converted any coin or bank note, or any part of the value of either, although such coin or note was delivered to him in order that some part of the value thereof should be returned to the person who delivered the same or to some other person, and has been returned accordingly.

321. The description of property in an indictment shall be in ordinary language, and such as to indicate with reasonable clearness the property referred to, and if the property is so described it shall not be necessary, except when required for the purpose of describing a crime depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property.

Criminal Code.

322. Where property is vested in more than one person and the owners of the property are referred to in an indictment, it shall be sufficient to describe the property as owned by one of those persons, naming him, with the addition of the words "and another," or "and others," and if the persons owning the property are a body of persons with a collective name, such as—

"The Trustees of the property of the Roman Catholic Church in Tasmania,"

"The Commissioners of Fisheries,"

"The Tasmanian Racing Club," (or the like)—

it shall be sufficient to use the collective name without naming any individual.

A D 1924.

Statement of ownership of property.

323. The description and designation in an indictment of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him without necessarily stating his correct name, or his abode or occupation; and if for any reason it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown."

Description of persons.

324. Where it is necessary to refer to any seal or die or document or instrument in an indictment, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

Description of document.

325. It shall not be necessary in stating any intent to defraud, deceive, or injure, to state an intent to defraud, deceive, or injure any particular person where the statute creating the offence does not make an intent to defraud, deceive, or injure a particular person an essential ingredient of the crime.

Statement of intent.

326.—(1) Where, before trial or at any stage of the trial, it appears to a judge that the statement of the crime or the particulars, or the name or description of any person or thing mentioned therein is or are defective or erroneous, he shall make such order for the amendment of the indictment as he thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendment cannot be made without injustice.

Power to amend indictment.

(2) Where an indictment is so amended a note of the order for amendment shall be endorsed on the indictment, and the indictment shall be treated for the purposes of the trial and of all proceedings in connection therewith as having been filed in its amended form.

Amendment to be endorsed.

(3) Where, before trial or at any stage of the trial, it appears to a judge that an accused person may be prejudiced or embarrassed in his defence by reason of being charged with more than one crime in the same indictment, or that for any other reason it is desirable to direct that he should be tried separately for any one or more crimes charged in the indictment, the judge may order a separate trial of any count or counts in such indictment.

Power to order separate trial.

(4) Where, before the trial or at any stage of the trial it appears to a judge that the postponement of the trial of the accused person is expedient as a consequence of the exercise of any power of a judge under this section to amend an indictment, or to order the separate trial of a count, the judge shall make such order as to postponement of the trial as appears necessary.

Power to postpone trial.

(5) Where an order is made for a separate trial or for the postponement of a trial—

Power to make consequential orders.

i. If such order is made during the trial the judge may order that the jury are to be discharged from giving a verdict on count or counts the trial of which is postponed or on the indictment, as the case may be:

ii. The procedure on the separate trial of a count shall be the same in all respects as if it had been charged in a separate indictment, and the procedure on the postponed trial shall be the same in all respects (if the jury have been discharged) as if the trial had not commenced: and

Criminal Code.

A.D. 1924.

III. The judge may make such order as to admitting the accused person to bail, and as to the enlargement of recognisances and otherwise, as the circumstances of the case may require.

(6) The power conferred by this section shall be in addition to, and not in derogation of, any other power of the court for the same or similar purposes; and may before trial be exercised upon summons by a judge in chambers.

Provisions as to pleading.

327. The provisions of this chapter shall, so far as the same are applicable thereto, apply to all criminal pleadings, subject to any modifications which may be made by rules under the Code.

Duty to furnish copy of indictment. &c.

328. Upon the application of a person against whom an indictment has been filed the Crown law officer filing such indictment shall supply such person, two clear days at least before the day of trial, with a copy of the indictment and a copy of the jury panel free of charge; and shall permit such person, upon his trial, to inspect, free of charge, all depositions taken against him and forwarded to the Attorney-General.

Indictments for treason.

329.—(1) The particulars contained in an indictment for treason must state the overt act or acts of the treason alleged; and no evidence of any overt act not stated therein shall be admissible unless it is relevant as tending to prove any overt act so stated.

(2) No indictment for treason shall be amended by the addition of any overt acts not so stated as aforesaid.

(3) A person indicted for treason shall be served, in the presence of two credible witnesses, with a copy of the indictment against him and with a list setting forth the full names and the addresses and occupations of all jurors summoned for his trial, ten days at least before his arraignment.

Parties to crimes.

330.—(1) Any number of persons who are alleged to be parties within the meaning of the Code to the same crime may be joined in the same indictment and tried, together or separately, although any party to such crime is not included in such indictment, or is not amenable to justice.

(2) Any such party who is alleged to have instigated, aided, or abetted the commission of such crime may be convicted upon a count charging him with having committed such crime, or upon a count charging him with having instigated, aided, or abetted (as the case may be) the commission thereof.

Accessories after the fact.

331. Any number of accessories after the fact to the same crime, though becoming so at different times, or any number of receivers, though at different times, of the same stolen property or of any part or parts thereof, may be joined in the same indictment, and may be tried with the principal offender, or separately, or may be indicted and tried, either together or separately, although the principal offender has not been convicted or is not amenable to justice.

CHAPTER XXXIX.

POWERS OF CONVICTION UPON PARTICULAR INDICTMENTS.

Alternative convictions.

332. Where in any section it is provided that upon an indictment for any particular crime the accused person may be convicted of any other specified crimes it shall be intended thereby that if the jury find such person not guilty of the crime with which he is charged he may be convicted of such other of the crimes specified in such section as is established by the evidence to have been committed by him, or of an attempt to commit the same, but not, upon that indictment, of any other crime.

Criminal Code.

333. Upon an indictment for murder the accused person may be convicted of— **A.D. 1924.**
- I. Manslaughter; **Murder.**
 - II. Concealment of birth; or
 - III. Causing the death of a child before birth.
334. Upon an indictment for manslaughter the accused person may be convicted of— **Manslaughter.**
- I. Concealment of birth;
 - II. Causing the death of a child before birth; or
 - III. Illtreating a child.
335. Upon an indictment for rape the accused person may be convicted of— **Rape.**
- I. Defilement of a girl under eighteen years of age;
 - II. Procuring defilement of a female;
 - III. Defilement of an insane person.
 - IV. Defilement of a defective;
 - v. Incest; or
 - VI. Indecent assault.
336. Upon an indictment for defilement of a girl under eighteen years of age the accused person may be convicted of— **Defilement of girls.**
- I. Procuring defilement of a female;
 - II. Defilement of an insane person;
 - III. Defilement of a defective;
 - IV. Indecent assault; or
 - v. Assault.
337. Upon an indictment for incest the accused person may be convicted of— **Incest.**
- I. Defilement of a girl under eighteen years of age;
 - II. Defilement of an insane person;
 - III. Defilement of a defective; or
 - IV. Indecent assault.
- 338.—(1) Upon an indictment for— **Stealing, false pretences, and cheating.**
- I. Stealing;
 - II. Obtaining property by a false pretence;
 - IV. Receiving stolen property—
 - III. Cheating; or
- the accused person may be convicted of any of such crimes respectively.
- (2) Upon an indictment of several persons jointly for receiving stolen property any one of such persons may be convicted separately of receiving the same or any part thereof.
339. Upon an indictment for stealing an animal the accused person may be convicted of killing such animal with intent to steal it. **Stealing and killing animals with intent to steal.**
340. Upon an indictment for a crime the accused person may be convicted of being an accessory after the fact to such crime. **Principals and accessories after the fact.**
341. Every count in an indictment shall be deemed to be divisible, and in any case in which the commission of the crime charged, as defined in the enactment creating such crime, involves the commission of any other crime, and any such other crime is proved to have been committed by the accused person, he may, subject to the provisions hereinbefore contained, be convicted of any such crime so proved. **Part of charged proved.**
342. Where upon the trial of any person upon indictment the complete commission of the crime charged is not proved but the evidence establishes that the accused person attempted to commit that crime he may be convicted of such attempt. **Attempts.**

Criminal Code.

A.D. 1924.

Indictment for
treasonable crimes
and inciting
mutiny.

343. A person charged with a crime under the provisions of Section Fifty-nine or of Section Sixty-two shall not be acquitted of such crime on the ground that the evidence discloses that he is guilty of treason, but no person acquitted or convicted of such crime shall be afterwards prosecuted for treason upon the same facts.

Indictments in
respect of unlawful
oaths.

344. A person charged with a crime under the provisions of Section Sixty-three shall not be acquitted of such crime on the ground that the evidence discloses that he is guilty of a crime under the provisions of Section Fifty-six or of Section fifty-eight, but no person acquitted or convicted of such crime shall be afterwards prosecuted upon the same facts under either of the last mentioned sections.

CHAPTER XL.

TRIAL: ADJOURNMENT: PLEADINGS: PRACTICE.

Right to be tried

345.—(1) A person committed for a trial for a crime may, at any time during the first week of the term, or the first day of the sessions of oyer and terminer and general gaol delivery held after his committal, make application in open court to be brought to trial.

(2) If such person is not indicted within such term or sessions as aforesaid he may, upon the last day of such term or sessions, make application in open court for bail, which the court shall grant, unless it appears upon oath to the court that the witnesses for the Crown could not be produced at the same term or sessions as aforesaid.

(3) If any such person as aforesaid is not indicted during the sessions next after such session as aforesaid, he shall, upon his prayer or petition in open court, the first week of the term or the first day of the sessions thereafter, be discharged.

Accelerating trial
of persons not
under committal.

346. When an indictment is filed in the Supreme Court against any person who has not been committed for trial upon the charge set forth in the indictment, and the accused person is not brought to trial within a year after the indictment is so filed, the court may, upon the application of the accused person, order him to be discharged from all proceedings on such indictment.

Adjournment of
trial.

347. The judge may in any case, if he thinks fit, adjourn the trial of the accused person at any stage thereof, whether a jury has or has not been sworn, and whether evidence has or has not been given, and may, if necessary, discharge the jury.

On adjournment
of trial accused
may be remanded.

348. When a trial is adjourned, the judge may direct the trial to be held either at that or a later sittings of the court, and may remand the accused person accordingly, and may, in a proper case, admit him to bail, or, if necessary, enlarge his bail if he has already been admitted to bail, and may, if necessary, enlarge the recognisances of the witnesses.

Bringing up a
prisoner for trial.

349. When any person against whom an indictment has been filed is in prison for any other cause the court may, by order in writing, without writ of *habeas corpus*, direct the gaoler to bring up the body of such person as often as is required for the purposes of the trial, and the gaoler shall obey such order.

Nolle prosequi

350.—(1) A Crown law officer may, at any stage of the proceedings upon an indictment, inform the court that the Crown will not further proceed upon that indictment, and thereupon the accused person shall be discharged from any further proceedings upon that indictment.

(2) In any such case as aforesaid the accused person may be again indicted upon a fresh indictment, subject to the limitation, if any, as to the time within which proceedings must be instituted.

Criminal Code.

351.—(1) When an accused person is to be tried he shall be brought to the bar of the court and informed of the crime charged against him as set forth in the indictment; and if he so requires, the indictment shall, subject to the provisions of Subsection (2) hereof, be read over to him; and he shall be then called upon to plead. A.D. 1924.
Arraignment.

(2) In any case in which a previous conviction is alleged in the indictment the accused person shall in the first place be arraigned on so much of the indictment as charges the subsequent crime, and no reference to such previous conviction shall be then made to the jury, except as provided in Subsection (5) hereof.

(3) If the accused person pleads, or is found, guilty of such subsequent crime, he shall then, and not before, be asked whether he has been previously convicted as so alleged.

(4) If the accused person denies such previous conviction, or wilfully refuses to answer, or does not answer directly to, such question as aforesaid, the jury shall then be charged to enquire whether he has been so previously convicted or not.

(5) In any such case as aforesaid, if the accused person gives evidence of good character, either by cross-examination or calling witnesses, such previous conviction as aforesaid may be proved before the jury give their verdict upon the charge for the subsequent crime.

(6) The trial shall be deemed to begin when the accused is called upon to plead.

352.—(1) The accused person may before pleading apply to the judge to quash the indictment on the ground that it is calculated to prejudice or embarrass him in his defence to the charge, or that it is formally defective. Motion to quash
indictment.

(2) Upon such application the judge may quash the indictment, or may order it to be amended in such manner as he thinks just, or may refuse the application.

(3) If at any stage of the trial it appears to the judge that there is any defect in the indictment, and the judge does not see fit to amend it, he may quash the indictment, or may leave the objection to be taken in arrest of judgment.

(4) If an indictment is quashed under the provisions of this section, the accused person is entitled to be discharged from any further proceedings thereon, but he may be again indicted upon a fresh indictment, subject to the limitation, if any, as to the time within which a prosecution must be instituted.

353. If the indictment is not quashed under the provisions of Subsection (1) of Section Three hundred and fifty-two, the accused person must— Pleading to
indictment.

- I. Demur to the indictment on the ground that it does not in substance disclose any crime; or that it appears on the face of the indictment that the court has no jurisdiction:
- II. Plead to the indictment: or
- III. Plead and demur together.

354.—(1) If a demurrer pleaded by an accused person is allowed the judgment shall be that the accused person shall be discharged from the premises set forth in the indictment to which such demurrer is pleaded, and he shall be discharged accordingly. Demurrer.

(2) When an accused person demurs only, the judge shall, subject to his power to adjourn the trial, hear and determine the matter forthwith, and if the demurrer is overruled, the accused person shall be called upon to plead to the indictment.

(3) When an accused person pleads and demurs together, it shall be in the discretion of the judge whether the plea or the demurrer shall be determined first.

(4) Every demurrer shall be in writing, and filed with the clerk of the court at the time it is pleaded, and no joinder in demurrer shall be necessary.

355.—(1) An accused person may plead to an indictment— Pleas.

- I. That he is guilty of the crime charged in the indictment; or, with the consent of the Crown, of any other crime of which he might be convicted upon such indictment:

Criminal Code.

A.D. 1924.

- ii. That he has already been acquitted or convicted—
- (a) Of the crime charged in the indictment;
 - (b) Upon an indictment upon which he might have been convicted of that crime;
 - (c) Of a crime arising out of the same facts and substantially the same crime as that charged in that indictment;
 - (d) Of any crime, an acquittal or conviction of which is, under the provisions of the Code, a bar to a prosecution for the crime charged in the indictment: or
 - (e) Summarily, of an offence in respect of which he might have been indicted upon the charge to which he is called upon to plead:
- iii. That he has received the Royal pardon for the crime charged in the indictment, or for any other crime of which he might be convicted thereon:
- iv. That he is not guilty:
- v. That the Court has no jurisdiction to try him for such crime: or
- vi. For defamation, that the defamatory matter published by him was true, and that it was for the public benefit that such matter should be published at the time when, and in the manner in which, it was published.
- (2) An accused person may plead together any pleas under—
- i. Paragraphs i. and iii.:
 - ii. Paragraphs ii. and iii.:
 - iii. Paragraphs ii. and v.: or
 - iv. Paragraphs iv, v., and vi.:
- of Subsection (1) hereof.
- (3) Where any plea or pleas under Paragraphs ii., iii., or v. of Subsection (1) hereof have been determined against an accused person, and he has not pleaded any other plea, he shall be called upon to plead afresh, and he may then plead under Paragraph iv. of that subsection, with or without any other plea, not already pleaded, which may be joined therewith.
- (4) Every plea, other than the plea of not guilty, shall be in writing, and shall be filed with the Clerk of the Court at the time it is pleaded.
- (5) Where two or more pleas may be pleaded together, the order in which they are pleaded shall be immaterial.

Withdrawal of pleas.

356. An accused person may, by leave of the judge, at any time—
- i. Before sentence, withdraw a plea of guilty and plead not guilty: or
 - ii. Before verdict, withdraw any plea, and substitute a demurrer or some other plea.

Standing mute.

- 357.—(1) If an accused person, when called upon to plead to an indictment—
- i. Stands mute: or
 - ii. Does not directly answer to the indictment, and it appears to the judge that there is any doubt whether he is capable of understanding the proceedings, and of making a proper defence thereto—
- the judge shall order a jury of twelve persons to be impanelled and sworn to try the questions—
- (a) Whether he wilfully refuses or neglects to answer to the indictment: and (if that question is answered in the negative)
 - (b) Whether he is capable of understanding the proceedings and of making a proper defence thereto.
- (2) If such jury as aforesaid find that the accused person wilfully refuses or neglects to answer to the indictment, or that he is capable of understanding the proceedings and of making a proper defence thereto, the judge may order a plea of not guilty to be entered on his behalf; and a plea so entered shall have the same effect as if it had been pleaded by the accused person.

Criminal Code.

(3) If any such accused person does not directly answer to the indictment, and it appears to the judge that there is not any such doubt as aforesaid, the judge may proceed as provided in Subsection (2) hereof. A.D. 1924.

(4) If such jury as aforesaid find that the accused person is incapable of understanding the proceedings as aforesaid, he may be dealt with in the manner provided in Section Three hundred and eighty with respect to a person found to be insane under the provisions of that section.

(5) A jury impanelled under this section shall be chosen as in the case of a jury upon the trial of an indictment, and each juror empanelled shall take the oath set out in Form II. in Appendix D hereto.

(6) The trial of an issue under this section shall be conducted in such manner as the judge may direct.

(7) The provisions of this section shall not apply to the case of a person suffering from some temporary disability.

358. In a plea that the accused person has already been acquitted or convicted, it is sufficient to state that he has been lawfully acquitted or convicted, as the case may be, of the crime charged in the indictment, or of the other offence of which he alleges that he has been acquitted or convicted, and, in the latter case, to describe the offence by any term by which it is commonly known. Plea of autrefois acquit or autrefois convict.

359. No joinder of issue upon any plea shall be necessary, but issue shall be deemed to have been joined at the time when such plea is pleaded, or, if there is a demurrer to such plea, when such demurrer is overruled.

360. Upon a plea to the jurisdiction of the court, the judge shall determine the question of jurisdiction in such manner and upon such evidence as he thinks fit, and may, in his discretion, order a jury to be impanelled and sworn to try any question of fact necessary to such determination. Trial on plea to the jurisdiction.

(2) Any jury so impanelled may be resworn for the trial of the indictment if the judgment on such plea is against the accused person.

361. If the accused person pleads any plea or pleas other than the plea of guilty or a plea to the jurisdiction of the court, he shall be deemed by such plea or pleas, and without any further form, to have demanded that the issues raised thereby shall be tried by a jury, and shall be entitled to have them tried accordingly. Trial by jury.

362. When an accused person pleads any plea other than a plea of guilty, and succeeds on the issue so raised, the judgment shall be that he be discharged from the premises set forth in the count of the indictment to which such plea is pleaded; and he shall be discharged accordingly. Effect of plea.

363. When two or more persons are charged in the same indictment, whether with the same crime or with different crimes the judge may at any time during the trial, on the application of any of the accused persons, direct that the trial of any of them shall be had separately from the trial of the other or others of them, and for that purpose may, if a jury has been sworn, discharge such jury from giving a verdict as to any accused person in respect of whom such direction is made. Separate trials.

364.—(1) When an accused person is to be tried by a jury an officer of the court is to inform him in open court that the persons whose names are to be called are the jurors to be sworn for his trial, and that if he desires to challenge any juror he must do so as such juror comes to the Book to be sworn, and before such juror has taken the oath. Accused person to be informed of his right of challenge.

(2) An accused person or prosecutor may challenge any juror, under the provisions of "The Jury Act, 1899," and of this section.

(3) If the accused person desires to object to the whole panel of jurors, he must do so before any juror is sworn for his trial. 63 Vict. No. 32.
Challenge to array

(4) If at any time it becomes necessary to ascertain the truth of any matter alleged as cause for challenge, the fact shall be tried by the judge, whose decision shall be final and conclusive. Ascertainment of facts as to challenge.

Criminal Code.

- A.D. 1924. 365. When all challenges have been disposed of and a full jury of twelve persons obtained, they shall severally take the oath set out in Form I in Appendix D hereto.
- Swearing of jury.
- Charging jury. 366. When the jury have been sworn an officer of the court shall state to them the substance of the charge against the accused person as set out in the indictment, and shall inform the jury that it is their duty to try the issue raised upon the pleadings, stating to them in substance what such issue is.
- Discharge of juror by judge. 367. If, after a juror has been sworn, it appears to the judge from such juror's own statement that he is not indifferent as between the Crown and the accused person, or that for any other reason he ought not to be allowed or required to act as a juror on that trial the judge may, without discharging the whole of the jury, discharge such juror, and direct another juror to be sworn in his place.
- Defence. 368. A person charged upon indictment shall be entitled to make his defence, and to examine or cross-examine witnesses, as the case may be, either personally or by his counsel.
- Presence of accused. 369.—(1) The trial of an accused person shall take place in his presence, unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable, in which case the judge may order him to be removed, and may direct the trial to proceed in his absence.
(2) The judge may, in any case, if he thinks fit, permit a person charged with a crime to be absent during the whole or any part of the trial on such conditions as the judge thinks fit, and may, if he thinks fit, grant him bail for that purpose.
- Retirement of jury on argument as to evidence. 370. If on the trial of an accused person any question shall arise as to the admissibility of any evidence tendered, the judge may direct the jury to retire until such question is determined if he is of opinion that the accused person might be prejudiced by the argument on such question taking place in the presence of the jury.
- Speeches by counsel: Evidence in rebuttal: Summing up. 371. The following rules shall apply to the proceedings upon the trial of an indictment—
- I. Before any evidence is given the counsel for the Crown is entitled to address the jury for the purpose of opening the case for the prosecution.
 - II. At the close of the evidence for the prosecution an officer of the court shall ask the accused person whether he intends to adduce evidence in his defence.
 - III. If the accused person has no witnesses to call he may himself give evidence on oath (but by so doing shall not be deemed to adduce evidence), and thereupon, or if he does not give evidence—
 - (a) If he has no counsel he may address the jury in his own defence: or
 - (b) If he has counsel, the counsel for the Crown may, if he thinks it a proper case in which so to do, make a second speech summing up the Crown's evidence, and commenting on the evidence of the accused (if any): and the counsel for the accused may then address the jury on his behalf:
 - IV. If the accused person adduces evidence—
 - (a) Upon the close of the evidence for the Crown he or his counsel may address the jury for the purpose of opening the case for his defence, and call his evidence, giving his own evidence first if he desires to be sworn:
 - (b) After the close of such evidence he, or his counsel, may address the jury, summing up his defence: and
 - (c) Counsel for the Crown may then reply.

Criminal Code.

- v. Where there are more than one accused persons and any of them adduces evidence, counsel for the Crown shall have the right to reply as to the evidence adduced by him, but as to any of the accused persons who does not adduce evidence the provisions of Paragraph III. shall apply. A.D. 1924.
- vi. The accused person may, whether he adduces evidence or not, make an unsworn statement, either verbally or in writing, and the same shall be made, or put in, immediately after the close of the evidence for the prosecution.
- vii. If the only evidence adduced by an accused person is as to character, counsel for the Crown is entitled to reply if in his opinion there are any special circumstances which render it necessary for him to do so.
- viii. A statement made by any accused person at the time of his committal for trial shall be put in, if the Crown or the accused person so desires, at the close of the evidence for the prosecution.
- ix. Evidence in rebuttal may be called by the Crown if the judge is of opinion that in the circumstances of the particular case it should be allowed.
- x. After all the evidence and all addresses to the jury have been concluded the judge shall instruct the jury as to the law applicable to the case, with such observations upon the evidence as the judge may think fit to make, and the jury may then, if they so desire, retire to some place set apart for that purpose, to consider their verdict.

372.—(1) A jury sworn and charged upon the trial of an indictment for a crime punishable with death shall not be permitted to separate, except as herein-after expressly provided, until they have given their verdict or have been discharged. Separation of juries in capital cases.

(2) Every such jury may, during any adjournment of the trial, be taken, under the charge of one or more officers of the court sworn for that purpose—

- i. For such necessary exercise or recreation as the judge may allow:
- ii. For such meals as the judge may direct:
- iii. For the purpose of going to, remaining in, and returning from places of sleeping accommodation, where they shall be kept as closely together as may be reasonably practicable, and shall be locked in their respective rooms during the night: or
- iv. For viewing any place or thing which the judge may order that they shall be taken to view.

(3) No member of any such jury shall hold any communication with any person other than another such member, or an officer in charge of such jury, until such jury have been discharged; or hold any communication with any such officer except such communications as are necessary to the discharge of the official duties of such officer.

(4) No such officer as aforesaid shall hold any communication with such jury or any member thereof other than such communications as are necessary to the discharge of the official duties of such officer.

(5) Every officer so to be sworn as aforesaid shall take the oath set forth in Appendix D hereto.

(6) Each member of such jury shall, on every occasion upon which such jury shall leave the courthouse before being discharged, take the oath set out in Form III in Appendix D hereto.

373.—(1) A jury sworn and charged upon the trial of an indictment for any crime other than a crime punishable with death may be permitted by the judge to separate upon any adjournment of the trial, but the judge may, in any case in which he thinks fit, direct any such jury to be kept together in the manner provided in Section Three hundred and seventy-two, and in any case in which such direction is given the provisions of that section shall apply to such jury. Separation in other cases.

(2) The provisions of Subsection (6) of the last mentioned section shall apply to any jury separating under this section.

Criminal Code.

A.D. 1924.

Temporary absence
of a juror.

374.—(1) The temporary absence of a juror necessitated by illness or other unavoidable cause shall not be deemed a separation of the jury for the purposes of this chapter, if permitted by the judge as hereinafter provided.

(2) Any such absence as aforesaid may be permitted by the judge, where the same is, in his opinion, necessary, subject to such conditions and under such safeguards as he may impose; and the judge may, subject as aforesaid, permit any such juror to be attended by such medical practitioners as he may think necessary.

Misconduct
concerning
jurors.

375.—(1) Any person who contravenes the provisions of Section Three hundred and seventy-two or Three hundred and seventy-three, or any condition imposed by the judge as aforesaid, shall be guilty of contempt of court, and may be punished accordingly.

(2) Any such contravention shall invalidate the proceedings unless the judge is satisfied that such contravention is of a trivial nature, and not likely to prejudice the fair trial of the case.

(3) If any such contravention is discovered before judgment the judge may discharge the jury, if it has not already been discharged, and may order another jury to be sworn for the trial of the indictment at the same sittings of the court, or may adjourn the trial.

(4) The decision of the judge upon the question whether any such contravention is sufficient to invalidate the proceedings shall be subject to appeal.

Accommodation
for juries.

376.—(1) A private room shall in every case be provided, communicating with or convenient to the courtroom, in which the jury shall be locked when they retire to consider their verdict.

(2) The jury at all times when in charge of an officer of the court under the provisions of this chapter, shall be supplied with necessary heating and lighting, and such reasonable refreshments as the judge may allow.

View.

377.—(1) If in any case the judge is of opinion that it is desirable that the jury sworn upon the trial of an indictment should view any place or thing as to which evidence has been or is to be given on such trial, he may direct that the jury, at any time before their verdict is given, shall be taken under the charge of one or more officers of the court to view such place or thing.

(2) The judge may in any such case appoint two persons to accompany the jury and to show them such place or thing.

(3) Every such officer and every person so appointed shall take the oath set out in Form V. and Form VI. respectively in Appendix D hereto.

Discharge of jury.

378.—(1) The judge may, in his discretion, at any time discharge a jury without giving a verdict in any emergency rendering it expedient in the interests of justice to adopt that course, and the exercise of such discretion shall not be subject to appeal.

Time of trial.

(2) In any case in which a jury is discharged without giving a verdict, the judge may order the trial to be had at the same or any future sittings of the court.

Incapacity
of judge.

(3) If during a trial the judge becomes incapable of proceeding with the trial or directing the discharge of the jury, an officer of the court shall discharge the jury.

Bail.

(4) In any case in which a jury is discharged as aforesaid the accused person shall remain in custody unless admitted to bail; and such bail may be granted as in the case of a person committed for trial.

Incapacity of
juror.

(5) If at any time during a trial a juror dies, or becomes in the opinion of the judge incapable of continuing to act as a juror, the judge, instead of discharging the jury, may, upon the application of the accused person, and with the consent of the Crown, discharge such juror, and direct that the trial shall proceed with the remaining jurors, if not less than ten, and the verdict of such remaining jurors shall have the same effect as if all the jurors had continued present.

Verdict on Sunday.

379. A verdict or any other proceeding of the court shall not be invalid by reason of its taking place on a Sunday.

Criminal Code.

A.D. 1924.

CHAPTER XLI.

VERDICT: JUDGMENT.

380.—(1) If at any time during the trial of an indictment it appears, or is alleged on his behalf, that the accused person is insane, a jury shall be impanelled to enquire into the question of his sanity. Insanity on arraignment.

(2) Such jury shall consist of twelve persons, who shall be chosen by the clerk of the court from the persons present, whether of the panel or not, and each of such jurors shall take the oath set out in Form II. in Appendix D hereto.

(3) Upon such enquiry any evidence to be adduced by the prosecutor as to the sanity of the accused person shall be taken first.

(4) If such jury find that the accused person is insane such finding shall be recorded, and thereupon the judge shall order him to be kept in strict custody, in such place and in such manner as the judge thinks fit, until His Majesty's pleasure is known.

(5) Any person detained under the provisions of this section or of Section Three hundred and fifty-seven may be tried upon the same indictment if the Attorney-General is satisfied at any subsequent date that he is fit to take his trial.

(6) No person shall be found to be insane under the provisions of this section unless such finding is supported by the evidence of at least two duly qualified medical practitioners.

381.—(1) If upon the trial of an indictment it is given in evidence, or appears from the evidence, that the accused person was insane at the time the crime was alleged to have been committed by him, and such person is acquitted, the jury shall be required to find specially whether such person was acquitted by them on the ground of insanity. Defence of insanity.

(2) If the jury in such case find that such person was insane at the time he is alleged to have committed the crime charged the judge shall order him to be kept in strict custody, in such place and in such manner as the judge thinks fit, until His Majesty's pleasure is known.

(3) The onus of proving the insanity of any such person shall be upon the defence, but the same may be established upon the evidence for the prosecution.

(4) If in any case it is shown that counsel for the accused person intends to allege that such person was so insane as aforesaid, and such counsel announces that he will not adduce evidence, the prosecutor may call evidence of sanity before closing the case for the prosecution; but in any other case such evidence may be called by him in rebuttal.

382. In any case in which any person is detained under the provisions of Section Three hundred and eighty or Section Three hundred and eighty-one, the Governor may make such order for the safe custody of such person, during His Majesty's pleasure, in such place of confinement, and in such manner, as he may think fit. Custody of accused person found insane.

383.—(1) Upon the trial of an indictment the jury may in any case— Verdict.

i. Subject to the provisions of Subsection (1) of Section Three hundred and eighty-one, return a general verdict of "guilty," or "not guilty":

ii. Find specially upon all the facts necessary to enable the judge to pass judgment: or

iii. If they return a general verdict, find specially upon any question submitted to them by the judge.

(2) If the jury acquit the accused person on the ground of insanity the verdict shall be that—

"The accused committed the act [or made the omission] charged, but is not guilty, on the ground that he was insane at the time so as not to be responsible according to law."

Criminal Code.

A.D. 1924.

(3) If in any case it appears to the judge that it is desirable that the jury should find specially upon all the facts necessary to enable him to give judgment, or upon any particular question, the judge may ask the jury to so find.

(4) In any such case the judge shall inform the jury that it is their right to find a special verdict or to return a general verdict; and that they are not obliged to find specially upon any question (except as hereinbefore provided in the case of a person acquitted on the ground of insanity).

(5) The jury may at any time before they leave the box correct any verdict which they have given, and may reconsider their verdict at the request of the court, but they are not bound to do so.

Acquittal.

384. When a person has been acquitted of a crime charged in an indictment he is entitled to be forthwith discharged, so far as regards that crime.

Convicted person
to be called on to
show cause.

385.—(1) When a person is convicted of a crime, whether upon his plea of guilty or otherwise, he shall, before sentence is passed, be asked by an officer of the court whether he has anything to say why sentence should not be passed upon him.

(2) Any such person as aforesaid may at any time before sentence move that judgment be arrested on the ground that the indictment does not disclose any crime, or that any other substantial defect appears upon the face of the record.

(3) Upon the hearing of the motion the judge may allow any amendment of the indictment which he might have allowed before verdict.

(4) The judge may either hear and determine the motion forthwith or may state a case for the consideration of the Court of Criminal Appeal as hereinafter provided.

(5) If judgment is arrested the accused person shall be acquitted, but may be again indicted upon the same charge.

Judgment.

386.—(1) If judgment is not arrested the court may—

I. Pass sentence upon the person convicted forthwith:

II. In a proper case, deal with such person under the provisions of "The First Offenders Probation Act, 1898":

III. Discharge such person upon his recognisance with such surety or sureties as the judge may think necessary, conditioned that such person shall appear and receive judgment—

(a) At some future sittings of the court to be therein specified:
or

(b) In a proper case, whenever called upon: or

IV. In lieu of, or in addition to, passing sentence upon such person, require him to enter into a recognisance, with or without a surety or sureties, to be of good behaviour for such period as the judge may require.

(2) In any case in which any point of law has been reserved, or in which an appeal is pending, and also in any other case where the circumstances make it expedient in the interests of justice to adopt such a course, the judge may bind such person as aforesaid as hereinbefore provided to appear when called upon.

(3) The period to be covered by any such recognisance as aforesaid shall not in any case exceed five years, but the same may, except where otherwise provided, be renewed from time to time if in the opinion of a judge such course is necessary in the interests of justice.

(4) A recognisance under paragraph III. of Subsection (1) hereof may include a condition binding such person to be of good behaviour for any period therein specified.

(5) If sentence is not passed forthwith, any judge of the court may at any subsequent sittings of the court at which such person as aforesaid is present for such purpose, pass sentence upon him.

62 Vict. No. 20.

Criminal Code.

(6) Before sentence is passed as provided in Subsection (5) hereof notice shall be served upon such person requiring him to attend at the time and place at which sentence is to be passed; and if he fails to attend in pursuance of such notice, the recognisances may, in the discretion of the judge, be estreated, and a warrant issued for his arrest.

A.D. 1924.

(7) The judge may, before passing sentence, receive such evidence or statements as he thinks fit in order to inform himself as to the sentence proper to be passed.

(8) Such evidence as aforesaid shall, unless admitted by the accused person, be given in the same manner as evidence upon a trial, and such statements as aforesaid, if challenged or contradicted by the accused person, shall be substantiated by proper proof or shall be ignored.

CHAPTER XLII.

CROWN CASES RESERVED.

387. If on the trial of any person convicted of any crime any question of difficulty in point of law shall have arisen it shall be lawful for the judge, in his discretion, to reserve such question of law for the consideration and determination of the Court of Criminal Appeal, and in any such case to respite the execution of the judgment on such conviction, or postpone the judgment until such question of law shall have been considered and determined; and in either case the judge, in his discretion, shall commit the person convicted to gaol, or shall take a recognisance of bail, with one or more sufficient surety or sureties, and in such sum as the judge shall think fit, conditioned that he shall appear at such time or times and place as the judge shall direct, and receive judgment, or render himself in execution, as the case may be.

Questions of law may be reserved.

388.—(1) The judge by whom such question of law may have been so reserved shall thereupon state a case setting forth the question or questions of law which shall have been so reserved, with the special circumstances upon which the same shall have arisen, and shall sign and transmit the same within a reasonable time to the registrar of the Court of Criminal Appeal.

Questions reserved to be stated in a case.

(2) Every question so reserved shall be dealt with in the same manner in every respect as is hereinafter provided with respect to appeals.

CHAPTER XLIII.

PUNISHMENTS.

389.—(1) The sentence to be pronounced upon a person who is convicted of a crime punishable with death shall, except as provided in Subsection (2) hereof, be that he be returned to his former custody, and that at a time and place to be appointed by the Governor he be hanged by the neck until he is dead.

Sentences.
Death.

(2) Sentence of death shall not be pronounced or recorded against any person under the age of eighteen years, but in any case in which any such person is convicted of a crime punishable with death the sentence shall be that such person shall be detained during His Majesty's pleasure, and thereupon such person may be detained in such place and in such manner as the Governor may direct, and while so detained shall be deemed to be in legal custody.

Persons under eighteen.

(3) Subject to the provisions of the code or of any statute, and except where otherwise expressly provided, the punishment for any crime shall be by imprisonment for a term not exceeding twenty-one years, or by fine, or by both such punishments, and shall be such as the judge of the court of trial shall think fit in the circumstances of each particular case.

Imprisonment.
Fine.

Criminal Code.

A.D. 1924.

Cases of piracy. &c.
9 Geo. IV. Cap. 83.
Hard labour.

(4) A person convicted of piracy or any offence deemed to be piracy shall be punished in accordance with the provisions of Section Four of "The Australian Courts Act, 1828."

(5) When any sentence of imprisonment for a term not exceeding two years is imposed upon any person convicted, the judge may direct that the same shall be with or without hard labour, and in the absence of any such direction, and in the case of any term of imprisonment exceeding two years, the same shall be with hard labour.

Whipping.

(6) In the case of a male person convicted of any crime not punishable with death, in the commission of which such person has inflicted serious personal violence on any person, the sentence may, in addition to any other punishment, include an order that the person convicted shall be whipped once, with such number of strokes or lashes, with such instrument, in such manner and at such time not being more than six months after sentence, as the judge may direct, in accordance with the statutory provisions made, or to be hereafter made, therefor.

Different counts.

(7) When an accused person is convicted upon several counts of an indictment sentence shall be passed upon him upon each of such counts.

Pregnant women.

390.—(1) When sentence of death has been passed upon a woman an officer of the court shall ask her whether she has anything to say in stay of execution of the sentence.

(2) If such woman then alleges, or if the judge then or later has reason to suppose that she is pregnant of a quick child, he shall direct one or more legally qualified medical practitioners to be sworn to examine the woman in some private place, either together or successively, and to ascertain whether she is so pregnant.

(3) If upon the report of such practitioner or practitioners, verified on oath, it appears that such woman is so pregnant, the judge shall order that execution of the sentence be respited until she is delivered of such child or until it is no longer possible in the course of nature for such child to be born.

Calculation of term
of sentence: Cumu-
lative sentences:
Escaped prisoners.

391.—(1) When a person convicted of a crime is under sentence of imprisonment for any other offence, the punishment to be inflicted upon him for such crime may be directed—

- I. To take effect from the expiration of the imprisonment under such other sentence: or
- II. To run concurrently with the remainder of such last mentioned imprisonment:

(2) In all other cases a sentence of imprisonment shall take effect, and shall be calculated from the day upon which it is imposed, unless the judge imposing such sentence shall otherwise order.

(3) A person who escapes from any such imprisonment shall be imprisoned on his recapture for a period equal to the unexpired portion of his original sentence at the time of his escape, and for such further period as may be lawfully imposed upon him as punishment for such escape.

CHAPTER XLIV.

INDETERMINATE SENTENCES.

Indeterminate
sentence on
habitual
criminals.

392. When any person, apparently of the age of seventeen years or upwards, is convicted on indictment of any crime, and has been previously convicted on indictment on at least two occasions of any crime or crimes (whether of the same description or not), the judge before whom such person is convicted may declare that he is an habitual criminal, and by order direct as part of his sentence that on the expiration of the term of imprisonment then imposed upon him, he be detained during the Governor's pleasure in a reformatory prison, in accordance with the provisions of "The Indeterminate Sentences Act, 1921,"

12 Geo. V. No. 44.

Criminal Code.

393. Where any person, apparently of the age of seventeen years or upwards, is convicted on indictment of any crime (whether such person has been previously convicted on indictment or not) the judge before whom such person is convicted may, if he thinks fit, having regard to the antecedents, character, associates, age, health, or mental condition of the person convicted, the nature of the offence, or any special circumstances of the case—

A.D. 1924.

Indeterminate sentence on person convicted of offence before a judge of the Supreme Court.

- i. By order direct as part of his sentence that, on the expiration of the term of imprisonment then imposed upon him, he be detained during the Governor's pleasure in a reformatory prison: or
 - ii. Without imposing any term of imprisonment upon him, by order sentence him to be forthwith committed to a reformatory prison, and to be there detained during the Governor's pleasure—
- in accordance with the provisions of the last mentioned Act.

394. A judge before whom any person is brought up under an order of a court of petty sessions made under the provisions of Section Six of "The Indeterminate Sentences Act, 1921." to be dealt with under the provisions of that Act, may, upon proof of the conviction and sentence by the Court of Petty Sessions and of such previous convictions as aforesaid, by order direct that on the expiration of the term of imprisonment imposed by the Court of Petty Sessions such person be detained during the Governor's pleasure in a reformatory prison.

Power to judge to award indeterminate sentence.
12 Geo. V. No. 44.

395. For the purposes of this chapter a judge may, if he thinks fit in any case, before making any order, hear evidence to enable him to determine whether or not any person should be dealt with under the provisions of this chapter.

Additional evidence.

396. A copy of any order made under the provisions of this chapter shall be served on the sheriff, who shall take all necessary steps to give effect thereto.

Execution of orders.

CHAPTER XLV.

EXECUTION OF SENTENCE: PARDONS.

397.—(1) The punishment of death shall be executed in accordance with the sentence. The execution shall take place within the walls or enclosed yard of a prison. The time and place of execution shall be appointed by the Governor-in-Council.

Execution of sentence of death.

(2) The sheriff, or a deputy appointed by him, shall be present at the execution, together with the superintendent and such officers of the prison and police officers as may be required. The sheriff or his deputy may admit such other male persons as he may think fit.

(3) All persons attending the execution shall remain in such enclosure as aforesaid until execution has been done according to law.

(4) The medical officer of such prison shall, after such execution and upon the same day, examine the body of the person so executed, and shall sign a certificate in the form set out in Appendix E hereto.

(5) The sheriff, or his deputy, as the case may be, and the superintendent and officers of the prison, and the police officers who are present, shall subscribe, and any other person present may subscribe, before their departure from the prison, a declaration in the form set out in Appendix E hereto.

(6) Every such certificate and declaration shall be transmitted by the sheriff, or his deputy, as the case may be, to the Registrar of the Supreme Court, and shall be entered and kept as a record of the court, and a copy of it shall be twice published in the "Gazette."

(7) The body of the person executed shall be buried at such place as the Attorney-General may direct.

Criminal Code.

A.D. 1924.

Pardons.

398.—(1) A free pardon extended by or on behalf of His Majesty shall have the effect of discharging the offender from all legal consequences of the offence for which such pardon is granted.

(2) In any case in which a pardon imposes any conditions upon the person to whom it is granted, all courts of justice and officers shall give effect thereto in the same manner as they would be bound to give effect to the lawful sentence of a court imposing like conditions.

CHAPTER XLVI.

APPEALS.

Interpretation.

399. In this chapter, unless the context otherwise requires—

“ Appellant ” means any person convicted, or any prosecutor, who wishes to appeal under this chapter :

“ Attorney-General ” includes an officer appointed to prosecute in any criminal proceeding :

“ Court ” means The Court of Criminal Appeal :

“ Court of trial ” means the court before which an accused person has been tried upon an indictment, or the court which has passed sentence upon a plea of guilty :

“ Full Court ” means the Supreme Court of Tasmania sitting in banco :

“ Person convicted ” includes an accused person who, not having set up insanity as a defence, has been acquitted on the ground of insanity :

“ Registrar ” means the registrar of the Court appointed by this chapter :

“ Sentence ” includes any order made by the court of trial—

I. For the keeping in custody of any person convicted ;

II. With reference to any property ; or

III. With reference to any moneys to be paid by a person convicted.

Constitution of
court of appeal.
Determination by
majority.

400.—(1) The Full Court shall be the Court of Criminal Appeal.

(2) The determination of any question before the Court shall be according to the opinion of the majority of the judges, or in case the judges are equally divided, according to the opinion of the Chief Justice, or in his absence, of the Senior Judge.

Court of record.

(3) The Court shall be a superior court of record, and shall for the purposes of, and subject to the provisions of, this chapter, have full power to determine in accordance with this chapter any question necessary to be determined for the purpose of doing justice in any case before the Court.

Sittings.

(4) The judges shall provide for sittings of the Court at such times as may be deemed necessary.

Registrar.

(5) The registrar of the Supreme Court shall be the registrar of the Court.

Right of appeal.

401.—(1) A person convicted before a court of trial may appeal to the Court—

I. Against his conviction on any ground which involves a question of law alone :

II. With the leave of the Court, or upon the certificate of the judge of the court of trial that it is a fit case for appeal, against his conviction upon a ground of appeal—

(a) Which involves a question of fact alone :

(b) Which involves a mixed question of fact and law ;

(c) Which appears to the Court to be a sufficient ground of appeal ; and

III. By leave of the Court against the sentence passed on his conviction, unless the sentence is one fixed by law.

Criminal Code.

(2) The Attorney-General may appeal to the Court—

A.D. 1924.

- I. Against an order arresting judgment: or
- II. By leave of the Court or upon the certificate of the judge of the court of trial that it is a fit case for appeal, against an acquittal on a question of law alone: and
- III. By leave of the Court, against the sentence.

402.—(1) On an appeal the Court shall allow the appeal if it is of opinion that the verdict of the jury should be set aside on the ground that it is unreasonable, or cannot be supported having regard to the evidence, or that the judgment or order of the court of trial should be set aside on the ground of the wrong decision of any question of law, or that on any ground whatsoever there was a miscarriage of justice, and in any other case shall dismiss the appeal.

Determination of appeals.

(2) The Court may, notwithstanding that it is of the opinion that the point raised by the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(3) Subject to the special provisions of this chapter, the Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered.

(4) On an appeal against a sentence, the Court, if it is of opinion that some other sentence, whether more or less severe, is warranted in law and should have been passed, shall quash the sentence and pass such other sentence in substitution therefor, and in any other case shall dismiss the appeal.

(5) If the Court allows an appeal against an order arresting judgment or against an acquittal, it may make any of the following orders which may be applicable—

- I. That judgment be pronounced upon the offender:
- II. That a conviction be entered against the offender:
- III. That a *venire de novo* or new trial shall be had in such manner as the Court may direct:
- IV. That the offender shall appear at such time and place as the Court may direct to receive judgment—

and any justice may thereupon issue his warrant for the arrest of the offender.

(6) Any offender so arrested may be admitted to bail by order of the Court or a judge thereof.

403.—(1) If it appears to the Court that an appellant, though not properly convicted on some count or part of the indictment has been properly convicted on some other count or part of the indictment, the Court may either affirm the sentence passed at the trial or pass such sentence, whether more or less severe, in substitution therefor, as it thinks proper, and as may be warranted in law by the conviction on the indictment or part thereof on which it considers the appellant has been properly convicted.

Powers of court in special cases.

(2) Where an appellant has been convicted of a crime, and the jury could on the indictment have found him guilty of some other crime, and on the finding of the jury it appears to the Court that the jury must have been satisfied of facts which proved him guilty of that other crime, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other crime, and pass such sentence, not being a sentence of greater severity, in substitution for the sentence passed at the trial, as may be warranted in law for that other crime.

(3) Where, on the conviction of the appellant, the jury have found a special verdict, and the Court considers that a wrong conclusion has been arrived at by the court of trial on the effect of that verdict, the Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict, and pass such sentence, whether more or less severe, in substitution for the sentence passed at the trial, as may be warranted in law.

Criminal Code.

A.D. 1924.

(4) If on any appeal it appears to the Court that, although the appellant committed the act or made the omission charged against him, he was not of sound mind at the time when the act or omission alleged to constitute the crime occurred, so as not to be responsible therefor according to law, the Court may quash the sentence passed at the trial, and order the appellant to be kept in strict custody in the same manner as if a jury had found that fact specially.

Power to order new trial.

404.—(1) On any appeal, the Court may, either of its own motion or on the application of the appellant, order a *venire de novo* or new trial at such time and place as it thinks fit, if the Court considers that a miscarriage of justice has occurred, and that, having regard to all the circumstances, such miscarriage of justice can be more adequately remedied by an order for a *venire de novo* or new trial than by any other order which the Court is empowered to make.

(2) Where a *venire de novo* or new trial is directed, the Court may make such order as to it seems fit for the safe custody of the appellant or for admitting him to bail.

Revesting and restitution of property on conviction. 60 Vict. No. 14.

405.—(1) The operation of any order for the restitution of any property, or for the payment of compensation to an aggrieved person, made by the court of trial, and the operation of the provisions of Subsection (1) of Section Twenty-nine of "The Sale of Goods Act, 1896," as to the revesting of the property in stolen goods on conviction, shall (unless the court of trial directs to the contrary in any case in which in its opinion the title to the property is not in dispute) be suspended—

- i. Until the expiration of the time provided for appealing to the court: and
- ii. Where notice of appeal or of application for leave to appeal is given within the time provided, until the determination of the appeal or refusal of the application—

and in cases where the operation of any such order or the operation of the said provisions is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal, except by the special order of the Court.

(2) The Court may, by order, annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

(3) The judge of the court of trial may give directions for the safe custody of any such property pending the suspension of any such order or of such provisions.

Jurisdiction in cases reserved.

406. All questions reserved under Section Three hundred and eighty-seven shall be determined by the Court under the provisions of this chapter, and in any case in which an appellant appeals on any ground involving a question of law alone, the Court may direct that a case shall be stated and the appeal determined in the same manner as if a question of law had been reserved under the provisions of that section.

Time for appealing.

407.—(1) Any person convicted desiring to appeal to the Court, or to obtain leave to appeal from any conviction or sentence, shall give notice of appeal or notice of application for leave to appeal, within fourteen days of the date of such conviction or sentence.

(2) In the case of a conviction involving sentence of death—

- i. The sentence shall not in any case be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given: and
- ii. If notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal, or, in cases where an application for leave to appeal is finally refused, of the application.

Criminal Code.

(3) If the Attorney-General desires to appeal to the Court he shall notify his intention so to do during the trial, and in the presence of the accused or his counsel, and shall, within Seven days thereafter, give notice of appeal or of application for leave to appeal in manner prescribed. A.D. 1924.

(4) Upon any such notification as mentioned in Subsection (3) hereof, the judge of the court of trial may require the accused to enter into a recognisance, with or without surety or sureties, to appear at such time and place as the judge may direct, or when called upon, to abide the determination of the appeal.

(5) Except in the case of a conviction involving sentence of death, the time within which notice of appeal, or notice of an application for leave to appeal, may be given, may be extended at any time by the Court.

408.—(1) The judge of the court of trial shall, in case of any appeal or application for leave to appeal, furnish to the registrar his notes of the trial, and also a report giving his opinion upon the case or upon any point arising in the case. Judge's notes and report to be furnished.

(2) Where shorthand notes have been taken, a transcript of such notes may be furnished in lieu of, or in addition to, such judge's notes.

(3) The registrar shall, if the appellant makes application for the same, supply him with a copy of any such notes or transcript.

409.—(1) For the purposes of this chapter the Court may, if it thinks it necessary or expedient in the interests of justice— Supplemental powers.

i. Order the production of any document, exhibit, or other thing connected with the proceedings:

ii. Order any persons who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they were or were not called at the trial, or order any such persons to be examined before any judge of the Court, or before any officer of the Court, or justice, or other person appointed by the Court for the purpose, and admit any depositions so taken as evidence:

iii. Receive the evidence, if tendered, of any witness (including the appellant) who is a competent, but not compellable, witness; and if the appellant makes application for the purpose, of the husband or wife of the appellant, in cases where the evidence of the husband or wife could not have been given at the trial except on such application:

iv. Where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot, in the opinion of the Court, be conveniently conducted before the Court, refer the question for inquiry and report to a commissioner appointed by the Court, and act upon the report of such commissioner so far as the Court thinks fit: and

v. Appoint any person with special expert knowledge to act as assessor to the Court in any case in which it appears to the Court that such special knowledge is required for the determination of the case—

and exercise in relation to the proceedings of the Court any other powers which may for the time being be exercised by the Supreme Court on appeals or applications in civil matters, and issue any warrant or other process necessary for enforcing the orders or sentences of the Court.

(2) In no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

410.—(1) In any case in which it appears to be in the interests of justice that the appellant should have legal aid, and that he has not sufficient means to enable him to obtain such aid, the Court or a judge may make an order for the payment to or for the appellant of such sum as the Court or judge may think reasonable. Legal assistance to appellant.

(2) Any sum so ordered to be paid shall be paid to or for the appellant at such time and upon such conditions as may be prescribed.

Criminal Code.

A.D. 1924.

Right of appellant
to be present.

411.—(1) An appellant, notwithstanding that he is in custody, shall be entitled to be present if he so desires, on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone.

(2) On an appeal on such ground, and on an application for leave to appeal, and on any proceedings preliminary or incidental to an appeal, the appellant shall not be entitled to be present, except by leave of the Court.

(3) The power of the Court to pass any sentence may be exercised notwithstanding that the appellant is not present.

Case and argument
in writing.

412. An appellant shall be entitled to present his case and his argument to the Court in writing if he so desires, and any case or argument so presented shall be considered by the Court.

Duty of Attorney-
General.

413.—(1) The Attorney-General, or counsel on his behalf, shall appear for the Crown on every appeal to the Court under this chapter.

(2) Provision shall be made by the rules under the Code for the transmission to the Attorney-General of all such documents, exhibits, and other things connected with the proceedings as he may require for the purpose of his duties under this section.

Costs of appeal.

414.—(1) On the hearing or determination of an appeal, or any proceedings preliminary or incidental thereto, the Court shall have power to make such order as to the costs of and incidental thereto as it thinks fit.

(2) Any moneys ordered to be paid under Section Four hundred and ten, or under this section, to a person convicted and the expenses of any assessor appointed, and of any witnesses attending on the order of the Court or examined, and of and incidental to any examination or reference, and of the appearance of an appellant on the hearing of his appeal or on any proceedings preliminary or incidental to his appeal, shall be defrayed out of moneys to be provided by Parliament.

Admission of
appellant to bail
and custody when
attending court.

415.—(1) An appellant who is in custody shall, pending the determination of his appeal, be treated in the same manner as a person awaiting trial.

(2) The Court may, if it thinks fit, on the application of the appellant, admit him to bail, with or without sureties, pending the determination of the appeal.

(3) The time during which an appellant, pending the determination of his appeal, is liberated on bail or recognisances shall not count as part of any term of imprisonment under his sentence.

(4) Any imprisonment under such sentence, whether it is the sentence passed by the court of trial or the sentence passed by the Court, shall be deemed to be resumed or to begin to run, as the case requires, unless the Court otherwise orders, from the day on which he is received in prison under the sentence.

(5) The sheriff shall, subject to the rules to be made hereunder, give all necessary directions for bringing an appellant who is in custody to any place where he is entitled to be present or ordered to be taken for the purposes of this chapter, and for the manner in which he is to be kept in custody whilst absent from prison for the purpose, and an appellant whilst in custody in accordance with such directions shall be deemed to be in legal custody.

(6) This section shall apply to a person in respect of whose conviction a case has been stated under the provisions of Section Three hundred and eighty-seven.

Duties of registrar.
Notice of appeal.

416.—(1) The registrar shall take all necessary steps for obtaining a hearing of every appeal or application notice of which is given to him, and shall obtain and lay before the Court in proper form all documents, exhibits, and other things relating to the proceedings in the court of trial which appear necessary for the proper determination of the appeal or application.

Frivolous appeal.

(2) If it appears to the registrar that any notice of appeal against a conviction does not show any substantial ground of appeal, he may refer the appeal to the Court for summary determination; and the Court may thereupon, if it considers that the appeal is frivolous or vexatious, dismiss the appeal summarily without calling upon any person to attend the hearing.

Criminal Code.

(3) The registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application to any person who demands the same, and to officers of courts, governors of goals, and to such other officers or persons as he thinks fit, and the governor of every gaol shall cause such forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application, and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the registrar.

A.D. 1924.

Forms.

417. Any documents, exhibits, or other things connected with any proceedings before a court of trial, in respect of which any person is entitled, or may be authorised, to appeal, shall be kept in the custody of the court of trial in accordance with the rules to be made for that purpose, for such time as may be provided by the rules, and subject to such powers as may be given by the rules for the conditional release of any such documents, exhibits, or things from that custody.

Documents,
exhibits, &c.

418.—(1) The powers of the Court to extend the time in which notice of appeal or of an application for leave to appeal may be given, to allow the appellant to be present at any proceedings in cases where he is not entitled to be present without leave, and to admit an appellant to bail, may be exercised by any judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions.

Powers of single
judge.

(2) If an appellant makes application to a judge under this section or Section Four hundred and one, and the judge refuses such application, the appellant shall be entitled to have such application determined by the Court.

419. The Attorney-General, on the consideration of any petition for the exercise of His Majesty's mercy, having reference to the conviction of any person or to any sentence other than the sentence of death passed on a convicted person may—

Prerogative of
mercy.

- i. Refer the whole case to the Court, and the case shall be heard and determined by the Court as in the case of an appeal by a person convicted: or
- ii. If he desires the assistance of the Court on any point arising in the case with a view to the determination of the petition, refer that point to the Court for its opinion thereon, and the Court shall consider the point so referred and furnish the Attorney-General with its opinion thereon accordingly.

CHAPTER XLVII.

PRIVATE PROSECUTIONS: EX-OFFICIO INDICTMENTS: TRIAL AT BAR.

420.—(1) Any person may, by leave of the Supreme Court, file an indictment against any other person for any crime alleged to have been committed by such other person.

Private prosecu-
tions.

(2) Leave to file any such indictment shall be granted upon such terms and conditions as the said Court in any case for the purpose of securing the substantial ends of justice thinks fit to direct.

(3) Every such indictment shall be endorsed with the words "Filed by leave of the Supreme Court of Tasmania," and with the name of the person prosecuting the same.

421. A Crown law officer may, without leave, file an indictment (herein called an *ex-officio* indictment) against any person for any crime alleged to have been committed by such person, although such person has not been committed for trial.

Ex officio
indictments.

Criminal Code.

A.D. 1924.
Trial at bar.

422. In any case in which it thinks fit, the Supreme Court may, in its discretion, make an order for a trial to be at Bar, subject to such terms and conditions as the Court may think fit.

Forms and proceedings.

423. Except as herein modified, the provisions of the Code relating to the form and contents of pleadings shall apply to all proceedings under this chapter, and in all other respects the proceedings therein shall, until prescribed by the rules to be made under the Code, be in conformity as nearly as may be with the Crown Office Rules in England.

CHAPTER XLVIII.

CONSEQUENCES OF CONVICTION.

Restitution of property.

424.—(1) Subject to the provisions of Subsection (3) hereof, if any person guilty of a crime under any of the provisions of Chapters XXIV. to XXVII., inclusive, or Chapter XXIX., shall be prosecuted to conviction, the stolen property in respect of which such crime shall have been committed shall be restored to the person who was the owner when such crime was committed or if he has died, to his legal representative.

Mode of restitution.

(2) In any such case the court before whom such person is convicted shall have power to award from time to time writs of restitution of such property, or to order the restitution thereof in a summary manner.

Exceptions.
60 Vict. No. 14.

(3) The provisions of this section shall not apply to—

- I. Any goods as defined by "The Sale of Goods Act, 1896," which have been obtained by means not amounting to actual stealing by reason only of such conviction as aforesaid;
- II. Any valuable security which has been in good faith paid or discharged by some person liable to the payment thereof, or, being a negotiable instrument, has been in good faith taken or received by transfer or delivery by some person for a just and valuable consideration without any notice or without any reasonable cause to suspect that the same had been stolen or so;
- III. Any crime under the provisions of Sections Two hundred and twenty-nine to Two hundred and thirty-one, inclusive.

Purchasers in good faith.

(4) In any case in which an order for restitution of any stolen property is made hereunder, and it appears to the court making such order that the person convicted has sold such property to a purchaser who had no knowledge that the same was stolen property, the court may, upon the application of such purchaser, order that any moneys taken from the person convicted upon his apprehension shall be applied in or towards reimbursing such purchaser up to the amount paid by him for such property.

Convicts may be condemned in costs.

425.—(1) It shall be lawful for the court by which judgment shall be pronounced or recorded upon the conviction of any person for any crime, in addition to such sentence as may otherwise by law be passed to condemn such person to the payment of the whole or any part of the costs or expenses incurred in and about the prosecution and conviction for the crime of which he shall be convicted, if such court shall think fit so to do, and the payment of such costs and expenses, or any part thereof, may be ordered by the court to be made out of any moneys taken from such person on his apprehension, or may be enforced at the instance of any person liable to pay, or who may have paid the same, in such and the same manner (subject to any law relating to the administration of a convict's property) as the payment of any costs ordered to be paid by the judgment or order of any court of competent jurisdiction in any civil action or proceeding may for the time being be enforced.

Criminal Code.

(2) It shall be lawful for any such court as first aforesaid if it shall think fit, upon the application of any person aggrieved, and immediately after the conviction of any person for any crime, to award any sum of money not exceeding One hundred Pounds by way of satisfaction or compensation for any loss of property suffered by the applicant through or by means of such crime as aforesaid, and the amount awarded for such satisfaction or compensation shall be deemed a judgment debt due to the person entitled to receive the same from the person so convicted; and the order for payment of such amount may be enforced in such and the same manner as in the case of any such costs as aforesaid.

A.D. 1924.

Compensation to persons defrauded or injured by crime.

426. Any person who has been sentenced to death or to imprisonment for any term exceeding two years, and who has not suffered the punishment to which he has been sentenced, or such other punishment as may have been lawfully substituted therefor, or has not received a free pardon, shall be incapable, while subject to any such sentence, of holding any public office in this State.

Disqualification of convicts holding office.

CHAPTER XLIX.

MISCELLANEOUS PROVISIONS.

427. A person who is a member of a copartnership or company, or one of several co-owners, shall be liable on indictment in respect of any fraudulent act or omission done or made by him with respect to the property of such copartnership, company, or co-owners in the same manner as if he were not such member or co-owner.

Proceedings against partners, &c.

428.—(1) If upon the trial of any person charged with a crime under the provisions of chapter XIV. it appears to the judge that the seduction, prostitution or unlawful carnal knowledge of a girl under the age of eighteen years has been caused or encouraged by her parent or guardian, the judge may direct such parent or guardian to be summoned to show cause why an order should not be made divesting such parent or guardian of all authority over such girl, and appointing any person whom the judge thinks fit to be her guardian until such girl has attained the age of twenty-one years, or any age under twenty-one years as the judge may direct.

Custody of young girls in certain cases.

(2) If such parent or guardian is present at such trial and consents to such course the judge may deal summarily with the matter, and in any other case such parent or guardian shall appear before the court at such time and place as the judge may direct to show cause as aforesaid.

(3) In default of the appearance of any such parent or guardian, or of sufficient cause being shown to the contrary, the judge may make such order as aforesaid.

(4) Any such order as aforesaid may from time to time be altered, varied, or discharged by the Supreme Court in such manner as that court may think fit.

429. In any case in which a judge or person presiding in a court of record or a petty sessional court, or any person before whom a writ of enquiry is executed, is of opinion that any person has in any proceeding before him been guilty of perjury, he may order the prosecution of that person if there appears to be reasonable cause for such prosecution, and may commit him, or admit him to bail, to take his trial at the proper court; and may require any person to enter into a recognisance to prosecute or give evidence against the person so ordered to be prosecuted.

Prosecutions for perjury

(2) No such order as aforesaid shall be given in evidence upon any trial resulting from such order.

Criminal Code.

A.D. 1924.

APPENDIX A.

Section 27.

CRIMES FOR WHICH OFFENDER MAY BE ARRESTED WITHOUT
WARRANT.

Any crime under Chapter V.
 Piracy and offences deemed to be piracy.
 Rioting.
 Opposing the making of a riot proclamation.
 Escape.
 Rescue.
 Unnatural carnal knowledge.
 Murder.
 Manslaughter.
 Threatening to murder.
 Instigating [*or aiding*] suicide.
 Disabling with intent to facilitate the commission of an offence [*or flight of an offender*].
 Administering a drug with intent to facilitate the commission of an offence [*or flight of an offender*].
 Committing an unlawful act intended to cause bodily harm.
 Preventing escape from a wreck.
 Intentionally endangering persons on a railway.
 Wantonly endangering persons on a railway.
 Causing injury by poison.
 Rape.
 Forcible abduction.
 Stealing, other than stealing under Sections 228 to 231 inclusive, or under Section 233.
 Killing an animal with intent to steal.
 Severing with intent to steal.
 Robbery with violence.
 Robbery.
 Assault with intent to rob.
 Demanding property with menaces with intent to steal.
 Burglary, housebreaking, or any other crime under Chapter XXVII.
 Receiving stolen property.
 Arson or any other crime under Chapter XXXI., except under Sections 272 to 276 inclusive.
 Attempting to commit any of such crimes as aforesaid

APPENDIX B.

Sections 27 and 30.

CRIMES REFERRED TO IN SECTION 27 (5) AND 30 (3).

Treason.
 Piracy and offences deemed to be piracy.
 Murder.
 Burglary.
 Rape.
 Arson, in any case in which serious danger shall have been caused to the life of any person.
 Intentionally endangering persons on a railway.
 Any crime in the commission whereof serious danger shall have been caused to the life of any person.
 Attempting to commit any of such crimes as aforesaid.

Criminal Code.

A.D. 1924.

APPENDIX C.

Section 317.

FORMS OF INDICTMENT.

In the Supreme Court of Tasmania.

THE KING *against* [JOHN JONES].^(a)The day of 19^(b).

TASMANIA

^(c)[HOBART] TO WIT.A.B., Attorney-General [*or*, Solicitor-General], on behalf of His Majesty, charges ^(*)[*John Jones*] with—*Statement of Crime.*^(d)Stealing contrary to Section 234 of the Criminal Code.*Particulars.*^(a)*John Jones*, at ^(e)Deloraine, in the State of Tasmania, ^(f)on the first day of June, 1923, stole a cow the property of ^(g)*William Smith*.

(Signed) A.B.,

Attorney-General [*or*, *as the case may be*].*Or*,

[Heading and introductory part as above; and]

Statement of Crime.

Being accessory after the fact to a crime contrary to Section 300 of the Criminal Code.

*Particulars.**John Jones*, at Devonport, in the State of Tasmania, on the fourth day of January, 1924, and on other days thereafter, knowing that *John Smith* had committed the crime of disabling with intent to facilitate the commission of an offence, received [*or* assisted] the said *John Smith* in order to enable him to escape punishment.(Signed) [*as above*].*Or*,THE KING *against* JOHN SMITH and JOHN JONES.

The day of 19 .

TASMANIA

[DEVONPORT] TO WIT.

A.B., &c. [*as above*] charges *John Smith* and *John Jones* with—*Statement of Crimes.**John Smith*, with disabling with intent to facilitate the commission of an offence contrary to Section 168 of the Criminal Code.*John Jones*, with being accessory after the fact to the same crime, contrary to Section 300 of the Criminal Code.*Particulars.**John Smith*, at Latrobe, in the State of Tasmania, on the fourth day of January, 1924, disabled *Mary Brown*, by violently taking her by the throat and rendering her incapable of resistance, with intent thereby to facilitate the commission of an offence.*John Jones*, at Devonport, on the same day and on other days thereafter, knowing that the said *John Smith* had committed the said crime, received [*or* assisted] him in order to enable him to escape punishment.(Signed) [*as above*].

Criminal Code.

A.D. 1924.

APPENDIX D.

OATHS.

I.—JUROR'S OATH ON TRIAL OF INDICTMENT.

Section 365.

“ You swear that you will well and truly try and true deliverance make between our Sovereign Lord the King and the prisoner [*or* prisoners] at the bar, whom you shall have in charge, and a true verdict give according to the evidence; and, further, that you will not at any time disclose to any person anything touching or concerning the deliberations of this jury upon their verdict.

So Help You God!”

II.—JUROR'S OATH ON ENQUIRY AS TO A PRISONER'S SANITY OR CAPACITY TO TAKE HIS TRIAL.

Section 357.
Section 380.

“ You swear that you will well and truly try whether *A.B.* the prisoner at the bar, is insane or not [*or* wilfully refuses or neglects to answer to the indictment or not; and, if not, whether he is incapable of understanding the proceedings and of making a proper defence thereto], and a true verdict give according to the evidence.

So Help You God!”

III.—JUROR'S OATH ON LEAVING COURT.

Section 372

“ You and each of you severally swear that you will not, until you return into this court again, have or hold any communication with any person, other than a fellow juror, either directly or indirectly, touching or concerning any matter whatsoever in any way relating to this trial.

So Help You God!”

IV.—OATH OF OFFICER OR OFFICERS IN CHARGE OF A JURY.

Sections 372 and 373.

“ You [and each of you severally] swear that you will take and keep the jury and every of them in this case and keep them together as nearly as may be practicable in some private room, and will suffer no person to hold any communication with them or any of them, and will not yourself [yourselves] hold any communication with them or any of them other than such communications as may be necessary to the discharge of your official duties until the said jury have been discharged.

So Help You God!”

V.—OATH OF OFFICERS IN CHARGE OF A JURY SENT TO VIEW.

Section 577.

“ You and each of you severally swear that you will take the jury in this case to the place and in the manner directed by His Honor the Judge, and bring them again into court so soon as the view directed has been had by them, and

Criminal Code.

will suffer no person, other than the showers, to hold any communication with them or any of them, and that you or either of you will not hold any communication with them or any of them, other than such communications as may be necessary to the discharge of your official duties. A.D. 1924.

So Help You God!"

VI.—SHOWERS' OATH ON A VIEW.

"You and each of you severally swear that you will truly and faithfully show to the jury in this case all such places and things as have been directed by His Honor the Judge to be shown to them, and that you or either of you will not hold any communication with them or any of them, other than such communications as shall be necessary in the performance of your duties. Section 377.

So Help You God!"

VII.—OATH OF A WITNESS ON A TRIAL.

"The evidence you shall give to the court and jury sworn upon this trial shall be the truth, the whole truth, and nothing but the truth.

So Help You God!"

VIII.—OATH OF A WITNESS ON AN ENQUIRY.

(As in Form VII., substituting "upon this enquiry" for "upon this trial").

APPENDIX E.

I.—CERTIFICATE OF EXECUTION OF SENTENCE OF DEATH.

"I [A.B.], being the medical officer of the gaol at _____ do hereby certify that I have this day examined the body of [C.D.], lately convicted and sentenced to death at the Supreme Court held at _____; and I further certify that upon such examination I found that the body of the said [C.D.] was dead. Section 395.

Given under my hand, this _____ day of _____ 19 _____ A.B."

II.—DECLARATION AS TO EXECUTION OF SENTENCE OF DEATH.

"We, the undersigned, do hereby declare and testify that we have this day been present when the extreme penalty of the law was executed on the body of [C.D.], lately convicted at the Supreme Court held at _____, and sentenced to death; and that the said [C.D.] was, in pursuance of such sentence, hanged by the neck until he was dead. Section 395.

Dated this _____ day of _____ 19 _____
 Sheriff [or Sheriff's Deputy].
 Gaoler.
 Warder.
 Constables.
 Magistrates.
 Other Spectators (if any)."

Criminal Code.

A.D. 1924.

SECOND SCHEDULE.

STATUTES OF TASMANIA.

Section 3 of Act.

Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.
8 Wm. IV. No. 6	An Act for the Preservation of Public Reservoirs and Water-courses from Injury	Section 61 Section 1 from the word "and" at the beginning of the twenty-ninth line thereof to the end of the section
2 Vict. No. 18	An Act for extending to this Colony sundry Statutes passed for the amendment of the Criminal Law in cases of Forging and Piracy	The whole Act
12 Vict. No. 1	An Act to encourage the Establishment of Banks for Savings in Van Diemen's Land	Section 13
18 Vict. (Private)	"The Hobart Town Gas Company's Act"	Section 21
21 Vict. No. 44	"The Equity Procedure Act"	Sections 22 and 23
22 Vict. No. 23	"The Mental Diseases Hospitals Act"	Section 15 from the word "and" in the twelfth line thereof to the word "misdemeanour" in the fifteenth line thereof inclusive; and from the word "and" in the twenty-eighth line thereof to the end of the section Section 34 from the word "and" in the twelfth line thereof to the end of the section Section 43 from the word "and" in the third line thereof to the end of the section
22 Vict. (Private)	"The Launceston Gas Company's Act"	Section 27
23 Vict. No. 7	"The Merchant Seamen Act"	Section 30 Section 66 Section 90
24 Vict. No. 2	An Act to further amend the Law of Property and to relieve Trustees	Section 23 from the word "be" in the eighth line thereof to the word "also" in the twelfth line thereof inclusive

Am. 1924/No. 34/1. 3 (i)

Criminal Code.

Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.
24 Vict. No. 13 3	An Act to make valid Acts done under Powers of Attorney in certain Cases	Section 11
25 Vict. No. 16	" The Real Property Act "	Section 139 from the word " such " in the thirteenth line thereof to the word " and " in the sixteenth line thereof inclusive Sections 140 and 141
27 Vict. No. 5	An Act to consolidate and amend the Legislative Enactments relating to Offences against the Person	Sections 1 to 32 inclusive Sections 34 to 36 inclusive Section 38 Sections 44 to 63 inclusive Sections 65 to 67 inclusive Sections 70 to 72 inclusive
27 Vict. No. 6	An Act to consolidate and amend the Legislative Enactments relating to Accessories to and Abettors of Offences	The whole Act
27 Vict. No. 7	An Act to consolidate and amend the Legislative Enactments relating to Malicious Injuries to Property	Sections 1 to 20 inclusive Sections 26 to 36 inclusive Sections 39 and 40 Sections 42 to 51 inclusive Sections 53 to 57 inclusive Sections 59 and 60 Section 68 Sections 74 to 76 inclusive
27 Vict. No. 8	" The Larceny Act, 1863 "	Sections 1 to 10 inclusive Section 13 Sections 18 to 24 inclusive Sections 29 to 55 inclusive Sections 58 to 84 inclusive Sections 87 to 90 inclusive Section 93 Section 99 Sections 103 and 104 Sections 106 to 108 inclusive
27 Vict. No. 9	An Act to consolidate and amend the Legislative Enactments relating to Forgery	The whole Act
27 Vict. No. 10	An Act to consolidate and amend the Legislative Enactments concerning Offences relating to Coin	The whole Act
29 Vict. No. 8	" The Rural Municipalities Act, 1865 "	Section 40 Section 81 Section 84 Section 87 Sections 94 and 95

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Am. 1924 no. 34 s. 3 (ii)

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Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.
32 Vict. No. 11	" The Prison Act, 1868 "	Sections 21 to 23 inclusive Section 32
32 Vict. No. 10	" The Treason Felony Act "	The whole Act
34 Vict. No. 3	An Act to remove some Defects in the Administration of the Criminal Law	Section 8
34 Vict. No. 33	' The Debtors Act, 1870 '	Sections 9 to 12 inclusive Sections 16 and 17 Section 20
37 Vict. No. 6	" The Criminal Law Procedure Act, 1873 "	Sections 5 to 61 inclusive Sections 76 to 79 inclusive Sections 82 to 84 inclusive
38 Vict. No. 1	" The Deceased Persons' Estates Act, 1874 "	Section 17 from the word " be " in the third line thereof to the word " also " in the fifth line thereof inclusive, and from the word " but " in the eighth line thereof to the end of the section
38 Vict. No. 6	" The Life Assurance Companies Act, 1874 "	Section 31
39 Vict. No. 17	" The Foreign Recruiting Act, 1875 "	The whole Act
39 Vict. No. 20	" The Stock Act "	Section 18 from the word " and " in the fourth line thereof to the word " misdemeanour " in the fifth line thereof Section 42
40 Vict. No. 8	" The Falsification of Accounts Act, 1886 "	The whole Act
41 Vict. No. 13	" The Larceny Act, 1877 "	Section 4
45 Vict. No. 1	" The Quarantine Act "	Sections 21 and 24
45 Vict. No. 14	" The Criminal Law Procedure Act, 1879 "	Sections 3 to 5 inclusive Sections 7 to 11 inclusive Sections 13 to 16 inclusive Section 34

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A. 3(iii)

10. A. 3(iv)

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Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.	A.D. 1924.
46 Vict. No. 16	"The Public Trusts Act, 1882"	Sections 44 and 45	
46 Vict. No. 34	"The Stamp Duties Act, 1882"	Section 35	
47 Vict. No. 18	"The Married Women's Property Act"	Section 12 from the words "and also" in the third line thereof to the word "proceedings" in the fifth line inclusive; the words "or criminal" in the eighth line thereof; and all the words from and including the words "Provided always" in the twelfth line thereof to the end of the section Section 16	
48 Vict. No. 15	"The Mining Companies Act, 1884"	Section 150 Sections 152 and 153	
48 Vict. No. 16	"The Mining Companies (Foreign) Act, 1884"	Section 6 from the word "every" in the ninth line thereof to the end of the section	
49 Vict. No. 35	"The Insane Persons Hospitals Act Amendment Act, 1885"	Section 8 from the word "and" in the ninth line thereof to the end of the section	
49 Vict. No. 6	"The Married Women's Property Act, 1885"	The whole Act	
49 Vict. No. 23	"The Offences against the Person Act, 1885"	The whole Act	
51 Vict. No. 16	"The Friendly Societies Act, 1888"	Paragraph VII. of Section 13	
52 Vict. No. 8	"The Charitable Institutions Act, 1888"	Sections 16 and 17	
53 Vict. No. 18	"The Life Assurance Companies Amendment Act, 1889"	Section 6 from the word "and" in the fifth line thereof to the end of the section	
53 Vict. No. 27	"The Trades Unions Act, 1889"	Section 24	
53 Vict. No. 32	"The Formby Water Act, 1889"	Section 55	

Criminal Code.

A.D. 1924.

Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.
54 Vict. No. 51	" The Glenorchy Water Act, 1890 "	Section 126
54 Vict. No. 52	" The Latrobe Water Act, 1890 "	Section 125
55 Vict. No. 2	" The Treasury Bills Act, 1891 "	Section 6
55 Vict. No. 20	" The Gaming Act, 1891 "	Section 15
56 Vict. No. 8	" The Arbitration Act, 1892 "	Section 26
56 Vict. No. 31	" The St. Helens Water Act, 1892 "	Section 102
57 Vict. No. 11	" The Hobart Corporation Act, 1893 "	Section 69 from the word " shall " in the second line thereof to the word " and " where it secondly occurs in the fourth line thereof inclusive, and the word " also " in the fourth line thereof
57 Vict. No. 25	" The Hobart Water Act, 1893 "	Section 74
58 Vict. No. 8	An Act to further amend the Law relating to Offences against the Person	The whole Act
58 Vict. No. 31	" The Launceston Water and Light Act, 1895 "	Section 93
58 Vict. No. 34	" The Cressy Water Act, 1894 "	Section 95
59 Vict. No. 6	" The Local Inscribed Stock Act, 1895 "	Section 17
59 Vict. No. 9	" The Registration of Births and Deaths Act, 1895 "	Sections 44 and 48
59 Vict. No. 10	" The Prevention of Cruelty to, and Protection of, Children Act, 1895 "	Subsection (1) of Section 2 from the word " be " in the sixth line to the word " and " in the tenth line thereof, inclusive Subsections (2) and (3) of Section 2

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Regnal Year and Number of Act.	Title of Act.	Extent of Repeal	A.D. 1924.
59 Vict. No. 11	" The Defamation Act, 1895 "	Sections 25 to 31 inclusive Section 35 Sections 37 to 39 inclusive so far as they relate to criminal proceedings Section 40	
59 Vict. No. 23	" The Marriage Act, 1895 "	Section 25 from the word " and " where it secondly occurs in the fifth line thereof to the end of the section Sections 45 to 53 inclusive Section 55 The words " or prosecution " in the first line of Section 60	
59 Vict. No. 54	" The Ross Water Act, 1895 "	Section 81	
59 Vict. No. 55	" The Scottsdale Water Act, 1895 "	Section 36	
60 Vict. No. 31	" The Town Boards Act, 1896 "	Section 27 Sections 53 and 34	
60 Vict. No. 48	" The Local Courts Act, 1896 "	Section 61	
62 Vict. No. 64	" The Westbury and Hagley Water Act, 1898 "	Section 93	
62 Vict. No. 65	" The Perth Water Act, 1898 "	Section 97	
62 Vict. No. 66	" The Longford Water Act, 1898 "	Section 123	
62 Vict. (Private)	" The Zeehan Electric Light and Power Act, 1898 "	Section 56	<i>Am. 1924 (No. 34 A. 3 (v))</i>
63 Vict. No. 3	" The Lotteries Amendment Act, 1899 "	Section 11	
63 Vict. No. 5	" The Offences against the Person Act, 1899 "	The whole Act	
63 Vict. No. 32	" The Jury Act, 1899 "	Section 67	
63 Vict. No. 34	" The Registration of Firms Act, 1899 "	Section 14	

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Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.
64 Vict. No. 65	" The Gormanston Water Act, 1900 "	Section 67
64 Vict. No. 66	" The Beaconsfield Water Act, 1900 "	Section 54
1 Ed. VII. No. 45	" The Burnie Water Act, 1901 "	Section 69
2 Ed. VII. No. 51	" The Deloraine Water Act, 1902 "	Section 71
2 Ed. VII. (Private)	" The Hobart Tramway Company's Amendment Act, 1902 "	Section 26
3 Ed. VII. No. 37	" The Public Health Act, 1903 "	Section 185
3 Ed. VII. No. 43	" The Swansea Water Act, 1903 "	Section 62
4 Ed. VII. No. 19	" The Fingal Water Act, 1904 "	Section 71
5 Ed. VII. No. 27	" The Cremation Act, 1905 "	Section 3 from the word " every " in the eleventh line thereof to the end of the section
5 Ed. VII. No. 47	" The Ulverstone Water Act, 1905 "	Section 71
6 Ed. VII. No. 21	" The Secret Commissions Prohibition Act, 1906 "	The whole Act
6 Ed. VII. No. 28	" The Bracknell Water Act, 1906 "	Section 62
6 Ed. VII. No. 31	" The Local Government Act, 1906 "	Subsections (2) and (3) of Section 240 Section 241
7 Ed. VII. No. 8	" The Larceny Act, 1907 "	The whole Act
8 Ed. VII. No. 6	" The Limited Partnerships Act, 1908 "	Section 12
1 Geo. V. No. 4	" The Offences against the Person Act, 1910 "	The whole Act

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Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.
1 Geo. V. No. 17	"The Malicious Injuries to Property Act, 1910"	The whole Act
1 Geo. V. No. 47	"The Land and Income Taxation Act, 1910"	Section 124
1 Geo. V. No. 69	"The Railway Management Act, 1910"	Section 16
3 Geo. V. No. 4	"The Wynyard Water Act, 1912"	Paragraph 1. of Section 23
3 Geo. V. No. 17	"The Offences against the Person Act, 1912"	The whole Act
5 Geo. V. No. 32	"The Public Works Committee Act, 1914"	Section 24
5 Geo. V. No. 43	"The Seed Grain Purchase Act, 1914"	Section 12
6 Geo. V. No. 32	"The Branzholm Water Act, 1915"	Section 54
6 Geo. V. No. 35	"The Mining Companies (Foreign) Act, 1915"	Subsection (2) of Section 2
6 Geo. V. No. 66	"The Deceased Persons' Estates Duties Act, 1915"	Section 47 Section 51
7 Geo. V. No. 31	"The Amusements Duties Act, 1916"	Sections 21 to 23 inclusive
7 Geo. V. No. 44	"The Stock Brands Act, 1916"	Sections 34 and 35
7 Geo. V. No. 62	"The Mining Act, 1917"	Section 296 Sections 303 to 305 inclusive
8 Geo. V. No. 40	"The Police Act, 1917"	Section 21
9 Geo. V. No. 3	"The Audit Act, 1918"	Section 36 Sections 38 and 39

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Regnal Year and Number of Act.	Title of Act.	Extent of Repeal.
9 Geo. V. No. 15	"The Children's Charter"	Section 58
10 Geo. V. No. 63	"The Tasmanian Government Insurance Act, 1919"	Section 10 from the word "and" where it first occurs in the ninth line thereof to the end of the section
11 Geo. V. No. 3	"The Tasmanian Government Shipping Act, 1920"	Section 9 from the word "and" where it first occurs in the eighth line thereof to the end of the section
11 Geo. V. No. 33	"The Registration Act, 1920"	Section 11 from the word "and" in the fourth line thereof to the end of the section
11 Geo. V. No. 50	"The Mental Deficiency Act, 1920"	Section 101
11 Geo. V. No. 66	"The Companies Act, 1920"	Section 45 Sections 215 and 217
12 Geo. V. No. 44	"The Indeterminate Sentences Act, 1921"	Sections 4 and 5 Subsection (3) of Section 6
12 Geo. V. No. 51	"The Lilydale Water Act, 1921"	Section 53
12 Geo. V. No. 60	"The Marine Act, 1921"	Section 123
13 Geo. V. No. 18	"The Larceny Act, 1923"	The whole Act