

CHAPTER 115

THE OFFENCES AGAINST THE PERSON LAW

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CHAPTER 115

THE OFFENCES AGAINST THE PERSON LAW

Jamaica
Cap. 268.
Law
43 of 1958.

[1864]

1. This Law may be cited as the Offences against the Person Law. Short title.

Homicide

2. Whosoever shall be convicted of murder shall suffer death as a felon. Murder.

3. (1) Upon every conviction for murder the Court shall pronounce sentence of death, and the same may be carried into execution as heretofore has been the practice; and every person so convicted, shall, after sentence, be confined in some safe place within the prison, apart from all other prisoners. Sentence of death.

(2) Where by virtue of this section a person convicted of murder is sentenced to death, the form of the sentence shall be to the effect only that he is to "suffer death in the manner authorized by law". Law
43 of 1958.

(3) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this section to be pregnant, the sentence to be passed on her shall be a sentence of penal servitude for life instead of sentence of death. Sentence of death not to be passed on pregnant woman.

(4) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before whom a woman is so convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by a jury. Procedure where woman convicted of capital offence alleges she is pregnant.

(5) Subject to the provisions of this subsection, the said jury shall be the trial jury, that is to say the jury to whom she was given in charge to be tried for the offence, and the members of the jury need not be re-sworn:

Provided that—

(a) if any member of the trial jury, after the conviction, dies or is discharged by the Court as being through illness incapable of continuing to act or for any other cause, the inquiry as to

whether or not the woman is pregnant shall proceed without him; and

- (b) where there is no trial jury, or where a jury have disagreed as to whether the woman is or is not pregnant, or have been discharged by the Court without giving a verdict on that question, the jury shall be constituted as if to try whether or not she was fit to plead, and shall be sworn in such manner as the Court may direct.

(6) The question whether the woman is pregnant or not shall be determined by the jury on such evidence as may be laid before them either on the part of the woman or on the part of the Crown, and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

(7) Where on proceedings under this section the jury find that the woman in question is not pregnant the woman may appeal under the Judicature (Appellate Jurisdiction) Law, to the Court of Appeal for Jamaica and that Court, if satisfied that for any reason the finding should be set aside, shall quash the sentence passed on her and instead thereof pass on her a sentence of penal servitude for life:

Provided that the operation of the provisions of this subsection shall be deemed to be coincident with the operation of the Judicature (Appellate Jurisdiction) Law.

(8) The rights conferred by this section on a woman convicted of an offence punishable with death shall be in substitution for the right of such a woman to allege in stay of execution that she is quick with child.

Abolition of
constructive
malice.
Law 43/1958

4. (1) Where a person kills another in the course or furtherance of some other offence, the killing shall not amount to murder unless done with the same malice aforethought (express or implied) as is required for a killing to amount to murder when not done in the course or furtherance of another offence.

(2) For the purposes of subsection (1) a killing done in the course or for the purpose of resisting an officer of justice or of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody, shall be treated as a killing in the course or furtherance of an offence.

5. (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.

Persons suffering from diminished responsibility.
Law 43/1958

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as principal or accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

Provocation.
Law 43/1958

6. Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

Suicide pact.
Law 43/1958

7. (1) It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or be a party to the other killing himself or being killed by a third person.

(2) Where it is shown that a person charged with the murder of another killed the other or was a party to his killing himself or being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

(3) For the purposes of this section "suicide pact" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life,

but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of that pact.

Conspiring
or soliciting
to commit
murder.

8. All persons who shall conspire, confederate, and agree to murder any person, whether he be a subject of Her Majesty or not, and whosoever shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any person to murder any other person, whether he be a subject of Her Majesty or not, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not more than ten and not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Man-
slaughter.

9. Whosoever shall be convicted of manslaughter shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour, or to pay such fine as the Court shall award in addition to or without any such other discretionary punishment as aforesaid.

Excusable
homicide.

10. 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.

Petit treason.

11. Every offence which, before the fourth day of March, 1837, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or accessories, shall be dealt with, indicted, tried, and punished as principals and accessories in murder.

Provision for
trial of certain
cases of
murder or
man-
slaughter.

12. Where any person, being feloniously stricken, poisoned or otherwise hurt upon the sea, or at any place out of the Islands, shall die of such stroke, poisoning or hurt in the Islands, or being feloniously stricken, poisoned or otherwise hurt at any place in the Islands, shall die of such stroke, poisoning or hurt upon the sea, or at any place out of the Islands, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or manslaughter, or of being accessory to murder or manslaughter, may be dealt with, enquired of, tried, determined and

punished in the place in which such death, stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed in that place.

Attempts to Murder

13. Whosoever shall administer to, or cause to be administered to, or to be taken by any person, any poison or other destructive thing, or shall, by any means whatsoever, wound, or cause any grievous bodily harm to any person, with intent, in any of the cases aforesaid, to commit murder, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Administering poison, or wounding with intent to murder.

14. Whosoever, by the explosion of gunpowder or other explosive substance, shall destroy or damage any building, with intent to commit murder, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Destroying or damaging building with intent to murder.

15. Whosoever shall set fire to any ship or vessel or any part thereof, or any part of the tackle, apparel or furniture thereof, or any goods or chattels being therein, or shall cast away or destroy, or attempt to destroy, any ship or vessel, with intent in any of such cases to commit murder, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Setting fire to ship, etc., with intent to murder.

16. Whosoever shall attempt to administer to, or shall attempt to cause to be administered to, or be taken by any person, any poison or other destructive thing, or shall shoot at any person, or shall by drawing a trigger, or in any other manner, attempt to discharge any kind of loaded arms at any person, with intent, in any of the cases aforesaid, to commit murder, shall, whether any bodily injury be effected or not, be guilty of felony, and, being convicted thereof,

Attempting to administer poison, etc., with intent to murder.

shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

By other means attempting to commit murder.

17. Whosoever shall, by any means other than those specified in any of the preceding sections of this Law, attempt to commit murder, shall be guilty of felony, and, being convicted thereof shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Letters Threatening to Murder

Letters threatening to murder.

18. Whosoever shall maliciously send, deliver, or utter or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding ten years, and not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Acts Causing or Tending to Cause Danger to Life, or Bodily Harm

Preventing person endeavouring to save his life in shipwreck.

19. Whosoever shall unlawfully and maliciously prevent or impede any person being on board of, or having quitted any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, in his endeavour to save his life, or shall unlawfully or maliciously prevent or impede any person in his endeavours to save the life of any such person as is in this section first mentioned, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Shooting or attempting to shoot or wounding with intent to do grievous bodily harm.

20. Whosoever shall unlawfully and maliciously, by any means whatsoever, wound, or cause any grievous bodily harm to any person, or shoot at any person, or, by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, with intent in any of the cases aforesaid, to maim, disfigure or disable any person, or to do some other grievous bodily harm to

any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

21. Any gun, pistol, or other arms which shall be loaded in the barrel with gunpowder, or any other explosive substance, and ball, shot, slug, or other destructive material, shall be deemed to be loaded arms within the meaning of this Law, although the attempt to discharge the same may fail from want of proper priming, or from any other cause.

What shall
be deemed
loaded arms.

22. Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Unlawful
wounding.

23. Whosoever shall, by any means whatsoever, attempt to choke, suffocate, or strangle any other person, or shall by any means calculated to choke, suffocate, or strangle, attempt to render any other person insensible, unconscious, or incapable of resistance, with intent in any of such cases thereby to enable himself, or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Attempting
to choke,
etc., in order
to commit
indictable
offence.

24. Whosoever shall unlawfully apply or administer to, or cause to be taken by, or attempt to apply or administer to, or attempt to cause to be administered to or taken by, any person, any chloroform, laudanum, or other stupefying or overpowering drug, matter, or thing, with intent, in any of such cases, thereby to enable himself, or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable

Administer-
ing drug
with intent
to commit
indictable
offence.

offence, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Administer-
ing poison so
as to en-
danger life
or inflict
grievous
bodily harm.

25. Whosoever shall unlawfully and maliciously administer to, or cause to be administered to or taken by any other person, any poison or other destructive or noxious thing so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding ten years, and not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Administer-
ing poison
with intent to
injure or
annoy.

26. Whosoever shall unlawfully and maliciously administer to, or cause to be administered to or taken by any other person, any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Jury may
acquit of
felony, and
find guilty
of mis-
demeanour.

27. If, upon the trial of any person for any felony in section 25 mentioned, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanour in section 26 mentioned, then and in every such case, the jury may acquit the accused of such felony, and find him guilty of such misdemeanour and thereupon he shall be liable to be punished in the same manner as if convicted upon an indictment for such misdemeanour.

Abandoning
or exposing
child where-
by life
endangered.

28. Whosoever shall unlawfully abandon or expose any child, being under the age of two years, whereby the life of such child shall be endangered, or the health of such child shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

29. Whosoever shall unlawfully and maliciously by the explosion of gunpowder or other explosive substance, burn, maim, disfigure, disable, or do any grievous bodily harm to any person, shall be guilty of felony and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Causing bodily injury by explosion of gunpowder.

30. Whosoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to, or cause to be taken or received by any person any explosive substance, or any other dangerous or noxious thing, or put or lay at any place, or cast or throw at or upon, or otherwise apply to any person, any corrosive fluid, or any destructive or explosive substance, with intent, in any of the cases aforesaid, to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, shall, whether any bodily injury be effected or not, be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Causing gunpowder to explode, etc., with intent to do grievous bodily harm.

31. Whosoever shall unlawfully and maliciously put or throw upon or across any railway or tramway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove or displace any rail, sleeper, or other matter or thing belonging to any railway or tramway, or shall unlawfully and maliciously turn, move or divert any points or other machinery belonging to any railway or tramway, or shall unlawfully and maliciously make or show, hide or remove any signal or light upon or near to any railway or tramway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to endanger the safety of any person travelling or being upon such railway or tramway, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not exceeding three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Placing wood on railway, etc., with intent to endanger safety of passengers.

Doing any-
thing to
endanger
safety of
passengers
on railway.

32. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall endanger or cause to be endangered, the safety of any person conveyed by or being in or upon a railway or tramway, or shall aid or assist therein, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour.

Assaults

Obstructing
clergyman in
the perform-
ance of his
duties.

33. Whosoever shall, by threats or force, obstruct or prevent, or endeavour to obstruct and 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 church-yard 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 afore-said, or who, to the knowledge of the offender, shall be going to perform the same or returning from the performance thereof, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour.

Assaulting
magistrate
when
preserving
wreck.

34. Whosoever shall assault and strike or wound any magistrate, officer, or other person whatsoever lawfully authorized, in or on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding seven years, and not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Assault with
intent to
commit
felony, or on
constable,
etc.

35. Whosoever shall assault any person with intent to commit felony, or shall assault, resist, or wilfully obstruct any constable or peace officer in the due execution of his duty, or any person acting in the aid of such officer, or shall assault any person with intent to

resist or prevent the lawful apprehension of himself or any other person for any offence, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour.

36. Whosoever shall unlawfully, and with force, hinder or prevent any seaman or person labouring on board any vessel from working at or exercising his lawful trade, business, or occupation, or shall beat or use any violence to any such person, with intent to hinder or prevent him from working at or exercising the same, shall, on summary conviction, be liable to imprisonment with hard labour for a term not exceeding three months:

Hindering seaman from working at his trade, etc.

Provided, that no person who shall be punished for any such offence by reason of this section shall be punished for the same offence by virtue of any other law whatsoever.

37. Whosoever shall beat, or use any violence or threat of violence to any person, with intent to deter or hinder him from buying, selling, or otherwise disposing of, or to compel him to buy, sell, or otherwise dispose of any poultry, hogs, grain, fruit, or fish, or other provisions or food in any market or other place, or shall beat, or use any such violence or threats to any person having the care or charge of any poultry, hogs, grain, fruit or fish, or other provisions, whilst on the way to or from any market, town or other place in the Islands, with intent to stop the conveyance of the same, shall, on summary conviction, be liable to imprisonment with or without hard labour for a term not exceeding three months:

Using violence to deter person from buying or selling.

Provided, that no person who shall be punished for any such offence by virtue of this section shall be punished for the same offence by virtue of any other law whatsoever.

38. Where any person shall unlawfully assault or beat any other person, two Justices, upon complaint by or on behalf of the party aggrieved, may hear and determine such offence, and the offender shall, upon summary conviction, be liable to imprisonment with or without hard labour, for a term not exceeding two months, or else shall forfeit and pay such fine not exceeding, together with costs (if ordered) the sum of five pounds; and if such fine as shall be so awarded, together with the costs, if ordered, shall not be paid either immediately after conviction, or within such period as shall at the

Summary jurisdiction to try common assaults.

time of the conviction be appointed, the offender may be committed to imprisonment with or without hard labour, for a term not exceeding two months unless such fine and costs be sooner paid.

Aggravated
assaults on
women or
children.

39. When any person shall be charged before a court of summary jurisdiction with an assault or battery upon any male child whose age shall not, in the opinion of such court, exceed fourteen years, or upon any female either upon the complaint of the party aggrieved or otherwise, the said court, if the assault or battery is of such an aggravated nature that it cannot, in their opinion, be sufficiently punished under the provisions hereinbefore contained as to common assaults and batteries, may proceed to hear and determine the same in a summary way, and if the same be proved, may convict the prisoner accused; and every such offender shall be liable to imprisonment with or without hard labour for a period not exceeding six months, or to pay a fine not exceeding (together with costs) the sum of twenty pounds; and, if the court shall so think fit, in any of the said cases, shall be bound to keep the peace, and be of good behaviour for a period not exceeding six months from the expiration of such sentence.

Justices may
dismiss
complaint,
certifying
dismissal.

40. If the Court, upon the hearing of any such case of assault and battery upon the merits, where the complaint was preferred by or on behalf of the party aggrieved under either of sections 38 and 39, shall deem the offence not to be proved, or shall find the assault or battery to have been justified, or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, the Court shall forthwith make out a certificate, stating the facts of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

Certificate or
conviction
to be a bar
to further
proceedings.

41. If any person against whom such complaint as in any of sections 38, 39 and 40 mentioned shall have been preferred by or on behalf of the party aggrieved shall have obtained such certificate, or, having been convicted, shall have paid the whole amount adjudged to be paid, or shall have suffered the imprisonment, or imprisonment with hard labour awarded; in every such case, he shall be released from all further or other proceedings, civil or criminal, for the same cause:

Provided, that in case the Court shall find the assault or battery complained of to have been accompanied by any attempt to com-

mit felony, or shall be of opinion that the same is from any other circumstance, a fit subject for a prosecution by indictment, they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if they had no authority finally to hear and determine the same:

Provided also that nothing herein contained shall authorize any Justices to hear and determine any case of assault or battery in which any question shall arise as to the title to any land, tenements, or hereditaments, or any interest therein, or accruing therefrom, or as to any bankruptcy or any execution under the process of any Court of justice.

42. Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to be imprisoned for a term not exceeding two years, with or without hard labour; and whosoever shall be convicted upon an indictment for a common assault shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding one year, with or without hard labour.

Punishment
for common
and aggra-
vated assaults.

Rape; Abduction and Defilement of Women

43. Whosoever shall be convicted of the crime of rape shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Rape.

44. Whosoever shall, by false pretences, false representations, or other fraudulent means, procure any woman or girl under the age of twenty-one years to have illicit carnal connection with any man, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour.

Procuring
defilement of
girl under
twenty-one.

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

Personating
husband.

Defilement of female idiot or imbecile.

46. Any person who 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, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour.

Carnally knowing girl under twelve.

47. Whosoever shall unlawfully and carnally know and abuse any girl under the age of twelve years shall be guilty of felony, and, being, convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Power on indictments for certain felonies to find the defendant guilty of a minor offence acquitting him of the felony.

48. If upon the trial of any indictment for rape, or any offence made felony by section 47, the jury are satisfied that the defendant is guilty of an offence under section 47 or 49, 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 an offence under section 47 or 49 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.

Above twelve and under fourteen.

49. Whosoever shall unlawfully and carnally know and abuse any girl being above the age of twelve years and under the age of fourteen years shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Custody of girls under fourteen.

50. Where on the trial of any offence under this Law it is proved to the satisfaction of the Court that the seduction or prostitution of a girl under the age of fourteen years 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

persons 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 Judge of the Grand 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.

51. Whosoever shall be convicted of any indecent assault upon any female, or of any attempt to have carnal knowledge of any girl under fourteen years of age, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour.

Indecent
assault, etc.

52. 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 anyone having such interest, whoever 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 cause her to be married or carnally known by any other person, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour; and whosoever shall be convicted of any offence against this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she shall have any such interest, or which shall come to her as such heiress, co-heiress, or next-of-kin as aforesaid; and if any such marriage as aforesaid shall have taken place, such property shall, upon such conviction, be settled in such manner as the Grand Court shall, upon any information at the suit of the Clerk of the Court, appoint.

Abduction
from motives
of lucre.

53. 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 cause her to be married or carnally known by any other person, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Forcible
abduction.

54. Whosoever shall unlawfully take, or cause to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour.

Abduction of
girl under
sixteen.

Child Stealing

55. 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 felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding seven years, and not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour:

Child
stealing.

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 out of the possession of any person having the lawful charge thereof.

Bigamy

56. (1) 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 the Islands or elsewhere, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for a term not exceeding four years, or to be imprisoned for a term not exceeding two years, with or without hard labour; and any such offence may be dealt with, inquired of, tried, determined and punished in the Islands 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 the Islands:

Bigamy.

Provided, that nothing in this section contained shall extend to any second marriage contracted elsewhere than in the Islands by any other than a subject of Her Majesty, or to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any Court of competent jurisdiction.

(2) The wife or husband of a person charged with bigamy may be called as a witness either for the prosecution or defence and without the consent of the person charged.

Provision as to evidence.

Attempts to Procure Abortion

57. Every woman, being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent; and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her, or cause to be taken by her, any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be

Administering drugs or using instruments to procure abortion.

imprisoned for a term not exceeding two years, with or without hard labour.

Procuring
drugs, etc.,
to procure
abortion.

58. Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to be imprisoned for a term not exceeding two years, with or without hard labour.

Concealing the Birth of a Child

Concealment
of birth.

59. 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 the birth, endeavour to conceal the birth thereof, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour:

Provided, that if any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the jury by whose verdict such person shall be acquitted to find, in case it shall so appear in evidence, that the child had recently been born, and that such person did, by some secret disposition of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the Court may pass such sentence as if such person had been convicted upon an indictment for the concealment of the birth.

Infanticide

Offence of
infanticide.

60. (1) Where a woman by any wilful act or omission causes the death of her child, being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this Law the offence would have amounted to murder, she shall be guilty of felony, to wit of

infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for the provisions of this Law they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this section shall affect the power of the jury upon an indictment for the murder of a newly-born child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section 59.

(4) The said section 59 shall apply in the case of the acquittal of a woman upon indictment for infanticide as it applies upon the acquittal of a woman for murder.

Unnatural Offences

61. Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable, at the discretion of the Court, to be kept in penal servitude for a term not exceeding ten years, and not less than three years, or to be imprisoned and kept to hard labour for a term not exceeding two years. Unnatural crime.

62. Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding seven years, and not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour. Attempt.

Proof of Carnal Knowledge

Proof of
carnal
knowledge.

63. Whenever upon the trial of any offence punishable under this Law, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only.

Outrages on Decency

Outrages on
decency.

64. 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 misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour.

Other Matters

Apprehension
without
warrant.

65. 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, that is to say the interval between 7 o'clock in the evening and 6 o'clock in the morning of the next succeeding day, and whom he shall have good cause to suspect of having committed, or being about to commit any felony in this Law mentioned, and shall take such person, as soon as reasonably may be, before a Justice, to be dealt with according to law.

Punishment
of principals
in second
degree and
accessories.

66. In the case of every felony punishable under this Law every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Law punishable; and every accessory after the fact to any felony punishable under this Law (except murder) shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour; and every accessory after the fact to murder shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for a term not exceeding two years, with or without hard labour; and whosoever shall counsel, aid, or abet the commission of any indictable misdemeanour punishable under this Law shall be liable to be proceeded against, indicted, and punished as a principal offender.

67. Whenever any person shall be convicted of any indictable misdemeanour punishable under this Law, the Court may, if it shall think fit, in addition to or in lieu of any punishment by this Law authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either for keeping the peace and being of good behaviour; and, in case of any felony punishable under this Law otherwise than with death, the Court may, if it shall think fit, require the offender to enter into his own recognizances, and to find sureties both or either for keeping the peace, in addition to any punishment by this Law authorized:

Fines and sureties for good behaviour.

Provided, that no person shall be imprisoned for not finding sureties under this section for any period exceeding one year.

68. No summary conviction under this Law shall be quashed for want of form, or be removed by *certiorari* into any other Court; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Conviction not to be quashed for want of form, etc.

69. Where any person shall be convicted on any indictment of any assault, whether with or without battery and wounding, or either of them, such person may, if the Court thinks fit, in addition to any sentence which the Court may deem proper for the offence, be adjudged to pay to the prosecutor his actual and necessary costs and expenses of the prosecution, and such moderate allowance for the loss of time as the Court shall, by affidavit or other enquiry and examination, ascertain to be reasonable; and, unless the sum so awarded shall be sooner paid, the offender shall be imprisoned for any term the Court shall award not exceeding three months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

Costs on prosecution for assault.

70. The Court may, by warrant under hand and seal, order such sum as shall be so awarded to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and that the surplus, if any, arising from such sale shall be paid to the owner; and in case the sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease.

Recovery of costs by distress.

71. No attainder by judgment of death or outlawry in any case of felony shall be adjudged to work any corruption of blood.

Corruption of blood.

