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THE

ISTABLE'S GUIDE.

BY

REW REED, C.B.,

ISTER-AT-LAW,

OYAL IRISH CONSTABULARY.

or bailiffs, but of such
"—MAGNA CHARTA.

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THE

IRISH CONSTABLE'S GUIDE.

BY

SIR ANDREW REED, C.B.,

BARRISTER-AT-LAW,

INSPECTOR-GENERAL ROYAL IRISH CONSTABULARY.

"We will not make any justices, constables, sheriffs, or bailiffs, but of such as know the law of the realm and mean duly to observe it."—MAGNA CHARTA.

THIRD EDITION.

UBLI

D.), & PUBLISHERS,

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PREFACE TO THIRD EDITION.

AFTER careful revision, a Third and enlarged Edition of this work is now issued. Any profits made by its sale will be devoted to purposes for the benefit of the Royal Irish Constabulary.

1*st July*, 1895.

PREFACE TO SECOND EDITION.

AS the First Edition of this work was well received, I have been induced to prepare a Second Edition. I have carefully revised the whole work, and have increased its size by adding new matter of one hundred and forty pages.

Part I. of the First Edition is omitted, as the instructions, &c., contained in it are now embodied in the Author's Handbook, entitled—"The Policeman's Manual."

In order to make the work as concise as possible, the Statutes in many instances are given in an abstract form; the punishments

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and penalties prescribed for offences are in general omitted; and the authorities for the Legal Instructions (taken from the leading Text-books) are seldom quoted.

In the Appendix the full text of the following Acts are given:—The Summary Jurisdiction (Ireland) Act, 1851 (14 & 15 Vic., c. 92); The Petty Sessions (Ireland) Act, 1851 (14 & 15 Vic., c. 93); and The Small Penalties (Ireland) Act, 1873.

Any profits, after payment of expenses, which may be made by the sale of the book, will be paid over to the Queen's Jubilee Fund of the Royal Irish Constabulary for the relief of the necessitous orphans of members of the Force.

A. R.

1*st November*, 1888.

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THE

IRISH CONSTABLE'S GUIDE.

[*Note.*—The following abbreviations are adopted in the work:—F., felony; M., misdemeanour; O., offence (not indictable); P., penalty; S., section.]

Abduction, 24 & 25 Vic. c. 100.—S. 53. 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 co-heiress 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 F.—S. 54. 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 F.—S. 55. 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 M. See also C. L. A. Act, at page 79.

[Under section 55 it is unimportant whether the girl consented or not to go away; the offence may be committed without the violation of the girl's will. If the consent of the person from whose possession the girl is taken is obtained by fraud, the taking is deemed to be against the will of such person. The fact that the offender supposes in good faith and on reasonable grounds that the girl is more than sixteen years of age, is immaterial; but it is necessary that he should either know, or have reason to believe, that she was under the lawful care or charge of her father, mother or some other person.—*Stephens' Digest of C. L.*]

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Abortion.—24 & 25 Vic., c. 100, s. 58. 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 F.—S. 59. 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 M.

[There is no *administering* unless the poison is taken into the stomach; but to constitute administering there need not be an actual delivery by the hand of the accused. The nature of the poison or other noxious thing must be proved, as if it be of a harmless character there is no offence. The intent will appear from other circumstances, *e.g.*, that the child was likely to be born a bastard, and chargeable to the reputed father; that the drugs were procured in a clandestine manner. The statute is satisfied if the person who supplies the thing intends it to be used for the purpose of procuring abortion, though the person to whom it was supplied had no intent to use it for any such purpose.]

Accessories, &c.—Where two or more are to be brought to justice for one and the same felony, they are considered in the light either as principals in the first degree, principals in the second degree, accessories before the fact, or accessories after the fact; and in either of these characters they will be *felons* in consideration of law; for he who takes any part in a felony, whether it be a felony at common law or by statute, is in construction of law a felon, according to the share which he takes in the crime.—I. Principals in the first degree are those who have *actually and with their own hands committed the fact.* II. Principals in the second degree are those who were *present, aiding and abetting at the commission of the fact;* they are generally termed *aiders and abettors*, and sometimes accomplices. The *presence* need not be a strict actual immediate presence, such a presence as would make him an eye or ear witness of what passes, but may be a constructive presence. By presence is meant such

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contiguity as will enable the party to render assistance to the main design. There must be a participation in the act, for although a man be present whilst a felony is committed, if he takes no part in it, and does not act in concert with those who commit it, he will not be a principal in the second degree merely because he did not endeavour to prevent the felony or apprehend the felon. So a mere participation in the act, without a felonious participation in the design, will not be sufficient. The party must be so near as to be able to assist in the felony. When an offence is committed through the medium of an innocent agent, the employer, though absent when the act is done, is answerable as a principal. If a fact amounting to murder should be committed *in prosecution of some unlawful purpose*, though it were but a bare trespass, all persons who had gone in order to give assistance for carrying such unlawful purpose into execution would be guilty of murder. But where the purpose was lawful, it will be murder only in the party killing and his actual aiders and abettors. III. An *accessory before the fact* is he who, being absent at the time of the offence committed, doth yet procure, counsel, command, or abet another to commit a felony. Whoever procures a felony to be committed, though it be by the intervention of a third person, is an accessory before the fact; for there is nothing in the notion of commanding, hiring, counselling, aiding, or abetting which may not be effected by the intervention of a third person without any direct immediate connexion between the first mover and the actor. It is enough if the accessory direct an intermediate agent to procure another to commit a felony; and it will be sufficient, even though the accessory does not name the person to be procured, but merely directs the agent to employ some person. In *high treason* there are no accessories, but all are principals; but in felonies in general there may be accessories, except only in those offences which are sudden and unpremeditated, where there cannot be any accessories before the fact. In *crimes under the degree of felony* there can be no accessories, but all persons concerned

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therein, if guilty at all, are principals. IV. An *accessory after the fact* is a person who, knowing a felony to have been committed by another, receives, relieves, comforts, or assists the felon. Whoever rescues a felon from an arrest for the felony, or voluntarily and intentionally suffers him to escape, or opposes his apprehension, is an accessory to the felony. But a wife who receives, comforts, or relieves her husband, knowing him to have committed a felony does not thereby become an accessory after the fact. This, however, is the only relationship which will excuse such an act, the husband being liable for receiving the wife. A man may make himself an accessory after the fact to a larceny of his own goods, or to a robbery on himself, by harbouring or concealing the thief, or assisting in his escape. The felony must be complete at the time of the assistance given, else it makes not the assistant an accessory. In order to render a man guilty as accessory, he must have notice, either express or implied, of the principal having committed a felony. Aiding and abetting in the commission of a misdemeanour is itself a misdemeanour. In misdemeanours all are principals, and there are no accessories. For trial and punishment of accessories to felonies and misdemeanours, see 24 & 25 Vic., c. 94.

Accomplice.—The evidence of an accomplice in a criminal offence is admissible, since if accomplices were not admitted as witnesses it would frequently be impossible to find evidence to convict the greatest offenders. It is not a matter of course to admit an accomplice to give evidence on the trial, even though his testimony has been received by the committing magistrate; but an application to the Court for the purpose must be made. If there be sufficient evidence to convict without his testimony, the Court will refuse to allow him to be admitted as a witness. So also, if there be no reasonable probability of a conviction with his evidence, the Court will refuse his testimony. The jury may, if they please, act upon the evidence of the accomplice, even in a capital case, without any confirmation of his statement; but the

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judge will warn them of the extreme danger of doing so. It may be regarded as the settled course of practice not to convict a prisoner, excepting under very special circumstances, upon the uncorroborated testimony of an accomplice. As to the nature of the corroboration which ought to be required it is considered essential that corroboration should be given of the *prisoner having actually participated in the offence*, and when several prisoners are tried that confirmation should be required as to all of them before all can be safely convicted. Lord Abinger said :—"A man who has been guilty of a crime himself will always be able to relate the facts of the case, and if the confirmation be only on the truth of that history, *without identifying the persons*, that is really no confirmation at all. The danger is that when a man is fixed and knows that his own guilt is detected, he will purchase impunity by falsely accusing others." The rule requiring corroborative evidence does not apply to an *informer*, as, though great odium may attach to him for the part he has acted, yet his case is not treated as that of an accomplice. The admission of an accomplice who afterwards refuses to give evidence, or denies the facts admitted by him, can be used as evidence against him, and he can be convicted on his own confession.

Affray—M.—An affray is the fighting of two or more persons in some public place to the terror of the King's subjects, for if the fighting be in private, it is not an affray, but an assault. It differs from a riot in not being premeditated, and also, two persons may be guilty of an affray, but it requires three or more to constitute a riot. Mere words will not make an affray. There may be an assault which will not amount to an affray, as when it happens in a private place, out of the *hearing* or *seeing* of any except the parties concerned, in which case it cannot be said to be to the terror of the people. A prize fight is an assault, and not an affray. Anyone who sees others fighting may lawfully part them, and also stay them till the heat be over, and then deliver them to the Constable, who may carry them before a magistrate, in order to their finding sureties for the peace. A

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Constable is not only empowered, as all private persons are, to part an affray which happens in his presence, but is also bound, at his peril, to use his best endeavours for this purpose. If an affray be in a house the Constable may break open the doors to preserve the peace; and if affrayers fly to a house, and he follow in pursuit, he may break open the doors to take them. But in either case there must be some circumstances of extraordinary violence in the affray to justify the Constable in breaking open doors without a magistrate's warrant. A constable has no power to arrest a man for an affray *done out of his own view* without a warrant. To support a prosecution for an affray, the prosecutor must prove—(1) the affray or fighting; (2) that it was in a public place; (3) that it was to the terror of the King's subjects; (4) that two or more persons were engaged in it.

Allegiance—*seducing soldiers or sailors from*—37 Geo. III., c. 40, Ir., s. 1.—Any person who shall maliciously and advisedly endeavour to seduce any person or persons serving in His Majesty's forces, by sea or land, from his or their duty and allegiance to His Majesty, or to incite or stir up any such person or persons to commit any act of mutiny, or to make or endeavour to make any mutinous assembly, or to commit any traitorous or mutinous practice whatsoever, F.

Apprentices and servants, 24 & 25 Vic., c. 100, s. 26.—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, M. See also page 235.

Arrest of Offenders.

I. Arrest without Warrant by Common Law.—Arrest in a criminal sense is the apprehension or restraining of the person of a man in order that he shall be forthcoming to answer an alleged or suspected crime. A Constable, who is the ordinary conservator of the peace, is in many cases authorized by law to arrest,

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though not armed with a warrant; and it may here be observed that wherever the Constable has such authority, then it is also his duty to interfere, which, if he refuses to perform, he may be indicted and fined. He is justified in removing, or taking into custody (but not in striking) any person who assaults or otherwise obstructs him in the execution of his duty. For the more effectual performance of his duty in the arrest and detention of offenders, he is entitled to command the assistance of all persons whatever; and whatever protection the law affords to the Constable himself, the same is extended to those acting properly in his aid.

1. *On his own view.*—A Constable ought to arrest all persons whom he sees committing any treason or felony, or inflicting any dangerous wound. So also it is his duty to interpose in case of any riot, assault, or other breach of the peace, and to quell or prevent the same, by arresting the guilty parties while he sees them actually engaged. If he see anyone threatening to commit treason, felony, or an assault, or otherwise to break the peace, he may take him into custody and convey him before a magistrate; but if the threat seems an idle one, and there has been no breach of the peace, an arrest would not be justifiable. If persons be merely quarrelling, or insulting others by words, the Constable has no right to take them into custody, but should be ready to prevent a breach of the peace.

2. *On his own suspicion.*—A Constable having reasonable cause to *suspect* that treason or felony has been committed by an individual or a dangerous wound given, is justified in arresting him, though it should afterwards appear that no such offence had been committed; but if the charge does not rest upon reasonable grounds he will be liable for the illegal arrest. There is an important distinction between arrests by private persons and arrests by Constables. In order to justify the former in causing the imprisonment of a person without warrant, he must not only make out a *reasonable ground of suspicion,* but must prove that *a felony has been actually committed;* whereas a Con-

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stable having reasonable ground to suspect that a felony has been committed is authorized to arrest the suspected party without warrant and take him before a magistrate, although no felony has been committed. At common law a Constable has no authority to arrest a person without warrant *on a charge of misdemeanour*, except in such offences as tend to a breach of the peace.

The following causes of suspicion are stated by Hawkins to justify the arrest of an innocent person for felony:—(1) The common fame of the country, if such fame had some probable ground. (2) Being found in such circumstances as induce a strong presumption of guilt, as coming out of a house where a murder has been committed, with a bloody knife in one's hand; being found in possession of stolen goods without being able to account for their possession. (3) Behaving so as to betray a consciousness of guilt, as absconding on being charged with a felony. (4) Being found in company with one known to be an offender at the time of the offence, or generally at other times keeping company with persons of scandalous reputation. (5) Living an idle, vagrant, and disorderly life, without having visible means to support it.

3. *On the charge of third persons.*—By giving a person in charge is meant the desiring a Constable to take a party into his custody, and to keep him in custody, that he may be dealt with according to law. A Constable is justified, upon the reasonable charge and information of another, in arresting anyone supposed to be guilty of *treason or felony, or inflicting a dangerous wound*, even though it should afterwards turn out that the party was not guilty, or, in fact, that no such crime had been committed. If the charge be unfounded, or such as not to justify the apprehension of the party, the person making it, and not the Constable, will be responsible. If upon a reasonable charge of felony, or other crime for which a Constable may arrest without warrant, the Constable refuse to arrest, he may be indicted and fined. In such cases the Constable ought to consider the condition and

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repute of the person making the charge, and also of the person against whom it is made, as well as the seriousness of the offence charged, and regulate his conduct accordingly. A formal and accurate charge is not required. It is sufficient if it substantially describe the offence. Sometimes it happens that the information given is not even intended to amount to *a charge*, but only a *suggestion*, leaving the Constable to act or not upon it, as he may think right. He should then be very cautious how he proceeds. If after an arrest made such information should turn out to be false, and it should appear that the Constable had not made all due inquiry into its truth, he would be held responsible in an action. The Constable should remember that he cannot take a person into custody charged with a *misdemeanour* without a magistrate's warrant.—(*Hayes' Digest of Criminal Law.*)

ARREST WITHOUT WARRANT BY STATUTE.—By the Vagrancy Act, 10 & 11 Vic., c. 84, sec. 4, any person may apprehend anyone offending against this Act. Offenders under the 12 & 13 Vic., c. 92 (cruelty to animals), s. 12, may be arrested by a Constable on view, or upon the complaint of the person giving name and address. By 14 & 15 Vic., c. 19, s. 10, any person may apprehend a person found committing an offence against this Act; and by s. 11, any person whatsoever may apprehend any person found committing an indictable offence *in the night* (*i.e.*, between 9 P.M. and 6 A.M.) By the Summary Jurisdiction Act, 14 & 15 Vic., c. 92, s. 14, when the name and residence of an offender against this Act is unknown, he may without warrant be arrested by a Constable, or any persons whom he may call to his assistance. By the Towns Improvement Act, 17 & 18 Vic., c. 103, s. 72, any Constable or other officer appointed by virtue of this Act may arrest without warrant any person who in any street commits any of the offences contained in that section. By 24 & 25 Vic., c. 96, (larceny), s. 103, any person found committing any offence against this Act, except only the offence of angling in the daytime, may be arrested without warrant by any person; and any person to whom any property shall be offered to be sold, pawned, &c., if he have reasonable cause to suspect that such property was *stolen*, may arrest the party offering the same. By the 24 & 25 Vic., c. 97 (injuries to property), s. 61, any person found committing any offence against this

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Act may be arrested without warrant by a Constable, or the owner of the property injured, or his servant, or any person authorized by him. By the 24 & 25 Vic., c. 99 (coinage), s. 31, any person may arrest any person committing an offence against this Act. By 24 & 25 Vic., c. 96, s. 104, c. 97, s. 57, c. 100, s. 66, a Constable may take into custody without warrant any person whom he shall find loitering or lying 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 against these Acts respectively. By the Penal Servitude Act, 27 & 28 Vic., c. 47, any Constable may arrest without warrant any convict on license whom he may reasonably suspect of having committed an offence, or having broken the conditions of his license. By the Pedlars Act, 34 & 35 Vic., c. 96, s. 18, any justice, Constable, or person to whom a pedlar offers his goods for sale, or in whose grounds, &c., such pedlar is found, may arrest him if he refuses to show his certificate or if he has no certificate. By the Prevention of Crimes Act, 1871, 34 & 35 Vic., c. 112, s. 7, a Constable authorized in writing by the District Inspector of the District may arrest any person subject to police supervision, if such person be getting his livelihood by dishonest means; or a Constable, without any written authority, may arrest such person if he is found in any place about to commit any indictable or other offence; and a Constable, or the owner of the property, or his servants, may arrest such person if he is found in any dwelling-house, shop, &c., or premises, without being able to account for his being on such premises. By 39 & 40 Vic., c. 36, s. 90, persons making signals to smuggling vessels may be arrested by any person. By the Peace Preservation (Ireland) Act, 1881, 44 Vic., c. 5, any person carrying, or having, or reasonably suspected of carrying or having any arms or ammunition in contravention of this Act, may be arrested without a warrant by any Constable. Under the *Army Act*, 1881, and under the Naval Act, a Constable, &c., may arrest a man upon reasonable suspicion that he is a deserter from the Army, Royal Marines, or Navy. Like provisions for arrest without warrant are contained in many other Acts.

It is much the safer course for the Constable in all cases not requiring immediate interference, to obtain a magistrate's warrant before arresting an offender, and if he does so he will be entitled to the benefit of the 43 *Geo. III. c.* 143, *which protects him when acting under a warrant on his granting on request a copy thereof.*

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Time and place of arrest.—A person charged with a criminal offence may be apprehended at any time in the day or night, and on Sunday; and no place affords protection to offenders against the criminal law. Not even is a person's own house a sanctuary for him; and doors may be broken in order to obtain an entrance, to arrest a person on a charge of felony where a felony has been committed, or a dangerous wound given, or where an officer of justice comes armed with process founded on a breach of the peace, provided that due notice of the business, demand of entrance, and refusal of admission has been previously made; but bare suspicion touching the guilt of the party will not warrant a proceeding to this extremity, though a felony has been actually committed, unless the Constable comes armed with a warrant from a magistrate grounded on that suspicion. If there be an affray in a house, whereby there is likely to be manslaughter or bloodshed, and the Constable demand entrance, and be refused by those within, who continue the affray, the Constable may break open the doors to keep the peace, and prevent the danger; and when inside he may then break open any *inward* door, if he find that necessary.

Manner of arrest.—In making the arrest the Constable making it should actually touch the offender's body, or otherwise restrain his liberty. So if the Constable merely touch the hand of the party through the broken pane of glass of a window, and say, "You are my prisoner," it is a good arrest, and the officer may proceed to break open the outer door of the house to complete it. The mere requiring the party to go before the magistrate is no arrest or imprisonment, *for bare words will not make an arrest.* But if a Constable comes into a room, and tells the party he arrests him, and locks the door, this is an arrest, for he is in custody of the Constable. So if the Constable or other person says to the party, "I arrest you," and the party acquiesces and goes with him, this will be a good arrest, although it would be otherwise if instead of submitting he had escaped.

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A *private individual*, in order to justify breaking open doors without warrant, must in general prove the actual guilt of the party arrested, and that it will not suffice to show that a felony has actually been committed by another person, or that reasonable ground of suspicion existed; but an *officer* acting *bona fide* on the positive charge of another will be excused, and the party making the accusation will alone be liable. A private individual may break and enter a party's house, and imprison him in order to prevent him from murdering his wife, who cries for assistance. When a person escapes from a lawful arrest, and shelters himself in a house, the Constable may break into it and retake him, whatever the cause of the arrest may have been; but if it be not on fresh pursuit, the Constable should have a magistrate's warrant. If a felony be committed, or a felon fly from justice, or a dangerous wound be given, it is the duty of every man to use his best endeavours for preventing an escape.

What to be done after arrest.—When the party is arrested the Constable should take him before a magistrate so soon as it is possible for him to do so, and in the meantime he should keep or lodge him in safe custody. The Constable has not the power of discharging a prisoner (except when a person is detained on the charge of drunkenness, or in a case of wrongful custody of an entirely innocent person, *when further detention would be illegal*), but must take him before the nearest magistrate, to be dealt with according to law. A Constable is bound to treat a prisoner while in his custody with no greater severity than is necessary to prevent his escape. *As to handcuffing*, the law is that Constables are not only justified, but are bound, to take all reasonably requisite measures for preventing the escape of those persons they have in custody, for the purpose of taking them before the magistrates; but what those reasonable measures are must depend entirely upon the temper and conduct of the person in custody, on the nature of the charge, and a variety of other circumstances which must present themselves

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to the mind of anyone. There is no general rule that everyone conveyed before the magistrates is to be handcuffed, and any such rule is unjustifiable in law; and in every case of the kind the question is whether, looking at all the circumstances of the case, the Constable used reasonable precautions, or used unnecessary measures to secure the safe custody of his prisoner. When the prisoner is brought before the magistrate he is still considered to be in the custody of the Constable, until he has been either discharged, bailed, or committed to prison. A Constable has no right, on arresting a person, to take away from him any money or property which he may have about him, unless it is in some way connected with the offence with which he is charged.

Where a Constable makes an arrest on suspicion and subsequently satisfies himself that his suspicion was wrong, his duty is as follows:—

"If the Constable satisfies himself that his suspicion was wrong before the person arrested has been brought before a magistrate, he should at once discharge him. If the person has been already brought before a magistrate, the Constable should at once communicate with the magistrate with the view of having the person at once discharged."

Arsenic, 14 & 15 Vic., c. 13.—S. 1. Every person who shall sell any arsenic shall forthwith, and before the delivery of such arsenic to the purchaser, enter in a book to be kept by such person, a statement of such sale, with the quantity of arsenic so sold, and the purpose for which such arsenic is required, and the day of the month and year of the sale, and the name, place of abode, and condition or occupation of the purchaser; and such entries shall in every case be signed by the person making the same, and also by the purchaser, unless the purchaser is unable to write, in which case the words "cannot write" are to be added.—S. 2. No person shall sell arsenic to any person who is unknown to the person selling such arsenic, unless the sale be made in the presence of a witness who is known to the seller, and to whom the purchaser is known, and who signs his name and place of abode to the entries. Arsenic is not to be sold to other than a person of full age.—S. 3. Arsenic, before sale, is to be mixed with soot or indigo, but if that would injure the article, then it may be sold unmixed in a quantity not less than 10 lbs.—S. 4. If any person shall sell

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arsenic contrary to the provisions of this Act, every person so offending shall, for every offence, upon *summary conviction*, be liable to P. not exceeding £20.—S. 5. This Act does not apply where the arsenic is sold as an ingredient in medicine, or when sold in wholesale to retail dealers in the course of business.*

Arson, 24 & 25 Vic., c. 97.—S. 1. Unlawfully and maliciously setting fire to any church, chapel, meeting-house, or other place of divine worship, F.—S. 2. Unlawfully and maliciously setting fire to any house any person being therein, F.—S. 3. Unlawfully and maliciously setting fire to any house, stable, outhouse, &c., manufactory, farm-building, &c., F.—S. 4. Unlawfully and maliciously setting fire to any station, engine-house, warehouse, or other building belonging to any railway, port, dock, or harbour, canal, or navigation, F.—S. 5. Unlawfully and maliciously setting fire to any public building other than such as are before mentioned belonging to the Queen, or to any county, city, borough, or place, college, or university, F.—S. 6. Unlawfully and maliciously setting fire to any building other than such as are before mentioned, F.—S. 7. Unlawfully and maliciously setting fire to any matter or thing, being in, against, or under any building under such circumstances that if the building were thereby set fire to, the offence would amount to felony, F.—S. 8. Unlawfully and maliciously, by any overt act, *attempting* to set fire to any building, or any matter or thing in the last section mentioned, that if set fire to, the offender would be guilty of felony, F.—S. 16. Unlawfully and maliciously setting fire to any *crop* of hay, grass, grain, &c., or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood or plantation of trees; or to any heath, furze, or fern, wheresoever the same may be growing, F.—S. 17. Unlawfully and maliciously setting fire to any stack of corn, grain, hay, straw, stubble, or of any cultivated vegetable produce, or of furze, heath, fern, turf, coals, charcoal, wood, or bark, &c., F.—S. 18. Unlawfully and maliciously, by any overt act, *attempting* to set fire to any such matter or thing as in either of the last two sections mentioned, under circumstances that if set on fire, the offender would be guilty of felony, F.—S. 26. Unlawfully and maliciously setting fire to any mine of coal, cannel coal, or other mineral fuel, F.—S. 27. Unlawfully and maliciously, by any overt act, attempting to set fire to any mine

* See Sale of Poisons (Ireland) Act, p. 297.

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under such circumstances that if set on fire, the offender would be guilty of felony, F.—S. 27. Unlawfully and maliciously setting fire to, casting away, or in anywise destroying any ship or vessel, whether the same be complete or in an unfinished state, F.—S. 43. Setting fire to, or destroying any ship to prejudice any owner, or the underwriters, &c., F.—S. 44. Attempting to set fire to, or cast away, or destroy any ship or vessel, under such circumstances that if attempt succeeded the offender would be guilty of felony, F.

[*Proof of malice and wilfulness.*—It must be proved that the act of burning was both wilful and malicious, otherwise it is only a trespass and not a felony. If A has a malicious intent to burn the house of B, and, without intending it, burns that of C, it is felony. The absence of malice or spite to the owner is no answer to the charge. It is sufficient overt act to render a person liable to be found guilty of attempting to set fire to a stack under this statute if he go to the stack with the intention of setting fire to it, and light a lucifer match for that purpose, but abandon the attempt, because he finds that he is being watched.]

Assault.—At common law an assault is an *attempt or offer* with force and violence to do a corporal hurt to another, as by striking at another with a stick or other weapon, or without a weapon, though the party striking misses his aim. So drawing a sword, holding up a fist in a menacing manner, throwing a bottle or glass with intent to wound or strike, presenting a loaded gun at a person within range, pointing a pitchfork at a person who is within reach, or any other similar act, accompanied with such circumstances as denote at the time an intention, coupled with a present ability, of using actual violence against the person of another, will amount to an assault. No words whatsoever, be they ever so provoking, can amount to an assault. It is not every threat, where there is no actual personal violence, that constitutes an assault; there must in all cases be the means of carrying the threat into effect. A *battery* is more than an *attempt* to do a corporal hurt to another; but any injury whatsoever, be it ever so small, being actually done to the person of a man, in an angry or revengeful, or rude or insolent manner, such as spitting in his face, or in any way touching him in anger, or violently jostling him out of the way, is a battery. Every battery includes an assault. The injury need not be effected directly by the hand of the party. Thus there may be an assault by encouraging a dog to bite, by riding over a person with a horse, by wilfully and violently driving a cart, &c., against the carriage of another, and thereby causing bodily injury to the persons travelling in it, by

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throwing a lighted squib into a market-place, which being tossed about hits a person, by pushing a drunken man against another and thereby hurting him. Where a prize or other fight takes place, and a number of persons are assembled to witness it, if they have gone thither for the purpose of seeing the combatants strike each other, and were present when they did so, they are all in point of law guilty of an assault. *Where an act is done with the consent of a party it is not an assault*, but if resistance be prevented by fraud it is an assault. An unlawful imprisonment is also an assault. To constitute the injury of false imprisonment there must be an unlawful detention With respect to the detention, every confinement of the person, whether it be in a common prison or in a private house, or by forcible detaining in the public streets, will be sufficient. The *intention* with which the act is done is material in the inquiry whether it will amount to an assault. If the injury committed were accidental and undesigned it will not amount to a battery. If one of two persons who are fighting strike at the other, and hit a third person unintentionally, this is a battery, and cannot be justified on the ground that it was accidental. In some cases force used against the person of another may be justified, and will not amount to an assault and battery, as a Constable in arresting and securing a prisoner, a parent in chastising his child, or a schoolmaster his scholar. If a man beat one who is making an assault upon his own person, or upon that of his *wife*, *parent*, *child*, or *master*, the party may justify the assault; but if the violence used be more than was necessary to repel the assault, the party may be convicted of an assault. In cases where Constables have authority to arrest, their laying hands upon persons in order to do so is no battery in law, but in all such cases the force used must be only so great as is necessary for the purpose of effecting the object in view, and if there be an excess of violence the Constable will be guilty of an assault. If, therefore, a Constable is preventing a breach of the peace, and any person stands in the way with intent to prevent him from so doing, the Constable is justified in taking such person into custody. A Constable is entitled to the possession of the warrant under which he acts, and if he deliver it to the party against whom it is issued, and he refuse to re-deliver it, the Constable may use so much force as is necessary to get possession of it again. Where there is a trespass (as entering the lands or house of another, &c.), without violence, there must be a request to depart or desist before force is used. And in all cases where the

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force used is justifiable, it must appear that it was not greater than was reasonably necessary to accomplish the lawful purpose intended to be effected. (*Russell on Crimes.*)

Assaults by statute, 24 & 25 Vic., c. 100.—S. 37. Assaulting and striking or wounding any magistrate, officer, or other person whatsoever lawfully authorized, in the exercise of his duty in the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, M.—S. 38. Assaulting any person with intent to commit felony, or *assaulting*, *resisting*, or *wilfully obstructing any peace officer in the due execution of his duty*, or any person aiding him, or assaulting any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, M.—S. 39. Beating, or using any violence or threats of violence to any person, with intent to deter or hinder him from buying or selling, or to compel him to buy, sell, or otherwise dispose of grain, flour, potatoes, &c., or with intent to stop the conveyance of same, O.—S 40. Unlawfully and with force hindering any seaman, keelman, or caster from working; or using violence, with intent to hinder or prevent him from working at his trade or occupation, O.—S. 42. Unlawfully to assault or beat any person, O.

[By 25 & 26 Vic., c. 50, s. 9, justices may proceed with cases under s. 42, although the party aggrieved may decline or refuse to prefer a complaint.]

S. 43. Aggravated assault or battery upon any boy whose age shall not in the opinion of justices exceed fourteen years, or upon any female, O. Imp. not exc. 6 mos., or P. not exc. £20.—S. 44. If the justices, on the hearing of any assault or battery under s. 42 or s. 43, find the offence not proved, or the assault or battery to have been justified, or so trifling as not to merit punishment and shall dismiss the complaint, they shall give a certificate of such dismissal to the accused.—S. 45. Such certificate on a conviction under s. 42 or s. 43 is a bar to all further proceedings.

[A conviction or dismissal by justices in petty sessions for an assault is not, however, a bar to an indictment for manslaughter upon the death of the man assaulted, consequent upon the same assault.]

Bail.—To refuse or delay to bail any person bailable is an offence against the liberty of the subject. Three elements are to be taken into consideration in

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determining bail, namely—the gravity of the crime, the weight of evidence, and the severity of the punishment, with regard to the probability of his appearance to take his trial. In any case of serious doubt or nicety, it is safer to reject than to admit to bail, as if rejected, the party may obtain relief by writ of *habeas corpus*, or by motion that the committing magistrate shall return the informations. Neither a magistrate nor the coroner has authority to admit to bail any person committed by a coroner's warrant on the charge of murder. The only course is for the prisoner to apply to the Court of Queen's Bench. No coroner has power to interfere with a prisoner already committed by a magistrate on a criminal charge. Taking bail where the offence is not bailable, is punishable by fine, or by indictment at common law. The cases in which a magistrate has no authority to admit offender to bail, or in which he has a discretionary power of refusing bail and the procedure for taking bail, are provided for in 14 & 15 Vic., c. 93, s. 16. By 23 & 24 Vic., c. 113, s. 39, any person taken before a magistrate charged with an offence against the laws of Inland Revenue, for which he may be convicted or arrested, may be remanded for eight days, or the magistrate may take bail by recognizance with or without sureties.

Sureties.—A magistrate cannot reject persons as sureties merely on account of their moral character or political opinions. The amount of bail is discretionary with the magistrate, and depends on the quality of prisoner, and the nature of offence. It is, however, illegal to require excessive bail. The number of sureties required is one or more; in serious cases they ought not to be less than two, while in the Queen's Bench or *habeas corpus*, or in treason cases, four sureties are required. A housekeeper of sufficient property, the prisoner's attorney, or a peer, may be bail. A married woman (for her recognizance cannot be estreated), a person under twenty-one years, a person convicted of an infamous crime, a lately discharged insolvent, cannot be bail. The magistrate

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should obtain the signatures of the principal, and sureties to the recognizances. Upon sworn information that the person bailed is about to abscond, any magistrate, upon the application of one or both sureties, may issue a warrant for his arrest, and commit him to gaol, or bail him by other sureties (14 & 15 Vic., c. 93, s. 17). The party bailed is considered in law as in custody of his sureties, and they may arrest him if they fear his escape, and take him before the justice or court, by whom he may be committed, and thus the bail may be discharged from their recognizance.

Bankrupt Act.—Criminal offences under 35 & 36 Vic., c. 57.—S. 11 contains a list of sixteen offences, indictable as misdemeanours, which may be committed by any person adjudged a bankrupt. S. 12. Any person adjudged bankrupt, or who has presented a petition for arrangement after adjudication or presentation respectively, or within four months before such adjudication or presentation, quits Ireland, and takes with him, or attempts or prepares to do so, any part of his property, to the amount of £20 or upwards, which ought, by law, to be divided amongst his creditors, unless the jury is satisfied that he had no intent to defraud, F.—Ss. 13 and 14 contain five offences indictable as misdemeanours, which may be committed by any person fraudulently obtaining credit, or making a false claim.

Bawdy house.—A *common bawdy house* is a house or room or set of rooms in any house kept for the purposes of prostitution. Keeping a *bawdy house* is a misdemeanour at common law, it being a common nuisance, as it endangers the public peace by drawing together dissolute and debauched persons, and also has an apparent tendency to corrupt the manners of both sexes by such an open profession of lewdness. Any person who appears, acts, or behaves as master or mistress, or as the person having the care, government, or management of any disorderly house, is to be deemed and taken to be the keeper thereof, and is liable to be prosecuted and punished as such, although in fact he is not the real owner or keeper thereof. A married woman may be guilty of this offence as if she were single. A lodger who keeps only a single room

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for the use of bawdry is indictable for keeping a bawdy house. It is not necessary to prove who frequents the house, but if unknown persons are proved to have been there, conducting themselves in a disorderly manner, it will support the indictment. It is not necessary that the indecency or disorderly conduct should be perceptible from the exterior of the house. The bare solicitation of chastity is not indictable.—See Criminal Law Amendment Act, 1885, S. 13, page 82.

Beer Retailers, Spirit Grocers, and Wholesale Beer Dealers' Licenses.

Procedure for grant, &c., of License.—Beer retailers, spirit grocers (Act 1872, s. 82), and wholesale beer dealers (Act 1874, s. 8), receive the justices' certificate for the grant, transfer, or renewal of their licenses under the provisions of "The Beerhouses (Ireland) Act, 1864" (27 & 28 Vic., c. 35); such traders are only licensed to sell for consumption *off* the premises. Their licenses, which expire on the 10th October in each year (38 Vic., c. 23, s. 12), are granted, transferred, and renewed by the proper officer of Inland Revenue upon the production of a certificate signed by two or more justices presiding at petty sessions of the district in which such person resides, or if in the Dublin metropolitan district, by one divisional justice—to the good character of such person, and to the suitability of the premises for the purposes of such sale; and in case of a renewal or transfer—to the good character of the person applying for renewal, or of the person to whom the transfer is to be made, and to the peaceable and orderly manner in which such house has been conducted in the past year (sec. 3). The certificate for the permanent grant or transfer of such licenses cannot be granted except at the annual licensing petty sessions, but a temporary grant or transfer may be granted at any other petty sessions*, which, however, shall only

* The day of holding the last petty sessions in the month of September in each year is fixed as the time for holding the annual licensing petty sessions for each petty sessions district in Ireland (except for the county of the town of Carrickfergus, where it is the last petty sessions in June).

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continue in force until the annual licensing petty sessions held next after the grant of such certificate, unless at such annual sessions such certificate shall be confirmed, when, if the certificate be not confirmed, the beer retailer's, spirit grocer's, or wholesale beer dealer's license, as the case may be, shall not be renewed. (Act 1874, s. 12.)

Notice to Police Officers.—Every person applying for a certificate to enable him to obtain the grant or transfer of either of these licenses is required to give before the petty sessions twenty-one days' notice in writing to the district-inspector of the district, or in his absence to the head constable, or if in the Dublin metropolitan police district, to the superintendent of police of the division in which he resides, stating (1) the intention of such person to make such application; (2) his place of residence; (3) the situation and place of the house where such person purposes to carry on business; and (4) where such person had been previously licensed for the sale of exciseable liquors, to be consumed on or off the premises—the last place of business whereat such sale had been carried on, with *the date* at which such person had given up business. (Sec. 4.)

Police Officers may object.—The district-inspector of the district, or, in his absence, the head-constable—or if in the Dublin metropolitan police district, the superintendent of police of the division—is authorized to object before the justices or the divisional justice at the annual licensing or other petty sessions, to the issue of such certificate for grant, transfer, or renewal; and the justices shall in such case proceed to consider, examine on oath into, and adjudicate upon the truth, sufficiency, and validity of such objection; and if the justices are satisfied of the truth and sufficiency of any such objection, they may refuse to grant the certificate. (Sec. 5.)

Renewal of License.—The justices' certificate for renewal of such licenses is obtained at any petty sessions previously to the expiration of the excise license. Such certificate to the good character of the

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license holder and peaceable and orderly manner in which his house has been conducted in past year, has to be signed by two magistrates, or if in Dublin by a divisional justice as before stated. (Sec. 3.)

Appeal.—Either the applicant or the police officer objecting may, if dissatisfied with the decision, appeal therefrom to the next quarter sessions of the division in which such decision shall have been given, or if within the police district of Dublin metropolis, then to the Recorder of the city of Dublin at his next sessions. It will be observed that the applicant has the right of appeal against the justices' refusal of the certificate for the grant or transfer, as well as for renewal. (Sec. 13.)

Beer Licenses Regulation (Ireland) Act, 1877 (40 *Vic., chap.* 4).—S. 2.—It shall not be lawful for any officer of excise in Ireland to grant a license or transfer of a license for the sale of beer, ale, or porter to be drunk or consumed elsewhere than on the premises where sold, or to grant a renewal of any such license as aforesaid to any person whomsoever, in respect of any premises, unless upon the production of a certificate that such premises, with premises belonging thereto and occupied therewith, if any, are rated for the relief of the poor for the sum of eight pounds or upwards, or in respect of any premises situate in any city or town, as defined by "The Licensing Act (Ireland), 1874," containing a population exceeding ten thousand, according to the then last parliamentary census, unless upon the production of a certificate that such premises, with the premises belonging thereto and occupied therewith, if any, are rated for the relief of the poor in a sum of fifteen pounds or upwards; nor unless upon the production of a certificate that such rated premises, wherever situate, have been in the exclusive occupation of such person for a period of three months at the least immediately preceding the date of such certificate. Every such certificate as is mentioned in this section shall be signed by two or more justices of the peace presiding at the petty sessions of the district in which such person resides, or, if in the Dublin metropolitan police district, by a divisional justice of the district in which such person resides. All applications for certificates shall be made in the same manner, and subject to the like conditions as to appeal, &c., as are prescribed for certificates under "The Beerhouses (Ireland) Act, 1864."—S. 3. The several provisions of the eleventh section of "The Beerhouses (Ireland) Act

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1864,"* are extended so as to apply to any person licensed to sell beer by wholesale to be consumed off the premises where sold, who shall keep his house or premises open for the sale of beer between the hours of 7 A.M. and 7 P.M.

[Section 3, taken with section 11 of 27 and 28 Vic., chap. 35, empowers the Constabulary to enter the premises of wholesale beer dealers *at any time or hour* at which such premises are kept *open* for the sale of beer. It is also thus provided that all the rights, powers, and authorities given to a Constable in and by the second section of 8 and 9 Vic, chap. 64, and the twelfth section of 17 and 18 Vic., chap. 89, and the several fines, &c., contained in the said sections in relation to the offences therein respectively set forth, shall extend and be applicable to wholesale beer dealers and the houses and premises in which they shall carry on the sale of beer, during the hours of sale: (see pages 112, 119, and 146 of Licensing Acts Manual)].

Betting Acts, 1853 and 1874.

Betting Act, 1853, 16 & 17 *Vic., c.* 119.—S. 1. *No house or place to be kept for betting.*—No house, office, room, or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management, or in any manner conducting the business thereof—betting with persons resorting thereto; or for the purpose of any money or valuable thing being received by or on behalf of such owner, occupier, keeper, or person as aforesaid, as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race, or other race, fight, game sport, or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid; and every house, office, room, or other place opened, kept, or used for the purposes aforesaid, or any of them, is hereby declared to be a common nuisance, and contrary to law. S. 2. Every house or place so used shall be deemed a common gaming house within 8 & 9 Vic., c. 109, "Gaming Houses Act." S. 3. Penalty for opening, keeping, or using a house or place for betting house--not exceeding £100 and costs. S. 4. Owner or occupier of such house or place, or any person acting for or on

* See page 199.

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behalf of them, or having the care or management or assisting in the business there, who shall receive, directly or indirectly, any deposit on any such condition; and any person giving any acknowledgment or draft on the receipt of any money or valuable thing purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on any such event or contingency—penalty not exceeding £50 and costs. S. 5. Any money or valuable thing so received, or the value thereof, may be recovered, with full costs of suit, by action. S. 6. Act not to extend to persons holding any stakes or deposit to be paid to the winner of any race or lawful game.

S. 7. *Advertising Betting Houses.*—Any person exhibiting or publishing, or causing to be exhibited or published, any placard, handbill, card, writing, sign, or advertisement, whereby it shall be made to appear that any house, office, room, or place is opened, kept, or used for the purpose of making bets or wagers in manner aforesaid, or for the purpose of exhibiting lists for betting, or with intent to induce any person to resort to such house, office, room, or place for the purpose of making bets or wagers in manner aforesaid; or any person who on behalf of the owner or occupier of any such house, office, room, or place, or person using the same, shall invite other persons to resort thereto for the purpose of making bets or wagers in manner aforesaid—penalty not exceeding £30 and costs.

S. 11. *Search Warrant.*—Any justice on complaint on oath that there is reason to suspect any place to be used as a betting house may issue a warrant to any Constable to enter, with assistance, and, if necessary, with force, *and arrest and search any person therein*, and to seize all lists or other documents relating to racing or betting found therein.

Betting Act, 1874, 37 Vic., c. 15.—S. 1. This Act shall be construed as one with 16 & 17 Vic., c. 119 (referred to as the principal Act), and both Acts shall be cited together as the Betting Acts, 1853 and 1874.

S. 3. *Penalty on Persons advertising as to Betting.*—Where any letter, circular, telegram, placard, handbill, card, or advertisement is sent, exhibited or published,—

(1.) Whereby it is made to appear that any person, either in the United Kingdom or elsewhere, will on application give information or advice for the purpose of or with respect to any such bet or wager, or any such event or contingency as is mentioned in the principal Act, or will make on behalf of any other person any such bet or wager as is mentioned in the principal Act; or,

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(2.) With intent to induce any person to apply to any house, office, room, or place, or to any person, with the view of obtaining information or advice for the purpose of any such bet or wager, or with respect to any such event or contingency as is mentioned in the principal Act; or,

(3.) Inviting any person to make or take any share in or in connexion with any such bet or wager; every person sending, exhibiting, or publishing, or causing the same to be sent, exhibited, or published, shall be subject to the penalties provided in the 7th section of the principal Act with respect to offences under that section.

Bigamy, 24 & 25 Vic., c. 100.—S. 57. 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 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 (1) to any second marriage contracted elsewhere than in *England* and *Ireland by any other than a subject of Her Majesty*, or (2) 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 (3) 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 (4) to any person whose former marriage shall have been declared void by the sentence of any Court of competent jurisdiction.

[*Proof.*—Upon an indictment for bigamy the prosecutor must prove (1) the two marriages, and it is immaterial whether both marriages took place in this country or in a foreign country; (2) the identity of the parties; (3) that the first wife was alive at the time the second marriage was solemnized; (4) and if she had been absent for seven years then—that the prisoner knew she was alive. After proof of the first marriage, the second wife is a competent witness for then it appears the second marriage is void. When the wife has been absent for seven years it is for the prosecution to show, not only that the wife is alive but that the prisoner knew it at the time he contracted the second marriage. It is no defence to show that the *second* marriage is invalid, or even made void by statute. The first wife is not a competent witness to prove any part of the case, either for or against her husband.]

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Billeting of Soldiers, and Impressment of Carriages.

Army Act, 1881.

44 & 45 Vic., c. 58, continued by the Army (Annual) Act.

S. 103. *Constable to provide billets for officers and soldiers and horses.*—Every Constable* for the time being in charge at any place in the United Kingdom mentioned in the route issued to the Commanding Officer of any portion of Her Majesty's regular forces shall on the demand of such Commanding Officer, or of an officer or soldier authorized by him, and on production of such route, billet on the occupiers of victualling houses and other premises specified in this Act as victualling houses in that place, such number of officers, soldiers, and horses, entitled under this Act, to be billeted as are mentioned in the route, and stated to require quarters.

S. 104. *Liability to provide billets.*—(1) The provisions of this part of this Act, with respect to victualling houses, shall extend to all inns, hotels, livery stables, or ale-houses; also to the houses of sellers of wine by retail, whether British or foreign, to be drunk in their own houses or places thereunto belonging; and to all houses of persons selling brandy, spirits, strong waters, cider, or metheglin, by retail; and the occupier of a victualling house, inn, hotel, livery stable, ale-house, or any such house as aforesaid, shall be subject to billets under this Act, and is in this Act included under the expression, "Keeper of a victualling house," and the inn, hotel, house, stables, and premises of such occupier, are in this Act included under the expression "Victualling house." (2) Provided that an officer or soldier shall not be billeted (*a*) in any private house; nor (*b*) in any canteen; nor (*c*) . . . . ; nor (*d*) in the house of any distiller, kept for distilling brandy and strong waters, so as such distiller does not permit tippling in such house; nor (*e*) in the house of any shopkeeper whose principal dealing is more in other goods and merchandise than in brandy and strong waters, so as such shopkeeper does not permit tippling in such house; nor (*f*) in a house of a person licensed only to sell beer or cider not to be consumed on the premises; nor (*g*) in the house of residence of any foreign consul duly accredited as such.

* The expression "Constable" includes a High Constable, and a Commissioner, Inspector, or other officer of police (*s.* 190.)

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S. 105. (1) All officers and soldiers of Her Majesty's regular forces;* and (2) all horses belonging to Her Majesty's regular forces; and (3) all horses belonging to the officers of such forces, for which forage is for the time being allowed by Her Majesty's regulations—shall be entitled to be billeted.

[Militia when called out to annual exercise, and when embodied are entitled to billets (52 Geo. 3, c. 38, s. 100, and 45 and 46 Vic., c. 49, s. 37)].

S. 106. *Accommodation and payment on billet.*—(1) The keeper of a victualling house, upon whom any officer, soldier, or horse is billeted shall receive such officer, soldier, or horse in his victualling house, and furnish there the accommodation following: that is to say, lodging and attendance for the officer; and lodging, attendance, and food for the soldier; and stable room and forage for the horse, in accordance with the provisions of the Second Schedule to this Act. (2) Where the keeper of a victualling house on whom any officer, soldier, or horse is billeted, desires by reason of his want of accommodation, or of his victualling house being full or otherwise, to be relieved from the liability to receive such officer, soldier, or horse in his victualling house, and provides for such officer, soldier, or horse in the immediate neighbourhood, such good and sufficient accommodation as he is required by this Act to provide, and as is approved by the Constable issuing the billets, he shall be relieved from providing the same in his victualling house. (3) There shall be paid to the keeper of a victualling house for the accommodation furnished by him in pursuance of this Act the prices for the time being authorized in this behalf by Parliament. (4) An officer or soldier demanding billets in pursuance of this Act shall, before he departs, and if he remains longer than four days, at least once in every four days, pay the just demands of every keeper of a victualling house on whom he and any officers and soldiers under his command, and his or their horses (if any) have been billeted. (5) If by reason of a sudden order to march, or otherwise, an officer or soldier is not able to make such payment to any keeper of a victualling house as is above required, he shall, before he departs, make up with such keeper of a victualling house an account of the amount due to him, and sign the same, and forthwith transmit the

* The terms "regular forces" and "Her Majesty's regular forces" mean officers and soldiers who by their commission, terms of enlistment, or otherwise, are liable to render continuously for a term military service to Her Majesty in any part of the world (sec. 190).

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account so signed to a Secretary of State, who shall forthwith cause the amount named in such account as due to be paid.

S. 107. *Annual Lists of houses liable to billets.*—(1) The Police Authority* for any place may cause annually a list to be made out of all keepers of victualling houses . . . liable to billets under this Act, specifying the situation and character of each victualling house, and the number of soldiers and horses who may be billeted on the keeper thereof. (2) The Police Authority shall cause such list to be kept at some convenient place open for inspection at all reasonable times by persons interested . . . . .

S. 108. *Regulations as to grant of billets.*—The following regulations shall be observed with respect to billeting in pursuance of this Act: that is to say, (1) no more billets shall at any time be ordered than there are effective officers, soldiers, and horses present to be billeted; (2) all billets, when made out by the Constable, shall be delivered into the hands of the commanding officer or non-commissioned officer who demanded the billets, or of some officer authorized by such commanding officer; (3) if a keeper of a victualling house feels aggrieved by having an undue proportion of officers, soldiers, or horses billeted on him, he may apply to a Justice of the Peace, or, if the billets have been made out by a Justice, may complain to a court of summary jurisdiction, and the Justice or Court may order such of the officers, soldiers, or horses to be removed, and to be billeted elsewhere as may seem just; (4) . . . . .; (5) the regulations with respect to billets contained in the Second Schedule to this Act shall be duly observed by the Constable; (6) a Justice of the Peace, on the request of an officer or non-commissioned officer authorized to demand billets, may vary a route by adding any place or omitting any place, and also may direct billets to be given above one mile from a place mentioned in the route; (7) a Justice of the Peace may require a Constable to give an account in writing of the number of officers, soldiers, and horses billeted by such Constable, together with the names of the keepers of victualling houses on whom such officers, soldiers, and horses are billeted, and the locality of such victualling houses.

S. 109. *Offences by Constable.*—If a Constable commits any of the offences following: that is to say, (1) billets any

* The expression "Police Authority" means the Commissioner, Commissioners, Justices, Watch Committee, or other authority having the control of a Police Force. (S. 190.)

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officer, soldier, or horse on any person not liable to billets without the consent of such person; or (2) receives, demands, or agrees for any money or reward whatsoever to excuse or relieve a person from being entered in a list as liable, or from his liability to billets, or from any part of such liability; or (3) billets or quarters on any person or premises without the consent of such person, or the occupier of such premises, any person or horse not entitled to be billeted; or (4) neglects or refuses, after sufficient notice is given, to give billets demanded for any officer, soldier, or horse entitled to be billeted; he shall, on summary conviction, be liable to a fine of not less than 40*s.* and not exceeding £10.

S. 110. *Offences by keepers of victualling houses.*—If a keeper of a victualling house commits any of the offences following: that is to say, (1) refuses or neglects to receive any officer, soldier, or horse billeted upon him in pursuance of this Act, or to furnish such accommodation as is required by this Act; or (2) gives or agrees to give any money or reward to a Constable to excuse or relieve him from being entered in a list as liable, or from his liability to billets, or any part of such liability; or (3) gives or agrees to give to any officer or soldier billeted upon him in pursuance of this Act any money or reward in lieu of receiving an officer, soldier, or horse, or furnishing the said accommodation; he shall, on summary conviction, be liable to a fine of not less than 40*s.*, and not exceeding £5.

S. 112. *Impressment of carriages.*—Every Justice of the Peace in the United Kingdom, having jurisdiction in any place mentioned in a route issued to the commanding officer of any portion of Her Majesty's regular forces, shall on the demand of such commanding officer, or of an officer or non-commissioned officer authorized by him, and on production of such route, issue his warrant, requiring some Constable or Constables having authority in such place to provide, within a reasonable time to be named in the warrant, such carriages, animals, and drivers as are stated to be required for the purpose of moving the regimental baggage and regimental stores of the forces mentioned in the route in accordance with the route; and the Constable or Constables shall execute such warrant, and persons having carriages and animals suitable for the said purpose shall, when ordered by a Constable, in pursuance of such warrant, furnish the same in a state fit for use for the aforesaid purpose. . . . . The warrant ordering carriages, animals, and drivers to be provided shall specify the number and de-

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scription of the carriages, and also the places from and to which the same are to travel, and the distances between such places.

S. 114. *Annual list of persons liable to supply carriages.*—(1) The Police Authority for any place may cause annually a list to be made out of all persons in such place, or any particular part thereof, liable to furnish carriages and animals under this Act, and of the number and description of the carriages and animals of such persons; and, where a list is so made, any Justice may by warrant require any Constable or Constables having authority within such place, to give, from time to time, on demand by an officer or non-commissioned officer under this Act, orders to furnish carriages and animals, and such warrant shall be executed as if it were a special warrant issued in pursuance of this Act, on such demand, and the orders shall specify the like particulars as such special warrant. (2) The Police Authority shall cause such list to be kept at some convenient place open for inspection at all reasonable times by persons interested . . . . . (3) All orders given by Constables for furnishing carriages and animals shall, as far as possible, be made from such list in regular rotation.

S. 116. *Offences in relation to the impressment of carriages.*—Any Constable who neglects or refuses to execute any warrant of a Justice requiring him to supply carriages, animals, or vessels, &c., . . . shall, on summary conviction, be liable to a fine of not less than 20*s*., nor more than £20.

S. 117. A person ordered by any Constable in pursuance of this Act to furnish a carriage, animal, or vessel, who refuses or neglects to furnish the same according to the orders of such Constable and this Act . . . . shall, on summary conviction, be liable to pay a fine of not less than 40*s*. nor more than £10.

Second Schedule to Act.—Part I. *Accommodation to be furnished by keeper of victualling house.*—A keeper of a victualling house on whom any officer, soldier, or horse is billeted (1) shall furnish the officer and soldier with lodging and attendance; and (2) shall, if required by the soldier, furnish him for every day of the march, and for not more than two days, if the soldier is halted at an intermediate place on the march for more than two days, and on the day of arrival at the place of final destination, with one hot meal on each day, the meal to consist of such quantities of diet and small beer as may be from time to time fixed by Her Majesty's Regulations, not exceeding one

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pound and a quarter of meat previous to being dressed, one pound of bread, one pound of potatoes or other vegetables, and two pints of small beer, and vinegar, salt, and pepper; and (3) when the soldier is not so entitled to be furnished with a hot meal, shall furnish the soldier with candles, vinegar, and salt, and allow him the use of fire, and the necessary utensils for dressing and eating his meat: and (4) shall furnish stable room and ten pounds of oats, twelve pounds of hay, and eight pounds of straw on every day for each horse. Part II. *Regulations as to billets.*—(1) When the troops are on the march, the billets given shall, except in case of necessity, or of an order of a Justice of the Peace, be upon victualling houses in or within one mile from the place mentioned in the route; (2) care shall always be taken that the billets be made out to the less distant victualling houses in which suitable accommodation can be found, before billets are made out for the more distant victualling houses; (3) except in case of necessity, where horses are billeted, each man and his horse shall be billeted on the same victualling house; (4) except in case of necessity, one soldier at least shall be billeted where there are one or two horses, and two soldiers at least where there are four horses, and so in proportion for a greater number; (5) except in case of necessity, a soldier and his horse shall not be billeted at a greater distance from each other than one hundred yards; (6) when any soldiers, with their horses, are billeted upon the keeper of a victualling house who has no stables, on the written requisition of the commanding officer present, the Constable shall billet the soldiers and their horses, or the horses only, on the keeper of some other victualling house who has stables, and a court of summary jurisdiction, upon complaint by the keeper of the last mentioned victualling house, may order a proper allowance to be paid to him by the keeper of the victualling house relieved; (7) an officer demanding billets may allot the billets among the soldiers under his command, and their horses, as he thinks most expedient for the public service, and may from time to time vary such allotment; (8) the commanding officer may where it is practicable, require that not less than two men shall be billeted in one house.

58 Vic., c. 7, s. 3. There shall be paid to the keeper of a victualling house for the accommodation provided by him in pursuance of the Army Act, the prices specified in the Schedule to this Act.

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SCHEDULE.

Accommodation to be provided.	Maximum price.
Lodging and attendance for soldier where hot meal furnished.	Four pence per night.
Hot meal as specified in Part I. of the Second Schedule to the Army Act.	One shilling and three pence halfpenny each.
Breakfast as specified, . .	One penny halfpenny each.
Where no hot meal furnished, lodging and attendance, and candles, vinegar, salt, and the use of fire, and the necessary utensils for dressing and eating his meat.	Four pence per day.
Ten pounds of oats, twelve pounds of hay, and eight pounds of straw per day for each horse.	One shilling and ninepence per day.
Lodging and attendance for officer.	Two shillings per night.

NOTE.—An officer shall pay for his food.

Boiler Explosions Act, 1882.

45 & 46 Vict., Chap. 22.

S. 1. *Short title.*—This Act may be cited as the Boiler Explosions Act, 1882.

S. 2. *Extent of Act.*—This Act shall extend to the whole of the United Kingdom.

S. 3. *Interpretation of terms.*—In this Act the term "boiler" means any closed vessel used for generating steam, or for heating water, or for heating other liquids, or into which steam is admitted for heating, steaming, boiling, or other similar purposes.

The term "court of summary jurisdiction" means any justices of the peace, metropolitan police magistrate, stipendiary magistrate, sheriff, sheriff substitute, or other magistrate or officer, by whatever name called, who is capable of exercising jurisdiction in summary proceedings for the recovery of penalties.

S. 4. *Application of Act.*—This Act shall not apply to any boiler used exclusively for domestic purposes, or to any boiler used in the service of Her Majesty, or to any boiler

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on board a steamship having a certificate from the Board of Trade, or to any boiler explosion into which an inquiry may be held under the provisions of the Coal Mines Regulation Act, 1872, and the Metalliferous Mines Regulation Act, 1872, or either of them.

S. 5. *Notice of boiler explosion to be sent to the Board of Trade.*—(1.) On the occurrence of an explosion from any boiler to which this Act applies, notice thereof shall, within twenty-fours hours thereafter, be sent to the Board of Trade by the owner or user, or by the person acting on behalf of the owner or user.

(2.) The notice shall state the precise locality as well as the day and hour of the explosion, the number of persons injured or killed, in addition to the purposes for which the boiler was used, and, generally, the part of the boiler that failed, and the extent of the failure, and such other particulars, if any, as the Board of Trade by notice inserted in the *London Gazette* may require, and shall be in the form printed in the schedule to this Act, or in such other form as the Board of Trade may from time to time approve for the purpose.

(3.) If default is made in complying with the requirements of this section, the person in default shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

S. 6. *Power for Board of Trade to direct inquiry as to boiler explosion.*—(1.) On receiving notice of a boiler explosion the Board of Trade may, if it thinks fit, appoint one or more competent and independent engineer or engineers, practically conversant with the manufacture and working of boilers, to make a preliminary inquiry with respect to the explosion, and the persons so appointed shall have the powers conferred on the court by sub-section (4) of this section. If it appears to the Board of Trade either upon or without such preliminary inquiry, that a formal investigation of the causes and circumstances attending the explosion is expedient, the Board of Trade may direct a formal investigation to be held; and with respect to such investigation the following provisions shall have effect:

(2.) Formal investigations of boiler explosions shall be made at or near the place of such explosion by a court consisting of not less than two Commissioners appointed by the Board of Trade, of whom one at least shall be a competent and practical engineer specially conversant with the manufacture and working of steam boilers, and one a competent lawyer. The court shall be presided over by one of the commissioners, the selection being made by the Board of Trade.

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(3.) Any such formal investigation shall be held in open court, in such manner, and under such conditions, as the commissioners may think most effectual for ascertaining the causes and circumstances of the explosion, and for enabling them to make the report hereinafter mentioned in this section.

(4.) The court shall have, for the purpose of its investigations, all the powers of a court of summary jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and shall in addition have the following powers; viz.,

(*a.*) The court, or any one appointed by it, may enter and inspect any place or building, the entry or inspection whereof appears to the court requisite for the said purpose:

(*b.*) It may by summons under its hand require the attendance of all such persons as it thinks fit to call before it, and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as it thinks fit to make:

(*c.*) It may require and enforce the production of all books, papers, and documents which it considers important for the said purpose:

(*d.*) It may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination:

(*e.*) Every person so summoned, not being the owner or user of the boiler, or in the service or employment of the owner or user, or in any way connected with the working or management of the boiler, shall be allowed by the Board of Trade such expenses as would be allowed to a witness attending on subpœna before a court of record . . . . and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of the superior courts . . . who on request under the hands of the members of the court, shall ascertain and certify the proper amount of such expenses.

(5.) The court making a formal investigation with respect to any boiler explosion, shall present a full and clear report to the Board of Trade, stating the causes of the explosion, and all the circumstances attending the same, with the evidence, adding thereto any observations thereon, or on the evidence, or on any matters arising out of the investigation which they think right to make, and the Board of

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Trade shall cause every such report to be made public in such manner as it thinks fit. When no formal investigation is held, the report presented to the Board of Trade by the engineer making a preliminary inquiry with respect to a boiler explosion shall be made public in such manner as the Board of Trade thinks fit.

S. 7. The court may order the costs and expenses of a preliminary inquiry or formal investigation.

S. 8. *Recovery of fines.*—Any fine payable under this Act shall be recoverable in Ireland within the police district of Dublin metropolis, in accordance with the provisions of the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district elsewhere in Ireland in accordance with the provisions of the Petty Sessions (Ireland) Act, 1851 (14 and 15 Vic. c. 93), and any Act amending or affecting the same.

Bread and Flour.—1 & 2 Vic., c. 28.—S. 2 prescribes the ingredients that may be used in making bread for sale.—S. 3. Bakers and sellers of bread to make and sell it of such weight and size as they think fit.—S. 4. All bread sold in Ireland shall be sold by weight only and not by measure, except French or fancy bread.—S. 5. Avoirdupois weight of sixteen ounces to the pound to be used in sale of bread.—S. 6. Every baker or seller of bread shall have in shop a beam and scales with proper weights in order that purchaser may require it to be weighed.—S. 7. Adulterating bread an offence ; and magistrate may cause offender's name, &c., to be published in local newspapers at offender's expense.—S. 8. Adulteration of ground corn, meal, or flour, O.—S. 9. Bread made wholly or partially of peas, or beans, or potatoes or any corn other than wheat, to be marked with M.—S. 10. Magistrate on sworn information, and peace officer authorized by warrant may enter into any house, mill, or shop, and search for adulterated bread, &c.—S. 11. Hindering search, O.—S. 12. Making bread on the Lord's day prohibited.

Bribery—M. at common law—is the receiving or offering of any undue reward by or to any person whomsoever (for example, a Constable) whose ordinary profession or business relates to the administration of justice, in order to incline him to do a thing

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against the known rules of honesty and integrity. Giver and receiver are equally guilty. An attempt to bribe, though unsuccessful, is also M.

Burglary is a felony at common law, and is defined to be "a breaking and entering the mansion-house of another in the night, with intent to commit some felony within the same, whether such felonious intent be executed or not." In this definition there are four things to be considered—(1) the time, (2) the place, (3) the manner, (4) the intent.

(1.) *The Time.*—The time at which burglary must be committed is the *night*, for in the day there can be no burglary. By the 24 & 25 Vic., c. 96, s. 1, the night shall be deemed to be between 9 p.m. and 6 a.m. The breaking and entering need not be done in the same night, for the breaking may be on one night, and the entering on another.

(2.) *The Place.*—The breaking and entering must take place in a *mansion* or *dwelling*-house. Every house, or part of one, for the dwelling and habitation of man, is a mansion house, in which burglary may be committed. But it must be a permanent edifice, so that a booth or tent is not a mansion house. By the 24 & 25 Vic., c. 96, s. 53, "No building, although within the same curtilage with any dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house, unless, there shall be a communication between such building and dwelling-house, either immediate, or by means of a covered and enclosed passage, leading from the one to the other." It must appear that the premises in question were at the time occupied as a *dwelling-house.* When no person sleeps in the house it cannot be considered a dwelling-house. It seems to be sufficient if any part of the owner's family or his domestic servants sleep in the house.

(3.) *The Manner.*—Both a *breaking and entering* are necessary to complete the offence of burglary. There must either be an actual breaking of some part of the house, in effecting which more or less of actual force is employed; or a breaking by construction of

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law, where an entrance is obtained by threats, fraud, or conspiracy. An actual breaking may be by making a hole in the wall, forcing open an outer or inner door, opening the lock by key or otherwise, breaking the window, or taking out a pane, lifting the latch of door, or unloosing any fastening of door or window, entering by the chimney, breaking out of the house. Breaking by construction of law may be where the door is opened either from apprehension of violence, or in order to repel it, and the thief enters, where admission is obtained by fraud, or by conspiracy as where some one inside the house lets in the thief. With respect to the entering necessary to constitute burglary, the least entry either with the whole or any part of the body, hand, or foot, or with any instrument or weapon, *introduced for the purpose of committing a felony*, will be sufficient. Where the instrument is used (without any part of the offender's body entering), not for the purpose of committing the contemplated felony, but only for the purpose of effecting the entry, the introduction of the instrument will not be such an entry as to constitute burglary. The breaking and entering by one is the act of all the party engaged in the transaction, and legally present while the feat is committed.

(4.) *The Intent.*—The act of breaking and entering the mansion-house in the night must be done with intent to commit some felony within the same, whether such felonious intent be executed or not. And, where the breaking is a breaking out of the dwelling-house in the night, there must have been a previous entry with intent to commit a felony, or an actual committing of a felony in such dwelling-house. Therefore, an entry with the intent to commit a trespass (*e.g.* to beat a person), will not be sufficient.

Burglary by Statute, 24 & 25 Vic., c. 100.—S. 1.—For the purposes of Act the night shall be deemed to commence at 9 P.M., and to conclude at 6 A.M. of the next succeeding day.—S. 51. Whosoever shall enter the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house, shall commit any felony therein,

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and shall in either case break out of the said dwelling-house in the night, shall be deemed guilty of burglary. —S. 54. Entering any dwelling-house in the night with intent to commit any felony therein, F.—S. 58. Whosoever shall be found by night armed with any dangerous or offensive weapon, or instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any felony therein, or shall be found by night having in his possession, without lawful excuse (the proof of which shall lie on such person), any picklock, key, crowjack, bit, or other implement of housebreaking, or shall be found by night having his face blackened, or otherwise disguised, with intent to commit any felony, or shall be found by night in any dwelling-house or other building whatsoever, with intent to commit any felony therein, M.

[Referring to sec. 58, the offence of having possession of implements of housebreaking consists in the *possession merely without lawful excuse*. It is not in such case necessary to allege or prove at trial an intent to commit a felony. Where only one is in possession of the implements, the possession by him is possession by all. If a man is found with an implement of housebreaking in his possession, a general burglarious intent is sufficient to constitute an offence against the second clause of s. 58. Every instrument, which from its nature is capable of being used for housebreaking, although ordinarily used for lawful purposes, *e.g.*, a house door key or a pair of pincers, is an implement of housebreaking within the Statute, if, from the circumstances that at the time the defendant was found in possession of it, it was his intention to use it as such. The lawful excuse for possession, if any, must be proved by the defendant. But if he is armed with any other weapon, there must be proof of an intent to break into some particular house in order to constitute an offence against the first clause of this section.]

Challenge to Fight a Duel.—M.—At common law it is a misdemeanour to challenge another, either by word or letter to fight a duel, or to be the messenger of such a challenge, or even barely to provoke another to send such a challenge, or to fight. No provocation, however great, is a justification on the part of the defendant.

Child—Abandonment of.—24 & 25 Vic., c. 100, s. 27. —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 misdemeanour.

[The words "abandoned" and "expose" include a wilful

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omission to take charge of the child on the part of a person legally bound to do so, and any mode of dealing with it calculated to leave it exposed to risk without protection. Where the mother left the child at the door of its father's house to his knowledge, and he left it there, this was held an "abandonment" by the father. When the child was packed up in a hamper, labelled "with care," and directed to the lodgings of the father, and the parcel was delivered in less than an hour, it was held that the life of the child was endangered.]

Child stealing. 24 & 25 Vic., c. 100, s. 56.—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 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 F. . . 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 of such child, or taking such child out of the possession of any person having the lawful charge thereof.

Children's Dangerous Performances Act, 1879,

42 & 43 Vic., c. 34.

S. 3. From and after the commencement of this Act, any person who shall cause any child *under the age of fourteen years* to take part in any public exhibition or performance whereby, in the opinion of a court of summary jurisdiction, the life or limbs of such child shall be endangered, and the parent or guardian, or any person having the custody of such child, who shall aid or abet the same, shall severally be guilty of an offence against this Act, P. not exc. £10. And where in the course of a public exhibition or performance which in its nature is dangerous to the life or limb of a child under such age as aforesaid taking part therein, any accident causing actual bodily harm occurs to any such child, the employer of such child shall be liable to be indicted as having committed an assault; and the court . . . . shall have the power of awarding compensation not exceeding £20, to be paid by such employer to the child,

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for the bodily harm so occasioned.—S. 4. Whenever any person is charged with an offence against this Act in respect of a child who in the opinion of the court trying the case is apparently of the age alleged by the informant, it shall lie on the person charged to prove that the child is not of that age.—S. 5. Proceedings before Court of Summary Jurisdiction in Ireland to be taken in accordance with 14 & 15 Vic., c. 93.

[The Constabulary will report for the information of Government the nature of any performances in music halls, circuses, &c., whenever they appear to them to be violations of the law.]

Children—Italian—vagrant in Ireland.—The attention of Government has been called to the practice under which children bought or stolen from their parents in Italy or elsewhere, are imported into this country by persons known by the name of Padroni, who send them out into the streets to earn money by playing musical instruments, selling images, begging, or otherwise. It is most important to suppress this traffic by every available means, and the Government relies on the vigilant co-operation of the Constabulary for this purpose. In many cases the employer will be found to have committed an offence against the 3rd section of 10 & 11 Vic., c. 84, by procuring or encouraging the child to beg. If so, he should be forthwith prosecuted, and the result of such prosecution should be made the subject of a special report to the Inspector-General. The child will probably come within the provisions of the 11th section of the Industrial Schools Act (Ireland), 1881 (31 Vic. c. 25), either (under the first class) as a child begging alms or (under the second class) as a child found wandering and without proper guardianship. An application therefore should be made to the Justices to send the child to a certified Industrial School. Further application should be made, under section 12, for the temporary detention of the child in a workhouse until the Industrial School has been selected. Final result of each case should be reported to the Inspector-General.

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Chimney Sweepers Acts.

The Chimney Sweepers Act, 1840, 3 & 4 Vic., chap. 85.—S. 2. Any person who shall compel, or knowingly allow any child or young person under the age of 21 years, to ascend or descend a chimney or enter a flue for the purpose of sweeping, cleaning, or coring the same, or for extinguishing fire therein, P. not ex. £10.—S. 3. No child under 16 years of age shall be apprenticed to a chimney sweeper: such indentures void.

The Chimneys Regulation Act, 1864, 27 & 28 Vic., chap. 37.—S. 4. This Act shall be construed together with the Principal Act (3 & 4 Vic., c. 85), as one Act.

S. 6. It shall not be lawful for a Chimney Sweeper to employ a child under the age of 10 years to do or assist in doing any work or thing in or about the trade or business of such Chimney Sweeper, elsewhere than within the house or place of business of such Chimney Sweeper, or the yard or buildings (if any) connected therewith.

S. 7. It shall not be lawful for a Chimney Sweeper, on any occasion of his entering a house or building for the purpose of sweeping, cleaning, or coring a chimney or flue therein or belonging thereto, or for extinguishing fire in any such chimney or flue, to cause, or knowingly allow a person under the age of 16 years, in his employment, or under his control, to enter before, with, or after him into any part of such house or building, or to be therein for any part of the time during which such Chimney Sweeper himself continues therein for any such purpose as aforesaid.

S. 8. Penalties for before-named offences, not ex. £10.

S. 10. In any prosecution, where the age of any young person or child comes in question, the proof of age shall lie on the defendant.

The Chimney Sweepers Act, 1875, 38 & 39 Vic., c. 70.—S. 5. The Sub-Inspector in each police district shall issue certificate to carry on the business of Chimney Sweeper in the district.—S. 6. Every person who carries on the business of a Chimney Sweeper, and who employs any journeyman, assistant, or apprentice, shall take out a certificate.—S. 7. A person desirous of having a certificate shall apply for one to the Sub-Inspector of the district, by delivering the application at the police station nearest to the applicant's dwelling; thereupon a certificate is to be delivered to applicant, signed by the Sub-Inspector.—S. 8. One certificate is sufficient for two or more partners.—S. 9. Journeyman or assistant Chimney Sweeper not required to have a certificate. S. 10. Fee for certificate is 2*s.* 6*d.*—S. 11. Certificate to be in force for one year.—S. 13. Certificate to be endorsed without fee by Sub-Inspector of new district on Chimney Sweeper changing to another district.

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—S. 14. Sub-Inspector to keep register of certificates.—S. 15. Every person who carries on the trade of Chimney Sweeper without certificate, P. not ex. 10*s.*—S. 16. Every Chimney Sweeper shall, when required by a Constable, give his name and address; for failing to do so, P. not ex. 10*s.*—S. 17. Chimney Sweeper, on demand, shall produce and show his certificate to any Constable; failing to do so, P. not ex. 10*s.*—S. 18. Not lawful to lend or transfer certificate, under P. not ex. 20*s.*—S. 19. Making false statements knowingly, in application for certificate, fabricating, or altering certificate, carrying or producing a fabricated or altered certificate, P. not ex. 40*s.*—S. 20. If any person having certificate is convicted of any offence against Acts 1840 and 1864, Court may deprive him of certificate.—S. 21. The Constabulary shall enforce and put in execution Acts 1840 and 1864.

[A Chimney Sweeper not employing any journeyman, assistant, or apprentice does not require a certificate. Every Chimney Sweeper's certificate expires on the 31st December of the year in which the same is granted, and the following fee is paid for each such certificate:—For a certificate granted before the 25th March, 2*s.* 6*d.*; for a certificate granted on or after the 25th March, and before the 24th June, 2*s.*; for a certificate granted on or after the 24th June, and before the 29th September, 1*s.* 6*d.*; for a certificate granted on or after the 29th September, and before the 31st day of December, 1*s.* If any certificate shall be lost or destroyed, a new certificate shall have to be obtained on payment of fee.]

By Chimney Sweepers Act, 1894 (57 & 58 Vic., c. 51), any person who shall for the purpose of soliciting employment as a Chimney Sweeper, knock at the houses from door to door, or ring a bell, or, to the annoyance of any inhabitant thereof, ring the door bell of any house, &c., commits an offence and is liable to penalty. See page 463.

Clergymen.—*Obstructing or Assaulting.*—24 & 25 Vic., c. 100, s. 36.—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 M.

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Clerk of Petty Sessions.—Act prescribing mode of appointing, duties, &c., 21 & 22 Vic., c. 100, see also 14 & 15 Vic., c. 93, s. 5.

Coinage Offences.—24 & 25 Vic. c. 99.

S. 1. *Interpretation of Terms.*—In the interpretation of and for the purposes of this Act, the expression, "*The Queen's current gold or silver coin,*" shall include any gold or silver coin coined in Her Majesty's mint, or lawfully current . . . . ; and the expression, "*The Queen's copper coin,*" shall include any copper coin of bronze or mixed metal coined in any of Her Majesty's mints, or lawfully current . . . . . ; and the expression, "*false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin,*" shall include any of the current coin which shall have been gilt, silvered, washed, coloured, or cased over, or in any manner altered, so as to resemble or be apparently intended to resemble, or pass for, any of the Queen's current coin of a higher denomination; and the expression, "*The Queen's current coin,*" shall include any coin coined in any of Her Majesty's mints or lawfully current . . . . , and whether made of gold, silver, copper, bronze, or mixed metal; and where the having any matter in the custody or possession of any person is mentioned in this Act, it shall include not only the having of it by himself in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully having it in any dwelling-house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by himself, or not, and whether such matter shall be so had for his own use or benefit, or for that of any other person.

S. 2. Falsely making or counterfeiting any coin resembling, or apparently intended to resemble, or pass for, current gold or silver coin, F.—S. 3. Gilding, silvering, or washing, &c., any coin whatsoever, or any piece of metal with intent to make them pass for gold or silver coin, or colouring or altering genuine coin, with intent to make it pass for gold or silver coin, F.—S. 4. Impairing, diminishing or lightening any of the current gold or silver coin with intent that it might pass as current coin, F.—S. 5. Unlawful possession of any filings or clippings, or any gold or silver bullion or dust obtained by impairing, &c., current

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gold or silver coin, knowing the same to have been so obtained, F.—S. 6. Buying, selling, receiving, paying, &c., any counterfeit coin at or for a lower value than the same imports, F.—S. 7. Importing counterfeit coin from beyond the seas, knowing the same to be counterfeit, F.—S. 8. Exporting counterfeit coin to pass for the Queen's coin, knowing the same to be counterfeit, M.—S. 9. Tendering, uttering, or putting off false or counterfeit gold or silver coin, knowingly, M.—S. 10. Tendering, uttering, or putting off knowingly, and having in possession at the time of tendering, &c., any other counterfeit gold or silver coin; or either on the same day of such tendering, &c., or within ten days, knowingly tendering, &c., any counterfeit gold or silver coin, M.—S. 11. Knowingly having in possession three or more pieces of counterfeit coin, apparently intended to resemble current gold or silver coin, and with intent to pass off the same, M.—S. 12. Every second offence of uttering, &c., after a previous conviction, F.—S. 13. With intent to defraud, tendering, or putting off as current gold or silver coin, any coin not being such, or any medal or piece of metal resembling the current coin, and being of less value, M.—S. 14. Counterfeiting coin to pass for current copper coin, without lawful authority; making, mending, or having in possession, any instrument, tool, or engine adapted and intended for counterfeiting the current copper coin; buying, selling, or putting off any counterfeit copper coin at a lower value than the same imports, F.—S. 15. Knowingly tendering, uttering, or putting off, or having in possession three or more pieces of counterfeit coin, apparently intended to resemble current copper coin, M.—S. 16. Defacing any of the current gold, silver, or copper coin by stamping thereon any names or words, M.—S. 17. Counterfeiting any foreign gold or silver coin, F.—S. 19. Knowingly importing foreign counterfeit gold or silver coin, F.—S. 20. Tendering, uttering, &c., any foreign counterfeit gold or silver coin, M.—S. 21. Second offence of tendering, uttering, &c., foreign gold and silver coin, M.; third like offence, F.—S. 22. Counterfeiting foreign coin other than gold or silver coin, M.—S. 24. Knowingly making, mending, buying, selling, or having in possession any coining tools or instruments, F.—25. Knowingly conveying tools, coin, bullion, metals, &c., out of Her Majesty's Mint without lawful authority, F.—S. 26. Coin tendered as current gold or silver coin diminished otherwise than by reasonable wearing, or which shall be counterfeit, may be cut, broken, bent, or defaced.—S. 27. Counterfeit coin, resembling current or foreign coin, or coining instruments or any

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filings, or gold or silver bullion, or dust produced by diminishing current gold or silver coin, *may be seized* and carried forthwith before some Justice of the Peace; and where it shall be proved on oath before a Justice that there is reasonable cause to suspect that any person has been concerned in counterfeiting any such coin, or has in his possession any such coin or coining instruments, or any such filings, &c., the Justice may, *by warrant*, cause any place belonging to, or in the occupation, or under the control of, such suspected person *to be searched* either in the day or in the night, and if any such false or counterfeit coin, or instrument, &c., shall be found, to be seized and carried forthwith before some Justice, who shall, if necessary, cause the same to be secured for the purpose of evidence.—S. 28. Offences committed in more than one county may be tried in either.—S. 29. Any credible witness may prove coin to be counterfeit.—S. 30. Every offence of falsely making or counterfeiting coin, or of buying, selling, receiving, or uttering, or of offering, so to do, shall be deemed complete, although the coin shall not be in a fit state to be uttered, or the counterfeiting perfected.—S. 31. Any person whatsoever may apprehend any person found committing any crime or offence against this Act, and deliver him to a Constable, in order to his being conveyed before a Justice.

The following offences are punishable on *summary conviction*:—S. 17. Tendering, uttering, &c., defaced gold, silver, or copper coin, as in sec. 16.—S. 23. Having in one's possession, without lawful excuse, more than five pieces of false or counterfeit coin apparently intended to resemble gold, silver, or copper *foreign* coin.

Also, by 33 Vic, c. 10, s 61, any person making or issuing any piece of gold, silver, copper, or bronze, or any metal, as a coin or token for money, is liable to a penalty.

Compounding Offences.—*Compounding Felonies.*—Everyone commits a misdemeanour who, in respect of any valuable consideration, enters into an agreement not to prosecute any person for felony, or to show favour to any person in any such prosecution. Though the bare taking again of a man's own goods which have been stolen (without favour shown to the thief) is no offence; yet where a man either takes back the goods, or receives other amends on condition of not prosecuting, it is a misdemeanour. *Compounding Misdemeanours.*—It is doubtful whether

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at common law the compounding of a misdemeanour is a misdemeanour. A compromise of criminal proceedings is generally permitted in those cases in which the injured party may sue and recover damages, but not in other cases. It has been decided that in cases of assault no compromise without the sanction of the justices can oust their jurisdiction, and they may convict on sufficient evidence. See 24 & 25 Vic., c. 96, s. 101.

Misprision of Felony.—A man knowing a felony to have been committed, he having been no party to it, and conceals it, is guilty of misprision of felony, which is a misdemeanour.

Concealing the Birth of a Child, 24 & 25 Vic., c. 100, s. 60. 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 misdemeanour.

[To maintain an indictment for concealment of birth it is necessary to prove:—(1.) That the accused was delivered of a child. To prove this the Constable should have the woman at once examined by a doctor, if a magistrate so directs, and that *she consents*, but not otherwise. It would be a criminal assault to examine the woman's person without her consent. The state of her bedding, &c., may furnish evidence of the woman having given birth to a child without such personal examination. (2). That she or the person aiding, who is equally culpable, endeavoured to conceal the birth by secret burying, or other secret disposal of the dead body. The expression "delivered of a child" does not include the delivery of a fœtus which has not reached the period at which it might have been born alive.—(*Stephens' Digest of C.L.*) It is immaterial whether it died before, at, or after its birth. In order to convict, *a dead body* must be found, and identified as that of the child of which the woman is alleged to have been delivered. The denial of the birth only is not sufficient to convict a woman, she must be proved to have done some act of disposal of the body after the child was dead. A case of concealment of birth requires very delicate handling, otherwise much cruelty may be inflicted upon an unfortunate woman who may have secretly given birth to a child, and yet may not have committed an offence against the law. A Constable should, therefore, act with extreme caution in such a case, so as not to cruelly outrage the feelings of a person innocent of a criminal offence who may, however, in other respects be unfortunate. It should be remembered that the offence being a misdemeanour an arrest upon such a charge cannot be made without a warrant.]

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Conspiracy is where two or more combine together to execute some act for the purpose of injuring some third person, or the public, and is a misdemeanour at common law. A conspiracy is an agreement between two or more persons: (1.) Falsely to charge another with a crime punishable by law, either from a malicious or vindictive motive or feeling towards the party, or for the purpose of extorting money from him. (2.) Wrongfully to injure or prejudice a third person, or any body of men, in any other manner. (3.) To commit any offence punishable by law. (4.) To do any act with intent to pervert the course of justice. (5.) To effect a legal purpose with a corrupt intent, or by improper means. (6.) Conspiracies or combinations by journeymen to raise their wages, &c. A common instance under the second head is a conspiracy to defraud the public by means of a mock auction—that is, an auction with sham bidders, who pretend to be real bidders, for the purpose of selling goods at prices grossly above their worth.

Acts of Conspirators.—When two or more persons conspire together to commit any offence or actual wrong, everything said, done, or written by any one of them in the execution or furtherance of their common purpose is deemed to be so said, done, or written by everyone, and is deemed to be a relevant fact as against each of them; but statements as to measures taken in the execution or furtherance of any such common purpose are not deemed to be relevant as such as against any conspirators, except those by whom or in whose presence such statements are made. Evidence of acts or statements deemed to be relevant may not be given until the judge is satisfied that, apart from them, there are *prima facie* grounds for believing in the existence of the conspiracy to which they relate.—(*Stephens' Digest of L. E.*)

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Conspiracy, and Protection of Property Act, 1875.

38 & 39 Vict., Ch. 86.

S. 1. This Act may be cited as the Conspiracy and Protection of Property Act, 1875.

CONSPIRACY, AND PROTECTION OF PROPERTY.

S. 3. *Amendment of law as to conspiracy in trade disputes.*—An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

Nothing in this section shall exempt from punishment any persons guilty of a conspiracy for which a punishment is awarded by any Act of Parliament.

Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any offence against the State or the Sovereign.

A crime for the purposes of this section means an offence punishable on indictment, or an offence which is punishable on summary conviction, and for the commission of which the offender is liable under the statute making the offence punishable to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment.

Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable only on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the statute for the punishment of the said act when committed by one person.

S. 4. *Breach of contract by persons employed in supply of gas or water.*—Where a person employed by a municipal authority or by any company or contractor upon whom is imposed by Act of Parliament the duty, or who have otherwise assumed the duty of supplying any city, borough, town, or place, or any part thereof, with gas or water, wilfully and maliciously breaks a contract of service with that authority or company or contractor, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of

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that city, borough, town, place, or part, wholly or to a great extent of their supply of gas or water, he shall on conviction thereof by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds or to be imprisoned for a term not exceeding three months, with or without hard labour.

Every such municipal authority, company, or contractor as is mentioned in this section shall cause to be posted up, at the gasworks or waterworks, as the case may be, belonging to such authority or company or contractor, a printed copy of this section in some conspicuous place where the same may be conveniently read by the persons employed, and as often as such copy becomes defaced, obliterated, or destroyed, shall cause it to be renewed with all reasonable despatch.

If any municipal authority or company or contractor make default in complying with the provisions of this section in relation to such notice as aforesaid, they or he shall incur on summary conviction a penalty not exceeding five pounds for every day during which such default continues, and every person who unlawfully injures, defaces, or covers up any notice so posted up as aforesaid in pursuance of this Act, shall be liable on summary conviction to a penalty not exceeding forty shillings.

S. 5. *Breach of contract involving injury to persons or property.*—Where any person wilfully and maliciously breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or cause serious bodily injury, or to expose valuable property whether real or personal to destruction or serious injury, he shall on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

Miscellaneous.

S. 6. *Penalty for neglect by master to provide food, clothing, &c., for servant or apprentice.*—Where a master, being legally liable to provide for his servant or apprentice necessary food, clothing, medical aid, or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, whereby the health of the servant or apprentice is or is likely to be seriously or permanently injured, he shall on

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summary conviction be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding six months, with or without hard labour.

S. 7. *Penalty for intimidation or annoyance by violence or otherwise.*—Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority,—

1. Uses violence to or intimidates such other person or his wife or children, or injures his property; or
2. Persistently follows such other person about from place to place; or,
3. Hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or,
4. Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or,
5. Follows such other person with two or more other persons in a disorderly manner in or through any street or road,

shall, on conviction thereof by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section.

Legal Proceedings.

S. 9. *Power for offender under this Act to be tried on indictment and not by court of summary jurisdiction.*—Where a person is accused before a court of summary jurisdiction of any offence made punishable by this Act, and for which a penalty amounting to twenty pounds, or imprisonment, is imposed, the accused may, on appearing before the court of summary jurisdiction, declare that he objects to being tried for such offence by a court of summary jurisdiction, and thereupon the court of summary jurisdiction may deal with the case in all respects as if the accused were charged with an indictable offence and not an offence punishable on summary conviction, and the offence may be prosecuted on indictment accordingly.

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S. 10. *Proceedings before Court of Summary Jurisdiction.*—Every offence under this Act which is made punishable on conviction by a court of summary jurisdiction or on summary conviction, and every penalty under this Act recoverable on summary conviction, may be prosecuted and recovered in manner provided by the Summary Jurisdiction Act.

S. 11. *Regulations as to evidence.*—Provide, that upon the hearing and determining of any indictment or information under sections four, five, and six of this Act, the respective parties to the contract of service, their husbands or wives, shall be deemed and considered as competent witnesses.

S. 12. *Appeal to Quarter Sessions.*—In England or Ireland, if any party feels aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this Act, the party so aggrieved may appeal therefrom, subject to the conditions and regulations following:

(1.) The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the court from which the appeal is made:

(2.) The appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and of the grounds thereof:

(3.) The appellant shall immediately after such notice enter into a recognizance before a justice of the peace, with or without sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court:

(4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance as aforesaid, release him from custody:

(5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction; or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and if the

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matter be remitted to the court of summary jurisdiction the said last-mentioned court shall thereupon re-hear and decide the information in accordance with the opinion of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

S. 15. "*Maliciously*" *in this Act construed.*—The word "maliciously" used in reference to any offence under this Act shall be construed in the same manner as it is required by the fifty-eighth section of the 24 & 25 Vic., c. 97, to be construed in reference to any offence committed under such last-mentioned Act.

SAVING CLAUSE.

S. 16. *Saving as to sea service.*—Nothing in this Act shall apply to seamen or to apprentices to the sea service.

APPLICATION OF ACT TO IRELAND.

S. 21. *Application to Ireland.*—This Act shall extend to Ireland, with the modifications following; that is to say,

The expression "The Summary Jurisdiction Act" shall be construed to mean, as regards the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district; and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and any Acts amending the same;

The expression "court of summary jurisdiction" shall be construed to mean any justice or justices of the peace, or other magistrate to whom jurisdiction is given by the Summary Jurisdiction Act:

The court of summary jurisdiction, when hearing and determining complaints under this Act, shall in the police district of Dublin metropolis be constituted of one or more of the divisional justices of the said district, and elsewhere in Ireland of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions:

The expression "municipal authority" shall be construed to mean the town council of any borough for the time being, subject to the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, entitled "An Act for the Regulation of Municipal Corporations in Ireland," and any commissioners invested by any general or local Act of Parliament, with power of improving, cleansing, lighting, or paving any town or township.

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DRAFT FORM OF SUMMONS under SECTION 7 of ACT, as prescribed by Circular of 31st January, 1881.

The Queen
at the prosecution of
_____
Complainant;

_____
Defendant.

Petty Sessions District of
_____
County of_____

WHEREAS a Complaint has been made to me that you, the Defendant, on the day of 188 , at in the County aforesaid, for the purpose and with the view of compelling one *A.B.**

(1) To abstain from doing an act which he had a legal right to do, namely:—Not to [work for one *C.D.*, *as the case may be*],

Or (2) to do an act which he had a legal right to abstain from doing, namely;—To [sell bread to one *C.D.*, *as the case may be*],

wrongfully and without legal authority did—

† Use violence to the said *A.B.*;

Intimidate the said *A.B.*;

Persistently follow the said *A.B.* about from place to place;

Watch the house or place where the said *A.B.* then resided;

Beset the house or place where the said *A.B.* then resided;

Watch the house or place where the said *A.B.* then worked [carried on business, *or* then happened to be], *or* [the approach to the house, &c., *as before*];

Follow the said *A.B.* with two other persons and more in a disorderly manner in and through a certain road there situate.

This is to command you to appear as a Defendant on the hearing of the said complaint at on the day of 188 , at o'clock, before such Justices as shall be there.

Signed, _____
Justice of said County,

This day of 188 .

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* If the person or persons intimidated be not known, he or they should be described "*a certain person unknown*," or '*certain persons unknown.*"

† Such only of the specified acts as there is evidence to support should be set forth here; the others should be omitted.

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Constable, 6 & 7 Wm. IV., c. 13, ss. 9 & 11. *County Inspectors, District-Inspectors,* &c., to have the powers of Constables.*—Each County Inspector, on his appointment, is invested with all such powers and authority for the preservation of the peace, and the apprehension of offenders, as may belong to any District-Inspector or Constable appointed under this Act, so long as he shall hold such office. All District-Inspectors, Sergeants and Constables, "shall have all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities, as any Constable duly appointed now has or hereafter may have, either by the common law, or by virtue of any statute now or hereafter to be in force in Ireland."

S. 15. *Constables to attend Magistrates and execute warrants.*—Every District Inspector, Head Constable, Sergeant, and Constable, shall, when not engaged on actual duty, attend on the Justices at Quarter Sessions and Petty Sessions, at the respective places where such District Inspector, Sergeant, &c., may be stationed; "and shall obey and execute all the lawful warrants, orders, and commands of such Justices at such Sessions, in all cases, civil and criminal"; but they are not to be employed to levy tithes, composition, or rents by distress, or to levy fines or penalties under any Act relating to the revenue, nor to enforce any Acts relating to the laws for the preservation of game or fish, "*except only in cases where forcible resistance shall have actually been made and proved by information taken on oath.*" (But see 7 & 8 Vic., c. 108, 8 & 9 Vic., c. 108, and 20 & 21 Vic., c. 40.)

S. 16. *District Inspector to execute all processes to him directed, and appoint by endorsement on warrant Constables to execute it.* Except as aforesaid, every District Inspector, Head Constable, Sergeant, and Constable shall within his jurisdiction execute all processes to him directed for levying the amount of any fine or fines which shall be imposed under any Act in force in Ireland, or for levying the amount of any recognizance forfeited to His Majesty, &c., or of any fines imposed on any jurors, witnesses, parties, or persons at any Assizes, &c., or Sessions of the Peace; and when any warrant of any Magistrate shall be delivered to any Head-Constable or Constable, he shall, if time will permit, show or deliver the same to his District Inspector, and such District Inspector shall nominate and appoint by

* In this Act, the titles District Inspector, Sergeant, and Constable are substituted for Chief Constable, Constable, and Sub-Constable.

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endorsement thereon such one or more of the Constables under his orders, and such assistant or assistants; and every such Constable whose name shall be so endorsed, and every such assistant as aforesaid, shall have all and every the same rights, powers, and authorities, for and in the execution of every such warrant, as if the same had been originally directed to him or them expressly by name.

S. 19. *Penalty for violation of duty.*—If any District Inspector, Head Constable, Sergeant, or Constable shall neglect or refuse to obey and execute any warrant hereby directed to be by him executed, or shall be guilty of any neglect or violation of duty in his office, he shall forfeit and incur such penalty, not exceeding £5, as any two or more Justices of the Peace, after examination upon oath of one or more credible witness or witnesses, or upon the confession of the party, shall think proper to impose or inflict; and the amount of such penalty shall and may be deducted from and out of any salary accruing due to such an offender under this Act, upon the certificate of the Justices by whom convicted; and the Lord Lieutenant may mitigate or remit such penalty.

S. 20. *Constables dismissed, to deliver up their arms.*—If any Sergeant or Constable shall not, within one week after he shall be dismissed from or shall cease to hold and exercise his office, deliver over all and every the arms, ammunition, and accoutrements, &c., which may have been supplied to him, he shall be liable to imprisonment for not exceeding two months.

S. 21. *Constables not to resign without leave.*—No Head-Constable, Sergeant, or Constable, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly authorized so to do in writing, by the County Inspector under whom he may be placed, or unless he shall give to such Inspector one month's notice of his intention so to resign or withdraw, under a penalty not exceeding £10, or imprisonment not exceeding three months.

S. 50. *Protection of Constables in executing warrants.*—When any action shall be brought against any Constable for any act done in obedience to the warrant of any Magistrate, such Constable shall not be responsible for any irregularity in the issuing of such warrant, or for any want of jurisdiction in the Magistrate issuing the same, and such Constable may plead the general issue, and give such warrant in evidence; and upon producing such warrant, and proving that the signature thereto is the handwriting of the person whose name shall appear subscribed thereto, and that such person is reputed to be and acts as a Magistrate

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of such county or district (as the case may be), and that the act or acts complained of were done in obedience to such warrant, the jury who shall try the said issue shall find a verdict for such Constable, and such Constable shall recover his costs of suit.

Actions brought against Constables for acts done under a warrant, 43 Geo. III., c. 143, s. 6 (amended by 5 & 6 Vic., c. 97, s. 2). No action shall be brought against any Constable or other officer in Ireland, or against any person or persons acting by his order and in his aid, for anything done in obedience to any warrant under the hand, or hand and seal, of any Justice of the Peace, or Governor or Deputy Governor of any county or place in Ireland, until demand hath been made or left at the usual place of his abode by the party or parties intending to bring such action, or by his heir, or their attorney or agent, in writing, signed by the party demanding the same, of the perusal and copy of such warrant, and the same hath been refused or neglected for the space of six days after such demand; and in case, after such demand and compliance therewith, by showing the said warrant to and permitting a copy to be taken thereof by the party demanding the same, any action shall be brought against such Constable or other officer, or against such person or persons acting in his aid for any cause as aforesaid, without making the Justice or Justices, or Governors or Deputy Governors respectively, who signed or sealed said warrant, defendant or defendants therein, on producing or proving such warrant at the trial of such action, the jury shall give their verdict for the defendant or defendants, notwithstanding any defect of jurisdiction in such Justice or Justices, or Governor or Deputy Governors respectively; and if such action be brought jointly against such Justice or Justices, or Governors or Deputy Governors respectively, and also against such Constable or other officer or person acting in his or their aid as aforesaid, then, on proof of such warrant, the jury shall find for such Constable or other officer, and for such person or persons so acting as aforesaid, notwithstanding such defect of jurisdiction as aforesaid; and if the verdict shall be given against such Justice or Justices, or Governor or Deputy Governors respectively, in such case the plaintiff or plaintiffs shall recover his, her, or their costs against him or them, to be taxed in such manner by the proper officer as to include such cost as such plaintiff or plaintiffs are liable to pay to such defendant or defendants for whom such verdict shall be found as aforesaid.

S. 7. *Limitation of actions.*—No action shall be brought

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. . . against any such Constable or other officer or person acting as aforesaid unless commenced within six calendar months after the act committed.

Peace officers maimed or murdered; compensation may be raised off the county.—6 & 7 Wm. IV., c. 116, s. 106, enacts:—That if it shall appear that any person having given information or evidence against any person or persons charged with any offence against the public peace, shall have been murdered or maimed previous to the trial of the person or persons accused by such information or evidence, or of any of them, or on account of any such evidence given, or that any magistrate or other peace officer shall be murdered or maimed on account of his exertions as such magistrate or peace officer to bring disturbers of the public peace to justice, it shall and may be lawful to and for the Grand Jury of the county within which such murder or maiming shall have been committed respectively to present such sum or sums of money as they shall think just and reasonable to be paid to the personal representative of such witness, magistrate, or peace officer so murdered, or to such witness, magistrate, or peace officer so maimed, having regard to the rank, degree, situation and circumstances of such witness, magistrate, or peace officer, such money to be raised off the county at large, or the barony in which such murder or maiming shall respectively have been perpetrated, at the discretion of such Grand Jury. . . .

[It has been decided that presentment may be made under this section without any previous application at presentment sessions. This provision of an Act passed in 1836 was for the first time applied in the case of Mrs. Kavanagh, widow of Sergeant James Kavanagh, who was murdered at Letterfrack on 15th February, 1882. She recovered by presentment £1,500 off the Barony of Ballinahinch, in County of Galway.]

Constabulary Acts.

6 Wm. IV. ch. 13. Consolidation of the Laws relating to the Irish Constabulary.

6 & 7 Wm. IV., c. 36. Amending foregoing Act.

2 & 3 Vic., c. 75. Formation of Reserve and Depot.

8 & 9 Vic., c. 46. Providing Constabulary for keeping the peace near Public Works.

9 & 10 Vic., c. 97. Removing the charge of the Constabulary Force from Counties, and enlarging Reserve Force.

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10 & 11 Vic., c. 100. Regulating the Superannuation Allowances of the Constabulary Force, and the Dublin Metropolitan Police.

11 & 12 Vic., c. 72. Providing for Expense of Constabulary ordered to other Counties; Courts of Inquiry; and payment of Special Constables.

14 & 15 Vic., c. 85. Paymasters abolished; providing for expenses incurred in conveying Prisoners.

20 & 21 Vic., c. 17. Free Force may be redistributed every five years.

22 & 23 Vic., c. 22. Reduction of one Deputy Inspector-General, and appointment of an additional Assistant Inspector-General instead. The Assistant Inspector-General commanding Depot to be styled "Commandant of the Depot."

28 & 29 Vic., c. 70. Abolishing Belfast Police, and appointment of Constabulary to discharge all police duties in Belfast.

29 & 30 Vic., c. 103. Revision of Salaries and of Superannuation.

33 & 34 Vic., c. 83. Abolishing Londonderry City Police, and appointment of Constabulary to discharge all police duties in Londonderry City.

36 & 37 Vic., c. 74. Revision of Salaries of Constabulary.

37 & 38 Vic., c. 80. Fixing revised salaries, and regulating superannuation of Constabulary.

38 & 39 Vic., c. 44. Continuing revised salaries.

40 & 41 Vic., c. 20. Continuing revised salaries, and regulating the number of Sub-Inspectors and Head-Constables.

45 and 46 Vic., c. 63. Regulating the pay and pensions of County Inspectors and District Inspectors, and fixing the age for retirement of officers.

46 & 47 Vic., c. 14. Regulating pay and superannuation of men of R.I.C., and of Dublin Metropolitan Police.

48 Vic., c. 12. Relating to the distribution of the Force.

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Contagious Diseases Animals Acts.

Contagious Diseases (Animals) Act, 1878.

41 & 42 Vic. c., 74.

S. 34. *Dairies, Cow-sheds, and Milk-shops.*—The Privy Council may from time to time make such general or special orders as they think fit, subject and according to the provisions of this Act, for the following purposes, or any of them:

(i.) For the registration with the local authority of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk.

(ii.) For the inspection of cattle in dairies, and for prescribing and regulating the lighting, ventilation, cleansing, drainage, and water supply of dairies and cow-sheds in the occupation of persons following the trade of cowkeepers or dairymen.

(iii.) For securing the cleanliness of milk-stores, milk-shops, and of milk-vessels used for containing milk for sale by such persons.

(iv.) For prescribing precautions to be taken for protecting milk against infection or contamination.

(v.) For authorizing a local authority to make regulations for the purposes aforesaid, or any of them, subject to such conditions, if any, as the Privy Council prescribe.

[*The whole of this Act has been repealed by Act*, 1894, *except the above section.*]

Contagious Diseases (Animals) Act, 1886.

49 & 50 Vic., c. 32, s. 9.

(1.)—The powers vested in the Privy Council of making general or special orders under section 43 of the principal Act (1878), for the purposes in that section mentioned, are hereby transferred to and shall henceforth be exercisable by the Local Government Board. . . . (3)—Any expenses incurred . . . shall be defrayed out of the local rates. . . . . (8)—In the application of this section to Ireland, the Local Government Board for Ireland shall be substituted for the Local Government Board. The expression "local authority" shall mean an urban or rural sanitary authority within the meaning of the Public Health Act, 1895.

The whole of this Act (1886) *has been repealed by the Act*, 1894, *except the above section.*]

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Abstract of Diseases of Animals Act; 1894.

57 & 58 Vic., chap 57, s. 4. *Separation of diseased animals, and notice to the Police.*—(1)—Every person having in his possession or under his charge an animal affected with disease shall—(*a*) as far as practicable keep that animal separate from animals not so affected; and (*b*) with all practicable speed give notice of the fact of the animal being so affected to a constable of the police force wherein the animal so affected is. (2)—The constable to whom notice is given shall forthwith give information to such person or authority as the Board of Agriculture* by general order direct. (3)—The Board may make such orders as they think fit for prescribing and regulating the notice to be given to or by any person or authority in case of any particular disease or in the case of the illness of an animal, &c.

S. 5. *Cattle-plague.*—(1)—Where it appears to an inspector that cattle-plague exists, or has within ten days existed in a cow-shed, field or other place, he shall forthwith make and sign a declaration thereof. (2)—He shall serve a notice signed by him of that declaration on the occupier of that cow-shed, field or other place. (3)—Thereupon that cow-shed, field, &c., with all lands and buildings contiguous thereto in the same occupation shall become and be a place infected with cattle plague subject to the determination and declaration of the Board of Agriculture. (4)—The inspector shall serve like notice on the occupier of all lands, &c., any part whereof lies within one mile in any direction from the cow-shed, &c. (5)—Thereupon all such lands, &c, shall become and be part of the place infected, subject to the determination and declaration of the Board.

S. 7. *Slaughter in Cattle Plague.*—(1.) The Board of Agriculture shall cause to be slaughtered—(i.) all animals affected with cattle plague and (ii.) all animals being or having been in the same shed, stable, herd or flock, or in contact with an animal affected with cattle plague.

(2.) The Board may, if they think fit, in any case cause to be slaughtered—(i) any animals suspected of being affected with cattle plague, or being in a place affected with cattle plague: (ii) any animals being in such parts of an area infected with cattle plague as are not comprised in a place infected with cattle plague.

* The terms "Board of Agriculture" and "Board" apply to England. For these terms in the application of the Act to Ireland, the term "The Lord Lieutenant and Privy Council" is to be substituted: see section 75.

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(3.) The Board shall for animals slaughtered under this section, pay compensation out of money provided by Parliament.

S. 8. *Pleuro-pneumonia or Foot and Mouth Disease.*—(1) Where it appears to an inspector of a local authority that pleuro-pneumonia or foot and mouth disease exists, or has, within the period hereinafter mentioned, existed, in a shed, field, or other place, he shall forthwith make and sign a declaration thereof. For the purposes of this sub-section the period shall be in the case of pleuro-pneumonia, fifty six days, and in the case of foot-and-mouth disease, ten days.

(2.) The inspector shall serve a notice on the occupier of that shed, field or other place, and in the case of foot-and-mouth disease, also on the occupiers of any land or building contiguous.

(3.) Thereupon that shed, &c. shall become a place infected.

(4.) The Inspectors shall inform the local authority,

(5.) Who shall inquire into the correctness of the declaration, and

(6.) If satisfied shall determine accordingly and prescribe the limits of the place infected.

S. 11.—"Cattle" and "animals" shall not be moved into, within or out of a place infected with pleuro-pneumonia or foot-and-mouth disease, otherwise than in accordance with the conditions contained in Parts I and II of first Schedule to Act.

S. 13.—A person owning or having charge of any animals in a place declared infected may affix a notice forbidding persons to enter therein without permission.

S. 14.—The Board shall cause to be slaughtered all cattle affected with pleuro-pneumonia, and (2) may, if they think fit, cause to be slaughtered, any cattle suspected of being affected, or any cattle in the same field or shed, &c., with cattle affected. (3.) The Board shall for cattle slaughtered pay compensation.

S. 15.—The Board may if they think fit cause to be slaughtered animals affected with foot-and-mouth disease, or suspected of being so affected, and shall for animals so slaughtered pay compensation.

S. 16.—The Board may if they think fit in any case cause to be slaughtered any swine affected with swine fever, or suspected of being so affected, and for animals so slaughtered shall pay compensation.

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S. 22.—The Board may make orders for preventing or checking disease and for other purposes . . . . . (xxx) for prescribing and regulating the muzzling of dogs and the keeping of dogs under control; (xxxi) for prescribing and regulating the seizure, detention and disposal (including slaughter) of stray dogs and of dogs not muzzled, and of dogs not being kept under control, and the recovery from the owners of the dogs of the expense incurred in respect of their detention; (xxxii) for prescribing and regulating the payment and recovery of expenses in respect of animals; (xxxiv) for authorising a local authority to make regulations for any of the purposes of this Act, &c., (xxxv) for extending the definition of disease in this Act; (xxxvi) for extending the definition of animals in this Act, so that the same shall comprise any kind of four-footed beasts in addition to animals mentioned in Act.

S. 23. Every railway company shall make a provision of water and food at certain railway stations for animals carried on their railway, to be supplied on request of consignor or person in charge . . . . If request not made so that animal remains without a supply of water for twenty-four consecutive hours, consignor and the person in charge of animal shall each be guilty of an offence.

S. 43. *Duties and authorities of constables.*—(1.) The police force of each police area shall execute and enforce this Act and every order of the Board of Agriculture.

(2.) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing an offence against this Act, a constable may, without warrant, stop and detain him; and, if his name and address are not known to the constable, and such person fails to give them to the satisfaction of the constable, the constable may, without warrant, apprehend him; and the constable may, whether so stopping or detaining or apprehending the person or not, stop, detain, and examine any animal, vehicle, boat, or thing to which the offence or suspected offence relates, and require the same to be forthwith taken back to or into any place or district wherefrom or whereout it was unlawfully removed, and execute and enforce that requisition.

(3.) If any person obstructs or impedes or assists to obstruct or impede a constable or other officer in the execution of this Act or of an order of the Board, or of a regulation of a local authority, the constable or officer may without warrant apprehend the offender.

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(4.) A person apprehended under this section shall be taken with all practicable speed before a justice, and shall not be detained without a warrant longer than is necessary for that purpose; and all enactments relating to the release of persons on recognizances taken by an officer of police or a constable shall apply in the case of a person apprehended under this section.

(5.) The foregoing provisions of this section respecting a constable extend and apply to any person called by a constable to his assistance.

(6.) A constable shall forthwith make a report in writing to his superior officer of every case in which he stops any person, animal, vehicle, boat, or thing under this section, and of his proceedings consequent thereon.

(7.) Nothing in this section shall take away or abridge any power or authority that a constable would have had if this section had not been enacted.

51. *Penalties for offences.*—If any person is guilty of an offence against this Act, he shall for every such offence be liable—(i) to a fine not exceeding twenty pounds; or (ii) if the offence is committed with respect to more than four animals, to a fine not exceeding five pounds for each animal; or (iii) where the offence is committed in relation to carcases, fodder, litter, dung, or other thing (exclusive of animals), to a fine not exceeding ten pounds in respect of every half ton in weight thereof after one half ton, in addition to the first fine of not exceeding twenty pounds.

52. *General offences.*—If any person, without lawful authority or excuse, proof whereof shall lie on him, does any of the following things, he shall be guilty of an offence against this Act:—(i) If he does anything in contravention of Act, or of an order of Board, or of regulation of local authority; or (ii) if required to keep an animal separate, or to give notice of disease, he fails to do so; or (iii) if he fails to give, produce, or do any notice, &c., or thing which he is required to give, &c.; or (iv) if he does anything which by Act, &c., is declared to be not lawful; or (v) if he does or omits anything, the doing or omission whereof is declared to be an offence against Act; or (vi) if he refuses to an inspector or other officer admission to any land, building, place, vessel, pen, vehicle, or boat which the inspector, &c., is entitled to enter or examine, or obstructs or impedes him in so entering, &c., or otherwise in any respect obstructs or impedes an inspector, or constable, or other officer in the execution

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of his duty, or assists in any such obstructing or impeding; or (vii) if he throws or places, into any river, stream, canal, &c., or into sea within three miles of shore, the carcase of any animal which has died of disease, or been slaughtered as diseased or suspected.

S. 53.—Authorises imprisonment instead of fine for the offences of—doing anything for which a licence is requisite without having obtained a licence—having obtained a licence, doing the thing licensed after licence is expired—offering or attempting to use as a licence an incomplete licence—altering or falsely making or antedating or counterfeiting, &c., a licence, declaration, &c.—for obtaining a licence, &c., making a false declaration—obtaining or endeavouring to obtain a licence, &c., by false pretence—granting or issuing a licence, &c., false in any date or other material particular—granting or issuing a licence, &c., in blank—using or offering, or attempting to use an instrument so issued in blank—by fraud or false pretences, obtaining or attempting to obtain compensation for animal slaughtered—without lawful authority digging up a carcase buried—using for carrying of animals, &c., a vessel, vehicle, pen, or place prohibited.

59.—*Interpretation*:—(1.) In this Act, the following terms have the meanings assigned to them.

"*Cattle*" means bulls, cows, oxen, heifers, and calves:

"*Animals*" means, except where it is otherwise expressed, cattle, sheep, and goats, and all other ruminating animals, and swine:

"*Disease*" means cattle plague (that is to say, rinderpest, or the disease commonly called cattle plague), contagious pleuro-pneumonia of cattle (in this Act called pleuro-pneumonia), foot-and-mouth disease, sheep-pox, sheep-scab, or swine-fever (that is to say, the disease known as typhoid fever of swine, soldier purples, red disease, hog cholera or swine plague):

"*Diseased*" means affected with disease:

"*Suspected*" means suspected of being diseased:

"*Carcase*" means the carcase of an animal, and includes part of a carcase, and the meat, bones, hide, skin, hoofs, horns, offal, or other part of an animal, separately or otherwise, or any portion thereof:

"*Fodder*" means hay or other substance commonly used for food of animals:

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"*Litter*" means straw or other substance commonly used for bedding or otherwise for or about animals:

"*Foreign*," applied to animals and things, means brought to the United Kingdom from a country out of the United Kingdom.

(2.) In the computation of time for purposes of this Act, a period reckoned by days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done.

S. 65.—For the purposes of the execution of this Act in Ireland—(1.) The powers by this Act conferred on the Board of Agriculture (in England, &c.), shall be vested in the Lord Lieutenant acting by the advice of the Privy Council, in this Act referred to as the Lord Lieutenant and Privy Council, and as regards the making of orders and doing of Acts affecting only particular local authorities, persons, ports, towns, districts places, areas, vessels or things, and as regards the issuing and revocation of licences, and the appointment or removal of inspectors and other officers, may be exercised by the Lord Lieutenant, or by the Chief Secretary as a Privy Councillor; (2.) Any act of the Lord Lieutenant and Privy Council under this Act done otherwise than by order in Council shall be sufficiently done and signified by the Clerk of the Council by instrument signed by the Clerk . . . . . and every such instrument shall be received in evidence in all courts and proceedings without proof of the authority or signature of the Clerk of the Council or other proof . . . (4.) An order of the Lord Lieutenant and Privy Council under this Act is referred to therein as an Order in Council . . . . (5.) The provisions of this Act relating to the Board of Agriculture and to orders of the Board of Agriculture, and to officers of the said Board, shall apply to the Lord Lieutenant and Privy Council, and to Orders in Council, and to orders of the Lord Lieutenant, and to officers appointed by the Lord Lieutenant for the purposes of this Act..

S. 67.—The local authorities in Ireland shall be the boards of guardians of the several poor law unions, and the district of each local authority shall be the poor law union.

S. 74.—The provisions of this Act relating to the police and to constables shall apply to the members of the Royal Irish Constabulary force and of the Dublin Metropolitan Police force.

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Convict and Criminal Supervision.

Supervision.—The 5th and 8th sections of the Prevention of Crimes Act, 1871 (34 & 35 Vic. c. 112), as amended by 42 & 43 Vic., ch. 55, 1879, and by 54 & 55 Vic., c. 69, s. 4, direct—

(1.) That every convict on ticket-of-license or person subject to police supervision, within forty-eight hours of his arrival in a district, is to notify *personally* his place of residence to the Inspector of the district, or to the Sergeant or other person in charge of the police station at place of residence.

(2.) Whenever he changes his residence within the same district he is to notify *personally* such change to the District Inspector, or the Sergeant, as in preceding paragraph.

(3.) Whenever he is about to leave a police district he shall notify such his intention to the District Inspector of that district, stating the place to which he is going, and also if required and so far as is practicable, his address at that place, and whenever he arrives in any police district he shall forthwith notify his place of residence to the District Inspector of such last-mentioned district. If he fails to comply with any of the requisitions of this section, he shall, in any such case, be guilty of an offence against this Act (1891) unless he proves to the satisfaction of the Court before whom he is tried, either that being on a journey he tarried no longer in the place, in respect of which he is charged with failing to notify his place of residence, than was reasonably necessary, or that otherwise he did his best to act in conformity with the law; and on conviction of such offence Court may forfeit his licence, or sentence him to imprisonment for not exceeding one year (Act, 1891).

(4.) Every male convict on license, or male person subject to police supervision, during his residence in the district is required to report himself personally once every month, to the District Inspector, or to such other person as he may appoint.

As a rule, the District Inspector will direct the convict or person subject to supervision to make this

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monthly report to the Sergeant of the sub-district in which his residence is situated. If the Sergeant be absent the report may be made to the senior in charge.

The Constabulary before proceeding against a convict on license or person subject to supervision, for a violation of the provisions of the above sections, should be fully satisfied of his having wilfully neglected to comply with them, as if he shows "that he did his best to comply with the law" he cannot be convicted.

The Constabulary should act kindly towards such persons, and endeavour by advice and encouragement to induce them to abandon crime and live honestly. No member of the force, directly or indirectly, is to communicate to anyone except a policeman, the names or any information regarding them.

Penal Servitude Act.—The 2nd section of the Penal Servitude Act, 1891 (54 & 55 Vic., c. 69), provides that (1) any Constable may take into custody without warrant any holder of a license under the Penal Servitude Acts, or any person under the supervision of the police in pursuance of the Prevention of Crimes Act, 1871, whom he reasonably suspects of having committed any offence, and may take him before a court of summary jurisdiction to be dealt with according to law. Any convict may be convicted before a court of summary jurisdiction of an offence against section 3 of the Prevention of Crimes Act, 1871, although he was brought before Court on some other charge or not in manner provided by that section. The following are the conditions of the license under 27 & 28 Vic., c. 47, and which are printed on the back thereof:—(1.) The holder shall preserve his license, and produce it when called upon to do so by a magistrate or police officer. (2.) He shall abstain from any violation of the law. (3.) He shall not habitually associate with notoriously bad characters, such as reputed thieves and prostitutes. (4.) He shall not lead an idle and dissolute life, without visible means of obtaining an honest livelihood.

[Whenever a convict on license is summarily convicted of any offence, the fact of his being such should be brought under the

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notice of the convicting Magistrate, in order that the conviction may be duly certified for the revocation of the license, pursuant to 27 & 28 Vic., c. 47, s. 8. And where such license is forfeited or revoked, and an order for the convict's removal is received by the Constabulary, application should be made to the nearest Magistrate to grant his warrant, pursuant to the 9th section of this Act, for the convict's removal to Mountjoy Prison to undergo the remaining portion of his term of penal servitude.]

Coroners.—Coroners are entitled to receive the assistance of the Constabulary at all their inquests and protection in the execution of their office generally.

Report to Coroners.—The law requires that "when any dead body shall be found, or any case of sudden death, or of death attended with suspicious circumstances shall occur in any district," the Constabulary shall give *immediate notice* thereof to the Coroner of the district, together with such information as they shall have been able to obtain, and any circumstances connected with such death that render an inquest necessary. In his report to Coroner the Constable should state correctly, if possible, the name of the deceased, the nature of the death, and any circumstances that render an inquest necessary. He should also state the name and address of the medical gentleman (if any) who was in attendance on the deceased immediately before or at the time of death.

Precept, &c., for inquest.—Upon receiving the Constabulary report, should the Coroner *deem it necessary* to hold an inquest, he will issue his *precept* to the District Inspector, or in his absence to the Head or other Constable acting for him, "to summon a sufficient number of persons to attend, and be sworn as jurors upon such inquest at the time and place specified in such precept." The Coroner will issue a summons for every witness whom he shall deem necessary to attend the inquest for the purpose of giving evidence; and will deliver the summonses to the Sergeant of the place where the inquest is to be held who is required to proceed forthwith to serve them. Should the Coroner be absent, or unable to attend, a com-

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munication to that effect should be forthwith made to two of the nearest Magistrates, in order that they may hold the inquest.

Coroner's jury.—When a jury is to be summoned, the Head or other Constable is to fill up and sign the summonses, which should be provided by the Coroner; or if by the Constabulary, the Coroner should pay the expense. The persons qualified to serve on Coroners juries are such as are "resident within the district,(*a*) and rated to the relief of the poor in a sum of not less than £4." If a sufficient number so qualified cannot conveniently be had, the Constabulary may summon "such and so many fit and proper persons being *householders*, and residing within the county" where the inquest is to be held, as shall be necessary. The Constabulary should endeavour to procure persons of some intelligence and education to serve on juries. A relieving officer should not be summoned if it can be avoided.

Civil writs.—The Coroner, in the execution of civil writs, is entitled to receive from the Constabulary similar protection to that granted to the Sheriff.

General instructions.—When death is caused by any cart, car, or carriage, it should be identified by its number, or by the name and residence of the owner and driver, if they can be ascertained. So far as possible, the Constable should endeavour to preserve the body in the same position as when death occurred, or in which it was first discovered. Any papers or property found on searching the body of the deceased, also any weapon or instrument that might have been supposed to have been the means of death, the Constable should produce at the inquest. It is an indictable offence as a misdemeanour to bury the body where an inquest ought to be held before the inquisition is made; the Constabulary should, therefore, use every means (and force, if necessary, short of personal injury), to have the body kept for an inquest. Should

(*a*) The term "district" in Act means the Coroner's district, not the Constabulary district.

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the Constabulary be unable to prevent the removal of the body, they should take the names of the persons resisting, and summon them before the Magistrates. The Coroner may make an order for the disinterment of a body in order to holding an inquest thereon within a reasonable time after the death of the said body.

Proceedings at inquest.—An inquest, being a judicial act, cannot be held on a Sunday; and if so held, it is void. A Coroner cannot hold an inquest without view of the body, and if he do so the inquisition is void; the body itself is part of the evidence before the jury. Every inquest must be held upon a view of the body on which the inquest is to be held, by the jury by which it is to be held; but they need not continue in the presence of the body for a longer time than it is necessary to view it. The jury must be sworn either before they view the body or during the view. The court is generally open to the public, but the public generally, or any individual in particular, may be excluded by order of the Court. No person has a right to interfere in the proceedings without leave of the Court. At least twelve, and not more than twenty-three jurors should be sworn, and twelve must agree in the verdict. The Coroner or Magistrates who hold the inquisition should take down the witnesses' examination in writing, or so much as is material, as near as possible in their very words. The Court must hear evidence on oath, as well for the party accused as for the Crown, if it be offered. After his examination has been read to him, the witness should sign it, and the Coroner or Magistrate should also subscribe it. The Coroner should bind over all those witnesses who prove any material fact against the party accused. After the evidence has been heard, the Coroner (or one of the Magistrates) should sum up the evidence, and state the law as applicable to the facts deposed to. If there be a difference of opinion, the Coroner collects the voices, beginning from the bottom of the panel, and accord-

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ing to the opinion of the majority (which, however, must consist of twelve) the verdict is taken. In case no twelve jurors shall agree and return a verdict within a reasonable time, the Coroner or Magistrates are then authorized to discharge such jury, and on their discharge to proceed anew (44 & 45 Vic., c. 35, s. 6). The inquisition in cases of murder, or manslaughter, must be written on parchment, and should be signed by the Coroner (or the two Magistrates), and afterwards by all the jurors who concur in the finding. After the inquisition is executed, the Court should issue its warrant for the arrest of the offender, if a person be implicated by the verdict. When a person is committed by a Coroner for murder, the Court of Queen's Bench can alone grant bail. In any case where a verdict of manslaughter is found, the Coroner or the two Magistrates may accept bail with good, sufficient sureties for appearance of the accused at next assizes (44 & 45 Vic., c. 35, s. 7). A Coroner cannot interfere with a prisoner already in custody, and committed by a Magistrate on a criminal charge; in such case the prisoner cannot be produced at the inquest except by a writ of *habeas corpus*, granted by Court of Queen's Bench. But in cases of any doubt, in which the suspected person is not likely to abscond, or can be kept under efficient observation, he should not be arrested prior to his giving evidence before the Coroner's Court, as thereat he can be freely cross-examined on every subject connected with the crime, and his own anterior and subsequent movements —his evidence being available, for or against him, and likely to assist much in the vindication of the law. The forms for summonses, warrants, recognizances, &c., may be the same as those provided by the Petty Sessions Act (14 & 15 Vic., c. 93). The Coroner's depositions, warrants, or summonses require no stamps.

Coroners Act, 9 & 10 Vic., c. 37, s. 22.—When any *dead body shall be found*, or any case of *sudden death*, or of death attended with suspicious circumstances, shall occur in any district, the Sub-Inspector of the Constabulary of

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such district, or the Constable or Sub-Constables acting in and for the place where such dead body shall be found or such death happen, shall give or cause to be given immediate notice thereof to the Coroner of such district, together with such information as he or they shall have been able to obtain touching the finding of such dead body or such death; and the said Coroner shall, if upon the receipt of such or other sufficient notice and information *he shall deem it necessary* to hold an inquest upon such dead body, issue his precept to the Sub-Inspector of such district, or, in his absence, to the Head or other Constable acting for him, to summon a sufficient number of persons to attend and be sworn as jurors upon such inquest, at the time and place specified in such precept; and the said Coroner shall issue a summons for every witness whom he shall deem necessary to attend such inquest at the time and place therein specified, for the purpose of giving evidence relative to such dead body; and he shall deliver or cause to be delivered all such summonses to the Constable, or some one of the Sub-Constables acting in and for the place where such inquest is to be held, who shall forthwith proceed to serve the same.

S. 23. Such Sub-Inspector or Constable shall *summon* or cause to be summoned in writing, as jurors upon such inquest, such persons as shall be resident within the district, and rated to the relief of the poor in a sum of not less than £4: Provided always, that if the attendance of a sufficient number of jurors, qualified as aforesaid, cannot conveniently be had, it shall be lawful for the Sub-Inspector or Constable, as aforesaid, to summon or cause to be summoned such and so many other fit and proper persons, being householders, and residing within the county where such inquest is to be holden, as shall be necessary, to attend and be sworn as jurors upon such inquest: no person who is exempted from serving upon juries shall be liable to be summoned as a juror upon inquest.

S. 24. Coroner shall make an abstract of the inquisition and finding of jury, and shall state in such abstract the names of the jurors and of all witnesses examined, and annex account of money paid by him on account of such inquest.

S. 31. *Coroner may direct analysis.*—Any Coroner who shall consider an analysis of any matter or thing concerning any dead body necessary, may direct such analysis to be made by such legally qualified practitioner as he and the majority of the jury sworn upon inquest, shall appoint, at a fee not exceeding five guineas.

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S. 33. *Medical witnesses.*—Coroner may summon as witness any legally qualified medical practitioner, being at the time in actual practice at or near the place where such death happened; and at any time between issuing summons and the termination of inquest to direct the performance of a *post-mortem* examination by such medical witness.

S. 34. Whenever it shall appear to the majority of the jurors that the cause of death has not been satisfactorily explained by the evidence of such medical practitioner, &c., the jurors by requisition in writing may require the Coroner to summon some other legally qualified practitioner.

S. 35. *Coroner may fine juror or witness neglecting to attend.*—When any person shall have been duly summoned as juror or witness fails to attend, Coroner is authorized to cause such person to be openly called in court three times as juror or to give evidence; and upon non-appearance and proof that summons had been served upon him, or left at his usual place of abode, Coroner may fine him not exceeding 40*s.*

S. 36. Whenever any dead body shall be found, and any Coroner shall, in consequence of the information received by him, consider it necessary to hold an inquest thereon, it shall and may be lawful for such Coroner to order and direct that such dead body shall be brought into the nearest convenient tavern, public-house, or house licensed for the sale of spirits; and the owner or occupier of such tavern, public or other licensed house shall, and he is hereby required to permit and allow such dead body to be deposited within the same, or within some part of the premises thereof, until the inquest shall have taken place; and if such owner or occupier shall refuse to permit such dead body to be deposited within the said house, or some part of the premises thereof, it shall be lawful for the said Coroner to impose such fine, not exceeding forty shillings.

S. 37. Coroner not to act professionally in any case which may have come before him as Coroner.

S. 38. Coroner, although elected for a district, to be considered a Coroner of the county or city at large.

S. 39. Coroner to hold inquests only in the district to which appointed except in certain cases.

S. 40. Orders of Coroner or Magistrates made under Act to be signed and sealed.

S. 44. If no inquest shall be held within the space of two days from the finding of the body or the death of the person, in the absence of the Coroner two Magistrates may hold an inquest, summon jurors, witnesses, and act in all other respects as the Coroner is empowered to do under the provisions of this Act.

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Schedule C authorizes the following scale of payments by the Coroner, or any two Magistrates acting in his absence:–

	£	s.	d
To any poor witness, not exceeding per diem* . .	0	1	0
To the owner or occupier of house (not being related to or connected with deceased), into which the body may be taken, or in which inquest may be held, . .	0	3	6
To the owner or occupier of any private house (not being related to or connected with deceased), who shall afford accommodation for holding inquest, ...	0	3	6
To any person disinterring, and afterwards burying the body, by order of such Coroner or two Magistrates, .	0	5	0
To any legally qualified medical practitioner attending by summons or order, as aforesaid, to examine the body and give evidence, the sum of	1	1	0
To any such practitioner who shall make a *post-mortem* examination by order as aforesaid, and shall attend inquest, the further sum of	1	1	0
To any person providing a coffin, and burying the body of a stranger on whom inquest has been held, . .	0	10	0

44 & 45 Vic., c. 35.

S. 5. *Payment of Witnesses.*—The Coroner or two Justices holding an inquest may pay to any poor witness for each day of attendance at inquest any sum not exceeding two shillings per day; and may pay any sum not exceeding five shillings for removal of any dead body from place where found to house where inquest is to be held.

S. 6. *Jury on Inquest.*—In case no twelve jurors upon inquest shall agree and return verdict within a reasonable time, the Coroner or Magistrates are authorized to discharge such jury, and upon their discharge to proceed anew, if he or they shall so think fit, to have another jury to hold inquest (none of the former jurors to be eligible to serve) and obtain attendance of witnesses.

S. 7. *Bail in case of Manslaughter.*—In every case in which a Coroner's jury shall have found a verdict of manslaughter against any person, the Coroner or Magistrates holding inquest may accept bail, if he or they shall think fit, with good and sufficient sureties for the appearance of person charged at next assizes for county.

[By direction of the Commissioners of Poor Law it is ordered and required that, in case the interment of any person deceased cannot otherwise be provided for, that the guardians of the poor of the union in which the death has occurred shall provide for the speedy interment of such deceased person.

* Increased to 2*s.* per diem by 44 & 45 Vic., c. 35, s. 5.

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Corpses washed ashore.—In cases of bodies being washed ashore, and the coroner decides that no inquest is necessary, the relieving officer of the union should be at once communicated with, in order to see to the burial of the corpses.]

Courts of Inquiry (Constabulary.)—*Inspector-General, &c., may hold sworn inquiry*, 6 & 7 Wm. IV., c. 13, s. 24.—It shall be lawful to and for the Inspector-General or Deputy Inspector-General to be appointed under this Act, or either of them, or any other person or persons to be nominated for the purpose from time to time by the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being, to examine on oath into the truth of any charges or complaint preferred against any person to be appointed under this Act, of any neglect or violation of duty in his office, and to report thereon to the Lord Lieutenant or other Chief Governor or Governors of Ireland; and any person who, on any such inquiry, or on any other occasion on which an oath may be administered under this Act, shall give false evidence or take a false oath, and be thereof duly convicted, shall be deemed guilty of wilful and corrupt perjury, and shall be liable to such pains and penalties as persons convicted of wilful and corrupt perjury are or may be subject and liable to.

Witnesses required to attend inquiry, 2 & 3 Vic., c. 75, s. 24.—All witnesses duly summoned by the Inspector-General or Deputy Inspector-General, or person or persons nominated at any time by the said Lord Lieutenant or other Chief Governor or Governors, to inquire, pursuant to the provisions of the said Acts, into any charges or complaint preferred against any person appointed thereunder, of any neglect or violation of duty in his office, and to report thereon, shall, during their necessary attendance at such inquiry, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the Court out of which the Writ or Process issued, or if such Court be not then sitting, then by any Judge of the Court of Queen's Bench in Dublin, upon its being made to appear to such Court or Judge by an affidavit in a summary way, that such witness was arrested in going to or returning from or attending upon such inquiry; and that all persons so duly summoned as aforesaid who shall not attend at such inquiry, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or to answer all such questions as may be legally demanded of them, shall forfeit and incur such penalty not exceeding five pounds, as the said Inspector-General or Deputy In-

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spector-General or person or persons holding such inquiry shall direct, and in default of payment thereof, such person so offending shall and may be imprisoned for such period, not exceeding one month, as such Inspector-General or Deputy Inspector, or person or persons holding such inquiry may direct and adjudge.

Assistant Inspector-General, &c., may be President of any Court of Inquiry.—11 & 12 Vic., c. 72, s. 10, recites 6 & 7 Wm. IV., c. 13, s. 24, and 2 & 3 Vic., c. 75, s. 24, and enacts:—From and after the passing of this Act it shall and may be lawful for either of the Assistant Inspectors-General (without any special appointment), or for any County Inspector or District Inspector who shall be appointed by the Inspector-General (or in his absence by one of his Deputies) to be President of any Court of Inquiry into the truth of any charges or complaints preferred against any Member of the said Constabulary Force of any neglect or violation of duty in his office, to examine on oath into the truth of such charges or complaints, and to summon any witness or witnesses on such Inquiry, and to act in all respects in relation thereto as effectually as can be done under the said recited Acts by the Inspector-General or a Deputy Inspector-General or by any person nominated for the purpose of holding such Inquiry by the Lord Lieutenant or other Chief Governor or Governors of Ireland; and the witnesses summoned to attend such inquiry shall have the same privilege from arrest, and shall be subject to the same penalties for false swearing, and for refusing to be sworn, or (being sworn) to give evidence, or to answer all such questions as may be legally demanded of them, as are provided in the said recited Acts: Provided always, that, if any fine or imprisonment shall be imposed by the President of any such Court, or person or persons holding such inquiry, upon any person summoned to attend thereat, he or they shall forthwith specially report the same to the Lord Lieutenant or other Chief Governor or Governors of Ireland.

[Whenever a fine is inflicted on a witness for not attending the inquiry, or for refusing to be sworn (the Court in the former case should take evidence to prove the service of summons), an entry of the same is to be made on the proceedings, which is to be signed by the President. The proceedings for enforcing the fine are to be in accordance with 14 & 15 Vic., c. 90, s. 14, which directs that the warrant of execution should issue "within fourteen days from the making of the order, and a special report should forthwith be made by the President (through the Inspector-General) to the Lord Lieutenant." For form of warrant see Code.]

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CRIMINAL LAW AMENDMENT ACT, 1885.

48 & 49 Vict., Chap. 69,

An Act to make further provision for the protection of Women and Girls, the suppression of Brothels, and other purposes.

Part I.

Protection of Women and Girls.

2. *Procuration.*—Any person who—

(1.) Procures or attempts to procure any girl or woman under twenty-one years of age, not being a common prostitute, or of known immoral character, to have unlawful carnal connexion, either within or without the Queen's dominions, with any other person or persons; or

(2.) Procures or attempts to procure any woman or girl to become, either within or without the Queen's dominions, a common prostitute; or

(3.) Procures or attempts to procure any woman or girl to leave the United Kingdom, with intent that she may become an inmate of a brothel elsewhere: or

(4.) Procures or attempts to procure any woman or girl to leave her usual place of abode in the United Kingdom (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of a brothel within or without the Queen's dominions,

shall be guilty of a misdemeanour.

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness, unless such witness be corroborated in some material particular by evidence implicating the accused.

S. 3. *Procuring defilement of women by threats or fraud, &c.*—Any person who—

(1.) By threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connexion, either within or without the Queen's dominions; or

(2). By false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connexion, either within or without the Queen's dominions; or

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(3.) Applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connexion with such woman or girl,

shall be guilty of a misdemeanour.

Provided that no person shall be convicted of an offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

S. 4. *Defilement of girl under thirteen years of age.*—Any person who—

unlawfully and carnally knows any girl under the age of thirteen years

shall be guilty of felony.

Any person who attempts to have unlawful carnal knowledge of any girl under the age of thirteen years shall be guilty of a misdemeanour.

Where, upon the hearing of a charge under this section, the girl in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the court or justices, understand the nature of an oath, the evidence of such girl or other child of tender years may be received, though not given upon oath, if in the opinion of the court or justices, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth: Provided that no person shall be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution shall be corroborated by some other material evidence in support thereof implicating the accused: Provided also, that any witness whose evidence has been admitted under this section shall be liable to indictment and punishment for perjury in all respects as if he or she had been sworn.

Whereas doubts have been entertained whether a man who induces a married woman to permit him to have connexion with her by personating her husband is or is not guilty of rape, it is hereby enacted and declared that every such offender shall be deemed to be guilty of rape.

S. 5. *Defilement of girl between thirteen and sixteen years of age.*—Any person who—

(1.) Unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any girl being of or above the age of thirteen years and under the age of sixteen years; or

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(2.) Unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile,

shall be guilty of a misdemeanour.

Provided that it shall be a sufficient defence to any charge under sub-section one of this section if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years.

Provided also, that no prosecution shall be commenced for an offence under sub-section one of this section more than three months after the commission of the offence.

S. 6. *Householder, &c., permitting defilement of young girl on his premises.*—Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control thereof—

induces or knowingly suffers any girl of such age as is in this section mentioned to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally,

(1) shall, if such girl is under the age of thirteen years, be guilty of felony;

(2) if such girl is of or above the age of thirteen and under the age of sixteen years shall be guilty of a misdemeanour.

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years.

S. 7. *Abduction of girl under eighteen with intent to have carnal knowledge.*—Any person who—

with intent that any unmarried girl under the age of eighteen years should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally—

takes or causes to be taken such girl out of the possession and against the will of her father or mother, or any other person having the lawful care or charge of her,

shall be guilty of a misdemeanour

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Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court or jury that the person so charged had reasonable cause to believe that the girl was of or above the age of eighteen years.

S. 8. *Unlawful detention with intent to have carnal knowledge.*--Any person who detains any woman or girl against her will—

(1.) In or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man, or generally, or

(2.) In any brothel,

shall be guilty of a misdemeanour.

Where a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connexion, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel, if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her, or, where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the direction of such person, such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

S. 9. If upon the trial of any indictment for rape, or any offence made felony by section four of this Act, the jury shall be satisfied that the defendant is guilty of an offence under section three, four, or five of this Act, or of an indecent assault, but are not satisfied that the defendant is guilty of the felony charged in such indictment, or of an attempt to commit the same, then and in every such case the jury may acquit the defendant of such felony, and find him guilty of such offence as aforesaid, or of an indecent assault, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such offence as aforesaid, or for the misdemeanour of indecent assault.

S. 10. *Power of Search.*--If it appears to any justice of the peace, on information made before him on oath by any

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parent, relative, or guardian of any woman or girl, or any other person who, in the opinion of the justice, is *bona fide* acting in the interest of any woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such justice, such justice may issue a warrant authorizing any person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a justice of the peace; and the justice of the peace before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

The justice of the peace issuing such warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before a justice, and proceedings to be taken for punishing such person according to law.

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and—

(*a.*) Either is under the age of sixteen years; or

(*b.*) If of or over the age of sixteen years, and under the age of eighteen years, is so detained against her will, or against the will of her father or mother or of any other person having the lawful care or charge of her; or

(*c.*) If of or above the age of eighteen years is so detained against her will.

Any person authorized by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be by force) any house, building, or other place specified in such warrant, and may remove such woman or girl therefrom.

Provided always, that every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other officer of police, who shall be accompanied by the parent, relative, or guardian or other person making the information, if such person so desire, unless the justice shall otherwise direct.

S. 11. *Outrages on decency.*—Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanor.

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S. 12. *Custody of Girls under sixteen.*—Where on the trial of any offence under this Act it is proved to the satisfaction of the court that the seduction or prostitution of a girl under the age of sixteen has been caused, encouraged, or favoured by her father, mother, guardian, master or mistress, it shall be in the power of the court to divest such father, mother, guardian, master, or mistress of all authority over her, and to appoint any person or persons willing to take charge of such girl to be her guardian until she has attained the age of twenty-one, or any age below this as the court may direct, and the High Court shall have the power from time to time to rescind or vary such order by the appointment of any other person or persons as such guardian, or in any other respect.

Part II.

Suppression of Brothels.

S. 13. *Summary proceedings against brothel keeper, &c.*—Any person who—

(1.) keeps or manages or acts or assists in the management of a brothel, or

(2.) being the tenant, lessee, or occupier of any premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or

(3.) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel.

shall on summary conviction in manner provided by the Summary Jurisdiction Acts be liable to a penalty not exceeding £20 or three months' imprisonment.

Part III.

Definitions and Miscellaneous.

S. 14. In this Act, the expression "The Summary Jurisdiction Acts"—as regards Ireland means, within the Police district of Dublin Metropolis the Acts regulating the powers and duties of justices of the peace of such district, or of the police of such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1857 (14 & 15 Vic., c. 93), and the Acts amending the same.

S. 20. *Person charged and his wife to be competent witnesses.*—Every person charged with an offence under this

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Act or under section forty-eight and sections fifty two to fifty-five, both inclusive, of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, or any of such sections, and the husband or wife of the person so charged, shall be competent but not compellable witnesses on every hearing at every stage of such charge, except an inquiry before a grand jury.

Criminal Law and Procedure (Ireland) Act, 1887.

50 and 51 Vic., c. 20.*

An Act to make better provision for the prevention and punishment of Crime in Ireland, and for other purposes relating thereto. [19*th July*, 1887.]

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:—

Preliminary Inquiry.

S. 1.—*Inquiry by order of Attorney-General.*—(1.)—Where a sworn information has been made that any offence to which this section applies has been committed in a proclaimed district, the Attorney-General for Ireland may, if he thinks fit, by order in writing under his hand, direct a resident magistrate, of whose legal knowledge and legal experience the Lord Chancellor shall be satisfied, to hold an inquiry under this Section, and thereupon such resident magistrate may, if he so think fit, although no person may be charged before him with the commission of such crime, sit at a police court, when the offence has been committed in Dublin, or at the place where the petty sessions for the petty sessional district in which the said offence has been committed are usually held, and examine on oath concerning such offence any person whom he has reason to believe to be capable of giving material evidence concerning such offence, other than any person confessing himself or herself to be the offender or the husband or wife of such person, and shall take the deposition of such witness, and if he see cause, may bind such witness by his own recognizance to appear

* The provisions of Sections 1, 2, 5, 6, 7, 8, 11, 12, and the definitions for "writ of possession" and "intimidation" in section 19 of this Act, should be carefully studied.

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and give evidence at the next petty sessions, or when called upon within three months from the date of such recognizance; Provided that no sitting of any inquiry under this section shall commence except between the hours of 10 A.M. and 6 P.M.: Provided also, that a shorthand writer shall be in attendance at such inquiries, and shall take down the questions of the magistrate, and the answers of each witness, and such questions and answers, when transcribed, shall be annexed to the deposition of the witness: Provided also, that upon any person being accused of a crime respecting which an inquiry under this section has been held, such accused person on his being returned for trial, or his solicitor, shall forthwith be supplied with copies of all depositions taken at any inquiry under this section of any witness to be called against him.

(2.) The enactments contained in the Petty Sessions (Ireland) Act, 1851, section 13, relating to the compelling of the attendance of a witness before a justice and to a witness attending before a justice and required to give evidence concerning the matter of an information or complaint for an indictable offence or concerning the matter of an information or complaint in respect of an offence punishable upon summary conviction, as the case may be, shall apply for the purposes of this section as if they were re-enacted herein and in terms made applicable thereto: Provided, that in case a warrant shall be issued for the arrest of any witness in the first instance, and without any summons having previously been served and disobeyed, such witness shall, on demand, be entitled to receive from the resident magistrate holding the inquiry a copy of the information or complaint on which the warrant for his arrest was issued.

(3.) Where a witness, examined at an inquiry under this section, is under the age of twelve years, the parent or guardian of such witness, or the relative or friend with whom such witness usually resides, shall be entitled to attend at such inquiry.

(4.) A resident magistrate holding an inquiry under this section, shall himself conduct such inquiry, and shall not permit any other person to question or examine any witness.

(5.) A witness examined under this section shall not be excused from answering any question on the ground that the answer thereto may criminate, or tend to criminate, himself:

Provided that—

(A.) A witness who answers truly all questions which he is required to answer, shall be entitled to a certificate

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under the hand of the magistrate making such examination, stating that such witness has so answered, and such a certificate shall be a bar to all criminal proceedings against such witness in respect of any offence not being a felony, as to which he has been examined in such inquiry; and

(B.) Any confession or answer by a person to a question put at such examination shall not, except in the case of any criminal proceeding for perjury committed at or after the holding of such inquiry, be, in any proceeding, civil or criminal, admissible in evidence against such person, or the husband or wife of such person;

(C.) Provided that if any person has been charged with the commission of the crime which is the subject of the inquiry, no witness, while the said charge is pending shall be compelled to answer who has been called to give evidence for the defence of such accused person.

(6.) Except with the consent of the witness under examination, no person other than the magistrate and other official person, shall be present at such inquiry.

Save as aforesaid, a witness examined under this section concerning an offence shall not be required to answer any question which he might lawfully refuse to answer on the ground of privilege, if he were being examined as a witness at the trial of a person charged with that offence.

(7.) A magistrate who conducts the examination under this section of a person concerning any offence shall not, if such offence is punishable on summary conviction, take part in the hearing and determination of a charge for that offence; and shall not, if such offence is an indictable offence, take part in the taking depositions against or committing for trial any person for such offence.

(8.) In case any witness examined under this section shall not speak English, the interpreter employed shall not be a policeman.

(9.) The offences to which this section applies are any felony or misdemeanour and any offence punishable under this Act, committed in a proclaimed district, whether committed before or after the passing of this Act, provided that no inquiry shall be held under this section concerning any offence punishable under this Act committed in any district before the proclamation of such district, unless such offence would have been indictable if this Act had not passed, and unless such offence was committed since the expiry of the Prevention of Crime (Ireland) Act, 1882.

(10.) Every summons under this section shall be in the form in the schedule to this Act, or to the like effect.

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Every warrant to commit a witness to prison for refusing to answer a question put to him on an examination held under this section shall set out the question which the witness refused to answer.

There shall be published quarterly in the *Dublin Gazette* a return showing the number of inquiries held during the preceding quarter, the hours during which such inquiries have been held, the number of days occupied, the number of summonses issued, the number of witnesses examined, the names of, and the sentences on, the persons committed for contempt, and the result, if any, of each inquiry.

Summary Jurisdiction.

S. 2.—*Extension of Summary Jurisdiction.*—Any person who shall commit an offence mentioned in subsection 3 (*a*) of this section anywhere in Ireland, or shall commit any of the following offences in a Proclaimed District may be prosecuted before a court of summary jurisdiction under this Act—

(1.) Any person who shall take part in any criminal conspiracy now punishable by law to compel or induce any person or persons either not to fulfil his or their legal obligations, or not to let, hire, use, or occupy any land, or not to deal with, work for, or hire any person or persons in the ordinary course of trade, business, or occupation; or to interfere with the administration of the law.

(2.) Any person who shall wrongfully and without legal authority use violence or intimidation—

(*a.*) to or towards any person or persons with a view to cause any person or persons either to do any act which such person or persons has or have a legal right to abstain from doing, or to abstain from doing any act which such person or persons has or have a legal right to do; or

(*b.*) to or towards any person or persons in consequence either of his or their having done any act which he or they had a legal right to do, or of his or their having abstained from doing any act which he or they had a legal right to abstain from doing.

(3.)—(*a.*) Any person who shall take part in any riot or unlawful assembly, or*

* It will be observed that the offences of riot and unlawful assembly committed in any part of Ireland, whether proclaimed or not, may be tried by a Court of Summary Jurisdiction.

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(*b.*) within twelve months after the execution of any writ of possession of any house or land shall wrongfully take or hold forcible possession of such house or land or any part thereof; or

(*c.*) shall assault, or wilfully and unlawfully resist or obstruct, any sheriff, constable, bailiff, process server, or other minister of the law, while in the execution of his duty, or shall assault him in consequence of such execution.

(4.) Any person who shall incite any other person to commit any of the offences hereinbefore mentioned.

SPECIAL JURY AND REMOVAL OF TRIAL.

S. 3.—*Order for Special Jury.*—Where an indictment for a crime committed in a proclaimed district has been found against a defendant, or a defendant has been committed for trial for such crime, and the trial is to be by a jury before a court in Ireland, other than a court of quarter sessions, the High Court shall on an application by or on behalf of the Attorney-General for Ireland or a defendant make an order, as of course, that the trial of the defendant or the defendants if more than one shall be by a special jury.

S. 4.—*Change of place of trial.*—Whereas it is expedient to amend the law relating to the place of trial of offences committed in Ireland, for securing more fair and impartial trials, and for relieving jurors from danger to their lives, property, and business, be it enacted:

Where an indictment for a crime committed in a proclaimed district has been found against a defendant, or a defendant has been committed for trial for such crime, and the trial is to be at a court of assize for any county in a proclaimed district, or at a court of quarter sessions for any county or borough in a proclaimed district, the High Court on an application by or on behalf of the Attorney-General for Ireland, and upon his certificate that he believes that a more fair and impartial trial can be had at a court of assize in some county to be named in the certificate, shall make an order as of course that the trial shall be had at a court of assize in the county named in the certificate.

The defendant or any defendant, if more than one, may in the prescribed manner and within the prescribed time apply to the High Court to discharge or vary any such order for the removal of a trial, upon the ground that the trial can be more fairly and impartially had in a county other than the county named in the order of removal and

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thereupon the High Court may order that the trial shall be had in any county in which it shall appear that the trial can be most fairly and impartially had; if the court discharge or vary any such order for the removal of a trial, the court shall award that the reasonable costs incurred by the defendant in making the application shall be paid by the Crown.

Proclamation of Districts.

S. 5. *Proclamation of districts for the purposes of the preceding enactments of this Act.*—The Lord Lieutenant, by and with the advice of the Privy Council may from time to time, when it appears to him necessary for the prevention, detection, or punishment of crime and outrage, by proclamation declare the provisions of this Act which relate to proclaimed districts or any of those provisions to be in force within any specified part of Ireland as from the date of the proclamation; and the provisions of this Act which are mentioned in the proclamation shall after the said date be in force within such specified part of Ireland, and that part of Ireland shall be a proclaimed district within the meaning of the provisions so mentioned. Any such proclamation shall be deemed to have expired if an address is presented to Her Majesty by either House of Parliament, praying that such proclamation shall not continue in force.

This section shall not apply to the provisions of this Act relating to dangerous associations.

When any of the provisions of section two of this Act, relating to summary jurisdiction, are declared by proclamation to be in force in a district, such provisions shall apply to offences committed in the district after the passing of this Act, whether before or after the date of the proclamation.

When the provisions of section three or section four of this Act, relating to special juries or change of places of trial, are declared by proclamation to be in force in a district, such provisions shall apply to crimes committed in the district before or after the passing of this Act.

Dangerous Associations.—Arms.

S. 6. *Special proclamation putting into force the enactments of this Act relating to dangerous associations.*—If the Lord Lieutenant is satisfied that any association—

(*a.*) formed for the commission of crimes; or

(*b.*) carrying on operations for or by the commission of crimes; or

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(*c.*) encouraging or aiding persons to commit crimes; or

(*d.*) promoting or inciting to acts of violence or intimidation; or

(*e.*) interfering with the administration of the law or disturbing the maintenance of law and order,

exists in any part of Ireland, the Lord Lieutenant, by and with the advice of the Privy Council, may from time to time by proclamation declare to be dangerous any such association or associations named or described in such proclamation.

(1.) A proclamation under the authority conferred upon the Lord Lieutenant by this section is in this Act referred to as a special proclamation.

(2.) A copy of every special proclamation shall be laid before each House of Parliament within seven days after the making thereof, if Parliament is then sitting, and if not, then within seven days after the next meeting of Parliament.

(3.) If within a period of fourteen days after a special proclamation has been laid before Parliament an address is presented to Her Majesty by either House of Parliament praying that such special proclamation shall not continue in force as to an association or associations named or described therein, such special proclamation shall be deemed to have expired, so far as the same relates to such association or associations.

(4.) Whenever any special proclamation is issued under this Act, if Parliament be then separated by such adjournment or prorogation as will not expire within twenty days, such special proclamation shall be deemed to have expired at the end of a week from the date thereof, unless during that week Parliament shall be summoned to meet within twenty days from the date of the summons.

(5.) When a special proclamation expires, or is revoked, the powers conferred by the seventh section of this Act shall for the time being cease to be in force in respect of the association or associations as to which such special proclamation has expired or been revoked, and any order of the Lord Lieutenant made under such special proclamation shall also cease to be in force.

(6.) The expression "crime" in this section means any felony or misdemeanor, and any offence punishable under this Act.

S. 7. *Prohibition of dangerous Associations.*—From and after the date of such special proclamation and as long as the same continues unrevoked or unexpired, the Lord Lieu-

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tenant in Council may from time to time, by order to be published in the prescribed manner, prohibit or suppress in any district specified in the order, any association named or described in such special proclamation, or any association which appears to the Lord Lieutenant to be a dangerous association, and to have been, after the date of such special proclamation, formed or first employed for any of the purposes of any association named or described in such special proclamation. From and after the date of such order, and during the continuance thereof, every assembly or meeting of such association, or of the members of it as such members, in the specified district, shall be an unlawful assembly, and the association itself shall be an unlawful association; and every person calling together a meeting of such association in the specified district, or of any members thereof as such members, or knowingly taking part in any such meeting, or publishing with a view to promoting the objects of such association any notice of the calling together of any such meeting, or of the proceedings at such meeting, or contributing or receiving or soliciting in the specified district any contribution for the purposes of such association, or in any way taking part in the proceedings thereof in the specified district, or of any branch or meeting of it in such district, shall be guilty of an offence and may be prosecuted before a court of summary jurisdiction under this Act.

In this section, the term "association" includes any combination of persons, whether the same be known by any distinctive name or not.

The Lord Lieutenant in Council may from time to time wholly or in part revoke any order made under this section.

S. 8. *Continuance of* 44 & 45 *Vict.*, *c.* 5; 49 & 50 *Vict.*, *c.* 24.—(*a.*)—The Peace Preservation (Ireland) Act, 1881, as amended by the Peace Preservation (Ireland) Continuance Act, 1886, shall continue in force for five years from the passing of this Act, and until the end of the then next session of Parliament.

(*b.*) A warrant under the said Act directing a search for arms or ammunition in houses, buildings, or places in a proclaimed district as defined by that Act shall be valid in law, notwithstanding that the houses, buildings, or places to be searched are not specified therein, further than as being houses, buildings, or places situated in a specified townland or municipal ward.

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Provisions as to Special Jury, and Removal of Trial.

S. 9. *Special Jury to be sworn like ordinary Juries*, 39 & 40 *Vict. c.* 78.—Where under this Act a trial is had by a special jury, the special jurors shall be taken by ballot in the manner provided by the nineteenth section of the Juries Procedure (Ireland) Act, 1876, from all the jurors upon the panel returned by the sheriff from the special jurors book.

S. 10. *Proceedings on an Order of Removal in Ireland.*—(1.) If an order for the removal of the trial of a crime to any county in Ireland has been made under this Act before the indictment is found, such crime may be inquired of by a grand jury of, and may be heard and determined in, the county named in the order of removal in like manner as if the crime had been committed in such county, and if the order is made after the indictment is found, such crime may be heard and determined as if the indictment had been found in the court to which the trial is removed.

(2.) In either case the defendant may be convicted and sentenced as if the crime had been committed in the county named in the order of removal, but the sentence of the court shall be carried into effect as if he had been tried in the county in which he would have been tried if the order had not been made, and the defendant shall, if necessary, be removed accordingly in pursuance of an order of the court in which he has been tried made for the purpose.

Punishment, Procedure, and Definitions.

S. 11. *Procedure for offence against Act.*—(1.) A person prosecuted before a court of summary jurisdiction under this Act shall be liable on conviction to imprisonment with or without hard labour for a term not exceeding *six months*, and shall have the same right of appeal as he would have under the Summary Jurisdiction Acts in the case of any other summary conviction.

(2.) If any person licensed under the Acts relating to intoxicating liquors, is convicted under this Act, such conviction shall be entered in the proper register of licenses, and may be directed to be recorded on the license of the offender in the same manner, and when so recorded shall have the same effect, as if the conviction were a conviction for an offence against those Acts.

(3.) If an offence is prosecuted summarily under this Act the same shall be prosecuted before a court of summary

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. 19. *Definitions.*—In this Act, unless there is something ıe context repugnant thereto:—

he expression "Lord Lieutenant" means the Lord tenant of Ireland or other Chief Governor or Governors eland for the time being.

defendant shall be deemed to be committed for trial has entered into a recognizance conditioned to appear plead to an indictment or to take his trial upon any nal charge, or who has been committed to prison there ait his trial for any offence.

ıe expression "county" includes a county of a city and nty of a town.

ıe expression "court of assize" means a court created commission of assize, of oyer and terminer, and of gaol ery, or any of such commissions.

ıe expression "Attorney General" means the Attorney eral acting on behalf of the Crown, and includes in the of any vacancy in office or inability to act, the Solicitor eral so acting.

he expression "the Summary Jurisdiction Acts" means e Dublin Metropolitan Police District the Acts regu- the powers and duties of justices of the peace and of olice in that district, and elsewhere in Ireland means e Petty Sessions (Ireland) Act, 1851," and the Acts ding it.

ıe expression "prescribed" means prescribed by rules made under this Act.

ıe expression "writ of possession" includes any decree, ant, order, or other document issued from any court ting possession to be given, or authorizing possession to aken, of any house or land.

ıe expression "intimidation" includes any words or ntended and calculated to put any person in fear of njury or danger to himself, or to any member of his y, or to any person in his employment, or in fear of njury to or loss of property, business, employment, or s of living.

ıe expression "the High Court" means the High Court stice in Ireland.

Short Title.

20.—*Short title.*—This Act may be cited as the inal Law and Procedure (Ireland) Act, 1887.

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jurisdiction in manner provided by the Petty Sessions (Ireland) Act, 1851, and subject to the provisions thereof, save so far as they are altered by the provisions of this section.

(4.) The proceedings for enforcing the appearance of the person charged, and the attendance of witnesses for the prosecution shall be the same as if the offence were an indictable offence.

(5.) Upon every proceeding before a court of summary jurisdiction for an offence under this Act, the evidence for the prosecution and defence shall be taken as depositions in the same manner as if the offence were an indictable offence, and such depositions shall be admissible in evidence on any appeal.

(6.) The court of summary jurisdiction shall within the police district of Dublin metropolis, be a divisional justice of that district, and elsewhere be two resident magistrates in petty sessions, one of whom shall be a person of the sufficiency of whose legal knowledge the Lord Lieutenant shall be satisfied, and the expression "resident magistrate" means a magistrate appointed in pursuance of the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter thirteen, intituled "An Act to consolidate the Laws relating to the Constabulary Force in Ireland." One resident magistrate may act alone in adjourning or postponing a court, or in doing any other thing antecedent to the hearing of a charge under this Act.

(7.) In hearing and determining at any quarter sessions an appeal under this Act, the county court judge and chairman of quarter sessions, or the recorder shall sit and act as sole judge.

(8.) Subject to rules of the High Court any jurisdiction vested by this Act in the High Court shall be exercised by the Queen's Bench Division, and may be exercised by any judge thereof.

S. 12. *Supplemental Provisions as to Proclamations and Orders.*—(1.) Any order, notice, or other document of the Lord Lieutenant under this Act may be signified under his hand or under the hand of the Chief Secretary to the Lord Lieutenant.

(2.) Every proclamation and every special proclamation under this Act, shall provide for the manner of the promulgation thereof. Every proclamation and every special proclamation, and a notice of the promulgation thereof in the manner provided, shall be published in the *Dublin Gazette.*

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(3.) The production of a printed copy of the *Dublin Gazette*, purporting to be printed and published by the Queen's authority, and containing the publication of any proclamation, special proclamation, order, or notice under this Act, shall be conclusive evidence of the contents of such proclamation, special proclamation, order, or notice, and of the date thereof, and in the case of a proclamation that the district specified in such proclamation is a proclaimed district within the meaning of the provisions of this Act mentioned in the proclamation, and in the case of a proclamation or a special proclamation, that such proclamation or special proclamation has been duly promulgated, and in the case of an order that it has been duly made.

(4.) A copy of every proclamation, not being a special proclamation, shall be laid before each House of Parliament within fourteen days after the making thereof, if Parliament is then sitting, and if not within fourteen days after the next meeting of Parliament.

S. 13. *Revocation of Proclamation, and of Special Proclamation and Order.*—The Lord Lieutenant, by and with the advice of the Privy Council, may from time to time by a further proclamation or order revoke any proclamation, or any special proclamation, or any order under this Act. A copy of each such further proclamation shall be laid before Parliament within fourteen days if Parliament is then sitting, and if not within fourteen days after the next meeting of Parliament.

S. 14. *Allowances to Witnesses and others.*—There shall be paid out of moneys provided by Parliament such allowances to officers and other persons acting in pursuance of this Act, and such expenses incurred in reference to any court exercising jurisdiction under this Act, and such expenses of persons charged, counsel, and witnesses, payable in pursuance of this Act, as the Lord Lieutenant, with the approval of the Commissioners of Her Majesty's Treasury, may from time to time direct.

S. 15. *Rules for procedure and matters to be prescribed.*—The Lord Lieutenant may, from time to time, by and with the advice of the Privy Council make, and when made revoke, add to, and alter rules in relation to following matters:—

(1.) In the case where a special jury is required, or where a trial is removed to any county in Ireland, in relation to the attendance, authority, and duty of sheriffs, gaolers, officers, and persons, the removal and custody of prisoners, the alteration of any writs, precepts, indictments, recognizances, pro-

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ceedings, and documents, the transmission of indictments, recognizances, and documents, and the expenses of witnesses and the carrying of sentences into effect; also, in the case where a special jury is required, the number of jurors to be returned on any panel; and

(2.) In the case of the removal of a trial to a court of assize for a county in Ireland, in relation to due provision being made by the prescribed Crown Solicitor in the prescribed manner for the advance of money to defray the necessary costs of the defence, so far as they are occasioned by the removal of the trial, and for enabling the defendant or defendants and the witnesses required for the defence to attend the trial.

(3.) In relation to forms for the purposes of this Act, and to any matter by this Act directed to be prescribed; and

(4.) In relation to any matters which appear to the Lord Lieutenant, by and with the advice aforesaid, to be necessary for carrying into effect the provisions of this Act;

and any rules made in pursuance of this Act shall be judicially noticed and be of the same validity as if they were contained in this Act.

S. 16. *Power of Act to be cumulative.*—Any powers or jurisdiction conferred by this Act on any court or authority in relation to any trial, offence, or matter shall be deemed to be in addition to and not in derogation of any other powers or jurisdiction of any court or authority subsisting at common law or by Act of Parliament in relation to such trial, offence, or matter:

Provided that no person shall be punished twice for the same offence.

S. 17. *Saving for Proclamation.*—Save as provided by this Act, the expiration or revocation of any proclamation or special proclamation or order shall not affect the validity of anything previously done thereunder.

S. 18.—*Saving for Trade Unions*, 34 & 35 *Vic. c.* 31, 39 & 40 *Vic. c.* 22, 38 & 39 *Vic., c.* 86.—An agreement or combination which, under the Trade Union Acts, 1871 and 1876, or the Conspiracy and Protection of Property Act, 1875, is legal, shall not, nor shall any act done in pursuance of any such agreement or combination, be deemed to be an offence against the provisions of this Act respecting conspiracy, intimidation, and dangerous associations.

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S. 19. *Definitions.*—In this Act, unless there is something in the context repugnant thereto:—

The expression "Lord Lieutenant" means the Lord Lieutenant of Ireland or other Chief Governor or Governors of Ireland for the time being.

A defendant shall be deemed to be committed for trial who has entered into a recognizance conditioned to appear and plead to an indictment or to take his trial upon any criminal charge, or who has been committed to prison there to await his trial for any offence.

The expression "county" includes a county of a city and a county of a town.

The expression "court of assize" means a court created by a commission of assize, of oyer and terminer, and of gaol delivery, or any of such commissions.

The expression "Attorney General" means the Attorney General acting on behalf of the Crown, and includes in the case of any vacancy in office or inability to act, the Solicitor General so acting.

The expression "the Summary Jurisdiction Acts" means in the Dublin Metropolitan Police District the Acts regulating the powers and duties of justices of the peace and of the police in that district, and elsewhere in Ireland means "The Petty Sessions (Ireland) Act, 1851," and the Acts amending it.

The expression "prescribed" means prescribed by rules to be made under this Act.

The expression "writ of possession" includes any decree, warrant, order, or other document issued from any court directing possession to be given, or authorizing possession to be taken, of any house or land.

The expression "intimidation" includes any words or acts intended and calculated to put any person in fear of any injury or danger to himself, or to any member of his family, or to any person in his employment, or in fear of any injury to or loss of property, business, employment, or means of living.

The expression "the High Court" means the High Court of Justice in Ireland.

Short Title.

S. 20.—*Short title.*—This Act may be cited as the Criminal Law and Procedure (Ireland) Act, 1887.

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SCHEDULE.

FORM OF SUMMONS TO WITNESS. (PRELIMINARY INQUIRY.)

The Queen v. Persons unknown. } Petty Sessions District of County of

Whereas it appears that [*here set out the nature of the offence*].

This is to command you to appear as a witness before me at on the day of , at o'clock, then and there to be examined before me touching the premises.

(Signed) *A.B.*, Resident Magistrate.

Dated

To *C.D.*, of

[The legal forms (summons, informations, depositions, warrants) should be headed "50 & 51 Vic., c. 20, 14 & 15 Vic., c. 93." In proceedings outside the Dublin Metropolitan District summonses should be signed by a Resident Magistrate. The Order of Conviction in the Petty Sessions Order Book, and the Warrant of Committal should have set out that the Court is properly constituted in accordance with sub-section 6 of section 11 (in this the terms of the sub-section should be closely followed) and should be signed by the two Resident Magistrates. For full information, forms, &c., see the useful Handbook of the Act by "Frank Feely, D.I., R.I.C." Every proclamation under the Act is promulgated by the same being published in the *Dublin Gazette*, and by a printed copy thereof being posted at every Police Station or Barrack, and every place in which Petty Sessions are held respectively within the district proclaimed.]

Cruelty to Animals.—12 & 13 Vic. c. 92.—S. 2. If any person shall, from and after the passing of this Act, cruelly beat, ill-treat, over-drive, abuse, or torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any animal, every such offender shall for every such offence forfeit and pay a penalty not exceeding five pounds."

[Points having been raised, with respect to the application of this section to the practice of fighting cocks in the open field, it was decided by the Court of Common Pleas that this section does not

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apply exclusively to four-footed animals, but embraces *all* animals; and, therefore, that the penalty imposed in that section extends to persons torturing or abusing cocks by fighting them in the open field, or elsewhere; and persons so doing, or aiding and abetting others in so doing, should accordingly be summoned by the Constabulary for torturing and abusing cocks. It has also been held that dishorning cattle, if performed with due care and skill, and for the purpose of rendering them more profitable, is not cruelty within this section. See page 456]

S. 3. *Places kept for bull baiting, &c.*—Every person who shall keep or use or act in the management of any place for the purpose of fighting or baiting any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature, or shall permit or suffer any place to be so used, shall be liable to a penalty not exceeding five pounds for every day he shall so keep or use or act in the management of any such place, or permit or suffer any place to be used as aforesaid; provided always, that every person who shall receive money for the admission of any other person to any place kept or used for any of the purposes aforesaid shall be deemed to be the keeper thereof; and every person who shall in any manner encourage, aid, or assist at the fighting or baiting of any bull, bear, badger, dog, cock, or other animal as aforesaid, shall forfeit and pay a penalty not exceeding £5 for every such offence.

S. 4. *Damage done by cruelty to animals.*—If any person shall, by cruelly beating, ill-treating, over-driving, abusing, or torturing any animal, do any damage or injury to such animal, or shall thereby cause any damage or injury to be done to any person or to any property, every such offender shall on conviction of such offence, pay to the owner of such animal (if the offender shall not be the owner thereof), or to the person who shall sustain damage or injury as aforesaid, such sum of money by way of compensation, not exceeding the sum of ten pounds, as shall be ascertained and determined by the justice of the peace by whom such person shall have been convicted: provided always, that the payment of such compensation, or any imprisonment for the non-payment thereof, shall not prevent or in any manner affect, the punishment to which such person or the owner of such animal may be liable for or in respect of the beating, ill-treating, or abusing of the said animal: provided also, that nothing herein contained shall prevent any proceeding by action against such offender, or the employer of such offender, where the amount of damage or injury is not sought to be recovered under this Act.

S. 5. *Impounding animals.*—Every person who shall impound or confine, or cause to be impounded or confined

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in any pound, or receptacle of the like nature, any animal, shall provide and supply during such confinement a sufficient quantity of fit and wholesome food and water to such animal; and every such person who shall refuse or neglect to provide and supply such animal with such food and water as aforesaid, shall for every such offence forfeit and pay a penalty of 20*s*.

S. 6. *Supplying food and water to animals impounded.*—In case any animal shall at any time be impounded or confined as aforesaid, and shall continue confined without fit and sufficient food and water for more than twelve successive hours, it shall and may be lawful to and for any person whomsoever, from time to time, and as often as shall be necessary, to enter into and upon any pound or other receptacle of the like nature in which any such animal shall be so confined, and to supply such animal with fit and sufficient food and water during so long a time as such animal shall remain and continue confined as aforesaid, without being liable to any action of trespass or other proceeding by any person whomsoever, for or by reason of such entry for the purposes aforesaid; and the reasonable cost of such food and water shall be paid by the owner of such animal, before such animal is removed, to the person who shall supply the same, and the said cost may be recovered in like manner as herein provided for the recovery of penalties under this Act.

S. 12.—*Improperly conveying animals.*—If any person shall convey or carry, or cause to be conveyed or carried, in or upon any vehicle, any animal in such a manner or position as to subject such animal to unnecessary pain or suffering, every such person shall forfeit and pay a penalty not exceeding three pounds for the first offence, and a penalty of £5 for the second and every subsequent offence.

S. 13.—*Arrest of offenders.*—When and so often as any of the offences against the provisions of this Act shall happen, it shall and may be lawful for any Constable, upon his view thereof, or upon the complaint and information of any other person who shall declare his or her name and place of abode to the said Constable, to seize and secure, by authority of this Act, any such offender, and forthwith, without any authority or warrant, to convey such offender before a justice of the peace, to be dealt with by such justice for such offence according to law.

[A Constable should not arrest but proceed by summons, when the offender is known and is likely to appear on summons.]

S. 14.—*Complaint to be made within one month.*—Every complaint under the provisions of this Act shall be made

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within one calendar month after the cause of such complaint shall arise, and every offence committed against this Act may be heard and determined by any justice of the peace within whose jurisdiction such offence shall be committed in a summary way, upon the complaint of any person and without any information in writing; and it shall be lawful for any such justice, in all cases where any person complained of shall not be in custody, to summon such person to appear before such justice, or before any other justice of peace at a time and place to be named in such summons; and on the appearance of the party accused, or in default of such appearance upon proof of the service of such summons, the said justice, or any other justice who shall be present at the time and place appointed for such appearance, shall proceed to examine into the matter; and if upon the confession of the party accused, or on the oath of one or more credible witness or witnesses, the party accused shall be convicted of having committed the offence charged or complained of, the party so convicted shall pay such penalty, damage, or compensation as the said justice shall according to the provisions of this Act adjudge, order, or award, together with the costs of conviction, to be settled by such justice, or be otherwise dealt with according to the provisions of this Act.

S. 19.—*Vehicles may be detained.*—Whenever any person having charge of any vehicle or any animal shall be taken into custody by any Constable for any offence against the provisions of this Act, it shall be lawful for such Constable to take charge of such vehicle or animal, and deposit the same in some place of safe custody, as a security for payment of any penalty to which the person having had charge thereof, or the owner thereof, may become liable, and for payment of any expenses which may have been or may be necessarily incurred for taking charge of and keeping the same; and it shall be lawful for any justice of the peace before whom the case shall have been heard to order such vehicle or such animal to be sold, for the purpose of satisfying such penalty and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be distrained for the payment of such penalty and expenses.

S. 20.—*Obstructing Constable.*—In case any person shall at any time or in any manner unlawfully obstruct, hinder, molest, or assault any Constable or keeper of a pound while in the exercise of any power or authority under or by virtue of this Act, every such person shall forfeit and pay a penalty not exceeding £5 for every such offence.

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S. 22.—*Owners of vehicles to produce driver.*—When any complaint shall be made before any justice of the peace against the driver or conductor of any hackney carriage, or the driver or conductor of any stage carriage, or the driver of any cart, waggon, van, or other vehicle, for any offence committed by him against the provisions of this Act, it shall be lawful for such justice, if he shall think proper, forthwith to summon the proprietor of such hackney or stage carriage, or the owner of such cart, waggon, van, or other vehicle, to produce before him the driver, conductor, or other servant by whom such offence was committed, to answer such complaint; and in case such proprietor or owner, after being duly summoned, shall fail to produce the driver, conductor, or servant, it shall be lawful for the justice of the peace before whom such driver, conductor, or servant shall be required to be produced, if he shall think fit, to proceed, in the absence of such driver, conductor, or servant, to hear and determine the case, in the same manner as if he had been produced, and to adjudge payment by the proprietor or owner, of any penalty or sum of money and costs in which the driver, conductor, or servant shall be convicted; and any sum of money which shall be so paid by the proprietor or owner shall and may be recovered in a summary way from the driver, conductor, or servant through whose default such sum shall have been paid, upon proof of payment thereof, and of such servant's refusing or neglecting to be produced pursuant to the order of the justice, in the same manner as penalties are to be recovered under the provisions of this Act: provided always, that if the said justice of the peace shall deem it proper, it shall be lawful for him, when such proprietor or owner shall fail to produce his driver, conductor, or servant, without any satisfactory excuse to be allowed by such justice, to impose a fine of 40*s.* upon such proprietor or owner, and so from time to time as often as he shall be summoned in respect of such complaint, until he shall produce the said driver, conductor, or servant.

S. 29. *Interpretation of expressions.*—The word "animal" shall mean any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat, or any other domestic animal; and the word "Constable" shall mean any headborough, parish beadle, peace officer, special constable, or any person belonging to the Metropolitan Police Force, in any part of the United Kingdom; and that the word "over-drive" (see section 2) shall also signify over-ride.

17 & 18 Vic., c. 60.—S. 1.—*Persons impounding animals*

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may recover expenses.—Every person who, since the passing of the said Act of the 12th and 13th years of Her Majesty, has impounded or confined, or hereafter shall impound or confine, as in the said Act mentioned, any animal, and has provided and supplied, or shall hereafter provide or supply such animal with food and water as therein mentioned, shall and may and he is hereby authorized to recover of and from the owner or owners of such animal not exceeding double the value of the food and water so already or hereafter to be supplied to such animal, in like manner as is by the said last mentioned Act provided for the recovery of penalties under the same Act; and every person who has supplied or shall hereafter supply such food and water shall be at liberty, if he shall so think fit, instead of proceeding for the recovery of the value thereof as last aforesaid, after the expiration of seven clear days from the time of impounding the same, to sell any such animal openly at any public market (after having given three days' public printed notice thereof) for the most money that can be got for the same, and to apply the produce in discharge of the value of such food and water so supplied as aforesaid, and the expenses of and attending such sale, rendering the overplus (if any) to the owner of such animal.

S. 2.—Any person who shall on any public highway use any dog for the purposes of drawing or helping to draw any cart, &c. Penalty £2 for first offence, £5 for subsequent one.

S. 3.—The word "animal" in 12 & 13 Vic., c. 92, and in this Act, shall mean any domestic animal whether of the kind or species particularly enumerated in clause 29 of former Act, or of any other kind or species whatever, and whether a quadruped or not.

[*Instructions.*—In any case coming under these Acts the Constable should carefully observe, and note in writing, the exact nature of the cruelty, the condition of the animal, and the character of its wounds, their situation, and especially if old, discharging, and in contact with harness, and examine the same for adhering particles of matter and dried blood. If lameness is the source of complaint, it should be, *particularly* ascertained whether or not there is suffering or inflammation in the injured part, as lameness is not always an indication of pain. If weakness or infirmity, take care to have a witness to give evidence of the bodily condition, age, and incapacity of the animal, and the labour exacted from it. If over-loading, it is indispensable to show painful distress of the animal—*e.g.*, trembling, falling, unusual perspiration, or exhaustion—or to show violence on the part of the driver. If mutilation, or any other torture, observe minutely and take down in writing the precise character of the same in detail. It is important to remember the exact words of the accused when stopped, which frequently amount to an admission of

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guilt. In every case, if possible, obtain the name and address of a respectable witness willing to give supporting testimony. If unwilling such witness may be summoned.]

Vivisection.—39 & 40 Vict., c. 77. No person can perform or take part in any experiment calculated to give pain, upon any living animal, except under a license from the Home Secretary, granted for the advancement of medical science, subject to a penalty of £50, or £100 for a subsequent offence, or three month's imprisonment; and search warrants may be granted, on information on oath that such experiments are being performed by an unlicensed person in a non-registered place, authorizing any constable to enter and take the names and addresses of all persons found therein. The penalty for obstruction is £5. The Act prohibits public exhibitions of painful experiments. It does not apply to invertebrate animals.

Customs Acts.

Abstract of Provisions which the Constabulary are required to enforce.

20 & 21 Vic. c. 40. By section 5 of "The Illicit Distillation Act, 1857" it is enacted that "All officers* of the said Constabulary Force . . . shall have, use, and exercise all the powers and authorities, and have and possess all the privileges which are or may be exercised, had, or possessed by any officer of Customs under 'The Customs Consolidation Act, 1853,'† or any other Act now in force, or *hereafter to be passed* in relation to the Customs so far as relates *to any seizure, detention, or prosecution* which may be made or had under any such Act or Acts, and shall be deemed and considered to be officers of Customs for such purposes." Under the operation of this enactment every clause of "The Customs Consolidation Act, 1876," which authorizes *seizure, detention, or prosecution* may be put in force by the Constabulary.

["Contraband," "smuggled," or "uncustomed" goods are—all foreign goods upon which the duties of the customs have not been paid, which are unshipped or in the course of removal.]

Customs Consolidation Act, 1876, 39 & 40 Vic., c. 36.—*Forfeiture of Smuggled Goods.*—S. 177—All goods upon which

* The terms "officer" or "officers" used in these clauses of the Customs Acts include Officers, Head-Constables, Sergeants, Acting-Sergeants, and Constables of the R.I.C. (see 20 & 21 Vic., c. 40, s. 8.)

† This Act (except a few sections) has been repealed by the Customs Consolidation Act, 1876.

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the duties of Customs have not been paid, or the importation of which is prohibited or restricted, and which are unshipped, or in the course of removal, are liable to forfeiture, together with any goods found packed with, or used in concealing them.

S. 185. *Persons before search may require to be taken before a Justice.*—Before any person shall be searched he may require to be taken with all reasonable despatch before a justice or before the collector, or other superior officer of Customs, who shall if he see no reasonable cause for search, discharge such person, but if otherwise, direct that he be searched, and if a female she shall not be searched by any other than a female; if any officer (including any member of the Constabulary) shall without reasonable ground cause any person to be searched, such officer shall forfeit and pay a sum not exceeding £10.

S. 186. *Detention of Offenders.*—Every person who shall illegally import, unship, remove from any quay or wharf or warehouse; or shall knowingly harbour, keep, or conceal upon his or her premises or person, any dutiable or prohibited goods which shall have been illegally unshipped or removed from any warehouse without payment of duty; or shall be in any way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any such goods with intent to defraud Her Majesty of the duties, or shall attempt to evade the duties of Customs, is liable to the penalty of treble the value of the goods, or £100, and may be detained or proceeded against by summons.

[The Constabulary must use great discretion in exercising the power of detention, only resorting to it in the event of the offender being likely to abscond; and any person who may be detained must be taken as soon as possible before a Justice of the Peace to be dealt with according to law.]

S. 187. *Rescue; or Assault on Officers.*—Every person who shall rescue or endeavour to rescue any goods after seizure, or who shall, before or after seizure, stave, break, or destroy, or endeavour to stave, break, or destroy, any goods, to prevent the seizure or securing thereof, or shall rescue any person apprehended for any offence punishable by fine or imprisonment under the Customs Acts, or prevent or attempt to prevent his apprehension, or shall assault or obstruct any officer in the execution of his duty, or shall aid or abet any person in committing any of the above-mentioned offences, shall forfeit one hundred pounds.

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[If the person by whom the officer, Head or other Constable, is assaulted or obstructed has smuggled goods in his possession, he should be detained under section 186, and charged with smuggling, but if not in possession of such goods the offender should not be detained. In either case a report should be immediately made, and the question whether or not the offender shall be prosecuted for the assault will then be considered.]

S. 189. Every person procuring or hiring persons to assemble for the purpose of being concerned in the landing, or unshipping, or carrying, conveying or concealing smuggled goods shall be imprisoned for not exceeding twelve months; and if any person engaged in the commission of the above offences be armed with fire-arms or other offensive weapons, or disguised, or, being so armed or disguised, shall be found with smuggled goods within five miles of the coast, or any tidal river, shall be imprisoned for not exceeding three years (H.L.)

S. 190. *Signalling Smuggling Vessels.* — Persons after sunset and before sunrise between 21st September and 1st April, or after the hour of 8 p.m. and before 6 a.m. at any other time of the year, signalling smuggling vessels may be arrested, and forfeit £100, or be kept to hard labour for one year, and it shall not be necessary in such case to prove that any ship or boat was actually on the coast.

S. 191. Burden of proof of such signal not being intended for the purpose of giving such notice shall be upon defendant.

S. 197. Where persons are taken before a justice for offences under the Customs Acts, such justice may order them to be remanded or admitted to bail.

[It will be necessary that the officer, Head or other Constable, by whom a person is detained, should attend the Justice before whom the offender shall be taken, in order to give evidence of the circumstances connected with the seizure, and in the event of the person being remanded under section 197 of Act, the attendance of the officer, Head or other Constable, before the Justices upon the day appointed for hearing the case will be also requisite.]

S. 198. Persons forming part of the crew of any ship in Her Majesty's employment or service, and detained under the Customs laws, should, upon notice thereof to the Commanding Officer, be placed in security on board such ship until required to be brought before a Justice to be dealt with according to law: the detaining officer, Head or other Constable, is therefore to give notice of any such detention to the Commanding Officer of the ship to which the person may belong.

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S. 201. If any person shall offer for sale any goods under pretence that they are smuggled, the goods shall be forfeited, and such person shall forfeit treble the value of such goods.

S. 202. *Seizure and Forfeiture of Ships, Boats, and Conveyances.*—Ships, boats, carriages, or other conveyances, together with horses or other animals made use of in the importation, landing, removal, or conveyance of uncustomed, prohibited, restricted, or other goods liable to forfeiture under the Customs Acts, shall be forfeited, and the same, together with all persons liable to be detained under the Customs or any other Acts, may be detained in any place either upon land or water by any person duly employed for the prevention of smuggling; and all such ships, boats, goods, or other conveyances, together with all horses and other animals and things so seized shall forthwith be delivered into the care of the Collector or other officer of Customs, at the Custom House nearest to the place of detention.

S. 203. Any member of the Constabulary may, *upon reasonable suspicion*, stop and examine any cart, waggon, or other conveyance to ascertain whether any smuggled goods are contained therein; and any person driving or conducting such cart, &c., refusing to stop, or to allow such examination when required so to do in the Queen's name, is liable to a penalty of not less than £20 or more than £100.

[If possible, the name and address of any person on the cart or other conveyance, and also that of the driver, should be taken; and a report of the facts made.]

S. 204. *Searching houses for smuggled goods.*—Any Officer of Customs having a writ of assistance (warrant issued by Court of Exchequer) or any warrant issued by a Justice of the Peace may, in the day time, enter into and search any house, shop, cellar, warehouse, room, or other place, and in case of resistance break open doors, chests, &c., and seize and bring away any uncustomed or prohibited goods, and may take with him any Constable or police officer.

S. 205. If any Officer of Customs (including any member of the R.I. Constabulary) shall have reasonable cause to suspect that any smuggled goods are harboured, kept, or concealed in any house, or other place, and it shall be made to appear by information on oath before any Justice of the Peace, it shall be lawful for such Justice by special warrant to authorize such officer to enter and search such house or other place, and to seize and carry away any such smuggled goods as may be found therein; and such

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officer is authorized, in case of resistance, to break open any door, and to force and remove any other obstruction to such entry, search, or seizure, and such officer may call upon any Constable or police officer to aid and assist.

[If any Constable has good reason to believe that there are smuggled goods in any house, shop, cellar, warehouse, or other place, he should at once communicate (through the District Inspector if time will permit) with the nearest officer of Customs, and act under his instructions. If immediate action is necessary the Constable should swear an information before a Magistrate, obtain a warrant, and make the search himself under sec. 205.]

S. 211. *Rewards.*—The Commissioners may award to any officer detaining any person liable to detention under Customs Acts if convicted, a reward not exceeding £20 for each such person.

S. 212. The Commissioners may order reward as they see fit out of any pecuniary penalty to any officers by whose means the same is recovered.

S. 213. The Commissioners may order to be paid in respect of any seizure, to the persons making the same, such rewards as they may see fit, not exceeding the value of the goods or things so seized.

S. 233—*Justices' Jurisdiction.* A Justice of the Peace may deal summarily with a person detained for any offence, for which a pecuniary penalty is imposed, if the goods shall not consist of spirits or tobacco, or, being spirits or tobacco, shall not exceed five gallons of spirits or twenty pounds weight of tobacco. In other cases the Justice, provided he sees reasonable cause for detention, may, under section 197 of the Act, either admit such person to bail, or order such person to be detained a reasonable time for the purpose of obtaining the directions of the Commissioners of Customs for the prosecution, also for obtaining the necessary form of information, &c., and at the expiration of that time the person must be brought before one or more Justices, to be dealt with for the higher penalties mentioned in the law.

42 & 43 Vic., c. 21, s. 10. *Penalty for assembling to run goods.*—All persons to the number of three or more who shall assemble for the purpose of unshipping, landing, running, carrying, concealing, or having so assembled, shall unship, land, run, carry, convey, or conceal any spirits, tobacco, or any prohibited or uncustomed goods, shall each forfeit a penalty not exceeding £500 nor less than £100.

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44 & 45 Vic., c. 12, s. 12 (which is substituted for section 184 of Act, 1876).—*Authority to search persons*, &c. Any Officer of Customs or other person duly employed in the prevention of smuggling (including any member of the R. I. C.), may search any person on board any ship or boat within the limits of any port in the United Kingdom, &c., or any person who shall have landed from any ship or boat, provided such officer or other person duly employed as aforesaid shall have good reason to suppose that such person is carrying or has any uncustomed or prohibited goods about his person.

A person shall be guilty of an offence:—(1.) If he staves, breaks, or destroys any goods to prevent the seizure thereof by an Officer of Customs or other person authorized to seize the same. (2.) If he rescues, or staves, breaks, or destroys, to prevent the securing thereof, any goods seized by an Officer of Customs or other person authorized to seize the same. (3.) If he rescues any person apprehended for any offence punishable by fine or imprisonment under the Customs Acts. (4.) If he prevents the apprehension of any such person. (5.) If he assaults or obstructs any Officer of Customs, &c., or other person duly employed for the prevention of smuggling, going, remaining, or returning from on board a ship or boat within the limits of any port, or in searching such a ship or boat, or in searching a person who has landed from any such ship or boat, or in seizing any goods liable to forfeiture under the Customs Acts, or otherwise acting in the execution of his duty. (6.) If he attempts or endeavours to commit, or aids, abets, or assists in the commission of any of the offences mentioned in this section—penalty not exceeding £100—and he may either be detained or proceeded against by information and summons.

[*Authority for Prosecution.*—In order to obtain the direction of the Commissioners of Customs for the prosecution of the person detained, except in summary cases under section 233 of the Act, 1876, a full and detailed report of all the circumstances attending a seizure should be forthwith made by the officer, Head or other Constable, making the seizure, to the nearest principal officer of Customs, or Inspecting Commander or Chief Officer of Coastguard, and a report of the case should also be made to the County Inspector for the information of the Inspector-General. In summary cases the report can be made after the case has been dealt with, should the seizure be made at a distance from the official residence of the Customs or Coastguard Officers.

In case of any doubt or difficulty, the Sergeant should apply (through the District Inspector if time permits) to the nearest Collector or other principal officer of the Customs or Coastguard, and act as he advises. In every case of seizure or of prosecution

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under the Customs Acts a full and explicit report of all the circumstances should forthwith be made to the Inspector-General through the County Inspector.

Expenses.—Expenses incurred in the apprehension of smugglers, or for the carriage and conveyance of smuggled goods, are to be applied for immediately after the termination of the service. The District Inspector will certify to the correctness of the account and transmit it to the Collector of the port where the seizure has been made, who will obtain an order of the Commissioners of the Customs for payment.]

Dead Bodies.—It is a misdemeanour at common law to remove without lawful authority a corpse from a grave. It is also a misdemeanour without lawful authority to dispose of a dead body for the purposes of dissection, and for gain and profit. Refusal or neglect to bury a dead body is the same offence; and so also is obstructing the burial of dead bodies. (See also 2 & 3 Wm. IV., c. 75.)

Desertion from the Army or Royal Marines, offences relating to.

Army Act, 1881, 44 & 45 Vic., c. 58, s. 152.—Any person who falsely represents himself to any military, naval, or civil authority to be a deserter from Her Majesty's regular forces shall, on summary conviction, be sentenced to be imprisoned, with or without hard labour, for any period not exceeding three months.

S. 153. Any person who, in the United Kingdom or elsewhere, by any means whatsoever (1) procures or persuades any soldier to desert, or attempts to procure or persuade any soldier to desert; or (2) knowing that a soldier is about to desert, aids or assists him in deserting; or (3) knowing any soldier to be a deserter, conceals such soldier, or aids or assists him in concealing himself, or aids or assists in his rescue, shall be liable on summary conviction to be imprisoned, with or without hard labour, for a term not exceeding six months.

S. 154. *Apprehension of deserters.*—With respect to deserters, the following provisions shall have effect: (1) Upon reasonable suspicion that a person is a deserter, it shall be lawful for any Constable, or if no Constable can be immediately met with, then for any officer or soldier or other person, to apprehend such suspected person, and forthwith to bring him before a Court of summary jurisdiction. (2) Where a person is brought before a Court of summary juris-

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diction charged with being a deserter under this Act, such Court may deal with the case in like manner as if such person were brought before the Court charged with an indictable offence, or in Scotland an offence. (3) The Court, if satisfied either by evidence on oath or by the confession of such person, that he is a deserter, shall forthwith, as it may seem to the Court most expedient with regard to his safe custody, cause him either to be delivered into Military custody in such manner as the Court may deem most expedient, or until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such reasonable time as appears to the Court reasonably necessary for the purpose of delivering him into military custody. (4) Where the person confessed himself to be a deserter, and evidence of the truth or falsehood of such confession is not then forthcoming, the Court shall remand such person for the purpose of obtaining information as to the truth or falsehood of the said confession, and for that purpose the Court shall transmit, if sitting in the United Kingdom, to a Secretary of State, ... a return (in this Act referred to as a descriptive return) containing such particulars and being in such form as is specified in the fourth Schedule to this Act, or as may be from time to time directed by a Secretary of State. (5) The Court may, from time to time, remand the said person for a period not exceeding eight days in each instance, and not exceeding in the whole such period as appears to the Court reasonably necessary for the purpose of obtaining the said information. (6) Where the Court cause a person either to be delivered into military custody or to be committed as a deserter, the Court shall send, if in the United Kingdom, to a Secretary of State . . . . . a descriptive return in relation to such deserter, for which the Clerk of the Court shall be entitled to a fee of two shillings. (7) A Secretary of State shall direct payment of the said fee.

Desertion from the Navy, 10 & 11 Vic., c. 62, s. 9.—It shall be lawful for the Constable of any place where any person reasonably suspected to belong to Her Majesty's Navy, and to be a deserter, or improperly absent from his duty, shall be found, or of any adjoining place, and if no such Constable can be immediately met with to secure him, then for any person in Her Majesty's service to apprehend or cause such suspected person to be apprehended, and cause him to be brought before any Justice . . . . . in or near such place, who shall examine such suspected

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person, and if, by his confession, or the testimony of one or more witness or witnesses upon oath, or by the knowledge of such Justice, it shall appear that any person brought before him is a person belonging to Her Majesty's Navy, improperly absent from his duty, such Justice shall forthwith cause him to be conveyed to the nearest or most convenient public prison, and shall transmit an account thereof to the Secretary of the Admiralty, or to any Commander-in-Chief, or officer commanding any one of Her Majesty's ships or vessels, with a description of such person, and the name of the ship or vessel to which he shall or may be suspected to belong, or if any such offender shall be apprehended by any person in Her Majesty's service, or shall be apprehended in the vicinity of any one of Her Majesty's ships or vessels in commission, then such Justice shall order him to be taken on board any such ship or vessel, instead of committing him to prison; and in all cases the Justice shall certify the name of the person by whom the offender was apprehended, and such last mentioned person shall by entitled to a reward for such apprehension, according to the amount which is or may be established by the naval regulations or instructions for the time being, in that behalf, &c.

Disturbing Divine Worship.

Behaving irreverently in church or churchyard during divine service, M. at common law. Maliciously or contemptuously coming into any cathedral, parish church, chapel, or other congregation, permitted by 6 Geo. I., c. 5, Ir., and disturbing the same, or misusing any preacher or teacher, M. Maliciously fastening up any church or place of worship, or by threats or force preventing any clergyman performing the ceremony, or hurting any clergyman, F., 27 Geo. III., c. 15, Ir., s. 5. See also page 343.

Dogs injuring sheep.—By 25 & 26 Vic., c. 59, s. 1, the owner of sheep killed or injured by a dog may recover damages (where not more than £5 claimed) from the owner of the dog in a summary way before Justices in Petty Sessions. It is not necessary to show a mischievous propensity in the dog, nor the owner's knowledge thereof, nor that the mischief was attributable to the neglect of such owner. S. 2.—The occupier of premises, or in case of more than one, the occupier of that part of the premises where

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the dog was permitted to live at the time of the injury is to be deemed the owner, unless he proves the contrary, or that the dog was remaining on the premises without his sanction or knowledge.

Dogs Regulation (Ireland) Act, 1865, 28 & 29 Vic., c. 50, s. 6. *License to keep dogs*, &c.—Any person having in his possession or custody any dog or dogs shall, *on or before the* 31*st day of March* in each year, take out a license for such dog or dogs in the Petty Sessions district in which he shall reside; and the Petty Sessions Clerk, upon payment by such person of the proper license duty, shall deliver such license to such person, which shall entitle such person to keep such dog or dogs for one year from and after the date of such license: Provided always that where the owner of a dog or dogs has given the custody of such dog or dogs to another person, who shall not reside in the same Petty Sessions district as the owner, the license for such dog or dogs shall be taken out by the person having the custody of such dog or dogs, and not by the owner.

S. 7. *Occupier liable to pay license duty.*—The occupier of any house or premises where any dog or dogs are kept, or permitted to live or remain, shall be liable to pay the license duty for such dog or dogs, and in default of such payment shall be liable to the penalties incurred by persons keeping unlicensed dogs, unless the said occupier can prove to the satisfaction of the police or Justices that he is not the owner, or has not the custody of such dog or dogs and that such dog or dogs were kept, or permitted to live or remain in the said house or premises without his sanction or knowledge: Provided always that where there are more occupiers than one in any house or premises, let in separate apartments or lodgings, or otherwise, the occupier of that particular part of the premises in which such dog or dogs shall have been kept, or permitted to live and remain, shall be liable to pay the license duty for such dog or dogs.

S. 8. Every Petty Sessions Clerk shall keep "The Registry of Dogs License Book," in which he shall register the issue of such license, the date thereof, the name and residence of the person to whom issued, and the description of the dog or dogs licensed, which book shall be open to the inspection of a Justice, County Inspector, Sub-Inspector, Head-Constable, or Constable, &c.

S. 9. Where any dog previously licensed shall be transferred by sale or gift, the new owner shall obtain from the Petty Sessions Clerk of the district where the license was issued, a certificate, to which a sixpenny Petty Sessions

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stamp shall be affixed; and the new owner shall, within fifteen days after such transfer, cause the certificate to be registered in the "Registry of Dogs License Book" for the Petty Sessions district in which he resides (no fee or stamp duty shall be payable on such registry). In default of such registry the new owner shall be liable to the penalties incurred for keeping unlicensed dogs.

S. 10. Should the person liable not pay the fee of sixpence upon certificate of registry, Justices may make a summary order requiring such payment; and such order shall be enforced.

S. 11. Every Petty Sessions Clerk shall, on or before 15th April in each year, cause to be printed or written a sufficient number of lists of persons to whom dog-licenses were granted, and shall have such posted in or near to every Petty Sessions court and police station within his district.

S. 20. *Penalty for having unlicensed dogs.*—Any person who shall, from and after the 31st day of March in each year, have in his possession or custody any dog or dogs not duly licensed in accordance with the provisions of this Act, shall be liable to P. not exc. £2; and the Petty Sessions Clerk shall thereupon issue such license, upon payment of the proper license duty by such person, and such license shall be held to be valid to the 31st day of March next following the date of such license; and if after such order such person shall continue to keep any dog or dogs without having obtained a license, he shall, in addition to the penalty imposed for the second and any subsequent offence pay a sum not exceeding one shilling for each day he shall have kept a dog without a license.

S. 21. Every person having in his possession or custody any dog or dogs, shall produce the license for such dog or dogs whenever so required by a Justice of the Peace, officer, Head, or other Constable of Constabulary; and in case of refusal he shall, if licensed, be liable to P. 5*s*.

[Under the English Act, dogs kept by blind persons are exempted. In such cases in Ireland the Constabulary are instructed not to prosecute.]

S. 22. Penalties recoverable under Petty Sessions Act, 1851.

S. 23. *No penalty where failure not wilful.*—No penalty shall be exacted in any case where it shall appear to the satisfaction of the Justice or Justices that the person failing to comply with the provisions of this Act has not willingly been guilty of such failure, but that such failure has

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been occasioned by accident: Provided always that such Justice or Justices shall forthwith order such person to take out a license for the dog or dogs in his possession or custody, or otherwise comply with the provisions of this Act, and that such person shall forthwith comply with such order.

SCHEDULE (A.)

Schedule.	Duty. £	s.	d.
For every license to keep one dog . . .	0	2	0
For every license to keep two or more dogs . .	0	2	0 for each dog.

[The Constabulary are to prosecute all persons not complying with this Act, and to summon such as have neglected to take out licenses on or before the 31st March in each year; after that date the petty sessions clerk, without the justice's order, cannot grant a license. The Constabulary have authority to demand from the owner the production of the license for the possession of any dog. Dogs whelped in the interval after 31st March in any year, are not liable to taxation until the succeeding 31st March. The names and addresses of the persons who have applied for licences after the 31st March in each year should be obtained from the petty sessions clerk, with a view to their being summoned. A reference to the license book will show those who have taken out their licenses in proper time, and a comparison between those two lists, and the list published the preceding year of the persons who then took out licenses, will facilitate the proper enforcement of the law by enabling the Constabulary, to a great extent, to fix upon those who have neglected its provisions.]

Dogs Act, 1871, 34 & 35 Vic., c. 56, s. 1. *Dangerous stray dogs may be sold or destroyed.*—Any police officer or Constable may take possession of any dog that he has reason to suppose to be savage or dangerous, straying on any highway, and not under the control of any person, and may detain such dog until the owner has claimed the same, and paid all expenses incurred by reason of such detention. Where the owner of any dog taken possession of by any Constable is known, a letter, stating the fact of such dog having been taken possession of, shall be sent by post or otherwise to the owner at his usual or last known place of abode. When any dog taken in pursuance of this Act has been detained for three clear days where the owner is not known as aforesaid, or for five clear days where he is so known, without the owner claiming the same, and paying all expenses incurred by its detention, the chief officer of police of the district in which such dog was found may

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cause such dog to be sold or destroyed. Any money arising from the sale of any dogs in pursuance of this section shall be paid to the account of the local rate, and be applied to the purposes to which that rate is applicable. All dogs detained under this section shall be properly fed and maintained at the expense of the local rate.

S. 2. *Dangerous dogs.*—Any court of summary jurisdiction may take cognizance of a complaint that a dog is dangerous, and not kept under proper control, and if it appears to the court having cognizance of such complaint that such dog is dangerous, the court may make an order in a summary way directing the dog to be kept by the owner under proper control or destroyed, and any person failing to comply with such order, P. not ex. 20*s.* for every day during which he fails to comply with such order.

S. 3. *Restriction may be placed upon dogs at large.*—The Local Authority may, if a mad dog, or a dog suspected of being mad, is found within their jurisdiction, make, and when made vary or revoke, an order placing such restrictions as they think expedient on all dogs not being under the control of any person during such period as may be prescribed in such order throughout the whole of their jurisdiction, or such part thereof as may be prescribed in such order. Any person who acts in contravention of any order made in pursuance of this section, P. 20*s.* Due notice of such order shall be published at the expense of the local rate. The provisions in this Act contained as to the detention and sale or destruction of dogs found straying on the highway shall apply to dogs found at large in contravention of any order made in pursuance of this section.

S. 5. "Court of Summary Jurisdiction" means any two Justices of the Peace, or any Stipendiary Magistrate. Penalties recoverable under Petty Sessions Act, 1851. "Chief Officer of Police" means in Dublin metropolis—the Commissioner of Police, and elsewhere in Ireland—the District Inspector of R. I. C.

Any act or thing by this Act authorized to be done by the Chief Officer of Police may be done by any person authorized by him in that behalf.

"Highway" includes any street or any place of public resort.

Schedule.—"Local Authority" means, in towns—Mayor and Corporation, or Town Commissioners; in townships, the Township Commissioners; and elsewhere, the Justices of the Peace for the Petty Sessions of the district in which such place is situate.

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[*Canine Rabies.*—The Dogs Act, 1871, vests in the Local Authority the power—if a dog even *suspected* of being mad in a district—of making an order placing restrictions on all dogs in that district not being under the control of a person, and provides for the payment from the local rate of any expense incurred, such as posting or publishing notice of such order. The Constabulary should at once bring under the notice of the Local Authority and report to the Inspector-General the occurrence if any case of rabies, and should use their most strenuous exertions in tracing and destroying any rabid dog, and in enforcing the orders made by Local Authorities. It is not necessary that an order under the Act should be made in Petty Sessions (see section 3 of Act, definition of Local Authority), and as immediate action in such cases is the most likely to prove efficacious, the Constabulary should at once communicate with the Magistrates of the district. Before summoning an Officer or Soldier for being in possession of unlicensed dogs, the Constabulary are to place themselves in communication with the Officer Commanding the Corps or Detachment to which such Officer or Soldier belongs.]

Drilling and Training to Arms, 60 George III., and 1 George IV., c. 1, s. 1.—All meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercise, movements, or evolutions, without any lawful authority from His Majesty, or the Lieutenant or two Justices of the Peace of any county or riding . . . . for so doing shall be and the same are hereby prohibited, as dangerous to the peace and security of His Majesty's liege subjects and of his government, and every person who shall be present at or attend any such meeting or assembly, for the purpose of training and drilling any other person or persons to the use of arms, or the practice of military exercise, movements, or evolutions, or who shall train or drill any other person or persons to the use of arms, or the practice of military exercise, movements, or evolutions, or who shall aid or assist therein, shall be liable to be kept in P. S. for not exc. seven years or two years imp., M.; and every person who shall attend or be present at any such meeting or assembly as aforesaid for the purpose of being, or who shall at any such meeting or assembly be trained or drilled to the use of arms, or the practice of military exercise, movements, or evolutions, shall be liable to fine and imp. not exc. two years, M.

S. 2. It shall be lawful for any Justice of the Peace, or for any Constable or peace officer, or for any other person acting in their aid or assistance, to disperse any such unlawful meeting or assembly as aforesaid, and to arrest and detain any person present at, or aiding, assisting, or abetting

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any such assembly or meeting as aforesaid; and it shall be lawful for the Justice of the Peace who shall arrest any such person, or before whom any person so arrested shall be brought, to commit such person for trial for such offence, unless such person can and shall give sufficient bail for his appearance at the next assizes or quarter sessions, &c.

S. 5. Any action or suit which shall be brought against any Justice or Constable for anything done in pursuance of this Act shall be commenced within six months next after the fact committed, &c.

S. 7. Prosecution shall be commenced within six months after offence committed.

Embezzlement, F., 24 & 25 Vic., c. 96, s. 68.—Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall steal any chattel money, or valuable security belonging to, or in the possession or power of his master or employer, shall be guilty of felony (see also 31 & 32 Vic., c. 116, p. 177.)

[Embezzlement is only a species of larceny. It is a question for a jury whether a person accused of embezzlement is a clerk or servant. A clerk or servant is a person bound either by an express contract of service, or by conduct implying such a contract to obey the orders and submit to the control of his master in the transaction of the business which it is his duty as such clerk or servant to transact. The distinction between embezzlement by a clerk or servant and other kinds of theft is, that in other kinds of theft the property stolen is taken out of the possession of the owner, whereas in embezzlement by a clerk or servant, the property embezzled is converted by the offender whilst it is in the offender's possession on account of his master, and before that possession has been changed into a mere custody.

Evidence.—The inference that the accused has embezzled property by fraudulently converting it to his own use may be drawn from the fact that he has not paid the money or delivered the property in due course to the owner; or that he has not accounted for the money or other property which he has received; or that he has falsely accounted for it; or that he has absconded; or that upon examination of his accounts there appeared a general deficiency unaccounted for. But none of these facts constitutes in itself the offence of embezzlement, nor is the fact that the alleged offender rendered a correct account of the money or other property entrusted to him inconsistent with his having embezzled it.]

Embracery.—Everyone commits the misdemeanor called embracery, who by any means whatever except the production of evidence and argument in open

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court, attempts to influence or instruct any juryman, or to incline him to be more favourable to the one side than to the other in any judicial proceeding, whether any verdict is given or not, and whether such verdict given is true or false. (Stephens' D. C. L.)

Escape of Prisoner.—Any gaoler, Constable, or other officer *negligently* permitting the escape of a prisoner in his custody for a criminal matter is guilty of a misdemeanor at common law. A negligent escape has been defined to be when the party arrested or imprisoned escapes against the will of him in whose custody he is, and is not briskly pursued and taken again before he has been lost sight of. A voluntary escape by consent or connivance of the Constable, amounts to the same kind of offence, and is punishable in the same degree as that of which the prisoner is guilty, and for which he is in custody, whether treason, felony, or misdemeanor. An escape permitted by a private person is an offence of the same description as one permitted by the Constable, as the private person is bound to hold the prisoner and deliver him up to the proper authority. It is a misdemeanor at common law for any prisoner to escape from the custody of a Constable. The person escaping is deemed to have regained his liberty as soon as he gets out of sight of the person from whom he escapes, and not before.

Explosives Act, 1875—38 VIC., c. 17.—ABSTRACT OF PRINCIPAL PROVISIONS OF ACT AND OF ORDERS IN COUNCIL.

The object of the Explosives Act, 1875, is to subject to observation and efficient control, the manufacture, keeping, selling, carrying, and importing of all explosives. (For further information on this subject see the Guide Book to the Explosives Act supplied to the Officers of R. I. C.)

1. The term "Explosive" in this Act—

(1) Means gunpowder, nitro-glycerine, dynamite, gun cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to

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those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect.

(2.) Includes fog signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined (S. 3).

2. The "*local authority*" for the purposes of this Act shall be, in Ireland :—(1) In the city of Dublin, the Lord Mayor, Aldermen, and Burgesses acting by the Town Council. (2) In any urban sanitary district in which the powers, jurisdictions, and authorities of the Grand Jury of the county in which such district is situate are vested and exerciseable by the urban sanitary authority, except as hereafter mentioned, the urban sanitary authority. (3) In any harbour within the jurisdiction of a harbour authority—the harbour authority to the exclusion of any other local authority. (4) In any place in which there is no local authority as before defined—the Justices in Petty Sessions assembled (S. 116).

The Local Authority are required to appoint competent officers to carry out the Act within their jurisdiction.

3. The expression "*police district*" means :—(1) The Police District of Dublin metropolis, and (2) the town of Belfast, and (3) elsewhere in Ireland, any district whether city, town, or part of a county over which is appointed a District Inspector of R.I.C.

The expression "*Chief Officer of Police*" means :—(1) In the Police District of Dublin metropolis, the Chief Commissioner of Police, and (2) in the town of Belfast, the Town Inspector, and in his absence the District Inspector of R.I.C., acting for him ; and (3) elsewhere in Ireland, the District Inspector of R.I.C., and in his absence the Head Constable acting for him (S. 120).

4. *Classification of Explosives.*—For the purposes of this Act the various explosives are divided into seven classes as follows :—Class 1, gunpowder ; Class 2, nitrate mixture (pyrolithe, pudrolithe, &c.) ; Class 3, nitro compound (nitro-glycerine, dynamite, gun cotton,

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gun-sawdust, &c.); Class 4, chlorate mixture (Horsley's blasting powder, Brain's blasting powder, &c.), Class 5, fulminate (chemical compounds or mixtures suitable for employment in percussion caps or any other appliances for detonation); Class 6, ammunition (cartridges or charges for small arms, cannon, or any other weapon, percussion caps, fuzes, fog signals, shells, &c.); Class 7, fireworks (including firework composition and manufactured fireworks) (S. 106, and O.C. 1).

5. *Manufacture of Explosives.*—The Act prohibits the manufacture of any explosive or any process of such manufacture except at a "factory" authorized by the Secretary of State, and at a "small firework factory" authorized by a license from the local authority, with the following exceptions:—(1) Filling for private use and not for sale of any "safety cartridges" for small arms, to an amount not more than 150 lbs.; (2) making of a small quantity of explosive for chemical experiment and not for practical use or for sale; (3) occupier of magazine, store, or registered premises filling cartridges for small arms subject to regulations specified in Sec. 46; (4) occupier of magazine or store preparing explosive for use in his mine or quarry, or in some excavation or work, subject to certain regulations specified in Sec. 47 (*Guide Book*, p. 9).

6. *Keeping of Explosives.*—Explosives other than percussion caps, safety fuzes for blasting, or fog signals, kept by any railway company for use on the railway of such company, may not be kept at any place except as follows:—(1) For private use and not for sale. (2) In premises registered under the Act for keeping such explosives. (3) In a store licensed under Act for the keeping of such explosive. (4) In a magazine licensed for keeping of such explosive. (5) In a factory licensed for the manufacture and keeping of such explosive (SS. 5, 39, and 50).

7. *Certificate of Chief Officer of Police.*—Certain explosives are prohibited from being kept, whether in stores on registered premises, or for private use,

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except in pursuance of a certificate from the Chief Officer of Police (as above defined) or some person authorized by him in writing, that the person named therein is a fit and proper person to keep such explosive. The certificate (which is given without charge) continues in force for one year from the date thereof, and may be revoked at any time by the same authority which granted it.

8. *Keeping of explosives in stores and registered premises.*—(1) There shall not be kept in any store licensed or premises registered for mixed explosives any explosive which is not authorized to be manufactured for general sale, or to be imported for general sale, or which is an authorized explosive of the fifth (fulminate) class. (2) There shall not be kept in such store or registered premises any explosive (other than gunpowder, safety cartridges made with gunpowder, cartridges or charges for cannon or blasting made with gunpowder, and not containing within themselves their own means of ignition, percussion caps, safety fuzes, or fireworks) except in pursuance of an annual certificate of Chief Officer of Police. Such certificate is not required for stores licensed, or for premises registered for gunpowder only. [O. C. 6 (*a*) and 7 (*a*).]

9. The following is the *maximum* quantity of explosive which can be kept for private use:—

Without a certificate—

(1) Gunpowder, not exceeding 30 lbs. (S. 5).

(2) Safety cartridges, made with gunpowder, and containing in all not more than 150 lbs. of gunpowder (S. 40).*

(3) Percussion caps and safety fuses for blasting, unlimited (S. 50).

* The expression safety cartridges means cartridges for small arms, of which the case can be extracted from the small arm after firing, and which are closed so as to prevent any explosion in one cartridge being communicated to other cartridges, consequently it does not include blasting cartridges.

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(4.) Railway fog signals when kept by a railway company for use on their railway, unlimited (S. 50).

(5.) Cartridges (non-safety) for small arms, made with gunpowder and containing in all not more than 5 lbs. of gunpowder (O. C. 12).

(6.) Cartridges for cannon or blasting, made with gunpowder and not containing their own means of ignition, and containing in all an amount of gunpowder not exceeding 30 lbs. (O. C. 12).

(7.) Fireworks not exceeding in all 5 lbs. (gross weight) or to an unlimited extent if obtained for immediate use, and kept for a period not exceeding fourteen days in a safe place and with due precautions for the public safety (O. C. 12).

With a certificate.

(8.) Any explosive (other than the explosives specified above, and not being one of the fulminating class) named in a police certificate, as above mentioned, to an amount not exceeding 10 lbs., whether or not contained in cartridges, and in the case of detonators not exceeding 100 in number (O. C. 12).

The police certificate above referred to is to be granted by the Chief Officer of Police for a district in which the applicant resides, or by some person authorized by him in writing.

A certificate for private use—(*a*) Must specify the particular explosive intended to be authorized. (*b*) Must specify the purpose for which such explosive is required. (*c*) Holds good only for such period, not exceeding one year, as the officer or court granting it may assign, or until revoked, or until a new certificate is granted.

10. *Sale of Explosives.*—(1.) Explosives must not be hawked, sold, or exposed for sale upon any highway, street, public thoroughfare, or public place. (2.) Explosive must not be sold to any child apparently under the age of thirteen years. (3.) When gunpowder exceeding 1 lb. in weight is publicly exposed for sale or sold—(*a*) it must be in a substantial case, bag, canister, or other receptacle, made and closed so as to

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prevent the gunpowder from escaping; and (*b*) the outermost receptacle containing such gunpowder must be conspicuously marked and labelled with the word "gunpowder." (4.) When any explosive (other than gunpowder, safety cartridges, safety fuse for blasting, railway fog signals, percussion caps, and manufactured fireworks) exceeding 1 lb. in weight is publicly exposed for sale, or sold, the same regulations apply as in the case of gunpowder, except that in lieu of the word "gunpowder" there must appear conspicuously on the outermost package the name of the explosive and the word "explosive." (5.) With regard to safety cartridges, safety fuze for blasting, railway fogsignals, percussion caps, and manufactured fireworks, publicly exposed for sale or sold, the regulations are the same as in the case of gunpowder, with the following exceptions:—(*a*) The use of a substantial case, bag, canister, or other receptacle, and the marking of the same, are not enjoined when the amount publicly exposed for sale or sold does not exceed—of manufactured fireworks, 5 lbs. gross weight—of any other of the explosives named, a quantity containing of gunpowder or any other explosive, 5 lbs.; and (*b*) the word "explosive" is not required to be affixed to any outermost package containing either percussion caps, or safety fuze for blasting, only the name of the explosive. In the case of the other explosives, when the explosive exceeds the amounts stated above, the name of the explosive and the word "explosive" must appear on the outermost package. (Sections of Act, 30, 31, 32, 39, 40, and O. C. 9).

11. *Carriage of Explosives.*—Explosives shall not be conveyed in a carriage or boat whilst carrying or plying for public passengers, unless the quantity be less than five pounds, and all due precautions be taken for the prevention of accidents by fire or explosion. Certain named explosives are in no case to be conveyed by such carriage or boat (O. C. 4).

12. *General power of search for Explosives.*—Where any of the following officers, namely, any Government Inspector, or any Constable, or any officer of the local

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authority, if such Constable or officer is specially authorized either (*a*) by a warrant of a justice, which warrant such justice may grant upon reasonable ground being assigned on oath, or (*b*) (where it appears to a superintendent or other officer of police of equal or superior rank, or to a Government Inspector, that the case is one of emergency, and that the delay in obtaining a warrant would be likely to endanger life), *by a written order from such superintendent, officer, or inspector*—has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a carriage, boat or ship), or that any explosive is in any such place in contravention of this Act, or that the provisions of this Act are not duly observed in any such place, such officer (Constable, &c.) may on producing, if demanded, . . . his authority, enter at any time, and if needs be by force, and as well on Sunday as on other days, the said place, and every part thereof, and examine the same, and search for explosives therein, and take samples of any explosive and ingredient of an explosive therein, and any substance reasonably supposed to be an explosive, or such ingredient which may be found therein. Any person failing to admit or obstructing any officer (Constable, &c.) is liable to a penalty of £50, and forfeiture of explosives and ingredients. Where a Constable, &c., authorized by written authority of Officer of Police enters and searches as above provided, *a special report in writing of every act done and the grounds on which it is done shall be forthwith sent by the person by whom or under whose authority it was done to the Secretary of State* (s. 73).

[If it should appear that there is reasonable cause to believe that explosives are so kept, a search warrant should be obtained by the Constabulary from a Magistrate upon a proper information, and a careful examination and search should be made of the place in which the explosives are believed to be kept, and if necessary samples taken of any explosives and ingredient of any explosive therein, and any substance reasonably supposed to be an explosive or such ingredient which may be found therein.]

13. *Seizure and detention of explosives.*—Where any Constable or any officer of the local authority has reason-

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able cause to believe that any explosive or ingredients of an explosive or substance found by him is liable to be forfeited under this Act, he may seize and detain the same until some court of summary jurisdiction has determined whether the same is or is not so liable to be forfeited. The Constable, &c., may either require the occupier of the place where seized to detain same or may remove it to a safe place; and may when the matter is urgent, and that he is authorized by an order from a justice or officer of police, cause the same to be destroyed or otherwise rendered harmless, but before destroying same he shall take a sample thereof, and shall, if required, give a portion of sample to the person owning the explosive; and any such occupier failing to keep the same when required, or who, except with authority of Constable, &c., seizing the same, or to prevent explosion, removes or tampers with same, is liable to a penalty of £50 and forfeiture of explosives, &c. (s. 74).

14. *Inspection of wharf, carriage, boat.*—Any Chief Officer of Police may, for the purpose of ascertaining whether the provisions of this Act with respect to the conveyance, loading, unloading, and importation of an explosive are complied with, enter, inspect, and examine at any time (Sundays included) the wharf, carriage, ship or boat, of any person who conveys goods for hire, or of the occupier of any factory, or store, or of the importer of any explosive, on or in which wharf, carriage, ship, or boat, he has reasonable cause to suppose an explosive to be for the purpose of or in course of conveyance. And such officer if he find any offence being committed under this Act, may seize and detain or remove the said carriage, ship, or boat, or the explosive. Any Officer of Police (Constable, &c.) who has reasonable cause to suppose that any offence against this Act is being committed in respect of any carriage (not being on a railway), or any boat conveying, loading, or unloading any explosive, and that the case is one of emergency, and that the delay in obtaining a warrant may endanger life, may stop, and enter, inspect, and examine

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such carriage or boat, and by detention or removal thereof or otherwise take such precautions necessary for removing danger. Every officer shall for the purpose of this section have the same powers as if authorized by search warrant granted under this Act (s. 75).

15. *Payment for samples.*—When a Constable &c., takes samples of any explosive, or ingredient, or substance, he shall pay for, or tender payment for the same to such amount as he considers to be the market value thereof (s. 76).

16. *Forfeiture and Penalty.*—The Court before whom a person is convicted of an offence against this Act may, in lieu of forfeiting explosive, impose upon such person, in addition to any other punishment, a penalty not exceeding the value of explosive (s. 89.)

17. All penalties imposed under Act shall be paid into Her Majesty's Exchequer. Any explosive or ingredient forfeited may be sold, destroyed, or otherwise disposed of as the Court may direct. The receptacle containing explosive may be forfeited and disposed of in like manner (sec. 96).

Explosive Substances Act, 1883.
46 Vic., c. 3.*

S. 2. *Causing Explosion.*—Any person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be guilty of felony.

S. 3. *Attempt to cause explosion.*—Any person who within or (being a subject of Her Majesty) without Her Majesty's dominions unlawfully and maliciously—

(*a.*) Does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion in the United Kingdom of a nature likely to endanger life or to cause serious injury to property; or,

* The object of the Explosive Substances Act, 1883, is to enable the law to deal more effectively with persons using or attempting to use, or making or having in their possession any explosive substance with a view to endanger life or to injure property, or for any similar unlawful objects.

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(*b.*) Makes, or has in his possession, or under his control, any explosive substance with intent by means thereof to endanger life, or cause serious injury to property in the United Kingdom, or to enable any other person by means thereof to endanger life or cause serious injury to property in the United Kingdom, shall, whether any explosion does or not take place, and whether any injury to person or property has been actually caused or not, be guilty of felony.

S. 4. *Making or possession of explosive.*—(1.) Any person who makes or knowingly has in his possession, or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be guilty of felony.

(2.) In any proceeding against any person for a crime under this section, such person and his wife, or husband, as the case may be, may, if such person thinks fit, be called sworn, examined, and cross-examined as an ordinary witness.

S. 5. *Accessories.*—Any person who by the supply of, or solicitation for money, the providing of premises, the supply of materials, or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to the commission of any crime under this Act shall be guilty of felony.

S. 6. *Inquiry into case of crime under Act.*—Where the Attorney-General has reasonable ground to believe that any crime under this Act has been committed, he may order an inquiry, and thereupon any Justice authorized by him, although no person be charged with the commission of such crime, may sit and examine on oath any witness.

S. 7. *No prosecution except by leave of Attorney-General* —If any person is charged before a Justice with any crime under this Act, no further proceeding shall be taken against such person without the consent of the Attorney-General.

S. 8. *Search for explosives.*—Sections 73, 74, 75, 89, and 96 of the Explosives Act, 1875 (given above) shall apply in like manner as if a crime or forfeiture under this Act were an offence or forfeiture under the Explosives Act, 1875. (2) Where the master or owner of any vessel has reasonable cause to suspect that any dangerous goods or goods of a dangerous nature which, if found, he would be entitled to throw overboard, are concealed on board his vessel, he may search for such goods, and may for such search break open any box, parcel, &c., and if he finds any dangerous goods may cause them to be thrown overboard.

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Extradition of Criminals.

1. The Extradition Act relating to the Colonies is the Fugitive Offenders Act, 1881, 44 & 45 Vic., c. 69. A provisional warrant may be granted by any magistrate. In Ireland, on arrest, the accused must be brought before one of the police magistrates of the Dublin Metropolitan Police District, who alone can hear the case and commit the fugitive (ss. 4, 5, and 30.)

2. Treaties of Extradition are in force between the British Government and the Governments of France, Germany, Austria-Hungary, Brazil, Spain, Italy, Belgium, The Netherlands, Denmark, Sweden and Norway, Switzerland, Hayti, the United States of America, Luxemburg, Salvador, Uruguay, Guatemala, Ecuador, Columbia, Mexico, Tonga, and Russia.

3. The treaties usually provide that the subjects of the one Government shall not be surrendered to take their trial for any offence committed within the jurisdiction of the other.

4. The treaties with the United States include the following offences:—Under Treaty, 9th August, 1842 (6 & 7 Vic., c. 76, and 8 & 9 Vic., c. 120), Murder, assault with intent to commit murder, piracy, arson, robbery (that is, larceny from the person by violence or menaces), and forgery or utterance of forged paper. Under Treaty, 12th July, 1889, manslaughter, when voluntary; counterfeiting or altering money; uttering or bringing such into circulation; embezzlement; larceny; receiving money or other property knowing the same to have been embezzled, stolen, or fraudulently obtained; fraud by a bailee, banker, agent, factor, trustee, or director or member or officer of any company; perjury or subornation of perjury; rape; abduction; child stealing; kidnapping; burglary; housebreaking or shop-breaking; piracy by the law of nations; revolt on board ship on high seas against authority of master; wrongfully sinking or destroying a vessel at sea, or attempting to do so; assaults on board ship on the high seas with intent to do grievous

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bodily harm; crimes, &c., against the laws for suppression of slavery and slave trade.

5. The treaties with other foreign countries are made under the Extradition Acts, 1870, 1873—33 & 34 Vic., c. 52, amended by 36 & 37 Vic., c. 60. Copies of the treaties and lists of the crimes for which extradition may be granted are to be found in the volumes of the *London Gazette*, in which every extradition treaty is published, as required by the statute.

6. Most of the treaties under the Acts 1870 and 1873 provide for extradition for the following crimes:—(1) Counterfeiting or altering money, and uttering counterfeit or altered money. (2) Forgery, counterfeiting, or altering and uttering what is forged, counterfeited, or altered. (3) Murder, or attempt to murder. (4) Manslaughter. (5) Abortion. (6) Rape. (7) Indecent assault, acts of indecency, even without violence, upon the person of a girl under twelve years of age. (8) Child stealing, including abandoning, exposing, or unlawful detaining. (9) Abduction. (10) Kidnapping and false imprisonment. (11) Bigamy. (12) Wounding or inflicting grievous bodily harm. (13) Assaulting a Magistrate or peace or public officer. (14) Threats by letter or otherwise with intent to extort. (15) Perjury or subornation of perjury. (16) Arson. (17) Burglary or housebreaking, robbery with violence. (18) Fraud by a bailee, banker, agent, factor, trustee or director, or member, or public officer of any company, made by Criminal Act for the time being in force. (19) Obtaining money, valuable security, or goods by false pretences, including receiving any chattel, money, valuable security, or other property, knowing the same to have been unlawfully obtained. (20) Embezzlement or larceny, including receiving any chattel, money, valuable security, or other property, knowing the same to have been embezzled or stolen. (21) Crimes against the bankruptcy laws. (22) Any malicious act done with intent to endanger persons in a railway train. (23) Malicious injury to property if the offence is indictable. (24) Crimes

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committed at sea—acts of depredation, violence, sinking, or destroying a vessel—revolt of crew—piracy. (25) Dealing in slaves.

6. The arrest of a fugitive criminal within the United Kingdom may be effected in two ways :—

(*a*) Under sub-section 1 of section 8 of the Extradition Act of 1870, 33 & 34 Vic., c. 52, by a warrant from a metropolitan Police Magistrate at Bow-street, upon receipt of the order of the Secretary of State, and on such evidence as would justify the issue of the warrant if the crime had been committed within the United Kingdom.

(*b*) Under sub-section 2, by any Police Magistrate or Justice of the Peace in any part of the United Kingdom, on such information or complaint, and such evidence, or after such proceedings as would in the opinion of the person issuing the warrant, justify the issue of a warrant, if the crime had been committed or the criminal convicted, in that part of the United Kingdom in which he exercises jurisdiction.

7. The first method is by the preferment of the request for arrest and extradition by the foreign Government, through its accredited representative at the British Court, to Her Majesty's Secretary of State for Foreign Affairs, who transmits it, together with the warrant, information, depositions, &c., specifying the crime and identifying the accused therewith, to the Secretary of State for the Home Department, for the issue of his directions thereon.

8. The second method is that provided for urgent cases wherein the time necessary for the carrying out of the first and more regular proceeding is wanting—a method to prevent the escape of a fugitive criminal from justice, pending the formal requisition for surrender, and the arrival of the documents required by law.

9. A sworn information of the fact of the crime, and reasonable suspicion of guilt, is invariably required in practice before the issue of a warrant.

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This information may, according to the opinion of the English Law Officers of the Crown, and the practice of the Bow-street Police Court (when there is reasonable ground to suppose that the offender is within its jurisdiction), be based upon a letter or telegram, purporting to be from a diplomatic, judicial, or police authority stating—

(*a.*) The alleged offence.

(*b.*) That a warrant has been granted for the apprehension of the alleged criminal, concerning whose identity full information is essential.

(*c.*) That his extradition will be demanded.

Such letter or telegram must specify in distinct terms not only the offence but that the formal request for extradition will be preferred; and this is an absolute condition precedent to the taking of any step.

10. Failing the issue of such warrant, which as before stated, may be granted by any Justice of the Peace, in any part of the United Kingdom, an arrest should not be effected save in the most urgent and exceptional cases, which would be guided by the ordinary law of arrest.

11. On the issue of a warrant under 33 & 34 Vic., c. 52, ss. 8–11, a report has to be forthwith sent to the Secretary of State for the Home Department, of the issue of such warrant, together with the evidence and the sworn information, or complaint, or certified copies thereof.

The Secretary of State may, if he think fit, order the warrant to be cancelled, and the person who has been apprehended on it discharged.

12. On the apprehension of any person under the Extradition Acts, and the treaty with any country, he is to be brought before a Magistrate of the Bow-street Police Court (London), and this, although the warrant may have been issued by a Justice of the Peace, in some other part of the United Kingdom.

As the evidence of the officer effecting the arrest, on a provincial warrant will be indispensable at Bow-street, the simplest course is for the prisoner to be brought to London by him, with a conduct warrant, in the form

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provided in the second schedule of the statute 33 & 34 Vic., c. 52, the expenses being repaid by the Metropolitan Police, who recover them from the Treasury.

13. After the committal of a prisoner to take his trial in a foreign State for a criminal offence therein committed, fifteen days must elapse before his surrender, to enable him to apply for a writ of *habeas corpus*, and to appeal to the High Court of Justice against the legality of his being given up.

14. In demanding the surrender of a person from a foreign country, to take his trial before British tribunals, for an offence committed within the dominions of the Queen, an official letter of request should be addressed to the Under Secretary of State for the Home Department, transmitting for consideration of the Secretary of State*—

(*a.*) A copy of the warrant certified by the issuing Magistrate.

(*b.*) A similarly certified copy of the sworn information on which it was granted, setting forth the evidence very fully, so as to show that there is a *prima facie* case for a committal for trial.

(*c.*) A certified copy of the depositions, if any, which have been taken, and in cases of forgery, a certified copy of the forged document upon the production of which the warrant was issued.

(*d.*) A description and, if possible, a photograph of accused.

(*e.*) Some indication as to where, and in whose company the accused may be found in the foreign State; or at least a summary of the reasons tending to the belief of his flight thither.

15. If these documents appear to the Secretary of State to be in due form, and the case one fitting for a demand of extradition, they will be transmitted to the Foreign Office, and thence through the Diplomatic channel to the competent judicial and police authorities of the country concerned.

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* In Ireland the application must be made through the Under Secretary for Ireland.

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Fishery Acts.—*Powers of the Constabulary.*—The Constabulary are to exercise their utmost vigilance, as far as may be compatible with the paramount duty of preserving the public peace, in enforcing the fishery laws which relate to the specific offences enumerated in 7 & 8 Vic., c. 108, s. 2, and 8 & 9 Vic., c. 108, s. 10, and such subsequent Acts as deal with those offences. It is illegal to employ the Constabulary in enforcing any other provisions of Acts relating to fisheries, except in the event specified in 6 & 7 Wm. IV., c. 13, s. 15, namely, "where forcible resistance shall have been actually made and proved by information on oath."

Limitation to Public Interests.—It is to be understood that this branch of the duties of the force is limited to the protection of the public interests—a limitation which should be kept strictly in view; and that whilst the Constabulary, without respect of persons enforce the provisions of the Acts as now directed, no interference whatever should take place in the protection of merely private interests, or in questions of private right—as, for example, in the cases of persons using lawful means of fishing, but in places stated to be exclusively the right of others. Nor should the enforcement of the provisions referred to be employed with the view, or for the purpose of settling questions of right; nor are the Constabulary to interfere with any person whatsoever fishing at the lawful season in a manner not contrary to the provisions which they are to enforce.

In case of any offence against any of the provisions of the fishery laws which may come under the cognizance of the Constabulary during the open season, or which are not specifically mentioned in Section 2 of 7 & 8 Vic., c. 108, or Section 10, 8 & 9 Vic., c. 108, they should not take any active steps in enforcing the law, such as by the seizure of nets rods, &c., but should in such cases endeavour to obtain the names and addresses of the parties offending, and report same with full particulars of the offence to the Secretary, Fisheries Office, Dublin Castle and await instructions.

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Cases in which to act.—Subject to the foregoing, the Constabulary will act in enforcing the provisions of the fishery laws as follows, viz. :—In all cases of offences committed in their presence whether off or on duty, provided that, in the latter case, it can be done without impediment to the duty on which actually engaged.

In all cases of offences arising in their immediate neighbourhood, of which they get credible information, and to which they can attend without prejudice to their other duties.

In all cases of having or using any light or fire, spear, gaff, strokehaul, or other such instrument, with intent to take salmon or other fish in or on the banks of any river or lake, or disturbing spawning fish, it is particularly desirable that every exertion should be made to enforce the provisions relating thereto.

Chief Duties.—The enforcement of the observance of the annual and weekly close season for salmon, trout, and oyster fisheries, and the close season during which fixed engines for the capture of eels may not be used (*for Schedule of close Seasons* in the several districts in Ireland see Appendix to Code, and great care should be taken to ascertain what changes in the seasons may have been made since the publication of this Appendix, or may be made from time to time—this can be ascertained on application to the Secretary, Fisheries Office, Dublin Castle, and should be carefully noted); the free passage of fish during such annual and weekly close season; the prohibition of taking, selling, or having in possession the spawn, smelts, or fry of salmon, or trout, or eels, or wilfully obstructing the passage of such, or injuring, or disturbing the spawn or fry, or any spawning bed, bank or shallow where same may be, or wilfully taking, killing, destroying, exposing to sale, or having in possession any red, black, foul, unclean or unseasonable salmon or trout, or placing, laying, setting, or drawing any net, grate, creel, or other engine or device whatsoever (save and except rod and line only), in any mill-pool or mill-dam, or in any watercourses leading

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the water to or from such mill or factory, for the purpose of taking or obstructing salmon or other fish or the fry thereof, or taking any salmon or trout, or fry thereof, or spent salmon, in any eel weir, or having or using *between sunset and sunrise* any light, or fire, spear, gaff, strokehaul, or other such instrument, with intent to take salmon or other fish, in or on the banks of any lake or river, or chasing, injuring, or disturbing spawning fish, or fish on spawning beds, or attempting to catch fish in such places (except with rod and flies only within the lawful period), or draining, or turning, or emptying any river or mill-race for the purpose of taking or destroying any salmon or trout, or the fry thereof. See 7 & 8 Vic., c. 108, s. 2.

The Constabulary are authorized also, when and as often as they shall in any fishing weir, net, or contrivance, *during the weekly or other close season*, find any passage shut, closed or obstructed, or *during such close time*, in any place, find any net or other contrivance placed or used where the same are now by law, or may be prohibited, or shall, at any time, find any obstruction in the Queen's share, or free gap through or over any fishing or other weir, or in the sluice passages appurtenant to any mill or factory, at any time when the sluice gate of same shall be open, then and so often to open such passage, and remove all obstruction, doing no unnecessary damage, and seize and remove all nets or part of nets which may be found so placed or used contrary to the provisions of Act.—See 8 & 9 Vic., c. 108, s. 10.

[*Great care should be exercised in using any of the powers given under this section.*]

The Constabulary are also authorized to demand the production of license from any person using engines for fishing which are subject to license duty. See 11 & 12 Vic., c. 92, s. 29.

[*Rods used simply for taking brown trout, perch, pike, or other fish, save and except salmon, are not subject to license duty. Ib.* s. 21. White trout are defined to be salmon. 13 & 14 Vic., c. 88, s. 7.]

Annual Close Season.—A schedule of the close

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seasons, in the several districts in Ireland, as at present fixed, will be found in Appendix to the Code. Future changes in the seasons will be duly notified, at each station, by the Commissioners of Fisheries.

Analysis of the Acts.—To the schedule of provisions to be enforced are added the sections which point out the means to be used and the manner in which cases are to be brought to trial. Generally it will be desirable to proceed by summons to the petty sessions; but where parties are caught in the commission of the offences during the close season, it will be advisable to seize the illegal instruments used, or the legal instruments used illegally for fishing; and if the parties are unknown, and refuse to give a satisfactory account of themselves, to apprehend them, pursuant to the Acts, and bring them before a magistrate, to be dealt with according to law. Any person so apprehended should be brought before a Justice of the Peace within twelve hours, and if, owing to absence of justice, or reasonable cause this cannot be done, he should be discharged and proceeded against by summons or warrant. See 5 & 6 Vic., c. 106, s. 87.

SCHEDULE of the PROVISIONS of the FISHERY ACTS, 5 & 6 Vic., c. 106; 8 & 9 Vic., c. 108; 9 & 10 Vic., c. 114; 11 & 12 Vic., c. 92; 13 & 14 Vic., c. 88; 26 Vic., c. 10; 26 & 27 Vic., c. 114; and 32 & 33 Vic., caps. 9 and 92; 40 & 41 Vic., c. 65—which the Constabulary should take cognizance of, *subject to the conditions mentioned* in the foregoing instructions.

1. CLOSE SEASONS.—Annual close season for salmon, as fixed by the Commissioners—(see schedule of close seasons in the different districts in Ireland given in Code, p. 481).

2. Annual close season for trout—same as that fixed by the Commissioners for salmon—13 & 14 Vic., c. 88, s. 45.

3. Close season for the capture of eels by means of any Coghill Eel or other net or basket, hung or fixed in the eye, gap, or sluice of any eel or other weir in any river, or by means of any fixed engine, between 10th January and 1st July (except in such places where the season may have been altered). For any alterations see schedule. Not to be used between sunrise and sunset—5 & 6 Vic., c. 106, s. 31

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Draft nets for pollen in Lough Neagh are prohibited from being used by bye-law of the Commissioners.

4. *Close Season for Oysters.*—1st May to 1st September, except Tralee Bay, where it is from 10th March to 1st November; Galway Bay and Inlets (public beds), 1st January to 30th November; Blacksod and Broadhaven Bays, 30th April to 1st September; Achill Sound and Clew Bay, from 1st April to 1st October; Sligo, Ballisodare, and Drumcliffe Bays, from 1st May to 1st June, and Strangford Lough, from 1st March to 1st September; 5 & 6 Vic., c. 106, s. 32.

5. Any person taking or fishing for, or aiding or assisting in taking or fishing for salmon or trout during the close season is liable to a penalty of any sum not exceeding ten pounds for every such offence, and forfeiture of fish and engine by which the same may have been taken; 5 & 6 Vic., c. 106, s. 36. And any person buying, selling, or exposing for sale, or having in his possession any salmon or trout, or any part thereof, so caught in the close time, he shall forfeit such fish and a sum not exceeding two pounds for each fish; and having in possession shall be *prima facie* evidence of the fish having been caught in close season; 13 & 14 Vic., c. 88, s. 35. Constabulary authorized to seize fish caught in the annual close time, but no other. And any person using nets or other modes of catching fish in any weir during close season shall be liable to a penalty of any sum not exceeding ten pounds, and forfeiture of such net, &c., and proof that such person is the occupier of the weir shall be *prima facie* evidence that such nets were set by him; 5 & 6 Vic., c. 106, s. 36. All bag, sole, fly, or stake nets and other engines for catching salmon in the tideway to be removed during close season; 5 & 6 Vic., c. 106, secs. 38, 39. Nets to be removed from banks of rivers during close season; 13 & 14 Vic., c. 88, s. 34; 5 & 6 Vic., c. 106, s. 66. And any person dredging for, taking, catching, or destroying, having in his possession, selling or buying any oysters, or oyster brood during the close season for oysters, shall forfeit such oysters, and pay a sum not exceeding five pounds—minimum of penalties in any of the foregoing cases, ten shillings; 11 & 12 Vic., c. 92 s. 42.

6. *Enforcement of Annual and Weekly Close Times.*—It shall be lawful for the Constabulary and coast-guards, &c., and any person acting under authority of the commissioners, when, and as often as they or any of them shall, in any fishing weir, net, or contrivance, during the weekly or other close season, find any passage shut, closed, or obstructed, or during such close time, in any place find any net or

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other contrivance placed or used where the same are now by law, or may be prohibited by the commissioners, or shall at any time find any obstruction in the Queen's share or free gap, through or over any fishing or other weir, or in the sluice passages appurtenant to any mill or factory at any time when the sluice gate of same shall be open, then and so often to open such passages, and remove all such obstructions, doing no unnecessary damage; and to seize and remove all nets and parts of nets which may be found so placed or used contrary to provisions of Act. Nothing to exempt any person from the penalties and forfeitures prescribed by Act in respect to any of the matters aforesaid—not liable for any damage caused by opening such passage, or removal of nets or obstructions—see 8 & 9 Vic., c. 108, s. 10.

7. If it be proved to the satisfaction of the justices that any boat, cot, or curragh, found on or near waters frequented by salmon or trout, has been used for the capture of salmon or trout during any part of the annual or weekly close time, the person who shall be proved to have used such boat, cot, or curragh for the capture of salmon or trout during the annual or weekly close time, shall for the first offence be subject to a penalty not exceeding five pounds; and for second or any subsequent offence in addition to penalty, boat, cot or curragh may be seized and forfeited. Boat not to be forfeited if used by some person other than the owner, and the owner proves it was so used without his knowledge or consent; 26 & 27 Vic., c. 114, s. 18.

NOTE.—Boat also liable to forfeiture for being used in fishing for salmon or trout in fresh water between eight o'clock evening and six o'clock morning, except so far as the same may have been used before 1864, within limits of a several fishery next above tidal flow, and held under grant or charter, or by immemorial usage; 26 & 27 Vic., c. 114, s. 24.

NOTE.—The Constabulary are not empowered to seize boats, &c., for the offence named in this section.

8. All machinery, nets, &c., for fishing to be removed during close time within thirty-six hours after expiration of open season—penalty (except in case of flood, storm, or stress of weather) not less than two pounds, and not exceeding ten pounds, and forfeiture of net, &c.; see 5 & 6 Vic., c. 106, s. 37; and 13 and 14 Vic., c. 88, s. 34.

9. Nothing shall apply to any person who shall catch or shall have in his possession any salmon or trout for the purposes of artificial propagation or other scientific purposes; and nothing shall prejudice the legal right of any owner to take materials from any stream; 26 & 27 Vic., c. 114, s. 22.

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10. Any person angling for salmon or trout during annual close season liable to penalty not exceeding five pounds; 5 & 6 Vic., c. 106, s. 69.

11. WEEKLY CLOSE TIME.—Weekly close time between six of the clock on Saturday morning and six of the clock on Monday morning; 26 & 27 Vic., c. 114, s. 20, during which time all fishing for salmon or trout, *save with single rod and line excepted*, is prohibited.

NOTE.—There is no power to seize fish caught during the weekly close season.

12. No person shall lay, draw, or fish with any nets whatever (except nets for taking eels) during the weekly close season; 5 & 6 Vic., c. 106, s. 66.

13. A clear opening of four feet to be made in all fixed nets, &c., and leaders of all bag-nets to be removed; and in all rivers, lakes, and tideways, all other nets and baskets whatsoever, *except those used for the taking of eels*, shall be wholly removed and taken out of the water for the space of time above mentioned; and the inscales or gates, and rails, or framework of all such cribs, boxes, or cruives for the catching of salmon, &c., shall be removed out of, or opened in each such crib, &c., in every salmon or other weir wherein salmon may be caught, in such a manner that a clear opening of not less than four feet in width from the bottom to the top shall be left therein, and a free, direct, and uninterrupted space or opening of said width shall be effectually secured for the passage of fish of all kinds, both up and down through such cribs, &c.; 5 & 6 Vic., c. 106, secs. 40 and 58.

14. Penalty for non-observance of weekly close time, or for using any means or device to prevent the free passage, or frightening or scaring, or attempting to frighten or scare any salmon or other fish from passing, or taking any salmon or other fish during the time specified—not less than ten pounds, and not exceeding fifty pounds: provided such person shall not be prevented by flood, storm, or stress of weather from removing leaders, or making openings; 13 & 14 Vic., c. 88, s. 46.—Further penalty and forfeitures in the case of any fishing weir used for fishing, or leaving any box unopened during the weekly close season; 26 & 27 Vic., c. 114, s. 20.

15. *Scaring Salmon*, &c.—No person shall in any manner whatsoever scare, impede, or obstruct the free passage of salmon or trout during the weekly close season; and any person acting in contravention of this section shall forfeit any fish taken by him and any net or instrument used by him,

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and in addition thereto shall incur a penalty not less than two pounds and not exceeding ten pounds. But this section shall not apply to any person who takes fish legally by the single rod and line during the weekly close season; 26 & 27 Vic., c. 114, s. 25.

16. Sluices of mills during.—See "Mills."

17. *Dynamite.*—Any person who uses Dynamite or other explosive substance, to catch or destroy fish, *in a public fishery*, liable to summary conviction. Penalty not exceeding £20 or imprisonment, at the discretion of the Court, with or without hard labour, for a term not exceeding two months. Any offence of this kind committed on the sea coast or at sea, within one marine league of the coast, deemed to be committed in a public fishery. See 40 & 41 Vic., c. 65, secs. 2 and 3.

18. *Fry.*—If any person shall wilfully take, sell, purchase, or have in his possession, the spawn, smolts, or fry of salmon or trout, or of eels, or in any way, or by any device wilfully obstruct the passage of the said smolts or fry, or injure or disturb any such spawn or fry or any spawning bed, bank, or shallow where the same may be, such person shall forfeit and pay a sum not exceeding ten pounds for each and every such offence, and all nets, engines, and devices used in the taking of the same, or whereby any such injury shall be caused, shall be forfeited; 5 & 6 Vic., c. 106, s. 73. Nothing shall apply to having in possession salmon or trout for artificial propagation or other scientific purposes—nor prejudice the right of any owner to take materials from any stream; 26 & 27 Vic., c. 114, s. 22.

19. The word "salmon" shall extend to and include grilse, peale, sea (or white) trout, samlets, par, and all other fish of the salmon kind, and the spawn and fry thereof; 13 & 14 Vic., c. 88, s. 1.

20. And the words "jenkin," "gravelling," are deemed to be salmon; 26 & 27 Vic., c. 114, s. 14.

21. *Mills and Factories.*—No person at any time of the year, to take fish in any mill-pond, or mill-dam, or in works appurtenant to mills, or any watercourse leading the water to or from such mill, by any means save rod and line only, and rendering the millowner liable, if the real offender not known or found; 5 & 6 Vic., c. 106, s. 75.

22. The sluices which admit the water to the wheels of mills or factories to be kept shut for twenty-four consecutive hours, between six o'clock on Saturday afternoon and six o'clock on Monday morning, so that the water may flow freely through any existing gap or waste gate; 5 & 6 Vic., c. 106, s. 63.

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23. The waste sluices or waste gates, or overfalls, shall at all seasons of the year, when the mill shall not be used for milling purposes, be kept open if no passage for fish be provided; and when such passage is provided, then they shall be kept shut down so as to force the water through such passage for fish. Owners of mills liable—penalty ten pounds; 5 & 6 Vic., c. 106, and 13 & 14 Vic., c. 88, s. 39.

24. *Night.*—If any person shall, *between sunset and sunrise*, have or use any light or fire of any kind, or any spear, gaff, strokehaul, or other such instrument, with the intent to take salmon or other fish in or on the banks of any lake or river, or if any person shall be found at any time chasing, injuring, or disturbing spawning fish, or fish on the spawning beds, or attempting to catch fish in such places (except with rods and flies only, within the lawful period), or damming, or teeming, or emptying any river or mill-race, for the purpose of taking or destroying any salmon or trout, or fry thereof, every person so offending in any of the cases aforesaid, shall forfeit all such instruments, and shall also forfeit and pay any sum not exceeding ten pounds; 5 & 6 Vic., c. 106, s. 78.

25. No person shall use any net except a landing net, for the capture of salmon or trout in the fresh-water portion of any river, as defined by the Commissioners, *between the hours of eight o'clock in the evening and six o'clock in the morning, except so far as the same may have heretofore been used within the limits of a several fishery next above the tidal flow, and held under grant or charter, or by immemorial usage.*—Penalty not exceeding ten pounds, and forfeiture of all boats, nets, and gear; 26 & 27 Vic., c. 114, s. 24.

26. *Poisoning Rivers.*—Any person found on the bank of or near any river, with any deleterious matter in his possession under such circumstances as shall satisfy the Court before whom he may be tried, that such person had employed or was about to employ such deleterious matter for the capture or destruction of fish, liable to a penalty of not less than five pounds nor more than ten pounds; and any person found taking fish from any river or lake where it shall be proved that such fish had been poisoned, liable to a penalty of not less than ten shillings, nor more than five pounds; 13 & 14 Vic., c. 88, s. 36.

27. Any person throwing, emptying, or causing to run or flow into any river or lake, any dyestuff, lime, spurge, or other deleterious or poisonous matter, or steeping in any river or lake any flax or hemp, liable to a penalty not exceeding ten pounds; 5 & 6 Vic., c. 106, s. 80.

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28. *Spears, &c.*—It shall not be lawful, *in any fresh water river, or lake, at any season of the year*, to use for the purpose of taking fish, any otter, lyster, spear, strokehaul, dreedraw or gaff except when the latter implement may be used solely as auxiliary to angling with rod and line, or for the purpose of removing fish from any legal weir or box by the owner or occupier thereof, under penalty of not less than four pounds, nor greater than ten pounds; 13 & 14 Vic., c. 88, s. 40.

NOTE.—This does not extend to eel spears.

29. *Unclean Fish.*—If any person shall at any time wilfully take, kill, destroy, expose to sale, or have in his possession any red, black, foul, unclean, or unseasonable salmon or trout, such person shall forfeit and pay any sum not exceeding two pounds for every such fish so taken, killed, destroyed, exposed to sale, or in his possession: Provided always, that if any person shall take or catch any such fish accidentally, and return the same immediately to the water without injury, such person shall not be liable to the penalty aforesaid; 5 & 6 Vic., c. 106, s. 74.

30. Nothing shall apply to any person who shall catch or have in his possession salmon or trout for the purpose of artificial propagation, or other scientific purposes; 26 & 27 Vic., c. 114, s. 22.

31. No unclean or unseasonable salmon, and no salmon caught during the time at which the sale of salmon is prohibited in the district where it is caught shall be exported or entered for exportation from any part of the United Kingdom to parts beyond the seas. Penalty, forfeiture of salmon, and five pounds for each salmon; and the burden of proving that any salmon entered for exportation from any part of the United Kingdom to parts beyond seas between the 3rd September and 30th April following, is not so entered in contravention of Act, shall lie on the person entering same; 26 Vic., c. 10, s. 3; and 34 Vic., c. 33.

NOTE.—No power to seize foul, black, or unclean fish during the open season.

32. *Means provided for the Enforcement of Fishery Acts.*—Certain powers of water bailiffs now extended to the Constabulary by 7 & 8 Vic., c. 108, s. 1.

33. Justices may grant warrant upon information on oath to enter, by day or night, enclosed garden, dwelling-house, or curtilage thereof, to detect offence—warrant to continue in force for one week only; 5 & 6 Vic., c. 106, s. 85.

34. Offenders may be apprehended who refuse to tell their names, or who continue the offence, but may not be

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detained over 12 hours before they be brought before a Justice of the Peace; 5 & 6 Vic., c. 106, s. 87.

35. Persons using violence or menace to prevent lawful prosecution of any fishery may be apprehended; 5 & 6 Vic., c. 106, s. 88.

36. Penalty on assaulting persons empowered to enforce the provisions of the Act; 5 & 6 Vic., c. 106, s. 90.

37. Offences against Acts may be tried, and penalties &c., levied under the "Petty Sessions (Ireland) Act, 1851." Extension of jurisdiction of magistrates to offences committed at sea; disposal of illegal nets or legal nets used illegally; evidence; witnesses; offences on mearing rivers; limitation of prosecution to six months from time of commission; 5 & 6 Vic, c. 106, secs. 94–110.

38. Definition of terms used in Act; 13 & 14 Vic., c. 88, s. 1.

39. *Application of Penalties.*—One-third of every sum of money levied as a fine, penalty, or forfeiture, shall be paid to the person who shall be the means of bringing to justice any person committing any offence against any of the provisions of Acts, and the remainder shall be paid to the Board of Conservators of the district in which the offence was committed, or their authorized officer; 32 & 33 Vic., c. 92.

40. *Summons.*—To be served personally, or left at or on board the vessel, or posted on the known residence of the person for whom intended; for witnesses to be served personally; 5 & 6 Vic, c. 106, s. 94.

41. Illegal nets or engines, or nets or engines of a legal form and size used illegally, may be retained until the next sitting of the petty sessions court, or any adjournment thereof, in the district where the same may be seized, when they are to be brought before the magistrates, to be disposed of, or destroyed, as the case may be, as directed by section 103 of the 5th & 6th Vic., c. 106.

For Pollen Fisheries (Ireland) Act, 1891, see page 461.

Forcible Entry and Detainer.—Everyone commits the misdemeanour called a forcible entry who, in order to take possession thereof, enters upon any lands or tenements in a violent manner, whether such violence consists in actual force applied to any other person, or in threats, or in breaking open any house, or in collecting together an unusual number of persons for the purpose of making such entry. It is immaterial whether the person making such an entry had or had not a right to enter, provided that a person who enters upon land or tenements of his own, but

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which are in the custody of his servant or bailiff, does not commit the offence of forcible entry. Everyone commits the misdemeanour called a forcible detainer who, having wrongfully entered upon any lands or tenements, detains such lands and tenements in a manner which would render an entry upon them for the purpose of taking possession forcible. (*Stephens' Digest of C. L.*)

Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90.—This Act is to regulate the conduct of Her Majesty's subjects during hostilities between foreign States with which Her Majesty is at peace. S. 4. Enlistment without license by British subjects, or inducement by others of British subjects in Her Majesty's dominions to enlist in foreign service, M. S. 5. Leaving without license Her Majesty's dominions with intent to serve a foreign State, M. S. 6. Inducing any person to quit Her Majesty's dominions under false representations as to service, M. S. 7. Taking illegally enlisted persons on board ship, M. S. 8. Prohibits illegal ship-building and illegal expeditions, M. S. 10. Aiding the warlike equipment of foreign ships, M. S. 11. Fitting out naval or military expeditions without license, M.

Forgery.—At common law the offence of forgery is a misdemeanour. It is defined as "the fraudulent making or alteration of a writing, to the prejudice of another man's right."

Forgery may be committed:—(1) By making a document to purport to be what in fact it is not. (2) By altering a document without authority in such a manner as to alter its effect. (3) By introducing into a document without authority, whilst it is being drawn up, matter altering the effect of the document. (4) By signing a document in the name of any person without his authority. (5) By signing a document in the name of any fictitious person.

By statutes certain forgeries have been made felonies. The 24 & 25 Vic., c. 98, is the principal statute providing for this offence. S. 1. Forging or counterfeiting, or uttering knowingly, Her Majesty's *seals* or sign manual, the Great Seal or Privy Seal of Ireland, or uttering any document having the stamp or impression of such forged or counterfeited seal, F. S. 2. Forging, altering, or uttering

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knowingly any transfer of any share or interest of or in any stock, annuity, or other public fund, transferable at the Bank of England or Ireland, or of or in the capital stock of any company, &c., or forging, &c., any power of attorney to transfer any share or interest in stock, &c., or to receive any dividend, F. S. 3. Personating the owner of any bank or other stock, dividend, share, or interest, F. S. 4. Forging any name, handwriting, or signature of a witness, attesting to power of attorney for transfer of stock, or to receive any money payable in respect to same. F. S. 5. Making false entry or altering any word or figure in the account books of the public funds, F. S. 6. Clerk of Bank of England or Ireland knowingly making out or delivering any false dividend warrant, F. S. 7. Forging, altering, or uttering any *East India Bond*, F. S. 8. Forging, altering, or uttering any Exchequer bill or bond, F. S. 9. Without lawful authority, making, or causing to be made, or knowingly having in possession, any frame or instrument, &c., for printing Exchequer bills or bonds, F. S. 10. Without lawful authority, making, or causing to be made, or having in possession any paper intended to imitate that used for Exchequer bills or bonds, F. S. 11. Without lawful authority, having in possession paper, plates, or dies to be used for Exchequer bills, &c., M. S. 12. Forging, altering, offering, or uttering, knowing the same to be forged, any *bank note* or *bank bill of exchange*, or a bank post bill, or any indorsement on, or assignment of any bank note, bank bill of exchange, or bank post bill, with intent to defraud, F. S. 13. Without lawful authority or excuse (the proof whereof shall lie on the party accused), purchasing, receiving, or having in possession any forged bank note, bank bill of exchange, bank post bill, or blank bank note, &c., knowing the same to be forged, F. S. 14. Without lawful authority, making, using, or having in possession, mould or instrument for making paper with the words "Bank of England" or "Bank of Ireland," or with curved bar lines, &c., or selling such paper, F. S. 15. Exceptions to provisions in last section. S. 16. Engraving, or having any plate, &c., for making notes of Bank of England or Ireland, or other banks or having such plate, &c., or uttering or having paper upon which a blank bank note, &c., shall be printed, F. S. 17. Engraving on a plate, &c., any word, number, or device, resembling *part* of a bank note or bill, or using or having any such plate, &c., or uttering or having any paper on which any such word, &c., is impressed, F. S. 18. Making or having

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in possession any *mould* for making paper with the name of any banker appearing visible on the substance of the paper, or making or having such paper, F. S. 19. Engraving plates for foreign bills or notes, or having such plates, or uttering paper on which any part of any such bill or note is printed, F. S. 20. Forging, altering, or uttering any deed or bond, or forging the handwriting of an attesting witness to a deed or bond, F. S. 21. Forging, altering, or uttering any will or codicil, F. S. 22. Forging, altering, or uttering any bill of exchange, or promissory note, or any endorsement or assignment of same, F. S. 23. Forging, altering, or uttering any authority or request for the payment of money, or for the delivery or transfer of goods, &c., or any receipt for goods, or payment of money, F. S. 24. Any person making or accepting any bill, note, &c., by procuration, without lawful authority, or uttering any such bill, note, &c., so made or accepted, with intent to defraud, F. S. 25. Obliterating, adding to, or altering the crossings on a crossed cheque, or offering or uttering such cheque when so altered, with intent to defraud, F. S. 26. Forging, altering, or uttering any debenture, F. S. 27. Forging, altering, or uttering any record, writ, return, warrant, affidavit, or any original document whatsoever, of or belonging to any Court of Record or of Equity, or any document or writing used or intended to be used as evidence in any such court, F. S. 28. Any officer of Court forging copies of certificates of records, process of courts not of record, and using forged process, forging the seal of any court, F. S. 29. Forging, altering, or uttering any instrument, whether written or printed, made evidence by any Act of Parliament, F. S. 30. Forging, altering, or uttering any court roll relating to any copyhold estate, F. S. 31. Forging, altering, or uttering any document, entry, or writing, relating to the Registry of Deeds, F. S. 32. Forging, altering, or uttering any summons, conviction, order, or warrant of any Justice of the Peace, or any recognizance, deposition, affidavit, or declaration taken before any Justice, F. S. 33. Forging or altering any writing made by any officer of the Court of Chancery in England or Ireland, or by any Judge or officer of the Landed Estates or other Court in England or Ireland, or by any Clerk of the Bank of England or Ireland, or the name, handwriting, &c., of any such officer, Judge, or Clerk, F. S. 34. Without lawful authority, acknowledging in the name of another any recognizance, bail, deed, or instrument before any Court, &c., F. S. 35. Forging or altering any license or certificate of marriage, or uttering any such

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forged certificate, F. S. 36. Destroying, defacing, or injuring any register of births, baptisms, marriages, deaths, or burials, required by law to be kept in England or Ireland; or forging or fraudulently altering in any such register any entry relating to any birth, &c., or giving any false certificate relating to any birth, &c., or certifying false copies, F. S. 37. Knowing and wilfully inserting false entries in copies of registers required by law, relating to baptism, marriage, burial, certifying false copies, fraudulently destroying, removing, or concealing copies, &c., F. S. 38. With intent to defraud, demanding, receiving, obtaining, or causing to be, &c., any chattel, money, or property whatsoever, under or by virtue of any forged or altered instrument whatsoever, probate, letters of administration, &c., knowing the will, &c., to be forged, F. S. 39. Person forging, altering, or uttering knowingly any instrument or writing, however designated, which shall be in law a will, deed, bond, bill, note, &c., may be indicted as an offender against this Act. S. 40. Person forging, in England or Ireland, documents purporting to be made out of England and Ireland, or forging, &c., in England or Ireland, bills of exchange, &c., purporting to be payable out of England or Ireland, shall be deemed an offender against this Act. S. 41. Forgers, under any Act or at common law, may be tried where they are apprehended or in custody. S. 46. On information on oath, Justice may grant *warrant to search* for paper or implements employed in the forgery of bank notes or bills, and for forged instruments, and if the same shall be found upon search, to seize and carry the same before some Justice.

Forgery Act, 1870, 33 & 34 Vic., c. 58.—S. 3. Forging, altering, or uttering any stock certificate or coupon, F. S. 4. Falsely and deceitfully personating any owner of any share or interest of or in any stock, &c., F. S. 5. Engraving plates, &c., for stock certificates, or using or having in possession any such plates, &c., F. S. 6. Forgery of certificates of transfers of stocks from England to Ireland, F.

Gaming Houses, 8 & 9 Vic., c. 109, s. 2.—*What evidence sufficient to prove that a house is a common gaming house.*—In default of other evidence proving any house or place to be a common gaming house, it shall be sufficient, in support of the allegation in any indictment or information that any house or place is a common gaming house, to prove that such house or place is kept or used for playing therein at any unlawful game, and that a bank is kept by one or more of the players exclusively of the other, or that the chances of

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any game played therein are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet; and every such house or place shall be deemed a common gaming house, such as is contrary to law.

S. 3. *Constable may enter and search a gaming house under a Justice's warrant.*—It shall be lawful for any Justice, upon a complaint made before him on oath that there is reason to suspect any house, room, or place to be kept or used as a common gaming house, to give authority, by special warrant under his hand, when in his discretion he shall think fit, to any Constable, to enter, with such assistance as may be found necessary, into such house, room, or place, ... and if necessary to use force for making such entry, whether by breaking open doors or otherwise, and *to arrest, search, and bring before a Justice all such* persons found therein: such warrant may be in the form given in the first schedule annexed to this Act.

[In executing such a warrant, in order to succeed in the search, the matter should be kept as secret as possible. Every particular of the duty should be pre-arranged, so that when it is being performed each Constable will know the part to take. A sufficient force should be present to prevent the possibility of resistance; some Constables should surround the place and be posted at the doors and windows to prevent the escape of offenders; other Constables should simultaneously enter and seize the books, money, and securities.]

S. 4. *Penalties on gaming house keepers*, &c.—The owner or keeper of any common gaming house, and every person having the care or management thereof, and also every banker, croupier, and other person who shall act in any manner in conducting the business of any common gaming house shall, on conviction thereof before any two Justices of the Peace, be liable to a penalty not more than £100, or, in the discretion of the Justices, may be committed for not more than six months, or may be proceeded against by indictment.

S. 5. *Proof of gaming for money, &c. not necessary.*—It shall not be necessary, in support of any information for gaming in, or suffering any games or gaming in, or for keeping or using, or being concerned in the management or conduct of a common gaming house, to prove that any person found playing was playing for any wager or stake.

S. 8. *Evidence of Gaming.*—Where any cards, dice, balls, counters, tables, or other instruments of gaming, used in playing any unlawful game, shall be found in any house,

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room, or place, suspected to be used as a common gaming house, and entered under a warrant, or about the person of any of those who shall be found therein, it shall be evidence, until the contrary be made to appear, that such house, room, or place is used as a common gaming house, and that the persons found in the room or place where such tables or instruments of gaming shall have been found, were playing therein, although no play was actually going on in the presence of the Constable so entering the same, and it shall be lawful for the Justices before whom any person shall be taken to direct all such tables and instruments of gaming to be forthwith destroyed.

S. 17. *Cheating at gaming.*—Every person who shall, by any fraud or unlawful device, or ill practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, win from any other person to himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same.

[By 55 Vic., c. 9, contracts to repay sums paid under contracts void by 8 & 9 Vic., c. 109, are null and void.]

17 & 18 Vic., c. 38.

S. 1. Penalty on persons obstructing or delaying the entry of Constables, authorized under 8 & 9 Vic., c. 109, to enter any house suspected to be a common gaming house, on summary conviction before two Justices, £100, or six months' imprisonment.

S. 2. *Obstruction of Constable to be evidence against the house.*—Where any Constable, authorized to enter any house or place, is wilfully prevented from, or obstructed in, entering any part thereof, or when any door of or means of access to any such house or place shall be found fitted with any bolt, bar, chain, or any contrivance for the purpose of preventing, delaying, or obstructing entry into the same, or any part thereof, of any such Constable, or for giving an alarm in case of such entry, or if any such house or place is found fitted or provided with any contrivance for unlawful gaming, or for concealing, removing, or destroying any instruments of gaming, it shall be evidence, until the contrary be made to appear, that the same is used as a common gaming house, and that the persons found therein were unlawfully playing therein.

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S. 3. *Persons refusing name and address.*—If any person found in any house, room, or place by any Constable authorized to enter same, upon being arrested by Constable, or upon being brought before any Justices, shall refuse or neglect to give his name and address, or shall give any false name or address, he may be fined £50.

S. 4. *Penalty for keeping gaming houses.*—Any person being the owner or occupier, or having the use of any house, room, or place, who shall open, keep, or use, or shall knowingly permit the same to be opened, kept or used for the purpose of unlawful gaming being carried on; and any person assisting therein, and any person advancing money for gaming with persons frequenting same, is liable, upon summary conviction before two Justices, to a fine not exceeding £500, or to be imprisoned for any time not exceeding twelve months.

[A "tent" at a racecourse is a "place" within the meaning of this section. To constitute "unlawful gaming" it is not necessary that the games played shall be unlawful games, it is enough that the play is carried on in a "common gaming house," see "Gaming houses," page 456.]

S. 5. Justices may require any of the persons found in such gaming houses to be sworn and give evidence.

Glanders.—Bringing a horse diseased with glanders into a public place, to the danger of infecting the Queen's subjects, is M. at common law.

Gun License Act, 1870, 33 & 34 Vic., c. 57, s. 2.—In this Act the term "gun" includes a fire-arm of any description, and an air-gun, or any other kind of gun from which any shot, bullet, or other missile can be discharged. The term "Commissioners" means the Commissioners of Inland Revenue.

S. 3. There shall be paid for every license, to be taken out yearly by every person who shall use or carry a gun in the United Kingdom, the sum of 10*s*.

S. 4. The said duty and license shall be an excise duty and license, and shall be under the management of the Commissioners.

S. 5. *Form of license.*—Every license to be granted under this Act shall be in such form, and shall be granted by such officer of Inland Revenue, and at such place as the Commissioners shall direct, and shall contain the christian and surname and place of residence of the person to whom the same shall be granted, and shall be dated on the day on which the same shall be granted, and shall expire on 31st day of

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March next following,* but no license under this Act shall be granted upon payment of a less sum than the duty for a whole year, nor shall any such license be transferable.

S. 6. *Register of license.*—Every officer who shall grant licenses under this Act shall keep a register of all such licenses granted by him, specifying the christian and surname and place of residence of every person licensed, and the date of each license, and any Justice of the Peace or officer of Constabulary or Constable, or any person licensed under this Act, may, at any convenient time, inspect such register of licenses for the current or preceding year.

S. 7. *Penalty for using or carrying a gun without license.*—Every person who shall use or carry a gun *elsewhere than in a dwelling-house or the curtilage thereof* without having in force a license duly granted to him under this Act, shall forfeit the sum of £10.

Provided always, that the said penalty shall not be incurred by the following persons; namely,

(1.) By any person in the naval, military, or volunteer service of Her Majesty, or in the Constabulary or other Police Force, using or carrying any gun in the performance of his duty, or when engaged in target practice.

(2.) By any person having in force a license or certificate to kill game granted to him under the laws of excise in that behalf.

(3.) By any person carrying a gun belonging to a person having in force a license or certificate to kill game, or a license under this Act, and by order of such licensed or certificated person, and for the use of such licensed or certificated person only, if the person carrying the gun shall, upon the request of any officer of Inland Revenue or Constabulary, or any Constable, owner, or occupier of the land on which such gun shall be used or carried, give his true name or address, and also the true name and address of his employer.

* By 46 Vic., c. 10, s. 6, every license under the Gun License Act, 1870, shall expire on the 31st day of July next following the day of the date thereof.

A certificate to kill game for which £3 is paid, taken out after 31st July, and before 1st November, expires on the 31st July in the following year; where £2 is paid, certificate expires on the 31st October. A certificate, for which £2 is paid, taken out on or after 1st November, expires on the 31st July following. An "occasional license" to kill game is granted for fourteen days, for which £1 is paid.

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(4.) By the occupier of any lands using or carrying a gun for the purpose only of scaring birds, or of killing vermin on such lands, or by any person using or carrying a gun for the purpose only of scaring birds, or of killing vermin on any lands by order of the occupier thereof, who shall have in force a license or certificate to kill game, or a license under this Act.

(5.) By any gunsmith or his servant carrying a gun in the ordinary course of the trade of a gunsmith, or using a gun by way of testing or regulating its strength or quality in a place specially set apart for the purpose.

(6.) By any person carrying a gun in the ordinary course of his trade or business as a common carrier.

In any information for the recovery of the penalty imposed by this section, it shall be sufficient to allege that the defendant used or carried a gun without having a license in force under this Act, and it shall lie upon the defendant to prove that he is a person not incurring the penalty by virtue of the proviso contained in this section.

[Water bailiffs duly empowered under 5 & 6 Vic., c. 106, are not required to take out excise licenses for guns which they carry in execution of their duty]

S. 8. Where a gun is carried in parts by two or more persons in company, each and every one of such persons shall be deemed to carry the gun.

S. 9. *License to be produced on demand.*—It shall be lawful for any officer of Inland Revenue, or for any officer of Constabulary, or any Constable, to demand from any person using or carrying a gun (not being a person in the naval, military, or volunteer service of Her Majesty, or in the Constabulary or other Police Force, using or carrying a gun in the performance of his duty), the production of a license granted to such person under this Act.

If the person upon whom the demand is made shall not produce a license duly granted to him under this Act, or a license or certificate to kill game granted to him under the laws of excise, and permit the officer or Constable demanding the production thereof to read such license or certificate, it shall be lawful for such officer or Constable *to require such person to declare to him immediately his christian and surname and place of residence*, and if such person shall refuse to declare his christian and surname and place of residence as aforesaid, he shall for such refusal forfeit the penalty of

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£10 over and above any other penalty to which he may be liable under this or any other Act of Parliament; and *it shall be lawful for such officer or Constable to arrest such* person so refusing, and to convey him before any Justice of the Peace having jurisdiction at the place where the offence shall be committed, and such Justice shall, upon due proof on oath of the offence, or upon the confession of the accused person, convict such person in the penalty aforesaid, or in some mitigated portion thereof, not being less than one-fourth; and if such penalty be not immediately paid into the hands of the officer or Constable (who is hereby required to receive and pay over the same to the Commissioners), such Justice shall commit the offender to hard labour in the proper house of correction for any period not exceeding one month nor less than seven days, or until the penalty shall be sooner paid.

S. 10. *Authorized officers may enter upon lands.*—It shall be lawful for any officer of Inland Revenue, officer of Constabulary, or Constable, who may see any person using or carrying a gun, to enter and remain so long as may be necessary upon any lands or upon any premises (other than a dwelling-house or the curtilage thereof), for the purpose of making the demand specified in the preceding section.

S. 12. No license granted under this Act shall entitle the person to whom the same is granted to use, carry, or have in his custody or possession any firearm, in any part of the United Kingdom where such person is by any other Act, now or hereafter in force, forbidden to use, carry, or have in his custody or possession any firearm, nor to entitle such person to use, carry, or have in his custody or possession any firearm, unless he shall have obtained a license or permission so to do from any authority empowered by any such other Act to grant such license or permission.

[*Duties of Constabulary.*—Attention is specially called to section 9, in which the duties of a Constable in respect to the carrying out of this Act are laid down. When a Constable meets a person carrying a gun who, he has reason to suspect, has not a gun license for the current year, it is the duty of the Constable to demand the production of the gun license—and unless the person produces such license or a game license, the Constable should require of him, his christian name, surname, and place of residence. If the person declares the same, the Constable should at once report, through his District Inspector, the circumstances of the case (on form 46), giving the above particulars regarding such person to the Secretary of Inland Revenue, Somerset House, London; and should a prosecution be instituted the Constable is required to

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attend the trial as a witness. Should such person *refuse* to declare his christian name, &c., the Constable is to arrest and convey him "before any Justice of the Peace having jurisdiction at the place where the offence shall have been committed," who is empowered to deal with the case summarily. Any fine received by a Constable on such summary conviction is to be paid over to the Supervisor by the District Inspector. Section 10 authorizes an officer or Constable of Constabulary "*who may see any person using or carrying a gun* to enter and remain so long as may be necessary upon any lands, or upon any premises," not being a dwelling-house or the curtilage thereof (that is the part within the enclosed yard of the house) for the purpose of making the demand specified in Section 9. The Constabulary should not proceed upon private lands or off the highway upon the mere expectation of meeting with persons contravening the provisions of the Act. To warrant the Constabulary in entering upon private land for the enforcement of the Act, they should see a person using or carrying a gun thereon. The Constabulary should make themselves acquainted with the names of persons residing in their districts having gun or game licenses, so as to avoid the necessity as much as possible, of questioning them in the enforcement of this Act. *In no case should the Constabulary demand a game certificate where a gun license is produced*, as they have no duty to discharge as to whether persons have or have not a license to kill game.

Summonses issued in connexion with the proceedings instituted by the Inland Revenue Department on detections made by the Constabulary under this Act, whenever the Local Excise Officer lives at any great distance from the residence of the person to be summoned, should be served by the detecting Sergeant or Constable.]

Hawking Spirits and Selling Spirits in Unlicensed Places, 43 & 44 Vic., c. 24, s. 146.—(1) If any person hawks, sells, or exposes to sale any spirits otherwise than in premises for which he is licensed to sell spirits, he shall incur a fine of £100, and the spirits shall be forfeited. (2) The sum to which the fine may be mitigated in Ireland shall not be less than £6. (3) In default of payment of the fine on summary conviction the offender shall be imprisoned with or without hard labour. The term of imprisonment shall be not less than two months nor more than three months. (4) Any person may arrest a person found committing an offence against this section.

[The Constabulary have no power to enforce this provision; they are merely to note and report particulars of case.]

Hawkers Act, 1888, 51 & 52 Vic., c. 33, s. 2.—In Act each of the following terms shall have the meaning assigned: "*Hawker*" means any person who travels with a horse or

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other beast bearing or drawing burden, and goes from place to place or to other men's houses carrying to sell or exposing for sale any goods, wares, or merchandise, or exposing samples or patterns of any goods, wares, or merchandise to be afterwards delivered, and includes any person who travels by any means of locomotion to any place in which he does not usually reside or carry on business, and there sells or exposes for sale any goods, wares, or merchandise in or at any house, shop, room, booth, stall, or other place whatever hired or used by him for that purpose. "*Officer*" means officer of Inland Revenue. "*Justice*" means justice of the peace. S. 3. Hawker to pay annual duty of £2 for licence which expires on 31st March. Not necessary for licences to be taken out—(*a.*) by any person selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein, and who buy to sell again: (*b.*) by the real worker or maker of any goods, wares, or merchandise, and his children, apprentices, and servants usually residing in the same house with him, selling or seeking orders for goods, wares, or merchandise made by such real worker or maker: (*c.*) by any person selling fish, fruit, victuals, or coal: (*d.*) by any person selling or exposing for sale goods, wares, or merchandise in any public mart, market, or fair legally established. S. 4. Licence not to be granted without certificate of good character, &c., signed by a clergyman and two householders, or by a justice, or inspector of police. Forging a certificate, or producing a counterfeit certificate, P. £50. S. 5. Every hawker shall keep his name and words "licensed hawker" visibly and legibly written, painted, or printed upon every box and every vehicle used for carriage of goods, and upon every shop and handbill. S. 6. If any person does any act for which a licence is required (*a.*) without having a proper licence; or (*b.*) without immediately producing upon demand by any person a proper licence, P. £10. Any officer or officers of the peace may arrest a person found committing an offence against this section and convey him before a justice having jurisdiction at the place where the offence is committed, and in default of immediate payment upon conviction, of the fine, or of the sum to which the fine may be mitigated (which mitigation is hereby authorised) the offender shall be imprisoned with or without hard labour for any term not exceeding one month. S. 8. Repeals several enactments including sec. 11 of 29 and 30 Vic., c. 64.

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[It is to be observed that this Act applies *solely* to hawkers *who use beasts of burden* to convey their goods and carry on their trade; such persons receive their licenses from the excise. Under the sixth section the Constabulary are empowered to take the offender before a Justice, who may deal summarily with the charge, but when the offender is not so proceeded against, the Constabulary are not authorized to summon him to the Petty Sessions Court, the penalty under the Act, being an excise one, and recoverable only on prosecution by the excise authorities.]

High Treason.—By the 25 Ed. III., c. 3, which is a declaratory Act, treason consists of five distinct branches.—"(1.) When a man doth compass or imagine the death of our Lord the King, of our Lady his Queen, or of their eldest son or heir. (2.) If a man do violate the King's companion, or the King's eldest daughter, unmarried, or the wife of the King's eldest son and heir. (3.) If a man do levy war against our Lord the King in his realm. (4.) If a man be adherent to the King's enemies in his realm, giving to them aid and comfort in the realm or elsewhere. (5.) If a man slay the Chancellor, Treasurer, or the King's Justices of the one Bench or the other, Justices in eyre or Justices in Assizes, and all other Justices assigned to hear and determine, being in their places doing their offices." This Act has been further extended by the 35 Geo. III., c. 7, and the 11 & 12 Vic., c. 12.

The expression "to levy war," means (*a*) attacking in the manner usual in war, the Queen herself, or her military forces, acting as such by her orders, in the execution of their duty. (*b*) Attempting by an insurrection of whatever nature, by force or constraint, to compel the Queen to change her measures or counsels, or to intimidate or overawe both Houses or either House of Parliament. (*c*) Attempting by an insurrection of whatever kind to effect any general object.

But the expression "to levy war against the Queen," does not include any insurrection against any private person for the purpose of inflicting upon him any private wrong, even if such insurrection is conducted in a warlike manner.

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[As to the charge of imagining the Queen's death, every one commits high treason who forms and displays by any overt act, or by publishing any printing or writing, an intention to kill or destroy the Queen, or to do her any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint.]

5 & 6 Vic., c. 51, s. 2.—Wilfully, to discharge, or attempt to discharge, or present at or near to the person of the Queen, any gun, &c., whether loaded or not, or to discharge or attempt to discharge any explosive substance near to the person of the Queen, or to strike or attempt to strike the person of the Queen, or to throw or attempt to throw anything at the person of the Queen, &c., High Misdemeanor.

11 & 12 Vic., c. 12, s. 3. *Treasonable felony.*—If any person whatsoever shall, within the United Kingdom, or without, compass, imagine, invent, devise, or intend to deprive or depose our Most Gracious Lady the Queen, &c., from the style, honour, or royal name of the Imperial Crown of the United Kingdom, &c., or to levy war against Her Majesty, her heirs or successors, within any part of the United Kingdom, in order, by force or constraint, to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe . . . Parliament, or to move or stir any foreigner or stranger with force to invade the United Kingdom, &c., F.

Treason—Contempt against the Queen.—Every one commits a misdemeanour at common law who is guilty of any contempt against the person of Her Majesty, or her royal dignity, by means of any contumelious, insulting, or disparaging words, acts, or gestures.

Illicit Distillation Act, 1831, 1 & 2 Wm. IV., c. 55.—1. *Repeal of provisions relating to Malt.*—By the Inland Revenue Act, 1880 (43 & 44 Vic., c. 20) sections 1 to 8 inclusive; and sections 17 to 21 inclusive; 26, 27, 28, 30, 38, 48, and 51 of 1 & 2 Wm. IV., c. 55, are repealed, but so far only as they relate to malt, or corn, or grain making into malt. The effect of this alteration of the law is to put an end to any interference with the manufacture of malt. However, malt or corn or grain making into malt when

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found in a place where illicit distillation is carried on, or where there is an illicit still, is liable to forfeiture under sections 17 and 18 of the 1 & 2 Wm. IV., c. 55, *as materials preparing or prepared for distillation.*

S. 9. Every person who shall use any still or stills in carrying on the business of a chemist or any other trade or business requiring the use of a still, other than that of a distiller, rectifier, or compounder of spirits, or vinegar maker, shall first take out a license for using every such still.

S. 10. License to chemists, &c., to specify certain particulars. Capacity of stills not to exceed fifty gallons (unless authorized by the Commissioners of Excise), P. £50.

S. 11. *Regulations as to still makers.*—Every person who shall make any still, shall permit any officer of excise, at any hours in the day time, to enter any place made use of by such person for making or keeping stills, and to examine the same; and every such maker of stills shall stamp his name, and the content or capacity of every still made by him, upon the shoulder of every such still; and every maker of stills shall, within three days after finishing any still of less content than two hundred gallons, give notice to the proper Supervisor or officer of the district or division where such still hath been so made, that the same is ready to be gauged and stamped; and such Supervisor or officer shall, within three days after such notification, gauge such still and stamp the same, and grant a certificate specifying the content and maker's name of such still; and every maker of a still who shall in any respect, offend in or neglect any of the particulars aforesaid, shall for every such offence forfeit £60, subject to the mitigation hereafter mentioned.

S. 12. Persons importing stills to give notice to Supervisors, &c., P. £60.

S. 13. *Stills found not gauged and marked to be forfeited.*—Every still of less than two hundred gallons content which shall be found in the possession of any person or persons in *Ireland* without having been previously gauged by the proper officer of excise, and marked in the manner hereinbefore mentioned, shall be forfeited, and may be seized by any officer of excise; and the owner or person in whose possession the same shall be found shall also forfeit £60, subject to the mitigation hereafter mentioned, over and besides all other penalties and forfeitures imposed for the unlawfully using the same.

S. 14. *No still shall be conveyed without permit.*—No brazier or manufacturer of metal, or other person, shall send

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or convey any still, still head, or worm to any person, or from any one part of *Ireland* to any other part thereof unless a permit granted by an officer of excise for the removal of such still, still head, or worm, shall have been obtained by such brazier, manufacturer, or other person, and such permit shall contain in the body thereof the name of the brazier or manufacturer thereof, or other person sending the same, and of the person or persons to whom, and the place to which such still, still head, or worm is intended to be sent, and also the content in gallons of such still, and of the head thereof respectively; and every such still, still head, or worm which shall be found conveying or conveyed, and for the conveyance of which such permit shall not be produced, shall be forfeited, and may be seized by any officer of excise; and the brazier, manufacturer, or other person sending or conveying the same shall forfeit £100 subject to the mitigation hereafter mentioned.

S. 15. *Permit shall be delivered up to officer.*—The person to whom any such still shall be conveyed shall, within forty-eight hours after the arrival of such still, deliver up the permit under which such still shall have been conveyed, to the proper officer of the division or ride in which such person shall reside; and such officer shall thereupon grant a certificate to such person in lieu of such permit and, if any such still shall be found in the possession of any person after the expiration of forty-eight hours from the arrival thereof, without such certificate, such still shall be forfeited, and may be seized by any officer of excise.

S. 16. Persons, other than licensed distillers, brewers, or vinegar makers, having worts, wash, or low wines, or stills, in their possession, shall forfeit £100, and all such worts, &c., may be seized by any officer of excise.

S. 17. *A Justice may grant a special warrant to break open such suspected place and seize private still, &c.*—If any officer of excise shall know, or have cause to suspect that any private or concealed still, or any back, vat, cooler, or other vessel used in illicit distillation, or any spirits, low wines, or wort or wash, or other materials preparing or prepared for distillation, are set up or kept in any house or place . . . and shall make oath thereof before one or more Justice or Justices of the Peace, of the county, city, or place where such officer shall suspect the same to be set up and kept or deposited, setting forth the ground of such suspicion, it shall be lawful for the Justice or the Justices before whom such oath shall be made, if he or they shall judge it reasonable, by special warrant, under his or their hands and seals, to authorize and empower such officer, *by day or by*

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night, to break open the doors, or any part of such house or place where he or they shall so know or suspect that such private or concealed still, back, vat, cooler, or other vessel, spirits, low wines, wort, wash, or materials for distillation, ... is or are so set up or kept or deposited, and to enter into such house or place, and to seize all and every such stills, backs, vats, coolers, and other vessels, and all such spirits, low wines, wort, wash, and other materials preparing or prepared for distillation, ... which shall be there found and discovered, and either to detain and keep the same in the house or place where found, or to remove the same to the office of excise next to the place where the same shall be so discovered and found; and the proprietor or occupier of the house or place in which any such seizure shall be made shall forfeit £100, subject to the mitigation hereafter mentioned; and if any person shall obstruct, oppose, molest, or hinder any officer of excise, or others acting in their assistance, in the searching for or seizing any such private or concealed stills, backs, vats, coolers, or other vessels, or spirits, low wines, wort, wash, or other materials for distillation, ... or in detaining or keeping the same in the place where found, or in removing the same or any of them after seizure to the next office of excise as aforesaid, then and in every such case, every person so offending shall forfeit £100, subject to the mitigation hereafter mentioned. (See Code 1925).

[By 31 & 32 Vic., c. 124, s. 6, the word "spirits" in this and the following section includes "all spirits whatsoever, whether completely distilled or otherwise."]

S. 18. *Constable may search for and seize private stills, &c., without a warrant.*—Provided always, That nothing in this Act contained shall be construed to make it unlawful for any officer of excise to search for any private or concealed still, back or other vessel for the making, preparing, or keeping of wort, wash, low wines, or spirits, or other materials preparing or prepared for distillation, ... the duties whereon shall not have been paid, ... without such warrant as aforesaid, or from seizing every such still, back, or other vessel, and all such low wines, spirits, wort, wash and other materials preparing or prepared for distillation, ... which he or they shall so find, or to proceed in relation thereto in manner aforesaid; and every person with whom the same shall be

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found, or who shall obstruct any such officer, or any person acting in his aid, or shall otherwise offend in any of the particulars aforesaid, shall be subject and liable to the same penalties and forfeitures as if such officer had been acting under such warrant as aforesaid, anything hereinbefore contained to the contrary notwithstanding; and if any officer of excise, having entered any house without a warrant, shall break open any door or lock, or forcibly enter any room or place, in search of any concealed still, back, vat, cooler, or other vessel, or any spirits, low wines, wort, or wash, or other materials, preparing or prepared for illicit distillation, ... and shall find any such private or concealed still, still head, or worm of a still, or any back, vat, cooler, or other vessel, or any spirits or low wines, or wort or wash or other materials, ... such finding shall be a full justification of such breaking or forcible entry, &c.

S. 19. Persons found in any place where illegal distillation is in process, to be arrested and taken before a Justice; fine £100.

S. 20. Excise officers may spill and destroy all spirits, materials, and utensils found at unlawful distilleries.

S. 21. *Any Justice of Peace, landlord, or his bailiff, may destroy stills, &c.*—It shall be lawful for any Justice of Peace who shall find any still, still head, or worm of a still in possession of any person, without a sufficient license being produced for keeping the same, and for any landlord or proprietor of any land or premises on which the same shall be found, or his steward or bailiff, to seize such still, still head, or worm, and to convey and deliver the same to the next officer of excise, who shall take such still, still head, or worm into his custody, and secure the same, in like manner as if such still, still head, or worm, had been seized by him; and it shall in like manner be lawful for any Justice of the Peace, landlord, or proprietor, or steward or bailiff, to seize any low wines, singlings, wort, wash, pot ale, ... in the possession of any person not entitled by law to have the same in possession, and to spill and destroy all such low wines, singlings, wort, wash, pot ale.

S. 22. Person keeping or concealing spirits unlawfully made, or the full duties whereon shall not have been fully paid, shall forfeit £100.

S. 23. Person having in possession spirits for which duty has not been paid, or having any quantity exceeding one gallon, without permit, shall forfeit £100.

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S. 24. Person selling or delivering illicit spirits shall forfeit £100.

S. 25. *Persons carrying or removing illicit stills or spirits.*—It shall be lawful for any officer of excise to stop and detain any person who shall be found removing or carrying any still, still head, or worm, or any spirits of any kind whatever, and to examine such still, still head, or worm, or such spirits, and to ascertain whether such still is duly marked, and to ascertain the quantity, quality, sort, or kind, and the strength of such spirits, and to demand the production of the permit or permits accompanying such still, still head, or worm, or such spirits, if such spirits shall amount to a quantity for which a permit is by law required; and every person so found removing any still, still head, or worm, or any spirits which are by law required to be accompanied by a permit, who shall refuse to produce such permit or permits as aforesaid, on being required so to do by any officer of excise, or shall be found removing or carrying any still, still head, or worm, or such spirits, without a lawful permit, or shall be found removing or carrying in any quantity whatsoever, any spirits which shall have been illegally distilled, or the duties whereon, shall not have been paid, or any keg, cask, or vessel which shall have contained illicit spirits, shall for every such offence severally forfeit £100 each, subject to the mitigation hereafter mentioned; and the still, still head, or worm, or the spirits, so carrying and removing, together with the casks or vessels containing the same, or the casks, kegs, or vessels which shall have contained illicit spirits shall be forfeited, and may be seized by any officer of Excise; and every such officer is hereby authorized and required to stop, arrest, and detain every such person, and to convey him, together with the still, still head, or worm, or spirits, or keg, so found removing or carrying, before one or more of His Majesty's Justices of the Peace residing near to the place where any such person shall be so stopped or arrested, to be dealt with as hereinafter is directed.

S. 26. *Bags, casks, &c., in which illegal spirits are contained, are to be forfeited.*—All casks, bottles, jars, utensils, or vessels in which any . . . . . spirits, worts, wash, pot ale, low wines, singlings, or other liquors liable to forfeiture under this Act, shall be contained, and all carriages, carts, cars, and all horses and other cattle, and all boats, made use of in the removal or conveyance, or having been used in the removal or conveyance of any liquors, or any still, still head, or worm, or . . . . other goods liable to forfeiture under this Act, shall be forfeited, and may be seized by any officer of Excise.

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S. 27. Enacts that any person being owner of, or interested in, such still, &c., shall forfeit £100.

S. 28. Enacts that any person in whose premises private distillation shall be carried on, shall forfeit £60.

S. 29. Declares that any person forcibly opposing officers of Excise, or rescuing, or attempting to rescue any seizure made, or person arrested by them, is guilty of felony.

S. 30. *Penalty on persons making signals.*—And whereas officers of Excise are often prevented from detecting persons engaged in the illicit making of malt and distillation of spirits, by other persons making signals of and giving notice of the approach of the officers; be it therefore enacted, That every person who shall make or cause to be made, or aid or assist in making, any signal to any person engaged in illicit distilling, or carrying or conveying or having in possession . . . . any still, still head, or worm, or any worts, wash, pot ale, low wines, singlings, or spirits, or any cask, keg, or vessel, or give any warning to any such person so engaged as aforesaid of the approach of any officer of Excise, or of any person acting in his or their aid, shall for every offence forfeit £10, subject to the mitigation hereafter mentioned; and any officer of Excise or any other person may stop, arrest, and detain any person who shall so make or aid or assist in making such signal, or so giving warning, and convey such person before one or more of His Majesty's Justices of the Peace residing near to the place where any such person shall be so stopped, arrested, and detained, to be dealt with as hereinafter is directed.

S. 31. All penalties imposed by this Act may be sued for in Court of Exchequer in Dublin, or on complaint before any one or more Justices. S. 32. Proceedings before Justices where parties *are not* arrested. S. 33. Provides that if the Justice before whom any complaint is made shall not attend, another Justice may hear and determine the matter. S. 34. Any Justice may on confession of offender, or on other proof, convict such person; and every person so convicted shall immediately pay the penalty adjudged, or in default the Justice shall by warrant commit the person so convicted to gaol.

S. 35. Provides that Justices may order persons to be detained. S. 36. Where Petty Sessions are established, defendants may be summoned to the Sessions, and parties arrested may be held to bail to appear at the Sessions. S. 37. If any person liable to be arrested and detained under the provisions of this Act shall not be detained at the time of committing the offence for which he is so liable, or after detention shall make his escape, any officer of

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Excise (or Constable) may stop, arrest, and detain such person at any time afterwards, and carry him before any Justice or Justices of the Peace, to be dealt with as if detained at the time of committing the offence. S. 38. Persons coming forward as witnesses to claim stills, or materials, shall be immediately convicted on their own confession. S. 39. Defines the powers of mitigation of penalties, and provides as to imprisonment in default of payment of penalty. S. 40. When any person convicted shall be guilty of a subsequent offence, the mitigated penalty is not to be less than double the amount of the former fine. No imprisonment in default of payment, in any case, to exceed twelve months. S. 41. Proof of former conviction may be made by the production of such former conviction, or of any warrant of commitment issued thereon, and proof of Justice's handwriting thereto, or by the confession of the party, *or by the testimony on oath of any witness who shall have been present at such former conviction.*

S. 42. Penalties and imprisonments to be proportioned; and defendants may pay part of the penalty to be released from a portion of the imprisonment. Not less than one monthly instalment is to be accepted. S. 43. Where a levy warrant is issued, the sum recovered is to be deemed a payment.

S. 46. *Seizures, if not claimed within fourteen days to be forfeited.*—All seizures made of any goods, commodities, chattels, or things forfeited under the provisions of this Act, and not claimed within the space of fourteen days after seizure, by application in writing either to the Collector or Supervisor of Excise, or to the officer seizing, or in whose custody the goods, commodities, chattels, or things seized shall be, shall be absolutely forfeited, as fully and effectually as if the same had been condemned by judgment of condemnation of His Majesty's Court of Exchequer; and in all cases in which any goods, commodities, chattels, or things seized shall be claimed by any person within such time as aforesaid, such proceedings shall be had for the condemnation thereof as in the case of other goods, commodities, or chattels, or things seized as forfeited under any law or law of Excise.

S. 47. *Disposal of seizure.*—Still, still head, and worm, and all casks, kegs, and vessels seized and forfeited, shall be cut up and broken to pieces, and the materials thereof sold, and all boats, horses, carriages, and other goods seized and forfeited shall be sold; and all worts, wash, low wines and singlings seized, shall be spilled and destroyed. Money arising from sale of seizures shall be applied under directions of Commissioners of Excise.

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S. 48. *Defendant to prove payment of duties.*—On the trial of any proceedings for recovery of any penalty imposed by this Act on any person who shall sell, buy, or receive, or shall remove, carry or convey, or assist in removing, carrying, or conveying, or shall hide or conceal, or have in his or her possession, or in whose house or premises shall be found, any spirits illegally made, or the full duties whereon had not been paid, or any spirits whatever requiring a permit, which shall not have been permitted and attended with a proper permit, the defendant in such proceedings shall be convicted unless due proof be made by him that the full duty on such spirits has been duly paid, or that such spirits were bought by or for defendant from a licensed distiller or some person licensed to sell spirits, or that the same were attended with a proper permit.

S. 49. Proceedings to be in form of the schedule; but see 17 & 18 Vic., c. 89, sec. 8.

[The forms of complaint given in schedule to Act should be adopted in all proceedings. The forms of summons, warrant, &c., to be used are those in schedule to 14 & 15 Vic., c. 93.]

S. 50. Either of the offending parties informing against the other shall be acquitted of his own penalty. S. 52. No action to be taken against an officer without a month's notice in the manner required by 7 & 8 Geo. IV., c. 53, s. 114.

[By sections 5 and 8 of the Illicit Distillation Act, 1857 (20 & 21 Vic., c. 40), all officers, Head and other Constables of Constabulary "shall have, use, and exercise all the powers and authorities, and have and possess all the privileges granted to officers of Excise, in relation to any offence committed or to be committed, or suspected to be committed under or contrary to" the 1 & 2 Wm. 4, c. 55; and by sec. 6 all proceedings under 1 & 2 Wm. 4, c. 55, "shall be conducted, and all the penalties and costs under the same, shall be sued for, levied, and recovered as by P. S. Act, 1851 (14 & 15 Vic., c. 93), is directed and provided;" but by 30 & 31 Vic., c. 90, s. 14, the provisions in s. 22 of P. S. Act, 1851, as to giving time for payment of penalties, are not to apply to penalties awarded by 1 & 2 Wm. 4, c. 55. Stamps are not required in any Revenue proceedings. In cases where the Constabulary prosecute, the summons should expressly state that the complainant sues on behalf of the Crown, namely—"The Queen at the prosecution of——," naming the member of the force who prosecutes. Whenever there is any difficulty in proving the ownership of the land on which illicit articles have been found, reference is to be made to the poor law or county cess valuation, which gives the name of each occupier. Appeals under the 1 & 2 Wm. 4, c. 55, are governed by the 24 & 25 Vic., c. 91, s. 19, and not by the Petty Sessions Act. The appeal must be made to the Quarter Sessions next after the expiration of twenty days from the giving of the judgment. The "notice of appeal"

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must be served on each of the adjudicating magistrates, and on the defendant or defendants, and must be lodged with the Clerk of the Peace. The person who makes the service must keep an examined copy of the notice, and endorse on the back the date, place, and mode of service. The service may be either personal or by leaving the notice at the place of abode of the respective parties to be served; but the Constabulary, when appellants, should serve the notice "at and immediately upon the giving of the judgment appealed against," and before the defendant leaves the Court, as thereby much unnecessary trouble will be saved. The defendant must be served with the notice at latest within seven days before the appeal is to be heard. In prosecuting cases of appeal at Quarter Sessions, it is necessary that proof of the service of the original summons in such case, as well as proof of the service of the notice of appeal, should be given. In computing the interval of the twenty days (adverted to in 4 & 5 Wm., 4, c. 51, s. 23), the day upon which the judgment of the justices was given, and also the first day of the sessions, must be excluded. In computing the seven clear days before the time fixed for hearing (4 Vic., c. 20), the day of service of the notice and the first day of the Quarter Sessions must be excluded. The 7 & 8 Geo. 4, c. 53, s. 82, requires that deposits shall be made by defendants within three days next after the giving of the judgment appealed against. It has been decided by the Court of Queen's Bench in the case of *the Queen* (*Sharkey*) v. *Hume Babington* (decided on 4 June, 1874, not reported) that in all cases under the 1 & 2 Wm. 4, c. 55, tried at Petty Sessions, one justice has full jurisdiction. (See 24 & 25 Vic., c. 91, s. 18.)]

Indecency.—Every one commits a misdemeanour who does any grossly indecent act in any open and public place in the presence of more persons than one; but it is uncertain whether such conduct in a public place amounts to a misdemeanour if it is done where no one is present, or in the presence of one person only. A place is public within the meaning of this article if it is so situated that what passes there can be seen by any considerable number of persons if they happen to look (*Stephen's Digest of C. L.*) Public indecency by exposing the naked person, bathing in an indecent manner near a highway, or in any part of a public river, or undressing on the beach and bathing in the sea, where a man can be seen from the neighbouring houses, is a M. at Common Law. See also 10 & 11 Vic., c. 89, s. 28, and 17 & 18 Vic., c. 103, s. 72.

Indecent Advertisements Act, 1889, see page 459.

Industrial Schools Act, 31 Vic., c. 25 (amended by 43 & 44 Vic., c. 15) s. 11.—Any person may bring before two Justices (in petty sessions) or a Dublin Police Magistrate, any child apparently under the age of fourteen years, that comes within any of the following descriptions; namely —that is found *begging* or *receiving* alms (whether actually or under the pretext of selling or offering for sale anything);

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or being in any street or public place for the purpose of so begging or receiving alms; that is found *wandering* and not having any home or settled place of abode, or proper guardianship or visible means of subsistence; that is found *destitute*, either being an orphan or having a surviving parent who is undergoing penal servitude or imprisonment; that frequents the company of reputed thieves; that is lodging, living, or residing with common or reputed prostitutes, or in a house resided in or frequented by prostitutes for the purpose of prostitution; that frequents the company of prostitutes. The Justices may order the child to be sent to a certified Industrial School.—S. 12. Pending inquiry being made respecting a school, the Justices may order the child to be taken to the workhouse for seven days.—S. 13. Where a child apparently under the age of twelve years is charged before two Justices in petty sessions or a Dublin Police Magistrate, with an offence punishable by imprisonment or a less punishment but not convicted of felony, the Justices may order the child to be sent to a certified Industrial School.—S. 26. If a child escapes from or neglects to attend a certified Industrial School he may be apprehended without warrant, and brought before a Magistrate—S. 30. Justices may make an order for payment by parent of a weekly sum not exc. 5*s*. during the time child is detained in the school.

Injured Animals Act, 1894, page 462.

Infant Life Protection Act, 1872, 35 & 36 Vic., c. 38, s. 2.—It shall not be lawful for any person to retain or receive for hire or reward in that behalf more than one infant, ~~and in case of twins or more than two infants~~ under the age of ~~one~~ year, for the purpose of nursing or maintaining such infants apart from their parents for a longer period than ~~twenty four~~ hours, except in a house registered as provided by Act.—S. 3. Register of names and houses to be kept by local authority; person who receives or retains any infant in contravention of Act, O.—S. 4. Persons whose names and houses are registered, are required to keep a register of infants, with particulars as in Act, and to produce it when lawfully required—non-compliance, O.—S. 8. Persons registered within twenty-four hours after death of infant shall give notice to Coroner.—S. 10. Offences prosecuted under P. S. Act, 1851.—S. 11. Act not to apply to relatives or guardians of infants retained as aforesaid, nor to institutions established for their care, nor to persons receiving infants to nurse under Poor Law Act.

Inoculation with small-pox matter, 31 & 32 Vic., c. 87, s. 4.—Any person who shall . . . . produce or

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attempt to produce in any person by inoculation, with variolus matter, or by wilful exposure to variolus matter, or any matter, article, or thing impregnated with variolus matter, or wilfully by any other means whatsoever, produce the disease of small-pox in any person, shall be guilty of an offence, and shall be liable to be proceeded against summarily before two or more Justices in petty sessions assembled, and upon conviction to be imp. not ex. six months.

[The Constabulary are required to enforce this Act: Medical evidence to support a prosecution should be obtained: Parents and friends of child should be summoned to give evidence, or may be proceeded against if privy to the offence: In case of death from small-pox caused by inoculation, efforts should be made to hold an inquest, whereby evidence may be obtained which may lead to conviction for manslaughter, or for an offence under above section.]

Jurors' Summonses.—*The Juries Procedure (Ireland) Act*, 1876, *s.* 6. Section twenty-one of the Juries (Ireland) Act, 1871, shall be and the same is hereby repealed, and in lieu thereof be it enacted, that, save as by the Juries (Ireland) Act, 1871 to 1872, and by this Act expressly provided, the summons of every person to serve on any jury in any court shall be made four clear days at least before the day on which the attendance of such person shall be required by a Constable or Sub-Constable of the Royal Irish Constabulary, acting in and for the county or borough in which such person shall reside by delivering a summons to the person to be summoned, or in case he shall be absent from his usual place of abode, by leaving such summons with some person therein inhabiting, and every summons requiring the attendance of any person as a juror shall be duly and properly filled with the name of the juror, and shall be signed by the Sheriff or other officer previous to such summons being delivered to such Constable or Sub-Constable for service; and every Constable or Sub-Constable summoning jurors under this Act *shall keep a book or books in which he shall truly enter the name of every person so summoned by him, with the day on which such summons shall be served, and the manner and particulars of the service thereof;* and every such Constable and Sub-Constable shall attend, and shall (if required) produce such book or books at the sitting of the court, and verify the same upon oath, or shall cause the book or books to be produced to the court in case of his unavoidable absence; and in the case of the death, illness, or unavoidable absence of such Constable or Sub-Constable, the book kept by him as aforesaid, verified on oath as to his handwriting by some credible person, shall (if required) be produced to the court, and shall be *prima facie* evidence of the truth of

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the several matters entered therein as aforesaid, and if any such Constable or Sub-Constable shall, without reasonable excuse, neglect to summon any juror as hereinbefore directed, or to keep such book or books, or to make such entries therein as aforesaid, or to attend the court, or produce or verify, or cause to be produced the said book or books as hereinbefore provided, every Constable or Sub-Constable so offending, may for every such neglect be fined by the court in a summary way in any amount not exceeding ten pounds for each such offence, with the alternative of imprisonment in default of payment of such fine for any period not exceeding seven days.

S. 7. The officers and men of the Royal Irish Constabulary shall respectively afford assistance to sheriffs and other officers in the execution of this Act, and, subject to such regulations as may be made under this Act, do such acts as may respectively be required of them, and as they may be able to do without interfering with their permanent duty.

[At least ten days before the date of service, District Inspectors should nominate men for the service of jurors' summonses, and notify to the Sheriff that the men for this duty have been selected, furnishing him at the same time with a list of townlands comprised within the district. The Sergeant or constable serving the summonses is obliged by the statute to keep a book in which he is required to enter (1) the name of every person so summoned by him, (2) the date on which the summons was served, and (3) the manner and particulars of service. The server is required to attend the court, and to have with him for production his book.]

Knacker.—By 12 & 13 Vic., c. 92, s. 7, persons keeping places for slaughter of horses or other cattle neglecting or refusing to affix names over doors, are on conviction before one or more Justices, liable to a penalty not exceeding £5 a day, and in default imp. not exc. two months. S. 8. Horses or cattle brought to be slaughtered (not intended for butchers' meat) to have hair of neck cut off, and be killed within three days; meantime to be supplied with wholesome food and water; for neglect same penalty. S. 9. Using or employing horses or cattle so brought to be slaughtered, O. S. 10. Neglecting to enter in a book full and correct description of cattle so brought to be slaughtered, O.

Larceny.—Larceny at common law *is the wrongful or fraudulent taking and carrying away of the goods of another with the felonious intention of converting them to the taker's own use*, F. There must be a *taking* of the goods, either actual or constructive, in order to

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constitute larceny. A married woman cannot (so long as she lives with her husband) commit theft upon things belonging to her husband. (See 45 & 46 Vic., c. 75, ss. 12 & 16.) Although the party may wrongfully take possession of the goods, yet, unless he intend to deprive the owner of his property therein, this is a trespass only and not larceny; as in numerous cases where the evidence clearly shows that the prisoner merely intended to borrow the goods for a short time and then return them. An unauthorized gift by a servant of his master's goods is as much a felony as if he had sold or pawned them. Where goods are once taken with a felonious intent, the offence cannot be purged by a restoration of them to the owner. As to "the carrying away"—the least removing of the thing taken from the place where it was before is sufficient. If a man find goods that have been actually lost, or are reasonably supposed by him to have been lost, and appropriates them, with intent to take the entire dominion over them, really believing when he takes them that the owner cannot be found, it is not larceny; but if he takes them with the like intent, though lost or reasonably supposed to be lost, but reasonably believing that the owner can be found, it is larceny.

The following animals are capable of being stolen at common law. Tame animals, whether originally wild or not, birds, bees, and silkworms, kept respectively for food, labour, or profit, their young and their produce; hawks kept for sport, wild animals kept in a state of captivity for food or profit, but not wild animals kept in a state of captivity for curiosity. Living wild animals in the enjoyment of their natural liberty, whether they have escaped from confinement or not, are not capable of being stolen although they may be game, and although it may be an offence to pursue or kill them; but the dead body of such an animal is capable of being stolen, and it becomes the property of the person on whose ground the animal dies. The dead body of a human being is not capable of being stolen. Things of which the ownership has been

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abandoned are not capable of being stolen. Things of no value to any one are not capable of being stolen, but things valuable to no one but the owner are capable of being stolen.* (*Stephen's Digest of C. L.*)

Larceny by Statute, 24 & 25 Vic., c. 96.—S. 1. For the purposes of this Act the night shall be deemed to commence at 9 P.M., and to conclude at 6 A.M. next succeeding day. S. 3. Whosoever being a bailee of any chattel, money, or valuable security, shall fraudulently take or convert the same to his own use or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny. S. 10. To steal any horse, mare, gelding, colt, or filly; or any bull, cow, ox, heifer, or calf; or any ram, ewe, sheep, or lamb, F.—S. 11. Wilfully to kill any animal, with intent to steal the carcase, skin, or any part of the animal so killed, F.—S. 12. Unlawfully and wilfully to course, hunt, snare, or carry away, or kill or wound, or attempt to kill or wound any deer kept or being in the unenclosed part of any forest, chase, or purlieu, O.—S. 13. Unlawfully and wilfully to course, hunt, snare, or carry away, or kill or wound, or attempt to kill or wound any deer kept or being in the enclosed part of any forest, chase, or purlieu, F.—S. 14. If any deer, or the head, skin, or other part thereof, or any snare or engine for the taking of deer, shall be found in the possession of any person or on the premises of any person, with his knowledge, and such person being taken or summoned before a justice, shall not satisfy the justice that he came lawfully by such deer, or the head, skin, &c., or had a lawful occasion for such snare or engine, and did not keep the same for an unlawful purpose, O.—S. 15. Unlawfully and wilfully to set or use any snare or engine whatsoever for the purpose of taking or killing deer in any part of any forest, chase, or purlieu, whether such part be enclosed or not, or in any enclosed land where deer shall be usually kept, O.—S 16. Deer-keepers may demand and seize the guns, &c., of persons unlawfully hunting, &c., deer; beating or wounding keepers, F.—S. 17. Unlawfully and wilfully,

* *Illustration.* The milk of a cow, the wool on a sheep's back, honey in a hive, are the subjects of larceny at common law. Young partridges or pheasants reared under a domestic fowl are regarded as tame, and as such are the subjects of larceny at common law. Deer in a paddock, rabbits in a hutch, pigeons in a dove cot, although allowed to fly about, are the subjects of larceny at common law. (*Stephen's Digest of C. L.*)

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between the expiration of the first hour after sunset and the beginning of the last hour before sunrise, to take or kill any hare or rabbit in any warren or ground lawfully used for the breeding or keeping of hares or rabbits, whether the same be enclosed or not, M. Unlawfully and wilfully, between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, to take or kill any hare or rabbit in any such warren or ground, or shall at any time set or use therein any snare or engine for the taking of hares or rabbits, O.—S. 18. To steal any dog, O; second offence, M.—S. 19. Unlawfully to have in possession or on premises any stolen dog, or the skin of any stolen dog, knowing such dog to have been stolen or such skin to be the skin of a stolen dog, O; second offence, M.—S. 20. Corruptly to take any money or reward, directly or indirectly, under pretence or upon account of aiding any person to recover any dog which shall have been stolen, &c., M.—S. 21. To steal any bird, beast, or other animal, ordinarily kept in a state of confinement or for any domestic purpose, not being the subject of larceny at common law, or wilfully to kill any such bird, beast, or animal, with intent to steal the same or any part thereof, O.—S. 22. To have in possession or on premises such bird or plumage, or such beast or the skin thereof, or such animal or any part thereof, knowing same to be stolen, O.—S. 23. Unlawfully and wilfully to kill, wound, or take any house-dove or pigeon, O.—S. 24. Unlawfully and wilfully to take or destroy any fish in any water which shall run through or be in any land adjoining, or belonging to the dwelling-house of any person being the owner of such water, &c., M. Same offence in any water not being such as hereinbefore mentioned, but which shall be private property, &c., O. Not to extend to any person angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, but person taking or attempting to take any fish by angling in first-mentioned water during such time, O.—S. 25. Owner of ground, &c., may seize the tackle of persons found fishing against the provisions of this Act; and, if seized or given up, angler to be exempt from penalty. S. 26. To steal any oysters or oyster brood from any oyster bed, laying, or fishery, being the property of any other person, and sufficiently marked out or known as such, F. Unlawfully and wilfully to use any dredge, or any net or engine within the limits of any oyster bed, for the purpose of taking oysters or oyster brood, although none shall be actually taken, M.—S. 27. To steal, or for any fraudulent purpose to destroy, cancel, or obliterate the whole or any part of any valuable security,

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other than a document of title to lands, F.—S. 28. To steal, or for any fraudulent purpose destroy, cancel, obliterate, or conceal the whole or any part of any document of title to lands, F.—S. 29. Either during the life of the testator, or after his death, to steal, or for any fraudulent purpose to destroy, cancel, obliterate, or conceal the whole or any part of any will or codicil, F.—S. 30. To steal or fraudulently remove, or unlawfully and maliciously cancel, obliterate, injure, or destroy the whole or any part of any record, writ, return, &c., or of any original document whatsoever of or belonging to any Court of Record, &c., F.—S. 31. To steal, or to cut, sever, or break with intent to steal any glass or woodwork belonging to any building, or any lead, iron, or copper, &c., or fixture fixed in or to any building, or in any land, F.—S. 32. To steal, or to cut, break, root up, or otherwise destroy or damage, with intent to steal the whole, or any part of any tree, sapling, or shrub, or any underwood, growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, in case the value of article stolen or injury done shall exceed £1, F. Same offence if tree, &c., is growing elsewhere than in places before mentioned, in case value of article stolen or injury done shall exceed £5, F.—S. 33. To steal, or to cut, break, root up, destroy, or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, &c., wheresoever growing (the value of article stolen or of injury done being one shilling at least), O.—S. 34. To steal, or to cut, break, or throw down, with intent to steal, any part of any live or dead fence, or any wooden post, pale, wire, &c., set up or used as a fence, or any stile or gate, O.—S. 35. If the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, rail, &c., stile or gate, or any part thereof being value for one shilling at least shall be found in the possession or on the premises of any person with his knowledge, and such person shall not satisfy the justice that he came lawfully by them, O.—S. 36. To steal, or to destroy or damage, with intent to steal, any plant, root, fruit, or vegetable production growing in any garden, orchard, pleasure ground, conservatory, &c., O.—S. 37. To steal, or to destroy or damage, with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, distilling, dyeing or manufacture, and growing in any land open or enclosed not being a garden, &c., O.—S. 38. To steal or to sever with intent to steal, the ore of any metal, &c., or any coal, &c., from any mine, F.—S. 39. Miners remove

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ing, &c., ore from a mine with intent to defraud proprietor, F.—S. 40. To rob any person, or to steal any chattel, money, or valuable security from the person of another, F. —S. 42. To assault with intent to rob, F.—S. 43. Being armed with any offensive weapon to rob or assault with intent to rob, F.—S. 44. To send, deliver, or utter, or directly or indirectly to cause to be received, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property, money, security, or valuable thing, F.—S. 46. To send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing accusing or threatening to accuse any other person of any crime punishable by law with death or penal servitude for not less than seven years, or of rape, or buggery, with intent to extort money, &c., F.—S. 47. To accuse or threaten to accuse, either the person to whom such accusation or threat shall be made or any other person of buggery, or attempt or solicitation to commit such abominable crime, F. —S. 48. To induce a person by violence or threats to execute deeds, &c., with intent to defraud, F.—S. 55. To break and enter any building, within the curtilage of a dwelling-house, and commit any felony therein; or being in such building, to commit a felony and break out of the same, F.—S. 56. To break and enter any dwelling-house, a school-house, shop, warehouse, or counting-house, and commit any felony therein; or being in any of such buildings to commit a felony and break out of the same, F.—S. 57. To break and enter any dwelling-house, church, chapel, meeting-house, or other place of divine worship, &c., F.—S. 60. To steal in any dwelling-house any chattel, money, or valuable security to the value of £5 or more, F.—S. 61. To steal any chattel, money, or valuable security in any dwelling-house, and shall by any menace or threat put any one being therein in bodily fear, F.—S. 62. To steal to the value of ten shillings, any woollen, linen, or any goods in process of manufacture in any building, field, &c., F.—S. 63. To steal any goods or merchandise in any vessel, barge, or boat of any description; or from any dock, wharf, &c., F.—S. 67. Clerk or servant stealing any chattel, money, or valuable security belonging to or in the possession or power of his master, F.—S. 69. Being employed in the public service of Her Majesty, or being a Constable or other person employed in the Police, to steal any chattel, money, or valuable security belonging to Her Majesty, or intrusted to or received or taken into possession by him by virtue of his employment, F.—S. 70.

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Being employed in the public service of Her Majesty, or being a Constable or other person employed in the Police, and intrusted by virtue of such employment with the receipt, custody, management or control of any chattel, money or valuable security to embezzle same or any part thereof, or in any manner fraudulently to apply or dispose of the same or any part thereof to his own use or benefit, or for any purpose whatsoever except for the public service, F.—S. 73. Embezzlement by officers of the Bank of England or Ireland, F.—S. 74. Tenant or lodger stealing any chattel or fixture let to be used by him or her in or with any house or lodging, F.—S. 75. Banker, merchant, broker, attorney, or agent intrusted with money, or security for payment of money, with written directions for its application, otherwise and in violation of good faith converting and misapplying the same; and the same as to stocks or funds, M.—S. 76. Banker, merchant, broker, attorney, or agent intrusted with property for safe custody, with intent to defraud, selling or converting same to his own use, or otherwise than for the purpose intrusted, M.—S. 77. Person intrusted with power of attorney to sell or transfer property, fraudulently selling, converting, &c., M.—S. 78. Factor or agent intrusted with goods, documents of title, &c., without authority getting advances thereon, &c., consigning or pledging same, &c.; clerk or other person knowingly and wilfully assisting, M.—S. 79. Trustee fraudulently disposing of property, M.—S. 81. Director, member, or public officer of any body corporate or public company fraudulently appropriating property, M.—S. 82. Such director, &c., keeping fraudulent accounts, M.—S. 83. Such director, &c., destroying, falsifying, &c., books, papers, &c., making false entries or omitting material ones, &c., M.—S. 84. Such director, &c., publishing fraudulent statements or accounts knowingly, and with intent to deceive shareholders, or to induce others to become shareholders, M.—S. 88. By any false pretence to obtain from any other person any chattel, money, or valuable security, with intent to defraud, M.—S. 89. By any false pretence to cause or procure any money or property to be paid, or delivered to any other person, for the use or benefit of person making false pretence, or of any other person, M.—S. 91. To receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling, or otherwise disposing of amounting to a felony, knowing the same to have been feloniously stolen, taken, &c., F.—S. 95. Knowingly receiving &c., where the taking, &c., is M. by this Act, M.—S. 96. Receiver may be tried in any county or place in which he

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shall have had the property or in which the party guilty of the principal felony or misdemeanor may be tried.—S. 100. The owner on prosecuting thief or receiver to conviction by indictment to have restitution of property.—S. 101. Corruptly to take any money or reward directly or indirectly under pretence or upon account of helping any person to any money or property which shall by any felony or misdemeanor have been stolen, &c., unless he shall have used all due diligence to cause the offender to be brought to trial for the same, F.—S. 102. Publicly to advertise a reward for the return of any property which shall have been stolen or lost, and in such advertisement using any words purporting that no questions will be asked, or offering to return to any pawnbroker money advanced, &c., or to print or publish such advertisement—forfeit £50 recoverable by action.—S. 103. Any person found committing any offence punishable by this Act (except only the offence of angling in the day time) may be immediately apprehended without a warrant by any person, and forthwith taken, together with such property, if any, before some neighbouring justice; and if any credible witness shall prove upon oath before a justice a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever, on or with respect to which any offence punishable by this Act shall have been committed, the justice may grant a warrant to search for such property as in the case of stolen goods; and any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, required to apprehend and take before a justice the party offering the same, together with such property.—S. 104. Any Constable or peace officer may take into custody without warrant any person whom he shall find lying or loitering in any highway 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 against this Act, and shall take such person, as soon as reasonably may be, before a justice.

25 & 26 Vic., cap. 50.—S. 3. All proceedings under 24 & 25 Vic., cc. 96 and 97, to be subject to provisions of 14 & 15 Vic., c. 93:—S. 4. Any person who shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal the whole or any part of any growing tree, sapling, shrub, or underwood, or any growing fruit or vegetable production, or any growing cultivated root or plant, shall, in case value shall not exceed £5, pay to the

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party grieved the value of the property stolen, or amount of injury done, and be liable to a penalty.—S. 5. Any person who shall steal, or damage with intent to steal, the whole or any part of any tree, sapling, shrub, or underwood, or any cultivated plant, root, fruit, or vegetable production severed from the soil, or any turf or peat manufactured or partly manufactured for fuel, in case value shall not exceed forty shillings, shall pay to the party aggrieved the value of the property stolen or the amount of injury done, and be liable to a fine.

S. 6. Whenever any credible witness shall prove upon oath before a justice that there is reasonable cause to suspect that any of the articles of property following, that is to say, the carcase of any sheep or lamb, or the head, skin, or any part thereof, or the fleece of any sheep or lamb has been stolen or unlawfully taken, and is to be found in any house, or other place, it shall be lawful for such justice to issue a warrant to search such house or place for such articles of property; and any person in whose possession or on whose premises any of the said articles of property shall be found by virtue of any such search warrant (or by any member of the Constabulary or Metropolitan Police forces when executing any warrant or otherwise acting in the discharge of his duty), and who shall not satisfy the justice before whom he shall be brought that he came lawfully by the same, or that the same was on his premises without his knowledge or assent, may be committed by such justice to gaol until the next day of holding petty sessions for the district, unless he shall enter into recognizance with sureties to appear at such petty sessions; and if such person shall not account for the same in manner aforesaid, he shall on summary conviction be imprisoned for a term not exceeding three months, or be liable to a fine of £5.

S. 7. Any artificer, workman, apprentice, servant, or other person who shall unlawfully dispose of, or retain in his possession without the consent of the person by whom he shall be employed, any goods, ware, work, or materials committed to his care or charge (value not exceeding £5) shall pay to party aggrieved compensation, and be liable to a fine, O.—S. 8. To steal, or injure with intent to steal, any turkey, goose, or other poultry, value not exceeding five shillings, O.—S. 9. It shall be lawful for the justices at petty sessions, if they shall so think fit, to proceed against any person or persons charged with being guilty of an assault pursuant to 24 & 25 Vic., c. 100, s. 42, notwithstanding that the party aggrieved may decline or refuse to prefer complaint S. 10. Two justices shall have concurrent

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jurisdiction to punish assaults specified in sec. 38 of 24 & 25 Vic., c. 100, under the 42nd section of same Act.

31 & 32 Vic., c. 116.—S. 1. *Larceny, &c., by Co-partners.*—If any person being a member of any co-partnership, or being one of two or more beneficial owners of any money, goods, &c., or other property, shall steal or embezzle any such money, goods, &c., of or belonging to any such co-partnership, or to such joint beneficial owners, every such person shall be liable to be dealt with, ... and punished for the same as if such person had not been or was not a member of such co-partnership or one of such beneficial owners.

38 & 39 Vic., c. 24.—S. 1. *Falsification of Accounts.*—If any clerk, officer, or servant, or any person employed or acting in the capacity of a clerk, officer, or servant shall wilfully and with intent to defraud, destroy, alter, mutilate, or falsify any book, paper, writing, valuable security, or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or shall wilfully and with intent to defraud make or concur in making any false entry in, or omit or alter, or concur in omitting or altering any material particular from or in any such book, or any document or account, M. Act to be read with 24 & 25 Vic., c. 96.

Criminal Justice Act.—18 & 19 Vic., c. 126.—S. 1. *Power to justices to punish summarily persons charged with larceny of property not exceeding in value five shillings, &c.*—Where any person is charged before any justices at petty sessions with having committed simple larceny, and the value of the whole of the property alleged to have been stolen does not exceed five shillings, or with having attempted to commit larceny from the person, or simple larceny, such justices may hear and determine the charge in a summary way; and if the person charged shall confess the same, or if such justices after hearing the whole case for the prosecution and for the defence, shall find the charge to be proved, then such justices may convict the person charged and commit him to gaol . . . . (with or without h. l. for not exc. 3 mos.); and if they find the offence not proved they shall dismiss the charge and make out and deliver to the person charged a certificate under their hands stating the facts of such dismissal . . . . provided that if the person charged do not consent to have the case heard by such justices; or if it appear to such justices that the offence is one which, owing to a previous conviction of the person charged, is punishable by law with . . . penal servitude; or if such justices be of opinion that the charge

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is, from any other circumstances, fit to be made the subject of prosecution by indictment, such justices shall instead of summarily adjudicating thereon, deal with the case in all respects as if this Act had not been passed; provided, also, that if upon hearing of the charge, such justices shall be of opinion that there are circumstances in the case which render it inexpedient to inflict any punishment, they shall have power to dismiss the person charged without proceeding to a conviction.

S. 2. *Justices to ask whether accused consents to the charge being summarily determined.*—When the justices before whom any person is charged as aforesaid propose to dispose of the case summarily; one of such justices after the examinations of all the witnesses for the prosecution have been completed, and before calling on the person charged for any statement which he may wish to make, shall state to such person the substance of the charge against him, and shall then say to him these words, or words to the like effect—"*Do you consent that the charge against you shall be tried by us, or do you desire that it shall be sent for trial by jury at the sessions or assizes?*" (as the case may be), and if the person charged shall consent to the charge being summarily tried, then the justices shall reduce the charge into writing and read the same to such person, and shall then ask him whether he is guilty or not of such charge; and if such person shall say that he is guilty, the justices, shall then proceed to pass such sentence upon him as may by law be passed, subject to the provisions of this Act in respect to such offence; but if the person charged shall say that he is not guilty, the justices shall then inquire of such person whether he has any defence to make to such charge, and if he shall state that he has a defence, the justices shall hear such defence, and then proceed to dispose of the case summarily.

S. 3. *Where value of property stolen exceeds five shillings.*—Where any person is charged before any justices at such petty sessions as aforesaid with simple larceny (the property alleged to have been stolen exceeding in value five shillings), or stealing from the person, or larceny as a clerk or servant, and the evidence when the case on the part of the prosecution has been completed, is in the opinion of such justices sufficient to put the person charged on his trial for the offence with which he is charged, such justices, if the case appears to them to be one which may properly be disposed of in a summary way, ... shall reduce the charge into writing, and shall read it to the said person, and shall

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then ask him whether he is guilty or not of the charge, and if such person shall say that he is guilty such justices shall thereupon cause a plea of guilty to be entered upon the proceedings and shall convict him of such offence and commit him to gaol . . . . (with or without h. l. for not exc. 6 mos.) . . . . Provided always that the said justices, before they asked such person whether he is guilty or not, shall explain to him that he is not obliged to plead or answer before them at all, and that if he do not plead or answer before them, he will be committed for trial in the usual course.

[Under this section the consent of the accused is immaterial. It is to be observed that under this section the justices have no power as they have under the first, to dismiss the party charged without proceeding to a conviction.]

S. 8. The justices by whom any person is convicted under this Act may order restitution of the property stolen.

Legal Principles, &c.

The law of England is divided into two kinds. (1) The common law, and statute law.

The common law includes the general customs, or the common law properly so called, which is the same both in England and Ireland; also the particular customs of certain parts of the Kingdom, and those particular laws that are by custom observed only in certain courts and jurisdiction.

The statute law is made by Act of Parliament.

An *information* is a charge on oath laid before a magistrate. An *information* in writing and on oath must first be made before a warrant to arrest, or to search can be obtained.

An information, when in writing should contain a simple but full statement and history of all the facts to which the witness can depose. It should be taken as nearly as possible in the witness's own words and in the first person. The use of technical terms and descriptions should be avoided. Where several persons are charged the separate acts done by each should be distinctly set forth. The Christian name and surname of the informant and of all persons named in his information should be stated in full, also the time and place of the offence.

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A *deposition* is an information in writing taken in the presence and hearing of the accused, which fact should be therein set forth. Should the person who swears the deposition die before the trial, upon proof of his death, and that such deposition had been taken (according to form A *b*, of the schedule to 14 and 15 Vic., c. 93) in the presence and hearing of the accused, and that he or his counsel or attorney had an opportunity of cross-examining such witness, the deposition can be read as evidence at the trial.

An *affidavit* is a written statement upon oath taken before a person duly authorised to administer the oath.

The term *exhibit* is usually applied to a document referred to in, but not annexed to, an affidavit (or information or deposition) shown to the witness when the affidavit is sworn and referred to by him in his evidence.

An *indictment* is a written accusation of one or more persons of a crime preferred to, and presented on oath by, a grand jury. The accusation is called a *bill* when presented to, and an *indictment* when *found* by, the grand jury. Twelve grand jurors must find for a bill.

A *recognizance* at common law is an obligation duly acknowledged, to do a certain thing stipulated. When persons under a rule of bail to keep the peace or be of good behaviour, commit a breach of such conditions, the recognizance can be "estreated."

Certiorari (to be more fully informed) is the name of a writ issued from the Queen's Bench Division of the High Court of Justice. It commands in the Queen's name the judges and officers of inferior courts to certify and return the records of a cause defending before them to the end that the party may have more sure and speedy justice.

Habeas corpus ad subjiciendum (that you have the body to answer). This, the most celebrated prerogative writ in the English law, is a remedy for a person deprived of liberty. It is addressed to him who detains another in custody, and commands him to produce the

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body, with the day and cause of his capture and detention, and to do, submit to, and receive whatever the judge or court shall consider in that behalf (*a*).

An *infant* in law is a person under the age of twenty-one.

No act done by any person under seven years of age is a crime. No act done by any person over seven and under fourteen years of age is a crime, unless it be shown affirmatively that such person had sufficient capacity to know that the act was wrong. After fourteen a person is accountable.

No act is a crime if the person who does it is at the time when it is done prevented either by defective mental power or by any disease affecting his mind (*a.*) from knowing the nature and quality of his act; or (*b.*) from knowing that the act was wrong; or (*c.*) from controlling his own conduct, unless the absence of the power of control has been produced by his own default.

But an act may be a crime although the mind of a person who does it is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act.

Ignorance of the law is no excuse for breaking it, as every person is supposed to know the law.

A sane man is conclusively presumed to contemplate the natural and probable consequences of his own acts, and therefore the intent to kill is conclusively inferred from the deliberate violent use of a deadly weapon.

The possession of stolen property *recently* after the commission of a theft is *prima facie* evidence that the possessor was either the thief or the receiver according to the other circumstances. A like inference is raised in the cases of murder accompanied by robbery, arson, burglary, &c.

Cases which can be heard by magistrates out of Petty Sessions.—One magistrate can hear and decide cases of drunkenness, vagrancy, fraud in the sale of goods, and disputes as to sales in fairs or markets (the value of

(*a.*) Habeas Corpus Act, 31 Ch. II., c. 2, enforced in Ireland by 21 and 22 Geo. III., c. 11 (Ir.) and 56 Geo. III., c. 100.

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the article not being greater than £5). Two magistrates, when they shall see fit, may hear and determine any cases of summary jurisdiction out of Petty Sessions, when the offender shall be unable to give bail for his appearance at Petty Sessions (14 & 15 Vic., c. 93, s. 8).

Where offences committed on the boundaries of counties may be dealt with.—All offences committed on the boundary or boundaries of two or more counties, or within 500 yards of any such boundary, or begun in one county and completed in another, may be dealt with in any of the said counties as if they had been actually committed therein; or when committed in or upon any coach or carriage employed in any journey, or on board any vessel employed on any voyage on river, canal, &c., it may be dealt with, &c., in any county through any part of which such carriage or vessel passed.

Where offences committed on the high seas may be tried.—An English ship upon the high seas is to be considered as part of the territory of England, and where any person being a British subject charged with any offence on board a British ship on the high seas, or in any foreign port, or if any person, not being a British subject, charged with having committed any offence on board any British ship on the high seas, is found within the jurisdiction of any court of justice in Her Majesty's dominions, such court shall hear and try the case as if committed within the limits of its ordinary jurisdiction (18 & 19 Vic., c. 91, sec. 21).

Evidence.

The word evidence includes all the legal means exclusive of mere argument, which tend to prove or disprove any matter of fact the truth of which is submitted to judicial investigation. In legal investigations the true question is not whether it is possible that the testimony may be false, but whether there is sufficient probability of its truth, that is whether the facts are proved by competent and satisfactory evidence. By

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competent evidence is meant that which the law requires as the fit and appropriate proof in the particular case. By *satisfactory evidence* is meant that amount of proof which ordinarily satisfies an unprejudiced mind beyond reasonable doubt. The circumstances which will amount to this degree of proof can never be previously defined; the only legal test of which they are susceptible is their sufficiency to satisfy the mind and conscience of an ordinary man, and so to convince him, that he would venture to act upon that conviction in matters of important personal interest (*Taylor on Evidence*).

Burden of proof.—The onus of proving that a person is guilty of the crime with which he is charged lies on the person who asserts it. In all criminal proceedings it is for the prosecution to prove their case. The law presumes a man to be innocent till the contrary is proved.

The credibility of a witness depends—upon the knowledge of the fact he testifies, his disinterestedness, his integrity, his veracity, and his being bound to speak the truth by such an oath as he deems binding.

Leading Rules of Evidence.

(1,) In all cases of treason, two lawful witnesses are required to convict a prisoner; in almost all other cases, one witness is sufficient. The prisoner's voluntary confession made according to statute before a magistrate, or his plea of guilty to an indictment in open court, is sufficient by itself to support a conviction.

(2.) An accomplice may become a witness or Queen's evidence against his fellows. A prisoner is not liable to be affected by the *confession of his accomplices.* In practice the unsupported evidence of an accomplice is not sufficient to convict the prisoner. It is not essential, however, that it be corroborated in every particular, for in that case his evidence would be superfluous.

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(3.) Husbands and wives of defendants in criminal cases are not admitted to give evidence for or against each other, except where a crime has been committed by the one against the other.

(4.) *Coercion of wife by husband in crime.*—In treason, murder, manslaughter, and the like, no presumption of her husband's coercion shall excuse his wife's guilt. But if a woman commit theft, burglary, or other like offence, in the company or by the coercion of her husband, she is not considered guilty of any crime, as it is presumed she acted by compulsion and not of her own free will; but this presumption is rebuttible by proof that she acted voluntarily. In misdemeanors there is one exception to this rule—a wife may be indicted *with* her husband for keeping a brothel.

(5.) The best evidence the nature of the case will admit of should be produced at the trial, as its absence will weigh against the party neglecting to produce it. This rule does not demand the greatest amount of evidence which can possibly be given of any fact; but its design is to prevent the introduction of any, which from the nature of the case, supposes that better evidence is in the possession of the party.

(6.) Depositions properly taken are admissible in evidence on the trial of the accused, if it is proved that the person making such deposition is dead, and that the deposition was taken in the presence and hearing of the accused. See Petty Sessions Act, 14 & 15 Vic., c. 93, s. 14, and Schedule, Form A b.

(7.) The law presumes a man to be innocent until the contrary is proved, therefore all presumptive or circumstantial evidence should be admitted cautiously, as, for instance, a man should not be convicted of stealing goods found with him merely because he cannot account for their possession; or a person should not be convicted of murder or manslaughter, till at least the body is found, as the person supposed to be dead may be only missing.

(8.) No person charged with an offence is competent or can be compelled to give evidence for or against

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himself, nor can any person be compelled to answer any question tending to criminate himself. In some recent penal statutes it is provided that the defendant may be examined as a witness, but he cannot be *compelled* to give evidence. Confession of guilt freely and voluntarily made by the accused to anyone, may be given in evidence. *Deliberate and voluntary confessions*, if clearly proved, are among the most effectual proofs in the law.

(9.) In Ireland it is the practice for a policeman to caution a prisoner when arrested, although the law does not require such caution to be given. In giving the caution the constable tells his prisoner that he is in custody, and not bound to say anything, but that anything he may say may hereafter be brought in evidence against him. The caution should be entirely free from inducement to tell anything. A confession made by the accused to a policeman, where the accused has not been induced to make it by any promise of favour or by menaces, will be received in evidence, although he receives no caution. Before, however, a policeman questions a suspected person, not under arrest, touching the crime, the policeman should first give the caution to such person. While a policeman should never interrogate a prisoner, he is bound to note carefully all that the prisoner voluntarily declares.

(10.) Dying declarations are admissible only in the single instance of homicide, when the death of the deceased is the subject of the charge, and the circumstances of the death are the subject of the dying declaration.

(11.) Hearsay evidence in general is inadmissible, because what the other said was not upon oath, and also the accused had no opportunity of cross-examining him.

(12.) When there is a question as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the supposed writer that it was or was not written or signed by him, is deemed to be a relevant fact. The

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handwriting of a person may be proved (1) by the evidence of the writer himself; (2), by a witness who actually saw the paper or signature written; (3), by a witness who has a knowledge of the person's writing, by having seen him write; (4), by a witness having seen in the ordinary course of business, documents which, by some evidence, direct or circumstantial, are proved to have been written by such person; (5), by comparison by witnesses acquainted with the handwriting, or by skilled witnesses, of the disputed writing with *any* writing proved to the satisfaction of the court to be genuine (28 Vic., c. 18, s. 8).

(13.) The accused at his trial is allowed to call witnesses, not only to exculpate himself directly from the charge, but also to prove that he has previously borne a general good character.

(14.) In deciding upon the effect of evidence, the question is, not by how many witnesses a fact may have been proved satisfactorily. The evidence of a single witness may be so clear, so impartial, as to produce in the mind of the court the strongest and deepest conviction. On the other hand, witness may crowd after witness, all making the same assertions; yet none be worthy of credit. *In short it is the character of witnesses and the character of their evidence that ought to prevail, not their number.*

(15.) *Competency of Witness.*—The question of competency of a person to give evidence is one to be determined by the court. Mr. Taylor, in his work on "Evidence," states there are four classes of persons as generally *incompetent* to testify. (1)—Those persons who in any criminal proceeding are charged with the commission of any indictable offence, or any offence punishable on summary conviction, so far at least as relates to their giving evidence on oath either for or against themselves. (This rule has been relaxed in some recent statutes.) Whenever it becomes necessary to obtain the testimony of a defendant in a criminal trial, as against his co-defendants, the proper course is to enter a *nolle prosequi*, or apply for a ver-

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dict of acquittal. As soon as a prisoner has been thus acquitted he becomes competent to testify, either for the Crown or for his former co-defendants. (2)—The husbands and wives of persons who are defendants in any criminal proceeding. This rule is extended only to *lawful marriages*. There is a necessary exception to this rule, when a crime has been committed by the one against the other, in which case the injured party is an admissible witness against the other. (3)—In cases of high treason and misprision of treason, other than such as consists in injuring or attempting to injure the Queen's person, those persons who are not included or properly described in the list of witnesses delivered to the defendant pursuant to statute. (4)—Persons who are incapable of comprehending the nature of an oath, or giving a moderately rational answer to a sensible question—whether the person be an idiot, a lunatic, a drunkard, or a child—he cannot, so long as the defect exists, be examined as a witness. With respect to children, no precise age is fixed by law, within which they are absolutely excluded from giving evidence on the presumption that they have not sufficient understanding. In practice, the testimony of children of eight or nine years, or even less, is received when they appear to possess sufficient understanding.

Acquittal.—A person who has once been tried by a jury for any indictable offence and acquitted of the charge, cannot, under any circumstances, be again tried for it, notwithstanding that additional evidence may subsequently be obtained. This is not the case, however, with prisoners discharged by magistrates who can be re-apprehended if any new facts are brought to light.

EXAMINATION OF WITNESSES.

To ascertain what witnesses can prove before producing them in court.—In a case of any importance, the District Inspector, Head Constable, or Sergeant conducting the case, should, where practicable, pre-

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viously examine the witnesses (including members of the force) he intends producing, and take a note of the evidence of each, otherwise he may at the hearing be completely taken by surprise in finding that the evidence given by his own witnesses is contrary to what he had expected.

Examination of witnesses out of the hearing of each other.—If the Court deems it essential to the discovery of truth, that the witnesses should be *examined out of the hearing of each other*, it will order them all on both sides to withdraw, excepting the one under examination; and this order, upon the motion of either party at any period of the trial, is rarely withheld, though it cannot be demanded of strict right. Should a witness remain in Court after such order, although he is liable to punishment for the contempt, yet the Court *has no right to reject the witness* on this ground. To render the practice duly efficient, it is not enough to order the witnesses simply to withdraw out of hearing, but means should be afforded for keeping them in some separate room until they are called for, so that they might lose the opportunity, not only of listening to the examination of those who preceded them, but, what is of equal importance, of conversing with them afterwards.

Direct Examination.—The examination of a witness by the party who produces him is called his *direct examination*, or his *examination in chief*. In the direct examination two things are principally to be attended to:—1st. That the questions be pertinent to the matter immediately in issue, and that no question be asked the probable answer to which cannot have a tendency to prove the offence or defence, or other matter to be tried. 2nd. In the direct examination leading questions on material points are not allowed to be put. Leading questions are those which suggest to the witness the answer desired, or embody the answer, or in general that can be answered by "yes" or "no." A party may lead his own witness in the following cases:—On all matters which are merely introductory, and form no part of the substance of the inquiry;

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for the purpose of identifying persons or things; when a witness is called to contradict another as to expressions which he denies having used; where the witness appears hostile, by permission of the Court; where witness's memory is defective, or the matter of question complicated. A witness will be allowed to refresh his memory from any entry in a book, or memoranda, made by himself, or by some person in his presence, at the time of or shortly after the occurrence of the fact to which it relates, if he can afterwards swear to the fact from his recollection. The writing referred to must be produced and shown to the adverse party if he requires it; and such party may, if he pleases, cross-examine the witness thereupon. [This is important to remember when noting admissions made by a suspected person, or of a prisoner]. Witnesses must in general speak to facts within their own knowledge; and they will not be permitted, with certain exceptions, to express their own belief or opinion. A party producing a witness will not be allowed to impeach his credit by general evidence of bad character, but he may, in case the witness shall in the opinion of the Court prove adverse (that is "hostile" as contradistinguished from being merely "unfavourable"), contradict him by other evidence, or by leave of the Court, prove that he has made at other times a statement inconsistent with his present testimony; but, before such last-mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness and he must be asked whether or not he has made such statement.

Cross-examination.---When the direct examination is finished, the witness may then be cross-examined by the opposite party. In giving his evidence a witness tells the truth, wholly or partially, or tells a falsehood. If he tell the whole truth, a cross-examination has the effect of rendering his story more circumstantial, and impresses the jury with a stronger opinion of its truth. In cross-examining a witness leading questions may be asked—that is, the examiner may

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lead the witness so as to bring him directly to the point in which he requires an answer. The questions must be either relevant and pertinent to the issue, or calculated to elicit the witness's title to credit; great latitude, however, is always allowed in cross-examining. Questions respecting facts irrelevant to the issue may be put to a witness on cross-examination for the purpose of impeaching his character or testing his credit, but the answer of the witness will be conclusive, and cannot be contradicted by independent evidence. (Proof of witness's previous conviction of felony or misdemeanor may, however, be given.) If the questions put relate to relevant facts, the answers may be contradicted by independent evidence. Some questions a witness cannot be compelled to answer, as where the answers would have a tendency to expose the witness, or as it seems the husband or wife of the witness, to any kind of criminal charge, or to a penalty; also where the direct and immediate effect of answering might be to degrade his character; but where the transaction about which the witness is interrogated forms any material part of the issue, he will be obliged to give evidence, however strongly it may reflect on his conduct.

Re-examination.—After a witness has been cross-examined, the party who called him has a right to re-examine him upon any new fact which has arisen out of the cross-examination, and to ask all questions which may be proper to draw forth an explanation of the meaning of the expressions used by the witness on the cross-examination, if they be in themselves doubtful; and also of the motive or provocation which induced the witness to use those expressions; but he has no right to go further and to introduce matter new in itself, and not suited to the purpose of explaining either the expressions or the motives of the witness.

The Court has always a discretionary power of recalling witnesses at any stage of the trial, and of putting such legal questions to them as the exigencies of justice require. If a question has been omitted in

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the examination in chief, and cannot, in strictness, be asked on re-examination, as not arising out of the cross-examination, it is usual to request the Court to make the inquiry, and such a request is generally granted.—(*Taylor on Evidence*).

Demeanour of witnesses.—"While simplicity, minuteness, and ease are the natural accompaniments of truth, the language of witnesses coming to impose upon the jury is usually laboured, cautious, and indistinct. So when we find a witness over zealous on behalf of his party; exaggerating circumstances; answering without waiting to hear the question; forgetting facts wherein he would be open to contradiction; minutely remembering others, which he knows cannot be disputed; reluctant in giving adverse testimony; replying evasively or flippantly; pretending not to hear the question, for the purpose of gaining time to consider the effect of his answer; affecting indifference; or, often vowing to God, and protesting his honesty; we have indications more or less conclusive of insincerity and falsehood. On the other hand, in the testimony of witnesses of truth, there is a calmness and simplicity, a naturalness of manner, an unaffected readiness and copiousness of detail, as well in one part of the narrative as another, and an evident disregard of either the facility or difficulty of vindication or detection."—(*Taylor on Evidence.*)

Members of the Constabulary when examined as witnesses should endeavour to give their evidence with perfect impartiality, not showing any desire to convict the prisoner, or eagerness to declare anything to his disadvantage, otherwise they may lay themselves open to the remark sometimes made by eminent lawyers, that—"Policemen regard all men as guilty till they are proved to be innocent." From indiscreet zeal and unconcealed hostility towards the prisoner, the evidence of Constabulary witnesses proves often injurious to the prosecution, and helps to defeat the ends of justice. A Constabulary witness who gives his evidence calmly without any exhibition of professional zeal, *by simply answering the questions put to him*, will

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always make a favourable impression on the court and jury.

Informers.—Witnesses for the Crown *will not*, in giving their evidence, *be permitted to disclose* either the names of their employers, or the nature of the connexion between them, or the names of the persons from whom they received information, or the names of those to whom they give information, whether such last-mentioned persons were magistrates, or actually concerned in the executive administration, or were only the channel through which the communication was made to Government. Neither can the witness be asked whether he himself was the informer.

Privileged Documents.—"The official transactions between the *heads of the departments of Government and their subordinate officers* are in general regarded as confidential and privileged matters which the interests of the State will not permit to be revealed." —(*Taylor on Evidence*). When, therefore, demand is made of a member of the Constabulary to produce in a court of justice official reports, documents, and books, he should respectfully decline to show them, stating that they are privileged, &c.; after which objection, should the Judge order their production, his direction must be complied with. In a Petty Sessions Court, or an inquiry before magistrates, official documents are not produced in evidence without the sanction of the Inspector-General.

Libel and Indictable Slander.—Everyone commits a misdemeanour who with seditious intention speaks any words or publishes anything capable of being a libel. If the matter published consists of words spoken, the offence is called the speaking of seditious words. If the matter so published is contained in anything capable of being a libel, the offence is called the publication of a seditious libel.—*Stephen's Digest of C.L.*

Publications blaspheming God, or turning the doctrines of the Christian religion into contempt and ridicule, also, such as are immodest and immoral, tending

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to corrupt the mind and to destroy the love of decency, morality, and good order, are offences indictable as misdemeanors. It is also a misdemeanor wantonly to defame or indecorously to calumniate the order and constitution of things which make up the general system of the law and government of the country; or to degrade or calumniate the person and character of the Sovereign, and the administration of his Government by his officers and ministers of state, or the administration of justice by his judges; or to make similar reflections on the proceedings of the two Houses of Parliament.

Libels upon individuals are malicious defamations expressed either in printing or writing, or by signs or pictures, tending either to blacken the memory of one who is dead or the reputation of one who is alive and thereby exposing him to public hatred, contempt, and ridicule. For such libels an indictment lies.

Slander is the malicious defamation of a person in his reputation, profession, or business, by words, as a libel is by writing, &c.

Words spoken, however scurrilous, even though spoken personally to an individual, are not the subject of indictment, unless they directly tend to a breach of the peace, as if they convey a challenge to fight. But words, though not scandalous in themselves, if published in writing and tending in any degree to the discredit of a man have been held to be libellous.

Privileged Communications. — A communication fairly made by a person in the discharge of some public or private duty, whether legal or moral, or in the conduct of his own affairs in matters where his interest is concerned, is a privileged communication. The occasion on which the communication was made rebuts the inference, *prima facie* arising from a statement prejudicial to the character of the plaintiff, and puts it upon him to prove that there was malice; in fact, that the defendant was actuated by motives of personal spite or ill-will, independent of the occasions on which the communication was made.

Publication.—All who are concerned in publishing a libel are equally guilty of a misdemeanor, but the

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writing or composing of a libel without a publication of it is not an offence.

To publish a libel is to deliver it, read it, or communicate its purport in any other manner, or to exhibit it to any other person other than the person libelled, provided that the person making the publication knows, or has an opportunity of knowing, the contents of the libel if it is expressed in words, or its meaning if it is expressed otherwise.

By the 6 & 7 Vic., c. 96, s. 3, publishing, or threatening to publish, any libel or threatening to print or publish, or proposing to abstain from, or offering to prevent the printing or publishing of any matter or thing touching any other person, with intent to extort money or security for money, or any valuable thing for such or any other person, or with intent to induce any person to confer or procure for any person any appointment or office of profit or trust, M.

Newspaper Libel and Registration Act, 1881, 44 & 45 Vic., c. 60, s. 2.—Any report published in any newspaper of the proceedings of a public meeting shall be privileged, if such meeting was lawfully convened for a lawful purpose and open to the public, and if such report was fair and accurate, and published without malice, and if the publication of the matter complained of was for the public benefit, and provided that the protection intended shall not be available as a defence if plaintiff can show that the defendant has refused to insert in the newspaper in which report appeared a reasonable letter of explanation or contradiction by plaintiff. S. 3. No criminal prosecution for newspaper libel shall be commenced without the written authority of the Attorney-General. S. 4. A Court of summary jurisdiction upon the hearing of a charge against proprietor, &c., of a newspaper may receive evidence as to the publication being for the public benefit, &c., and as to the report being fair and accurate, and published without malice. S. 5. If a Court of summary jurisdiction upon the hearing of a charge against a proprietor, publisher, editor, &c., for the publication of a newspaper libel, is of opinion that though the person charged is shown to have been guilty, the libel was of a trivial character, and if such person assents to the case being dealt with summarily, the Court may summarily convict him and adjudge him to pay a fine not exceeding £50. S. 7. Board of Trade may authorize

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registration of the names of only a portion of the proprietors of a newspaper. S. 8. Register of newspaper proprietors to be established. S. 9. Printers and publishers to make annual returns of title of every newspaper and names, &c., of proprietors. S. 15. Certified copies of entries in and extracts from the register of newspaper proprietors shall be received as conclusive evidence of the contents of the register; and shall in all proceedings, civil or criminal, be accepted as sufficient *prima facie* evidence of all the matters thereby appearing, unless and until the contrary is proved. S. S. 16 and 17. Penalties in Ireland may be recovered in manner provided by Petty Sessions (Ireland) Act, 1851. Expression "a court of summary jurisdiction" in Ireland, means any justice or justices of the peace, stipendiary or other magistrate, &c.

Licensing Acts.

(For further information respecting the Liquor Licensing Laws see Licensing Acts Manual, a copy of which is in every R.I.C. Barrack.)

3 & 4 *Wm.* 4, *c.* 68.

21. *Licensed houses to be closed by order of Justices in case of riot.*—It shall be lawful for any one justice acting for any county, city, or place where any riot or tumult shall happen, or for any two or more justices where any riot or tumult shall be apprehended and expected to take place, to order or direct that every person selling spirits or beer by retail, and keeping any house or place for that purpose, situate within their respective jurisdictions, and in or near the place where such riot or tumult shall happen or be expected to take place, shall close his house or place at any time and for such length of time as such justice or justices shall order or direct; and every person to whom such order shall be given, and who shall keep open such house or other place in violation of such order, shall forfeit and lose the sum of £2.

6 & 7 *Wm.* 4, *c.* 38.

S. 6. *Justices and Constables may enter into public house and put out persons tippling or gambling at prohibited hours.*—And be it further enacted, that it shall and may be lawful for any justice of the peace, or for any chief constable, ... or for any constable authorized for the purpose by any such justice (*b*), within the limits of his jurisdiction, to enter into any house, booth, tent, or other place kept by

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any person selling or having a license to sell spirits, wine, or beer by retail, at any time or hour during which the sale of spirits, wine, or beer is by this Act prohibited therein, and to remove from and put out of such house, booth, tent, or other place any person who shall be found within such prohibited hours in such house, booth, tent, or other place (not being a lodger or inmate thereof), and who shall appear to be or to have recently been drinking, tippling, or gaming therein; and that if any such person shall not, when thereto required by such justice of the peace, chief or other constable, ... remove from and quit such house, booth, tent, or other place, or shall forcibly resist such justice, constable, ... or shall be found drunk therein, it shall and may be lawful for any constable, ... to apprehend and take into custody any such person so offending, and to carry and convey, or cause to be carried and conveyed every and any such person so apprehended before any justice of the peace within whose jurisdiction such house, &c., shall be situate, to be dealt with according to law; and every such person who shall so neglect or refuse to remove from or quit such house, &c., or shall so forcibly resist such justice, constable, . . . or be so found drunk in such house, booth, tent, or other place, being duly convicted of such offence, shall thereupon for every such offence forfeit any sum not exceeding 20*s.*, nor less than 5*s.*

(*b*). Under this section a constable would require a justice's warrant to enter licensed premises during prohibited hours, but a chief constable (now district inspector) may enter without warrant. See Licensing Act, 1874, s. 23.

S. 8. *Publicans not to permit illegal assemblies in house, or hang out flags, &c.*—No publican shall permit any body, union, society, or assembly of persons declared to be illegal, or who shall require from persons to be admitted thereto any oath, &c., nor shall on any occasion or pretence whatsoever hang out or display from or out of such house any sign, flag, symbol, colour, decoration, or emblem whatsoever, except the known and usual sign of such house: person so offending shall forfeit for every such offence £2, and license shall not be renewed by Excise without certificate of the justices at Quarter Sessions. If any such person so convicted shall be again convicted of a like offence, license shall immediately become null and void.

S. 9. It shall be lawful for any justice, or any chief constable,* who can enter without warrant, or any con-

* Now District Inspector.

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stable authorized* by any such justice or chief constable to enter into any public house in which justice or chief constable shall from information have reason to believe that any such body, union, society, or assembly is met or held, or on or from which any such sign, flag, symbol, colour, decoration, or emblem shall be hung out or displayed, and to remove from and put out of such house any person who shall be found met or assembled therein, and to remove and take away and destroy, if he shall think proper, any arms, banners, flags, colours, symbols, emblems, or decorations found on or with such persons, or hanging out or displayed on or from such house; and to require every such person so found to state his name and place of abode; and to take possession of any book of proceedings used at meeting, and to detain such book for not exceeding fourteen days. A person not quitting when required, or resisting may be arrested and conveyed before a magistrate. Person refusing to quit, or resisting constable, or refusing to state name, &c., shall forfeit not exceeding 20*s.*, nor less than 5*s.*

S. 10. Penalty of £10 may be inflicted on publican opposing the entrance of justice or chief or other constable on his making search.

S. 11. Publican delaying to admit justice, chief or other constable liable to a fine of £2.

8 & 9 *Vic.*, *c.* 64.—*Spirit Grocers Act.*

1. *Spirit Grocers license, how granted.*—The Excise license to persons in *Ireland* trading in or selling coffee, tea, cocoa nuts, chocolate, or pepper, and the Excise license to persons in *Ireland* to be retailers of spirits, not being retailers of spirits after mentioned, to be drunk or consumed in or upon the house or premises where sold, and the Excise license to retailers of spirits in *Ireland* being duly licensed to trade in, vend, and sell coffee, tea, cocoa nuts, chocolate, or pepper, and not selling spirits in any greater quantity a t one time than two quarts, or any spirits to be consumed in the house or on the premises of such retailer, shall be severally granted in like manner and at the same rates of duty respectively, and under the same regulations as the same are respectively applicable thereto and directed by 6 Geo. IV., c. 81; 3 & 4 Wm. IV., c. 68; 6 & 7 Wm. IV., c. 38, &c.

2. *Justices and Constables are authorized to enter the houses of Spirit Grocers.*—And whereas the said Act passed in the

* That is by warrant.

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sixth year of the reign of King George the Fourth, and the license therein mentioned to retailers of spirits in *Ireland* being duly licensed to trade in, vend, and sell coffee, tea, cocoa nuts, chocolate, or pepper, and not selling spirits in any greater quantity at one time than two quarts, or any spirits to be consumed in the house or on the premises of such retailer, require that the spirits sold under such license shall be consumed elsewhere than in the house or on the premises of such retailer: be it enacted, that from and after the passing of this Act it shall be lawful for any justice of the peace, or any chief or other constable, or overseer, within the limits of his jurisdiction, to enter into any house or place kept by such retailer as aforesaid for selling spirits or any other article, at any time or hour at which such house or place is kept open for any such sale as aforesaid; and if any such retailer, on demand of entrance by any such justice, chief or other constable, or overseer, opposes or obstructs such entrance, or delays to admit such justice, chief or other constable, or overseer, into any such house or place, or if such retailer is found selling spirits by retail to be consumed in such house or place, or harbouring any person who appears to be or to have recently been drinking or tippling spirits therein, such retailer, over and above every other penalty he incurs, shall forfeit and pay the sum of £2, ... and on due conviction of any such offence as aforesaid, the license of such retailer shall become forfeited.

17 & 18 *Vic., c.* 89.

S. 3 *Penalty on persons selling spirits, &c., without license.*—Every person, not being duly licensed to sell wine, spirits, beer, ale, cider, or perry, who shall *sell or keep for sale or expose* for sale, any wine, spirits, beer, ale, cider, or perry (*c*), shall for every such offence be liable—

To a fine not exceeding £2 nor less than 5*s.*

And for the second and every subsequent offence, to a fine not exceeding £5.

And for the purpose of any such conviction it shall be sufficient to prove that wine, spirits, beer, ale, cider, or perry was kept for sale or exposed for sale by such person or on his premises, or had been illegally consumed on such premises at any time within two months preceding such alleged offence; and if any person be found drunk in such house, or having the appearance of having been recently drinking, it shall be deemed evidence of his having been drinking in such house, and of the unlawful consump-

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tion of wine, spirits, beer, ale, cider, or perry, unless the contrary be proved.

S. 12. *For removing doubts as to right of entry into Spirit Grocer's premises.*—And whereas by the Act of 8 & 9 Vic., chapter 64, power is given to any justice of the peace, or any chief or other constable or overseer, within the limits of his jurisdiction, to enter into any house or place kept open for the sale of spirits to be consumed elsewhere than in such house or place; and whereas doubts have arisen as to whether the right of entry extends to every part of such house or place or only to the particular part entered as licensed for such sale of spirits in the books of the Inland Revenue Department:

From and after the commencement of this Act, the words "chief or other constable" shall be construed to mean and include any county inspector, sub-inspector, head or other constable of constabulary, or any superintendent, inspector, or constable of the *Dublin* Metropolitan Police; and the words "house or place" in this and the aforesaid Act, or any other Act or Acts relating to the sale of spirits, wine, beer, ale, cider, or perry in *Ireland*, shall be construed to mean and to extend to every room, closet, cellar, yard, stable, outhouse, shed or any other place whatsoever of, belonging, or in any manner appertaining to such house or place; and whatever particular part of such house or place shall be entered in the said books of the said Inland Revenue Department as licensed under the said Act of the 8 & 9 Vic., or any other Acts relating to the sale of spirits, wine, beer, ale, cider, or perry, as aforesaid, it shall be lawful for any such justice of the peace, chief or other constable, or overseer, or any officer of excise, with their assistants respectively, to enter any room, closet, cellar, yard, stable, outhouse, shed or any other place whatsoever belonging to such house or place.

27 & 28 *Vic., c.* 35.

S. 11. *Wholesale dealers in beer who shall be subject to Police supervision.*—Any person licensed to sell beer by wholesale, to be consumed off the premises where sold, who shall keep his house or premises open for the sale of beer between the hours of seven o'clock in the evening and seven o'clock in the morning, shall, during the said hours, be subject to the same supervision by justices of the peace, police officers, and constables as persons licensed to sell beer by retail to be consumed off the premises where sold

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are by this Act subjected to; and all and singular the rights, powers, and authorities given to any such justice, officer, or constable in and by the second section of 8 & 9 Vic., c. 64, and the twelfth section of 17 and 18 Vic., c. 89, and the several fines, forfeitures, pains and penalties contained in the said sections in relation to the offences therein respectively set forth, shall extend and be applicable to such wholesale dealers in beer, and the houses and premises in which they shall carry on, or purport to carry on, the sale of beer during the hours aforesaid, as fully and effectually, and to all intents and purposes, as if the said provisions of the said sections of the said Acts had been herein repeated and specially enacted with reference to persons licensed to sell beer by wholesale, to be consumed off the premises where sold, who shall keep open their houses or premises for the sale of beer during the hours aforesaid.*

Licensing Acts, 1872-1874.

Licensing Act, 1872 (35 & 36 *Vic.*, *c.* 94).

S. 3. *Selling, &c., intoxicating liquor without license.*—No person shall sell or expose for sale by retail (*a*) any intoxicating liquor (*b*) without being duly licensed to sell the same, or at any place where he is not authorized by his license to sell the same (*c*). Any person selling or exposing for sale by retail any intoxicating liquor which he is not licensed to sell by retail, or selling or exposing for sale any intoxicating liquor at any place where he is not authorized by his license (*d*) to sell the same, shall be subject to the following penalties:— . . . . . .

In addition to any other penalty imposed by this section any person convicted of a second or any subsequent offence under this section shall, if he be the holder of a license, forfeit such license, and in the case of a conviction for any offence under this section, the court may, if it thinks expedient so to do, declare all intoxicating liquor found in the possession of any such person as last aforesaid, and the vessels containing such liquor, to be forfeited.

[(*a.*) The offence of "*keeping*" intoxicating liquor for sale not being duly licensed, is punishable not under this Act, but under 17 & 18 Vic., c. 89, s. 3.

"*Sale by retail*" in respect of any intoxicating liquor, means the sale of that liquor in such quantity as is declared to be sale by retail by any Acts relating to the sale of intoxicating liquors (sec. 77). The quantity permitted to be sold *at any one* time under a *retail* license is for *spirits*, not exceeding two quarts (6 Geo IV.,

* See pages 197 and 199.

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c. 81, s. 4); for *beer*, less than four and a half gallons, or than two dozen reputed quart bottles (27 and 28 Vic., c. 35, sec. 15); for wine, less than two gallons or than one dozen reputed quart bottles (23 and 24 Vic., c. 107, s. 4). Under a publican's license the quantity that may be sold at one time is *unlimited*. The term "*spirits*" is defined by the 23 and 24 Vic., c. 107, s. 21, to be "any fermented liquor containing a greater proportion than forty per centum of proof spirit."

(*b.*) "*Intoxicating liquor*" shall mean spirits, wine, beer, porter, cider, perry, and sweets (home-made wine), and any fermented, distilled, or spirituous liquor which cannot, according to any law for the time being in force, be legally sold without a license from the Commissioners of Inland Revenue (sec. 77 of Act, 1872).

(*c.*) *Exposing* for sale is the same offence as that of actual sale, and a licensed person, selling elsewhere than on his licensed premises commits the same offence as a person selling without any license. By sec. 4, Act, 1874, a publican who *sells or exposes* for sale any intoxicating liquor in any booth, tent, or place (except it be his licensed premises) within the limits of holding any lawful and accustomed fair, or any races, *without an occasional license authorizing such sale*, commits the offence under this section. A publican cannot sell elsewhere than upon his licensed premises, unless he has obtained an occasional license.

(*d.*) The term "license," as used in these Acts means the license issued by an officer of Excise to a publican or beer retailer, on the production of a *certificate* granted by the magistrates at Quarter Sessions (in the case of the publican) or at Petty Sessions (in the case of the beer retailer)—See sec. 37, Act, 1874. The publican's license is for consumption of beer, spirits, etc., *on* the premises; the beer retailer's, for consumption of beer (which includes ale and porter), *off* the premises. The term "*license*" does not include the Excise authority granted to a spirit grocer (see sec. 82), which authority, when referred to in these Acts, is termed an "*Excise License.*" Neither does it include a wholesale beer dealer's license (see sec. 8, Act, 1874), both of which are also granted on the production of a certificate, signed by two or more magistrates at Petty Sessions.]

S. 4. *Occupier of unlicensed premises liable.*—The occupier of any unlicensed premises (*a*) on which any intoxicating liquor is sold, or if such premises are occupied by more than one person, every occupier thereof, shall, if it be proved that he was privy or consenting to the sale, be subject to the penalties imposed upon persons for the sale of intoxicating liquors without license.

[(*a.*) "*Unlicensed premises*" means premises in respect of which a license, as defined by sec. 37 of Act of 1874, has not been granted, or is not in force.—See sec. 77 of this Act, and sec. 37 of Act, 1874.]

S. 5. *Drinking on premises contrary to license.*—If any purchaser of any intoxicating liquor from a person who is

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not licensed to sell the same to be drunk on the premises (*b*) drinks such liquor on the premises where the same is sold, or on any highway adjoining or near such premises, the seller of such liquor shall, if it shall appear that such drinking was with his privity or consent, be subject to penalties. . . . . .

For the purposes of this section the expression "premises where the same is sold" shall include any premises adjoining or near the premises where the liquor is sold, if belonging to the seller of the liquor or under his control, or used by his permission.

[(*b*.) Sec. 77 enacts that "*premises*" shall include *house or place*, as defined by section 12 of 17 and 18 Vic., c. 89, which latter section defines *house or place* when used in any Act of Parliament relating to the sale of spirits, wine, beer, ale, cider, or perry in Ireland to mean "every room, closet, cellar, yard, stable, out-house, shed, or any other place whatsoever of, belonging, or in any manner appertaining to such house or place."]

S. 6. *Evasion of law as to drinking on premises.*—If any person having a license to sell intoxicating liquors not to be drunk on the premises, himself takes or carries, or employs or suffers any other person to take or carry, any intoxicating liquor out of or from the premises of such licensed person for the purpose of being sold on his account, or for his benefit or profit, and of being drunk or consumed in any other house, or in any tent, shed, or other building of any kind whatever, belonging to such licensed person, or hired, used, or occupied by him, or on or in any place, whether enclosed or not, and whether or not a public thoroughfare, such intoxicating liquor shall be deemed to have been consumed by the purchasers thereof on the premises of such licensed person, with his privity and consent, and such licensed person shall be punished accordingly in manner provided by this Act.

In any proceeding under this section it shall not be necessary to prove that the premises or place or places to which such liquor is taken to be drunk belonged to, or were hired, used, or occupied by the seller, if proof be given to the satisfaction of the court hearing the case that such liquor was taken to be consumed thereon or therein with intent to evade the conditions of his license.

S. 7. *Sale of spirits to children.*—Every holder of a license who sells or allows any person to sell, to be consumed on the premises any description of spirits to any person apparently under the age of sixteen years, shall be liable to a penalty.

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[It is the *apparent* age, and not the actual age of the child that is the test in this section, so that if a child *appear* to be above sixteen, but be proved to be under sixteen, there can be no conviction. This section does not prohibit a publican selling liquor to children under the age specified, when it is purchased and taken away by them, not being consumed on the premises; nor does it prohibit the sale to a child between the ages of thirteen and sixteen of any other intoxicating liquor, *not spirits*, for consumption on the premises.]

[By 49 & 50 Vic., c. 56, s. 1, every holder of a license who knowingly sells or allows any person to sell any description of intoxicating liquors to any person under the age of thirteen years, for consumption on the premises by any person under such age as aforesaid, shall be liable to a penalty. S. 2. This Act shall be construed as one Act with the Licensing Acts, 1872–1874.]

S. 8. *Sale to be by standard measure.*—Every person shall sell all intoxicating liquor which is sold by retail and not in cask or bottle, and is not sold in a quantity less than half a pint, in measures marked according to the imperial standards. Every person who acts or suffers any person under his control or in his employment to act in contravention of this section shall be liable to a penalty, ... and shall also be liable to forfeit the illegal measure in which the liquor was sold.

[By this section all licensed persons are obliged to sell their liquor by *stamped imperial measures*, except when it is in cask or bottle, or sold in a quantity less than half a pint. All pewters, tumblers, glasses, &c., holding half a pint and upwards, unless stamped imperial measures, if used in selling intoxicating liquor, are illegal and liable to forfeiture.]

S. 9. *Penalty on internal communication.*—Every person who makes or uses, or allows to be made or used, any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort, or as a refreshment house, shall be liable to a penalty. . . . . In addition to any penalty imposed by this section, any person convicted of an offence under this section shall, if he be the holder of a license, forfeit such license.

[If the unlicensed house adjoining be not used for *public entertainment or resort, or as a refreshment house*, no offence against this section will be committed by having an internal communication between the licensed and unlicensed premises.]

S. 10. *Penalty on illicit storing of liquor.*—If any licensed person has in his possession on the premises in respect of which his license is granted, any description of intoxicating

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liquor which he is not authorized to sell, unless he shall account for the possession of the same to the satisfaction of the court by which he is tried, he shall forfeit such liquor and the vessels containing the same, and shall be liable to a penalty.

S. 11. *Names of licensed persons to be affixed to premises.*—Every licensed person shall cause to be painted or fixed, and shall keep painted or fixed on the premises in respect of which his license is granted, in a conspicuous place and in such form and manner as the *Licensing Justices* may from time to time direct, his name, with the addition after the name of the word "licensed," and of words sufficient, in the opinion of the said *justices*, to express the business for which his license has been granted, and in particular of words expressing whether the license authorizes the sale of intoxicating liquor to be consumed on or off the premises only, as the case may be; and no person shall have any words or letters on his premises importing that he is authorized as a licensed person to sell any intoxicating liquor which he is not in fact duly authorized to sell. Every person who acts in contravention of the provisions of this section shall be liable to a penalty.

OFFENCES AGAINST PUBLIC ORDER.

S. 12. *Penalty on persons found drunk.*—Every person found drunk in any highway or other public place, whether a building or not (*a*), or on any licensed premises (*b*), shall be liable to a penalty not exceeding ten shillings, and on a second conviction within a period of twelve months shall be liable to a penalty not exceeding twenty shillings, and on a third or subsequent conviction within such period of twelve months be liable to a penalty not exceeding forty shillings (*c*).

Every person who in any highway or other public place, whether a building or not, is guilty while drunk of riotous or disorderly behaviour, or who is drunk while in charge on any highway or other public place of any carriage, horse, cattle, or steam engine, or who is drunk when in possession of any loaded fire-arms, may be apprehended, and shall be liable to a penalty not exceeding forty shillings, or in the discretion of the court to imprisonment with or without hard labour for any term not exceeding one month.

Where the court commits any person to prison for non-payment of any penalty under this section, the court may order him to be imprisoned with hard labour.

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[(*a*) The term "public place, whether a building or not," would include that portion of railway stations, museums, courts of justice, &c., actually used and frequented by the public as a public place. Any place to which the public have a right of admission free of charge is a public place.

(*b*) "Licensed premises" are not a public place, the distinction is drawn in the section. A person found drunk on the premises of a publican or beer retailer cannot therefore be arrested.

The term "Licensed premises," as used in this section, means licensed premises while they are open to the public for the purpose of the license, consequently a licensed person (publican or beer retailer) who is found drunk on licensed premises in his own occupation after licensed hours, and when the premises are closed to the public, is not liable to a penalty under section 12.

(*c*) It will be observed that under this section there is no power of arrest for simple drunkenness. Under 6 and 7 Wm. IV., c. 38, sec. 12, "any person *found drunk* at any hour of the day or night, in any street, square, lane, road, or other public thoroughfare or place," may be *apprehended* by a constable, and forthwith conveyed before a justice, who can deal with the case summarily; but the penalty imposed by sec. 12 of Act, 1872, is substituted for the penalty under the former Act.—See secs. 59 and 79. By sec. 25 of Act, 1874, a constable can detain a person "found drunk in any highway or other public place, whether a building or not," if incapable of taking care of himself, until he can with safety be discharged, when the constable may let him go, and proceed against him by summons, or convey him before a magistrate (as directed in sec. 12, 6 and 7 Wm. IV., cap. 38), to be summarily dealt with. If the offender is unknown to the Constabulary, or not likely to appear on summons, the latter course should be followed. When an offender is arrested by a constable for any of the aggravated offences of drunkenness provided for in the second paragraph of section 12 of Act, 1872, the constable has no power to discharge the prisoner, but should convey him before a magistrate.

There are *four* forms of drunkenness recognised by the law for which arrests may be made; (1), drunkenness in a public place; (2), drunkenness in a public place, accompanied by riotous or disorderly behaviour; (3), drunkenness in a public place while in charge of any carriage, horse, cattle, or steam engine; (4), drunkenness *in any place, public or private*, when in possession of any loaded fire-arms. For the offences (2), (3), and (4), when an offender is arrested, the constabulary have no power to discharge him.

Proceedings for offences, enumerated in the 12th section of this Act, committed within the boundaries of any town under the Towns Improvement (Ireland) Act, 1854, may be taken by the constabulary either in the Petty Sessions Court in their own names as complainants, or in the town court, in which case a constable, although he may be a witness, cannot be complainant, and the complaint should be brought in the name of the town clerk. When the offence has been committed within the boundaries of the town and the offender is known to reside therein, the proceedings are required

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to be taken in the town court; but in all cases where the offender does not reside within the town, or where his residence is unknown, the proceedings are required to be taken in the Petty Sessions Court irrespective of the place where the offence was committed, the prosecuting constable being named as complainant in the summons.]

S. 13. *Penalty for permitting drunkenness.*—If any licensed person permits drunkenness or any violent, quarrelsome, or riotous conduct to take place on his premises, or sells any intoxicating liquor to any drunken person, he shall be liable to a penalty.

S. 14. *Penalty for keeping disorderly house.*—If any licensed person knowingly permits his premises to be the habitual resort of or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution, he shall if he allow them to remain thereon longer than is necessary for the purpose of obtaining reasonable refreshment, be liable to a penalty.

[A disorderly inn is an inn kept in a disorderly manner, and suffered to be resorted to by persons of bad character, for any improper purpose. Every person who keeps a disorderly inn, or who, being an innkeeper, refuses without reasonable grounds to entertain any person ready and willing to pay for entertainment therein, commits a misdemeanor.—*Stephen's Digest of C. L.*]

S. 15. *Penalty for permitting premises to be a brothel.*—If any licensed person is convicted of permitting his premises to be a brothel, he shall be liable to a penalty, and shall forfeit his license, and he shall be disqualified for ever from holding any license for the sale of intoxicating liquors.

S. 16. *Penalty for harbouring constables.*—If any licensed person—

1. Knowingly harbours or knowingly suffers to remain on his premises any constable (*a*) during any part of the time appointed for such constable being on duty, unless for the purpose of keeping or restoring order or in execution of his duty; or
2. Supplies any liquor or refreshment, whether by way of gift or sale, to any constable on duty unless by authority of some superior officer of such constable; or
3. Bribes or attempts to bribe any constable;

he shall be liable to a penalty.

[In respect to section 16 it is to be observed that the word "knowingly" is used in subsection 1, and omitted in subsections 2 and 3, from which circumstance it seems that while under subsection 1 the licensed person would not be liable for the act of his servant, unless it was proved that it was committed with his know-

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ledge, under subsections 2 and 3 (for supplying liquor to a constable without authority, or for bribing or attempting to bribe him) the master would be liable for the act of his servant, although he had no knowledge of such act. In regard to subsection 2 this point was so decided by the Queen's Bench in England.

Subsections 1 and 2 have reference to constables *on duty* only, subsection 3 to constables whether on or off duty.

The Refreshment Houses Act, 23 and 24 Vic., c. 107, provides in sec. 41—every person licensed to sell beer, spirits, wine, cider, or any other fermented or distilled liquors by retail, to be drunk or consumed on the premises, who knowingly harbours or entertains, or suffers to remain in the place wherein he carries on his business, any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling disturbance, or restoring order, is liable to a penalty not exceeding forty shillings.—See also 17 and 18 Vic., c. 103, s. 74.

Bribing any officer of justice is an indictable offence as a misdemeanor at common law.]

S. 17. *Penalty for permitting gaming.*—If any licensed person—

1. Suffers any gaming (*a*) or any unlawful game to be carried on on his premises; or
2. Opens, keeps, or uses, or suffers his house to be opened, kept, or used in contravention of the Act 16 & 17 Vic., c. 119, intituled "An Act for the suppression of Betting Houses";

he shall be liable to a penalty.

[(*a*) Gaming is "playing at any game for money or money's worth." A lawful game, if played on licensed premises for money or money's worth (as for drink, etc.), is thereby rendered unlawful, and becomes an offence against this section. No game of mere skill is an unlawful game (8 and 9 Vic., c. 109, s. 1). Skittles, cards, dominoes, chess, draughts, etc., are therefore not unlawful games unless played for money. Cock or dog fighting, badger baiting, or other games causing cruelty to animals are unlawful (12 and 13 Vic., c. 92). Lotteries are unlawful games and public nuisances (11 Anne, c. 6). A licensed person cannot allow his private friends to play cards for money in his licensed premises.]

S. 18. *Power to exclude drunkards from licensed premises.*—Any licensed person may refuse to admit to and may turn out of the premises in respect of which his license is granted any person who is drunken (*a*), violent, quarrelsome, or disorderly, and any person whose presence on his premises would subject him to a penalty under this Act (*b*).

Any such person who upon being requested in pursuance of this section by such licensed person, or his agent, or servant, or any constable, to quit such premises, refuses or

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fails so to do, shall be liable to a penalty not exceeding £5, and all constables are required on the demand of such licensed person, agent, or servant to expel or assist in expelling every such person from such premises, and may use such force as may be required for that purpose.

The court committing any person to prison for non-payment of any penalty under this section may order him to be imprisoned with hard labour.

[(*a*) This section does not *require* a licensed person (publican or beer retailer) to refuse to admit or expel a person drunk, but it enables him to do so.

(*b*) The person whose presence would subject the licensed person to a penalty are prostitutes (sec. 14) and constables in the execution of their duty (sec. 16).

It should be borne in mind that the foregoing sections 3 *to* 18 *apply to publicans and beer retailers and their premises only.*]

Sections 19 to 22 are repealed; 23 to 29 do not apply to Ireland.

S. 30. *Forfeiture of license on repeated convictions.*—If any licensed person, on whose license two convictions for offences committed by him against this Act have been recorded, is convicted of any offence which is directed by this Act to be recorded on his license, the following consequences shall ensue; that is to say:—

1. The license of such licensed person shall be forfeited, and he shall be disqualified for a term of five years from the date of such third conviction from holding any license; and

2. The premises in respect of which his license was granted shall, unless the court having cognizance of the case in its discretion thinks fit otherwise to order, be disqualified from receiving any license for a term of two years from the date of such third conviction.

[By section 21 of Act, 1874, convictions for offences against sections 5, 6, 13, 14, 16, 17, 78, 83, and 84 of Act, 1872, or against sections 22, 23, and 33 of Act, 1874, may, at the discretion of the magistrates, be recorded on the license or Excise license.]

S. 31. *Disqualification of premises.*—The following additional provisions shall be enacted with respect only to convictions of persons who may hereafter become licensed in respect of premises, and shall not apply to a conviction of any person licensed for any premises at the passing of this Act so long as he is licensed in respect of the same premises, viz.:—

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1. The second and every subsequent conviction recorded on the license of any one such person, shall also be recorded in the register of licenses against the premises.

2. When four convictions (whether of the same or of different licensed persons) have within five years been so recorded against premises, those premises shall, during one year, be disqualified for the purposes of this Act.

3. If the licenses of two such persons licensed in respect of the same premises are forfeited within any period of two years, the premises shall be disqualified for one year from the date of the last forfeiture:

Provided that where any premises are disqualified under this section, notice of such disqualification shall be served upon the owner of the premises in like manner as an order of disqualification is required to be served under this Act, &c.

S. 32. A conviction for any offence under this Act shall not, after five years from the date of such conviction, be receivable in evidence against any person for the purpose of subjecting him to an increased penalty or to any forfeiture.

S. 33. Conviction omitted to be recorded may otherwise be proved.

S. 34. Person defacing or obliterating, &c., record on license liable to penalty.

S 35 Repealed; ss. 36 to 48 do not apply to Ireland.

S. 49. *Six-day licenses.*—When a publican upon the application for a new license, or upon transfer or renewal of his license, applies to the licensing justices to insert in his license a condition that he shall keep his premises closed during the whole of Sunday, the justices may insert the condition. If the holder of such a license sell any liquor on Sunday he shall be deemed to be selling without a license.

S. 50 does not apply to Ireland.

S. 51. Summary proceedings for offences under Act.

S. 52. Person who feels aggrieved by order or conviction may appeal to Quarter Sessions.

S. 53. Where renewal of license is refused, license may be continued till appeal is heard.

S. 54. Conviction not to be quashed for want of form, &c.

S. 55. Mode of recording on license convictions of licensed persons for offences under Act.

S. 58. Evidence of endorsement and register.

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S. 59. Nothing in this Act shall prevent any person from being punished under any other Act, so that he be not punished twice for the same offence.

S. 62. Evidence of sale or consumption of intoxicating liquor.

S. 64. Holder of license to produce it on demand by justice, constable, &c.

S. 78. *Closing of premises on Sunday, etc.*—Notwithstanding the provisions of section 43 of 23 and 24 Vic., c. 107, it shall not be lawful for any person to sell or expose for sale, or to open or to keep open any premises for the sale of intoxicating liquors on Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving after nine o'clock at night within any city or town, the population of which, according to the last parliamentary census, shall exceed five thousand, nor elsewhere after seven o'clock at night on such days, and on other days after ten o'clock at night.

The provisions of all Acts relating to the sale of intoxicating liquors by retail, authorizing or forbidding the doing of any act, matter or thing at any times during which the sale of intoxicating liquors is by the said Acts prohibited, shall be construed as if the times during which the sale of intoxicating liquors is prohibited by this section were substituted respectively in the said Acts for the times therein mentioned.

Any person who sells or exposes for sale, or opens or keeps open any premises for the sale of intoxicating liquors at any other times than those limited for such purpose by section 43 of 23 and 24 Vic., c. 107, as the same is amended by this section, or during such times as aforesaid allows any intoxicating liquors to be consumed on such premises, shall, for the first offence, be liable to a penalty not exceeding £10 (*a*), and for any subsequent offence to a penalty not exceeding £20.

None of the provisions contained in this section shall preclude a person licensed to sell any intoxicating liquor to be consumed on the premises from selling such liquor to *bona fide* travellers or to persons lodging in his house.

Nothing in this section shall preclude the sale at any time at a railway station of intoxicating liquors to persons arriving at or departing from such station by railroad.

[This section is made applicable to spirit grocers by sec. 86.

Under the 23 & 24 Vic., c. 107, s. 43, as amended by section 78 of Act, 1872, and as altered by section 1 of 41 and 42 Vic., c. 72, the hours during which public-houses, beer retailers', spirit grocers',

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and wine refreshment houses may be kept open in Ireland, are as follows:—

I. *Within the Metropolitan Police district of Dublin Metropolis, and within the cities of Belfast, Cork, Limerick, and Waterford.*

(1.) On Sunday, may be open between 2 P.M. and 7 P.M.

(2.) On Christmas day, Good Friday, or any day appointed for a public fast or thanksgiving, may be open between 2 P.M. and 9 P.M.

(3.) On other days, may be open between 7 A.M. and 11 P.M.

II. *In all other cities and towns where the population exceeds* 5,000.

(1.) On Sunday, must be closed during the entire day.

(2.) On Christmas day, Good Friday, or any day appointed for a public fast or thanksgiving, may be open between 2 P.M. and 9 P.M.

(3.) On other days, may be open between 7 A.M. and 11 P.M.

III. *In all other places*:—

(1.) On Sunday, must be closed during the entire day.

(2.) On Christmas day, Good Friday, or any day appointed for a public fast or thanksgiving, may be open between 2 P.M. and 7 P.M.

(3.) On other days, may be opened between 7 A.M. and 10 P.M.

By 43 and 44 Vic., c. 9, s. 1, "Whenever any expression of time occurs in any Act of Parliament . . . the time referred shall, unless it is otherwise specifically stated, be held . . . in the case of Ireland, *Dublin meantime*."

There are three branches of the offence against the law of closing provided for in this section, namely—(1), selling or exposing for sale; (2), opening or keeping open for sale; and (3), during closing hours allowing any intoxicating liquors to be consumed on the premises.

There are four classes of persons who may be lawfully served by publicans at any hour upon Sunday and week-day, and during day and night—(1), *bona fide* travellers; (2), lodgers; (3), private friends; and (4), railway travellers arriving at or departing from a station (confined to sales at such station). The railway traveller is not required to travel three miles to enable him to demand liquor at a railway station during closing hours. So soon as he has taken his ticket he becomes a "traveller," and is entitled to be served with liquor at the refreshment room of the station.]

S. 79. All penalties and forfeitures in respect of offences under the preceding provisions of this Act shall be in substitution for, and not in addition to, penalties and forfeitures incurred in respect of like offences under any other Act or Acts.

Spirit-Grocer.

S. 81. Term "Spirit Grocer" in following provisions means any person dealing in or selling tea, cocoa nuts, chocolate, or pepper, and having an excise license to sell

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spirits by retail in any quantity not exceeding two quarts at any one time to be consumed elsewhere than on the premises, which license is referred to as an "Excise License."

S. 82. Not lawful for Excise to grant a new Excise license to spirit grocer, unless on production of a certificate signed by two magistrates.

S. 83. *Penalty on spirit grocer if liquor drunk on premises.*—If any purchaser of any intoxicating liquor from a spirit grocer drinks such liquor on the premises where the same is sold, or on any highway adjoining or near such premises, such spirit grocer shall, if it shall appear that such drinking was with his privity or consent, be subject to the following penalties, &c.

S. 84. *Evasion of law as to drinking on premises.*—If any spirit grocer himself takes or carries, or employs or suffers any other person to take or carry, any intoxicating liquor out of or from the premises of such spirit grocer for the purpose of being sold on his account, or for his benefit or profit, and of being drunk or consumed in any other house, or in any tent, shed, or other building of any kind whatever, belonging to such spirit grocer, or hired, used, or occupied by him, or on or in any place, whether enclosed or not, and whether or not a public thoroughfare, such intoxicating liquor shall be deemed to have been consumed by the purchasers thereof on the premises of such spirit grocer, with his privity and consent; and such spirit grocer shall be punished accordingly in manner provided by the next preceding section.

In any proceeding under this section it shall not be necessary to prove that the premises or place or places to which such liquor is taken to be drunk belonged to, or were hired, used, or occupied by, such spirit grocer, if proof be given to the satisfaction of the court hearing the case that such liquor was taken to be consumed thereon or therein with intent to evade the conditions of his Excise license.

S. 85. *Internal communication between premises.*—Every person who makes or uses, or allows to be made or used, any internal communication between the premises of any spirit grocer, and any other premises which are used for public entertainment or resort, or as a refreshment house, shall be liable to a penalty. . . . . In addition to any penalty imposed by this section, any person convicted of an offence under this section shall, if he be the holder of an Excise license, forfeit such license.

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S. 86. *Hours during which spirit grocers may sell.*—No spirit grocer shall have or keep his premises open, nor shall he sell any intoxicating liquor in any such premises at any other times than those limited for the sale of intoxicating liquors by retail to be drunk or consumed on the premises by section 43 of 23 & 24 Vic., c. 107, as the same is amended by this Act; and any spirit grocer acting in contravention of the provisions of this section shall be liable to all and the same penalties and consequences to which under the preceding provisions of this Act any person who sells or exposes for sale, or opens or keeps open any premises for the sale of intoxicating liquors at any other time than those limited by the said section 43 of the said Act, as the same is amended by this Act, is liable.

S. 87. *Constables may enter premises of spirit grocer during prohibited hours.*—It shall be lawful for any Justice of the Peace, or any Superintendent of Police (*a*), or any Constable duly authorized for such purpose by any such justice or superintendent within the limits of his jurisdiction, *to enter into any premises* kept by a spirit grocer for selling intoxicating liquors, at any time or hour during which the sale of such liquors by such spirit grocer is prohibited by this Act, and *to remove from and put out of* such premises any person who shall be so found within such prohibited hours in such house or place (not being a lodger in or an inmate of such premises), and who shall appear to be or to have recently been drinking, tippling, or gaming therein; and if any such person shall not, when thereto required by such Justice of the Peace, Superintendent of Police, or Constable, remove from and quit such premises, or shall forcibly resist such justice, superintendent, or constable, or shall be found drunk therein, it shall and may be lawful for any Superintendent of Police or for any Constable *to apprehend and take into custody* any such person so offending, and to carry and convey, or cause to be carried and conveyed, every and any such person so apprehended before any Justice of the Peace within whose jurisdiction such premises shall be situate, to be dealt with according to law; and every such person who shall so neglect or refuse to remove from or quit such premises, or shall so forcibly resist such justice, superintendent, or constable, being duly convicted of such offence, shall thereupon for every such offence forfeit any sum not exceeding 20*s*., &c.

[(*a*) "Superintendent of police" means in the police district of Dublin metropolis any superintendent, inspector, acting inspector, or sergeant of Dublin Metropolitan Police and elsewhere in Ireland,

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in any other police district, any sub-inspector, or head-constable of the Royal Irish Constabulary; see section 77, p. 36.

This section contains the similar provisions to those which are enacted in 6 and 7 Wm. IV., c. 38, s. 6, in respect to publicans.

A district-inspector, without warrant, and a sergeant, with justices' warrant, may during closing hours enter a publican's premises (under 6 and 7 Wm. IV., c. 38, s. 6), and a spirit grocer's premises (under the above section), and exercise all the powers indicated in this section].

S. 88. Provision as to repeated convictions to apply to spirit grocer.

S. 89. Application of provision as to legal proceedings.

S. 90. No license to be granted to disqualified person, or for disqualified premises.

Licensing Act (Ireland) 1874 (37 & 38 Vic., c. 69).

S. 1. Licensing Acts 1872 and 1874 to be construed as one Act.

S. 2. *Early closing license.*—A publican may obtain either on the grant, transfer, or renewal of his licence, an early closing license, by which he is bound to close his premises at night one hour before the legal closing hour of other licensed houses. For this obligation he receives a remission of one-seventh of the duty.

S. 3. A person who takes out a six-day license as well as an early closing license, shall be entitled to a remission of two-sevenths of the duty.

S. 4. *Occasional license required at fairs and races.*—Any person selling or exposing for sale any intoxicating liquor in any booth, tent, or place within the limits of holding any lawful and accustomed fair or any races, without an occasional license authorizing such sale, shall, notwithstanding anything contained in any Act of Parliament to the contrary, be deemed to be a person selling or exposing for sale by retail intoxicating liquor at a place where he is not authorized by his license to sell the same, and be punishable accordingly.

Provided that this section shall not apply to any person selling or exposing for sale intoxicating liquors in premises in which he is duly authorized to sell the same throughout the year, although such premises are situate within the limits aforesaid (*a*).

[(*a*) By this section no publican or wine refreshment house keeper can sell intoxicating liquor elsewhere than upon his licensed premises unless he has obtained an occasional license.

Occasional licenses to publicans are granted under 25 and 26 Vic., c. 22, s. 13, which makes it lawful for the Commissioners of Inland

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Revenue whenever they shall consider it *conducive to public convenience, comfort, and order*, and with the consent in writing of two justices acting where the place of sale is situated, to authorize an officer of excise to grant to any person who shall have taken out the proper licenses to sell beer, spirits, wine, and tobacco, an occasional license under this Act, empowering him to sell the like articles at any such other place, and for *not exceeding three days at any one time* during the hours after sunrise and before sunset; and provided the license shall not protect him unless he shall at the time of such sale *produce such license when requested to do so by any officer of excise or by any constable*; nor shall any such license be granted for the sale of any of the articles mentioned on any Sunday, Christmas day, or Good Friday, or on any day appointed for a public fast or thanksgiving. The 26 and 27 Vic., c. 33, sec. 20, amends this section by providing—(1) That the consent of one justice only shall be necessary. (2) That the hours of sale shall extend from sunrise to one hour after sunset. (3) That on the occasion of any public dinner or ball it shall be lawful for the person who shall have obtained an occasional license to sell during such hours as shall be allowed and specified by the justice granting the certificate. Sec. 19 extends the time of the occasional license to not exceeding *six* days.

Occasional licenses to refreshment house keepers, &c., are granted under 27 Vic., c. 18, sec. 5, which empowers the Commissioners of Inland Revenue whenever they shall consider it necessary for the accommodation of the public to authorize any officer of excise to grant an *occasional license* to any person who shall have taken out a license under 23 and 24 Vic., c. 107, to keep a refreshment house, or to sell in a refreshment house foreign wine *to be consumed therein*, or an excise license for consumption off the premises, under 6 Geo. IV. c. 81; and every such occasional license shall authorize such person to carry on the same trade as he shall be authorized to carry on by the license granted under the said Acts at any such place, other than the place for which his original license was granted, and during not exceeding *three consecutive days at any one time*, provided that the occasional license shall not protect such persons *unless he shall produce such license whenever requested by any officer of excise, or any constable*, at the time of exercising such trade, and that the conditions contained in 26 and 27 Vic., c. 33, s. 20, shall apply to the occasional licenses to be granted under this Act.

By section 5 of Act, 1874, the hours during which an occasional license shall authorize the sale of intoxicating liquor are not earlier than sunrise until such hour not later than 10 P.M., as the justice granting the certificate may specify in same, and by section 6 of same Act, a person taking out an occasional license shall be deemed to be a licensed person within the meaning of sections 12 to 18 of Act, 1872, and the place in which any intoxicating liquors are sold under the occasional license shall be deemed to be licensed premises, &c. [In respect to any public dinner or ball the law is unaltered.] The offences against public order as specified in sections 12 to 18, Act, 1872, if committed in any place for which an occasional license is held are punishable under these sections.]

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S. 7. *Restrictions as to sales in theatres.*—From and after the passing of this Act it shall not be lawful for any person under the authority of any license granted under 5 & 6 Wm. IV., c. 39, s. 7, ... to sell or expose for sale by retail any intoxicating liquors elsewhere than within the part or parts of the theatre or other place of public entertainment which shall be specified in such license, or to sell intoxicating liquors to persons other than those employed in or *bona fide* attending the performances in such theatre or other place of public entertainment, or to sell or expose intoxicating liquors at any time other than the time of such performances, or during thirty minutes immediately preceding the commencement or immediately succeeding the termination of such performances; and any sale or exposure for sale in contravention of any of the provisions of this enactment shall be deemed to be a sale or exposing for sale by retail of intoxicating liquor by a person not duly licensed to sell the same within the meaning of the principal Act, and shall subject the person making the same to the penalties and forfeitures of that Act.

Provided always, that no part of such theatre or other place of public entertainment which shall during the performances in the same be accessible to persons other than those employed or attending performances therein, shall be included in any such license.

[By this section an Excise license for the sale of intoxicating liquor in a theatre (under the 5 and 6 Wm. IV., c. 39), is granted on these conditions—(1) That the place of sale be within the theatre, and inaccessible to persons not employed there, or not attending the performances. (2) That no sale of intoxicating liquor is to be made except to persons employed in or *bona fide* attending the performances in such theatre. (3) That the time of sale or exposure for sale be during such performance, and for thirty minutes before and thirty minutes after. The licensed person selling contrary to these conditions is to be regarded as one selling without a license, and may therefore be prosecuted under sec. 3 of Act of 1872.]

S. 11. *Exemption from closing in respect of markets, fairs, etc.*—In the police district of Dublin metropolis, the chief commissioner or the assistant commissioner of police, and in any petty sessions district two or more justices of the peace in petty sessions, upon its being proved to his or their satisfaction that it is necessary or desirable so to do for the accommodation of any considerable number of persons attending any public market or fair, or following any lawful trade or calling, may, on payment of a fee of two shillings and sixpence grant (if he or they so think fit) to any licensed person, in respect of premises in the vicinity of such market

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or fair, or of the place where the persons follow such lawful trade or calling, an order, in this Act termed an "exemption order," exempting such person from the provisions of this Act with respect to the closing of his said premises on such days, and during such time (except between the hours of one and two of the clock in the morning), and upon such terms as may be specified in such order. . . . .

The holder of an exemption order shall not be liable to any penalty for not closing his premises on such days and during such times as may be specified in such order; but he shall not be exempt from any other penalty under the principal Act, or this or any other Act, or otherwise.

A notice, in such form as may be prescribed by such commissioner or justices respectively, stating the days and hours during which the premises are permitted to be open under such exemption order, shall be and be kept affixed in a conspicuous position outside the premises; and if the holder of the exemption order makes default in affixing or keeping affixed such notice in manner aforesaid during the time or any part of the time for which his exemption is granted, he shall be liable to a penalty. Every person who affixes or keeps affixed to his premises any such notice when he does not hold an exemption order under this section shall be liable to a penalty.

Any such commissioner or justices aforesaid may at any time (if it seem fit to him or them) withdraw an exemption order under this section, or alter the same by way of extension or restriction, as he or they may deem fit, but not so as to render any person liable to any penalty for anything done under such order before the holder was informed of such withdrawal or alteration.

S. 14. *Publican's annual renewal certificate.*—Where a person licensed to sell intoxicating liquors to be consumed on the premises applies for a certificate for the renewal of his license, the following provisions shall have effect:—

He need not attend in person at the court unless he is required by the justices or police authority so to attend, for some special cause personal to himself.

The justices shall not entertain any objection to the signing of such certificate, or receive any evidence with respect to same, unless a written notice of intention to oppose be served on the applicant not later than seven days before the holding of such session, stating in general terms the grounds on which the renewal of such license is to be opposed.

The justices may, notwithstanding that no notice of

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objection has been served, if objection is made in court, adjourn the signing of the certificate to a future day, and require the attendance of the applicant.

The justices shall not receive any evidence with respect to the signing of such certificate which is not given on oath in open court (*a*).

[(*a.*) The provisions of sec. 14 extends only to a publican's application for the justices' certificate for renewal of his license, and *do not apply* to the certificate for renewal of a beer retailer's, spirit grocer's, or wholesale beer dealer's license—(1.) The publican need not attend in person unless required by the justices or police authority. By sec. 77 of Act of 1872, the "police authority" means, in Dublin metropolis, either of the Commissioners of Police, and elsewhere, the sub-inspector of constabulary of the police district. (2.) The justices cannot entertain any objection to the signing of the certificate entitling the publican to a renewal of his license, unless a *written notice* of intention to oppose (in which should be stated the general grounds of opposition) has been served on him not later than seven days before the holding of the annual licensing petty sessions; by sec. 70, Act of 1872, this notice may be served by post. (3.) Should no notice of opposition have been served, the justices may adjourn the signing of the certificate. (4.) The evidence in respect to the signing of the certificate must be *on oath*, and *in open court*. By sec. 11 of 17 and 18 Vic., c. 89, the justices in their certificate for the renewal of a publican's license must certify to *the good character of the publican*, and to *the peaceable and orderly manner* in which his house has been conducted during the past year. Should the police authority have proper reasons for objecting to the granting of the certificate, either on the ground of character, or in respect to the manner in which the house has been kept, notice should be served, and objection made. In considering the question of character for this purpose, general evidence of character is admissible, and innocence of offences against the Licensing Acts is not sufficient to entitle a publican to his certificate.]

S. 23. *Constable may enter on premises at all times.*—Any Constable may, for the purpose of preventing or detecting the violation of any of the provisions of the principal Act or this Act which it is his duty to enforce, at all times enter on any licensed premises and on any premises kept by a spirit grocer, and on any premises in respect of which an occasional license is in force. Every person who, by himself, or by any person in his employ or acting by his direction or with his consent, refuses or fails to admit any Constable in the execution of his duty demanding to enter in pursuance of this section, shall be liable to a penalty.

[By this section a Constable is authorized *at all times* to enter the licensed premises of a publican, beer retailer, or spirit grocer,

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or any premises for which an occasional license is held, but this right is subject to the qualification that his entry be for the purpose of preventing or detecting the violation of any of the provisions of either Licensing Act, 1872 or 1874, *which it is his duty to enforce.*

Under 3 and 4 Wm. IV., c. 68, s. 15, and 6 and 7 Wm. IV., c. 88, s. 6, and sec. 87 of Act, 1872, a district inspector of his own authority, and a head or other constable when authorized by a magistrate (*i.e.* by warrant), may enter during prohibited hours the licensed premises of a publican or spirit grocer, and *remove from and put out of such house, &c*, any person found there (not being a lodger or inmate), and who shall appear to be or to have recently been drinking, tippling, or gaming therein; and persons refusing to leave or forcibly resisting, or who shall be found drunk therein, may be arrested and brought before a magistrate. See also 6 and 7 Wm. IV., c. 69, s. 9. Under 23 and 24 Vic., c. 107, s. 20, any superintendent, inspector, or sergeant of police, or any county inspector, district inspector, head or other constable, may enter *at any time during the night* a refreshment house licensed under that Act. As to entry on wholesale beer dealers' premises, see 27 and 28 Vic., c. 35, s. 11. See page 199.]

S. 24. *Search warrant for detection of liquors sold or kept contrary to law.*—Any Justice of the Peace, if satisfied by information on oath, that there is reasonable ground to believe that any intoxicating liquor is sold by retail or exposed or kept for sale by retail at any place within his jurisdiction, whether a building or not, in which such liquor is not authorized to be sold by retail, may in his discretion grant a warrant under his hand, by virtue whereof it shall be lawful for any Constable named in such warrant, at any time or times within one month from the date thereof, to enter, and if need be by force, the place named in the warrant, and every part thereof, and examine the same and search for intoxicating liquor therein, and seize and remove any intoxicating liquor found therein which there is reasonable ground to suppose is in such place for the purpose of unlawful sale at that or any other place, and the vessels containing such liquor; and in the event of the owner or occupier of such premises being convicted of selling by retail or exposing or keeping for sale by retail any liquor which he is not authorized to sell by retail, the intoxicating liquor so seized and the vessels containing such liquor shall be forfeited.

When a Constable has entered any premises in pursuance of any such warrant as is mentioned in this section, and has seized and removed such liquor as aforesaid, any person found at the time on the premises shall, until the contrary be proved, be deemed to have been on such premises for the

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purpose of illegally dealing in intoxicating liquor, and be liable to a penalty.

Any Constable may demand the name and address of any person found on any premises on which he seizes or from which he removes any such liquor as aforesaid, and if he has reasonable ground to suppose that the name or address given is false may examine such person further as to the correctness of such name and address, and may, if such person fail upon such demand to give his name or address, or to answer satisfactorily the questions put to him by the Constable, apprehend him without warrant, and carry him as soon as practicable before a Justice of the Peace.

Any person required by a Constable under this section to give his name and address who fails to give the same, or gives a false name or address, or gives false information with respect to such name and address, shall be liable to a penalty.

[See also 17 and 18 Vic., c. 89, s. 2, under which a warrant may be granted to search unlicensed premises, where it is suspected "that spirits are sold, kept for sale, or exposed for sale," or to search "*any house or place*" *where illicit spirits are kept for sale.* To authorize a constable to search *licensed* premises for *illicit* spirits, such warrant will still be required, as the provisions of sec. 23 of the Act of 1874 do not include such a case.]

S. 25. *Drunken person may be detained.*—Every person who, in any highway or other public place, whether a building or not, is so drunk as to be incapable of taking care of himself, may be detained by any Constable until he can, with safety to himself, be discharged, but if so detained he shall be summoned in due course to answer for such offence, and he shall not by such discharge be relieved from the liability to any penalty to which he is subject.

[This section empowers a Constable to detain a drunken person incapable of taking care of himself, and when it can be done with safety to such person to discharge him, and proceed against him by summons. If such person is unknown to the Constable, and is not likely to appear on summons, the Constable retains still the authority of bringing him before a magistrate for summary adjudication under 6 and 7 Wm. IV., c. 38, s. 12.]

S. 27. *Penalty on person found on premises during closing hours.*—If during any period during which any premises are required under the provisions of the principal Act to be closed any person is found on such premises, he shall, unless he satisfies the Court that he was an inmate, servant, or a lodger on such premises, or a *bona fide* traveller, or that otherwise his presence on such premises was not in contravention of the provisions of the principal Act with respect

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to the closing of licensed premises and premises kept by a spirit grocer, be liable to a penalty.

Any Constable may demand the name and address of any person found on any premises during the period during which they are required by the provisions of the principal Act to be closed, and if he has reasonable ground to suppose that the name or address given is false, may require evidence of the correctness of such name and address, and may, if such person fail upon such demand to give his name or address, or such evidence, apprehend him without warrant, and carry him as soon as practicable before a Justice of the Peace.

Any person required by a Constable under this section to give his name and address who fails to give the same, or gives a false name or address, or gives false evidence with respect to such name and address, shall be liable to a penalty

Every person who by falsely representing himself to be a traveller or a lodger buys or obtains or attempts to buy or obtain at any premises any intoxicating liquor during the period during which such premises are closed in pursuance of the principal Act shall be liable to a penalty (*a*).

[(*a*.) By this section a person found on the licensed premises of a publican, beer retailer, or spirit grocer during prohibited hours, who is not an *inmate*, *servant*, *lodger*, *bona fide traveller*, or *guest of licensed person* (sec. 29), is liable to a penalty not exceeding forty shillings. A Constable is empowered to require the name and address of such person, and to arrest him should he fail to give it. A person refusing to give his name and address or giving a false one, under such circumstances, or who, by falsely representing himself to be a traveller or lodger, obtains liquor during prohibited hours, is liable to a penalty of £5.

It is the opinion of the Law Officers of the Crown that this section of the Act does not render it obligatory on the Constabulary to summon *every person found on licensed premises*. They have a discretion in the matter, subject of course to their duty to enforce the Licensing Acts in all proper cases. The Constabulary should carefully exercise this discretion, and should not apply for summonses except in cases in which they believe that the persons to be prosecuted are guilty.]

S. 28. *Saving as to bona fide travellers.*—If in the course of any proceedings which may be taken against any person licensed to sell any intoxicating liquor to be consumed on the premises for infringing the provisions of the principal Act relating to the closing of premises, such person (in this section referred to as the defendant) fails to prove that the person to whom the intoxicating liquor was sold (in this section referred to as the purchaser) is a *bona fide* traveller,

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but the justices are satisfied that the defendant truly believed that the purchaser was a *bona fide* traveller, and further that the defendant took all reasonable precautions to ascertain whether or not the purchaser was such a traveller, the justices shall dismiss the case as against the defendant, and if they think that the purchaser falsely represented himself to be a *bona fide* traveller, it shall be lawful for the justices to direct proceedings to be instituted against such purchaser under the next preceding section of this Act. (*a*)

A person for the purposes of this Act and the principal Act shall not be deemed to be a *bona fide* traveller *unless the place where he lodged during the preceding night is at least three miles distant from the place where he demands to be supplied with liquor*, such distance to be calculated by the nearest public thoroughfare. (*b*)

[(*a*) By this section where a publican is charged with an offence under section 78 of the Act of 1872 for selling, &c., during prohibited hours, and fails to prove that the purchaser was a *bona fide* traveller, the magistrates on being satisfied (1) that the defendant truly *believed* that the purchaser was a *bona fide* traveller, and (2) that he took all reasonable *precautions* to ascertain whether or not the purchaser was such a traveller, are to dismiss the case against him; and if the magistrates believe that the purchaser *falsely* represented himself to be a *bona fide* traveller, they may direct proceedings to be taken against him, pursuant to section 27.

(*b*) A definition, which is by no means exhaustive, is here given of a *bona fide* traveller, the effect of which is that no person who has travelled *under* three miles, measured from his last sleeping place, can be considered a *bona fide* traveller so as to entitle him to obtain intoxicating liquor at a public house. But after having travelled such a distance such person may not still be a *bona fide* traveller in the sense of these Acts. If a man walks that distance, *or beyond it, merely for the object of drinking*, he cannot be considered a *bona fide* traveller. The distinction lies in this, the *bona fide* traveller *drinks to enable him to travel*, whereas the other *travels to obtain drink*. In order to avail himself of the provisions of this section, *by taking all reasonable precautions*, it seems incumbent on a publican before selling drink to a person (not being a lodger) during prohibited hours, to ascertain (1) whether such person's last sleeping place is three miles distant from the public-house; (2) whether such person's real object be to make a journey either on business or pleasure. Should the publican after taking such precautions *believe* that both these requirements are fulfilled, he may safely supply such person with drink.

The three mile qualification does not apply to the sale of liquors at a railway station. A person who has taken a railway ticket is a traveller and is entitled to be served with liquors at the refreshment room of the station.]

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S. 29. *Publican supplying liquor after hours to his private friends.*—No person keeping a house licensed for the sale of any intoxicating liquor to be consumed on the premises shall be liable to any penalty for supplying intoxicating liquors after the hours of closing to private friends *bona fide* entertained by him at his own expense.

Legal Proceedings.—Proceedings under both Acts, 1872-74, are to be taken under the Petty Sessions (Ireland) Act, 1851 (14 & 15 Vic., c. 93); see sections 51 & 77 of Act, 1872.

Sale of Liquors on Sunday (Ireland) Act, 1878 (41 & 42 Vic., c. 72, continued by 57 & 58 Vic., c. 48.)

S. 1. *Prohibiting sale of intoxicating liquors on Sunday.*—All the provisions of any Act now in force whereby the sale or exposing for sale of intoxicating liquors, or the opening or keeping open of any premises for the sale of intoxicating liquors, is prohibited during any hours or times on Sunday, are hereby extended to the whole of Sunday in all places except the following; (that is to say), within the Metropolitan Police District of Dublin Metropolis, and within the cities of Cork, Limerick, and Waterford, and the town of Belfast; and within the said police district, and within the said cities and town the said hours or times are hereby extended, and shall be as follows, that is to say, up to the hour of two o'clock in the afternoon, and after the hour of seven o'clock in the evening on Sunday.

S. 2. *Penalties for selling during prohibited hours.*—All penalties now in force under the provisions of any Act for selling or exposing for sale, or purchasing, or opening, or keeping open any premises for the sale of intoxicating liquors, or being present in or upon any such premises during any hours or times on Sunday, and all provisions of any Acts now in force in reference to such penalties, are hereby extended to any violation of the provisions of this Act.

S. 3. *Exemptions.*—Nothing in this Act shall be construed to apply to sales of intoxicating liquor to *lodgers*, or to the sale of intoxicating liquor in *packet boats*, or in *canteens* in pursuance of any Act regulating the same, or shall preclude the sale at any time at a *railway station* of intoxicating liquors, on arrival or departure of trains, or to *bona fide travellers*, as described in the Licensing Act of 1874.

[The only change made in the law by this Act is to extend the hours on Sunday during which the sale of intoxicating liquor is prohibited. Anything which a publican or other licensed trader might have lawfully done previous to the passing of this Act before

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2 P.M. on Sunday he may now do at any time on that day, and the Constabulary should enforce the provisions of the Act in the same way as they have been in the habit of enforcing the provisions of former statutes in reference to Sunday closing.

The exception in the Act, in favour of *bona fide* travellers, will not enable the publicans to keep the premises open. They must be opened for the traveller and at once closed again. The Constabulary, while seeing that licensed premises are not allowed to remain open on Sunday in contravention of the Act, should not seek to interfere in any way with the convenient use of the premises by the publican and his family. The Constabulary should also remember that in the case of hotels or inns where there are numerous lodgers and travellers frequently arriving and departing, it may be difficult or impossible to keep the premises closed; and in such cases they should not institute proceedings if they think that the premises are open from legitimate necessity, and not in violation of the provisions of the Act.]

Licenses for the Sale of Intoxicating Liquors.—In the United Kingdom no intoxicating liquors can be sold without a license granted by the Commissioners of Inland Revenue. Each license is in force for one year only. In Ireland there are two kinds of licenses for the sale by retail of intoxicating liquors—one which the Commissioners may grant of their own authority, the other which they cannot grant without the production of the magistrates' certificate. The licenses which are granted without the magistrates' certificate are:—

1. *The spirit dealer's license*, for the sale of spirits in not less quantity than two gallons at a time (6 Geo. IV., c. 81, ss. 2, 16, and 26; 23 & 24 Vic., c. 114, s. 168).

2. *The wine dealer's foreign wine license*, for sale of wine in any quantity (6 Geo. IV., c. 81, ss. 2, 16, 26; L. Act, 1872, s. 73).

3. *The shopkeeper's retail foreign wine license*—for sale of foreign wine, in reputed quart or pint bottles only, in any less quantity than two gallons, or in less than one dozen reputed quart bottles at any one time (23 & 24 Vic., c. 107, ss. 3 & 4).

4. *The spirit dealer's retail foreign liqueur license*—for sale of foreign liqueur in any quantity not less than a reputed quart bottle, or in the bottles in which imported (23 & 24 Vic., c. 114, s. 169).

5. *The sweets retail license*, for sale of sweets (home-made wines), mead, or metheglin, in quantities less than two gallons, or one dozen reputed quart bottles, at one time (6 Geo. IV., c. 81, s. 2; 23 & 24 Vic., c. 113).

All the foregoing authorize sale for consumption *off* the premises only.

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6. *The methylated spirits licence*—for sale of spirits of wine which has been rendered unfit for use as a beverage, by being mixed with wood naphtha, in quantities of not more than one gallon at a time; used in arts and manufactures (18 & 19 Vic., c. 38, s. 1; 24 & 25 Vic., c. 91, s. 3).

The following authorize sale for consumption *on* the premises:—

7. *The theatre licence*—for sale of intoxicating liquors at theatres (5 & 6 Wm. IV., c. 37, s. 7; Act, 1874, s. 7).

8. *The packet-boat licence*—granted for the sale of excisable liquors and tobacco to *passengers* on board any packet-boat or other vessel conveying persons from one part of the United Kingdom to another, to the master or commander of such vessel, or to a person nominated by the owner or directors upon a certificate or declaration from him or them affirming such nomination; which licenses may be transferred by endorsement by the holders to other masters, &c., of the same vessel (9 Geo. IV., c. 47; 4 & 5 Wm. IV., c. 75).

9. *The refreshment-house wine licence*—for the sale of foreign and home-made wine (sweets, &c.), in unlimited quantity for consumption *on* or *off* the premises, which may be taken out by a person licensed to keep a refreshment house. This licence cannot be granted until after notice has been served upon the Clerk of Petty Sessions, when, if the magistrates do not object within thirty days after service of such notice, the licence is granted (23 & 24 Vic., c. 107; 24 & 25 Vic., c. 81; 26 & 27 Vic., c. 35, s. 18).

The licences which cannot be granted without the magistrates' certificate are:

1. *The public-house licence* (whether ordinary or seven-day, six-day, early closing, or six-day and early closing); for sale in unlimited quantity of *beer* and other intoxicating liquors included in the licence for consumption *on* or *off* the premises (3 & 4 Wm. IV., c. 68; Act, 1872, s. 49; Act, 1874, ss. 2, 3).

2. *The occasional licence*—for sale elsewhere than on the licensed premises, granted to publicans, or to keepers of refreshment houses holding a wine licence (25 & 26 Vic., c. 22, s. 13; 26 & 27 Vic., c. 33; 27 Vic., c. 18, s. 5; and Act, 1874, s. 4).

And the following for consumption *off* the premises:—

3. *The spirit grocers' licence*—granted to traders selling tea, cocoa nuts, chocolate, or pepper, for the sale of spirits in any quantity not exceeding two quarts at one time (6 Geo. IV., c. 81, s. 4; 8 & 9 Vic., c. 64, s. 2; Act, 1872, ss. 81, 82.)

4. *The beer retailer's licence*, for the sale of beer (which

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includes ale and porter), in any quantity less than four and a half gallons, or than two dozen reputed quart bottles at one time (27 & 28 Vic., c. 35).

5. *The wholesale beer dealer's licence*—for the sale of beer in casks containing not less than four and a half gallons, or in not less than two dozen reputed quart bottles at one time for consumption *off* the premises (Act, 1874, s. 8).

Lotteries.—6 Anne, c. 17, s. 1; 11 Anne, c. 6, s. 2; 13 Geo. 2, c. 8.—Lotteries are deemed to be public nuisances; keepers and players may be indicted; keepers liable to P. £100, players liable to P. £10. Keepers may be prosecuted as cheats.

Lunatics.—The 30 & 31 Vic., c. 118, provides for the custody of dangerous lunatics and dangerous idiots in Ireland, the principal provisions of which are as follow:—

Sec. 9 abolished the committal of dangerous lunatics or idiots to gaols, and substituted their removal, under a warrant by two justices, to the district lunatic asylum.

S. 10.—This section provides that whenever any person shall be brought before any two justices, and it shall be proved to their satisfaction that such person was discovered and apprehended under circumstances denoting a derangement of mind, and a purpose of committing some crime for which, if committed, such person would be liable to be indicted, the said justices shall call to their assistance the medical officer, or, if there be more than one, then the nearest available medical officer of any neighbouring dispensary district, who shall examine such person without fee or reward, and if such medical officer shall certify that such person is a dangerous lunatic, or dangerous idiot, the justices may, by warrant under their hands and seals, direct that such person shall be taken to the lunatic asylum established either wholly or in part for the county, county of a city, or county of a town, in which he shall have been apprehended. Section also provides that nothing therein shall be construed to restrain or prevent any relation or friend from taking such person under his own care and protection, if he shall enter into sufficient recognizance for his or her peaceable behaviour or safe custody before two Justices of the Peace, or the Chairman of the Court of Quarter Sessions of the county in which such person shall be confined, or one of the Judges of the Superior Court.

Any relation or friend may take the lunatic or idiot under his own care and protection, if he shall enter into sufficient recognizance for his or her peaceable behaviour or safe custody, before two Justices of the Peace, the Chairman of Quarter Sessions of the County, or a Judge of one of the Superior Courts.

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Conveyance of Lunatics and duty of Constabulary.—The expense of conveyance of lunatics is to be charged to the Grand Jury. Whenever female lunatics are to be escorted by the Constabulary to a district lunatic asylum, the magistrate by whom the order is given should be asked whether he considers it proper and necessary that the lunatic should be accompanied by a female attendant, and if the answer be in the affirmative, such attendance should be procured, and included in the magistrate's certificate, in order that the reasonable expenses thereof may be allowed and paid by the Grand Jury under 14 & 15 Vic., c. 85, sec. 4. It is necessary that suitable facilities be afforded the Constabulary to take the most humane care of the lunatics under their charge, and that the transit be arranged so that the patients may be supplied with suitable conveyances, and may arrive before night at their destination. In any case of difficulty the physician called on to give a certificate as to the mental state of an alleged dangerous lunatic, should be consulted as to the steps to be taken for his proper care and custody during his escort to the asylum.

The Constabulary should not be called on to furnish an escort of a lunatic where the relatives are seeking to have the party sent to an asylum and where there is no order for committal showing the patient to be a dangerous lunatic. In future in all such cases, instructions should be at once applied for, unless there be immediate danger of the alleged lunatic doing some damage.

Malicious Injuries to Person, 24 & 25 Vic., c. 100.—S. 17. Maliciously to 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 to prevent or impede any person in his endeavour to save the life of any such person as in this section first aforesaid, F.—S. 18. Maliciously, by any means whatsoever, to 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, F.—S. 19. Any gun, pistol, or other arms, which shall be loaded in the barrel with gunpowder

* See foot-note on next page.

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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.—S. 20. Maliciously to wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, M.—S. 21. By any means whatsoever to attempt to choke, suffocate, or strangle any other person, or by any means calculated to choke, suffocate, or strangle, to attempt to render any other person insensible, unconscious, or incapable of resistance with intent to commit any indictable offence, F.—S. 22. Unlawfully to 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 to enable in any of such cases offender or another to commit an indictable offence, F.—S. 23. Maliciously to administer to or cause to be administered to, or taken by any other person, any poison or other destructive thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, F.—S. 24. Maliciously to 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, M.—S. 28. Maliciously, by the explosion of gunpowder or other explosive substance to burn, maim,* disfigure, disable, or do grievous bodily harm to any person, F.—S. 29. Maliciously to 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, whether any bodily harm be effected or not, F.—S. 30. Maliciously to place or throw in, into, upon, against, or near any building, ship, or vessel, any

* A *maim* is bodily harm whereby a man is deprived of the use of any member of his body, or of any sense which he can use in fighting, or by loss of which he is generally and permanently weakened, but a bodily injury is not a maim merely because it is a disfigurement. It is a maim to strike out a front tooth. It is not a maim to cut off a man's nose. Castration is a maim.—(*Stephen's Digest of C. L.*)

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gunpowder or other explosive substance with intent to do any bodily injury to any person, whether or not any explosion take place, and whether or not any bodily injury be effected or not, F. — S. 31. To 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 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, or occupier permitting same to remain set, M. (Not to apply to guns or traps set for vermin, or set in a dwelling-house for protection between sunset and sunrise.) — S. 32. Maliciously to put or throw upon or across any railway any wood, stone, or other matter or thing, or take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway; or turn, move, or divert any points or other machinery belonging to any railway; or make or show, hide, or remove any signal or light upon or near to any railway; or 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, F. — S. 33. Maliciously to 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, &c., shall form part, F. — S. 34. By any unlawful act, or by any wilful omission or neglect to endanger or cause to be endangered the safety of any person conveyed or being in or upon a railway, or aid or assist therein, M. — S. 35. 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, M.—S. 36. Assaulting clergymen in discharge of duty, M. — S. 37. Assaulting a magistrate, or other authorized person on account of his preserving a shipwreck, M.—S. 38. Assault with intent to commit felony, assault, resist, or wilfully obstruct any peace officer in due execution of duty, M. — S. 52. To commit an indecent assault upon any female, M. —S. 54. To make or manufacture, or knowingly to have in possession any gunpowder, explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument or thing with intent thereby or by means thereof to commit, or for the purpose of enabling any other person to commit any of the

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felonies in this Act mentioned, M.—S. 65. Any justice of the county or place in which any such gunpowder or other explosive, &c. (mentioned in last section), 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 for searching in the day time any house, &c., or place, carriage, ship, boat, or vessel in which the same is suspected to be made, kept, or carried for such purposes. Person executing warrant to have same powers for seizing and removing, &c., all such gunpowder, &c., which are given to persons searching for gunpowder under warrant by 23 & 24 Vic., c. 139.*—S. 66. Any Constable 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 reason 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.

[The intentional infliction of death or bodily harm is not a crime when it is done by any person (1) in order to prevent the commission of treason, murder, burglary, rape, robbery, arson, piracy, or any other felony in which the traitor, felon, or pirate so acts as to give the person who kills or wounds him reasonable ground to believe that he intends to accomplish his purpose by open force; (2), or, in order to arrest a traitor, felon, or pirate, or retake or keep in lawful custody a traitor, felon, or pirate who has escaped, or is about to escape, from such custody, although such traitor, felon, or pirate offers no violence to any person; (3), or, when it is done by a constable or other officer of justice, in order to execute a warrant of arrest for treason or felony, which cannot otherwise be executed, although the person named in the warrant offers no violence to any person; provided in each of the said cases, that the object for which death or harm is inflicted cannot be otherwise accomplished.—(Stephen's Digest of C. L., Article 199)].

Malicious Injuries to Property, 24 & 25 Vic., c. 97.—S. 9. Unlawfully and maliciously, by the explosion of gunpowder or other explosive to destroy, throw down, or damage the whole or any part of any dwelling-house, any person being therein; or of any building whereby the life of any person shall be endangered, F. — S. 10. Unlawfully and maliciously to throw in, into, upon, under, against, or near any building any gunpowder or other explosive substance with intent to destroy or damage any building or any machinery, goods or chattels, whether or not any explosion takes place, or damage be caused, F. — S. 11. Persons

* This Act has been repealed by the Explosives Act, 1875 (38 Vic., c. 17).

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riotously and tumultuously assembled together, to the disturbance of the public peace, unlawfully and with force destroying, or beginning to destroy any church, chapel, meeting-house, or other place of Divine worship; or any house, stable, mill, &c., or any building used in farming or in carrying on trade or manufacture; or any public building, or any machinery, whether fixed or movable, employed in any manufacture; or any engine for sinking or working any mine, F. — S. 12. Persons riotously and tumultuously assembled together, to the disturbance of the public peace, unlawfully or with force injuring or damaging any such church, &c., building, machinery, engine, &c., mentioned in last section, M. — S. 13. Tenant of any dwelling-house or other building, or part of any dwelling-house or other building, pulling down or demolishing the same, or any part thereof, or pulling down or severing from the freehold any fixture in or to such dwelling-house or building, &c., M. — S. 14. Unlawfully and maliciously cutting, damaging, &c., silk, woollen, linen, cotton, hair, mohair, or alpaca goods, &c., in process of manufacture, or the machinery, &c., F.— S. 15. Unlawfully and maliciously to cut, break, or destroy, or damage with intent to destroy any machine or engine, whether fixed or movable, used in agricultural operations, or used in any manufacture whatsoever, except the manufacture specified in previous section, F. —S. 19. Cutting and destroying any hopbinds growing on poles in any plantation of hops. F. — S. 20. Maliciously to cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling, in case the amount of injury done shall exceed £1, F. — S. 21. Same offence where the tree, &c., grows elsewhere, and amount of injury done shall exceed £5, F. — S. 22. Same offence, wheresoever growing, the injury done being to the amount of one shilling at least, O. — S. 23. Maliciously to destroy, or damage with intent to destroy, any plant, root, fruit, or vegetable production growing in any garden, orchard, greenhouse, or conservatory, O. — S. 24. Same offence, where plant is used for food or medicine, not growing in garden or orchard, O.—S. 25. Maliciously to cut, break, throw down, or in anywise destroy any fence, or any wall, stile, or gate, or any part thereof, O. — S. 28. Maliciously conveying water into any mine, with intent to damage, &c., destroying or obstructing air-way, shaft, &c., belonging to mine, F. — S. 29. Maliciously damaging engines

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used in mines, or apparatus in connexion, &c., or any building, &c., used in conducting the business of any mine, with intent to damage mine or delay the working thereof, or to cut or damage with intent to render useless any rope, chain, or tackle used in any mine, F. — S. 30. Maliciously to break down, or cut down, or otherwise to damage or destroy any sea-bank or sea-wall, or the bank, dam, or wall of or belonging to any river, canal, reservoir, pool, or marsh, whereby any land or building shall be or shall be in danger of being overflowed or damaged, or to destroy any quay, wharf, jetty, &c., or other work belonging to any port, harbour, dock, canal, &c., F. — S. 31. Maliciously to cut off, draw up, or remove any piles, or other materials fixed in the ground, and used for securing any sea-bank or sea-wall, or the bank, dam, or wall of any river, canal, reservoir, dock, quay, &c., or open or draw up any floodgate or sluice, or do any other injury or mischief to any navigable river or canal with intent to obstruct the navigation thereof, F. — S. 32. Maliciously to cut through, break down, or otherwise destroy the dam, floodgate, or sluice of any fishpond or of any water, private property, with intent to take or destroy any of the fish in such pond or water, or put any lime or other noxious material in any such pond of water with intent to destroy the fish therein, M. — S. 33. Maliciously to pull, throw down, or destroy any public bridge, or any viaduct, or aqueduct, or do any injury with intent to render such bridge, &c., dangerous or impassible, F. — S. 34. Maliciously to destroy any turnpike gate, &c., M. — S. 35. Maliciously to put, place, cast, or throw upon or across any railway any wood, stone, or other matter or thing; or to take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway; or to turn, move, or divert any points or other machinery belonging to any railway; or to make or show, hide or remove, any signal or light upon or near to any railway, or do or cause to be done any other matter or thing, with intent in any of the cases aforesaid, to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage, or truck using such railway, F.—S. 36. By an unlawful act, or by any wilful omission or neglect, to obstruct or cause to be obstructed any engine or carriage using any railway, or shall aid or assist therein, M. — S. 37. Maliciously to cut, break, throw down, destroy, injure, or remove any battery, machinery, wire, cable, post, or other matter or thing whatsoever being part of, &c., any telegraph; or to prevent or obstruct in any manner whatsoever the sending, conveyance, or delivery of any communication by any such

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telegraph, M. — A justice, should he think fit, may proceed summarily to hear and determine this offence. — S. 38. Maliciously, by any overt act, to attempt to commit any of the offences in the last preceding section mentioned, O. — S. 39. Maliciously to destroy or damage any book, manuscript, picture, print, statue, &c., or any other article or thing kept for the purposes of art, science, or literature, or as an object of curiosity in any museum, gallery, library, or other repository open for the admission of a considerable number of persons to view the same; or any picture, statue, monument, or other memorial of the dead, painted glass or other ornament, or work of art in any church, chapel, or other place of Divine worship, or in any public building, or in any street, square, burial ground, public garden, &c.; or any statue or monument exposed to public view, or any railing or fence surrounding it, M. — S. 40. Maliciously to kill, maim, or wound any cattle, F. — S. 41. Maliciously to kill, maim, or wound any dog, bird, beast, or other animal not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, O. — S. 45. Maliciously to place in or near any ship or vessel any gunpowder or other explosive, with intent to destroy or damage the ship, &c., or any machinery, goods, or chattels, whether or not explosion shall take place, F. — S. 46. Maliciously to damage, otherwise than by fire, gunpowder, or other explosive, any ship or vessel, complete or unfinished, with intent to destroy or render it useless, F. — S. 50. To send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn, or other building; or any rick or stack of grain, hay, or straw, or other agricultural produce, or any grain, hay, or straw, or other agricultural produce in or under any building, or any ship or vessel; or to kill, maim, or wound any cattle, F. — S. 51. Maliciously to commit any damage, injury, or spoil to or upon any property whatsoever, public or private, for which no punishment is hereinbefore provided, the damage being to amount exceeding £5, M. — S. 52. Maliciously to commit any damage, injury, or spoil to or upon any property, public or private, where the damage does not exceed £5, for which no punishment is hereinbefore provided, O. — Not to extend where party acted under a reasonable supposition that he had a right to do the act, nor to any trespass, not being wilful and malicious, committed in hunting, fishing, or in pursuit of game. S. 53. Provisions in last section to extend to maliciously committing any injury to any tree, sapling, shrub, or under-

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wood, for which no punishment is hereinbefore provided. S. 54. To make or manufacture, or knowingly have in possession any gunpowder or other explosive, or any machine, instrument or thing for the purpose of committing any of the felonies mentioned in this Act, M. — S. 55. Any justice, where any machine or thing, gunpowder, or other explosive, &c., is suspected to be made, for being used in any of the felonies in this Act, upon reasonable cause upon oath may issue a warrant for searching in the day time any house, or other place, or any carriage, &c., in which the same is suspected to be made, kept, or carried.—S. 61. Any person found committing any offence against this Act, whether the same is punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any peace officer, or the owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before some neighbouring Justice of the Peace.

[Any person applying for compensation for malicious injury to his property is required within three days after the commission of the injury, unless prevented by illness or other sufficient cause, to swear an information before a Magistrate of the county where the injury has been committed, in which information he should state *whether he knows the party who did the injury*, and if so the applicant should be bound by recognizance to prosecute (6 and 7 Wm. IV., c. 116, s. 135).]

Marine Stores.—The following provisions of the "Merchant Shipping Act," (17 & 18 Vic., c. 104) are enforced by the Constabulary:—

S. 480. Every person dealing in, buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any description, shall conform to the following regulations:—

(1.) He shall have his name, together with the words "Dealer in Marine Stores," painted distinctly in letters of not less than six inches in length, on every warehouse or other place of deposit, belonging to him. If he does not, P. not exc. £20.

(2.) He shall keep a book or books, fairly written, and shall enter therein an account of all such marine stores as he may from time to time become possessed of, stating, in respect of each article, the time at which, and the person from whom he purchased or received the same, adding, in the case of every such last mentioned person, a description of his business and place of abode. If he does not, P. not exc. £20.

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(3.) He shall not by himself or his agents, purchase marine stores of any description from any person apparently under the age of sixteen years. If he does so, P. not exc. £5.

(4.) He shall not cut up any cable or any similar article, exceeding five fathoms in length, or unlay the same into twine or paper stuff, on any pretence whatever, without obtaining such permit and publishing such notice of his having so obtained the same as is hereinafter mentioned. If he does so, P. not exc. £20.

S. 481. In order to obtain such permit as aforesaid a dealer in marine stores shall make a declaration before a justice of the peace containing certain particulars (specified in section).

S. 482. Permit to be advertised in some local newspaper before dealer proceeds to cut up or unlay any cable, etc. See also sec. 13 of 34 and 35 Vic., c. 112, p. 263.

Master and Servant,* 2 Geo. I., c. 17., Ir.—S. 2. Repealed by the Master and Servant Act, 1889, 52 and 53 Vic., c. 24.—S. 3. No servant shall hire him or herself, or offer to be hired into any service, while he or she is actually in service, and before the time for which he or she did contract or hire be expired, without license from master or mistress first obtained, unless such servant do first give one month's notice thereof to his or her master or mistress, penalty imp. for not exceeding ten days with hard labour.—S. 4. Master refusing discharge and certificate of behaviour to servant, if not sufficient cause shown, one justice may give certificate. —S. 5. On discharge or leaving service master shall give a certificate in writing under his hand, that such person therein was his servant, and that he is discharged from his service, and shall in such discharge certify, if desired, or such master thinks fit, the behaviour of such servant. No master to hire servant without a discharge under the hand of the last master, and in case master refuse to give his servant a discharge, and certificate of behaviour, such

*The Constabulary have nothing to do with the enforcement of these provisions, but they are supplied for their information.

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servant may apply to some justice who shall write to such master, and require the reason of refusal, and if no answer be given within five days, or if justice find by answer the cause is not sufficient, the justice shall give such certificate without fee, and such certificate shall be as good as if given by master; if servant counterfeits certificates, on conviction such servant shall be committed for three months to hard labour.—S. 6. No servant to recover wages by this Act without a discharge or certificate or proof that it was given. Any person taking a servant knowingly without discharge or certificate, P. on conviction at Quarter Sessions £5.—S. 7. No woman shall hire herself to be nurse, or continue to nurse, knowing herself to be with child, or having a foul or infectious disease which may be communicated to the child; and on complaint a justice is to appoint two surgeons or midwives to report thereon, and if case proved, such nurse shall forfeit all wages due.—S. 9. Repealed by 52 and 53 Vic., c. 24.—S. 15. For frivolous complaints justice may award 2*s.* 6*d.* costs.—S. 16. Repealed by 52 and 53 Vic., c. 24.—S. 17. Master or mistress aggrieved by this order may appeal to Quarter Sessions. —25 Geo. II., c. 8.—Ss. 2 and 9, repealed by 52 and 53 Vic., c. 24.—Ss. 3 and 4 relate to complaints of apprentices against masters, and of masters against apprentices.—The Employers and Workmen Act, 1875, 38 and 39 Vic., c. 90, provides for disputes between employers and workmen. It enlarges the powers of the County Courts, and confers a limited *civil* jurisdiction upon a Court consisting, in Dublin, of one or more Divisional Justices, and elsewhere in Ireland of two or more justices in Petty Sessions. By section 10—the expression "workman" does not include a domestic or menial servant, but save as aforesaid, means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years, or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this Act, be express or implied, oral or in writing, and be a contract of service, or a contract personally to execute any work or labour.

Merchandise Marks Act, 1867, see page 458.

Murder and Manslaughter, 24 & 25 Vic., c. 100.—S. 1. Whosoever shall be convicted of murder shall suffer death as a felon. S. 4. To conspire, confederate, and

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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 to 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, M. S. 7. 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. S. 9. Murder or manslaughter abroad may be dealt with where the offender is apprehended. S. 10. 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, &c., in England or Ireland, or, being feloniously stricken, poisoned, or otherwise hurt at any place in England or Ireland, shall die of such stroke, &c., at any place out of England or Ireland, every offence committed in respect of any such case may be inquired of and tried in the county or place in England or Ireland in which such death, stroke, poisoning, or hurt shall happen. S. 11. To administer to or cause to be administered to or to be taken by any person any poison or other destructive thing, or by any means whatsoever to wound or cause any grievous bodily harm to any person, with intent to commit murder, F. S. 12. By the explosion of gunpowder or other explosive, destroying or damaging any building, with intent, in any of such cases, to commit murder, F. S. 13. To 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 to cast away or destroy any ship or vessel with intent in any of such cases to commit murder, F. S. 14. To attempt to administer to or attempt to cause to be administered to or to be taken by any person any poison or other destructive thing, or to shoot at any person, or by drawing a trigger, or in any other manner to attempt to discharge any kind of loaded arms at any person, or to attempt to drown, suffocate, or strangle any person, with intent in any of the cases aforesaid, to commit murder, whether any bodily injury may be effected or not, F. S. 15. To attempt to commit murder by any means other than those specified in the preceding sections, F.

[Homicide is the killing of a human being by a human being. A child becomes a human being within the meaning of this definition

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when it has completely proceeded in a living state from the body of its mother, whether it has or has not breathed, and whether the navel string has or has not been divided, and the killing of such a child is homicide, whether it is killed by injuries inflicted before, during, or after birth. A living child in its mother's womb, or a child in the act of birth, even though such a child may have breathed, is not a human being within the meaning of this definition, and the killing of such a child is not homicide.—(*Stephen's Digest of C. L.*)

There are three kinds of homicide—(1) justifiable, (2) excusable, (3) felonious. *Justifiable homicide* is occasioned in the due execution or for the advancement of justice, or for the prevention of any forcible or atrocious crime, in every case of which there must be an apparent necessity. *Excusable homicide* is of two sorts, and is occasioned either by misadventure or accident, or upon a sudden affray in self-defence. Felonious homicide is of two kinds, murder and manslaughter. Murder arises from the wickedness of the heart—manslaughter (in general) from the sudden heat of passion. *Murder is where a person of sound memory and discretion unlawfully kills any human being with malice aforethought either express or implied.* Express malice is where one person kills another with a sedate, deliberate mind and formed design, evidenced by external circumstances, such as lying in wait, antecedent menaces, former grudges, and concerted schemes to do the party some bodily harm. Malice is *implied* by law from any deliberate cruel act, committed by one person against another, however sudden. *Manslaughter is the unlawful killing of another without malice, either express or implied, which may be voluntarily upon a sudden affray, or involuntarily, but in the commission of an unlawful act.* The party must die within a year and a day from the time the injury was inflicted, otherwise the law presumes that the injury was not the cause of death, and the death cannot be deemed homicide. See note at page 230.

Everyone who kills another is presumed to have murdered him unless the circumstances are such as to raise a contrary presumption. The burden of proving circumstances of excuse, justification or extenuation, is upon the person who is shown to have killed another. —*Stephen's Digest of C. L.*

Steps which should be taken in a case of murder.—The discovery of the instruments with which the offence was committed, of portions of clothing, of shot, footmarks, blood stains, or anything that would assist in tracing guilt. A careful and close examination of the scene (whether within or without doors), should be made, and a note taken of the exact state in which it was found, including any facts or circumstances that might be conceived to be of use in throwing light upon the occurrence. If a shoe-print be left, care should be taken that it does not get defaced; it should be covered up, and a

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watch placed to prevent its being disturbed until a cast, or the shape, etc., on paper, be taken. Should the boot or shoe be obtained from any party suspected, it should not be placed in the print already left, but by the side thereof; then a measure should be taken very carefully, and a comparison made. If in a house, immediate possession should be taken by the police, and all strangers and unofficial persons carefully excluded from access to it or to any of its contents, without the sanction of a Magistrate or of the officer in charge. All articles connected with the offence (weapon, anything having blood stains, etc.), should be taken possession of. If any persons are suspected upon good grounds they should be arrested, unless there is reason to believe that an immediate arrest would tend to prevent the discovery of evidence, in which case a discretion as to the time and manner of the arrest is permitted to be exercised, care being in the meantime taken that the suspected persons will not evade justice. A watch in such case should be placed on their movements. In cases where the evidence is mainly circumstantial, the arrest of the suspected person should not be hastily made, as if he be guilty his conduct and admissions before arrest will in general furnish important evidence for the prosecution. The English Police, who are very successful in cases of circumstantial evidence, wait till the evidence against the suspected person is nearly complete before arresting him.

In case the suspected person be arrested, and the injured person be not dead, a Magistrate should be procured, and the accused brought into the presence of the injured person for identification, which will be more complete if the accused be placed before the injured person with some others of his own rank in life. The deposition (on the proper form, A *b* in Schedule to 14 and 15 Vic., c. 93) should then be taken in the presence and hearing of the accused, who should be permitted to ask his accuser any question he wishes.

In case no Magistrate can be procured in time to take the dying person's deposition, the constable should bring the supposed offender, if arrested, into the presence of the injured person, so that he may have the opportunity of identifying the accused, or saying anything he thinks fit in his presence. Every word should be noted by the constable. The constable should take the dying person's declarations, acquainting him with his awfully solemn situation, and admonishing him to speak the truth. Any person may take the dying declarations, which need not be in writing, but if possible should be; and there is no particular form of declaration. They should never be sworn to (the awful position of the dying person is considered as creating an obligation equal to the sanction of an oath), and the presence of the accused is not necessary. If the dying person be unconscious, an intelligent policeman should remain constantly with him for the purpose of taking his dying declarations should consciousness return.

In order that the dying declarations may be received as evidence at the trial, it is essential—

(1.) That at the time when they were made the declarant should have been in actual danger of death.

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(2.) That he should have had a full apprehension of his danger, and should have no expectation or hope of recovery.

(3.) That death should have ensued.

The declarations of the deceased are admissible only as to matters to which he would have been competent to testify if sworn in the cause. They must, therefore, in general, speak to facts only, and must be confined to what is relevant to the issue.]

A *felo de se*, or felon of himself, is a person who, being of sound mind and of the age of discretion, voluntarily killeth himself. If one encourages another to commit suicide, and is present abetting him while he does so, such person is guilty of murder as a principal; and if two encourage each other to murder themselves, and one does so, the other being present, but failing in the attempt on himself, the latter is principal in the murder of the first. If a man attempting to kill another miss his blow and kill himself *he* is *felo de se.*—(*Burns, J.P.*) When a person attempts or threatens to commit suicide, which offence is a misdemeanour, he may be arrested and brought before a magistrate.]

Passenger Steam Ships, Overcrowding, 17 & 18 Vic., chapter 104, s. 319.—If the owner or master or other person in charge of any passenger steamer receives on board thereof, or on or in any part thereof, or if such ship has on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion, and circumstances of the case, is greater than the number of passengers allowed by the certificate, the owner or master shall incur a penalty not exceeding £20, and also an additional penalty not exceeding 5*s.*, for every passenger over and above the number allowed by the certificate, or, if the fare of any of the passengers on board exceeds five shillings, not exceeding double the amount of the fares of all the passengers who are over and above the number so allowed as aforesaid, such fares to be estimated at the highest rate of fare payable by any passenger on board.

[The Constabulary at seaports are required to enforce the provisions of this section. The certificate furnished to each home trade passenger steam ship by the Board of trade, or a duplicate of same is required, under a penalty not exceeding £10, to be put up in a conspicuous part of the ship, where it will be visible to all persons on board the same. Such certificate sets forth the number of passengers which the passenger steam ship is authorized to carry, with the following stipulations:—

(1.) Two children under twelve years of age are to be reckoned as one passenger.

(2.) If the space measured for passenger accommodation is occupied by cattle, or by cargo or other articles, then for every square yard of such space so occupied *one passenger is to be deducted from the numbers stated in the certificate.*

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(3.) During the period between the 1st November and 31st March, a certain number of square yards (stated in the certificate) of the clear space on the upper deck may be occupied by cattle, or by cargo or other articles, without any deduction being made on that account from the number of passengers allowed by the certificate.

Should the Constabulary detect any breach of the law in respect to the overcrowding of passengers in such ships, it is required that a report thereof be immediately made, but that no prosecution be instituted without authority. The Constabulary should, however give ample warning to the masters, etc., of those ships, which may have the effect of preventing any such infractions of the law.] See also Code 2012.

Pawnbrokers.—The leading Act relating to pawnbrokers in Ireland is the 26 Geo. III., c. 43.—S. 11; Person offering goods, &c., by way of pawn, and unable satisfactorily to account for same, or when the goods are suspected to have been stolen, may be carried before a Justice and committed to prison. S. 13; Justices, upon oath being made that goods unlawfully obtained are suspected of having been knowingly taken in pawn, may grant a warrant to search for the same in the house of any suspected person, and, upon refusal to open such suspected house, the officer is empowered to break it open; hindering such search, P. £5; if such goods be found they shall be restored to the owner. S. 21; Pawnbrokers who retail liquors forfeit £10. By 28 Geo. III., c. 49, s. 20, no pawns are to be taken on Sundays, nor before 10 A.M. nor after 4 P.M. in any other day between 29th September and 25th March, nor before 10 A.M. nor after 7 P.M. between 25th March and 29th September. Pawns may be given out on any day and at any hour.

Peace Preservation (Ireland) Act, 1881, 44 Vict., chap. 5, amended and continued by 49 & 50 Vic., c. 24, 50 & 51 Vic., c. 20, and 57 & 58 Vic., c. 48.

S. 1. *Prohibition on having or carrying arms and search.*—In a proclaimed district a person shall not carry or have any arms or ammunition save as authorized by the conditions set forth in the proclamation hereinafter mentioned.

Any person carrying or having, or reasonably suspected of carrying or having, any arms or ammunition in contravention of this Act may be arrested without warrant to any constable or peace officer, and, as soon as reasonably can be, conveyed before some justice of the peace in order to his being dealt with according to law.

The Lord Lieutenant may by warrant direct any person named in such warrant to search in houses, buildings, and places situate in a proclaimed district and specified in the

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warrant, for any arms or ammunition suspected to be therein in contravention of this Act.

The person named in such warrant, with such constables and other persons as he calls to his assistance may, within ten days next after the date of the warrant, at any time between sunrise and sunset, enter into any house, building, or place specified in such warrant and there execute the warrant; and in case admittance shall be refused to the persons aforesaid, or shall not be obtained by them within a reasonable time after it shall have been first demanded, they may enter by force in order to execute such warrant. The person named in such warrant shall, before executing the same, if so desired, produce the said warrant. Any arms or ammunition carried, had, or found under circumstances which contravene this Act shall be forfeited to Her Majesty.

Any arms or ammunition in the possession of persons not entitled to have the same which shall, within a period to be fixed by the proclamation herein-after mentioned, be given up voluntarily or taken under such circumstances as shall prove to the satisfaction of the Lord Lieutenant that they have not been wilfully kept back, shall be deemed to be in the possession of Her Majesty, and provision shall be made in such proclamation for the deposit, registration, valuation, and care of the same; and such arms and ammunition shall be returned to the owners thereof whenever the proclamation relating thereto shall cease to be in force: Provided that at any time the Lord Lieutenant may, instead of keeping and returning the arms and ammunition aforesaid, if he think fit, pay to the owners of the same the value thereof as ascertained in the manner provided by the proclamation, or the owners thereof may demand payment of such value, and such payments may be made out of moneys to be provided by Parliament (*a*).

[(*a*.) The 50 and 51 Vic., c. 20, s. 8, amends the P. P. Act, 81, and provides that "A warrant under the said Act directing a search for arms or ammunition in houses, buildings, or places in a proclaimed district, as defined by that Act, shall be valid in law, notwithstanding that the houses, buildings, or places to be searched are not specified therein, further than as being houses, buildings, or places situated in a specified townland or municipal ward."]

S. 2. *Proclamation in respect to arms and ammunition.*—The Lord Lieutenant, by and with the advice of the Privy Council in Ireland, may from time to time by proclamation declare this Act to be in force within any specified part of Ireland, and this Act shall thereupon after the date specified in the proclamation be in force within such specified part, and any such specified part of Ireland is in this Act referred to as a "proclaimed district;" and any such

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proclamation may set forth the conditions and regulations under which the carrying or having of arms or ammunition is authorized, and make provision for the appointment of persons to give effect to the same and the manner of the promulgation thereof.

S. 3. *Prohibiting or regulating sale or importation of arms and ammunition.*—The Lord Lieutenant, by and with the advice of the Privy Council in Ireland, may from time to time make orders for prohibiting or regulating in Ireland the sale or importation of arms and ammunition, and for the appointment of persons for the purpose of giving effect to such orders and providing for the manner of the promulgation thereof.

If any person sell or import, or attempt to sell or import, any arms or ammunition in contravention of any such order, such arms and ammunition shall be liable to be forfeited to Her Majesty, and the person so acting wilfully shall be guilty of an offence against this Act.

S. 4. *Supplemental provisions.*—(1.) The Lord Lieutenant, by and with the advice of the Privy Council, may, by a further proclamation or order, from time to time alter or revoke any proclamation or order made by him under this Act. . . . .

(2.) The Lord Lieutenant may from time to time by order prescribe forms for the purposes of this Act, and any form so prescribed shall be valid in law.

(3.) Any warrant or order of the Lord Lieutenant under this Act may be signified under his hand or under the hand of the Chief Secretary to the Lord Lieutenant.

(4.) *Repealed by* 49 *Vic.*, *c.* 24, *s.* 2.

(5.) Every proclamation and order under this Act, and a notice of the promulgation thereof in the manner provided, shall be published in the *Dublin Gazette*, and the production of a printed copy of the *Dublin Gazette* purporting to be printed and published by the Queen's authority, and containing the publication of any proclamation, order, or notice under this Act, shall be conclusive evidence of the contents of such proclamation, order, or notice, and of the date thereof, and that the district specified in such proclamation is a proclaimed district within the meaning of this Act, and that the said proclamation or order has been duly promulgated.

S. 5. *Penalties.*—Any person acting in contravention of this Act shall be liable if convicted before a court of summary jurisdiction to be imprisoned for a term not exceeding three months, or, at the discretion of the court, to a penalty not exceeding £20; but, if, upon the hearing of the charge, the court shall be of opinion that there are circumstances in

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the case which render it inexpedient to inflict any punishment, it shall have power to dismiss the person charged without proceeding to a conviction. For the purposes of this Act, the court of summary jurisdiction shall, in the police district of Dublin metropolis, be constituted of a divisional justice acting for the said district, and elsewhere in Ireland shall be constituted of two or more justices of the peace sitting in petty sessions, of whom one shall be a resident magistrate, or of one resident magistrate sitting alone in petty sessions.

S. 6. *Definitions.*—In this Act the expression "Lord Lieutenant" means the Lord Lieutenant of Ireland or other Chief Governor or Governors of Ireland for the time being.

The expression "arms," includes any cannon, gun, revolver, pistol, and any description of firearms, also any sword, cutlass, pike, and bayonet, also any part of any arms as so defined.

The expression "ammunition," includes bullets, gunpowder, nitro-glycerine, dynamite, gun-cotton, and every other explosive substance whether fitted for use with any arms or otherwise.

S. 7. This Act may be cited as the Peace Preservation (Ireland) Act, 1881.

S. 8. This Act shall continue in force until 1st June, 1886.

The Peace Preservation (Ireland) Continuance Act, 1886, 49 Vic., c. 27, repeals sub-section 4 of section 4 of this Act, and the Criminal Law and Procedure (Ireland) Act, 1887, 50 & 51 Vic., c. 20, s. 8 continues the Acts for five years and until the end of the then next session of Parliament.

ABSTRACT OF PRINCIPAL PROVISIONS OF ORDERS IN COUNCIL.

No justice of the peace, person in Her Majesty's naval or military service, or in the coastguard service, or in the service of the Revenue, or the Royal Irish Constabulary, or the Dublin Metropolitan Police, or special Constable, or person duly licensed to manufacture gunpowder, is required to obtain or have a license, under Act, to carry and have or have arms or ammunition in a proclaimed district.

The expression "*person in Her Majesty's military service*" (used in last clause) includes every officer in, and member of the permanent staff of, the militia, but does not include any soldier on furlough, or any non-commissioned officer or soldier of the militia, unless while actually serving for purposes of training or exercise, or with his regiment when embodied.

Every person who shall obtain and have a license in the

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prescribed form, called the prescribed license, may within the proclaimed district, carry and have, or have arms and ammunition, or either of them, as in the prescribed license mentioned.

License may be revoked.—Any prescribed license may be revoked at any time, by the Lord Lieutenant, by order under his hand or under hand of Chief Secretary, and which order shall be published in *Dublin Gazette*, when the license shall cease and determine. A copy of such order shall be delivered to or left at the last known place of abode, within the proclaimed district, of the person named in such order.

The Inspector-General and Deputy Inspector-General of R.I.C., and the Resident Magistrate in the proclaimed district, are appointed to grant licenses to carry and have, or to have arms and ammunition, or either of them, in the proclaimed district.

The Licensing Officer (Inspector-General or Resident Magistrate), will not grant a license to carry arms under the Peace Preservation Act, unless the applicant has first obtained the ten shilling gun-license and produced it. As a rule the Excise will not, in a proclaimed district, grant the gun license unless a Peace Preservation Act license is produced.

Selling arms or ammunition.—No person in the proclaimed district shall sell any arms or ammunition without having a license. Every such license shall specify the particular description of arms or ammunition for the sale of which the same is granted, and contain provisions for the safe custody of such arms. Such license may be revoked by order of the Lord Lieutenant in the manner above mentioned.

Every person having a license to sell arms or ammunition in a proclaimed district shall, on or before a day named in proclamation, return an account to the District Inspector, R.I.C., of all the stock of arms and ammunition in his possession, and shall provide a book in which the particulars of such stock shall be entered, and shall, in the first week of every month, make or cause to be made a like return and like entry. Every such person shall also keep in a book of sales an account of all arms or ammunition sold or disposed of, &c. Any Resident Magistrate or any District Inspector, or any person duly authorized by such Magistrate or Inspector, may examine such books, or the stock of arms and ammunition of such person, and compare and balance the same.

The Inspector-General and Deputy Inspector-General, and the Resident Magistrate in the proclaimed district, are appointed to grant licenses to sell arms or ammunition, or either of them, in the proclaimed district.

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Importation of arms or ammunition.—No arms or ammunition shall be imported into Ireland, except at the following ports, that is to say: Dublin, Belfast, Cork, Limerick, Londonderry, Waterford, Galway, Sligo, Drogheda, Dundalk, Greenore, Newry, Wexford, and Larne.

Consignment of arms.—No arms or ammunition shall be consigned to any person in a proclaimed district unless such person is licensed to sell the articles so consigned, or to have and carry the same, or is otherwise lawfully entitled to carry or have the arms or ammunition so consigned.

All arms and ammunition consigned to any person in Ireland shall be distinctly labelled with the name and address of the consignee, and also with the words "arms" or "ammunition" as the case may be, and a written notice shall, before the consignment thereof, be given to the collector or other principal officer of customs at the port of consignment of the intended consignment and of the particulars of the arms or ammunition so to be consigned, with the name and address of the intended consignee.

It shall be lawful for any officer of Customs or any District Inspector or Head Constable, Sergeant or Acting-Sergeant of the R.I.C., or Superintendent or Inspector of the Dublin Metropolitan Police, to open and search any box or package containing or suspected to contain arms or ammunition. [This right of search seems only to apply where such box or package is *imported* into Ireland.]

INSTRUCTIONS TO BE CAREFULLY CARRIED OUT BY THE CONSTABULARY OF ANY COUNTY OR DISTRICT PROCLAIMED UNDER THE PEACE PRESERVATION ACT.

Licenses.—The 1st section of the Act of 1881 (second paragraph) authorizes the arrest of persons carrying or having, or who are reasonably suspected of carrying or having arms in a proclaimed district, but certain persons are excepted in the Proclamation from the operation of its provisions, amongst whom are persons duly licensed in that behalf. A person so duly licensed to carry and have arms is not bound always to have his license with him and therefore cannot be legally arrested when carrying arms, because he is unable at the moment to produce it. In the event of a Constable finding a person carrying a gun or other forbidden weapon or ammunition in apparent violation of the Peace Preservation Act, if the person should allege that he is duly licensed in that behalf,

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the Constable should take his name and address, and should not arrest him or seize his arms, unless he should have good reason to believe that such person is not duly licensed, and that he is giving a false name and address, or is likely to abscond.

In case the Constabulary meet a person of good character carrying arms without a license, and they have reason to believe that he is not wilfully breaking the law, no proceeding should be taken against such person until the case is reported and instructions respecting it are received, but the arms should meantime be retained by the Constabulary.

The Constabulary should not interfere with any unlicensed person having or carrying a gun for repair, if satisfied that such person has or is carrying such gun for repair with sanction of the licensed owner.

Cases have occasionally arisen where the Constabulary have seized at railway stations, and other places, arms *in transitu*, belonging to persons who were going to certain places on business or pleasure, as for instance, to shoot upon moors, bogs, lakes, and estuaries situate in counties other than those in which they reside habitually, and for which arms they were not duly licensed. The Constabulary should not seize such arms, but should ascertain from their owners or the persons having the custody of such arms the place of their ultimate destination, and inform these persons that they must upon their arrival obtain a license from the Licensing Officer of the district with as little delay as possible. The Constabulary should, if necessary, report the case to head-quarters for further instructions, and a communication on the subject should also be made to the Constabulary Authorities of the District to which such persons may be proceeding.

It is to be observed that the Inspector-General and Deputy Inspector-General are authorized to issue general licenses for several proclaimed districts. Those licenses will only be given to persons whose business requires them to travel generally throughout the country. Persons holding such licenses should not be interfered with by the Constabulary. Persons resid-

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ing in proclaimed districts who require licenses for such districts only or adjoining districts must apply to the resident magistrates of those districts.

Arrests in general.—Though a Constable may have good reason to believe that a breach of the law has been committed, it should be a general rule that an arrest for a minor offence should not be made, unless it appears necessary for the purpose of insuring that the person offending shall be made amenable to the law. See Code s. 1873.

Search under Warrant.—The first section (fourth paragraph) of the Act of 1881 as amended, authorizes search to be made under the Lord Lieutenant's warrant, within ten days next after the date of the warrant, for arms and ammunition, at any time between sunrise and sunset in any houses, buildings or places situated in any townland or municipal ward specified in such warrant; this warrant is not to be executed except in the presence and under the direction of the person to whom the warrant is addressed, and the person executing the warrant should, if so desired, produce it.

Pedlars Act, 1871, 34 and 35 Vic., c. 96, as amended by 44 and 45 Vic., c. 45.—S. 3.—*Terms defined.*—The term "pedlar" means any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs, or other person who, without any horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered, or selling or offering for sale his skill in handicraft.

By Schedule 1 to Act, the term "*police district*" means in Ireland, in police district of Dublin metropolis, the Commissioner of Police, and elsewhere, "any district, whether city, town, or county, over which is appointed a Sub-Inspector of the R.I.C.;" and the term "chief officer of police" means "the Sub-Inspector" (now District Inspector).

The term "Summary Jurisdiction Acts" means as to Ireland within the police district of Dublin metropolis, the Acts regulating the powers and duties of the Justices of the Peace, or the police of such district, and elsewhere, "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same.

S. 4. No person shall act as a pedlar without such certifi-

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cate as in this Act mentioned. Any person who acts as a pedlar without having obtained a certificate under this Act, P. not exc. 10*s.*; subsequent offence, £1.

S. 5. *Grant of certificate.*—The following regulations shall be made with respect to grant of pedlars' certificates:—(1.) A pedlar's certificate shall be granted to any person by the chief officer of police of the police district in which the person applying for a certificate has, during one month previous to such application, resided, on such officer being satisfied that the applicant is above seventeen years of age, is a person of good character, and in good faith intends to carry on the trade of a pedlar. (2.) An application for a pedlar's certificate shall be in the form specified in schedule two to Act. (3.) There shall be paid for a pedlar's certificate a fee of 5*s.* (4.) A pedlar's certificate shall be in the form specified in schedule two to Act. (5.) A pedlar's certificate shall remain in force for one year from the date of the issue thereof, and no longer. (6.) On the delivery up of the old certificate, or on sufficient evidence being produced to the satisfaction of the chief officer of police that the old certificate has been lost, that officer may, either at the expiration of the current year, or during the currency of any year, grant a new certificate in the same manner as upon a first application. Lord Lieutenant may provide for the expiration of all pedlars' certificates at the same period of each year, and for the apportionment of the fees payable.

S. 6. A pedlar's certificate, granted under Act, shall, while in force, authorize the person to whom it is granted to act as a pedlar. S. 7. Repealed. S. 8. A register of certificates under Act shall be kept in each police district. The entries in such register, and any copy of any of such entries, certified by the chief officer of police to be a true copy, shall be evidence of the facts stated therein. S. 9. Forms of application shall be kept at every police office, and shall be given gratis to any applicant. S. 10. Pedlar shall not lend, transfer, or assign certificate to any other person under P. not exc. 20*s.* S. 11. No person shall borrow, or make use of a pedlar's certificate, and any person who borrows or makes use of certificate shall be liable to P. not exc. 20*s.*

S. 12. Making false representations to obtain a pedlar's certificate, forging or counterfeiting certificate, aiding in making or procuring to be made forged or counterfeited certificate, or travelling with, producing or showing such forged or counterfeited certificate P. not exc. £2.

S. 13. A person shall not be exempt from provisions of any Act relative to idle and disorderly persons, rogues, and vagabonds, by holding a certificate, or assisting a certificated pedlar.

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S. 14. Convictions to be indorsed on certificate; indorsement evidence of fact stated. S. 15. Applicant may appeal to Court of Summary Jurisdiction against chief officer of police's refusal to grant a certificate. (Provisions for appeal set forth in section.) S. 16. Any court before which any pedlar is convicted of an offence may deprive pedlar of his certificate, and *shall* deprive him of his certificate if he is convicted of begging. Court of S. J. may summon a pedlar to appear, and if he fail to appear, or satisfy that he is in good faith carrying on business of pedlar, shall deprive him of certificate.

S. 17. *Pedlar to produce certificate on demand.*—Any pedlar shall at all times, on demand, produce and show his certificate to any of the following persons, that is to say—(1) any Justice of the Peace, or (2) any Constable or officer of Police, or (3) any person to whom such pedlar offers his goods for sale, or (4) any person in whose private grounds or premises such pedlar is found. And any pedlar who refuses, on demand, to show his certificate to, and allow it to be read and a copy thereof to be taken by, any of the persons hereby authorized to demand it, P. not exc. 5*s*.

S. 18. *Arrest of uncertificated pedlar.*—Where a person acting as a pedlar either refuses to show his certificate or has no certificate, or refuses to allow or prevents or attempts to prevent any such opening or inspection of his pack, box, bag, trunk, or case, as is authorized under this Act, it shall be lawful for any of the persons authorized to demand the production of the certificate, and also for any other person acting by his order or at his request and in his aid, to apprehend such offender, and forthwith to convey or cause him to be conveyed before a Justice of the Peace.

S. 19. *Police to inspect pedlar's pack.*—It shall be lawful for any Constable or officer of Police at any time to open and inspect any pack, box, bag, trunk, or case in which a pedlar carries his goods, wares, and merchandise. Pedlar refusing to allow constable to open or inspect pack, &c., or preventing or attempting to prevent him opening or inspecting same, P. not exc. 20*s*.

S. 20. *Legal proceedings.*—All offences and penalties under Act may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts, before a court of summary jurisdiction which in Ireland shall be constituted —within the police district of Dublin metropolis of one of the divisional justices sitting at a police court; and elsewhere, of a stipendiary magistrate, sitting alone or with others, or of any two or more Justices of the Peace sitting in petty sessions at a place appointed for holding petty sessions. Penalties recovered in Ireland shall be applied

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according to the Fines Act (Ireland) 1851. S. 21. Fees shall be applied as penalties.

S. 22. Any act or thing by this Act authorized to be done by the chief officer of Police, may be done by any police officer under his command authorized by him in that behalf, and the term "chief officer of police" in this Act includes in relation to any such act or thing the police officer so authorized.

S. 23. Nothing in this Act shall render it necessary for a certificate to be obtained by the following persons as such (that is to say):—

1. Commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein, and who buy to sell again, or selling or seeking orders for books as agents authorized in writing by the publishers of such books.

2. Sellers of vegetables, fish, fruit, or victuals.

3. Persons selling or exposing to sale goods, wares, or merchandise in any public mart, market or fair legally established.

Pedlars Act, 1881, 44 and 45 Vic., c. 45.—S. 2. A pedlar's certificate granted under the Pedlars Act, 1871, shall during the time for which it continues in force authorize the person to whom it is granted to act as a pedlar within any part of the United Kingdom. The Act, 1871, is repealed to the extent set forth in schedule to this Act.

[Every pedlar's certificate expires on the 31st December of the year in which the same is granted, and the following fee is paid for each such certificate:—For a certificate granted before the 25th March, 5*s*; for a certificate granted on or after the 25th March, and before the 24th June, 4*s*.; for a certificate granted on or after the 24th June, and before the 29th September, 3*s*.; for a certificate granted on or after the 29th September, and before the 31st December, 2*s*.]

Perjury and Subornation of Perjury.—M. at common law.

Perjury at common law is a wilful false oath by one who, being lawfully required to depose to the truth in any proceeding in a court of justice, swears absolutely in a matter of some consequence to the point in question, whether he be believed or not. Also a false oath taken in certain cases, although not in judicial proceedings, is made perjury in particular statutes.

Subornation of perjury is the procuring a man to take a false oath, amounting to perjury, the man actually taking such oath.

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In order to maintain an indictment for perjury at common law, it is required to prove the authority to administer the oath, the occasion of administering it, the taking of the oath, the substance of the oath, the materiality of the matter sworn, the falsity of the matter sworn, and the corrupt intention. In general two witnesses should depose the fact sworn to, otherwise it would be one oath against another, however strong circumstantial evidence in support of the direct testimony of one witness may warrant a conviction.

The mere circumstance of witnesses contradicting each other is by no means a proof that either one or the other is guilty of perjury. There is a great distinction between an untrue statement and perjury; and nothing but very clear evidence that what a witness states is not only not true, but that it is *wilfully* and *deliberately* false will justify a summary committal for perjury.

By 14 and 15 Vic., c. 100, s. 19, any justice in special or petty sessions, in case it shall appear to him that any one has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, or other proceedings, may commit such person to be prosecuted until the next assizes or gaol delivery, unless such person enter into recognizance with one or more sureties for his appearance at such gaol delivery, and the justice may require any person he shall think fit to enter into recognizance to give evidence, and may give a certificate of prosecution being directed.

Petty Sessions Clerks Act, 1858 (21 and 22 Vic., c. 100).

The following is a copy of instructions issued by Government to magistrates, in regard to the use of Petty Sessions stamps on certain proceedings:—

(1). *Proceedings out of Petty Sessions.*—All the documents or proceedings specified in Schedule C of Act require stamps, whether issued in or out of Petty Sessions, except in proceedings under the Acts relating to excise or customs, stamps, taxes, or post office. *See* circular of 19th September, 1859.

(2). *Summons and Copy.*—The stamp is to be on the original summons, signed by the magistrate, not on the copy. It will be well that the copy should be marked at top with the word "copy."

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(3). Where the complaint is against several persons charged with a joint offence, there may issue an original stamped summons against each person, or all the persons charged may be joined in one original stamped summons, as the magistrate shall in his discretion direct, and the necessary copy or copies, as the case may be, shall be made. *See* circular of 6th October, 1868.

(4). Where there are several witnesses, there may be either a separate summons for each witness, or two or more witnesses may be included in the same summons, as the magistrate in his discretion shall direct, and the necessary copy or copies, as the case may be, shall be made. *See* circular of 6th October, 1868.

(5). The magistrate, when called on to sign a summons, will first see that the summons is duly stamped; and, secondly, he will take care, before issuing the summons, to have the stamp cancelled.

(6). The clerk is bound to prepare the original summons, and he ought also to prepare the copy.

(7). In cases prosecuted by the Constabulary, the summons may be filled up, and served by the Constabulary.

(8). *Information or deposition.*—All informations or depositions sworn before a magistrate must be stamped.

(9). Affidavits in bankruptcy and insolvency, or any other affidavits, save those known as informations or depositions, are not liable to stamp duty.

(10). *Statement of accused party.*—No stamp is necessary on a statement made by an accused party.

(11). When a suspicious character is arrested, under 50 Geo. III., c. 102, a stamp ought to be affixed to the examination.*

(12). *Solemn declaration.*—All solemn declarations made before a magistrate, no matter what the subject is, except the cases saved in the schedule, are liable to stamp duty.

(13). Declarations taken before a Master Extraordinary or notary public, do not require a stamp under the Petty Sessions Clerks Act.

(14). *Warrant.*—All warrants issued by a magistrate, whether of committal or trial, for examination, on summary conviction, in default of bail, of dangerous lunatics, or in any other case, must have the uniform 6*d.* stamp.

(15). *Entry of order.*—A 6*d.* stamp is to be affixed to every entry of an order in the order book.

(16). A complaint ought not to be entered for hearing, except at the instance of one of the parties, by whom the

* Sec. 7 of this Act conferring this power of arrest is repealed by 28 & 29 Vic., c. 33.

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6*d.* for entry of order should be paid at the time of so entering the case for hearing. If paid by the complainant, and if the case be dismissed, it ought to be retained as against him, whether the case be dismissed with or without costs. By circular, 16th March, 1865, no sum is payable in respect of the entry of a case for hearing, and if neither the complainant nor defendant appears the case should be simply struck out and no order made.

(17). If the complainant does not appear, there can be no entry, unless the defendant appear and seek to have the case entered for a dismiss, as a preliminary to which he should pay the 6*d.* fee on entry of the order of dismissal. By circular, 16th March, 1865, on the entry of any order, the 6*d.* for the stamp to be affixed thereto, is payable by the person at whose instance the case has been heard.

(18). An adjournment, whether on application of parties, or by the court, is an order, and requires a stamp. When an adjournment takes place at the request of a party, such party ought to pay the stamp duty of 6*d.* on the entry of the order.

By circular of 16th November, 1859, the ordinary adjournments of cases from one court day to another, of which notes or memoranda are made amongst the minutes of the proceedings of the court, do not require stamps, as they are not orders liable to stamp duty within the meaning of the statutes; but there sometimes arises, in the course of a case, a necessity for a special order, involving an adjournment and something else; and the law officers are of opinion that such special orders are liable to stamp duty.

(19). Such entries as "cases withdrawn," "settled," "no appearance," are not entries of orders, but memoranda of reasons why no order is made.

(20). In directing informations to be taken, a justice acts ministerially, and not judicially; there ought not, therefore, to be any stamp on the entry.

(21). The order for discharge of a prisoner amounts to a dismissal of the complaint, and should be so treated in the order book.

(22). *Deserters.*—On deserters' returns, under the Mutiny Act, the deposition (1*s.*), the entry of order (6*d.*), and the warrant of committal (6*d.*), ought all to be stamped, and thus the 2*s.* fee, mentioned in the Act, will be exhausted.

(23). If a person be arrested on suspicion of being a deserter, but from defect of evidence be not committed, no stamp is required on his discharge.

(24). *Attestation of Recruits.*—The attestation of a recruit is liable to stamp duty.

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(25). *Loan Funds.*—The provisions in the Loan Fund Act, 6 & 7 Vic., c. 91, as to the cost of forms of summons, warrants, &c., is virtually repealed by the 21 and 22 Vic., c. 100, s. 14; and such documents must have a stamp affixed to each.

(26). *Constabulary.*—The Constabulary should supply all the stamps to be used in cases prosecuted by them, whether for the summonses, &c., issued, or for the entries in the order book. On each stamped form used in such cases, one of the justices should indorse the words "Constabulary Prosecution."

(27). In all cases of prosecutions *at Petty Sessions* in the name of Town Commissioners, the *red* stamps should not be used, but the Commissioners or their Clerk should supply the stamps for such proceedings, which can be had from the Clerk of Petty Sessions.

(28). *Red* stamps are to be used in cases of prosecutions of suspected deserters.

Petroleum Act, 1871, 34 and 35 Vic., c. 105 (see also 42 and 43 Vic., c. 47), regulates the safe keeping, landing, labelling, storing, licensing, testing and searching for *petroleum* (as defined by Act).

The Act 44 and 45 Vic., c. 67, regulates the hawking of petroleum and other substances of a like nature.

The term "petroleum" includes any rock oil, Rangoon oil, Burmah oil, oil made from petroleum, coal schist, shale peats, or other bituminous substance, and any other product of petroleum, or any of the above-mentioned oils. The petroleum to which the Act applies means such petroleum as when tested gives off an inflammable vapour at a temperature of less than 73 degrees of Fahrenheits' thermometer.

[The law requires that petroleum shall not be kept except in pursuance of a license granted by the local authority (Town Council, Town Commissioners, or Justices in Petty Sessions); but it may be kept for private use or for sale, provided the following conditions are complied with:—

(1). That it is kept in separate glass, earthenware, or metal vessels, each of which contains not more than a pint, and is securely stoppered.

(2). That the aggregate amount kept, supposing the whole contents of the vessels to be in bulk, does not exceed three gallons.

To the license there may be annexed such conditions as to the mode of storage, the nature and the situation of the premises in

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which, and the nature of the goods with which such petroleum is to be stored, and generally as to the safe keeping of such petroleum, as may seem to be expedient to the local authority. Warrant to search for and seize petroleum illegally kept may be granted by Magistrates in Petty Sessions]

Piracy is taking a ship on the high seas or within the jurisdiction of the Lord High Admiral from the possession or control of those who are lawfully entitled to it, and carrying away the ship itself, or any of its goods, tackle, apparel, or furniture, under circumstances which would have amounted to robbery if the act had been done within the body of an English (or Irish) county, F.—(See 7 Will. IV., and 1 Vic., c. 88; 11 & 12 Vic., c. 7.)

Plate.—By 28 Geo. III., c. 49, s. 7.—Defacing names, crests, or arms, upon any watch, or upon any article of family plate, whether gold or silver, or employing any one so to do, without the consent of the owner in writing, or of some person duly authorized to sell the same, etc., unless such articles shall be fairly and openly sold by a reputable auctioneer at a public auction duly advertised, M.

Poaching Prevention Act, 25 and 26 Vic., c. 114.—S. 1. The word "game" in this Act shall for all the purposes of this Act be deemed to include any one or more hares, pheasants, partridges, eggs of pheasants and partridges, woodcocks, snipes, rabbits, grouse, black or moor game, and eggs of grouse, black or moor game.

S. 2. *Constables may search persons.*—It shall be lawful for any constable or peace officer in any county, borough, or place in *Great Britain* and *Ireland*, in any highway, street, or public place, to search any person whom he may have good cause to suspect of coming from any land where he shall have been unlawfully in search or pursuit of game, or any person aiding or abetting such person, and having in his possession any game unlawfully obtained, or any gun, part of gun, or nets or engines used for the killing or taking game, and also to stop and search any cart or other conveyance in or upon which such constable or peace officer shall have good cause to suspect that any such game or any such article or thing is being carried by any such person, and should there be found any game or any such article or thing as aforesaid upon such person, cart, or other conveyance, to seize and detain such game, article, or thing; and such constable or peace officer shall in such case apply to some justice of the peace for a summons

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citing such person to appear before two justices of the peace assembled in petty sessions, and if such person shall have obtained such game by unlawfully going on any land in search or pursuit of game, or shall have used any such article or thing as aforesaid for unlawfully killing or taking game, or shall have been accessory thereto, such person shall, on being convicted thereof, forfeit and pay any sum not exceeding £5, and shall forfeit such game, guns, parts of guns, nets, and engines, and the justices shall direct the same to be sold or destroyed, and the proceeds of such sale, with the amount of the penalty, to be paid to the treasurer of the county or borough where the conviction takes place; and no person who, by direction of a justice in writing, shall sell any game so seized shall be liable to any penalty for such sale; and if no conviction takes place, the game or any such article or thing as aforesaid, or the value thereof, shall be restored to the person from whom it had been seized.

[To justify a conviction for this offence four conditions must exist (1) The accused must be found in a highway, street, or public place; (2) the Constable must *have good ground to suspect* that he is coming from land where he has been unlawfully in search of game; (3) he must have in his possession some game unlawfully obtained, or a gun or part of a gun, or net or engine for killing or taking game; (4) the game must have been *found* on him, or in any cart or conveyance in his charge. The Constabulary have no duty to inquire whether parties have excise licenses or not, and they should not make such inquiry. Their duty is simply to search and summon persons who have been searching for, pursuing or killing game on lands where they have no leave to go; and whether such persons have an excise license or not, they are still exposed to the consequences of the law provided by this statute. The Constabulary need not point their suspicions to any particular land, as the place where such person was poaching, but may act on circumstances which afford reasonable grounds to suspect he was poaching somewhere. It is not necessary for a conviction to prove such person was poaching on any particular lands. The Act does not empower a Constable to take the person into custody, but the game, nets, or engines should be seized. A Constable has no authority under the Act to seize dogs or ferrets. It is not necessary in order to convict a number of defendants found together that a gun, net, game, etc, should be found on each of them.]

Poisoned Grain Prohibition Act, 1863, 26 and 27 Vic., c. 113, s. 2.—Offering, or exposing for sale, or selling any grain, seed, or meal, steeped or dipped in poison as thereby to render the same poisonous and calculated to destroy life, O.—S. 3. Person knowingly and wilfully sowing any such grain, or seed, O.

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Poisoned Flesh Prohibition Act, 1864, 27 and 28 Vic., c. 115, s. 2.—Knowingly and wilfully setting, laying or placing, upon any land any flesh or meats which has been mixed with or steeped in poison so as to render it poisonous, O. Provided that nothing shall prevent owner or occupier of land laying poison after a notice has been posted in a conspicuous place, and notice in writing has been given to the nearest Constabulary station.

Post Office Offences, 7 Will. IV., and 1 Vic., c. 32.—S. 25. Every person employed by or under the Post Office who shall contrary to his duty open or procure, or suffer to be opened, a post letter, or shall wilfully detain or delay, or procure or suffer to be detained or delayed, a post letter, M.—S. 26. Every person employed under the Post Office who shall steal, or shall for any purpose whatever embezzle, secrete, or destroy a post letter, F.—S. 27. To steal from or out of a post letter any chattel or money or valuable security, F.—S. 28. *To steal a post letter bag, or a post letter* from a post letter bag, or to steal a post letter from a post office, or from an officer of the Post Office, or from a mail, or to stop a mail with intent to rob or search the same, F. —S. 29. *To steal or unlawfully take away a post letter bag* sent by a post office packet, or to steal or unlawfully take a letter out of any such bag, or unlawfully to open any such bag, F.—S. 30. To *receive* any post letter or post letter bag, or any chattel or money or valuable security, the stealing or taking or embezzling or secreting whereof shall amount to a felony under the Post Office Acts, *knowing* the same to have been feloniously stolen, taken, embezzled, or secreted, and to have been sent or to have been intended to be sent by the post, F.—S. 31. Every person who shall fraudulently retain, or shall wilfully secrete or keep or detain, or being required to deliver up by an officer of the Post Office, shall neglect or refuse to deliver up a post letter which ought to have been delivered to any other person, or a post letter bag or post letter, which shall have been sent, whether the same shall have been found by the person secreting, keeping, or detaining, or neglecting or refusing to deliver up the same or by any other person, M.—S. 32. Person employed in the Post Office to steal, embezzle, secrete, destroy, or wilfully detain any printed paper sent by post, M.—S. 33. Forging the name or handwriting of the Receiver-General of Post Office, F.—S. 34. Forging franks on letters to avoid the payment of postage, F.—(See also 3 and 4 Vic., c. 96.)

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Amended by Penal Servitude Act 1891 Cir. 13 Jan 97

Prevention of Crimes Act, 1871 (34 and 35 Vic., c. 112; amended by 42 and 43 Vic., c. 55).—S. 3. *Convicts on license living dishonestly.* Any constable in any police district may, if authorized so to do in writing by the chief officer of police of that district, without warrant take into custody any convict who is the holder of a license granted under the Penal Servitude Acts, if it appears to such constable that such convict is getting his livelihood by dishonest means, and may bring him before a court of summary jurisdiction for adjudication. If it appears from the facts proved before such court that there are reasonable grounds for believing that the convict so brought before it is getting his livelihood by dishonest means, such convict shall be deemed to be guilty of an offence against this Act, and his license shall be forfeited.

S. 4. *Penalty on breach of conditions of license.*—Where in any license granted under the Penal Servitude Acts, any conditions different from or in addition to those contained in Schedule A of the Penal Servitude Act, 1864, are inserted, the holder of such license, if he breaks any such conditions by an act that is not of itself punishable, either upon indictment or upon summary conviction, shall be deemed guilty of an offence against this Act, and shall be liable to imprisonment for any period not exceeding three months, with or without hard labour.

S. 5. *Convict holding license to notify residence to police.*—Every holder of a license granted under the Penal Servitude Acts who is at large in Great Britain or Ireland shall notify the place of his residence to the chief officer of police of the district in which his residence is situated, and shall, whenever he changes such residence within the same police district, notify such change to the chief officer of police of that district, and whenever he changes his residence from one police district to another shall notify such change of residence to the chief officer of police of the police district which he is leaving, and to the chief officer of police of the police district into which he goes to reside; moreover, every male holder of such a license as aforesaid shall, once in each month, report himself at such time as may be prescribed by the chief officer of police of the district in which such holder may be, either to such chief officer himself or to such other person as that officer may direct, and such report may, according as such chief officer directs, be required to be made personally or by letter.

If any holder of a license who is at large in Great Britain or Ireland, remains in any place for forty-eight hours without notifying the place of his residence to the chief officer

person to whom this section applies

stating the address, his

whenever he arrives in any police district he shall forthwith notify his place of residence to the chief police officer of such district.

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of police of the district in which such place is situated, or fails to comply with the requisitions of this section on the occasion of any change of residence, or with the requisitions of this section as to reporting himself once in each month, he shall in every such case, unless he proves to the satisfaction of the court before whom he is tried that he did his best to act in conformity with the law, be guilty of an offence against this Act, and upon conviction thereof his license may in the discretion of the court be forfeited; or, if the term of penal servitude in respect of which his license was granted has expired at the date of his conviction, it shall be lawful for the court to sentence him to imprisonment, with or without hard labour, for a term not exceeding one year, or if the said term of penal servitude has not expired, but the remainder unexpired thereof is a lesser period than one year, then to sentence him to imprisonment, with or without hard labour, to commence at the expiration of the said term of penal servitude, for such a term as, together with the remainder unexpired of his said term of penal servitude, will not exceed one year.

S. 7. *Special offences by persons twice convicted of crime.*—Where any person is convicted on indictment of a crime, and a previous conviction of a crime is proved against him, he shall, at any time within seven years immediately after the expiration of the sentence passed on him for the last of such crimes be guilty of an offence against this Act, and be liable to imprisonment, with or without hard labour, for a term not exceeding one year, under the following circumstances or any of them:—

First. If, on his being charged by a constable with getting his livelihood by dishonest means, and being brought before a court of summary jurisdiction, it appears to such court that there are reasonable grounds for believing that the person so charged is getting his livelihood by dishonest means: or,

Secondly. If, on being charged with any offence punishable on indictment or summary conviction, and on being required by a court of summary jurisdiction to give his name and address, he refuses to do so, or gives a false name or a false address: or,

Thirdly. If he is found in any place, whether public or private, under such circumstances as to satisfy the court before whom he is brought that he was about to commit or to aid in the commission of any offence punishable on indictment or summary conviction, or was waiting for an opportunity to commit

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or aid in the commission of any offence punishable on indictment or summary conviction; or,

Fourthly. If he is found in or upon any dwelling-house, or any building, yard, or premises, being parcel of or attached to such dwelling-house, or in or upon any shop, warehouse, counting-house, or other place of business, or in any garden, orchard, pleasure ground, or nursery ground, or in any building or erection in any garden, orchard, pleasure ground, or nursery ground, without being able to account to the satisfaction of the court before whom he is brought for his being found on such premises.

Any person charged with being guilty of any offence against this Act mentioned in this section may be taken into custody as follows: (that is to say,)

In the case of any such offence against this Act as is first in this section mentioned, by any constable without warrant, if such constable is authorized so to do by the chief officer, of police of his district;

In the case of any such offence against this Act as is thirdly in this section mentioned, by any constable without warrant, although such constable is not specially authorized to take him into custody;

Also, where any person is charged with being guilty of an offence against this Act fourthly in this section mentioned, he may, without warrant, be apprehended by any constable, or by the owner or occupier of the property on which he is found, or by the servants of the owner or occupier, or by any other person authorized by the owner or occupier, and may be detained until he can be delivered into the custody of a constable.

S. 8. *Person twice convicted may be subjected to police supervision.*—Where any person is convicted on indictment of a crime, and a previous conviction of a crime is proved against him, the court having cognizance of such indictment may, in addition to any other punishment which it may award to him, direct that he is to be subject to the supervision of the police for a period of seven years, or such less period as the court may direct, commencing immediately after the expiration of the sentence passed on him for the last of such crimes.

Every person subject to the supervision of the police shall notify his residence, and report himself monthly to the chief officer of police in the same manner as required of convicts holding licenses, in section 5, under a penalty of imprison-

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ment, with or without hard labour, for any period not exceeding one year.

S. 10. *Publicans, etc., harbouring thieves, etc.*—Every person who occupies or keeps any lodging-house, beer-house, public-house, or other house or place where intoxicating liquors are sold, or any place of public entertainment or public resort, and knowingly lodges or knowingly harbours thieves or reputed thieves, or knowingly permits or knowingly suffers them to meet or assemble therein, or knowingly allows the deposit of goods therein having reasonable cause for believing them to be stolen, shall be guilty of an offence against this Act, penalty £10, or imprisonment not exceeding four months and hard labour, and to enter into recognizances with sureties, &c.

And any license for the sale of any intoxicating liquors, or for keeping any place of public entertainment or public resort, which has been granted to the occupier or keeper of any such house or place as aforesaid, may, in the discretion of the court, be forfeited on his first conviction of an offence under this section, and on his second conviction for such an offence his license shall be forfeited, and he shall be disqualified for a period of two years from receiving any such license; moreover, where two convictions under this section have taken place within a period of three years in respect of the same premises, whether the persons convicted were or were not the same, the court shall direct that for a term not exceeding one year from the date of the last of such convictions no such license as aforesaid shall be granted to any person whatever in respect of such premises; and any license granted in contravention of this section shall be void.

Any licensed person brought before a court in pursuance of this section shall produce his license for examination, and if such license is forfeited shall deliver it up altogether, under a penalty, on refusal, of not exceeding £5, &c.

S. 11. *Penalty on brothel-keepers harbouring thieves, etc.*—Every person who occupies or keeps a brothel, and knowingly lodges or knowingly harbours thieves or reputed thieves, or knowingly permits, or knowingly suffers them to meet or assemble therein, or knowingly allows the deposit of goods therein having reasonable cause for believing them to be stolen, shall be guilty of an offence against this Act, penalty £10, and recognizances with sureties may be required.

S. 12. *Assaults on the police.*—Where any person is convicted of an assault on any constable when in the execution

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of his duty, such person shall be guilty of an offence against this Act, and shall, in the discretion of the court, be liable either to pay a penalty not exceeding £20, and in default of payment to be imprisoned, with or without hard labour for a term not exceeding six months, or to be imprisoned for any term not exceeding six, or in case such person has been convicted of a similar assault within two years, nine months, with or without hard labour.

S. 13. *Dealers in old metals.*—Any dealer in old metals who either personally or by any servant or agent purchases, receives, or bargains for any metal mentioned in the first column of the schedule annexed hereto, whether new or old, in any quantity at one time of less weight than the quantity set opposite each such metal in the second column of the schedule annexed hereto, shall be guilty of an offence against this Act, penalty £5.

For the purposes of this section the term "dealer in old metals" shall mean any person dealing in, buying, and selling old metal, scrap metal, broken metal, or partly manufactured metal goods, or defaced or old metal goods, and whether such person deals in such articles only, or together with second-hand goods or marine stores.

S. 14. Where any woman is convicted of a crime and a previous conviction is proved against her, her children under the age of fourteen years who may be under her care at the time of conviction, and who have no visible means, or are without proper guardianship, may be sent to a certified industrial school by the court or by two justices.

S. 15. *Punishment of vagabonds.*—By 5 Geo. IV., c. 83, s. 4, it is provided that every suspected person or reputed thief frequenting any river, canal, or navigable stream, dock, or basin, or any quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, highway, or place adjacent, with intent to commit felony, shall be deemed a rogue and vagabond, and may be apprehended and committed to prison with hard labour for any time not exceeding three calendar months: And whereas doubts are entertained as to the construction of the said provision, and as to the nature of the evidence required to prove the intent to commit a felony: Be it enacted, firstly, the said section shall be construed as if instead of the words "highway or place adjacent" there were inserted the words "or any highway or any place adjacent to a street or highway;" and, secondly, that in proving the intent to commit a felony it shall not be necessary to show that the person suspected was guilty of any particular act or acts tending to show his purpose or intent,

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and he may be convicted if from the circumstances of the case, and from his known character as proved to the justice of the peace or court before whom or which he is brought, it appears to such justice or court that his intent was to commit a felony; and the provisions of the said section, as amended by this section, shall be in force in Scotland and Ireland. See page 327.

S. 16. *Power to search for stolen property.*—Any Constable may under the circumstances hereafter in this section mentioned be authorized in writing by a chief officer of police to enter, and if so authorized may enter any house, shop, warehouse, yard, or other premises in search of stolen property, and search and seize and secure any property he may believe to have been stolen, in the same manner as he would be authorized to do if he had a search warrant, and the property seized, if any, corresponded to the property described in such search warrant.

In every case in which any property is seized in pursuance of this section the person on whose premises it was at the time of seizure, or the person from which it was taken if other than the person on whose premises it was, shall, unless previously charged with receiving the same knowing it to have been stolen, be summoned before a court of summary jurisdiction to account for his possession of such property, and such court shall make such order respecting the disposal of such property, and may award such costs as the justice of the case may require.

It shall be lawful for any chief officer of police to give such authority as aforesaid in the following cases, or either of them:—

First. When the premises to be searched are, or within the preceding twelve months have been, in the occupation of any person who has been convicted of receiving stolen property or of harbouring thieves: or

Second. When the premises to be searched are in the occupation of any person who has been convicted of any offence involving fraud or dishonesty, and punishable by penal servitude or imprisonment:

And it shall not be necessary for such chief officer of police on giving such authority to specify any particular property, but he may give such authority if he has reason to believe generally that such premises are being made a receptacle for stolen goods.

S. 17. *Legal proceedings.*—In Ireland (except Dublin metropolis) "Court of Summary Jurisdiction" to consist of a stipendiary magistrate sitting alone or with others, or of any two or more justices sitting in petty sessions, and pro-

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ceedings to be taken in manner directed by "Petty Sessions (Ireland) Act, 1851."

Any person accused of an offence against this Act may be remanded from time to time by the court before whom he is brought for the purpose of enabling evidence to be obtained against him, or for any other just cause.

S. 18. *Evidence of previous conviction.*—A previous conviction may be proved in any legal proceeding whatever against any person by producing a record or extract of such conviction, and by giving proof of the identity of the person against whom the conviction is sought to be proved with the person appearing in the record or extract of conviction to have been convicted.

A record or extract of a conviction shall in the case of an indictable offence consist of a certificate containing the substance and effect only (omitting the formal part of the indictment and conviction), and purporting to be signed by the clerk of the court or other officer having the custody of the records of the court by which such conviction was made, or purporting to be signed by the deputy of such clerk or officer; and in the case of a summary conviction shall consist of a copy of such conviction purporting to be signed by any justice of the peace having jurisdiction over the offence in respect of which such conviction was made, or to be signed by the proper officer of the court by which such conviction was made, or by the clerk or other officer of any court to which such conviction has been returned.

A record or extract of any conviction made in pursuance of this section shall be admissible in evidence without proof of the signature or official character of the person appearing to have signed the same.

A previous conviction in any one part of the United Kingdom may be proved against a prisoner in any other part of the United Kingdom; and a conviction before the passing of this Act shall be admissible in the same manner as if it had taken place after the passing thereof.

A fee not exceeding 5*s.* may be charged for a record of a conviction given in pursuance of this section.

The mode of proving a previous conviction authorized by this section shall be in addition to and not in exclusion of any other authorized mode of proving such conviction

S. 19. *Evidence in cases of receiving stolen property.*—Where proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, evidence may be given at any stage of the proceedings that there was found in the possession of such person other property stolen within the preced-

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ing period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property to be stolen, which forms the subject of the proceedings taken against him.

Where proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, and evidence has been given that the stolen property has been found in his possession, then if such person has within five years immediately preceding been convicted of any offence involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings, and may be taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to have been stolen; provided that not less than seven days' notice in writing shall have been given to the person accused that proof is intended to be given of such previous conviction; and it shall not be necessary for the purposes of this section to charge in the indictment the previous conviction of the person so accused.

S. 20. *Definitions.*—The expression "crime" means any felony, or the offence of uttering false or counterfeit coin, or of possessing counterfeit gold or silver coin, or the offence of obtaining goods or money by false pretences, or the offence of conspiracy to defraud, or any misdemeanor under 24 and 25 Vic., c. 96, s. 58 (found at night armed or having housebreaking implements with intent to commit burglary).

The expression "offence" means any act or omission which is not a crime as defined by this Act, and is punishable on indictment, or summary conviction.

In Ireland:—

The expression "police district" means—

(1.) The police district of Dublin metropolis:

(2.) Elsewhere, any district, whether city, town, or county, over which is appointed a sub-inspector of the Royal Irish Constabulary.

The expression "chief officer of police" means—

(1.) In Dublin metropolis, either of the commissioners of police:

(2.) In any other police district, the sub-inspector of the Royal Irish Constabulary:

Any act or thing by this Act authorized to be done by the chief officer of police may be done by any person authorized by him in that behalf

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SCHEDULE referred to at sec. 13

COLUMN 1. List of Metals.	COLUMN 2. Quantities of not less than
Lead, or any composite the principal ingredient of which is lead,	112 lbs.
Copper, or any composite the principal ingredient of which is copper,	56 lbs.
Brass, or any composite the principal ingredient of which is brass,	56 lbs.
Tin, or any composite the principal ingredient of which is tin,	56 lbs.
Pewter, or any composite the principal ingredient of which is pewter,	56 lbs.
German silver or spelter, or any composite the principal ingredient of which is German silver or spelter,	56 lbs.

Prevention of Crimes Act, 1879, 42 and 43 Vic., c. 55 (amending secs. 5 and 8 of 34 and 35 Vic., c. 112). S. 2 referring to sections 5 and 8 of the Prevention of Crimes Act, 1871, enacts:—

Any holder of a license required under section five, and any person subject to the supervision of the police required under section eight of the Prevention of Crimes Act, 1871, to notify his residence or any change of his residence to a chief officer of police shall comply with such requirement by personally presenting himself and declaring his place of residence to the constable or person who at the time when such notification is made is in charge of the police station or office of which notice has been given to such holder or person as the place for receiving his notification, or if no such notice has been given, in charge of the chief office of such chief officer of police.

The power of the chief officer of a police district to direct that the reports required by sections five and eight of the Prevention of Crimes Act, 1871, to be made by holders of licenses and persons subject to the supervision of the police shall be made to some other person, shall extend to authorize him to direct such reports to be made to the constable or person in charge of any particular police station or office without naming the individual person.

Any appointment, direction, or authority purporting to be signed by the chief officer of police, and to have been made or given for the purposes of this Act, or of sections 5 and 8 of P. of C. Act, 1871, or one of them, shall be evidence until the contrary is proved, that the appointment, direction, or authority thereby made or given, was duly

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made or given by the chief officer of police, and evidence that it appears from the records kept by authority of the chief officer of police that a person required as above mentioned to notify his residence, or change of residence, or make a report, has failed to comply with such requirements, shall be *prima facie* evidence that the person has not complied with such requirement, but if the person charged alleges that he made such notification or report to any particular person, or at any particular time, the court shall require the attendance of such person as may be necessary to prove the truth or falsehood of such allegation.

Prevention of Cruelty to Children Act.—See page 463.

Prison Breach.—Where a person is in custody on a charge of treason or felony and effects his escape by force, the offence is a felony at common law; where he is in custody on a minor charge, it is a misdemeanor. Upon a prosecution for prison breach the prosecutor must prove (1) the nature of the offence for which the prisoner was imprisoned; (2) the imprisonment and the nature of the prison; and (3) the breaking of the prison.

The imprisonment must be a lawful imprisonment. An actual breaking of the prison with force and not merely a constructive breaking must be proved. No breach of prison will amount to felony unless the prisoner actually escape.

Prisons (Ireland) Act, 1877 (40 and 41 Vic., c. 49). S. 49. *Removal of prisoners for trial.*—A prisoner may be brought up in cases of adjournments and remands, and for trial, and may be removed from any one prison to another to which such prisoner may be legally removed for the purpose of being tried or undergoing his sentence, by or under the direction of the governor or keeper of such prison, or any member of the Constabulary Force, or of the Dublin Metropolitan Police, duly authorized by such governor or keeper, and no prisoner whilst in custody of any such governor or keeper, or any member of the Constabulary or Metropolitan Police Force dule authorized by such governor or keeper, shall be deemed to have escaped, although he may be taken into different jurisdictions, or different places of confinement.

[In every case of such removal a *written* authority signed by the governor of the gaol should be given to the officer or constable in charge of the escort, authorizing him to remove the prisoner from the gaol to the place to which the latter is to be transferred.]

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Prisoners—*Expenses incurred in conveyance of*—14 and 15 Vic., c. 85, s. 4.—In every case where any expenses shall have been actually incurred or shall be proper to be incurred by any County Inspector, Sub-Inspector, Head or other Constable, gaoler, bridewell keeper, or other person in conveying any prisoner to or from any county gaol or bridewell or house of correction, or other place, or for examination before any justice or coroner in Ireland, or to or from any assizes or sessions or other place in Ireland, or from any county gaol or bridewell or other place to a district lunatic asylum in Ireland, or in the pursuit of any person charged with the commission of any offence in any part of Ireland, to whatever place in the United Kingdom of England, Ireland, and Scotland, or elsewhere, he may have escaped, or to which there shall be reasonable and probable grounds for supposing he has escaped, or in the conveyance of any witnesses for examination before a justice or coroner, or to any assizes or quarter sessions, or in the conveyance of any stolen property to any assizes or sessions by order of any justice or other lawful authority, or in attending at any assizes or sessions out of his proper county to prosecute any offence committed within the county where he shall so attend for such purpose, it shall be lawful for the justices or other authority before whom any such prisoner or witness shall be taken, or under whose authority any such officer, Constable, or other person shall have acted, or for any justice of the county or place wherein the offence shall be charged to have been committed, to deliver to such officer, Constable, or other person a certificate in writing that he is entitled to his expenses to such extent as such justice shall think reasonable and necessary, and also to his expense of returning again; and all such expenses, as aforesaid shall be defrayed by the Sub-Inspector of Constabulary of the county and district in which the offence shall be charged to have been committed, or from which (in the case of a lunatic) such lunatic shall have been so conveyed, out of any funds in his hands applicable to the maintenance of the said Constabulary Force, etc.

[By the "General Prisons (Ireland) Act, 1877," such expenses are repaid to the Constabulary by the Grand Jury.]

Prize-fight.—Combatants at a prize fight are each guilty of an assault upon the other. A sparring match with boxing gloves is no assault, as the parties consent to receive the moderate blows given, but if

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men agree to damage each other consent is immaterial. An assembly of persons to witness a prize-fight is an unlawful assembly, and every one present and countenancing the fight is guilty of a misdemeanor. If death ensues it is manslaughter: seconds and others who encourage and remain during the fight are equally guilty of manslaughter. Mr. Justice Bayly gives the following advice for suppressing prize-fights:—"My advice to Magistrates and Constables is, in cases where they have information of a fight, to secure the combatants beforehand, and to take them to a Magistrate, who ought to compel them to enter into securities to keep the peace till the next Assizes or Sessions, and if they will not enter into such security to commit them to prison."

Probation of First Offenders Act, 1887, 50 & 51 Vic., c. 25.

S. 1. (1) In any case in which a person is convicted of larceny or false pretences, or any other offence punishable with not more than two years imprisonment before any court, and no previous conviction is proved against him, if it appears to the court before whom he is convicted that regard being had to the youth, character, and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances, it is expedient offender be released on probation of good conduct, court may direct that he be released on his entering into recognizance with or without sureties, and during such period as the court may direct, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour. (2). The Court may direct offender to pay the costs of the prosecution.

S. 2. (1). If court is satisfied that the offender has failed to observe conditions of recognizance it may issue a warrant for his apprehension. (2). Offender when apprehended may be remanded or admitted to bail to appear for judgment. (3). Or may be committed to prison.

S. 4. In this Act the term "court" includes a court of summary jurisdiction.

Public Health (Ireland) Act, 1878, 41 & 42 Vic., c. 52.—Ss. 3, 4, & 6. For the purposes of this Act Ireland is divided into sanitary districts called respectively (1) urban sanitary districts, and (2) rural sanitary districts;

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and every such urban and rural sanitary district respectively is subject to the jurisdiction of a sanitary authority called an urban sanitary authority and a rural sanitary authority. The urban sanitary authority in town corporations, is the mayor, alderman, and burgess, acting by the town council; and in towns having commissioners appointed under statute—the municipal town, or township commissioners. The area of every poor law union, with the exceptions of those portions (if any) which are included in urban sanitary districts forms a rural sanitary district, and the guardians of the union are, as such, the rural sanitary authority of such district.

S. 107. *Definition of nuisances*:—

1. Any premises in such a state as to be a nuisance or injurious to health:
2. Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit so foul or in such a state as to be a nuisance or injurious to health:
3. Any animal so kept as to be a nuisance or injurious to health:
4. Any accumulation or deposit which is a nuisance or injurious to health:
5. Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family:
6. Any factory, workshop, or workplace not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed:
7. Any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, or gaswork, or in any manufacturing or trade process whatsoever; and any chimney (not being the chimney of a private dwelling house) sending forth black smoke in such quantity as to be a nuisance.

S. 108. It shall be the duty of every sanitary authority to cause to be made from time to time inspection of their district, with a view to ascertain what nuisances exist

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calling for abatement under the powers of this Act, and to enforce the provisions of this Act in order to abate the same, &c.

S. 109. *Constable may give information of a nuisance.*—Information of any nuisance under this Act in the district of any sanitary authority may be given to such sanitary authority by any person aggrieved thereby, or by any two inhabitant householders of such district, or by any officer of such authority, or by the relieving officer, or by any Constable or officer of the police force of such district.

S. 110. On receipt of the information sanitary authority shall serve notice requiring abatement of nuisance.

S. 111. On non-compliance with notice sanitary authority shall cause a complaint to be made before a justice who shall issue summons.

S. 112. If satisfied alleged nuisance exists, Court shall make order requiring compliance with notice or otherwise to abate the nuisance within a time specified, &c., and may impose penalty of £5.

S. 121. *Constable may be authorized to examine premises, etc.*—Complaint may be made to a justice of the existence of a nuisance under this Act on any premises within the district of any sanitary authority by any person aggrieved thereby, or by any inhabitant of such district, or by any owner of premises within such district and thereupon the like proceedings shall be had, &c., as in the case of a complaint relating to a nuisance made to a justice by the sanitary authority, provided that the Court may adjourn the hearing of the summons for an examination of the premises, and may authorize the entry into such premises of any Constable or other person for the purposes of such examination: Court may authorize any Constable, or other person, to do all necessary acts for executing an order under this section, and recover expenses. Any Constable, or other person, authorized under this section shall have the like power, as if he were an officer of the sanitary authority authorized to enter any premises, &c.

S. 122. *Officer of Constabulary to proceed in certain cases against nuisances.*—Where it is proved to the satisfaction of the Local Government Board that a sanitary authority have made default in doing their duty in relation to nuisances under this Act, the Local Government Board may authorize any officer of Police or Constabulary acting within the district of the defaulting authority to institute any proceeding which the defaulting authority might institute with respect to such nuisances, and such officer may recover . . . . . any expenses incurred by him, and not paid by the person pro-

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ceeded against from the defaulting authority. But such officer of Police or Constabulary shall not be at liberty to enter any house or part of a house used as the dwelling of any person without such person's consent, or without the warrant of a justice, for the purposes of carrying into effect this enactment.

S. 126. For the purpose of provisions relating to nuisance, any ship or vessel lying in any river or harbour, or other water within the district of a sanitary authority shall be subject to jurisdiction, as if it were a house within such district, and master in charge shall be deemed the occupier.

S. 132. Medical officer of health may inspect and examine any meat, flesh, fish, milk, water, &c., for sale.

S. 133. Justice may order destruction of unsound meat, &c.

S. 135. Upon oath of sanitary officer, justice may grant warrant to such officer to search for unsound meat, &c., and carry away same.

S. 140. Every sanitary authority shall maintain a carriage suitable for conveyance of persons suffering under infectious disorder, and pay expense of conveying to hospital, and keep such carriage disinfected.

S. 141. *Removal of infected persons to hospital.*—Where any suitable hospital or place for the reception of the sick is provided within the district of a sanitary authority, or within a convenient distance of such district, any person who is suffering from any dangerous infectious disorder, and is without proper lodging or accommodation, or lodged in a room occupied by other persons not so suffering, or is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed by order of any justice, to such hospital or place at the cost of the sanitary authority; and any person so suffering who is lodged in any common lodging-house may, with the like consent and on a like certificate, be so removed by order of the sanitary authority. An order under this section may be addressed to such Constable or Officer of the sanitary authority as the justice or the sanitary authority making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding £10.

[*Duty of Constabulary.*—When, pursuant to this provision of the law, a justice addresses an order to the Constabulary, directing the removal of a person suffering from a dangerous infectious disorder, it is their duty to carry it out. As, however, the removal is to be effected at the cost of the sanitary authority, the Constable or

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other member of the Force to whom the order is addressed, should request the sanitary authority to supply a suitable conveyance, and should not act on the order until such conveyance is supplied.]

S. 142. *Exposure of infected persons and things.*—Any person who (1) while suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering; or (2) being in charge of any person so suffering, so exposes such sufferer; or (3) gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from any such disorder; or (4) exposes or conveys without proper precaution the body of any person who has died of any dangerous infectious disorder; or (5) wakes, or permits to be waked, in any house, room, or place over which he has control, the body of any person who has died of any dangerous infectious disorder, shall be liable to a penalty not exceeding £5; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, may be summarily ejected therefrom, and shall in addition be ordered by the court to pay such owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance. Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having the same disinfected.

[*Duties of the Constabulary*—Every member of the Force is required to notify to the clerk of the sanitary authority any violation of the above five provisions that comes to his notice. Any member of the Force who learns that it is intended to wake in any house within his district the body of a person who has died of a dangerous infectious disorder, in contravention of the provisions of this section, should at once warn the occupiers of such house of the illegality of such wake, and of the penalty to which a person permitting it is liable. If, notwithstanding this warning, the wake is held, the Constable should at once notify the fact to the clerk of the sanitary authority of the district within which the house is situated, with a view to such sanitary authority taking the necessary proceedings to enforce the penalty.]

S. 143. Owner or driver of public conveyance which has conveyed persons suffering from infectious disorder or infectious things failing to disinfect conveyance immediately, P. £5.

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S. 144. Person letting house or room, in which any person has been suffering from any dangerous infectious disorder, without having such house, etc., disinfected, P. £20. Provision applies to keeper of an inn or school.

S. 146. Any person sending a child to school who within three months has been suffering from any dangerous infectious disorder, or who has resided in any house where such disorder has existed within six weeks without medical certificate and disinfection of clothes, P. 40*s*.

S. 147. Justice may make an order for the vaccination of any child under fourteen years who has not been successfully vaccinated.

S. 158. *Removal and burial of dead body.*—Where the body of one who has died of any infectious disease is retained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the health of the inmates of the same house or room, is retained in such house or room, any justice may, on a certificate signed by medical practitioner whose fee for giving certificate shall be one guinea to be paid by sanitary authority, order the body to be removed, at the cost of the sanitary authority, to any mortuary provided by such authority, and direct the same to be buried within a time to be limited in such order; and unless the friends or relatives of the deceased undertake to bury the body within the time so limited and do bury the same, it shall be the duty of the relieving officer to bury such body at the expense of the poor rate. Person obstructing liable to, P. £5.

S. 170. No corpse to be buried in private grave without consent in writing of relation of member of family last interred.

S. 171. No animal shall be allowed to graze or to be within the limits of any burial ground having a sufficient fence.

Public-house License.—The public-house license is the license granted to "inns, ale-houses, or victualling-houses," for the sale of beer, and other intoxicating liquors in any quantity, to be consumed *on* or *off* the premises (6 Geo. IV., c. 81, 3 and 4 Wm. IV., c. 68). The license expires on the 10th of October in each year.

There are four kinds of publicans licenses now obtainable in Ireland:—1. The ordinary or seven-day license (3 and 4 Wm. IV., c. 68, sec. 2). 2. The six-day license (Act of 1872, sec. 49). 3. The early-

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closing license (Act of 1874, sec. 2). 4. The six-day and early closing license (Act of 1874, sec. 3). They are all issued by the excise authorities upon the production of a certificate granted by the recorder or magistrates at quarter sessions, and signed by the clerk of the peace. When such quarter sessions are not the "annual licensing quarter sessions" the certificate of grant will have force only till "the annual licensing quarter sessions," when the certificate will have to be confirmed. The Michaelmas quarter sessions in each year is constituted "the annual licensing quarter sessions."

Mode in which a publican's license is obtained.—Every person who shall not have been licensed in the preceding year to sell beer, cider, or spirits to be consumed in the house where sold, and who shall intend to apply for such excise license (whether it be a new license or the transfer of an existing one), shall twenty-one days at least before the first day of the quarter sessions, to be held for the district within which the house of the applicant shall be situate, give or cause to be given (1) to each of the two next local magistrates, (2) to the clerk of the peace for the county or county of a city, or county of a town in which the house is situate, and (3) to the District Inspector of the district in which he resides, or in his absence, to the Head Constable, or if in the Dublin Metropolitan Police District, to the Superintendent of the Division in which such person resides, a notice in writing signed by such person stating his intention to make such application; and setting forth *the situation and place of his house*, as well in respect to the road or highway on or adjacent to which it lies, or otherwise, in a true and particular manner, specifying the town, townland, parish, barony, half-barony, and if in a city or town, the street, square, lane, or other description of place, together with the number of such house, if it shall have been numbered; and also *the place of abode of such person* (3 & 4 Wm. IV., c. 68, sec. 2; 17 & 18 Vic. c. 89, sec. 9); (4) he "shall on some day not more than four and not less than two weeks before the

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intended application is to be heard, cause to be inserted or advertised in some paper circulating in the place in which such premises are situate, a notice conformable to the requirements" above-mentioned (Act of 1874, sec. 10).

Upon a certain day and hour during the quarter sessions the names of such applicants, together with their places of abode, shall be called aloud in alphabetical order in open court by the officer of the court, and proclamation made of each application, and demand made whether any one has or knows of any objection to or why such application should not be allowed or licence granted (3 & 4 Wm. IV., c. 68, s. 3).

Objections to granting of license, how made.—Any justice of the peace of such city, town, or county, or an inhabitant of the parish, may previously transmit or then and there deliver in writing to the clerk of the peace, or orally state to the justices in sessions assembled, "any matter or objection to such application, whether grounded upon (1) *the character, misconduct, or unfitness of the applicant;* (2) *unfitness or inconvenience of the house or place; or* (3) *number of previously licensed houses in the neighbourhood;*" and if any such objection shall be so transmitted or made, an entry thereof shall then be recorded by the clerk of the peace (3 & 4 Wm. IV., c. 68, sec. 4). The District Inspector of the district, or in his absence the Head Constable, or if in the Dublin Metropolitan Police District, the Superintendent of Police of the Division, may object to such certificate before the justices at the quarter sessions, or recorder. And the justices or recorder shall then or at some other convenient time to be appointed, proceed to consider and adjudicate upon the objections made, and for that purpose to examine on oath such applicant or other person as they deem fit—they may require the applicant to answer whether he belongs to any unlawful society or not, and if satisfied of the truth and sufficiency of such objection, they shall by order in writing to be duly entered by the clerk of the peace, prohibit such license to be issued, and therein declare

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the reason or ground of such prohibition (3 & 4 Wm. IV., sec. 4, and 17 & 18 Vic., c. 89, sec. 10). Subject to the necessity of hearing evidence, the magistrates have a judicial discretion to grant or refuse their certificate for the license, and there is no appeal from their decision. If the magistrates decide that the applicant should receive a license, a certificate is furnished to him signed by the clerk of the peace. Upon presenting this certificate, and payment of the license duty to the proper officer of excise for the district, the license is thereon granted (3 & 4 Wm. IV., c. 68, sec. 6).

By 3 and 4 Wm. IV., c. 68. s. 13, no distiller, brewer, rectifier, or compounder of spirits, bailiff, gaoler, turnkey, constable, sheriff, sub-sheriff, sheriff's officer, peace officer, or keeper of any turnpike gate, nor any person not being a householder shall be capable of receiving or holding a publican's license.

Renewal of license.—The license remains in force only one year, and must be renewed on its expiration (10th October). The renewal of the license (if it has not been withdrawn or annulled) is granted to the same person, and for the same house, by the Collector of Inland Revenue upon the production of two certificates *to the good character of the applicant, and to the peaceable and orderly manner in which the house has been conducted in the past year*—one signed by six householders of the parish (two of them being residents of the same or next adjoining townland, or street if in a city or town, in which the applicant resides); the other signed by two or more magistrates, presiding at the petty sessions (or, if in Dublin, by a divisional justice) of the district in which such person resides (3 & 4 Wm. IV., c. 68, s. 1; 17 & 18 Vic., c. 89, s. 11). The applicant for the magistrates' certificate for renewal of license need not attend in person at the petty sessions court unless he is required by the justices or police authority (that is, in Dublin metropolis either of the Commissioners of Police, and elsewhere the District Inspector of the Constabulary district), so to attend, for some special cause personal to himself. The justices are not to entertain any

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objection or receive any evidence in respect to the signing of the certificate unless *a written notice of intention to oppose be served on the publican not later than seven days before the sessions*, stating in general terms the grounds on which the renewal is opposed. The justices may, notwithstanding that no notice of objection has been served, if objection is made in court, adjourn the signing to a future day, and require the attendance of the applicant. No evidence, with respect to the signing of such certificate, is to be received which is not given on oath in open court (Act, 1874, s. 14). Should the magistrates refuse the renewal certificate the applicant may appeal to the next quarter sessions or Recorder's Court. The license shall remain in full force and effect unless and until the Court of Quarter Sessions or Recorder shall confirm the order of refusal (18 & 19 Vic., c. 62).

Transfer of License.—Upon the *death* of the publican, or upon his *removal* from the licensed house, or upon the *sale or assignment* of his interest, the magistrates of the district, city, or town within which such licensed house or premises shall be situated, assembled at petty sessions (or, if in Dublin, a divisional justice), at any time when no quarter sessions shall be held for such place—*if they shall think proper so to do, after examining on oath all necessary parties*—may transfer by indorsement the license then in force, to any person not disqualified by law to carry on the business of publican, at the same house and on the same premises, until the quarter sessions next after the expiration of one calendar month from the time of such transfer, and no longer (18 & 19 Vic., c. 114). When such quarter sessions is not the annual licensing quarter sessions, the transfer may be continued by the certificate of the magistrates at such quarter sessions, which shall only continue in force until the annual licensing quarter sessions, unless at the latter sessions such certificate shall be confirmed. If the certificate be not confirmed at the annual licensing quarter sessions, the excise license granted in pursuance thereof shall not be renewed (Act, 1874, sec. 12). The procedure and

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formalities on application at the quarter sessions for a transfer are the same as in the case of an application for a new license.

Railways.—By 3 & 4 Vic., c. 97, s. 13 (see also 5 & 6 Vic., c. 55, s. 17).—Any officer or agent of a railway company, and all persons, as they may call to their assistance, may seize and detain any servant in the employ of such company who shall be found drunk while employed on the railway, or commit any offence against the regulations of such company, or shall wilfully or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon the railway shall be or might be injured, or whereby the passage of any of the engines or carriages might be obstructed or impeded, and convey such servant or person aiding him in such offence before some justice (who, upon complaint on oath, can act summarily); offender on conviction may be fined £10, or impd., not exc. 2 months.

S. 16. If any person shall wilfully obstruct or impede any officer or agent of any railway company in the execution of his duty upon any railway, or if any person shall *wilfully trespass* upon any railway, and shall refuse to quit the same upon request; every person so offending, and all others aiding, may be seized and detained by any such officer, etc., or any person whom he may call to his assistance, until such offender can be taken before a justice (who, upon complaint on oath, can act summarily): offender, on conviction, may be fined £5, or impd. not exc. two months.

Rape. F. (24 & 25 Vic., c. 100, s. 48). *Rape is the carnal knowledge of a female forcibly against her will.*—Carnal knowledge means the penetration to any the slightest degree of the organ known by the male organ of generation.—All who are present aiding and assisting a man to commit a rape are principal offenders, whether they be men or women. A male under fourteen is presumed by law incapable of committing a rape, but he may be committed of an assault or of aiding and abetting another in the commission of a rape. A husband cannot be guilty of a rape upon his wife, but he may be guilty as principal by assisting

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another person to commit a rape upon his wife; and she is a competent witness against him. The offence may be committed though the woman at last yielded to the violence, if her consent was forced by fear of death. Nor is it any excuse that she consented after the fact, or that she was a common strumpet. The carnal knowledge shall be deemed complete on proof of penetration. The following circumstances *support the testimony* of the woman ravished:—Her credibility, good fame, marks of violence on her person, discovering the offence without delay and looking for the offender, if party accused has fled. The following circumstances weaken her testimony:—Evil fame, concealing the injury, if place of offence was where she might have been heard and she made no outcry. The constable should arrest the person charged, and bring him and the woman before a magistrate; and also without delay, *if she consent*, have her person examined by a doctor. See Criminal Law Amendment Act, page 78.

Recognizances, putting under.—The punishment of putting under recognizances consists in ordering the offender to promise to pay to her Majesty a sum of money, expressed in the recognizance, if he breaks the condition thereof, and to find other persons to make a similar promise on his behalf, and as his sureties. In cases in which the court or magistrate is authorized to require such securities, they may direct the offender to be imprisoned till he enters into the recognizance and finds the sureties. The imprisonment should be for a limited period. See "*Sureties of the Peace*," page 314.

Refreshment-house and Wine License.

(23 & 24 Vic., c. 107.)

A refreshment-house is a house, room, shop, or building kept open for public refreshment, resort, and entertainment at any time between 10 P.M. and 7 A.M., not being licensed for the sale of beer, cider, wine, or spirits, respectively. If situated in any town containing a population over 10,000 an excise license must be

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taken out for such refreshment-house, which is granted without a justice's certificate; when the population is 10,000 and under, no licence is required to keep a refreshment-house (23 & 24 Vic., c. 107, sec. 6.)

License to sell Wine in Refreshment-house.—If any person licensed to keep a refreshment-house desires to sell foreign wine by retail to be consumed on the premises, he is required to fill up and sign a requisition for such license in a form provided by the Commissioners of Inland Revenue, specifying therein (1) his true Christian and surname; (2) his place of abode; (3) the description and situation of the house for which the license is required; (4) the net annual value of such house according to the last Poor Law valuation. The requisition, together with two copies, are to be delivered to the supervisor of excise for the district in which such refreshment-house is situated, who is required to deliver or transmit by post one of such copies, together with a notice (to be subsequently mentioned) to the district inspector of constabulary of the district, or in his absence to the head constable, and the other copy to the clerk of petty sessions for the district within which such refreshment-house is situated; or if such refreshment-house is situated within the police district of Dublin Metropolis, the supervisor of excise shall deliver or transmit by post one copy, together with notice, to the superintendent of police for the division in which such refreshment-house is situated, and the other copy to the clerk of the divisional justices. And each copy shall be accompanied by a notice to such district inspector and justices, signed by the supervisor, to the effect that a license to retail wine will be granted pursuant to the requisition on or immediately after a day to be specified in such notice, not less than *thirty days* from the day of the delivery or transmission of the same, *unless* in the meantime notice in writing, signed by a justice or justices in petty sessions, or by a divisional justice or justices as the case may be, shall be received by the supervisor to the effect that the justices object to the granting of the said wine license on one or more of the following grounds (sec. 13).

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Grounds of objection to the granting of the License.—The grounds upon which the justices can object to the grant of the license are one or more of the following, which should be specified in the *caveat*:—(1) That the house for which the license is required is not a confectioner's shop or an eating house within the meaning of the Act; (2) or not of the annual value required by the Act (*i.e.* £15 a year in any town, &c., with a population over 10,000, and £8 a year elsewhere, s. 8); (3) or that it is a disorderly house or a house frequented by prostitutes or other disorderly persons; (4) or that it is adjudged disqualified for the sale of wine therein; (5) or that the applicant is a member of an unlawful society; (6) or is disqualified from selling wine under the provisions of the Act specifying the grounds of such disqualification; (7) or that the applicant has within three years been convicted of any offence punishable by imprisonment; (8) or that the applicant having within three years held a license to keep a common inn, ale-house, or victualling-house, or being licensed as a spirit grocer has forfeited or been refused a renewal of such license (s. 13).

Constabulary Officer or Superintendent of Police may object.—The district inspector of the district, or in his absence the head constable, or if in the police district of Dublin Metropolis the Superintendent of police of the division, is authorized to object to the granting of such wine license before the justices at petty sessions, or any divisional justice, on one or more of the grounds before mentioned (s. 14).

Justices to adjudicate upon the objection.—The justice or justices shall then or at some other convenient time proceed to consider, examine on oath into, and adjudicate upon the truth, sufficiency, and validity of any such objection, and if satisfied of the validity of such objection he or they shall, by order in writing to be duly entered by the clerk, refuse to allow such license to be issued, and therein declare the grounds of such refusal. It is provided, however, that no such notice of objection shall be signed by the justices until after

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they shall have summoned the applicant for the license to show cause, and shall have heard him against the objection to the granting of the license, or he shall have refused or neglected to attend before them pursuant to such summons, *and such summons shall specify the grounds of objection.* Pending their decision upon the objection, the justices before the expiration of the thirty days may transmit to the supervisor a notice or caveat against the granting of the license, and in that case the license shall not be granted if within the further period of thirty days from the receipt of such caveat the objection to the granting of the license shall be affirmed by the justices and notice thereof given to the supervisor (s. 14).

License refused or granted.—If such notice of objection shall be received by the supervisor within the time limited, the said license shall not be granted, but if otherwise, and no caveat be received by the supervisor, then such license shall be granted on payment of the duty by the Act charged thereon, provided the applicant shall be entitled to the license in other respects (sec. 13).

Appeal to Quarter Sessions.—If any person shall feel aggrieved by the justices' order of refusal, he may appeal against the same to the quarter sessions of the division within which such person shall reside, or if in the police district of Dublin Metropolis to the recorder of the city of Dublin at the quarter sessions held next after the order shall have been made.

Excise provisions.—Before a license to sell wine to be consumed on the premises can be granted by the excise authorities, a refreshment-house license must have been previously taken out by the applicant for the same premises (sec. 7), such license to retail wine authorizes also the sale and consumption on the premises of sweets and made wines (26 and 27 Vic., c. 33, sec. 18).

23 *and* 24 *Vic., c.* 107.

S. 4. Every sale of foreign wine in any less quantity than two gallons, or in less than one dozen reputed quart bottles, at one time, shall be deemed to be a selling by retail.

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S. 5. Person licensed to sell wine not to be consumed on premises, permitting drinking in a neighbouring house, shed, etc., with intent to evade the provisions of this Act, such wine shall be deemed to have been drunk on the premises.

S. 20. *Constables empowered to visit licensed refreshment-houses.*—It shall be lawful for any inspector, or superintendent, or sergeant of police, or for any county inspector, sub-inspector, head or other constable, when and so often as he or they shall respectively think proper, to enter at any time between the hours of nine at night and seven in the morning into all houses licensed as refreshment-houses under the authority of this Act, and into and upon the premises belonging thereto; licensed person refusing admittance is liable to a penalty.

S. 21. Every person who shall sell wine by retail whether to be consumed on the premises or not, without a proper license shall forfeit £20.

S. 24. Person convicted of felony or of selling spirits without license for ever disqualified from selling wine by retail; existing wine license to be void after holder so convicted.

S. 26. *Constables empowered to enter the premises of wine retailers.*—It shall be lawful for any officer of excise, or for any inspector of constabulary, superintendent of police, head or other constable, during the hours in which any house licensed for the retail of wine to be consumed on the premises may be kept open, to enter into every house, cellar, room, or place used for the storing, keeping, or retailing of wine to be consumed as aforesaid, and to make search for and seize all spirits which may be found in any such house, cellar, room, and place, and to examine all wine kept therein.

S. 31. *Wine retailers permitting drunkenness.*—Every person licensed under this Act to sell wine by retail who shall permit any person to be guilty of drunkenness or other disorderly conduct in the house or premises mentioned in such license, or who shall himself be guilty of any such disorderly conduct, shall for every such offence forfeit a penalty; and every person who shall transgress or neglect, or shall be a party in transgressing or neglecting the conditions and provisions specified in such license, or shall allow such conditions or provisions to be in any way transgressed or neglected in the said house or premises shall be deemed guilty of disorderly conduct; and every person so licensed who shall permit or be guilty of any such disorderly conduct shall forfeit a penalty.

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S. 41. *Harbouring Constables while on duty.*—Any person licensed to sell wine, spirits, beer, cider or any other fermented or distilled liquor by retail to be drunk or consumed on the premises who knowingly harbours or entertains, or suffers to remain in the place wherein he carries on his business, any Constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order shall be liable to a penalty not exceeding 20*s.*

Reformatory Schools Act, 1868.—31 & 32 Vic., c. 59. S. 12. Whenever any person shall be convicted of any offence punishable with penal servitude or imprisonment before any judge or magistrate whose age shall not in the opinion of the Court, exceed the age of sixteen years, the Court may in addition to the sentence then passed direct such offender to be sent, at the expiration of such sentence to some certified reformatory school, and to be there detained for a period of not less than two years, and not exceeding five years; provided that no offender shall be directed to be so sent unless the sentence passed shall be one of imprisonment for fourteen days at the least. S. 23. In every case of such sentence the parent or step-parent of the offender shall, if of sufficient ability, be liable to contribute to his maintenance a sum not exceeding 5*s.* a week.

Reformatory Schools Act, 1893,—(56 & 57 Vic., c. 48) provides for commitment of offenders between twelve and sixteen years of age to Reformatory Schools and for the remanding of such offenders.

Rescue.—Rescue is the act of forcibly freeing a person from custody against the will of those who have him in custody. If the person rescued is in the custody of a private person, the offender must have notice of the fact that the person rescued is in such custody. The offence of rescue nearly resembles that of prison breach. At common law, where the party rescued is imprisoned on a charge of felony, the rescuing is felony also. Where the offence of the former is a misdemeanour, that of the latter will be a misdemeanour also. To make the offence of rescuing a party a felony, it must appear that he was in custody for felony, or suspicion of felony, but it is immaterial whether he was in the custody of a private person, or of a Constable, or under a warrant of justice, for where the arrest of a felon is lawful, the rescue of him is

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felony. By 4 Geo. I., c. 5 (Ir.) s. 1, rescuing a distress for rent or any part thereof, M.—By 6 Geo. IV., c. 43, s. 2, rescuing any cattle lawfully seized for the purpose of being impounded or injuring any pound lawfully constituted, or committing any pound breach, whereby cattle shall escape, M.—By 31 Geo. III., c. 17, s. 10, rescuing or attempting to rescue out of prison, or going to or during execution, any person committed for or found guilty of murder, F.—By 31 Geo. III., c. 17, s. 11, rescuing the body of a murderer after execution from the sheriff or his officers, F.—By 1 and 2 Geo. IV., c. 88, s. 1, rescuing from lawful custody persons charged with, or suspected of, or committed for any felony, or on suspicion thereof, F.—By 1 and 2 Wm. IV., c. 44, s. 2 (Whiteboy Act), rescuing any person committed by a magistrate for treason, felony, or any offence punishable with transportation under said Act before the person committed shall be lodged in gaol, F.

Riot and unlawful assembly.—A riot is a tumultuous disturbance of the peace by *three persons or more*, assembling together of their own authority, with an intent mutually to assist one another against any one who shall oppose them in the execution of some enterprise of a private nature, and afterwards actually executing the same, in a violent and turbulent manner, to the terror of the people, whether the act intended were of itself lawful or unlawful. Where the law authorizes force an assembly will not be riotous. The enterprise must be of a private or local character, for the proceedings of a riotous assembly on a public or general account as to redress grievances, pull down all enclosures, or to reform religion, and also resisting the queen's forces if sent to keep the peace, may amount to overt acts of high treason by levying war against the king. An unlawful assembly must be proved, and therefore if a number of persons meet together at a fair and suddenly quarrel, it is an affray and not a riot; but if being so assembled, on a dispute occurring they form into parties, with promises of mutual assistance, and then make an affray they are guilty of riot. And in this manner, any lawful assembly may be converted

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into a riot. In every riot there must be some such circumstances of actual force or violence, or of an apparent tendency thereto as are naturally apt to strike a terror into the people, as the show of arms, threatening speeches or turbulent gestures. But it is not necessary in order to constitute this crime that personal violence should have been committed. If sufficient force be used to terrify a single person, it is enough, though no other persons are near enough to be within reach of the alarm. If there be violence and tumult it makes no difference whether the act intended to be done by the persons assembled be of itself lawful or unlawful, as in either case they are rioters. But the violence and tumult must in some degree be premeditated, for if a number of persons, being met together at a fair, market, or any other lawful or innocent occasion, happen on a sudden quarrel to fight, and beat one another, they are not guilty of a riot, but only of an affray; but if there be any pre-determined purpose of acting with violence and tumult, the conduct of the parties is riotous. The unlawfulness of the object of an assembly, even though they actually carry their unlawful object into execution, does not constitute a riot unless accompanied by circumstances of force or violence, so three or more persons assembling together peaceably to do an unlawful act is not a riot. If any person seeing others actually engaged in a riot joins himself to them and assists them therein, he is as much a rioter as if he had at first assembled with them for the same purpose; and if any person encourages, or promotes, or takes part in riots whether by words, signs, or gestures, or by wearing the badge or ensign of the rioters, he is himself to be considered a rioter, for in this case all are principals.

Rout.—A rout is a disturbance of the peace by persons assembled together with an intention to do a thing which, if executed, would make them rioters, and actually making a motion towards the execution thereof, but not executing it; in fact, it includes all the particulars which constitute a riot, except the execution of the intended enterprise.—(*Russell on Crimes*).

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Unlawful assembly.—Any meeting whatsoever of great numbers of people with such circumstances of terror as cannot but endanger the public peace, and raise fears and jealousies among the King's subjects, is an *unlawful assembly.* It has been laid down by Alderson B. that "any meeting assembled under such circumstances as, according to the opinion of rational and firm men, are likely to produce danger to the tranquillity and peace of the neighbourhood, is an unlawful assembly; and in viewing this question the jury should take into their consideration the way in which the meeting was held, the hour at which they met, and the language used by the persons assembled, and by those who addressed them; and then consider whether firm and rational men, having their families and properties there, would have reasonable ground to fear a breach of the peace, as the alarm must not be merely such as would frighten any foolish or timid person, but must be such as would alarm persons of reasonable firmness and courage." And all persons who join an assembly of this kind, disregarding its probable effect, and the alarm and consternation which are likely to ensue, and all who give countenance and support to it, are criminal parties. The difference between a riot and unlawful assembly is this: if the parties assemble in a tumultuous manner and actually execute their purpose with violence it is a riot; but if they merely meet upon a purpose which, if executed, would make them rioters, and having done nothing, they separate without carrying their purpose into effect, it is an unlawful assembly. An assembly of a man's friends for the defence of his person against those who threaten to beat him if he go to such a market, &c., is unlawful; but an assembly of a man's friends in his own house for the defence of his property or person is lawful. An assembly of persons to witness a prize fight is an unlawful assembly, and every one present and countenancing the fight is guilty of an offence. Where sixteen persons with their faces blackened, and armed with guns and sticks, met at a house at night, intending to go out poaching, it was held to be an unlawful assembly *

* The following illustration of such offence, is given by Sir James

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Suppression of riots by common law.—By the common law the magistrate, sheriff, under-sheriff, constable, and every other peace officer, may and ought to do all that in them lies towards the suppression of a riot, and may command all other persons to assist them; and by the common law also any private person may lawfully endeavour to appease such disturbances by staying the persons engaged from executing their purpose, and also by stopping others coming to join them. It has been held also that private persons may arm themselves in order to suppress a riot, from whence it follows that they may use arms in suppressing it if there be necessity. However it may be very hazardous for private persons to proceed to these extremities; but if a felony be about to be committed the interference of private persons will be justifiable, for a private person may do anything to prevent the perpetration of a felony.

The duties of private persons, soldiers, sheriffs, and peace officers in suppressing a riot were most clearly expounded by Lord C. J. Tindal in his charge to the Bristol Grand Jury, as follows:—

"By the common law every private person may lawfully endeavour of his own authority, and without any warrant or sanction of the magistrate, to suppress a riot by every means in his power. He may disperse or assist in dispersing those who are assembled; he may stay those who are engaged in it from executing their purpose; he may stop and prevent others whom he shall see coming up from joining the rest; and not only has he authority, but it is his *bounden duty* as a good subject of the King, to perform this to the utmost of his ability. If the riot be general and dangerous, he may arm himself to keep the peace. It would undoubtedly be more prudent to attend, and be assistant to the justices, sheriffs, or other ministers of the King in doing this; for the presence and authority of the magistrate would restrain the proceeding to such extremities until the danger were sufficiently immediate, or until some felony was either committed, or could not be prevented without recourse to arms; and at all events the assistance given by men who act in

Stephen:—A, B, and C meet at A's house for the purpose of beating D, who lives a mile off They then go together to D and there beat him. At A's house the meeting is an unlawful assembly, on the road it is a rout, and when the attack is made upon D it is a riot.

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subordination and concert with the civil magistrate will be more effectual to attain the object proposed than any efforts, however well intended, of separated and disunited individuals. But if the occasion demands immediate action and no opportunity is given for procuring the advice or sanction of the magistrate, it is the duty of every subject to act for himself and upon his own responsibility in suppressing a riotous and tumultuous assembly. The law acknowledges no distinction in this respect between the soldier and the private individual. The soldier is still a citizen, lying under the same obligation, and invested with the same authority to preserve the peace of the King as any other subject. Undoubtedly the same exercise of discretion which requires the private subject to act in subordination to and in aid of the magistrate rather than upon his own authority, before recourse is had to arms, ought to operate in a stronger degree with a military force. But where the danger is pressing and immediate where a felony has actually been committed, or cannot otherwise be prevented, and from the circumstances of the case no opportunity is offered of obtaining a requisition from the proper authorities, the military subjects of the King not only may, but are bound to do their utmost, of their own authority, to prevent the perpetration of outrage, to put down riot and tumult, and to preserve the lives and property of the people. Still further, by the common law not only is each private subject bound to exert himself to the utmost, but every sheriff, constable, and other peace officer is called upon to do all that in them lies for the suppression of riot, and each has authority to command all other subjects of the King to assist him in that undertaking. It is not left to the choice or will of the subject to attend or not to the call of the magistrates as they think proper, but every man is bound when called upon under pain of fine and imprisonment, to yield a ready and implicit obedience to the call of the magistrate, and to do his utmost in assisting him to suppress any tumultuous assembly."—*Russell on Crimes.*

The intentional infliction of death or bodily harm is not a crime when it is done either by justices of the peace, peace officers, or private persons, whether such persons are and whether they act as, soldiers under military discipline or not, for the purpose of suppressing a general and dangerous riot, which cannot otherwise be suppressed.—(*Stephen's Digest of C. L.*)

Suppression of riots by statute.—The "Riot Act" may be read by a magistrate, sheriff, sub-sheriff, or mayor, when twelve or more persons are riotously assembled to the disturbance of the public peace (which

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constitutes a tumultuous assembly); and, if after the reading of that proclamation, such persons riotously continue for the space of one hour, they are guilty of a serious felony. When the proclamation has been more than once read, the hour will be counted from the first reading. But the civil power is not required to wait one hour, or one moment, to put down disturbance, they are bound to maintain the peace, and in doing so can repel force by force. In a riot, any magistrate present, or called upon, is bound to interfere.

Whenever the Constabulary are called upon to quell a riot, their exertions should be at once directed to the arrest of the ringleaders. In all cases of riots and unlawful assemblies if arrests are not made, the principals, ringleaders, and as many of the other offenders as possible should be identified, and the part taken by each noted, so that they may afterwards be brought to justice.

Whenever a police force is assembled upon any occasion for the preservation of the public peace, the Officer, Head, or other Constable in charge thereof, should invariably have in his possession a copy of the following extract from the 27 Geo. III., cap. 15, section 2 (Ir.), commonly called the "Riot Act," to be read, should it be necessary so to do, by the magistrate in attendance:—

"And be it enacted, that the order and form of the proclamation which shall be made by the authority of this Act, shall be as hereafter followeth (that is to say)—The justice or other person authorized by this Act to make the said proclamation shall, amongst the said rioters, or as near to them as he can safely come, with a loud voice command, or cause to be commanded, silence to be kept whilst proclamation is making, and after that shall openly and with loud voice make, or cause to be made, proclamation in these words, or like in effect: *Our Sovereign Lady the Queen* chargeth and commandeth all persons being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the Act made in the twenty-seventh year of King George the Third to prevent tumultuous risings and assemblies*; and every such magistrate as aforesaid, within the

* In the section the words "Lady the Queen" are substituted for "Lord the King."

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limits of his jurisdiction, is hereby authorized, empowered, and required, on notice or knowledge of any such unlawful, riotous, and tumultuous rising or assembly as aforesaid, to resort to the place where the same shall be, and there to make, or cause to be made, proclamation in manner aforesaid. God save the Queen"

If the proclamation be read several times, the hour is to be computed from the first reading. Great care must be taken in reading the proclamation correctly. It may be here remarked that a riot is not the less a riot or an illegal assembly the less so because this proclamation has not been made; the effect of the Act being to make the parties guilty of a capital offence if they do not disperse within an hour after the proclamation, and if the proclamation be not read, or be improperly so, still the common law offence remains.—(*Burns, J. P.*) See also page 452.

When a riot has commenced *one* magistrate may order all public-houses to be closed for such a length of time as he thinks fit; or if a riot be apprehended, *two* magistrates can issue this order. Publicans refusing are liable to a fine of £2 (3 & 4 Wm. IV., c. 68, s. 21).

[A, a civil magistrate, directs B, a military officer, to order his men to fire into a mob. B gives the order. It is obeyed, and C, a common soldier, shoots D dead. The question whether A, B, and C, respectively, committed any offence depends on the question whether each of them respectively had reasonable grounds to believe, and did, in fact, believe, in good faith, either that what they did was necessary to suppress a dangerous riot, or in the case of B, that A, or in the case of C that B had reasonable grounds to believe, and did believe, that the order given was necessary to suppress a dangerous riot. A's directions to B. and B's order to C, would not necessarily justify B or C in what they did, but would be facts relevant to the question whether they believed upon reasonable grounds as aforesaid.—*Stephen's Digest of C. L.*]

Roads and bridges (30 & 31 Vic., c. 112, s. 1.)—Any three justices at petty sessions may, by writing under their hands, order any sum not exceeding £50, to be expended in repairing any road, bridge, pier, quay, wall, house building, or other work constructed and maintained by Grand Jury presentment, which may be suddenly damaged, or in erecting a temporary bridge, gullet, pier, quay, wall, or fence suddenly carried away or destroyed, or in preserving the materials, provided it appears that such repairs cannot be delayed to the next assizes without prejudice to the public, and that the necessity therefor be notified to them by the county surveyor; the justices may appoint a person to execute such repairs.

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Robbery *is the felonious taking of money or goods of any value from the person of another, or in his presence against his will, by violence or putting him in fear,* **F.** at common law.—To maintain this charge you must prove a larceny, and prove it to have been committed under the circumstances which, together with it, constitutes the offence of robbery. It must be proved that some property was taken, for an assault with intent to rob is an offence of a different nature. But the value of the property is immaterial; a penny as well as a pound, forcibly extorted, constitutes a robbery, the gist of the offence being the force and terror. Though the party charged take the goods with violence and menaces, yet if it be under a *bona fide* claim it is no robbery. The sudden taking of a thing unawares from the person, as by snatching anything from the hand or head, is not sufficient to constitute robbery, unless some injury be done to the person, or unless there be some previous struggling for the possession of the property.

Sale of Food and Drugs Act, 1875 (38 & 39 Vic., c. 63), provides for the offence of adulteration of food and drink.

S 2. Enacts—the term "food" shall include *every article used for food or drink* by man, other than drugs or water. The term "drug" shall include medicine for internal or external use.—S. 4. Prohibits the mixing of drugs with injurious ingredients, and of selling the same.

S. 3. No person shall mix, colour, stain, or powder, or order or permit any person to mix, colour, stain, or powder, any article of food with any ingredient or material so as to render the article injurious to health, with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained. or powdered, under a penalty not exc. £50; every offence after a conviction for a first offence shall be a misdemeanour.—S. 4. Prohibition of the mixture of drugs with injurious ingredients, and of selling the same, under same penalty.—S. 5. No person shall be convicted under above section if he shows to the satisfaction of the court that he did not know of the article of food sold by him being so mixed, &c., and that he could not with reasonable diligence have obtained that knowledge.—S. 6. No person shall sell to the prejudice of

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the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, P. £20.

S. 8. No person shall be guilty of the offence in respect of the sale of an article of food or a drug mixed with any water or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if on delivery he shall supply a notice, by a label written or printed on or with the article, to the effect that the same is mixed.

S. 12. Any purchaser of an article of food or of a drug in any place where there is an analyst appointed shall be entitled, on payment of ten shillings and sixpence, to have article analysed, and receive certificate of his analysis.

S. 13. Medical officer of health, inspector of nuisances, or any Police Constable charged with execution of this Act may procure sample of food or drug and submit same to be analysed.

S. 14. The person purchasing any article intended for analysis shall after purchase forthwith notify to the seller or his agent his intention to have the same analysed by the public analyst, and shall offer to divide the article into three parts, to be then and there separated, and each part to be marked and sealed up, and shall do so if required, and deliver one of the parts to the seller or his agent. The purchaser shall retain one of the parts for future comparison, and may submit the third part to the analyst.

S. 15. If seller or his agent do not accept the offer of the purchaser to divide the article purchased, the analyst shall divide the same into two parts, and shall seal and fasten up one of those parts, and cause it to be delivered either on receipt of sample or on supplying certificate to purchaser.

S. 16. If analyst do not reside within two miles of person requiring the analysis, the article may be forwarded to analyst through Post Office as a registered letter.

S. 17. Person refusing any article of food or any drug exposed to sale by retail, to any such officer or Constable described in Sec. 13 on tendering the price for the quantity for the purpose of analysis, P. £10.

S. 18. Certificate of analysis shall be in form set forth in schedule to Act, or to like effect.—S. 20. When the analyst, having analysed the article, shall give his certificate of result, if offence has been committed, proceedings may be taken before justices in petty sessions having jurisdiction in the place where the article was actually delivered to the purchaser; proceedings in Ireland (outside Dublin Metropolis) to be according to P. S. Act, 1851.—S. 21. At

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hearing, the production of the certificate of analyst shall be sufficient evidence of the facts therein stated, unless defendant requires that the analyst shall be called as a witness, and the parts of the article retained by the purchaser shall be produced; the defendant may tender himself and his wife to be examined on his behalf.—S. 22. Justices before whom complaint is made, upon request of either party, may cause any article of food or drug to be sent to Commissioners of Inland Revenue for analysis by their Chemical Officers.—S. 23. Any person convicted may appeal to the next Quarter Sessions.

S. 25. Defendant to be discharged if he prove that he bought the article in the same state as sold, and with a written warranty, and that he had no reason at the time when sold that the article was otherwise.—S. 27. Forging certificate or warranty, M.; wilful misapplication of warranty, giving a false warranty, or false label, O.—S. 30. All tea imported shall be subject to examination by persons appointed by Commissioners of Customs for inspection and analysis thereof. Tea found unfit for human food to be forfeited.

Sale of Food and Drugs Act, Amendment Act, 1879—amending preceding Act—(42 and 43 Vic., c. 30). S. 2. In any prosecution under the provisions of the principal Act for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature or substance, or in quality, was not defective in all three respects—S. 3. Any constable, under the direction and at the cost of the local authority, may procure at the place of delivery any sample of any milk in course of delivery to the purchaser or consignee, in pursuance of any contract; and such constable, if he suspect the same to have been sold contrary to any provisions of the principal Act, shall submit the same to be analysed, and the same shall be analysed, and proceedings, etc., taken, as under sec. 13 of principal Act.—S. 4. Seller or consignor, or person in charge of such milk refusing to allow such constable to take the quantity required for analysis liable to P. £10.—S. 5. Any street or open place of public resort shall be held to come within the meaning of sec. 17 of the principal Act—S. 6. In determining whether an offence has been committed

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under sec. 6 of said Act, by selling spirits not adulterated otherwise than by an admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than 25 degrees under proof for brandy, whiskey or rum, or 35 degrees under proof for gin.—S. 10. In all prosecutions under the principal Act, the summons shall be served upon the person charged within a reasonable time, and, in the case of a perishable article, not exceeding twenty-eight days from the time of the purchase from such person for test purposes, and the particulars of the offence and the name of the prosecutor shall be stated in the summons, and the summons shall not be made returnable in a less time than seven days from the day it is served.

Sale of Poisons (Ireland) Act.—33 and 34 Vic., c. 26.

S. 1. The several articles mentioned in the Schedule A to this Act annexed shall be deemed to be poisons within the meaning of this Act; etc.

S. 2. *Regulations to be observed in the sale of poisons.*—It shall be unlawful to sell any poison, either by wholesale or by retail, unless the box, bottle, vessel, wrapper, or cover in which such poison is contained be distinctly labelled with the name of the article, and the word "poison," and with the name and address of the seller of the poison; and it shall be unlawful to sell any of the poisons which are named in the first part of Schedule A to this Act annexed, or which may hereafter be added thereto under section one of this Act, to any person unknown to the seller, *unless such person is introduced by some person known to the seller*; and on every sale of any such article the seller shall, before delivery, *make or cause to be made an entry in a book to be kept for that purpose*, stating, in the form set forth in the Schedule B to this Act annexed, the date of the sale, the name and address of the purchaser, the name and quantity of the article sold, and the purpose for which it is stated by the purchaser to be required, to which entry the signature of the purchaser and of the person (if any) who introduced him shall be affixed; and any person selling poison otherwise than is herein provided shall be liable to a penalty not exceeding £5; and for the purposes of this section the person on whose behalf any sale is made by any apprentice or servant shall be deemed to be the seller; but the provisions of this section which are solely applicable to poisons in the first part of the Schedule A to this Act annexed, or which require that the label shall contain the name and address of the seller, shall not apply to articles to be exported from Ireland by wholesale dealers, nor to sales

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by wholesale to retail dealers in the ordinary course of wholesale dealing, nor shall any of the provisions of this section apply to any medicine supplied by a duly qualified apothecary, nor apply to any article when forming part of the ingredients of any medicine dispensed by a duly qualified apothecary, provided such medicine be labelled in the manner aforesaid with the name and address of the seller, and the ingredients thereof be entered with the name of the person to whom it is sold or delivered in a book to be kept by the seller for that purpose.

S. 4. Penalties recovered under P. S. Act, 1851, 14 and 15 Vic., c. 93.

SCHEDULE A.

Part I.

Arsenic, and its preparations; prussic acid, cyanides of potassium, and all metallic cyanides; strychnine, and all poisonous vegetable alkaloids and their salts; aconite, and its preparations; emetic tartar, corrosive sublimate, cantharides, savin, and its oil; ergot of rye, and its preparations.

Part II.

Oxalic acid, chloroform, belladonna, and its preparations; essential oil of almonds, unless deprived of its prussic acid; opium, and all preparations of opium or of poppies; preparations of corrosive sublimate, preparations of morphine, red oxide of mercury (commonly known as red precipitate of mercury) ammoniated mercury (commonly known as white precipitate of mercury), every compound containing any of the poisons mentioned in this schedule, when prepared or sold for the destruction of vermin; the tincture and all vesicating liquid preparations of cantharides.

SCHEDULE B.

Date.	Name of Purchaser.	Name and Quantity of Poison sold.	Purpose forwhich it is required.	Signature of Purchaser.	Signature of Person introducing Purchaser.

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Seamen, offences relating to, 17 and 18 Vic., c. 104, S. 206. If the master or any other person belonging to any British ship wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind in any place on shore, or at sea, in or out of Her Majesty's dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged, or the return of the ship to the United Kingdom, M.—S. 207. Wrongfully discharging or leaving behind seamen (five offences here specified), M.

Sedition.—Sedition is an offence against the Crown and Government, not capital and not amounting to treason. Sedition may be either by writing or by words spoken. The offence consists in endeavouring to vilify or degrade the Queen in the esteem of her subjects, or to create discontent or disaffection, or to incite the people to tumult, violence, or disorder, or to bring the Government or constitution into hatred or contempt, or to effect any change in the laws by the recommendation of physical force. Seditious meetings are such as are held for the purpose of accomplishing any of these objects. Sedition being inconsistent with the safety of the State is regarded as a high misdemeanour.

Self-defence.—The intentional infliction of death or bodily harm is not a crime when it is inflicted by any person in order to defend himself or any other person from unlawful violence, provided that the person inflicting it observes the following rules as to avoiding its infliction, and inflicts no greater injury in any case than he in good faith, and on reasonable grounds, believes to be necessary when he inflicts it:—

(*a*). If a person is assaulted in such a manner as to put him in immediate and obvious danger of instant death or grievous bodily harm, he may defend himself on the spot, and may kill or wound the person by whom he is assaulted.

(*b*). If a person is unlawfully assaulted—

i. In his own house;

ii. In the execution of a duty imposed upon him by law;

iii. By way of resistance to the exercise of force which he has by law a right to employ against the person of another; he may defend himself on the spot, and may use a degree of force for that pur-

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pose proportioned to the violence of the assault, and sufficient (in case iii.) to enable him not only to repel the attack made upon him, but to effect his original purpose: but a person using force in the execution of a duty imposed upon him by law, or in order to effect a purpose which he may by law effect in that manner, and not being assaulted, is not entitled to strike or hurt the person against whom he employs such force, merely because he is unable otherwise to execute such duty, or fulfil such purpose, except in the cases provided in Article 199 (see page 230).

(*c*). If a person is unlawfully assaulted by another without any fault of his own, and otherwise than in the cases provided for in clauses (*a*) and (*b*), but with a deadly weapon, it is his duty to abstain from the intentional infliction of death or grievous bodily harm on the person assaulting, until he (the person assaulted) has retreated as far as he can with safety to himself.

But any person assaulted may defend himself on the spot by any force short of the intentional infliction of death or grievous bodily harm, and if the assault upon him is, notwithstanding continued, he is in the position of a person assaulted in the employment of lawful force against the person of another.

(*d*). If two persons quarrel and fight, neither is regarded as defending himself against the other until he has in good faith fled from the fight as far as he can; but if either party does in good faith flee from the fight as far as he can, and if when he is prevented either by a natural obstacle or any other cause of the same nature, from flying farther, the other party to the fight follows and again assaults him, the person who has so fled may defend himself, and may use a degree of violence for that purpose proportioned to the violence employed against him.—(*Stephen's Digest of C. L.*, Article 200).

Sheriffs.—Every sheriff is a principal conservator of the peace at common law. He may apprehend and commit to prison all persons who break the peace, or attempt to break it. He is authorized by law to suppress invasion, rebellion, insurrection, or riot, or any affray or unlawful assembly or breach of the peace, or to subdue any resistance to the execution of writs in his county. No sheriff or sub-sheriff can exercise the office of justice during the time he shall act as sheriff or sub-sheriff in the same county. In general,

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no man can be exempt from the office of sheriff but by Act of Parliament or Letters Patent. No sheriff shall continue in his office above one year. Sheriff is liable civilly for the tortious act, default or misconduct, whether it be wilful or inadvertent, of his under-sheriff or bailiff in the course of the execution of their duties. —(*Burns, J. F.*)

On the sheriff's death the sub-sheriff continues to act in the name of the deceased sheriff until another sheriff be appointed. 12 Geo. I. (Ir.), c. 4, s. 6.

Protection and, if required, assistance is to be afforded to sheriffs and sub-sheriffs in the execution of all writs, decrees, and other civil process from the superior and other courts, if in their written requisition they shall state they have grounds to apprehend violence or opposition in the discharge of their duty. Such requisitions should specify whether the process to be executed is a writ of the superior court or a civil bill decree or dismiss. The Constabulary are not to take charge of any civil prisoners or property, nor of houses or lands taken possession of under any writ, decree, or order; nor shall they, in cases of a civil nature, attend to give assistance or protection in the execution of any writ issued out of the superior courts, or in the taking and carrying away of cattle or goods thereunder, between the hours of sunset and sunrise in any season of the year, unless the sheriff or sub-sheriff shall by requisition claim such protection; nor shall they in any season of the year, between the hours of sunset and sunrise give protection or assistance in the taking and carrying away of cattle or goods under a decree or dismiss of the *Civil Bill Court;* provided, however, that where any writ, decree, or order shall have been executed between sunrise and sunset, the Constabulary shall, when required, afford protection to the sheriff, sub-sheriff, and sheriff's bailiffs in preserving possession of goods so seized. See page 457.

Duty of the Constabulary when protecting the Sheriff at Evictions.—The Constabulary ought not to assist in either making or removing a seizure, or in doing any of the formal acts connected with handing over to the plaintiff in an action the possession of the land or

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house recovered therein; but if the sheriff or his assistants are assaulted, threatened with assault, or otherwise met with violent resistance, the Constabulary are bound at once to arrest offenders, and to disperse mobs assembled to encourage and aid resistance; and if the premises are barricaded, they should if necessary compel and force entrance for the purpose of arrest. This duty ought to be performed without hesitation or delay immediately on the occasion for it arising.

The legal duties of the Constabulary in the protection of sheriffs are very fully declared in the judgment delivered by Chief Baron Palles (in the cases of R. V. Larkin and others), when presiding at the Winter Assizes at Sligo, on the 5th January, 1887. (See *Irish Law Times*, Vol. xxi., p. 18.)

If a process server, or other officer of the law (not being a summons server), states that he apprehends violence and needs protection in the service or in the execution of any legal document, protection is afforded him by the Constabulary upon his own application.

The Constabulary are not to aid in any way the sheriff's men in the erection of any gallows, stocks, or other instrument of punishment, nor to inflict corporal punishment on any person, except in cases provided for by 47 and 48 Vic., c. 19 (see page 306).

Sodomy and Bestiality, 24 and 25 Vic., c. 100, s. 61, Sodomy and bestiality are felonies—S. 62. To attempt to commit the said abominable crime, or be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, M.

[This offence consists of a carnal knowledge committed against the order of nature by man with man; or in the same unnatural manner with women; or by man or woman *in any manner* with beast. The crime is complete on proof of penetration. Those who are present aiding and abetting in this offence are all principals, but if the party on whom the offence is committed is under fourteen, it is felony in the agent only. The mere soliciting another to the commission of this crime is an indictable offence.]

Spirits in transitu, 17 and 18 Vic., c. 89.

S. 6. *Spirits* IN TRANSITU *require permit.*—As to spirits *in transitu* or process of removal from one place to another, it shall and may be lawful for any County Inspector, Sub-Inspector, Head or other Constable of Constabulary, to

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demand from any person having in his custody or possession any spirits, in any quantity whatsoever exceeding one gallon, a proper permit or certificate authorizing the removal of such spirits, and on the production of any such permit or certificate to indorse the same with his own name, together with the place, date, and time of such indorsement, and in case no permit or certificate shall be produced, or any permit the limitation of which shall have expired, it shall be lawful for such County Inspector, Sub-Inspector, Head or other Constable, to seize such spirits, together with the vessel containing the same, and the horse, or other cattle, and cart, or other carriage used in the removal thereof, and to arrest the person in whose possession or custody the same shall have been found, and to convey him, as soon as conveniently may be before a justice of the peace, to be dealt with as herein directed; and the person in whose possession or custody such spirits shall have been found without such permit or certificate, or with any permit the limitation of which shall have expired, P. for first offence not to exceed £5, nor less than 20*s.*

S. 8. All proceedings under this Act shall be conducted and all penalties imposed and costs awarded shall be sued for, levied, and recovered as by P. S. Act, 1851, is directed.

[As regards the disposal of seizures see 20 and 21 Vic., c. 40, s. 2.]

Statutes.—A statute is the highest authority which this kingdom acknowledges on earth. Statutes are either public or private. A public Act is a universal rule that regards the whole community; private Acts are rather exceptions than rules, being those which only operate upon particular persons and private concerns.

Statutes also are either *declaratory* of the common law or *remedial* of some defects therein—*declaratory*, where the old custom of the Kingdom is almost fallen into disuse, or become disputable; in which case the Parliament has thought proper, *in perpetuum rei testimonium*, and for avoiding all doubts and difficulties, to declare what the common law is, and ever hath been. *Remedial* statutes are such as supply some defect in the existing law, and redress some abuse or inconvenience with which it is found to be attended, without introducing any provision of a penal character.

[Penal statutes are those which merely impose penalties or

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punishments for an offence committed. A penal statute may also be remedial, and a statute may be penal in one part and remedial in another part. Penalties differ from punishments in the fact that they are enforced at the discretion and for the benefit of the informer. They differ from damages in the fact that no personal injury has been done to the informer, and that the penalty which he recovers is in substance a reward for his vigilance in detecting a breach of the law, and not an indemnity for personal loss sustained by it.—*Fitzjames Stephens's Criminal Law.*]

The following are the most prominent rules and principles by which statutes are to be construed :—

The rule for the construction of a statute is to suppose the law-maker present, and to be asked what he intended, and then to give such an answer as he, being an upright and reasonable man, might have been expected to give. The provisions of a statute are to be understood according to the ordinary sense of the words, unless such construction would lead to some unreasonable result, or be inconsistent with or contrary to the declared or implied intention of the framer of the law, in which case the grammatical sense of the words may be extended or modified. The reader must take into consideration not only the language of the preamble, or of any particular clause, but of the whole Act. The title of a statute is no part of the law, but it may be referred to in construing the statute. The preamble is to be considered, and is a good means for collecting the intent, but it is not to restrain the operation of the enacting part.

A statute begins to operate from the time when it receives the Royal Assent, unless some other time be fixed by the Act itself for the purpose.

52 and 53 Vic., c. 63, provides for the construction of statutes in certain particulars. S. 1. In all Acts words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided. —S. 11 (1.) Where any Act repealing in whole or in part any former Act is itself repealed, such last repeal shall not revive the Act or provisions before repealed, unless words be added reviving such Act or provisions.

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(2.) Whenever any Act shall be made repealing in whole or in part any former Act, and substituting provisions instead of those repealed, such repealed provisions shall remain in force until those substituted shall come into operation by force of the last made statute.

Where a statute directs or prohibits the doing of any act, and no other penalty or punishment is provided, any disobedience is punishable by indictment at common law. The law never speaks but to command, nor commands but where it can compel.

Where a statute directs the doing of a thing for the sake of justice or the public good the word *may* is the same as the word *shall.*

Where a statute gives a power to arrest a person found committing an offence he must be taken in the act or in such continuous pursuit that from the finding until the apprehension the circumstances constitute one transaction. And where a statute gives a summary power to apprehend persons without a warrant "found offending," it may be taken as a general rule that it only applies to offences which are apparent to the eye. And where the prisoner is directed to be *forthwith taken before a magistrate* he must be sent by the direct road to either the lock-up till a magistrate can be procured, or direct to the magistrate. But if he be taken in the night time he may, of course, be detained until the morning.

All Acts of Parliament made in England before Poyning's Act (10 Henry VII., c. 22) are by that statute declared to be in force within the realm of Ireland. Acts passed in the Parliament of England subsequent to Poyning's Act, and up to the Union, do not apply to Ireland save in respect to the classes of statutes mentioned in the 21 and 22 Geo. III., c. 48 (Ir.)

Since the Union all Acts of Parliament extend to Ireland whether that portion of the United Kingdom be mentioned or not, *unless it be expressly excepted, or the intention to except it be otherwise plainly shown.*

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Summary Jurisdiction over Children (Ireland) Act, 1884.

47 and 48 Vic., Ch. 19.

1. *Short title.*—This Act may be cited for all purposes as the Summary Jurisdiction over Children (Ireland) Act, 1884.

2. *Extension of Act.*—This Act shall extend to Ireland only.

4. *Summary trial of children for indictable offences, unless objected to by parent or guardian.*—(1.) Where a child is charged before a court of summary jurisdiction with any indictable offence other than homicide, the court, if they think it expedient so to do, and if the parent or guardian of the child so charged, when informed by the court of his right to have the child tried by a jury, does not object to the child being dealt with summarily, may deal summarily with the offence, and inflict the same description of punishment as might have been inflicted had the case been tried on indictment;

Provided that—

(*a.*) A sentence of penal servitude shall not be passed, but imprisonment shall be substituted therefor; and

(*b.*) Where imprisonment is awarded the term shall not in any case exceed one month; and

(*c.*) Where a fine is awarded the amount shall not in any case exceed forty shillings; and

(*d.*) When the child is a male the court may, instead of any other punishment, adjudge the child to be, as soon as practicable, privately whipped with not more than six strokes of a birch rod by a constable in the presence of an inspector or other officer of police of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of the child.

(2.) For the purpose of a proceeding under this section, the court of summary jurisdiction, at any time during the hearing of the case at which they become satisfied by the evidence that it is expedient to deal with the case summarily, shall cause the charge to be reduced into writing and read to the parent or guardian of the child, and then address a question to such parent or guardian to the following effect: "Do you desire the child to be tried by a jury and object to the case being dealt with summarily?" with a statement, if the court think such statement desirable for the information of such parent or guardian, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which the child will be tried if tried by a jury.

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(3.) Where the parent or guardian of a child is not present when the child is charged with an indictable offence before a court of summary jurisdiction, the court may, if they think it just so to do, remand the child for the purpose of causing notice to be served on such parent or guardian, with a view, so far as is practicable, of securing his attendance at the hearing of the charge, or the court may, if they think it expedient so to do, deal with the case summarily.

(4.) This section shall not prejudice the right of a court of summary jurisdiction to send a child to a reformatory or industrial school.

(5.) This section shall not render punishable for an offence any child who is not, in the opinion of the court before whom he is charged, above the age of seven years and of sufficient capacity to commit crime.

5. *Summary trial with consent of young persons.*—(1.) Where a young person is charged before a court of summary jurisdiction with any indictable offence specified in the schedule to this Act, the court, if they think it expedient so to do, having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case, and if the young person charged with the offence, when informed by the court of his right to be tried by a jury, consents to be dealt with summarily, may deal summarily with the offence, and in their discretion adjudge such person, if found guilty of the offence, either to pay a fine not exceeding ten pounds or to be imprisoned, with or without hard labour, for any term not exceeding three months; and if the young person is a male, and, in the opinion of the court, under the age of fourteen years, the court, if they think it expedient so to do, may, either in substitution for or in addition to any other punishment under this Act, adjudge such young person to be, as soon as practicable, privately whipped with not more than twelve strokes of a birch rod by a constable, in the presence of an inspector or other officer of police of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of such young person.

(2.) For the purpose of a proceeding under this section, the court, at any time during the hearing of the case at which they become satisfied by the evidence that it is expedient to deal with the case summarily, shall cause the charge to be reduced into writing and read to the young person charged, and then address a question to him to the following effect: "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" with a statement, if the court think such statement desir-

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able for the information of the young person to whom the question is addressed, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which he will be tried if tried by a jury.

(3.) This section shall not prejudice the right of a court of summary jurisdiction to send a young person to a reformatory or an industrial school.

6. *Restriction on punishment of child for summary offence.*—A child on summary conviction for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, shall not be imprisoned for a longer period than one month nor fined a larger sum than forty shillings.

7. *Power of court to discharge accused children and young persons without punishment.*—If upon the hearing of a charge against children and young persons for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, the court of summary jurisdiction think that, though the charge is proved, the offence was in the particular case of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment,—

(1.) The court, without proceeding to conviction, may dismiss the information, and, if the court think fit, may order the person charged to pay such damages, not exceeding forty shillings, and such costs of the proceeding, or either of them, as the court think reasonable; or,

(2.) The court upon convicting the person charged may discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of such damages and costs, or either of them, as the court think reasonable.

8. *Appeals and form of conviction.*—(*a.*) The enactments in force in the Dublin Metropolitan Police District relative to appeals in cases of summary jurisdiction, and the enactments of the Petty Sessions (Ireland) Act, 1851, relative to appeals in the like cases, shall respectively extend to cases heard and determined in such district, and elsewhere in Ireland, under this Act.

(*b.*) Every conviction under this Act shall contain a statement, in the case of a child, as to the consent or otherwise of his parent or guardian, and, in the case of a young person, of the consent of such young person, to be tried by a court of summary jurisdiction.

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9. *Definitions for purposes of the Act.*—In this Act the following expressions have the meanings hereinafter respectively assigned to them; that is to say,

The expression "child" means a person who in the opinion of the court before whom he is brought is under the age of twelve years:

The expression "young person" means a person who in the opinion of the court before whom he is brought is of the age of twelve years and under the age of sixteen years:

The expression "guardian" in relation to a child or young person, includes any person who, in the opinion of the court having cognizance of any case in which a child or young person is concerned, has for the time being the charge of or control over such child or young person:

The expression "court of summary jurisdiction" shall, in the police district of Dublin metropolis, mean a court constituted of a divisional justice acting for the said district, and elsewhere in Ireland shall mean a court constituted of one or more justices of the peace sitting in petty sessions.

SCHEDULE.

INDICTABLE OFFENCES WHICH CAN BE DEALT WITH SUMMARILY UNDER THIS ACT.

Young Persons consenting.

1. Simple larceny. 2. Offences declared by any Act for the time being in force to be punishable as simple larceny. 3. Larceny from or stealing from the person. 4. Larceny as a clerk or servant. 5. Embezzlement by a clerk or servant. 6. Receiving stolen goods. 7. Aiding, abetting, counselling, or procuring the commission of simple larceny, or of an offence declared by any Act for the time being in force to be punishable as simple larceny, or of larceny or stealing from the person, or of larceny as a clerk or servant. 8. Attempt to commit simple larceny, or an offence declared by any Act for the time being in force to be punishable as simple larceny, or to commit larceny from or steal from the person, or to commit larceny as a clerk or servant.

This Act shall apply to any of the following offences when alleged to have been committed by a young person in like manner as if such offence were included in the schedule; that is to say:—

(1.) To any offence in relation to railways and railway carriages mentioned in sections 32 and 33 of 24 and 25 Vic., c. 100; and

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(2.) To any offence relating to railways mentioned in section 35 of 24 and 25 Vic., c. 97.

(3.) To any indictable offence, either under the Post Office Laws or prosecuted by Her Majesty's Postmaster-General; and for the purpose of this provision the expression "Post Office Laws" has the same meaning as it has in the Act 7 of William IV., and 1 Vic., c. 36.

[*Instructions for carrying out the order to Whip Children.*—Upon receiving a warrant ordering the infliction of such punishment, the District Inspector or Head Constable to whom it is addressed will direct a Constable to perform the duty, and have a Head Constable, Sergeant, or Acting-Sergeant present. The justices are to provide some suitable place where the punishment can be inflicted. ~~It is not to be inflicted in any part of a Constabulary station.~~ ~~The justices are to cause the birch rod to be supplied to the Constable.~~]

Summons.—Independently of positive enactment, the law declares that the magistrates, to whom the cognizance of offences is referred, are bound to observe the rules of natural justice, one of which is that the accused shall have an opportunity of being heard before he is condemned. This is indispensably required in all penal proceedings of a summary nature by justices of the peace.

Form of summons.—The summons should bear a sixpenny stamp. It should be signed by the justice who issues it, and should state shortly the cause of complaint. It is not to be signed in blank. It should fix a day and place for the defendant's appearance, allowing a sufficient time for the attendance of himself and his witnesses, and the magistrate cannot legally proceed in the defendant's absence upon a summons defective in these particulars (14 and 15 Vic., c. 93, ss. 5 and 11. 21 and 22 Vic., c. 100, sch.)

Service by Petty Sessions Act.—Every summons is to be served by delivering a copy to the person to whom it is directed, or if he cannot be conveniently met with by leaving such copy at his last or more usual place of abode, or at his office, warehouse, counting-house, shop, factory, or place of business, with some inmate of the house not being under sixteen years of age, a reasonable time before the hearing of the complaint. The latter mode of service shall be sufficient except when personal service is required by the Act. In every case

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the person serving the summons shall indorse on the same the time and place of service, and shall attend at the hearing of the complaint to depose if necessary to the service. In cases prosecuted by the Constabulary the summons shall be served by a Head or other Constable, but in all other cases it may be served by the summons-server of the district, or if the justice issuing it direct or permit, by any other person whom the complainant shall employ, and who shall be able to read and write, *but in no case by the complainant himself* (14 and 15 Vic., c. 93, s. 12). Loan Fund summonses are not to be served by the Constabulary.

Service in cases not under Petty Sessions Act.—In general it is necessary that the service of the summons should be *personal* unless where personal service is dispensed with by statute or by defendant's appearance. The service where no time is limited by the particular statute should be made a reasonable time before the period appointed therein for appearance.

Question of due service.—The sufficiency of the service is generally a question for the justices to decide, and the Court of Q. B. will not interfere with their decision unless it clearly appear that there was, in fact, no service, or that the defendant was not allowed the interval fixed by the particular statute between service and the time limited for appearance, or that the justices have mistaken the law as to the kind of service required, and have, therefore, declined to entertain the matter. But if the defendant actually appears and pleads there is no longer any question upon the sufficiency or regularity of the summons or its service.

Warrant issued if summons disobeyed.—In all cases of offences where the person does not appear at the required time and place, and it is proved on oath either that he was personally served or that he is keeping out of the way of service—*the complaint being in writing and on oath*—the justice may issue a warrant to arrest and bring such person before him or some other justice of the same county to answer the complaint; and when such person shall afterwards be

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arrested the justice before whom he shall be brought may commit him to gaol until the hearing of the complaint or may discharge him upon his entering into recognizance to appear (14 and 15 Vic., c. 93, s. 11).

Where the party resides outside the jurisdiction of the magistrate.—In every case arising within the petty sessions district for which the justice issuing the summons or warrant shall act, where the party to whom the summons is directed, or against whom the warrant is issued, resides in an adjoining county, the justice may compel the appearance of such party or witness at the hearing of the charge or complaint within such petty sessions district in the same way as if he resided in the same district, although such justice may not be a justice of such adjoining county (14 and 15 Vic., c. 93, s. 11).

Under all other circumstances where his attendance as a witness or the production of documents is required of a person resident outside the jurisdiction of the magistrates, but within the United Kingdom, the only course to be taken is to obtain, through the Crown Solicitor, a Crown Office *subpoena* requiring him to attend before the justices at petty sessions, which if disobeyed may be followed by an attachment. The service of a *subpoena* on a witness in any part of the United Kingdom, for his appearance on a criminal prosecution in any other part is as effectual as if it had been in that part where he is required to appear.

Subpoena is a writ commanding attendance in a court under a penalty. At common law there are two to compel the attendance of witnesses:—

(1.) *Subpoena ad testificandum*, the common *subpoena* which is personally served upon a witness in order to compel him to attend the trial or inquiry to give evidence.

(2.) *Subpoena duces tecum*: this is personally served upon a person who has in his possession any written instrument, etc., the production of which in evidence is desired. These *subpoenas* are also used in criminal proceedings. Four witnesses can be included in one *subpoena* whether in civil or criminal cases.

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Sunday.—7 Will. III., c. 17.

S. 1. No tradesman, artificer, workman, labourer or other person whatsoever shall do or exercise any worldly labour, business, or work of their ordinary callings upon the Lord's Day or any part thereof (works of necessity and charity only excepted); and every person of fourteen years and upwards offending shall, for every such offence, forfeit the sum of 5s., and that no person or persons whosoever shall publicly cry, show forth, or expose to sale any wares, merchandises, fruit, herbs, goods, or chattels whatsoever, upon the Lord's Day, or any part thereof, upon pain that every person so offending shall forfeit the same goods so cried, or showed forth, or exposed to sale.

[Before the goods can be seized a conviction must take place.]

S. 2. No drover, horse-courser, waggoner, carrier, butcher, higgler, their or any of their servants, shall travel or come into his or their inn or lodging upon the Lord's Day, or any part thereof, upon pain that each and every such offender shall forfeit twenty shillings for each offence.

[This provision does not apply to railway companies, nor does it make it illegal for a stage-coach, train-car, etc., to travel on Sunday. *The enforcement of this provision is left in the hands of private persons.*]

S. 3. No person or persons whatsoever shall play, use, or exercise any hurling, commoning, football-playing, cudgels, wrestling, or any other games, pastimes, or sports on the Lord's Day, or any part thereof, under a penalty of one shilling for every such offence: Provided that nothing in this Act contained shall extend to the prohibiting of dressing meat in families, or dressing or selling of meat in inns, cookshops, or victualling houses for such as otherwise cannot be provided; nor the crying or selling of milk or fish before ten o'clock in the morning or after four of the clock in the afternoon; nor to the using of hackney coaches in or about the city of Dublin.

[Respecting this provision the Constabulary confine their attention to cases of hurling, &c., which occur in the streets of a town or on the public roads, or to cases in which, although the parties meet off the highway, the Constabulary may have reason to apprehend a faction fight, or other actual breach of the peace.]

S. 4. No person shall be prosecuted for any offence against this Act unless proceedings be taken within ten days after the offence committed. [All proceedings to be taken in accordance with P. S. Act, 1851.]

S. 7. No person or persons upon the Lord's Day, commonly called Sunday, shall serve or execute, or cause to be served or executed any writ, process, warrant, order,

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judgment, or decree (except in cases of treason, felony, or breach of the peace); but that the service of every such writ, process, warrant, order, judgment or decree, shall be void to all intents and purposes whatsoever; and the person and persons so serving or executing the same shall be liable to the suit of the party grieved, and to answer damage to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment, or decree at all.

Sureties of th Peace.—Surety of the peace is the acknowledgment of a recognizance or bond to the Queen, taken by a competent judge of record, for keeping the peace. All justices of the peace may take sureties of the peace by virtue of their commission. Every justice of the peace has power, and, if so required to do, is bound to cause to come before him all persons who have used threats to any of the Queen's subjects as *to their bodies, or the burning of their houses*, to find security of the peace, or for their good behaviour towards the Queen and her people, and if they shall refuse to find such security to cause them to be imprisoned *for a definite time.* Any person who has just cause to fear that another will burn his house, or do him a corporal hurt, or procure others to do so, may demand the surety of the peace against such other; but the applicant must satisfy the justice on oath that he is *actually under such fear and has cause to be so.* A person threatened with unlawful imprisonment may demand surety of the peace. Also any justice may at his discretion bind all those to the peace who in his presence make an affray, or threaten to kill or beat any person, or contend together with hot words, or go about with unusual weapons or attendants to the terror of the people; such as are known to be common barrators, quarrellers, and breakers of the peace; all who are brought before him by a Constable for a breach of the peace in presence of the Constable, and all such as, having before been bound to keep the peace, shall have forfeited their recognizances. But if the justice perceives that the surety is demanded merely from malice or vexation, and without any just cause or fear, he should not

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grant it; also when it is demanded by a man who is simply at variance with his neighbour. Surety of the peace shall only be granted where there is a fear or reasonable ground of alarm of some *present or future danger*, and not merely for a battery or any breach of the peace that is *past*, for it is only for the security of such as are in fear. Surety demanded merely from malice or vexation, and without any just cause or fear, cannot be granted, nor can it be granted to protect applicant's servants or cattle.

Surety of good behaviour.—The power which justices have to bind persons to their good behaviour is very large and indefinite. It depends on the words of their commission and of the statute 34 Edw. III., c. 1. That statute authorizes them "to take of all them that be not of good fame where they shall be found sufficient security and mainprize of their good behaviour towards the King and people." A surety *for good behaviour* includes in itself a *surety of the peace*, and he that is bound to the good behaviour is therein also bound to the peace. The following are instances of persons whom justices may require to find sureties for good behaviour:—Persons who charge another before a justice with felony, riot, or forcible entry, and yet refuse to prosecute or give evidence; who outrageously misbehave in the presence or hearing of a justice, or speak contemptuous words of him though not in the execution of his office; who publicly accuses him of ignorance of his duty; who abuse his warrant; who assault or abuse a Constable in the execution of his duty; who poison or destroy the cattle or goods of others; who live riotously and profusely without any visible means, and cannot give a good account of themselves when called upon; who keep brothels, or are common frequenters of brothels; who keep bad women in their own houses, who excite discontent in the minds of the people; from persons obstructing another in his necessary way to a court of justice; suborning witnesses; being guilty of forcible entry, or detainer; common quarrellers, or who lie in wait to rob and put passengers in fear, or are suspected to

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be robbers; from such who are likely to commit homicide, or other grievance to the King's subjects *in their bodies*, &c.; from common gamesters, especially if they have not whereon to live. No one ought to be bound to the good behaviour for any rash, quarrelsome, or unmannerly words unless they *either directly tend to a breach of the peace or to scandalize the Government;* and a magistrate has jurisdiction to require sureties for good behaviour of a person charged before him with having published a libel calculated to produce a breach of the peace.

Sureties of the Peace, &c., how granted.—When a justice sees a person doing or about to do anything which would warrant him, upon the complaint of a third party, in requiring surety of the peace or good behaviour, he may of his own motion require the offender to find such surety, or cause him to be committed. A justice when applied to ought to examine the complainant and his witnesses, if he has any, on oath and take down the grounds of complaint in writing. The subsequent course for the justice, when the informant cannot swear to his being in fear from defendant, is to require sureties for good behaviour from the offending party. The number of sureties is usually two, and the sum in which the recognizances is to be taken is left wholly at the discretion of the justice.—*Molloy's Justice of the Peace.*)

Swearing, by 7 Wm. III., c. 9, s. 1, Ir.—Any person who shall profanely swear and curse in the presence or hearing of any justice of the peace, or of the mayor of any city or town, shall be thereof convicted by the oath of one or two witnesses, or by the confession of party offending, before any justice or mayor, that then for every such offence, the party so offending shall, if a servant, day labourer, common soldier, or common seaman, forfeit 1*s.*, and every other person 2*s.* S. 5.—No person shall be prosecuted or troubled for any offence against this Act unless the same be proved or prosecuted within ten days after the offence committed.

[The using several oaths on one and the same occasion is one offence only.]

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Telegraph messages, 31 and 32 Vic., c. 110, s. 20.—Any person having official duties connected with the Post Office who shall, contrary to his duty, disclose or in any way make known or intercept the contents, or any part of the contents, of any telegraph message, or any message intrusted for the purpose of transmission, M.—32 and 33 Vic., c. 73, s. 23. Every written or printed message or communication delivered at a post office for the purpose of being transmitted by a postal telegraph, and every transcript thereof made by any person acting in pursuance of the orders of the Postmaster-General, shall be a post letter within the meaning of 1 Vic. c. 36.

Threatening letter, 24 and 25 Vic., c. 100, s. 16—Maliciously to 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, F.

24 and 25 Vic., c. 96, s. 44. To send, deliver, or utter or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property, money, or valuable thing, F.

S. 46. To send, deliver, or utter, or indirectly cause to be received, knowing the contents thereof, any letter or writing accusing or threatening any other person of any crime punishable by law with death or penal servitude for not less than seven years, or of an assault with intent to commit rape, or of the infamous crime of buggery, or of an attempt to commit the same, with intent to extort property, money, or valuable thing, F.

24 & 25 Vic., c. 97, s. 50. To send, detain, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn, or other building, or any rick or stack of grain, hay, or straw or other agricultural produce, or any grain, hay, or straw, or other agricultural produce in or under any building, or any ship or vessel, or to kill, maim, or wound any cattle, F.

[The necessary steps to be taken in the case of this offence are to ascertain who is the most likely person to send such a letter, and to obtain evidence if possible to prove the *sending*. To obtain proof of the handwriting, which alone with other circumstances may prove the guilt of the offender. The sending or delivering of the letter need not be immediately by the offender to the prosecutor; if it be proved to be sent or delivered by his means and directions it is sufficient. When a threatening letter or any document which may afterwards be required as evidence, is given to a Constable, he

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should at once enter his initials and date on the back for the purpose of subsequent identification, but should be careful not to make any mark on the face or written part of the document. See also "Whiteboy Offences," page 340.]

Towns Improvement (Ireland) Act, 1854, 17 and 18 Vic., c. 103.

This Act, although a "public general statute," is in force only in towns containing a population of 1,500 and upwards, who have specially applied to have its provisions carried into execution. There are about 76 towns in Ireland now under this Act.

S. 56. *Regulations as to gunpowder.*—No gunpowder shall be sold within the town by candle or other artificial light, P. £1; and no person shall keep at any time more than ten pounds weight of gunpowder, except by special permission of the commissioners, signed by the chairman and two of the said commissioners, and under such regulations for its safe custody as they may approve and determine, P. £1, besides forfeiture of all the gunpowder which shall be found exceeding the aforesaid weight; and the aforesaid quantity of gunpowder allowed to be kept as aforesaid shall be deposited in a place separate from all other goods and commodities, and shall be secured by lock and key, P. £1: provided always that nothing herein contained shall apply to any quantity of gunpowder provided for Military or Constabulary purposes.

S. 70. *Power to prevent obstructions in the streets during public processions, etc.*—The commissioners may from time to time make orders for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of the streets of the town in all times of public processions, rejoicings, or illuminations, and in any case when the streets are thronged or liable to be obstructed, and may also give directions to the Constables and Officers of the Constabulary Force for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres, and other places of public resort; and every wilful breach of any such orders shall be deemed an offence against this Act, P. 40*s.*

S. 71. *Power to impound stray cattle.*—If any cattle be at any time found at large in any street of the town without any person having the charge thereof, any Constable or Officer of Constabulary, or any person residing within the town, may seize and impound such cattle, and may detain the same until the owner thereof pay to the commissioners a penalty not exceeding 20*s.* besides the reasonable expenses of impounding and keeping such cattle; and if the said

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penalty and expenses be not paid within three days after such impounding, the person appointed by the commissioners for that purpose may proceed to sell such cattle, or cause the same to be sold; but previous to such sale, then three days notice of such intended sale shall be given by posting such notice on the Constabulary Barrack, pound, and other place (if any) which may be appointed by the commissioners for that purpose, and the money arising from such sale, after deducting the said sums, and the expenses aforesaid, and all other expenses attending the impounding, keeping, and sale of any such cattle so impounded, shall be paid to the commissioners and shall be by them paid, on demand, to the owner of the cattle so sold.

S. 72. *Penalty on persons committing any of the offences herein named.*—Every person who in any street, to the obstruction, annoyance, or danger of the residents or passengers, commits any of the following offences, shall be liable to a penalty for each offence as hereinafter mentioned; and any Constable or other officer appointed by virtue of this Act shall take into custody, without warrant and forthwith convey before a justice or justices, any person who within his view commits any such offence (that is to say):

Every person who exposes for show, hire, or sale (except in a market or market-place or fair lawfully appointed for that purpose) any horse or other animal; or exhibits in a caravan or otherwise any show or public entertainment; or shoes, bleeds, or farries any horse or animals (except in cases of accident); or cleans, dresses, trains, or breaks, or turns loose, any horse or animal; or makes or repairs any part of any cart or carriage (except in cases of accidents where repair on the spot is necessary), P. 10*s*.

Every person who suffers to be at large any unmuzzled ferocious dog, or sets on or urges any dog or other animal to attack, worry, or put in fear any person or animal, P. 10*s*.

Every owner of any dog who suffers such dog to go at large, knowing and having reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in a rabid state, P. 10*s*.

Every person who, after public notice given by any justice or justices at petty sessions, chief magistrate, or chairman of commissioners, directing dogs to be confined on account of suspicion of canine madness, suffers any dog to be at large during the time specified in such notice, P. 10*s*.

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Every person who slaughters or dresses any cattle, or any part thereof, except in the case of any cattle over-driven which may have met with any accident, and which for the public safety or other reasonable cause ought to be killed on the spot, P. 10*s*.

Every person having the care of any waggon, cart, or carriage, who rides on the shafts thereof; or who, without having reins, and holding the same, rides upon such waggon, cart, or carriage, or on any animal drawing the same; or who is at such a distance from such waggon, cart, or carriage, as not to have due control over every animal drawing the same; or who does not, in meeting any other carriage, keep his waggon, cart, or carriage, to the left or near side, or who in passing any other carriage does not keep his waggon, cart, or carriage on the right or off side of the road (except in cases of actual necessity, or some sufficient reason for deviation); or who, by obstructing the street, wilfully prevents any person or carriage from passing him, or any waggon, cart, or carriage under his care, P. 10*s*.

Every person who at one time drives more than two carts or waggons, and every person driving two carts or waggons who has not the halter of the horse in the last cart or waggon securely fastened to the back of the first cart or waggon, or has such halter of a greater length from such fastening to the horse's head than four feet, P. 10*s*.

Every person who rides or drives furiously any horse or carriage, or drives furiously any cattle, P. 20*s*.

Every person who causes any public carriage, sledge, truck, or barrow, with or without horses, or any beast of burden, to stand longer than is necessary for loading or unloading goods, or for taking up or setting down passengers (except hackney carriages, and horses and other beasts of draught or burden, standing for hire in any place appointed for that purpose by the commissioners or other lawful authority); and every person who, by means of any cart, carriage, sledge, truck, or barrow, or any animal, or other means, wilfully interrupts any public crossing, or wilfully causes any obstruction in any public footpath or other public thoroughfare, P. 20*s*.

Every person who causes any tree or timber, or iron beam, to be drawn in or upon any carriage, without having sufficient means of safely guiding the same, P. 20*s*.

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Every person who leads or rides any horse or other animal, or draws or drives any cart or carriage, sledge, truck, or barrow, upon any footway of any street, or fastens any horse or other animal so that it stands across or upon any footway, P. 20*s*.

Every person who places or leaves any furniture, goods, wares, or merchandise, or any cask, tub, basket, pail, or bucket, or places or uses any standing-place, stool, bench, stall, or showboard on any footway, or who places any blind, shade, covering, awning, or other projection over and along any such footway, unless such blind, shade, covering, awning, or other projection is eight feet in height at least in every part thereof from the ground, P. 20*s*.

Every person who places, hangs up, or otherwise exposes to sale any goods, wares, merchandise, matter or thing whatsoever, so that the same project into or over any footway, or beyond the line of any house, shop, or building at which the same are so exposed, so as to obstruct or incommode the passage of any person over or along such footway, P. 20*s*.

Every person who rolls or carries any cask, tub, hoop, or wheel, or any ladder, plank, pole, timber, or log of wood, upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway, P. 20*s*.

Every person who places any line, cord, or pole across any street, or hangs or places any clothes thereon, P. 20*s*.

Every common prostitute or nightwalker loitering and importuning passengers for the purpose of prostitution, or being otherwise offensive, P. 40*s*.

Every person who wilfully and indecently exposes his person, or who commits any act contrary to public decency, P. 40*s*.

Every person who publicly offers for sale or distribution, or exhibits to public view, any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sings any profane or obscene song, or ballad, P. 40*s*.

Every person who wantonly discharges any fire-arm, or throws or discharges any stone or other missile, or makes any bonfire, or throws or sets fire to any fire-work, P. 10*s*.

Every person who wilfully and wantonly disturbs any inhabitant, by pulling or ringing any door-bell, or knocking at any door, or who wilfully and unlawfully extinguishes the light of any lamp, P. 40*s*.

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Every person who flies any kite, or who makes or uses any slide upon ice or snow, P. 10*s.*

Every person who cleanses, hoops, fires, washes, or scalds any cask or tub, or hews, saws, bores, or cuts any timber or stone, or slacks, sifts, or screens, any lime, P. 10*s.*

Every person who throws or lays down any stones, coals, slate, shells, lime, bricks, timber, iron, or other materials (except building materials so enclosed as to prevent mischief to passengers), P. 10*s.*

Every person who beats or shakes any carpet, rug, or mat (except rugs or mats beaten or shaken before the hour of nine in the morning), P. 10*s.*

Every person who fixes or places any flower pot or box, or other heavy article, in any upper window, without sufficiently guarding the same against being blown down, P. 10*s.*

Every person who throws from the roof or any part of any house or other building any slate, brick, wood, rubbish, or other thing, except snow thrown so as not to fall on any passenger, P. 10*s.*

Every person who leaves open any vault or cellar, or the entrance from any street to any cellar or room underground, without a sufficient fence or handrail; or leaves defective the door, window, or other covering of any vault, area, or cellar, or who does not sufficiently fence any area, pit, or sewer left open; or who leaves such open area, pit, or sewer without a sufficient light after sunset to warn and prevent persons from falling thereinto, P. 10*s.*

Every person who throws or lays any dirt, dung, litter, or ashes, or nightsoil, or any carrion, fish, offal, or rubbish, on any street, or sea beach, or strand within the boundaries of a town, or causes any offensive matter to run from any manufactory, brewery, slaughterhouse, butcher's shop, or dunghill, into any street: Provided always, that it shall not be deemed an offence to lay sand or other materials in any street in time of frost to prevent accidents, or litter or other suitable materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the party laying any such things causes them to be removed as soon as the occasion for them ceases, P. 10*s.*

Every person who keeps any pigstye to the front of any street, not being shut out from such street by a sufficient wall or fence, or who keeps any swine in or near any street, so as to be a common nuisance, P. 40*s.*

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Every person drunk in any street, or guilty of any riotous or indecent behaviour in any street, police office, or petty sessions court, or any police station house within the town, P. 40*s*.

S. 74. *Victuallers entertaining Constables.*—Every victualler, or keeper of any public house, or persons licensed to sell fermented or distilled liquors by retail, to be drunk or consumed on the premises, within the town, who harbours or entertains in his public house or place wherein he carries on his business any Constable during any part of the time for his being on duty, unless for the purpose of quelling any disturbance, or restoring order, P. 20*s*.

Penalty for harbouring disorderly persons.—Every person keeping any place of public resort within the town for the sale or consumption of refreshments of any kind, who knowingly suffers common prostitutes or reputed thieves to assemble and continue in his premises, P. £5.

S. 75. *Persons keeping places for baiting animals.*—Every person who within the town keeps or acts in the management of any house or place for the purpose of fighting, baiting, or worrying any animals, P. £5; and the commissioners may, by order in writing, authorize the Officer of Police, with such Constables as he thinks necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons found therein without lawful excuse, and every person so found, P. £5.

S. 76. *Penalty against swindlers, etc.*—And be it enacted, that all thimblers, loaded dice players, and other swindlers of that or any similar description, who shall be found in possession of implements or articles for practising games of hazard, or who shall exhibit such implements or articles in order to induce, or who shall induce any person to play at any game of hazard, or who, by any fraudulent art or device, shall cozen, cheat, or attempt to cozen or cheat, any person, may be convicted before a justice, on the testimony of one or more witness or witnesses, and on conviction shall be imprisoned for any term not exceeding thirty days, and shall also, at the same time, be sentenced to repay any money or restore any property which they may have obtained by means of any such offence, and failing such payment or restoration may under the same procedure, be committed to or detained in prison for any further term not exceeding 30 days.

[*Prosecutions for Drunkenness in Towns under the Towns Improvement (Ireland) Act*, 1854.]

The law as regards these prosecutions is as follows:—

The decisions of Coulter *v.* Martin (Q. B.), Cassidy *v.* Moore

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(C. P.), and Stevenson *v.* O'Neill (Ex.) have decided that the Constabulary are entitled to prosecute in their own names as complainants in courts of petty sessions for the offences enumerated in the 12th section of the Licensing Act, 1872. Such offences, when committed within the boundaries of a town under the Towns Improvement (Ireland) Act, 1854, may also be prosecuted in the court established and held in such town under the provisions of the said Act; but in such prosecutions a Constable, although he may be a witness, cannot be complainant, and proceedings can only be taken in the aforesaid court, if the complaint be brought in the name of the town clerk. When the offence has been committed within the boundaries of the town, and the offender is known to reside therein, this latter course should be adopted if the town commissioner so desire in all towns in which a court is established and held under the provisions of the aforesaid Act. Inasmuch, however, as the warrant of a town justice cannot be executed outside the town unless it is backed or certified, it is directed that in all cases, where the offender does not reside within the town, or where his residence is unknown, the proceedings shall be taken in the petty sessions court, irrespective of the place where the offence shall have been committed, the prosecuting Constable being named as complainant in the summons. In all cases where the Constabulary prosecute *at petty sessions* in the name of the town commissioners for offences against the Licensing Acts, 1872–4, the *red stamps* should not be used, but the commissioners or their clerk should supply the stamps required for such proceedings, which can be had from the clerk of petty sessions.]

Treasure trove, or treasure found, is where any money or coin, gold, silver, plate, or bullion is found hidden in the earth, or other private place, the owner thereof being unknown, in which case the treasure belongs to the Queen; but if he that hid it be known, or afterwards found out, the owner and not the Queen is entitled to it. Also if it be found in the sea or *upon* the earth it does not belong to the Queen, but to the finder if no owner appears; so that it seems it is the *hiding*, not the abandoning of it, that gives the Queen a property. Concealment of treasure trove is M. at common law. Larceny cannot be committed of such things.

On the receipt of any article of treasure trove, ornament, or other article of antiquity, the officer, Head or other Constable to whom the same shall be delivered, will give to the bringer a receipt for the same, in the form supplied. In the case of a Head Constable or Constable, such article, together with a duplicate of

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the receipt, is to be forwarded by the Constabulary to the officer of the district who will transmit the same, or any articles that may have been delivered directly to himself, to head-quarters, with all convenient despatch. In the event of the articles being purchased the estimated value will be transmitted to the officer to be paid to party holding receipt.

Unseaworthy ship—*sending to sea*—34 and 35 Vic., c. 110, s. 11.

Every person who, having authority as owner or otherwise to send a ship to sea, sends her to sea in an unseaworthy state, so as to endanger the life of any person belonging to or on board the same, shall be guilty of a misdemeanour, unless he proves that he used all reasonable means to make and keep the ship seaworthy, and was ignorant of such unseaworthiness, or that her going to sea in an unseaworthy state was, under the circumstances, reasonable and unavoidable, and for this purpose he may give evidence in the same manner as any other witness. (See also 38 and 39 Vic., c. 88.)

Vagrancy, 10 and 11 Vic., c. 84.—S. 2. *Desertion of wife or children.*—Every person who shall desert or wilfully neglect to maintain his wife or any child whom he may be liable to maintain, so that such wife or child shall become destitute, and be relieved in or out of the workhouse of any union in Ireland, P. imp. not exc. 3 mos. h. l.

S. 3. *Begging or encouraging children to beg.*—Every person wandering abroad and begging, or placing himself in any public place, street, highway, court, or passage to beg or gather alms, or causing or procuring, or encouraging any child or children so to do, and every person who having been resident in any union *in Ireland* shall go from such union to some other union, or from one electoral or relief district to another electoral or relief district in Ireland, for the purpose of obtaining relief in such last-mentioned union or district, P. not exc. one month.

S. 4. *Offender against Act may be arrested.*—It shall be lawful for *any person whatsoever* to apprehend any person whom he shall find offending against this Act, and to take and convey such offender as soon as may be reasonably practicable before any justice of the peace, to be dealt with as hereinbefore provided, or to deliver him to any Constable or other peace officer of the county or place wherein he shall have been apprehended, to be so taken and conveyed as aforesaid; and it shall be the duty of every Constable or

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peace officer to take into his custody every such offender so delivered to him, and to take and convey such offender before a justice of the peace as soon as may be reasonably practicable, to be dealt with as is directed by this Act.

S. 5. *Justice may issue warrant to apprehend offender.* – It shall be lawful for any justice of the peace upon proof that any person hath committed any of the offences hereinbefore mentioned to issue his warrant to apprehend such offender, and to bring him before the same or some other justice of the peace to be dealt with as is directed by this Act.

[*Duties of the Constabulary in respect to vagrancy.*—A Constable is required to use his best efforts for the suppression of vagrancy. If a vagrant or beggar be found by a Constable offending against this Act, and the offence has been committed *in the view of* the Constable, it is his duty to convey the offender before a justice; but if the act complained of as an offence against the statute be one *not within the knowledge* of the Constable, but within that of another person, then the person who can prove the offence should accompany the Constable to maintain the charge. When on patrol or beat duty the Constabulary should make special inquiries about vagrants who may have been begging in the locality. A Constable has no authority to arrest persons on the *mere suspicion* of begging; but should they answer the description given, and there be no doubt they are the persons who committed the offence, the Constable should take them to the house where they begged, and when identified they should be conveyed to the nearest magistrate, accompanied by the witness. The Constable should be careful not to interfere with poor people who may be driven by necessity to travel from one place to another in search of work, or for some lawful object. Such poor persons, who may easily be distinguished from tramping vagrants, should not be interfered with so long as they commit no offence. The condition of the hands will, as a rule, enable the Constabulary to judge between the working man and the professional tramp.]

5 George IV., c. 83, amended and extended to Ireland by 34 and 35 Vic., c. 112, s. 15.

S. 4. Be it enacted that—(1.) *Every person committing any of the offences hereinbefore mentioned after having been convicted as an idle and disorderly person*;* (2) every person pretending or professing to tell fortunes, or using any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose on any of His Majesty's subjects; (3) every person wandering abroad and lodging in any barn or out-house, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or waggon, not having a visible means of subsistence, and not giving a

* *Note.*—Clauses 1 and 13 do not apply to Ireland.

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good account of himself or herself; (4) every pe
fully exposing to view in any street, road, high
public place, any obscene print, picture, or other i
exhibition; (5) every person wilfully, openly, lewdl
obscenely exposing his person in any street, road, or public highway, or in the view thereof, or in any place of public resort, with intent to insult any female; (6) every person wandering abroad and endeavouring, by the exposure of wounds and deformities, to obtain or gather alms; (7) every person going about as a gatherer or collector of alms or endeavouring to procure charitable contributions of any nature or kind under any false or fraudulent pretence; (8) every person running away and leaving his wife, or his or her child or children chargeable, or whereby she or they or any of them shall become chargeable to any parish, township, or place; (9) *every person playing or betting in any street, road, highway, or other open and public place at or with any table or instrument of gaming at any game or pretended game of chance;* (10) every person having in his or her custody or possession any picklock key, crow, jack, bit or other implement, with intent feloniously to break into any dwelling-house, ware-house, coach-house, stable, or out-building, or being armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, or having upon him or her any instrument, with intent to commit any felonious act; (11) every person being found in or upon any dwelling-house, warehouse, coach-house, stable, or out-house, or in any enclosed yard, garden, or area, for any unlawful purpose; (12) every suspected person or reputed thief frequenting any river, canal, or navigable stream, dock, or basin, or any quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, *highway, or any place adjacent* to a street or highway, with intent to commit a felony; . . . . . shall be deemed a rogue and a vagabond within the true intent and meaning of this Act, imp. on conviction before one justice not exc. 3 months h. l.

[The provision of 5 Geo. IV., c. 83, conferring upon a Constable the power to arrest for the offences set forth in section 4 of that Act has not been extended to Ireland. A Constable in Ireland has, therefore, no such authority under this section.

Clause 9 of this section has been repealed by 51 & 52 Vic., c. 57. In England such offences are provided for by 36 & 37 Vic., c. 38, s. 3, which statute does not apply to Ireland.

Cheating.—Every one commits the misdemeanour (at common law) called *cheating* who fraudulently obtains the property of another by any deceitful practice not amounting to felony, which

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practice is of such a nature that it directly affects, or may directly affect the public at large. But it is not cheating to deceive any person in any contract or private dealing by lies unaccompanied by such practices as aforesaid. (*Fitzjames Stephen, D.C.L., article* 338). See also p. 148. Such games as "thimble rigging," "three card trick," and other practices of swindling may be dealt with as *common cheating*, and the offender may be arrested at once upon the Constable satisfying himself that the cheat has been attempted.]

Warrants.—*Warrant to arrest.*—Every warrant to arrest ought to specify the offence charged, the authority under which the arrest is made, the person who is to execute it, and the person to be arrested. It is of the essence of a warrant that it should be so framed that the Constable should know whom he is to take, and that the party upon whom it is executed should know whether he is bound to submit to the arrest. If an Act of Parliament direct that a justice shall grant a warrant, and do not say to whom it shall be directed, by consequence of law it must be directed to a Constable. If the name of the party to be arrested be unknown the warrant may be issued against him by the best description the nature of the case will allow, as (*e.g.*) "the body of a man whose name is unknown, but whose person is well known, and who is employed as the driver of cattle, and wears a badge No. 573." A warrant is defective if it omits the christian name of the person to be arrested and assigns no reason for the omission, nor gives any distinguishing particulars of him. It ought to set forth the year and the day wherein, and the county where it is made. The directions of the warrant must be strictly observed, or the party executing it will not be justified in his acts. When the charge is less than felony the Constable ought to produce the warrant, and an arrest without such production is held to be illegal. By the 14 and 15 Vic., c. 93, s. 11, in all cases of indictable offences the warrant may be issued and executed on a Sunday. In the execution of a warrant doors may be broken open for the arrest of the offender, but not till the Constable first signifies to those in the house the cause of his coming, and requests them to give him admittance. If a Constable

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to execute any warrant enter into a house, the doors being open, and then the doors are locked upon him, he may break them open in order to regain his liberty. The Constable may read the warrant for the person against whom it is to be executed, but he should not volunteer to give a copy of it; still if a demand for a copy is made in writing by the person interested, or his attorney, the Constable should furnish a copy *within six days after such demand*, unless forbidden to do so by his officer, to whom he should immediately report the fact of the demand having been made (43 Geo. III., c. 143, s. 6), see pages 56 and 456.

A justice's warrant continues in force until it is fully executed and obeyed during the life of the magistrate who has granted it. (*Dickenson* v. *Brown*, *Peake*, *N.P.C.* 234).

Warrant of distress.—A distress by warrant of a magistrate is usually issued for the purpose of compelling payment of a penalty or costs, and payment also of a debt or duty. All warrants of distress in proceedings punishable upon summary conviction issued in any petty sessions district shall be addressed to the District Inspector or Head-Constable who shall act for the place where the petty sessions for such district are held; and all warrants of distress in other cases shall be addressed either to the District Inspector or Head-Constable aforesaid, or to such other person or persons (not being the complainant or a party interested) as the justices issuing the same shall see fit (14 and 15 Vic., c. 93, s. 25). If the person against whom the warrant has been issued has goods in any place for which the District Inspector or Head-Constable, to whom the warrant is addressed shall act, it shall be lawful for such District Inspector or Head Constable, or for any Head or other Constable to be appointed by him, to execute the same (14 and 15 Vic., c. 93, s. 26). In executing a distress warrant the Constable cannot break open doors, but must wait until he can obtain admittance. If the offender be a married woman the goods of the husband are not liable to be distrained for the penalty unless there be an express authority for it in the Act of Parliament allow-

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ing the distress. The Constable distraining has no right to impound the goods on the premises, and ought not to remain longer than a reasonable period for the purpose of removing them; he should, therefore, remove the goods seized as soon as possible to a convenient place; and he should not distrain more goods than are sufficient to satisfy the requisites of the warrant. Whatever at common law might be seized under writ of *fieri facias* may be seized under a magistrate's distress warrant; and under a *fieri facias* the sheriff has authority to seize every chattel belonging to the defendant except his necessary wearing apparel. The 26 and 27 Vic., c. 62, directs that growing crops, plants, &c., not severed from the soil, are not to be seized under a magistrate's distress warrant. Goods of other persons in the house or premises of the defendant cannot be seized. If the defendant pays or tenders to the Constable executing the warrant the sum mentioned in it, or if he produces the receipt of the petty sessions clerk for the same, and if he also pays the expenses of the distress up to the time of such payment or tender, the Constable should refrain from executing the warrant. The person charged with the execution of the warrant shall sell the distress within the period specially fixed by the warrant; or if no period shall be fixed then within three days from the making of the distress, unless the sum for which the warrant was issued, and also the reasonable charges of taking and keeping the distress, shall be sooner paid; and in every case the person selling the distress shall render to the owner the surplus, if any (14 and 15 Vic., c. 93, s. 32). The person who sells ought to sell for ready money, for if he sells for credit he is immediately responsible for the same. As to the impounding of animals detained, see 14 and 15 Vic., c. 92, s. 19. When it is necessary to sell by auction the goods, &c., distrained in remote places, and no licensed auctioneer is residing in the neighbourhood, the District Inspector charged with the execution of the warrant is authorized to cause the distress to be sold by auction by any Head Constable in accordance with 14 and 15 Vic., c. 93, s. 32. The power should

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be exercised so as not to interfere unfairly with the trade of the auctioneer. The form of the warrant provides for the time of its return. (See 14 and 15 Vic., c. 93, sched. E. a.) If a distress warrant has been executed, and the amount realized upon sale is not sufficient to satisfy the penalty, a second seizure may be made if goods are to be found within the jurisdiction.

Warrant to Search.—At common law, in the case of a complaint and *oath* made of goods stolen, and the party suspects that the goods are in such a house, and *shows the cause of his suspicion*, the magistrates may grant a warrant to search in those suspected places mentioned in his warrant, and to attach the goods and the party in whose custody they are found, and bring them before him, or some other magistrate, to give an account how he came by them, and to abide such order as the law authorizes. By statute, if any credible witness proves upon oath before a justice of the peace that he has reasonable cause to suspect that any person has in his possession, or on his premises, any property with respect to which any offence, punishable either upon indictment or upon summary conviction under the Larceny Act, has been committed, the justice may grant a warrant to search for it if reasonable and probable grounds for such suspicion is laid before him (24 and 25 Vic., c. 96, s. 103). A positive oath that a felony has been actually committed is not necessary to justify a magistrate in granting this warrant. There are many cases in which a cautious man might not choose to swear that his property is stolen, and nevertheless he might have great reason to suspect a particular party, and the magistrate would be well warranted in granting a search warrant. Upon a *bare surmise* a magistrate will not grant a warrant to break into any man's house to search for a felon or for stolen goods.

Execution of Search Warrant.—The warrant may be executed on a Sunday, and in the daytime if possible; but under the statute (24 and 25 Vic., c. 96, s. 103) the search may be made in the night time where necessary. The warrant should be directed to the District Inspector or Head Constable as directed by 14

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and 15 Vic., c. 93, s. 25, and it is advisable that the party complaining should be present at the search to identify his goods. The Constable executing the warrant should demand admittance to the premises, notifying his business, and should he be refused he may break open the outer door of the house, and he may also break open boxes after the keys have been demanded. The Constable should endeavour to search the premises of the suspected person when he is at home, to prevent his learning the fact and escaping; and especially note his conduct, behaviour, and remarks during the search, or when the stolen goods are found. If the suspected person should not be in the house when the search is made, the Constable should fasten the doors, and allow no person to go out or come in during the search; he should also employ another Constable to watch the suspected person, to prevent his receiving information of what is going on, or should he abscond to pursue him, and thus ensure his arrest. The Constable must have the warrant in his personal possession at the time of the search, and produce it if required.

The goods and the person in whose possession they are found are forthwith to be brought by the person who executes the warrant before the magistrate who signed it, or some magistrate in the neighbourhood. The Constable should bring the prisoner before the nearest magistrate, so that the prisoner should not be put to unnecessary inconvenience. If on bringing them before the magistrate, it appears that the goods were not stolen, they are to be restored to the possessor. If it appears they were stolen, they are not to be delivered to the owner, but should be deposited with the Constable in order to be produced at the trial. If the property is of such a nature that it cannot be committed to the custody of the Constable, as a horse or other animal requiring sustenance, it should be sent to livery, or upon satisfactory proof of ownership the magistrate may deliver the animal to the party whose property it appears to be, on his giving sufficient security for its forthcoming. If the goods were notstolen by the party arrested, but by another, who sold and

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delivered them to him, and if it appear that he was ignorant that they were stolen, he may be discharged as an offender, and bound over to give evidence as a witness against the person that sold them. As a general principle, when a man in whose possession stolen property is found gives a reasonable account of such possession, as by telling the name of the person from whom he received it, it lies on the prosecutor to show that the account is false; but if the account given by the prisoner is not reasonable, or improbable on the face of it, the *onus* of proving its truth lies on him. Any person receiving any property knowing the same to be stolen is subject to the same punishment to which the person guilty of the stealing is liable (24 & 25 Vic., c. 96, s. 97).

A warrant to search for the following matters and persons may be issued under the statutes opposite to each:—

Illicit distillation materials, 1 and 2 Wm. IV., c. 55.
Embezzled linen materials, 3 and 4 Vic., c. 91, s. 6.
Gaming houses, 8 and 9 Vic., c. 109, s. 2.
Betting houses, 16 and 17 Vic., c. 119, s. 11.
Spirits in shebeen houses, 17 and 18 Vic., c. 89, s. 2.
Obscene books, prints, pictures, &c., 20 and 21 Vic. c. 83, s. 1.
Stolen property, 24 and 25 Vic., c. 96, s. 103.
Forged papers, 24 and 25 Vic., c. 98, s. 46.
Counterfeit coin, &c., 24 and 25 Vic., c. 99, s. 27.
Carcass, head, skin, of sheep stolen, 25 and 26 Vic., c. 50, s. 6.
Explosives, 38 Vic., c. 17, s. 73.
Smuggled goods, 39 and 40 Vic., c. 36, s. 205.
Arms in proclaimed district, 44 Vic., c. 5, s. 1.
Woman or girl unlawfully detained for immoral purposes, 48 and 49 Vic., c. 69, s. 10.
Goods having forged trade marks, 50 and 51 Vic., c. 28, s. 12.
Children, assaulted, ill-treated, or neglected, 57 and 58 Vic., c. 41, s. 10.

Police regulations regarding warrants.—Whenever a Head or other Constable shall receive a warrant or written order from a magistrate he should, if time

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will admit, take it to his District Inspector, as directed by 6 and 7 Wm. IV., c. 13, s. 16, who will indorse thereon the name or names of the Head or other Constables who are to execute it. Every warrant is to be sent to the station (within the county to which it belongs) nearest to the place of residence, or suspected place of abode, of the person charged therein: and if the parties reside in different districts or sub-districts, it will be advisible for the District Inspector, Head or other Constable to whom the warrant has been delivered to procure and forward separate warrants to such districts: in case of offences punishable either by indictment or summary conviction, the warrants should be addressed to the District Inspector or Head Constable (14 and 15 Vic., c. 93, s. 25, sub-s. 2). Other warrants may be addressed to the District Inspector, or Head Constable, or to such other person as the justices shall see fit. *Receipts* should, in all cases, be required from plaintiffs or other persons to whom payments are made of moneys levied under warrants, and such receipts should be written on the warrants, and signed by the plaintiff or other person entitled to same. In the case of marksmen, the money should be paid in the presence of a witness who can write and attest by his signature such mark. Previously to executing a warrant it should be ascertained that it is correctly filled. Any informality in a warrant should be pointed out to the magistrate by whom it was issued. The Constable is bound to follow the directions contained in a warrant, *and to execute it with secrecy and despatch.* The dates of the receipt and execution of all warrants, and by whom executed, must be indorsed thereon, and the warrants are to be carefully preserved by the District Inspector, Head Constable, or Constable who executes them, as they may be wanted afterwards for his own justification. The Constabulary should execute all warrants addressed to them. They are required to execute "game warrants." They should not upon any consideration give a copy or extract from any warrant or order with which they may be intrusted, or suffer it to be read, or read it to any person except the individual upon or against

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whom it is to be executed or a magistrate, or other authorized person, and that on demand. If required by the magistrates it is their duty to execute warrants obtained by a registered loan fund society. By the 41 and 42 Vic., c. 69, they are required to execute warrants for the levying of fines imposed on jurors.

Indorsement of warrants.—For backing of warrants, see sections 25 to 32 of 14 and 15 Vic., c. 93. The law requires that every warrant should be submitted to the Inspector-General for indorsement—where the person to be arrested or his goods are to be found in another county, in the Police District of Dublin Metropolis, or in any other part of the United Kingdom. By section 77 of 40 and 41 Vic., c. 56, warrants issued by magistrates appointed under the Towns Improvement (Ireland) Act, 1854, may be indorsed by the Inspector-General for execution outside the limits of the town.

The *certificate G a*, on back of warrant, is only necessary when returning an unexecuted warrant to the justices who issued it, in cases where the person to whom the warrant has been addressed, &c., shall have been unable to find the party charged or his goods, or to discover where such person or his goods are to be found, 14 and 15 Vic., c. 93, s. 33. The *certificate G b*. on back of warrant, must be signed by a District Inspector or Head Constable [ss. 26 and 27].

Mode of submitting warrants for indorsement.—Each warrant transmitted to head quarters for the purpose of being backed must be submitted with a half sheet in front, and it must be stated thereon (1) in what police district or sub-district the offender or his goods may be found; (2) also the name of the defendant and the offence with which he is charged. The warrant should contain in the recital of complaint the name of the county, as well as that of the place, so as to show jurisdiction. And whenever it is necessary to make alterations or corrections in a warrant, the initials of the magistrate who signs it should be written opposite, or close to the place where the alterations or corrections appear. In submitting warrants for the arrest of persons charged with desertion of wives and children, it must be stated that the guardians have

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expressed their willingness to defray all reasonable and necessary expenses attending the arrest. So also in the case of a warrant for a runaway apprentice, it should be stated in the report that the master guarantees the expense attending arrest, or that a magistrate's authority has been obtained for it. In like manner in case of embezzlement, it should be stated that the owner of the property guarantees or that a magistrate authorizes the expense attending the arrest.

Loan Fund.—Loan fund warrants being altogether of a civil nature, it is desirable that the Constabulary should only be called on to execute them when there is a reasonable apprehension of resistance being offered to the enforcement of such warrants. The Constabulary may, however, execute loan fund warrants whenever required by the magistrates to do so, provided only that *indispensable* duty is not thereby neglected. But in no case are the Constabulary to be employed in the execution of warrants obtained by any society not duly registered according to law (6 and 7 Vic., c. 91), nor of any *closed* loan-fund society; nor are they to execute any loan-fund warrants whatever which are addressed to special bailiffs, or in which special bailiffs are named.

Weights and Measures Act, 1878—(41 and 42 Vic., c. 49). S. 19. Every contract, bargain, sale, or dealing for any work, goods, wares, or merchandise, or other thing sold, delivered, carried, or agreed for by weight or measure shall be deemed to be made and had according to one of the imperial weights or measures, ascertained by Act, or to some multiple or part thereof, and if not so made or had, shall be void. Person selling by any denomination of weight or measure other than one of the imperial weights or measures or some multiple or part thereof, P. 40*s*.—S. 20. All articles sold by weight shall be sold by avoirdupois weight, except gold and silver, platinum, diamonds and other precious stones, which may be sold by troy weight; drugs may be sold in retail by apothecaries' weight, P. £5—S. 23. Printing, or making price lists or returns denoting greater or less weight or measure than the same denomination of imperial weight or measure, P. 10*s*.—S. 24. Using or having in possession, for use for trade, a weight or measure which is not of the denomination of some Board of Trade standard, P. £10.—S. 25. Using or having in possession for trade any

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weight, measure, scale, balance, steelyard, or weighing machine which is false or unjust, P. £5, and the weight, measure, scale, balance, or steelyard, may be forfeited.—S. 26. Where any fraud is wilfully committed in the using of any weight, measure, scale, balance, steelyard, or weighing machine, P. £5.—S. 27. Wilfully or knowingly making or selling, or causing to be made or sold, any false or unjust weight, measure, scale, balance, steelyard, or weighing machine, P. £10.—S. 28. Every weight shall have the denomination of such weight stamped on the top or side thereof in legible letters. Every measure shall have denomination stamped on outside in legible figures and letters. A weight or measure not in conformity with this section shall not be stamped with stamp of verification under Act.—S. 29. Every measure and weight used for trade shall be verified and stamped by an Inspector with stamp of verification under Act. Using or having in possession, for use for trade, any measure or weight not stamped as required by Act, P. £5.—S. 30. Weight made of lead or pewter, or of any mixture thereof, not to be stamped unless cased with brass, copper, or iron, and marked "cased," P. £5.—S. 31. Every corn weight shall be verified and stamped by Board of Trade, and otherwise shall not be deemed a just weight. Using such unjust weights, P. £50.—S. 32. Forging or counterfeiting any stamp used for stamping under Act of any measure or weight, P. £50. Using, selling, &c., such measure or weight, P. £10. All measures or weights with forged stamp to be forfeited.—S. 59. Where any weight, measure, scale, balance, steelyard, or weighing machine is found in the possession of any person carrying on trade or on his premises used for trade, such person shall be deemed, until the contrary is proved, to have such weight, measure, &c., in his possession for use for trade.

Ex-officio Inspectors of weights and measures.—Section 81 of the Act empowers the Inspector-General to select, with the approval of the Lord Lieutenant, certain Head or other Constables in each petty sessions district to be *ex-officio* Inspectors of weights and measures within such district. If within one month of such selection (which is to be duly notified to the clerk of petty sessions) the justices signify disapproval of the Head or other Constable selected, another selection is to be made and notified to the justices. The several *ex-officio* Inspectors so appointed will have

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the custody of the local sub-standards of weights and measures.

Duties.—The *ex-officio* Inspectors of weights and measures are required to give their best attention to the detection and punishment of fraud in the use of false weights and measures. They are to stamp all weights and measures of traders where they are correctly adjusted by the traders. For this purpose notices should be periodically posted, informing the public that on a day and at a place named the *ex-officio* Inspector will attend for the purpose of stamping such weights and measures as shall be brought to him for verification. And the *ex-officio* Inspector should attend, with the local standards in his custody, at the time and place fixed, and should examine every measure and weight which is of the same denomination as one of such standards, and is brought to him for the purpose of verification, and if he find the same correct should stamp it with a stamp of verification in such manner as best to prevent fraud; and in the case of a measure or of a weight of a quarter of a pound or upwards should further stamp thereon a name, number, or mark distinguishing the district for which he acts. The *ex-officio* Inspector should also enter in a book kept by him minutes of every such verification, and give, if required, a certificate under his hand of every such stamping. (Sec. 44 of Act.)

Power to inspect weights, measures, scales, &c., and to enter shops, &c., for that purpose.—By sections 48 and 81 of the Act, every *ex-officio* Inspector may without authority from a justice at all reasonable times inspect all weights, measures, scales, balances, steelyards, and weighing machines within his jurisdiction which are used or in the possession of any person or on any premises for use for trade, and may compare every such weight and measure with the local sub-standards; and may seize and detain any weight, measure, scale, balance, or steelyard which is liable to be forfeited in pursuance of this Act; and may for the purpose of such inspection enter any place whether a building or in the open air, whether open

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or enclosed, where he has reasonable cause to believe that there is any weight, measure, scale, balance, steelyard, or weighing machine which he is authorized by this Act to inspect. Any person who neglects or refuses to produce for such inspection all weights, measures, &c., in his possession or on his premises, or refuses to permit the *ex-officio* Inspector to examine the same or any of them, or obstructs the entry of the *ex-officio* Inspector, or otherwise obstructs or hinders him acting under Section 48, is liable to a fine not exceeding £5, or in case of a second offence, £10. After the verification pursuant to notice, the *ex-officio* Inspectors should visit the shops, &c., of traders to inspect their weights and measures, and to search for such as are false or unjust. Should they discover that any trader has in use, or in his warehouse or place of trade any false or unjust weights and measures, or that any fraud is committed in the using thereof, the *ex-officio* Inspectors should seize all such weights and measures, and summon the offender to petty sessions, according to 14 & 15 Vic., c. 93, under which Act all proceedings are to be taken. In case of a conviction for having false, unjust, or unstamped weights or measures, such weights and measures are to be destroyed if they are ordered to be forfeited. (See Secs. 25 and 29 of Act.) To ensure a conviction it is necessary that the sub-standard weights and measures should have been compared at least once within the year according to law. (Sec. 83 of Act.) The *ex-officio* Inspector is not authorized to enter workhouses, post-offices, or other places, where the weights are not used for any of the purposes contemplated by the 48th Section of the Act, and are therefore not subject to the supervision of the Inspector. The scales and scale-beams of traders should be carefully examined, with the view of ascertaining whether they are true. A ready mode of effecting this is by reversing the scale in which the articles sold and the weights are respectively placed. If the result be the same, the beam may be pronounced true. If the beam be unjust, the party may be proceeded against as above.

By Section 80 of 41 & 42 Vic., c. 16, Inspectors of

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Weights and Measures are authorized to enter factories and workshops, and to examine measures, &c., which may be used in calculating wages.

See also Weights and Measures Act, 1889, 52 & 53 Vic., c. 21.

Weighing Cattle in Markets and Fairs.—50 & 51 Vic., c. 27, requires that accommodation for weighing cattle be provided by the market authority at markets and fairs in which tolls are authorized to be taken, and that cattle be weighed at the option of seller or buyer. The word "cattle" includes ram, ewe, wether, lamb, swine.

Whiteboy Acts, 15 & 16 Geo., III., c. 21, Ir. (perp. by 40 Geo. III., c. 96, Ir., s. 4).—S. 2. If any person or persons . . . . being armed with fire-arms, firelock, pistol, or any offensive weapon or weapons whatsoever, or having his, her, or their face or faces, body or bodies, disguised in any manner whatsoever, or wearing any particular badge, dress, or uniform not usually worn by him, her, or them, upon his, her, or their lawful occasions, or assuming any particular name or denomination not usually assumed by His Majesty's subjects upon their lawful occasions, shall rise, assemble, or appear by day or by night, to the terror of His Majesty's subjects, M.—S. 6. Justice of the peace, sheriff, &c., or other peace officer, taking with them the necessary assistance, may apprehend, disperse, resist, and oppose all persons concerned in any of the unlawful acts before mentioned in this Act.—S. 21. By force, violence, or menace, to unlawfully impose or tender any oath or oaths on any book, or in any other manner, any solemn engagement on or to any persons, M.—S. 22. Justices may summon any person or persons whom he shall have cause to suspect to be capable of giving material evidence concerning any offence committed against this Act, and to examine on oath. Person refusing to submit to examination may be committed to goal.—S. 23. By sound of drum, horn, music, fire, shouting or other signal, knowingly to excite, encourage, or promote such unlawful meetings as aforesaid, M.

27 Geo. III., c. 15. Ir., (perp. by 40 Geo. III., c. 96, Ir., s. 5).—S. 1. If any persons to the number of twelve meet in an unlawful and riotous manner, and do not disperse when required in the King's name by any justice, mayor, or sheriff, by proclamation, in the form directed, riotously and tumultuously remain together for one hour after such proclamation, then such continuing to the number of twelve or more shall be adjudged felony.—S. 2. The proclamation to be made to the rioters by the justice,

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etc., authorized by Act to make it. (See page 292.)—S. 3. Threatening, opposing, obstructing, or hurting person making proclamation, F.—S. 4. Rioters, twelve or more of them, not dispersing within one hour may be arrested; if any of the rioters be killed in the dispersing, the justice, &c., shall be free and indemnified.—S. 6. Any person not duly qualified by law who shall administer, or cause to be administered, or tender, or cause to be tendered to, or by threats, promises, persuasion or other undue means, cause, induce or procure to be taken by any person or persons, any unlawful oath or solemn engagement, upon a book or otherwise, F.—Taking such oath not being compelled by necessity, F.—S. 8. If any person shall dig, erect, or provide, or cause or procure to be dug, erected, or provided any grave, gallows, or gibbet, or any instrument for inflicting bodily pain or punishment, in order to induce or compel any person or persons to enter into, support, maintain, or assist in any unlawful combination or agreement whatsoever, or in order to deter or prevent any person from giving evidence in any suit or prosecution, civil or criminal, or to prevent the collection of any lawful rates or taxes; or shall make use of any manner of force, or inflict or threaten to inflict any manner of bodily pain or punishment whatsoever, or destroy or threaten to destroy the property of any person in order to induce any person to enter into any unlawful combination, or to prevent the collection of any such rates or taxes or to prevent any person from giving evidence in any prosecution, or on account of any persons having declined to enter into any unlawful combination, or having given evidence in any prosecution, &c., F.—S. 9. If any person shall print, write, post, publish, or knowingly circulate or deliver, etc., any notice, letter, or message exciting or tending to excite any riot, tumultuous meeting, or unlawful combination or confederacy, F.—S. 10. Every person who shall forcibly seize any arms or ammunition belonging to any person; or shall forcibly, or shall by menace, or intimidation exact or levy from any person any contribution in money or goods; or by insinuation, threats, or violence cause any person unwillingly to deliver up any arms or ammunition, etc.; knowingly and voluntarily to supply horses, arms or ammunition to any person for the purpose of assisting any person in the execution of any of the offences in this Act mentioned, F.—S. 12. Prosecution to be commenced within one year after offence committed. [See also 50 Geo. III., c. 102.]

1 & 2 Wm. IV., c. 44, s. 2.—By force, threats, or menaces to attempt to compel any person to quit his dwelling-house, habitation, farm, possession, place of abode, service, or law-

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ful employment; or maliciously assault or injure the dwelling house, place of abode, or habitation of any other person; or break into his habitation, barn, or outhouse; or cause any door to be opened by threat and menaces; or maliciously injure the land, goods, or chattels, or property of any other person; or take or carry away any horse, gelding, mare, or mule, or any gun, sword, or other weapon, or any money or goods or chattels whatsoever without the consent of the owner: or cause the same to be delivered by threats, &c.; or maliciously dig up, turn up, &c., demolish or injure the lands, walls, paling, fences, crops, cattle, goods of any other person, M.—S. 3. Knowingly to print, write, post, publish, circulate, send or deliver, or cause or procure to be printed, &c., any notice, letter, or message, exciting, or tending to excite any riot, tumultuous or unlawful meeting, or assembly, or unlawful combination, or threatening any violence, injury, or damage to the person or property of any person; or demanding any money, arms, weapons, ammunition, or other thing, or directing or requiring any person to do or not to do any act, or to quit the service or employment of any person, or to set or to give out any land, M.—S. 4. To break open any gaol, prison, or bridewell, with an intention to rescue and enlarge oneself, or any other prisoner therein confined, M.—S. 5. To rescue any person committed for felony from a constable, M.

Wild Birds Protection Acts, 1880 and 1881.—43 & 44 Vic., c. 35. S. 2. The words "wild birds" shall for all the purposes of this Act be deemed to mean all wild birds.—S. 3. Any person who between the 1st March and 1st August, shall knowingly and wilfully shoot, or attempt to shoot, or shall use any boat for the purpose of shooting or causing to be shot any wild bird, or shall use any line, snare, net, or other instrument for taking any wild bird, or shall have in his control or possession after the 15th March any wild bird recently killed or taken, shall, in case of any wild bird included in the schedule following, forfeit and pay for every such bird not exceeding one pound; and in the case of any other wild bird, shall for a first offence be reprimanded and discharged on payment of costs, and for every subsequent offence forfeit and pay for every such wild bird, a sum not exceeding 5*s*. This section shall not apply to the owner or occupier of any land, or to any person authorized by the owner or occupier, killing or taking any wild birds on such land not included in the schedule hereto annexed.—S. 4. Any person may require the person offending against this Act to give his Christian name,

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surname, and place of abode.—S. 5. Offences in Ireland to be tried by two justices.

SCHEDULE TO ACT.

American quail, auk, avocet, bee-eater, bittern, bouxie, colin, Cornish chough, coulterneb, cuckoo, curlew, diver, dotterel, dunbird, dunlin, eider duck, fern fowl, fulmer, gannet, goatsucker, godwit, goldfinch, grebe, greenshank, guillemot, gull (except black-backed gull), hoopoe, kingfisher, kittiwake, lapwing, loon, mallard, marrot, meerganser, murre, nighthawk, nightjar, nightingale, oriole, owl, oxbird, oyster-catcher, peewit, petrel, phalarope, plover, ploverspage, pochard, puffin, purre, razorbill, redshank, reeve or ruff, roller, sanderling, sandpiper, scout, sealark, seamew, seaparrot, seaswallow, shearwater, sheldrake, shoveller, skua, smew, snipe, solan goose, spoonbill, stint, stone curlew, stonehatch, summer snipe, tarrock, teal, tern, thickknee, tysley, whaup, whimbrel, widgeon, wild duck, willock, woodcock, woodpecker.

[The Wild Birds Protection Act, 1894 (57 and 58 Vic., c. 24) prohibits the taking or destroying wild birds' eggs, and authorizes the application of the Act 1880 to other birds.]

44 & 45 Vic., c. 51.—S. 1. A person shall not be liable to be convicted under section 3 of Act, 1880, of exposing or offering for sale, or having the control or possession of any wild bird recently killed, if he satisfies the court before whom he is charged, either (1) that the killing of such wild bird, if in a place to which the said Act extends, was lawful at the time when and by the person by whom it was killed; or (2) that the wild bird was killed in some place to which the said Act does not extend, and the fact that the wild bird was imported from some place to which the said Act does not extend shall, until the contrary is proved, be evidence that the bird was killed in some place to which the said Act does not extend.—S. 2. The schedule to Act, 1880, shall be read and construed as if the word "lark" had been inserted therein.

[The Constabulary are not required to enforce these Acts.]

Worship, disturbance of, 23 & 24 Vic., c. 32, s. 2.—Any person who shall be guilty of riotous, violent, or indecent behaviour in any . . . church . . . . or in any chapel of any religious denomination . . . . . whether during the celebration of divine service, or at any other time, or in any churchyard or burial ground, or who shall molest, let, disturb, vex, or trouble, or by any other unlawful means disquiet or misuse any preacher duly authorised to preach therein, or any clergyman in holy orders

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ministering or celebrating any sacrament, or any divine service, rite, or office, in any cathedral, church, or chapel, or in any churchyard or burial ground, shall, on conviction thereof before two justices of the peace, be liable to P. not more than £5, or imprisonment not exceeding two months. S. 3. A constable may immediately and forthwith, after the offence committed apprehend and take the offender before a justice of the peace.

Wrecks and Wrecked Property, *the Merchant Shipping Act*, 1854, 17 & 18 *Vic.*, *c.* 104.

S. 2. In Act "*ship*" shall include every description of vessel used in navigation not propelled by oars. "*Wreck*" shall include jetsam, flotsam, lagan, and derelict found in or on the shores of the sea or any tidal water (*a*).

S. 439. The Board of Trade shall, throughout the United Kingdom, have the general superintendence of all matters relating to wreck, and appoint receiver of wreck in any district.

S. 441. Whenever any ship or boat is stranded or in distress at any place on the shore of the sea or of any tidal water within the limits of the United Kingdom, the receiver of the district shall forthwith proceed to such place, and upon his arrival there he shall take the command of all persons present, and assign such duties to each person, and issue such directions, as he may think fit with a view to the preservation of such ship or boat, and the lives of the persons belonging thereto, and the cargo and apparel thereof. Any person wilfully disobeying such directions shall forfeit not exceeding £100.

S. 442. *Powers of Receiver of Wreck.*—The receiver may, with a view to such preservation as aforesaid of the ship or boat, persons, cargo, and apparel, do the following things (that is to say) :—

(1.) Summon such number of men as he thinks necessary to assist him.

(2.) Require the master or other person having the charge of any ship or boat near at hand, to give such aid with his men, ship, or boats, as may be in his power.

(3.) Demand the use of any waggon, cart, or horses, that may be near at hand,

(*a*) *Jetsam* denotes goods *cast* into the sea while the ship is in danger and which then sink and remain under water. *Flotsam*, goods which *float* on the surface of the water. *Ligan*, goods which *lie* in the bottom of the sea but are tied to a cork or buoy, in order to be found again.

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And any person refusing, without reasonable cause, to comply with any summons, requisition, or demand, so made as aforesaid, shall, for every such refusal, incur a a penalty not exceeding £100. . .

S. 443. All cargo and other articles belonging to such ship or boat as aforesaid that may be washed ashore, or otherwise be lost or taken from such ship or boat shall be delivered to the receiver; and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver, &c., shall incur P. not exc. £100, and it shall be lawful for such receiver, &c., to take such cargo or article by force from the person refusing to deliver the same.

S. 444. Whenever any such accident as aforesaid occurs to any ship or boat, and any person plunders, creates disorder, or obstructs the preservation of such ship or boat, lives, or cargo, as aforesaid, it shall be lawful for the receiver to cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder, or obstruction, as aforesaid, with power to command all Her Majesty's subjects to assist him in the use of such force; and if any person is killed, maimed, or hurt by reason of his assisting the receiver in the execution of the duties hereby committed to him, or any person acting under his orders, such receiver or other person shall be free and fully indemnified as well against the Queen's Majesty, &c., as against all persons so killed, maimed, or hurt.

S. 445. During the absence of the receiver from the place where any such accident as aforesaid occurs, or in places where no receiver has been appointed under this Act, the following officers in succession, each in the absence of the other, in the order in which they are named, that is to say:— Any principal officer of customs or of the coast-guard, or officer of inland revenue, and also any sheriff, justice of the peace, commissioned officer on full pay in the naval service of Her Majesty, or commissioned officer on full pay in the military service of Her Majesty, may do all matters and things hereby authorized to be done by the receiver, with this exception, that with respect to any goods or articles belonging to any such ship or boat, the delivery up of which to the receiver is hereinbefore required; any officer so acting shall be considered as the agent of the receiver, and shall place the same in the custody of the receiver; and no person so acting as substitute for any receiver shall be entitled to any fees payable to receivers, or be deprived by reason of his so acting, of any right to salvage, to which he would otherwise be entitled.

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S. 446. All persons may, for the purpose of rendering assistance to such ship or boat, or saving the lives of the persons on board, or the cargo, &c., pass over adjoining lands with or without carriages or horses.

S. 447. Penalty on owners and occupiers of land refusing to allow carriages, &c., to pass over their land for such purposes, not exc. £100.

S. 450. *Rules for persons finding wreck.*—The following rules shall be observed by any person finding or taking possession of wreck within the United Kingdom (that is to say) (1) if the person so finding or taking possession of the same is the owner, he shall as soon as possible give notice to the receiver of the district within which such wreck is found, stating that he has so found or taken possession of the same; and he shall describe in such notice the marks by which such wreck is distinguished; (2) if any person not being the owner finds or takes possession of any wreck, he shall as soon as possible deliver the same to such receiver as aforesaid. And any person making default in obeying the provisions of this section shall incur the following penalties, &c.

S. 451. Power for receiver to search for and seize concealed wreck upon warrant obtained from a justice; and if any such seizure is made in consequence of information that may have been given to the receiver, the informer shall be entitled, by way of salvage, to not exceeding £5.

S. 458. *Salvage.*—Whenever any ship or boat is stranded or otherwise in distress, on the shore of any sea or tidal water, situate within the limits of the United Kingdom, and services are rendered by any person—(1) in assisting such ship or boat; (2) in saving the lives of the persons belonging to such ship or boat; (3) in saving the cargo or apparel of such ship or boats or any portion thereof; and whenever any wreck is saved by any person other than a receiver, within the United Kingdom, there shall be payable by the owners of such ship or boat, cargo, apparel, or wreck, to the person by whom such services or any of them are rendered, or by whom such wreck is saved, a reasonable amount of salvage, together with all expenses properly incurred by him in the performance of such services, or the saving of such wreck. . . . .

S. 475. *Unclaimed wreck.*—To be sold after the expiration of a year, and after payment of fees, expenses, and salvage, the receiver is to pay the proceeds into Her Majesty's Exchequer.

S. 478. *Plundering shipwreck.*—Every person who does any of the following acts (that is to say) (1) wrongfully carries away or removes any part of any ship or boat

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stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof, or any wreck; or (2) endeavours in any way to impede or hinder the saving of such ship, boat, cargo, apparel, or wreck; or (3) secretes any wreck, or obliterates or defaces any marks thereon, shall in addition to any other penalty, &c., for such offence incur P. not exc. £50; and every person not being a receiver or a person hereinbefore authorised to take the command in cases of ships being stranded or in distress, or not acting under the orders of such receiver or person, who, without the leave of the master, endeavours to board any such ship or boat, as aforesaid, shall for such offence . . . incur P. not exc. £50; and it shall be lawful for the master of the ship or boat to repel by force any such person so attempting to board same.

24 and 25 Vic., c. 96.

S. 65. *Illegal possession of shipwrecked goods.*—If any goods, merchandise, or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore, shall be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being taken or summoned before a justice of the peace, shall not satisfy the justice that he came lawfully by the same, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof; P. imp. not exc. 6 months h. l., or fine not exc. £20.

S. 66. *Offering shipwrecked goods for sale.*—If any person shall offer or expose for sale any goods, merchandise or article whatsoever, which shall have been unlawfully taken, or shall be reasonably suspected so to have been taken, from any ship or vessel in distress, or wrecked, stranded, or cast on shore, in every such case any person to whom the same shall be offered for sale or any officer of the customs or excise, or peace officer, may lawfully seize the same, and shall with all convenient speed carry the same, or give notice of such seizure, to some justice of the peace; and if the person who shall have offered or exposed the same for sale, being summoned by such justice, shall not appear and satisfy the justice that he came lawfully by such goods, merchandise, or articles, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same; P. imp. not exc. 6 months h. l., or fine not exc. £20.

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24 & 25 Vic., c. 97.

S. 47. *Exhibiting false signals, etc.*—Whosoever shall unlawfully mask, alter, or remove any light or signal, or unlawfully exhibit any false light or signal, with intent to bring any ship, vessel, or boat into danger, or shall unlawfully and maliciously do anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinbefore provided, F.

S. 48. *Removing or concealing buoys and other sea marks.*—Whosoever shall unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall unlawfully and maliciously do any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall in any other manner unlawfully and maliciously injure or conceal any boat, buoy, buoy-rope, perch, or mark used or intended for the guidance of seamen or the purpose of navigation, F.

S. 49. *Destroying wrecks or any articles belonging thereto.*—Whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, F.

Assistance to be rendered.—On hearing of a wreck the Constabulary of the station nearest to the scene will at once proceed thither and render all possible assistance in protecting the property, &c. The District-Inspector of the district will also attend, if not prevented by more pressing duty; and, if there be necessity, supply any available men from the stations near the scene, if they can be spared without detriment to the peace of the district. If the Constabulary find, on arriving at a wreck, that the receiver of wrecks or coastguard is not present, they shall take charge of the property wrecked and convey it to a place of safety. The coastguard at the nearest or most convenient station, or the receiver, should immediately be sent for by telegram or by special messenger. The earliest information of wrecks should be transmitted by telegram to the coast-guard, the receiver of wrecks, and the lifeboat party if there be one in the locality.

Property washed Ashore.—By the "Merchant Shipping Act, 1854," (17 & 18 Vic., c. 104), all wrecked property found within the coast-mark (that is to say, within three miles of the shore) of the United Kingdom, or washed ashore, should be delivered into the hands of the nearest receiver of wrecks, to be held by him, and dealt with for the interests of the owner, the Crown, or the lord of the manor, as the case might be. In all cases of wreck the property vests in the Crown as trustee for the owner, in case it should, within a year and a day, be recognised and claimed; if not, it may become the property of the finder, if found at sea; or of the proprietor of the shore on which the articles are cast, if he can also show that he has a grant of wrecks from the Crown, which often accompanies the grant of the shore.

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APPENDIX.

Summary Jurisdiction (Ireland) Act, 1851,

14 & 15 Vic., Cap. 92.

An Act to consolidate and amend the Acts relating to certain Offences and other Matters as to which Justices of the Peace exercise Summary Jurisdiction in *Ireland*.

[*7th August*, 1851.]

Whereas it is expedient to consolidate and amend the Acts by which Justices of the Peace are empowered to adjudicate in a Summary Way as to certain Offence and other Matters in *Ireland:* Be it therefore 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,

Justices may decide all cases under this Act on evidence of witnesses or confession.

I. That it shall be lawful for any Justice or Justices sitting in Petty Sessions (or for any two Justices sitting out of Petty Sessions, when the offender shall be unable to procure bail for his appearance at Petty Sessions) within his or their respective jurisdictions to hear and determine, either on the oath of one or more credible witnesses, or on the confession of the person against whom the complaint shall be made, all complaints relating to any offences, claims, or other matters under the provisions of this Act, and to order such fine, imprisonment, compensation, expenses, and sums, or to make such other order relating to each offence or other matter as such person shall be liable to under the said provisions; and all proceedings as to compelling the appearance of any such person or of any witness, and as to the hearing and determination of such complaints, and as to the making and executing of such orders, shall be subject in all respects to the provisions of "The Petty Sessions Act, *Ireland*, 1851," (when the case shall be heard in any Petty Sessions district), and to the provisions of the Acts relating to

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the Divisional Police Offices (when the case shall be heard in the Police District of *Dublin* Metropolis), so far as the said provisions shall be consistent with any special provisions of this Act.

Sections 2, 3, 4, *and* 5 *are repealed by* 24 *&* 25 *Vic., c.* 95, *s.* 1.

Stealing by Juvenile Offenders.

VI. Any person who shall commit any of the next following offences (and whose age at the time of the commission thereof shall not, in the opinion of the Justices, exceed the age of fourteen years) shall be liable to the punishment hereinafter specified:

Persons not exceeding fourteen years of age committing certain offences may be summarily convicted.

1. Any such person who shall commit, or attempt to commit, or who shall aid or abet the commission of any offence which now is or hereafter shall or may be by law deemed or declared to be simple larceny, or punishable as simple larceny, shall, upon conviction thereof before the Justices sitting in Petty Sessions and in open Court, be liable to a fine not exceeding Three Pounds, or to be imprisoned for a period not exceeding Three Months:

If a male, may be whipped.

2. If a male, such person shall, if the Justices shall see fit, be liable to be once privately whipped, either instead of or in addition to such imprisonment, and the Justices shall from time to time appoint some fit and proper person to inflict said punishment of whipping, when ordered to be inflicted out of prison:

If offence not proved, or it is not expedient to inflict punishment, Justices may dismiss parties with or without sureties.

3. And if the Justices, upon the hearing of any such case, shall deem the offence not to be proved, or that it is not expedient to inflict any Punishment, they shall dismiss the person charged, on his finding a surety or sureties for his future good behaviour, or without such sureties, if the said Justices shall so think fit:

No other forfeiture; but Justices may order restitution of property; or if not forthcoming may order compensation.

And no Conviction of any such Juvenile Offender for any such offence shall be attended with any forfeiture, save as hereinbefore mentioned; but whenever any such person shall be convicted of such offence it shall be lawful for the Justices to order restitution of the property in respect to which such offence shall have been committed to the rightful owner; or if such property shall not then be forthcoming, the Justices, whether they shall award punishment or dismiss the complaint, may, if they shall think fit,

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order payment of the value of such property in money to the rightful owner by the person convicted: Provided always, that if the Justices shall be of opinion, before any such person shall have made his defence, that the charge is from any circumstance a fit subject for prosecution by indictment (or if the parent or next friend of such person shall, upon his being called upon to answer the charge, object to the case being summarily disposed of under the provisions of this Act), the Justices shall, instead of summarily adjudicating thereupon, deal with the case as one to be prosecuted by indictment at assizes or quarter sessions.

If the charge is thought fit for indictment, &c., case to be dealt with as such.

VII. Any person who shall commit any of the next following offences shall be liable to the punishment hereinafter specified in each case:—

Frauds as to provisions.

1. Any person who shall sell or offer for sale any wheat, rye, meslin, peas, beans, barley, bere, oats, shillin, cutlings, meal, flour, malt, or other corn which shall in the whole or in part be spoiled or adulterated by wetting or mixing therewith any sand, gravel, dirt, or rotten or damaged corn, grain, malt, meal, or flour, or grown or blighted corn, or other kind of stuff, or which shall not be in quality of equal goodness to that produced to the view of the intended buyer or buyers thereof, or shall use any other fraud or deceit therein in order to make such corn, grain, malt, meal, or flour appear heavier than it would have been without such mixture, fraud, or deceit, shall forfeit all such corn, grain, malt, meal, or flour, to be disposed of as the Justices shall direct, and shall also be liable to a fine not exceeding forty shillings, or to be imprisoned for any term not exceeding one month:

Offering adulterated corn, &c., for sale.

2. Any person who shall exhibit for sale any unwholesome or fraudulently prepared meat, fish, or other provisions or food of any kind for man or beast, or shall practise any deceit or fraud in respect to the quality of any such meat, fish, or other provisions shall forfeit all such meat, fish, or other provisions, to be disposed of as the Justices shall direct, and shall also be liable to a fine not exceeding forty shillings, or to be imprisoned for any term not exceeding one month:

Offering unwholesome or fraudulently prepared meat, &c., for sale.

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And it shall be lawful for any Justice to seize or cause to be seized any of the articles hereinbefore last mentioned as to which any such offence shall have been committed; and the said Justice may, if he shall deem it expedient, either proceed at once to hear and determine the case, or may adjourn the hearing thereof to the next petty sessions of the district.

Trespass of Persons.

VIII. Any person who shall commit any of the next following offences shall be liable to a fine not exceeding ten shillings, and in default of payment thereof at such time as the Justices shall fix shall be liable to be imprisoned for a period not exceeding one week:

Trespass on fields, &c., and refusing to leave.

1. Any person who shall wilfully trespass in any field, garden, pleasure ground, wood, plantation, or other place, and shall neglect or refuse to leave any such place after he shall have been warned to do so by the owner, or by the caretaker or servant of the owner, or by any person authorized in that behalf by the owner;

Repetition of trespass after warning.

2. Any person who shall again trespass in any such place within three months from the time when any such warning shall have been so given to him:

But not to extend to certain cases of trespass;

Provided always, that nothing herein contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to go into or upon any such place, nor to any trespass (not being wilful or malicious) committed in hunting, fishing, or the pursuit of game, but nothing herein contained shall prevent any person from maintaining any civil action or suit for any such trespass, instead of proceeding under this Act.

nor to prevent right of civil action.

Injuries to public roads.

IX. Any person who shall commit any of the next following offences on or relating to any public road shall be liable to the punishment hereinafter specified in each case:

Omitting to scour ditches or to have drains under passages in and out of roads after notice.

1. Any owner or occupier of any lands contiguous to any public road who shall omit to scour any ditch or drain leading from such road, so as to allow the water to pass away, within ten days after notice shall have been given to him so to do by the county surveyor or by the contractor for the repair of such road, or who shall suffer the

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passage of the water to be obstructed by making or leaving any way or passage from any road into the adjoining lands, or into his house, without a sufficient pipe, sewer, or gullet underneath it, shall be liable to a fine not exceeding twenty shillings:

Building houses within 30 feet.

2. Any person who shall build or cause to be built any house or part of a house within thirty feet of the centre of any public road, except in the streets of corporate or market towns, or where a house now stands, shall be liable to a fine not exceeding ten pounds, and to a further sum of ten shillings a week from the time of his conviction until the same shall be pulled down or removed:

Deepening ditches without consent of county surveyor.

Altering fences without consent of county surveyor, &c.

3. Any person who shall scour, deepen, widen, or fill up any ditch or drain on the side of any public road, or who shall alter the fences of any public road; or who shall build any wall, or make any ditch, drain, or watercourse, or dig any pit or hollow, on any public road, or within thirty feet of the centre thereof (save upon or within any ancient fence adjoining such road); or who shall otherwise break up the surface of any road or footpath, unless with the consent of the county surveyor, or by the authority of any presentment, shall be liable to a fine not exceeding twenty shillings (and the centre of the road for the purposes of this Act, shall be deemed to be the centre of the part thereof made with gravel or stones):

(What shall be deemed the centre of the road.)

Scraping roads without consent of county surveyor, &c.

Drawing timber, &c., so as to injure road.

Riding on footpaths.

4. Any person who shall, without the consent of such surveyor or contractor, scrape any public road, or cut any sods or turf on the side of any such road, or take any earth, clay, stone, or gravel from any such road, or who shall draw any timber or stones along any part of a public road, without being supported by wheels from touching the same, or who shall ride or drive any horse or other animal, willingly and unnecessarily, on any footpath, shall be liable to a fine not exceeding twenty shillings:

5. Any county surveyor or road contractor or

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Taking materials to the injury of any road or building.

other person, who shall dig, raise, and carry away any gravel, stones, sand, or other materials from the side of any public road, or from any beach or sea-shore, whereby a public road, or bulwark or defence to any bridge or like building, or any land within the fences of any such road, may be injured, shall be liable to a fine not exceeding five shillings for every cartload of such gravel, stones, sand, or other materials so dug, raised, or carried away.

Destroying any pay gate or turnpike gate, &c.;

6. Any person who shall wilfully damage or destroy any pay gate, *or turnpike gate*, or any post, rail, wall, chain, bar, or other fence of any kind whatsoever, which shall be used to prevent passengers from passing by without paying the toll payable by virtue of any Act of Parliament, or any toll house for the use of any such pay gate *or turnpike gate*, or who shall forcibly rescue or attempt to rescue any person or persons, being lawfully in custody of any constable or other person for any such offences, shall be liable to a fine not exceeding forty shillings, or to be imprisoned for any term not exceeding two months: (*a*.)

or rescuing any person in custody for such offences.

Assaulting engineers, surveyors, or contractors on public roads.

7. Any person who shall wilfully prevent or assault, or threaten to prevent or assault, any county surveyor or road contractor in the execution of his duty, or any person or persons employed by proper authority in surveying or measuring or laying out any line intended for a new road, or who shall wilfully destroy, pull up, deface, or injure any surveyors' instruments or implements used in making or laying out any public road, or any milestone, milepost, or direction post, or any bridge, battlement, wall, railing, mould, or fence belonging to any public road, or who shall wilfully break, deface, pull down, or take away stones out of any such battlement, wall, mould, or fence, or out of any bridge, pipe, arch, or gullet belonging to any public road, shall be liable to a fine not exceeding ten pounds or to be imprisoned for a term not exceeding three months:

(*a*.) In this clause the words "or turnpike gate" are repealed by 38 and 39 Vic., c. 66, s. 1.

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Using new road for certain time after making.

It shall be lawful for any two Justices of the county, upon application of the county surveyor, to forbid any person or persons from riding or driving any kind of beast or carriage on any new road for such space of time as shall to them appear necessary, not exceeding six months after such new road shall have been made, and the expenditure thereon duly accounted for at special sessions; and any person who shall wilfully disobey such order (the same being duly notified by a notice affixed to a board or boards erected upon such road) shall be liable to a fine not exceeding twenty shillings:

County surveyor or contractor may require owners of land to remove obstructions, &c., and to prune hedges or trees injuring roads.

And if the County Surveyor or the contractor for the repairing of any public road in any county shall think that such road is prejudiced by any of such neglects or offences as aforesaid, or by the shade of any hedges or trees (except those planted for ornament or shelter of any dwelling house, courtyard, or garden), or that any obstruction is caused in any public road by any hedge or tree, it shall be lawful for such surveyor or contractor, by notice in writing, to require the person who shall be guilty of any such neglect or offence, or the owner of the land on which such hedges or trees are growing, as the case may be, to fill up any ditch or drain which shall have been so scoured, deepened, or widened, or to scour any drains which have been so filled on the side of any public road without the consent of the said county surveyor or the authority of a presentment, or to scour or deepen any drain or ditch leading from any road which shall be omitted to be scoured or deepened after due notice by such surveyor or contractor, or to remove any way or passage from any road into any adjoining land or to any house which may obstruct the free passage of the water, or to remake the same by building a gutter, sewer, or arch therein, or to pull down any wall or fill up any ditch or drain the building of which shall have been an offence against the provisions of this Act, or to cut or plash such hedges, or to prune, or lop, such trees, so as that such road may not be prejudiced or obstructed by the same; and if such person or owner shall not comply with such request within ten days after such notice, it shall be lawful for such surveyor or contractor as aforesaid to summon

Owners not complying to be summoned before Justices at petty sessions

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such person or owner before the Justices assembled at any petty sessions of such county, to show cause why he has not complied with such request; and upon the hearing of such case it shall be lawful for such Justices, if they shall see fit, to order that such person or owner shall act as required by such notice as aforesaid; and if the said person or owner shall not obey such order within ten days after the making of the same, it shall be lawful for such surveyor or contractor, if so directed by the Justices, to do all or any of the said acts so required by such notice, for the benefit and improvement of such road, or to remove such obstruction as aforesaid, to the best of his skill and judgment, and at the expense of such person or owner; and it shall be lawful for such Justices, upon complaint of such surveyor or contractor as aforesaid, and upon proof of the expenses incurred, to issue their warrant for the levy of such expenses by distress and sale of the goods and chattels of such person or owner: Provided always, that no person shall be compelled, nor any such surveyor or contractor as aforesaid permitted, to cut or prune any hedge at any other time than between the last day of *September* and the last day of *March*.

who may order obstructions, &c., to be removed

and on refusal of owner, the surveyor or contractor may do it at expense of owner;

expenses may be levied by distress and sale;

but trees, &c., not to be cut or pruned at certain seasons.

Nuisances on public roads.

X. Any person who shall commit any of the next following offences shall be liable to the punishment hereinafter specified in each case:

Turning horse, &c., loose.

1. Any person who shall in any public road or street of a town turn loose any horse or cattle, or set on or urge any dog or other animal to attack or worry any person, horse, or other animal, or who by negligence or ill-usage in driving cattle shall in any public road or any street of a town cause any mischief to be done by such cattle, shall be liable to a fine not exceeding ten shillings:

Negligence in driving cattle, &c.

Flying kites or making slides.

2. Any person who shall fly any kite or play at any game, or make or use any slide upon ice or snow, on any public road or in any street of a town, to the danger of the passengers; or who shall cast or throw any fireworks or discharge any fire-arms on any public road, or within sixty feet of the centre thereof, or in any street or passage of a town, or who shall cast, throw, or discharge the same, or suffer the same to be cast, thrown, or discharged, from out of his house, shop, dwelling, lodging, or habitation, or

Fireworks, &c.

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from out of any place thereto belonging, into any public road, street, or passage, shall be liable to a fine not exceeding ten shillings :

Leaving ploughs, harrows, &c., on the road.

3. Any person who shall leave or permit to be left on any public road any plough, harrow, cart, or other carriage, without the horse or other animal being harnessed thereto, unless such carriage shall have been accidentally broken down there, shall be liable to a fine not exceeding ten shillings :

Slaughtering beasts on a road.

4. Any person who shall slaughter any beast, or leave any dead beast, or skin, or permit to be skinned any beast, on any public road or within thirty feet of the centre thereof (save within any house or enclosed yard), shall be liable to a fine not exceeding ten shillings :

Laying stones, timber, &c.

5. Any person who shall lay any stones, timber, dirt, dung, turf, straw, rubbish, or scourings of any ditches or drains, or other object, on any public road or within thirty feet of the centre thereof, or in any street of a town, so as to cause danger or mischief to any passengers, and shall allow the same to remain there longer than shall be absolutely necessary, shall be liable to a fine not exceeding ten shillings ; and for every cartload of dung, rubbish, scourings, clay, stones, bricks, sand, or lime, or other like materials, which shall have been so laid on any public road or street, and which shall be allowed to remain there for more than twenty-four hours after the owner thereof shall have been required by any Justice or by the county surveyor, by notice in writing, to remove the same, such owner shall in addition to the above fine for so leaving the same there in the first instance, be also liable to a further fine not exceeding two shillings and sixpence for every day that the same shall be allowed to remain there after the expiration of the said period of twenty-four hours.

Fine for every day that materials are left on road after notice to remove the same.

Scalding casks, beating flax, or winnowing corn, &c.

6. Any person who shall hoop, scald, or fire any cask, or bind any car, or cart wheels, or beat any flax, or thresh or winnow any corn, on any public road or street of a town, or within thirty feet of the centre thereof (save within any

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house or enclosed yard), shall be liable to a fine not exceeding ten shillings:

Keeping dogs either unlogged or unmuzzled.

7. Any person who shall keep or suffer to be at large within fifty yards of any public road any dog, without having such dog muzzled, or without having a block of wood fastened to the neck of such dog, of sufficient weight to prevent such dog from being dangerous, shall be liable to a fine not exceeding ten shillings; and it shall be lawful for the Justices of the petty sessions district to issue a warrant to any sub-inspector, head or other constable, directing him to seize or kill any dangerous dog which shall be so kept near any public road contrary to the provisions of this Act, and such sub-inspector, head or other constable, may accordingly seize or kill any such dog:

Justices may order dangerous dogs to be killed.

Drying flax or burning weeds, &c.

8. Any person who shall dry any flax, or burn any bricks or lime, or any weeds or vegetables for ashes, or make or assist in making any fires commonly called bonfires, or any other kind of fire, upon any public road or within sixty feet of the centre thereof, (save within any house or enclosed yard), shall be liable to a fine not exceeding ten shillings:

Carrying timber cross-wise.

9. Any person who shall lead or drive on any public road or street of a town any car or other carriage with timber, boards, or iron laid across, so that either end shall project more than two feet beyond the wheels or sides thereof, shall be liable to a fine not exceeding ten shillings.

Exposing horses, &c. for show, sale, or hire.

10. Any person who shall expose upon any public road or in any street of a town any horse or other animal for show, hire, or sale, except in any fair or market or other place lawfully appointed for that purpose, shall be liable to a fine not exceeding forty shillings:

Allowing swine, &c., to wander on roads.

11. Any person who shall allow any swine or other beast to wander upon any public road, or about the streets or passages of any town, shall be liable to a fine not exceeding two shillings; and in case the owner shall not be known, it shall be lawful for any person by whom any such swine or other beast shall be found wan-

Swine, &c., wandering on roads may be

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dering upon any such road, street, or passage, to impound the same, subject to the provisions hereinafter contained as to the impounding of distresses: Impounded if owner is not known.

Provided always, that nothing herein contained shall render any county surveyor or road contractor liable to any fine for any act done by such surveyor in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract; but if any such surveyor or contractor shall lay or cause to be laid any heap of stones, gravel, rubbish, or other matter whatever, upon any public road, and allow the same to remain there at night, to the danger or personal damage of any person passing thereon, (all due and reasonable precautions not having been taken by him to prevent any such danger or damage), such surveyor or contractor shall be liable to a fine not exceeding five pounds: Surveyor or contractor not liable to fine except in certain cases.

XI. Any of the persons hereinafter mentioned who shall commit any of the next following offences on any public road or in any street of a town shall (in addition to any civil action to which he may subject himself) be liable to a fine not exceeding forty shillings; *Public Stage Carriages.*

1. Any driver, owner, or guard of any coach, omnibus, car, caravan, or other carriage, by what name soever the same is or shall hereafter be called or known, which shall be employed as a public stage carriage for conveying passengers for hire, who shall permit more passengers to be carried by the same than the number for whom seats shall be respectively provided, inside or outside of the same, allowing a space of at least sixteen inches for each passenger, over and above the space allotted to the driver and guard when there is a guard; but no child under seven years of age shall be included in or counted as one of such number; and it shall be lawful for any Justice, county inspector, sub-inspector, head, or other constable, to stop any such carriage which shall appear to carry a greater number of passengers than the above, and to measure the seats of same, in order to ascertain whether sufficient space has been allotted to the passengers: Carrying more than a certain number.

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Carrying luggage on the top of any carriage with inside passengers exceeding a certain height.

2. Any driver, owner, or guard of any such public stage carriage who shall allow any passenger to sit upon the top of any luggage, or upon any part of such carriage not intended to carry passengers, or who shall carry or permit or suffer any parcel or parcels of luggage whatever exceeding two feet in height above the roof to be conveyed on any such carriage carrying inside passengers:

Omitting to paint number of passengers to be conveyed on the doors, &c., of public carriages.

3. Any person who shall keep and employ any such public stage carriage, and who shall not paint or cause to be painted on the outside of the door, or of each door when there shall be more than one, of such carriage, or on some other conspicuous part of such carriage where there shall be no door, in legible letters of at least one inch in height, and in a different colour from the ground on which the same is painted, and in words at length, the number of passengers which such carriage shall be intended to carry, together with the name or names of the person or persons or firm of the company of proprietors to whom such carriage shall belong, or who shall cause any such carriage as aforesaid to be employed or used for carrying any passengers for hire without having the said words painted in such manner as is hereinbefore directed:

Misconduct of drivers, &c, to passengers, &c.

4. Any driver or guard of any such public stage carriage who shall wilfully mis-spend or lose time on the road, or who shall use abusive or insulting language to any passengers, or who by reason of intoxication, negligence, or other misconduct, shall endanger the passengers in their lives or their property, or the property of any other person with which they may be intrusted, or who shall demand or exact more than the proper fare due from any passenger; and in any such case the Justices may, in addition to the fine, order such offender to repay to any party so aggrieved any sum so exacted, or a reasonable compensation for any damage or loss caused by any such offence:

Drivers leaving their horses until a proper

5. Any driver of any such public stage carriage who shall (at any place or places where assistance can be procured) quit his horse or

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horses, or the box of such carriage, until a proper person or persons shall stand at the head of the horse or horses, or fore horse or fore horses, or shall hold the reins so as to prevent them from running away; or any such last-mentioned person or persons who shall not remain at their head or hold the reins until the driver has returned to his box; or any driver of any such carriage who shall intrust the reins to any other person to drive such carriage, or any person who shall so take such reins and drive such carriage.

Person shall stand at their head:

or allowing others to drive.

Carts and Cars.

XII. Any of the persons hereinafter mentioned who shall commit any of the next following offences on any public road, or in any street of a town, shall (in addition to any civil action to which he may subject himself) be liable to a fine not exceeding ten shillings:

1. Any owner of any cart, car, dray, or other such carriage used for the conveyance of goods who shall use or allow the same to be used on any public road or street without having his name and residence painted upon some conspicuous part of the right or off side of such carriage, in legible letters not less than one inch in height, and in a different colour from the ground on which the same is painted, and in words at length, or who shall paint or cause to be painted any false or fictitious name or residence on such carriage:

Where names of owners are not painted on carts, &c.

2. Any person who shall act as the driver or have the sole charge of more than one such carriage as last aforesaid on any public road or street, unless in the cases where two of such carriages and no more shall be drawn each by one horse only, and the horse of the hinder of such carriages shall be attached by a sufficient rein to the back of the foremost of such carriages:

One driver taking charge of more than one cart, &c., except in certain cases.

3. Any person having the care and charge of any such carriage as last aforesaid who shall ride upon the same or upon any horse drawing the same, on any public road or street, except where he shall be accompanied by some other person on foot or on horseback to guide the same, or where such carriage shall be driven with reins, and be conducted by some person holding the reins of all the horses drawing the same:

Drivers of carts riding thereon without some other person to guide them.

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Drivers leaving their carts

4. Any driver of any such carriage as last aforesaid who shall negligently or wilfully be at such distance from such carriage, or in such a situation that he cannot have the direction of the horse or horses drawing the same, or who shall leave any such carriage on such road or street so as to obstruct the passage thereof :

Driver refusing to tell owners' names.

5. Any driver of any such carriage as last aforesaid, not having the owner's name thereon as hereby required, and remaining legible thereon, who shall refuse to tell or to discover the true Christian and surname and residence of the owner of such carriage.

Rules of the Road.

XIII. Any person who shall on any public road or street commit any of the next following offences shall (in addition to any civil action to which he may make himself liable) be also liable to the punishment hereinafter specified in each case :

Keeping on wrong side of the road.

1. Any person driving any carriage whatsoever, or riding any horse or other animal, who meeting any other carriage or horse or other animal, shall not keep his carriage or horse or other animal on the left or near side of the road or street, or, if passing any other carriage or horse or other animal going in the same direction, shall not in all cases where it is practicable go and pass to the right or off side of such other carriage or horse or other animal, shall be liable to a fine not exceeding ten shillings :

Passing with a led horse.

2. Any person riding any horse, and leading any other horse, who shall not keep such led horse on the side farthest away from any carriage or person passing him on any public road or in any street of a town, shall be liable to a fine not exceeding ten shillings :

Obstructing free passage or crossings.

3. Any person who shall in any manner wilfully or by negligence or misbehaviour prevent or interrupt the free passage of any person or carriage on any public road or street, or crossing, shall be liable to a fine not exceeding twenty shillings :

Furious driving.

4. Any person riding any horse or animal, or driving any sort of carriage(a) who shall ride or drive the same furiously on any public road or street so as to endanger any passenger or person, or who shall by carelessness or wilful misbehaviour

(a) A bicycle is a carriage within the meaning of this section.

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cause any injury to any person or property on any public road or street, shall be liable to a fine not exceeding twenty shillings : Negligent driving.

5. And no cart, dray, waggon, or other such carriage, and no hackney car or carriage, or car or carriage let on hire, travelling on any public road or street, shall be driven by any person who shall not be of the full age of thirteen years, under a penalty not exceeding ten shillings, to be paid by the owner of such carriage. Children under thirteen years not to drive.

XIV. The mode of proceeding as to any of the said offences committed upon public roads or streets shall be subject to the following special provisions : *Special provisions as to proceedings for road offences.*

1 The county and sub-inspectors, head and other constables of the Constabulary Force shall take cognizance of all such offences, and shall, in every case where the name and residence of any such offender is known or can be ascertained, summon him either before the Justices of the petty sessions district in which the offence shall be committed, or before the Justices of any other petty sessions district in which such offender may reside or be at the time of taking such proceeding, and such Justices are hereby authorized to hear and determine such case, either upon the complaint of such county or sub-inspector, head or other constable, or of any other person : Constabulary to take cognizance of offences, and summon offenders if known, in any petty sessions district where found.

2. Where the name and residence of such offender shall be unknown and cannot be ascertained, he may, with or without any warrant, be arrested by any such county or sub-inspector, head or other constable, or any persons whom he may call to his assistance : and if any such person shall refuse to discover his name, it shall be lawful for the Justice before whom he shall be taken, or to whom any such complaint shall be made, to commit him to gaol for any time not exceeding one month, or to entertain any proceeding against him for the penalty aforesaid by a description of his person and offence only, without adding any name or designation, but expressing in the proceedings that he refused to discover his name; and whenever any person having charge of any horse or other animal, or If name not known may be arrested. Proceeding if offender will not discover his name. Horses, carriages, &c., or

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offenders may be detained.

of any cart or other carriage, shall be so taken into custody by any county inspector, sub-inspector, head or other constable, it shall be lawful for such county or sub-inspector, head or other constable, also to take charge of such horse, animal, cart, or carriage, and to deposit the same in some place of safe custody, as a security for payment of any penalty to which the person having had charge thereof may become liable; and it shall be lawful for the Justices by whom the case shall be heard to order that, in default of such penalty, and the expenses of keeping such horse, animal, cart, or carriage, being paid, the same shall be sold, for the purpose of satisfying such penalty and expenses, in like manner as if the same had been subject to be distrained and had been distrained for the payment of the same:

Justice may order removal of nuisances.

3. It shall be lawful for the county surveyor or road contractor, or any head or other constable duly authorized in writing by any Justice of the county, to remove any of the hereinbefore mentioned objects which may be left on any public road or street contrary to the provisions of this Act, at the expense of the offender, and it shall be lawful for the Justices at any petty sessions of the county, upon complaint of such surveyor, contractor, or constable, and upon proof of the expense incurred, to issue a warrant for the levy of such expenses by distress and sale of the goods and chattels of the offender:

Compensation (not exceeding 40*s.*) for damage recoverable before Justices in such cases.

4. In every case where any hurt or damage shall have been caused by the commission of any of the said offences, the Justices, upon the hearing of the complaint, may, in addition to any penalty herein provided, order the party offending, or, in case of an offence by the driver of any carriage, the owner of such carriage, forthwith to pay for compensation to the party aggrieved a sum not exceeding forty shillings (provided such amount of damage shall have been proved); and any sum which shall be so paid by the owner shall and may in like manner be recovered by him in a summary way before the Justices from the driver through whose default such sum shall have been so paid, upon proof

Owners may recover over against drivers.

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of the payment thereof pursuant to the order of the Justices :

5. Any summons issued by any Justice, requiring any owner, driver, or guard of any public stage carriage to appear before him to answer any complaint for any such offence, shall be deemed good and sufficient service in case the same be left with the known or acting book-keeper, or with any other person having the care of any office where places are usually taken or parcels received for such carriage.

Summons for the driver of stage carriage left with the book-keeper to be good service.

CIVIL JURISDICTION.

XV. The decision of claims to the possession of small tenements in certain towns and villages shall be subject to the following provisions :

Possession of small Tenements.

1. Whenever the term or interest of the tenant of any house or of any part of a house situate in any city, town, borough, or village in which any fair or market is usually held, and which shall be held by him for any term not exceeding one month, at a rent not exceeding the rate of one pound sterling by the month, shall have ended, or shall have been duly determined by a legal notice to quit, if such tenant (or where such tenant shall not himself occupy the premises, or only a part thereof, if the person by whom the same or any part thereof shall be occupied), shall neglect or refuse to deliver up possession of the same, it shall be lawful for the landlord of the said premises, or his known agent, or for the receiver of the rents of his estate, to cause such tenant or occupier to be served with a summons in writing, signed by any Justice having jurisdiction in the place in which the said premises shall be situated, to appear before the Justices at the petty sessions of the district in which the said premises shall be situated, to show cause why possession of the said premises should not be delivered up :

Possession of small tenements may be recovered by order of Justices.

2. Such summons may be served upon such tenant or occupier either personally or by leaving the same for him with some person in occupation of such house or part of a house, and where the tenant of such house or part of a house shall not reside therein either by serving the same personally upon him or by leaving the same at his usual place of abode four clear days before

Manner in which such summons shall be served.

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Substitution of service in certain cases.

the day appointed for the hearing of the matter of the said summons; but if the person so holding over cannot be found, and admsion into the premises so overheld cannot beobtained, and the place of abode of such person not residing as aforesaid shall either not be known or admission thereto cannot be obtained, the posting of the said summons on some conspicuous part of the said premises shall be deemed to be good service upon such person:

On proof of right, justices may issue warrant to deliver possession.

3. If such tenant or occupier shall not appear at the time and place appointed, or shall appear, but shall not show to the satisfaction of the Justices reasonable cause why possession should not be given, and shall still neglect or refuse to deliver up the possession of the said premises to the said landlord, agent or receiver, it shall be lawful for the Justices, upon proof of the holding, and of the end or determination of the tenancy, with the time and manner thereof, (and, where the title of the landlord shall have accrued since the letting of the premises, upon proof of the right by which he claims the possession), to issue a warrant to the sub-inspector of the district within which such premises shall be situated, or to any other person as a special bailiff in that behalf, requiring and authorizing him, within a period to be therein named, not less than seven or more than ten clear days from the date of such warrant, to give possession of the premises to such landlord, agent, or receiver, and such warrant shall be a sufficient warrant to the said sub-inspector or bailiff to enter upon the premises, with such assistants as he shall deem necessary, and to give possession accordingly; but such entry shall not be made on a *Sunday*, *Good Friday*, or *Christmas Day*, or at any time except between the hours of nine in the morning and four in the afternoon:

If party summoned undertakes to deliver up possession and pay arrears of rent in 14 days, no warrant to

4. But if such tenant or occupier shall appear before the Justices, and shall give an undertaking (to be entered in writing by the clerk of petty sessions) quietly and peaceably to deliver up, within fourteen days from the date thereof, possession of the premises of which he shall be such tenant

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or occupier, in good order and repair, to such landlord, agent, or receiver, and in the meantime to pay all rent and arrears of rent claimed by such landlord in respect to such premises, the Justices shall not issue their warrant for giving possession till the expiration of such period of fourteen days; and if such tenant or occupier shall at the expiration of such period continue in possession or occupation of the said premises, save by the permission of such landlord, agent, or receiver, it shall be lawful for the Justices, at the instance of such landlord, agent, or receiver, to issue a warrant for giving possession of the same as aforesaid, and such warrant shall be executed forthwith, without further notice to such tenant or occupier:

issue till the expiration of that period.

If party continues in possession at the end of the 14 days Justices may issue warrant without further notice.

Provided always, that nothing herein contained shall be deemed to protect any person by whom any such warrant to deliver possession of any such premises shall be sued out as aforesaid from any action which may be brought against him by any such tenant or occupier for or in respect of such entry and taking possession, where such person had not, at the time of suing out the same as aforesaid, lawful right to the possession of the said premises.

But Act not to protect persons who have no legal right.

Master and Servant.

XVI. The decision of certain disputes between employers and the persons employed by them shall be subject to the following provisions:

1. It shall be lawful for the Justices to hear and determine any disputes concerning any sums which shall be due for wages by any master to his apprentice, or by any employer to any artificer, labourer, servant, or other person employed by him to do any species of work or labour whatsoever (whether he shall find materials for the performance of the same or not, and whether such wages shall be due in respect to any day's work or to any labour done or performed by task, job, or contract); or which shall be due by any person for the hire of any horse, ass, mule, bullock, or other animal for draught, or of any cart, dray, car, plough, harrow, or vehicle drawn by any such animal for the purpose of any labouring work (and not being for the carriage of any passenger or passengers), or for the hire of any

Justices may order payment of sums due:

For wages:

For the hire of horses, carts, &c.:

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boat for the purpose of any labouring work (and not being for the carriage of any passenger or passengers), and whether such hire shall be by the day or by contract or otherwise; or which shall be due to any schoolmaster or teacher for the teaching of any child in any school or other place, and whether the engagement shall be for a payment by the day or for any other period, or in any other manner (provided that the amount of the demand for such wages, hire, or tuition, in any of such cases, whether originally greater or not, shall not exceed ten pounds); and to make such order as they shall see fit for payment of such sums as shall appear to be justly due to the complainant by his master or employer, or, in case of any sum claimed for the teaching of any child, by the parent or other person who shall have engaged the complainant to teach such child.

For tuition &c.

(The demand not exceeding £10.)

Justices may award further sum to servants, &c., as compensation (not exceeding 40s.) for loss of time in recovering wages.

2. Whenever it shall appear to the satisfaction of the Justices that any schoolmaster, teacher, servant, artificer, labourer, or other person so employed as aforesaid has been or is likely to be detained from his home or usual place of residence, or has suffered or is likely to suffer any additional loss by reason of the non-payment of any sum which such Justices shall so adjudge to be due to him, it shall be lawful for such Justices to order that there shall be paid to him by such master or employer, not only the sum so due to him, but also such further sum as compensation, not exceeding the sum of forty shillings for the time during which he shall have been so detained from his usual place of residence, or for the loss suffered or likely to be suffered, as such Justices shall think to be reasonable, having regard to the length of such detention, the diligence or remissness of either party, the usual earnings of such schoolmaster, teacher, servant, artificer, labourer, or person, and the sum which within the time of such detention he did earn, or under all the circumstances of the case might have earned:

How servants, &c.

3. In every case where any such master or employer shall intrust his business to the manage-

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ment and superintendence of any steward, agent, bailiff, foreman, or manager, it shall be lawful for the Justices to summon such steward, agent, bailiff, foreman, or manager to appear at Petty Sessions, and to hear and determine the matter of the complaint in such and the like manner as complaints of the like nature against any master or employer, and to make an order for the payment by such steward, agent, bailiff, foreman, or manager, to the complainant, of such sum or compensation as shall be justly due to him; and in case of refusal or nonpayment of any such sum or compensation at such time as shall be directed by such Justices it shall be lawful for them to issue a warrant to levy the same by distress and sale of the goods of such master or employer:

shall recover their wages in cases of absence of masters, &c.

4. [Whenever any servant, artificer, labourer, or other person shall engage, by an agreement in writing signed by both parties, with any person to serve him at any time and in any manner, and he shall not enter into or commence his service according to such agreement, or whenever having entered into any service under any agreement, whether in writing or not, he shall absent himself before the term specified in such agreement shall be completed, or shall neglect to fulfil the same, or shall be guilty of any misconduct or misdemeanour in the execution of the same or in any way respecting the same, it shall be lawful for the Justices to hear and determine such complaint as may be made against him by his employer, or by the steward, manager, or agent of his employer, and if it shall appear that he has not fulfilled his agreement, or has been guilty of any misconduct in respect to the same, to impose upon him a fine not exceeding the sum of five pounds, and in default of payment of such fine to commit him to gaol for any term not exceeding three months, and to abate the whole or a part of his wages, and to discharge him from his agreement or service, by writing under their hands, if they shall see fit: Repealed by 38 & 39 Vic., c. 86.]

Justices may punish servants, &c., for not observing contract.

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Justices may punish servants, &c., for hiring under false discharges.

5. Any servant or other person who shall hire or engage with any master or other person under any false or forged discharge or certificate of character, shall be liable to forfeit all the wages which shall be due to him by such master or person at the time of his conviction, and shall also be liable to a fine not exceeding five pounds, and in default of payment to be imprisoned for a term not exceeding three months.

Fairs and Markets.

XVII. The decision and regulation of certain matters relating to fairs and markets shall be subject to the following provisions:

Justices may make awards as to disputes at sales in fairs or markets (where value does not exceed £5.)

1. Whenever any dispute shall arise between any buyer and seller relating to the terms of sale, delivery, price or payment for any article, matter, or thing which shall be exhibited for sale, in any fair or market, (and which shall not be of a greater value than five pounds), it shall be lawful for any Justice within his jurisdiction either to proceed at once to hear and determine such dispute, (upon the complaint of either party, and in presence of both parties, and after causing all parties to be brought before him for that purpose), or to adjourn the hearing thereof to the next Petty Sessions of the district; and it shall be lawful for such Justice or the Justices at such Petty Sessions, having examined into the said complaint upon the oath of either of the parties or of any witness or witnesses, to make an award thereon according to the merits of the case, and such award shall be in writing, and shall have the like force and effect as any order made at Petty Sessions:

Justices appoint stands for cars, &c.;

2. It shall be lawful for the Town Commissioners acting under an Act of the Ninth year of King *George* the Fourth, chapter eighty-two, and for the Commissioners acting under any other local or special Acts giving them like powers in their respective towns, not being corporate towns, and for the Justices at Petty Sessions in other market towns, not being corporate towns, from time to time to appoint, by order in writing, such place or places in such towns as they shall think fit for any public or hackney

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car or carriage to stand in for hire; and also to make (and vary from time to time) such regulations as they shall see fit for keeping or causing to be kept free and clear from obstruction all passages or thoroughfares in and through the said markets, and for keeping or causing to be kept all said markets, and all passages therein and thereto, clear and free from any dirt or nuisances of any kind whatever, and for preventing all indecencies being committed therein; provided that no such regulations shall interfere with or impede the due accommodation of persons lawfully exposing goods or wares for sale therein; and it shall be lawful for the said Town Commissioners or Justices, as the case may be, to give due notice of such regulations, by causing the same to be painted on a board, and affixed in some conspicuous place in any such market, in like manner as schedules of tolls and customs in markets are now required by law to be affixed:

and make regulations as to thoroughfares in markets.

And any person who shall commit any of the next following offences shall be liable to the punishment hereinafter specified:

Punishment for offences against those provisions: breaking through the regulations, &c.

3. Any person who shall offend against any of the said regulations, by exhibiting goods or wares in any such market in any place other than that appointed for the sale of the same, or by refusing to remove the same when required so to do, or by obstructing the passages or thoroughfares in and through such market, or by placing or leaving any impediment of any kind therein, or by leaving or causing to be left any dirt or nuisance of any kind therein, or who shall commit any indecency in said market or in the passages thereto, shall be liable to a fine for a first offence not exceeding five shillings, and for a second offence not exceeding ten shillings:

Obstructing streets or market-places.

4. Any person who shall, within any city, borough, or market town in *Ireland*, or within a quarter of a mile from the boundary thereof, cause any cart, dray, waggon, or other such carriage, or any public or hackney car or carriage, to stand in any public road or street longer than may be reasonable or necessary for loading or

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unloading, or for taking up or setting down passengers (except any cart, dray, waggon, or other such carriage lawfully standing in any place customarily used for such purpose in any public market or fair, and except any public or hackney car or carriage standing for hire in any place which shall be fixed as a standing for that purpose in manner aforesaid), shall be liable to a fine not exceeding twenty shillings :

XVIII. Repealed by 23 and 24 Vic., c. 119, s. 4.

Impounding Distresses.

XIX. The decision and regulation of certain matters relating to the establishment and use of pounds for the impounding of distresses, or of animals found trespassing, wandering, or straying, shall be subject to the following provisions :

Establishment of pounds.

1. It shall be lawful for the Justices of each Petty Sessions District, whenever there shall be no pound or an insufficient number of pounds established therein, to authorize the establishment of such pound or pounds in such place or places in such district (not being within any manor in which a manor pound shall have been already established) as they shall think necessary ; and it shall be lawful for the Grand Jury of the county, upon the requisition of any three or more of such Justices, to present such sum, not exceeding ten pounds, as they shall think fit (to be levied off the county in like manner as any other sums presented by the Grand Jury), for the erection, part erection, or repair of any pound, upon such condition as they shall fix as to the keeper of such pound paying to the treasurer of the county, for the use of the county, any sum not exceeding forty shillings as an annual rent for the same; and it shall be lawful for the said Justices from time to time to appoint some fit person to be the keeper, during their pleasure, of any pound upon which any sum so presented shall have been expended :

Grand jury may present expense of erecting or repairing pounds.

Justices to appoint keeper of county pounds.

No persons to act as pound keepers unless when licensed by the justices.

2. It shall not be lawful for any person to act as the keeper of any pound now or hereafter to be established (except of a manor pound), unless he shall be authorized so to act by the Justices of the Petty Sessions district in which such pound shall be situated, by licence in writing

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signed by any two or more of them, and which licence such Justices are hereby authorized to give, and also from time to time to withdraw in case of the neglect or misconduct of such person: Provided always, that every pound so to be licensed shall be of such area as the said Justices shall think fit, and that the walls thereof shall be at least seven feet high, and securely built, either of stones or bricks, or of such other material as the said Justices shall think sufficiently substantial:

Pound keeper to enter into recognizance.

3 Any person so licensed shall, before acting as such pound keeper, enter into recognizance (in like form and manner as any clerk of petty sessions is required to do under the said Petty Sessions Act), himself in such sum not less than ten pounds, with two sureties in such sum not less than five pounds each, as the Justices shall fix, conditioned for the due discharge of his duties as pound keeper under this Act, and shall from time to time renew the same when required by such Justices:

Pound fees to be as follows:

4. Every pound keeper shall be entitled to receive from the person by whom any animal shall be impounded in such pound, or from the owner when such animal shall be delivered up to such owner by proper authority, the following pound fees:

For any one horse, mare, mule, or horned beast, for any time not exceeding seventy-two hours . .	6*d.*
And for any greater number of same, for same period, each . . .	3*d.*
And if impounded for longer than seventy-two hours, one-half of the above sums for every additional seventy-two hours:	
For any one sheep, calf, lamb, goat, or pig, for any period not exceeding seventy-two hours	2*d.*
And for any greater number of same, for the same period, each . .	1*d.*
And if impounded for longer than seventy-two hours, one-half of the above sums for every additional seventy-two hours:	

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Rates of sustenance to be fixed by justices.

He shall also be entitled to demand and receive from the like owner or person, as the case may be, such sum for the sustenance of any such animals, for the time during which they shall be so impounded, as the said Justices shall fix as the proper rates of sustenance for animals impounded in such pound, and which they are hereby required to do by writing under their hands:

Tables of fees and rates to be posted.

5. The pound keeper shall post, and continue posted, in a conspicuous place on or close to his pound, a table of the scale of the pound fees authorized by this Act, and also a table of the rates which shall be so fixed by the Justices for the sustenance of animals impounded therein:

No animals to be impounded in any other than a licensed pound or manor pound except in cases of emergency.

6. No animals except in cases of distresses for rent) shall be impounded in any other place than in the nearest pound of the county so licensed (or in the pound of the manor) unless where any assault shall be threatened or made upon the person impounding or proceeding to impound any animal, or where any rescue of such animal shall be attempted or threatened, and the impounding in any other place shall be necessary for the detention of such animal, or the safety of such person:

Notice of impounding to owner, &c.

7. Whenever any animal shall be impounded in any pound the person by whom such animal shall be impounded shall at the time give notice to the pound keeper, and also to the owner of such animal (when known), specifying the parish and townland in which such animal shall have been seized, and the reasons for impounding the same, and when given to the owner, he shall specify the pound in which such animal shall have been impounded.

Public notice of impounding straying animals to be given by pound keeper and Constabulary.

8. And whenever any animal found wandering or straying shall be impounded in any pound, the pound keeper shall immediately give a notice to the sub-inspector, head or other constable, of the nearest Constabulary station, describing such animal, and stating the parish and townland where such animal shall have been seized (unless where such animal shall have been impounded by any member of the Constabulary

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Force), and such sub-inspector, head or other constable, shall post such notice (or a like notice when the animal shall have been impounded by any member of the Constabulary Force), and keep the same posted at such station until such animal shall be claimed or otherwise disposed of according to law; and whenever the owner of such animal cannot be discovered, it shall be lawful for the Justices of the petty sessions district, upon being satisfied that all possible means have been adopted for the discovery of the owner, and that he cannot be discovered, to direct that the same shall be sold by the sub-inspector of Constabulary of the district in like manner as any animal may be sold under any warrant of distress (due notice of such sale, and of the parish and townland where such animal shall have been seized, having been previously posted by such sub-inspector at the constabulary station, and also in some conspicuous place in the parish where such animal shall have been seized, and also at the place where impounded, forty-eight hours at the least before the time of sale); and the proceeds of such sale, after paying to the keeper of the pound the amount due to him for pound fees, and for the rates of sustenance of such animal, shall be paid over to the treasurer of the county, to the credit of the county, in any case when the Grand Jury of such county shall have presented any sum for the erection of any pound therein, but when no sum shall have been so presented such surplus proceeds shall be applied in like manner as any penal sums payable to the Crown, or, with the consent of the Chief or Under Secretary to the Lord Lieutenant, may be applied by the said Justices in the erection or repair of any pounds within the petty sessions district.

When owner of straying animal is not known it may be sold.

Notice of sale to be posted.

How produce of sale to be applied.

And any person who shall be guilty of any of the next following neglects or offences shall be liable to the punishment hereinafter specified:

Punishment for offences against these provisions.

9. Any pound keeper who shall act as such without being duly authorized by the Justices, and without having duly entered into a recognizance in manner aforesaid, or who shall neglect to keep

Pound keepers acting without authority or before

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entering into recognizance, or not keeping pound clean, &c., or demanding more than legal fees, or omitting to post tables or give notices, or liberating without authority, &c.

such pound clean and well supplied with wholesome water, and in such a secure and wholesome state as shall insure the due forthcoming and health of the animals impounded, or who shall demand or receive any sum for the keeping or sustenance of any animals in such pound greater than the sums fixed by this Act or by the Justices as aforesaid, as the case may be, or who shall neglect to feed any animal impounded in such pound, or who shall omit to post in a conspicuous place any such table or notice, or to give any such notice, as is directed by this Act, or who shall without due authority liberate or permit to be liberated from such pound any animal impounded therein, or who shall refuse or neglect, when required by the Justices, to give up to them any pound built in the whole or in part at the expense of the county, shall be liable to a fine not exceeding ten pounds:

Persons rescuing distresses, or injuring pounds, or liberating distresses.

10. Any person who shall rescue or attempt to rescue any animal out of any such pound, or out of any other place in which any animal shall be impounded for greater safety, under the circumstances hereinbefore mentioned, or who shall break down or injure any such pound or place, or do any act by means of which any animal impounded therein shall escape or be unlawfully liberated therefrom, shall be liable to pay the amount of the injury done, and also a fine not exceeding ten pounds; but in every case of the commission of any such offence in rescuing or attempting to rescue any distress, or in breaking or injuring any pound, the Justices shall, if they shall so think fit, abstain from adjudicating summarily thereon, and deal with the same as a case to be tried by indictment at the assizes or quarter sessions:

But such offences may be sent for trial by indictment.

Any person impounding elsewhere than in licensed pound, or omitting to give notice of impounding, or

11. Any person who shall impound any animal, (except in cases of distresses for rent), in any other place than in a manor pound, or in such pound as shall be licensed under the provisions of this Act (except under the circumstances hereinbefore mentioned), or who shall omit to give such notice to the pound keeper or to the

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owner of any animal impounded as is required by this Act, or who shall wilfully damage or injure any animal while driving or conveying the same to any pound, shall be liable to a fine not exceeding five pounds: injuring distresses

Provided always that nothing herein contained shall interfere with the right of any lord of a manor to establish or continue any manorial pound for the impounding of distresses made in such manor which he is now by law entitled to establish or continue, or to appoint from time to time any person to be keeper of such pound; but the regulation of such pound, and the duties of such pound keeper, shall in all other respects be subject to the provisions of this Act, in like manner and to the like extent as any pound established or any pound keeper licensed by the Justices at petty sessions in manner aforesaid. but no interference with establishment, &c., of manor pounds.

Trespass of Animals.

XX. The decision and regulation of certain matters relating to the trespass of animals shall be subject to the following provisions:

1. It shall not hereafter be lawful to impound any animal found trespassing upon any land when the owner of such animal shall be known, but the occupier of such land or the person by whom such animal shall be found trespassing shall either deliver up such animal to the owner, or to his steward, herdsman, caretaker, or other servant, or he shall show such animal in the act of trespassing to such owner, steward, herdsman, caretaker, or other servant, and allow such animal to be taken away by him; and the owner of such animal shall thereupon be liable to pay to the occupier of such land the rate of trespass fixed by the following scale (or according to such scale as the Justices at quarter sessions shall from time to time fix, and which they are hereby authorized to do if they shall see fit): No impounding when owner of animals is known; but occupier of land to deliver up animals found trespassing to their owner, and shall then be entitled to the following rates of trespass

Where the trespass shall be on any common pasture land, or on any arable uncropped land the rate shall be:

	s.	*d.*
For every horse, mare, pony, mule, ass, bull, cow, bullock, heifer, or pig,	0	6
For every calf, sheep, or lamb,	0	2
For every goose, ...	0	1
For every other fowl, . . .	0	0½
For every goat, ...	3	0

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And where the trespass shall be upon any fattening pasture or meadow land, or upon any land cropped with corn, peas, flax, vetches, turnips, rape, potatoes, green crop, or other cultivated vegetable, or by any goat in a plantation, the rates shall be double the amount of the preceding rates:

But when owner of animal is not known it may be impounded.

2. But when the owner of any such animal shall not be known, it shall be lawful for the occupier of such land, or for his servant, or for any other person on his behalf, to impound such animal in the nearest pound of the county (or in the pound of the manor), specifying in the notice which he is required to give to such pound keeper (under the provisions hereinbefore contained relating to the impounding of animals) the nature of the land or crop in which such animal shall have been found trespassing; and such pound keeper shall afterwards deliver up such animal to the owner, if known, or to any person on his behalf, either upon being so authorized in writing by any Justice, or upon being paid by such owner or person the amount legally due for pound fees, and rates of sustenance, and also the amount due under the above scale of rates, for a trespass on any land or crop of the nature specified in such notice; and such pound keeper shall thereupon pay over the amount of such rate of trespass to the person by whom such animal shall have been impounded, unless when required by any Justice, or by such occupier by notice in writing, to hold over the same until any dispute as to the same shall have been decided at petty sessions:

Pound keeper to deliver up animal to owner on authority of justice on payment of rates, &c.

Pound keeper to pay over rates of trespass, except in certain cases.

When parties are not satisfied justices to investigate the case and award the legal rates (whether actual damage proved or not), unless in case of neglect of the occupier of the land; first trespass.

3. Whenever either the occupier of such land or the owner of such animal shall not be satisfied with the amount of such rates (whether paid at the time or not), it shall be lawful for the Justices at petty sessions, upon complaint of such occupier or owner, to investigate the case, and to make such award against either party as shall seem just under all the circumstances; and the principle upon which they shall make such award shall be, that the owner of such animal shall be deemed liable to pay to such occupier the above rate for a first trespass, and

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double the above rate for a second trespass, and treble the above rate for a third or subsequent trespass (whether any actual damage shall have been done or not), unless they shall be satisfied that such trespass was caused by any neglectful conduct on the part of such occupier, or that there are any other justifying circumstances, in which case they may declare him to be entitled either to no rates or to a part only of the rates; and in any case where any actual damage shall have been done by such trespass, it shall be lawful for the Justices to award a like payment of such further sum as, together with any rates awarded, shall be equal to the value of such damage as shall be proved to their satisfaction to have been actually caused by such trespass; and in making any such award the Justices shall allow credit to the owner of such animal, for the amount of any rate of trespass paid by him at the time, or where they shall award either no rates or a lesser amount than any sum so paid at the time, they may order that the whole or a part of such sum, as the case may be, shall be refunded to such owner:

second trespass, &c.

but in case of actual damage done, may award compensation.

Justices may allow credit for, or order refunding of any rates already paid, according to the case.

1. Whenever it shall appear, in any case in which any complaint of trespass shall be so made, that the trespass shall have been caused by the bad or imperfect state or destruction of any fences, it shall be lawful for the Justices at petty sessions by order in writing to direct that the occupier of the land to which such fences shall belong shall repair the same when wholly on his land, or join in repairing the same when partly on his land, within such reasonable time as they shall fix for that purpose; and in default of his so doing within such time, it shall be lawful for such Justices, by a like order in writing, to authorize such fences to be repaired by the person who shall have been aggrieved by any such trespass, who may thereupon enter and repair the same; and afterwards, upon proof of the expenses incurred by such person in making such repairs beyond what he may be himself bound to expend in case of fences common to both

Justices may order repair of fences by person who ought to repair the same.

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parties, it shall be lawful for such Justices to order that the same shall be paid (to any amount not exceeding two shillings per perch) by such occupier, unless it shall be shown that the person under whom such occupier shall hold is bound by any lease or agreement to keep such fences in repair, in which case such amount shall be paid by such person; and in default of such payment it shall be lawful for such Justices to order that such amount shall be levied by distress of the goods of such occupier or person, as the case may be, and paid over to the person by whom such repairs shall have been made.

Punishment for offences against these provisions:

And any person who shall be guilty of any of the next following neglects or offences shall be liable to a fine not exceeding five pounds:

Any person impounding when owner is known, or without lodging proper notice.

5. Any person who shall impound any animal found trespassing, where the owner of such animal shall be known to him, or who shall impound any animal without giving to the pound keeper the notice required by this Act:

Pound keeper neglecting to liberate animals or to pay over amount received.

6. Any pound keeper who shall neglect or refuse to deliver up any animal so impounded to the owner, when authorized in writing by any Justice so to do, or upon such owner paying to him the amount of the pound fees and rates of sustenance legally due and the amount legally due for the trespass, or who shall neglect (except when any Justice shall authorize him to hold over the same until the decision of any dispute as to the same at petty sessions) to pay over to the person entitled to receive the same the amount which shall be paid to him for the trespass upon the liberation of any such animal:

Justices may adopt such means of proof as they shall see fit.

Provided always, that in all such proceedings under this Act it shall be lawful for the Justices to adopt such means as they shall see fit, either by the employment of a valuator or arbitrators or otherwise, for the purpose of informing themselves as to the amount of any damage done, or as to any other circumstances proper to be inquired into on the spot, or as to any other facts of the case upon which they shall be required to decide; and they may (if they shall think it necessary) order the parties or either of the parties to

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pay to any person so employed such reasonable sum as they shall fix, not exceeding two shillings and sixpence *per* day, as remuneration for his trouble.

General provisions

XXI. Where any person shall be convicted of any offence against this Act, and it shall be a first conviction, it shall be lawful for the Justices, if they shall so think fit, to discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved, for damages and costs or either of them, as shall be ascertained by the Justices.

The justices may discharge the offender in certain cases.

XXII. It shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland* to extend the Royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for nonpayment of money to some party other than the Crown.

Pardon for nonpayment of money.

XXIII. In any case where an order shall be made under the provisions of this Act for the payment of any penal or other sum exceeding twenty shillings, or for any term of imprisonment exceeding one month, or for doing anything at a greater expense than twenty shillings (but in no other case), either party (whether he shall be the complainant or defendant), in cases of a civil nature, or the person against whom any such order shall have been made in other cases, shall be entitled to appeal to the next quarter sessions to be held in the same division of the county when the order shall be made by any Justice or Justices in any petty sessions district, or to the Recorder at his next sessions when the order shall be made by the said Divisional Justices in the police district of *Dublin* metropolis, or to the Recorder of any corporate or borough town when the order shall be made by any Justice or Justices in such corporate or borough town (unless when any such sessions shall commence within seven days from the date of any such order, in which case, if the appellant sees fit, the appeal may be made to the next succeeding sessions to be held for such division or town); and it shall be lawful for such Court of quarter sessions or Recorder, as the case may be, to decide such appeal, if made in such form and manner and with such notices as are required by the said Petty Sessions Act as to appeals against orders made by Justices at petty sessions; and all the provisions of the said Petty Sessions Act as to making appeals, and as to executing the orders

In what cases appeals shall be permitted,

to be made to next quarter sessions of division, or to recorder's next sessions.

Quarter sessions, &c., may decide appeal.

subject to the provisions of the Petty

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Sessions Act as to form, notices, &c.

made on appeal or the original orders where the appeals shall not be duly prosecuted, shall also apply to any appeal or like order to be made under the provisions of this Act.

No order or adjudication made on appeal shall be quashed for want of form.

XXIV. No order made under the provisions of this Act, nor any adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari or otherwise into any of Her Majesty's superior courts of record.

Interpretation clause.

XXV. In the interpretation of this Act, save where there is anything in the subject or context repugnant to such construction, the word "county" shall be deemed to include "county of a city" or "county of a town;" the word "Justice" shall mean "justice of the peace," and shall include a "Divisional Justice" of the police district of *Dublin* metropolis, or "Chief Magistrate" of any corporate town; the word "County Surveyor" shall include and mean any district surveyor in the county of *Dublin;* the word "Petty Sessions" shall include a "divisional police office" of *Dublin* metropolis; the word "gaol" shall include any "house of correction" or "bridewell" of the county to which any person may be legally committed by any Justice; the word "oath" shall include "affirmation" or "solemn declaration," as the case may be; the word "month" shall mean "calendar month;" the word "road" shall include "highway" or other public thoroughfare, and "street" shall include any lane or passage in any town; and the word "horse" shall include any other animal of any kind commonly used or employed in drawing any kind of carriage.

Sections 26 *and* 27 *are repealed by* 38 *&* 39 *Vic. c.* 66, *s.* 1.

Act to extend to Ireland only.

XXVIII. This Act shall extend and be construed to extend to *Ireland* only.

Short Title of Act.

XXIX. In citing this Act in other Acts of Parliament, or in any legal instrument or proceedings, it shall be sufficient to use the expression "The Summary Jurisdiction (*Ireland*) Act, 1851."

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Petty Sessions (Ireland) Act, 1851.

14 & 15 Vic., Cap. 93.

An Act to consolidate and amend the Acts regulating the Proceedings at Petty Sessions, and the Duties of Justices of the Peace out of Quarter Sessions, in *Ireland*.

[*7th August*, 1851.]

Whereas it is expedient to consolidate and amend the Acts regulating the proceedings at Petty Sessions, and the duties of Justices of the Peace out of Quarter Sessions, in *Ireland*: Be it therefore 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, that—

Formation of Petty Sessions Districts.

I. The several petty sessions districts into which any county or riding of a county in *Ireland* is now divided, and the places and times at which petty sessions are now appointed to be held therein, shall, until altered in the manner hereinafter provided, be the several districts, places, and times in such county or riding for the purposes of this Act: But whenever it shall appear to the Justices at quarter sessions that any of the said districts, places, and times now fixed (or which shall hereafter be fixed) in any county or riding require alteration, or whenever they shall be called upon so to do either by the Lord Lieutenant or by a requisition signed by any seven or more of the Justices of any county or riding, they shall proceed at the next quarter sessions which shall be held for such county or riding, or at any adjournment of the same for that purpose, to revise the said districts, places, and times, subject to the following provisions:—

Existing districts, &c., to be confirmed where they do not require alteration.

But where they require alteration justices at quarter sessions may revise them, proceeding as follows:

1. They shall divide such county or riding into convenient petty sessions districts for the purposes of this Act, and shall declare the several

To divide the county into petty sessions districts.

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parishes or townlands of which each of such districts shall consist; and in so doing it shall be lawful for them, with the concurrence of the Justices of any adjoining county assembled at any like quarter sessions, or at any adjournment of the same, to include in any of such districts any townlands of such adjoining county, where it shall be conducive to the public convenience, and where no part of such townlands shall be at a greater distance than seven miles from the place where petty sessions shall be held for the district to which same shall be annexed:

Parts of an adjoining county may be included:

2. They shall also fix some one convenient place within each district at which petty sessions shall be held for the same:

To fix place for holding petty sessions:

3. They shall also fix the times when petty sessions shall be regularly held in each district; but it shall be lawful for the Justices of each district afterwards to fix the particular days in each week upon which such petty sessions shall be held:

To fix frequency of holding petty sessions:

The clerk of the peace to enter all particulars of any alterations in the Crown Book, and transmit copy to Secretary of Grand Jury.

And whenever any of the said districts, places, and times shall have been so fixed or altered, the clerk of the peace shall forthwith enter all particulars as to the same in the Crown Book, and shall transmit a certified copy of such entries to the secretary of the grand jury, to be laid before such grand jury at the then next ensuing assizes (and in the county of *Dublin* at the then next ensuing presentment term), and the same shall be printed with the presentments: Provided always, that when it shall appear to such Justices at quarter sessions that such alteration is required, or whenever a requisition for the consideration of an alteration shall be received from the Lord Lieutenant, or from seven or more Justices as aforesaid, the clerk of the peace of the county shall transmit a notice in writing of the intended consideration of such alteration to every Justice of the county or riding, as the case may be, and such notice, stating the time and place appointed for the consideration of such alteration, shall be transmitted at least one month before the time so appointed.

Sections 2, 3, *and* 4, *relating to the appointment, fees, &c., of petty sessions clerk, are repealed by the* 21 & 22 *Vic., c.* 100 (*the Petty Sessions Clerks Act*, 1858).

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V. The clerk of petty sessions shall perform the following duties: Duties of Clerk of Petty Sessions:

1. He shall make, when required by any of the Justices, a minute of all special proceedings, taken either in or out of petty sessions, in a book to be kept for that purpose, to be called the "Minute Book," and shall also make such entries in the "Order Book" (Form D.) hereinafter mentioned, as the Justices shall direct. To make Minutes of Proceedings and Entries in Books:
2. He shall also have the care and custody of such books, subject to their being kept at the courthouse or place where the petty sessions shall be held, or otherwise as the Justices shall direct, and also subject to their being at all times open to the inspection of the Justices and of any other person or persons whom the Lord Lieutenant may at any time appoint to examine the same: To have Custody of Books:
3. He shall also prepare, under the directions of the Justices, all informations, summonses, examinations, warrants, recognizances, and other documentary forms of proceeding: To prepare all Forms, &c.:
4. He shall retain, or (if so directed by the Justices) shall copy or cause to be copied into a book to be kept for the purpose, all orders or circulars, or opinions of the law officers, or advisers of the Crown, addressed or transmitted to the Justices, and shall also make copies of all informations, depositions, or examinations, when so directed by the Justices, and shall also retain copies of all abstracts or schedules of documents transmitted to the Clerks of the Crown and Peace as hereinafter provided: To copy in a Book all Orders, Circulars, and Opinions of Law Officers of the Crown, and also to make Copies of Informations, &c.:
5. He shall enter all cases in the order in which the summonses shall be issued at petty sessions, or if issued out of petty sessions, then in the order in which the application shall be made to him by the complainant or his agent to enter the same: To enter Cases in consecutive Order:
6. He shall enter a true account of all sums paid into Court under any orders of the Justices, and of all warrants issued for the execution of any such orders, and of all sums levied under the same and paid over to him (whether the said sums shall be in the nature of penalties To enter and account for all Fines, &c. under Fines Act:

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for offences, or sums awarded in cases of a civil nature), and shall otherwise account and act as to the same as required by the provisions of "The Fines Act, *Ireland*, 1851," as to any penal sums:

To make Returns, and to observe general Regulations:

7. He shall also make such returns of the proceedings at Petty Sessions as the Chief or Under Secretary of the Lord Lieutenant shall from time to time require, and shall observe such general regulations in respect to the discharge of his several duties as the Lord Lieutenant shall from time to time prescribe:

Clerk to attend Assizes or Quarter Sessions, if required, to answer any Complaint of Neglect of Duty as to Informations.

And when required by the Clerks of the Crown or Peace, as the case may be, the clerk of petty sessions shall attend the assizes or quarter sessions to which any informations, examinations, or recognizances shall be returned by him, or to which any informations, examinations, or recognizances prepared by him shall be returned, and as to which any complaint shall have been made against him for neglect, to answer such inquiries respecting the same as shall be made by the Court; and in case it shall appear that such clerk shall have committed any wilful default or neglect in preparing or in transmitting the same, or shall have improperly divulged the contents of such informations or examinations, it shall be lawful for the Judge of Assize or for the Justices at quarter sessions, as the case may be, for every such offence to impose a penalty not exceeding twenty pounds on the said clerk, and in default of payment of the same to commit him to gaol for any term not exceeding three months.

On Death, Suspension, or Dismissal of Clerk, Sub-Inspector to take charge of all Books, &c.

VI. Whenever a vacancy shall occur by reason of the death, resignation, suspension, or dismissal of any clerk of petty sessions, the Sub-Inspector of Constabulary, or the Head Constable of the district, or such other person as the Justices shall authorize, shall take charge of all books, papers, and other effects belonging to the said petty sessions, and shall retain them in his care and custody until a successor shall be appointed to such clerk; and it shall be lawful for any Justice, upon being satisfied upon oath that any such books, papers, or other effects as aforesaid are or are suspected to be in the possession of any person who shall refuse to deliver up the same to such Sub-Inspector, Head Constable, or other person

Justice may grant Search Warrant for Books, &c., if detained.

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so authorized, to issue a warrant to any Sub-Inspector, Head or other Constable, to search the house of such person for the same, and to seize and detain the same, if discovered therein; and such Sub-Inspector, Head or other Constable, so authorized by any such warrant, may, upon the refusal of such person to open his door for that purpose, break it open.

Local Jurisdiction.

VII. The powers of Justices and others to act in and for different localities shall be subject to the following provisions:

Justice may act for One County whilst being in another adjoining County, of which he shall also be Justice;

1. A Justice for any county may act as such in all matters arising within such county, although he may at the time happen to be in an adjoining county, provided he shall be also a Justice for such adjoining county:

or whilst in adjoining County of a City, though not a Justice of same; but not to act as to Matters arising in such County of a City, &c.

2. A Justice for any county may in like manner act as such in all matters arising within such county, although he may at the time happen to be in any city, town, or place, being a county of itself, situated within or adjoining to such first-mentioned county, whether he shall be a Justice of such city, town, or place, or not; but nothing herein contained shall extend to empower any Justice for any county, not being also Justice for any such city, town, or place as aforesaid, or any person acting under him, to act or intermeddle in any matters arising within any such city, town, or place: (*a*)

(*a*) *Jurisdiction:* 9 Geo. IV., c. 54, s. 26. When any felony or misdemeanor shall be committed on the boundary or boundaries of two or more counties, or within the distance of 500 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. S. 27. When 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 in 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

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Inspector-General of Constabulary may act wherever he may be.

3. The Inspector-General, or either of the Deputy Inspectors-General of Constabulary, being a Justice of any county, may act in all matters arising within such county, wherever he may happen to be at the time:

Justices for One County may act for annexed Townlands of another.

4. Whenever any townland belonging to one county shall be included in any petty sessions district of the adjoining county under the provisions of this Act, any justice having jurisdiction in such petty sessions district shall have the like jurisdiction in such townland, although he may not be a justice of the county to which such townland belongs; and any committal to any gaol or bridewell of such last-mentioned county, or any other magisterial act done by any such justice, in any case in which the offence or cause of complaint shall have arisen in such townland, shall have the like force and effect as if such Justice was also a Justice of such last-mentioned county:

Constables, &c., may take Offenders before Justice in adjoining County.

And all constables or other persons apprehending any person whom they lawfully may and ought to apprehend by virtue of their office or otherwise in any such county or place as aforesaid, may lawfully convey such person before any Justice for such county or place whilst such Justice shall be in such adjoining county or place as aforesaid, and such constables or other persons are hereby authorized and required in all such cases to act in all things as if such Justice were within the county or place for which he shall so act.

Place for Hearing.

VIII. The places where Justices shall sit in the discharge of their duties shall be subject to the following provisions:

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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 such county; and in all cases where the side, centre, or other part of any such river, canal, or navigation shall constitute the boundary of any two counties, felony or misdemeanor may be dealt with, inquired of, tried, determined, and punished in either of such counties, through or adjoining to, or by the boundary of any part whereof such coach, cart, waggon, 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.

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1. Whenever a public court house shall be maintained by county presentment at any place fixed for the holding of petty sessions the petty sessions shall be held therein, if not inconvenient to the public; but whenever no such public court house shall be so maintained, or the holding of petty sessions therein would be inconvenient to the public, it shall be lawful for the grand jury of the county to present an annual sum not exceeding ten pounds for the rent of a public justice room in which the petty sessions shall be held, and of a lock-up; provided that such room shall not be in a house where spirituous or fermented liquors are sold, or in a constabulary barrack, or in any building maintained in the whole or in part at the public expense, and that it shall be proved to the satisfaction of the county presentment sessions where application shall be made for such rent that at least four meetings of Justices shall have been held in such room during the four months next preceding such application:

Petty Sessions to be held in Court House.

Where no Court House, Grand Jury may present Rent of Justice Room.

2. It shall not be lawful for any Justice or Justices to hear and determine any cases of summary jurisdiction out of petty sessions, except cases of drunkenness or vagrancy, or fraud in the sale of goods, or disputes as to sales in fairs or markets; but it shall be lawful for two Justices, if they shall see fit, to hear and determine out of petty sessions any complaint as to any offence when the offender shall be unable to give bail for his appearance at petty sessions: (*a*) Provided always, that nothing herein contained shall be construed to prevent any Justice or Justices acting out of petty sessions from making any order (not being in the nature of a conviction, or of an adjudication upon a complaint,) which a Justice or Justices may be authorized or required by law to make.

In Summary Proceedings Complaint not to be heard or determined out of Petty Sessions, except in certain Cases; but two Justices may act out of Petty Sessions where Offender cannot find Bail.

Proviso.

IX. The right of the public to have access to the place in which Justices shall sit shall be subject to the following provisions:

Publicity of Proceedings.

1. In all cases of summary proceedings the place in which any Justice or Justices shall sit to hear

Place in which Justices shall sit to hear Summary Proceedings to be deemed an open Court.

(*a*) By 25 & 26 Vic., c. 50, s. 2, this provision empowering two Justices to deal with cases out of petty sessions is extended to offences punishable summarily under 24 & 25 Vic, cc. 96, 97.

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and determine any complaint shall be deemed an open court, to which the public generally may have access, so far as the same can conveniently contain them; and the parties by and against whom any complaint or information shall there be heard shall be admitted to conduct or make their full answer and defence thereto respectively, and to have the witnesses examined and cross-examined by themselves or by counsel or attorney on their behalf:

Parties to be allowed to plead by Counsel or Attorney.

Place where Examinations in Proceedings for Indictable Offences are taken not to be deemed an open Court without Consent of Justice.

2. In all cases of proceedings for indictable offences the place in which any Justice or Justices shall sit to take any examination or statement relating to any such offence shall not be deemed an open court for that purpose, but it shall be lawful for such Justice or Justices, in his or their discretion to order that no person (the counsel or attorney of any person then being in such court as a prisoner only excepted) shall have access to or be or remain in such place without the consent or permission of such Justice or Justices, if it appear to him or them that the ends of justice will be thereby best answered:

Power to commit and fine for Contempt of Court.

And if any person shall wilfully insult any Justice or Justices so sitting in any such court or place, or shall commit any other contempt of any such court, it shall be lawful for such Justice or Justices by any verbal order either to direct such person to be removed from such court or place, or to be taken into custody, and at any time before the rising of such court by warrant to commit such person to gaol for any period not exceeding seven days, or to fine such person in any sum not exceeding forty shillings.

Informations and Complaints.

Justice may receive Information or Complaint:

As to Offences within his Jurisdiction.

As to Offences out of his jurisdiction.

X. Whenever information shall be given to any Justice that any person has committed or is suspected to have committed any treason, felony, misdemeanor, or other offence, within the limits of the jurisdiction of such Justice, for which such person shall be punishable either by indictment or upon a summary conviction; or that any person has committed or is suspected to have committed any such crime or offence elsewhere out of the jurisdiction of such Justice, either in *Great Britain* or *Ireland*, or in the Isles of *Man*, *Jersey*, *Guernsey*, *Alderney*, or *Sark*, and such person is residing or being, or is suspected to reside or be, within the limits of the jurisdiction of such Justice; or that any person has

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committed or is suspected to have committed any crime or offence whatsoever on the high seas, or in any creek, harbour, haven, or other place in which the admiralty of *England* or *Ireland* have or claim to have jurisdiction, or on land beyond the seas, for which an indictment can be legally preferred in any place in the United Kingdom of *England* and *Ireland*, and such person is residing or being, or is suspected to reside or be, within the limits of the jurisdiction of such Justice; or whenever a complaint shall be made to any Justice as to any other matter arising within the limits of his jurisdiction, upon which he shall have power to make a summary order, it shall be lawful for such Justice to receive such information or complaint, and to proceed in respect to the same, subject to the following provisions;

As to Civil Cases.

1. Whenever it is intended that a summons only shall issue to require the attendance of any person, the information or complaint may be made either with or without oath, and either in writing or not, according as the Justice shall see fit:

It may be verbal, and without Oath, in certain Cases.

2. But whenever it is intended that a warrant shall issue for the arrest or committal of any person, the information or complaint shall be in writing, and on the oath of the complainant or of some person or persons on his behalf:

It must be in Writing, and on Oath, in certain other Cases.

3. Whenever any such information shall have been taken on oath and in writing that any person has committed or is suspected to have committed any indictable crime or offence (or any offence for which such person shall be punishable upon summary conviction, and for whose arrest the Justice shall issue a warrant), it shall be lawful for the Justice, if he shall see fit, to bind the informant or complainant, by recognizance (A a.*) or (C.) to appear at the court or place where the Defendant is to be tried or the complaint is to be heard, to prosecute or give evidence, as the case may be, against such person:

Binding the Informant to prosecute.

4. In all cases of summary jurisdiction the complaint shall be made when it shall relate to the nonpayment of any poor rate, county rate, or other public tax, at any time after the date of the warrant authorizing the collection of the same, and when it shall relate to the nonpayment of money for wages, hire, or tuition,

In Summary Proceedings Complaint must be made for Poor Rate, &c., at any Time after the Date of

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the Warrant for Wages, &c., within One Year; for Trespass within Two Months; in other Cases, within Six Months.

within one year from the termination of the term or period in respect of which it shall be payable, and when it shall relate to any trespass, within two months from the time when the trespass shall have occurred, and in any other case within six months from the time when the cause of complaint shall have arisen, but not otherwise:

In Summary Proceedings Defendant entitled to Copy of Information or Complaint when in Writing.

And in all cases of summary jurisdiction any person against whom any such information or complaint shall have been made in writing shall, upon being amenable or appearing in person or by counsel or attorney, be entitled to receive from the clerk of petty sessions a copy of such information or complaint, on payment of the sum of sixpence to such clerk; and such clerk shall in no case allow the original information or complaint to be taken out of his possession.

Process to enforce Appearance.

XI. The manner in which persons against whom any such informations or complaints as aforesaid shall have been received by any Justice shall be made to appear to answer to the same shall be subject to the following provisions:

In Cases of Indictable Offences Warrant to issue in the first instance.

1. In all cases of indictable crimes and offences (where an information that any person has committed the same shall have been taken in writing and on oath) the Justice shall issue a warrant (B b.) to arrest and bring such person before him, or some other Justice of the same county, to answer to the complaint made in the information (and which warrant may be issued or executed on a *Sunday* as well as on any other day); or if he shall think that the ends of justice would be thereby sufficiently answered, it shall be lawful for him, instead of issuing such warrant, to issue a summons in the first instance to such person, requiring him to appear and answer to the said complaint; but nothing herein contained shall prevent any Justice from issuing a warrant for the arrest of such person at any time before or after the time mentioned in such summons for his appearance; and whenever such person shall afterwards appear or be brought before any such Justice he shall proceed according to the provisions hereinafter contained as to taking the evidence against such person, and committing such person for trial:

But in certain Cases a Summons may issue.

If Party appears or is arrested, Justice to proceed under subsequent Provisions.

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2. In all cases of summary jurisdiction the Justice may issue his summons (B a.) directed to such person, requiring him to appear and answer to the complaint, and it shall not be necessary that such Justice shall be the Justice or one of the Justices by whom the complaint shall be afterwards heard and determined; and in all cases of offences where such person shall not appear at the required time and place, and it shall be proved on oath either that he was personally served with such summons or that he is keeping out of the way of such service (the complaint being in writing and on oath), the Justice may issue a warrant to arrest and bring such person before him or some other Justice of the same county, to answer to the said complaint; and when such person shall afterwards be arrested under such warrant, the Justice before whom he shall be brought may either by warrant (E b.) commit him to gaol, until the hearing of the complaint, or may discharge him upon his entering into a recognizance (C.), with or without sureties, at the discretion of the Justice, conditioned for his appearance at such hearing:

In Cases of Summary Jurisdiction Summons to issue in the first instance;

but in certain Cases a Warrant may issue.

If Party is arrested Justice may either commit or discharge on Recognizance.

And each summons or warrant shall be signed by the Justice or one of the Justices issuing the same, and it shall state shortly the cause of complaint, and no summons or warrant shall be signed in blank; and in every case where the offence shall have occurred or the cause of complaint shall have arisen within the petty sessions district for which the Justice issuing any such summons or warrant shall act, but the party or witness to whom such summons shall be directed or against whom such warrant shall be issued shall reside in an adjoining county, it shall be lawful for such Justice to compel the appearance of such party or witness at the hearing of the charge or complaint within such district, in like manner as if such party or witness resided in such district, although such Justice may not be a Justice of such adjoining county.

Warrant or Summons to be signed, but not in Blank.

Summons or Warrant may run into an adjoining County.

Service of Summonses.

XII. The manner in which summonses shall be served shall be subject to the following provisions:

Justices to appoint a Summons Server.

1. It shall be lawful for the Justices of each petty sessions to appoint some one or more persons,

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who shall be able to read and write, to act as summons server or servers of the district during the pleasure of such Justices; and any such summons server shall be entitled to be paid by the complainant or person for whom he may be employed such sum not exceeding the sum of sixpence for the service of each summons upon each party or witness (or upon any number of parties or witnesses in the same case who shall be served in the same house) as the Justices shall fix:

By whom Summons to be served.

2. In cases of offences prosecuted by the Constabulary the summons shall be served by a head or other constable, but in all other cases it may be served by the summons server of the district, or (if the Justice issuing the same shall so direct or permit) by any other person whom the complainant shall employ, and who shall be able to read and write, but in no case by the complainant himself:

What shall be due Service.

3. Every summons shall be served upon the person to whom it is directed by delivering to him a copy of such summons, or if he cannot be conveniently met with, by leaving such copy for him at his last or most usual place of abode, or at his office, warehouse, counting-house, shop, factory, or place of business, with some inmate of the house not being under sixteen years of age, a reasonable time before the hearing of the complaint; and such last-mentioned service shall be deemed sufficient service of such summons in every case except where personal service shall be specially required by this Act; and in every case the person who shall serve such summons shall indorse on the same the time and place where it was served, and shall attend with the same at the hearing of the complaint to depose, if necessary, to such service;

Proof of Service

But this not to affect any special Mode of Service.

Provided always, that nothing herein contained shall be construed to affect the provisions of any Act authorizing the substitution of service in particular cases.

Witnesses.

Justice may issue Witnesses to

XIII. Whenever it shall be made to appear to any Justice that any person within the jurisdiction of such Justice is able to give material evidence for the pro-

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secution in cases of indictable offences, or for the complainant or defendant in cases of summary jurisdiction, and will not voluntarily appear for the purpose of being examined as a witness, such Justice may proceed as follows:

attend and give Evidence.

1. He may issue a summons (B a.) to such person requiring him to appear at a time and place mentioned in such summons, to testify what he may know concerning the matter of the information or complaint, and (if the Justice shall see fit) to bring with him and produce for examination such accounts, papers, or other documents as shall be in his possession or power, and as shall be deemed necessary by such Justice; but in any case of an indictable crime or offence, whenever the Justice shall be satisfied by proof upon oath that it is probable that such person will not attend to give evidence without being compelled so to do, then (the information or complaint being in writing and on oath), instead of issuing such summons as aforesaid, he may issue a warrant (B b.) in the first instance for the arrest of such person:

Issue of Summons.

In Cases of indictable Offences Warrant may issue in the first instance.

2. And in any case when any person to whom a summons shall be issued in the first instance shall neglect or refuse to appear at the time and place appointed by such summons, and no just excuse shall be offered for such neglect or refusal, then (the information or complaint being in writing and on oath), after proof upon oath that such summons was personally served upon such person, or that such person is keeping out of the way of such service, and that he is able to give material evidence in the case, the Justice before whom such person should have appeared may issue a warrant (B b.) to arrest such person, and to bring him at the time and place appointed for the hearing of the case, to testify and to produce such accounts, papers, and documents as may be required as aforesaid:

If Summons be not obeyed, Justices may issue Warrant to arrest Witness.

3. In all cases of prosecutions for offences the evidence of the informer or party aggrieved shall be admissible in proof of the offence; and in all cases of complaints on which a Justice

What persons shall be competent Witnesses:

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Prosecutors and Complainants in all cases:

Defendants in Wages cases.

can make an order for the payment of money, or otherwise, the evidence of the complainant shall be admissible in proof of his complaint; and in cases of wages, hire, or tuition, the evidence of the master or employer may, in the discretion of the Justices, be admitted in proof against the complaint:

Witnesses to be examined on Oath.

4. All witnesses shall be examined upon oath, and any Justice before whom any such witness shall appear for the purpose of being so examined shall have full authority to administer to every such witness the usual oath:

Witnesses refusing to be examined may be committed from time to time till they consent to be examined.

5. Whenever any person shall appear as a witness, either in obedience to a summons or by virtue of a warrant (or shall be present, and shall be verbally required by the Justice or Justices to give evidence), and he shall refuse to be examined upon oath concerning the matter of the information or complaint, or shall refuse to take such oath, or having taken such oath shall refuse to answer such questions concerning the said matter as shall then be put to him, or shall refuse or neglect to produce any such accounts, papers, or documents as aforesaid (without offering any just excuse for such refusal), the Justice or Justices then present may adjourn the proceedings for any period not exceeding eight clear days, and may in the meantime by warrant (E b.) commit the said witness to gaol, unless he shall sooner consent to be sworn or to testify as aforesaid, or to produce such accounts, papers, or documents, as the case may be; and if such witness, upon being brought up upon such adjourned hearing, shall again refuse to be sworn, or to testify as aforesaid, or to produce such accounts, papers, or documents, as the case may be, the said Justices, if they shall see fit, may again adjourn the proceedings, and commit the witness for the like period, and so again from time to time until he shall consent to be sworn or to testify as aforesaid, or to produce such accounts, papers, or documents, as the case may be (provided that no such imprisonment shall in any case of summary jurisdiction exceed one month in the whole); but nothing herein contained shall be deemed to prevent the Justice

But this not to prevent

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or Justices from sending any such case for trial, or otherwise disposing of the same in the meantime, according to any other sufficient evidence which shall have been received by him or them: Case from being disposed of on other sufficient Evidence.

6. Whenever in cases of indictable offences the Justice or Justices shall see fit, they may bind the witnesses by recognizance (A b.*) or (C.) to appear at the trial of the offender and give evidence against him; and whenever any witness shall refuse to be so bound it shall be lawful for the Justice or Justices by warrant (E b.) to commit him to the gaol of the county or place in which the person accused is to be tried, there to be imprisoned until the trial of the person accused, unless in the meantime such witness shall duly enter into recognizances (C.) before some Justice of the county in which such gaol shall be situated; but if afterwards, from want of sufficient evidence or other cause, the Justice or Justices before whom the person accused shall have been brought shall not commit him or hold him to bail, it shall be lawful for such Justice or Justices or any other Justice of the county by warrant (E d.) to order the keeper of the gaol to discharge such witness: In cases of Indictable Offences Witnesses may be bound to give Evidence, and on refusal may be committed — but if Party is not committed or bailed, witness to be liberated.

7. In all cases of summary jurisdiction it shall be lawful for the Justices by whom any order or payment of money, not being in the nature of a penalty for an offence, shall be made, to order the party at whose instance any witness shall have been summoned to pay to such witness such sum, not exceeding two shillings and sixpence, as to such Justices shall seem fit, for his expenses or loss of time for each day of attending to give evidence, and in default of payment thereof at such time as such Justice shall appoint, then to issue a warrant to levy the amount thereof by distress of the goods of such party: Justices may order payment to Witnesses in Civil Cases, not exceeding 2s. 6d.

And no person who shall be summoned to attend before any court of petty sessions, or before any Justice out of petty sessions, as a witness, shall be liable to arrest for debt whilst at such court, or at the place where such Justice shall sit, or whilst proceeding to or returning from the same, provided he shall proceed Witnesses to be protected from arrest for debt;

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and if arrested shall be discharged by the Court.

and return by the most direct road without unnecessary delay; and it shall be lawful for the court out of which the writ or process shall have issued to order the discharge of any person who shall be so arrested:

Taking the Evidence—Indictable Offences.

XIV. The manner in which the evidence shall be taken in proceedings for indictable offences shall be subject to the following provisions:

Justices to take Depositions.

1. In every case where any person shall appear or be brought before any Justice or Justices charged with any indictable crime or offence, such Justice or Justices, before committing such person for trial or admitting him to bail, shall in the presence of such person, who shall be at liberty to put questions to any witness produced against him, take the depositions (A b.) on oath and in writing of those who shall know the facts of the case, and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall also be signed by the Justice or one of the Justices who shall take the same; and if upon the trial of the person so accused it shall be proved by the oath of any credible witness that any person whose deposition shall have been so taken is dead, and that such deposition was taken in the presence or hearing of the person accused, and that he or his counsel or attorney had an opportunity of cross-examining such witness, it shall be lawful to read such depositions as evidence on the trial, without further proof thereof, unless it shall be proved that the same was not signed by the Justice purporting to have signed the same:

Depositions of Witnesses who have died.

Statement of Prisoner.

2. Whenever the examination of the witnesses on the part of the prosecution shall have been completed the Justice or one of the Justices present shall (without requiring the attendance of the witnesses) read or cause to be read to the person accused the several depositions, and then take down in writing the statement (A c.) of such person (having first cautioned him that he is not obliged to say anything unless he desires to do so, but that whatever he does say will be taken down in writing, and may be given in evidence against him on his trial); and whatever statement the said person shall then

Justices to caution Prisoner, and then take down his Statement;

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make in answer to the charge shall, when taken down in writing, be read over to him, and shall be signed by the said Justice, or one of the Justices present, and shall be transmitted to the Clerk of the Crown or Peace, as the case may be, along with the depositions, and afterwards, upon the trial, may, if necessary, and if so signed, be given in evidence against the person accused, without further proof thereof, unless it shall be proved that it was not signed by the Justice purporting to sign the same; but nothing herein contained shall prevent the prosecutor from giving in evidence any admission or confession, or other statement made at any time by the person accused, and which would be admissible by law as evidence against such person:

but Prosecutor may give any other Statement also in Evidence.

Remanding Prisoner.

But if from the absence of any witnesses or from any other reasonable cause it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful for the Justice before whom the person accused shall appear or be brought, either to admit such person to bail in manner hereinafter provided, or by warrant (E b.) from time to time to remand such person to gaol for such time as the Justice shall deem expedient, not exceeding eight clear days; but any such Justice may order the said person to be brought before him or some other Justice of the county, at any time before the expiration of the period for which he shall have been so remanded: Provided always, that at any time after the examinations in any proceedings for an indictable offence shall have been completed, and on or before the first day of the assizes or sessions or other first sitting of the court at which any person committed to gaol or admitted to bail is to be tried, such person may require and shall be entitled to receive from the officer or person having the custody of the same copies of the depositions on which he shall have been committed or bailed (or copies of depositions taken at any inquest in case of murder or manslaughter), on payment of a reasonable sum for the same, not exceeding a sum at the rate of three halfpence for each folio of ninety words.

May be remanded for any time not exceeding eight days; but may be ordered up sooner.

In cases of Indictable Offences after the Examination, &c., have been completed, Defendant entitled to Copies of Depositions.

Disposal of the Prisoner—Indictable Offences.

XV. The manner in which the person accused shall be disposed of when the evidence shall have been taken

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in proceedings for indictable offences shall be subject to the following provisions:

When Evidence has been completed, Justices to discharge, or commit, or admit to Bail.

1. Whenever the offence shall have been committed within the jurisdiction of the Justice or Justices present, and he or they shall be of opinion that the evidence is not sufficient to put such accused person on his trial, he or they shall forthwith order such accused person, if in custody, to be discharged as to the information then under inquiry; but if in the opinion of such Justice or Justices such evidence is sufficient to put such person on his trial, or if such evidence raises a strong or probable presumption of guilt, then such Justice or Justices shall either by warrant (E b.) commit him to gaol, to be there kept until his trial for the said offence, or shall admit him to bail in manner hereinafter provided, according as he or they shall see fit:

Justice of one County may examine as to Offence committed in another County, and either commit Prisoner or admit him to Bail.

2. Whenever any person shall appear or be brought before any Justice charged with an offence alleged to have been committed by him in any county or place in *Ireland* wherein such Justice shall not have jurisdiction, it shall be lawful for such Justice and he is hereby required to examine such witnesses, and receive such evidence in proof of such charge as shall be produced before him within his jurisdiction; and if in his opinion such evidence shall be sufficient proof of the said charge, such Justice shall thereupon, either by a like warrant (E b.) commit the person accused to the gaol of the county or place wherein the offence shall be alleged to have been committed, or shall admit him to bail, according as such Justice shall see fit; but if in his opinion such evidence shall not be sufficient to put the accused party on his trial, then such Justice shall bind over the prosecutor, if he shall have appeared, and the witnesses, to give evidence when required so to do, and shall thereupon, by warrant (E c.) order such person to be taken before some Justice of the county in which and near the place where the offence is alleged to have been committed, and shall at the same time deliver to the person having the execution of such warrant the information, depositions,

If Evidence is not sufficient Justice may send Prisoner to County where Offence was committ d;

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and recognizances, if any, so taken, to be delivered to the Justice before whom the accused person shall be taken in obedience to such warrant, and such information, depositions, and recognizances shall be treated to all intents as if they had been taken before such last-mentioned Justice:

but if Evidence not sufficient, and Party not bailed, former Recognizance to be void.

Provided always, that if such last-mentioned Justice shall not think the evidence against such accused party sufficient to put him on his trial, and shall discharge him without holding him to bail, any recognizance so taken by the said first-mentioned Justice shall be null and void.

Bailing Prisoner.—Indictable Offences.

XVI. The admission to bail of persons charged with indictable offences shall be subject to the following provisions:

Persons charged with certain Felonies and Misdemeanors may be admitted to Bail at the Discretion of the Justice before Commitment for Trial. 1 & 2 W. 4. c. 44.

1. In every case where any person shall be charged before any Justice in manner aforesaid with any felony (save as hereinafter excepted), or with any assault with intent to commit any felony, or with any attempt to commit any felony, or with any offence against an Act of the first and second years of his late Majesty King *William* the Fourth, intituled *An Act to amend an Act passed in the Parliament of* Ireland *in the Fifteenth and Sixteenth Years of the Reign of his Majesty King* George *the Third, intituled* '*An Act to prevent and punish tumultuous Risings of Persons within this Kingdom, and for other Purposes therein mentioned,*' or with obtaining or attempting to obtain property by false pretences, or with a misdemeanor in receiving property stolen or obtained by false pretences, or with perjury or subornation of perjury, or with concealing the birth of a child by secret burying or otherwise, or with wilful or indecent exposure of the person, or with riot, or with assault in pursuance of a conspiracy to raise wages, or assault upon a peace officer in the execution of his duty, or upon any person acting in his aid, or with neglect or breach of duty as peace officer, or with any misdemeanor for the prosecution of which the costs may be allowed out of the county rate or funds, it shall be lawful either for the Justice before whom such charge shall be made, at any time

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before such person shall be committed to gaol, or for the Justice by whom the warrant to commit shall have been signed, at any time afterwards, and before the first day of the sitting of the court before which he shall have been committed to be tried, if (having regard to the nature of the charge, and the cogency of the evidence adduced in support of it), it appears to him to be a case in which bail ought to be taken, to admit such accused person to bail by recognizance (C.) with one or more sufficient sureties, at the discretion of the Justice, conditioned that he will appear at the time and place when and where he is to be tried for such offence, and that he will then surrender and take his trial, and not depart the court without leave; and whenever in any such case the accused person shall not be so admitted to bail, if the committing Justice shall be of opinion that he ought to be admitted to bail, he shall certify (I c.) on the warrant of commitment his consent to his being bailed, stating also the amount of bail which ought to be required; and any Justice of the county attending or being at the gaol where such accused party shall be in custody, on production of such certificate at any time before the first day of the sitting of the court before which he shall have been committed to be tried, may admit such accused person to bail in manner aforesaid:

In such Cases the committing Justice to certify on Warrant his Consent to Bail;

and any other Justice may admit to Bail.

Persons charged with other Misdemeanors shall be admitted to Bail at any Time as of Right.

2. In every case where any person shall be charged before any justice with any indictable misdemeanor other than those hereinbefore mentioned, such Justice, after taking the examinations, instead of committing him to prison, shall, upon the application of such person) and upon being satisfied as to the sufficiency of the bail offered), admit him to bail in manner aforesaid, or if he shall have been committed to gaol and shall apply to any Justice for the same county to admit him to bail at any time before the first day of the sitting of the court before which he shall have been committed to be tried, such Justice shall admit him to bail in manner aforesaid:

When Sureties cannot

And whenever it shall not be convenient for the surety or sureties in any case to attend at the gaol to join

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with the accused person in the recognizance of bail, then the committing Justice or the Justice by whom such person can be admitted to bail, as the case may be, shall make a duplicate of such certificate (I c.) as aforesaid, and upon the same being produced to any Justice for the same county it shall be lawful for such last-mentioned Justice, before such time as aforesaid, to take the recognizance of the surety or sureties in conformity with such certificate, and upon such recognizance being transmitted to the keeper of such gaol, and produced to any Justice attending or being at such gaol, it shall be lawful for such last-mentioned Justice, before such time as aforesaid, to take the recognizance of such accused person in like manner as if the sureties were present; and in all cases where a Justice shall admit to bail any person who shall then be in any gaol charged with the offence for which he shall be so admitted to bail, such Justice shall send to or cause to be lodged with the keeper of such gaol a warrant (E d.) requiring the said keeper to discharge the person so admitted to bail, if he be detained for no other offence or under no civil process, and upon such warrant being delivered to such keeper he shall forthwith obey the same: Provided always, that no Justice shall admit any person to bail for treason or for any felony under an Act of the eleventh year of Her present Majesty's reign, intituled *An Act for the better Security of the Crown and Government of the United Kingdom*, nor shall any such last-mentioned person be admitted to bail except by order of the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, or his or their Chief Secretary, or by Her Majesty's Court of Queen's Bench at *Dublin*, or a Judge thereof in vacation.

attend, Justice to give a Duplicate Certificate.

When Justice admits a Person to Bail after Commitment, he shall order his Discharge, if not detained for any other Offence, or under Civil Process; but no Bail in Cases of Treason or of Felony under 11 & 12 Vict. c. 12, but by Order of the Lord Lieutenant, or Chief Secretary, or Queen's Bench.

XVII. Whenever any person charged with any such indictable crime or offence as aforesaid shall have been bailed in manner aforesaid, it shall be lawful for the Justice by whom he shall have been bailed, or for any other Justice, if he shall see fit, upon the application of the surety or of either of the sureties of such person, and upon information being made in writing and on oath by such surety, or by some person on his behalf, that the person so bailed is about to abscond for the purpose of evading justice, to issue his warrant for the arrest of such person so bailed, and afterwards, upon being satisfied that the ends of justice would otherwise be defeated, to commit such person, when so arrested,

Where Party is about to abscond, Justice may, upon Application of Bailsman, order Arrest, and require new Bail.

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to goal, until his trial, or until he shall produce another sufficient surety or other sufficient sureties, as the case may be, in like manner as before.

Warrant to arrest a Party against whom an Indictment is found.

XVIII. Whenever an indictment shall have been found by the grand jury in any court of oyer and terminer or general gaol delivery, or at any general or quarter sessions of the peace in *Ireland*, against any person who shall then be at large, and who shall not already have appeared and pleaded to such indictment, (and whether such person shall have been bound by recognizance to answer to the same or not,) the person who shall act as clerk of the crown at such court, or as clerk of the peace at such sessions, shall, at any time after the end of the assizes or sessions at which such indictment shall have been found, upon application of the prosecutor or of some person on his behalf, and free from charge, grant unto such prosecutor or person a certificate (I b.) of such indictment having been found; and upon production of such certificate to any Justice for the county in which the offence shall be alleged in such indictment to have been committed, or in which the person thereby indicted shall reside or be, or be suspected to reside or be, such Justice shall issue his warrant to arrest such person, and to cause him to be brought before him, or some other Justice for the same county, to be dealt with according to law; and upon such person being so brought before such Justice, and upon its being proved on oath that the person so arrested is the same person who is charged and named in such indictment, such Justice shall, without further inquiry, either commit him for trial or admit him to bail, in manner aforesaid; and in any such case as last aforesaid, if the person so indicted shall at the time be confined in any gaol for any other offence than that charged in such indictment, such Justice shall, upon like proof on oath that the person so confined is the same person who is so charged in such indictment, issue his warrant (E b.) to the keeper of such gaol, commanding him to detain such person in his custody until he shall be discharged therefrom by due course of law; but nothing herein contained shall be deemed to prevent any clerk of the crown or peace or other officer from issuing any warrant in any such case for the arrest of any such person which he might otherwise by law issue.

Party so arrested to be committed for Trial or bailed.

If Party indicted be in Prison for some other Offence, Justice to order his Detention.

But not to interfere with Bench Warrants, &c.

Disposal of the Informations, &c.—Indictable Offences.

XIX. The manner in which informations, examinations, statements of accused parties, and recognizances, in proceedings for indictable offences, shall be disposed

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of, when taken, shall be subject to the following provisions:

1. Every such information, examination, statement, and recognizance sworn, taken, or acknowledged by or before any Justice not sitting in petty sessions shall, with all convenient despatch, and at the latest before the petty sessions then next ensuing for the district where the case may have arisen, be transmitted by him to the Justices at such petty sessions, except in cases where the person accused shall not have been committed or shall not be amenable, and such Justice shall deem it expedient to retain such documents for a longer period: Informations, &c., taken before Justice out of Petty Sessions to be transmitted to Petty Sessions.

2. The Justices at petty sessions shall transmit or cause the clerk of petty sessions to transmit every such information, examination, statement, or recognizance so received from any Justice out of petty sessions, or which shall be sworn, taken, or acknowledged at petty sessions, to the clerk of the crown of the county where the same shall relate to any matter to be tried at the assizes, or to the clerk of the peace where same shall relate to any matter to be tried at quarter sessions, with all convenient despatch, or at latest within seven days from the holding of each petty sessions where the party shall have been committed or shall be amenable, (or at least seven days before the assizes or quarter sessions, as the case may be, where the party shall not have been committed or shall not be amenable,) except in cases of indictable offences where the party shall not have been committed or shall not be amenable, and the Justices shall deem it expedient to retain such documents for a longer period: Informations, &c. to be transmitted to the Clerks of the Crown and Peace;

3. In every case where any such documents, whether taken in or out of petty sessions, shall be so retained by any Justice for a longer period than is herein-before provided, he shall endorse on the same his reason for such retention: but when detained, Justice to certify Reason.

And in all cases where the Justices shall deliver to the clerk of petty sessions any such information, exmaination, statement, or recognizance to transmit to the clerks of the crown or peace, the said clerk of petty sessions shall forthwith make an abstract or schedule of the Mode of transmitting Informations, &c.

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same, specifying the dates of the same, and the dates when the same were received by him; and (when there shall be no more convenient or safe mode of transmission,) and he shall be so directed by the Justices, he shall transmit such schedule, together with the informations, examinations, and recognizances therein referred to, to the said clerks of the crown or peace, as the case may be, through the general post office, prepaying the same, and obtaining a receipt from the postmaster where the same shall be posted, specifying the date of such posting, and for which the postmaster by whom the same shall be delivered shall in like manner obtain a like receipt from the clerk of the peace, or clerk of the crown, as the case may be, and which receipts such postmaster and such clerk of the crown or peace are hereby required to give; and the grand jury of the county shall at the assizes present to be paid to such clerks of petty sessions the amount of the postage prepaid by them for the transmission of such documents as aforesaid; and the sums so presented shall be levied as other monies presented by such grand jury.

Grand Jury to present Amount of Postage.

Hearing the Case.—Summary Jurisdiction.

XX. In all cases of summary jurisdiction the proceedings upon the hearing of the complaint shall be subject to the following provisions:

Where both Parties appear, Case to be heard on both sides.

1. Whenever the defendant or his agent (*a*) shall be present the substance of the complaint shall be stated to him, and if he thereupon admit the truth of the complaint, then the Justices shall, if they shall see no sufficient reason to the contrary, convict or make an order against him accordingly, but if he do not admit the truth of the complaint, then the Justices shall proceed to hear such evidence as may be adduced in support of the complaint, and also to hear the defence, and such evidence as may be adduced on behalf of the defence, and also such evidence

(*a*) "In the Petty Sessions (Ireland) Act, 1851, the word 'agent' shall include the father, son, husband, wife, or brother of the complainant or defendant; provided that any such person be thereunto authorized in writing by the complainant or defendant (as the case may be), and to receive no remuneration therefor; and have the leave of the Court to appear and be heard, and that the Court is satisfied that such complainant or defendant is, from infirmity or other unavoidable cause, unable to appear."—45 & 46 Vic., c. 24, s. 1.

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as the complainant may adduce in reply, if such defendant shall have given any evidence other than as to his the defendant's general character; but the complainant or his agent shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant or his agent be entitled to make any observations in reply upon the evidence given by the complainant in reply; and if the information or complaint shall negative any exemption, exception, proviso, or condition in the statute on which the same shall be framed, it shall not be necessary for the complainant to prove such negative, but the defendant may prove the affirmative thereof, if he will have advantage of the same:

Right of Reply.

Proof of a Negative.

2. Whenever the defendant or his agent shall not appear at the time and place mentioned in the summons, and it shall appear to the Justices on oath that the summons was duly served, a reasonable time before the time therein appointed for appearing, and no sufficient grounds shall be shown for an adjournment, the Justices may either proceed *ex parte* to hear and determine the complaint, or may adjourn the hearing to a future day:

Where Defendant does not appear, Hearing may be ex-parte.

3. Whenever the defendant or his agent shall appear at the time and place appointed in the summons, or shall be brought before the Justice by virtue of any warrant, then, if the complainant (having in the case of a warrant had due notice of the defendant's arrest) do not appear by himself or his agent, the Justices may either dismiss such complaint, or may adjourn the hearing to a future day:

Where Complainant does not appear. Case to be dismissed or adjourned.

4. Whenever any Justices shall proceed to hear and determine any complaint or information as to an offence, they, or one of them, shall, when required so to do by either party, or his agent, take or cause to be taken a note in writing of the evidence, or of so much thereof as shall be material, in a book to be kept for that purpose by the clerk of petty sessions, and which book shall be signed by one of the Justices by whom such information or complaint shall have been heard on the day on which the same shall have been determined:

Justices to take down Evidence in Offence Cases in Writing, if required by Party.

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Justices may adjourn the Court generally, or may adjourn particular Cases;

And whenever all the cases shall not have been heard and determined on any court day, the Justices then present may adjourn the remaining cases either to the next court day, or to such other day as they shall see fit: and whenever, either before or during the hearing of any complaint, it shall appear advisable, the Justices present may, in their discretion, adjourn the hearing of the same to a certain time or place to be then appointed and stated in the presence and hearing of the party or parties or their agents; and all persons whose attendance shall have been required by any summons in any of the cases so adjourned shall take notice of such adjournment, and shall be obliged to attend on the day to which such adjournment shall take place, without the issue or service of any further summons; and in all cases of such adjournments the said Justices may suffer the defendant to go at large, or in prosecutions for offences (where there shall be an information in writing and on oath that the defendant is guilty of the offence,) may commit him to gaol by warrant (E b.), or may discharge him upon his entering into a recognizance (C.), with or without sureties, at the discretion of the Justices, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned. (*a*)

and either allow Defendant to go at large or commit him or bind him by Recognizance to appear.

Adjudication of Case.—Summary Jurisdiction.

Justices either to convict, or to dismiss the Complaint on the merits, or without prejudice. Entry of Orders.

XXI. In all cases of summary jurisdiction the Justices, having heard what each party shall have had to say, and the evidence adduced by each, shall either make such order as shall be authorized by the Act under which the complaint shall be made, or shall dismiss the complaint either upon the merits or without prejudice to its being again made; and the entry of the order so made shall be as follows:

1. One of the Justices then present shall thereupon enter or cause the clerk to enter the particulars

(*a*) "In case no Justice shall be in attendance for one hour after the time appointed for holding of any petty sessions, it shall be lawful for the clerk to adjourn the holding of such petty sessions and the hearing of all proceedings thereat, to the next petty sessions day; and upon such adjournment being made he shall make an entry thereof in the minute book, and post a notice thereof on the door of the petty sessions courthouse; all persons summoned or under recognizance to attend at such adjourned sessions shall, without fresh summons or recognizance be bound to attend on the day to which such adjournment shall have been made."—21 & 22 Vic., c. 100, s. 8, sub-sec. 5.

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of such case and the substance of the decision thereon in a book to be kept for that purpose, to be called the "Order Book," according to the form (D.) (and shall, in case of a dismissal, state whether the same is upon the merits or without prejudice to a further complaint); and such entry, when one of the Justices present shall have signed his name opposite to it or after it (which one of the said Justices is hereby required to do), shall be deemed to all intents and purposes a conviction or order, as the case may be:

If Order made out of Petty Sessions.

2. Whenever any Justice or Justices shall have made any such conviction or order out of Petty Sessions, in the cases permitted by this Act to be decided out of Petty Sessions, he or they shall either enter the same in the order book in manner aforesaid, or shall enter the substance of the decision in the form of certificate (I a.), and shall forthwith, or at furthest before the next court day, deliver or forward such certificate to the clerk of Petty Sessions of the district, who shall enter the same in the proper order book (with a special note that he has so done), and shall submit such entry for signature to the Justice or one of the Justices by whom the order shall have been made upon the next day of his attendance at Petty Sessions; but in case such Justice shall not sign the same, the clerk shall make a special entry to that effect in the order book opposite to such case, and shall preserve the original certificate as a record of the proceeding:

Return and Entry of Cases decided out of Petty Sessions in which Constabulary prosecute or act.

3. The sub-inspector of constabulary of the district shall make a return to the Justices at each Petty Sessions of the particulars of any cases of summary jurisdiction in which any Justices of the said Petty Sessions shall have made any order or issued any warrant out of Petty Sessions, and in which any head or other constable of such district shall have been engaged, since the next preceding Petty Sessions:

Copies of Convictions need not be returned to Quarter Sessions as hitherto.

And it shall not hereafter be necessary to return to quarter sessions copies of the summary convictions so made and entered at Petty Sessions; but if either party shall require it, a certificate (Form I a.) of any order so made (signed by the Justice who shall have made the same, or by any other Justice of the same Petty

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But Certificate of Order to be given to Party;

and Certificate of a Dismissal on the Merits to be a Bar to future Proceedings;

and to be good Evidence of Conviction.

Sessions), shall be delivered to him at any time, and such certificate shall operate to all intents as a good form of conviction or order, as the case may be, for any purpose for which any form of conviction or order may now by law be required; and in case of a dismissal, where the same shall be stated therein by the Justice to have been a dismissal on the merits, or that any assault was of a trifling or justifiable nature (and which he is hereby required to state if the case be so), such certificate upon being produced shall be a bar to any subsequent information or complaint for the same matter against the same party; and in any such case such certificate shall on proof of the signature of the Justice to the same be received as good evidence of the conviction or order in all courts of Justice.

General Powers in adjudicating.

XXII. In all cases of summary jurisdiction it shall be lawful for the Justices in adjudicating thereon to exercise the following general powers, whether the same shall be authorized by the Act under which the complaint shall be made or not:

Justices may in all Cases fix the Time and Manner of Payment.

1. In every case where the Justices shall be authorized to award any penal or other sum, they may order that the same shall be paid either forthwith or at such time as they shall see fit to fix for that purpose, and in cases of a civil nature, that such sum may be paid either at once or by instalments:

In all Cases Distress may be ordered on Nonpayment.

2. In every case where the Justices shall award any penal or other sum to be paid, they may order that, in default of the said sum being paid at the time and in the manner directed by their order, the goods of the person against whom the said order shall be made shall be distrained for such sum, or for so much of such sum as shall remain unpaid at the time fixed, and also for the costs of such distress:

In Offence Cases Imprisonment may be ordered in default of Distress, according to Scale;

3. In every case of an offence where they shall order that a distress shall be made in default of payment of any penal sum, they may order that in default of the said sum being paid as directed the said person shall be imprisoned for any term not exceeding the period specified in the following scale: (*a*)

(*a*) Where the penalty does not exceed £5, the scale is now regulated by the "Small Penalties (Ireland) Act, 1873." (See page 449).

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For any sum	The imprisonment not to exceed
Exceeding £5, but not exceeding £10, . . .	3 months.
Exceeding the last, but not exceeding £30, . .	4 ,,
Exceeding the last, but not exceeding £50 . .	6 ,,
Exceeding the last, . .	1 year.

And any such imprisonment shall be determinable upon payment of the said sum and costs and any costs of the distress, where a distress shall have been made; and such imprisonment may be directed in the same warrant as such Distress; but if the said person shall admit, or if it shall be otherwise proved on oath, that he has no goods, or that a distress would be ruinous to him or his family, they may order that such person shall be imprisoned in the first instance for the like period for which he might be imprisoned in default of distress:

and may be directed by same Warrant.

So also in like Cases in the first instance where no Goods or the Distress would be ruinous.

4. In every case of an offence, where the order shall only have directed distress in default of payment of a penal sum, and it shall afterwards be found impossible to execute a warrant of distress, it shall be lawful for the Justices at petty sessions to order a warrant to issue to commit the person against whom such order shall have been made to gaol for such period as might have been directed by the original order; and in like manner where the order shall have only directed imprisonment, and it shall be found impossible to execute a warrant of committal, it shall be lawful for the Justices at petty sessions to order a warrant to issue to levy by distress of the goods of such person such penal sum as might have been awarded by the original order; and in all such cases a note of such proceeding shall be made by the Justices in the order book:

In Offence Cases Justices at Petty Sessions may substitute Distress for Committal, and vice versa on Failure of First Warrant.

5. In every case of an offence, where the Act shall authorize the Justices to order imprisonment, they may adjudge by their order that the said imprisonment shall be either with or without hard labour, according as they shall see fit:

Power to award Hard Labour in Offence Cases.

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Imprisonment may commence at Expiration of Imprisonment under previous Conviction.

6. In every case of an offence, where the person against whom an order to imprison shall be made shall then be in prison undergoing imprisonment upon a conviction for any other offence, it shall be lawful for the Justice issuing the same, if he shall think fit, to order therein that the imprisonment shall commence at the expiration of the imprisonment to which such person shall have been previously sentenced:

Any Compensation awarded shall be paid to Party aggrieved, except in certain Cases.

7. In every case where any sum shall be awarded under the provisions of any Act as compensation for damage, or as the value of any article, or as the amount of any injury done, such sum shall be paid to the party or public body aggrieved; but where the party aggrieved is unknown, such sum shall be applied in like manner as any penalties awarded to the Crown; and where several persons join in an offence, and are severally punished each in the amount of the injury done, no more than one of such sums shall be paid to the party aggrieved, and the rest shall be applied as other penalties awarded to the Crown:

Appropriation of Fines and Penalties.

8. In every case where the Act [is one] (*a*) under which any penal sum shall be ordered to be paid as a penalty for an offence (and no sum shall be awarded to the complainant as compensation for damage), it shall be lawful for the Justices to award any sum not exceeding one-third of such penal sum to the prosecutor or informer, and the remainder of such sum and all other penal sums shall be awarded to the Crown, any Act or Acts to the contrary notwithstanding:

Power to award Costs in all Cases to either Party.

9. In all cases the justices may order that the defendant shall pay to the complainant, or in case of a dismissal that the complainant shall pay to the defendant, such sum, not exceeding twenty shillings, for costs, as to such Justices shall seem fit, and the same shall be recoverable in the same manner as any penal or other sum adjudged to be paid by the Justices:

Aiders and Abettors in the Commission of Offences to be

Provided always, that every person who shall aid, abet, counsel, or procure the commission of any offence which is or shall be punishable on summary conviction, shall be liable to be proceeded against and convicted for

(*a*) The words in brackets are inserted to make the passage intelligible.

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the same, either together with the principal offender or before or after his conviction, and shall be liable on conviction, to the same forfeiture and punishment to which such principal offender shall be by law liable (except where the age of such aider or abettor shall exceed fourteen years, in which case he shall be liable to the same forfeiture and punishment to which any principal offender whose age shall exceed fourteen years shall be liable), and may be proceeded against and convicted either in the county where such principal offender may be convicted, or in that in which such offence of aiding, abetting, counselling, or procuring may have been committed.

punishable on Summary Conviction as Principals.

XXIII. In all cases of summary jurisdiction, whenever an order shall be made upon the conviction of any person for an offence, the Justices shall issue the proper warrant for its execution forthwith when the imprisonment is to take place immediately, or at the time fixed by the order for the imprisonment to take place where it is not to be immediate, or directly upon the nonpayment of any penal sum or the nonperformance of any condition at the time and in the manner fixed by the order for that purpose, or at furthest upon the next court day after the expiration of the time so fixed for the imprisonment, payment, or performance of a condition, as the case may be, unless the imprisonment or penal sum shall have been remitted by the Crown or other competent authority in the interval; and whenever an order shall be made in any case of a civil nature, and the same shall not be obeyed, the Justice shall issue the proper warrant for its execution at any time after the time fixed for compliance with its directions, where required so to do, by the person in whose favour such order shall have been made or by some person on his behalf, and it shall not be necessary that the Justice by whom any such warrant shall be issued shall be the Justice or one of the Justices by whom the order shall have been made: Provided always, that in every case where the party being entitled to appeal against any such order shall have duly given notice thereof, and entered into a recognizance to prosecute the same in the manner hereinafter provided, it shall not be lawful for any Justice to issue any warrant to execute the said order until such appeal shall have been decided, or until the appellant shall have failed to perform the condition of such recognizance, as the case may be (except where any Act shall expressly authorize or direct the levy of any sum

Enforcement of Orders.—Summary Jurisdiction.

In Offence Cases Warrant to issue peremptorily.

In Civil Cases Warrants to issue on Application of Party;

but no Execution of Order pending an Appeal;

except in certain Cases;

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to be made notwithstanding the appeal); and in any case where any person shall be in custody, or shall have been committed to gaol, or any warrant of distress shall have been issued or executed, under any such order, the Justice by whom the warrant shall have been issued, or any other Justice of the same county, shall, upon an application being made to him in that behalf, forthwith order the discharge of such person from custody or from gaol, or that such warrant of distress shall not be executed, or that if executed the distress shall be returned to the owner, as the case may be.

or if Warrant issued, not to be executed, or if executed, Party to be discharged or Distress to be returned.

Appeals.—Summary Jurisdiction.

XXIV. In any case of summary jurisdiction, where an order shall be made by the Justices for payment of any penal or other sum exceeding twenty shillings, or for any term of imprisonment exceeding one month, or for the doing of anything at a greater expense than forty shillings, or for the estreating of any recognizance to a greater amount than twenty shillings, (but in no other case,) either party (whether he shall be the complainant or the defendant) in cases of a civil nature, or the party against whom the order shall have been made in other cases, shall be entitled to appeal to the next quarter sessions to be held in the same division of the county when the order shall have been made by any Justice or Justices of any petty sessions district, (or to the Recorder of any corporate or borough town at his next sessions when the order shall have been made by any Justice or Justices of such corporate or borough town,) (unless when any such sessions shall commence within seven days from the date of the order, in which case the appeal may be made to the next succeeding sessions of such division or town); and such appeal shall be subject to the following provisions:

In what Cases Appeals shall be permitted.

Appeal only to next Quarter Sessions of the Division.

1. The appellant shall serve notice in writing of his intention to appeal upon the Clerk of Petty Sessions within three days from the date of the order against which the appeal shall be made:

Notice to be given within Three Days.

2. He shall also within three days after such notice as aforesaid enter into a recognizance, according to the form (C.), with two solvent sureties, conditioned to prosecute such appeal; and the amount of such recognizance shall be double the amount of the sum and costs ordered to be paid, where payment only is ordered, or of such reasonable amount as the Justices shall see fit, where imprisonment is ordered:

Recognizance to prosecute Appeal.

Amount of Recognizance.

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Appeal.

3. Whenever the appellant shall have given such notice and entered into such recognizance there shall be delivered to him the form of appeal (H.), containing a certificate of the order against which he shall appeal (signed by the Justice who shall have made the same, or by any other Justice of the same petty sessions); and it shall also be therein certified by the clerk of petty sessions that the said notice was duly given and that the said recognizance was duly entered into, if the fact shall be so:

Recognizance to appeal to be transmitted to Clerk of Peace.

4. In every case where an appeal shall be so made, the clerk of petty sessions shall transmit the recognizance entered into to prosecute such appeal and all other proceedings in such case to the clerk of the peace of the county or to the proper officer of the Recorder's Court, at least seven days before the commencement of the sessions to which the appeal shall be made, or as soon afterwards as may be practicable, in the same manner as is hereinbefore provided for the transmission of informations as to indictable offences:

Appellant to give Notice to opposite Party.

5. The appellant shall give notice in writing to the opposite party of his intention to prosecute his appeal at least seven clear days before the commencement of the sessions to which the appeal shall be made:

Court of Quarter Sessions (or Recorder) may decide Appeal, and give Costs not exceeding 40*s*.

6. Whenever an appeal shall have been so made, and such last-mentioned notice shall have been duly given, it shall be lawful for the said court of quarter sessions (or Recorder, as the case may be) to entertain the same, and to confirm, vary, or reverse the order made by the Justices (as so certified in such form of appeal), and to award to either party any sum not exceeding forty shillings for the costs of such appeal; and whenever the said court of appeal shall have decided any such appeal, the clerk of the peace or proper officer of the Recorder's Court, as the case may be, shall certify such decision at foot of the form of appeal, and return the same and the said proceedings to the Justices of the petty sessions at which the order shall have been made, within seven days after such appeal shall have been decided; and whenever any

Clerk of Peace or proper Officer of Recorder's Court to certify Decision;

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or certify upon and return Recognizance if Appeal is not prosecuted.

such appeal shall not have been duly prosecuted the clerk of the peace or proper officer of the Recorder's Court, as the case may be, shall so certify upon such recognizance, and return the same to the Justices of the petty sessions from which the same shall have been transmitted (in the same manner and subject to the same provisions as are herein-before contained as to the transmission of informations for indictable offences), within seven days after the termination of the sessions at which such appeal ought to have been prosecuted, and which certificate shall be free from any charge:

If Order is not varied on Appeal Justice shall issue Warrant for Execution of the same.

7. And whenever it shall appear from such certificate that such appeal has not been duly prosecuted, or that the original order has been confirmed upon appeal, the Justices who shall have made the original order, or any other Justice of the same petty sessions, shall issue the proper warrant for the execution of the same, as if no such appeal had been brought; and in every case in which it shall appear from such certificate that the court of appeal shall have varied the original order, the said Justices shall forthwith issue the proper warrant for the execution of the order so made by the court of appeal, in like manner as they might have issued a warrant for the execution of the original order in case no appeal had been prosecuted; and if upon any such appeal either party shall be ordered to pay costs, it shall be lawful for such justices to enforce payment of the same, in like manner as any costs awarded by the original order; and in any case where any order by which any person shall be adjudged to be imprisoned shall be confirmed on appeal, such person shall be liable to be imprisoned for the period adjudged by the original order, where he shall not have been apprehended under the original order, or where he shall have so been apprehended and discharged, then for such period as, together with the time during which he shall so have been in custody, shall be equal to the period adjudged by the original order:

But where Order is varied, Warrant to issue for Execution of Order of Quarter Sessions.

Costs of Appeal how recovered.

Where Party has been imprisoned, he is only to be imprisoned for remainder of Period.

In certain Case, where

Provided always, that whenever the party bound by recognizance to prosecute an appeal against an order

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to imprison shall have absconded, or when the party bound to prosecute an appeal against an order for payment of any penal or other sum shall have no goods whereon to levy same by distress, it shall be lawful for the Justices at the petty sessions where the original order was made, and after like proof of notice to the parties as in estreating other recognizances in summary proceedings, to make an order for estreating the recognizance in any such case to such amount as they shall see fit, and for paying out of such amount such sum as shall have been directed to be paid to any party by such original order, and thereupon to issue a warrant (E a.) for the levy of the same upon the goods of the several persons bound thereby. (*a*)

Party fails to prosecute Appeal, Justice may estreat Recognizance.

XXV. The persons to whom warrants shall be addressed for execution shall be as follows:

Addressing Warrants.

1. All warrants in proceedings as to offences punishable either by indictment or upon summary conviction, which shall be issued in any petty sessions district, shall be addressed to the

To whom to be addressed in Offence Cases;

(*a*) By the 40 & 41 Vic., c. 56, s. 75, "So much of the 24th section of the Petty Sessions (Ireland) Act, 1851, as provides the estreating of recognizance of the party bound to prosecute, an appeal shall be, and the same is hereby repealed, and from and after the passing of this Act, whenever the party bound to prosecute an appeal against an order to imprison shall have absconded, either before or after the hearing of said appeal, or before or after the time fixed for the hearing thereof where the same shall not have been prosecuted, or whenever the party bound to prosecute any appeal shall not have abided and performed the order of the Court of Appeal made therein, or whenever the party bound to prosecute an appeal against any order for the payment of any penal or other sum, shall not have performed the obligation of his recognizance, and shall have no goods whereon to levy the amount of the same by distress, it shall be lawful for the Justice at the Petty Sessions, where the original order was made, and after like proof of notice to the parties as in estreating other recognizances in summary proceedings, to make an order for estreating the recognizance in any such case to such amount as they shall think fit, and for paying out of such amount such sum as shall have been directed to be paid to any party by such original order, or by any order duly made on appeal, as the case may be, and thereupon to issue a warrant in the form (E a.), in the schedule to the said Act annexed for the levy of the same upon the goods of any one or more of the several persons bound thereby."

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sub-inspector or head constable of constabulary who shall act for the place where the petty sessions for such district shall be held:

In other Cases.

2. All warrants in other cases shall be addressed either to the sub-inspector or head constable of constabulary in manner aforesaid, or to such other person or persons (not being the complainant or a party interested), as the Justices issuing the same shall see fit:

Committals need not be addressed to Gaoler.

And it shall not be necessary to address any warrant of committal to the keeper of the gaol, but upon the delivery of any such warrant by the person charged with its execution to the keeper of the gaol to which the committal shall be made such keeper shall receive and detain the person named therein, (or shall detain him if already in his custody), for such period and in such manner as it shall appear from the warrant that the said person is to be imprisoned; and in cases of adjournments or remands such keeper shall bring the said person at the time and place fixed by the warrant for that purpose before such Justices as shall be there.

Gaoler to produce Prisoner in Cases of Adjournments or Remands.

By whom Warrants may be executed.

XXVI. The execution of warrants so addressed to the sub-inspector or head constable of constabulary shall be subject to the following provisions:

Executing Constabulary Warrants in the District.

1. Whenever the person against whom any warrant so addressed shall have been issued shall be to be found in case of committal, or shall have goods in case of distress, in any place for which such sub-inspector or head constable shall act, it shall be lawful for the sub-inspector or head constable who shall act for the time being for such place, or for any head or other constable to be appointed by him, to execute the same:

Certifying to some other District of same County.

2. Whenever it shall appear that the said person or his goods, as the case may be, are not to be found in any place for which such sub-inspector shall act, but that they are to be found elsewhere in the same county, the said sub-inspector or head constable shall certify on the warrant, according to the form (G b.), the place where he believes that the said person or his goods are to be found, and also (having first satisfied himself as to the fact) that he believes the signature to the warrant to be genuine, and shall forthwith transmit the said warrant to the sub-inspector or head constable who shall act

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for such last-mentioned place, and the same shall be executed in like manner as any warrant addressed to him in the first instance:

Certifying out of the County.

3. Whenever it shall appear that the said person or his goods, as the case may be, are not to be found in the county to which such sub-inspector or head constable shall belong, but that such person or his goods, as the case may be, are to be found elsewhere out of the said county, the said sub-inspector or head constable shall, as before, certify on the warrant, according to the form (G b.), and forthwith transmit the same to the inspector general of the constabulary force, to be backed as herein-after mentioned: (*a*)

But in case of Emergency Warrant may be executed by any Constable, &c. in the same or adjoining County.

Provided always, that in any case which shall appear to the Justice by whom any warrant shall be issued to be a case of emergency, he may address such warrant to any constable of the county; and it shall be lawful for such constable to execute such warrant at any place within the county in which the Justice issuing such warrant shall have jurisdiction, or, in case of fresh pursuit of an offender, at any place in the next adjoining county; but the constable to whom any such warrant shall be so addressed shall, if the time will permit, show or deliver the same to the sub-inspector or head constable under whose command the said constable shall be, who shall proceed in respect to the same according to the Acts regulating the constabulary force.

Backing Warrants.

XXVII. Whenever any warrant addressed to the sub-inspector of constabulary, or to any head or other constable, shall be so certified and transmitted to the said inspector general, the manner in which it shall be backed for execution elsewhere shall be as follows:

Constabulary Warrants:

To any Constabulary District in Ireland:

1. Whenever it shall appear that the said person or his goods are to be found in any place in *Ireland* (not being within the police district of *Dublin* metropolis), it shall be lawful for the said inspector general or for either of the

(*a*) By 30 Vic., c. 19, power is given to the assistant inspectors general of constabulary to back warrants in absence of inspector general and deputy inspector general; and by 31 & 32 Vic. c. 107, power is given to magistrates to back warrants from the Channel Islands, &c., when offender is, or is supposed to be, in his jurisdiction.

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deputy inspectors general of constabulary to indorse the said warrant according to the form (G c.), and to transmit the same to the sub-inspector who shall act for such place, and the same shall be executed in like manner as any warrant addressed to him in the first instance:

To the Police District of Dublin Metropolis:

2. Whenever it shall appear that the said person or his goods are to be found in the police district of *Dublin* metropolis, it shall be lawful for the said inspector general, or for either of the said deputy inspectors general, to indorse the said warrant according to the form (G c.), and to transmit the same to the commissioners of metropolitan police, and the same shall be executed in like manner as any warrant addressed to them in the first instance:

To England, &c.

3. Whenever it shall appear that the said person or his goods are to be found in some place in *England* or *Scotland*, or in the Isles of *Man*, *Guernsey*, *Jersey*, *Alderney*, or *Sark*, it shall be lawful for the said inspector general, or for either of the said deputy inspectors general, in like manner as before, to indorse the warrant, according to form (G c.), and it shall thereupon be lawful for any Justice or officer having power to issue any warrant, or process in the nature of a warrant, for the arrest of offenders in any of the said places, upon proof on oath of the handwriting either of the inspector or deputy inspector general by whom the same shall have been indorsed or of the Justice by whom the warrant shall have been issued, to indorse the same, according to the form (G c.), authorizing its execution within the jurisdiction of the said Justice or officer by the person bringing the same, or by any constable or other peace officer of the county or place where it shall be so indorsed:

Inspector-General, &c. to indorse;

and any Justice, &c., may back.

The above Provisions also to apply to other Cases.

And the said provisions shall also apply to cases in which the sub-inspector shall only certify that the signature to the warrant is genuine, but in which the place where the said person or his goods are to be found shall appear by other means than the said certificate.

Warrants addressed to other Persons than

XXVIII. Whenever a warrant shall be addressed to any other person or persons than the constabulary, and it shall appear that the person against whom the same

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shall have been issued, or his goods, as the case may be, are not to be found within the county in which the Justice issuing the same shall have jurisdiction, but in some other place in *Ireland*, or in any of the places out of *Ireland* herein-before mentioned, it shall be lawful for any Justice or other such officer as aforesaid of such place, upon proof on oath of the handwriting of the Justice who shall have signed the warrant, to indorse the same for execution in such place in like manner as is herein-before provided as to any warrant indorsed by the inspector general of constabulary. the Constabulary.

XXIX. Whenever any person against whom any warrant shall be issued by any Justice or other such officer as aforesaid in *England* or *Scotland*, or in the Isles of *Man*, *Guernsey*, *Jersey*, *Alderney*, or *Sark*, for any crime or offence, shall reside or be, or be suspected to reside or be, in any place in *Ireland*, it shall be lawful for the said inspector general or for either of the said deputy inspectors general, or for any Justice of the said last-mentioned place to indorse the same in like manner and upon like proof as aforesaid, authorizing the execution of the same within his jurisdiction. Backing Warrants from England, &c., into Ireland.

XXX. The aforesaid provisions as to the indorsement of warrants shall equally apply to any warrants for the arrest of any person charged with any indictable crime or offence for which he is punishable by law, whether the same shall be signed or indorsed or issued by a Justice of the peace, or by a Judge of Her Majesty's Court of Queen's Bench, or Justices of Oyer and Terminer and general gaol delivery, in *England* or *Ireland*, or by the Lord Justice General, Lord Justice Clerk, or any of the Lords Commissioners of Justiciary, or by any sheriff or steward depute or substitute, in *Scotland*, or by the Chief or Under Secretary to the Lord Lieutenant. The above Provisions to apply also to Judges' Warrants.

XXXI. Whenever any warrant, addressed either to the constabulary or to any other person, shall be so indorsed by the said inspector general or by either of the said deputies inspector general or by any Justice or other such officer as aforesaid, it shall be a sufficient authority to the person bringing such warrant, and also to all constables or peace officers of the county or place where such warrant shall be so indorsed, to execute the same by arrest, committal, or levy, as the case may be, within the jurisdiction of the said Justice or officer, and in case of a warrant to arrest any person, to convey him when Warrants so backed to be valid for Execution;

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arrested before the Justice or officer by whom the same was issued, or before some other Justice or officer of the same county or place, to be dealt with according to law:

but if the Prosecutor or Witnesses be on the spot, Examinations may be taken.

provided always, that if the prosecutor, or any of the witnesses for the prosecution, in cases of indictable offences, shall then be in the county or place where any person shall have been arrested under any warrant so backed as aforesaid, the constable or other person who shall have arrested such person shall, if so directed by the Justice who shall have indorsed the warrant, bring the person so arrested before him or some other Justice of the same county or place, who may thereupon take the examinations of such prosecutor or witnesses, and proceed in every respect as herein-before directed with respect to persons charged before a Justice with an indictable crime or offence alleged to have been committed in any other county or place than that in which such person shall have been arrested.

Execution of Warrants.

XXXII. The manner in which distresses and commitals under warrants shall be made shall be as follows:

When addressed to Constabulary;

1. Whenever any warrant to levy any penal or other sum by distress shall be addressed to the constabulary, the sums levied under it shall be accounted for, under the provisions of the "Fines Act, *Ireland*, 1851;" but whenever any such warrant shall be addressed to any other person than the constabulary, such person shall pay over the sum levied under it to the person who shall appear by such warrant to be entitled to the same, or in such other manner, and subject to such account of the same, as the Justices shall direct.

when addressed to other Persons.

Distress may be sold in a certain time.

2. In every case where a distress shall be made under any such warrant it shall be lawful for the person charged with its execution to sell the said distress within such period as shall be specially fixed by the said warrant, or if no period shall be so fixed, then within the period of three days from the making of the distress, unless the sum for which the warrant was issued, and also the reasonable charges of taking and keeping the said distress, shall be sooner paid; and in every case where he shall sell any such distress he shall render to the owner the overplus, if any, after retaining the amount of the said sums and charges:

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3. In every case where any person against whom any such warrant shall be issued shall pay or tender to the person having the execution of the same the sum in such warrant mentioned, or shall produce the receipt of the officer of the court for the same, and shall also pay the amount of the expenses of such distress up to the time of such payment or tender, such person shall refrain from executing the same: On Payment of Penalty, &c., Distress not to be levied.

4. In every case where any sub-inspector or member of the metropolitan police force shall be empowered to distrain any goods under such warrant, he may and is hereby authorized to sell or cause the same to be sold by auction by any head constable of the said constabulary force, or by any member of the said metropolitan police force, as the case may be, without procuring any licence to act as an auctioneer, and may deduct out of the amount of such sale all reasonable costs and charges actually incurred in effecting the same: Distress may be sold by Auction without Licence.

5. In every case where any person who shall be apprehended under any such warrant shall pay or cause to be paid to the keeper of the gaol in which he shall be imprisoned the sum in the warrant mentioned, the said keeper shall receive the same, and shall thereupon discharge such person if he be in his custody for no other matter: If Sum paid after Committal, Prisoner to be discharged.

6. Whenever the warrant shall be to commit any prisoner to gaol, the head or other constable or other person whose duty it shall be to convey such prisoner to gaol shall deliver over the said warrant and the said prisoner to the keeper of the gaol, who shall thereupon give to such head or other constable or other person a receipt for such prisoner (form F.), setting forth the state and condition in which he shall have been delivered into the custody of such keeper: Gaoler to give Receipt for Prisoners.

7. In any case of summary jurisdiction in which a Justice shall order any person to be committed to gaol for any period either in default of payment of any sum, or in default of distress, or as a punishment for any offence, such committal shall be to the county gaol, district bridewell, or house of correction of the county in which To what Prisons Offenders shall be committed in Summary Proceedings

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the party shall be arrested, unless where such arrest shall be made in any county adjoining to that in which the warrant shall have been issued, in which case the committal shall be to any of the said prisons of such last-mentioned county; and whenever any Justices shall order any person to be committed on account of any adjournment of the hearing, or until the return of a warrant of distress, or for any like temporary purpose, such committal shall be either to the gaol or house of correction, district bridewell, or to any bridewell or lock-up of the county built or supported by county presentment, according as shall appear to the Justices most convenient for that purpose.

Return of unexecuted Warrants.

XXXIII. Whenever the person to whom any warrant shall be so addressed, transmitted, or endorsed for execution shall be unable to find the person against whom such warrant shall have been issued, or his goods, as the case may be, or to discover where such person or his goods are to be found, he shall return such warrant to the Justices by whom the same shall have been issued within such time as shall have been fixed by such warrant (or within a reasonable time where no time shall have been so fixed), and together with it a certificate (G a.) of the reasons why the same shall not have been executed: and it shall be lawful for such Justice to examine such person on oath touching the non-execution of such warrant, and to re-issue the said warrant again, or to issue any other warrant for the same purpose, from time to time as shall seem expedient.

Recognizances.

Mode of binding by Recognizance.

XXXIV. Whenever any person shall be bound to appear or to keep the peace, it shall be done by a separate recognizance (C.); but whenever any person shall be bound to prosecute or to give evidence as a witness, it may be done either by recognizance at foot of his deposition (A b.), or by a separate recognizance, at the discretion of the Justice; and the taking of every recognizance shall be subject to the following provisions:

Amount of Recognizance

1. It shall be in such amount as the Justice shall, in his discretion, think expedient, except in cases of appeal, in which the amount shall be as herein-before provided:

To contain particular

2. It shall particularly specify the profession, trade, or occupation of every person entering into the same, together with his christian and surname

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and the name of the parish and townland or town in which he resides, and if he resides in a town the name of the street, and the number (if any) of the house in which he resides, and whether he is owner or tenant thereof, or a lodger therein: Description of Parties bound.

3. Every recognizance so taken according to the form in the schedule to this Act, or to the like effect, either at foot of the deposition or by a separate form, shall have the like force and effect in binding the lands, tenements, goods, and chattels of the persons acknowledging the same, and in all other respects, which any recognizance now by law has: To be in Form in Schedule.

And whenever the condition of any such recognizance shall be to appear at assizes or quarter sessions, or at any place other than before any Justice or Justices, or to perform the duties of petty sessions clerk, it shall be forwarded to the clerk of the crown or peace as hereinbefore provided, and shall be liable, upon any breach of the condition thereof, to be estreated in the same manner as any forfeited recognizance to appear is now by law liable to be estreated by the court before which the principal party thereto shall have been bound to appear: But whenever the condition of such recognizance shall be to keep the peace, or to appear before any Justice out of quarter sessions, or to perform the duties of a pound keeper, it shall be deposited with the clerk of petty sessions of the district by the Justice by whom it shall have been taken, and upon nonperformance of the condition thereof any Justice who may then be there present may certify on the recognizance the nonperformance of the said condition, and it shall thereupon be lawful for the Justices sitting at the petty sessions of the district, and in open court, upon proof of the nonperformance of the said condition, to make an order to estreat such recognizance to such amount as they shall see fit, and thereupon to issue a warrant (E a.) to levy such amount by distress and sale of the goods of the parties who shall have acknowledged the same: Provided always, that in every case where any Justices shall order any such recognizance to be estreated, proof shall be first made on oath that notice in writing (stating the general grounds on which it is intended to sustain the application) was left at the usual place of abode of the party, or of each of the parties if more

Recognizances to appear, &c. at Assizes, &c., to be transmitted to Clerks of Crown, &c., and to be estreated by Court.

Recognizances to appear before Justices, or to keep the Peace, &c., to be deposited with Clerk of Petty Sessions;

and may be estreated by Justices;

after Proof on Oath of Notice to Parties.

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than one, against whom it is sought to put such recognizance in force, at least seven days before the day on which the application to estreat such recognizance shall be made.

Offences against this Act.

XXXV. Any of the officers or persons herein-after mentioned who shall commit any of the offences or neglects herein-after mentioned, and who shall be convicted thereof before any two Justices of the county sitting at petty sessions, shall be liable to forfeit for every such offence or neglect the penalties herein-after mentioned; (that is to say),

Entry of Summonses.

Any clerk of petty sessions who shall neglect or refuse to enter any summons in the order required under the provisions of this Act shall be liable to a penalty not exceeding forty shillings:

Clerk taking more than his legal Fees.

Any clerk of petty sessions who shall demand or receive any other or different fees, or any greater amount of fees, as to any proceedings in any case, than he can legally demand or receive under this Act, shall be liable to a penalty not exceeding five pounds:

Clerk engaging in Occupation inconsistent with his Duties.

Any person who whilst he shall hold the office of petty sessions clerk shall practise as an attorney or solicitor in any case at such petty sessions, or at the quarter sessions of the division of the county in which such petty sessions shall be situated, or who shall act as the clerk of any attorney or solicitor so practising, or as the clerk of a poor law union, or as a collector of any public tax, or as a pound keeper, or as the keeper or partner in keeping any inn or public house, or who shall engage in any other business or occupation which the Justices or the Lord Lieutenant shall have forbidden as inconsistent with his duties as petty sessions clerk, shall be liable to a penalty not exceeding twenty pounds:

Service of Summonses.

Any summons server or other person who shall make any wilful default in serving any summons shall be liable to a penalty not exceeding forty shillings:

Constabulary, &c., not returning Warrants or committing

Any sub-inspector, head or other constable, or other person who shall wilfully neglect to return any unexecuted warrant at the time required by the Justices, or who shall commit any wilful default

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in respect to the execution of the same, shall be liable to a penalty not exceeding five pounds: — any wilful Default.

Any person in whose possession any books, papers, or other effects belonging to the Justices at petty sessions, or relating to such court, shall be, upon or after the death, resignation, suspension, or dismissal of any petty sessions clerk, and who shall refuse to deliver up the same to the sub-inspector or head constable or other person directed by the Justices under the provisions of this Act to demand the same, shall be liable to a penalty not exceeding ten pounds: — Retaining Petty Sessions Books, &c.

Any person who shall oppose or hinder any search under any warrant issued by the Justices for the discovery of any such books, papers, or other effects, shall be liable to a penalty not exceeding five pounds: — Hindering Search for Books, &c.

Any person having any other duty to perform under the provisions of this Act, and who shall wilfully neglect to perform the same, shall be liable to a penalty not exceeding five pounds: — Any other Neglect of Duty.

And it shall be lawful for the said Justices to award the said penalties; and if the same shall be imposed upon any member of the constabulary force, the amount shall be deducted from his pay; but if imposed on any other person, then, in default of payment thereof forthwith, or at such time as the Justices shall fix, such person may be committed to prison for the like period, in proportion to the amount of the penalty imposed, for which the Justices are authorized to commit any offender in default of distress for any other penalty under the provisions of this Act. — Justices may award the foregoing Penalties.

XXXVI. In all proceedings under this Act the several forms in the schedule to this Act contained, or forms to the like effect, shall be deemed good, valid, and sufficient in law, and shall be the proper forms to be used, even in cases in which other and different special forms shall be or shall have been provided by the particular Act or Acts under which the information or complaint shall be made; but no departure from any of the said first-mentioned forms, or omission of any of the particulars required thereby, or use of any other words than those indicated in such forms, shall vitiate or make void the proceeding or matter to which the same shall relate, if the form used be otherwise sufficient in substance and effect, and the words used — *Forms of Procedure.* — Forms in the Schedule to be deemed valid, and the proper Forms in all Proceedings; but Informality not to vitiate any Proceeding.

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clearly express the intention of the person who shall use the same; and it shall be sufficient in any of the forms provided by this Act to state sums of money either in words or figures, according as the person using the same shall see fit: Provided always, that it shall be lawful for the Lord Lieutenant, from time to time, with the advice and consent of the Privy Council, to extend the said form of order book (D.) so far as to adapt it to any like proceedings either new or not provided for therein: Provided also, that the sealing of any warrant or other form of procedure under this Act shall not be necessary in addition to the signature of the Justice by whom the same shall be signed.

Form of Order Book may be extended by Lord Lieutenant in Council.

Warrants, &c., need not be sealed.

General Terms to be used in the Forms of Procedure.

XXXVII. And with a view to simplify forms, the prosecutor or party at whose instance the proceeding shall take place may be termed in such forms the "complainant," whether he shall be an informant or prosecutor or otherwise; and the matter of the proceeding may be termed the "complaint," whether founded on an information or otherwise; and in summary proceedings the decision of the Justices may be termed their "order," whether the same shall be a conviction or otherwise.

Description of the Property of Partners, &c.;

of the Property of Counties;

of the Property in Goods provided for the Poor;

of the Property in Materials for Roads;

of the Property in Materials for Turnpike Roads, &c.;

XXXVIII. It shall be sufficient, in any information or complaint, or the proceedings thereon, to describe the property belonging to or in the possession of partners, joint tenants, parceners, or tenants in common, as the property of any one of such persons who shall be named, and of another or others, without naming them, as the case may be; and any work or building made, maintained, or repaired at the expense of any county or place, or any materials for the making, altering, or repairing of the same, as the property of the inhabitants of such county or place respectively; and any goods provided by guardians of the poor or their officers respectively for the use of the poor, as the goods of the guardians of the poor of the union to which the same belong, without naming any of them; and any materials and tools provided for the repair of highways at the expense of baronies or other districts in which such highways may be situate as the property of the county surveyor or surveyors respectively, without naming him or them; and any materials or tools provided for making or repairing any turnpike road, and any buildings, gates, lamps, boards, stones, posts, fences, or other

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things erected or provided for the purpose of any such turnpike road, as the property of the commissioners or trustees of such turnpike road, without naming them; and any property of any persons described in any Act of Parliament, or in any charter or letters of incorporation, as commissioners, directors, trustees, or by any other general designation whatsoever, as the property of such commissioners, directors, trustees, or persons described by such other general designation, without naming them; and whenever it may be necessary to mention any of such persons or parties in any suit, information, or complaint, it shall be sufficient to describe them in manner aforesaid.

Property of Commissioners, &c.

XXXIX. In cases of summary proceedings no variance between the information or complaint and the evidence adduced in support thereof, as to the time at which the offence or cause of complaint shall be alleged to have been committed or to have arisen, shall be deemed material, if it be proved that such information or complaint was in fact laid or made within the time limited by law for laying or making the same; and any variance between such information or complaint and the evidence adduced in support thereof, as to the place in which the same shall be alleged to have been committed or to have arisen, shall not be deemed material, provided that the said offence or cause be proved to have been committed or to have arisen within the jurisdiction of the Justice or Justices by whom such information or complaint shall be heard and determined; and no objection shall be taken or allowed in any proceedings to any information, complaint, summons, warrant, or other form of procedure under this Act, for any alleged defect therein in substance or in form, or for any variance between any information, complaint, or summons, and the evidence adduced on the part of the complainant or prosecutor at the hearing of the case in summary proceedings, or at the examination of the witnesses by a Justice or Justices in proceedings for indictable offences: Provided always, that if any such variance or defect shall appear to the Justice or Justices at the hearing to be such that the defendant has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime, in cases of proceedings for offences, to commit the said defendant to gaol, or to discharge him, upon his entering into a re-

No Objection to be allowed for any Variance between Information and Evidence as to time or place of committing Offence, if Information be in time, or Offence be actually committed within the Jurisdiction

No Objection to be allowed for Defect of Substance or Form in Warrant, or for any Variance between it and Evidence adduced; but if the Party charged is deceived by such Variation or Defect, he may be committed or discharged upon Recognizance, till adjourned Hearing.

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cognizance conditioned for his appearance at the time and place to which such hearing shall be so adjourned. (*a*).

Miscellaneous Provisions.

XL. No receipt required to be given under the provisions of this Act shall be subject to any stamp duty payable to the crown.

Receipts not to be subject to Stamps.

XLI. Nothing in this Act shall extend to the police district of *Dublin* metropolis, or alter or affect in any manner whatsoever any of the provisions or enactments contained in any Act regulating the powers and duties of Justices of the peace or of the police of the district of *Dublin* metropolis, or be deemed applicable in any way to the same, save so far as relates to the backing or executing of any warrants, or to alter the provisions of any Act or Acts whereby any part of any county is annexed for the purpose of criminal proceedings to any other county, or whereby any offences committed in one county are authorized to be tried in any other county.

Act not to extend to Police District of Dublin Metropolis.

Act shall not extend to Revenue, &c. Cases.

XLII. Nothing in this Act shall extend or be construed to extend to any information or complaint or other proceeding under or by virtue of any of the Acts relating to Her Majesty's revenue of excise or customs, stamps, taxes, or post office, or relating to the preservation of game, except that all proceedings as to the same may be in the forms of procedure required by this Act, or as near thereto as the circumstances of the case will admit.

XLIII. Repeals certain statutes and parts of statutes.

Interpretation of Terms.

XLIV. In the interpretation of this Act and of the schedules thereto annexed, save where there is anything in the subject or context repugnant to such construction, the word "county" shall be deemed to include

(*a*) 40 & 41 Vic., c. 56, s. 76—"No conviction order made by any Justice or Justices shall be held void or shall be quashed by reason of any defect, omission, or variance in the summons, charge, or information, upon which the same shall purport to have been made, provided that such defect, omission, or variance, shall not have misled or prejudiced the defendant, or have affected the merits of the case, and the Justice or Justices, at the original hearing, or any court of appeal or superior court before whom the decision of any such Justice or Justices shall afterwards come, may, upon such terms as shall appear just, make any amendment in any summons, charge, or information, which shall appear to be requisite for the purpose of making the conviction or order conformable with the same, or of raising the real question at issue, and deciding the case as justice shall require."

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"county of a city," "county of a town," or "riding of a county," as the case may be; the expression "summary jurisdiction" shall be deemed to mean any case as to which a summary conviction or order may be made by a Justice or Justices out of quarter sessions; and "summary proceedings" shall mean any proceedings in respect to such case; the word "complaint" shall include "information," and "complainant" shall include "informant" or "prosecutor;" the word "order" shall include "conviction;" the words "Lord Lieutenant" shall include any other "chief governor or governors of *Ireland;*" the word "quarter sessions" shall include any general sessions of the peace for the county; the word "justice" shall mean "justice of the peace," and shall include the "chief magistrate" for the time being or the "borough justices" of any corporate town; the word "constabulary" shall mean the constabulary force of *Ireland;* the words "proper officer of the recorder's court," shall mean the town clerk where there shall be a town clerk, and where there shall be no town clerk, the person whose duty it shall be to make entries of the proceedings; the word "month" shall mean "calendar month;" the word "gaol" shall include any "house of correction" or "bridewell," or other "place" of imprisonment of the county; the word "keeper of the gaol" shall include "bridewell keeper," or the keeper or governor of any other prison; the word "goods" shall include "chattels;" and the word "oath" shall include "affirmation" or "solemn declaration," as the case may be; and the references in this Act by letters to the forms to be used shall be to the forms in the schedule to this Act annexed.

Short Title of Act.

XLV. In citing this Act in other Acts of Parliament, or in any legal or other instruments or proceedings, it shall be sufficient to use the expression "The Petty Sessions (*Ireland*) Act, 1851."

Commencement of Act.

XLVI. Act to take effect upon 1st November, 1851.

Act to extend to Ireland only and not to affect Jurisdiction of Court of Queen's Bench.

XLVII. This Act shall extend and be construed to extend to *Ireland* only, save and except the several provisions herein-before contained respecting the backing and execution of warrants and the taking of examinations; and nothing in this Act shall be deemed to alter or affect the jurisdiction or practice of the Court of Queen's Bench in *Ireland.*

Schedule to be Part of Act.

XLVIII. The schedule to this Act annexed shall be deemed to be part of this Act.

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SCHEDULE.

FORMS (A.)—PROOFS.

(A a.) Information.

———Complainant. } Petty Sessions District of———
———Defendant. } County of———

The information of A.B. of M.N. who saith on his (1) that (2)

Taken before me, this day of in the year eighteen hundred and fifty at in the said county.

Signed———Justice of said County.

*

(1) Oath or affirmation.
(2) State cause of complaint, with time and place.

Adding:—

For the arrest of a witness: *And he further saith that X. Y. can give material evidence, but is not likely to attend voluntarily;* or (*and is keeping out of the way of personal service of summons*); or, for sureties for the peace, *And he makes this information for the safety of his person and property, and not from malice or revenge against the said C.D.*

* The informant or witness may be bound to prosecute or give evidence by the following form of recognizance at foot of his information or deposition:

And the said informant (*or* deponent) binds himself to attend at on the to prosecute (*or* to give evidence) against the said C.D. for the said offence, or otherwise to forfeit to the crown the sum of

Signed———Informant (*or* Deponent).

Taken before me this day of in the year eighteen hundred and fifty at in the said county.

Signed———Justice of said County.

*** The words in *italics*, or words to the like effect, are to be used according to the circumstances of each case.

**** In all forms of procedure the name and description of each party is to be specified in like manner and with the same particulars as is required by this Act (Sect. XXXV.) as to any party bound by a recognizance.

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(A b.) Deposition of a Witness.

———Complainant. } Petty Sessions District of———
———Defendant. } County of ——

The deposition of *X. Y.* of *M.N.*, taken in the presence and hearing of *C.D.* who stands charged that (1)

The said deponent saith on his (2)
that (3)

*

(A c.) Statement of the Accused.

———Complainant. } Petty Sessions District of———
———Defendant. } County of———

A charge having been made against *C.D.* before the undersigned Justice that (4)

and the said charge having been read to the said *C.D.*, and the witnesses for the prosecution having been severally examined in his presence, and the said *C.D.* having been first duly cautioned that he was not obliged to say anything, but that whatever he did say might be given in evidence against him upon his trial, saith as follows; (5)

Taken before me this day of in the year eighteen hundred and fifty at in said county.

Signed——Justice of said county.

---

(1) Cause of complaint, with time and place.
(2) Oath or affirmation.
(3) Deposition as nearly as possible in the words of the witness, and to be signed by him, if he will.
(4) Cause of complaint, with time and place.
(5) Statement of prisoner in his very words, or as nearly so as possible, and to be signed by him, if he will.

(*) See note (*), page 432.

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(A d.) Solemn Declaration.

——Complainant. } Petty Sessions District of ——
——Defendant. } County of——

I, A.B., do solemnly and sincerely declare, that (1)

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act passed in the sixth year of the reign of His late Majesty King William the Fourth, chapter sixty-two, for the abolition of unnecessary oaths.

Signed

Made and subscribed before me, this day of in the year eighteen hundred and

Signed——Justice of said County.

FORMS B.—PROCESS TO ENFORCE APPEARANCE.

(B a.) Summons.

——Complainant. } Petty Sessions District of——
——Defendant. } County of——

Whereas a complaint has been made to me that (2)

This is to command you to appear as a (3) on the hearing of said complaint at on the day of at o'clock, before such Justices as shall be there.

Signed——Justice of said County.

This day of 185

To of

---

(1) Matter of declaration.
(2) Cause of complaint, with time and place.
(3) Insert: Defendant or witness.

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(B b.) Warrant to arrest.

——Complainant. } Petty Sessions District of——
——Defendant. } County of——

Whereas a complaint has been made on oath and in writing that (1)

and (2)

This is to command you to whom this warrant is addressed to arrest the said

(3)

of

and to bring him before me or some other Justice of the county to answer to the said complaint.

Signed ——, Justice of said County.

This day of 185 .

To (4) of

(1) Cause of complaint, with time and place.

(2) If the case be so, add--

For defendant,

Whereas the said C. D. has neglected to appear in obedience to a summons.

For witness,

Whereas oath has been made that X. Y can give material evidence, but will not attend voluntarily; or, is purposely keeping out of the way of personal service of a summons.

If after indictment--

It has been certified to me that (state as in certificate of clerk of crown or peace).

(3) Person against whom warrant is issued.

(4) Address.

"The sub-inspector of constabulary," or name of person who is to execute the warrant.

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FORM (C.)—RECOGNIZANCE (to appear, &c.)

——Complainant, } Petty Sessions District of——
——Defendant. } County of——

Whereas (1)

The undersigned principal party to this recognizance hereby binds himself to perform the following obligation, viz., to (2)

And the said principal party, together with the undersigned sureties hereby severally acknowledge themselves bound to forfeit to the Crown the sums following, viz.:—The said principal party the sum of and the said sureties the sum of each, in case the said principal party fails to perform the above obligation.

Signed { M.N.——Principal party.
O.P.——} Sureties.
Q.R.——}

Taken before me this day of at ; Signed——Justice of said county.

---

(1) In binding a party, &c., state cause of complaint, with time and place:

In binding petty sessions clerk or pound keeper, state fact of his appointment.

(2) Obligation.

To attend (the court of assizes, or quarter sessions, or petty sessions), at on the day of at o'clock, and there:—

To prefer (or prosecute, or give evidence upon) a bill of indictment against the said C.D. for the said offence; or

To surrender himself to the keeper of the gaol at F., and plead to any indictment found against him for said offence, and take his trial for the same; or

To prosecute (or answer) to said complaint; or

To prosecute his appeal against the order made on the day of upon the said complaint, and not depart the court without leave; or

To keep the peace (and be of good behaviour) towards all Her Majesty's subjects, and particularly towards A.B. for the space of ; or

To perform faithfully and diligently the several duties required of him as petty sessions clerk under the provisions of "The Petty Sessions Act, Ireland, 1851;" or

To perform faithfully and diligently the several duties required of him as pound keeper under the provisions of "The Summary Jurisdiction Act, Ireland, 1851."

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FORFEITURE.

I certify that the said M.N. has not performed the above obligation.

Signed——Justice (or Clerk of Peace, &c.)

This day of 185 .

ESTREAT.

I order that the sum of be levied off the goods of the said M.N., and the sum of off the goods of each of the said sureties O.P. and Q.R.

Signed——Justice of said County.

This day of 185 .

[FORM (D.)

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FORM (D.)—ORDER BOOK, AS APPROVED BY THE LORD LIEUTENANT (WITH THE ADVICE AND CONSENT OF THE PRIVY COUNCIL), PURSUANT TO SECTIONS 21 AND 36, PETTY SESSIONS (IRELAND) ACT, 1851.

1. No.	2. Date of Order.	3. Name or Names of Justice or Justices by whom Order made; and if entry in this book made from a certificate, same to be here stated.	4. PARTIES. — Complainant and Defendant (Christian, surname, rank, occupation, or other addition, and residence, stating parish and townland, to be given, and the parties to be distinguished by prefixing their appellation, Complainant or Defendant).	5. Names of Witnesses examined, and whether for Complainant or Defendant.	6. Cause of Complaint, as set forth in Summons.	7. Particulars of order or dismissal. If dismiss, whether with or without prejudice, and whether with or without costs, &c. In ejectment, when to be evicted, and from what premises, &c. If to be whipped, whether in or out of prison, &c. Where money ordered to be paid by or to any person, the amount to be written in words at full length in this column as well as to be entered in figures in the money columns.

8. Act under which Order made.	9. When and how amount ordered to be paid, and nature of warrant to issue in default, whether distress, committal, or otherwise.	10. Imprisonment, term of, whether with or without hard labour, in addition to fine, &c., or in default of payment, &c.; and name of gaol or bridewell.	11. Name, description, and residence of person to whom compensation (if any) ordered to be paid.	12. Name of Defendants against whom order made.	AMOUNT ORDERED TO BE PAID. (13.)					14. Portion of Fine (if any) awarded to Complainant.	15. Signature of Justice (if entry in this book from a certificate, and entry not signed by the Justice or one of the Justices who made the order, a special note of the circumstance to be made by the Clerk). *Vide* secs. 21 & 22.
					In Civil Cases.		In Penal Cases.				
					Sum to Complainant.	Costs to Complainant or Defendant.	Fine.	Compensation.	Costs of Complainant or Defendant.		

"NOTE.—No erasure to be on any account made; and every interlineation or other change to be initialled by the Justice who affixes his signature to the order. The greatest care to be taken that the cases be kept distinct from each other."

The form (D.) Order Book given in the schedule to the statute is not used. The above is the form approved by the Lord Lieutenant and Privy Council, pursuant to sec. 36 of the Act. It is much better adapted to the making a complete and legal order than that given in the statute. The Lord Lieutenant and Council have power to alter the form of "Order Book," 41 & 42 Vic., c. 69, sec. 11.

The imprisonment may be named and directed in the same warrant that directs a distress to be made, in the event of there being no goods to distrain.—Sub-sec. 3, sec. 22.

Where at the time of making the order no imprisonment is named in default of payment and of distress, the Justices can name the proper period of imprisonment on the return of the distress warrant; and so, in like manner, where an imprisonment, in default of payment, only is named, and the warrant to commit cannot be executed, the Justices can issue a distress warrant. A note of this proceeding is to be made in the Order Book.—Sub-sec. 4, sec. 22. From column 7 to 10 inclusive should be carefully filled in, so as to contain all the ingredients of a complete order and the mode of enforcing it. It frequently happens that the Justice pronounces the decision thus:—"To pay a penalty of £——, *or* to be imprisoned for——;" and if so entered on the Order Book it will be bad, for it is indefinite. What is plainly intended, although inaccurately expressed, should be correctly entered by the Chairman or the Clerk in the Order Book showing that a penalty has been named, and that *in default of payment* the imprisonment is to follow.

In case of second or subsequent offences, and the penalty imposed exceeds that for a first offence, enter on the *Order Book* that it is for a second offence. State so likewise in the warrant, appeals, &c. (*Humphrey's Justice of the Peace, Appendix*).

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FORMS (E.)—WARRANTS.

(E a.) Warrant of Execution (Summary Jurisdiction).

———Complainant. } Petty Sessions District of——
———Defendant. } County of——

Whereas upon the hearing of a complaint that (1) an order was made on the day of by the Justices present against the said—
(2)
of
to the following effect, viz.:—(3)

And whereas (4)

And whereas the said order has not been complied with.

---

(1) Cause of complaint, with time and place. In ejectments, the defendant had refused to give up to the plaintiff possession of situate at on the termination of his tenancy.

(2) Person against whom order was made.

(3) Order.

Imprisonment in addition or default

Fine or debt. To pay for fine (or debt) the sum of and for costs the sum of (forthwith), or (in days).
And also in addition, or
And in default of payment (or distress).
Imprisonment. To be imprisoned for the period of with (or without) hard labour.

Ejectment.—To be ejected from said premises in days, and pay the sum of to the complainant for costs.

Dismissal.—That his complaint be dismissed on the merits (or without prejudice), and that he do pay the sum of to the defendant for costs.

(4) Recitals.

After appeal.—The court of appeal decided on the day of that (order).

No distress.—He has (or admits that he has, or it has been returned to a warrant of distress that he has) no goods.

Distress ruinous.—A distress would be ruinous to him (or to his family).

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This is to command you to whom this warrant is addressed to execute the said order against the said person as follows:—(1)

And for this the present warrant shall be a sufficient authority to all whom it may concern.

The sum levied to be paid to (2)

The warrant to be returned in days if not executed.

Signed——Justice of said County.

This day of 185

To (3) of

---

(1) Execution.

Committal in addition or default.

To distrain.—To levy said sums by distress and sale of his goods.
And in addition, or
And in default of distress.
To commit.—To lodge him in the gaol at F., to be imprisoned there for the period of with (or without) hard labour (unless said sums be sooner paid).

To eject.—To enter and give possession of said premises to the complainant or his agent in days.

(2) Payment.

In all warrants to constabulary insert "Clerk of Petty Sessions." In all other warrants insert name of person to whom sum was ordered to be paid, if the Justices so think fit.

(3) Address.

"The sub-inspector (or head constable) of constabulary," or name of person who is to execute the warrant.

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(E b.) Warrant to commit (or detain) for Trial, &c.

———Complainant. } Petty Sessions District of ——
———Defendant. } County of ——

Whereas a complaint was made on the day of on the oath of X.Y.
that (1)
and (2)

This is to command you to whom this warrant is addressed to lodge the said
(3)
of
in the gaol at F., there to be imprisoned by the keeper of said gaol, as follows:—(4)

---

(1) Cause of complaint, with time and place.
(2) Recitals.
If indictment found—
Whereas a bill of indictment has been found against the said C.D. for the said offence.
Adjournments—
Whereas the hearing of the said complaint has been adjourned to the day of at .
Remands on arrest—
Whereas the said C.D. has been brought before me under a warrant of arrest, and the said complaint is to be heard on the day of at .
Refractory witness—
Whereas X.Y., a material witness, has, without just excuse, refused to make oath as a witness (or to answer certain questions) (or to enter into recognizance to give evidence on the trial of the said C.D.) in that behalf.
(3) Name of person to be committed.
(4) Period of imprisonment.
For trial—
Until his trial for said offence and he shall be discharged by due course of law.
For witness—
Until the trial of the said C.D. unless he shall in the meantime enter into such recognizance as required (or until the day of unless he shall in the meantime consent to answer as required).
For adjournments—
Until the above time of adjournment (or hearing) when he shall have him at the above place.

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And for this the present warrant shall be a sufficient authority to all whom it may concern.

Signed——Justice of said County.

This day of

To (1) of

(E c.) Warrant to convey before a Justice of another County.

——Complainant. } Petty Sessions District of——
——Defendant. } County of——

Whereas a complaint was made that (2)

And whereas I have taken the deposition of X.Y. as to the said offence.

And whereas the other witnesses reside in the county of

This is to command you to convey the said (3) of before some Justice of the last-mentioned county, near the above place, and to deliver to him this warrant and the said deposition.

Signed——Justice of the first-mentioned County.

This day of 185

To (4) of

---

(1) Address.

"The sub-inspector (or head constable) of constabulary," or name of person who is to execute the warrant.

(2) Cause of Complaint, with time and place.

(3) Name of accused person.

(4) Address.

"The sub-inspector (or head constable) of constabulary," or name of person who is to execute the warrant.

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(E d.) Warrant to discharge from Gaol.

———Complainant. } Petty Sessions District of——
———Defendant. } County of——

Whereas a complaint was made that (1)

and whereas the said (2) of (3)

This is to command you to discharge the said person so committed, unless he shall be in your custody for some other cause.

Signed———Justice of said County.

This day of 185 .

(4) To the keeper of the gaol at———

(E e.) Warrant to search.

———Complainant. } Petty Sessions District of——
———Defendant. } County of——

Whereas it appears on the oath of A.B. of M.N., that the following articles of property, viz.: (5)

were stolen, and that there is reason to suspect that the same is concealed in at .

---

(1) Cause of complaint, with time and place.

(2) Name of prisoner.

(3) Recitals.
For accused,
Was committed to take his trial for said offence, but has now duly entered into recognizance to appear for that purpose.
For witness,
Was committed for refusing to enter into recognizance to give evidence on the trial of C.D. for said offence, but has now done so (or, and the said C.D. for want of evidence has not been bailed or committed).

(4) Address.

(5) Description of articles stolen.

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This is, therefore, to authorize and require you to enter in the daytime into the said premises, and to search for said property, and to bring the same and the persons in whose possession the same may be found before me or some other Justice.

Signed——Justice of said County.

This day of 185

(1) To of

FORM (F.)—RECEIPT FOR PRISONER.

County of——

I hereby certify, that I have received from A.B. (2) of the body of C.D., together with a warrant under the hand of J.S., esq., Justice for the county of , and that the said prisoner was (3) at the time he was so delivered into my custody.

Signed——

Keeper of the gaol at

This day of 185 .

FORMS (G.)—INDORSEMENTS ON WARRANTS.

Return of no Person or Goods.

(4) (G a.) I certify that after diligent search (and for the following reasons):

against whom the within warrant was issued, cannot be found.

Signed—— { To whom this warrant was delivered for execution.

This day of 185

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(1) Address.

"The sub-inspector (or head constable) of constabulary" or name of person who is to execute the warrant.

(2) Name, rank, &c.

(3) "Sober," or as the case may be.

(4) The person, or sufficient goods of the person.

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Certificate of no Person or Goods.

(G b.) I (1) that I have reason to believe that the person against whom the within warrant was issued (2)

at in the county of and that I believe the signature to the within warrant to be in the handwriting of the said Justice.

Signed——— { To whom this warrant was delivered for execution.

This day of 185 .

To——— of———

Backing by Inspector-General or other Justice.

(G c.) It being (3) to me as above, I hereby indorse the within warrant for execution in said county of (4) (or metropolitan district or other place).

Signed———

Inspector General (or Deputy, or Justice).

This day of 185 .

To———

---

(1) For Constabulary—Certify.
For Bailiff—Make oath.

(2) Is to be found—or, has goods.

(3) For Commissioners of police or constabulary—Certified.
For Bailiff— Proved on oath.

(4) In backing warrant to arrest, add, if so intended—and to bring the said person before me or some other Justice of said county.

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FORM (H.)—APPEAL.

——Complainant. } Petty Sessions District of——
——Defendant. } County of——

I certify, that upon the hearing of a complaint that (1)

an order was made on the day of by the Justices present against the said
(2)
of
to the following effect, viz.:—(3)

Signed——

Justice of the said county.

This day of 185 .

The person against whom said order was made hereby appeals against the same to the next court of quarter sessions (or recorder's sessions) to be held at

Signed——, Appellant.

This day of 185 .

---

(1) Cause of complaint, with time and place.

(2) Person against whom order was made.

(3) Order.

Imprisonment in addition or default.

Fine or debt.—To pay the sum of to the Crown and the sum of to the complainant, with costs (forthwith) or (in days).
And in addition, or
And in default of payment (or distress).
Imprisonment.—To be imprisoned for the period of with (or without) hard labour.

Ejectment.—To be ejected from said premises in days, and pay the sum of to the complainant for costs.

Dismissal.—That his complaint be dismissed on the merits (or without prejudice), and that he do pay the sum of to the complainant for costs.

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Certificate by Clerk of Petty Sessions.

I certify, that notice of said appeal was duly given. And that the said appellant has duly entered into a recognizance to prosecute said appeal.

Signed——Clerk of above Petty Sessions.
This day of 185 .

Certificate by Clerk of Peace or Officer of Recorder's Court of order made on appeal.

I certify, that upon the hearing of said appeal on the day of the court or quarter sessions (or recorder) ordered that (state order).

Signed——Clerk of the Peace (or officer of the Recorder's Court).
This day of 185 .

FORMS (I.)—CERTIFICATES.

(I a.) Certificate of Order.

——Complainant. } Petty Sessions District of——
——Defendant. } County of——

I certify, that upon the hearing of a complaint that (1) an order was made on the day of by the Justices present against (2) of to the following effect, viz.:—(3)

Signed——Justice of said County.
This day of 185 .

---

(1) Cause of complaint, with time and place. In ejectments, the defendant had refused to give up to the plaintiff possession of situate at on the termination of his tenancy.

(2) Person against whom Order was made.

(3) Order.

Fine or Debt.—To pay for fine (or debt) the sum of and for costs the sum of (forthwith), or (in days)
And in addition, or
And in default of payment (or distress).
Imprisonment.—To be imprisoned for the period of with (or without) hard labour.

Imprisonment in addition or default.

Ejectment—To be ejected from said premises in days, and pay the sum of to the complainant for costs.

Dismissal.—That his complaint be dismissed on the merits (or without prejudice), and that he do pay the sum of to the defendant for costs.

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(I b.) Of Indictment being found.

County of———

I hereby certify, that at the (1)
held at in the said county on the
day of a bill of indictment
was found by the Grand Jury against C.D., therein
described as C.D. of N., for that on the day of
at (2) and that the said C.D.
has not appeared or pleaded to said indictment.

Dated this day of

Signed,———Clerk of Crown [or Peace].

This day of 185 .

(I c.) Of Consent to Bail.

Petty Sessions District of——— County of———

Whereas on the day of C.D was committed
to the gaol at charged with (3)
I hereby consent to the said C.D. being bailed by recognizance, himself in the sum of and [two] sureties in
the sum of each.

Signed,———Justice of said county.

This day of 185

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(1) "Court of Oyer and Terminer, and General Gaol Delivery," or Court of Quarter Sessions.
(2) Offence as in indictment
(3) Offence.

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The Small Penalties (Ireland) Act, 1873.

36 & 37 Vic. c. 82.

An Act to amend the Law relating to Small Penalties in Ireland.

[*5th August*, 1873.] A.D. 1873.

Whereas it is expedient to amend the law relating to Small Penalties in Ireland:

Be it therefore 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:

Short title

1. This Act may be cited for all purposes as "The Small Penalties (Ireland) Act, 1873."

Commencement of Act.

2. This Act shall come into operation on the first day of September one thousand eight hundred and seventy-three.

Definition of penalty.

3. The word "penalty" in this Act shall include any sum of money recoverable in a summary manner.

Recovery of small penalties.

4. Where upon summary conviction any offender is adjudged to pay a penalty not exceeding five pounds, such offender, in case of nonpayment thereof, may, without any warrant of distress, be committed to prison for any term not exceeding the period specified in the following scale, unless the penalty shall be sooner paid:

For any penalty—	The imprisonment not to exceed —
Not exceeding ten shillings . .	Seven days.
Exceeding ten shillings and not exceeding one pound . .	Fourteen days.
Exceeding one pound but not exceeding two pounds . .	One month.
Exceeding two pounds but not exceeding five pounds . .	Two months.

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Saving as to hard labour.

5. Nothing in this Act contained shall affect the power of imposing hard labour in addition to imprisonment in cases where hard labour might, on nonpayment of the penalty, have been so imposed if this Act had not passed.

Application of Act.

6. This Act shall apply to penalties, including costs, recoverable in a summary manner in pursuance of any Act of Parliament, whether passed before or after the commencement of this Act; and all provisions of any Act of Parliament authorising, in the case of nonpayment of a penalty not exceeding five pounds, a longer term of imprisonment than is provided by this Act, shall be repealed.

Not to apply to proceedings by Inland Revenue.

7. This Act shall not apply to any penalties recoverable by or on behalf of the Commissioners of Inland Revenue.

Extent of Act.

8. This Act shall extend to Ireland only.

Forms of Oaths, &c.

Information or Affidavit.—You shall true answers make to all such questions as shall be demanded of you touching this (information or affidavit). So help you God.

Oath of a Witness.—The evidence which you shall give to this Court touching this (if a civil proceeding, *this case*; if a crime or offence, *this complaint*, or *this charge*) shall be the truth, the whole truth, and nothing but the truth. So help you God.

Quaker or Moravian (1 & 2 Vic., c. 77).—I, A.B., being one of the people called Quakers (or one of the persuasion of people called Quakers, or of the United Brethren called Moravians, *as the case may be*), and entertaining conscientious objections to taking an oath, do solemnly, sincerely, and truly declare and affirm, &c. (as in previous forms, but omitting the words—So help me God).

Declaration (24 & 25 Vic., c. 66, s. 1).—If any person called as a witness in any court of criminal jurisdiction in England or Ireland, or required or desiring to make an affidavit or deposition in the course of any criminal

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proceeding, shall refuse or be unwilling, from alleged conscientious motives, to be sworn, it shall be lawful for the Court or Judge, or other presiding officer or person qualified to take affidavits or depositions, upon being satisfied of the sincerity of such objection, to permit such person, instead of being sworn, to make his or her solemn affirmation or declaration in the words following, viz.:—"I, A.B., do solemnly, sincerely, and truly affirm and declare that the taking of any oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely, and truly affirm and declare," &c., which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form. (Extended to Jurors by 31 & 32 Vic., c. 75.)

Interpreter's Oath.—You shall well and truly interpret and explain to the Court (and Jury) the evidence given in this case (trial or inquiry) according to the best of your skill and understanding. So help you God. (The interpreter is to be first sworn, and he will then administer the oath to the witness). And in the jurat add: Sworn before me, &c., the same having been first read over and explained to him in the —— language by C. D., who was first duly sworn to interpret and explain the same.

INQUEST.—*Foreman's Oath.*—You shall well and truly try, and true presentment make, of all such matters and things as shall be given you in charge on behalf of our Sovereign Lady the Queen, touching the death of A.B., now lying dead, of whose body you shall have the view. You shall present no person for hatred, malice, or ill-will, nor spare any through fear, favour, or affection, but a true verdict give according to the evidence and the best of your skill and knowledge. So help you God.

The same oath which A.B., your foreman on this inquest, hath now taken before you on his part, you and each of you shall well and truly observe and keep on your parts. So help you God.

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Some important Decisions of the Courts, &c.

Riot and Unlawful Assembly.—A magistrate called upon to suppress a riot is required by law to do all he knows to be in his power that can reasonably be expected from a man of honesty and of ordinary prudence, firmness, and activity under the circumstances. Mere honesty of intention is no defence if he fails in his duty. Nor will it be a defence that he acted upon the best professional advice that could be obtained on legal and military points if his conduct has been faulty in point of law.—*Rex* v. *Pinney*, 3 *B. and Ad.*, 946.

If on a riot taking place, a magistrate neither reads the proclamation from the Riot Act, nor restrains nor apprehends the rioters, nor gives any order to fire on them, nor makes any use of a military force under his command, this is *prima facie* evidence of a criminal neglect of duty in him; and it is no answer to the charge for him to say that he was afraid, unless his fear arose from such danger as would affect a firm man; and if rather than apprehend the rioters, his sole care was for himself, this is also neglect.—*Rex* v. *Kennett*, 5 *C. and P.*, 282.

It is not only lawful for magistrates to disperse an unlawful assembly even when no riot has occurred; but if they do not do so, and are guilty of criminal negligence in not putting down any unlawful assembly, they are liable to be prosecuted for a breach of their duty.—*Reg.* v. *Neale*, 9 *C. and P.*, 431.

The mode of dispersing an unlawful assembly may be very different according to the circumstances attending it in each particular case; and an unlawful assembly may be so far verging towards a riot that it may be the bounden duty of the magistrates to take immediate steps to disperse the assembly; and there may be cases where the magistrates are bound to use force to disperse an unlawful assembly.—*Ib.*

A magistrate is not justified in forcibly dispersing a meeting upon the ground merely that he believes, and has reasonable and probable grounds for believing, that the meeting was held with an unlawful intent, unless the meeting be in itself unlawful; and a plea justifying an assault, upon the ground that it was committed by a magistrate in the dispersion of a meeting must either allege as a fact that the meeting was unlawful, or must state facts from which its unlawfulness can be inferred.—*O'Kelly* v. *Harvey*, 10 *L. R., Ir.*, 285.

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Refusing to assist a Constable.—To support an indictment against a person for refusing to aid and assist a Constable in the execution of his duty in quelling a riot, it is necessary to prove—first that the Constable saw a breach of the peace committed; secondly, that there was reasonable necessity for calling on the defendant for his assistance; and thirdly, that when duly called upon to assist the Constable, the defendant without any physical impossibility or lawful excuse, refused to do so; and in such a case it is no ground of defence that from the number of rioters, the single aid of the defendant would not be of any use.—*Reg.* v. *Brown*, *Car. and M.*, 314.

Attempts to commit Offences.—A conviction for an attempt to commit an offence may be supported although the attempt could not have culminated in the full offence in the manner intended.—*R.* v. *Brown* 24 *Q. B. D.*, 357, which over-rules decision in *R.* v. *Collins*, quoted in Second Edition, p. 453. The moment a man takes one necessary step towards the completion of a misdemeanor, he commits a misdemeanor. Every step towards a misdemeanor, by an act done, is punishable as a misdemeanor.—(*R.* v. *Chapman*, 2 *C. and K.*, 846). An attempt to commit a misdemeanor is a misdemeanor, whether the offence was created by statute, or was an offence at common law.—*R.* v. *Roderick*, 7 *C. and P.*, 795.)

Assault on a Constable.—To support a charge of assault on a Constable in the execution of his duty, it is not necessary that the defendant should know that he was a Constable then in the execution of his duty; it is sufficient that the Constable should have been actually in the execution of his duty and then assaulted.—*R.* v. *Forbes*, 10 *Cox*, *C.C.*, 362.

Dying declaration.—If a declaration in *articulo mortis* is taken down in writing and signed by the party making it, the judge will neither receive a copy of the paper in evidence, nor will he receive parol evidence of the declaration.—*R.* v. *Gay*, 7 *C. and P.*, 230.

Execution of Warrants.—Under 14 & 15 Vic., c. 93, ss. 25 and 26, the Sub-Inspector or Head Constable may appoint any Constable to execute a warrant; but the Constable so appointed has no authority to delegate to others the duty so imposed upon him: therefore when the Sub-Inspector endorsed a warrant to "Constable B" and it was

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executed by a Constable and Sub-Constable in the absence of Constable B, the execution was held illegal.—*Blue* v. *Fullerton, E.* 10 *C. L.* 233.

Binding to good behaviour.—In an application under the statute of 34 Edw. III., c. 1, to bind a party to be of good behaviour, several distinct instances of misconduct may be alleged and relied upon. The defendant is not a competent witness and should not be examined.—*The Queen and Justices of Queen's Co.* 10 *L. R. I., p.* 294.

Jurisdiction of Justices.—Justices sitting at Petty Sessions have not only the power of adjournment given them by the Petty Sessions Act, but also an inherent power of adjourning a case at any time to any future Sessions. But when a case is fully heard by several Justices, and only adjourned for the purpose of determining and pronouncing the order, the same Justices who heard the case must also concur in the order pronounced.—*R.* (*Sullivan*) v. *Justices of County Cork*, 18 *L. R. I., Q.B.* 99.

Justices of the Peace sitting in and acting for one Petty Sessional Division of a County have jurisdiction to commit for trial on a charge arising in another Petty Sessional Division of same county, and are not bound to remand such charge for hearing in the division in which offence was committed. In this case Lord Coleridge said, "In dealing with an offence committed in the county the Magistrates for the county have jurisdiction throughout the county."—*R.* v. *Beekley*, 20 *Q. B. D.* 187.

Street Preaching.—Upon motion for a *certiorari* to bring up orders made by justices at petty sessions, requiring persons to find sureties to keep the peace and be of good behaviour, the Queen's Bench Division has jurisdiction to examine the evidence given before the justices, and to quash the orders if such evidence was, in the opinion of the divisional court, insufficient to sustain them. The defendants were charged on summons at Petty Sessions under the statute 34 Edw. 3, c. 1, with having assembled and paraded in the city of Londonderry, with a band, under such circumstances as were calculated to provoke a breach of the peace. Evidence was given that the defendants, with others—all being members of a religious association known as the Salvation Army—paraded a thoroughfare in Londonderry on the occasion in question (a Sunday), playing musical instruments and carrying a flag, and continued to do so, notwithstanding the remonstrance of the constabulary. The proceedings were witnessed by a large

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crowd No misconduct on the part of the defendants or any of their party was proved, and no act of hostility on the part of the crowd was shown to have occurred. It was proved that a riot took place four years previously, when the Salvation Army were proceeding through the streets of Derry. Some members of the constabulary deposed that they apprehended a breach of the peace. *Held* that upon this evidence, orders to find sureties to keep the peace and be of good behaviour could not be sustained. In this case, Sir Peter O'Brien, L.C.J., said "It must be remembered that the fact of being engaged in the performance of religious exercises is no justification of the obstruction of those lawfully using the streets, and that an unjustifiable obstruction of the highway renders the person responsible for it amenable not only to the magistrates' jurisdiction to compel sureties for good behaviour, but also to be criminally indicted."—*The Queen v. Justices of Londonderry*, 28 L.R.I., Q.B.D. 440.

Assault.—A police officer who appears as complainant on a charge of assault at Petty Sessions is not a party acting or the person aggrieved within 24 & 25 Vic., c. 100, s. 42. A complaint by or on behalf of a person aggrieved by a common assault, or affirmative evidence that the aggrieved person has declined or refused to prefer a complaint, is necessary to found the jurisdiction of justices at Petty Sessions to summarily convict an offender under 24 & 25 Vic., c. 100, s. 42. and 25 & 26 Vic. c. 50, s. 9.—*Reg* (Ryan) v. Justices of Co. Wicklow, 30 L. R. I., Q.B., page 633.

Bicycle.—A person riding a bicycle on a foot-path along the side of a public road in a country district, may, although no evidence can be produced of obstruction to the free passage of foot-passengers along that footpath, or of any foot-passenger on the same footpath being in sight of the person riding be summarily convicted under sub-sec. 3 of 14 & 15 Vic. c. 92 for wilfully preventing and interrupting the free passage of persons along the road of which the foot-path forms a part. A bicycle is a carriage.—M'Kee v. M'Grath, 30 L. R. I., Ex. D. 41.

Arrest by Warrant after Service of Summons.—Referring to 14 and 15 Vic., c. 93, s. 11, ss. 1.—If a justice has reason to believe from sworn information before him that the defendant having been served with a summons meditates his escape from justice, it will be his duty to issue his warrant and cause him to be at once arrested; but there must be an information, else there is no foundation for the warrant.: Stevens *v.* Clark, Car. and M. 509.

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Arrest by Warrant.—It has been said by high authorities that a constable is not bound to show his warrant, though demanded, and that it is enough for him to say, "I arrest you for felony, &c., in the Queen's name"; (see 2 Hale P.C. 116, &c.). But this doctrine has been condemned by Lord Kenyon, C.J., in Hall *v.* Roche, 8 T.R. Where he says at p. 187:—"It is a most dangerous doctrine, because it may affect the party criminally in case of resistance, and if homicide ensues the legality of the warrant enters materially into the merits of the question. I do not think that a person is to take it for granted that another who says he has a warrant against him without producing it speaks the truth. It is very important that in all cases where an arrest is made by virtue of a warrant, the warrant (if demanded at least) should be produced."

Gaming houses. 8 and 9 Vic. c 109.—A "common gaming house" is a house kept or used for playing therein at any game of chance or any mixed game of chance and skill in which (1) a bank is kept by one or more of the players exclusively of the others, or (2) in which any game is played the chances of which are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet. It is immaterial whether the bank is kept by the owner or occupier, or keeper of the house, or one of the players, *per* Smith, J.: Jenks *v.* Turpin, 13 Q.B.D., 530.

Sheriff—Posse comitatus: the power of the county, that is the people of the county, which the sheriff may command to attend him for keeping of the peace and passing felons, and also for defending the county against the Queen's enemies. This command every male person above fifteen years of age and under the degree of a peer is bound to attend upon warning under pain of fine and imprisonment. 4 Black Com., p. 121. The laws for raising extended to justices of the peace: 26 Geo. III., c. 24 (Ir).

Sunday (Code 2060). No judicial act can be performed on a Sunday, and a summary conviction on that day would be bad. *Mackally's case*, 9 Co. 65a.

Cruelty to Animals.—Dishorning of cattle if the operation be performed with due care and skill, and when practised for the purpose of rendering beasts more profitable to farmers and exporters in the course of their trade is not cruelty within the meaning of 12 and 13 Vic., c. 12, s. 2. *Reg.* (Newland) *v.* M'Donagh, 28 L.R.I., Q.B.D., 204.

Illicit Distillation.—To constitute an offence under 1 and 2 Wm. 4, c. 55, s. 17, the house or place where illicit

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spirits are found must be one in which illicit distillation was intended to be, was being, or had been carried on. Doherty, App.; McClelland, Respdt., L.R.I., E.D. 168.

Executions of Writs by night.—The Sheriff in his sole discretion, has the right to require the protection and assistance of the constabulary as part of the power of the county (*Posse Comitatus*) in the execution of the writs of *fieri facias* of the superior courts, whether by night or day, and a refusal of that protection and assistance will be punishment as a contempt of court whence the writs were issued. Att.-Genl. *v.* Kissane, 32 LR.I. Q.B., 220.

Evidence.—There is no rule of law against a party stating his case as an advocate and then being examined as a witness on his behalf: *Cobbett* v. *Hudson*, 1 El. and Bl. 11.

Reversal of conviction or order of a justice.—There are three modes by which a party may proceed to obtain the reversal of a conviction or order of a justice, namely—

(1.) By an appeal to Quarter Sessions. In every case of summary jurisdiction a general power of appeal is given by 14 and 15 Vic., c. 93, s. 24. The right of appeal to the Quarter Sessions is, as a general rule, given only to the defendant and not to the complainant.

(2.) By a case stated under 20 and 21 Vic., c. 43, which statute makes provision for obtaining the opinion of any of the superior courts of law in Dublin *on any question of law*, where either party, whether complainant or defendant, is dissatisfied with the determination by a justice or justices of any information or complaint as being erroneous in point of law.

(3.) *By certiorari.*—A writ issuing out of the Crown Office in the name of the Queen and tested by the Chief Justice. The Queen's Bench Division of the High Court of Justice has power to issue this writ, to procure an inspection of the proceedings of all inferior courts in *judicial* matters; for it is the common law of the land that the decisions of all inferior courts should be liable to the reviewal by the Queen's Bench Division upon *certiorari*. This writ is the only mode (except on *habeas corpus* or when a case is stated) by which a revision of a proceeding of justices by the superior court can be obtained. The proceeding by *certiorari* in the cases of summary jurisdiction differs from the right of appeal in this respect, that the right of appeal does not exist unless created by statute, while *certiorari* lies unless expressly taken away by statute. Even where a statute in express terms enacts that the proceedings shall not be removed by *certiorari*, this does not

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prevent its issuing at the suit of the prosecutor. The writ is granted, not as a matter of right, but in the exercise of a sound judicial discretion; and it does not lie to remove other than *judicial* Acts. *Molloy's Justice of the Peace*, 309.

Merchandise Marks Act, 1887, 50 & 51 Vic., c. 28.

S. 2.—(1.) Every person who forges any trade mark; or falsely applies to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive; or makes any die, block, machine, or other instrument for the purpose of forging, or of being used for forging a trade mark; or applies any false trade description to goods; or disposes of or has in his possession any die, block, machine, or other instrument for the purpose of forging a trade mark; or causes any of the things above in this section mentioned to be done, shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be guilty of an offence against this Act.

(2.) Every person who sells, or exposes for, or has in his possession for, sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, shall, unless he proves—(*a*) that having taken all reasonable precautions against committing an offence against this Act, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark, or trade description; and (*b*) that on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or (*c*) that otherwise he had acted innocently, be guilty of an offence against this Act.

(3.) Penalties on conviction on indictment and on summary conviction.

(4.) Court may order any forfeited articles to be destroyed or otherwise disposed of.

S. 3.—Definitions of "trade mark," "trade description," &c.

S. 4.—A person shall be deemed to forge a trade mark who either—(*a*) without the assent of the proprietor of the trade mark makes that trade mark or a mark so nearly resembling that trade mark as to be calculated to deceive; or (*b*) falsifies any genuine trade mark, whether by

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alteration, addition, effacement, or otherw
trade mark or mark so made or falsified
referred to as a forged trade mark. Provide
prosecution for forging a trade mark the burden of proving the assent of the proprietors shall lie on the defendant.

S. 12.—Justice may issue warrants authorizing a constable to enter premises by day, and to search and seize goods by means of which such offence has been committed.

Indecent Advertisements Act, 1889, 52 and 53 Vic., c. 18, an Act to suppress Indecent Advertisements.

S. 1. *Short title.*—This Act may be cited as the Indecent Advertisements Act, 1889.

S. 3. *Summary proceedings against persons affixing, &c., indecent or obscene pictures or printed or written matter.*—Whoever affixes to or inscribes on any house, building, wall, hoarding, gate, fence, pillar, post, board, tree, or any other thing whatsoever so as to be visible to a person being in or passing along any street, public highway, or footpath, and whoever affixes to or inscribes on any public urinal, or delivers or attempts to deliver, or exhibits, to any inhabitant, or to any person being in or passing along any street, public highway, or footpath, or throws down the area of any house, or exhibits to public view in the window of any house or shop, any picture or printed or written matter which is of an indecent or obscene nature, shall, on summary conviction in manner provided by the Summary Jurisdiction Acts, be liable to a penalty not exceeding forty shillings, or, in the discretion of the Court, to imprisonment for any term not exceeding one month, with or without hard labour.

S. 4. *Summary proceedings against persons sending others to do the acts punishable under s.* 3.—Whoever gives or delivers to any other person any such pictures, or printed or written matter mentioned in section three of this Act, with the intent that the same, or some one or more thereof, should be affixed, inscribed, delivered, or exhibited as therein mentioned, shall, on conviction in manner provided by the Summary Jurisdiction Acts, be liable to a penalty not exceeding five pounds, or, in the discretion of the Court, to imprisonment for any term not exceeding three months, with or without hard labour.

S. 5. *Certain advertisements declared indecent.*—Any advertisement relating to syphilis, gonorrhœa, nervous debility, or other complaint or infirmity arising from or

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relating to sexual intercourse, shall be deemed to be printed or written matter of an indecent nature within the meaning of section three of this Act, if such advertisement is affixed to or inscribed on any house, building, wall, hoarding, gate, fence, pillar, post, board, tree, or other thing whatsoever, so as to be visible to a person being in or passing along any street, public highway, or footpath, or is affixed to or inscribed on any public urinal, or is delivered or attempted to be delivered to any person being in or passing along any street, public highway, or footpath.

S. 6. *Constable may arrest on view of offence.*—Any constable or other peace officer may arrest without warrant any person whom he shall find committing any offence against this Act.

S. 7. *Interpretation.*—In this Act the expression "Summary Jurisdiction Acts"—In Ireland means within the police district of Dublin metropolis the Acts regulating the powers and duties of justices of the peace for such district or of the police of such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, 14 and 15 Vict., c. 93, and any Act amending the same.

Obscene Books and Pictures. 20 & 21 Vic., c. 83.

S. 1. Any Metropolitan police magistrate, or other stipendiary magistrate, or any two justices of the peace, upon complaint, on oath that the complainant has reason to believe and does believe that any obscene books, prints, pictures, drawings or other representations, are kept in any house, shop, &c., within their jurisdiction, for the purpose of sale, distribution, exhibition, for purposes of gain, lending upon hire, or being otherwise published for purposes of gain, and which complainant shall also state upon oath that one or more articles of the like character have been sold, distributed, exhibited, lent, or otherwise published as aforesaid, at or in connection with such place, so as to satisfy such magistrate or justices that the belief of the said complainant is well founded, and upon such magistrate or justices being also satisfied that any of such articles so kept for any of the purposes aforesaid, are of such a character and description that the publication of them would be a misdemeanour, and proper to be prosecuted as such, may authorize by special warrant any constable, &c., to enter in the daytime, search for and seize all such articles, and bring them before the magistrate or justices who issued the warrant, or some other magistrate or justices exercising the same jurisdiction, and such magistrate or justices shall thereupon summon the occupier of the place

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to show cause why the articles should not be destroyed, and on the hearing, if satisfied that such articles or any of them are of the character stated in the warrant, and that such or any of them have been kept for any of the purposes aforesaid, may order such articles to be destroyed; or if satisfied that such articles are not of the character described, may order them to be returned to such occupier (*a*).

S. 4. A right of appeal is given to the next Quarter Sessions, on giving the justices appealed from notice in writing within seven days, and entering into a recognizance as described.

(*a*.) An order made for the destruction of books under this section must state that the magistrate making it is satisfied not only that the books are obscene, but also that their publication would amount to a misdemeanour proper to be prosecuted: *Ex parte* Bradlaugh, 3 Q.B.D. 509.

Pollen Fisheries (Ireland) Act, 1891, 54 and 55 Vic. c. 20.

(*The Inspectors of Irish Fisheries have been advised that sections 5 and 6 of this Act are applicable to salmon*).

S. 5. *Constabulary empowered to open baskets and boxes.*—It shall be lawful for all officers and men of the Constabulary and for all persons empowered to enforce the provisions of the Salmon Fishery Acts to open and examine all baskets and boxes and other packages *containing fish*, whether at railway stations, docks or quays, markets, stores, fishing places, or any other places whatsoever, for the purpose of enforcing the provisions of this Act and of the said Acts: Provided that none of the parties hereby authorized to open and examine such baskets, boxes and other packages shall be liable for any damage caused by such opening and examining, unless the same shall be done wantonly and maliciously.

S. 6. *Constabulary empowered to stop and search boats in salmon rivers.*—All officers and men of the Constabulary, and any inspectors, water bailiffs, or other officers appointed under the said Acts, acting within the limits of his district, may do all or any of the following things in addition to all other powers or duties conferred on him by the said Acts or this Act (that is to say):—

"(2.) Search and examine all nets, baskets, bags, hampers, boxes, or other instruments used in fishing or in carrying fish by persons whom there is reasonable cause to suspect of having possession of fish illegally caught; seize all fish and other articles forfeited in pursuance of the

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said Acts or this Act. Any person refusing to allow any nets, baskets, bags, hampers, boxes, or other instruments used in fishing or in carrying fish to be searched or examined, or resisting or obstructing any such officer or man of the Constabulary, or any such inspector, water bailiff, or other officer in any such search or examination shall, for every such offence, be liable to a penalty not exceeding five pounds and not less than two pounds."

[It will be observed that Section 6 (2) gives the power to search and examine all nets, baskets, bags, hampers, boxes, or other instruments used in fishing, *or in carrying fish* by persons *whom there is reasonable cause to suspect* of having possession of fish illegally caught].

Injured Animals Act, 1894, 57 & 58 Vic., c. 22.

An Act to enable police constables to cause horses and certain other animals when mortally or seriously injured to be slaughtered.

S. 1. *Short title.*—This Act may be cited for all purposes as the Injured Animals Act, 1894.

S. 2. *Slaughter of injured animals by or by order of police.*—If a police constable finds any horse, mule, or ass so severely injured that it cannot without cruelty be led away, he shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon a duly registered veterinary surgeon, if any such surgeon resides within a reasonable distance, and if it appears by the certificate of such veterinary surgeon that the animal is mortally injured or so severely that it is cruel to keep it alive, it shall be lawful for the police constable without the consent of the owner to slaughter the animal or cause it to be slaughtered with such instruments or appliances, and with such precautions and in such manner as to inflict as little pain and suffering as practicable.

S. 3. *Expenses.*—Any reasonable expense which may be incurred by any constable in so slaughtering any such animal or causing any such animal to be slaughtered, or in removing the carcase of such animal from any street or public place for the purposes of this Act, may be recovered from the owner summarily as a civil debt. Subject as aforesaid, any expense incurred in the execution of this Act shall be defrayed out of the fund from which the expenses of the police are payable in the area in which the animal is found.

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Chimney Sweepers Act, 1894.—57 & 58 Vic., c. 51. *An Act to make better provision for the Regulation of Chimney Sweepers.*

S. 1. *Penalty for knocking or ringing bells.*—Any person who shall for the purpose of soliciting employment as a chimney sweeper knock at the houses from door to door, or ring a bell, or use any noisy instrument, or to the annoyance of any inhabitant thereof ring the door-bell of any house, or cause anyone to do any of the acts aforesaid, shall be liable on summary conviction to a penalty not exceeding ten shillings for the first offence, and to a penalty not exceeding twenty shillings for every subsequent offence.

S. 3. *Short title and construction.*—This Act may be cited as the Chimney Sweepers Act, 1894, and shall be read as one with the Chimney Sweepers Act, 1875.

S. 5. This Act shall come into operation on the first day of January, 1895.

Prevention of Cruelty to Children Act, 1894.—57 & 58 Vict., chap. 41. *An Act to consolidate the Acts relating to the Prevention of Cruelty to, and Protection of, Children.*

Cruelty to Children.

S. 1. *Punishment for cruelty to children.*—(1.) If any person over the age of sixteen years who has the custody, charge or care of any child under the age of sixteen years, wilfully assaults, ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned, or exposed in a manner likely to cause such child unnecessary suffering, or injury to its health (including injury to or loss of sight or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of a misdemeanour ; and

(*a*) on conviction on indictment, shall be liable at the discretion of the court, to a fine not exceeding one hundred pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding two years ; and

(*b*) on summary conviction shall be liable, at the discretion of the court, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding six months.

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(2.) A person may be convicted of an offence under this section either on indictment or by a court of summary jurisdiction notwithstanding the death of the child in respect of whom the offence is committed.

(3.) If it is proved that a person indicted under this section was interested in any sum of money accruable or payable in the event of the death of the child, and had knowledge that such sum of money was accruing or becoming payable, the court, in its discretion, may

(*a*) increase the amount of the fine under this section so that the fine does not exceed two hundred pounds: or

(*b*) in lieu of awarding any other penalty under this section, sentence the person indicted to penal servitude for any term not exceeding five years.

(4.) A person shall be deemed to be interested in a sum of money under this section if he has any share in or any benefit from the payment of that money, though he is not a person to whom it is legally payable.

(5.) An offence under this section is in this Act referred to as an offence of cruelty.

Restrictions on Employment of Children.

S. 2. *Restrictions on employment of children.*—If any person—

(*a*) causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, or, having the custody, charge, or care of any such child, allows that child, to be in any street, premises, or place for the purpose of begging, or receiving alms, or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or

(*b*) causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, or, having the custody, charge, or care of any such child, allows that child, to be in any street, or in any premises licensed for the sale of any intoxicating liquor, other than premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale between nine p.m. and six a.m.; or

(*c*) causes or procures any child under the age of eleven years, or, having the custody, charge, or care of any such child, allows that child, to be at any time in any street, or in any premises licensed for the sale of any

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intoxicating liquor, or in premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale; or

(*d*) causes or procures any child under the age of sixteen years, or, having the custody, charge, or care of any such child, allows that child to be in any place for the purpose of being trained as an acrobat, contortionist, or circus performer, or of being trained for any exhibition or performance which in its nature is dangerous,

that person shall, on summary conviction, be liable, at the discretion of the court, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding three months.

Provided that—

(i.) This section shall not apply in the case of any occasional sale or entertainment the net proceeds of which are wholly applied for the benefit of any school or to any charitable object, if such sale or entertainment is held elsewhere than in premises which are licensed for the sale of any intoxicating liquor but not licensed according to law for public entertainments, or if, in the case of a sale or entertainment held in any such premises as aforesaid, a special exemption from the provisions of this section has been granted in writing under the hands of two justices of the peace; and

(ii.) Any local authority may, if they think it necessary or desirable so to do, from time to time by bye-law extend or restrict the hours mentioned in paragraph (*b*) of this section, either on every day or on any specified day or days of the week, and either as to the whole of their district or as to any specified area therein; and

(iii.) Paragraphs (*c*) and (*d*) of this section shall not apply in any case in respect of which a licence granted under this Act is in force, so far as that licence extends; and

(iv.) Paragraph (*d*) of this section shall not apply in the case of a person who is the parent or legal guardian of a child, and himself trains the child.

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S. 3.—*Licences for employment of children.*—(1.) A petty sessional court, or in Scotland the School Board may, notwithstanding anything in this Act, grant a licence for such time and during such hours of the day, and subject to such restrictions and conditions, as the court or board think fit, for any child exceeding seven years of age,—

(*a*) To take part in any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid; or

(*b*) to be trained as aforesaid; or

(*c*) for both purposes;

if satisfied of the fitness of the child for the purpose, and if it is shown to their satisfaction that proper provision has been made to secure the health and kind treatment of the children taking part in the entertainment or series of entertainments or being trained as aforesaid, and the court or board may, upon sufficient cause, vary, add to, or rescind any such licence.

Any such licence shall be sufficient protection to all persons acting under or in accordance with the same.

(2.) A Secretary of State may assign to any inspector appointed under section sixty-seven of the Factory and Workshop Act, 1878 (41 & 42 Vict., c. 16), specially and in addition to any other usual duties, the duty of seeing whether the restrictions and conditions of any licence under this section are duly complied with, and any such inspector shall have the same power to enter, inspect, and examine any place of public entertainment at which the employment of a child is for the time being licensed under this section as an inspector has to enter, inspect, and examine a factory or workshop under section sixty-eight of the same Act.

(3.) Where any person applies for a licence under this section he shall, at least seven days before making the application, give notice thereof to the chief officer of police for the district in which the licence is to take effect, and that officer may appear or instruct some person to appear before the authority hearing the application, and show cause why the licence should not be granted, and the authority to whom the application is made shall not grant the same unless they are satisfied that notice has been properly so given.

(4.) Where a licence is granted under this section to any person, that person shall, not less than ten days after the granting of the licence, cause a copy thereof to be sent to

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the inspector of factories and workshops acting for the district in which the licence is to take effect, and if he fails to cause such copy to be sent, shall be liable on summary conviction to a fine not exceeding five pounds.

(5.) . . . . . .

Arrest of Offender and Provision for Safety of Children.

S. 4.—*Power to take Offenders into custody.*—(1.) Any constable may take into custody, without warrant, any person—

(*a*) who within view of such constable commits an offence under this Act, or any of the offences mentioned in the schedule to this Act, where the name and residence of such person are unknown to such constable and cannot be ascertained by such constable; or

(*b*) who has committed or who he has reason to believe has committed any offence of cruelty within the meaning of this Act, or any of the offences mentioned in the schedule to this Act, if he has reasonable ground for believing that such person will abscond, or if the name and address of such person are unknown to and cannot be ascertained by the constable.

(2.) Where a constable arrests any person without warrant in pursuance of this section, the inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief the release of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child against whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognisance, with or without sureties, as may in his judgment be required to secure the attendance of such person upon the hearing of the charge.

S. 5.—*Detention of child in place of safety.*—(1.) A constable may take to a place of safety any child in respect of whom an offence under paragraph (*a*) of section two of this Act has been committed, or in respect of whom an offence of cruelty within the meaning of this Act, or any of the offences mentioned in the schedule to this Act has been, or there is reason to believe has been, committed.

(2.) A child so taken to a place of safety, and also any child under the age of sixteen years who seeks refuge in a place of safety, may there be detained until it can be brought before a court of summary jurisdiction, and that court may make such order as is mentioned in the next following sub-section, or may cause the child to be dealt

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with as circumstances may admit and require until the charge made against any person in respect of any offence as aforesaid with regard to the child has been determined by the committal for trial, or conviction, or discharge of such person.

(3.) Where it appears to a court of summary jurisdiction or any justice that an offence of cruelty within the meaning of this Act or any of the offences mentioned in the schedule to this Act has been committed in the case of any child that is brought before such court or justice, and that the health or safety of the child will be endangered unless an order is made under this sub-section, the court or justice may, without prejudice to any other power under this Act, make such order as circumstances require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence, and, if a charge is made against any person within that time, until the charge has been determined by the committal for trial or conviction or discharge of that person, and any such order may be carried out notwithstanding that any person claims the custody of the child.

(4.) Boards of guardians, and, in Scotland, parochial boards, shall provide for the reception of children brought to a workhouse in pursuance of this Act, and where the place of safety to which a constable takes a child is a workhouse, the master shall receive the child into the workhouse if there is suitable accommodation therein for the same, and shall detain the child until the case is determined, and any expenses incurred in respect of the child shall be deemed to be expenses incurred in the relief of the poor.

S. 6.—*Disposal of child by order of court.*—(1.) Where a person having the custody, charge, or care of a child under the age of sixteen years has been—

(*a*) convicted of committing in respect of such child an offence of cruelty within the meaning of this Act, or any of the offences mentioned in the schedule to this Act; or

(*b*) committed for trial for any such offence; or

(*c*) bound over to keep the peace towards such child,

by any court, that court either at the time when the person is so convicted, committed for trial, or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any other time, and also any petty sessional court before which any person may bring the case,

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may, if satisfied on inquiry that it is expedient so to deal with the child, order that the child be taken out of the custody of the person so convicted, committed for trial, or bound over, and be committed to the custody of a relation of the child, or some other fit person named by the court (such relation or other person being willing to undertake such custody), until it attains the age of sixteen years, or for any shorter period, and may of its own motion or on the application of any person from time to time by order renew, vary, and revoke any such order; but no order shall be made under this section unless a parent of the child has been convicted of or committed for trial for the offence, or is under committal for trial for having been or has been proved to have been party or privy to the offence, or has been bound over to keep the peace towards such child.

(2.) Every order under this section shall be in writing, and any such order may be made by the court in the absence of the child; and the consent of any person to undertake the custody of a child in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind him.

(3.) Where an order is made under this section in respect of a person who has been committed for trial, then if that person is acquitted of the charge, or if the charge is dismissed for want of prosecution, the order shall forthwith be void except with regard to anything that may have been lawfully done under it.

(4.) A Secretary of State in England, and in Scotland the Secretary for Scotland, and in Ireland the Lord Lieutenant of Ireland, may at any time in his discretion discharge a child from the custody of any person to whose custody it is committed in pursuance of this section, either absolutely or on such conditions as such Secretary of State, Secretary, or Lord Lieutenant, approves, and may, if he thinks fit, make rules in relation to children so committed to the custody of any person, and to the duties of such persons with respect to such children.

(5.) A Secretary of State, in any case where it appears to him to be for the benefit of a child who has been committed to the custody of any person in pursuance of this section, may empower such person to procure the emigration of the child, but, except with such authority no person to whose custody a child is so committed shall procure its emigration.

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S. 7—*Maintenance of child when committed to custody of any person under order of court.*—(1.) Any person to whose custody a child is committed under this Act shall, whilst the order is in force, have the like control over the child as if he were its parent, and shall be responsible for its maintenance, and the child shall continue in the custody of such person, notwithstanding that it is claimed by its parent.

(2.) Any court having power so to commit a child shall have power to make the like orders on the parent of the child to contribute to its maintenance during such period as aforesaid as if the child were detained under the Industrial Schools Acts, but the limit on the amount of the weekly sum which the parent of a child may be required under this section, to contribute to its maintenance shall be one pound a week instead of the limit fixed by the Industrial Schools Acts.

(3.) Any such order may be made on the complaint or application of the person to whose custody the child is for the time being committed, and either at the time when the order for the child's committal to custody is made, or subsequently, and the sums contributed by the parent shall be paid to such person as the court may name, and be applied for the maintenance of the child.

(4.) If a person fails to pay any sum payable by him in pursuance of any such order, he may be dealt with in like manner as if the sum were due from him in pursuance of an order under the Bastardy Law Amendment Act, 1872, or in Scotland were a sum decerned for aliment, or in Ireland were a sum ordered to be paid by him under the Summary Jurisdiction (Ireland) Acts.

(5.) Where an order under this Act to commit a child to the custody of some relation or other person is made in respect of a person who has been committed for trial for an offence, the court shall not have power to order the parent of the child to contribute to its maintenance prior to the trial of that person.

S. 8. *Religious persuasion of person to whom child is committed.*—(1.) In determining on the person to whose custody the child shall be committed under this Act, the court shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, select a person of the same religious persuasion, or a person who gives such undertaking as seems to the court sufficient that the child shall be brought up in accordance with its own religious persuasion, and such religious persuasion shall be specified in the order.

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(2.) In any case where the child has been placed pursuant to any such order with a person who is not of the same religious persuasion as that to which the child belongs or who has not given such undertaking as aforesaid, the court shall, on the application of any person in that behalf, and on its appearing that a fit person who is of the same religious persuasion or who will give such undertaking as aforesaid, is willing to undertake the custody, make an order to secure his being placed with a person who either is of the same religious persuasion, or gives such undertaking as aforesaid.

(3.) Where a child has been placed with a person who gives such undertaking as aforesaid, and the undertaking is not observed, the child shall be deemed to have been placed with a person not of the same religious persuasion as that to which the child belongs as if no such undertaking had been given.

S. 9. *Interchange of powers under Industrial Schools Acts and this Act.*—(1.) Where any child under the age of sixteen years is brought before a petty sessional court under circumstances authorising the court to deal with the child under the Industrial Schools Acts, the court, if it thinks fit, in lieu of ordering that the child be sent to an industrial school, may make an order under this Act for the committal of the child to the custody of a relation or person named by the court.

(2.) When a court orders a child to be sent to an industrial school, the order may, at the discretion of the court, be made to take effect either immediately or at any later time specified therein, regard being had to the age or health of the child; and if the order is not made to take effect immediately, or if at the time specified for the order to take effect the child is deemed unfit to be sent to an industrial school, the court may commit the child to the custody of a relation or person named by the court, as provided by this Act, until the time so specified or the time when the order actually takes effect.

S. 10.— *Warrant to search for and remove a child.*—(1.) If it appears to any stipendiary magistrate or to any two justices of the peace, on information made before him or them on oath by any person who, in the opinion of the magistrate or justices, is bona fide acting in the interests of a child under the age of sixteen years, that there is reasonable cause to suspect that such a child has been or is being assaulted, ill-treated, or neglected in any place within the jurisdiction of such magistrate or justices in a manner

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likely to cause the child unnecessary suffering or to be injurious to its health, or that any offence mentioned in the schedule to this Act has been or is being committed in respect of such a child, such magistrate or justices may issue a warrant authorising any person named therein to search for such child, and if it is found to have been or to be assaulted, ill-treated, or neglected in manner aforesaid, or that any such offence as aforesaid has been or is being committed in respect of the child, to take it to and detain it in a place of safety, until it can be brought before a court of summary jurisdiction, or authorising any person to remove the child with or without search to a place of safety and detain it there until it can be brought before a court of summary jurisdiction; and the court before whom the child is brought may cause it to be dealt with in the manner provided by section five of this Act:

Provided that—

(*a*) the powers herein-before conferred on any two justices may be exercised by any one justice, if upon the information it appears to him to be a case of urgency; and

(*b*) in the case of Scotland the jurisdiction hereby conferred on a magistrate or two justices shall be exercised only by a sheriff or sheriff substitute.

(2.) Any person issuing a warrant under this section may by the same warrant cause any person accused of any offence in respect of the child to be apprehended and brought before a justice, and proceedings to be taken for punishing such person according to law.

(3.) Any person authorised by warrant under this section to search for any child, or to remove any child with or without search, may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove the child therefrom.

(4.) Every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other superior officer of police, who shall be accompanied by the person making the information, if such person so desire, unless the persons by whom the warrant is issued otherwise direct, and may also, if the persons by whom the warrant is issued so direct, be accompanied by a registered medical practitioner.

(5.) It shall not be necessary in any information or warrant under this section to name the child.

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Power as to Habitual Drunkards.

S. 11.—*Power as to habitual drunkards.*—Where it appears to the court by or before which any person is convicted of the offence of cruelty within the meaning of this Act, or of any of the offences mentioned in the schedule to this Act, that that person is a parent of the child in respect of whom the offence was committed, or is living with the parent of the child, and is an habitual drunkard within the meaning of the Inebriates Acts, 1879 and 1888,* the court, in lieu of sentencing such person to imprisonment, may, if it thinks fit, make an order for his detention for any period named in the order not exceeding twelve months in a retreat under the said Acts, the licensee of which is willing to receive him, and the said order shall have the like effect, and copies thereof shall be sent to the local authority and Secretary of State in like manner as if it were an application duly made by such person and duly attested by two justices under the said Acts; and the court may order an officer of the court or constable to remove such person to the retreat, and on his reception the said Acts shall have effect as if he had been admitted in pursuance of an application so made and attested as aforesaid: Provided that—

(*a*) an order for the detention of a person in a retreat shall not be made under this section unless that person having had such notice as the court deems sufficient of the intention to allege habitual drunkenness, consents to the order being made; and,

(*b*) if the wife or husband of such person, being present at the hearing of the charge, objects to the order being made, the court shall, before making the order, take into consideration any representation made to it by the wife or husband; and

(*c*) before making the order the court shall, to such extent as it may deem reasonably sufficient, be satisfied that provision will be made for defraying the expenses of such person during detention in a retreat.

Evidence and Procedure.

S. 12. *Evidence of accused person.*—In any proceeding against any person for an offence under this Act or for any of the offences mentioned in the schedule to this Act, such person shall be competent but not compellable to give

* 42 and 43 Vict., c. 19; 51 and 52 Vict., c. 19.

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evidence, and the wife or husband of such person may be required to attend to give evidence as an ordinary witness in the case, and shall be competent but not compellable to give evidence.

S. 13. *Extension of power to take deposition of child*—(1). Where a justice is satisfied by the evidence of a registered medical practitioner that the attendance before a court of any child, in respect of whom an offence of cruelty within the meaning of this Act or any of the offences mentioned in the schedule to this Act is alleged to have been committed, would involve serious danger to its life or health, the justice may take in writing the deposition of such child on oath, and shall thereupon subscribe the same and add thereto a statement of his reason for taking the same, and of the day when and place where the same was taken, and of the names of the persons (if any) present at the taking thereof.

(2.) The justice taking any such deposition shall transmit the same with his statement—

(*a*) if the deposition relates to an offence for which any accused person is already committed for trial, to the proper officer of the court for trial at which the accused person has been committed; and

(*b*) in any other case to the clerk of the peace of the county or borough in which the deposition has been taken;

and the clerk of the peace to whom any such deposition is transmitted shall preserve, file, and record the same.

S. 14. *Admission of deposition of child in evidence.*—Where, on the trial of any person on indictment for any offence of cruelty within the meaning of this Act or any of the offences mentioned in the schedule to this Act, the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to its life or health, any deposition of the child taken under the Indictable Offences Act, 1848,* or the Indictable Offences (Ireland) Act, 1849,† or the Petty Sessions (Ireland) Act, 1851,‡ or this Act, shall be admissible in evidence either for or against the accused person without further proof thereof—

(*a*) if it purports to be signed by the justice by or before whom it purports to be taken; and

* 11 & 12 Vict., c. 42. † 12 & 13 Vict., c. 69.
‡ 14 & 15 Vict., c. 93.

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(*b*) if it is proved that reasonable notice of the intention to take the deposition has been served upon the person against whom it is proposed to use the same as evidence, and that that person or his counsel or solicitor had, or might have had if he had chosen to be present, an opportunity of cross-examining the child making the deposition.

S. 15. *Evidence of child of tender years.*—(1.) Where, in any proceeding against any person for an offence under this Act or for any of the offences mentioned in the schedule to this Act, the child in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the court understand the nature of an oath, the evidence of such child may be received, though not given upon oath, if, in the opinion of the court, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth: and the evidence of such child, though not given on oath, but otherwise taken and reduced into writing, in accordance with the provisions of section seventeen of the Indictable Offences Act, 1848,* or of section fourteen of the Petty Sessions (Ireland) Act, 1851,† or of section thirteen of this Act, shall be deemed to be a deposition within the meaning of those sections respectively:

Provided that—

(*a*) A person shall not be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution is corroborated by some other material evidence in support thereof implicating the accused; and

(*b*) Any child whose evidence is received as aforesaid and who shall wilfully give false evidence shall be liable to be indicted and tried for such offence, and on conviction thereof may be adjudged such punishment as is provided for by section eleven of the Summary Jurisdiction Act, 1879,‡ in the case of juvenile offenders, or in Ireland by section four of the Summary Jurisdiction over Children (Ireland) Act, 1884,§ in the case of children.

(2.) This section shall not apply to Scotland.

S. 16. *Power to proceed with case in absence of child.*—Where, in any proceedings with relation to an offence of

* 11 & 12 Vict., c. 42. † 14 & 15 Vict., c. 93.
‡ 42 & 43 Vict., c. 49. § 47 & 48 Vict., c. 19.

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cruelty within the meaning of this Act, or any of the offences mentioned in the schedule to this Act, the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to its life or health, and is further satisfied that the evidence of the child is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

S. 17. *Presumption of age of child.*—Where a person is charged with an offence under this Act, or any of the offences mentioned in the schedule to this Act, in respect of a child who is alleged in the charge or indictment to be under any specified age, and the child appears to the court to be under that age, such child shall for the purposes of this Act be deemed to be under that age, unless the contrary is proved.

S. 18. *Mode of charging offences and limitation of time.*—(1.) Where a person is charged with committing an offence under this Act or any of the offences mentioned in the schedule to this Act in respect of two or more children, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty for each child unless upon separate informations.

(2.) The same information or summons may also charge the offences of assault, ill-treatment, neglect, abandonment, or exposure, together or separately, but when those offences are charged together the person charged shall not be liable to a separate penalty for each.

(3.) A person shall not be summarily convicted of an offence under this Act or of an offence mentioned in the schedule to this Act unless the offence was wholly or partly committed within six months before the information was made; but, subject as aforesaid, evidence may be taken of acts constituting, or contributing to constitute, the offence, and committed at any previous time.

(4.) Where an offence under this Act or any offence mentioned in the schedule to this Act charged against any person is a continuous offence, it shall not be necessary to specify in the information, summons, or indictment, the date of the acts constituting the offence.

S. 19. *Appeal from summary conviction to quarter sessions.*—When, in pursuance of this Act, any person is convicted

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by a court of summary jurisdiction of an offence, and such person did not plead guilty or admit the truth of the information, or when in the case of any application under sections six, seven, or eight of this Act, other than an application to a judge or a court of assize, any party thereto thinks himself aggrieved by any order or decision of the court, he may appeal against such a conviction, or order, or decision, in England and Ireland to a court of quarter sessions, and in Scotland to the High Court of Justiciary, in manner provided by the Summary Prosecutions Appeal (Scotland) Act, 1875 (38 & 39 Vict., c. 62), or any Act amending the same.

S. 20. *Expenses of prosecution.*—(1.) Where a misdemeanour under this Act is tried on indictment, the expenses of the prosecution shall be defrayed in like manner as in the case of a felony.

(2.) This section shall not apply to Scotland.

S. 21. *Guardians may pay cost of proceedings.*—A board of guardians, or in Scotland the parochial board of any parish or combination may, out of the funds under their control, pay the reasonable costs and expenses of any proceedings which they have directed to be taken under this Act in regard to the assault, ill-treatment, neglect, abandonment, or exposure of any child, and, in the case of a union, shall charge such costs and expenses to the common fund.

Supplemental.

22. *Provision as to bye-laws.*—Every bye-law under this Act shall be subject—

(*c.*) In Ireland to section two hundred and twenty-one of the Public Health (Ireland) Act, 1878 (41 and 42 Vict., c. 52), with the substitution of Lord Lieutenant for the Local Government Board.

S. 23. *Provisions as to parents and as to meaning of "custody, charge, or care."*—(1.) The provisions of this Act relating to the parent of a child shall apply to the step-parent of the child and to any person cohabiting with the parent of the child, and the expression "parent" when used in relation to a child includes guardian and every person who is by law liable to maintain the child.

(2.) This Act shall apply in the case of a parent who being without means to maintain a child fails to provide for its maintenance under the Acts relating to the relief of the poor, in like manner as if the parent had otherwise neglected the child.

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(3.) for the purposes of this Act—

Any person who is the parent of a child shall be presumed to have the custody of the child; and

Any person to whose charge a child is committed by its parent shall be presumed to have charge of the child; and

Any other person having actual possession or control of a child shall be presumed to have the care of the child.

S. 24.—*Right of Parent, &c., to administer punishment.*—Nothing in this Act shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer punishment to such child.

S. 25.—*General definitions.*—In this Act unless the context otherwise requires—

. . . . . .

The expression "street" includes any highway or other public place, whether a thoroughfare or not.

. . . . . .

S. 26.—*Application of Act to Scotland.*

. . . . . .

S. 27.—*Application of Act to Ireland.*—In the application of the Act to Ireland, unless the context otherwise requires—

The Chief Secretary shall be substituted for a Secretary of State:

The expression "local authority" means the sanitary authority within the meaning of the Public Health (Ireland) Act, 1878 (41 and 42 Vict., c. 52):

The expression "chief officer of police" means in the police district of Dublin metropolis the chief commissioner of the police for the said district; and in any other police district the county inspector of the Royal Irish Constabulary:

The expression "committed for trial" means committed to prison or admitted to bail in manner provided in the Summary Jurisdiction (Ireland) Acts:

The expression "petty sessional court" means a court of summary jurisdiction:

The expression "Industrial Schools Acts" means the Industrial Schools Act (Ireland), 1868 (31 and 32 Vict., c. 25), and any Act amending the same.

S. 28.—*Short title and repeal.*—(1.) This Act may be cited as the Prevention of Cruelty to Children Act, 1894.

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(2.) The Prevention of Cruelty to, and Protection of, Children Act, 1889, and the Prevention of Cruelty to Children (Amendment) Act, 1894, are hereby repealed.*

(3.) This Act shall come into operation on the twenty-first day of August, 1894.

SCHEDULE.

Any offence under sections twenty-seven, fifty-five, or fifty-six of the Offences against the Person Act, 1861 (24 and 25 Vict., c. 100), and any offence against a child under the age of sixteen years under sections forty-three or fifty-two of that Act.

Any offence under the Children's Dangerous Performances Act, 1879 (42 and 43 Vict., c. 34).

Any other offence involving bodily injury to a child under the age of sixteen years.

* 52 and 53 Vict., c. 44. 57 and 58 Vict., c. 27.

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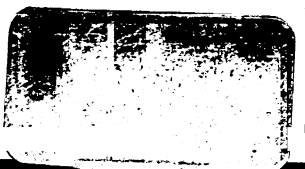

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