



Offences Against the Person Act 1861

1861 CHAPTER 100

Assaults

36 Obstructing or assaulting a Clergyman or other Minister in the Discharge of his Duties.

Whosoever shall, by Threats or Force, obstruct or prevent, or endeavour to obstruct or prevent, any Clergyman or other Minister in or from celebrating Divine Service or otherwise officiating in any Church, Chapel, Meeting House, or other Place of Divine Worship, or in or from the Performance of his Duty in the lawful Burial of the Dead in any Churchyard or other Burial Place, or shall strike or offer any Violence to, or shall, upon any Civil Process, or under the Pretence of executing any Civil Process, arrest any Clergyman or other Minister who is engaged in, or to the Knowledge of the Offender is about to engage in, any of the Rites or Duties in this Section aforesaid, or who to the Knowledge of the Offender shall be going to perform the same or returning from the Performance thereof, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

37 Assaulting a Magistrate, &c. on account of his preserving Wreck.

Whosoever shall assault and strike or wound any Magistrate, Officer, or other Person whatsoever lawfully authorized, in or on account of the Exercise of his Duty in or concerning the Preservation of any Vessel in Distress, or of any Vessel, Goods, or Effects wrecked, stranded, or cast on shore, or lying under Water, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Seven Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

38 Assault with Intent to commit Felony, or on Peace Officers, &c.

Whosoever shall assault any Person with Intent to commit Felony, or shall assault, resist, or wilfully obstruct any Peace Officer in the due Execution of his Duty, or any

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Person acting in aid of such Officer, or shall assault any Person with Intent to resist or prevent the lawful Apprehension or Detainer of himself or of any other Person for any Offence, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

39 Assaults with Intent to obstruct the Sale of Grain, or its free Passage.

Whosoever shall beat, or use any Violence or Threat of Violence to any Person, with Intent to deter or hinder him from buying, selling, or otherwise disposing of, or to compel him to buy, sell, or otherwise dispose of, any wheat or other Grain, Flour, Meal, Malt, or Potatoes, in any Market or other Place, or shall beat or use any such Violence or Threat to any Person having the Care or Charge of any Wheat or other Grain, Flour, Meal, Malt, or Potatoes, whilst on the Way to or from any City, Market Town, or other Place, with Intent to stop the Conveyance of the same, shall, on conviction thereof before Two Justices of the Peace, be liable to be imprisoned and kept to Hard Labour in the Common Gaol or House of Correction for any Term not exceeding Three Months: Provided that no Person who shall be punished for any such Offence by virtue of this Section shall be punished for the same Offence by virtue of any other Law whatsoever.

40 Assaults on Seamen, &c.

Whosoever shall unlawfully and with Force hinder or prevent any Seaman, Keelman, or Caster from working at or exercising his lawful Trade, Business, or Occupation, or shall beat or use any Violence to any such Person with Intent to hinder or prevent him from working at or exercising the same, shall, on Conviction thereof before Two Justices of the Peace, be liable to be imprisoned and kept to Hard Labour in the Common Gaol or House of Correction for any Term not exceeding Three Months: Provided that no Person who shall be punished for any such Offence by reason of this Section shall be punished for the same Offence by virtue of any other Law whatsoever.

41 Assaults arising from Combination.

Whosoever, in pursuance of any unlawful Combination or Conspiracy to raise the Rate of Wages, or of any unlawful Combination or Conspiracy respecting any Trade, Business, or Manufacture, or respecting any Person concerned or employed therein, shall unlawfully assault any Person, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour,

42 Persons committing any Common Assault or Battery may be imprisoned or compelled by Two Magistrates to pay Fine and Costs not exceeding 5l.

Where any Person shall unlawfully assault or beat any other Person, Two Justices of the Peace, upon Complaint by or on behalf of the Party aggrieved, may hear and determine such Offence, and the Offender shall, upon Conviction thereof before them, at the Discretion of the Justices, either be committed to the Common Gaol or House of Correction, there to be imprisoned with or without Hard Labour for any Term not exceeding Two Months, or else shall forfeit and pay such Fine as shall appear to them to be meet, not exceeding, together with Costs (if ordered), the Sum of Five Pounds; and if such Fine as shall be so awarded, together with the Costs (if ordered), shall not be paid, either immediately after the Conviction or within such Period as the said

Justices shall at the Time of the Conviction appoint, they may commit the Offender to the Common Gaol or House of Correction, there to be imprisoned, with or without Hard Labour, for any Term not exceeding Two Months, unless such Fine and Costs be sooner paid.

43 Persons convicted of aggravated Assaults on Females and Boys under Fourteen Years of Age may be imprisoned or fined.

When any Person shall be charged before Two Justices of the Peace with an Assault or Battery upon any Male Child whose Age shall not in the Opinion of such Justices exceed Fourteen Years, or upon any Female, either upon the Complaint of the Party aggrieved or otherwise, the said Justices, if the Assault or Battery is of such an aggravated Nature that it cannot in their Opinion be sufficiently punished under the Provisions herein-before contained as to Common Assaults and Batteries, may proceed to hear and determine the same in a summary Way, and, if the same be proved, may convict the Person accused ; and every such Offender shall be liable to be imprisoned in the Common Gaol or House of Correction, with or without Hard Labour, for any Period not exceeding Six Months, or to pay a Fine not exceeding (together with Costs) the Sum of Twenty Pounds, and in default of Payment to be imprisoned in the Common Gaol or House of Correction for any Period not exceeding Six Months, unless such Fine and Costs be sooner paid, and, if the Justices shall no think fit, in any of the said Oases, shall be bound to keep the Peace and be of good Behaviour for any Period not exceeding Six Months from the Expiration of such Sentence.

44 If the Magistrates dismiss the Complaint, they shall make out a Certificate to that Effect.

If the Justices, upon the Hearing of any such Case of Assault or Battery upon the Merits, where the Complaint was preferred by or on the Behalf of the Party aggrieved, under either of the last Two preceding Sections, shall deem the Offence not to be proved, or shall find the Assault or Battery to have been justified, or so trifling as not to merit any Punishment, and shall accordingly dismiss the Complaint, they shall forthwith make out a Certificate under their Hands stating the Fact of such Dismissal and shall deliver such Certificate to the Party against whom the Complaint was preferred.

45 Certificate or Conviction shall be a Bar to any other Proceedings.

If any Person, against whom any such Complaint as in either of the last Three preceding Sections mentioned shall have been preferred by or on the Behalf of the Party aggrieved, shall have obtained such Certificate, or, having been convicted, shall have paid the whole Amount adjudged to be paid, or shall have suffered the Imprisonment or Imprisonment with Hard Labour awarded, in every such Case he shall be released from all further or other Proceedings, Civil or Criminal, for the same Cause.

46 These Provisions not to apply to certain Cases.

Provided, That in case the Justices shall find the Assault or Battery complained of to have been accompanied by any Attempt to commit Felony, or shall be of opinion that the same is, from any other Circumstance, a fit Subject for a Prosecution by Indictment, they shall abstain from any Adjudication thereupon, and shall deal with the Case in all

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respects in the same Manner as if they had no Authority finally to hear and determine the same: Provided also, that nothing herein contained shall authorize any Justices to hear and determine any Case of Assault or Battery in which any Question shall arise as to the Title to any Lands, Tenements, or Hereditaments, or any Interest therein or accruing therefrom, or as to any Bankruptcy or Insolvency, or any Execution under the Process of any Court of Justice.

47 Assault occasioning bodily Harm.

Whosoever shall be convicted upon an Indictment of any Assault occasioning actual bodily Harm shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and whosoever shall be convicted upon an Indictment for a common Assault shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding One Year, with or without Hard Labour.