

26 Geo. 3, C. 10, so far as it relates to the City of Saint John, revived for Two Years.

Twenty sixth Year of the Reign of His Majesty King George the Third, intituled *An Act for regulating the Courts of Law established in the several Counties for the Trial of Causes to the Value of Forty Shillings*, be and the same is hereby revived and declared to be in full Force for the Term of Two Years, so far as the same relates to the City of Saint John.

### CAP. XIV.

An Act for improving the Administration of Justice in Criminal Cases.

*Passed 25th March 1831.*

Preamble.

**WHEREAS** by Two several Acts of the Parliament of the United Kingdom, one of which was passed in the Seventh Year of the Reign of His late Majesty King George the Fourth, and is intituled *An Act for improving the Administration of Criminal Justice in England*,\* and the other was passed in the Seventh and Eighth Years of the same Reign, and is intituled *An Act for repealing various Statutes in England relative to the Benefit of Clergy, and to Larceny and other Offences connected therewith*

\* The Statutes repealed by this Act are as follows :—

3 Ed. 1. c. 15.	6 Ann (vulgo 5 Ann.) C. 31. (partially)
7 H. 5.	6 G. 1. c. 23.
9 H. 5. c. 1.	25 G. 2. c. 36. s. 11.
18 H. 6. c. 12.	27 G. 2. c. 3. s. 3.
23 H. 6. c. 9. (partially)	18 G. 3. c. 19. s. 7, 8.
1 Ric. 3. c. 3.	43 G. 3. c. 59. s. 3.
3 H. 7. c. 3. (partially)	43 G. 3. c. 113. s. 5.
25 H. 8. c. 3.	56 G. 3. c. 73.
32 H. 8. c. 3. (partially)	58 G. 3. c. 70. (partially)
2 & 3 Ed. 6. c. 24.	59 G. 3. c. 27.
5 & 6 Ed. 6. c. 10.	59 G. 3. c. 96.
1 & 2 P. & M. c. 13.	1 G. 4. c. 102.
2 & 3 P. & M. c. 10.	3 G. 4. c. 38. (partially)
4 W. & M. c. 9.	3 G. 4. c. 126. s. 60.
10 & 11 W. 3. c. 23. (partially)	6 G. 4. c. 56.
1 Ann. st. 2. c. 9. s. 1.	

*‘ therewith, and to malicious Injuries to Pro-  
 ‘ perty, and to Remedies against the Hundred,†  
 ‘ various*

† The Statutes repealed by this Act are as follows :—

9 H. 3. st. 2. c. 10.	22 & 23 Car. 2. c. 11. s. 12.
8 Ed. 1. c. 2, 20.	22 & 23 Car. 2. c. 25. except s. 1 to 3.
13 Ed. 1. st. 1. c. 46. (partially)	3 W. & M. c. 9.
13 Ed. 1. st. 2. (partially)	4 W. & M. c. 23 (partially.)
21 Ed. 1. st. 2.	4 W. & M. c. 24. s. 13.
1 Ed. 3. st. 1. c. 8.	10 W. 3. c. 12. (vulgo 10 & 11 W. 3. c. 23.) except s. 7, 8.
25 Ed. 3. st. 6. (vulgo st. 3) c. 4, 5.	1 Ann. st. 2. c. 9. except s. 3.
28 Ed. 3. c. 11.	6 Ann. c. 9. (vulgo 5 Ann. c. 6.)
34 Ed. 3. c. 22.	12 Ann. st. 1. c. 7.
37 Ed. 3. c. 19.	13 Ann. c. 21. (vulgo 12 Ann. st. 2. c. 18.) s. 4, 5.
8 H. 6. c. 12. s. 3.	1 G. 1. st. 2. c. 5. s. 4, 6.
33 H. 6. c. 1.	1 G. 1. st. 2. c. 48.
1 H. 7. c. 7.	4 G. 1. c. 11. except s. 7.
4 H. 7. c. 13.	5 G. 1. c. 23.
21 H. 8. c. 7.	6 G. 1. c. 16.
21 H. 8. c. 11.	9 G. 1. c. 22.
25 H. 8. c. 1.	2 G. 2. c. 25. s. 3.
23 H. 8. c. 11.	4 G. 2. c. 32.
31 H. 8. c. 2.	6 G. 2. c. 37.
33 H. 8. c. 1.	8 G. 2. c. 16.
34 & 35 H. 8. c. 14.	8 G. 2. c. 20.
35 H. 8. c. 17.	10 G. 2. c. 32. except s. 10.
37 H. 8. c. 6.	11 G. 2. c. 22. s. 5 to the end.
37 H. 8. c. 8. s. 2.	13 G. 2. c. 21.
1 Ed. 6. c. 12. s. 10, 14.	14 G. 2. c. 6.
2 & 3 Ed. 6. c. 33.	15 G. 2. c. 34.
5 & 6 Ed. 6. c. 9.	22 G. 2. c. 24.
4 & 5 P. & M. c. 4. (partially)	22 G. 2. c. 46. s. 34.
5 Eliz. c. 10.	24 G. 2. c. 45.
5 Eliz. c. 21.	25 G. 2. c. 10.
8 Eliz. c. 4.	25 G. 2. c. 36. s. 1.
13 Eliz. c. 25. s. 3, 18, 19.	26 G. 2. c. 19. s. 1, 2, 3, 4, &
18 Eliz. c. 7. (partially)	28 G. 2. c. 19. s. 3.
27 Eliz. c. 13.	29 G. 2. c. 30.
31 Eliz. c. 4.	29 G. 2. c. 36. s. 6, 7, 8, 9.
31 Eliz. c. 12. s. 5.	30 G. 2. c. 24. s. 1.
39 Eliz. c. 15.	31 G. 2. c. 35.
43 Eliz. c. 7.	2 G. 3. c. 29.
43 Eliz. c. 13.	4 G. 3. c. 12.
2 Jac. 1. c. 27. (partially)	4 G. 3. c. 31.
[Recognized as existing in 2 G. 3. c. 29.]	5 G. 3. c. 14.
3 Jac. 1. c. 13.	6 G. 3. c. 36.
7 Jac. 1. c. 13.	6 G. 3. c. 48.
[The last two Acts are recognized as existing in 16 G. 3. c. 30.]	9 G. 3. c. 29.
15 Car. 2. c. 2.	9 G. 3. c. 41.
22 Car. 2. c. 5.	10 G. 3. c. 18.
22 & 23 Car. 2. c. 7.	10 G. 3. c. 48.
	13 G. 3. c. 31. s. 4, 5.

‘ various Statutes therein particularly specified,  
 ‘ were repealed : And Whereas divers of the  
 ‘ said Statutes so repealed in England, have hith-  
 ‘ erto been considered in Force and acted upon  
 ‘ in this Province, and it is deemed expedient  
 ‘ that the Operation of the same should also  
 ‘ cease in this Province, and that divers Acts  
 ‘ of Assembly hereinafter specified should also  
 ‘ be repealed, and Provision be made by Act of  
 ‘ Assembly for improving the Administration of  
 ‘ Criminal Justice, after the Example of the Im-  
 ‘ perial Parliament in that respect :’

Acts of Parli-  
 ment repealed in  
 England by 7  
 Geo. 4, c. 64,  
 and 7 & 8 Geo.  
 4, c. 27, or such  
 or so much of  
 them as are in  
 force in this  
 Province, de-  
 clared to be re-

I. Be it therefore enacted by the President,  
 Council, and Assembly, That all and singular  
 the Statutes or Acts of Parliament, or Parts  
 of Statutes or Acts of Parliament, repealed in  
 England by the said Two several Acts of Par-  
 liament herein before recited, or such or so  
 much of them as are or have been deemed to be  
 in Force in this Province, be and the same are  
 hereby declared to be repealed and of no Force  
 or

13 G. 3. c. 32.  
 13 G. 3. c. 33.  
 16 G. 3. c. 30.  
 19 G. 3. c. 74. except s. 70.  
 21 G. 3. c. 68.  
 21 G. 3. c. 69.  
 22 G. 3. c. 58.  
 31 G. 3. c. 35.  
 31 G. 3. c. 51.  
 38 G. 3. c. 67. s. 5, 6.  
 36 G. 3. c. 9. s. 3 to the end.  
 39 G. 3. c. 85.  
 39 & 40 G. 3. c. 77. s. 1, 5.  
 41 G. 3. c. 24. (U. K.)  
 42 G. 3. c. 67.  
 42 G. 3. c. 107.  
 43 G. 3. c. 58. part of s. 1.  
 43 G. 3. c. 113. except s. 6.  
 44 G. 3. c. 92. s. 7, 8.  
 45 G. 3. c. 66.  
 48 G. 3. c. 129.  
 48 G. 3. c. 144.

51 G. 3. c. 41.  
 51 G. 3. c. 120.  
 52 G. 3. c. 63.  
 52 G. 3. c. 64.  
 52 G. 3. c. 130.  
 53 G. 3. c. 162. (partially)  
 56 G. 3. c. 125.  
 57 G. 3. c. 19. s. 38.  
 1 G. 4. c. 56.  
 1 G. 4. c. 115. (partially)  
 1 G. 4. c. 117.  
 3 G. 4. c. 24.  
 3 G. 4. c. 33.  
 3 G. 4. c. 38. (partially)  
 3 G. 4. c. 114. (partially)  
 3 G. 4. c. 126. s. 128.  
 4 G. 4. c. 46. (partially)  
 4 G. 4. c. 53. (partially)  
 4 G. 4. c. 54. (partially)  
 6 G. 4. c. 19.  
 6 G. 4. c. 94. s. 7, 8, 9, 10.  
 7 G. 4. c. 69.

And all Acts continuing or perpetuating any of the foregoing  
 Acts or Parts thereof, so far as relates to the continuing or perpe-  
 tuating of the same.

or Effect within the same, any Law, Usage, or Custom to the contrary notwithstanding; except nevertheless so far as any of the said Statutes may repeal the Whole or any Part of any other Statutes.

II. And be it enacted, That an Act of Assembly made and passed in the Twenty sixth Year of the Reign of King George the Third, intituled *An Act for the Conviction and Punishment of Criminals who shall refuse to plead when arraigned, and for the Trial of those who shall peremptorily challenge more than Twenty*; and an Act made and passed in the same year of the same Reign, intituled *An Act for the Trial and Punishment of Criminals who shall steal Bills of Exchange, Bonds, Warrants, Bills or Promissory Notes*; and an Act made and passed in the Twenty ninth Year of the same Reign, intituled *An Act relating to the Punishment of Persons convicted of Felony within the Benefit of Clergy*; and an Act made and passed in the Forty second Year of the same Reign, intituled *An Act to render Persons convicted of Petty Larceny competent Witnesses*; and an Act made and passed in the Fiftieth Year of the same Reign, intituled *An Act for making further Provisions to prevent the destroying and murdering of Bastard Children, and for the further Prevention of the malicious using of Means to procure the Miscarriage of Women*; and an Act made and passed in the Fifty sixth Year of the same Reign, intituled *An Act to provide for the Punishment of Horse Stealing*; and an Act made and passed in the same Year of the same Reign, intituled *An Act to prevent the cutting or breaking down the Bank of any River, Sea-Bank or Dyke, and for the Preservation of the same*; and an Act made and passed in the Tenth and Eleventh Years of the Reign of His late Majesty King George the Fourth, intituled *An Act to repeal an*

Acts of Assembly.  
26 Geo. 3. c. 60,

26 Geo. 3. c. 61,

29 Geo. 3. c. 7,

42 Geo. 3. c. 4,

50 Geo. 3. c. 2,

56 Geo. 3. c. 5,

56 Geo. 3. c. 9,

10 & 11 Geo. 4.  
c. 32.

*an Act to define and describe the Crime of Petit Larceny, and to make Provision for the Punishment of the same; and an Act made and passed in the same Year of the same Reign, intituled An Act in Addition to and in Amendment of an Act, intituled An Act relating to the Punishment of Persons convicted of Felony within the Benefit of Clergy, be and the same are hereby repealed; except so far as any of the said Acts may repeal the Whole or any Part of any other Acts.*

10 & 11 Geo. 4.  
c. 36,

repealed.

Persons charged with Felony not bailable by a Justice of the Peace, unless expressly made so by Statute.

III. And be it enacted, That where any Person shall be taken on a Charge of Felony, or Suspicion of Felony, before One or more Justice or Justices of the Peace, and the Evidencè shall be such as not to warrant a Dismissal of the Charge, such Person shall be committed to Prison by such Justice or Justices, except in Cases where Authority may be expressly given to such Justice or Justices to admit to Bail, by any Act or Statute.

Before any Person charged with Felony shall be committed or bailed, the Justice shall take down in Writing the Examination of the Prisoner and the Information of the Witnesses, and bind the Witnesses to appear at the Trial.

IV. And be it enacted, That such Justice or Justices, before he or they shall commit to Prison, or admit to Bail, any Person arrested for Felony, or on Suspicion of Felony, shall take the Examination of such Person, and the Information upon Oath of those who shall know the Facts and Circumstances of the Case, and shall put the same, or as much thereof as shall be material, into Writing, and shall certify such Bailment in Writing; and every such Justice shall have Authority to bind by Recognizance all such Persons as know or declare any Thing material touching any such Felony, or Suspicion of Felony, to appear at the next Supreme Court, or Court of Oyer and Terminer and Gaol Delivery, or Sessions of the Peace, at which the Trial thereof is intended to be, then and there to prosecute or give Evidence against the Party accused; and such Justice and Justicès respectively shall

shall subscribe all such Examinations, Informations, Bailments and Recognizances, and deliver or transmit the same to the proper Officer of the Court in which the Trial is to be, before or at the Opening of the Court.

V. Provided always, and be it enacted, That any Person charged with Felony, or Suspicion of Felony, may be admitted to Bail by Order of the Supreme Court, or any One of the Judges of the same Court, without bringing the Body of the Person charged before such Court or Judge; and such Court or Judge may order to be transmitted to them or him the Evidence taken before the Justice or Justices of the Peace against the Person charged, for the Purpose of considering an Application for Bail, without a Writ of *Certiorari* being issued for that Purpose; and any Order for Bailment to be made by such Court or Judge shall specify the Number of Sureties, and the Amount in which Security is to be taken; and Bailment by virtue of such Order may be made by any Justice or Justices of the Peace of the County or Place where the Person charged may be in Custody; which Justice or Justices shall require good and sufficient Bail to the Number and Amount specified in the Order, and shall certify the Bailment in Writing, and subscribe the same, and deliver or transmit the same, together with the Order for Bailment, to the proper Officer of the Court in which the Trial is to be, before or at the Opening of the Court.

VI. And be it enacted, That every Justice of the Peace before whom any Person shall be taken on a Charge of Misdemeanor, or Suspicion thereof, shall take the Examination of the Person Charged, and the Information upon Oath of those who shall know the Facts and Circumstances of the Case, and shall put the same, or as much thereof as shall be material, into Writing, before he shall commit to Prison or re-

Examinations,  
&c. to be transmitted to the Court.

Judges of the Supreme Court may order Bail in Cases of Felony without bringing the Body of the Person charged before them; and the Evidence may be transmitted without a *Certiorari*.

A Justice of the Peace may take the Bail ordered by the Judge of the Supreme Court.

Duty of Justice on Charges of Misdemeanor.

quire

quire Bail from the Person so charged ; and in every Case of Bailment shall certify the Bailment in Writing ; and shall have Authority to bind all Persons by Recognizance to appear to prosecute or give Evidence against the Party accused, in like Manner as in Cases of Felony ; and shall subscribe all Examinations, Informations, Bailments and Recognizances, and deliver or transmit the same to the proper Officer of the Court in which the Trial is to be, before or at the Opening of the Court, in like Manner as in Cases of Felony : Provided always, that nothing herein contained shall extend to Cases of Assault and Battery in which Summary Proceedings are had under the Provisions of an Act of Assembly passed in the Ninth and Tenth Years of the Reign of His late Majesty, intituled *An Act to amend the Statute Law relative to Offences against the Person, and to provide for the more effectual Punishment of such Offences.*

Duty of Coroner  
on Inquisitions  
for Murder or  
Manslaughter,  
&c.

VII. And be it enacted, That every Coroner, upon any Inquisition before him taken, whereby any Person shall be indicted for Manslaughter or Murder, or as an Accessory to Murder before the Fact, shall put in Writing the Evidence given to the Jury before him, or as much thereof as shall be material ; and shall have Authority to bind by Recognizance all such Persons as know or declare any Thing material touching the said Manslaughter or Murder, or the said Offence of being Accessory to Murder, to appear at the next Supreme Court, or Court of Oyer and Terminer and Gaol Delivery, at which the Trial is to be, then and there to prosecute or give Evidence against the Party charged ; and every such Coroner shall certify and subscribe the same Evidence, and all such Recognizances, and also the Inquisition before him taken, and shall deliver or transmit the same to the proper Officer of the Court in which the Trial is to be, before or at Opening of the Court.

VIII.

VIII. And be it enacted, That every Felony shall be tried and determined in the Supreme Court, or Court of Oyer and Terminer and Gaol Delivery, except in Cases where Power may be specially given by Act or Statute to any other Court to try and determine any Felony.

IX. And for the more effectual Prosecution of Accessories before the Fact to Felony; Be it enacted; That if any Person shall counsel, procure or command any other Person to commit any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes, Act or Acts of Assembly, made or to be made, the Person so counselling, procuring or commanding shall be deemed guilty of Felony, and may be indicted and convicted, either as an Accessory before the Fact to the principal Felony, together with the principal Felon, or after the Conviction of the principal Felon, or may be indicted and convicted of a substantive Felony, whether the principal Felon shall or shall not have been previously convicted, or shall or shall not be amenable to Justice, and may be punished in the same Manner as any Accessory before the Fact to the same Felony, if convicted as an Accessory, may be punished; and the Offence of the Person so counselling, procuring or commanding, howsoever indicted; may be inquired of, tried, determined and punished by any Court which shall have Jurisdiction to try the principal Felon, in the same Manner as if such Offence had been committed at the same Place as the principal Felony, although such Offence may have been committed either on the High Seas or at any Place on Land, whether within His Majesty's Dominions or without; and that in case the principal Felony shall have been committed within the Body of any County, and the Offence of counselling, procuring or commanding shall have been committed within the Body of any

All Felonies to be tried in the Supreme Court or Court of Oyer and Terminer.

Accessory before the Fact may be tried as such, or as a substantive Felon, by any Court which has Jurisdiction to try the principal Felon, although the Offence be committed on the High Seas or abroad.

If the Offences be committed in different Counties, Accessory may be tried in either.



other County, the last mentioned Offence may be inquired of, tried, determined and punished in either of such Counties: Provided always, that no Person who shall be once duly tried for any such Offence, whether as an Accessory before the Fact or as for a substantive Felony, shall be liable to be again indicted or tried for the same Offence.

Accessory after the Fact may be tried by any Court which has Jurisdiction to try the principal Felon.

‘X. And for the more effectual Prosecution of Accessories after the Fact to Felony;’ Be it enacted, That if any Person shall become an Accessory after the Fact to any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes, Act or Acts of Assembly, made or to be made, the Offence of such Person shall be deemed Felony, and may be inquired of, tried, determined and punished by any Court which shall have Jurisdiction to try the principal Felon, in the same Manner as if the Act, by reason whereof such Person shall have become an Accessory, had been committed at the same Place as the principal Felony, although such Act may have been committed either on the High Seas or at any Place on Land, whether within His Majesty’s Dominions or without; and that in case the principal Felony shall have been committed within the Body of any County, and the Act by reason whereof any Person shall have become Accessory shall have been committed within the Body of any other County, the Offence of such Accessory may be inquired of, tried, determined and punished in either of such Counties: Provided always, that no Person who shall be once duly tried for any Offence of being an Accessory shall be liable to be again indicted or tried for the same Offence.

If the Offences be committed in different Counties, Accessory may be tried in either.

Accessory may be prosecuted after Conviction of the Principal, although the Principal be not attainted.

‘XI. And in order that all Accessories may be convicted and punished in Cases where the principal Felon is not attainted;’ Be it enacted, That if any principal Offender shall be in any-  
wise

wise convicted of any Felony, it shall be lawful to proceed against any Accessory, either before or after the Fact, in the same Manner as if such principal Felon had been attainted thereof, notwithstanding such principal Felon shall die or be pardoned, or otherwise delivered before Attainder; and every such Accessory shall suffer the same Punishment, if he or she be in anywise convicted, as he or she should have suffered if the Principal had been attainted.

‘XII. And for the more effectual Prosecution of Offences committed near the Boundaries of Counties, or partly in one County and partly in another, or in Places with respect to which it may be uncertain within which of Two or more Counties they are situate;’ Be it enacted, That where any Felony or Misdemeanor shall be committed on the Boundary or Boundaries of Two or more Counties, or within the Distance of One Mile from any such Boundary or Boundaries, or in any Place or Places with respect to which it may be uncertain within which of Two or more Counties they may be situate, or where any Felony or Misdemeanor shall be begun in One County and completed in another, every such Felony or Misdemeanor may be dealt with, inquired of, tried, determined and punished in any of the said Counties, in the same Manner as if it had been actually and wholly committed therein.

‘XIII. And for the more effectual Prosecution of Offences committed during Journeys from Place to Place;’ Be it enacted, That where any Felony or Misdemeanor shall be committed on any Person, or on or in respect of any Property in or upon any Coach, Waggon, Cart, Sleigh, Sled or other Carriage whatever employed in any Journey, or shall be committed on any Person, or on or in respect of any Property on board any Vessel or Boat whatever employed on any Voyage or Journey upon any navigable River,

Offences committed on the Boundaries of Counties, or where it is uncertain in which of Two Counties the Place is situate, may be tried in either County.

Offences committed during a Journey or Voyage may be tried in any County through which the Coach, &c. passed.

ver, Canal, or Inland Navigation, or on or in respect of any Property in, upon or forming Part of any Raft whatever passing in or upon any such navigable River, Canal, or Inland Navigation, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined and punished in any County through any Part whereof such Coach, Waggon, Cart, Sleigh, Sled, Carriage, Vessel, Boat or Raft shall have passed in the Course of the Journey, Voyage or Passage during which such Felony or Misdemeanor shall have been committed, in the same Manner as if it had been actually in such County ; and in all Cases where the Side, Centre or other Part of any Highway, or the Side, Bank, Centre or other Part of any such River, Canal or Navigation, shall constitute the Boundary of any Two Counties, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined and punished in either of the said Counties through or adjoining to or by the boundary of any Part whereof such Coach, Waggon, Cart, Sleigh, Sled, Carriage, Vessel, Boat or Raft shall have passed in the Course of the Journey, Voyage or Passage during which such Felony or Misdemeanor shall have been committed, in the same Manner as if it had been actually committed in such County.

‘XIV. And in order to remove the Difficulty of stating the Names of all the Owners of Property in the Case of Partners and other Joint Owners ;’ Be it enacted, That in any Indictment or Information for any Felony or Misdemeanor, wherein it shall be requisite to state the Ownership of any Property whatsoever, whether real or personal, which shall belong to or be in the Possession of more than One Person, whether such Persons be Partners in Trade, Joint Tenants, Parceners or Tenants in Common, it shall be sufficient to name One of such Persons, and

In indictments for Offences committed on the Property of Partners it may be laid in any one Partner by Name and others.

to state such Property to belong to the Person so named, and another, or others, as the Case may be ; and whenever, in any Indictment or Information for any Felony or Misdemeanor, it shall be necessary to mention, for any Purpose whatsoever, any Partners, Joint Tenants, Parceners, or Tenants in Common, it shall be sufficient to describe them in the Manner aforesaid ; and this Provision shall be construed to extend to all Joint Stock Companies and Trustees.

‘ XV. And with respect to the Property of ‘ Counties ; ’ Be it enacted, That in any Indictment or Information for any Felony or Misdemeanor committed in, upon or with respect to any Bridge, Court House, Gaol, House of Correction, Infirmary, Asylum or other Building erected or maintained in Whole or in Part at the Expense of any County or City and County, or on or with respect to any Goods or Chattels whatsoever, provided for or at the Expense of any County or City and County, to be used for building, altering or repairing any Bridge, Court House or other such Building as aforesaid, or to be used in or with any such Bridge, Court House or other Building, it shall be sufficient to state any such Property, real or personal, to belong to the Inhabitants of such County or City and County ; and it shall not be necessary to specify the Names of any of such Inhabitants.

Property belonging to Counties, &c. may be laid in the Inhabitants of the County.

‘ XVI. And with respect to Property under the ‘ Management of Public Officers ; ’ Be it enacted, That in any Indictment or Information for any Felony or Misdemeanor committed on or with respect to any Building, or any Goods and Chattels, or any other Property, real or personal, whatsoever, in the Occupation of, or under the Superintendence, Charge or Management of any Public Officer or Commissioner whatsoever, or any County or Parish Officer or Commissioner whatsoever, it shall be sufficient to state any such

Property under the Management of Public Officers may be laid in the Public Officer.

such Property to belong to the Officer or Officers, Commissioner or Commissioners in whose Occupation, or within or under whose Superintendence, Charge or Management such Property shall be, and it shall not be necessary to specify the Names of any of such Officers or Commissioners.

Indictment not  
to abate by Dil-  
atory Plea of  
Misnomer.

‘XVII. And for preventing Abuses from dilatory Pleas;’ Be it enacted, That no Indictment or Information shall be abated by reason of any dilatory Plea of Misnomer or of Want of Addition, or of wrong Addition of the Party offering such Plea, if the Court shall be satisfied by Affidavit or otherwise of the Truth of such Plea; but in such Case the Court shall forthwith cause the Indictment or Information to be amended according to the Truth, and shall call upon such Party to plead thereto, and shall proceed as if no such dilatory Plea had been pleaded.

What defects  
shall not vitiate  
an Indictment  
after Verdict, or  
otherwise.

‘XVIII. And that the Punishment of Offenders may be less frequently intercepted in consequence of technical Niceties;’ Be it enacted, That no Judgment upon any Indictment or Information for any Felony or Misdemeanor, whether upon Demurrer, or after Verdict or Outlawry, or by Confession, Default or otherwise, shall be given in favor of any Prisoner or Defendant, or stayed or reversed for Want of the Averment of any Matter unnecessary to be proved, nor for the Omission of the Words “as appears by the Record,” or of the Words “with Force and Arms,” or of the Words “against the Peace,” nor for the Insertion of the Words “against the Form of the Statute or Act of Assembly,” instead of the Words “against the Form of the Statutes or Acts of Assembly,” or *vice versâ*, nor for that any Person or Persons mentioned in the Indictment or Information is or are designated by a Name of Office or other descriptive Appellation instead of his, her or their proper Name

or Names, nor for omitting to state the Time at which the Offence was committed, in any Case where Time is not of the Essence of the Offence, nor for stating the Time imperfectly, nor for stating the Offence to have been committed on a Day subsequent to the finding of the Indictment or exhibiting the Information, or on an impossible Day, or on a Day that never happened, nor for Want of a proper or perfect Venue, where the Court shall appear by the Indictment or Information to have had Jurisdiction over the Offence.

XIX. And be it enacted, That no Judgment after Verdict upon any Indictment or Information for any Felony or Misdemeanor shall be stayed or reserved for Want of a Similiter, nor by reason that the Jury Process has been awarded to a wrong Officer upon an insufficient Suggestion, nor for any Misnomer or Misdescription of the Officer returning such Process, or of any of the Jurors, nor because any Person has served upon the Jury who has not been returned as a Juror by the Sheriff or other Officer; and that where the Offence charged has been created by any Act or Statute, or subjected to a greater Degree of Punishment by any Act or Statute, the Indictment or Information shall after Verdict be held sufficient to warrant the Punishment prescribed by the Act or Statute if it describe the Offence in the Words of the Act or Statute.

XX. And be it enacted, That if any Person being arraigned upon any Indictment for Treason or Felony shall plead thereto a Plea of "Not Guilty," he shall by such Plea, without any further Form, be deemed to have put himself upon the Country for Trial, and the Court shall, in the usual Manner, order a Jury for the Trial of such Person accordingly.

XXI. And be it enacted, That if any Person being arraigned upon or charged with any Indictment or Information for Treason, Felony or Misdemeanor,

What shall not be sufficient to stay or reverse Judgment after the Verdict.

A Plea of "Not Guilty," without more, shall put the Prisoner on his Trial by Jury.

If he refuses to plead, Court may order a Plea of "Not Guilty" to be entered.

Misdemeanor, shall stand mute of Malice, or will not answer directly to the Indictment or Information, in every such Case it shall be lawful for the Court, if it shall so think fit, to order the proper Officer to enter a plea of "Not Guilty" on behalf of such Person; and the Plea so entered shall have the same Force and Effect as if such Person had actually pleaded the same.

Attainder of another Crimo not pleadable.

XXII. And be it enacted, That no Plea setting forth any Attainder shall be pleaded in Bar of any Indictment, unless the Attainder be for the same Offence as that charged in the Indictment.

Jury shall not inquire of a Prisoner's Lands, &c. nor whether he fled.

XXIII. And be it enacted, That where any Person shall be indicted for Treason or Felony, the Jury empannelled to try such Person shall not be charged to inquire concerning his Lands, Tenements or Goods, nor whether he fled for such Treason or Felony.

No peremptory Challenge in Felony above Twenty.

XXIV. And be it enacted, That no Person arraigned for any Felony shall be admitted to any peremptory Challenge above the Number of Twenty; and if any Person indicted for any Treason or Felony shall challenge peremptorily a greater Number of the Men returned to be of the Jury than such Person is entitled by Law so to challenge, every peremptory Challenge beyond the Number allowed by Law in the Case then in hand shall be entirely void, and the Trial of such Person shall proceed as if no such Challenge had been made.

Every Challenge above the legal Number shall be void.

Benefit of Clergy abolished.

XXV. And be it enacted, That Benefit of Clergy, with respect to Persons convicted of Felony, shall be abolished; but that nothing herein contained shall prevent the Joinder in any Indictment of any Counts which might have been joined before the passing of this Act.

What Felonies only shall be Capital.

XXVI. And be it enacted, That no Person convicted of Felony shall suffer Death, unless it be for some Felony which was excluded from the

the Benefit of Clergy before or on the First Day of the present Session of the General Assembly, or which hath been or shall be made punishable with Death by some Act or Statute passed after that Day.

XXVII. And be it enacted, That every Person convicted of any Felony, not punishable with Death, shall be punished in the Manner prescribed by the Act or Acts, Statute or Statutes specially relating to such Felony; and that every Person convicted of any Felony for which no Punishment hath been or hereafter may be specially provided, shall be deemed to be punishable under this Act, and shall be liable at the Discretion of the Court to be imprisoned for any Term not exceeding Two Years, and in Addition to such Imprisonment, if the Court shall so think fit, to be either fined in such Sum as the Court shall award, or, if a Male, to be Once, Twice or Thrice publicly or privately whipped.

Felonies not capital punishable under the Acts, if any, relating thereto; otherwise under this Act.

XXVIII. And with regard to the Place and Mode of Imprisonment for all Felonies; Be it enacted, That where any Person shall be convicted of any Felony for which Imprisonment may be awarded as a Punishment, it shall be lawful for the Court to sentence the Offender to be imprisoned either in the Common Gaol or the House of Correction, and also to be kept to hard Labour for the Whole or any Portion or Portions of such Imprisonment, as to the Court in its Discretion shall seem meet.

The Court may sentence to Labour in all Cases of Felony, where Imprisonment is awarded as a Punishment.

XXIX. And be it enacted, That wherever Sentence shall be passed for any Offence on a Person already under Sentence of Imprisonment for another Offence, it shall be lawful for the Court to award Imprisonment for the subsequent Offence, to commence at the Expiration of the Imprisonment to which such Person shall have been previously sentenced, although the

If a Person under Sentence of Imprisonment for another Offence is convicted of any Offence, the Court may pass a second Sentence, to commence after the Expiration of the first.



aggregate Term of Imprisonment may exceed the Term for which either of those Punishments could be otherwise awarded.

Punishment for a subsequent Felony.

‘ XXX. And Whereas it is expedient to provide for the more exemplary Punishment of Offenders who commit Felony after a previous Conviction for Felony, whether such Conviction shall have taken place before or after the Commencement of this Act ;’ Be it therefore enacted, That if any Person shall be convicted of any Felony, not punishable with Death, committed after a previous Conviction for Felony, such Person shall, on such subsequent Conviction, be liable to be imprisoned for any Term not exceeding Four 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 ; and in an Indictment for any such Felony committed after a previous Conviction for Felony, it shall be sufficient to state that the Offender was at a certain Time and Place convicted of Felony, without otherwise describing the previous Felony ; and a Certificate containing the Substance and Effect only (omitting the formal Part) of the Indictment and Conviction for the previous Felony, purporting to be signed by the Clerk of the Court, or other Officer having the Custody of the Records of the Court where the Offender was first convicted, or by the Deputy of such Clerk or Officer, shall, upon Proof of the Identity of the Person of the Offender, be sufficient Evidence of the first Conviction without Proof of the Signature or official Character of the Person appearing to have signed the same ; and if any such Clerk, Officer or Deputy shall utter a false Certificate of any Indictment and Conviction for a previous Felony, or if any Person, other than such Clerk, Officer or Deputy, shall sign any such Certificate as such Clerk, Officer or Deputy, or shall utter any such Certificate

Form of Indictment for the subsequent Felony.

What shall be sufficient Proof of the first Conviction.

Uttering false Certificate of Conviction.

certificate

tificate with a false or counterfeit Signature thereto, every such Offender shall be guilty of Felony.

**XXXI.** And be it enacted, That if His Majesty shall be pleased to extend Mercy to any Offender convicted of any Crime punishable with Death, upon Condition of Transportation to any Place without the Limits of this Province, either for the Term of Life or for any Number of Years, and such Intention of Mercy shall be signified by the Governor or Commander-in-Chief of the Province to the Court before which such Offender hath been or shall be convicted, or any subsequent Court with the like Authority, such Court shall allow to such Offender the Benefit of a conditional Pardon, and make an Order for the immediate Transportation of such Offender; and in case such Intention of Mercy shall be so signified to any Judge of the Supreme Court, such Judge shall allow to such Offender the Benefit of a conditional Pardon, and make an Order for the immediate Transportation of such Offender, in the same Manner as if such Intention of Mercy had been signified to any such Court as aforesaid; and such Allowance and Order shall be considered as an Allowance and Order made by the Court before which such Offender was convicted, and shall be entered on the Records of the same Court by the proper Officer thereof, and shall be as effectual to all Intents and Purposes, and have the same Consequences, as if such Allowance and Order had been made by the same Court during the Continuance thereof; and every such Order shall subject the Offender to be conveyed to the Place or Places, without the Limits of this Province, therein mentioned, and to be liable to all the Regulations and Provisions of any Statute or Statutes of the Imperial Parliament relating to Offenders transported to such Place or Places.

Persons convicted of a capital Crime, and receiving a Pardon, on condition of Transportation, may be transported.

Rules for the Interpretation of all criminal Statutes.

**XXXII.** And be it enacted, That wherever this or any other Act or Statute relating to any Offence, whether punishable upon Indictment or summary Conviction, indescriving or referring to the Offence or the Subject Matter on or with respect to which it shall be committed, or the Offender or the Party affected or intended to be affected by the Offence, hath used or shall use Words importing the singular Number or the masculine Gender only, yet the Act or Statute shall be understood to include several Matters as well as One Matter, and several Persons as well as One Person, and Females as well as Males, and Bodies Corporate as well as Individuals, unless it be otherwise specially provided, or there be Something in the Subject or Context repugnant to such Construction; and wherever any Forfeiture or Penalty is payable to a Party aggrieved, it shall be payable to a Body Corporate in every Case where such Body shall be the Party aggrieved.

Every Punishment for Felony, after it has been endured, shall have the Effect of a Pardon under the Great Seal.

**XXXIII.** And Whereas it is expedient to prevent all Doubts respecting the Civil Rights of Persons convicted of Felonies not capital, who have undergone the Punishment to which they were adjudged; Be it therefore enacted, That where any Offender hath been or shall be convicted of any Felony not punishable with Death, and hath endured or shall endure the Punishment to which such Offender hath been or shall be adjudged for the same, the Punishment so endured hath and shall have the like Effects and Consequences as a Pardon under the Great Seal as to the Felony whereof the Offender was so convicted: Provided always, that nothing herein contained, nor the enduring of such Punishment, shall prevent or mitigate any Punishment to which the Offender might otherwise be lawfully sentenced on a subsequent Conviction for any other Felony.

**XXXIV.**

‘XXXIV. And Whereas their are certain  
 ‘Misdemeanor, which render the Parties con-  
 ‘victed thereof incompetent Witnesses, and it is  
 ‘expedient to restore the Competency of such  
 ‘Parties after they have undergone their Punish-  
 ‘ment;’ Be it therefore enacted, That where any  
 Offender hath been or shall be convicted of any  
 such Misdemeanor, (except Perjury or Suborna-  
 tion of Perjury,) and hath endured or shall endure  
 the Punishment to which such Offender hath  
 been or shall be adjudged for the same, such  
 Offender shall not, after the Punishment so en-  
 dured, be deemed to be by reason of such Mis-  
 demeanor an incompetent Witness in any Court  
 or Proceeding, civil or criminal.

No Misdemeanor (except Perjury) shall render a Party an incompetent Witness after he has undergone the Punishment.

XXXV. And be it enacted, That this Act, shall commence and take Effect on the First Day of October in the present Year, except as to Offences and other Matters committed or done before or upon the last Day of September, which shall be dealt with and punished as if this Act had not been passed.

Commencement of this Act.

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## CAP. XV.

An Act for consolidating and amending the Laws relative to Larceny and other Offences connected therewith.

*Passed 25th March 1831.*

‘**W**HEREAS various Statutes heretofore in  
 ‘Force in England, and deemed to be in Force  
 ‘and acted upon in this Province, relative to  
 ‘Larceny and other Offences connected there-  
 ‘with, are, by an Act of the present Session of  
 ‘the General Assembly for improving the Ad-  
 ‘ministration of Justice in Criminal Cases, de-  
 ‘clared to be repealed and of no Force and Ef-  
 ‘fect in this Province; and various Acts of As-  
 ‘sembly relating to the same Offences are also  
 ‘repealed by the same Act; and the same Act is  
 to

Preamble.