

age money,) a sum at and after the rate of twelve shillings and six pence per day, for each and every day he shall be so detained; to be sued for, and recovered in any Court of competent jurisdiction.

Penalties and forfeitures to be sued for, as directed by 8 Geo. 4, c. 21.

XI. *And be it further enacted*, That all the penalties and forfeitures in this Act mentioned, may be prosecuted, sued for, and recovered, in the same manner, and applied to the uses directed in and by the said hereinbefore in part recited Act.

CAP. XXI.

An Act to amend the Statute Law, relative to offences against the Person, and to provide for the more effectual punishment of such offences.

Passed 10th February, 1829.

WHEREAS by an Act of the Parliament of the United Kingdom, passed in the ninth year of the Reign of His present Majesty, intituled, "An Act for consolidating and amending the Statutes in England relative to offences against the Person," various Statutes, the Titles of which are therein particularly specified, were thereby repealed, and other provisions made in lieu thereof: And whereas several of the said Statutes so lately repealed in England, have hitherto been considered in force, and acted upon in this Province; and it is deemed advisable that the operation of the same should also cease in this Province, and necessary provision made in lieu thereof by Act of Assembly:

Preamble.

I. *Be it therefore enacted by the Lieutenant-Governor, Council and Assembly*, That the Statutes or Acts of Parliament, or parts of Statutes or Acts of Parliament, so repealed in England by the said Statute or Act first mentioned, or such of them as are in force in this Province, be, and the same are hereby declared to be repealed and of no force or effect within the same; any

Acts of Parliament repealed in England by 9 Geo. 4, c. 81, or such of them as are in force in this Province repealed.

Law,

Law, usage or custom, to the contrary notwithstanding; except nevertheless so far as any of the said Acts may repeal the whole or any part of any other Acts.

Except so far as any of the Acts may repeal other Acts.

II. *And be it enacted*, That every offence which before the commencement of this Act would have amounted to Petit Treason shall be deemed to be murder only, and no greater offence; and all Persons guilty in respect thereof, whether as principals or as accessaries, shall be dealt with, indicted, tried, and punished as principals and accessaries in murder.

Petit Treason to be treated in all respects as murder.

III. *And be it further enacted*, That every person convicted of murder, or of being an accessory before the fact to murder, shall suffer death as a Felon, and every accessory after the fact to murder, shall be liable to be punished by fine and imprisonment, or either; such imprisonment to be with or without hard labour in the common Gaol or House of Correction at the discretion of the Court, for any term not exceeding four years.

Punishment of Principal and Accessaries in murder.

IV. *And be it enacted*, That where any person being feloniously stricken, poisoned, or otherwise hurt upon the Sea, or at any place out of this Province, shall die of such stroke, poisoning or hurt, in this Province, every offence committed in such case, whether the same shall amount to the offence of murder or manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the County or City and County in which such death shall happen, in the same manner in all respects, as if such offence had been wholly committed in that County, or City and County.

Provision for the trial of murder and manslaughter where the death or the cause of death only happens in this Province.

V. *And be it further enacted*, That every person convicted of manslaughter, shall be liable to be imprisoned with or without hard labour, in the common Gaol or House of Correction, for any

Punishment of manslaughter.

any term not exceeding three years; or to pay such fine as the Court shall award, or to be both fined and imprisoned; if the Court should so award.

As to homicide not felonious.

VI. *Provided always, and be it enacted* That 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.

Attempts to murder when evidenced by certain Acts shall be capital.

VII. *And be it further enacted,* That if any person unlawfully and maliciously shall administer or attempt to administer to any Person, or shall cause to be taken by any Person, any poison or other destructive thing, or shall unlawfully and maliciously attempt to drown, suffocate, or strangle any Person, or shall unlawfully and maliciously shoot at any person or shall unlawfully or maliciously stab, cut, or wound any Person, with intent in any of the cases aforesaid, to murder such person, every such offender shall be guilty of Felony, and being convicted thereof, shall suffer death as a Felon.

Administering poison or using any means to procure the miscarriage of a woman quick with child.

VIII. *And be it enacted,* That if any person with intent to procure the miscarriage of any woman, then being quick with Child, unlawfully and maliciously shall administer to her, or cause to be taken by her, any poison, or other noxious thing, or shall use any instrument or other means whatever, with the like intent, every such offender, and every person, counselling, aiding, or abetting such offender, shall be guilty of Felony, and being thereof convicted, shall suffer death as a Felon; and if any person, with intent to

The like as to a woman not quick with child deemed Felony.

procure the miscarriage of any woman not being, or not being proved to be, then quick with Child, unlawfully and maliciously shall administer to her, or cause to be taken by her, any medicine, or other thing; or shall use any instrument or other means whatever, with the like intent, every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of Felony,

and

and being convicted thereof, shall be liable to be imprisoned with or without hard labour, in the Common Gaol or House of Correction, for any term not exceeding two years, and if a male, to be once, twice, or thrice publicly or privately whipped, (if the Court shall so think fit,) in addition to such imprisonment.

IX. *And be it enacted*, That every person convicted of the abominable crime of Buggary, committed either with mankind, or with any animal, shall suffer death as a Felon. Sodomy.

X. *And be it enacted*, that every person convicted of the crime of Rape, shall suffer death as a Felon. Rape.

XI. *And be it enacted*, If any person shall unlawfully and carnally know and abuse any Girl under the age of ten years, every such offender, shall be guilty of Felony, and being convicted thereof, shall suffer death as a Felon; and if any person shall unlawfully and carnally know and abuse any Girl, being above the age of ten years, and under the age of twelve years, every such person shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned with or without hard labour, for such term as the Court shall award. Carnal knowledge of a Girl under 10.
The like of a Girl above 10 and under 12.

XII. *And whereas*, upon trials for the crimes of Buggary and of Rape, and of carnally abusing Girls under the respective ages hereinbefore mentioned, offenders sometimes escape by reason of the difficulty of the proof which has been required of the completion of these several crimes; for remedy thereof, be it enacted, that it shall not be necessary in any of those cases, to prove the actual emission of seed in order to constitute a carnal knowledge, but that the carnal knowledge shall be deemed complete upon the proof of penetration only. Proof of carnal knowledge.

XIII. *And be it enacted*, That if any person shall

Unlawful abduction
of a girl from her
Parents or Guardians.

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, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment, by fine or imprisonment, or by both as the Court shall award.

Bigamy.

XIV. *And be it enacted*, That if any person 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 this Province, or elsewhere, every such offender shall be guilty of Felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour, for any term not exceeding two years, and also fined, if the Court should so award; and any such offence may be dealt with, inquired of, tried, determined, and punished in the County where the offender shall be apprehended, or be in custody, as if the offence had been actually committed in that County: *Provided always*, that nothing herein contained, shall extend to any second marriage, contracted out of this Province by any other than a subject of His Majesty; or to any person marrying a second time, where 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.

Place of trial.

Exceptions.

XV. *And whereas*, it is expedient that a summary power of punishing persons for common

assaults

assaults and batteries should be provided under the limitations hereinafter mentioned: *Be it therefore enacted*, That where any person shall unlawfully assault or beat any other person, it shall be lawful for two Justices of the Peace, upon complaint of the party aggrieved, to hear and determine such offence, and the offender, upon conviction thereof before them, shall forfeit and pay such fine as shall appear to them to be meet, not exceeding, together with costs, if ordered, the sum of five pounds, which fine shall be paid to the Overseers of the Poor, some or one of them of the City or Parish, in which the offence shall have been committed, to be by them applied to the support of the Poor of such City or Parish; and the evidence of any Inhabitants of the City or Parish, shall be admitted in proof of the offence notwithstanding such application of the fine incurred thereby; and if such fine, as shall be awarded by the said Justices, together with the costs, if ordered, shall not be paid either immediately after the conviction, or within such period as the said Justices shall, at the time of the conviction, appoint, it shall be lawful for them to commit the offender to the Common Gaol or House of Correction, there to be imprisoned for any term, not exceeding one calendar month, unless such fine and costs be sooner paid; but if the Justices, upon the hearing of any such case of assault or battery, shall deem the offence not to be proved, or shall find the assault or battery to have been justified, or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, they shall forthwith make out a Certificate under their hands, stating the fact of such dismissal, and shall deliver such Certificate to the party against whom the complaint was preferred.

Persons committing any common assault or battery may be compelled by two Magistrates to pay fine and costs not exceeding £ 5.

Application of the fine.

Commitment on non payment.

If the Magistrates dismiss the complaint they shall make out a Certificate to that effect.

XVI. *And be it enacted*, That if any person against whom any such complaint shall have been preferred

E.

preferred

Such Certificates or conviction shall be a bar to any other proceedings.

preferred for any common assault or battery, shall have obtained such Certificate as aforesaid, or having been convicted, shall have paid the whole amount adjudged to be paid under such conviction, or shall have suffered the imprisonment awarded for non-payment thereof, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

These provisions not to apply to aggravated cases, &c.

XVII. *Provided always, and be it enacted,* That in case the Justices shall find the assault or battery complained of, to have been accompanied by any attempt to commit felony, or shall be of opinion that the same is from any other circumstance a fit subject for a prosecution by Indictment, they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as they would have done before the passing of this Act: *Provided also,* that nothing herein contained shall authorize any Justices of the Peace to hear and determine any case of assault or battery, in which any question shall arise as to the title to any lands, tenements, or hereditaments, or any interest therein, or accruing therefrom, or any execution under the process of any Court of Justice.

Provision for the punishment of Accessories to offences against this Act.

XVIII. *And be it enacted,* That every Accessary before or after the fact to any Felony punishable under this Act, for whom no punishment has been hereinbefore provided, shall be liable to be imprisoned with or without hard labour, in the Common Gaol or House of Correction, for any term not exceeding two years, or to pay such fine as the Court shall award; and every person who shall counsel, aid or abet the commission of any misdemeanor, punishable under this Act, shall be liable to be proceeded against, and punished as a principal offender.

XIX. And for the more effectual prosecution of offences punishable upon summary conviction by virtue of this Act: *Be it enacted*, that where any person shall be charged, on the oath of a credible witness before any Justice of the Peace with any such offence, the Justice may summon the person charged, to appear before any two Justices of the Peace, at time and place to be named in such summons: and if he shall not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him,) the Justices may either proceed to hear and determine the case *ex parte*, or may issue their warrant for apprehending such person and bringing him before them, or the Justice before whom the charge shall be made, may (if he shall so think fit,) issue such warrant, in the first instance without any previous summons.

Provision for offences against this Act punishable on summary conviction.

XX. *Provided always, and be it enacted*, That the prosecution for every offence punishable on summary conviction, by virtue of this Act, shall be commenced within one calendar month after the commission of the offence, and not otherwise.

F.no for summary proceedings.

XXI. *And be it enacted*, That the Justices before whom any person shall be summarily convicted of any offence against this Act, may cause the conviction to be drawn up in the following form of words, or any other form of words to the same effect, as the case shall require; (that is to say;)

Form of conviction

“ Be it remembered that on the day of _____ in the year of our Lord _____ at _____ in the County of _____ A. B. is convicted before us, [naming the Justices,] two of His Majesty's Justices of the Peace for the said County, [or City and County as the case may be] for that he the said A. B, did, [specify the offence, and the time and place when and where the same was committed,

committed, as the case may be,] and we, the said Justices adjudge the said A. B. for his said offence, to forfeit and pay the sum of, [here state the amount of the fine imposed,] and also to pay the sum of for costs; and in default of immediate payment of the said sums, to be imprisoned in the for the space of unless the said sums shall be sooner paid, [or, we order that the said sums shall be paid by the said A. B. on or before the day of] and we direct that the said sum of [i. e. the amount of the fine] shall be paid to the Overseers of the Poor of aforesaid, in which the said offence was committed, or some one of them, to be by them applied to the support of the Poor of the said and we order that the said sum of for costs, shall be paid to C. D. [the party aggrieved. Given under our hands the day and year first above mentioned.”

Exceptions to the operation of this Act.

XXII. *Provided always, and be it enacted,* That nothing in this Act contained, shall affect or alter any Statute, or Act, now in force in this Province, so far as it relates to the crimes of High Treason or Burglary, or to any branch of the Revenue, or Customs, or for the prevention of Smuggling.

Commencement of this Act.

XXIII. *Provided also, and be it enacted,* That this Act shall not commence and take effect until the first day of July next; and that all offences committed before that day, shall be dealt with and punished as if this Act had not been passed.