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SCHEDULES

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS AS TO PROCEDURE, APPEALS, ETC.

PART II

SCOTLAND

- 8 (1) Where a person is convicted of murder, he shall not by virtue of section six of this Act be sentenced to death by reason of a previous conviction of another murder done in Great Britain on a different occasion, unless—
- (a) notice has been served on him with the indictment that it is intended to place before the Court such a previous conviction; and
 - (b) before he is sentenced, his previous conviction of the other murder is held or proved to apply to him and the fact that the murder was so done is held to be admitted by him or proved:

Provided that head (a) of this sub-paragraph shall not apply where he is convicted of both murders at the same sitting of the High Court of Justiciary.

- (2) The provisions of section thirty-nine of the Criminal Justice (Scotland) Act, 1949 (which relates to previous convictions in proceedings on indictment) shall have effect for the purposes of this paragraph with regard to a previous conviction of murder as they have effect with regard to a previous conviction constituting an aggravation of any charge contained in an indictment, subject, however, to the modifications that references to a previous conviction and to objecting to a previous conviction shall include references to the fact that the murder was so done, and to denying such fact, and that any reference to a conviction being held to apply to the accused shall include a reference to any such fact being held to be admitted by him.
- (3) Where a person is sentenced to death by virtue of the previous conviction and the fact that the murders were done in Great Britain on different occasions having been proved, he shall have the like right of appeal under the Criminal Appeal (Scotland) Act, 1926, against the sentence as if the appeal were against a conviction involving sentence of death:

Provided that he shall not by virtue of this sub-paragraph have a right of appeal against a sentence passed on a conviction of capital murder, unless he appeals against that conviction.

- (4) On any Such appeal against sentence, the court shall have the same powers as to allowing or dismissing the appeal as on an appeal against a conviction; and where the court allow the appeal, and it appears to the court that having regard to the decision on the appeal the sentence is not warranted in law, the court shall quash the sentence and pass the appropriate sentence in substitution for it.