



Criminal Law Act 1826

1826 CHAPTER 64

An Act for improving the Administration of Criminal Justice in
England. [26th May 1826]

WHEREAS it is expedient to define under what Circumstances Persons may be admitted to Bail in Cases of Felony, and to make better Provision for taking Examinations, Informations, Bailments, and Recognizances, and returning the same to the proper Tribunals : And whereas the technical Strictness of Criminal Proceedings might in many Instances be relaxed, so as to ensure the Punishment of the guilty, without depriving the accused of any just Means of Defence; and the Administration of Justice in that Part of the United Kingdom called *England* might in other respects be rendered more effectual:

Be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

Who may be admitted to Bail on a Charge of Felony, and who may not. (3 Ed. 1. c. 15. 23 H. 6. c.9.)

That where any Person shall be taken on a Charge of Felony or Suspicion of Felony, before One or more Justice or Justices of the Peace, and the Charge shall be supported by positive and credible Evidence of the Fact, or by such Evidence as, if not explained or contradicted, shall, in the Opinion of the Justice or Justices, raise a strong Presumption of the Guilt of the Person charged, such Person shall be committed to Prison by such Justice or Justices, in the Manner herein-after mentioned ; but if there shall be only One Justice present, and the whole Evidence given before him shall be such as neither to raise a strong Presumption of Guilt nor to warrant the Dismissal of the Charge, such Justice shall order the Person charged to be detained in Custody until he or she shall be taken before Two Justices at the least; and where any Person so taken, or any Person in the First Instance taken before Two Justices of the Peace, shall be charged with Felony or on Suspicion of Felony, and the Evidence given in support of the Charge shall, in their Opinion, not be such as to raise a strong Presumption of the Guilt of the Person charged, and to require his or her Committal, or such Evidence shall be adduced on behalf of the Person charged as shall in their Opinion weaken the Presumption of his or her Guilt,

but there shall notwithstanding appear to them, in either of such Cases, to be sufficient Ground for judicial Enquiry into his or her Guilt, the Person charged shall be admitted to Bail by such Two Justices, in the Manner herein-after mentioned: Provided always, that nothing herein contained shall be construed to require any such Justice or Justices to hear Evidence on behalf of any Person so charged as aforesaid, unless it shall appear to him or them to be meet and conducive to the Ends of Justice to hear the same.

II Before any Person charged with Felony, &c. shall be bailed or committed, the Justices shall take down in Writing the Examination, &c. and bind Witnesses to appear at the Trial. Examinations, &c. to be delivered to the Court.

And whereas it is expedient to amend and extend the Provisions of Two Acts, the First passed in the First and Second Years of the Reign of King *Philip* and Queen *Mary*, intituled *An Act appointing an Order to Justices of Peace for the Bailment of Prisoners*, and the Second passed in the Second and Third Years of the same Reign, intituled *An Act to take Examination of Prisoners suspected of Manslaughter or Felony*; be it therefore enacted, That the Two Justices of the Peace, before they shall admit to Bail, and the Justice or Justices, before he or they shall commit to Prison, any Person arrested for Felony or on Suspicion of Felony, shall take the Examination of such Person, and the Information upon Oath of those who shall know the Facts and Circumstances of the Case, and shall put the same, or as much thereof as shall be material, into Writing; and the Two Justices shall certify such Bailment in Writing; and every such Justice shall have Authority to bind by Recognizance all such Persons as know or declare any thing material touching any such Felony or Suspicion of Felony, to appear at the next Court of Oyer and Terminer, or Gaol Delivery, or Superior Criminal Court of a County Palatine, or Great Sessions or Sessions of the Peace, at which the Trial thereof is intended to be, then and there to prosecute or give Evidence against the Party accused; and such Justices and Justice respectively shall subscribe all such Examinations, Informations, Bailments, and Recognizances, and deliver or cause the same to be delivered to the proper Officer of the Court in which the Trial is to be, before or at the Opening of the Court.

III Duty of Justice on Charges of Misdemeanor.

And be it further enacted, That every Justice of the Peace before whom any Person shall be taken on a Charge of Misdemeanor, or Suspicion thereof, shall take the Examination of the Person charged, and the Information upon Oath of those who shall know the Facts and Circumstances of the Case, and shall put the same, or as much thereof as shall be material, into Writing, before he shall commit to Prison or require Bail from the Person so charged; and in every Case of Bailment shall certify the Bailment in Writing; and shall have Authority to bind all Persons by Recognizance to appear to prosecute or give Evidence against the Party accused, in like Manner as in Cases of Felony; and shall subscribe all Examinations, Informations, Bailments, and Recognizances, deliver or cause the same to be delivered to the proper Officer of the Court in which the Trial is to be, before or at the Opening of the Court, in like Manner as in Cases of Felony.

IV Duty of Coroner. (1 & 2 P. & M. c. 13. s. 5.)

And be it further enacted, That every Coroner, upon any Inquisition before him taken, whereby any Person shall be indicted for Manslaughter or Murder, or as an Accessory to Murder before the Fact, shall put in Writing the Evidence given to the Jury before

him, Or as much thereof as shall be material; and shall have Authority to bind by Recognizance all such Persons as know or declare any thing material touching the said Manslaughter or Murder, or the said Offence of being accessory to Murder, to appear at the next Court of Oyer and Terminer, or Gaol Delivery, or Superior Criminal Court of a County Palatine, or Great Sessions, at which the Trial is to be, then and there to prosecute or give Evidence against the Party charged, and every such Coroner shall certify and subscribe the Same Evidence, and all such Recognizances, and also the Inquisition before him taken, and shall deliver the same to the proper Officer of the Court in which the Trial is to be, before or at the Opening of the Court.

V Penalty on Justices and Coroners. (1 & 2 P. & M. c. 13. s. 5.)

And be it further enacted, That if any Justice or Coroner shall offend in any thing contrary to the true Intent and Meaning of these Provisions, the Court to whose Officer any such Examination, Information, Evidence, Bailment, Recognizance, or Inquisition ought to have been delivered, shall, upon Examination and Proof of the Offence in a summary Manner, set such Fine upon every such Justice or Coroner as the Court shall think meet.

VI Provisions to apply to all Justices and Coroners. (1 & 2 P. & M. c. 13. s. 6.)

And be it further enacted, That all these Provisions relating to Justices and Coroners shall apply to the Justices and Coroners not only of Counties at large, but also of all other Jurisdictions.

VII Felonies without Benefit of Clergy provided for under all Circumstances consequent on the Indictment. (3 W. & M. c. 9. s. 2. 12 G. 3. c. 20.)

And whereas divers Statutes, taking away the Benefit of Clergy, or creating Felonies without Benefit of Clergy, have omitted to take away the Benefit of Clergy under certain Circumstances consequent upon the Indictment of the Offender: And whereas a partial Remedy for such Defects was supplied by an Act passed in the Third Year of the Reign of King *William* and Queen *Mary*, intituled *An Act to take away Clergy from some Offenders, and to bring other to Punishment*, whereby it was enacted, that if any Person should be indicted of any Offence for which, by virtue of any former Statute, such Person was excluded from the Benefit of Clergy, if convicted by Verdict or Confession, such Person should not be admitted to the Benefit of Clergy under any of the Circumstances therein enumerated: And whereas it is expedient to extend the like Remedy to all Offences which now are or hereafter shall be excluded from the Benefit of Clergy : Be it therefore enacted. That if any Person shall be indicted of any Offence for which, by virtue of this or of any other Statute or Statutes made or to be made, the Offender is or shall be excluded from the Benefit of Clergy, such Person shall be equally excluded from the Benefit of Clergy, whether he or she shall be convicted by Verdict or by Confession, or shall upon Arraignment stand mute of Malice, or will not answer directly to the Charge, or shall challenge peremptorily above the Number of Twenty Persons returned to be of the Jury, or shall be outlawed upon such Indictment, although the Statute or Statutes taking away the Benefit of Clergy in any such Case may not expressly provide that the Offender shall be excluded from the Benefit of Clergy in case such Offender shall confess, or stand mute, or not answer directly, or challenge peremptorily above the Number of Twenty Persons returned to be of the Jury, or be outlawed; and every thing herein contained shall extend as well to all Accessories as to Principals.

VIII Felonies within Benefit of Clergy provided for under all Circumstances consequent on the Indictment. (12 G. 3. c. 20.)

And, with regard to clergyable Felonies, be it enacted, That if any Person shall be indicted of any Felony for which the Offender is or shall be entitled to the Benefit of Clergy, and such Person shall on Arraignment confess the Felony, or stand mute of Malice, or will not answer directly to the Charge, or shall challenge peremptorily above the Number of Twenty Persons returned to be of the Jury, or shall be outlawed upon such Indictment, in every such Case such Person shall be deemed and taken to be convicted of the Felony, and the Court shall award such Judgment as if such Person had been convicted by Verdict; and every thing herein contained shall extend as well to all Accessories as to Principals.

IX Accessory before the Fact may be tried as such, or as a substantive Felon, by any Court which has Jurisdiction to try the principal Felon, although the Offence be committed on the Seas or abroad. (43 G. 3. c. 113. s. 5.) If the Offences be committed in different Counties, Accessory may be tried in either. (2 & 3 Ed. 6. c. 24. s. 4. 43 G. 3. c. 113. s. 5.)

And, for the more effectual Prosecution of Accessories before the Fact to Felony, be it enacted, That if any Person shall counsel, procure, or command any other Person to commit any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes made or to be made, the Person so counselling, procuring, or commanding, shall be deemed guilty of Felony, and may be indicted and convicted, either as an Accessory before the Fact to the principal Felony, together with the principal Felon, or after the Conviction of the principal Felon, or may be indicted and convicted of a substantive Felony, whether the principal Felon shall or shall not have been previously convicted, or shall or shall not be amenable to Justice, and may be punished in the same Manner as any Accessory before the Fact to the same Felony, if convicted as an Accessory, may be punished; and the Offence of the Person so counselling, procuring, or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any Court which shall have Jurisdiction to try the principal Felon, in the same Manner as if such Offence had been committed at the same Place as the principal Felony, although such Offence may have been committed either on the High Seas or at any Place on Land, whether within His Majesty's Dominions or without; and that in case the principal Felony shall have been committed within the Body of any County, and the Offence of counselling, procuring, or commanding shall have been committed within the Body of any other County, the last-mentioned Offence may be inquired of, tried, determined, and punished in either of such Counties: Provided always, that no Person who shall be Once duly tried for any such Offence, whether as an Accessory before the Fact or as for a substantive Felony, shall be liable to be again indicted or tried for the same Offence.

X Accessory after the Fact may be tried by any Court which has Jurisdiction to try the principal Felon. If the Offences be committed in different Counties, Accessory may be tried in either. (2 & 3 Ed. 6. c. 34. s. 4.)

And, for the more effectual Prosecution of Accessories after the Fact to Felony, be it enacted, That if any Person shall become an Accessory after the Fact to any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes made Or to be made, the Offence of such Person may be inquired ofj tried, determined, and punished by any Court which shall have Jurisdiction to try the principal Felon, in the same Manner as if the Act, by reason whereof such Person shall have become an

Accessory, had been committed at the same Place as the principal Felony, although such Act may have been committed either on the High Seas or at any Place on Land, whether within His Majesty's Dominions or without; and that in case the principal Felony shall have been committed within the Body of any County, and the Act by reason whereof any Person shall have become Accessory, shall have been committed within the Body of any other County, the Offence of such Accessory may be inquired of, tried, determined, and punished in either of such Counties: Provided always, that no Person who shall be Once duly tried for any Offence of being an Accessory, shall be liable to be again indicted or tried for the same Offence.

XI Accessory may be prosecuted after Conviction of the Principal, though the Principal be not attainted, &c. (1 Anne, st. 2. c. 9. s. 1.)

And, in order that all Accessories may be convicted and punished in Cases where the principal Felon is not attainted, be it enacted, That if any principal Offender shall be in anywise convicted of any Felony, it shall be lawful to proceed against any Accessory, either before or after the Fact, in the same Manner as if such principal Felon had been attainted thereof, notwithstanding such principal Felon shall die or be admitted to the Benefit of Clergy, or pardoned, or otherwise delivered before Attainder; and every such Accessory shall suffer the same Punishment, if he or she be in anywise convicted, as he or she should have suffered if the Principal had been attainted.

XII Offences committed on the Boundaries of Counties may be tried in either County. (59 G. 3. c. 96. s. 2.)

And, for the more effectual Prosecution of Offences committed near the Boundaries of Counties, or partly in one County and partly in another, be it enacted, That where any Felony or Misdemeanor shall be committed on the Boundary or Boundaries of Two or more Counties, or within the Distance of Five hundred Yards of any such Boundary or Boundaries, or shall be begun in one County and completed in another, every such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in any of the said Counties, in the same Manner as if it had been actually and wholly committed therein.

XIII Offences committed during a Journey or Voyage may be tried in any County through which the Coach, &c. passed. (59 G. 3. c. 27. and c. 96.)

And, for the more effectual Prosecution of Offences committed during Journeys from Place to Place, be it enacted, That where any Felony or Misdemeanor shall be committed on any Person or on or in respect of any Property in or upon any Coach, Waggon, Cart, or other Carriage whatever employed in any Journey, or shall be committed on any Person or on or in respect of any Property on board any Vessel whatever employed on any Voyage or Journey upon any Navigable River, Canal, or Inland Navigation, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in any County through any Part whereof such Coach, Waggon, Cart, Carriage, or Vessel shall have passed in the Course of the Journey or Voyage during which such Felony or Misdemeanor shall have been committed, in the same Manner as if it had been actually committed in such County; and in all Cases where the Side, Centre, or other Part of any Highway, or the Side, Bank, Centre, or other Part of any such River, Canal, or Navigation, shall constitute the Boundary of any Two Counties, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in either of the said Counties through or adjoining to or by

the Boundary of any Part whereof such Coach, Waggon, Cart, Carriage, or Vessel shall have passed, in the Course of the Journey or Voyage during which such Felony or Misdemeanor shall have been committed, in the same Manner as if it had been actually committed in such County.

XIV In Indictments for Offences committed on the Property of Partners, it may be laid in any one Partner by Name, and others. (56 G. 3. c. 73. 1 G. 4. c. 102. 6 G. 4. c. 56.)

And in order to remove the Difficulty of stating the Names of all the Owners of Property in the Case of Partners and other Joint Owners, be it enacted, That in any Indictment or Information for any Felony or Misdemeanor, wherein it shall be requisite to state the Ownership of any Property whatsoever, whether Real or Personal, which shall belong to or be in the Possession of more than one Person, whether such Persons be Partners in Trade, Joint Tenants, Parceners, or Tenants in Common, it shall be sufficient to name one of such Persons, and to state such Property to belong to the Person so named, and another or others, as the Case may be; and whenever, in any Indictment or Information for any Felony or Misdemeanor, it shall be necessary to mention, for any Purpose whatsoever, any Partners, Joint Tenants, Parceners, or Tenants in Common, it shall be sufficient to describe them in the Manner aforesaid ; and this Provision shall be construed to extend to all Joint Stock Companies and Trustees.

XV Property belonging to Counties, &c. may be laid in the Inhabitants of the County. (43 G. 3. c. 59. s. 3.)

And, with respect to the Property of Counties, Ridings, and Divisions, be it enacted, That in any Indictment or Information for any Felony or Misdemeanor committed in, upon, or with respect to any Bridge, Court, Gaol, House of Correction, Infirmary, Asylum, or other Building, erected or maintained in whole or in part at the Expence of any County, Riding, or Division, or on or with respect to any Goods or Chattels whatsoever, provided for or at the Expence of any County, Riding, or Division, to be used for making, altering, or repairing any Bridge, or any Highway at the Ends thereof, or any Court or other such Building as aforesaid, or to be used in or with any such Court or other Building, it shall be sufficient to state any such Property, Real or Personal, to belong to the Inhabitants of such County, Riding, or Division; and it shall not be necessary to specify the Names of any of such Inhabitants.

XVI Property ordered for the Use of the Poor of Parishes, &c. may be laid in the Overseers. (55 G. 3. c. 137. s. 1.) Materials, &c. for repairing Highways may be laid to be the Property of the Surveyor of Highways.

And, with respect to the Property of Parishes, Townships, and Hamlets, be it enacted, That in any Indictment or Information for any Felony or Misdemeanor committed in, upon, or with respect to any Workhouse or Poorhouse, or on or with respect to any Goods or Chattels whatsoever, provided for the Use of the Poor of any Parish or Parishes, Township or Townships, Hamlet or Hamlets, Place or Places, or to be used in any Workhouse or Poorhouse in or belonging to the same, or by the Master or Mistress of such Workhouse or Poorhouse, or by any Workmen or Servants employed therein, it shall be sufficient to state any such Property to belong to the Overseers of the Poor for the Time being of such Parish or Parishes, Township or Townships, Hamlet or Hamlets, Place or Places, and it shall not be necessary to specify the Names

of all or any of such Overseers; and in any Indictment or Information for any Felony or Misdemeanor committed on or with respect to any Materials, Tools, or Implements provided for making, altering, or repairing any Highway within any Parish, Township, Hamlet, or Place, otherwise than by the Trustees or Commissioners of any Turnpike Road, it shall be sufficient to aver that any such Things are the Property of the Surveyor or Surveyors of the Highways for the Time being of such Parish, Township, Hamlet, or Place, and it shall not be necessary to specify the Name or Names of any such Surveyor or Surveyors.

XVII Property of Turnpike Trustees may be laid in the Trustees. (3 G. 4. c. 126. s. 60.)

And, with respect to Property under Turnpike Trusts, be it enacted, That in any Indictment or Information for any Felony or Misdemeanor committed on or with respect to any House, Building, Gate, Machine, Lamp, Board, Stone, Post, Fence, or other Thing, erected or provided in pursuance of any Act of Parliament for making any Turnpike Road, or any of the Conveniences or Appurtenances thereunto respectively belonging, or any Materials, Tools, or Implements provided for making, altering, or repairing any such Road, it shall be sufficient to state any such Property to belong to the Trustees or Commissioners of such Road, and it shall not be necessary to specify the Names of any of such Trustees or Commissioners.

XVIII In Indictments for Offences committed on Sewers, the Property may be laid in the Commissioners.

And, with respect to Property under Commissioners of Sewers, be it enacted, That in any Indictment or Information for any Felony or Misdemeanor committed on or with respect to any Sewer or other Matter within or under the View, Cognizance, or Management of any Commissioners of Sewers, it shall be sufficient to state any such Property to belong to the Commissioners of Sewers within or under whose View, Cognizance, or Management any such Things shall be, and it shall not be necessary to specify the Names of any of such Commissioners.

XIX Indictment not to abate by dilatory Plea of Misnomer, &c.

XIX. And for preventing Abuses from dilatory Pleas, be it enacted, That no Indictment or Information shall be abated by reason of any dilatory Plea of Misnomer or of Want of Addition, or of wrong Addition of the Party offering such Plea, if the Court shall be satisfied by Affidavit or otherwise of the Truth of such Plea; but in such Case the Court shall forthwith cause the Indictment or Information to be amended according to the Truth, and shall call upon such Party to plead thereto, and shall proceed as if no such dilatory Plea had been pleaded.

XX What Defects shall not vitiate, an Indictment after Verdict or otherwise.

And that the Punishment of Offenders may be less frequently intercepted in consequence of technical Niceties, be it enacted, That no Judgment upon any Indictment or Information for any Felony or Misdemeanor, whether after Verdict or Outlawry, or by Confession, Default, or otherwise, shall be stayed or reversed for want of the Averment of any Matter unnecessary to be proved, nor for the Omission of the Words " as appears by the Record," or of the Words " with Forte and Arms," or of the Words " against the Peace," nor for the Insertion of the Words against the Form of the Statute, " instead of the Words " against the Form of the Statutes," or *vice versâ*, nor

for that any Person or Persons mentioned in the Indictment or Information is or are designated by a Name of Office or other descriptive Appellation instead of his, her, or their proper Name or Names, nor for omitting to state the Time at which the Offence was committed, in any Case where Time is not of the Essence of the Offence, nor for stating the Time imperfectly, nor for stating the Offence to have been committed on a Day subsequent to the finding of the Indictment or exhibiting the Information, or on an impossible Day, or on a Day that never happened, nor for want of a proper or perfect Venue, where the Court shall appear by the Indictment or Information to have had Jurisdiction over the Offence.

XXI What shall not be sufficient to stay or reverse Judgment after the Verdict.

And be it further enacted, That no Judgment after Verdict upon any Indictment or Information for any Felony or Misdemeanor shall be stayed or reversed for want of a Similiter, nor by reason that the Jury Process has been awarded to a wrong Officer upon an insufficient Suggestion, nor for any Misnomer or Misdescription of the Officer returning such Process, or of any of the Jurors, nor because any Person has served upon the Jury who has not been returned as a Juror by the Sheriff or other Officer; and that where the Offence charged has been created by any Statute, or subjected to a greater Degree of Punishment, or excluded from the Benefit of Clergy by any Statute, the Indictment or Information shall after Verdict be held sufficient to warrant the Punishment prescribed by the Statute if it describe the Offence in the Words of the Statute.

XXII Courts may order Payment of the Expences of Prosecutions in all Cases of Felony. (58 G. 3. c. 70. s. 4.) Allowance to Persons attending on Recognizance, where the Bill is preferred. (18 G. 3. c. 19. s. 8.)

And, with regard to the Payment of the Expences of Prosecutions for Felony, be it enacted, That the Court before which any Person shall be prosecuted or tried for any Felony is hereby authorized and empowered, at the Request of the Prosecutor or of any other Person, who shall appear on Recognizance or Subpoena to prosecute or give Evidence against any Person accused of any Felony, to order Payment unto the Prosecutor of the Costs and Expences which such Prosecutor shall incur in preferring the Indictment, and also Payment to the Prosecutor and Witnesses for the Prosecution, of such Sums of Money as to the Court shall seem reasonable and sufficient to reimburse such Prosecutor and Witnesses for the Expences they shall have severally incurred in attending before the examining Magistrate or Magistrates and the Grand Jury, and in otherwise carrying on such Prosecution, and also to compensate them for their Trouble and Loss of Time therein ; and, although, no Bill of Indictment be preferred, it shall still be lawful for the Court, where any Person shall, in the Opinion of the Court, *bonâ fide* have attended the Court in obedience any such Recognizance or Subpoena, to order Payment unto' such Person of such Sum of Money as to the Court shall seem reasonable and sufficient to reimburse such Person for the Expences which he or she shall have *bonâ fide* incurred by reason of attending before the examining Magistrate or Magistrates, and by reason of such Recognizance or Subpoena, and also to compensate such Person for Trouble and Loss of Time ; and the Amount of the Expences of attending before the examining Magistrate or Magistrates, and the Compensation for Trouble and Loss of Time therein, shall be ascertained by the Certificate of such Magistrate or Magistrates, granted before the Trial or Attendance in Court, if such Magistrate or Magistrates shall think fit to grant the same; and the Amount of all the other Expences, and Compensation, shall be ascertained by the

proper Officer of the Court, subject nevertheless to the Regulations to be established in the Manner herein-after mentioned.

XXIII Courts may order Payment of the Expences of Prosecution in certain Cases of Misdemeanor.

And whereas for want of Power in the Court to order Payment of the Expences of any Prosecution for a Misdemeanor, many Individuals are deterred by the Expence from prosecuting Persons guilty of Misdemeanors, who thereby escape the Punishment due to their Offences; for Remedy thereof, be it enacted, That where any Prosecutor or other Person shall appear before any Court on Recognizance or Subpoena, to prosecute or give Evidence against any Person indicted of any Assault with Intent to commit Felony, of any -Attempt to commit Felony, of any Riot, of any Misdemeanor for receiving any stolen Property knowing the same to have been stolen, of any Assault upon a Peace Officer in the Execution of his Duty, or upon any Person acting in aid of such Officer, of any Neglect or Breach of Duty as a Peace Officer, of any Assault committed in pursuance of any Conspiracy to raise the Rate of Wages, of knowingly and designedly obtaining any Property by false Pretences, of wilful and indecent Exposure of the Person, of wilful and corrupt Perjury, or of Subornation of Perjury, every such Court is hereby authorized and empowered to order Payment of the Costs and Expences of the Prosecutor and Witnesses for the Prosecution, together with a Compensation for their Trouble and Loss of Time, in the same Manner as Courts are herein-before authorized and empowered to order the same in Cases of Felony; and, although no Bill of Indictment be preferred, it shall still be lawful for the Court where any Person shall have *bonâ fide* attended the Court, in obedience to any such Recognizance, to order Payment of the Expences of such Person, together with a Compensation for his or her Trouble and Loss of Time, in the same Manner as in Cases of Felony: Provided, that in Cases of Misdemeanor the Power of ordering the Payment of Expences and Compensation shall not extend to the Attendance before the Examining Magistrate.

XXIV Order for Payment to be made out by Clerk of Assize, &c. and paid by County Treasurer. (58 G. 3. c. 70. s. 6. 18 G. 3. c. 19. s. 8.)

And be it further enacted, That every Order for Payment to any Prosecutor or other Person as aforesaid shall be forthwith made out and delivered by the proper Officer of the Court unto such Prosecutor or other Person, upon being paid for the same the Sum of One Shilling for the Prosecutor and Sixpence for each other Person, and no more: and, except in the Cases herein-after provided for, shall be made upon the Treasurer of the County, Riding, or Division in which the Offence shall have been committed, or shall be supposed to have been committed, who is hereby authorized and required, upon Sight of every such Order, forthwith to pay to the Person named therein, or to any one duly authorized to receive the same on his or her Behalf, the Money in such Order mentioned, and shall be allowed the same in his Accounts.

XXV How the Expences shall be paid in Places not contributing to the County Rate. (58 G. 3. c. 70. s. 9. & 10.)

And whereas Felonies and such Misdemeanors as are hereinbefore enumerated may be committed in Liberties, Franchises, Cities, Towns, and Places which do not contribute to the Payment of any County Rate, some of which raise a Rate in the Nature of a County Rate, and others have neither any such Rate, nor any Fund applicable to similar

Purposes, and it is just that such Liberties, Franchises, Cities, Towns, and Places should be charged with all Costs, Expences, and Compensations ordered by virtue of this Act, in respect of Felonies and such Misdemeanors committed therein respectively; be it therefore enacted, That all Sums directed to be paid by virtue of this Act, in respect of Felonies and of such Misdemeanors as aforesaid, committed or supposed to have been committed in such Liberties, Franchises, Cities, Towns, and Places, shall be paid out of the Rate in the Nature of a County Rate, or out of any Fund applicable to similar Purposes, where there is such a Rate or Fund, by the Treasurer or other Officer having the Collection or Disbursement of such Rate or Fund; and where there is no such Rate or Fund in such Liberties, Franchises, Cities, Towns, or Places, shall be paid out of the Rate of Fund for the Relief of the Poor of the Parish, Township, District, or Precinct therein, where the Offence was committed or supposed to have been committed, by the Overseers or other Officers having the Collection or Disbursement of such last-mentioned Rate or Fund ; and the Order of Court shall in every such Case be directed to such Treasurer, Overseers, or other Officers respectively, instead of the Treasurer of the County, Riding, or Division, as the Case may require.

XXVI Quarter Sessions to make Regulations as to Costs and Expences. (18 G. 3. c. 19. s. 9.)

And, for the better Regulation of Costs and Expences in the Cases aforesaid, and for preventing Abuses in respect thereof, be it enacted, That it shall be lawful for the Justices of the Peace of any County, Riding, or Division, or of any Liberty, Franchise, City, Town, or Place chargeable with Costs and Expences under the Provision aforesaid, in Quarter Sessions assembled, to establish, and from Time to Time to alter such Regulations as to the Rate of any Costs and Expences thereafter to be allowed by virtue of this Act, as to them shall seem just and reasonable; which Regulations having received the Approbation and Signature of One Justice of Gaol Delivery or of Great Sessions for the County wherein any such Regulations shall have been established, shall be binding on all Persons whatsoever.

XXVII For Payment of Expences in Prosecutions in Court of Admiralty.

And, for enabling the High Court of Admiralty to order the Payment of the Costs and Expences of Prosecutors and Witnesses, and Compensation for their Trouble and Loss of Time, in Cases in which other Courts have a like Power under this Act, be it enacted, That it shall be lawful: for the Judge of the said Court of Admiralty, in every Case of Felony, and in every Case of Misdemeanor of the Denominations herein-before enumerated, committed upon the High Seas, to order the Assistant to the Counsel for the Affairs of the Admiralty and Navy to pay such Costs, Expences, and Compensation to Prosecutors and Witnesses, in like Manner as other Courts may order the Treasurer of the County to pay the same ; and such Assistant is hereby authorized and required, upon Sight of every such Order, forthwith to pay to the Person named therein, or to any one duly authorized to receive the same on his or her Behalf, the Money in such Order mentioned, and shall be allowed the same in his Accounts.

XXVIII Courts may order Compensation to those who have been active in the Apprehension of certain Offenders. (4 W. & M. c. 8. s. 1. 10 & 11 W. 3. c. 23. s. 1, 2. 5 Ann. c. 31. s. 1. 14 G. 2. c. 6. 58 G. 3. c. 70. s. 4 & 5.)

And, for the better Remuneration of Persons who have been active in the Apprehension of certain Offenders, be it enacted, That where any Person shall appear to any Court

of Oyer and Terminer, Gaol Delivery, Superior Criminal Court of a County Palatine, or Court of Great Sessions, to have been active in or towards the Apprehension of any Person charged with Murder, or with feloniously and maliciously shooting at, or attempting to discharge any kind of loaded Fire Arms at any other Person, or with stabbing, cutting, or poisoning, or with administering any thing to procure the Miscarriage of any Woman, or with Rape, or with Burglary or felonious House-breaking, or with Robbery on the Person, or with Arson, or with Horse-stealing, Bullock-stealing, or Sheep-stealing, or with being accessory before the Fact to any of the Offences aforesaid, or with receiving any Stolen Property knowing the same to have been stolen, every such Court is hereby authorized and empowered, in any of the Cases aforesaid, to order the Sheriff of the County in which the Offence shall have been committed to pay to the Person or Persons, who shall appear to the Court to have been active in or towards the Apprehension of any Person charged with any of the said Offences, such Sum or Sums of Money as to the Court shall seem reasonable and sufficient to compensate such Person or Persons for his, her, or their Expences, Exertions, and Loss of Time in or towards such Apprehension ; and where any Person shall appear to any Court of Sessions of the Peace, to have been active in or towards the Apprehension of any Party charged with receiving Stolen Property knowing the same to have been stolen, such Court shall have Power to order Compensation to such Person in the same Manner as the other Courts herein-before mentioned: Provided always, that nothing herein contained shall prevent any of the said Courts from also allowing to any such Persons, if Prosecutors or Witnesses, such Costs, Expences, and Compensation, as Courts are by this Act empowered to allow to Prosecutors and Witnesses respectively.

XXIX Such Orders to be paid by the Sheriff, who may obtain immediate Repayment on Application to the Treasury. (58 G. 3. 70. s. 5. 3 G. 1. c. 15. s. 4.)

And be it further enacted, That every Order for Payment to any Person in respect of such Apprehension as aforesaid, shall be forthwith made out and delivered by the proper Officer of the Court unto such Person, upon being paid for the same the Sum of Five Shillings and no more ; and the Sheriff of the County for the Time being is hereby authorized and required, upon Sight of such Order, forthwith to pay to such Person, or to any one duly authorized on his or her Behalf, the Money in such Order mentioned; and every such Sheriff may immediately apply for Repayment of the same to the Commissioners of His Majesty's Treasury, who upon inspecting such Order, together with the Acquittance of the Person entitled to receive the Money thereon, shall forthwith order Repayment to the Sheriff of the Money so by him paid, without any Fee or Reward whatsoever.

XXX If any Man is killed in attempting to take certain Offenders, the Court may order Compensation to his Family. (58 G. 3. 70. s. 3.)

And be it further enacted, That if any Man shall happen to be killed in endeavouring to apprehend any Person who shall be charged with any of the Offences herein-before last mentioned, it shall be lawful for the Court before whom such Person shall be tried to order the Sheriff of the County to pay to the Widow of the Man so killed, in case he shall have been married, or to his Child or Children in case his Wife shall be dead, or to his Father or Mother in case he shall have left neither Wife nor Child, such Sum of Money as to the Court in its Discretion shall seem meet; and the Order for Payment of such Money shall be made out and delivered by the proper Officer of the Court unto the Party entitled to receive the same, or unto some one on his or her Behalf, to be

named in such Order by the Direction of the Court ; and every such Order shall be paid by and repaid to the Sheriff in the Manner herein-before mentioned.

XXXI Recognizances in certain Cases not to be estreated without a Judge's Order.

And whereas the Practice of indiscriminately estreating Recognizances for the Appearance of Persons to prosecute or give Evidence, or to answer for a common Assault, or in the other Cases herein-after specified, has been found in many Instances productive of Hardship to Persons who have entered into the same; be it therefore enacted, That in every Case where any Person bound by Recognizance for his or her Appearance, or for whose Appearance any other Person shall be so bound to prosecute or give Evidence in any Case of Felony or Misdemeanor, or to answer for any common Assault, or to Articles of the Peace, or to abide an Order in Bastardy, shall therein make Default, the Officer of the Court by whom the Estreats are made out shall and is hereby required to prepare a List in Writing, specifying the Name of every Person so making Default, and the Nature of the Offence in respect of which every such Person, or his or her Surety, was so bound, together with the Residence, Trade, Profession, or Calling of every such Person and Surety, and shall in such List distinguish the Principals from the Sureties, and shall state the Cause, if known, why each such Person has not appeared, and whether by reason of the Nonappearance of such Person the Ends of Justice have been defeated or delayed ; and every such Officer shall and is hereby required, before any such Recognizance shall be estreated, to lay such List, if at a Court of Oyer and Terminer or Gaol Delivery in any County besides *Middlesex* and *London*, or at a Court of Great Sessions, or at One of the superior Courts of the Counties Palatine, before One of the Justices of those Courts respectively; if at a Court wherein a Recorder or other Corporate Officer is the Judge or One of the Judges, before such Recorder or other Corporate Officer; and if at a Session of the Peace, before the Chairman or Two other Justices of the Peace who shall have attended such Court, who are respectively authorized and required to examine such List) and to make such Order touching the estreating or putting in Process Of any such Recognizance as shall appear to them respectively to be just; and it shall not be lawful for the Officer of any Court to estreat Or put in Process any such Recognizance without the written Order of the Justice, Recorder, Corporate Officer, Chairman, or Justices of the Peace before whom respectively such List shall have been laid.

XXXII Repeal of the Acts.

And be it further enacted, That from and after the Commencement of this Act, so much of a Statute made at *Westminster* in the Third Year of the Reign of King *Edward* the First, as provides what Prisoners shall not be replevisable and what shall be so; and a Statute made in the Seventh Year of the Reign of King *Henry* the Fifth ; and so much of a Statute made in the Ninth Year of the same Reign, as relates to Indictments and Appeals laid in a non-existing Place; and so much of a Statute made in the Eighteenth Year of the Reign of King *Henry* the Sixth, as perpetuates the said Provision of the Statute last referred to; and so much of a Statute made in the Twenty-third Year of the same Reign, as relates to Sheriffs and other Officers and Ministers therein mentioned letting out of Prison Upon Sureties any Person in Custody upon Indictment; and an Act passed in the First Year of the Reign of King *Richard* the Third, intituled *An Act for bailing of Persons suspected of Felony* ; and so much of an Act passed in the Third Year of the Reign of King *Henry* the Seventh, intituled *An Act that Justice of the Peace may take Bail*, as relates to Bail or Mainprize ; and an Act passed in the Twenty-fifth Year of the Reign of King *Henry* the Eighth, intituled *An Act for standing mute, and*

peremptory Challenge; and So much of an Act passed in the Thirty-second Year of the same Reign, intituled *For the Continuation of Acts*, as perpetuates the said last-mentioned Act; and an Act passed in the Second and Third Years of the Reign of King *Edward the Sixth*, intituled *An Act for the Trial of Murders and Felonies in several Counties*; and an Act passed in the Fifth and Sixth Years of the same Reign, intituled *An Act to take away the Benefit of Clergy from such as rob in one Shire and fly into another*; and an Act passed in the First and Second Years of the Reign of King *Philip and Queen Mary*, intituled *An Act appointing an Order to Justices of Peace for the Bailment of Prisoners*; and an Act passed in the Second and Third Years of the same Reign, intituled *An Act to take Examination of Prisoners suspected of Manslaughter or Felony*; and an Act passed in the Fourth Year of the Reign of King *William and Queen Mary*, intituled *An Act for encouraging the apprehending of Highwaymen* ; and so much of an Act passed in the Tenth and Eleventh Years of the Reign of King *William*, intituled *An Act for the better apprehending, prosecuting, and punishing of Felons that commit Burglary, Housebreaking, or Robbery in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses*, as relates to the Certificates therein mentioned; and so much of an Act passed in the First Year of the Reign of Queen *Anne*, intituled *An Act for punishing of Accessories to Felonies and Receivers of Stolen Goods ; and to prevent the wilful burning and destroying of Ships*, as relates to Accessories; and an Act passed in the Sixth Year of the same Reign, intituled *An Act for the encouraging the Discovery and apprehending of House breakers*, except the special Provision affecting the Sheriffs and Under Sheriffs of *London and Middlesex*; and an Act passed in, the Sixth Year of the Reign of King *George the First*, intituled *An Act for the further preventing Robbery, Burglary, and other Felonies; and for the more effectual Transportation of Felons* ; and so much of an Act passed in the Twenty-fifth Year of the Reign of King *George the Second*, intituled *An Act for the better preventing Thefts and Robberies ; and for regulating Places of public Entertainment, and punishing Persons keeping disorderly Houses*, as relates to Payments to Prosecutors in Cases of Felony ; and so much of an Act passed in the Twenty-seventh Year of the same Reign, intituled *An Act for the better securing to Constables and others the Expences of conveying Offenders to Gaol, and for allowing the Charges of poor Persons bound to give Evidence against Felons*, as relates to the Allowance of Compensation to poor Persons appearing on Recognizance to give Evidence against any one accused of Felony; and so much of an Act passed in the Eighteenth Year of the Reign of King *George the Third*, intituled *An Act for the Payment of Costs to Parties on Complaints determined before Justices of the Peace out of Sessions ; for the Payment of the Charges of Constables in certain Cases ; and for the more effectual Payment of Charges to Witnesses and Prosecutors of any Larceny or other Felony*, as relates to Payments and Allowances to Prosecutors and other Persons appearing on Recognizance or Subpoena to give Evidence as to any Felony, and to Rules and Regulations touching the Costs and Charges to be allowed to such Prosecutors and Persons ; and so much of an Act passed in the Forty-third Year of the same Reign, intituled *An Act for remedying certain Defects in the Laws relative to the building and repairing of County, Bridges and other Works maintained at the Expence of the Inhabitants of Counties in England*, as relates to laying the Property in; the Surveyor of County Bridges in any Indictment; and so much of an Act passed in the same Year, for providing, among other Things, for the more convenient Trial of Accessories in Felonies, as relates to the Trial of Accessories, except the special Provisions, therein contained as to Accessories before the Fact in Murder; and an Act passed in the Fifty-sixth Year of the same Reign, intituled *An Act for removing Difficulties in the Conviction of Offenders stealing Property from Mines* ; and an Act passed in the Fifty-eighth Year of the same Reign, intituled *An Act for repealing such Parts of, several Acts as allow pecuniary and other Rewards upon the Conviction of Persons for Highway Robbery and other Crimes and Offences* ;

Status: This is the original version (as it was originally enacted).

*and for facilitating the Means of prosecuting Persons accused of Felony and other Offences, except so much thereof as relates to disorderly Houses; and an Act passed in the Fifty-ninth Year of the same Reign, intituled *An Act to facilitate the Trial of Felonies committed on board. Vessels employed on Canals, Navigable Rivers, and Inland Navigations* ; and another Act passed in the same Year, intituled *An Act to facilitate the Trials of Felonies committed on Stage Coaches and Stage Waggons and other such Carriages, and of Felonies committed on the Boundaries of Counties* ; and an Act passed in the First Year of His present Majesty's Reign, for making general the Provisions of the said recited Act of the Fifty-sixth Year of the Reign of King George the Third ; and so much of an Act passed in the Third Year of the present Reign, intituled *An Act for the further and more adequate Punishment of Persons convicted of Manslaughter, and of Servants convicted of robbing their Masters, and of Accessories before the Fact to Grand Larceny and certain other Felonies*, as provides that Accessories before the Fact may be indicted for a Misdemeanor; and so much of another Act passed in the same Year, intituled *An Act to amend the general Laws now in being for regulating Turnpike Roads in that Part of Great Britain called England*, as relates to stating in any Indictment any Things to be the Property of the Clerk to the Trustees or Commissioners, as therein mentioned; and an Act passed in the Sixth Year of the present Reign, intituled *An Act to amend Two Acts for removing Difficulties in the Conviction of Offenders stealing Property in Mines and from Corporate Bodies*, shall be and the same are hereby repealed, except so far as any of the said Acts relate to *Scotland or Ireland*, or repeal the Whole or any Part of any other Acts, and except as to Offences committed before the passing of this Act, which shall be dealt with and punished as if this Act had not been passed.*