



Offences Against the Person Act 1861

1861 CHAPTER 100

An Act to consolidate and amend the Statute Law of *England* and *Ireland* relating to Offences against the Person. [6th August 1861]

WHEREAS it is expedient to consolidate and amend the Statute Law of *England* and *Ireland* relating to Offences against the Person :

Be it enacted by the Queen'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, as follows :

Homicide

1 Murder.

Whosoever shall be convicted of Murder shall suffer Death as a Felon.

2 Sentence for Murder.

Upon every Conviction for Murder the Court shall pronounce Sentence of Death, and the same may be earned into execution, and all other Proceedings upon such Sentence and in respect thereof may be had and taken, in the same Manner in all respects as Sentence of Death might have been pronounced and carried into execution, and all other Proceedings thereupon and in respect thereof might have been had and taken, before the passing of this Act, upon a Conviction for any other Felony for which the Prisoner might have been sentenced to suffer Death as a Felon.

3 Body to be buried in Prison.

The Body of every Person executed for Murder shall be buried within the Precincts of the Prison in which he shall have been last confined after Conviction, and the Sentence of the Court shall so direct.

4 Conspiring or soliciting to commit Murder

All Persons who shall conspire, confederate, and agree to murder any Person, whether, he be a Subject of Her Majesty or not, and whether he be within the Queen's Dominions or not, and whosoever shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any Person, to murder any other Person, whether he be a Subject of Her Majesty or not, and whether he be within the Queen's Dominions or not, shall be guilty of 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 more than Ten and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

5 Manslaughter.

Whosoever shall be convicted of Manslaughter shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years, —or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, or to pay such Fine as the Court shall award, in addition to or without any such other discretionary Punishment as aforesaid.

6 Indictment for Murder or Manslaughter.

In any Indictment for Murder or Manslaughter, or for being an Accessory to any Murder or Manslaughter, it shall not be necessary to set forth the Manner in which or the Means by which the Death of the Deceased was caused, but it shall be sufficient in any Indictment for Murder to charge that the Defendant did feloniously, wilfully, and of his Malice aforethought kill and murder the Deceased ; and it shall be sufficient in any Indictment for Manslaughter to charge that the Defendant did feloniously kill and slay the Deceased; and it shall be sufficient in any Indictment against any Accessory to any Murder or Manslaughter to charge the Principal with the Murder or Manslaughter (as the Case may be) in the Manner herein-before specified, and then to charge the Defendant as an Accessory in the Manner heretofore used and accustomed.

7 Excusable Homicide.

No Punishment or Forfeiture shall be incurred by any Person who shall kill another by Misfortune or in his own Defence, or in any other Manner without Felony.

8 Petit Treason.

Every Offence which before the Commencement of the Act of the Ninth Year of King *George* the Fourth, Chapter Thirty-one, would have amounted to Petit Treason, shall be deemed to be Murder only, and no greater Offence; and all Persons guilty in respect thereof, whether as Principals or as Accessories, shall be dealt with, indicted, tried, and punished as Principals and Accessories in Murder.

9 Murder or Manslaughter abroad.

Where any Murder or Manslaughter shall be committed on Land out of the United Kingdom, whether within the Queen's Dominions or without, and whether the Person killed were a Subject of Her Majesty or not, every Offence committed by any Subject of Her Majesty, in respect of any such Case, whether the same shall amount to

the Offence of Murder or of Manslaughter, or of being accessory to Murder or Manslaughter, may be dealt with, inquired of, tried, determined, and punished in any County or Place in *England* or *Ireland* in which such Person shall be apprehended or be in Custody, in the same Manner in all respects as if such Offence had been actually committed in that County or Place; provided that nothing herein contained shall prevent any Person from being tried in any Place out of *England* or *Ireland* for any Murder or Manslaughter committed out Of *England* or *Ireland*, in the same Manner as such Person might have been tried before the passing of this Act.

10 Provision for the Trial of Murder and Manslaughter where the Death or Cause of Death only happens in England or Ireland.

Where any Person, being feloniously stricken, poisoned, or otherwise hurt upon the Sea, or at any Place out of *England* or *Ireland*, shall die of such Stroke, Poisoning, or Hurt in *England* or *Ireland*, or, being feloniously stricken, poisoned, or otherwise hurt at any Place in *England* or *Ireland*, shall die of such Stroke, Poisoning, or Hurt upon the Sea, or at any Place out of *England* or *Ireland*, every Offence committed in respect of any such Case, whether the same shall amount to the Offence of Murder or of Manslaughter, or of being accessory to Murder or Manslaughter, may be dealt with, inquired of, tried, determined, and punished in the County or Place in *England* or *Ireland* in which such Death, Stroke, Poisoning, or Hurt shall happen, in the same Manner in all respects as if such Offence had been wholly committed in that County or Place.

Attempts to murder

11 Administering Poison, or wounding with Intent to murder.

Whosoever shall administer to or cause to be administered to or to be taken by any Person any Poison or other destructive Thing, or shall by any Means whatsoever wound or cause any grievous bodily Harm to any Person, with Intent in any of the Cases aforesaid to commit Murder, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

12 Destroying or damaging a Building with Gunpowder, with Intent to murder.

Whosoever, by the Explosion of Gunpowder or other explosive Substance, shall destroy or damage any Building with Intent to commit Murder, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

13 Setting fire to or casting away a Ship with Intent to murder.

Whosoever shall set fire to any Ship or Vessel or any Part thereof, or any Part of the Tackle, Apparel, or Furniture thereof, or any Goods or Chattels being therein, or shall cast away or destroy any Ship or Vessel, with Intent in any of such Cases to commit Murder, shall be guilty of Felony, and being convicted thereof shall be liable, at the

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Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

14 Attempting to Administer Poison, or shooting or attempting to shoot or attempting to drown &c., with Intent to murder.

Whosoever shall attempt to administer to or shall attempt to cause to be administered to or to be taken by any Person any Poison or other Destructive Thing, or shall shoot at any Person, or shall, by drawing a Trigger or in any other Manner, attempt to discharge any kind of loaded Arms at any Person, or shall attempt to drown, suffocate, or strangle any Person, with Intent, in any of the Oases aforesaid, to commit Murder, shall, whether any bodily Injury be effected or not, be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

15 By any other Means attempting to commit Murder.

Whosoever shall, by any Means other than those specified in any of the preceding Sections of this Act, attempt to commit Murder, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Letters threatening to murder

16 Sending Letters threatening to murder.

Whosoever shall maliciously send, deliver, or utter, or directly or indirectly cause to be received, knowing the Contents thereof, any Letter or Writing threatening to kill or murder any Person, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Ten Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and, if a Male under the Age of Sixteen Years, with or without Whipping.

Acts causing or tending to cause Danger to Life or bodily Harm

17 Impeding a Person endeavouring to save himself from Shipwreck.

Whosoever shall unlawfully and maliciously prevent or impede any Person, being on board of or having quitted any Ship or Vessel which shall be in Distress, or wrecked, stranded, or cast on shore, in his Endeavour to save his Life, or shall unlawfully and maliciously prevent or impede any Person in his Endeavour to save the Life of any such Person as in this Section first aforesaid, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for

any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

18 Shooting or attempting to shoot, or wounding with Intent to do grievous bodily Harm.

Whosoever shall unlawfully and maliciously by any Means whatsoever wound or cause any grievous bodily Harm to any Person, or shoot at any Person, or, by drawing a Trigger or in any other Manner, attempt to discharge any Kind of loaded Arms at any Person, with Intent, in any of the Cases aforesaid, to maim, disfigure, or disable any Person, or to do some other grievous bodily Harm to any Person, or with Intent to resist or prevent the lawful Apprehension or Detainer of any Person, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

19 What shall constitute loaded Arms.

Any Gun, Pistol, or other Arms which shall be loaded in the Barrel with Gunpowder or any other explosive Substance, and Ball, Shot, Slug, or other destructive Material, shall be deemed to be loaded Arms within the Meaning of this Act, although the Attempt to discharge the same may fail from want of proper Priming or from any other Cause.

20 Inflicting bodily Injury, with or without Weapon.

Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily Harm upon any other Person, either with or without any Weapon or Instrument, 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 the Term of Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

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

Whosoever shall, by any Means -whatsoever, attempt to choke, suffocate, or strangle any other Person, or shall, by any Means calculated to choke, suffocate, or strangle, attempt to render any other Person insensible, unconscious, or incapable of Resistance, with Intent in any of such Cases thereby to enable himself or any other Person to commit, or with Intent in any of such Cases thereby to assist any other Person in committing, any indictable Offence, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

22 Using Chloroform, &c. to commit any indictable Offence.

Whosoever shall unlawfully apply or administer to or cause to be taken by, or attempt to apply or administer to or attempt to cause to be administered to or taken by, any Person, any Chloroform, Laudanum, or other stupefying or overpowering Drug, Matter, or Thing, with Intent in any of such Cases thereby to enable himself or any other Person to commit, or with Intent in any of such Cases thereby to assist any

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other Person in committing, any indictable Offence, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any other Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

23 Maliciously administering Poison, &c. so as to endanger Life or inflict grievous bodily Harm.

Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other Person any Poison or other destructive or noxious Thing so as thereby to endanger the Life of such Person, or so as thereby to inflict upon such Person any grievous bodily Harm, shall be guilty of Felony and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Ten Years and not less than Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

24 Maliciously administering Poison, &c. with Intent to injure, aggrieve, or annoy any other Person.

Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other Person any Poison or other destructive or noxious Thing, with Intent to injure, aggrieve, or annoy such Person, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, 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.

25 If the Jury be not satisfied that any Person charged is guilty of Felony; but guilty of Misdemeanor they may find him guilty accordingly.

If, upon the Trial of any Person for any Felony in the last but one preceding section mentioned, the Jury shall not be satisfied that such Person is guilty thereof, but shall be satisfied that he is guilty of any Misdemeanor in the last preceding Section mentioned, then and in every such Case the Jury may acquit the Accused of such Felony, and find him guilty of such Misdemeanor, and thereupon he shall be liable to be punished in the same Manner as if convicted upon an Indictment for such Misdemeanor.

26 Not providing Apprentices or Servants with Food, &c. whereby Life endangered.

Whosoever, being legally liable, either as a Master or Mistress, to provide for any Apprentice or Servant necessary Food, Clothing, or Lodging, shall wilfully and without lawful Excuse refuse or neglect to provide the same, or shall unlawfully and maliciously do or cause to be done any bodily Harm to any such Apprentice or Servant, so that the Life of such Apprentice or Servant shall be endangered, or the Health of such Apprentice or Servant shall have been or shall be likely to be permanently injured, 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 the Term of Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

27 Exposing Children whereby Life endangered.

Whosoever shall unlawfully abandon or expose any Child, being under the Age of Two Years, whereby the Life of such Child shall be endangered, or the Health of such Child shall have been or shall be likely to be permanently injured, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, 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.

28 Causing bodily Injury by Gunpowder.

Whosoever shall unlawfully and maliciously, by the Explosion of Gunpowder or other explosive Substance, burn, maim, disfigure, disable, or do any grievous bodily Harm to any Person, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and, if a Male under the Age of Sixteen Years, with or without Whipping.

29 Causing Gunpowder to explode, to any Person an explosive Substance, or throwing corrosive Fluid on a Person, with Intent to do grievous bodily Harm.

Whosoever shall unlawfully and maliciously cause any Gunpowder or other explosive Substance to explode, or send or deliver to or cause to be taken or received by any Person any explosive Substance or any other dangerous or noxious Thing, or put or lay at any Place, or cast or throw at or upon or otherwise apply to any Person, any corrosive Fluid or any destructive or explosive Substance, with Intent in any of the Cases aforesaid to burn, maim, disfigure, or disable any Person, or to do some grievous bodily Harm to any Person, shall, whether any bodily Injury be effected or not, be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and if a Male under the Age of Sixteen Years, with or without Whipping.

30 Placing Gunpowder near a Building, with Intent to do bodily Injury to any Person.

Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any Building, Ship, or Vessel any Gunpowder or other explosive Substance, with Intent to do any bodily Injury to any Person, shall, whether or not any Explosion take place, and whether or not any bodily Injury be effected, be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and if a Male under the Age of Sixteen Years, with or without Whipping.

31 Setting Spring Guns, &c., with Intent to inflict grievous bodily Harm.

Whosoever shall set or place, or cause to be set or placed, any Spring Gun, Man Trap, or other Engine calculated to destroy Human Life or inflict grievous bodily Harm, with

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the Intent that the same or whereby the same may destroy or inflict grievous bodily Harm upon a Trespasser or other Person coming in contact therewith, 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 the Term of Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and whosoever shall knowingly and wilfully permit any such Spring Gun, Man Trap, or other Engine which may have been set or placed in any Place then being in or afterwards coming into his Possession or Occupation by some other Person to continue so set or placed, shall be deemed to have set and placed such Gun, Trap, or Engine with such Intent as aforesaid: Provided that nothing in this Section contained shall extend to make it illegal to set or place any Gin or Trap such as may have been or may be usually set or placed with the Intent of destroying Vermin: Provided also, that nothing in this Section shall be deemed to make it unlawful to set or place or cause to be set or placed, or to be continued set or placed, from Sunset to Sunrise, any Spring Gun, Man Trap, or other Engine, which shall be set or placed, or caused or continued to be set or placed, in a Dwelling House, for the Protection thereof.

32 Placing Wood, &c., on a Railway, with Intent to endanger Passengers.

Whosoever shall unlawfully and maliciously put or throw upon or across any Railway any Wood, Stone, or other Matter or Thing, or shall unlawfully and maliciously take up, remove, or displace any Rail, Sleeper, or other Matter or Thing belonging to any Railway, or shall unlawfully and maliciously turn, move, or divert any Points or other Machinery belonging to any Railway, or shall unlawfully and maliciously make or show, hide or remove, any Signal or Light upon or near to any Railway, or shall unlawfully and maliciously do or cause to be done any other Matter or Thing, with Intent, in any of the Cases aforesaid, to endanger the Safety of any Person travelling or being upon such Railway, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and if a Male under the Age of Sixteen Years with or without Whipping.

33 Casting Stone, &c. upon a Railway Carriage, with Intent to endanger the Safety of any Person therein.

Whosoever shall unlawfully and maliciously throw, or cause to fall or strike, at, against, into, or upon any Engine, Tender, Carriage, or Truck used upon any Railway, any Wood, Stone, or other Matter or Thing, with Intent to injure or endanger the Safety of any Person being in or upon such Engine, Tender, Carriage, or Truck, or in or upon any other Engine, Tender, Carriage, or Truck of any Train of which such first-mentioned Engine, Tender, Carriage, or Truck shall form Part, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

34 Doing or emitting anything to endanger Passengers by Railway.

Whosoever, by any unlawful Act, or by any wilful Omission or Neglect, shall endanger or cause to be endangered the Safety of any Person conveyed or being in or upon a Railway, or shall aid or assist therein, shall be guilty of a Misdemeanor, and being

convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

35 Drivers of Carriages injuring Persons by furious Driving.

Whosoever, having the Charge of any Carriage or Vehicle, shall, by wanton or furious Driving or Racing, or other wilful Misconduct, or by wilful Neglect, do or cause to be done any bodily Harm to any Person whatsoever, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

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 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 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.

*Rape, Abduction, and Defilement of Women***48 Rape.**

Whosoever shall be convicted of the Crime of Rape shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

49 Procuring the Defilement of Girl under Age.

Whosoever shall, by false Pretences, false Representations, or other fraudulent Means, procure any Woman or Girl under the Age of Twenty-one Years to have illicit carnal Connexion with any Man, 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.

50 Carnally knowing a Girl under Ten Years of Age.

Whosoever shall unlawfully and carnally know and abuse any Girl under the Age of Ten Years shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

51 Carnally knowing a Girl between the Ages of Ten and Twelve.

Whosoever shall unlawfully and carnally know and abuse any Girl being above the Age of Ten Years and under the Age of Twelve Years 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 the Term of Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

52 Attempt to commit the last Two Offences.

Whosoever shall be convicted of any indecent Assault upon any Female, or of any Attempt to have carnal Knowledge of any Girl under Twelve Years of Age, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour

53 Abduction of a Woman against her Will, from Motives of Lucre. Fraudulent Abduction of a Girl under Age against the Will of her Father, &c. Offender incapable of taking any of her Property.

Where any Woman of any Age shall have any Interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any Real or Personal Estate, or shall be a presumptive Heiress or Coheiress, or presumptive Next of Kin, or One of the presumptive Next of Kin, to any one having such Interest, whosoever shall, from Motives of Lucre, take away or detain such Woman against her Will, with Intent to marry or carnally know her, or to cause her to be married or carnally known by any other Person; and whosoever shall fraudulently allure, take away, or detain such Woman, being under the Age of Twenty-one Years, out of the Possession and against the Will of her Father or Mother, or of any other Person having the lawful Care or Charge of her, with Intent to marry or carnally know her, or to cause her to be married or carnally known by any other Person, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and whosoever shall be convicted of any Offence against this Section shall be incapable of taking any Estate or Interest, legal or equitable, in any Real or Personal Property of such Woman, or in which she shall have any such Interest, or which shall come to her as such Heiress, Coheiress, or Next of Kin as aforesaid; and if any such Marriage as aforesaid shall have taken place, such Property shall, upon such Conviction, be settled in such Manner as the Court of Chancery in *England* or *Ireland* shall upon any Information at the Suit of the Attorney General appoint.

54 Forcible Abduction of any Woman with Intent to marry her.

Whosoever shall, by Force, take away or detain against her Will any Woman, of any Age, with Intent to marry or carnally know her, or to cause her to be married or carnally known by any other Person, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

55 Abduction of a Girl under Sixteen Years of Age.

Whosoever shall unlawfully take or cause to be taken any unmarried Girl, being under the Age of Sixteen Years, out of the Possession and against the Will of her Father or Mother, or of any other Person having the lawful Care or Charge of her, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Child-stealing

56 Child-stealing.

Whosoever shall unlawfully, either by Force or Fraud, lead or take away, or decoy or entice away or detain, any Child under the Age of Fourteen Years, with Intent to deprive any Parent, Guardian, or other Person, having the lawful Care or Charge of such Child of the Possession of such Child, or with Intent to steal any Article

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upon or about the Person of such Child, to whomsoever such Article may belong, and whosoever shall, with any such Intent, receive or harbour any such Child, knowing the same to have been, by Force or Fraud, led, taken, decoyed, enticed away, or detained as in this Section before mentioned, shall be guilty of Felony, and being convicted thereof shall be liable, 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, and, if a Male under the Age of Sixteen Years, with or without Whipping: Provided that no Person who shall have claimed any Right to the Possession of such Child, or shall be the Mother or shall have claimed to be the Father of an illegitimate Child, shall be liable to be prosecuted by virtue hereof on account of the getting Possession or such Child, or taking such Child out of the Possession of any Person having the lawful Charge thereof.

Bigamy

57 Bigamy. Offence may be dealt with where Offender shall be apprehended. Not to extend to Second Marriages, &c. herein stated.

Whosoever, being married, shall marry any other Person during the Life of the former Husband or Wife, whether the Second Marriage shall have taken place in *England* or *Ireland* or elsewhere, shall be guilty of Felony, 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; and any such Offence may be dealt with, inquired of, tried, determined, and punished in any County or Place in *England* or *Ireland* where the Offender shall be apprehended or be in Custody, in the same Manner in all respects as if the Offence had been actually committed in that County or Place: Provided that nothing in this Section contained shall extend to any Second Marriage contracted elsewhere than in *England* and *Ireland* by any other than a Subject of Her Majesty, or to any Person marrying a Second Time whose Husband or Wife shall have been continually absent from such Person for the Space of Seven Years then last past, and shall not have been known by such Person to be living within that Time, or shall extend to any Person who, at the Time of such Second Marriage, shall have been divorced from the Bond of the First Marriage, or to any Person whose former Marriage shall have been declared void by the Sentence of any Court of Competent Jurisdiction.

Attempts to procure Abortion

58 Administering Drugs or using Instruments to procure Abortion.

Every Woman, being with Child, who, with Intent to procure her own Miscarriage, shall unlawfully administer to herself any Poison or other noxious Thing, or shall unlawfully use any Instrument or other Means whatsoever with the like Intent, and whosoever, with Intent to procure the Miscarriage of any Woman, whether she be or be not with Child, shall unlawfully administer to her or cause to be taken by her any Poison or other noxious Thing, or shall unlawfully use any Instrument or other Means whatsoever with the like Intent, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term

not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

59 Procuring Drugs, &c. to cause Abortion.

Whosoever shall unlawfully supply or procure any Poison or other noxious Thing, or any Instrument or Thing whatsoever, knowing that the same is intended to be unlawfully used or employed with Intent to procure the Miscarriage of any Woman, whether she be or be not with Child, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, 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.

Concealing the Birth of a Child

60 Concealing the Birth of a Child.

If any Woman shall be delivered of a Child, every Person who shall, by any secret Disposition of the dead Body of the said Child, whether such Child died before, at, or after its Birth, endeavour to conceal the Birth 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: Provided that if any Person tried for the Murder of any Child shall be acquitted thereof, it shall be lawful for the Jury by whose Verdict such Person shall be acquitted to find, in case it shall so appear in Evidence, that the Child had recently been born, and that such Person did, by some secret Disposition of the dead Body of such Child, endeavour to conceal the Birth thereof, and thereupon the Court may pass such Sentence as if such Person had been convicted upon an Indictment for the Concealment of the Birth.

Unnatural Offences

61 Sodomy and Bestiality.

Whosoever shall be convicted of the abominable Crime of Buggery, committed either with Mankind or with any Animal, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Ten Years.

62 Attempt to commit an infamous Crime.

Whosoever shall attempt to commit the said abominable Crime, or shall be guilty of any Assault with Intent to commit the same, or of any indecent Assault upon any Male Person, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Ten Years and not less than Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

63 Carnal Knowledge defined.

Whenever, upon the Trial for any Offence punishable under this Act, it may be necessary to prove carnal Knowledge, it shall not be necessary to prove the actual

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Emission of Seed in order to constitute a carnal Knowledge, but the carnal Knowledge shall be deemed complete upon Proof of Penetration only.

Making Gunpowder to commit Offences, and searching for the same

64 Making or having Gunpowder, &c., with Intent to commit any Felony against this Act.

Whosoever shall knowingly have in his Possession, or make or manufacture, any Gunpowder, explosive Substance, or any dangerous or noxious Thing, or any Machine, Engine, Instrument, or Thing, with Intent by means thereof to commit, or for the Purpose of enabling any other Person to commit, any of the Felonies in this Act mentioned, 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, and with or without Solitary Confinement, and if a Male under the Age of Sixteen Years, with or without Whipping.

65 Justices may issue Warrants for searching Houses, &c. in which explosive Substances are suspected to be made for the Purpose of committing Felonies against this Act

Any Justice of the Peace of any County or Place in which any such Gunpowder, or other explosive, dangerous, or noxious Substance or Thing, or any such Machine, Engine, Instrument, or Thing, is suspected to be made, kept, or carried for the Purpose of being used in committing any of the Felonies in this Act mentioned, upon reasonable Cause assigned upon Oath by any Person, may issue a Warrant under his Hand and Seal for searching, in the Daytime, any House, Mill, Magazine, Storehouse, Warehouse, Shop, Cellar, Yard, Wharf, or other Place, or any Carriage, Waggon, Cart, Ship, Boat, or Vessel, in which the same is suspected to be made, kept, or carried for such Purpose as herein-before mentioned; and every Person acting in the Execution of any such Warrant shall have, for seizing, removing to proper Places, and detaining all such Gunpowder, explosive, dangerous, or noxious Substances, Machines, Engines, Instruments, or Things, found upon such Search, which he shall have good Cause to suspect to be intended to be used in committing any such Offence, and the Barrels, Packages, Cases, and other Receptacles in which the same shall be, the same Powers and Protections which are given to Persons searching for unlawful Quantities of Gunpowder under the Warrant of a Justice by the Act passed in the Session holden in the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and thirty-nine, intituled *An Act to amend the Law concerning the making, keeping, and Carriage of Gunpowder and Compositions of an explosive Nature, and concerning the Manufacture, Sale, and Use of Fireworks.*

Other Matters

66 A Person loitering at Night, and suspected of any Felony against this Act, may be apprehended.

Any Constable or Peace Officer may take into Custody, without a Warrant, any Person whom he shall find lying or loitering in any Highway, Yard, or other Place during the Night, and whom he shall have good Cause to suspect of having committed or being

about to commit any Felony in this Act mentioned, and shall take such Person as soon as reasonably may be before a Justice of the Peace, to be dealt with according to Law.

67 Punishment of Principals in the Second Degree, and Accessories.

In the Case of every Felony punishable under this Act, every Principal in the Second Degree, and every Accessory before the Fact, shall be punishable in the same Manner as the Principal in the First Degree is by this Act punishable; and every Accessory after the Fact to any Felony punishable under this Act (except Murder) shall be liable to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and every Accessory after the Fact to Murder shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and whosoever shall counsel, aid, or abet the Commission of any indictable Misdemeanor punishable under this Act shall be liable to be proceeded against, indicted, and punished as a principal Offender.

68 Offences committed within the Jurisdiction of the Admiralty.

All indictable Offences mentioned in this Act which shall be committed within the Jurisdiction of the Admiralty of *England* or *Ireland* shall be deemed to be Offences of the same Nature and liable to the same Punishments as if they had been committed upon the Land in *England* or *Ireland*, and may be dealt with, inquired of, tried, and determined in any County or Place in *England* or *Ireland* in which the Offender shall be apprehended or be in Custody, in the same Manner in all respects as if they had been actually committed in that County or Place; and in any Indictment for any such Offence, or for being an Accessory to such an Offence, the Venue in the Margin shall be the same as if the Offence had been committed in such County or Place, and the Offence shall be averred to have been committed " on the High Seas : " Provided that nothing herein contained shall alter or affect any of the Laws relating to the Government of Her Majesty's Land or Naval Forces.

69 Hard labour in Gaol or House of Correction.

Whenever Imprisonment, with or without Hard Labour, may be awarded for any indictable Offence under this Act, the Court may sentence the Offender to be imprisoned, or to be imprisoned and kept to Hard Labour, in the Common Gaol or House of Correction.

70 Solitary Confinement and Whipping

Whenever Solitary Confinement may be awarded for any Offence under this Act, the Court may direct the Offender to be kept in Solitary Confinement for any Portion or Portions of any Imprisonment, or of any Imprisonment with Hard Labour, which the Court may award, not exceeding One Month at any One Time, and not exceeding Three Months in any One Year; and whenever Whipping may be awarded for any Offence under this Act, the Court may sentence the Offender to be once privately whipped, and the Number of Strokes and the Instrument with which they shall be inflicted shall be specified by the Court in the Sentence.

71 Fine, and Sureties for keeping the Peace; in what Cases.

Whenever any Person shall be convicted of any indictable Misdemeanor punishable under this Act, the Court may, if it shall think fit, in addition to or in lieu of any Punishment by this Act authorized, fine the Offender, and require him to enter into his own Recognizances, and to find Sureties, both, or either, for keeping the Peace and being of good Behaviour; and in case of any Felony punishable under this Act otherwise than with Death the Court may, if it shall think fit, require the Offender to enter into his own Recognizances and to find Sureties, both or either, for keeping the Peace, in addition to any Punishment by this Act authorized; provided that no Person shall be imprisoned for not finding Sureties under this Clause for any Period exceeding One Year.

72 No Certiorari, &c.

No summary Conviction under this Act shall be quashed for Want of Form, or be removed by Certiorari into any of Her Majesty's Superior Courts of Record ; and no Warrant of Commitment shall be held void by reason of any Defect therein, provided it be therein alleged that the Party has been convicted, and there be a good and valid Conviction to sustain the same.

73 Guardians and Overseers may be required to prosecute in certain Cases of Offences against this Act. Costs of Prosecution. Clerk of Guardians may be bound over to prosecute.

Where any Complaint shall be made of any Offence against Section Twenty-six of this Act, or of any bodily Injury inflicted upon any Person under the Age of Sixteen Years, for which the Party committing it is liable to be indicted, and the Circumstances of which Offence amount, in point of Law, to a Felony, or an Attempt to commit a Felony, or an Assault with Intent to commit a Felony, and Two Justices of the Peace before whom such Complaint is heard shall certify under their Hands that it is necessary for the Purposes of Public Justice that the Prosecution should be conducted by the Guardians of the Union or Place, or, where there are no Guardians, by the Overseers of the Poor of the Place, in which the Offence shall be charged to have been committed, such Guardians or Overseers, as the Case may be, upon personal Service of such Certificate or a Duplicate thereof upon the Clerk of such Guardians or upon any One of such Overseers, shall conduct the Prosecution, and shall pay the Costs reasonably and properly incurred by them therein (so far as the same shall not be allowed to them under any Order of any Court) out of the Common Fund of the Union, or out of the Funds in the Hands of the Guardians or Overseers, as the Case may be; and, where there is a Board of Guardians, the Clerk or Borne other Officer of the Union or Place, and, where there is no Board of Guardians, One of the Overseers of the Poor, may, if such Justices think it necessary for the Purposes of Public Justice, be bound over to prosecute.

74 On a Conviction for Assault the Court may order Payment of the Prosecutor's Costs by the Defendant.

Where any Person shall be convicted on any Indictment of any Assault, whether with or without Battery and Wounding, or either of them, such Person may, if the Court think fit, in addition to any Sentence which the Court may deem proper for the Offence, be adjudged to pay to the Prosecutor his actual and necessary Costs and Expenses of the Prosecution, and such moderate Allowance for the Loss of Time as the Court shall

by Affidavit or other Inquiry and Examination ascertain to be reasonable; and, unless the Sum so awarded shall be sooner paid, the Offender shall be imprisoned for any Term the Court shall award, not exceeding Three Months, in addition to the Term of Imprisonment (if any) to which the Offender may be sentenced for the Offence.

75 Such Costs may be levied by Distress.

The Court may, by Warrant under Hand and Seal, order such Sum as shall be so awarded to be levied by Distress and Sale of the Goods and Chattels of the Offender, and paid to the Prosecutor, and that the Surplus, if any, arising from such Sale, shall be paid to the Owner; and in case such Sum shall be so levied the Imprisonment awarded until Payment of such Sum shall thereupon cease.

76 Summary Proceedings in England may be under the 11 & 12 Vict. c. 43., and in Ireland under the 14 & 15 Vict. c. 93. Except in London and the Metropolitan Police District.

Every Offence hereby made punishable on summary Conviction may be prosecuted in *England* in the Manner directed by the Act of the Session holden in the Eleventh and Twelfth Years of Queen Victoria, Chapter Forty-three, and may be prosecuted in *Ireland* before Two or more Justices of the Peace, or One Metropolitan or Stipendiary Magistrate, in the Manner directed by the Act of the Session holden in the Fourteenth and Fifteenth Years of Queen Victoria, Chapter Ninety-three, or in such other Manner as may be directed by any Act that may be passed for like Purposes; and all Provisions contained in the said Acts shall be applicable to such Prosecutions in the same Manner as if they were incorporated in this Act: Provided that nothing in this Act contained shall in any Manner alter or affect any Enactment now in force relating to Procedure, in the Case of any Offence punishable on summary Conviction, within the City of *London* or the Metropolitan Police District, or the Recovery or Application of any Penalty or Forfeiture for any such Offence.

77 The Costs of the Prosecution of Misdemeanors against this Act may be allowed.

The Court before which any Misdemeanor indictable under the Provisions of this Act shall be prosecuted or tried may allow the Costs of the Prosecution in the same Manner as in Cases of Felony; and every Order for the Payment of such Costs shall be made out, and the Sum of Money mentioned therein paid and repaid, upon the same Terms and in the same Manner in all respects as in Cases of Felony.

78 Act not to extend to Scotland.

Nothing in this Act contained shall extend to *Scotland*, except as herein-before otherwise expressly provided.

79 Commencement of Act

This Act shall commence and take effect on the Day of November One thousand eight hundred and sixty-one.