

OFFENCES AGAINST THE PERSON ACT

CHAPTER 10:31

Act

L.I. 7 of 1873

Amended by

L.I. 6 of 1935

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**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

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CHAPTER 10:31

OFFENCES AGAINST THE PERSON ACT

1961 Ed.
Cap. 44.
7 of 1873.

AN ACT to provide for the punishment of crimes involving the taking and harming of human life, the endangerment of and threat to human life and divers crimes against the safety, liberty and well being of the human person.

Commencement.

[10th April 1873]

Short title.

1. This Act may be cited as the –
OFFENCES AGAINST THE PERSON ACT

PART I
HOMICIDE

Murder.

2. Any person who is convicted of murder shall suffer the penalty of death.

Sentence for murder.

3. (1) (a) Upon every conviction for murder, the Court shall pronounce sentence of death and the same may be carried into execution, and all other proceedings upon such sentence, and in respect thereof, may be had and taken in the same manner, and the Court before which the conviction takes place shall have the same power, in all respects, as after a conviction for any other offence for which a prisoner may be sentenced to suffer death.

(b) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the Court that at the time when the offence was committed he was under the age of eighteen years, but in lieu thereof the Court shall sentence him to be detained during the State's pleasure; and if so sentenced he shall be liable to be detained in such place and under such conditions as the President may direct and, while so detained, shall be deemed to be in legal custody.

(c) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this Act to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment for life instead of sentence of death.

(2) 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 pregnancy.

(3) 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 resworn; but –

(a) if any member of the trial jury, either before or 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 a manner as the Court may direct.

(4) 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 State, and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

(5) The rights conferred by this section on a woman convicted of an offence punishable with death shall be in substitution for the common law right of such a woman to allege, in stay of execution, that she is quick with child and the last-mentioned right shall cease as from the commencement of this Act.

4. Any person who conspires, confederates and agrees to murder any other person, whether that other person is a subject of the State or not, and whether he is within the Commonwealth of Dominica or not, and any person who solicits, encourages, persuades, endeavours to persuade, or proposes to any person to murder any other person, whether that other person is a subject of the State or not, and whether he is within the Commonwealth of Dominica or not, is liable to imprisonment for ten years.

Conspiring or soliciting to commit murder.

Execution of
sentence.

5. The President shall direct the time and place for the execution of the sentence of death on persons convicted of murder, and the Provost Marshal shall cause the body of the murderer to be buried in such place as the President may approve.

Manslaughter.
[24 of 1987].

6. Any person who is convicted of manslaughter is liable to such fine as the Court may award and to imprisonment for life.

Infanticide.

7. (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 Act the offence would have amounted to murder, she is guilty of the offence of infanticide, and may for such offence be dealt with and punished as if she is 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 the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances are such that but for the provision of this Act they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this Act shall affect the power of the jury upon an indictment for the murder of a 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 58 except that for the purposes of the proviso to that section a child shall be deemed to have recently been born if it had been born within twelve months before its death.

(4) Section 58 shall apply in the case of an acquittal of a woman upon an indictment for infanticide as it applies upon the acquittal of a woman upon an indictment for murder.

Punishment for
child destruction.

8. (1) Subject as hereinafter in this subsection provided, any person who with intent to destroy the life of a child capable of being born alive by any wilful act causes a child to die before it has an existence independent of its mother is guilty of the offence of child destruction and liable on conviction on indictment to imprisonment for

life; but no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(2) For the purposes of this Act, evidence that a woman has at any material time being pregnant for a period of twenty-eight weeks or more shall be *prima facie* proof that she was at that time pregnant of a child capable of being born alive.

9. (1) Where, upon the trial of any person for the murder or manslaughter of any child or for infanticide, or for an offence under section 56 (which relates to administering drugs or using instruments to procure abortion), the jury are of opinion that the person charged is not guilty of murder, manslaughter or infanticide, or an offence under section 56, as the case may be, but that he is shown by the evidence to be guilty of the offence of child destruction, the jury may find him guilty of that offence and thereupon the person convicted shall be liable to be punished as if he had been convicted upon an indictment for child destruction.

Conviction for child destruction on trial for murder of child.

(2) Where upon the trial of any person for the offence of child destruction the jury are of opinion that the person charged is not guilty of that offence but that he is shown by the evidence to be guilty of an offence under section 56, the jury may find him guilty of that offence and thereupon the person convicted shall be liable to be punished as if he had been convicted upon an indictment under that section.

Conviction for offence on trial for child destruction.

(3) Section 58 (which provides that a person acquitted of the murder of any child may, if shown by the evidence to be guilty of concealing the birth, be convicted and punished accordingly) shall apply in the case of the acquittal of a person on an indictment for child destruction as it applies to the acquittal of a person on an indictment for murder or infanticide.

Section 58 to apply in case of acquittal on trial of child destruction.

(4) Section 7 of the Evidence Act shall have effect as if this Act were included in the Schedule to that Act.

Ch 5:03.

10. Every accessory after the fact to the murder shall be liable to imprisonment for life or to imprisonment for ten years.

Accessory after the fact to murder.

11. No punishment or forfeiture shall be incurred by any person who kills another by misfortune, or in his own defence, or in any other manner without felony.

Excusable homicide.

Provision for trial of murder and manslaughter in certain cases.

12. Where any person being feloniously stricken, poisoned or otherwise hurt upon the sea or that any place out of the State dies of such stroke, poisoning or hurt in the State, or being feloniously stricken, poisoned or otherwise hurt at any place in the State dies of such stroke, poisoning or hurt upon the sea or at any place out of the State, every offence committed in respect of any such case, whether the same amounts to murder or manslaughter or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried and determined, and punished in the State in the same manner in all respects as if such offence had been wholly committed in the State.

PART II

ATTEMPTS TO MURDER

Administering poison, etc.

13. Any person who administers to, or causes to be administered to, or to be taken by any person, any poison or other destructive thing or, by any means whatsoever, wounds, or causes any grievous bodily harm to any person with intent, in any of the cases aforesaid, to commit murder is liable to imprisonment for ten years.

Destroying or damaging a building with gunpowder with intent to murder.

14. Any person who by the explosion of gunpowder or other explosive substance destroys or damages any building, with intent to commit murder, is liable to imprisonment for ten years.

Setting fire to, or casting away a ship, with intent to murder.

15. Any person who sets fire to any ship or vessel or any part thereof, or any part of the tackle, apparel or furniture thereof, or any goods or any chattels being therein, or casts away or destroys any ship or vessel with the intent in any of such cases to commit murder, is liable to imprisonment for ten years.

Attempting to administer poison, or shooting, or attempting to shoot, or attempting to drown, etc., with intent to murder.

16. Any person who attempts to administer to, or attempts to cause to be administered to, or to be taken by any person, any poison or other destructive thing, or shoots at any person, or by drawing a trigger or in any other manner attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate or strangle any person, with intent in any of the cases mentioned above to commit murder, whether any bodily injury be effected or not, is liable to imprisonment for ten years.

By any other means attempting to commit murder.

17. Any person who by any means other than those specified in sections 13, 14, 15 and 16 attempts to commit murder is liable to imprisonment for ten years.

PART III

LETTERS THREATENING TO MURDER

18. Any person who maliciously sends, delivers or utters, or directly or indirectly causes to be received knowing the contents thereof, any letter or writing threatening to kill or murder any person is liable to imprisonment for four years.

Sending letters threatening to murder.

PART IV

ACTS CAUSING OR TENDING TO CAUSE DAMAGE TO LIFE, OR BODILY HARM

19. Any person who unlawfully and maliciously prevents or impedes any person being on board of, or having quitted any ship or vessel in distress, or wrecked, stranded or cast on shore, in his endeavour to save his life, or unlawfully and maliciously prevents or impedes any other person in his endeavour to save the life of any such person as first mentioned in this section is liable to imprisonment for ten years.

Impeding a person endeavouring to save himself from shipwreck.

20. Any person who unlawfully and maliciously, by any means whatsoever, wounds, or causes any grievous bodily harm to any person, or shoots at any person, or by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person, with intent, in any of the cases mentioned above, 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, is liable to imprisonment for ten years.

Shooting or attempting to shoot, or wounding with intent.

21. Any gun, pistol or other arm, loaded in the barrel with gunpowder or other explosive substance, and ball, shot, slug or other destructive material, or charged with compressed air and having ball, shot, slug or other destructive material in the barrel, shall be deemed to be loaded arms within the meaning of this Act, although the attempt to discharge the same may fail for want of proper priming or other causes.

What shall constitute loaded arms.

22. Any person who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, is liable to imprisonment for two years; and, if upon the trial of any indictment for any offence (except in case of murder or manslaughter), the indictment alleges that the defendant did cut, stab, wound or inflict grievous bodily harm on any person, and the

Inflicting bodily injury with or without weapon.

jury is satisfied that the defendant is guilty of the cutting, stabbing or wounding, or the inflicting of grievous bodily harm as charged in the indictment, but is not satisfied that the defendant is guilty of the offence charged in the indictment, the jury may acquit of that offence and find the defendant guilty of unlawfully cutting, stabbing, or wounding, or inflicting grievous bodily harm, and the defendant shall be liable to imprisonment for two years.

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

23. Any person who by any means whatsoever attempts to choke, suffocate or strangle any other person or, by any means calculated to choke, suffocate or strangle, attempts 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, is liable to imprisonment for ten years and, if a male, with or without whipping.

Using chloroform, etc., to commit any indictable offence.

24. Any person who unlawfully applies or administers to, or causes to be taken by, or attempts or causes 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 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, is liable to imprisonment for ten years.

Maliciously administering poison, etc., so as to endanger life or inflict bodily harm.

25. Any person who unlawfully and maliciously administers to, or causes 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, is liable to imprisonment for ten years.

Maliciously administering poison, etc., with intent to injure, aggrieve, or annoy any other person.

26. Any person who unlawfully and maliciously administers to, or causes 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, is liable to imprisonment for four years.

If the jury be not satisfied that the person charged is guilty of a felony, etc.

27. If upon the trial of any person for an offence under section 25 the jury are not satisfied that the person is guilty of that offence, but are satisfied that he is guilty of an offence under section 26 then, and in every such case, the jury may acquit the accused of the offence under

section 25 and find him guilty of the offence under section 26, and thereupon he shall be punished in the same manner as if convicted upon an indictment for the offence under section 26.

28. Any person who being legally liable, either as a husband, parent, guardian or committee, master or mistress, nurse or otherwise, to provide for any person as wife, child, ward, a person suffering from mental disorder or a mentally subnormal person, apprentice or servant, infant or otherwise, necessary food, clothing or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, or unlawfully or maliciously does, or causes to be done, any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been or is likely to be permanently injured, is liable to imprisonment for two years.

Not providing apprentices or servants with food, etc., whereby life is endangered.

29. Any person who unlawfully abandons or exposes any child being under the age of two years whereby the life of the child is endangered, or the health of the child has been or is likely to be permanently injured, is liable to imprisonment for two years.

Exposing children whereby life is endangered.

30. Any person who unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burns, maims, disfigures, disables or does any grievous bodily harm to any person, is liable to imprisonment for ten years.

Causing bodily injury by gunpowder.

31. Any person who unlawfully and maliciously causes any gunpowder or other explosive substance to explode, or sends or delivers to, or causes to be taken or received by, any person, any explosive substance or any other dangerous or noxious thing, or puts or lays at any place, or casts or throws at or upon, or otherwise applies 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 is effected or not, is liable to imprisonment for ten years.

Causing gunpowder to explode or sending to any person an explosive substance, etc.

32. Any person who unlawfully and maliciously places or throws in, into, upon, against or near any building, ship or vessel, any gunpowder or other explosive substance with intent to do any bodily injury to any person, whether or not any explosion takes place and whether or not any bodily injury is effected, is liable to imprisonment for ten years.

Placing gunpowder near a building with intent to do bodily injury to any person.

Setting spring-gun, etc., with intent to inflict grievous bodily harm.

33. Any person who sets or places, or causes to be set or placed, any spring-gun, man-trap, picket 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 any trespasser or other person coming in contact therewith, is liable to imprisonment for two years.

Drivers of carriages injuring persons by furious driving.

34. Any person who, having the charge of any carriage or vehicle, by wanton or furious driving or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person whatsoever, is liable to imprisonment for two years.

Causing bodily injury by doing or omitting to do any act.

35. Any person who by any unlawful act, or by doing negligently or omitting to do any act which it is his duty to do, causes grievous bodily injury to any other person is liable to imprisonment for two years.

PART V ASSAULTS

Obstruction or assaulting a clergyman, or other minister in the discharge of his duties.

36. Any person who by threats or force unlawfully obstructs or prevents or endeavours to obstruct or prevent any clergyman or other minister in or from celebrating divine service, or otherwise officiating in any church, chapel, meeting-house, school-house or other place used for 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 strikes or offers any violence to or 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 going to perform the same, or returning from the performance thereof, is liable to imprisonment for two years.

Disturbing or interrupting assemblage of persons met for religious, moral, social, or benevolent purpose.

37. Any person who wilfully disturbs, interrupts or disquiets any meeting held for religious worship or for any moral, social or benevolent purpose, by profane discourse, by rude or indecent behaviour, or by making a noise, either within the place of the meeting or so near it as to disturb the order or solemnity of the meeting, may be arrested on view by any peace officer present at the meeting, or by any other person present verbally authorised to do so by any justice of the peace present at the meeting, and detained until he can be brought before a Magistrate, and such offender shall, on summary conviction, be liable to a fine of two hundred and fifty dollars, and to the payment of costs.

38. Any person who assaults and strikes or wounds any Magistrate, officer or other person whatsoever, lawfully authorised in or on account of the exercise of his duty in or concerning the preservation or any vessel in distress, or of any vessel, goods or effects wrecked, stranded or cast on shore, or lying under water, is liable to imprisonment for two years.

Assaulting a Magistrate, etc., on account of his preserving wreck, etc.

39. Any person who assaults another person with intent to commit felony, or assaults, resists or wilfully obstruct any revenue or peace officer in the due execution of his duty, or any other person acting in aid of such officer, or assaults another person with the intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, is liable to imprisonment for two years.

Assault with intent to commit felony.

40. Any person who beats, or uses any violence or threat of violence to any person to deter or hinder him from buying, selling or otherwise disposing of any wheat or other grain, flour, meal, malt or potatoes, or other produce or goods, in any market or other place, or beats or uses any such violence or threat to any person having the charge or care of any wheat or other grain, flour, meal, malt or potatoes, whilst on the way to or from any city, market-town or other place, with intent to stop the conveyance of the same, is liable on summary conviction to imprisonment for three months.

Assault with intent to obstruct the sale of grain or its free passage.

41. Any person who unlawfully and with force hinders or prevents any seaman, stevedore, ship-carpenter or other person usually working at or on board any ship or vessel, from working at or exercising his lawful trade, business or occupation, or beats, or uses any violence to, any such person, with intent to hinder or prevent him from working at or exercising the same, is liable on summary conviction to imprisonment for three months.

Assault on seamen, etc.

42. Any person who in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of unlawful combination or conspiracy respecting any trade, business or manufacture or respecting any person concerned or employed therein, unlawfully assaults any person or, in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person with a view to hinder him from working or being employed at such trade, business or manufacture, is liable to imprisonment for two years.

Assault arising from combination.

Persons committing any common assault or battery may be imprisoned or compelled by Magistrate to pay fine and costs, if ordered, not exceeding two hundred and fifty dollars.

43. Any person who unlawfully assaults or beats any other person is liable on summary conviction to a fine of two hundred and fifty dollars together with costs (if ordered) or imprisonment for two months.

Persons convicted of aggravated assaults on females, and boys under the age of fourteen years, may be imprisoned or fined.

44. When any person is charged before a Magistrate with an assault or battery upon any male child, whose age does not in the opinion of the Magistrate exceed fourteen years, or upon any female, either upon the complaint of the party aggrieved or otherwise, the Magistrate, if the assault or battery is of such an aggravated nature that it cannot, in his opinion, be sufficiently punished under the above provisions as to common assaults and batteries, may proceed to hear and determine the same, and every such offender shall be liable on summary conviction to a fine of one thousand dollars (together with costs) or to imprisonment for six months, and, if the Magistrate thinks fit, in any of the said cases, the offender shall be bound over to keep the peace and be of good behaviour for any period not exceeding six months from the expiration of the sentence.

If the Magistrate dismiss the complaint he shall make out a certificate to that effect.

45. If the Magistrate, upon the hearing of any case of assault or battery, upon the merits, where the complaint was preferred by or on behalf of the party aggrieved under section 43 or section 44, considers the offence not to be proved, or finds the assault or battery to have been justified, or so trifling as not to merit any punishment, and accordingly dismisses the complaint, he shall forthwith make out a certificate under his hand stating the fact of the dismissal, and shall deliver the certificate to the party against whom the complaint was preferred.

Certificate or conviction shall be a bar to any other proceedings.

46. If any person against whom any such complaint as mentioned in sections 43 and 44 has been preferred by or on behalf of the party aggrieved, has obtained the certificate mentioned in section 45 or, having been convicted, has paid the whole amount adjudged or has suffered the imprisonment awarded, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

47. If the Magistrate finds that any assault or battery complained of in section 43 or 44 was accompanied by an attempt to commit felony, or is of opinion that the same is from any other circumstance a fit subject for prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case, in all respects, in the same manner as if he had no authority finally to hear and determine the same; but nothing herein contained shall authorise any Magistrate to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements or hereditaments, or any interest therein or accruing thereon, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice.

These provisions not to apply to certain cases.

48. Any person who is convicted upon an indictment of any assault occasioning actual bodily harm is liable to imprisonment for two years; and any person who is convicted upon an indictment for a common assault is liable to imprisonment for one year.

Assault occasioning bodily harm.

PART VI

RAPE, ABDUCTION, AND DEFILEMENT OF WOMEN

49. Any person who is convicted of the crime of rape is liable to imprisonment for ten years.

Rape.

50. (1) Any person who is convicted of any indecent assault upon any female is liable to imprisonment for seven years.

Indecent assault.
[24 of 1987
8 of 1992
32 of 1995].

(2) A girl under the age of sixteen cannot in law give any consent which would prevent an act being an indecent assault.

51. Where any woman of any age has any interest, whether legal or equitable, present or future, absolute, conditional or contingent, in any real or personal estate, or is a presumptive heiress or co-heiress, or presumptive next-of-kin, to any one having such interest, any person who, from motives of lucre, takes away or detains the 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 any person who fraudulently allures, takes away or detains the woman being under the age of eighteen 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, is liable to imprisonment for two years; and any person who is convicted of any offence against this section shall be incapable of taking any estate or interest,

Abduction of a woman against her will from motives of lucre.

legal or equitable, in any real or personal property of the woman or in which she has 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 has taken place, the property shall, upon the conviction, be settled in such manner as a Judge shall appoint, upon any information at the suit of the Attorney General.

Forcible abduction of any woman with intent to marry her.

52. Any person who by force takes away or detains 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, is liable to imprisonment for five years.

Abduction of a girl under sixteen years of age.

53. Any person who unlawfully takes, or causes to be taken, any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father and mother or of any other person having the lawful care or charge of her, is liable to imprisonment for two years.

PART VII

CHILD STEALING

Child stealing.

54. Any person who unlawfully, either by force or fraud, leads or takes away, or decoys or entices away or detains, 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 the child of the possession of the child, or with intent to steal any article upon or about the person of the child, to whomsoever the article may belong, and any person who with such intent receives or harbours the child knowing the child to have been by force or fraud led, taken, decoyed, enticed away or detained is liable to imprisonment for three years, and, if a male under sixteen years, with or without whipping; but no person who has claimed any right to the possession of the child, or is the mother, or has 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 the child or taking the child out of the possession of any person having the lawful charge thereof.

PART VIII

BIGAMY

Bigamy.

55. Any person who being married, marries any other person during the life of the former husband or wife, whether the second marriage has taken place in the State or elsewhere, is liable to imprisonment for three

years; but nothing contained in this section shall extend to any second marriage contracted elsewhere than in the State by any other than a Commonwealth subject resident in the State, and leaving the same with intent to commit the offence, or to any person marrying a second time, whose husband or wife has been continually absent from such person for the space of seven years then last past, and was not known by such person to be living within that time, or shall extend to any person who at the time of the second marriage was divorced from the bond of the first marriage, or to any person whose former marriage has been declared void by the sentence of any Court of competent jurisdiction.

PART IX

ATTEMPTS TO PROCURE ABORTION

56. Any woman being with child, who, with the intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument, or other means whatsoever, with the like intent, and any person who with intent to procure the miscarriage of any woman, whether she is with child or not, unlawfully administers to her, or causes to be taken by her, any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, is liable to imprisonment for ten years.

Administering drugs, or using instruments, to procure abortion.

57. Any person who unlawfully supplies or procures 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 is with child or not, is liable to imprisonment for two years.

Procuring drugs, etc., to cause abortion.

PART X

CONCEALING THE BIRTH OF A CHILD

58. If any woman is delivered of a child, every person who by any secret disposition of the dead body of the child, whether the child died before, at or after its birth, endeavours to conceal the birth thereof is liable to imprisonment for two years: Provided that if any person tried for the murder of any child is acquitted thereof, it shall be lawful for the jury by whose verdict the person is acquitted, to find, in case it so appears in evidence, that the child had recently been born and that the

Concealing the birth of a child.

person did by some secret disposition of the child, or of the dead body of the child, endeavour to conceal the birth thereof, and thereupon the Court may pass such sentence as if the person had been convicted upon an indictment for the concealment of birth.

PART XI

UNNATURAL OFFENCES

Sodomy and
bestiality.
[24 of 1987].

59. Any person who is convicted of the abominable crime of buggery, committed either with mankind or with any animal, is liable to imprisonment for ten years and, if the Court thinks it fit, the Court may order that the convicted person be admitted to a psychiatric hospital for treatment.

Attempt to
commit an
infamous crime.
[24 of 1987].

60. Any person who attempts to commit the said abominable crime, or is guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, is guilty of a misdemeanour and liable to imprisonment for four years and, if the Court thinks it fit, the Court may order that that person be admitted to a psychiatric hospital for treatment.

PART XII

PROOF IN CERTAIN CASES

Carnal knowl-
edge defined.

61. Whenever, upon the trial of any offence punishable under this Act, it is 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 on proof of any degree of penetration only.

PART XIII

MAKING GUNPOWDER TO COMMIT OFFENCES AND SEARCHING FOR THE SAME

Making or
having gunpow-
der, etc., with
intent to commit
any felony
against this Act.

62. Any person who knowingly has in his possession, or makes or manufactures, any gunpowder or explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent, by means thereof, to commit, or for the purpose of enabling any other person to commit, any of the felonies mentioned in this Act or in any other Act, is guilty of a misdemeanour and liable to imprisonment for two years and, if a male under sixteen years of age, with or without whipping.

63. Any Magistrate in any place in which such gunpowder or other explosive, dangerous or noxious substance or thing, or any such machine, engine, instrument or thing, is suspected to be made, kept or carried for the purpose of being used in committing any of the felonies mentioned in this Act or in any other Act, upon reasonable cause assigned upon oath by any person, may issue a warrant, under his hand and seal, for searching in the daytime any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf or other place, or any carriage, waggon, car, ship, boat or vessel, in which the same is suspected to be made, kept or carried for such purpose as hereinbefore mentioned; and every person, acting in the execution of such warrant, may seize any gunpowder or explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument or thing, which he has good cause to suspect is intended to be used in committing, or enabling any other person to commit, any offence against this Act and, with all convenient speed after the seizure, shall remove the same to such proper place as he thinks fit, and detain the same until ordered by a Judge to restore it to the person who may claim the same.

Magistrate may issue warrant for searching houses, etc., in which explosive substances are suspected to be made for the purpose of committing felonies.

64. Any gunpowder, explosive substance, or dangerous or noxious thing, or any machine, engine, instrument or thing, intended to be used in committing, or to enable any other person to commit, any offence against this Act, and seized and taken possession of under the provisions hereof, shall, in the event of the person in whose possession the same is found or of the owner thereof being convicted of any offence against the Act, be forfeited; and the same shall be sold under the direction of the Court before which any such person may be convicted, and the proceeds thereof shall be paid into the Treasury for the use of the State.

Forfeiture of gunpowder, explosive substance, or dangerous or noxious thing, etc., used in committing any offence against this Act.

PART XIV KIDNAPPING

65. Any person who, without lawful authority, forcibly seizes and confines or imprisons any other person within the State, or kidnaps any other person with intent –

Kidnapping.

- (a) to cause the other person to be secretly confined or imprisoned in the State against his will; or
- (b) to cause the other person to be unlawfully sent or transported out of the State against his will; or

(c) to cause the other person to be in any way held to serve against his will,

is liable to imprisonment for seven years.

Non-resistance person kidnapped not to be a defence but in certain cases.

66. Upon the trial of any offence under section 65 the non-resisting of the person so kidnapped or unlawfully confined shall not be a defence unless it appears to the satisfaction of the Court and jury that it was not caused by threats, duress, force or exhibition of force.

PART XV

OTHER MATTERS

Persons convicted under the Act to pay costs of prosecution if Court thinks fit to order the same.

67. When any person is convicted on any indictment of any assault, whether with or without battery and wounding or either of them, the person may, if the Court thinks fit, in addition to any sentence which the Court may consider 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 loss of time as the Court shall, by affidavit or other inquiry or examination, ascertain to be reasonable; and, unless the sums so awarded are 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.

Such costs may be levied by distress.

68. The Court may, by warrant in writing, 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 the sale shall be paid to the owner; and, in case the sum shall be so levied, the imprisonment awarded until payment of the sum shall thereupon cease.

Persons loitering at night and suspected of any felony against this Act may be apprehended.

69. Any constable or peace officer may take into custody, without a warrant, any person whom he finds loitering in any highway, yard or other place during the night and whom he has good cause to suspect of having committed, or being about to commit, any felony mentioned in this Act, and shall take the person, as soon as reasonably may be, before a Magistrate to be dealt with according to law.

Punishment of principal in the second degree and accessories.

70. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is

by this Act punishable; and every accessory after the fact to any felony punishable under this Act (except murder) is liable to imprisonment for two years, and any person who counsels, aids or abets the commission of any indictable misdemeanour punishable under this Act is liable to be proceeded against, indicted and punished as a principal offender.

71. Whenever whipping may be awarded for any offence against this Act, the Court may, subject to the provisions of the Corporal Punishment Act, sentence the offender to be once privately whipped, and the number of strokes shall be specified by the Court in the sentence.

Whipping.
[12 of 1990].
Ch. 12:73.

72. Every fine or penalty awarded under this Act, and not thereby directed to be paid to the prosecutor or party aggrieved, shall be paid into the Treasury.

Fines and
penalties not
payable to the
prosecutor to be
paid into the
Treasury.

73. All indictable offences mentioned in this Act which shall be committed within the jurisdiction of the Admiralty of England or Northern Ireland, shall be deemed to be offences of the same nature and liable to the same punishment, as if they had been committed upon land within the State, and may be dealt with, inquired of, tried, and determined in the State in the same manner, in all respects, as if they had been actually committed in the State; and in any indictment for any such offence, or for being an accessory to such an offence the venue shall be the same as if the offence had been committed in the State and the offence shall be averred to have been committed "on the high seas"; but nothing herein contained shall alter or affect any of the laws relating to the land, naval or air forces of the State.

Offences
mentioned in this
Act committed
within the
jurisdiction of
the Admiralty.

