

WESTERN AUSTRALIA.

## CRIMINAL CODE.

### No. 28 of 1913.

Reprinted pursuant to the Amendments Incorporation Act, 1938, as amended by Nos. 32 of 1918 (a), 51 of 1932 (b), 15 of 1942 (c), 40 of 1945 (d), 27 of 1952 (e), 55 of 1953 (f), 20 of 1954 (g), and 63 of 1954 (h); and by No. 35 of 1935 (i) as amended by No. 73 of 1954 (j).

**AN ACT to enact a compilation of the Criminal Code Act, 1902, with its amendments and portion of the Secret Commissions Act, 1905, and for other related purposes.**

*[Assented to 30th December, 1913.]*

WHEREAS the Legislative Council and Legislative Assembly on the twenty-second day of December, in the year nineteen hundred and eleven, directed the compilation with its amendments of the Criminal Code Act, 1902; and a compilation of the said Act and the Acts amending the same was duly made in accordance with the Statutes Compilation Act (as amended): And whereas it is desirable to repeal the Acts so compiled: And whereas in order to carry out the purposes of the Criminal Code Amendment Act, 1913, it is desirable to include in the compilation the further amendments authorised to be so included by that Act, and also the provisions of the Secret Commissions Act, 1905 (except section nineteen thereof), and to repeal the last-mentioned Act and the portions of the Criminal Code Amendment Act, 1913, containing the said further amendments: And whereas the Acts and the parts of an Act which it is desirable to repeal are set out in the Appendix A hereto; and the compiled Act set out in Appendix B hereto is a true compilation of the Acts and parts of Acts so directed to be compiled

(a) Assented to 24th December, 1918. (b) Assented to 30th December, 1932.  
(c) Assented to 26th November, 1942. (d) Assented to 30th January, 1946.  
(e) Assented to 28th November, 1952. (f) Assented to 9th January, 1954.  
(g) Assented to 28th September, 1954. (h) Assented to 30th December, 1954:  
[To come into operation on a day to be fixed by proclamation. See No. 63  
of 1954, s. 2 (1).] (i) Assented to 7th January, 1936: Proclaimed to com-  
mence 14th April, 1936 (see Gazette 9th April, 1936); (j) Assented to 14th  
January, 1955: Proclaimed to commence 1st March, 1955 (see Gazette, 18th  
February, 1955).

or authorised to be included in the compilation as aforesaid, and it is desirable to give such compilation the force of law. Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.  
No. 28 of  
1913, s. 1.

1. This Act may be cited as the *Criminal Code Act Compilation Act, 1913*, and shall come into operation on the first day of January, nineteen hundred and fourteen.

Repeal.  
No. 28 of  
1913, s. 2.

2. The Acts and parts of an Act set out in Appendix "A" hereto are hereby repealed, and the compiled Act set forth in Appendix "B" hereto is hereby enacted under the title of the *Criminal Code Act, 1913*.

Matters and  
things  
originated  
under  
repealed  
Acts to  
enure for  
the purposes  
of the  
compiled  
Act.  
No. 28 of  
1913, s. 3.

3. (1) All offices, appointments, regulations, rules, convictions, sentences, judgments, orders, registers, records, certificates, and instruments, and generally all acts of authority, which originated or were operative or subsisting under any enactment repealed by this Act and hereby re-enacted with or without modification, and which are subsisting or in force on or immediately prior to the commencement of the compiled Act shall, subject to that Act, enure for the purposes thereof as fully and effectually as if they had originated under the corresponding provisions of that Act, and accordingly shall, where necessary, be deemed to have so originated.

(2) All offences committed against and all pending matters and proceedings commenced under any such enactment may be prosecuted, continued, and completed under and subject to the provisions of the compiled Act.

**APPENDIX A.****Acts and Parts of Act Repealed.**

---

1 and 2 Edw. VII	The Criminal Code Act 1902.
No. 14	
2 Edw. VII No. 29	The Criminal Code Amendment Act 1902.
No. 13 of 1905	The Secret Commissions Act 1905.
No. 31 of 1906	The Criminal Code Amendment Act 1906.
No. 28 of 1911	The Criminal Code Amendment Act 1911.
No. 52 of 1911	The Criminal Code Amendment Act 1911.
Sections 2 to 29 (both inclusive) of Act No. 15 of 1913	The Criminal Code Amendment Act 1913.

---

**APPENDIX B.****AN ACT to establish a Code of Criminal Law.**

WHEREAS it is desirable to declare and consolidate the Criminal Law: Be it enacted and declared by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Criminal Code Act, 1913.* Short title.  
No. 28 of  
1913,  
Appendix B,  
s. 1.
2. The provisions contained in the Code of Criminal Law set forth in the Schedule to this Act, and hereinafter called "the Code," shall be the law of Western Australia with respect to the several matters therein dealt with. Establish-  
ment of  
Code.  
Schedule.  
No. 28 of  
1913,  
Appendix B,  
s. 2.

The said Code may be cited as "The Criminal Code."\*

\* Marginal notes preceded by "Code" refer to the Schedule to Appendix "B" of Act No. 28 of 1913.

Construction  
of Statutes,  
Statutory  
Rules, and  
other  
instruments.  
No. 28 of  
1913,  
Appendix B,  
s. 3.

3. The following rules shall, unless the context otherwise indicates, apply with respect to the construction of Statutes, statutory rules, by-laws, and other instruments, that is to say:—

- (1) When in any Statute, statutory rule, by-law, or other instrument, public or private, the term "felony" is used, or reference is made to an offence by the name of felony, it shall be taken that reference is intended to an offence which is a crime under the provisions of the Code:
- (2) When in any Statute, statutory rule, by-law, or other instrument, public or private, the term "murder" is used, it shall be taken that reference is intended to the crimes of wilful murder, and murder, and each of them:
- (3) When in any Statute, statutory rule, by-law, or other instrument, public or private, the term "larceny" is used, it shall be taken that reference is intended to the crime of stealing:
- (4) When in any Statute, statutory rule, by-law, or other instrument, public or private, reference is made to any offence by any specific name, it shall be taken that reference is intended to the offence which, under the provisions of the Code, is constituted by the Act or omission that would heretofore have constituted the offence referred to:
- (5) When in any Statute, statutory rule, by-law, or other instrument, public or private, reference is made to any of the statutory provisions hereby repealed, it shall be taken that reference is intended to the corresponding provisions or substituted provisions of the Code.

Provisions  
of Code  
exclusive,  
with certain  
exceptions.  
No. 28 of  
1913,  
Appendix B,  
s. 4.

4. No person shall be liable to be tried or punished in Western Australia as for an indictable offence, except under the express provisions of the Code, or some other Statute Law of Western Australia, or under the express provisions of some

Statute of the Commonwealth of Australia, or of the United Kingdom which is expressly applied to Western Australia, or which is in force in all parts of His Majesty's dominions not expressly excepted from its operation, or which authorises the trial and punishment in Western Australia of offenders who have, at places not in Western Australia, committed offences against the laws of the Commonwealth of Australia or of the United Kingdom.

5. When, by the Code, any act is declared to be lawful, no action can be brought in respect thereof.

*Civil remedies.*

Except as aforesaid, the provisions of this Act shall not affect any right of action which any person would have had against another if this Act had not been passed; nor shall the omission from the Code of any penal provision in respect of any act or omission, which before the time of the coming into operation of the Code constituted an actionable wrong, affect any right of action in respect thereof.

*Saving.  
No. 28 of  
1913,  
Appendix B,  
s. 5.*

6. When an offender is punishable under the provisions of the Code, and also under the provisions of some other Statute, he may be prosecuted and convicted under the provisions either of the Code or of such other Statute; so that he is not twice punished for the same offence.

*Offender  
may be  
prosecuted  
under Code  
or other  
Statute.  
No. 28 of  
1913,  
Appendix B,  
s. 6.*

7. Nothing in this Act or in the Code shall affect the authority of Courts of Record to punish a person summarily for the offence commonly known as "Contempt of Court"; but so that a person cannot be so punished, and also punished under the provisions of the Code for the same act or omission.

*Contempt  
of Court.  
No. 28 of  
1913,  
Appendix B,  
s. 7.*

8. Whenever any amendment is made in the Code, all copies thereof printed by the Government Printer after the amendment shall be so printed as to set forth the actual provisions of the Code after omitting all repealed provisions or words, and embodying all newly enacted or substituted provisions or words.

*Printing of  
amendments.  
No. 28 of  
1913,  
Appendix B,  
s. 8.*

## THE SCHEDULE.

THE CRIMINAL CODE OF WESTERN  
AUSTRALIA.

## PART I.—INTRODUCTORY.

INTERPRETATION: APPLICATION: GENERAL PRINCIPLE:.

## CHAPTER I.—INTERPRETATION.

1. Construction of terms.
2. Definition of offence.
3. Division of offences.
4. Attempts to commit offences.
5. Arrest without warrant.
6. Carnal knowledge.

## CHAPTER II.—PARTIES TO OFFENCES.

7. Principal offenders.
8. Offences committed in prosecution of common purpose.
9. Mode of execution immaterial.
10. Accessories after the fact.

## CHAPTER III.—APPLICATION OF CRIMINAL LAW.

11. Effect of changes in law.
12. Application of Code as to offences wholly or partially committed in Western Australia.
13. Offences procured or counselled by persons out of Western Australia.
14. Offences procured in Western Australia to be committed out of Western Australia.
15. Defence force.
16. Person not to be twice punished for same offence.
17. Former conviction or acquittal.

## CHAPTER IV.—PUNISHMENTS.

18. Kinds of punishment.
19. Construction of provisions of Code as to punishments.
20. Calculation of terms of sentence; Cumulative sentences; Escaped prisoners.
21. Prerogative.

## CHAPTER V.—CRIMINAL RESPONSIBILITY.

22. Ignorance of law; *bona fide* claim of right.
23. Intention: Motive.
24. Mistake of fact.
25. Extraordinary emergencies.
26. Presumption of sanity.

27. Insanity.
28. Intoxication.
29. Immature age.
30. Judicial officers.
31. Justification and excuse: Compulsion.
32. Compulsion of husband.
33. No conspiracy between husband and wife alone.
34. Offences by partners and members of companies with respect to partnership or corporate property.
35. Liability of husband and wife for offences committed by either with respect to the other's property.
36. Application of rules.

**PART II.—OFFENCES AGAINST PUBLIC ORDER.****CHAPTER VI.—TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN'S PERSON AND AUTHORITY.**

37. Treason.
38. Concealment of treason.
39. Reasonable crimes.
40. Time for proceeding in cases of treason or concealment of treason; Two witnesses necessary.
41. Inciting to mutiny.
42. Assisting escape of prisoners of war.
43. Overt act.

**CHAPTER VII.—SEDITION.**

44. Definition of seditious intention.
45. Innocent intentions.
46. Definition of seditious enterprises, etc.
47. Unlawful oaths to commit capital offences.
48. Other unlawful oaths to commit offences.
49. Compulsion, how far a defence.
50. Effect of prosecution.
51. Unlawful drilling.
52. Sedition.
53. Defamation of foreign princes.

**CHAPTER VIII.—OFFENCES AGAINST THE EXECUTIVE AND LEGISLATIVE POWER.**

54. Interference with Governor or Ministers.
55. Interference with the Legislature.
56. Disturbing the Legislature.
57. False evidence before Parliament.
58. Threatening witness before Parliament.
59. Witnesses refusing to attend or give evidence before Parliament or parliamentary committee.
60. Member of Parliament receiving bribes.
61. Bribery of Member of Parliament.

## Criminal Code.

### CHAPTER IX.—UNLAWFUL ASSEMBLIES: BREACHES OF THE PEACE.

- 62. Definitions.
- 63. Punishment of unlawful assembly.
- 64. Punishment of riot.
- 65. Rioters remaining after proclamation ordering them to disperse.
- 66. Rioters demolishing buildings, etc.
- 67. Rioters injuring building, machinery, etc.
- 68. Going armed so as to cause fear.
- 69. Forceable entry.
- 70. Forceable detainer.
- 71. Affray.
- 72. Challenge to fight a duel.
- 73. Prize fight.
- 74. Threatening violence.

### CHAPTER X.—OFFENCES AGAINST POLITICAL LIBERTY.

- 75. Interfering with political liberty.

### CHAPTER XI.—PIRACY.

- 76. Definition of piracy in general.
- 77. Further definition of pirates.
- 78. Punishment of piracy.
- 79. Attempted piracy with personal violence.
- 80. Aiding pirates.

### PART III.—OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE AND AGAINST PUBLIC AUTHORITY.

#### CHAPTER XII.—DISCLOSING OFFICIAL SECRETS.

- 81. Disclosure of official secrets.

#### CHAPTER XIII.—CORRUPTION AND ABUSE OF OFFICE.

- 82. Official corruption.
- 83. Extortion by public officers.
- 84. Public officers interested in contracts.
- 85. Officers charged with administration of property of a special character or with special duties.
- 86. False claims by officials.
- 87. Abuse of office.
- 88. Corruption of surveyor and valuator.
- 89. False certificates by public officers.
- 90. Administering extra-judicial oaths.
- 91. False assumption of authority.
- 92. Personating public officers.

#### CHAPTER XIV.—CORRUPT AND IMPROPER PRACTICES AT ELECTIONS.

- 93. Definitions.
- 94. Personation.
- 95. Double voting.
- 96. Recording excessive number of votes.

97. Treating.
98. Undue influence.
99. Bribery.
100. Illegal practices.
101. Illegal practices.
102. Other illegal practices.
103. Corrupt and illegal practices: Time.
104. Interference at elections.
105. Electors attempting to violate secrecy of ballot.
106. Other attempts of like kind.
107. Stuffing ballot boxes.
108. Offences by presiding officers at elections.
109. False answers to questions at elections.
110. Interfering with secrecy at elections.
111. Breaking seal of packets used at elections.
112. Offences at elections when voting is by post.
113. False claims.
114. Attesting claims, etc., without inquiry.
115. Acts of agents.
116. Liability for indirect acts.
117. Certificate of Returning Officer.
118. This chapter not to apply to parliamentary, municipal or road board elections.

**CHAPTER XV.—SELLING AND TRAFFICKING IN OFFICES.**

119. Bargaining for offices in Public Service.

**CHAPTER XVI.—OFFENCES RELATING TO THE  
ADMINISTRATION OF JUSTICE.**

120. Definition of judicial proceeding.
121. Judicial corruption.
122. Official corruption not judicial but relating to offences.
123. Corrupting or threatening jurors.
124. Perjury.
125. Punishment of perjury.
126. Evidence on charge of perjury.
127. False evidence before a Royal Commission.
128. Threatening witness before Royal Commission.
129. Fabricating evidence.
130. Corruption of witnesses.
131. Deceiving witnesses.
132. Destroying evidence.
133. Preventing witnesses from attending.
134. Conspiracy to bring false accusation.
135. Conspiring to defeat justice.
136. Compounding crimes.
137. Compounding penal actions.
138. Advertising a reward for the return of stolen property, etc.
139. Justices acting oppressively or when interested.
140. Delay to take person arrested before magistrate.

- 141. Bringing fictitious action on penal Statute.
- 142. Inserting advertisement without authority of Court.
- 143. Attempting to pervert justice.

CHAPTER XVII.—ESCAPES: RESCUES: OBSTRUCTING  
OFFICERS OF COURT.

- 144. Forcibly rescuing capital offenders.
- 145. Aiding prisoners to escape.
- 146. Escape by prisoner.
- 147. Permitting escape.
- 148. Harbouring escaped prisoners.
- 149. Rescuing insane persons.
- 150. Removing, etc., property under lawful seizure.
- 151. Obstructing officers of Courts of justice.

CHAPTER XVIII.—OFFENCES RELATING TO THE COIN.

- 152. Definitions.
- 153. Counterfeiting gold and silver coin.
- 154. Preparation for coining gold and silver coin.
- 155. Clipping.
- 156. Possession of clippings.
- 157. Uttering counterfeit gold or silver coin.
- 158. Repeated uttering of counterfeit current gold or silver coin, or possession of several such coins.
- 159. Offences after previous conviction.
- 160. Counterfeiting copper coin.
- 161. Uttering base copper coin.
- 162. Defacing coin by stamping words thereon.
- 163. Uttering foreign coin, medals, etc., as current coin with intent to defraud.
- 164. Exporting counterfeit coin.
- 165. Having possession of more than five pieces of counterfeit foreign coin.
- 166. Tender of defaced coin not legal tender; Penalty for uttering.

CHAPTER XIX.—OFFENCES RELATING TO MAILED.

- 167. Stopping Mails.

CHAPTER XX.—MISCELLANEOUS OFFENCES AGAINST  
PUBLIC AUTHORITY.

- 168. False declaration as to execution of sentence of death.
- 169. False statements in statements required to be under oath or solemn declaration.
- 170. False declarations and statements.
- 171. Evidence.
- 172. Resisting public officers.
- 173. Refusal by public officers to perform duty.
- 174. Neglect of officers to suppress riot.
- 175. Neglect to aid in suppressing riot.
- 176. Neglect to aid in arresting offenders.
- 177. Disobedience to statute law.
- 178. Disobedience to lawful order issued by statutory authority.

PART IV.—ACTS INJURIOUS TO THE PUBLIC  
IN GENERAL.CHAPTER XXI.—OFFENCES RELATING TO RELIGIOUS  
WORSHIP.

179. Offering violence to officiating ministers of religion.
180. Disturbing religious worship.

## CHAPTER XXII.—OFFENCES AGAINST MORALITY.

181. Unnatural offences.
182. Attempt to commit unnatural offences.
183. Indecent treatment of boys under fourteen.
184. Indecent practices between males.
185. Defilement of girls under thirteen.
186. Householder permitting defilement of young girls on his premises.
187. Defilement of girls under sixteen.
188. Defilement of idiots.
189. Indecent dealing with girls under sixteen and others.
190. Defilement by guardian, etc.
191. Procuration.
192. Procuring defilement of woman by threats, or fraud, or administering drugs.
193. Abduction of girl under eighteen with intent to have carnal knowledge.
194. Unlawful detention with intent to defile or in a brothel.
195. Permitting boys to resort to brothels.
196. Conspiracy to defile.
197. Incest by man.
198. Incest by adult female.
199. Attempts to procure abortion.
200. The like by women with child.
201. Supplying drugs or instruments to procure abortion.
202. Consent no defence.
203. Indecent acts.
204. Obscene publications and exhibitions.
205. Knowledge of age immaterial.
- 205A. Chapter not to apply to rape or attempted rape.
206. Punishment of whipping to be inflicted in certain cases.

CHAPTER XXIII.—NUISANCES: MISCONDUCT RELATING  
TO CORPSES.

207. Common nuisances.
208. Poisoning water-holes.
209. Bawdy houses.
210. Gaming houses.
211. Betting houses.
212. Lotteries.
213. Acting as keeper of bawdy houses, gaming houses, betting houses, and lotteries.
214. Misconduct with regard to corpses.

## CHAPTER XXIV.—OFFENCES AGAINST PUBLIC HEALTH.

- 215. False information as to health of foreign ships.
- 216. Exposing for sale things unfit for food.
- 217. Dealing in diseased meat.
- 218. Adulterating liquor.
- 219. Adulteration of beverages.

## CHAPTER XXV.—MISCELLANEOUS OFFENCES.

- 220. Frauds on land laws.
- 221. Dealing with land fraudulently acquired from the Crown.

## PART V.—OFFENCES AGAINST THE PERSON AND RELATING TO MARRIAGE AND PARENTAL RIGHTS AND DUTIES AND AGAINST THE REPUTATION OF INDIVIDUALS.

## CHAPTER XXVI.—ASSAULTS AND VIOLENCE TO THE PERSON GENERALLY: JUSTIFICATION AND EXCUSE.

- 222. Definition of assault.
- 223. Assaults unlawful.
- 224. Execution of sentence.
- 225. Execution of process.
- 226. Execution of warrants.
- 227. Erroneous sentence or process or warrant.
- 228. Sentence or process or warrant without jurisdiction.
- 229. Arrest of wrong person.
- 230. Irregular process or warrant.
- 231. Force used in executing process or in arrest.
- 232. Duty of persons arresting.
- 233. Police officer preventing escape from arrest.
- 234. Other cases of preventing escape from arrest.
- 235. Preventing escape or rescue after arrest.
- 236. Examination of person of accused persons in custody.
- 237. Preventing a breach of the peace.
- 238. Suppression of riot.
- 239. Suppression of riot by magistrates and police officers.
- 240. Suppression of riot by person acting under lawful orders.
- 241. Suppression of riot by person acting without order in case of emergency.
- 242. Riot: Persons subject to military law.
- 243. Prevention of crimes and offences for which an offender may be arrested without warrant: Prevention of violence by persons of unsound mind.
- 244. Defence of dwelling house.
- 245. Provocation.
- 246. Defence of provocation.
- 247. Prevention of repetition of insult.
- 248. Self-defence against unprovoked assault.
- 249. Self-defence against provoked assault.
- 250. Aiding in self-defence.

- 251. Defence of movable property against trespassers.
- 252. Defence of movable property with claim of right.
- 253. Defence of movable property without claim of right.
- 254. Defence of premises against trespassers: Removal of disorderly persons.
- 255. Defence of possession of real property or vessel with claim of right.
- 256. Exercise of right of way or easement.
- 257. Domestic discipline.
- 258. Discipline of ship.
- 259. Surgical operations.
- 260. Excessive force.
- 261. Consent to death immaterial.

CHAPTER XXVII.—DUTIES RELATING TO THE  
PRESERVATION OF HUMAN LIFE.

- 262. Duty to provide necessaries.
- 263. Duty of head of family.
- 264. Duty of masters.
- 265. Duty of persons doing dangerous acts.
- 266. Duty of persons in charge of dangerous things.
- 267. Duty to do certain acts.

CHAPTER XXVIII.—HOMICIDE: SUICIDE: CONCEALMENT  
OF BIRTH.

- 268. Killing of a human being unlawful.
- 269. When a child becomes a human being.
- 270. Definition of killing.
- 271. Death by acts done at childbirth.
- 272. Causing death by threats.
- 273. Acceleration of death.
- 274. When injury or death might be prevented by proper precaution.
- 275. Injuries causing death in consequence of subsequent treatment.
- 276. Limitation as to time of death.
- 277. Unlawful homicide.
- 278. Definition of wilful murder.
- 279. Definition of murder.
- 280. Definition of manslaughter.
- 281. Killing on provocation.
- 282. Punishment of murder.
- 283. Attempt to murder.
- 284. Accessory after the fact to murder.
- 285. Written threats to murder.
- 286. Conspiring to murder.
- 287. Punishment of manslaughter.
- 288. Aiding suicide.
- 289. Attempting to commit suicide.
- 290. Killing unborn child.
- 291. Concealing the birth of children.
- 291A. Reckless or dangerous driving.

## CHAPTER XXIX.—OFFENCES ENDANGERING LIFE OR HEALTH.

- 292. Disabling in order to commit indictable offence.
- 293. Stupefying in order to commit indictable offence.
- 294. Acts intended to cause grievous bodily harm or prevent arrest.
- 295. Preventing escape from wreck.
- 296. Intentionally endangering safety of persons travelling by railway.
- 297. Grievous bodily harm.
- 298. Causing explosion likely to endanger life.
- 299. Attempting to cause explosion likely to endanger life.
- 300. Maliciously administering poison with intent to harm.
- 301. Wounding and similar acts.
- 302. Failure to supply necessaries.
- 303. Endangering life or health of apprentices or servants.
- 304. Endangering life of children by exposure.
- 305. Setting man-traps.
- 306. Negligent acts causing harm.
- 307. Endangering safety of persons travelling by railway.
- 308. Sending or taking unseaworthy ships to sea.
- 309. Endangering steamships by tampering with machinery.
- 310. The like by engineers.
- 311. Evading laws as to equipment of ships, and shipping dangerous goods.
- 312. Landing explosives.

## CHAPTER XXX.—ASSAULTS.

- 313. Common assault.
- 314. Assault with intent to commit unnatural offence.
- 315. Indecent assault on males.
- 316. Assaults on persons protecting wrecks.
- 317. Assaults occasioning bodily harm.
- 318. Serious assaults.

## CHAPTER XXXI.—ASSAULTS PUNISHABLE ON SUMMARY CONVICTION.

- 319. Jurisdiction of Justices.
- 320. Some assaults not to be so dealt with.
- 321. Common assaults.
- 322. Aggravated assaults.
- 323. Effect of summary conviction or dismissal.
- 324. Assaults in interference with freedom of trade or work.

## CHAPTER XXXII.—ASSAULTS ON FEMALES: ABDUCTION.

- 325. Definition of rape.
- 326. Punishment of rape.
- 327. Attempt to commit rape.
- 328. Indecent assaults on females.
- 329. Abduction.
- 330. Abduction of girls under sixteen.
- 331. Rule of evidence.

CHAPTER XXXIII.—OFFENCES AGAINST LIBERTY.

- 332. Kidnapping.
- 333. Deprivation of liberty.
- 334. False certificates by officers charged with duties relating to liberty.
- 335. Concealment of matters affecting liberty.
- 336. Procuring confinement of sane person on false certificate.
- 337. Unlawful custody of insane person.
- 338. Threats.

CHAPTER XXXIV.—OFFENCES RELATING TO MARRIAGE AND PARENTAL RIGHTS AND DUTIES.

- 339. Bigamy.
- 340. Unlawful celebration of marriage.
- 341. Celebration of marriage by minister unregistered by inadvertence.
- 342. Unqualified persons procuring registration as persons qualified to celebrate marriages.
- 343. Child-stealing.
- 344. Desertion of children.

CHAPTER XXXV.—DEFAMATION.

- 345. Definition of “periodical.”
- 346. Definition of defamatory matter.
- 347. Questions of fact and law.
- 348. Definition of defamation.
- 349. Publication.
- 350. Publication of defamatory matter *prima facie* unlawful.
- 351. Absolute protection: Privilege of Parliament.
- 352. Absolute protection: Privileges of Judges, witnesses, and others in Courts of justice.
- 353. Absolute protection: Reports of official inquiries.
- 354. Protection: Reports of matters of public interests.
- 355. Protection: Fair comment.
- 356. Protection: Truth.
- 357. Qualified protection: Excuse.
- 358. Good faith.
- 359. Relevancy and public benefit questions of fact.
- 360. Unlawful publication of defamatory matter.
- 361. Defamation of Members of Parliament by strangers.
- 362. Defence in case of defamation by words, sounds, signs, signals, or gestures.
- 363. Publishing or threatening to publish defamatory matter with intent to extort money.
- 364. Liability of proprietor, publisher, and editor of periodicals.
- 365. Protection of innocent sellers of periodicals.
- 366. Protection of innocent sellers of books.
- 367. Protection of employers.
- 368. Prosecution of newspapers to be by sanction of a Judge after notice.
- 369. Summary jurisdiction in trivial cases of defamation.

## PART VI.—OFFENCES RELATING TO PROPERTY AND CONTRACTS.

*Division I.—Stealing and like Offences.*

## CHAPTER XXXVI.—STEALING.

- 370. Things capable of being stolen.
- 371. Definition of stealing.
- 372. Special cases.
- 373. Funds, etc., held under direction.
- 374. Funds, etc., received by agents for sale.
- 375. Money received for another.
- 376. Stealing by persons having an interest in the thing stolen.
- 377. Husband and wife.
- 378. Punishment of stealing.

*Punishment in Special Cases.*

- (1) Stealing wills.
- (2) Stealing things sent by post.
- (3) Stealing cattle.
- (4) Stealing minerals in mines.
- (5) Stealing from the person: Stealing goods in transit, etc.
- (6) Stealing by persons in the public service.
- (7) Stealing by clerks and servants.
- (8) Stealing by directors or officers of companies.
- (9) Stealing by agents, etc.
- (10) Stealing property of value of £500.
- (11) Stealing by tenants or lodgers.
- (12) Stealing after previous conviction.

## CHAPTER XXXVII.—OFFENCES ANALOGOUS TO STEALING.

- 379. Concealing registers.
- 380. Concealing wills.
- 381. Concealing deeds.
- 382. Killing animals with intent to steal.
- 383. Severing with intent to steal.
- 384. Using registered brands with criminal intention.
- 385. Fraudulently dealing with minerals in mines.
- 386. Concealing royalty.
- 387. Removing guano without license.
- 388. Bringing stolen goods into Western Australia.
- 389. Fraudulent disposition of mortgaged goods.
- 390. Fraudulent appropriation of power.
- 390A. Unauthorised use of vehicles.

## CHAPTER XXXVIII.—STEALING WITH VIOLENCE: EXTORTION BY THREATS.

- 391. Definition of robbery.
- 392. Loaded arms.
- 393. Punishment of Robbery.

- 394. Attempted robbery: Accompanied by wounding or in company.
- 395. Assault with intent to steal.
- 396. Demanding property with menaces with intent to steal.
- 397. Demanding property by written threats.
- 398. Attempts at extortion by threats.
- 399. Procuring execution of deeds, etc., by threats.

CHAPTER XXXIX.—BURGLARY: HOUSEBREAKING: AND LIKE OFFENCES.

- 400. Definitions.
- 401. Housebreaking; burglary.
- 402. Entering dwelling house with intent to commit crime.
- 403. Breaking into buildings and committing crime.
- 404. Breaking into buildings with intent to commit crime.
- 405. Breaking into place of worship and committing crime.
- 406. Breaking into place of worship with intent to commit a crime.
- 407. Persons found armed, etc., with intent to commit crime.

CHAPTER XL.—OBTAINING PROPERTY BY FALSE PRETENCES: CHEATING.

- 408. Definition.
- 409. Obtaining goods by false pretences.
- 410. Obtaining execution of a security by false pretences.
- 411. Cheating.
- 412. Conspiracy to defraud.
- 413. Frauds on sale or mortgage of property.

CHAPTER XLI.—RECEIVING PROPERTY STOLEN OR FRAUDULENTLY OBTAINED AND LIKE OFFENCES.

- 414. Receiving stolen property, etc.
- 415. Receiving after change of ownership.
- 416. Taking reward for recovery of property obtained by means of indictable offences.

CHAPTER XLII.—FRAUDS BY TRUSTEES AND OFFICERS OF COMPANIES AND CORPORATIONS: FALSE ACCOUNTING.

- 417. Trustees fraudulently disposing of trust property.
- 418. False statement relating to companies.
- 419. Directors and officers of corporations or companies fraudulently appropriating property, or keeping fraudulent accounts, or falsifying books or accounts.
- 420. False statements by officials of companies.
- 421. False statements by officials of companies with intent to affect the price of shares.
- 422. Defence.
- 423. Misappropriation by members of local authorities.
- 424. Fraudulent false accounting.
- 425. False accounting by public officer.

## CHAPTER XLIII.—SUMMARY CONVICTION FOR STEALING AND LIKE INDICTABLE OFFENCES.

426. Indictable offences which may be dealt with summarily.  
 427. Procedure.

## CHAPTER XLIV.—OFFENCES ANALOGOUS TO STEALING PUNISHABLE ON SUMMARY CONVICTION.

428. Unlawfully using animals.  
 429. Suspicion of stealing cattle.  
 430. Illegal branding.  
 431. Defacing brands.  
 432. Time for prosecution.  
 433. Committal for trial.  
 434. Unlawful possession of shipwrecked goods.  
 435. Offering shipwrecked goods for sale.  
 436. Unlawfully dredging for oysters.  
 437. Unlawfully taking fish.  
 438. Arrest without warrant.  
 439. Warrant in first instance.  
 440. Effect of summary conviction and of civil proceedings.

*Division II.—Injuries to Property.*

## CHAPTER XLV.—DEFINITIONS.

441. Unlawful acts.  
 442. Acts done with intent to defraud.  
 443. Damage.

## CHAPTER XLVI.—OFFENCES.

444. Arson.  
 445. Attempts to commit arson.  
 446. Setting fire to stacks, etc.  
 447. Setting fire to crops and growing plants.  
 448. Attempting to set fire to crops, etc.  
 449. Casting away ships.  
 450. Attempts to cast away ships.  
 451. Obstructing and injuring railways.  
 452. Injuring animals.  
 453. Malicious injuries in general.

*Punishment in Special Cases.*

(1) Destroying or damaging an inhabited house or a vessel with explosives.  
 (2) Sea bank, or sea wall, navigation works or bridges.  
 (3) Wills and registers.  
 (4) Wrecks.  
 (5) Railways.  
 (6) Drainage works.  
 (7) Other things of special value.  
 (8) Deeds and records.

- 454. Causing explosion likely to do serious injury to property.
- 455. Attempting to cause explosion likely to do serious injury to property.
- 456. Attempts to injure mines.
- 457. Interfering with marine signals.
- 458. Interfering with navigation works.
- 459. Communicating infectious diseases to animals.
- 460. Travelling with infected animals.
- 461. Removing boundary marks.
- 462. Obstructing railways.
- 463. Sending letters threatening to burn or destroy.
- 464. Arrest without warrant.

CHAPTER XLVII.—SUMMARY CONVICTION FOR CERTAIN OFFENCES.

- 465. Offences which may be dealt with summarily.
- 466. Procedure.
- 467. Trivial charges.
- 468. Effect of summary conviction and of civil proceedings.

*Division III.—Forgery and like Offences. Personation.*

CHAPTER XLVIII.—FORGERY IN GENERAL: DEFINITIONS.

- 469. Definitions.
- 470. Further definitions.
- 471. Definition of forgery.
- 472. Certain matters immaterial.

CHAPTER XLIX.—PUNISHMENT OF FORGERY AND LIKE OFFENCES.

- 473. Punishment of forgery in general.

*Punishment in Special Cases.*

- (1) Public seals, etc.
- (2) Securities, titles, registers, etc.
- (3) Documents relating to revenue and acts of State, etc.
- (4) Court seals, records, process, evidence, etc.
- (5) Telegrams.

- 474. Uttering false documents and counterfeit seals.
- 475. Uttering cancelled or exhausted documents.
- 476. Uttering cancelled stamps.
- 477. Procuring execution of documents by false pretences.
- 478. Obliterating crossings on cheques.
- 479. Making documents without authority.
- 480. Demanding property upon forged testamentary instruments.
- 481. Purchasing forged bank notes.
- 482. False certificate of message received by telegraph.

- 483. Falsifying warrants for money payable under public authority.
- 484. Falsification of registers.
- 485. Sending false certificate of marriage to registrar.
- 486. False statements for the purpose of registers of births, deaths, and marriages.
- 487. False statements relating to registration of births, deaths, or marriages.
- 488. Attempts to procure unauthorised status.
- 489. Circulating false copies of rules or lists of members of societies or companies.

**CHAPTER L.—FORGERY AND LIKE OFFENCES PUNISHABLE  
ON SUMMARY CONVICTION.**

- 490. Forgery of seaman's tickets, etc.
- 491. Fraudulent use of adhesive stamps.
- 492. False warranties or labels relating to the sale of food.
- 493. Provisions of this chapter alternative.

**CHAPTER LI.—PREPARATION FOR FORGERY.**

- 494. Instruments and materials for forgery.
- 495. Counterfeit stamps.

**CHAPTER LII.—COUNTERFEITING TRADE MARKS AND  
TRADE DESCRIPTIONS.**

- 496. Offences as to trade marks and trade descriptions.
- 497. Definitions.
- 498. Forging trade mark.
- 499. Applying marks and descriptions.
- 500. Exemption of certain persons employed in ordinary course of business.
- 501. Application to watches.
- 502. Trade mark, how described.
- 503. Rule as to evidence.
- 504. Search warrant.
- 505. Costs of defence or prosecution.
- 506. Limitation of prosecution.
- 507. Provisions of this chapter as to false description not to apply in certain cases.
- 508. Savings.
- 509. False representations as to Royal warrant, etc.

**CHAPTER LIII.—PERSONATION.**

- 510. Personation in general.
- 511. Personation of owner of shares.
- 512. Falsely acknowledging deeds, recognisances, etc.
- 513. Personation of a person named in a certificate.
- 514. Lending certificate for personation.

*Division IV.—Offences connected with Trade and Breach of Contract, and Corruption of Agents Trustees and others.*

## CHAPTER LIV.—FRAUDULENT DEBTORS.

515. Definition.
516. Absconding with property in contemplation of or immediately after bankruptcy.
517. Frauds by bankrupts.
518. Other frauds by bankrupts.
519. Falsification of books by bankrupts.
520. Frauds by bankrupts in course of bankruptcy proceedings.
521. Failure by bankrupts to discover property.
522. Failure to keep proper books.
523. Concealing documents.
524. Receiving bankrupt's property with intent to defraud.
525. Making false claim in bankruptcy.
526. Concealing property of bankrupts.
527. Fraudulent dealing with property by debtors.
528. Undischarged bankrupt obtaining credit to extent of £20.

## CHAPTER LV.—CORRUPTION OF AGENTS, TRUSTEES, AND OTHERS IN WHOM CONFIDENCE IS REPOSED.

529. Receipt or solicitation of secret commission by an agent a misdemeanour.
530. Gift or offer of secret commission to an agent a misdemeanour.
531. Secret gifts to parent, wife, child, partner, etc., of agent deemed gifts to agent.  
Secret gifts received by parent, wife, child, partner, etc., of agent deemed received by agent.
532. Giving to agent false or misleading receipt or account a misdemeanour.
533. Gift or receipt of secret commission in return for advice given.
534. Offer or solicitation of secret commission in return for advice given.
535. Secret commission to trustee in return for substituted appointment.
536. Aiding and abetting offences within or outside Western Australia.
537. Liability of directors, etc., acting without authority.
538. Penalty on conviction.
539. Court may order withdrawal of trifling or technical cases.
540. Protection of witness giving answers criminating himself.
541. Stay of proceedings against such witness.
542. Custom of itself no defence.
543. Burden of proof that gift not secret commission.
544. Limit of time for prosecution.
545. Consent of Attorney General to prosecution.
546. Interpretations.

## CHAPTER LVI.—OTHER OFFENCES.

- 547. Concealment by officers of companies on reduction of capital.
- 548. Falsification of books of companies.
- 549. Mixing uncertified with certified articles.
- 550. Intimidation or annoyance by violence or otherwise.
- 551. Person accused before court of summary jurisdiction may elect to be tried on indictment.

## PART VII.—PREPARATION TO COMMIT OFFENCES:

## CONSPIRACY: ACCESSORIES AFTER THE FACT.

## CHAPTER LVII.—ATTEMPTS AND PREPARATION TO COMMIT OFFENCES.

- 552. Attempts to commit offences.
- 553. Punishment of attempts to commit crimes.
- 554. Punishment of attempts to commit misdemeanours.
- 555. Reduction of punishment.
- 556. Attempts to procure commission of criminal acts.
- 557. Making or possession of explosives under suspicious circumstances.

## CHAPTER LVIII.—CONSPIRACY.

- 558. Conspiracy to commit crime.
- 559. Conspiracy to commit other offences.
- 560. Other conspiracies.
- 561. Conspiracy in trade disputes.

## CHAPTER LIX.—ACCESSORIES AFTER THE FACT.

- 562. Accessories after the fact to crimes.
- 563. Accessories after the fact to misdemeanours and some other offences.

## PART VIII.—PROCEDURE.

## CHAPTER LX.—ARREST.

- 564. Arrest without warrant generally.
- 565. Arrest without warrant in special cases.
- 566. Arrest of persons found committing offences.
- 567. Arrest of offender committing indictable offences by night.
- 568. Arrest during flight.
- 569. Arrest of persons offering stolen property for sale, etc.
- 570. Duty of persons arresting.

## CHAPTER LXI.—JURISDICTION: PRELIMINARY PROCEEDINGS: BAIL.

- 571. Jurisdiction.
- 572. Preliminary proceeding on charges of indictable offences.
- 573. Bail.
- 574. Summary convictions: Time.
- 575. Place of trial.
- 576. Persons brought before wrong Court.
- 577. Change of place of trial.

## CHAPTER LXII.—INDICTMENTS.

- 578. Nature of indictments.
- 579. *Ex officio* informations.
- 580. Arrest of person charged in *ex officio* information.
- 581. *Nolle prosequi*.
- 582. Form of indictment.
- 583. General rules applicable to indictments.
- 584. Particular indictments.
- 585. Indictment to contain one matter of charge only.
- 586. Cases in which several charges may be joined.
- 587. Accessories.
- 588. Statement of previous conviction.
- 589. Repealed by No. 32 of 1918, s.23.
- 590. Formal defects.
- 591. Amendment of indictments.
- 592. Particulars.
- 593. Summary convictions.

## CHAPTER LXIII.—EFFECT OF INDICTMENT.

- 594. Conviction for offence other than that charged.
- 595. Charge of murder or manslaughter.
  - Proviso: Charge of homicide of child.
- 596. Charge of rape and like offences.
- 596A. Power to convict for assault on charge of defilement.
- 597. Charge of specific injury: Charge of injury with specific intent.
- 598. Charge of injury to property.
- 599. Stealing, false pretences, and cheating.
- 600. Charge of procuring commission of offence or wrongful act.
- 601. Conviction for attempt to commit offence.
- 602. When evidence shows offence of similar nature.
- 603. Effect of conviction.
- 604. Corrupt practices.
- 605. Illegal practices.
- 606. Charge of cattle-stealing.
- 607. Indictment for joint receiving.
- 607A. Saving provisions as to time.

## CHAPTER LXIV.—TRIAL: ADJOURNMENT: PLEAS: PRACTICE.

- 608. Right to be tried.
- 609. Accelerating trial of prisoners not under committal.
- 610. Adjournment of trial.
- 611. On adjournment of trial accused may be remanded to another Court having jurisdiction.
- 612. Accused person to be called upon to plead to indictment.
- 613. Delivery of copy of indictment.
- 614. Motion to quash indictment.
- 615. Misnomer.
- 616. Pleas.

- 617. Defence of truth of defamatory matter to be specially pleaded.
- 618. Persons committed for sentence.
- 619. Standing mute.
- 620. Plea of *autrefois convict* or *autrefois acquit*.
- 621. Trial on plea to the jurisdiction.
- 622. Trial by jury.
- 623. Demurrer.
- 624. Separate trials.
- 625. Juries.
- 626. Accused person to be informed of his right to challenge.
- 627. Challenge to array.
- 628. Challenges to individual jurors for cause.
- 629. Time for challenging.
- 630. Ascertainment of facts as to challenge.
- 631. Want of understanding of accused person.
- 632. Jury to be sworn and informed of charge.
- 633. Discharge of juror by Court.
- 634. Defence by counsel.
- 635. Presence of accused.
- 635A. Exclusion of persons from hearing.
- 636. Evidence in defence.
- 637. Speeches by counsel.
- 638. Summing up.
- 639. Jury not to separate.
- 640. Confinement of jury.
- 641. View.
- 642. Special verdict.
- 643. General verdict on charge of defamation.
- 644. Discharge of jury.
- 645. Incapacity of judge.
- 646. Incapacity of juror.
- 647. Verdict on Sunday.
- 648. Procedure on charge of an offence committed after previous conviction.
- 649. Repealed by No. 32 of 1918, s. 23.
- 650. Procedure and evidence to be as on charge of an offence.
- 651. Further pleas.

#### CHAPTER LXV.—VERDICT: JUDGMENT.

- 652. Accused person insane during trial.
- 653. Discharge of persons acquitted.
- 654. Convicted person to be called on to show cause.
- 655. Arrest of judgment.
- 656. Sentence.
- 657. Sentence of death.
- 658. Pregnant women.
- 659. Whipping.

- 660. Police supervision.
- 661. Indeterminate sentence on habitual criminal.
- 662. Indeterminate sentence on person convicted of indictable offence.
- 663. Question of liability to detention in a reformatory prison to be determined by the Court.
- 664. What to be deemed previous convictions.
- 665. Service of indeterminate sentence.
- 666. Release on probation.
- 667. Recomittal of persons released on probation or termination of his reformative detention.
- 668. Application of provisions to sentences of preventive detention previously imposed.
- 669. First offenders.
- 670. Juvenile offenders or aboriginal natives may be sentenced to whipping.
- 671. Discharge of offender in certain cases.
- 672. Assessment of value of property: Appropriation of fines dependent on value.
- 673. Effect of summary conviction for indictable offences.

**CHAPTER LXVI.—COSTS.**

- 674. Costs of prosecution in certain cases.
- 675. Costs in cases of defamation.
- 676. Taxation.
- 677. Enforcement of judgment of Circuit Court, Court of Session, or Court of General or Quarter Sessions.

**CHAPTER LXVII.—EXECUTION OF SENTENCE.**

- 678. Execution of sentence of death.
- 679. Commutation of capital sentence.
- 680. Whipping.
- 681. Levy of fine and costs on conviction for defamation.
- 682. Enforcement of order for payment of money.
- 682A. Enforcement of order for payment of penalty, compensation, or costs.

**CHAPTER LXVIII.—EFFECT OF CONVICTION AS REGARDS PRISONERS' PROPERTY.**

- 683. Forfeitures abolished.
- 684. Curator may be appointed of prisoner's estate.  
Estate to vest in curator.  
Powers of curator.  
Security.  
Prisoner may retain property acquired whilst on license.  
Curator may apply to Court for directions.  
Interpretation.

- 685. Vesting of property on death, bankruptcy, or liberation of prisoner.
- 686. Curator to account.

**CHAPTER LXIX.—APPEAL: PARDON.**

- 687. Court of Criminal Appeal.
- 688. Right of appeal in criminal cases.
- 689. Determination of appeals in ordinary cases.
- 690. How other appeals disposed of.
- 691. Court may give directions as to new trial.
- 692. Appeal by person acquitted on the ground of insanity.
- 693. Powers of Court in special cases.
- 694. Revesting and restitution of property on conviction.
- 695. Time for appealing.
- 696. Judge's notes and report to be furnished on appeal.
- 697. Supplemental powers of Court.
- 698. Legal assistance to appellant.
- 699. Right of appellant to be present.
- 700. Admission of appellant to bail, and custody when attending Court.
- 701. Duties of Registrar with respect to notices of appeal, etc.
- 702. Powers which may be exercised by a judge of the Court.
- 703. Definitions.
- 704. Writs of error and motions for new trials in criminal cases abolished.
- 705. Conditional remission of sentence by Governor.
- 706. Pardon in case of imprisonment for non-payment of money.
- 707. Effect of pardon.

**CHAPTER LXXX.—SUMMARY TRIAL OF CHILDREN UNDER TWELVE.**

- 708. Summary jurisdiction of Justices in case of indictable offences committed by children not more than twelve years of age.

**CHAPTER LXXI.—SUMMARY TRIAL OF YOUNG PERSONS.**

- 709. Summary jurisdiction of Justices in case of indictable offences committed by young persons.
- 710. Procedure.

**CHAPTER LXXXII.—SEIZURE AND DETENTION OF PROPERTY CONNECTED WITH OFFENCES: CUSTODY OF WOMEN UNLAWFULLY DETAINED FOR IMMORAL PURPOSES: RESTITUTION OF PROPERTY UNLAWFULLY ACQUIRED.**

- 711. Search warrant.
- 712. Property found on offenders on arrest.
- 713. Seizure of counterfeit coin, tools for coining, etc.

- 714. Disposal of property seized.
- 715. Explosives.
- 716. Women detained for immoral purposes.
- 717. Restitution of property.
- 718. Money found on prisoner may be paid to purchaser of stolen property on restitution.
- 719. Power to award compensation to person aggrieved by offence.

CHAPTER LXXIII.—INFORMATIONS BY PRIVATE PERSONS FOR INDICTABLE OFFENCES; *Ex Officio* INDICTMENTS.

- 720. Information by leave of the Court by private prosecutors.
- 721. Security to be given by prosecutor for costs of defence.
- 722. Service of information.
- 723. Plea.
- 724. Default of plea.
- 725. Time and place of trial.
- 726. Effect and judgment for prosecutor on demurrer.
- 727. Effect of judgment by default.
- 728. Costs of defence.
- 729. Practice to be applied on *ex officio* information.

CHAPTER LXXIV.—MISCELLANEOUS PROVISIONS.

- 730. Names of jury to be given to person charged with treason or concealment of treason.
- 731. Court may direct certain persons to be prosecuted for perjury.
- 732. Committal of fraudulent debtors.
- 733. Staying prosecution for publication of Parliamentary paper.
- 734. Certificate of dismissal by Justices.
- 735. Record and report of conviction of aboriginal native.
- 736. Custody of girls under seventeen.
- 737. Saving of civil remedies.
- 738. Incriminating answers and discovery.
- 739. Limitation of proceedings.
- 740. No Court fees in criminal cases.
- 741. Court may order payment of witnesses for defence.
- 742. Police and Resident Magistrates may act alone.
- 743. Jurisdiction of one Justice in certain circumstances.
- 744. Powers of Attorney General may be delegated to Solicitor General or Crown Solicitor.
- 745. Copies of depositions to be allowed to persons committed for trial.
- 746. Inspection of depositions at trial.
- 746A. Enforcing recognisances.
- 747. Rules and Forms of criminal proceedings.
- 748. Repealed by No. 32 of 1918, s. 34.

## PART I.—INTRODUCTORY.

## INTERPRETATION: APPLICATION: GENERAL PRINCIPLES.

## CHAPTER I.—INTERPRETATION.

Construction  
of terms,  
Code, s. 1.

Amended by  
No. 55 of  
1953, s. 2.

1. In this Code, unless the context otherwise indicates—  
The term “Attorney General” includes where there is a vacancy in the office of Attorney General the person appointed by the Governor to be Minister for Justice;
- \* The term “bodily harm” means any bodily injury which interferes with health or comfort;
- The term “circumstance of aggravation” means and includes any circumstance by reason whereof an offender is liable to a greater punishment than that to which he would be liable if the offence were committed without the existence of that circumstance;
- The terms “clerk” and “servant” include any person employed for any purpose as or in the capacity of a clerk or servant, or as a collector of money, although temporarily only, or although employed also by other persons than the person alleged to be his employer, or although employed to pay as well as receive money, and any person employed as or in the capacity of a commission agent for the collection or disbursement of money, or in any similar capacity, although he has no authority from his employer to receive money or other property on his account;
- The term “company” means an incorporated company;
- The term “criminally responsible” means liable to punishment as for an offence; and the term “criminal responsibility” means liability to punishment as for an offence;
- The term “dwelling-house” includes any building or structure, or part of a building or structure, which is for the time being kept by the owner or occupier for the residence

therein of himself, his family, or servants, or any of them: It is immaterial that it is from time to time uninhabited;

A building or structure adjacent to, and occupied with, a dwelling-house is deemed to be part of the dwelling-house if there is a communication between such building or structure and the dwelling-house, either immediate or by means of a covered and enclosed passage leading from the one to the other, but not otherwise;

The term "explosive substance" includes a gaseous substance in such a state of compression as to be capable of explosion;

The term "grievous bodily harm" means any bodily injury of such a nature as to endanger, or be likely to endanger life, or to cause, or be likely to cause, permanent injury to health;

The term "have in possession" includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question;

The term "indictment" means a written charge preferred against an accused person in order to his trial before some Court other than justices exercising summary jurisdiction;

The term "liable," used alone, means liable on conviction upon indictment;

The term "mail" includes anything sent by post which is in actual course of transmission from one place to another;

The term "mail conveyance" includes any conveyance of any kind by which a mail is carried, and also any vessel employed by or under the Postmaster General's Department, or the postal authority of any other country, or the Admiralty, for the convey-

ance of mails, whether under contract or not, and also a ship of war or other vessel in the service of His Majesty in respect of letters conveyed by it;

The term "money" includes bank notes, bank drafts, cheques, and any other orders, warrants, authorities, or requests for the payment of money;

The term "night" or "night-time" means the interval between nine o'clock in the evening and six o'clock in the morning;

The term "person" and "owner" and other like terms, when used with reference to property, include corporations of all kinds, and any other associations of persons capable of owning property: They also, when so used, include His Majesty;

The term "person employed in the Public Service" includes officers and men of the Defence Force and police officers, and persons employed to execute any process of a Court of justice, and persons employed by the Commissioner of Railways;

The term "police officer" includes any constable or officer of police;

The term "property" includes everything, animate or inanimate, capable of being the subject of ownership;

The term "railway" includes every kind of way on which vehicles are borne upon a rail or rails, whatever may be the means of propulsion;

The terms "registered brand" and "registered mark" mean respectively a brand or mark which is registered under the authority of the laws relating to brands;

The term "ship" includes every kind of vessel used in navigation not propelled by oars;

The term "summary conviction" means summary conviction before two justices in petty sessions;

The term "thing sent by post" includes any letter, newspaper, packet, parcel, or other thing, authorised by law to be transmitted by post, which has been posted or received at a post office for delivery or transmission by post, and which is in course of transmission by post, and any movable receptacle which contains any such thing, and which is in course of transmission by post;

The term "uncorroborated testimony" means testimony which is not corroborated in some material particular by other evidence implicating the accused person;

The term "utter" means and includes using or dealing with, and attempting to use or deal with, and attempting to induce any person to use, deal with, or act upon the thing in question;

The term "knowingly" used in connection with any term denoting uttering or using implies knowledge of the character of the thing uttered or used;

The term "valuable security" includes any document which is the property of any person, and which is evidence of the ownership of any property or of the right to recover or receive any property;

The term "vessel" includes a ship, a boat, and every other kind of vessel used in navigation.

2. An act or omission which renders the person doing the act or making the omission liable to punishment is called an offence. Definition of offence. Code, s. 2.

3. Offences are of three kinds, namely, crimes, misdemeanours, and simple offences. Division of offences. Code, s. 3.

Crimes and misdemeanours are indictable offences; that is to say, the offenders cannot, unless otherwise expressly stated, be prosecuted or convicted except upon indictment.

A person guilty of a simple offence may be summarily convicted by two justices in petty sessions.

An offence not otherwise designated is a simple offence.

Attempts to commit offences.  
Code, s. 4.

4. When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is said to attempt to commit the offence.

It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his part for completing the commission of the offence, or whether the complete fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists of his own motion from the further prosecution of his intention.

It is immaterial that by reason of circumstances not known to the offender, it is impossible in fact to commit the offence.

The same facts may constitute one offence and an attempt to commit another offence.

Arrest without warrant.  
Code, s. 5.

5. The expression "the offender may be arrested without warrant" means that the provisions of this Code relating to the arrest of offenders or suspected offenders without warrant are applicable to the offence in question, either generally or subject to such conditions, if any, as to time, place, or circumstance, or as to the person authorised to make the arrest, as are specified in the particular case.

Except when otherwise stated, the definition of an offence as a crime imports that the offender may be arrested without warrant.

The expression "the offender cannot be arrested without warrant" means that the provisions of this Code relating to the arrest of offenders or suspected offenders without warrant are not applicable to the crime in question, except subject to such conditions,

if any, as to time, place, or circumstance, or as to the person authorised to make the arrest as are specified in the particular case.

6. When the term "carnal knowledge" or the term "carnal connection" is used in defining an offence, it is implied that the offence, so far as regards that element of it, is complete upon penetration.

Carnal knowledge.  
Code, s. 6.

#### CHAPTER II.—PARTIES TO OFFENCE.

7. When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say—

Principal offenders.  
Code, s. 7.

- (a) Every person who actually does the act or makes the omission which constitutes the offence;
- (b) Every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;
- (c) Every person who aids another person in committing the offence;
- (d) Any person who counsels or procures any other person to commit the offence;

In the fourth case he may be charged either with himself committing the offence or with counselling or procuring its commission.

A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence.

Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind, and is liable to the same punishment as if he had himself

done the act or made the omission; and he may be charged with himself doing the act or making the omission.

Offences committed in prosecution of common purpose.  
Code, s. 8.

8. When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

Mode of execution immaterial.  
Code, s. 9.

9. When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence actually committed is the same as that counselled or a different one, or whether the offence is committed in the way counselled, or in a different way, provided in either case that the acts constituting the offence actually committed are a probable consequence of carrying out the counsel.

In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by him.

Accessories after the fact.  
Code, s. 10.

10. A person who receives or assists another who is, to his knowledge, guilty of an offence, in order to enable him to escape punishment, is said to become an accessory after the fact to the offence.

A married woman does not become an accessory after the fact to an offence of which her husband is guilty, by receiving or assisting him in order to enable him to escape punishment; nor by receiving or assisting, in her husband's presence and by his authority, another person who is guilty of an offence in the commission of which her husband has taken part, in order to enable that other person to escape punishment: Nor does a husband become accessory after the fact to an offence of which his wife is guilty by receiving or assisting her in order to enable her to escape punishment.

## CHAPTER III.—APPLICATION OF CRIMINAL LAW.

11. A person cannot be punished for doing or omitting to do an act, unless the act or omission constituted an offence under the law in force when it occurred, nor unless doing or omitting to do the act under the same circumstances would constitute an offence under the law in force at the time when he is charged with the offence.

Effect of  
changes  
in law.  
Code, s. 11.

If the law in force when the act or omission occurred differs from that in force at the time of the conviction, the offender cannot be punished to any greater extent than was authorised by the former law or to any greater extent than is authorised by the latter law.

12. This Code applies to every person who is in Western Australia at the time of his doing any act or making any omission which constitutes an offence.

Application  
of Code as  
to offences  
wholly or  
partially  
committed  
in Western  
Australia.  
Code, s. 12.

With regard to offences which are of such a nature that they comprise several elements, if any acts or omissions or events actually occur which, if they all occurred in Western Australia, would constitute an offence, and any of such acts or omissions or events occurs in Western Australia although all or some of the other acts or omissions or events which, if they occurred in Western Australia, would be elements of the offence occur elsewhere than in Western Australia; then—

- (1) If the act or omission which, in the case of an offence wholly committed in Western Australia, would be the initial element of the offence, occurs in Western Australia, the person who does that act or makes that omission is guilty of an offence of the same kind, and is liable to the same punishment, as if all the subsequent elements of the offence had occurred in Western Australia; and

(2) If that act or omission occurs elsewhere than in Western Australia, and the person who does that act or makes that omission afterwards comes into Western Australia, he is, by such coming into Western Australia, guilty of an offence of the same kind, and is liable to the same punishment as if that act or omission had occurred in Western Australia and he had been in Western Australia when it occurred:

But in any such case it is a defence to the charge to prove that the accused person did not intend that the act or omission should have effect in Western Australia.

This section does not extend to a case in which the only material event that occurs in Western Australia is the death in Western Australia of a person whose death is caused by an act done or omitted to be done at a place not in Western Australia, and at a time when he was not in Western Australia.

Offences  
procured or  
counselled  
by persons  
out of  
Western  
Australia.  
Code, s. 13.

13. Any person who, having while out of Western Australia procured another to do or omit to do in Western Australia an act of such a nature that, if he had himself done the act or made the omission in Western Australia, he would have been guilty of an offence, afterwards comes into Western Australia, is by such coming into Western Australia guilty of an offence of the same kind, and is liable to the same punishment, as if he had himself done the act or made the omission in Western Australia.

Any person who, having while out of Western Australia counselled or procured the commission of an offence which is actually committed in Western Australia, afterwards comes into Western Australia, is by such coming into Western Australia guilty of an offence of the same kind, and is liable to the same punishment, as if he had been in Western Australia when the offence was committed.

14. Any person who, while in Western Australia, procures another to do an act or make an omission at a place not in Western Australia of such a nature that, if he had himself done the act or made the omission in Western Australia, he would have been guilty of an offence, and that, if he had himself done the act or made the omission, he would have been guilty of an offence under the laws in force in the place where the act or omission is done or made, is guilty of an offence of the same kind, and is liable to the same punishment, as if the act had been done or the omission had been made in Western Australia, but so that the punishment does not exceed that which he would have incurred under the laws in force in the place where the act was done or the omission was made, if he had himself done the act or made the omission.

Offences  
procured in  
Western  
Australia  
to be  
committed  
out of  
Western  
Australia.  
Code, s. 14.

A prosecution cannot be instituted under the provisions of this section, except at the request of the Government of the State having jurisdiction in the place where the act or omission occurs.

15. Officers and men of the Naval and Military Defence Force are subject to the special laws relating to that force, but are not exempt from the provisions of this Code.

Defence  
Force.  
Code, s. 15.

16. A person cannot be twice punished, either under the provisions of this Code or under the provisions of any other law, for the same act or omission, except in the case where the act or omission is such that by means thereof he causes the death of another person, in which case he may be convicted of the offence of which he is guilty by reason of causing such death, notwithstanding that he has already been convicted of some other offence constituted by the act or omission.

Person not  
to be twice  
punished  
for same  
offence.  
Code, s. 16.

17. It is a defence to a charge of any offence to show that the accused person has already been tried, and convicted or acquitted upon an indictment on which he might have been convicted of the offence with which he is charged, or has already been acquitted upon indictment, or has already been convicted, of an offence of which he might be convicted upon the indictment or complaint on which he is charged.

Former  
conviction  
or acquittal.  
Code, s. 17.

## CHAPTER IV.—PUNISHMENTS.

Kinds of punishment.  
Code, s. 18.  
Amended by  
No. 32 of  
1918, s. 2.

18. The punishments which may be inflicted under this Code are as follows:—

Death;  
Imprisonment with hard labour;  
Imprisonment without hard labour;  
Detention in an industrial or reformatory school;  
Whipping;  
Fine;  
Finding security to keep the peace and be of good behaviour;  
Detention in a reformatory prison.

The punishment of whipping cannot be inflicted upon a female.

Construction of provisions of Code as to punishments.  
Code, s. 19.  
Amended by  
No. 32 of  
1918, s. 3.

19. In the construction of this Code it is to be taken that, except when it is otherwise expressly provided,

- (1) A person liable to imprisonment, either with or without hard labour, for life or for any other period, may be sentenced to similar imprisonment for any shorter term;
- (2) A person liable to imprisonment with hard labour may be sentenced to imprisonment without hard labour;
- (3) A person liable to imprisonment, either with or without hard labour, may be sentenced to pay a fine not exceeding Five hundred pounds in addition to, or instead of, such imprisonment.
- (4) A person liable to a fine of any amount may be sentenced to pay a fine of any lesser amount;
- (5) A person sentenced on conviction upon indictment to pay a fine may be sentenced to be imprisoned until the fine is paid, in addition to any other punishment to which he is sentenced; but so that the imprisonment for non-payment of the fine shall not extend for a term longer than two years, and shall not, together with the fixed term

of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine;

(6) A person convicted upon indictment of an offence not punishable with death may, instead of, or in addition to, any punishment to which he is liable, be ordered to enter into his own recognisance, with or without sureties, in such amount as the Court thinks fit, that he shall keep the peace and be of good behaviour for a time to be fixed by the Court, and may be ordered to be imprisoned until such recognisance, with sureties if so directed, is entered into; but so that the imprisonment for not entering into the recognisance shall not extend for a term longer than one year, and shall not, together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine;

(6a) If any child or young person under the age of eighteen years is convicted on indictment of any offence punishable with imprisonment, the Court, in lieu of sentencing him to imprisonment, may order him to be sent to an industrial school (as defined in the State Children Act, 1907)\* until he is eighteen years of age, or until the expiry of two years from the date of the conviction, whichever period shall be the longer, and such child or young person may by virtue of the order be dealt with as is provided in the State Children Act, 1907\*, with reference to children sent to industrial schools, and the relative provisions of that Act shall apply to him accordingly.

(7) A person convicted of any offence upon summary conviction may, instead of being sentenced to any punishment to which he

*Inserted by  
No. 32 of  
1918, s. 3.*

\* Title altered to *Child Welfare Act* by No. 22 of 1927, s. 2. Act repealed and re-enacted by No. 66 of 1947. Now *Child Welfare Act, 1947-1952*.

is liable, be discharged upon his entering into his own recognisances, with or without sureties, in such amount as the justices think fit, that he shall keep the peace and be of good behaviour for a term not exceeding one year;

(8) When a person is convicted of any offence not punishable with death, the Court or justices may, instead of passing sentence, discharge the offender upon his entering into his own recognisance, with or without sureties, in such sum as the Court or justices may think fit, conditioned that he shall appear and receive judgment at some future sittings of the Court, or when called upon.

20. When a person who is convicted of an offence is, at the time when he appears to receive judgment, undergoing or under sentence to undergo, for one or more other offences, a sentence or sentences involving deprivation of liberty, the punishment to be inflicted upon him for the first-mentioned offence may be directed to take effect from the expiration of the deprivation of liberty for the other offence or offences.

Judgments involving deprivation of liberty pronounced upon any convicted person on the same occasion may be directed to take effect concurrently or cumulatively.

The time during which a convicted appellant, pending the determination of his appeal, is admitted to bail and, subject to any directions which the Court of Criminal Appeal may give to the contrary on any appeal, the time during which the appellant if in custody is specially treated as an unconvicted prisoner, shall not count as part of any term of imprisonment under his sentence, and in the case of an appeal under this Code any imprisonment under the sentence of the appellant, whether it is the sentence passed by the Court of trial or the sentence passed by the Court of Criminal Appeal, shall, subject to any directions which may be given by

Calculation  
of terms of  
sentence:  
Cumulative  
sentences:  
Escaped  
prisoners.  
Code, s. 20.  
Amended by  
No. 55 of  
1953, s. 3.

the Court as aforesaid, be deemed to be resumed or to begin to run, as the case requires, if the appellant is in custody, as from the day on which the appeal is determined, and, if he is not in custody, as from the day on which he is received into prison under the sentence.

Except as aforesaid, a sentence of imprisonment, with or without hard labour, upon a conviction on indictment, and a sentence of imprisonment, with or without hard labour, upon a summary conviction takes effect from the commencement of the offender's custody under sentence.

A person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty is liable upon recapture to undergo the punishment which he was undergoing at the time of his escape, for a term equal to that during which he was absent from prison, after the escape and before the expiration of the term of his original sentence, whether at the time of his recapture the term of that sentence has or has not expired.

21. Nothing in this Code affects His Majesty's Royal Prerogative of Mercy, but the Attorney General, on the consideration of any petition for the exercise of His Majesty's mercy having reference to the conviction of a person on indictment or to the sentence (other than sentence of death) passed on a person so convicted, may, if he thinks fit, at any time either—

Prerogative  
Code, s. 21.

- (a) refer the whole case to the Court of Criminal Appeal, and the case shall then be heard and determined by the Court of Criminal Appeal as in the case of an appeal by a person convicted; or
- (b) if he desires the assistance of the Court of Criminal Appeal on any point arising in the case with a view to the determination of the petition, refer that point to the Court of Criminal Appeal for their opinion

thereon, and the Court shall consider the point so referred and furnish the Attorney General with their opinion thereon accordingly.

#### CHAPTER V.—CRIMINAL RESPONSIBILITY.

Ignorance of law:  
*Bona fide* claim of right.  
Code, s. 22.

22. Ignorance of the law does not afford any excuse for an act or omission which would otherwise constitute an offence, unless knowledge of the law by an offender is expressly declared to be an element of the offence.

But a person is not criminally responsible, as for an offence relating to property, for an act done or omitted to be done by him with respect to any property in the exercise of an honest claim of right and without intention to defraud.

Intention:  
Motive.  
Code, s. 23.

23. Subject to the express provisions of this Code relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident.

Unless the intention to cause a particular result is expressly declared to be an element of the offence constituted, in whole or part, by an act or omission, the result intended to be caused by an act or omission is immaterial.

Unless otherwise expressly declared, the motive by which a person is induced to do or omit to do an act, or to form an intention, is immaterial so far as regards criminal responsibility.

Mistake of fact.  
Code, s. 24.

24. A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject.

25. Subject to the express provisions of this Code relating to acts done upon compulsion or provocation or in self-defence, a person is not criminally responsible for an act or omission done or made under such circumstances of sudden or extraordinary emergency that an ordinary person possessing ordinary power of self-control could not reasonably be expected to act otherwise.

Extra-  
ordinary  
emergencies.  
Code, s. 25.

26. Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

Presumption  
of sanity.  
Code, s. 26.

27. A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is in such a state of mental disease or natural mental infirmity as to deprive him of capacity to understand what he is doing, or of capacity to control his actions, or of capacity to know that he ought not to do the act or make the omission.

Insanity.  
Code, s. 27.

A person whose mind, at the time of his doing or omitting to do an act, is affected by delusions on some specific matter or matters, but who is not otherwise entitled to the benefit of the foregoing provisions of this section, is criminally responsible for the act or omission to the same extent as if the real state of things had been such as he was induced by the delusions to believe to exist.

28. The provisions of the last preceding section apply to the case of a person whose mind is disordered by intoxication or stupefaction caused without intention on his part by drugs or intoxicating liquor, or by any other means.

Intoxication.  
Code, s. 28.

They do not apply to the case of a person who has intentionally caused himself to become intoxicated or stupefied, whether in order to afford excuse for the commission of an offence or not.

When an intention to cause a specific result is an element of an offence, intoxication, whether complete or partial, and whether intentional or

unintentional, may be regarded for the purpose of ascertaining whether such an intention in fact existed.

Immature age.  
Code, s. 29.

29. A person under the age of seven years is not criminally responsible for any act or omission.

A person under the age of fourteen years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission.

A male person under the age of fourteen years is presumed to be incapable of having carnal knowledge.

Judicial officers.  
Code, s. 30.

30. Except as expressly provided by this Code, a judicial officer is not criminally responsible for anything done or omitted to be done by him in the exercise of his judicial functions, although the act done is in excess of his judicial authority, or although he is bound to do the act omitted to be done.

Justification and excuse:  
Compulsion.  
Code, s. 31.

31. A person is not criminally responsible for an act or omission if he does or omits to do the act under any of the following circumstances, that is to say—

- (1) In execution of the law;
- (2) In obedience to the order of a competent authority which he is bound by law to obey, unless the order is manifestly unlawful;
- (3) When the act is reasonably necessary in order to resist actual and unlawful violence threatened to him, or to another person in his presence;
- (4) When he does or omits to do the act in order to save himself from immediate death or grievous bodily harm threatened to be inflicted upon him by some person actually present and in a position to execute the threats, and believing himself to be unable otherwise to escape the carrying of the threats into execution;

But this protection does not extend to an act or omission which would constitute an offence punishable with death, or an offence of which grievous bodily harm to the person of another, or an intention to cause such harm, is an element, nor to a person who has, by entering into an unlawful association or conspiracy, rendered himself liable to have such threats made to him.

Whether an order is or is not manifestly unlawful is a question of law.

32. A married woman is not free from criminal responsibility for doing or omitting to do an act merely because the act or omission takes place in the presence of her husband.

Compulsion  
of husband.  
Code, s. 32.

But a married woman is not criminally responsible for doing or omitting to do an act which she is actually compelled by her husband to do or omit to do, and which is done or omitted to be done in his presence, except in the case of an act or omission which would constitute an offence punishable with death, or an offence of which grievous bodily harm to the person of another, or an intention to cause such harm, is an element, in which case the presence of her husband is immaterial.

33. A husband and wife are not criminally responsible for a conspiracy between themselves alone.

No  
conspiracy  
between  
husband  
and wife  
alone.  
Code, s. 33.

34. A person who, being a member of a co-partnership, corporation, or joint stock company, does or omits to do any act with respect to the property of the co-partnership, corporation, or company, which, if he were not a member of the co-partnership, corporation, or company, would constitute an offence, is criminally responsible to the same extent as if he were not such member.

Offences by  
partners and  
members of  
companies  
with respect  
to  
partnership  
or corporate  
property.  
Code, s. 34.

Liability of  
husband  
and wife for  
offences  
committed  
by either  
with respect  
to the other's  
property.  
Code, s. 35.

35. When a husband and wife are living together, neither of them incurs any criminal responsibility for doing or omitting to do any act with respect to the property of the other, except in the case of an act or omission of which an intention to injure or defraud some other person is an element, and except in the case of an act done by either of them when leaving or deserting, or when about to leave or desert, the other.

Subject to the foregoing provisions a husband and wife are, each of them, criminally responsible for any act done by him or her with respect to the property of the other, which would be an offence if they were not husband and wife, and to the same extent as if they were not husband and wife.

But neither of them can institute criminal proceedings against the other while they are living together.

Upon the prosecution of a husband on the complaint of his wife for an offence committed with respect to her property, and upon the prosecution of a wife on the complaint of her husband for an offence committed with respect to his property, the wife or husband, as the case may be, is a competent and compellable witness.

In this section the term "property," used with respect to a wife, means her separate property.

Application  
of rules.  
Code, s. 36.

36. The provisions of this chapter apply to all persons charged with any offence against the Statute Law of Western Australia.

## PART II.—OFFENCES AGAINST PUBLIC ORDER.

### CHAPTER VI.—TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN'S PERSON AND AUTHORITY.

Treason.  
Code s. 37.  
Amended by  
No. 55 of 1953  
s. 4.

37. Any person who—

- (1) Kills the Sovereign, or does Him any bodily harm, tending to His death, or maim or wounding, or imprisonment or restraint; or
- (2) Kills the eldest son and heir-apparent for the time being of the Sovereign, or the Queen Consort of the reigning King; or

- (3) Forms an intention to do any such act as aforesaid, and manifests such intention by any overt act; or
- (4) Conspires with any other person to kill the Sovereign or to do Him any bodily harm tending to His death, or maim or wounding, or imprisonment or restraint; or
- (5) Levies war against the Sovereign—
  - (a) With intent to depose the Sovereign from the Royal Style and Titles for the time being appertaining to the Crown as used in relation to any of Her Majesty's realms and territories; or
  - (b) In order by force or constraint to compel the Sovereign to change His measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe any House of Parliament of any of His Majesty's dominions; or
- (6) Conspires with any other person to levy war against the Sovereign with any such intent or purpose as last aforesaid; or
- (7) Instigates any foreigner to make an armed invasion of any part of His Majesty's dominions; or
- (8) Assists by any means whatever any public enemy at war with the Sovereign; or
- (9) Violates, whether with her consent or not, a Queen Consort, or the wife of the eldest son and heir-apparent for the time being of the Sovereign;

Subsec. 5 (a)  
repealed and  
re-enacted  
by No. 55 of  
1953, s. 4.

is guilty of a crime which is called treason, and is liable to the punishment of death.

38. Any person who—

- (1) Becomes an accessory after the fact to treason; or

Concealment  
of treason.  
Code, s. 38.

(2) Knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to a justice, or use other reasonable endeavours to prevent the commission of the crime;

is guilty of a crime and is liable to imprisonment with hard labour for life.

Treasonable  
crimes.  
Code, s. 39.

Amended by  
No. 55 of  
1953, s. 5.  
Para. (a)  
repealed and  
re-enacted  
by No. 55 of  
1953, s. 5.

39. Any person who forms an intention to effect any of the following purposes, that is to say:—

- (a) To depose the Sovereign from the Royal Style and Titles for the time being appertaining to the Crown as used in relation to any of Her Majesty's realms and territories; or
- (b) To levy war against the Sovereign within any part of His dominions in order by force or constraint to compel the Sovereign to change his measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe any House of Parliament of any of His Majesty's dominions; or
- (c) To instigate any foreigner to make an armed invasion of any of His Majesty's dominions;

and manifests such intention by any overt act, is guilty of a crime and is liable to imprisonment with hard labour for life.

A person charged with any of the crimes defined in this section is not entitled to be acquitted on the ground that any act proved to have been committed by him constitutes the crime of treason; but a person who has been tried, and convicted or acquitted on a charge of any such crime, cannot be afterwards prosecuted for treason in respect of the same facts.

Time for  
proceeding  
in cases of  
treason or  
concealment  
of treason:  
Two  
witnesses  
necessary.  
Code, s. 40.

40. A person cannot be tried for treason or for any of the crimes defined in the two last preceding sections unless the indictment is presented within two years after the crime is committed:

Nor can a person charged with treason or with any of such crimes be convicted, except on his own plea of guilty, or on the evidence in open court of two witnesses at the least to one overt act of the kind of treason alleged, or the evidence of one witness to one overt act, and one other witness to another overt act of the same kind of treason.

This section does not apply to cases in which the overt act of treason alleged is the killing of the Sovereign, or a direct attempt to endanger the life or injure the person of the Sovereign.

**41.** Any person who advisedly attempts to effect any of the following purposes, that is to say:

Inciting to  
mutiny.  
Code, s. 41.

- (a) To seduce any person serving in His Majesty's forces by sea or land from his duty and allegiance to His Majesty; or
- (b) To incite any such person to commit an act of mutiny or any traitorous or mutinous act; or
- (c) To incite any such persons to make or endeavour to make a mutinous assembly;

is guilty of a crime and is liable to imprisonment with hard labour for life.

A person who has been tried, and convicted or acquitted, on a charge of any of the crimes defined in this section cannot be afterwards prosecuted for any other crime defined in this chapter in respect of the same facts.

**42.** Any person who—

Assisting  
escape of  
prisoners  
of war.  
Code, s. 42.

- (1) Knowingly and advisedly aids an alien enemy of His Majesty, being a prisoner of war, in Western Australia, whether such prisoner is confined in a prison or elsewhere or is suffered to be at large on his parole, to escape from his prison or place of confinement, or, if he is at large on his parole, to escape from Western Australia; or
- (2) Being a person who owes allegiance to His Majesty, after any such prisoner has escaped by sea from any part of His Majesty's dominions, knowingly and

advisedly upon the high seas within the territorial waters of Western Australia aids him in his escape to or towards any other dominion or place;

is guilty of a crime and is liable to imprisonment with hard labour for life.

Overt act.  
Code, s. 43.

43. In the case of any of the offences defined in this chapter when the manifestation by an overt act of an intention to effect any purpose is an element of the offence, every act of conspiring with any person to effect that purpose, and every act done in furtherance of the purpose by any of the persons conspiring, is deemed to be an overt act manifesting the intention.

#### CHAPTER VII.—SEDITION.

Definition  
of seditious  
intention.  
Code, s. 44.

44. An intention to effect any of the following purposes, that is to say:

- (a) To bring the Sovereign into hatred or contempt;
- (b) To excite disaffection against the Sovereign, or the Government or Constitution of the United Kingdom, or of the Commonwealth of Australia, or of Western Australia as by law established, or against either House of Parliament of the United Kingdom, of the Commonwealth of Australia, or of Western Australia, or against the administration of justice;
- (c) To excite His Majesty's subjects to attempt to procure the alteration of any matter in the State as by law established otherwise than by lawful means;
- (d) To raise discontent or disaffection amongst His Majesty's subjects;
- (e) To promote feelings of ill-will and enmity between different classes of His Majesty's subjects;

is a seditious intention, unless it is justified by the provisions of the next following section.

## 45. It is lawful for any person—

Innocent  
intentions.  
Code, s. 45.

- (a) To endeavour in good faith to show that the Sovereign has been mistaken in any of His counsels;
- (b) To point out in good faith errors or defects in the Government or Constitution of the United Kingdom, or of the Commonwealth of Australia, or of Western Australia as by law established, or in legislation, or in the administration of justice, with a view to the reformation of such errors or defects;
- (c) To excite in good faith His Majesty's subjects to attempt to procure by lawful means the alteration of any matter in the State as by law established; or
- (d) To point out in good faith in order to their removal any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of His Majesty's subjects.

## 46. A seditious enterprise is an enterprise which is undertaken in order to the carrying out of a seditious intention.

Definition  
of seditious  
enterprises,  
etc.  
Code, s. 46.

Seditious words are words expressive of a seditious intention.

The term "seditious writing" includes anything intended to be read, and any sign or visible representation, which is expressive of a seditious intention.

## 47. Any person who—

Unlawful  
oaths to  
commit  
capital  
offences.  
Code, s. 47.

- (1) Administers or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit any crime punishable with death; or
- (2) Takes any such oath or engagement, not being compelled to do so; or
- (3) Attempts to induce any person to take any such oath or engagement;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

## 48. Any person who—

- (1) Administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath purporting to bind the person who takes it to act in any of the ways following, that is to say,—
  - (a) To engage in any mutinous or seditious enterprise;
  - (b) To commit any indictable offence not punishable with death;
  - (c) To disturb the public peace;
  - (d) To be of any association, society, or confederacy formed for the purpose of doing any such act as aforesaid;
  - (e) To obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose;
  - (f) Not to inform or give evidence against any associate, confederate, or other person;
  - (g) Not to reveal or discover any unlawful association, society, or confederacy, or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person, or the import of any such oath or engagement; or
- (2) Takes any such oath or engagement, not being compelled to do so; or
- (3) Attempts to induce any person to take any such oath or engagement;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

49. A person who takes any such oath or engagement as is mentioned in the two last preceding sections cannot set up as a defence that he was compelled to do so, unless within fourteen days after taking it, or, if he is prevented by actual force or sickness, within fourteen days after the termination of such prevention, he declares by information on oath before some member of the Executive Council or justice of the peace, or, if he is on actual service in His Majesty's forces by sea or land, either by such information or by information to his commanding officer, the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence, and the place where, and the time when, the oath or engagement was administered or taken.

Compulsion,  
how far a  
defence.  
Code, s. 49.

50. A person who has been tried, and convicted or acquitted, on a charge of any of the crimes hereinbefore in this chapter defined cannot be afterwards prosecuted upon the same facts for the crime of treason, or for the crime of failing, when he knows that any person intends to commit treason, to give information thereof with all reasonable despatch to a justice or use other reasonable endeavours to prevent the commission of the crime.

Effect of  
prosecution.  
Code, s. 50.

51. (1) Any person who—

Unlawful  
drilling.  
Code, s. 51.

- (a) In contravention of the directions of a proclamation by the Governor in Council in that behalf trains or drills any other person to the use of arms or the practice of military exercise, movements, or evolutions; or
- (b) Is present at any meeting or assembly of persons held in contravention of the directions of any such proclamation, for the purpose of there training or drilling any other person to the use of arms or the practice of military exercise, movements, or evolutions;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

(2) Any person who, at any meeting or assembly held in contravention of the directions of a proclamation of the Governor in Council in that behalf, is trained or drilled to the use of arms or the practice of military exercise, movements, or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled, is guilty of a misdemeanour, and is liable to imprisonment for two years.

The offender may be arrested without warrant.

(3) A prosecution for any of the offences defined in this section must be begun within six months after the offence is committed.

Sedition.  
Code, s. 52.

52. Any person who—

- (1) Conspires with any person to carry into execution a seditious enterprise; or
- (2) Advisedly publishes any seditious words or writing;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

If he has been previously convicted of any such offence he is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

A prosecution for any of the offences defined in this section must be begun within six months after the offence is committed.

A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of one witness.

Defamation  
of Foreign  
Princes.  
Code, s. 53.

53. Any person who, without such justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read, or any sign or visible representation, tending to expose to hatred or contempt in the estimation of the people of any Foreign State any Prince or person exercising sovereign authority over that State, is guilty of a misdemeanour, and is liable to imprisonment for two years.

CHAPTER VIII.—OFFENCES AGAINST THE EXECUTIVE  
AND LEGISLATIVE POWER.

54. Any person who advisedly—

- (1) Does any act calculated to interfere with the free exercise by the Governor of the duties or authority of his office; or
- (2) Does any act calculated to interfere with the free exercise by a member of the Executive Council of the duties or authority of his office as a member of the Executive Council or as a Minister of State;

Interference  
with  
Governor or  
Ministers.  
Code, s. 54.

is guilty of a misdemeanour, and is liable to imprisonment for three years.

55. Any person who advisedly, by force or fraud, interferes or attempts to interfere with the free exercise by either House of Parliament of their authority, or with the free exercise by any member of either House of his duties or authority as such member or as a member of a Committee of either House, or of a joint Committee of both Houses, is guilty of a misdemeanour, and is liable to imprisonment for three years.

Interference  
with the  
Legislature.  
Code, s. 55.

56. Any person who advisedly—

- (1) Disturbs either House of Parliament while in session; or
- (2) Commits any disorderly conduct in the immediate view and presence of either House of Parliament while in session, tending to interrupt its proceedings or to impair the respect due to its authority;

Disturbing  
the  
Legislature.  
Code, s. 56.

is guilty of a misdemeanour, and is liable to imprisonment for three years.

57. Any person who in the course of an examination before either House of Parliament, or before a Committee of either House, or before a joint Committee of both Houses, knowingly gives a false answer to any lawful and relevant question put to him in the course of the examination, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

False  
evidence  
before  
Parliament.  
Code, s. 57.

The offender cannot be arrested without warrant.

A person cannot be convicted of the offence defined in this section upon the uncorroborated testimony of one witness.

Threatening  
witness  
before  
Parliament.  
Code, s. 58.

**58. Any person who—**

- (1) Threatens to do any injury, or cause any detriment of any kind to another with intent to prevent or hinder that other person from giving evidence before either House of Parliament, or before a Committee of either House, or before a joint Committee of both Houses; or
- (2) Threatens, or in any way punishes, damages, or injures, or attempts to punish, damage, or injure any other person for having given such evidence, or on account of the evidence which he has given, unless such evidence was given in bad faith;

is guilty of a misdemeanour, and is liable, on conviction, to imprisonment with hard labour for two years.

Witnesses  
refusing to  
attend or  
give  
evidence  
before  
Parliament  
or Parlia-  
mentary  
Committee.  
Code, s. 59.

**59. Any person who—**

- (1) Being duly summoned to attend as a witness or to produce any book, document, or other thing, in his possession, before either House of Parliament, or before a Committee of either House, or before a joint Committee of both Houses, authorised to summon witnesses or to call for the production of such things, refuses or neglects without lawful excuse to attend pursuant to the summons or to produce anything which he is summoned to produce, and which is relevant and proper to be produced; or
- (2) Being present before either House of Parliament, or before a Committee of either House, or before a Joint Committee of both Houses, authorised to summon witnesses, refuses to answer any lawful and relevant question;

is guilty of a misdemeanour, and is liable to imprisonment for two years.

60. Any person who, being a member of either House of Parliament, asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person upon any understanding that his vote, opinion, judgment, or action, in the House of which he is a member, or in any Committee thereof, or in any joint Committee of both Houses, shall be influenced thereby, or shall be given in any particular manner or in favour of any particular side of any question or matter, is guilty of a crime, and is liable to imprisonment with hard labour for seven years, and is disqualified from sitting or voting as a member of either House of Parliament for seven years.

Member of  
Parliament  
receiving  
bribes.  
Code, s. 60.

The offender cannot be arrested without warrant.

61. Any person who,—

Bribery of  
member of  
Parliament.  
Code, s. 61.

- (1) In order to influence a member of either House of Parliament in his vote, opinion, judgment, or action, upon any question or matter arising in the House of which he is a member or in any Committee thereof, or in any joint Committee of both Houses, or in order to induce him to absent himself from the House or from any such Committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for such member, or to, upon, or for, any other person; or
- (2) Attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member of either House of Parliament in his vote, opinion, judgment, or action, upon any such question or matter, or to induce him to so absent himself;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

## CHAPTER IX.—UNLAWFUL ASSEMBLIES: BREACHES OF THE PEACE.

Definitions.  
Code, s. 62.

62. When three or more persons, with intent to carry out some common purpose, assemble in such a manner, or, being assembled, conduct themselves in such a manner as to cause persons in the neighbourhood to fear, on reasonable grounds, that the persons so assembled will tumultuously disturb the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons tumultuously to disturb the peace, they are an unlawful assembly.

It is immaterial that the original assembling was lawful if, being assembled, they conduct themselves with a common purpose in such a manner as aforesaid.

An assembly of three or more persons who assemble for the purpose of protecting the house of any one of them against persons threatening to break and enter the house in order to commit an indictable offence therein is not an unlawful assembly.

When an unlawful assembly has begun to act in so tumultuous a manner as to disturb the peace, the assembly is called a riot, and the persons assembled are said to be riotously assembled.

Punishment  
of unlawful  
assembly.  
Code, s. 63.

63. Any person who takes part in an unlawful assembly is guilty of a misdemeanour, and is liable to imprisonment for one year.

Punishment  
of riot.  
Code, s. 64.

64. Any person who takes part in a riot is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Rioters  
remaining  
after  
proclamation  
ordering  
them to  
disperse.  
Code, s. 65.

65. Whenever any persons, to the number of twelve or more, are riotously assembled together, it is the duty of some one of the following persons, that is to say, the sheriff or under sheriff, or a justice of the peace, or, if the assembly is in a municipality, the mayor, to go amongst them, or as near as he can safely come to them, and to command or cause to be commanded with a loud voice that silence be

kept while the proclamation next hereinafter mentioned is made, and then openly and with a loud voice to make proclamation, or cause proclamation to be made, in these words or to the like effect:

Our Sovereign Lord the King charges and commands all persons here assembled immediately to disperse themselves and peaceably to depart to their habitations or to their lawful business, or they will be guilty of a crime, and will be liable to be imprisoned and kept to hard labour for fourteen years. God save the King!

Any person who wilfully and knowingly, and by force, opposes, obstructs, or hurts, any person who goes to make, or begins to make, any such proclamation, and thereby prevents the proclamation from being made, is guilty of a crime.

Any persons who, being so assembled, continue together to the number of twelve or more, and do not disperse themselves within the space of an hour after the making of the proclamation, are guilty of a crime.

When the making of the proclamation is prevented, any persons who, being so assembled, and to whom the proclamation would or ought to have been made if the making thereof had not been so prevented, and who, knowing of such prevention, continue together to the number of twelve or more, and do not disperse themselves within the space of an hour after the time of such prevention, are guilty of a crime.

Any person who commits any of the crimes defined in this section is liable to imprisonment with hard labour for fourteen years.

A prosecution for any of the crimes defined in this section must be begun within a year after the crime is committed.

66. Any persons who, being riotously assembled together, unlawfully pull down or destroy, or begin to pull down or destroy—

Rioters  
demolishing  
buildings,  
etc.  
Code, s. 66.

- (a) Any building whatever; or
- (b) Any machinery whatever, whether fixed or movable; or

- (c) Any structure used in farming land, or in carrying on any trade or manufacture, or in conducting the business of a mine; or
- (d) Any bridge, wagon-way, or trunk, for conveying materials from a mine;

are guilty of a crime; and each of them is liable to imprisonment with hard labour for fourteen years.

Rioters  
injuring  
building,  
machinery,  
etc.  
Code, s. 67.

67. Any persons who, being riotously assembled together unlawfully damage any of the things in the last preceding section mentioned, are guilty of a crime; and each of them is liable to imprisonment with hard labour for seven years.

Going armed  
so as to  
cause fear.  
Code, s. 68.

68. Any person who goes armed in public without lawful occasion in such a manner as to cause terror to any person is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Forcible  
entry.  
Code, s. 69.

69. Any person who, in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, enters on land which is in the actual and peaceable possession of another is guilty of a misdemeanour, and is liable to imprisonment for one year.

It is immaterial whether he is entitled to enter on the land or not.

Forcible  
detainer.  
Code, s. 70.

70. Any person who, being in actual possession of land without colour of right holds possession of it in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, against a person entitled by law to the possession of the land, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Affray.  
Code, s. 71.

71. Any person who takes part in a fight in a public highway, or takes part in a fight of such a nature as to alarm the public in any other place to which the public have access, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

72. Any person who challenges another to fight a duel, or attempts to provoke another to fight a duel, or attempts to provoke any person to challenge another to fight a duel, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Challenge to fight a duel.  
Code, s. 72.

73. Any person who fights in a prize fight or subscribes to or promotes a prize fight, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Prize fight.  
Code, s. 73.

74. Any person who—

Threatening violence.  
Code, s. 74.

- (1) With intent to intimidate or annoy any person, threatens to break or injure a dwelling-house; or
- (2) With intent to alarm any person in a dwelling-house, discharges loaded firearms or commits any other breach of the peace; is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

If the offence is committed in the night the offender is guilty of a crime, and is liable to imprisonment with hard labour for two years.

#### CHAPTER X.—OFFENCES AGAINST POLITICAL LIBERTY.

75. Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Interfering with political liberty.  
Code, s. 75.

If the offender is a public officer, and commits the offence in abuse of his authority as such officer, he is liable to imprisonment with hard labour for three years.

#### CHAPTER XI.—PIRACY.

76. In this chapter the term “pirate” includes any person who on the high seas commits, otherwise than as an act of war, and under the authority of some Foreign Prince or State, any act with

Definition of piracy in general.  
Code, s. 76.

respect to a ship, or any goods or merchandise belonging to a ship or laden upon it, which, if the act were committed on land, would constitute robbery as hereinafter defined; and any person who, having on the high seas obtained possession of a ship by means of any such act, retains possession thereof.

The term also includes any person who is declared by any Statute to be a pirate.

The act of any such person is called piracy.

Further  
definition  
of pirates.  
Code, s. 77.

77. Any person who does any of the acts following, that is to say:—

- (1) Being a British subject, and being at any place within the jurisdiction of the Admiralty, commits, under colour of a commission from a Foreign State or Prince, whether such State or Prince is at war with the Sovereign or not, or under pretence of authority from any person whatever, any act of hostility, or any act which, if it were committed on land, would be robbery as hereinafter defined, against another British subject; or
- (2) Being a British subject, is in any way adherent to or gives aid to His Majesty's enemies at any place within the jurisdiction of the Admiralty, during any war; or
- (3) Whether being a British subject or not, forcibly enters a British ship at any place within the jurisdiction of the Admiralty, and throws overboard or destroys any part of the goods or merchandise belonging to the ship or laden upon it; or
- (4) Being on board a British ship at any place within the jurisdiction of the Admiralty—
  - (a) Turns pirate, enemy, or rebel, and piratically runs away with the ship, or any boat, ordnance, ammunition, or goods belonging to it or laden upon it; or

- (b) Voluntarily yields up the ship or any such thing as last mentioned to a pirate; or
- (c) Brings a seducing message from a pirate, enemy, or rebel; or
- (d) Consults or conspires with, or attempts to corrupt, any master or officer of a ship, or any seaman with intent that he should run away with or yield up any ship, goods, or merchandise, or turn pirate, or go over to pirates; or
- (e) Lays violent hands on the master of the ship, with intent to hinder him from fighting in defence of the ship and goods committed to his trust; or
- (f) Confines the master of the ship; or
- (g) Makes, or endeavours to make, a revolt in the ship; or

(5) Being a British subject in any part of the world, or whether being a British subject or not, being in any part of His Majesty's dominions, or on board a British ship in any part of the world, knowingly—

- (h) Trades with a pirate in any manner whatever; or
- (i) Furnishes a pirate with ammunition, provisions, or stores of any kind; or
- (j) Fits out a ship or vessel with a design to trade with, or supply or correspond with, a pirate; or
- (k) Conspires or corresponds with a pirate;

is also deemed to be a pirate, and his act is also called piracy.

78. Any person who, within the territorial jurisdiction of Western Australia, commits piracy, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Punishment of piracy.  
Code, s. 78.

If the crime is committed with respect to a ship, and if at or immediately before or immediately after the time of committing the crime the offender—

- (a) Assaults any person on board of or belonging to the ship, with intent to kill him or to kill any other person; or
- (b) Wounds any such person; or
- (c) Unlawfully does any act by which the life of any such person is endangered;

the offender is liable to the punishment of death.

Attempted  
piracy  
with personal  
violence.  
Code, s. 79.

79. Any person who, within the territorial jurisdiction of Western Australia, does any of the acts following with intent to commit the crime of piracy with respect to a ship, that is to say:—

- (1) Assaults any person on board of or belonging to the ship, with intent to kill him or to kill any other person; or
- (2) Wounds any such person; or
- (3) Unlawfully does any act by which the life of any such person is endangered;

is guilty of a crime, and is liable to the punishment of death.

Aiding  
pirates.  
Code, s. 80.

80. Any person who—

- (1) Brings a seducing message from a pirate; or
- (2) Consults or conspires with, or attempts to corrupt, any master or officer of a ship or any seaman, with intent that he should run away with or yield up any ship, goods, or merchandise, or turn pirate, or go over to pirates;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

PART III.—OFFENCES AGAINST THE ADMINISTRATION  
OF LAW AND JUSTICE AND AGAINST PUBLIC  
AUTHORITY.

CHAPTER XII.—DISCLOSING OFFICIAL SECRETS.

81. Any person who, being employed in the Public Service, publishes or communicates any fact which comes to his knowledge by virtue of his office and which it is his duty to keep secret, or any document which comes to his possession by virtue of his office and which it is his duty to keep secret, except to some person to whom he is bound to publish or communicate it, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Disclosure  
of official  
secrets.  
Code, s. 81.

CHAPTER XIII.—CORRUPTION AND ABUSE OF OFFICE.

82. Any person who—

(1) Being employed in the Public Service, or being the holder of any public office, and being charged with the performance of any duty by virtue of such employment or office, not being a duty touching the administration of justice, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or

(2) Corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, any person employed in the Public Service, or being the holder of any public office, or to, upon, or for, any other person, any property or benefit of any kind on account of any such act or omission on the part of the person so employed or holding such office;

Official  
corruption.  
Code, s. 82.

is guilty of a crime, and is liable to imprisonment with hard labour for seven years, and to be fined at the discretion of the Court.

The offender cannot be arrested without warrant.

Extortion  
by public  
officers.  
Code, s. 83.

83. Any person who, being employed in the Public Service, takes or accepts from any person, for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, or any promise of such reward, is guilty of a misdemeanour, and is liable to imprisonment for three years.

Public  
officers  
interested  
in contracts.  
Code, s. 84.

84. Any person who, being employed in the Public Service, knowingly acquires or holds, directly or indirectly, otherwise than as a member of a registered joint stock company consisting of more than twenty persons, a private interest in any contract or agreement, which is made on account of the Public Service with respect to any matter concerning the department of the Service in which he is employed, is guilty of a misdemeanour, and is liable to imprisonment for three years, and to be fined at the discretion of the Court.

Officers  
charged with  
adminis-  
tration of  
property of  
a special  
character  
or with  
special  
duties.  
Code, s. 85.

85. Any person who, being employed in the Public Service, and being charged by virtue of his employment with any judicial or administrative duties respecting property of a special character or respecting the carrying on of any manufacture, trade, or business of a special character, and having acquired or holding, directly or indirectly, a private interest in any such property, manufacture, trade, or business, discharges any such duties with respect to the property, manufacture, trade, or business, in which he has such interest, or with respect to the conduct of any person in relation thereto, is guilty of a misdemeanour, and is liable to imprisonment for one year, and to be fined at the discretion of the Court.

False claims  
by officials.  
Code, s. 86.

86. Any person who, being employed in the Public Service in such a capacity as to require him or to enable him to furnish returns or statements touching any remuneration payable or claimed to be payable to himself or to any other person, or touching any other matter required by law to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such

matter which is, to his knowledge, false in any material particular, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

87. Any person who, being employed in the Public Service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another is guilty of a misdemeanour, and is liable to imprisonment for two years.

If the act is done or directed to be done for purposes of gain, he is liable to imprisonment with hard labour for three years.

88. Any person who, being a valuator for determining the compensation to be paid to any person for land compulsorily taken from him under the authority of any Statute, or for injury done to any land under the authority of any Statute—

- (1) Acts as such valuator while he has, to his knowledge, an interest in the land in question; or
- (2) Executes unfaithfully, dishonestly, or with partiality, the duty of making a valuation of the land or of the extent of the injury; is guilty of a misdemeanour, and is liable to imprisonment for three years.

89. Any person who, being authorised or required by law to give any certificate touching any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificate, which is, to his knowledge, false in any material particular is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

90. Any person who administers an oath, or takes a solemn declaration or affirmation or affidavit, touching any matter with respect to which he has not by law any authority to do so, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Abuse of  
office.  
Code, s. 87.

Corruption  
of surveyor  
and valuator.  
Code, s. 88.

False  
certificates  
by public  
officers.  
Code, s. 89.

Administer-  
ing extra-  
judicial  
oaths.  
Code, s. 90.

This section does not apply to an oath, declaration, affirmation, or affidavit, administered or taken before a justice in any matter relating to the preservation of the peace or the punishment of offences, or relating to inquiries respecting sudden death, or to proceedings before either House of Parliament or a Committee of either House or a Joint Committee of both Houses; nor to an oath, declaration, affirmation, or affidavit, administered or taken for some purpose which is lawful under the laws of another country, or for the purpose of giving validity to an instrument in writing which is intended to be used in another country.

False  
assumption  
of authority.  
Code, s. 91.

91. Any person who—

- (1) Not being a justice assumes to act as a justice; or
- (2) Without authority assumes to act as a person having authority by law to administer an oath or take a solemn declaration or affirmation or affidavit, or to do any other act of a public nature which can only be done by persons authorised by law to do so; or
- (3) Represents himself to be a person authorised by law to sign a document testifying to the contents of any register or record kept by lawful authority, or testifying to any fact or event, and signs such document as being so authorised, when he is not, and knows that he is not, in fact, so authorised;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Personating  
public  
officers.

92. Any person who—

- (1) Personates any person employed in the Public Service on an occasion when the latter is required to do any act or attend in any place by virtue of his employment; or

(2) Falsely represents himself to be a person employed in the Public Service, and assumes to do any act or to attend in any place for the purpose of doing any act by virtue of such employment;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

A person found committing the offence may be arrested without warrant.

CHAPTER XIV.—CORRUPT AND IMPROPER PRACTICES  
AT ELECTIONS.

93. In this chapter—

Definitions.  
Code, s. 93.

The term “election” includes any election held under the authority of any statute providing for the choice of persons to fill any office or place of a public character;

The term “elector” includes any person entitled to vote at an election;

The term “ballot-box” includes any receptacle in which voting papers are put before being counted at an election;

The term “polling-booth” includes any room or place in which voting at an election is conducted or in which the votes are counted.

94. Any person who votes or attempts to vote in the name of another person at an election, whether the name is that of a person living or dead or of a fictitious person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Personation.  
Code, s. 94.

95. Any person who, being an elector, votes or attempts to vote at an election oftener than he is entitled to vote at the election is guilty of an offence, and is liable to imprisonment with hard labour for six months.

Double  
voting.  
Code, s. 95.

Recording  
excessive  
number of  
votes.  
Code, s. 96.

96. Any person who, being an elector, records at an election a larger number of votes than he is entitled to is guilty of an offence, and is liable to imprisonment with hard labour for three months, or to a fine of twenty pounds.

Treating.  
Code, s. 97.

97. Any person who—

- (1) Corruptly, before, during, or after an election, provides, or pays, in whole or part, the expense of providing any food, drink, or lodging to or for any person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by an elector at the election in the capacity of an elector; or
- (2) Being an elector, corruptly receives any food, drink, or lodging on account of any such act or omission;

is guilty of an offence, and is liable to imprisonment with hard labour for six months, or to a fine of fifty pounds.

Undue  
influence.  
Code, s. 98.

98. Any person who—

- (1) Uses or threatens to use any force or restraint, or does or threatens to do any temporal or spiritual injury, or causes or threatens to cause any detriment of any kind, to an elector in order to induce him to vote or refrain from voting at an election, or on account of his having voted or refrained from voting at an election; or
- (2) By force or fraud prevents or obstructs the free exercise of the franchise by an elector, or by any such means compels or induces an elector to vote or refrain from voting at an election;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for nine months, or to a fine of One hundred pounds.

## 99. Any person who—

Bribery.  
Code, s. 99.

- (1) Gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for any person any property or benefit of any kind on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by an elector at an election in the capacity of an elector or on account of any person acting or joining in a procession during an election, or in order to induce any person to endeavour to procure the return of any person at an election, or the vote of any elector at an election; or
- (2) Being an elector, asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him at an election, in the capacity of an elector; or
- (3) Asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, on account of a promise made by him or any other person to endeavour to procure the return of any person at an election, or the vote of any person at an election; or
- (4) Advances or pays any money to or to the use of any other person with the intent that such money shall be applied for any of the purposes hereinbefore in this section mentioned, or in discharge or repayment of money wholly or in part applied for any such purpose; or
- (5) Corruptly transfers or pays any property or money to any person for the purpose of enabling that person to be registered as an elector, and thereby of influencing the vote of that person at a future election; or

(6) Is privy to any such transfer or payment as last-mentioned which is made for his benefit;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for nine months, or to a fine of One hundred pounds.

*Illegal practices.  
Code, s. 100.*

**100.** Any person who, being a candidate at an election—

- (1) Convenes or holds a meeting of his committee in a house licensed for the sale of fermented or spirituous liquors;
- (2) Personally solicits the vote of any elector on polling-day; or
- (3) Attends at any meeting of electors held for electoral purposes on polling day;

is guilty of an offence and is liable to imprisonment for two months, or to a fine of Twenty pounds.

*Illegal practices.  
Code, s. 101.*

**101.** Any person who—

- (1) Being prohibited by law from voting at an election, and knowing that he is so prohibited, votes at the election; or
- (2) Procures any person who is, and whom he knows to be, prohibited from voting at an election to vote at the election; or
- (3) Before or during an election, and for the purpose of promoting or procuring the choice of any candidate at the election, knowingly publishes a false statement of the withdrawal of another candidate at the election; or
- (4) Before or during an election, and for the purpose of affecting the return of a candidate at the election, knowingly publishes a false statement of fact respecting the personal character or conduct of the candidate; or
- (5) Being a candidate at an election, withdraws from being a candidate in consideration of a payment or promise of payment; or

(6) Being a candidate or the agent of a candidate at an election, corruptly procures any other person to withdraw from being a candidate at the election in consideration of any payment or promise of payment; is guilty of a misdemeanour, and is liable to imprisonment for nine months, or to a fine of One hundred pounds.

**102. Any person who—**

(1) Knowingly provides money for any payment which is contrary to any law relating to elections, or for replacing any money which has been expended in any such payment, and which is not allowed by law to be an exception; or

(2) Prints, publishes, or posts any bill, placard, or poster, which has reference to an election, and which does not bear on the face of it the name and address of the printer and publisher; or

(3) Hires or uses for a committee room at an election—

- (a) Any part of a house licensed for the sale of fermented or spirituous liquors; or
- (b) Any part of any premises where any intoxicating liquor is sold or supplied to members of a club, society, or association, which is not a permanent political club; unless, in either case, it is a part which has a separate entrance, and has no direct communication with any part of the premises in which intoxicating liquor is sold, and is a part ordinarily let for the purpose of chambers or offices or for holding public meetings or arbitrations; or

(4) Knowing that the same are intended to be used as a committee room at an election, lets any part of any such premises, not being such a part as aforesaid, for such use; or

Other illegal  
practices.  
Code, s. 102.

(5) Provides any cab, carriage, or other conveyance to carry an elector to a polling place with the view to influence the vote of the elector;

is guilty of an offence, and is liable, on summary conviction, to a fine of Twenty-five pounds.

Corrupt and  
illegal  
practices:  
Time.  
Code, s. 103.

**103.** A prosecution for any of the offences hereinbefore defined in this chapter must be begun within one year after the offence is committed.

The service or execution of process on or against the alleged offender is deemed to be the commencement of the prosecution, unless such service or execution is prevented by some act on his part, in which case the issue of the process is deemed to be the commencement of the proceeding.

Interference  
at elections.  
Code, s. 104.

**104.** Any person who—

(1) Intrudes into a polling-booth, not being lawfully entitled to be in it; or  
 (2) Wilfully interrupts, obstructs, or disturbs any proceedings at an election;

is guilty of an offence, and is liable to imprisonment with hard labour for three months, or to a fine of Twenty-five pounds.

A person found committing the offence may be arrested without warrant by direction of the presiding officer.

Electors  
attempting  
to violate  
secrecy of  
ballot.  
Code, s. 105.

**105.** Any person, who, having received a ballot-paper from the presiding officer at an election—

(a) Wilfully makes on the ballot-paper any mark or writing not expressly authorised by law; or  
 (b) Wilfully fails to fold up the ballot-paper in such a manner as to conceal the names of the candidates; or  
 (c) Wilfully fails to deposit the ballot-paper in the ballot-box in the presence of the presiding officer;

is guilty of an offence, and is liable to imprisonment with hard labour for six months or to a fine of Twenty-five pounds.

106. Any person who—

- (1) Takes or attempts to take a ballot-paper out of a polling-booth; or
- (2) Whilst an elector is preparing his ballot-paper in a compartment provided for the use of electors actually voting, wilfully intrudes into the compartment;

Other  
attempts of  
like kind.  
Code, s. 106.

is guilty of an offence, and is liable to imprisonment with hard labour for six months.

A person found committing the offence may be arrested without warrant by direction of the presiding officer.

107. Any person who places, or is privy to placing, in a ballot-box a ballot-paper which has not been lawfully handed to and marked by an elector is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Stuffing  
ballot-boxes.  
Code, s. 107.

108. Any person who, being a presiding officer at an election, and whilst an elector is preparing his ballot-paper in a compartment provided for the use of electors actually voting, unlawfully and wilfully allows any other person to be in the compartment, is guilty of an offence, and is liable to imprisonment with hard labour for six months.

Offences by  
presiding  
officers at  
elections.  
Code, s. 108.

If an elector satisfies the presiding officer that he is so blind as to be unable to vote without assistance, it is lawful for the presiding officer to permit any person named and described by the elector to accompany him into the voting compartment, and to mark, fold, and deliver his voting paper for him.

Presiding  
officer may  
permit  
another  
person to  
mark  
voting-paper  
for an elector  
who is blind.

109. Any person who, at an election—

- (1) Wilfully makes a false answer to any question which is lawfully put to him by the presiding officer, and which he is required by law to answer; or

False  
answers to  
questions at  
elections.  
Code, s. 109.

(2) Being lawfully required to make a declaration before voting, wilfully makes a false declaration;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

The offender may be arrested without warrant by direction of the presiding officer.

Interfering  
with  
secrecy at  
elections.  
Code, s. 110.

**110. Any person who—**

(1) At or after an election, knowingly and wilfully, and without the lawful command of some competent Court or tribunal, unfastens the fold upon a ballot-paper within which the number of an elector is written, and which fold has been made under the authority of the law; or

(2) Being a person required by law to discharge duties at an election, at which the voting is by ballot, attempts to ascertain or discover, or aids in ascertaining or discovering, the candidate for whom the vote of any person is given at the election, except in the case of a person voting openly; or

(3) Having, in the exercise of his office at an election, obtained knowledge or the means of knowledge of the candidate for whom any person has voted at the election, discloses or aids in disclosing such knowledge otherwise than in answer to a question put in the course of proceedings before some competent Court or tribunal; or

(4) Being a person required by law to discharge duties at an election, places upon a ballot-paper any mark or writing not authorised by law;

is guilty of an offence, and is liable to imprisonment with hard labour for six months.

111. Any person who knowingly and wilfully, and without the lawful command of some competent Court or tribunal, opens or breaks the seal of a sealed parcel which has been sealed up under the provisions of the laws relating to elections, is guilty of an offence, and is liable to imprisonment with hard labour for six months.

Breaking  
seal of  
packets  
used at  
elections.  
Code, s. 111.

112. Any person who at any election at which the voting is by post—

Offences at  
elections  
when voting  
is by post.  
Code, s. 112.

- (1) Knowing that he is not entitled to vote at the election, signs his name as a voter to a voting-paper; or
- (2) Signs the name of another person to a voting-paper; or
- (3) Attests the signature to a voting-paper of any person who is, to his knowledge, not entitled to vote by means of such voting-paper;

is guilty of a misdemeanour, and is liable to imprisonment for nine months or to a fine of One hundred pounds.

113. Any person who—

False  
claims.  
Code, s. 113.

- (1) Makes, in a claim to be inserted in a list of electors, any statement which is, to his knowledge, false in any material particular; or
- (2) Makes, orally or in writing, to a Court or tribunal having jurisdiction to deal with the claims of persons to be registered as electors or as persons claiming to be electors, a statement relating to the qualification of any person as an elector which is, to his knowledge, false in any material particular;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

A person cannot be convicted of either of the offences defined in this section upon the uncorroborated testimony of one witness.

Attesting claims, etc., without inquiry.  
Code, s. 114.

**114.** Any person who attests a claim, application for transfer, change of qualification, or other document requiring to be attested without satisfying himself by inquiry of the claimant or otherwise that the particulars are true, is guilty of an offence, and is liable to a fine of Twenty pounds.

Acts of agents.  
Code, s. 115.

**115.** The acts of authorised agents of candidates are, in matters connected with elections, deemed to be the acts of their principals, unless it be proved that such acts were committed without their knowledge or consent, and that they had neither directly nor indirectly sanctioned, countenanced, nor approved of the same in any way.

Liability for indirect acts.  
Code, s. 116.

**116.** Every person is liable for an illegal practice committed directly or indirectly by himself, or by any other person on his behalf, except as mentioned in the last preceding section.

Certificate of Returning Officer.  
Code, s. 117.

**117.** On any prosecution under this chapter, the certificate of the Returning Officer that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at such election, is conclusive evidence of the matter stated.

This chapter not to apply to parliamentary, municipal or road board elections.  
Code, s. 118.

**118.** Nothing in this chapter shall apply to Parliamentary, Municipal, or Road Board elections.

#### CHAPTER XV.—SELLING AND TRAFFICKING IN OFFICES.

**119.** Any person who—

- (1) Corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him or any other person with regard to the appointment or contemplated appointment of any person to any office or employment in the Public Service, or with regard to any application by any person for employment in the Public Service; or

Bargaining for offices in Public Service.  
Code, s. 119.

(2) Corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure to, upon, or for any person any property or benefit of any kind on account of any such act or omission;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years, and to be fined at the discretion of the Court.

CHAPTER XVI.—OFFENCES RELATING TO THE  
ADMINISTRATION OF JUSTICE.

120. In this chapter the term “judicial proceeding” includes any proceeding had or taken in or before any court, tribunal, or person, in which evidence may be taken on oath. Definition of judicial proceeding. Code, s. 120.

121. Any person who—

(1) Being the holder of a judicial office, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in his judicial capacity; or

(2) Corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure to, upon, or for any person holding a judicial office, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of the person holding the judicial office;

Judicial corruption. Code, s. 121.

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, and to be fined at the discretion of the Court.

The offender cannot be arrested without warrant.

The term “holder of a judicial office” in this section includes an arbitrator or umpire and any member of any board or court of conciliation or

arbitration; but in the case of an offence committed by or with respect to any such person, the longest term of imprisonment is seven years.

A prosecution for any of the offences firstly defined in this section cannot be begun except by the direction of the Attorney General.

Official corruption not judicial but relating to offences. Code, s. 122.

**122. Any person who—**

- (1) Being a justice not acting judicially, or being a person employed in the Public Service in any capacity not judicial, for the prosecution or detention or punishment of offenders, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him, with a view to corrupt or improper interference with the due administration of justice, or or the procurement or facilitation of the commission of any offence, or the protection of any offender or intending offender from detection or punishment; or
- (2) Corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for any such person, or to, upon, or for any other person, any property or benefit of any kind, on account of any such act or omission on the part of the justice or other person so employed;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, and to be fined at the discretion of the Court.

The offender cannot be arrested without warrant.

Corrupting or threatening jurors. Code, s. 123.

**123. Any person who—**

- (1) Attempts by threats or intimidation of any kind, or by benefits or promises of benefit of any kind, or by other corrupt means,

to influence any person, whether a particular person or not, in his conduct as a juror in any judicial proceeding, whether he has been sworn as a juror or not; or

- (2) Threatens to do any injury or cause any detriment of any kind to any person on account of anything done by him as a juror in any judicial proceeding; or
- (3) Accepts any benefit or promise of benefit on account of anything to be done by him as a juror in any judicial proceeding, whether he has been sworn as a juror or not, or on account of anything already done by him as a juror in any judicial proceeding;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

**124.** Any person who, in any judicial proceeding, or for the purpose of instituting any judicial proceeding, knowingly gives false testimony touching any matter which is material to any question then depending in that proceeding, or intended to be raised in that proceeding, is guilty of a crime which is called perjury.

Perjury.  
Code, s. 124.

It is immaterial whether the testimony is given on oath or under any other sanction authorised by law.

The forms and ceremonies used in administering the oath or in otherwise binding the person giving the testimony to speak the truth are immaterial, if he assents to the forms and ceremonies actually used.

It is immaterial whether the false testimony is given orally or in writing.

It is immaterial whether the Court or tribunal is properly constituted, or is held in the proper place, or not, if it actually acts as a Court or tribunal in the proceeding in which the testimony is given.

It is immaterial whether the person who gives the testimony is a competent witness or not, or whether the testimony is admissible in the proceeding or not.

The offender cannot be arrested without warrant.

Punishment  
of perjury.  
Code, s. 125.

**125.** Any person who commits perjury is liable to imprisonment with hard labour for fourteen years.

If the offender commits the crime in order to procure the conviction of another person for a crime punishable with death, or with imprisonment with hard labour for life, he is liable to imprisonment with hard labour for life.

Evidence on  
charge of  
perjury.  
Code, s. 126.

**126.** A person cannot be convicted of committing perjury or of counselling or procuring the commission of perjury upon the uncorroborated testimony of one witness.

False  
evidence  
before a  
Royal  
Commission.  
Code, s. 127.

**127.** Any person who, in the course of an examination before a Royal Commission, knowingly gives a false answer to any lawful and relevant question put to him in the course of the examination is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

A person cannot be convicted of the offence defined in this section upon the uncorroborated testimony of one witness.

Threatening  
witness  
before Royal  
Commission,  
etc.  
Code, s. 128.

**128.** Any person who—

- (1) Threatens to do any injury, or cause any detriment of any kind to another, with intent to prevent or hinder that other person from giving evidence before any Royal Commission or on other public inquiry; or
- (2) Threatens, or in any way punishes, damages, or injures, or attempts to punish, damage, or injure any other person for

having given such evidence, or on account of the evidence which he has given, unless such evidence was given in bad faith;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

**129.** Any person who, with intent to mislead any tribunal in any judicial proceeding—

Fabricating evidence.  
Code, s. 129.

- (1) Fabricates evidence by any means other than perjury or counselling or procuring the commission of perjury; or
- (2) Knowingly makes use of such fabricated evidence;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

**130.** Any person who—

Corruption of witnesses.  
Code, s. 130.

- (1) Gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for any person, upon any agreement or understanding that any person called or to be called as a witness in any judicial proceeding shall give false testimony or withhold true testimony; or
- (2) Attempts by any other means to induce a person called or to be called as a witness in any judicial proceeding to give false testimony or to withhold true testimony; or
- (3) Asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, upon any agreement or understanding that any person shall, as a witness in any judicial proceeding, give false testimony or withhold true testimony,

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

Deceiving  
witnesses.  
Code, s. 131.

131. Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Destroying  
evidence.  
Code, s. 132.

132. Any person who, knowing that any book, document, or other thing of any kind, is or may be required in evidence in a judicial proceeding, wilfully destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Preventing  
witnesses  
from  
attending.  
Code, s. 133.

133. Any person who wilfully prevents or attempts to prevent any person who has been duly summoned to attend as a witness before any Court or tribunal from attending as a witness, or from producing anything in evidence pursuant to the subpoena or summons, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Conspiracy  
to bring  
false  
accusation.  
Code, s. 134.

134. Any person who conspires with another to charge any person or cause any person to be charged with any offence, whether alleged to have been committed in Western Australia, or elsewhere, knowing that such person is innocent of the alleged offence, or not believing him to be guilty of the alleged offence, is guilty of a crime.

If the offence is such that a person convicted of it is liable to be sentenced to death or to imprisonment with hard labour for life, the offender is liable to imprisonment with hard labour for life.

If the offence is such that a person convicted of it is liable to be sentenced to imprisonment with hard labour, but for a term less than life, the offender is liable to imprisonment with hard labour for fourteen years.

In any other case the offender is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

135. Any person who conspires with another to obstruct, prevent, pervert, or defeat the course of justice is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Conspiring  
to defeat  
justice.  
Code, s. 135.

The offender cannot be arrested without warrant.

136. Any person who asks, receives, or obtains, or agrees, or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, upon any agreement or understanding that he will compound or conceal a crime, or will abstain from, discontinue, or delay, a prosecution for a crime, or will withhold any evidence thereof, is guilty of an indictable offence.

Compound-  
ing crimes.  
Code, s. 136.

If the crime is such that a person convicted of it is liable to be sentenced to death or imprisonment with hard labour for life, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

In any other case the offender is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

The offender cannot be arrested without warrant.

137. Any person who, having brought, or under pretence of bringing, an action against another person upon a penal statute in order to obtain from him a penalty for any offence committed or alleged to have been committed by him, compounds the action without the order or consent of the Court in which the action is brought or is to be brought, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Compound-  
ing penal  
actions.  
Code, s. 137.

138. Any person who—

(1) Publicly offers a reward for the return of any property which has been stolen or lost, and in the offer makes use of any words

Advertising  
a reward  
for the  
return of  
stolen  
property,  
etc.  
Code, s. 138.

purporting that no questions will be asked or that the person producing such property will not be seized or molested; or

(2) Publicly offers to return to any person who may have bought or advanced money by way of loan upon any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of such property or;

(3) Prints or publishes any such offer;

is guilty of an offence, and is liable on summary conviction to a fine of Fifty pounds.

Justices  
acting  
oppressively  
or when  
interested.  
Code, s. 139.

**139.** Any person who—

(1) Being a justice and being required by law to admit an accused person to bail, wilfully and perversely and without reasonable excuse, and in abuse of his office, requires excessive and unreasonable bail; or

(2) Being a justice, wilfully and perversely exercises jurisdiction in any matter in which he has a personal interest;

is guilty of a misdemeanour, and is liable to imprisonment for two years, and to be fined at the discretion of the Court.

Delay to  
take person  
arrested  
before  
magistrate.  
Code, s. 140.

**140.** Any person, who, having arrested another upon a charge of an offence wilfully delays to take him before a justice to be dealt with according to law, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Bringing  
fictitious  
action on  
penal  
statute.  
Code, s. 141.

**141.** Any person who, in the name of a fictitious plaintiff, or in the name of a real person, but without his authority, brings an action against another person upon a penal statute for the recovery of a penalty for any offence committed or alleged to have been committed by him, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Inserting  
advertisement  
without  
authority  
of Court.  
Code, s. 142.

**142.** Any person who, without authority, or knowing the advertisement to be false in any material particular, inserts or causes to be inserted in the

*Government Gazette*, or in any newspaper an advertisement purporting to be published under the authority of any Court or tribunal, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

143. Any person who attempts, in any way not specially defined in this Code, to obstruct, prevent, Attempting to pervert justice. Code, s. 143. pervert, or defeat the course of justice, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

CHAPTER XVII.—ESCAPES: RESCUES: OBSTRUCTING OFFICERS OF COURTS.

144. Any person who by force rescues or attempts to rescue from lawful custody an offender under sentence of death, or a person committed to prison on a charge of a crime punishable with death, is guilty of a crime, and is liable to imprisonment with hard labour for life. Forcibly rescuing capital offenders. Code, s. 144.

145. Any person who—

- (1) Aids a prisoner in escaping or attempting to escape from lawful custody; or
- (2) Conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner;

Aiding prisoners to escape. Code, s. 145.

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

146. Any person who, being a prisoner in lawful custody under sentence after conviction for an indictable offence, escapes from such custody is guilty of a crime, and is liable to imprisonment with hard labour for three years. Escape by prisoner. Code, s. 146.

The offender may be tried, convicted, and punished, notwithstanding that at the time of his apprehension or trial the term of his original sentence has expired.

147. Any person who, being an officer of a prison or police officer, and being charged, for the time being, with the custody of a prisoner or a person Permitting escape. Code, s. 147.

under arrest upon a charge of an offence, wilfully permits him to escape from custody, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Harbouring  
escaped  
prisoners.  
Code, s. 148.

**148.** Any person who harbours, maintains, or employs a person who is, to his knowledge, an offender under sentence of such a kind as to involve deprivation of liberty, and illegally at large, is guilty of a misdemeanour, and is liable to imprisonment for two years, or to a fine of Two hundred pounds.

Rescuing  
insane  
persons.  
Code, s. 149.

**149.** Any person who—

- (1) Rescues any person during his conveyance as an insane person to a hospital or reception house for the insane, or to a house licensed under the laws relating to insane persons for the reception of patients, or to a prison, or rescues any person during his confinement as an insane person in any such place; or
- (2) Being in charge of a person during his conveyance as an insane person to any such place, wilfully permits him to escape from custody; or
- (3) Being a superintendent of, or person employed in any such place, wilfully permits a person confined therein as an insane person to escape therefrom; or
- (4) Conceals any such person as aforesaid who has, to his knowledge, been rescued during such conveyance or confinement, or has, to his knowledge, escaped during such conveyance, or from such confinement;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Removing,  
etc.,  
property  
under  
lawful  
seizure.  
Code, s. 150.

**150.** Any person who, when any property has been attached or taken under the process or authority of any Court of justice, knowingly, and with intent to hinder or defeat the attachment, or process,

receives, removes, retains, conceals, or disposes of such property, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

**151.** Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any Court of justice is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year, or to a fine of One hundred pounds.

Obstructing  
Officers of  
Courts of  
Justice.  
Code, s. 151.

Or he may be summarily convicted before two justices, in which case he is liable to imprisonment with hard labour for six months, or to a fine of Fifty pounds.

#### CHAPTER XVIII.—OFFENCES RELATING TO THE COIN.

**152.** In this chapter—

Definitions.  
Code, s. 152.

The term “current,” applied to coin, includes coin of any of the kinds or denominations of coin which are coined in any of His Majesty’s mints, or are lawfully current by virtue of any proclamation or otherwise in any part of His Majesty’s dominions, whether within the United Kingdom or elsewhere;

The term “metal” includes any mixture or alloy of metals;

The term “copper” applied to coin, includes any metal of less value than the silver or alloy of silver used in the silver coin of the country in question;

The term “counterfeit” applied to coin, means coin not genuine, but resembling or apparently intended to resemble or pass for genuine coin, and includes genuine coin which has been prepared or altered so as to resemble or be apparently intended to resemble or pass for coin of a higher denomination, and also genuine coin which

has been clipped or filed, or the size or weight of which has been otherwise diminished, and which has been prepared or altered so as to conceal such clipping, filing, or diminution; it includes any such coin whether it is or is not in a fit state to be uttered, and whether the process of preparation or alteration is or is not complete;

The term "gild" and "silver" applied to coin, include producing the appearance of gold or silver respectively by any means whatever;

The term "utter" means and includes using, dealing with, or acting upon, and attempting to use, deal with, or act upon, and attempting to induce any person to use, deal with, or act upon, the thing in question as if it were genuine.

Counterfeiting gold and silver coin.  
Code, s. 153.

**153.** Any person who makes or begins to make any counterfeit gold or silver coin is guilty of a crime.

If the crime is committed with respect to current coin, he is liable to imprisonment with hard labour for life.

If the crime is committed with respect to coin of a Foreign Prince or State, he is liable to imprisonment with hard labour for seven years.

Preparation for coining gold and silver coin.  
Code, s. 154.

**154.** Any person who—

- (1) Gilds or silvers any piece of metal of a fit size or figure to be coined, with intent that it shall be coined into counterfeit gold or silver coin; or
- (2) Makes any piece of metal into a fit size or figure to facilitate the coining from it of any counterfeit gold or silver coin, with intent that such counterfeit coin shall be made from it; or

(3) Without lawful authority or excuse, the proof of which lies on him—

- (a) Buys, sells, receives, pays, or disposes of any counterfeit gold or silver coin at a lower rate than it imports or is apparently intended to import, or offers to do any such thing; or
- (b) Brings or receives into Western Australia any counterfeit gold or silver coin knowing it to be counterfeit; or
- (c) Makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any stamp or mould which is adapted to make the resemblance of both or either of the sides of any gold or silver coin, or any part of either side thereof, knowing the same to be such a stamp or mould, or to be so adapted; or
- (d) Makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any tool, instrument, or machine, which is adapted and intended to be used for marking coin round the edges with marks or figures apparently resembling those on the edges of any gold or silver coin, knowing the same to be so adapted and intended; or
- (e) Makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any press for coinage, or any tool, instrument or machine which is adapted for cutting round blanks out of gold, silver, or other metal, knowing such press, tool, instrument, or machine to have been used or to be intended to be used for making any counterfeit gold or silver coin; or
- (f) Knowingly conveys out of any of His Majesty's mints any stamp, mould, tool, instrument, machine or press,

used or employed in coining, or any useful part of any of such things, or any coin, bullion, or metal;

is guilty of a crime.

If the crime is committed with respect to current coin, he is liable to imprisonment with hard labour for life.

If the crime is committed with respect to the coin of a Foreign Prince or State, he is liable to imprisonment with hard labour for seven years.

Clipping.  
Code, s. 155.

**155.** Any person who deals with any current gold or silver coin in such a manner as to diminish its weight, with intent that when so dealt with it may pass as current gold or silver coin, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Possession  
of clippings.  
Code, s. 156.

**156.** Any person who unlawfully has in his possession or disposes of any filings or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, obtained by dealing with current gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Uttering  
counterfeit  
gold or  
silver coin.  
Code, s. 157.

**157.** Any person who utters any counterfeit gold or silver coin, knowing it to be counterfeit, is guilty of a misdemeanour.

If the offence is committed with respect to current coin, he is liable to imprisonment with hard labour for two years.

If the offence is committed with respect to coin of a Foreign Prince or State, he is liable to imprisonment with hard labour for one year.

A person found committing the offence may be arrested without warrant.

**158. Any person who—**

- (1) Utters any counterfeit gold or silver coin, knowing it to be counterfeit, and at the time of such uttering has in his possession any other counterfeit gold or silver coin; or
- (2) Utters any counterfeit gold or silver coin, knowing it to be counterfeit, and either on the same day or on any of the ten days next ensuing utters any other counterfeit current gold or silver coin knowing it to be counterfeit; or
- (3) Has in his possession three or more pieces of counterfeit current gold or silver coin, knowing them to be counterfeit, and with intent to utter any of them;

Repeated uttering of counterfeit current gold or silver coin, or possession of several such coins.  
Code, s. 158.

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

A person found committing the offence may be arrested without warrant.

**159. Any person who commits any of the offences defined in the two last preceding sections, after having been previously convicted of any of those offences committed with respect to current coin or of any crime committed with respect to current coin, or after having been twice previously convicted of any of those offences committed with respect to coin of a Foreign Prince or State, is guilty of a crime, and is liable to imprisonment with hard labour for life.**

Offences after previous conviction.  
Code, s. 159.

**160. Any person who—**

- (1) Makes or begins to make any counterfeit copper coin; or
- (2) Without lawful authority or excuse, the proof of which lies on him knowingly—
  - (a) Makes or mends, or begins or prepares to make or mend, or has in his possession, or disposes of any tool, instrument, or machine which is adapted and intended for making any counterfeit copper coin, knowing the same to be so adapted and intended; or

Counterfeiting copper coin.  
Code, s. 160.

(b) Buys, sells, receives, pays, or disposes of any counterfeit copper coin at a lower rate of value than it imports or was apparently intended to import, or offers to do any such thing;

is guilty of an offence.

If the offence is committed with respect to current coin, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

If the offence is committed with respect to coin of a Foreign Prince or State, the offender is guilty of a misdemeanour, and is liable, on conviction, to imprisonment with hard labour for twelve months. If found committing the offence, he may be arrested without warrant.

If the offence is committed with respect to coin of a Foreign Prince or State, and the offender has been previously convicted of any such offence, he is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Uttering  
base copper  
coin.  
Code, s. 161.

**161. Any person who—**

- (1) Utters any counterfeit current copper coin, knowing it to be counterfeit; or
- (2) Has in his possession three or more pieces of counterfeit current copper coin, knowing them to be counterfeit, and with intent to utter any of them;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

A person found committing the offence may be arrested without warrant.

Defacing  
coins by  
stamping  
words  
thereon.  
Code, s. 162.

**162. Any person who defaces any current coin by stamping thereon any name or word, whether the weight of the coin is or is not thereby diminished, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.**

A person found committing the offence may be arrested without warrant.

163. Any person who, with intent to defraud, utters as and for current gold or silver coin—

- (a) Any coin which is not current coin; or
- (b) Any medal or piece of metal, whether a coin or not, which is of less value than the current coin as and for which it is uttered;

Uttering  
foreign coin,  
medals, etc.,  
as current  
coin with  
intent to  
defraud.  
Code, s. 163.

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

A person found committing the offence may be arrested without warrant.

164. Any person who, without lawful authority or excuse, the proof of which lies on him, exports or puts on board of a vessel or vehicle of any kind, for the purpose of being exported from Western Australia, any counterfeit current coin whatever, knowing it to be counterfeit, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Exporting  
counterfeit  
coin.  
Code, s. 164.

A person found committing the offence may be arrested without warrant.

165. Any person who, without lawful authority or excuse, the proof of which lies on him, has in his possession more than five pieces of counterfeit coin of any Foreign Prince or State, is guilty of an offence, and is liable, on summary conviction, to a fine not exceeding Forty shillings and not less than Ten shillings, for every such counterfeit coin found in his possession, and to forfeiture of the counterfeit coin, which is to be destroyed by order of the justices.

Having  
possession  
of more  
than five  
pieces of  
counterfeit  
foreign coin.  
Code, s. 165.

In default of immediate payment of the fine, he is liable to imprisonment with hard labour for three months, unless the fine is sooner paid.

166. Any person who utters any current coin, which is defaced by the stamping of any name or word thereon, is guilty of an offence, and is liable on summary conviction to a fine of Forty shillings.

Tender of  
defaced coin  
not legal  
tender:  
Penalty for  
uttering.  
Code, s. 166.

A prosecution for any such offence cannot be commenced without the consent of the Attorney General.

A tender of payment in money made in any coin so defaced is not a legal tender.

#### CHAPTER XIX.—OFFENCES RELATING TO MAILS.

Stopping  
mails.  
Code, s. 167.

167. Any person who stops a mail conveyance, or stops any person engaged in conveying or delivering a mail, with intent to search the mail, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

The term "mail conveyance" includes any conveyance of any kind by which a mail is carried, and also any vessel employed by or under the postal authority of any country, or the Admiralty, for the conveyance of mails, whether under contract or not, and also a ship of war or other vessel in the service of His Majesty in respect of letters conveyed by it.

#### CHAPTER XX.—MISCELLANEOUS OFFENCES AGAINST PUBLIC AUTHORITY.

False  
declaration  
as to  
execution of  
sentence of  
death.  
Code, s. 168.

168. Any person who subscribes a certificate or declaration as to the execution of a sentence of death, which in any material particular is to his knowledge false, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

False  
statements  
in state-  
ments  
required to  
be under  
oath or  
solemn  
declaration.  
Code, s. 169.

169. Any person who, on any occasion on which a person making a statement touching any matter is required by law to make it on oath or under some sanction which may by law be substituted for an oath, or is required to verify it by solemn declaration or affirmation, makes a statement touching such matter which, in any material particular, is to his knowledge false, and verifies it on oath or under such other sanction or by solemn declaration or affirmation, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

170. Any person who, on any occasion on which he is permitted or required by law to make a statement or declaration before any person authorised by law to permit it to be made before him, makes a statement or declaration before that person which, in any material particular, is to his knowledge false, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

False declarations and statements.  
Code, s. 170.

171. A person cannot be convicted of any of the offences defined in the two last preceding sections upon the uncorroborated testimony of one witness.

Evidence.  
Code, s. 171.

172. Any person who in any manner obstructs or resists any public officer while engaged in the discharge or attempted discharge of the duties of his office under any Statute, or obstructs or resists any person while engaged in the discharge or attempted discharge of any duty imposed on him by any Statute, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Resisting public officers.  
Code, s. 172.

173. Any person who, being employed in the Public Service, or as an officer of any Court or tribunal, perversely and without lawful excuse omits or refuses to do any act which it is his duty to do by virtue of his employment, is guilty of a misdemeanour, and is liable to imprisonment for two years, and to be fined at the discretion of the Court.

Refusal by public officer to perform duty.  
Code, s. 173.

174. Any person who, being a sheriff, under sheriff, justice, mayor, or police officer, and having notice that there is a riot in his neighbourhood, without reasonable excuse omits to do his duty in suppressing such riot, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Neglect of officers to suppress riot.  
Code, s. 174.

175. Any person who, having reasonable notice that he is required to assist any sheriff, under sheriff, justice, mayor, or police officer, in suppressing a riot, without reasonable excuse omits to do so, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Neglect to aid in suppressing riot.  
Code, s. 175.

Neglect to  
aid in  
arresting  
offenders.  
Code, s. 176.

176. Any person who, having reasonable notice that he is required to assist any sheriff, under sheriff, justice, mayor, or police officer, in arresting any person, or in preserving the peace, without reasonable excuse omits to do so, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Disobedience  
to Statute  
Law.  
Code, s. 177.

177. Any person who, without lawful excuse, the proof of which lies on him, does any act which he is, by the provisions of any public Statute in force in Western Australia, forbidden to do or omits to do any act which he is, by the provisions of any such Statute, required to do, is guilty of a misdemeanour, unless some mode of proceeding against him for such disobedience is expressly provided by Statute, and is intended to be exclusive of all other punishment.

The offender is liable to imprisonment for one year.

Disobedience  
to lawful  
order issued  
by statutory  
authority.  
Code, s. 178.

178. Any person who, without lawful excuse, the proof of which lies on him, disobeys any lawful order issued by any Court of justice, or by any person authorised by any public Statute in force in Western Australia to make the order, is guilty of a misdemeanour, unless some mode of proceeding against him for such disobedience is expressly provided by Statute, and is intended to be exclusive of all other punishment.

The offender is liable to imprisonment for one year.

#### PART IV.—ACTS INJURIOUS TO THE PUBLIC IN GENERAL.

##### CHAPTER XXI.—OFFENCES RELATING TO RELIGIOUS WORSHIP.

Offering  
violence to  
officiating  
ministers of  
religion.  
Code, s. 179.

179. Any person who—

- (1) By threats or force prevents or attempts to prevent any minister of religion from lawfully officiating in any place of religious worship, or from performing his duty in the lawful burial of the dead in any cemetery, or other burial place; or

- (2) By threats or force obstructs or attempts to obstruct any minister of religion while so officiating or performing his duty; or
- (3) Assaults, or, upon or under the pretence of executing any civil process, arrests any minister of religion who is engaged in, or is, to the knowledge of the offender, about to engage in, any of the offices or duties aforesaid or who is, to the knowledge of the offender, going to perform the same or returning from the performance thereof;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

180. Any person who wilfully and without lawful justification or excuse, the proof of which lies on him, disquiets or disturbs any meeting of persons lawfully assembled for religious worship, or assaults any person lawfully officiating at any such meeting, or any of the persons there assembled, is guilty of an offence, and is liable on summary conviction to imprisonment for two months, or to a fine of Five pounds.

Disturbing  
religious  
worship.  
Code, s. 180.

#### CHAPTER XXII.—OFFENCES AGAINST MORALITY.

181. Any person who—

- (1) Has carnal knowledge of any person against the order of nature; or
- (2) Has carnal knowledge of an animal; or
- (3) Permits a male person to have carnal knowledge of him or her against the order of nature;

Unnatural  
offences.  
Code, s. 181.

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without whipping.

182. Any person who attempts to commit any of the crimes defined in the last preceding section is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without whipping.

Attempt to  
commit  
unnatural  
offences.  
Code, s. 182.  
Amended by  
No. 32 of  
1918, s. 4.

Indecent treatment of boys under fourteen.  
Code, s. 183.

183. Any person who unlawfully and indecently deals with a boy under the age of fourteen years is guilty of a crime, and is liable to imprisonment with hard labour for seven years, with or without whipping.

The term "deal with" includes doing any act which, if done without consent, would constitute an assault as hereinafter defined.

Indecent practices between males.  
Code, s. 184.

184. Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years, with or without whipping.

Defilement of girls under thirteen.  
Code, s. 185.  
Amended by  
No. 32 of  
1918, s. 5.

185. Any person who has unlawful carnal knowledge of a girl under the age of thirteen years is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without whipping.

Any person who attempts to have unlawful carnal knowledge of a girl under the age of thirteen years is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without whipping.

A person cannot be convicted of either of the offences defined in this section upon the uncorroborated testimony of one witness.

The wife of the accused person is a competent and compellable witness.

Householder permitting defilement of young girls on his premises.  
Code, s. 186.

186. Any person who, being the owner or occupier of any premises, or having, or acting or assisting in the management or control of any premises, induces or knowingly permits any girl of such age as is in this section mentioned to resort to or be in or upon such premises for the purpose of being unlawfully carnally known by any man, whether a particular man or not, is guilty of an indictable offence.

If the girl is under the age of sixteen years, he is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years, with or without whipping.

If the girl is under the age of thirteen years, he is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without whipping.

It is a defence to a charge to any of the offences defined in this section to prove that the accused person believed, on reasonable grounds, that the girl was of or above the age of sixteen years.

The husband or wife of the accused person is a competent and compellable witness.

187. (1) Any person who has or attempts to have unlawful carnal knowledge of a girl under the age of sixteen years is guilty of a crime, and is liable to imprisonment with hard labour for five years with or without whipping:

Provided that if the offender's age does not exceed twenty-one years he is guilty of a misdemeanour and liable to imprisonment with hard labour for two years, with or without whipping.

(2) It is a defence to a charge of either of the offences defined in this section to prove that the accused person believed, on reasonable grounds, that the girl was of or above the age of sixteen.

(3) A prosecution under this section for the offence of having unlawful carnal knowledge must be begun within six months, and for the offence of attempting to have unlawful carnal knowledge within three months, after the offence has been committed.

(4) A person cannot be convicted of either of the offences defined in this section upon the uncorroborated testimony of one witness.

(5) The wife of the accused person is a competent and compellable witness.

Defilement  
of girls  
under  
sixteen.  
Code, s. 187.  
Repealed by  
No. 32 of  
1918, s. 6.  
New section  
substituted  
by No. 32 of  
1918, s. 7.

Defilement of idiots.  
Code, s. 188.  
Repealed and new section substituted by No. 32 of 1918, s. 7.

188. (1) Any person who, knowing a woman or girl to be an idiot or imbecile, has or attempts to have unlawful carnal knowledge of her is guilty of a crime, and is liable to imprisonment with hard labour for five years with or without whipping.

(2) A person cannot be convicted of either of the offences defined in this section upon the uncorroborated testimony of one witness.

(3) The wife of the accused person is a competent and compellable witness.

Indecent dealing with girls under sixteen and others.  
Code, s. 189.  
Repealed and new section substituted by No. 32 of 1918, s. 8.

189. (1) Any person who unlawfully and indecently deals with a girl or woman—

- (i) who is under the age of sixteen years; or
- (ii) who is to the knowledge of the accused person an idiot or imbecile; or
- (iii) who is under the age of seventeen years, and of whom the accused person is a guardian, employer, teacher, or school-master,

is guilty of a crime, and is liable to imprisonment with hard labour for four years with or without whipping:

Provided that if the offender's age does not exceed twenty-one years he is guilty of a misdemeanour and liable to imprisonment with hard labour for two years, with or without whipping.

(2) If the girl dealt with is under the age of thirteen years he is guilty of a crime, and liable to imprisonment with hard labour for seven years with or without whipping.

(3) If a person accused of the offence of unlawfully and indecently dealing with a girl under the age of sixteen years proves that the act committed was done with the consent of the girl, that she was in fact of or over the age of thirteen years, and that he believed at the time on reasonable grounds that her age was greater than stated in the indictment, he shall be in the same position as if her age had in fact been such as he so believed it to be.

(4) The wife of the accused person is a competent and compellable witness.

(5) The term "deal with" includes doing any act which if done without consent would constitute an assault as hereinafter defined.

(6) A prosecution under this section for the offence of unlawfully and indecently dealing with a girl under the age of sixteen years must, if she is of or over the age of thirteen years, be commenced within three months after the offence has been committed.

**190.** Any person who, being a guardian, employer, teacher, or schoolmaster of any girl or woman under the age of seventeen years, unlawfully and carnally knows, or attempts to have unlawful and carnal knowledge of such girl or woman, is guilty of a crime and is liable to imprisonment with hard labour for five years with or without whipping.

Defilement  
by guardian,  
etc.  
Code, s. 190.  
Amended by  
No. 32 of  
1918, s. 9.

The wife of the accused person is a competent and compellable witness.

**191.** Any person who—

Procuration.  
Code, s. 191.

- (1) Procures a girl or woman who is under the age of twenty-one years, and is not a common prostitute or of known immoral character to have unlawful carnal connection with a man, either in Western Australia or elsewhere; or
- (2) Procures a woman or girl to become a common prostitute either in Western Australia or elsewhere; or
- (3) Procures a woman or girl to leave Western Australia, with intent that she may become an inmate of a brothel, elsewhere; or
- (4) Procures a woman or girl to leave her usual place of abode in Western Australia, such place not being a brothel, with intent that she may, for the purposes of prostitution, become an inmate of a brothel, either in Western Australia or elsewhere;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of one witness.

The husband or wife of the accused person is a competent and compellable witness.

Procuring  
defilement  
of woman  
by threats,  
or fraud, or  
administer-  
ing drugs.  
Code, s. 192.

**192. Any person who—**

- (1) By threats or intimidation of any kind procures a woman or girl to have unlawful carnal connection with a man, either in Western Australia or elsewhere; or
- (2) By any false pretence procures a woman or girl, who is not a common prostitute or of known immoral character, to have unlawful carnal connection with a man, either in Western Australia or elsewhere; or
- (3) Administers to a woman or girl, or causes a woman or girl to take, any drug or other thing with intent to stupefy or overpower her in order to enable any man, whether a particular man or not, to have unlawful carnal knowledge of her;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

A person cannot be convicted of any of the offences defined in this section upon the uncorroborated testimony of one witness.

The husband or wife of the accused person is a competent and compellable witness.

Abduction  
of girl under  
eighteen  
with intent  
to have  
carnal  
knowledge.  
Code, s. 193.

**193. Any person who, with intent that an unmarried girl under the age of eighteen years may be unlawfully carnally known by any man, whether a particular man or not, takes her or causes her to be taken out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of such father or mother or other person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.**

It is a defence to a charge of any of the offences defined in this section to prove that the accused person believed, on reasonable grounds, that the girl was of or above the age of eighteen years.

The husband or wife of the accused person is a competent and compellable witness.

**194. Any person who—**

- (1) Detains a woman or girl against her will in or upon any premises in order to her being unlawfully carnally known by any man, whether a particular man or not; or
- (2) Detains a woman or girl against her will in a brothel; or
- (3) being the keeper of a brothel suffers any girl or woman under the age of twenty-one years to be therein;

Unlawful  
detention  
with intent  
to defile, or  
in a brothel.  
Code, s. 194.  
Amended by  
No. 32 of  
1918, s. 10.

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

The husband or wife of the accused person is a competent and compellable witness.

When a woman or girl is in or upon any premises in order to her being unlawfully carnally known by any man, whether a particular man or not, or is in a brothel, a person is deemed to detain such woman or girl in or upon such premises in order to her being so unlawfully carnally known, or to detain her in such brothel if, with intent to compel or induce her to remain in or upon the premises or in the brothel, he withholds from her any wearing apparel or other property belonging to her, or if, after wearing apparel has been lent or otherwise supplied to the woman or girl by or by the direction of such person or any other person, he threatens the woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

It is lawful for a woman or girl to take any such wearing apparel as may be necessary to enable her to leave a brothel or any premises in or upon which she is in order to her being unlawfully carnally known by any man.

Permitting  
boys to  
resort to  
brothels.  
Code, s. 195  
Amended by  
No. 32 of  
1918, s. 31.

195. Any person who, being the owner or occupier of any premises, or having, or aiding or assisting in the management or control thereof, induces, or knowingly suffers any boy under the age of eighteen years to resort to, or be in or upon such premises for the purpose of unlawfully and carnally knowing any girl or woman, whether intended to be with any particular girl or woman, or generally, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Conspiracy  
to defile.  
Code, s. 196.

196. Any person who conspires with another to induce any woman or girl, by means of any false pretence or other fraudulent means, to permit any man to have unlawful carnal knowledge of her is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Incest by  
man.  
Code, s. 197.

197. Any person who carnally knows a woman or girl who is, to his knowledge, his mother or daughter or other lineal ancestress or descendant, or his sister or half-sister, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Any person who attempts to have carnal knowledge of a woman or girl who is, to his knowledge, his mother or daughter, or other lineal ancestress or descendant, or his sister or half-sister, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

It is immaterial that the carnal knowledge was had, or that the attempt was made, with the consent of the woman or girl.

The wife of the accused person is a competent and compellable witness.

The mention of any relationship herein shall include any such relationship whether natural only or legitimate.

Incest by  
adult  
female.  
Code, s. 198.

198. Any woman or girl of or above the age of eighteen years who permits her father or son or other lineal ancestor or descendant, or her brother or half-brother, to have carnal knowledge of her,

knowing him to be her father or son or other lineal ancestor or descendant, or her brother or half-brother, as the case may be, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

It is a defence to a charge of the offence defined in this section that the woman or girl was, at the time when she permitted her father or son or other lineal ancestor or descendant, or her brother, or half-brother, to have carnal knowledge of her, acting under his coercion.

The husband of the accused person is a competent and compellable witness.

The mention of any relationship herein shall include any such relationship whether natural only or legitimate.

199. Any person who with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Attempts to procure abortion.  
Code, s. 199.

200. Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The like by women with child.  
Code, s. 200.

201. Any person who unlawfully supplies to or procures for any person any thing whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Supplying drugs or instruments to procure abortion.  
Code, s. 201.

Consent no  
defence.  
Code, s. 202.

**202.** The consent of the girl or woman is no defence to any charge defined in sections one hundred and eighty-five to one hundred and ninety-three inclusive of this chapter.

Indecent  
acts.  
Code, s. 203.

**203.** Any person who—

- (1) Wilfully and without lawful excuse does any indecent act in any place to which the public are permitted to have access, whether on payment of a charge for admission or not; or
- (2) Wilfully does any indecent act in any place with intent to insult or offend any person;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Obscene  
publications  
and  
exhibitions.  
Code, s. 204.

**204.** Any person who knowingly, and without lawful justification or excuse,—

- (1) Publicly sells or exposes for sale any obscene book or other obscene printed or written matter, or any obscene picture, photograph, drawing, or model or any other object tending to corrupt morals; or
- (2) Exposes to view in any place to which the public are permitted to have access, whether on payment of a charge for admission or not, any obscene picture, photograph, drawing or model, or any other object tending to corrupt morals; or
- (3) Publicly exhibits any indecent show or performance, whether on payment of a charge for admission to see the show or performance or not;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of any of the offences defined in this section to prove that it was for the public benefit that the act complained of should be done.

Whether the doing of any such act is or is not for the public benefit is a question of fact.

205. Except as otherwise expressly stated, it is immaterial, in the case of any of the offences defined in this chapter committed with respect to a woman or girl under the specified age, that the accused person did not know that the woman or girl was under that age, or believed that she was not under that age.

Knowledge  
of age  
immaterial.  
Code, s. 205.

205A. Nothing in the foregoing provisions of this chapter shall apply to or in respect of the offence of rape or attempted rape.

Rape or  
attempted  
rape not  
affected by  
foregoing  
provisions  
of this  
chapter.  
Inserted by  
No. 32 of  
1918, s. 11.

206. (1) If any person, who shall have been at any time (either heretofore or hereafter) convicted of an offence defined in section one hundred and eighty-seven, one hundred and eighty-eight, one hundred and eighty-nine, three hundred and twenty-six, three hundred and twenty-seven, or three hundred and twenty-eight of this Code committed against a female who is under the age of thirteen years or whom he knows to be an idiot or imbecile, shall, subsequently (being of the age of sixteen years or over), commit an offence defined in any of the said sections against any such female as aforesaid, and be duly convicted thereof, he may, in addition to any other punishment provided by law which the Court may see fit to impose, be sentenced to a whipping.

Punishment  
of whipping  
may be  
inflicted  
in certain  
cases.  
Code, s. 206.  
Amended by  
No. 32 of  
1918, ss. 6  
and 7; No. 55  
of 1953, s. 6.

(2) Any person being of the age of sixteen years or over who shall be hereafter convicted of an offence defined in section one hundred and eighty-five of this Code, may, in addition to any other punishment provided by law which the Court may see fit to impose, be sentenced to a whipping.

Amended by  
No. 32 of  
1918, s. 6;  
No. 55 of  
1953, s. 6.

#### CHAPTER XXIII.—NUISANCES: MISCONDUCT RELATING TO CORPSES.

207. (1) Any person who without lawful justification or excuse (the proof of which lies on him) does any act or omits to discharge any legal duty which act or omission endangers the lives, safety, health or property of the public or by which act or omission the comfort of the public is interfered

Common  
nuisances.  
Code, s. 207.

with or the public are obstructed in the exercise or enjoyment of any common right, is guilty of a misdemeanour, which is called a common nuisance, and is liable to imprisonment for one year.

(2) It is the duty of every person having any property under his control to do such acts with respect thereto as are necessary to prevent any such danger, interference, or obstruction as aforesaid arising therefrom.

*Poisoning  
water-holes.  
Code, s. 208.*

**208. Any person who—**

- (a) Without lawful justification or excuse, places in any water-hole or other place containing water of which he is the owner or lawful occupier; or
- (b) Without the leave of the Minister for Lands first had and obtained, places in any water-hole or other place containing water situated on unoccupied Crown land; or
- (c) Places in any water-hole or other place containing water on any private land, of which such person is not the owner or lawful occupier—

any poisonous or noxious matter in any quantity sufficient to render such water unfit for human consumption, or unfit for consumption by cattle, horses, camels, sheep, or other animals, is guilty of a misdemeanour and liable to imprisonment with hard labour for two years; or he may be summarily convicted before two justices, in which case he is liable to imprisonment with hard labour for six months.

On any prosecution under this section the onus lies on the accused person to prove all facts negatived in the complaint or indictment.

*Bawdy  
houses.  
Code, s. 209.*

**209. Any person who keeps a house, room, set of rooms, or place of any kind whatever for purposes of prostitution, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.**

## 210. A person who—

Gaming houses.  
Code, s. 210.  
Amended by  
No. 32 of  
1918, s. 12.

- (1) Keeps for gain any place to which persons resort for the purpose of playing at any game of chance; or
- (2) Keeps any place which is kept or used for playing therein at any game of chance, or any game of mixed chance and skill, and in which—
  - (a) A bank is kept by one or more of the players exclusively of the others; or
  - (b) Any game is played the chances of which are not alike favourable to all the players, including the banker or other persons by whom the game is managed, or against whom the other players stake, play, or bet;

is said to keep a common gaming house.

Any person who keeps a common gaming house is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Or he may be summarily convicted before two Justices, in which case he is liable to imprisonment with hard labour for six months, or to a fine of One hundred pounds.

In any prosecution under paragraph (1) on proof that the place was kept as a place to which persons resort for the purpose of playing at any game of chance, the averment in the indictment, information, or complaint that the place was kept for gain shall be deemed to be proved in the absence of proof to the contrary.

Added by  
No. 32 of  
1918, s. 12.

Any person who, being the owner or occupier of any house, room, or place, knowingly and wilfully permits it to be opened, kept, or used as a common gaming house by another person, or who has the use or management, or assists in conducting the business of a common gaming house, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for six months, or to a fine of one hundred pounds.

Added by  
No. 32 of  
1918, s. 12.

Betting houses.  
Code, s. 211.  
Amended by  
No. 15 of  
1942, s. 2;  
No. 63 of 1954,  
s. 5 (3), and  
Sched.  
Part II.\*

211. (1) Any house or room, or any place whatsoever which is used for any of the purposes following, that is to say:—

- (i) For the purpose of bets being made therein between persons resorting to the place; or
- (ii) For the purpose of bets being made therein between persons resorting to the place and—
  - (a) The owner, occupier, or keeper of the place, or any person using the place; or
  - (b) Any person procured or employed by or acting for or on behalf of any such owner, occupier, or keeper, or person using the place; or
  - (c) Any person having the care or management, or in any manner conducting the business of the place; or
- (iii) For the purpose of any money or other property being paid or received therein by or on behalf of any such owner, occupier, or keeper, or person using the place as or for the consideration—
  - (d) For an assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or other property on any event or contingency of or relating to any horse-race, or other race, fight, game, sport, or exercise; or
  - (e) For securing the paying or giving by some other person of any money or other property on any such event or contingency;

is called a common betting house.

Any person who opens, keeps, or uses a common betting house is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

---

\* See footnote (h) on p. 1 of this reprint.

Or he may be summarily convicted before two justices, in which case he is liable to imprisonment with hard labour for six months, or to a fine of One hundred pounds.

(2) Any person who, being the owner or occupier of any house, room, or place, permits it to be opened, kept, or used as a common betting house by another person, or who has the use or management, or assists in conducting the business of a common betting house, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for six months, or to a fine of One hundred pounds. For the purpose of this subsection—

Amended by  
No. 15 of  
1942, s. 2.

“Occupier” includes any person by whom or on whose behalf any house, room, office, or place is actually occupied or who is the lessee or sublessee (not being the owner, as hereinafter in this section defined), and any attorney, agent, or manager of such person who has the control, supervision, or management of the premises on his behalf; and

Inserted by  
No. 15 of  
1942, s. 2.

“Owner” of any house, room, office, or place includes every person, company, or corporation who is, whether at law or in equity, entitled to the same or on the land in which the same is situate for any estate of freehold in possession or is in actual receipt of or entitled to receive or if the house, room, office, or place were let to a tenant would be entitled to receive the rents and profits of the same, either on his own account or as mortgagee in possession, or if the house, room, office, or place is subleased, who is the lessee or sublessee from whom a sublessee holds, and also includes the attorney, agent or manager having control or supervision of the premises for such person or who on his behalf receives the rent or is authorised to issue receipts for the rent.

Inserted by  
No. 15 of  
1942, s. 2.

The Western Australian Turf Club, and any other club or company, incorporated or otherwise, registered by the Western Australian Turf Club, and

authorised by the Treasurer,\* and any person, with the permission of any such club or company, may have, use, and play with on the racecourse of such club or company, during the days of any race meeting, the instrument known as the totalisator.

The provisions of this chapter are subject to the Totalisator Regulation Act, 1911, The Totalisator Act, 1883, the Lotteries Control Act, 1954, and to the Betting Control Act, 1954.

Lotteries.  
Code, s. 212.

**212.** Any person who opens, keeps, or uses any place for carrying on a lottery of any kind whatever is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years; or may be summarily convicted before two justices, in which case he is liable to imprisonment with hard labour for six months, or to a fine of One hundred pounds.

The term "lottery" includes any scheme or device for the sale, gift, disposal, or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or the drawing of tickets, cards, lots, numbers or figures, or by means of a wheel or trained animal, or otherwise howsoever.

Acting as  
keeper of  
bawdy  
houses,  
gaming  
houses,  
betting  
houses, and  
lotteries.  
Code, s. 213.

**213.** Any person who appears, acts, or behaves as master or mistress, or as the person having the care or management of any such house, room, set of rooms, or place as is mentioned in the four last preceding sections, is to be taken to be the keeper thereof, whether he is or is not the real keeper.

Misconduct  
with regard  
to corpses.  
Code, s. 214.

**214.** Any person who, without lawful justification or excuse, the proof of which lies on him—

(1) Neglects to perform any duty imposed upon him by law, or undertaken by him, whether for reward or otherwise, touching the burial or other disposition of a human body or human remains; or

(2) Improperly or indecently interferes with, or offers any indignity to, any dead human body or human remains, whether buried or not;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

**CHAPTER XXIV.—OFFENCES AGAINST PUBLIC HEALTH.**

**215.** Any person who, being the master or medical officer of a ship arriving from beyond sea, neglects or refuses to give to any officer employed in the Public Service any information which he is required by law to give to him, or gives to any such officer, either verbally or in writing, any information touching any matter as to which he is required by law to give him information, which information is, to his knowledge, false in any material particular, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years, and to a fine of Three hundred pounds.

False information as to health of foreign ships.  
Code, s. 215.

**216.** Any person who knowingly exposes for sale for the food of man, or has in his possession with intent to sell it for the food of man, any article which he knows to be unfit for the food of man, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Exposing for sale things unfit for food.  
Code, s. 216

**217.** Any person who—

(1) Knowingly takes into a slaughter house used for the slaughter of any animals intended for the food of man, the whole or any part of the carcass of any animal which has died of any disease; or

(2) Knowingly sells or exposes for sale the whole or part of the carcass of any animal which has died of any disease or which was diseased when slaughtered;

Dealing in diseased meat.  
Code, s. 217.

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Adulterating  
liquor.  
Code, s. 218.

**218.** Any person who—

- (1) Puts any deleterious or poisonous substance into any spirituous or fermented liquor, or mixes any such substance with any such liquor; or
- (2) Sells or otherwise disposes of, or keeps for sale, any spirituous or fermented liquor into which any such substance has been put, or with which any such substance has been mixed;

is guilty of a misdemeanour, and is liable on conviction to imprisonment with hard labour for two years, or to a fine of Two hundred pounds.

Adulteration  
of beverages.  
Code, s. 219.

**219.** Any person who, being a public brewer or maker of any liquor intended to be used as a beverage for man—

- (1) Uses in the brewing or making of the liquor any deleterious or poisonous substance; or
- (2) Puts any such substance into, or mixes any such substance with, the liquor, whether before or after the brewing or making is complete;

is guilty of an offence, and is liable, on summary conviction, to a fine of Two hundred pounds, and to forfeiture of the liquor.

If the offender, before committing the offence, has been previously convicted of any such offence, he is guilty of a misdemeanour, and is liable to imprisonment for two years, as well as to forfeiture of the liquor.

**CHAPTER XXV.—MISCELLANEOUS OFFENCES.**

Frauds on  
land laws.  
Code, s. 220.

**220.** Any person who, for the purpose of acquiring land from the Crown, fraudulently evades or attempts to evade any of the provisions of the Statutes relating to the sale or leasing of Crown lands is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

And all his interest, if any, in the land is forfeited to His Majesty.

221. Any person who buys or takes on lease any land, or any estate in any land, from any person who has acquired the land or the estate by means of any fraudulent evasion of the laws relating to the sale or leasing of Crown lands, knowing that the seller or lessor has so acquired the same, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Dealing  
with land  
fraudulently  
acquired  
from the  
Crown.  
Code, s. 221.

And all his estate in the land is forfeited to His Majesty.

**PART V.—OFFENCES AGAINST THE PERSON AND  
RELATING TO MARRIAGE AND PARENTAL RIGHTS  
AND DUTIES AND AGAINST THE REPUTATION OF  
INDIVIDUALS.**

**CHAPTER XXVI.—ASSAULTS AND VIOLENCE TO THE PERSON  
GENERALLY: JUSTIFICATION AND EXCUSE.**

222. A person who strikes, touches, or moves, or otherwise applies force of any kind to the person of another, either directly or indirectly, without his consent, or with his consent if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without his consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect his purpose, is said to assault that other person, and the act is called an assault.

Definition  
of assault.  
Code, s. 222.

The term “applies force” includes the case of applying heat, light, electrical force, gas, odour, or any other substance or thing whatever if applied in such a degree as to cause injury or personal discomfort.

223. An assault is unlawful and constitutes an offence unless it is authorised or justified or excused by law.

Assaults  
unlawful.  
Code, s. 223.

The application of force by one person to the person of another may be unlawful, although it is done with the consent of that other person.

Execution  
of sentence.  
Code, s. 224.

224. It is lawful for a person who is charged by law with the duty of executing or giving effect to the lawful sentence of a Court to execute or give effect to that sentence.

Execution  
of process.  
Code, s. 225.

225. It is lawful for a person who is charged by law with the duty of executing the lawful process of a Court, and who is required to arrest or detain another person under such process, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the terms of the process.

Execution  
of warrants.  
Code, s. 226.

226. It is lawful for a person who is charged by law with the duty of executing a lawful warrant issued by any Court or justice or other person having jurisdiction to issue it, and who is required to arrest or detain another person under such warrant, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the directions of the warrant.

Erroneous  
sentence or  
process or  
warrant.  
Code, s. 227.

227. If the sentence was passed, or the process was issued, by a Court having jurisdiction under any circumstances to pass such a sentence, or to issue such process, or if the warrant was issued by a Court or justice or other person having authority under any circumstances to issue such a warrant, it is immaterial whether the Court or justice or person had or had not authority to pass the sentence or issue the process or warrant in the particular case; unless the person executing the same knows that the sentence or process or warrant was in fact passed or issued without authority.

Sentence  
or process  
or warrant  
without  
jurisdiction.  
Code, s. 228.

228. A person who executes or assists in executing any sentence, process, or warrant which purports to be passed or issued by a Court, justice, or other person, and who would be justified, under the provisions of the four last preceding sections, in executing the same if it had been passed or issued by a Court, justice, or person having authority to pass or issue it, is not criminally responsible for any act done in such execution, notwithstanding that the Court, justice, or person had no authority to

pass the sentence or issue the process or warrant, if in such execution he acted in good faith and in the belief that the sentence, process, or warrant was that of a Court, justice, or other person having such authority.

229. A person who, being duly authorised to execute a warrant to arrest one person, arrests another person, believing in good faith and on reasonable grounds that the person arrested is the person named in the warrant, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

Arrest of  
wrong  
person.  
Code, s. 229.

Any person who lawfully assists in making such an arrest, believing that the person arrested is the person named in the warrant, or who, being required by the warrant to receive and detain the person named in it, receives and detains the person so arrested, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

230. When any process or warrant is bad in law by reason of some defect in substance or in form apparent on the face of it, a person who, in good faith and believing that it is good in law, acts in the execution of the process or warrant, is not criminally responsible for anything done in such execution to any greater extent than if the process or warrant were good in law.

Irregular  
process or  
warrant.  
Code, s. 230.

231. It is lawful for a person who is engaged in the lawful execution of any sentence, process, or warrant, or in making any arrest, and for any person lawfully assisting him, to use such force as may be reasonably necessary to overcome any force used in resisting such execution or arrest.

Force used  
in executing  
process or in  
arrest.  
Code, s. 231.

232. It is the duty of a person executing any process or warrant to have it with him, and to produce it if required.

Duty of  
persons  
arresting.  
Code, s. 232.

It is the duty of a person arresting another, whether with or without warrant, to give notice, if practicable, of the process or warrant under which he is acting or of the cause of the arrest.

A failure to fulfil either of the aforesaid duties does not of itself make the execution of the process or warrant or the arrest unlawful, but is relevant to the inquiry whether the process or warrant might not have been executed or the arrest made by reasonable means in a less forcible manner.

*Police officer preventing escape from arrest.*  
Code, s. 233.

233. When a police officer is proceeding lawfully to arrest, with or without warrant, a person for an offence which is such that the offender may be arrested without warrant, and the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the police officer, and for any person lawfully assisting him, to use such force as may be reasonably necessary to prevent the escape of the person sought to be arrested.

But this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm, except in a case where the person sought to be arrested is reasonably suspected of having committed an offence punishable with death or imprisonment for life under this Code, nor until the person sought to be arrested has been called upon to surrender.

*Other cases of preventing escape from arrest.*  
Code, s. 234.

234. When a person who is not a police officer is proceeding lawfully to arrest, without warrant, another person for an offence which is such that the offender may be arrested without warrant, and when any person is proceeding lawfully to arrest another person for any cause other than such an offence, and, in either case, the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the person seeking to arrest him to use such force as may be reasonably necessary to prevent his escape.

But this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

235. When any person has lawfully arrested another person for any offence, it is lawful for him to use such force as he believes, on reasonable grounds, to be necessary to prevent the escape or rescue of the person arrested.

Preventing  
escape or  
rescue after  
arrest.  
Code, s. 235.

But, if the offence is not a crime which is such that the offender may be arrested without warrant, this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

236. When a person is in lawful custody upon a charge of committing any offence, it is lawful for a police officer to search his person, and to take from him anything found upon his person, and to use such force as is reasonably necessary for that purpose.

Examination  
of person  
of accused  
persons in  
custody.  
Code, s. 236.

When a person is in lawful custody upon a charge of committing any offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence, it is lawful for a legally qualified medical practitioner, acting at the request of a police officer, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person of the person so in custody as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

237. It is lawful for any person who witnesses a breach of the peace to interfere to prevent the continuance or renewal of it, and to use such force as is reasonably necessary for such prevention and is reasonably proportioned to the danger to be apprehended from such continuance or renewal, and to detain any person who is committing or who is about to join in or to renew the breach of the peace for such time as may be reasonably necessary in order to give him into the custody of a police officer.

Preventing  
a breach of  
the peace.  
Code, s. 237.

It is lawful for a police officer who witnesses a breach of the peace, and for any person lawfully assisting him, to arrest any person whom he finds committing it, or whom he believes, on reasonable grounds, to be about to join in or renew the breach of the peace.

It is lawful for a police officer to receive into custody and detain in custody any person given into his charge as having been a party to a breach of the peace by a person whom the police officer believes, on reasonable grounds, to have witnessed the breach of the peace.

Suppression  
of riot.  
Code, s. 238.

238. It is lawful for any person to use such force as is necessary to suppress a riot, and is reasonably proportioned to the danger to be apprehended from its continuance.

Suppression  
of riot by  
magistrates  
and police  
officers.  
Code, s. 239.

239. It is lawful for a justice to use or order to be used, and for a police officer to use, such force as he believes, on reasonable grounds, to be necessary in order to suppress a riot, and as is reasonably proportioned to the danger which he believes, on reasonable grounds, is to be apprehended from its continuance.

Suppression  
of riot by  
person acting  
under lawful  
orders.  
Code, s. 240.

240. It is lawful for any person acting in good faith in obedience to orders, not manifestly unlawful, given by a justice for the suppression of a riot, to use such force as he believes, on reasonable grounds, to be necessary for carrying such orders into effect.

Whether any particular order so given is or is not manifestly unlawful is a question of law.

Suppression  
of riot by  
person acting  
without  
order in  
case of  
emergency.  
Code, s. 241.

241. When any person, whether subject to military law or not, believes, on reasonable grounds, that serious mischief will arise from a riot before there is time to procure the intervention of a justice, it is lawful for him to use such force as he believes, on reasonable grounds, to be necessary for the suppression of the riot, and as is reasonably proportioned to the danger which he believes, on reasonable grounds, is to be apprehended from its continuance.

242. It is lawful for a person who is bound by military law to obey the lawful commands of his superior officer to obey any command given him by his superior officer in order to the suppression of a riot, unless the command is manifestly unlawful.

Riot:  
Persons  
subject to  
military law.  
Code, s. 242.

Whether any particular command is or is not manifestly unlawful is a question of law.

243. It is lawful for any person to use such force as is reasonably necessary in order to prevent the commission of an offence which is such that the offender may be arrested without warrant; or in order to prevent any act from being done as to which he believes, on reasonable grounds, that it would, if done, amount to any such offence; or in order to prevent a person whom he believes, on reasonable grounds, to be of unsound mind from doing violence to any person or property.

Prevention  
of crimes  
and offences  
for which  
an offender  
may be  
arrested  
without  
warrant:  
Prevention of  
violence by  
persons of  
unsound  
mind.  
Code, s. 243.

244. It is lawful for any person who is in peaceable possession of a dwelling-house, and for any person lawfully assisting him or acting by his authority, to use such force as he believes, on reasonable grounds, to be necessary in order to prevent the forcible breaking and entering of the dwelling-house, either by night or day, by any person whom he believes, on reasonable grounds, to be attempting to break and enter the dwelling-house with intent to commit any indictable offence therein.

Defence of  
dwelling-  
house.  
Code, s. 244.

245. The term "provocation" used with reference to an offence of which an assault is an element, means and includes, except as hereinafter stated, any wrongful act or insult of such a nature as to be likely, when done to an ordinary person, or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial, or fraternal relation, or in the relation of master or servant, to deprive him of the power of self control, and to induce him to assault the person by whom the act or insult is done or offered.

Provocation.  
Code, s. 245.

When such an act or insult is done or offered by one person to another, or in the presence of another, to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give to the latter provocation for an assault.

A lawful act is not provocation to any person for an assault.

An act which a person does in consequence of incitement given by another person in order to induce him to do the act and thereby to furnish an excuse for committing an assault, is not provocation to that other person for an assault.

An arrest which is unlawful is not necessarily provocation for an assault, but it may be evidence of provocation to a person who knows of the illegality.

Defence of provocation.  
Code, s. 246.

**246.** A person is not criminally responsible for an assault committed upon a person who gives him provocation for the assault, if he is in fact deprived by the provocation of the power of self-control, and acts upon it on the sudden and before there is time for his passion to cool; provided that the force used is not disproportionate to the provocation, and is not intended, and is not such as is likely to cause death or grievous bodily harm.

Whether any particular act or insult is such as to be likely to deprive an ordinary person of the power of self-control and to induce him to assault the person by whom the act or insult is done or offered, and whether, in any particular case, the person provoked was actually deprived by the provocation of the power of self-control, and whether any force used is or is not disproportionate to the provocation, are questions of fact.

Prevention  
of repetition  
of insult.  
Code, s. 247.

**247.** It is lawful for any person to use such force as is reasonably necessary to prevent the repetition of an act or insult of such a nature as to be provocation to him for an assault; provided that the force used is not intended, and is not such as is likely, to cause death or grievous bodily harm.

248. When a person is unlawfully assaulted, and has not provoked the assault, it is lawful for him to use such force to the assailant as is reasonably necessary to make effectual defence against the assault, provided that the force used is not intended, and is not such as is likely, to cause death or grievous bodily harm.

Self-defence  
against  
unprovoked  
assault.  
Code, s. 248.

If the nature of the assault is such as to cause reasonable apprehension of death or grievous bodily harm, and the person using force by way of defence believes, on reasonable grounds, that he cannot otherwise preserve the person defended from death or grievous bodily harm, it is lawful for him to use any such force to the assailant as is necessary for defence, even though such force may cause death or grievous bodily harm.

249. When a person has unlawfully assaulted another or has provoked an assault from another, and that other assaults him with such violence as to cause reasonable apprehension of death or grievous bodily harm, and to induce him to believe, on reasonable grounds, that it is necessary for his preservation from death or grievous bodily harm to use force in self-defence, he is not criminally responsible for using any such force as is reasonably necessary for such preservation, although such force may cause death or grievous bodily harm.

Self-defence  
against  
provoked  
assault.  
Code, s. 249.

This protection does not extend to a case in which the person using force which causes death or grievous bodily harm first began the assault with intent to kill or to do grievous bodily harm to some person; nor to a case in which the person using force which causes death or grievous bodily harm endeavoured to kill or to do grievous bodily harm to some person before the necessity of so preserving himself arose; nor, in either case, unless, before such necessity arose, the person using such force declined further conflict, and quitted it or retreated from it as far as was practicable.

250. In any case in which it is lawful for any person to use force of any degree for the purpose of defending himself against an assault, it is lawful

Aiding in  
self-defence  
Code, s. 250.

for any other person acting in good faith in his aid to use a like degree of force for the purpose of defending such first-mentioned person.

Defence of  
movable  
property  
against  
trespassers.  
Code, s. 251.

251. It is lawful for any person who is in peaceable possession of any movable property, and for any person acting by his authority, to use such force as is reasonably necessary in order to resist the taking of such property by a trespasser, or in order to retake it from a trespasser, provided that he does not do bodily harm to the trespasser.

Defence of  
movable  
property  
with claim  
of right.  
Code, s. 252.

252. When a person is in peaceable possession of any movable property under a claim of right, it is lawful for him, and for any person acting by his authority, to use such force as is reasonably necessary in order to defend his possession of the property, even against a person who is entitled by law to possession of the property, provided that he does not do bodily harm to such other person.

Defence of  
movable  
property  
without  
claim of  
right.  
Code, s. 253.

253. When a person who is entitled by law to the possession of movable property attempts to take it from a person who is in possession of the property, but who neither claims right to it nor acts by the authority of a person who claims right, and the person in possession resists him, it is lawful for the person so entitled to possession to use force in order to obtain possession of the property; provided that he does not do bodily harm to the person in possession.

Defence of  
premises  
against  
trespassers.  
Removal of  
disorderly  
persons.  
Code, s. 254.

254. It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person acting by his authority, to use such force as is reasonably necessary in order to prevent any person from wrongfully entering upon such land, structure, vessel, or place, or in order to remove therefrom a person who wrongfully remains therein, provided that he does not do bodily harm to such person.

It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place and for any person acting by his authority, to use force in order to remove therefrom any person who conducts himself in a disorderly manner therein, provided that he does not do him bodily harm.

The term "place" includes any part of an enclosure or structure whether separated from the rest of the enclosure or structure by a partition, fence, rope, or any other means, or not.

255. When a person is in peaceable possession of any land, structure, or vessel, with a claim of right, it is lawful for him, and for any person acting by his authority, to use such force as is reasonably necessary in order to defend his possession, even against a person who is entitled by law to the possession of the property, provided that he does not do bodily harm to such person.

Defence of possession of real property or vessel with claim of right.  
Code, s. 255.

256. When a person who is lawfully entitled to enter upon land for the exercise of a right-of-way or other easement or profit enters upon the land for the purpose of exercising such right-of-way, easement, or profit, after notice that his right to use such way or easement or to take such profit is disputed by the person in possession of the land, or having entered persists in his entry after such notice, it is lawful for the person in possession, and for any person acting by his authority, to use such force as is reasonably necessary for the purpose of making the person so entering desist from the entry, provided that he does not do him bodily harm.

Exercise of right-of-way or easement.  
Code, s. 256.

257. It is lawful for a parent or a person in the place of a parent, or for a schoolmaster or master, to use, by way of correction, towards a child, pupil, or apprentice, under his care, such force as is reasonable under the circumstances.

Domestic discipline.  
Code, s. 257.

258. It is lawful for a master or other person in command of a vessel on a voyage to use, for the purpose of maintaining good order and discipline

Discipline of ship.  
Code, s. 258.

on board of the vessel, such force as he believes, on reasonable grounds, to be necessary, and as is reasonable under the circumstances.

Surgical operations.  
Code, s. 259.

259. A person is not criminally responsible for performing, in good faith and with reasonable care and skill, a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time and to all the circumstances of the case.

Excessive force.  
Code, s. 260.

260. In any case in which the use of force by one person to another is lawful, the use of more force than is justified by law under the circumstances is unlawful.

Consent to death  
immaterial.  
Code, s. 261.

261. Consent by a person to the causing of his own death does not affect the criminal responsibility of any person by whom such death is caused.

#### CHAPTER XXVII.—DUTIES RELATING TO THE PRESERVATION OF HUMAN LIFE.

Duty to provide necessities.  
Code, s. 262.

262. It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention, or any other cause, to withdraw himself from such charge, and who is unable to provide himself with the necessities of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessities of life; and he is held to have caused any consequences which result to the life or health of the other person by reason of any omission to perform that duty.

Duty of head of family.  
Code, s. 263.

263. It is the duty of every person who, as head of a family, has the charge of a child under the age of sixteen years, being a member of his household, to provide the necessities of life for such child, and he is held to have caused any consequences

which result to the life or health of the child by reason of any omission to perform that duty whether the child is helpless or not.

264. It is the duty of every person who, as a master or mistress, has contracted to provide necessary food, clothing, or lodging for any servant or apprentice under the age of sixteen years to provide the same; and he or she is held to have caused any consequences which result to the life or health of the servant or apprentice by reason of any omission to perform that duty.

Duty of masters.  
Code, s. 264.

265. It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to observe or perform that duty.

Duty of persons doing dangerous acts.  
Code, s. 265.

266. It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

Duty of persons in charge of dangerous things.  
Code, s. 266.

267. When a person undertakes to do any act the omission to do which is or may be dangerous to human life or health, it is his duty to do that act; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

Duty to do certain acts.  
Code, s. 267.

CHAPTER XXVIII.—HOMICIDE: SUICIDE:  
CONCEALMENT OF BIRTH.

Killing of  
a human  
being  
unlawful.  
Code, s. 268.

When a child  
becomes a  
human  
being.  
Code, s. 269.

Definition  
of killing.  
Code, s. 270.

Death by  
acts done at  
childbirth.  
Code, s. 271.

Causing  
death by  
threats.  
Code, s. 272.

Acceleration  
of death.  
Code, s. 273.

When injury  
or death  
might be  
prevented  
by proper  
precaution.  
Code, s. 274.

Injuries  
causing  
death in  
consequence  
of  
subsequent  
treatment.  
Code, s. 275.

**268.** It is unlawful to kill any person unless such killing is authorised or justified or excused by law.

**269.** A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not, and whether the navel-string is severed or not.

**270.** Except as hereinafter set forth, any person who causes the death of another, directly or indirectly, by any means whatever, is deemed to have killed that other person.

**271.** When a child dies in consequence of an act done or omitted to be done by any person before or during its birth, the person who did or omitted to do such act is deemed to have killed the child.

**272.** A person who, by threats or intimidation of any kind, or by deceit, causes another person to do an act or make an omission which results in the death of that other person, is deemed to have killed him.

**273.** A person who does any act or makes any omission which hastens the death of another person who, when the act is done or the omission is made, is labouring under some disorder or disease arising from another cause, is deemed to have killed that other person.

**274.** When a person causes a bodily injury to another from which death results, it is immaterial that the injury might have been avoided by proper precaution on the part of the person injured, or that his death from that injury might have been prevented by proper care or treatment.

**275.** When a person does grievous bodily harm to another and such other person has recourse to surgical or medical treatment, and death results

either from the injury or the treatment, he is deemed to have killed that other person, although the immediate cause of death was the surgical or medical treatment; provided that the treatment was reasonably proper under the circumstances, and was applied in good faith.

276. A person is not deemed to have killed another if the death of that other person does not take place within a year and a day of the cause of death.

Limitation  
as to time  
of death.  
Code, s. 276.

Such period is reckoned inclusive of the day on which the last unlawful act contributing to the cause of death was done.

When the cause of death is an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the omission ceased.

When the cause of death is in part an unlawful act, and in part an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the last unlawful act was done or the day on which the omission ceased, whichever is the later.

277. Any person who unlawfully kills another is guilty of a crime which is called wilful murder, murder, or manslaughter, according to the circumstances of the case.

Unlawful  
homicide.  
Code, s. 277.

278. Except as hereinafter set forth, a person who unlawfully kills another, intending to cause his death or that of some other person, is guilty of wilful murder.

Definition of  
wilful  
murder.  
Code, s. 278.

279. Except as hereinafter set forth, a person who unlawfully kills another under any of the following circumstances, that is to say:—

Definition of  
murder.  
Code, s. 279.

- (1) If the offender intends to do to the person killed or to some other person some grievous bodily harm;
- (2) If death is caused by means of an act done in the prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life;

- (3) If the offender intends to do grievous bodily harm to some person for the purpose of facilitating the commission of a crime which is such that the offender may be arrested without warrant, or for the purpose of facilitating the flight of an offender who has committed or attempted to commit any such crime;
- (4) If death is caused by administering any stupefying or overpowering thing for either of the purposes last aforesaid;
- (5) If death is caused by wilfully stopping the breath of any person for either of such purposes;

is guilty of murder.

In the first case it is immaterial that the offender did not intend to hurt the particular person who is killed.

In the second case it is immaterial that the offender did not intend to hurt any person.

In the three last cases it is immaterial that the offender did not intend to cause death or did not know that death was likely to result.

Definition of  
man-  
slaughter.  
Code, s. 280.

**280.** A person who unlawfully kills another under such circumstances as not to constitute wilful murder or murder is guilty of manslaughter.

Killing on  
provocation.  
Code, s. 281.

**281.** When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute wilful murder or murder, does the act which causes death in the heat of passion caused by sudden provocation, and before there is time for his passion to cool, he is guilty of manslaughter only.

Punishment  
of murder.  
Code, s. 282.

**282.** Any person who commits the crime of wilful murder or murder is liable to the punishment of death.

283. Any person who—

- (1) Attempts unlawfully to kill another; or
- (2) With intent unlawfully to kill another does any act, or omits to do any act which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life;

Attempt to  
murder.  
Code, s. 283.

is guilty of a crime, and is liable to imprisonment with hard labour for life.

284. Any person who becomes an accessory after the fact to wilful murder or murder is guilty of a crime, and is liable to imprisonment with hard labour for life.

Accessory  
after the  
fact to  
murder.  
Code, s. 284.

285. Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any writing threatening to kill any person, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Written  
threats to  
murder.  
Code, s. 285.

286. Any person who conspires with any other person to kill any person, whether such person is in Western Australia or elsewhere, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Conspiring  
to murder.  
Code, s. 286.

287. Any person who commits the crime of manslaughter is liable to imprisonment with hard labour for life.

Punishment  
of man-  
slaughter.  
Code, s. 287.

288. Any person who—

- (1) Procures another to kill himself; or
- (2) Counsels another to kill himself and thereby induces him to do so; or
- (3) Aids another in killing himself;

Aiding  
suicide.  
Code, s. 288.

is guilty of a crime, and is liable to imprisonment with hard labour for life.

289. Any person who attempts to kill himself is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Attempting  
to commit  
suicide.  
Code, s. 289.  
Amended by  
No. 32 of  
1918, s. 13.

Added by  
No. 32 of  
1918, s. 13.

If the accused person admits that he is guilty of the offence, the justices before whom he is charged may, in their discretion, deal with the charge summarily.

The offender is liable on such summary conviction to imprisonment with hard labour for six months.

Killing  
unborn  
child.  
Code, s. 290.

**290.** Any person who, when a woman is about to be delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born alive and had then died, he would be deemed to have unlawfully killed the child, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Concealing  
the birth of  
children.  
Code, s. 291.

**291.** Any person who, when a woman is delivered of a child endeavours, by any secret disposition of the dead body of the child, to conceal its birth, whether the child died before, at, or after its birth, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Reckless or  
dangerous  
driving.  
Inserted by  
No. 40 of  
1945, s. 2.

**291A.** (1) Any person who has in his charge or under his control any vehicle and fails to use reasonable care and take reasonable precautions in the use and management of such vehicle whereby death is caused to another person is guilty of a crime and liable to imprisonment with hard labour for five years.

(2) This section shall not relieve a person of criminal responsibility for the unlawful killing of another person.

#### CHAPTER XXIX.—OFFENCES ENDANGERING LIFE OR HEALTH.

Disabling in  
order to  
commit  
indictable  
offence.  
Code, s. 292.

**292.** Any person who, by means of violence of any kind and with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission or attempted commission of an indictable offence, renders or attempts to render any person incapable of resistance, is guilty of a crime, and is liable to imprisonment with hard labour for life, with or without whipping.

293. Any person who, with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission or attempted commission of an indictable offence, administers, or attempts to administer any stupefying or overpowering drug or thing to any person, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Stupefying  
in order to  
commit  
indictable  
offence.  
Code, s. 293.

294. Any person who, with intent to maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, or to resist or prevent the lawful arrest or detention of any person,—

Acts  
intended to  
cause  
grievous  
bodily harm  
or prevent  
arrest.  
Code, s. 294.

- (1) Unlawfully wounds or does any grievous bodily harm to any person by any means whatever; or
- (2) Unlawfully attempts in any manner to strike any person with any kind of projectile; or
- (3) Unlawfully causes any explosive substance to explode; or
- (4) Sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
- (5) Causes any such substance or thing to be taken or received by any person; or
- (6) Puts any corrosive fluid or any destructive or explosive substance in any place; or
- (7) Unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

295. Any person who unlawfully—

Preventing  
escape from  
wreck.  
Code, s. 295.

- (1) Prevents or obstructs any person who is on board of or is escaping from a vessel which is in distress or wrecked or cast ashore, in his endeavours to save his life; or

(2) Obstructs any person in his endeavours to save the life of any person so situated; is guilty of a crime, and is liable to imprisonment with hard labour for life.

Intentionally endangering safety of persons travelling by railway. Code, s. 296.

296. Any person who, with intent to injure or to endanger the safety of any person travelling by any railway, whether a particular person or not,—

- (1) Deals with the railway, or with anything whatever, upon or near the railway, in such a manner as to affect or endanger the free and safe use of the railway or the safety of any such person; or
- (2) Shows any light or signal, or in any way deals with any existing light or signal, upon or near the railway; or
- (3) By any omission to do any act which it is his duty to do causes the safety of any such person to be endangered;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

Grievous bodily harm. Code, s. 297.

297. Any person who unlawfully does grievous bodily harm to another is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Causing explosion likely to endanger life. Code, s. 298.

298. Any person who wilfully and unlawfully causes by any explosive substance an explosion likely to endanger the life of any person, whether any injury to any person is actually caused or not, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Attempting to cause explosion likely to endanger life. Code, s. 299.

299. Any person who wilfully and unlawfully—

- (1) Does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion in Western Australia of a nature likely to endanger the life of any person; or

- (2) Makes or has in his possession or under his control, any explosive substance with intent by means thereof to endanger the life of any person in Western Australia; or
- (3) Puts any explosive substance in any place whatever with intent to do any bodily harm to any person;

whether any explosion does or does not take place, and whether any injury to any person is actually caused or not, is guilty of a crime; and is liable to imprisonment with hard labour for fourteen years, and forfeiture of the explosive substance.

The term "explosive substance" in this section includes any materials for making any explosive substance; also, any apparatus, machine, implement or materials, used or intended to be used or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also, any part of any such apparatus, machine, or implement.

**300.** Any person who unlawfully, and with intent to injure or annoy another, causes any poison or other noxious thing to be administered to or taken by any person, and thereby endangers his life, or does him some grievous bodily harm, is guilty of a crime and is liable to imprisonment with hard labour for fourteen years.

Maliciously  
administer-  
ing poison  
with intent  
to harm.  
Code, s. 300.

**301.** Any person who—

- (1) Unlawfully wounds another; or
- (2) Unlawfully, and with intent to injure or annoy any person, causes any poison or other noxious thing to be administered to or taken by any person;

Wounding  
and similar  
acts.  
Code, s. 301.

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

**302.** Any person who, being charged with the duty of providing for another the necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be

Failure to  
supply  
necessaries.  
Code, s. 302.

endangered or his health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Endangering  
life or health  
of  
apprentices  
or servants.  
Code, s. 303.

303. Any person who, being charged as a master or mistress with the duty of providing necessary food, clothing, or lodging for a servant or apprentice under the age of sixteen years, unlawfully fails to perform that duty, or in any other manner does any bodily harm or causes any bodily harm to be done to such servant or apprentice, whereby, in either case, the life of such servant or apprentice is or is likely to be endangered, or his health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Endangering  
life of  
children by  
exposure.  
Code, s. 304.

304. Any person who unlawfully abandons or exposes a child under the age of seven years, whereby the life of such child is or is likely to be endangered, or his health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Setting  
mantraps.  
Code, s. 305.

305. Any person who sets or places any spring-gun, mantrap, or other engine calculated to destroy human life or to inflict grievous bodily harm, or causes any such thing to be set or placed in any place with the intent that it may kill or inflict grievous bodily harm upon a trespasser or other person coming in contact with it, or sets or places any such thing in any such place and in any such manner that it is likely to cause any such result, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Any person who knowingly permits any such spring-gun, mantrap, or other engine, which has been set or placed by another person in any such place and in any such manner that it is likely to cause any such result, to continue so set or placed in any place which is then in or afterwards comes into his possession or occupation, is deemed to have set and placed the gun, trap, or engine with the intent aforesaid.

This section does not make it unlawful to set any gin or trap such as is usually set for the purpose of destroying vermin; or to set any spring-gun, man-trap, or engine, at night in a dwelling-house for the protection of the dwelling-house.

**306.** Any person who unlawfully does any act or omits to do any act which it is his duty to do, by which act or omission bodily harm is actually caused to any person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Negligent acts causing harm.  
Code, s. 306.

**307.** Any person who, by any unlawful act, or by any omission to do any act which it is his duty to do, causes the safety of any person travelling by any railway to be endangered, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Endangering safety of persons travelling by railway.  
Code, s. 307.

**308.** Any person who—

- (1) Sends or attempts to send a ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered; or
- (2) Being a master of a British ship, knowingly takes or attempts to take the ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered;

Sending or taking unseaworthy ships to sea.  
Code, s. 308.

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

It is a defence to a charge of any of the offences defined in this section to prove that the going of the ship to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable.

It is a defence to a charge of either of the offences firstly defined in this section to show that the accused person used all reasonable means to ensure the ship being sent to sea in a seaworthy state.

Endangering steamships by tampering with machinery. Code, s. 309.

**309.** Any person who, being a person having actual control over a steam vessel, or over any part of the machinery of a steam vessel, does any act or makes any omission or is privy to any act or omission with respect to the machinery of the vessel, whereby, to his knowledge, the safety of any person on board the vessel is or is likely to be endangered, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

The like by engineers. Code, s. 310.

**310.** Any person who is engineer, or one of the engineers, in charge of the machinery of a steam vessel at any time when any act is done or omitted to be done by any other person with respect to the machinery of the vessel, whereby the safety of any person on board the vessel is or is likely to be endangered, is guilty of an offence, and is liable on summary conviction to a fine of One hundred pounds.

It is a defence to a charge of the offence defined in this section to prove that the act or omission was done or made without the knowledge of the accused person, and without any neglect or default on his part.

Evading laws as to equipment of ships and shipping dangerous goods. Code, s. 311.

**311.** Any person who—

- (1) Being a person having actual control over a vessel on board of which any article has been placed with his knowledge or consent in order to the obtaining of permission or authority to leave a port, removes or allows the removal of such article from the vessel after such permission or authority has been obtained; or
- (2) Knowingly sends by any vessel, or carries in any vessel, any explosive substance, or any acid or other thing of a dangerous or destructive nature, under a false description of the substance, or thing, or with a false description of the sender thereof;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

## 312. Any person who—

(1) Being charged by law with any duty respecting the landing or delivery of any explosive substance, or of any acid or other thing of a dangerous or destructive nature, from any vessel, fails to perform that duty; or

(2) Being concerned in the landing of any such substance or thing from any vessel, violates the provisions of the laws relating to such landing;

Landing  
explosives.  
Code, s. 312.

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

This section does not apply to gunpowder the property of His Majesty while it is under the control of an officer of His Majesty's army or navy, or ordnance, or of the Defence Force of the Commonwealth of Australia.

## CHAPTER XXX.—ASSAULTS.

## 313. Any person who unlawfully assaults another

Common  
assault.  
Code, s. 313.

is guilty of a misdemeanour, and is liable, if no greater punishment is provided, to imprisonment with hard labour for one year.

## 314. Any person who assaults another with intent

Assault with  
intent to  
commit  
unnatural  
offence.  
Code, s. 314.

to have carnal knowledge of him or her against the order of nature is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

## 315. Any person who unlawfully and indecently

Indecent  
assault on  
males.  
Code, s. 315.

assaults any male person is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

## 316. Any person who unlawfully assaults and

Assaults on  
persons  
protecting  
wrecks.  
Code, s. 316.

uses actual violence to a justice or any other person while acting in the execution of his duty in or concerning the preservation of a vessel in distress, or of any vessel or goods wrecked, stranded, or cast on shore or lying under water, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Assaults  
occasioning  
bodily harm.  
Code, s. 317.

317. Any person who unlawfully assaults another and thereby does him bodily harm is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Serious  
assaults.  
Code, s. 318.

318. Any person who—

- (1) Assaults another with intent to commit a crime, or with intent to resist or prevent the lawful arrest or detention of himself or of any other person; or
- (2) Assaults, resists, or wilfully obstructs a police officer while acting in the execution of his duty, or any person acting in aid of a police officer while so acting; or
- (3) Unlawfully assaults, resists, or obstructs any person engaged in the lawful execution of any process against any property, or in making a lawful distress while so engaged; or
- (4) Assaults, resists, or obstructs any person engaged in such lawful execution of process, or in making a lawful distress, with intent to rescue any property lawfully taken under such process or distress; or
- (5) Assaults any person on account of any act done by him in the execution of any duty imposed on him by law; or
- (6) Assaults any person in pursuance of any unlawful conspiracy respecting any manufacture, trade, business, or occupation, or respecting any person or persons concerned or employed in any manufacture, trade, business, or occupation, or the wages of any such person or persons;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

CHAPTER XXXI.—ASSAULTS PUNISHABLE ON SUMMARY CONVICTION.

Jurisdiction  
of Justices.  
Code, s. 319.

319. Any person who unlawfully assaults another may, subject to the provisions of this chapter, be summarily convicted before two justices.

320. If the justices find that the assault complained of was accompanied by an attempt to commit a crime, or if for any reason the justices are of opinion that the charge is a fit subject for prosecution by indictment, they are required to abstain from dealing with the case summarily.

Some  
assaults  
not to be so  
dealt with.  
Code, s. 320.

321. Any person who unlawfully assaults another is liable, on summary conviction, to a fine of Ten pounds, and to payment of the costs of the prosecution, and, in default of payment, to imprisonment with hard labour for six months, unless the fine and costs are sooner paid, or to imprisonment with hard labour for six months in the first instance.

common  
assaults.  
Code, s. 321.

If the justices are of opinion that the assault was so trifling as not to deserve any punishment, they may convict the defendant, and discharge him without inflicting any punishment.

This section does not authorise justices to deal summarily with a charge of assault on which a question arises as to the title to land or an estate in land, or to any interest in or accruing from land, or as to any bankruptcy or as to the execution of the process of any Court of justice.

322. If the person assaulted is a male child whose age does not, in the opinion of the justices, exceed fourteen years, or is a female, and the justices are of opinion that the assault is of such an aggravated nature that the offender cannot be sufficiently punished under the provisions of the last preceding section, the offender is liable on summary conviction to a fine of Twenty pounds, inclusive of costs, and in default of payment to imprisonment for six months unless the fine and costs are sooner paid, or to imprisonment with hard labour for six months in the first instance.

Aggravated  
assaults.  
Code, s. 322.

The justices may also, if they think fit, require the offender to enter into a recognisance to keep the peace and be of good behaviour for any term not exceeding six months from the expiration of the sentence.

Effect of  
summary  
conviction  
or dismissal.  
Code, s. 323.  
Amended by  
No. 32 of  
1918, s. 14.

323. When a complaint of an assault has been heard upon the merits before justices, on complaint by or on behalf of the party aggrieved, under either of the two last preceding sections, and they dismiss the complaint, they are required forthwith to make out a certificate of the fact of such dismissal and to give it to the accused person.

Any person who has obtained such a certificate of dismissal, or who has been convicted, and has paid the fine and costs or has endured the punishment adjudged, if any, is released from all further criminal proceedings for the same cause.

Assaults in  
interference  
with  
freedom  
of trade or  
work.  
Code, s. 324.

324. Any person who assaults another with intent to hinder or prevent him from working at or exercising his lawful trade, business, or occupation, or from buying, selling, or otherwise dealing with any property intended for sale, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for three months.

#### CHAPTER XXXII.—ASSAULTS ON FEMALES: ABDUCTION.

Definition  
of rape.  
Code, s. 325.

325. Any person who has carnal knowledge of a woman or girl, not his wife, without her consent, or with her consent if the consent is obtained by force, or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false and fraudulent representations as to the nature of the act, or, in the case of a married woman, by personating her husband, is guilty of a crime which is called rape.

Punishment  
of rape.  
Code, s. 326.

326. Any person who commits the crime of rape is liable to imprisonment with hard labour for life, with or without whipping.

Attempt to  
commit rape.  
Code, s. 327.

327. Any person who attempts to commit the crime of rape is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, with or without whipping.

328. Any person who unlawfully and indecently assaults a woman or girl is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Indecent  
assaults on  
females.  
Code, s. 328.  
Amended by  
No. 32 of  
1918, s. 15.

329. Any person who—

Abduction.  
Code, s. 329.

- (1) With intent to marry or carnally know a woman, or to cause her to be married or carnally known by any other person, takes her away, or detains her against her will; or
- (2) From motives of gain, and with any such intent as aforesaid, takes or entices away or detains a woman who is under the age of twenty-one years, and who has any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any property, or who is a presumptive heiress or co-heiress, or the presumptive next of kin, or one of the presumptive next of kin, to any person who has such an interest, out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of such father or mother or other person;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

A person convicted of any of the offences defined in this section, which was committed with respect to a woman who has any such interest in property, or who is a presumptive heiress or co-heiress, or the presumptive next of kin, or one of the presumptive next of kin to any person who has such an interest as aforesaid, is incapable of taking any estate or interest, legal or equitable, in any property of such woman, or in which she has any interest, or which comes to her as such heiress, co-heiress, or next of kin as aforesaid; and if he has married the woman, such property is, upon his conviction, to be settled in such manner as the Supreme Court may, upon an information at the suit of the Attorney General, appoint.

Abduction  
of girls  
under  
sixteen.  
Code, s. 330.

330. Any person who unlawfully takes or keeps an unmarried girl under the age of sixteen years out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of such father or mother or other person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

It is immaterial that the offender believed the girl to be of or above the age of sixteen years.

It is immaterial that the girl was taken with her own consent or at her own suggestion.

Rule of  
evidence.  
Code, s. 331.

331. Upon a charge of any of the offences defined in this chapter, the wife or husband of the accused person is a competent and compellable witness.

#### CHAPTER XXXIII.—OFFENCES AGAINST LIBERTY.

Kidnapping.  
Code, s. 332.

332. Any person who forcibly takes or detains another with intent to compel that other person to work for him against his will is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Deprivation  
of liberty.  
Code, s. 333.

333. Any person who unlawfully confines or detains another in any place against his will, or otherwise unlawfully deprives another of his personal liberty, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

False  
certificates  
by officers  
charged  
with duties  
relating to  
liberty.  
Code, s. 334.

334. Any person who—

- (1) Being required by law to give any certificate touching any matter by virtue whereof the liberty of any person may be affected, gives a certificate which, in any material particular, is to his knowledge false; or
- (2) Not being a person authorised by law to give such a certificate as aforesaid, gives such a certificate, and represents himself to be a person authorised to give the same;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

## 335. Any person who—

(1) Being required by law to keep any record touching any matter relating to any person in confinement, refuses or neglects to keep such record, or makes in such record an entry which, in any material particular, is to his knowledge false; or

(2) Being required by law to give any information to any person touching any person in confinement, or to show to any person any person in confinement, or any place in which a person is confined—

(a) Refuses or neglects to give such information, or to show such person or place, to any person to whom he is so required to give the information or show the person or place; or

(b) Gives to any person to whom he is so required to give it, information touching any such matter which, in any material particular, is to his knowledge false;

Concealment  
of matters  
affecting  
liberty.  
Code, s. 335.

is guilty of a misdemeanour, and is liable to imprisonment for three years.

## 336. Any person who, by the production of any false certificate or otherwise, knowingly and wilfully procures any person, not being insane, to be confined in any asylum upon insufficient or unreasonable grounds, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Procuring  
confinement  
of sane  
person on  
false  
certificate.  
Code, s. 336.

## 337. Any person who detains or assumes the custody of an insane person contrary to the provisions of the laws relating to insane persons is guilty of a misdemeanour, and is liable to imprisonment for two years.

Unlawful  
custody of  
insane  
person.  
Code, s. 337.

## 338. Any person who threatens to do any injury, or cause any detriment, of any kind to another with intent to prevent or hinder that other person from doing any act which he is lawfully entitled to do, or with intent to compel him to do any act which he is lawfully entitled to abstain from doing, is guilty of a misdemeanour, and is liable to imprisonment for one year or to a fine of one hundred pounds.

Threats.  
Code, s. 338.

CHAPTER XXXIV.—OFFENCES RELATING TO MARRIAGE  
AND PARENTAL RIGHTS AND DUTIES.Bigamy.  
Code, s. 339.

## 339. Any person who—

- (1) Being married, goes through the form of marriage with any other person during the life of his or her wife or husband;
- (2) Goes through the form of marriage with any person whom he or she knows to be married;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

It is a defence to a charge of either of the offences defined in this section to prove that at the time of committing the alleged offence the wife or husband of the person already married had been continually absent from him or her for the space of seven years then last past, unless it is shown that the accused person knew that such wife or husband was living within that time.

Unlawful  
celebration  
of marriage.  
Code, s. 340.

## 340. Any person who—

- (1) Not being a person authorised by law to celebrate marriages, celebrates or professes or attempts to celebrate a marriage; or
- (2) Celebrates, or attempts or professes to celebrate, the marriage of any person who, to his knowledge, is under the age of twenty-one years, and is not a widower or widow, without the written consent of some person authorised by law to give such consent, or with a written consent which, to his knowledge, is not given by a person authorised by law to give it; or
- (3) Knowingly and wilfully celebrates, or attempts or professes to celebrate, any marriage contrary to the provisions of the laws relating to the solemnisation of marriage; or
- (4) Celebrates, or attempts or professes to celebrate, any marriage in any case in which any provision of those laws has not been complied with, knowing that it has not been complied with; or

- (5) Induces, or attempts to induce, any person to celebrate the marriage of any person who is to the knowledge of the offender under the age of twenty-one years, and is not a widower or widow, without such consent as aforesaid, or with a consent which, to his knowledge, is not given by a person authorised by law to give it, or to celebrate any marriage contrary to or without compliance with the laws relating to the solemnisation of marriage; or
- (6) Marries a person who is, to his or her knowledge, under the age of twenty-one years, and is not a widow or widower, without such consent as aforesaid, or with a consent which, to his or her knowledge, is not given by a person authorised by law to give it; or
- (7) Issues any certificate required by law to be issued by a district registrar, contrary to the provisions of the law relating to the solemnisation of marriage;

is guilty of a misdemeanour, and is liable to imprisonment with or without hard labour for five years, and to a fine of Five hundred pounds.

It is a defence to a charge of the offence defined in paragraph one if the person charged, being a minister of religion, was not duly registered as a minister authorised to celebrate marriages by reason of accident or inadvertence.

341. Any minister of religion whose name, designation, religious denomination, and usual place of residence, by accident or inadvertence, have not been, and do not continue to be duly registered as a minister authorised to celebrate marriages, and who celebrates a marriage, is guilty of an offence, and is liable on summary conviction to a fine of Twenty pounds.

Celebration  
of marriage  
by minister  
unregistered  
by  
inadvertence.  
Code, s. 341.

Unqualified persons procuring registration as persons qualified to celebrate marriages.  
Code, s. 342.

342. Any person who, not being a person entitled to be registered under the laws relating to the solemnisation of marriage, as a person authorised to celebrate marriages, and knowing that he is not such a person, procures his name to be registered as a person so entitled, is guilty of a misdemeanour, and is liable to imprisonment for two years, and to a fine of Two hundred pounds.

Child-stealing.  
Code, s. 343.

343. Any person who, with intent to deprive any parent, guardian, or other person who has the lawful care or charge of a child under the age of fourteen years, of the possession of such child, or with intent to steal any article upon or about the person of any such child—

- (1) Forcibly or fraudulently takes or entices away, or detains the child; or
- (2) Receives or harbours the child, knowing it to have been so taken or enticed away or detained;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years, and if under the age of sixteen years, is also liable to whipping.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person claimed a right to the possession of the child, or, in the case of an illegitimate child, is its mother or claimed to be its father.

Desertion of children.  
Code, s. 344.

344. Any person who, being the parent of a child under the age of sixteen years, and being able to maintain such child, wilfully and without lawful or reasonable cause deserts the child and leaves it without means of support, is guilty of a misdemeanour, and is liable to imprisonment for one year.

#### CHAPTER XXXV.—DEFAMATION.

Definition of "periodical."  
Code, s. 345.

345. In this chapter the term "periodical" includes any newspaper, review, magazine, or other writing or print published periodically.

346. Any imputation concerning any person, or any member of his family, whether living or dead, by which the reputation of that person is likely to be injured, or by which he is likely to be injured in his profession or trade, or by which other persons are likely to be induced to shun or avoid or ridicule or despise him, is called defamatory, and the matter of the imputation is called defamatory matter.

Definition of defamatory matter.  
Code, s. 346.

An imputation may be expressed either directly or by insinuation or irony.

347. The question whether any matter is or is not defamatory is a question of fact.

Questions of fact and law.  
Code, s. 347.

The question whether any matter alleged to be defamatory is or is not capable of bearing a defamatory meaning is a question of law.

348. Any person who, by spoken words or audible sounds, or by words intended to be read either by sight or touch, or by signs, signals, gestures, or visible representations, publishes any defamatory imputation concerning any person is said to defame that person.

Definition of defamation.  
Code, s. 348.

349. Publication is, in the case of spoken words, or audible sounds, the speaking of such words or making of such sounds in the presence and hearing of any other person than the person defamed, and in the case of signs, signals, or gestures, the making of such signs, signals, or gestures, so as to be seen or felt by, or otherwise come to the knowledge of, any person other than the person defamed, and, in the case of other defamatory matter, the exhibiting of it in public, or causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by any other person than the person defamed.

Publication.  
Code, s. 349.

350. It is unlawful to publish defamatory matter unless such publication is protected, or justified, or excused by law.

Publication of defamatory matter *prima facie* unlawful.  
Code, s. 350.

Absolute protection:  
Privilege of Parliament  
Code, s. 351.

351. (1) A member of either House of Parliament does not incur any liability as for defamation by the publication of any defamatory matter in the course of a speech made by him in Parliament.

(2) A person who presents a petition to either House of Parliament does not incur any liability as for defamation by the publication to that House of Parliament of any defamatory matter contained in the petition.

(3) A person does not incur any liability as for defamation by publishing, by order or under the authority of either House of Parliament, a paper containing defamatory matter.

Absolute protection:  
Privileges of Judges, witnesses and others in Courts of Justice.  
Code, s. 352.

352. A person does not incur any liability as for defamation by publishing, in the course of a proceeding held before or under the authority of any Court of justice, or in the course of an inquiry made under the authority of a Statute, or under the authority of His Majesty, or of the Governor in Council, or of either House of Parliament, any defamatory matter.

Absolute protection:  
Reports of official inquiries.  
Code, s. 353.

353. A person appointed under the authority of a Statute, or by or under the authority of His Majesty, or of the Governor in Council, to hold any inquiry, does not incur any liability as for defamation by publishing any defamatory matter in an official report made by him of the result of such inquiry.

Protection:  
Reports of matters of public interest.  
Code, s. 354.

354. It is lawful—

(1) To publish in good faith, for the information of the public, a fair report of the proceedings of either House of Parliament, or of any committee of either House, or of any joint committee of both Houses;

(2) To publish in good faith, for the information of the public, a copy of, or an extract from or abstract of, any paper published by order or under the authority of either House of Parliament;

- (3) To publish in good faith, for the information of the public, a fair report of the public proceedings of any Court of justice, whether such proceedings are preliminary or interlocutory or final, or of the result of any such proceedings, unless, in the case of proceedings which are not final, the publication has been prohibited by the Court, or unless the matter published is blasphemous or obscene;
- (4) To publish in good faith, for the information of the public, a fair report of the proceedings of any inquiry held under the authority of a Statute, or by or under the authority of His Majesty, or of the Governor in Council, or a fair extract from or abstract of any such proceedings, or a copy of, or an extract from or abstract of, an official report made by the person by whom the inquiry was held;
- (5) To publish in good faith, for the information of the public, at the request of any Government Department, officer of State, or police officer, any notice or report issued by such department or officer for the information of the public;
- (6) To publish in good faith, for the information of the public, a fair report of the proceedings of any local authority, board, or body of trustees or other persons duly constituted under the provisions of any Statute, for the discharge of public functions, so far as the matter published relates to matters of public concern;
- (7) To publish in good faith, for the information of the public, a fair report of the proceedings of any public meeting, so far as the matter published relates to matters of public concern.

A publication is said to be made in good faith, for the information of the public, if the person by whom it is made is not actuated in making it by ill-will to

the person defamed, or by any other improper motive, and if the manner of the publication is such as is ordinarily and fairly used in the case of the publication of news.

The term "public meeting" means and includes any meeting lawfully held for a lawful purpose, and for the furtherance or discussion in good faith of a matter of public concern, or for the advocacy of the candidature of any person for a public office, whether the admission to the meeting was open or restricted.

In the case of a publication of a report of the proceedings of a public meeting in a periodical, it is evidence of want of good faith if the proprietor, publisher, or editor, has been requested by the person defamed to publish in the periodical a reasonable letter or statement by way of contradiction or explanation of the defamatory matter, and has refused or neglected to publish the same.

Protection:  
Fair  
comment.  
Code, s. 355.

**355. It is lawful—**

- (1) To publish a fair comment respecting any of the matters with respect to which the publication of a fair report in good faith, for the information of the public, is by the last preceding section declared to be lawful;
- (2) To publish a fair comment respecting the public conduct of any person who takes part in public affairs, or respecting the character of any such person, so far as his character appears in that conduct;
- (3) To publish a fair comment respecting the conduct of any public officer or public servant in the discharge of his public functions, or respecting the character of any such person, so far as his character appears in that conduct;
- (4) To publish a fair comment respecting the merits of any case, civil or criminal, which has been decided by any Court of justice, or respecting the conduct of any person as a judge, party, witness, counsel, solicitor,

or officer of the Court, in any such case, or respecting the character of any such person, so far as his character appears in that conduct;

- (5) To publish a fair comment respecting any published book or other literary production, or respecting the character of the author, so far as his character appears by such book or production;
- (6) To publish a fair comment respecting any composition or work of art, or performance publicly exhibited, or respecting the character of the author or performer or exhibitor, so far as his character appears from the matter exhibited;
- (7) To publish a fair comment respecting any public entertainment or sports, or respecting the character of any person conducting or taking part therein, so far as his character appears from the matter of the entertainment or sports, or the manner of conducting the same;
- (8) To publish a fair comment respecting any communication made to the public on any subject.

Whether the comment is or is not fair is a question of fact. If it is not fair, and is defamatory, the publication of it is unlawful.

356. It is lawful to publish defamatory matter if the matter is true, and if it is for the public benefit that the publication complained of should be made.

Protection:  
Truth.  
Code, s. 356.

357. It is a lawful excuse for the publication of defamatory matter—

Qualified  
protection:  
Excuse.  
Code, s. 357.

- (1) If the publication is made in good faith by a person having over another any lawful authority in the course of a censure passed by him on the conduct of that other in matters to which such lawful authority relates;

- (2) If the publication is made in good faith for the purpose of seeking remedy or redress for some private or public wrong or grievance, from a person who has, or whom the person making the publication believes, on reasonable grounds, to have, authority over the person defamed with respect to the subject matter of such wrong or grievance;
- (3) If the publication is made in good faith for the protection of the interests of the person making the publication, or of some other person, or for the public good;
- (4) If the publication is made in good faith in answer to an inquiry made of the person making the publication, relating to some subject as to which the person by whom or on whose behalf the inquiry is made has, or is believed, on reasonable grounds, by the person making the publication to have, an interest in knowing the truth;
- (5) If the publication is made in good faith for the purpose of giving information to the person to whom it is made with respect to some subject as to which that person has or is believed, on reasonable grounds, by the person making the publication to have, such an interest in knowing the truth as to make his conduct in making the publication reasonable under the circumstances;
- (6) If the publication is made in good faith on the invitation or challenge of the person defamed;
- (7) If the publication is made in good faith in order to answer or refute some other defamatory matter published by the person defamed concerning the person making the publication or some other person;
- (8) If the publication is made in good faith in the course of, or for the purposes of, the discussion of some subject of public interest, the public discussion of which is for the

public benefit, and if, so far as the defamatory matter consists of comment, the comment is fair.

For the purposes of this section, a publication is said to be made in good faith if the matter published is relevant to the matters the existence of which may excuse the publication in good faith of defamatory matter; if the manner and extent of the publication does not exceed what is reasonably sufficient for the occasion, and if the person by whom it is made is not actuated by ill-will to the person defamed, or by any other improper motive, and does not believe the defamatory matter to be untrue.

358. When any question arises whether a publication of defamatory matter was or was not made in good faith, and it appears that the publication was made under circumstances which would afford lawful excuse for the publication if it was made in good faith, the burden of proof of the absence of good faith lies upon the party alleging such absence.

Good faith.  
Code, s. 358.

359. Whether any defamatory matter is or is not relevant to any other matter, and whether the public discussion of any subject is or is not for the public benefit, are questions of fact.

Relevancy  
and public  
benefit  
questions of  
fact.  
Code, s. 359.

360. Any person who unlawfully publishes any defamatory matter concerning another is guilty of a misdemeanour, and is liable to imprisonment for twelve months, and to a fine of Three hundred pounds.

Unlawful  
publication  
of defama-  
tory matter.  
Code, s. 360.

If the offender knows the defamatory matter to be false, he is liable to imprisonment with hard labour for two years, and to a fine of Five hundred pounds.

361. Any person who, not being a member of either House of Parliament, unlawfully publishes any false or scandalous defamatory matter touching the conduct of any member or members of either House of Parliament as such member or members,

Defamation  
of members  
of Parlia-  
ment by  
strangers.  
Code, s. 361.

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years, and to a fine of Five hundred pounds.

Defence in  
case of  
defamation  
by words,  
sounds,  
signs,  
signals, or  
gestures.  
Code, s. 362.

362. In any case other than that of words intended to be read, it is a defence to a prosecution for publishing defamatory matter to prove that the publication was made on an occasion and under circumstances when the person defamed was not likely to be injured thereby.

Publishing or  
threatening  
to publish  
defamatory  
matter with  
intent to  
extort  
money.  
Code, s. 363.

363. Any person who publishes, or directly or indirectly threatens to publish, or directly or indirectly proposes to abstain from publishing, or directly or indirectly offers to prevent the publication of any defamatory matter concerning another, with intent to extort any property from such person or any other person, or with intent to induce any person to give or confer or procure, or to attempt to procure, to, upon, or for, any person any property or benefit of any kind, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Liability of  
proprietor,  
publisher,  
and editor of  
periodicals.  
Code, s. 364.

364. Upon a charge against a proprietor, publisher, or editor of a periodical, of the unlawful publication in the periodical of defamatory matter, it is a defence to prove that the matter complained of was inserted in the periodical without his knowledge and without negligence on his part.

General authority given to the person who actually inserted the defamatory matter to manage or conduct the periodical as editor or otherwise, and to insert therein what in his discretion he thinks fit, is not negligence within the meaning of this section, unless it is proved that the proprietor or publisher or editor, when giving such general authority, meant that it should extend to and authorise the unlawful publication of defamatory matter, or continued such general authority, knowing that it had been exercised by unlawfully publishing defamatory matter in any number or part of the periodical.

365. A person is not criminally responsible as for the unlawful publication of defamatory matter merely by reason of selling any number or part of a periodical containing the defamatory matter, unless he knows that such number or part contains the defamatory matter, or that defamatory matter is habitually or frequently contained in that periodical.

Protection of  
innocent  
sellers of  
periodicals.  
Code, s. 365.

366. A person is not criminally responsible as for the unlawful publication of defamatory matter merely by reason of selling a book, pamphlet, print, or writing, or other thing not forming part of a periodical, although it contains the defamatory matter, if at the time of the sale he does not know that the defamatory matter is contained therein.

Protection of  
innocent  
sellers of  
books.  
Code, s. 366.

367. An employer is not responsible as for the unlawful publication of defamatory matter merely by reason of the sale by his servant of a book, pamphlet, print, writing, or other thing, whether a periodical or not, containing the defamatory matter, unless it is proved that he authorised the sale, knowing that the book, pamphlet, print, writing, or other thing contained the defamatory matter, or, in the case of a number or part of a periodical, that defamatory matter was habitually or frequently contained in that periodical.

Protection of  
employers.  
Code, s. 367.

368. A criminal prosecution cannot be begun before justices against the proprietor, or publisher, or editor, or any person responsible for the publication of any periodical, for the unlawful publication of any defamatory matter contained therein, without the order of the Supreme Court or a judge thereof, made after notice to the person accused, and after that person has had an opportunity of being heard in opposition to the application for the order.

Prosecution  
of news-  
papers to be  
by sanction  
of a Judge  
after notice.  
Code, s. 368.

369. If, on the hearing before a justice of a charge of the unlawful publication of defamatory matter the justice is of opinion that a case has been made out against the accused person but that the case is of a trivial nature, he may ask him whether he

Summary  
jurisdiction  
in trivial  
cases of  
defamation.  
Code, s. 369.

desires to be tried by a jury, or consents to the charge being dealt with summarily: And if the accused person consents to the charge being dealt with summarily, he may be summarily convicted before two justices, and is liable on such conviction to a fine of Fifty pounds.

If a charge has been dealt with summarily and dismissed, the justices must, if required so to do, deliver to the person charged a copy certified under their hands of the order of said dismissal; and such dismissal is of the same effect as an acquittal on a trial after indictment or information for the same offence.

**PART VI.—OFFENCES RELATING TO PROPERTY  
AND CONTRACTS.**

*Division I.—Stealing and like Offences.*

**CHAPTER XXXVI.—STEALING.**

Things  
capable of  
being stolen.  
Code, s. 370.

370. Every inanimate thing whatever which is the property of any person, and which is movable, is capable of being stolen.

Every inanimate thing which is the property of any person, and which is capable of being made movable, is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it.

Every tame animal, whether tame by nature or wild by nature and tamed, which is the property of any person, is capable of being stolen; but tame pigeons are not capable of being stolen except while they are in a pigeon-house or on their owner's land.

Animals wild by nature, of a kind which is not ordinarily found in a condition of natural liberty in Western Australia, which are the property of any person, and which are usually kept in a state of confinement, are capable of being stolen, whether they are actually in confinement or have escaped from confinement.

Animals wild by nature, of a kind which is ordinarily found in a condition of natural liberty in Western Australia which are the property of any

person, are capable of being stolen while they are in confinement and while they are being actually pursued after escaping from confinement, but not at any other time.

An animal wild by nature is deemed to be in a state of confinement so long as it is in a den, cage, sty, tank, or other small enclosure, or is otherwise so placed that it cannot escape and that its owner can take possession of it at pleasure.

The term "animal" includes any living creature other than mankind.

Oysters and oyster brood are capable of being stolen while in oyster beds, layings, or fisheries, which are the property of any person, and which are sufficiently marked out, or are known by general repute as his property.

Wild animals in the enjoyment of their natural liberty are not capable of being stolen, but their dead bodies are capable of being stolen.

Everything produced by or forming part of the body of an animal capable of being stolen is capable of being stolen.

371. (1) A person who fraudulently takes anything capable of being stolen, or fraudulently converts to his own use or to the use of any other person any property, is said to steal that thing or that property.

Definition of  
stealing.  
Code, s. 371.  
Amended by  
No. 20 of  
1954, s. 2.

(2) A person who takes anything capable of being stolen or converts any property is deemed to do so fraudulently if he does so with any of the following intents, that is to say:—

- (a) An intent to permanently deprive the owner of the thing or property of it or any part of it;
- (b) An intent to permanently deprive any person who has any special property in the thing or property of such special property;
- (c) An intent to use the thing or property as a pledge or security;

- (d) An intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform;
- (e) An intent to deal with it in such a manner that it cannot be returned in the condition in which it was at the time of the taking or conversion;
- (f) In the case of money, an intent to use it at the will of the person who takes or converts it although he may intend to afterwards repay the amount to the owner.

The term "special property" includes any charge or lien upon the thing or property in question, and any right arising from or dependent upon holding possession of the thing or property in question, whether by the person entitled to such right or by some other person for his benefit.

(3) The taking or conversion may be fraudulent, although it is effected without secrecy or attempt at concealment.

(4) In the case of conversion, it is immaterial whether the property converted is taken for the purpose of conversion or whether it is at the time of the conversion in the possession, control or management of the person who converts it. It is also immaterial that the person who converts the property is the holder of a power of attorney for the disposition of it, or is otherwise authorised to dispose of the property.

(5) When the property converted has been lost by the owner and found by the person who converts it, the conversion is not deemed to be fraudulent if at the time of the conversion the person taking or converting the property does not know who is the owner, and believes, on reasonable grounds, that the owner cannot be discovered.

(6) The act of stealing is not complete until the person taking or converting the thing actually moves it or otherwise actually deals with it by some physical act.

(7) In this section, "property" includes any description of real and personal property, money, debts, bank credits, and legacies and all deeds and

instruments relating to or evidencing the title or right to any property or giving a right to recover or receive any money or goods and also includes not only such property as has been originally in the possession or in the control of any person but also any property in which or for which it has been converted or exchanged and anything acquired by the conversion or exchange, whether immediately or otherwise.

372. (1) When a wild animal in the enjoyment of its natural liberty has been killed by any person, the taking of the dead body of the animal by that person, or by any person acting under his orders, before it has been reduced into actual possession by the owner of the land on which the animal was killed or on which it died, is not deemed to be stealing.

Special cases.  
Code, s. 372.

(2) When a factor or agent pledges or gives a lien on any goods or document of title to goods entrusted to him for the purpose of sale or otherwise for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving the lien, together with the amount of any bill of exchange or promissory note accepted or made by him for or on account of his principal, such dealing with the goods or document of title is not deemed to be stealing.

(3) When a servant, contrary to his master's orders, takes from his possession any food in order that it may be given to an animal belonging to or in the possession of his master, such taking is not deemed to be stealing.

373. When a person receives, either alone or jointly with another person, any money or valuable security, or a power of attorney for the sale, mortgage, pledge, or other disposition, of any property, whether capable of being stolen or not, with a direction in either case that such money or any part thereof, or any other money received in exchange for it, or any part thereof, or the proceeds or any part of the proceeds of such security, or of such mortgage, pledge, or other disposition, shall be applied to any purpose or paid to any person

Funds, etc.,  
held under  
direction.  
Code, s. 373.

specified in the direction, such money and proceeds are deemed to be the property of the person from whom the money, security, or power of attorney was received, until the direction has been complied with:

Provided that if the person receiving the money, security, or power of attorney, and the person from whom he receives it ordinarily deal with each other on such terms that in the absence of any special direction all money paid to the former on account of the latter would be properly treated as an item in a debtor and creditor account between them, the former cannot be charged with stealing the money or any such proceeds unless the direction is in writing.

Funds, etc.,  
received by  
agents for  
sale.  
Code, s. 374.

374. When a person receives, either alone or jointly with another person, any property from another on terms authorising or requiring him to sell it or otherwise dispose of it, and requiring him to pay or account for the proceeds of the property, or any part of such proceeds, or to deliver anything received in exchange for the property, to the person from whom it is received, or some other person, then the proceeds of the property, and anything so received in exchange for it, are deemed to be the property of the person from whom the property was so received, until they have been disposed of in accordance with the terms on which the property was received, unless it is a part of those terms that the proceeds, if any, shall form an item in a debtor and creditor account between him and the person to whom he is to pay them or account for them, and that the relation of debtor and creditor only shall exist between them in respect thereof.

Money  
received for  
another.  
Code, s. 375.

375. When a person receives, either alone or jointly with another person, any money on behalf of another, the money is deemed to be the property of the person on whose behalf it is received, unless the money is received on the terms that it shall form an item in a debtor and creditor account, and that the relation of debtor and creditor only shall exist between the parties in respect of it.

376. When any person takes or converts anything capable of being stolen, under such circumstances as would otherwise amount to stealing, it is immaterial that he himself has a special property or interest therein, or that he himself is the owner of the thing taken or converted subject to some special property or interest of some other person therein; or that he is lessee of the thing; or that he himself is one of two or more joint owners of the thing; or that he is a director or officer of a corporation or company or society who are the owners of it.

Stealing by persons having an interest in the thing stolen.  
Code, s. 376.

377. A person who, while a man and his wife are living together, procures either of them to deal with anything which is, to his knowledge, the property of the other in a manner which would be stealing if they were not married, is deemed to have stolen the thing, and may be charged with stealing it.

Husband and wife.  
Code, s. 377.

378. Any person who steals anything capable of being stolen is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment with hard labour for three years.

Punishment of stealing.  
Code, s. 378.

#### PUNISHMENT IN SPECIAL CASES.

(1) If the thing stolen is a testamentary instrument, whether the testator is living or dead, the offender is liable to imprisonment with hard labour for fourteen years.

Stealing wills.

(2) If the thing stolen is anything in course of transmission by post, the offender is liable to imprisonment with hard labour for fourteen years.

Stealing things sent by post.

(3) If the thing stolen is any of the things following, that is to say:—A horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, or wether, or the young of any such animal, the offender is liable to imprisonment with hard labour for seven years.

Stealing cattle.

(4) If the thing stolen is any gold or the ore of any metal or mineral in or about a mine, or in or about any claim or land comprised in any lease or held under any agreement of lease for mining purposes, the offender is liable to imprisonment with hard labour for seven years.

Stealing minerals in mines.

Stealing  
from the  
person:  
Stealing  
goods in  
transit, etc.

(5) If the offence is committed under any of the circumstances following, that is to say:—

- (a) If the thing is stolen from the person of another;
- (b) If the thing is stolen in a dwelling-house, and its value exceeds Five pounds, or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling-house;
- (c) If the thing is stolen from any kind of vessel or vehicle or place of deposit used for the conveyance or custody of goods in transit from one place to another;
- (d) If the thing is stolen from a vessel which is in distress or wrecked or stranded;
- (e) If the thing is stolen from a public office in which it is deposited or kept;
- (f) If the offender, in order to commit the offence, opens any locked room, box, or other receptacle by means of a key or other instrument;

the offender is liable to imprisonment with hard labour for fourteen years.

Stealing  
by persons  
in the Public  
Service.

(6) If the offender is a person employed in the Public Service, and the thing stolen is the property of His Majesty, or came into the possession of the offender by virtue of his employment, he is liable to imprisonment with hard labour for seven years.

Stealing by  
clerks and  
servants.

(7) If the offender is a clerk or servant, and the thing stolen is the property of his employer, or came into the possession of the offender on account of his employer, he is liable to imprisonment with hard labour for seven years.

Stealing by  
directors or  
officers of  
companies.

(8) If the offender is a director or officer of a corporation or company, and the thing stolen is the property of the corporation or company, he is liable to imprisonment with hard labour for seven years.

(9) If the thing stolen is any of the things following, that is to say:— Stealing by agents, etc.

- (a) Property which has been received by the offender with a power of attorney for the disposition thereof;
- (b) Money received by the offender with a direction that the same should be applied to any purpose or paid to any person specified in the direction;
- (c) The whole or part of the proceeds of any valuable security which has been received by the offender with a direction that the proceeds thereof should be applied to any purpose or paid to any person specified in the direction;
- (d) The whole or part of the proceeds arising from any disposition of any property which have been received by the offender by virtue of a power of attorney for such disposition, such power of attorney having been received by the offender with a direction that such proceeds should be applied to any purpose or paid to any person specified in the direction;

the offender is liable to imprisonment with hard labour for seven years.

(10) If the thing stolen is of the value of five hundred pounds or upwards, the offender is liable to imprisonment with hard labour for seven years. Stealing property of value of £500.

(11) If the thing stolen is a fixture or chattel let to the offender to be used by him with a house or lodging, and its value exceeds Five pounds, he is liable to imprisonment with hard labour for seven years. Stealing by tenants or lodgers.

(12) If the offender, before committing the offence, had been convicted upon indictment of any of the indictable offences, defined in this division of this part of this Code, or had been twice previously summarily convicted of an offence punishable on summary conviction under this division of this part of this Code, whether each of the convictions was Stealing after previous conviction.

in respect of an offence of the same character or not, he is liable to imprisonment with hard labour for seven years.

CHAPTER XXXVII.—OFFENCES ANALOGOUS TO STEALING.

Concealing  
registers.  
Code, s. 379.

379. Any person who, with intent to defraud, conceals or takes from its place of deposit any register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to be sent to any public officer, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Concealing  
wills.  
Code, s. 380.

380. Any person who, with intent to defraud, conceals any testamentary instrument, whether the testator is living or dead, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Concealing  
deeds.  
Code, s. 381.

381. Any person who, with intent to defraud, conceals the whole or part of any document which is evidence of title to any land or estate in land is guilty of a crime, and is liable to imprisonment with hard labour for three years.

Killing  
animals with  
intent to  
steal.  
Code, s. 382.

382. Any person who kills any animal capable of being stolen with intent to steal the skin or carcass, or any part of the skin or carcass, is guilty of a crime, and is liable to the same punishment as if he had stolen the animal.

Severing  
with intent  
to steal.  
Code, s. 383.

383. Any person who makes anything movable with intent to steal it is guilty of a crime, and is liable to the same punishment as if he had stolen the thing after it became movable.

Using  
registered  
brands with  
criminal  
intention.  
Code, s. 384.

384. Any person who, with intent to facilitate the commission of a crime, brands or marks any animal with a registered brand or registered mark without the permission of the owner of the brand or mark is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

385. Any person who takes, conceals, or otherwise disposes of any ore of any metal or mineral in or about a mine, with intent to defraud any person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Fraudulently dealing with minerals in mines.  
Code, s. 385.

386. Any person who, being the holder of any lease issued under any Act relating to mining—

Concealing royalty.  
Code, s. 386.

- (a) By any device or contrivance defrauds, or attempts to defraud, any person of any royalty or money payable under any such lease; or
- (b) Conceals or makes a false statement as to any produce of the mine with intent to defraud;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

387. Any person who collects or removes guano on or from any part of the territorial dominions of Western Australia without lawful authority is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Removing guano without license.  
Code, s. 387.

388. Any person who, having at any place, not in Western Australia, obtained any property by any act which, if it had been done in Western Australia, would have constituted the crime of stealing, and which is an offence under the laws in force in the place where it was done, brings such property into Western Australia, or has it in his possession in Western Australia, is guilty of a crime, and is liable to the same punishment as if he had stolen it in Western Australia; but so that the punishment does not exceed that which would be incurred for the same act under the laws in force in the place where the act by which he obtained the property was done.

Bringing stolen goods into Western Australia.  
Code, s. 388.

389. Any person who, being the mortgagor of mortgaged goods, removes or disposes of the goods without the consent of the mortgagee, and with intent to defraud, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Fraudulent disposition of mortgaged goods.  
Code, s. 389.

Any person (being such a mortgagor as aforesaid) who shall destroy, break, injure, kill, or otherwise damage any mortgaged goods with intent to deprive the mortgagee of his security or any part thereof, or to defeat or anywise impair the security, is guilty of a misdemeanour and liable to imprisonment with hard labour for two years.

The term "mortgaged goods" includes any goods and chattels of any kind, and any live animals, and any progeny of any animals and any fixtures, and any crops or produce of the earth, whether growing or severed, which are subject for the time being to the provisions of any written instrument by which a valid charge or lien is created upon them by way of security for any debt or obligation.

The consent of the mortgagee may be either express or implied from the nature of the property mortgaged.

The shearing of sheep, and the sale and disposal of the wool in the ordinary course of business before default is made and possession taken, or demand for payment made, under the instrument by which the charge or lien is created is not an offence under this section.

Fraudulent  
appropriation  
of power.  
Code, s. 390.

390. Any person who fraudulently abstracts or diverts to his own use or to the use of any other person any mechanical, illuminating, or electrical power derived from any machine, apparatus, or substance, the property of another person, is guilty of a crime, and is liable to imprisonment with hard labour for three years.

Unauthorised  
use of  
vehicles.  
Inserted by  
No. 51 of  
1932, s. 2.

390A. Any person who unlawfully uses, or takes for the purpose of using, or drives or otherwise assumes control of any vehicle as defined in the Traffic Act, 1919-1931,\* without the consent of the owner or the person in charge thereof, is guilty of a misdemeanour and is liable to imprisonment with hard labour for any term not exceeding three years.

CHAPTER XXXVIII.—STEALING WITH VIOLENCE:  
EXTORTION BY THREATS.

391. Any person who steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain the thing stolen or to prevent or overcome resistance to its being stolen, is said to be guilty of robbery.

Definition of robbery.  
Code, s. 391.

392. Any arm which is loaded in the barrel or chamber with any explosive substance, and with any solid substance, capable of being projected, is deemed to be loaded arms, although an attempt to discharge the same may fail from want of proper appliances or from any other cause.

Loaded arms.  
Code, s. 392.

393. Any person who commits the crime of robbery is liable to imprisonment with hard labour for fourteen years.

Punishment of robbery.  
Code, s. 393.

If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds or uses any other personal violence to any person, he is liable to imprisonment with hard labour for life, with or without whipping.

394. Any person who assaults any person with intent to steal anything, and, at or immediately before or immediately after the time of the assault, uses or threatens to use actual violence to any person or property in order to obtain the thing intended to be stolen or to prevent or overcome resistance to its being stolen, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Attempted robbery accompanied by wounding, or in company.  
Code, s. 394.

If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, he is liable to imprisonment with hard labour for fourteen years, with or without whipping.

If the offender is armed with any kind of loaded arms, and at or immediately before or immediately after the time of the assault he wounds any person by discharging the loaded arms, he is liable to imprisonment with hard labour for life, with or without whipping.

Assault with  
intent to  
steal.  
Code, s. 395.

395. Any person who assaults any person with intent to steal anything is guilty of a crime, and is liable to imprisonment with hard labour for three years.

Demanding  
property  
with menaces  
with intent  
to steal.  
Code, s. 396.

396. Any person who, with intent to steal anything, demands it from any person with threats of any injury or detriment of any kind to be caused to him, either by the offender or by any other person, if the demand is not complied with, is guilty of a crime, and is liable to imprisonment with hard labour for three years.

Demanding  
property by  
written  
threats.  
Code, s. 397.

397. Any person who, with intent to extort or gain anything from any person, and knowing the contents of the writing, causes any person to receive any writing demanding anything from any person without reasonable or probable cause, and containing threats of any injury or detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Attempts at  
extortion by  
threats.  
Code, s. 398.

398. Any person who, with intent to extort or gain anything from any person,—

- (1) Accuses or threatens to accuse any person of committing any indictable offence, or of offering or making any solicitation or threat to any person as an inducement to commit or permit the commission of any indictable offence; or
- (2) Threatens that any person shall be accused by any other person of any indictable offence or of any such act; or

(3) Knowing the contents of the writing, causes any person to receive any writing containing any such accusation or threat as aforesaid;

is guilty of a crime.

If the accusation or threat of accusation is of—

- (a) An offence for which the punishment of death or imprisonment for life may be inflicted; or
- (b) Any of the offences defined in chapter twenty-two, or any attempt to commit any of such offences; or
- (c) An assault with intent to have carnal knowledge of any person against the order of nature, or an unlawful and indecent assault upon a male person; or
- (d) An attempt to commit the crime of rape, or an assault with intent to commit the crime of rape, or an unlawful and indecent assault upon a woman or girl; or
- (e) A solicitation or threat offered or made to any person as an inducement to commit or permit the commission of any of the offences aforesaid;

the offender is liable to imprisonment with hard labour for life.

In any other case the offender is liable to imprisonment with hard labour for seven years.

It is immaterial whether the person accused or threatened to be accused has or has not committed the offence or act of which he is accused or threatened to be accused.

399. Any person who, with intent to defraud, and by means of any unlawful violence to, or restraint of, the person of another, or by means of any threat of violence or restraint to be used to the person of another, or by means of accusing or threatening to accuse any person of committing any indictable offence, or of offering or making any solicitation or

Procuring  
execution of  
deeds, etc.,  
by threats.  
Code, s. 399.

threat to any person as an inducement to commit or permit the commission of an indictable offence, compels or induces any person,—

- (a) To execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security; or
- (b) To write, impress, or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

#### CHAPTER XXXIX.—BURGLARY: HOUSEBREAKING: AND LIKE OFFENCES.

Definitions.  
Code, s. 400.

**400.** A person who breaks any part, whether external or internal, of a building, or opens, by unlocking, pulling, pushing, lifting, or any other means whatever, any door, window, shutter, cellar, flap, or other thing intended to close or cover an opening in a building, or an opening giving passage from one part of a building to another, is said to break the building.

A person is said to enter a building as soon as any part of his body or any part of any instrument used by him is within the building.

A person who obtains entrance into a building by means of any threat or artifice used for that purpose, or by collusion with any person in the building, or who enters any chimney or other aperture of the building permanently left open for any necessary purpose, but not intended to be ordinarily used as a means of entrance, is deemed to have broken and entered the building.

House-  
breaking:  
Burglary.  
Code, s. 401.

**401.** Any person who—

- (1) Breaks and enters the dwelling-house of another with intent to commit a crime therein; or

(2) Having entered the dwelling-house of another with intent to commit a crime therein, or having committed a crime in the dwelling-house of another, breaks out of the dwelling-house;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

If the offence is committed in the night, the offender is liable to imprisonment with hard labour for life.

402. Any person who enters or is in the dwelling-house of another with intent to commit a crime therein, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Entering  
dwelling-  
house with  
intent to  
commit  
crime.  
Code, s. 402.

If the offence is committed in the night, the offender is liable to imprisonment with hard labour for fourteen years.

403. Any person who—

(1) Breaks and enters a schoolhouse, shop, warehouse, or counting-house, or office, store, garage, pavilion, factory, workshop, theatre, hospital or surgery, or any building belonging to Her Majesty or to any State Department or instrumentality, or to any municipal or other public authority, or a building which is adjacent to a dwelling-house and occupied with it but is not part of it, and commits a crime therein; or

Breaking  
into  
buildings  
and  
committing  
crime.  
Code, s. 403.  
Amended by  
No. 55 of  
1953, s. 7.

(2) Having committed a crime in a schoolhouse, shop, warehouse, or counting-house, or office, store, garage, pavilion, factory, workshop, theatre, hospital or surgery, or any building belonging to Her Majesty or to any State Department or instrumentality, or to any municipal or other public authority, or in any such other building as last mentioned, breaks out of the building;

No. 55 of  
1953, s. 7.

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Breaking  
into  
buildings  
with intent  
to commit  
crime.

Code, s. 404.  
Amended by  
No. 55 of  
1953, s. 8.

**404.** Any person who breaks and enters a school-house, shop, warehouse, or counting-house, or office, store, garage, pavilion, factory, workshop, theatre, hospital, or surgery or any building belonging to Her Majesty or to any State Department or instrumentality, or to any municipal or other public authority, or a building which is adjacent to a dwelling-house and occupied with it but is not part of it, with intent to commit a crime therein, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Breaking  
into place  
of worship  
and  
committing  
crime.

Code, s. 405.

**405.** Any person who breaks and enters a building ordinarily used for religious worship and commits a crime therein, or having committed a crime in any such building breaks out of it, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Breaking  
into place  
of worship  
with intent  
to commit a  
crime.

Code, s. 406.

**406.** Any person who breaks and enters a building ordinarily used for religious worship, with intent to commit a crime therein, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Persons  
found  
armed, etc.,  
with intent  
to commit  
crime.  
Code, s. 407.

**407.** Any person who is found under any of the circumstances following, that is to say:—

- (a) Being armed with any dangerous or offensive weapon or instrument, and being so armed with intent to break or enter a dwelling-house, and to commit a crime therein;
- (b) Being armed as aforesaid by night, and being so armed with intent to break or enter any building whatever, and to commit a crime therein;
- (c) Having in his possession by night without lawful excuse, the proof of which lies on him, any instrument of housebreaking;
- (d) Having in his possession by day any such instrument with intent to commit a crime;
- (e) Having his face masked or blackened or being otherwise disguised, with intent to commit a crime; or

(f) Being in any building whatever by night with intent to commit a crime therein; is guilty of a crime, and is liable to imprisonment with hard labour for three years.

If the offender has been previously convicted of a crime relating to property, he is liable to imprisonment with hard labour for seven years.

CHAPTER XL.—OBTAINING PROPERTY BY FALSE PRETENCES: CHEATING.

**408.** Any representation made by words or otherwise of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be false or does not believe to be true, is a false pretence.

Definition.  
Code, s. 408.

**409.** Any person who by any false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, is guilty of a crime, and is liable to imprisonment with hard labour for three years.

Obtaining  
goods by  
false  
pretences.  
Code, s. 409.

If the thing is of the value of five hundred pounds or upwards, he is liable to imprisonment with hard labour for seven years.

It is immaterial that the thing is obtained or its delivery is induced through the medium of a contract induced by the false pretence.

The offender cannot be arrested without warrant unless found committing the offence.

**410.** Any person who, by any false pretence, and with intent to defraud, induces any person to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a crime, and is liable to imprisonment with hard labour for three years.

Obtaining  
execution  
of a security  
by false  
pretences.  
Code, s. 410.

The offender cannot be arrested without warrant unless found committing the offence.

Cheating.  
Code, s. 411.

411. Any person who, by means of any fraudulent trick or device, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, or to pay or deliver to any person any money or goods, or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or device, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

A person found committing the offence may be arrested without warrant.

The offender cannot be arrested without warrant.

Conspiracy  
to defraud.  
Code, s. 412.

412. Any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public, or any person, whether a particular person or not, or to extort any property from any person, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Frauds on  
sale or  
mortgage of  
property.  
Code, s. 413.

413. Any person who, being a seller or mortgagor of any property, or being the solicitor or agent of any such seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud,—

- (1) Conceals from the purchaser or mortgagee any instrument material to the title, or any encumbrance; or
- (2) Falsifies any pedigree on which the title depends or may depend;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

#### CHAPTER XLI.—RECEIVING PROPERTY STOLEN OR FRAUDULENTLY OBTAINED AND LIKE OFFENCES.

Receiving  
stolen  
property,  
etc.  
Code, s. 414.  
Amended by  
No. 20 of  
1954, s. 3.

414. Any person who receives any property which has been obtained by means of any act constituting an indictable offence, or by means of any act done at a place not in Western Australia which if it had

been done in Western Australia would have constituted an indictable offence, and which is an offence under the laws in force in the place where it was done, knowing the same to have been so obtained, is guilty of a crime.

If the offence by means of which the thing was obtained is a crime, the offender is liable to imprisonment with hard labour for fourteen years.

In any other case the offender is liable to imprisonment with hard labour for seven years.

For the purpose of proving the receiving of anything, it is sufficient to show that the accused person has, either alone or jointly with some other person, had the thing in his possession, or has aided in concealing it or disposing of it.

In this section "property" as well as having the same meaning as that expression has in section one of the Code, includes not only such property as has been originally in the possession or under the control of any person, but also any property into or for which it has been converted or exchanged and anything acquired by the conversion or exchange whether immediately or otherwise.

Para. added  
by No. 20 of  
1954, s. 3.

Receiving  
after change  
of ownership.  
Code, s. 415.

415. When a thing has been obtained by means of any act constituting an indictable offence, or by means of an act done at a place not in Western Australia, which if it had been done in Western Australia would have constituted an indictable offence, and which is an offence under the laws in force in the place where it was done, and another person has acquired a lawful title to it, a subsequent receiving of the thing is not an offence although the receiver knows that the thing had previously been so obtained.

Taking  
reward for  
recovery of  
property  
obtained by  
means of  
indictable  
offences.  
Code, s. 416.

416. Any person who corruptly receives or obtains, or corruptly agrees to receive or obtain, any property or benefit of any kind upon an agreement or understanding that he will help any person to recover anything which has been obtained by means of any act constituting an indictable offence, or by means of any act done at a place not in Western Australia which if it had been done in Western Australia would have constituted an indictable

offence, and which is an offence under the laws in force in the place where it was done, is, unless he has used all due diligence to cause the offender to be brought to trial for the offence, guilty of a crime, and is liable to imprisonment with hard labour for seven years.

CHAPTER XLII.—FRAUDS BY TRUSTEES AND OFFICERS OF COMPANIES AND CORPORATIONS: FALSE ACCOUNTING.

Trustees  
fraudulently  
disposing of  
trust  
property.  
Code, s. 417.

417. Any person who, being a trustee of any property, destroys the property with intent to defraud, or with intent to defraud converts the property to any use not authorised by the trust, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

If civil proceedings have been taken against a trustee in respect of any act done by him which is an offence under the provisions of this section, he cannot be afterwards prosecuted for the same cause, as for an offence, on the complaint of the person by whom the civil proceedings were taken, without the sanction of the Court or Judge before whom the civil proceedings were had or are pending.

For the purposes of this section the term “trustee” includes the following persons and no others, that is to say:—

Trustees upon express trusts created by a deed, will, or instrument in writing, whether for a public or private or charitable purpose;

Trustees appointed by or under the authority of a Statute for any such purpose;

Persons upon whom the duties of any such trust as aforesaid devolve;

Executors and administrators;

Liquidators, trustees, and other like officers acting under any law relating to companies or to insolvent debtors, by whomsoever appointed or elected.

418. Any person who signs any memorandum of association, or any statement, abstract, or document, required by any Act relating to companies, containing any particulars false to the knowledge of such person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year or to a fine of One hundred pounds.

False statement relating to companies. Code, s. 418.

419. Any person who—

(1) Being a director or officer of a corporation or company, receives or possesses himself as such of any of the property of the corporation or company otherwise than in payment of a just debt or demand, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company, or to cause or direct such an entry to be made therein; or

(2) Being a director, officer, or member of a corporation or company, does any of the following acts with intent to defraud, that is to say:—

- (a) Destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account, which belongs to the corporation or company, or any entry in any such book, document, or account or is privy to any such act; or
- (b) Makes or is privy to making any false entry in any such book, document, or account; or
- (c) Omits or is privy to omitting any material particular from any such book, document, or account;

Directors and officers of corporations or companies fraudulently appropriating property, or keeping fraudulent accounts, or falsifying books or accounts. Code, s. 419.

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

420. Any person who, being a promotor, director, officer, or auditor of a corporation or company, either existing or intended to be formed, makes, circulates, or publishes, or concurs in making, circulating, or

False statements by officials of companies. Code, s. 420.

publishing any written statement or account which, in any material particular, is to his knowledge false, with intent thereby to effect any of the purposes following, that is to say:—

- (a) To deceive or defraud any member, shareholder, or creditor of the corporation or company, whether a particular person or not;
- (b) To induce any person, whether a particular person or not, to become a member of, or to intrust or advance any property to the corporation or company, or to enter into any security for the benefit thereof;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

The offender cannot be arrested without warrant.

False statements by officials of companies with intent to affect price of shares.  
Code, s. 421.

421. Any person who, being a director, officer, or agent of a company having its share capital listed for dealings on any stock exchange in Western Australia or elsewhere, wilfully makes or is privy to making in any prospectus, return, report, certificate, account, statement of operations, or prospectus, or other document, any statement relating to the business of the company false in any material particular, knowing it to be false with intent to produce or give or having a tendency to produce or give to the stock or shares of the company a greater or less market value than such stock or shares possess, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years, and to a fine of Two hundred pounds.

No proceedings under this section shall be commenced unless authorised by the Attorney General in writing.

Defence.  
Code, s. 422.

422. It is a defence to a charge of any of the offences hereinbefore in this chapter defined to prove that the accused person, before being charged with the offence, and in consequence of the compulsory process of a Court of justice in an action or proceeding instituted in good faith by a party aggrieved, or in a compulsory examination or deposition before a Court of justice, disclosed on oath the act alleged to constitute the offence.

A person is not entitled to refuse to answer any question or interrogatory in any civil proceeding in any Court, on the ground that his doing so might tend to show that he had committed any such offence.

423. Any person who, being a member of a local authority,—

(1) Advisedly applies any money forming part of any fund under the control of the local authority to any purpose to which, to his knowledge, it cannot lawfully be applied; or

(2) Advisedly concurs in any such application of any such money;

Misappropriation by members of local authorities, Code, s. 423.

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

The term "local authority" includes any corporation or board constituted or appointed under the authority of a Statute, and charged with the administration of moneys for any purposes of local concern.

A prosecution for either of the offences defined in this section cannot be begun except by the direction of the Attorney General.

424. Any person who, being a clerk or servant, or being employed or acting in the capacity of a clerk or servant, does any of the acts following with intent to defraud, that is to say:—

(a) Destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account, which belongs to or is in the possession of his employer, or has been received by him on account of his employer, or any entry in any such book, document, or account, or is privy to any such act; or

(b) Makes or is privy to making any false entry in any such book, document, or account; or

(c) Omits or is privy to omitting any material particular from any such book, document, or account;

Fraudulent false accounting, Code, s. 424.

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

False accounting by public officer.  
Code, s. 425.

425. Any person who, being an officer charged with the receipt, custody, or management of any part of the public revenue or property, knowingly furnishes any false statement or return of any money or property received by him or entrusted to his care, or of any balance of money or property in his possession or under his control, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

CHAPTER XLIII.—SUMMARY CONVICTION FOR STEALING AND LIKE INDICTABLE OFFENCES.

Indictable offences which may be dealt with summarily.  
Code, s. 426

426. When a person is charged before two justices with any of the indictable offences following, that is to say:—

- (a) Stealing anything of such a kind and under such circumstances that the greatest punishment to which an offender convicted of the offence is liable does not exceed imprisonment for three years with hard labour;
- (b) Killing, with intent to steal the skin or carcass or any part of the skin or carcass, any animal of such a kind that the greatest punishment to which an offender convicted of the offence of stealing the animal is liable does not exceed imprisonment for three years with hard labour;
- (c) Stealing anything from the person of another;
- (d) Stealing by a clerk or servant of anything which is the property of his employer, or which came into his possession on account of his employer;
- (e) Making anything movable with intent to steal it, without circumstances of aggravation;
- (f) Obtaining or procuring the delivery of anything by a false pretence with intent to defraud;

- (g) Obtaining by means of a fraudulent trick or device anything capable of being stolen, or inducing, by means of any such trick or device, the delivery or payment of any money or goods or other thing capable of being stolen;
- (h) Attempting to commit any of the offences aforesaid;
- (i) Receiving anything which has been obtained by means of a crime or misdemeanour of such a nature, or committed under such circumstances, that the offender who committed the crime or misdemeanour might be summarily convicted under the provisions of this section;
- (j) Counselling or procuring the commission of any of the offences aforesaid;

then, if—

- (1) The value of the property in question does not exceed Fifty pounds; or
- (2) The accused person admits that he is guilty of the offence and it appears to the justices that the nature of the offence is such, whatever may be the value of the property in question, that the offender may be adequately punished upon summary conviction;

the justices may deal with the charge summarily.

The offender is liable on such summary conviction to imprisonment with hard labour for six months, or to a fine of Fifty pounds.

427. Before the accused person is asked to show cause why he should not be convicted, the justices are required to explain to him that he is entitled to be tried by a jury, and is not obliged to make any defence before them, and to ask him whether he objects to the charge being dealt with summarily.

Procedure.  
Code, s. 427.  
Amended by  
No. 32 of  
1918, s. 16.

If the accused person does not object to the justices dealing with the charge summarily, the justices are required to reduce the charge to writing

and to read it to the accused person, and then to ask him whether he is guilty or not guilty of the offence; and if he says that he is guilty they are to convict him of the offence, but if he says that he is not guilty they are required to hear his defence, and then deal with the charge summarily.

If the accused person is charged with obtaining or procuring the delivery of anything by a false pretence with intent to defraud, the justices are required, after the charge has been reduced to writing and read to the accused person, to state in effect that a false pretence means a false representation, by words, writing, or conduct that some fact exists or existed, and that a promise as to future conduct not intended to be kept is not by itself a false pretence, and may add such explanation as the justices may deem suitable to the circumstances.

If the justices find that the charge is proved, they may, whether they impose any punishment or not, order the offender to make restitution of the property, if any, in respect of which the offence was committed, to the owner thereof; and if the property is not at once restored, they may order the offender to pay the amount of its value, to be assessed by them, to the owner, either in one sum or by such instalments, and at such times, as they think fit.

- (1) If it appears that, by reason of the accused person having been previously convicted of some offence on indictment, he is liable, on conviction of the offence charged, to imprisonment for a term of more than three years; or
- (2) If for any reason the justices are of opinion that the charge is a fit subject for prosecution by indictment;

the justices are required to abstain from dealing with the case summarily.

If in any case it appears to the justices that for any reason the sentence which they are empowered by this chapter to pass on the person convicted by them is inadequate, they may, in lieu of passing sentence, commit the convicted person for sentence.

CHAPTER XLIV.—OFFENCES ANALOGOUS TO STEALING  
PUNISHABLE ON SUMMARY CONVICTION.

428. Any person who unlawfully uses or takes for the purpose of using, a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, goat, pig, or dog, or the young of any such animal, without the consent of the owner, or of the person in lawful possession thereof, and any person who takes any such animal, for the purpose of secreting the same, or obtaining a reward for the restoration or pretended finding thereof or for any fraudulent purpose, is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for one year, or to a fine of Fifty pounds for every animal so used or taken.

Unlawfully  
using  
animals.  
Code, s. 428.

429. When any horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, goat, pig, or dog, or the young of any such animal, is suspected, on reasonable grounds, to have been stolen, any person in whose possession or custody the skin or carcass, or any part of the skin or carcass, of the animal so suspected to have been stolen is found, is guilty of an offence, unless he proves that he came lawfully by the thing in question; and he is liable on summary conviction to a fine of Fifty pounds.

Suspicion  
of stealing  
cattle.  
Code, s. 429.

It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the thing in question.

430. Any person, who knowing that he is not the owner of an animal, brands or marks it, or knowingly permits it to be branded or marked, is guilty of an offence, and is liable on summary conviction to a fine of Fifty pounds.

Illegal  
branding.  
Code, s. 430.

431. Any person who—

Defacing  
brands.  
Code, s. 431.

- (1) Alters, defaces, or otherwise renders undistinguishable, any registered brand or registered mark upon an animal; or
- (2) Knowingly permits any such act to be done by any person over whom he has control;

is guilty of an offence, and is liable on summary conviction to a fine of Fifty pounds.

Time of  
prosecution.  
Code, s. 432.

432. A prosecution for any of the offences defined in the last two preceding sections may be begun within twelve months after the offence is committed.

Committal  
for trial.  
Code, s. 433.

433. If the justices before whom any person is brought, charged with any of the offences herein-before in this chapter defined, are of opinion that there ought to be a prosecution for an indictable offence, they may abstain from dealing with the case summarily, and commit the defendant to take his trial for the indictable offence.

Unlawful  
possession  
of ship-  
wrecked  
goods.  
Code, s. 434.

434. Any person in whose possession or on whose premises anything which belongs to a vessel in distress, or wrecked, or stranded, is found, and which is suspected, on reasonable grounds, to have been unlawfully taken from the vessel, is guilty of an offence unless he proves that he came lawfully by the thing in question; and he is liable on summary conviction to imprisonment with hard labour for six months, or to a fine of an amount equal to the value of the thing so found, and Twenty pounds in addition.

The justices are required to order the thing in question to be delivered up to the rightful owner.

It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the thing in question.

Offering  
shipwrecked  
goods for  
sale.  
Code, s. 435.

435. Any person who offers or exposes for sale anything which is suspected, on reasonable grounds, to have been unlawfully taken from a vessel in distress, or wrecked, or stranded, is guilty of an offence unless he proves that he came lawfully by the thing in question; and he is liable on summary conviction to imprisonment with hard labour for six months, or to a fine of an amount equal to the value of the thing in question, and Twenty pounds in addition.

Any person employed in the Public Service may seize any such thing so offered for sale.

If the accused person is convicted, the justices before whom the charge is tried are required to order the thing in question to be delivered up to the rightful owner thereof upon payment of a reasonable reward, to be ascertained by the justices, to the person who seized the same.

It is a defence to a charge of either of the offences defined in this section to prove that the accused person came lawfully by the thing in question.

**436.** Any person who unlawfully and otherwise than in the course of catching or fishing for floating fish with a net or other instrument adapted for taking floating fish only,—

Unlawfully dredging for oysters.  
Code, s. 436.

- (1) Uses, for the purpose of taking oysters or oyster brood, any net or other instrument within the limits of an oyster bed, laying, or fishery, which is the property of any other person, and which is sufficiently marked out, or is known by general repute as his property, whether any oysters or oyster brood are actually taken or not; or
- (2) Drags upon the ground or soil of any such fishery with any net or instrument;

is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for three months.

**437.** Any person who unlawfully takes or destroys, or attempts to take or destroy, any fish in any water which is private property, or in which there is a private right of fishery, is guilty of an offence, and is liable on summary conviction to a fine of an amount equal to the value of the fish taken or destroyed, if any, and Five pounds in addition.

Unlawfully taking fish.  
Code, s. 437.

**438.** A person found committing any of the offences defined in this chapter may be arrested without warrant by a police officer, or by the owner of the property in question or his servant, or by any person authorised by such owner or servant.

Arrest without warrant.  
Code, s. 438.

Warrant in  
first instance.  
Code, s. 439.

439. A justice may issue a warrant in the first instance for the arrest of any person charged with any of the offences defined in this chapter.

Effect of  
summary  
conviction  
and of civil  
proceedings.  
Code, s. 440.

440. A person who has been summarily convicted of any of the offences defined in this chapter, except those defined in the first four sections thereof, and who has paid the fine or sum, adjudged to be paid under the conviction, together with the costs, if any, or has suffered the imprisonment adjudged for non-payment thereof, or has suffered the imprisonment adjudged in the first instance, or has received the Royal mercy, or has been discharged without punishment upon making satisfaction to the person aggrieved, or whose sentence has been conditionally suspended, is not liable to any civil proceedings for the same cause at the suit of the person on whose complaint he was convicted.

If civil proceedings have been taken against any person in respect of any act done by him which is an offence under any of the provisions of this chapter, he cannot be afterwards prosecuted for the same cause, as for an offence, on the complaint of the person by whom the civil proceedings were taken.

*Division II.—Injuries to Property.*

CHAPTER XLV.—DEFINITIONS.

Unlawful  
acts.  
Code, s. 441.

441. An act which causes injury to the property of another, and which is done without his consent, is unlawful unless it is authorised, or justified, or excused by law.

It is immaterial that the person who does the injury is in possession of the property injured, or has a partial interest in it.

A person is not criminally responsible for an injury caused to property by the use of such force as is reasonably necessary for the purpose of defending or protecting himself, or any other person, or any property from injury, which he believes, on reasonable grounds, to be imminent.

442. When an act which causes injury to property, and which would be otherwise lawful, is done with intent to defraud any person, it is unlawful.

Acts done  
with intent  
to defraud.  
Code, s. 442.

When an act which causes injury to property is done with intent to defraud any person, it is immaterial that the property in question is the property of the offender himself.

443. The term "damage" used in relation to a document, or to a writing or inscription, includes obliterating and rendering illegible, either in whole or in part.

Damage.  
Code, s. 443.

#### CHAPTER XLVI.—OFFENCES.

444. Any person who wilfully and unlawfully sets fire to any of the things following, that is to say:—

Arson.  
Code, s. 444.

- (a) Any building or structure whatever, whether completed or not;
- (b) Any vessel, whether completed or not;
- (c) A mine or the workings, fittings, or appliances of a mine;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

445. Any person who—

Attempts to  
commit  
arson.  
Code, s. 445.

- (1) Attempts unlawfully to set fire to any such thing as is mentioned in the last preceding section; or
- (2) Wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in the last preceding section is likely to catch fire from it;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

446. Any person who wilfully and unlawfully sets fire to any stack of vegetable produce or of mineral or vegetable fuel is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Setting fire  
to stacks,  
etc.  
Code, s. 446.

Setting fire  
to crops and  
growing  
plants.  
Code, s. 447.

447. Any person who wilfully and unlawfully sets fire to any of the things following, that is to say:—

- (a) A crop of cultivated vegetable produce, whether standing or cut;
- (b) A crop of hay or grass, whether the natural or indigenous product of the soil or not, and whether under cultivation or not, and whether standing or cut;
- (c) Any standing trees, saplings, or shrubs, whether indigenous or cultivated;
- (d) Any heath, gorse, furze, or fern;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

Attempting  
to set fire  
to crops, etc.  
Code, s. 448.

448. Any person who attempts unlawfully to set fire to any such thing as is mentioned in the last preceding section is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Casting away  
ships.  
Code, s. 449.

449. Any person who—

- (1) Wilfully and unlawfully casts away or destroys any vessel, whether complete or not; or
- (2) Wilfully and unlawfully does any act which tends to the immediate loss or destruction of a vessel in distress; or
- (3) With intent to bring a vessel into danger interferes with any light, beacon, mark, or signal, used for purposes of navigation, or for the guidance of seamen, or exhibits any false light or signal;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

Attempts to  
cast away  
ships.  
Code, s. 450.

450. Any person who attempts unlawfully to cast away or destroy a vessel, whether completed or not, or attempts unlawfully to do any act tending to the immediate loss or destruction of a vessel in distress, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

451. Any person who unlawfully, and with intent to obstruct the use of a railway or to injure any property upon a railway—

Obstructing and injuring railways.  
Code, s. 451.

- (1) Deals with the railway or with anything whatever on or near the railway in such a manner as to endanger the free and safe use of the railway; or
- (2) Unlawfully shows any light or signal, or deals with any existing light or signal upon or near the railway; or
- (3) By any omission to do any act which it is his duty to do causes the free and safe use of the railway to be endangered;

is guilty of a crime, and is liable to imprisonment with hard labour for life.

452. Any person who wilfully and unlawfully kills, maims, or wounds an animal capable of being stolen is guilty of an indictable offence.

Injuring animals.  
Code, s. 452.

If the animal in question is a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, or wether, or the young of any such animal, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

In any other case the offender is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years, or, if the offence is committed by night, to imprisonment with hard labour for three years.

453. Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence which, unless otherwise stated, is a misdemeanour, and he is liable, if no other punishment is provided, to imprisonment with hard labour for two years, or, if the offence is committed by night, to imprisonment with hard labour for three years.

Malicious injuries in general.  
Code, s. 453.

#### *Punishment In Special Cases.*

I.—If the property in question is a dwelling-house or a vessel, and the injury is caused by the explosion of any explosive substance, and if—

Destroying or damaging an inhabited house, or a vessel with explosives.

- (a) Any person is in the dwelling-house or vessel; or

- (b) The destruction or damage actually endangers the life of any person;

the offender is guilty of a crime, and is liable to imprisonment with hard labour for life.

**Sea bank,  
or sea wall,  
navigation  
works, or  
bridges.**

- II.—(a) If the property in question is a bank or wall of the sea or of a river, canal, aqueduct, reservoir, or inland water, or a work which appertains to a port, harbour, dock, reservoir, or inland water, and the injury causes actual danger of inundation or damage to any land or building; or
- (b) If the property in question is a railway, or is a bridge, viaduct, or aqueduct, which is constructed over a highway, railway, or canal, or over which a highway, railway, or canal, passes, and the property is destroyed; or
- (c) If the property in question being a railway or being any such bridge, viaduct, or aqueduct, is damaged and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, railway, or canal, passing over or under the same, or any part thereof, dangerous or impassable, and the same or any part thereof is thereby rendered dangerous or impassable;

the offender is guilty of a crime, and is liable to imprisonment with hard labour for life.

**Wills and  
registers.**

- III.—If the property in question is a testamentary instrument, whether the testator is living or dead, or a register which is authorised, or required by law to be kept for authenticating or recording the title of any property, or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to be sent to any public office, the offender is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

IV.—If the property in question is a vessel in <sup>Wrecks.</sup> distress, or wrecked, or stranded, or anything which belongs to such a vessel, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

V.—If the property in question is any part of a <sup>Railways.</sup> railway, or any work connected with a railway, the offender is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

VI.—If the property in question is a bank, drain, <sup>Drainage works.</sup> sewer, dam, mill, engine, building, sluice, or any other work whatsoever erected or made for the drainage of land, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

VII.—(a) If the property in question, being a vessel, <sup>Other things of special value.</sup> whether complete or not, is destroyed; or

(b) If the property in question being a vessel, whether complete or not, is damaged, and the damage is done with intent to destroy it or render it useless; or

(c) If the property in question is a light, beacon, buoy, mark or signal, used for purposes of navigation, or for the guidance of seamen; or

(d) If the property in question is a bank or wall of the sea, or of a river, canal, aqueduct, reservoir, or inland water, or a work which appertains to a port, harbour, dock, canal, aqueduct, reservoir, or inland water, or which is used for the purpose of lading or unloading goods; or

(e) If the property in question, being a railway, or being a bridge, viaduct, or aqueduct, which is constructed over a highway, railway, or canal, or over which a highway, railway, or canal passes, is damaged, and the damage is done with intent to render the railway, bridge, viaduct, or aqueduct, or the highway, rail-

way, or canal passing over or under the same, or any part thereof, dangerous or impassable; or

- (f) If the property in question, being anything in process of manufacture, or an agricultural or manufacturing machine, or a manufacturing implement, or a machine or appliance used or intended to be used for performing any process connected with the preparation of any agricultural or pastoral produce, is destroyed; or
- (g) If the property in question, being any such thing, machine, implement, or appliance as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question, or to render it useless; or
- (h) If the property in question is a shaft, or passage of a mine, and the injury is done with intent to damage the mine or to obstruct its working; or
- (i) If the property in question is a machine, appliance, apparatus, building, erection, bridge, or road, appertaining to or used with a mine, whether the thing in question is completed or not; or
- (j) If the property in question, being a rope, chain, or tackle, of whatever material, which is used in a mine, or upon any way or work appertaining to or used with a mine, is destroyed; or
- (k) If the property in question, being any such rope, chain, or tackle, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or
- (l) If the property in question is a well, or bore for water, or the dam, bank, wall, or floodgate of a millpond or pool;

the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

VIII.—If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Deeds and records.

454. Any person who wilfully and unlawfully causes by any explosive substance, an explosion of a nature likely to cause serious injury to property, whether any injury to property has been actually caused or not, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Causing explosion likely to do serious injury to property.  
Code, s. 454.

455. Any person who wilfully and unlawfully—

- (1) Does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion in Western Australia of a nature likely to cause serious injury to property; or
- (2) Makes or has in his possession or under his control, any explosive substance with intent by means thereof to cause serious injury to property in Western Australia, or to enable any other person by means thereof to cause serious injury to property in Western Australia; or
- (3) Puts any explosive substance in any place whatever with intent to destroy or damage any property,

Attempting to cause explosion likely to do serious injury to property.  
Code, s. 455.

whether any explosion does or does not take place, and whether any injury to property has been actually caused or not, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, and to forfeiture of the explosive substance.

The term “explosive substance” in this section includes any materials for making any explosive substance; also any apparatus, machine, implement, or materials, used or intended to be used or adapted for causing or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine, or implement.

Attempts to  
injure  
mines.  
Code, s. 456.

**456.** Any person who, with intent to injure a mine or to obstruct the working of a mine—

- (1) Unlawfully, and otherwise than by an act done underground in the course of working an adjoining mine,—
  - (a) Causes water to run into the mine or into any subterranean passage communicating with the mine; or
  - (b) Obstructs any shaft or passage of the mine; or
- (2) Unlawfully obstructs the working of any machine, appliance, or apparatus, appertaining to or used with the mine, whether the thing in question is completed or not; or
- (3) Unlawfully, and with intent to render it useless, injures or unfastens a rope, chain, or tackle, of whatever material which is used in the mine or upon any way or work appertaining to or used with the mine;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Interfering  
with marine  
signals.  
Code, s. 457.

**457.** Any person who wilfully and unlawfully removes, defaces, or renders invisible, any light, beacon, buoy, mark, or signal, used for purposes of navigation, or for the guidance of seamen, or unlawfully attempts to remove, deface, or render invisible, any such thing, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Interfering  
with  
navigation  
works.  
Code, s. 458.

**458.** Any person who—

- (1) Wilfully and unlawfully removes or disturbs any fixed object or materials used for securing a bank or wall of the sea, or of a river, canal, aqueduct, reservoir, or inland water, or for securing any work which appertains to a port, harbour, dock, canal, aqueduct, reservoir, or inland water, or which is used for purposes of navigation, or lading or unlading goods; or
- (2) Unlawfully does any act with intent to obstruct the carrying on, completion, or maintenance, of the navigation of a

navigable river or canal, and thereby obstructs such carrying on, completion or maintenance;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

459. Any person who wilfully and unlawfully causes or is concerned in causing, or attempts to cause, any infectious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

communicating infectious diseases to animals.  
Code, s. 459.

460. Any person who causes any four-footed animal which is infected with an infectious disease to travel, or, being the owner or one of two or more joint owners of any four-footed animal which is infected with an infectious disease, permits or connives at the travelling of any such animal, contrary to the provisions of any Statute relating to infected animals of that kind, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Travelling with infected animals.  
Code, s. 460.

461. Any person who, wilfully and unlawfully and with intent to defraud, removes or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Removing boundary marks.  
Code, s. 461.

462. Any person who, by any unlawful act, or by any intentional omission to do any act which it is his duty to do, causes any engine or vehicle in use upon a railway to be obstructed in its passage on the railway, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Obstructing railways.  
Code, s. 462.

463. Any person who, knowing the contents of the writing, causes any person to receive any writing threatening that any building or vessel, whether complete or not, or any stack of cultivated vegetable

Sending letters threatening to burn or destroy.  
Code, s. 463.

produce, or any such produce or other thing that is in or under a building, shall be burnt or destroyed, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Arrest  
without  
warrant.  
Code, s. 464.

464. A person found committing any of the misdemeanours defined in this chapter may be arrested without warrant by a police officer, or by the owner of the property injured or his servant, or by any person authorised by such owner or servant.

#### CHAPTER XLVII.—SUMMARY CONVICTION FOR CERTAIN OFFENCES.

Offences  
which may  
be dealt with  
summarily.  
Code, s. 465.

465. When a person is charged before two justices with any of the indictable offences following, that is to say:—

- (a) Wilfully and unlawfully destroying or damaging any property, under such circumstances that the greatest punishment to which an offender convicted of the offence is liable does not exceed imprisonment for three years with hard labour;
- (b) Wilfully and unlawfully killing, maiming, or wounding any animal capable of being stolen;

then, if—

- (1) The amount of the injury done does not exceed Fifty pounds; or
- (2) The accused person admits that he is guilty of the offence and it appears to the justices that the nature of the offence is such, whatever may be the amount of the injury done, that the offender may be adequately punished upon summary conviction;

the justices may, except as hereinafter stated, deal with the charge summarily.

The offender is liable on such summary conviction to imprisonment with hard labour for six months, or to a fine of an amount equal to the amount of the injury done, to be assessed by the justices, and Twenty-five pounds in addition.

The justices may order the offender to pay the amount awarded in respect of the injury either in one sum or by such instalments and at such times as they think fit.

If it appears that the injury complained of was done in the course of hunting or fishing, or in the pursuit of game, and was not done with an intention to destroy or damage the property injured, the justices cannot deal with the case summarily.

466. Such summary jurisdiction is to be exercised in the manner and subject to the conditions prescribed in chapter forty-three with respect to the summary trial and punishment of offenders who may be summarily convicted of indictable offences under the provisions of that chapter.

Procedure.  
Code, s. 466.

467. If, on the trial of any person under the provisions of this chapter, the justices are of opinion that the injury is of so trivial a nature as not to deserve any punishment, they may convict the defendant and discharge him without inflicting any punishment.

Trivial  
charges.  
Code, s. 467.

468. A person who has been summarily convicted of any offence under the provisions of this chapter, and who has paid the fine or sum adjudged to be paid under the conviction, if any, together with the costs, if any, or has suffered the imprisonment adjudged for non-payment thereof, or has suffered the imprisonment adjudged in the first instance, or has received the Royal mercy, or has been discharged without punishment, or whose sentence has been conditionally suspended, is not liable to any civil proceedings for the same cause at the suit of the person on whose complaint he was convicted.

Effect of  
summary  
conviction  
and of civil  
proceedings.  
Code, s. 468.

If civil proceedings have been taken against any person in respect of any act done by him which is an offence of which he might have been convicted under the provisions of this chapter, he cannot be afterwards prosecuted for the same cause, as for an offence on the complaint of the person by whom the civil proceedings were taken.

*Division III.—Forgery and Like Offences: Personation.*

## CHAPTER XLVIII.—FORGERY IN GENERAL: DEFINITIONS.

Definitions.  
Code, s. 469.

## 469. In this division of this part of this Code—

The term “document” includes a register or register book or part of either, and any other book, and any paper, parchment, or other material whatever, used for writing or printing, which is marked with any letters or marks denoting words, or with any other signs capable of conveying a definite meaning to persons conversant with them; but does not include trade marks on articles of commerce;

The term “writing” includes an inscription on wood, stone, metal, or other material: It also includes a mere signature and a mark of any kind;

The terms “seal” includes any stamp, die, or other thing, of whatever material, from which an impression can be taken by means of pressure or of ink, or by any other means;

The term “bank note” includes any negotiable instrument issued by or on behalf of any person or corporation in any part of the world, or issued by the authority of any State, Prince, or Government, and intended to be used as equivalent to money, either immediately on issue or at any time afterwards: It also includes a bank bill or bank post bill.

Further  
definitions.  
Code, s. 470.

## 470. A document or writing is said to be false—

(a) In the case of a document which is a register or record kept by lawful authority, or an entry in any such register, or which purports to be issued by lawful authority, as testifying to the contents of any register or record kept by lawful authority, or as testifying to any fact or event, if any material particular stated in the document is untrue;

- (b) If the whole, or some material part of the document or writing purports to be made by or on behalf of some person who did not make it, or authorise it to be made, or if, in a case when the time or place of making is material, although the document or writing is made by or by the authority of the person by whom it purports to be made, it is with a fraudulent intent falsely dated as to the time or place of making;
- (c) If the whole or some material part of the document or writing purports to be made by or on behalf of some person who does not, in fact, exist; or
- (d) If the document or writing is made in the name of an existing person, either by that person himself or by his authority, with the fraudulent intention that it should pass as being made by some person, real or fictitious, other than the person who makes it or authorises it to be made.

A seal or mark is said to be counterfeit if it is made without lawful authority, and is in such a form as to resemble a genuine seal or mark, or, in the case of a seal, in such a form as to be capable of producing impressions resembling those produced by a genuine seal.

A representation of the impression of a seal is said to be counterfeit if it is not in fact made by the seal.

The term "resemble" applied to anything, includes the case where the thing is made to resemble or is apparently intended to resemble, the object spoken of.

471. A person who makes a false document or writing, knowing it to be false, and with intent that it may in any way be used or acted upon as genuine, whether in Western Australia or elsewhere, to the prejudice of any person or with intent that any person may, in the belief that it is genuine, be

Definition  
of forgery.  
Code, s. 471.

induced to do or refrain from doing any act, whether in Western Australia or elsewhere, is said to forge the document or writing.

A person who makes a counterfeit seal or mark, or makes an impression of a counterfeit seal knowing the seal to be counterfeit, or makes a counterfeit representation of the impression of a genuine seal, or makes, without lawful authority, an impression of a genuine seal, with intent in either case that the thing so made may in any way be used or acted upon as genuine, whether in Western Australia or elsewhere, to the prejudice of any person, or with intent that any person may, in the belief that it is genuine, be induced to do or refrain from doing any act, whether in Western Australia or elsewhere, is said to forge the seal or mark.

The term "make a false document or writing" includes altering a genuine document or writing in any material part, either by erasure, obliteration, removal, or otherwise; and making any material addition to the body of a genuine document or writing; and adding to a genuine document or writing any false date, attestation, seal, or other material matter.

It is immaterial in what language a forged document or writing is expressed.

It is immaterial that the forger of anything forged may not have intended that any particular person should use or act upon it, or that any particular person should be prejudiced by it, or be induced to do or refrain from doing any act.

It is immaterial that the thing forged is incomplete, or does not purport to be a document, writing, or seal which would be binding in law for any particular purpose, if it is so made, and is of such a kind, as to indicate that it was intended to be used or acted upon.

472. In the case of an offence which involves the forging or uttering of a document or writing relating to the payment of money, or to the delivery or transfer of any property, or to the creation or

performance of any obligation, it is immaterial in what country the money or property is, or purports to be payable, deliverable, or transferable, or the obligation is, or purports to be, performed; and, if the money or the property purports to be payable, deliverable, or transferable, or the obligation purports to be an obligation to be performed in some country out of Western Australia, it is immaterial whether the document or writing is under seal or not.

CHAPTER XLIX.—PUNISHMENT OF FORGERY  
AND LIKE OFFENCES.

473. Any person who forges any document, writing, or seal is guilty of an offence which, unless otherwise stated, is a crime, and he is liable, if no other punishment is provided, to imprisonment with hard labour for three years.

Punishment  
of forgery  
in general.  
Code, s. 473.

Punishment in Special Cases.

(1) If the thing forged—

(a) Purports to be, or is intended by the offender to be understood to be or to be used as, the great seal of the United Kingdom or of the Commonwealth of Australia, or of Western Australia, or His Majesty's privy seal, or any privy signet of His Majesty, or His Majesty's royal sign manual, or the seal of the Governor-General, the Governor, or any public seal lawfully appointed to be used for authenticating an act of State in any part of His Majesty's dominions; or

(b) Is a document having on it or affixed to it any such seal, signet, or sign manual, or anything which purports to be, or is intended by the offender to be understood to be, any such seal, signet, or sign manual;

Public seals,  
etc.

the offender is liable to imprisonment with hard labour for life.

Securities,  
titles,  
registers,  
etc.

(2) If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, any of the things following, that is to say:—

- (a) A document which is evidence of title to any portion of the public debt of any of His Majesty's dominions or of any foreign State, or to any dividend or interest payable in respect of any such debt, or a transfer or assignment of any such document, or a receipt or certificate for any interest or money payable or accruing on or in respect of such public debt;
- (b) A transfer or assignment of a share in any corporation, company, or society, whether domestic or foreign, or of any share or interest in the capital stock of any such corporation, company, or society, or in the debt of any such corporation, company, or society, or a receipt or certificate for any interest, or money payable or accruing on or in respect of any such share, interest, or debt;
- (c) A document acknowledging or being evidence of the indebtedness of the Government of Western Australia or of the Government of any of His Majesty's dominions, or of any Foreign Prince or State, to any person;
- (d) A document which by the law of Western Australia or any other country is evidence of the title to any land or estate in land in Western Australia or that other country, or an entry in any register or book which is such evidence;
- (e) A document which by law is required for procuring the registration of any title to any land or estate in land;
- (f) A testamentary instrument, whether the testator is living or dead, or a probate or letters of administration, whether with or without a will annexed;

- (g) A bank note, bill of exchange, or promissory note, or an acceptance, indorsement, or assignment of either;
- (h) A deed, bond, or writing obligatory, or a warrant, order, or other security for the payment of money, or for the delivery or transfer of a valuable security, or for procuring or giving credit, whether negotiable or not, or an indorsement or assignment of any such document;
- (i) An accountable receipt, or an acknowledgement of the deposit, receipt, payment, or delivery of money or goods, or of any valuable security, or an indorsement or assignment of any such document;
- (j) A bill-of-lading, dock warrant, warehouse-keeper's certificate, warrant or order for the delivery of goods, or any other document used in the ordinary course of business as proof of the possession or control of goods, or as authorising, or purporting to authorise either by indorsement or by delivery, the possessor of the document to transfer or receive the goods represented by the document, or an indorsement or assignment of any such document;
- (k) A charter-party, or a shipping document accompanying a bill-of-lading, or an indorsement or assignment of either;
- (l) A policy of insurance of any kind;
- (m) A power of attorney or other authority to execute any such document as is hereinbefore in this section mentioned;
- (n) The signature of a witness to any of the documents hereinbefore in this section mentioned to which attestation is by law required;
- (o) A register of births, baptisms, marriages, deaths, or burials, authorised or required by law to be kept or any entry in any such register;

- (p) A copy of any such register or entry as last aforesaid, which is authorised or required by law to be given or sent to or by any person;
- (q) A seal used by a registrar appointed to keep any such register as is hereinbefore mentioned, or the impression of any such seal, or the signature of any such registrar;

the offender is liable to imprisonment with hard labour for fourteen years.

Documents  
relating to  
revenue and  
acts of State,  
etc.

(3) If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as any of the things following, that is to say:—

- (a) The signature of the Governor, or of a member of the Executive Council, or of any of His Majesty's Principal Secretaries of State, or Under Secretaries of State, upon any grant, commission, warrant, or order;
- (b) A seal or stamp used for the purposes of the public revenue in Western Australia or of any other part of His Majesty's dominions or in any foreign State;
- (c) A document relating to the obtaining or receiving of any money payable on account of the public service of Western Australia or any other part of His Majesty's dominions or any other property of His Majesty in any part of his dominions or a power of attorney or other authority to execute any such document;

the offender is liable to imprisonment with hard labour for fourteen years.

Court seals,  
records,  
process,  
evidence,  
etc.

(4) If the thing forged purports to be, or is intended by the offender to be understood to be or to be used as, any of the things following, that is to say:—

- (a) The seal of a Court of Record in any part of His Majesty's dominions, or a seal used at the chambers of a Judge of the Supreme Court for stamping or sealing summonses or orders;

- (b) A seal or signature by virtue whereof any document can by law be used as evidence;
- (c) Any process of any Court of justice in any part of His Majesty's dominions;
- (d) A document issued or made by or out of or by the authority of any such Court as last aforesaid;
- (e) A document or copy of a document of any kind which document or copy is intended by the offender to be used as evidence in any such Court as last aforesaid;
- (f) A record or other document of or belonging to a Court of Record in any part of His Majesty's dominions;
- (g) A copy or certificate of any record of any such Court as last aforesaid;
- (h) An instrument, whether written or printed, or partly written and partly printed, which is made evidence by any Statute in force in Western Australia;
- (i) A document which a justice, notary public, or commissioner to administer oaths is required or authorised by law to make, attest, or issue, and purporting to be made, attested, or issued by any such person;
- (j) A stamp used for denoting the payment of fees or percentages in any Court of justice;
- (k) A license or certificate required or authorised by law to be given for the celebration of a marriage;
- (l) A consent to the marriage of a minor given by a person authorised by law to give it;
- (m) A certificate of marriage given under the provisions of the laws relating to the solemnisation of marriage;
- (n) A copy of the registry of a marriage;
- (o) A power of attorney or letter of attorney;

- (p) The signature of a witness to a power of attorney or letter of attorney;
- (q) A contract, or a writing which with other writings constitutes a contract or is evidence of a contract;
- (r) An authority or request for the payment of money or for the delivery of property;
- (s) An acquittance or discharge, or a voucher of having received any property, or any document which is evidence of the receipt of any property;
- (t) Any mark which under the authority of any Statute is impressed upon or otherwise attached to or connected with any article for the purpose of denoting the quality of the article or the fact that it has been examined or approved by or under the authority of some public body or public officer;
- (u) A certificate given under the provisions of the laws relating to quarantine;

the offender is liable to imprisonment with hard labour for seven years.

Telegrams.

(5) If the thing forged purports to be, or is intended by the offender to be understood to be, or to be used as, a message to be sent by telegraph, the offender is liable to the same punishment as if he had forged a document to the same effect as the message.

Uttering  
false  
documents  
and  
counterfeit  
seals.  
Code, s. 474.

474. Any person who knowingly and fraudulently utters a false document or writing, or a counterfeit seal, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the thing in question.

It is immaterial whether the false document or writing, or counterfeit seal, was made in Western Australia or elsewhere.

The term "fraudulently" means an intention that the thing in question shall be used or acted upon as genuine, whether in Western Australia or elsewhere,

to the prejudice of some person, whether a particular person or not, or that some person, whether a particular person or not, shall, in the belief that the thing in question is genuine, be induced to do or refrain from doing some act, whether in Western Australia or elsewhere.

475. Any person who knowingly utters as and for a subsisting and effectual document any document which has by any lawful authority been ordered to be revoked, cancelled or suspended, or the operation of which has ceased by effluxion of time or by death, or by the happening of any other event, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

Uttering  
cancelled or  
exhausted  
documents.  
Code, s. 475.

476. Any person who knowingly utters as and for a valid and uncancelled stamp a stamp, or an impression of a seal used for any purpose connected with the public revenue of Western Australia or of any other part of His Majesty's dominions, which has been already used, or which has been cancelled, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the stamp or seal.

Uttering  
cancelled  
stamps.  
Code, s. 476.

477. Any person who, by means of any false and fraudulent representation as to the nature, contents, or operation of a document, procures another to sign or execute the document, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

Procuring  
execution of  
documents  
by false  
pretences.  
Code, s. 477.

478. Any person who, with intent to defraud—

- (1) Obliterates, adds to, or alters the crossing on a cheque; or
- (2) Knowingly utters a crossed cheque, the crossing on which has been obliterated, added to, or altered;

Obliterating  
crossings on  
cheques.  
Code, s. 478.

is guilty of a crime and is liable to imprisonment with hard labour for seven years.

Making documents without authority.  
Code, s. 479.

**479.** Any person who, with intent to defraud—  
 (1) Without lawful authority or excuse, makes, signs, or executes, for or in the name or on account of another person, whether by pro-  
 curation or otherwise, any document or writing; or  
 (2) Knowingly utters any document or writing so made, signed, or executed by another person;

is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Demanding property upon forged testamentary instruments.  
Code, s. 480.

**480.** Any person who procures the delivery or payment to himself or any other person of any property or money by virtue of any probate or letters of administration granted upon a forged testamentary instrument, knowing the testamentary instrument to have been forged, or upon or by virtue of any probate or letters of administration obtained by false evidence, knowing the grant to have been so obtained, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document or thing by virtue whereof he procures the delivery or payment.

Purchasing forged bank notes.  
Code, s. 481.

**481.** Any person who, without lawful authority or excuse, the proof of which lies on him, purchases or receives from any person, or has in his possession, a forged bank note, whether filled up or in blank, knowing it to be forged, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

False certificate of message received by telegraph.  
Code, s. 482.

**482.** Any person who knowingly signs upon a document, which purports to be a copy of a document the contents whereof have been received by telegraph under the provisions of the laws authorising the transmission by telegraph of the contents of documents requiring signature or seal, a false certificate that it has been duly received under the provisions of those laws, is guilty of an offence of the same kind, and is liable to the same punishment as if he had forged the document of which it purports to be a copy.

483. Any person who, being employed in the Public Service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Falsifying warrants for money payable under public authority. Code, s. 483.

484. Any person who, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which, in any material particular, is to his knowledge false, to be made in the register or record, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Falsification of registers. Code, s. 484.

The offender cannot be arrested without warrant.

485. Any person who signs or transmits to a person authorised by law to register marriages a certificate of marriage, or any document purporting to be a certificate of marriage, which, in any material particular, is to his knowledge false, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Sending false certificate of marriage to registrar. Code, s. 485.

486. (1) Any person who, knowingly and with intent to procure the same to be inserted in a register of births, deaths, and marriages, makes any false statement touching any matter required by law to be registered in any such register, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years, and to a fine of Two hundred pounds.

False statements for the purpose of registers of births, deaths, and marriages. Code, s. 486. amended by No. 20 of 1954, s. 4.

(2) If on the hearing before justices of a charge made under this section the justices are of opinion that a case has been made out against the accused person but that the case is of a trivial nature or in the circumstances of the case the offender may be adequately punished upon summary conviction, the justices may ask him whether he desires to be tried by a jury or consents to the charge being dealt with summarily and if the accused person so consents he may be summarily convicted before two justices and is liable on the conviction to a fine of one hundred pounds.

Subsec. (2) added by No. 20 of 1954, s. 4.

False statements relating to registration of births, deaths, or marriages. Code, s. 487.

487. Every person required or permitted by the law relating to the registration of births, deaths, or marriages, or the law relating to cemeteries or burials, to give or supply to any person any certificate, information, or particulars, who wilfully gives or supplies any such certificate, information, or particulars which is or are false, misleading, or defective in any material respect, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years, and to a fine of two hundred pounds.

Attempts to procure unauthorised status. Code, s. 488.

488. Any person who—

- (1) By any false representation procures any authority authorised by any Statute to issue certificates testifying that the holders thereof are entitled to any right or privilege, or to enjoy any rank or status, to issue to himself or any other person any such certificate; or
- (2) Falsely represents to any person that he has obtained any certificate issued by any such authority; or
- (3) By any false representation procures himself or any other person to be registered on any register kept by lawful authority as a person entitled to such a certificate, or as a person entitled to any right or privilege, or to enjoy any rank or status;
- (4) Falsely advertises or publishes himself as having obtained any such certificate, or as having been so registered;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Circulating false copies of rules or lists of members of societies or companies. Code, s. 489.

489. Any person who knowingly, and with intent to deceive or defraud, or to enable another person to deceive or defraud, utters to any person a document which purports to be a copy of the memorandum or articles of association or other constitution of a corporation or joint stock company, or of the rules or by-laws of any corporation or society constituted under the authority of any Statute, but is not a true copy thereof, or a document which purports to be a list of the members of any such

corporation, company, or society, but is not a true list of such members, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

**CHAPTER L.—FORGERY AND LIKE OFFENCES PUNISHABLE ON SUMMARY CONVICTION.**

**490. Any person who—**

- (1) Forges any document purporting to be, or intended by the offender to be understood to be, or to be used as a document required to be obtained or used under the provisions of the laws relating to the engagement or discharge of seamen, or the laws relating to the regulation of factories and shops; or
- (2) Utters any document which is required to be obtained or used under the provisions of these laws, and which has been issued to another person, and falsely represents himself to be the person named in the document;

*Forgery  
of seaman's  
tickets.  
Code, s. 490.*

is guilty of an offence, and is liable, on summary conviction, to imprisonment with hard labour for one year, or to a fine of Fifty pounds.

**491. Any person who—**

- (1) Fraudulently, and with intent that the stamp may be used again, removes an adhesive stamp, or causes an adhesive stamp to be removed, from any document; or
- (2) Fraudulently, and with intent that the stamp may be used again, affixes an adhesive stamp which has been removed from any document to another document; or
- (3) Knowingly utters an adhesive stamp which has been fraudulently, and with intent that it may be used again, removed from any document; or

*Fraudulent  
use of  
adhesive  
stamps.  
Code, s. 491.*

(4) Knowingly utters any document which has on it an adhesive stamp that has been fraudulently, and with intent that it may be used again, removed from another document;

is guilty of an offence, and is liable, on summary conviction to a fine of Fifty pounds.

False  
warranties  
or labels  
relating to  
the sale of  
food.  
Code, s. 492.

**492.** Any person who—

- (1) Knowingly gives to a purchaser a false warranty in writing with respect to an article of food or a drug sold by him, whether as principal or agent; or
- (2) Knowingly gives with any article of food or or drug sold by him a label which falsely describes the article or drug sold; or
- (3) In any proceedings under the laws relating to the sale of food and drugs knowingly applies to an article of food or a drug a certificate or warranty given with respect to another article or drug;

is guilty of an offence, and is liable, on summary conviction, to a fine of Twenty pounds.

Provisions  
of this  
chapter  
alternative.  
Code, s. 493.

**493.** The provisions of this chapter are alternative and without prejudice to any other provisions of this Code relating to the same matters, but so that an offender cannot be twice convicted for the same act.

**CHAPTER LI.—PREPARATION FOR FORGERY.**

Instruments  
and materials  
for forgery.  
Code, s. 494.

**494.** Any person who, without lawful authority or excuse, the proof of which lies on him,—

- (1) Makes, or begins or prepares to make, or uses, or knowingly has in his possession or disposes of any paper resembling any paper such as is specially provided by the proper authority for the purpose of being used for making any of the things following, that is to say:—

- (a) Any document acknowledging or being evidence of the indebtedness of the Government of Western Australia, or of the Government of any

of His Majesty's dominions, or of any foreign Prince or State, or of any person carrying on the business of banking, to any person; or

- (b) Any stamp, license, permit, or other document used for the purposes of the public revenue of Western Australia, or of any other part of His Majesty's dominions; or
- (c) Any bank note; or any machinery or instrument or material for making any such paper, or capable of producing in or on paper any words, figures, letters, marks, or lines, resembling any words, figures, letters, marks, or lines, used in or on any paper specially provided for any such purpose; or

(2) Impresses or makes upon any plate or material any words, figures, letters, marks, or lines, the print whereof resembles, in whole or part, the words, figures, letters, marks, or lines used in any such document as aforesaid; or

(3) Uses, or knowingly has in his possession, or disposes of any plate or material upon which any such words, figures, letters, marks, or lines are impressed or made; or

(4) Uses, or knowingly has in his possession, or disposes of any paper on which is written or printed the whole or any part of the usual contents of any such document as aforesaid;

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

495. Any person who, without lawful authority or excuse, the proof of which lies on him,—

Counterfeit  
stamps.  
Code, s. 495.

- (1) Makes or mends, or begins or prepares to make or mend, or uses, or knowingly has in his possession or disposes of, any die, plate, or instrument, capable of making an impression resembling that made by any die, plate, or instrument used for the purpose of making any stamp, whether

impressed or adhesive, which is used for the purposes of the public revenue in Western Australia or any other part of His Majesty's dominions or in any foreign State, or capable of producing in or on paper any words, figures, letters, marks, or lines, resembling any words, figures, letters, marks, or lines used in or on any paper specially provided by the proper authority for any such purpose; or

- (2) Knowingly has in his possession or disposes of any paper or other material which has on it the impression of any such die, plate, or instrument, or any paper which has on it or in it any such words, figures, letters, marks, or lines, as aforesaid; or
- (3) Fraudulently, and with intent that use may be made of any such stamp as aforesaid, or of any part of it, removes the stamp from any material in any way whatever; or
- (4) Fraudulently, and with intent that use may be made of any part of any such stamp, mutilates the stamp; or
- (5) Fraudulently fixes or places upon any material, or upon any such stamp, any stamp or part of a stamp which has been in any way removed from any other material or out of or from any other stamp; or
- (6) Fraudulently, and with intent that use may be made of any such stamp which has been already impressed upon or attached to any material, erases or otherwise removes, either really or apparently, from such material anything whatever written on it; or
- (7) Knowingly has in his possession or disposes of anything obtained or prepared by any such unlawful act as aforesaid;

is guilty of a crime and is liable to imprisonment with hard labour for fourteen years.

496. (1) Any person who—  
(a) Forges any trade mark; or

- (b) Falsely applies to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive; or
- (c) Makes any die, block, machine, or other instrument for the purpose of forging, or of being used for forging, a trade mark; or
- (d) Applies any false trade description to goods; or
- (e) disposes of or has in his possession any die, block, machine, or other instrument for the purpose of forging a trade mark; or
- (f) Causes any of the things abovementioned to be done,

unless he proves that he acted without intent to defraud, is guilty of an offence.

(2) Any person who sells, or exposes for, or has in his possession for sale or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark or mark so nearly resembling a trade mark as to be calculated to deceive is falsely applied, as the case may be, is guilty of an offence, unless he proves—

- (a) That having taken all reasonable precautions against committing an offence, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark, mark, or trade description; and
- (b) That on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or
- (c) That otherwise he had acted innocently.

(3) Any person guilty of an offence under this chapter is liable—

- (i) On conviction on indictment to imprisonment with hard labour for two years, or to fine at the discretion of the Court, or to both imprisonment and fine; or

- (ii) On summary conviction to imprisonment with hard labour for four months, or to a fine of Twenty pounds, and in the case of a second or subsequent conviction to imprisonment with hard labour for six months, or to a fine of Fifty pounds; and
- (iii) In any case to forfeit to His Majesty every chattel, article, instrument, or thing by means of or in relation to which the offence has been committed.

(4) The Court before whom any person is convicted under this section may order any forfeited article to be destroyed or otherwise disposed of as the Court thinks fit.

(5) Any person charged with an offence under this section before a Court of summary jurisdiction, on appearing before the Court, and before the charge is gone into, must be informed of his right to be tried on indictment, and if he requires, be so tried accordingly.

*Definitions.*  
Code, s. 497.

**497.** (1) For the purposes of this chapter—

The term “trade mark” includes any word or mark of any kind whatever which is lawfully used by any person to denote that any article is of his manufacture, workmanship, production, or merchandise, or is a thing of a peculiar or particular description made or sold by him.

The term “trade description” means any description, statement, or other indication direct or indirect:

- (a) As to the number, quantity, measure, gauge, or weight of any goods; or
- (b) As to the place or country in which any goods were made or produced; or
- (c) As to the mode of manufacturing or producing any goods; or
- (d) As to the material of which any goods are composed; or

(e) as to any goods being the subject of an existing patent, privilege, or copyright:

and the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, is deemed to be a "trade description."

The term "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect, and the fact that a trade description is a trade mark, or part of a trade mark, does not prevent such trade description being a false trade description.

The term "goods" means anything which is the subject of trade, manufacture, or merchandise.

The terms "person," "manufacturer," "dealer," or "trader," and "proprietor," include any body of persons corporate or unincorporate.

The term "name" includes any abbreviation of name.

(2) The provisions of this chapter respecting the application of a false trade description to goods extend to the application to goods of any such figures, words, or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

(3) The provisions of this chapter respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, extend to the application to goods of any

false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this chapter the term "false name or initials" means, as applied to any goods, any name or initials of a person which—

- (a) Are not a trade mark, or part of a trade mark; and
- (b) Are identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorised the use of such name or initials; or
- (c) Are either those of a fictitious person or of some person not *bona fide* carrying on business in connection with such goods.

Forging  
trade mark.  
Code, s. 498.

498. A person is deemed to forge a trade mark who either—

- (a) Without the assent of the proprietor of the trade mark makes that trade mark or a mark so nearly resembling that trade mark so as to be calculated to deceive; or
- (b) Falsifies any genuine trade mark, whether by alteration, addition, effacement, or otherwise;

and any trade mark or mark so made or falsified is in this chapter referred to as a forged trade mark.

In any prosecution for forging a trade mark the burden of proving the assent of the proprietor lies on the defendant.

Applying  
marks and  
descriptions.  
Code, s. 499.

499. (1) A person is deemed to apply a trade mark or mark or trade description to goods who—

- (a) Applies it to the goods themselves; or
- (b) Applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed or had in possession for any purpose of sale, trade, or manufacture; or

- (c) Places, encloses, or annexes any goods which are sold or exposed or had in possession for any purpose of sale, trade, or manufacture, in, with, or to any covering, label, reel, or other thing to which a trade mark or trade description has been applied;
- (d) Uses a trade mark or mark or trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or mark or trade description.

(2) The expression "covering" includes any stopper, case, bottle, vessel, box, cover, capsule, case, frame, or wrapper; and the expression "label" includes any band or ticket.

A trade mark or mark, or trade description, is deemed to be applied whether it is woven, impressed, or otherwise worked into, or annexed or affixed to the goods, or to any covering, label, reel, or other thing.

(3) A person is deemed to falsely apply to goods a trade mark or mark who without the assent of the proprietor of a trade mark applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive.

In any prosecution for falsely applying a trade mark or mark to goods, the burden of proving the assent of the proprietor lies on the defendant.

500. Where any person is charged with making any die, block, machine, or other instrument for the purpose of forging, or being used for forging, a trade mark, or with falsely applying to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section abovementioned to be done, and proves:

Exemption  
of certain  
persons  
employed in  
ordinary  
course of  
business.  
Code, s. 500.

- (a) That in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines, or other instruments for making, or being used in making, trade marks, or as the case may be,

to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in the State, and was not interested in the goods by way of profit or commission, dependent on the sale of such goods; and

- (b) That he took reasonable precautions against committing the offence charged; and
- (c) That he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark, or trade description; and
- (d) That he gave to the prosecutor all the information in his power with respect to the persons on whose behalf the trade mark, mark, or trade description was applied;

he must be discharged from the prosecution, but is liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence.

Application  
to watches.  
Code, s. 501.

501. Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks *prima facie* are deemed to be a description of that country within the meaning of this chapter, and the provisions of this chapter, with respect to goods to which a false trade description has been applied, and with respect to selling or exposing for or having in possession for sale, or any purpose of trade or manufacture, goods with a false trade description, apply accordingly, and for the purpose of this section the term "watch" means all that portion of a watch which is not the watch case.

Trade mark,  
how  
described.  
Code, s. 502.

502. In any information, indictment, or other document, in which any trade mark or forged trade mark is intended to be mentioned, it is sufficient, without further description, and without any copy or *fac simile*, to state such trade mark or forged trade mark to be a trade mark or forged trade mark.

503. In any prosecution for an offence under this chapter, in the case of imported goods, evidence of the port of shipment is *prima facie* evidence of the place or country in which the goods were made or produced.

Rule as to  
evidence.  
Code, s. 503.

504. (1) When, upon complaint of an offence under this chapter, a justice issues either a summons requiring the defendant charged by such complaint to appear to answer to the same, or a warrant for the arrest of such defendant, and either the said justice on or after issuing such summons or warrant, or any other justice, is satisfied by complaint on oath that there is reasonable cause to suspect that any goods or things by means of or in relation to which such offence has been committed are in any house or premises of the defendant, or otherwise in his possession or under his control in any place, such justice may issue a warrant under his hand by virtue of which it shall be lawful for any constable named or referred to in the warrant to enter such house, premises, or place at any reasonable time by day, and to search there for and seize and take away those goods or things; and any goods or things seized under any such warrant must be brought before a Court of summary jurisdiction for the purpose of its being determined whether the same are or are not liable to forfeiture under this chapter.

Search  
warrant.  
Code, s. 504.

(2) If the owner of any goods or things which, if the owner thereof had been convicted, would be liable to forfeiture under this chapter, is unknown or cannot be found, a complaint may be laid for the purpose only of enforcing such forfeiture, and a Court of summary jurisdiction may cause notice to be advertised stating that, unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be forfeited, and at such time and place the Court, unless the owner or any person on his behalf, or other person interested in the goods or things, shows cause to the contrary, may order such goods or things or any of them to be forfeited.

(3) Any goods or things forfeited under this section, or under any other provision of this chapter, may be destroyed or otherwise disposed of in such manner as the Court by which the same are forfeited may direct, and the Court may, out of any proceeds which may be realised by the disposition of such goods (all trade marks and trade descriptions being first obliterated), award to any innocent person any loss he may have innocently sustained in dealing with such goods.

Costs of  
defence or  
prosecution.  
Code, s. 505.

505. On any prosecution under this chapter the Court may order costs to be paid to the defendant by the prosecutor or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

Limitation of  
prosecution.  
Code, s. 506.

506. No prosecution for an offence under this chapter may be commenced after the expiration of three years next after the commission of the offence, or one year next after the first discovery thereof by the prosecutor, whichever expiration first happens.

Provisions  
of this  
chapter as to  
false  
description  
not to apply  
in certain  
cases.  
Code, s. 507.

507. Where, on the twenty-sixth day of November, one thousand eight hundred and eighty-eight, a trade description was lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods, the provisions of this chapter with respect to false trade descriptions do not apply to such trade description: Provided that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, the provisions of this section do not apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

Savings.  
Code, s. 508.

508. (1) Nothing in this chapter exempts any person from any action, suit, or other proceeding which might, but for the provisions of this chapter, be brought against him.

(2) Nothing in this chapter entitles any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence under this chapter.

(3) Nothing in this chapter may be construed so as to render liable to any prosecution or punishment any servant of a master resident in the State who *bona fide* acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, gives full information as to his master.

False repre-  
sentation  
as to Royal  
Warrant, etc.  
Code, s. 509.

509. Any person who falsely represents that any goods are made by a person holding a Royal Warrant, or made for the service of His Majesty, or made for any of the Royal Family, or made for any Government Department either in the United Kingdom or in any of His Majesty's possessions, is liable, on summary conviction, to a fine of Twenty pounds.

#### CHAPTER LIII.—PERSONATION.

510. Any person who, with intent to defraud any person, falsely represents himself to be some other person living or dead, is guilty of an offence which, unless otherwise stated, is a misdemeanour; and he is liable to imprisonment with hard labour for three years.

Personation  
in general.  
Code, s. 510.

If the representation is that the offender is a person entitled by will or operation of law to any specific property, and he commits the offence with intent to obtain such property, or possession thereof, he is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

511. Any person who falsely and deceitfully personates any owner of any share or interest in any company, or of any share certificate or coupon

Personation  
of owner of  
shares.  
Code, s. 511.

issued under any Act relating to companies, and thereby obtains, or endeavours to obtain any such share or interest, or share certificate or coupon or receives or endeavours to receive any money due to any such owner, as if the offender were the true and lawful owner, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Falsely acknowledging deeds, recognisances, etc.  
Code, s. 512.

512. Any person who, without lawful authority or excuse, the proof of which lies on him, makes, in the name of any other person, before any Court or person lawfully authorised to take such an acknowledgment, an acknowledgment of liability of any kind, or an acknowledgment of a deed or other instrument, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

Personation of a person named in a certificate.  
Code, s. 513.

513. Any person who utters any document which has been issued by lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, and falsely represents himself to be the person named in the document, is guilty of an offence of the same kind, and is liable to the same punishment as if he had forged the document.

Lending certificate for personation.  
Code, s. 514.

514. Any person who, being a person to whom any document has been issued by lawful authority, whereby he is certified to be a person possessed of any qualification recognised by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, lends the document to another person with intent that that other may represent himself to be the person named therein, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

*Division IV.—Offences connected with Trade and Breach of Contract, and Corruption of Agents, Trustees, and others.*

CHAPTER LIV.—FRAUDULENT DEBTORS.

515. In this chapter the term “a bankrupt” means a person with respect to whom any proceedings have been taken under the provisions of the laws relating to bankrupt debtors which result in his affairs being administered under the provisions of those laws for the benefit of his creditors.

Definition.  
Code, s. 515.

Such a person is deemed to have been a bankrupt from the time when the proceedings were taken, whether that result had or had not happened when the unlawful act in question was done.

516. Any person who—

- (1) Being a bankrupt, departs from Western Australia and takes with him, or attempts or prepares to depart from Western Australia and to take with him any part of his property to the amount of Twenty pounds, which ought by law to be divided amongst his creditors; or
- (2) Departs from Western Australia and takes with him, or attempts or prepares to depart from Western Australia and to take with him any part of his property to the amount of Twenty pounds, which ought by law, in the event of his becoming bankrupt, to be divided among his creditors, and within four months afterwards becomes a bankrupt;

Absconding  
with property  
in contem-  
plation of or  
immediately  
after  
bankruptcy.  
Code, s. 516.

is guilty of a crime, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to defraud.

517. Any person who—

- (1) Being a bankrupt—

- (a) Fraudulently removes any part of his property to the value of Ten pounds or upwards; or

Frauds by  
bankrupts.  
Code, s. 517.

- (b) Fraudulently parts with, alters, or makes any omission in, or is privy to fraudulently parting with, altering, or making any omission in, any document affecting or relating to his property or affairs; or
- (2) Does any such act as aforesaid, and within four months afterwards becomes a bankrupt; or
- (3) Being a bankrupt, attempts to account for any part of his property by alleging fictitious losses or expenses; or
- (4) Attempts, at a meeting of his creditors, to account for any part of his property by fictitious losses or expenses, and within four months afterwards becomes a bankrupt; or
- (5) By any false representation or other fraud obtains any property on credit and does not pay for the same, and within four months afterwards becomes a bankrupt;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Other  
frauds by  
bankrupts.  
Code, s. 518.

**518. Any person who—**

- (1) Being a bankrupt—
  - (a) Conceals any part of his property to the amount of Ten pounds; or
  - (b) Conceals any debt due to or from him; or
- (2) Does any of the following acts, that is to say—
  - (a) Conceals any part of his property to the amount of Ten pounds; or
  - (b) Conceals any debt due to or from him; or
  - (c) Obtains any property on credit under the false pretence of carrying on business and dealing in the ordinary way of trade, and does not pay for the same; or

(d) Pawns, pledges, or disposes of, otherwise than in the ordinary way of trade, any property which he has obtained on credit and has not paid for;

and within four months afterwards becomes a bankrupt;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to defraud.

**519. Any person who—**

Falsification  
of books by  
bankrupts.  
Code, s. 519.

(1) Being a bankrupt—

(a) Conceals, destroys, alters, mutilates, or falsifies, any book, document, valuable security, or account relating to his property or affairs, or any entry in any such book, document, or account, or is privy to any such act; or

(b) Makes or is privy to making any false entry in any such book, document, or account; or

(2) Does or is privy to any such act as aforesaid, and within four months afterwards becomes a bankrupt;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to conceal the state of his affairs or to defraud.

**520. Any person whose affairs are in course of administration under the provisions of the laws relating to bankrupt debtors who—**

Frauds by  
bankrupts in  
course of  
bankruptcy  
proceedings.  
Code, s. 520.

(1) Knowing or believing that a false debt has been proved by any person in the course of such administration, fails for the period of a month to give information thereof to the trustee of his property; or

(2) Makes any false representation or commits any other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or to any proceedings taken under or by virtue of such administration;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Failure by  
bankrupts to  
discover  
property.  
Code, s. 521.

521. Any person whose affairs are in course of administration under the provisions of the laws relating to bankrupt debtors who—

- (1) Fails to fully and truly discover to the trustee of his property, to the best of his knowledge and belief, all his property, real and personal, and how, and to whom, and for what consideration, and when, he disposed of every part thereof, except such part as has been disposed of in the ordinary way of his trade, if any, or laid out in the ordinary expense of his family; or
- (2) Fails to deliver to the trustee, or as he directs, any part of his real and personal property which is in his custody or under his control, and which he is required by law to deliver; or
- (3) Fails to deliver to the trustee, or as he directs, any book, document, paper, or writing, which is in his custody or under his control, and which relates to his property or affairs; or
- (4) Omits or is privy to omitting any material particular from any statement relating to his affairs;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person had no intent to conceal the state of his affairs or to defraud.

522. Any person who omits to keep proper books of account showing the true state of his affairs, and who, within three years, afterwards becomes a bankrupt, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Failure to  
keep proper  
books.  
Code, s. 522.

It is a defence to a charge of the offence defined in this section to prove that the accused person had no intention to conceal the state of his affairs, or to defraud.

523. Any person who, being a bankrupt, prevents the production of any book, document, paper or writing, affecting or relating to his property or affairs, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Concealing  
documents.  
Code, s. 523.

It is a defence to a charge of the offence defined in this section to prove that the accused person had no intent to conceal the state of his affairs or to defraud.

524. Any person who, with intent to defraud the creditors of a bankrupt, receives any property from the bankrupt, or fails to deliver to the trustee of the property of the bankrupt any property which forms part of the estate of the bankrupt, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

Receiving  
bankrupt's  
property  
with intent  
to defraud.  
Code, s. 524.

525. Any person who—

(1) Being a creditor of a bankrupt, or being a creditor of a debtor who has taken proceedings for a composition, assignment, or arrangement with or for the benefit of his creditors under the provisions of the laws relating to bankrupt or insolvent debtors, makes in the bankruptcy, or in the proceedings for a composition, assignment, or arrangement, with intent to defraud, a proof or declaration of debt or statement of account, which, in any material particular, is to his knowledge false; or

Making false  
claim in  
bankruptcy.  
Code, s. 525.

(2) Not being a creditor of a bankrupt, or of a person who has taken any such proceedings, makes in the bankruptcy, or in the

proceedings for a composition, assignment, or arrangement, with intent to defraud, a proof or declaration of debt;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Concealing property of bankrupts.  
Code, s. 526.

**526.** Any person who conceals any part of the property of a bankrupt, and does not, within forty-two days after the appointment of a trustee of the property of the bankrupt, discover such property to the trustee, or to the Registrar of the Supreme Court, is guilty of an offence, and is liable, on summary conviction, to imprisonment with hard labour for six months.

Fraudulent dealing with property by debtors.  
Code, s. 527.

**527.** Any person who, with intent to defraud his creditors or any of them,—

- (1) Makes any gift, delivery, or transfer of his property, or any charge on his property; or
- (2) Conceals or removes any part of his property after or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

Undischarged bankrupt obtaining credit to extent of £20.  
Code, s. 528.

**528.** Any person who, being an undischarged bankrupt, obtains credit to the extent of Twenty pounds or upwards from any person without informing such person that he is an undischarged bankrupt, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

#### CHAPTER LV.—CORRUPTION OF AGENTS, TRUSTEES, AND OTHERS IN WHOM CONFIDENCE IS REPOSED.

Receipt or solicitation of secret commission by an agent a misdemeanour.  
Code, s. 529.

**529.** If any agent corruptly receives or solicits from any person, for himself or for any other person, any valuable consideration—

- (a) as an inducement or reward for, or otherwise on account of, doing or forebearing to do or having done or foreborne to do any act in relation to his principal's affairs or business; or

(b) the receipt or any expectation of which would in any way tend to influence him to show or to forbear to show favour or disfavour to any person in relation to his principal's affairs or business,

he shall be guilty of a misdemeanour.

**530.** If any person corruptly gives or offers to any agent any valuable consideration—

(a) as an inducement or reward for, or otherwise on account of, doing or forbearing to do or having done or forborne to do any act in relation to his principal's affairs or business; or

(b) the receipt or any expectation of which would in any way tend to influence him to show or forbear to show favour or disfavour to any person in relation to his principal's affairs or business,

Gift or offer  
of secret  
commission  
to an agent a  
misdemean-  
our.

Code, s. 530.

he shall be guilty of a misdemeanour.

**531.** (1) Any valuable consideration given or offered to any parent, husband, wife, or child of any agent, or to his partner, clerk or employee, or at the agent's request to any person by any person having business relations with the principal of such agent, shall be deemed to have been given or offered to the agent.

Secret gifts  
to parent,  
wife, child,  
partner, etc.,  
of agent  
deemed gifts  
to agent.

Code, s. 531.

(2) Any valuable consideration received or solicited by any parent, husband, wife, or child of any agent, or by his partner, clerk, or employee, from any person having business relations with the principal of such agent shall be deemed to have been received or solicited by the agent, unless it be proved that the valuable consideration was so received or solicited without the consent, knowledge, or privity of the agent.

Secret gifts  
received by  
parent, wife,  
child,  
partner, etc.,  
of agent  
deemed  
received by  
agent.

**532.** If, with intent to deceive or defraud the principal, any person gives to any agent, or if any agent receives or uses or gives to the principal, any receipt, invoice, account, or document in respect of

Giving to  
agent false or  
misleading  
receipt or  
account a  
misdemean-  
our.

Code, s. 532.

which or in relation to a dealing, transaction, or matter in which the principal is interested and which—

- (a) contains any statement which is false or erroneous or defective in any important particular, or is in any way likely to mislead the principal; or
- (b) omits to state explicitly and fully the fact of any commission, percentage, bonus, discount, rebate, repayment, gratuity, or deduction having been made, given, or allowed or agreed to be made, given, or allowed,

he shall be guilty of a misdemeanour.

Gift or  
receipt of  
secret  
commission  
in return  
for advice  
given.  
Code, s. 533.

533. Whenever any advice is given by one person to another, and such advice is in any way likely or intended to induce or influence the person advised—

- (a) to enter into a contract with any third person; or
- (b) to appoint or join with another in appointing, or to vote for or to aid in obtaining the election or appointment, or to authorise or join with another in authorising the appointment, of any third person as trustee,

and any valuable consideration is given by such third person to the person giving the advice without the assent of the person advised, the gift or receipt of the valuable consideration shall be a misdemeanour, but this section shall not apply when the person giving the advice was, to the knowledge of the person advised, the agent of such third person, or when the valuable consideration was not given in respect of such advice.

Offer or  
solicitation  
of secret  
commission  
in return for  
advice given.  
Code, s. 534.

534. Any offer or solicitation of a valuable consideration in respect of any advice given or to be given by one person to another with a view to induce or influence the person advised—

- (a) to enter into a contract with the person offering or solicited; or

(b) to appoint or join with another in appointing, or to vote for or to aid in obtaining the election or appointment, or to authorise or join with another in authorising the appointment, of the person offering or solicited as trustee,

and with the intent that the gift or receipt of such valuable consideration is not to be made known to the person advised, shall be a misdemeanour, but this section shall not apply when such firstmentioned person is the agent of the person offering or solicited.

535. If any person offers or gives any valuable consideration to a trustee, or if any trustee receives or solicits any valuable consideration for himself or for any other person, without the assent of the persons beneficially entitled to the estate, or of a Judge of the Supreme Court, as an inducement or reward for appointing or having appointed or for joining or having joined with another in appointing, or for authorising or having authorised or for joining or having joined with another in authorising any person to be appointed in his stead or instead of him and any other person as trustee he shall be guilty of a misdemeanour.

Secret  
commission  
to trustee  
in return for  
substituted  
appointment.  
Code, s. 535.

536. Any person who, being within Western Australia, knowingly aids, abets, counsels, or procures, or who attempts or takes part in or is in any way privy to—

Aiding and  
abetting  
offences  
within or  
outside  
Western  
Australia.  
Code, s. 536.

(a) doing any act or thing in contravention of this Chapter;

(b) doing any act or thing outside Western Australia, or partly within and partly outside Western Australia, which if done within Western Australia, would be in contravention of this Chapter;

shall be guilty of a misdemeanour..

537. Any director, manager, or officer of a company, or any person acting for another, who knowingly takes part in or is in any way privy to doing or who attempts to do any act or thing without authority which, if authorised, would be in contravention of any of the provisions of this Chapter shall be guilty of a misdemeanour.

Liability of  
directors,  
etc., acting  
without  
authority.  
Code, s. 537.

**Penalty on conviction.**  
Code, s. 538.

**538.** Any person, on conviction of a misdemeanour under any of the provisions of this Chapter, shall—

- (a) be liable, if a corporation, to a penalty not exceeding five hundred pounds, and if any other person, to be imprisoned for any period not exceeding two years, with hard labour; and
- (b) in addition, be liable to be ordered to pay to such person, and in such manner as the court directs, the amount or value, according to the estimation of the court, of any valuable consideration received or given by him or any part thereof; and such order shall be enforceable in the same manner as a judgement of the court.

**Court may order withdrawal of trifling or technical cases.**  
Code, s. 539.

**539.** Upon the trial of a person for any offence under this Chapter, if it appears to the court that the offence charged is in the particular case of a trifling or merely technical nature, or that in the particular circumstances it is inexpedient to proceed to a conviction, the court may in its discretion, and for reasons stated on the application of the accused, withdraw the case from the jury, and this shall have the same force and effect as if the jury had returned a verdict of not guilty, except that the court may, if it think fit, make the order mentioned in the last preceding section.

**Protection of witness giving answers criminating himself.**  
Code, s. 540.

**540.** A person who is called as a witness in any proceedings shall not be excused from answering any question relating to any offence under this Chapter on the ground that the answer thereto may criminate or tend to criminate him—

Provided that—

- (a) a witness who, in the judgment of the court or justices, answers truly all questions which he is required by the court or justices to answer shall be entitled to receive a certificate from the court or justices stating that such witness has so answered; and

(b) an answer by a person to a question put by or before the court or justices in any proceeding under this Chapter shall not, except in the case of any criminal proceedings for perjury in respect of such evidence, be in any proceeding civil or criminal admissible in evidence against him.

541. When a person has received a certificate as aforesaid, and any criminal proceeding is at any time instituted against him in respect of the offence which was in question in the proceeding in which the said person was called as a witness, the court or justices having cognizance of the case shall, on proof of the certificate and of the identity of the offence in question the two cases, stay the proceedings.

Stay of  
proceedings  
against such  
witness.  
Code, s. 541.

542. In any prosecution under this Chapter it shall not amount to a defence to show that any such valuable consideration as is mentioned in this Chapter is customary in any trade or calling.

Custom of  
itself no  
defence.  
Code, s. 542.

543. For the purposes of this Chapter, where it is shown that any valuable consideration has been received or solicited by an agent from or given or offered to any agent by any person having business relations with the principal, without the assent of the principal, the burden of proving that such valuable consideration was not received, solicited, given, or offered in contravention of any of the provisions of this Chapter shall be on the accused.

Burden of  
proof that  
gift not  
secret  
commission.  
Code, s. 543.

544. No prosecution for an offence under this Chapter shall be commenced after the expiration of two years next after the commission of the offence, or six months next after the first discovery thereof by the principal or the person advised, as the case may be, whichever expiration first happens.

Limit of  
time for  
prosecution.  
Code, s. 544.

545. No prosecution for an offence under this Chapter shall be commenced without the consent of the Attorney General.

Consent of  
Attorney  
General to  
prosecution.  
Code, s. 545.

Interpre-  
tations.  
Code, s. 546.

546. In the construction of this Chapter, the following provisions shall apply:—

- (1) The word "Agent" shall include any corporation or other person acting or having been acting or desirous or intending to act for or on behalf of any corporation or other person, whether as agent, partner, co-owner, clerk, servant, employee, banker, broker, auctioneer, architect, clerk of works, engineer, solicitor, surveyor, buyer, salesman, foreman, trustee, executor, administrator, liquidator, trustee in bankruptcy or of a deed of arrangement, receiver, director, manager or other officer or member of committee or governing body of any corporation, club, partnership, or association, or in any other capacity, either alone or jointly with any other person, and whether in his own name or in the name of his principal, or otherwise; and a person serving under the Crown is an agent within the meaning of this Chapter:
- (2) The word "principal" shall include a corporation or other person for or on behalf of whom the agent acts, has acted, or is desirous or intending to act:
- (3) The word "trustee" shall include trustee, executor, administrator, liquidator, trustee in bankruptcy or of a deed of arrangement, receiver, director, committee of the estate of an insane person having power to appoint a trustee or person entitled to obtain probate of the will or letters of administration to the estate of a deceased person:
- (4) The words "valuable consideration" shall include any money, loan, office, place, employment, agreement to give employment, benefit, or advantage whatsoever, and any commission or rebate, deduction, or percentage, bonus, or discount, or any forbearance to demand any money or money's worth or valuable thing; and the acceptance of any of the said things shall be deemed the receipt of a valuable consideration:

- (5) The words "valuable consideration," when used in connection with the offer thereof, shall include any offer of any agreement or promise to give, and every holding out of any expectation of valuable consideration:
- (6) The words "valuable consideration," when used in connection with the receipt thereof, shall include any acceptance of any agreement, promise, or offer to give, and of any holding out of any expectation of valuable consideration:
- (7) The word "contract" shall include contract of sale or of employment or any other contract whatever:
- (8) Any act or thing prohibited by this Chapter is prohibited whether done directly or indirectly by the person mentioned or by or through any other person:
- (9) The words "solicit any valuable consideration," and "valuable consideration solicited," and words to the like effect shall be construed with the following direction, namely:—That every agent who shall divert, obstruct, or interfere with the proper course of business or manufacture, or shall impede or obstruct, or shall fail to use due diligence in the prosecution of any negotiation or business with the intent to obtain the gift of any valuable consideration from any person interested in the said negotiation or business or with intent to injure any such person shall be deemed to have solicited a valuable consideration from a person having business relations with the principal of such agent:
- (10) The words "person having business relations with the principal" shall include every corporation or other person, whether as principal or agent, carrying on or having carried on or desirous or intending to carry on any negotiation or business with or engaged or having been engaged or

desirous or intending to be engaged in the performance of any contract with or in the execution of any work or business for or in the supply of any goods or chattels to any principal, and shall also include any agent of such corporation or other person:

- (11) The words "in relation to his principal's affairs or business" shall imply the additional words "whether within the scope of his authority or course of his employment as agent or not": and
- (12) The words "advice given" and words to the like effect shall include every report, certificate, statement, and suggestion intended to influence the person to whom the same may be made or given, and every influence exercised by one person over another.

#### CHAPTER LVI.—OTHER OFFENCES.

Concealment  
by officers of  
companies  
on reduction  
of capital.  
Code, s. 547.

**547.** Any person who, being a director or officer of a joint stock company, the capital of which is proposed to be reduced,—

- (1) Conceals the name of any creditor of the company who is entitled to object to the proposed reduction; or
- (2) Knowingly misrepresents the nature or amount of the debt or claim of any creditor of the company; or
- (3) Is privy to any such concealment or misrepresentation as aforesaid;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Falsification  
of books of  
companies.  
Code, s. 548.

**548.** Any person who, being a director, officer, or contributory of a company which is in course of being wound up, under the provisions of the laws relating to joint stock companies, does any of the

following acts with intent to deceive or defraud, or to cause or enable another person to deceive or defraud, that is to say:—

- (1) Conceals, destroys, alters, mutilates, or falsifies any book, document, valuable security, or account relating to the affairs of the company, or any entry in any such book, document, or account, or is privy to any such act; or
- (2) Makes or is privy to making any false entry in any book, document, or account, belonging to the company;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

549. When a mark has been attached to any article, or a certificate has been given with respect to any article, under the authority of any Statute, for the purpose of denoting the quality of the article, or the fact that it has been examined or approved by or under the authority of some public body or public officer, any person who mixes with the article so marked or certified any other article which has not been so examined or approved, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Mixing  
uncertified  
with certified  
articles.  
Code, s. 549.

550. Any person who, with a view to compel any other person to abstain from doing or to do, any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority:—

- (1) Uses violence to, or threatens with violence, such other person, or his wife or children, or injures his property, real or personal; or
- (2) Persistently follows such other person from place to place; or
- (3) Hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or

Intimidation  
or annoyance  
by violence  
or otherwise.  
Code, s. 550.

- (4) Watches or besets the house or other place where such person resides, or works, or carries on his business, or happens to be, or the approach to such house or place; or
- (5) Follows such other person with two or more other persons in a disorderly manner in or through any street or road;

is guilty of an offence, and is liable on summary conviction, or on indictment as hereinafter mentioned, to imprisonment with hard labour for three months, or to a fine of Twenty pounds.

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

Person accused before Court of summary jurisdiction may elect to be tried on indictment. Code, s. 551.

551. Any person charged before a Court of summary jurisdiction under the last preceding section may, on appearing before such Court, declare that he objects to being tried for such offence by a Court of summary jurisdiction, and thereupon the Court may deal with the case in all respects as if the accused were charged with an indictable offence, and not with an offence punishable on summary conviction, and the offence may be prosecuted by indictment accordingly.

**PART VII.—PREPARATION TO COMMIT OFFENCES:  
CONSPIRACY: ACCESSORIES AFTER THE FACT.**

**CHAPTER LVII.—ATTEMPTS AND PREPARATION  
TO COMMIT OFFENCES.**

Attempts to commit offences. Code, s. 552.

552. Any person who attempts to commit any indictable offence is guilty of an indictable offence, which, unless otherwise stated, is a misdemeanour.

When a person who commits an indictable offence is punishable on summary conviction, a person who attempts to commit such an offence may also be summarily convicted.

553. Any person who attempts to commit a crime of such a kind that a person convicted of it is liable to the punishment of death or of imprisonment with hard labour for a term of fourteen years or upwards, with or without any other punishment, is liable, if no other punishment is provided, to imprisonment with hard labour for seven years.

Punishment  
of attempts  
to commit  
crimes.  
Code, s. 553.

Any person who attempts to commit a crime of any other kind is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the crime which he attempted to commit is liable.

554. Any person who attempts to commit a misdemeanour is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the offence which he attempted to commit is liable.

Punishment  
of attempts  
to commit  
misdemean-  
ours.  
Code, s. 554.

555. When a person is convicted of attempting to commit an offence, if it is proved that he desisted of his own motion from the further prosecution of his intention, without its fulfilment being prevented by circumstances independent of his will, he is liable to one-half only of the punishment to which he would otherwise be liable. If that punishment is imprisonment with hard labour for life, the greatest punishment to which he is liable is imprisonment with hard labour for seven years.

Reduction of  
punishment.  
Code, s. 555.

556. Any person who attempts to procure another to do any act or make any omission, whether in Western Australia or elsewhere, of such a nature that, if the act were done or the omission were made, an offence would thereby be committed under the laws of Western Australia, or the laws in force in the place where the act or omission is proposed to be done or made, whether by himself or by that other person, is guilty of an offence of the same kind, and is liable to the same punishment as if he had himself attempted to do the same act or make the same omission in Western Australia.

Attempts to  
procure  
commission  
of criminal  
acts.  
Code, s. 556.

Provided that if the act or omission is proposed to be done or made at a place not in Western Australia, the punishment cannot exceed that which he would have incurred under the laws in force where the act or omission was proposed to be done or made, if he had himself attempted to do the proposed act or make the proposed omission.

Provided also, that in the last-mentioned case, a prosecution cannot be instituted except at the request of the Government of the State having jurisdiction in the place where the act or omission was proposed to be done or made.

Making or  
possession of  
explosives  
under  
suspicious  
circum-  
stances.  
Code, s. 557.

557. Any person who makes, or knowingly has in his possession or under his control, any explosive substance under such circumstances as to give rise to a reasonable suspicion that he is not making it, or does not have it in his possession or under his control for a lawful object, unless he can show that he made it, or had it in his possession or under his control for a lawful purpose, is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years, and forfeiture of the explosive substance.

In this section "explosive substance" includes any materials for making any explosive substance; also any apparatus, machine, implement, or materials used or intended to be used or adapted for causing or aiding in causing any explosion in or with any explosive substance; also any part of any such apparatus, machine, or implement.

#### CHAPTER LVIII.—CONSPIRACY.

Conspiracy  
to commit  
crime.  
Code, s 558.

558. Any person who conspires with another to commit any crime, or to do any act in any part of the world which, if done in Western Australia, would be a crime, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment with hard labour for seven years; or, if the greatest punish-

ment to which a person convicted of the crime in question is liable is less than imprisonment with hard labour for seven years, then to such lesser punishment.

559. Any person who conspires with another to commit any offence which is not a crime, or to do any act in any part of the world which, if done in Western Australia, would be an offence, but not a crime, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Conspiracy  
to commit  
other  
offences.  
Code, s. 559.

560. Any person who conspires with another to effect any of the purposes following, that is to say:—

Other  
conspiracies.  
Code, s. 560.

- (1) To prevent or defeat the execution or enforcement of any Statute law;
- (2) To cause any injury to the person or reputation of any person or to depreciate the value of any property of any person; or
- (3) To prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value; or
- (4) To injure any person in his trade or profession; or
- (5) To prevent or obstruct, by means of any act or acts which, if done by an individual person would constitute an offence on his part, the free and lawful exercise by any person of his trade, profession, or occupation; or
- (6) To effect any unlawful purpose; or
- (7) To effect any lawful purpose by any unlawful means;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years.

Conspiracy  
in trade  
disputes.  
Code, s. 561.

561. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen is not indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

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

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

When a person is convicted of any such agreement or combination as aforesaid to do or procure to be done any act which is punishable only on summary conviction and is sentenced to imprisonment, the imprisonment may not exceed three months with hard labour, or such longer time, if any, as may be prescribed by this Code or by Statute for the punishment of the said act when committed by one person.

#### CHAPTER LIX.—ACCESSORIES AFTER THE FACT.

Accessories  
after the fact  
to crimes.  
Code, s. 562.

562. Any person who becomes an accessory after the fact to a crime is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment with hard labour for two years.

Accessories  
after the  
fact to mis-  
demeanours  
and some  
other  
offences.  
Code, s. 563.

563. Any person who becomes an accessory after the fact to a misdemeanour, or to any offence of such a nature that the offender may be sentenced, on summary conviction, to imprisonment with or without hard labour for one year, is guilty of a misdemeanour, and is liable to a punishment equal to one-half of the greatest punishment to which the principal offender is liable on conviction.

If the principal offence is such that an offender is punishable on summary conviction, the accessory may also be summarily convicted.

## PART VIII.—PROCEDURE.

## CHAPTER LX.—ARREST.

564. When an offence is such that the offender may be arrested without warrant generally—

(a) It is lawful for a police officer who believes, on reasonable grounds, that the offence has been committed, and that any person has committed it, to arrest that person without warrant, whether the offence has been actually committed or not, and whether the person arrested committed the offence or not:

(b) It is lawful for any person who is called upon to assist a police officer in the arrest of a person suspected of having committed the offence, and who knows that the person calling upon him to assist is a police officer, to assist him, unless he knows that there is no reasonable ground for the suspicion:

(c) It is lawful for any person who finds another committing the offence to arrest him without warrant:

(d) If the offence has been actually committed, it is lawful for any person who believes, on reasonable grounds, that another person has committed the offence to arrest that person without warrant, whether that other person has committed the offence or not:

(e) It is lawful for any person who finds another by night, under such circumstances as to afford reasonable grounds for believing that he is committing the offence, and who does in fact so believe, to arrest him without warrant:

(f) It is lawful for a police officer who finds any person lying or loitering in any place by night, under such circumstances as to afford reasonable grounds for believing that he has committed or is about to commit the offence, and who does in fact so believe, to arrest him without warrant.

Arrest without warrant generally.

Code, s. 564

Arrest without warrant in special cases.  
Code, s. 565.

565. When it is provided with respect to an offence that the offender may be arrested without warrant subject to certain conditions, the provisions of the last preceding section apply to the offence in question, subject to those conditions.

Arrest of persons found committing offences.  
Code, s. 566.

566. (1) It is lawful for a justice or police officer to arrest without warrant any person whom he finds committing any indictable offence or committing any simple offence with respect to which it is provided that a person found committing it may be arrested by a police officer without warrant.

(2) When it is provided with respect to an offence that a person found committing the offence may be arrested without warrant generally, it is lawful for any person who finds another committing the offence to arrest him without warrant.

(3) When it is provided with respect to an offence that a person found committing the offence may be arrested without warrant by a specified person, or specified persons, it is lawful for any such person who finds another committing the offence to arrest him without warrant.

Arrest of offender committing indictable offences by night.  
Code, s. 567.

567. It is lawful for any person who finds another person by night committing any indictable offence to arrest him without warrant.

Arrest during flight.  
Code, s. 568.

568. It is lawful for any person to arrest without warrant any other person whom he believes, on reasonable grounds, to have committed an offence, and to be escaping from, and to be freshly pursued by some person whom, on reasonable grounds, he believes to have authority to arrest him for that offence.

Arrest of persons offering stolen property for sale, etc.  
Code, s. 569.

569. It is lawful for any person to whom another offers to sell, pawn, or deliver, any property, and who believes, on reasonable grounds, that the property has been acquired by means of an offence with respect to which it is provided that a person found committing it may be arrested without warrant, to arrest that other person without warrant.

570. It is the duty of a person who has arrested another upon a charge of an offence to take him forthwith before a justice to be dealt with according to law.

Duty of persons arresting.  
Code, s. 570.

CHAPTER LXI.—JURISDICTION: PRELIMINARY PROCEEDINGS: BAIL.

571. The jurisdiction of Courts of justice with respect to the trial of offenders is set forth in the laws relating to the constitution and jurisdiction of those Courts respectively.

Jurisdiction.  
Code, s. 571.

572. The practice and procedure relating to the examination and committal for trial of persons charged with indictable offences are set forth in the laws relating to justices of the peace, their powers and authorities.

Preliminary proceeding on charges of indictable offences.  
Code, s. 572.

573. The Supreme Court or a Judge thereof may admit to bail any person who has been committed for trial or for sentence or is in custody, upon a charge of an indictable offence, whether bail has been refused or not, or may reduce the bail of any such person to whom bail has been granted.

Bail.  
Code, s. 573.

574. The procedure upon the prosecution of offenders in order to their summary conviction, and for enforcing summary convictions and orders made by justices upon such prosecutions, is set forth in the laws relating to justices of the peace, their powers and authorities.

Summary convictions:  
Time.  
Code, s. 574.

A prosecution for a simple offence, or for an indictable offence, in order to the summary conviction of the offender must, unless otherwise expressly provided, be begun within six months after the offence is committed.

575. (1) A person charged with committing an offence may be tried in any jurisdiction within which any act or omission or event which is an element of the offence takes place.

Place of trial.  
Code, s. 575.

(2) A person charged with stealing any property may also be tried in any jurisdiction within which he has the stolen property in his possession.

(3) A person charged with stealing anything while employed in the Public Service may also be tried in any jurisdiction within which he is arrested or is in custody.

(4) A person charged with an offence which involves the receiving of any property by him may also be tried in any jurisdiction within which he has the property in his possession.

(5) A person charged with forging anything, or with uttering any false document or writing or anything counterfeit, may also be tried in any jurisdiction within which he is arrested or is in custody.

(6) A person who is charged with counselling or procuring the commission of an offence, or with becoming an accessory after the fact to an offence, may also be tried in any jurisdiction within which the principal offender might be tried.

(7) A person who is charged with an offence committed out of Western Australia, and who may lawfully be tried in Western Australia, may be tried in any jurisdiction within which he is arrested or is in custody.

Persons  
brought  
before  
wrong  
Court.  
Code, s. 576.

576. If, on the trial of a person charged with any offence before any Court, it appears that he is not properly triable before that Court under any of the provisions of the last preceding section, he is not by reason thereof entitled to be acquitted, but the Court may, at the request of the accused person, discharge the jury from giving a verdict, and direct that he be tried before some proper Court, and may remand him for trial accordingly.

If he does not make such request, the trial is to proceed, and the verdict and judgment have the same effect in all respects as if the Court had originally had jurisdiction to try the accused person.

This section does not affect the right of an accused person to plead to the jurisdiction of the Court.

577. When a person has been committed for trial for an indictable offence at a Court held at any place, whether he has been admitted to bail or not, the Supreme Court or a Judge thereof may, on the application of the Crown or, upon good cause shown, of the accused person, order that the trial shall be held at some other place, either before the same Court or before some other Court of competent jurisdiction, at a time to be named in the order.

Change of  
place of  
trial.  
Code, s. 577.  
Amended by  
No. 55 of  
1953, s. 9.

When an indictment has been presented against any person in the Supreme Court, Court of Session or a Circuit Court or a Court of Quarter Sessions, the Court may, on the application of the Crown or, upon good cause shown, of the accused person, order that the trial shall be held at some place other than that named in the margin of the indictment and at a time to be named in the order.

When an order is made under the provisions of this section, the consequences are the same in all respects, and with regard to all persons as if the accused person had been committed for trial at the place named in the order and at the sittings named therein; and, if he has been admitted to bail, the recognisances of bail are to be deemed to be enlarged to that time and place accordingly.

The recognisances of any person who are bound to attend as witnesses are in like manner to be deemed to be enlarged to the same time and place.

Notice of such time and place must be given to the persons bound by the recognisances, otherwise their recognisances cannot be forfeited.

#### CHAPTER LXII.—INDICTMENTS.

578. When a person charged with an indictable offence has been committed for trial, and it is intended to put him on his trial for the offence, the charge is to be reduced to writing in a document which is called an indictment.

Nature of  
indictments.  
Code, s. 578.

The indictment is to be signed and presented to the Court by the Attorney General or some other person appointed in that behalf by the Governor.

*Ex officio  
informa-  
tions.  
Code, s. 579,  
amended by  
No. 20 of  
1954, s. 5.*

579. The Attorney General may present an indictment in any Court of criminal jurisdiction against any person for any indictable offence, whether the accused person has been committed for trial or not and thereupon subject to section five hundred and eighty of the Code the accused shall be dealt with in all respects and the indictment and proceedings upon it are subject to the same procedure as if the accused person had been committed for trial in respect of the indictable offence alleged by the indictment to have been committed by him.

An officer appointed by the Governor to present indictments in any court of criminal jurisdiction may present an indictment in that Court against any person for any indictable offence within the jurisdiction of the Court, whether the accused person has been committed for trial or not.

All Courts and judges exercising jurisdiction with regard to indictable offences shall take judicial notice of the signature of the Attorney General and all past Attorneys General, and of his and their authority to sign and present indictments; and all indictments presented which purport to be signed by an officer or person duly appointed to prosecute shall be deemed to be duly signed and presented, excepting always any such indictment in regard to which it shall be proved that the same was not in fact signed by the officer or person whose signature it purports to bear, or that the officer or person signing the same was not in fact authorised or appointed to sign such indictment.

With regard to any person who has been committed for trial in respect of an indictable offence alleged to have been committed by him, the Attorney General and, if otherwise acting within the scope of their authority, all officers and persons authorised to sign and present indictments may present indictments against such person for any indictable offences which the Attorney General or such officers or persons shall consider to be *prima facie* disclosed by the evidence taken before the committing magis-

trates or coroner, irrespective of whether the said offences are mentioned in the commitment for trial or not:

Provided always that in the case of any person committed for sentence, if indictments presented against such person allege any offences not mentioned in the commitment for sentence, the accused person may, without the leave of any court or person, plead not guilty to having committed any offences not mentioned in the commitment for sentence, and thereupon shall be tried or dealt with in all respects as if he had been committed for trial and not for sentence.

580. When an indictment has been presented against a person who is not in custody, and has not been committed for trial or held to bail to attend to be tried upon the charge set forth in the indictment, a Judge or the Chairman of the Court in which the indictment is presented may issue a warrant under his hand to arrest the accused person and bring him before a justice of the peace; and the justice before whom he is brought may commit him to prison until he can be tried on the indictment or may, in a proper case, admit him to bail with sufficient sureties to attend to be tried on the indictment.

Arrest of  
person  
charged in  
*ex officio*  
information.  
Code, s. 580.

581. The Attorney General may inform any Court, by writing under his hand, that the Crown will not further proceed upon any indictment then pending in the Court.

*Nolle  
prosequi.*  
Code, s. 581.

An officer appointed by the Governor to present indictments in any Court of criminal jurisdiction may inform that Court, by writing under his hand, that the Crown will not further proceed upon any indictment then pending in that Court.

When such information is given to the Court the accused person is to be discharged from any further proceedings upon that indictment.

582. An indictment is to be intituled with the name of the Court in which it is presented, and must, subject to the provisions hereinafter contained, set forth the offence with which the accused

Form of  
Indictment.  
Code, s. 582.  
Amended  
by No. 32  
of 1918, s. 17.

person is charged in such a manner and with such particulars as to the alleged time and place of committing the offence, and as to the person, if any, alleged to be aggrieved, and as to the property, if any, in question, as may be necessary to inform the accused person of the nature of the charge.

If any circumstance of aggravation is intended to be relied upon, it must be charged in the indictment.

It is sufficient to describe an offence in the words of this Code or of the Statute defining it.

Inserted by  
No. 32 of  
1918, s. 17.

Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative or the doing or the omission to do any act in any one of any different capacities or with any one of any different intentions or states any part of the offence in the alternative, the acts, omissions, capacities, or intentions or other matters stated in the alternative in the enactment may be stated in the alternative in the statement of the offence in the indictment charging the offence: provided that the court may at any stage of the proceedings amend the statement if it appears to the court to be so framed as to be embarrassing.

The place of trial is to be named in the margin of the indictment.

General  
rules  
applicable  
to  
indictments.  
Code, s. 583.

583. The following rules are applicable to all indictments—

- (1) Any document or other thing may be described by any name or designation by which it is usually known, and any document may be described by its purport without setting out a copy or facsimile of the whole or any part of it;
- (2) A trade mark may be described by that name, and any other mark may be described in any way which will indicate its nature, without setting out a copy or facsimile of it;
- (3) It is not necessary to set forth the value of anything mentioned in an indictment unless the value is an essential element of the offence;

- (4) It is not necessary to set forth the means or instrument by which any act is done, unless the means or instrument are an essential element of the offence;
- (5) It is not necessary to set forth any particulars as to any person or thing which need not be proved nor any other matter which need not be proved.

584. (1) An indictment for treason must state overt acts of the treason alleged.

Particular  
Indictments.  
Code, s. 584.

(2) In an indictment for an offence which relates to taking or administering an oath or engagement, or to giving false testimony, or to making a false statement, or solemn declaration or otherwise, or to procuring the giving of false testimony or the making of a false statement, it is not necessary to set forth the words of the oath or engagement or testimony or statement, but it is sufficient to set forth the purport thereof, or so much of the purport as is material.

(3) In an indictment for an offence which relates to giving false testimony, or procuring or attempting to procure the giving of false testimony, it is not necessary to allege the jurisdiction of the Court or tribunal before which the false testimony was given, or intended or proposed to be given.

(4) In an indictment for an offence committed with respect to the Postmaster General's Department, or to the revenue of that department, or to anything sent by post or telegraph, or to anything under the control of the Postmaster General, any property of which the ownership must be alleged, may be alleged to be the property of the Postmaster General.

And in any such case the Postmaster General may be described by that term alone, without mentioning his name or using any other addition or description.

(5) In an indictment in which it is necessary to mention money, such money may be described simply as money, without specifying any particular form of money.

Such an averment, so far as regards the description of the property, will be sustained by proof that the offender obtained or dealt with any coin or anything which is included in the term "money," or any portion of the value of either, in such a manner as to constitute the offence, although such coin or thing was delivered to him in order that some part of the value thereof should be returned to the person who delivered the same or to some other person, and has been returned accordingly.

(6) In an indictment in which it is necessary to mention any co-owners of property it is sufficient to name one of such persons, adding the words "and another" or "and others," as the case may be, and to state that the property belonged to the person so named and another or others, as the case may be.

(7) In an indictment against a man for an offence committed by him with respect to his wife's separate property, the property may be alleged to be the property of the wife.

(8) In an indictment for an offence relating to any property of a company which is authorised to sue and be sued in the name of a public officer, the property may be alleged to be the property of the public officer.

(9) In an indictment for an offence relating to any property which by any Statute is to be deemed to be the property of any officer of any institution, the property in question may be alleged to be the property of the officer of the institution for the time being by his name of office.

(10) In an indictment for an offence relating to a testamentary instrument, it is not necessary to allege that the instrument is the property of any person.

(11) In an indictment for an offence relating to anything fixed in a square or street, or in a place dedicated to public use or ornament, or to anything in or taken from a public office, it is not necessary to allege that the thing in respect of which the offence is committed is the property of any person.

(12) In an indictment for an offence relating to a document which is evidence of title to land or an estate in land, the document may be described as being evidence of the title of the person or some one of the persons having an estate in the land to which the document relates, the land or some part thereof being described in some manner sufficient to identify it.

(13) In an indictment for stealing a chattel or fixture let to the offender, the chattel or fixture may be described as the property of the person who actually let it to hire.

(14) In an indictment against a person employed in the Public Service for an offence committed with respect to anything which came into his possession by virtue of his employment, the thing in question may be described as the property of His Majesty.

(15) In an indictment for an offence respecting any property, if it is uncertain to which of two or more persons the property belonged at the time when the offence was committed, the property may be described as being the property of one or other of such persons, naming each of them, but without specifying which of them; and the indictment will be sustained, so far as regards the allegation of ownership, upon proof that at the time when the offence was committed the property belonged to one or other of such persons without ascertaining which of them.

(16) In an indictment for the offence of obtaining or procuring the delivery of anything capable of being stolen by a false pretence and with intent to defraud, or of obtaining any property by means of a fraudulent trick or device, or of inducing by means of any such trick or device the payment or delivery of any money or goods, or of attempting to commit, or to procure the commission of any such offence, it is not necessary to mention the owner of the property in question.

(17) In an indictment for an offence which involves any fraud or fraudulent pretence or trick or device, it is not necessary to set forth the details of the fraud or pretence or trick or device.

(18) In an indictment for an offence relating to a bankrupt it is not necessary to set forth any debt, act of bankruptcy, adjudication, or other proceeding in any Court, or any order, warrant, or document, made or issued by or out of, or by the authority of any Court.

Indictment  
to contain  
one matter  
of charge  
only.  
Code, s. 585,  
amended by  
No. 20 of  
1954, s. 6.

585. Except as hereinafter stated, an indictment must charge one offence only, and not two or more offences:

Provided that when several distinct indictable offences form or are a part of a series of offences of the same or a similar character or when several distinct indictable offences are alleged to be constituted by the same acts or omissions, or by a series of acts done or omitted to be done in the prosecution of a single purpose, charges of such distinct offences may be joined in the same indictment against the same person.

In any such case the several statements of the offences may be made in the same form as in other cases, without any allegation of connection between the offences.

But, if in any such case it appears to the Court that the accused person is likely to be prejudiced by such joinder, the Court may require the prosecutor to elect upon which of the several charges he will proceed, or may direct that the trial of the accused person upon each or any of the charges shall be had separately.

This section does not authorise the joinder of a charge of wilful murder, murder, or manslaughter, with a charge of any other offence.

Cases in  
which  
several  
charges  
may be  
joined.  
Code, s 586.  
Amended by  
No. 55 of  
1953, s. 10,  
No. 20 of  
1954, s. 7.

586. (1) In an indictment against a person for stealing money the accused person may be charged and proceeded against for the amount of a general deficiency, notwithstanding that such general deficiency is made up of any number of specific sums of money the taking or conversion of which extended over any space of time.

(2) In an indictment against a person for stealing, he may be charged with two or three distinct acts of stealing the property of the same person, committed by him within the space of six months from the first to the last of such acts.

(3) If, on the trial of a person charged with stealing, it appears that property alleged to have been stolen at one time was stolen at different times, the prosecutor is not by reason thereof, required to elect upon which act of stealing he will proceed, unless it appears that there were more than three acts of stealing, or that more than six months elapsed between the first and the last of such acts:

In either of such last-mentioned cases, the prosecutor is to be required to elect to proceed in respect of two or three acts of stealing which appear to have taken place within the period of six months from the first to the last of such acts.

(4) Charges of stealing any property and of receiving the same property, or any part thereof, knowing it to have been stolen, may be joined in the same indictment, and the accused person may, according to the evidence, be convicted either of stealing the property or of receiving it, or any part of it, knowing it to have been stolen.

When such an indictment is preferred against two or more persons, all or any of the accused persons may, according to the evidence, be convicted either of stealing the property, or of receiving it, or any part of it, knowing it to have been stolen; or, according to the evidence, one or more of them may be convicted of stealing the property, and the other or others of them of receiving it, or any part of it, knowing it to have been stolen.

(4a) (a) Charges of breaking and entering with intent to commit a crime under any of the provisions of sections four hundred and one to four hundred and six of the Code inclusive where the crime alleged to have been intended and committed by the accused is stealing any property and of receiving the same property or any part thereof, knowing it to have been stolen, may be joined in the

Subsec. (4a)  
(a) and (b)  
added by  
No. 20 of  
1954, s. 7.

same indictment and the accused person may according to the evidence be convicted either of the charge of breaking and entering or of the charge of receiving.

(b) When such an indictment is preferred against two or more persons all or any of the accused persons may, according to the evidence, be convicted either of the charge of breaking and entering or of the charge of receiving, or, according to the evidence, one or more of them may be convicted of the charge of breaking and entering and the other or others of them of the charge of receiving.

(5) Any number of persons charged with committing or with procuring the commission of the same offence, although at different times, or of being accessories after the fact, to the same offence, although at different times, and any number of persons charged with receiving, although at different times, any property which has been obtained by means of a crime or misdemeanour, or by means of an act which, if it had been done in Western Australia, would be a crime or misdemeanour, and which is an offence under the laws in force in the place where it was done, or any part of any property so obtained, may be charged with substantive offences in the same indictment, and may be tried together, notwithstanding that the principal offender or the person who so obtained the property is not included in the same indictment, or is not amenable to justice.

(6) In an indictment against a person for a crime, he may also be charged with being an habitual criminal.

*Accessories  
Code, s. 587.*

587. A person who counsels or procures another person to commit an offence, or who aids another person in committing an offence, or who becomes an accessory after the fact to an offence, may be charged in the same indictment with the principal offender, and may be tried with him or separately, or may be indicted and tried separately, whether the principal offender has or has not been convicted, or is or is not amenable to justice.

588. In an indictment for an offence charged to have been committed after a conviction for any offence, it is sufficient, after charging the subsequent offence, to state the substance and effect of the indictment or complaint, and the conviction, for the previous offence, and the time and place of such conviction.

Statement  
of previous  
conviction.  
Code, s. 588.

589. [Repealed by No. 32 of 1918, s. 23.]

590. An indictment is not open to objection by reason of the designation of any person by a name of office or other descriptive appellation instead of by his proper name, nor for omitting to state the time at which the offence was committed, unless the time is an essential element of the offence, nor for stating imperfectly the time at which the offence was committed, nor for stating the offence to have been committed on an impossible day, or on a day that never happened or has not yet happened.

Formal  
defects.  
Code, s. 590.

Every objection to an indictment for any defect apparent on its face must be taken by motion to quash the indictment before the jury is sworn, and not afterwards; and the Court upon such motion may, unless it considers that the accused person will be prejudiced thereby in his defence, order the indictment to be amended, so far as is necessary, on such terms, if any, as to postponing the trial or otherwise as the Court may think reasonable. The indictment is thereupon to be amended in accordance with the order of the Court.

Amend-  
ment of  
indictments.  
Code, s. 591.

591. If, on the trial of a person charged with an indictable offence, there appears to be a variance between the indictment and the evidence, or it appears that any words that ought to have been inserted in the indictment have been omitted, or that any words that ought to have been omitted have been inserted, the Court shall unless it considers that the variance, omission, or insertion, is material to the merits of the case, and that the accused person will be prejudiced thereby in his defence on the merits, order the indictment to be amended, so far

as it is necessary, on such terms, if any, as to postponing the trial, and directing it to be had before the same jury or another jury, as the Court may think reasonable.

The indictment is thereupon to be amended in accordance with the order of the Court.

When an indictment has been amended, the trial is to proceed, at the appointed time, upon the amended indictment, and the same consequences ensue, in all respects and as to all persons, as if the indictment had been originally in its amended form.

If it becomes necessary to draw up a formal record in any case in which an amendment has been made, the record is to be drawn up setting out the indictment as amended, and without taking any notice of the fact of the amendment having been made.

Particulars.  
Code, s. 592.

592. The Court may, in any case, if it thinks fit, direct particulars to be delivered to the accused person of any matter alleged in the indictment, and may adjourn the trial for the purpose of such delivery.

Summary  
convictions.  
Code, s. 593.

593. The provisions of this chapter relating to indictments apply to complaints preferred against offenders upon their trial before Justices in order to their summary conviction of an indictable offence.

#### CHAPTER LXIII.—EFFECT OF INDICTMENT.

Conviction  
for offence  
other than  
that  
charged.  
Code, s. 594.  
Repealed  
and new  
section  
inserted by  
No. 32 of  
1918, s. 18.

594. Except as hereinafter stated, upon an indictment charging a person with an offence he may be convicted of any offence which is established by the evidence, and which is an element or would be involved in the commission of the offence charged in the indictment.

Charge of  
murder or  
man-  
slaughter.  
Code, s. 595.  
Amended by  
No. 40 of  
1945, s. 3.

595. Upon an indictment charging a person with the crime of wilful murder, he may be convicted of the crime of murder or of the crime of manslaughter, if either of those crimes is established by the evidence, but not, except as herein expressly provided, of any other offence than that with which he is charged.

Upon an indictment charging a person with the crime of murder, he may be convicted of the crime of manslaughter, if that crime is established by the evidence, but not, except as herein expressly provided, of any other offence than that with which he is charged.

Upon an indictment charging a person with the crime of manslaughter he cannot, except as herein expressly provided, be convicted of any other offence. Provided that upon an indictment charging a person with the wilful murder or murder of any person, or with unlawfully killing any person, if upon the evidence it appears that the person alleged to have been killed was a child of which a woman had recently been delivered, the accused person may be convicted of the offence of preventing the child from being born alive by an act or omission of such a nature that, if the child had been born alive and had then died, he would be deemed to have unlawfully killed the child, or of the offence of endeavouring by a secret disposition of the dead body of the child to conceal the birth, if either of those offences is established by the evidence.

Provided also that upon an indictment charging a person with the crime of manslaughter he may be convicted of a crime under section two hundred and ninety-one A hereof, if that crime is established by the evidence.

596 Upon an indictment charging a person with the crime of rape, or with the crime of having unlawful carnal knowledge of a girl under the age of thirteen years, he may be convicted of any offence which is established by the evidence, and of which the unlawful carnal knowledge of a woman or girl, whether of a particular age or description or not, is an element, and blood relationship is not an element, or of which procuring the woman or girl to have unlawful carnal connection with any man is an element:

Proviso:  
Charge of  
homicide  
of child.

Added by  
No. 40 of  
1945, s. 3.

Charge of  
rape, and  
like offences.  
Code, s. 596.

Or he may be convicted of any of the offences following, that is to say:—

- (a) Administering to the woman or girl, or causing her to take, any drug or other thing, with intent to stupefy or overpower her in order to enable any man to have unlawful carnal knowledge of her; or
- (b) Unlawfully and indecently assaulting the woman or girl; or
- (c) Unlawfully and indecently dealing with a girl under the age of thirteen years or a girl under the age of sixteen years;

if any such offence is established by the evidence.

Power to  
convict for  
assault on  
charge of  
defilement.  
Inserted by  
No. 32 of  
1918, s. 19.

596A. Upon an indictment charging a person with having or attempting to have unlawful carnal knowledge of a girl under a particular age, he may be convicted of unlawfully and indecently assaulting or dealing with her (she being a girl under that particular age, or a girl or woman of or over that age) if such offence is established by the evidence.

Charge of  
specific  
injury:  
Charge of  
injury with  
specific  
intent.  
Code, s. 597.

597. Upon an indictment charging a person with an offence of which the causing of some specific result is an element, he may be convicted of any offence which is established by the evidence, and of which an intent to cause that result, or a result of a similar but less injurious nature, is an element.

Upon an indictment charging a person with an offence of which an intent to cause some specific result is an element, he may be convicted of an offence which is established by the evidence and of which the unlawful causing of that result is an element.

Charge of  
injury to  
property.  
Code, s. 598.

598. Upon an indictment charging a person with an offence of which destruction of property, or wilfully and unlawfully doing any specific damage to property is an element, he may be convicted of wilfully and unlawfully damaging the property, or of wilfully and unlawfully damaging the property in any lesser degree, if either of such offences is established by the evidence.

599. Upon an indictment charging a person with any of the offences following, that is to say:—

Stealing,  
false  
pretences,  
and  
cheating.  
Code, s. 599.

- (a) Stealing any property;
- (b) Obtaining or inducing the delivery of any property by a false pretence and with intent to defraud;
- (c) Procuring any other person to commit any such offence;
- (d) Obtaining or inducing the delivery or payment of any property or money by means of a fraudulent trick or device;

he may be convicted of any other of such offences committed with respect to the same property, if such other offence is established by the evidence.

600. Upon an indictment charging a person with procuring the commission of any offence, he may be convicted of procuring the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence of which the accused person is alleged to have procured the commission.

Charge of  
procuring  
commission  
of offence  
or wrong  
act.  
Code, s. 600.

Upon an indictment charging a person with procuring another to do an act or make an omission of such a nature that if the accused person had himself done the act or made the omission he would have been guilty of an offence, he may be convicted of procuring that other person to do any other act or make any other omission which is established by the evidence, and which is of such a nature that if the accused person had himself done that act or made that omission he would have been guilty of an offence, such last-named offence being itself of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence of which the accused person would have been guilty if he had himself done the act or made the omission which he is alleged to have procured to be done or made.

Conviction  
for attempt  
to commit  
offence.  
Code, s. 601.

601. Upon an indictment charging a person with committing any offence, he may be convicted of attempting to commit that offence, or of attempting to commit any other offence of which he might be convicted upon the indictment.

Upon an indictment charging a person with procuring the commission of any offence, he may be convicted of attempting to procure the commission of that offence, or of attempting to procure the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence of which the accused person is alleged to have procured the commission.

Upon an indictment charging a person with attempting to commit any offence, he may be convicted of attempting to commit any other offence of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence which the accused person is alleged to have attempted to commit.

Upon an indictment charging a person with attempting to procure the commission of any offence, he may be convicted of attempting to procure the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging him with committing the offence of which the accused person is alleged to have attempted to procure the commission.

Upon an indictment charging a person with attempting to procure another to do an act or make an omission of such a nature that if the act had been done or the omission had been made an offence would thereby have been committed, he may be convicted of attempting to procure that other person to do any other act or make any other omission of such a nature that if the act had been done or the omission had been made an offence would thereby have been committed, such last-mentioned offence being itself of such a nature that a person may be convicted of it upon an indictment charging

him with doing the act or making the omission which the accused person is alleged in the indictment to have attempted to procure that other person to do or make.

602. If, on the trial of a person charged with an indictable offence, the evidence establishes that he is guilty of another indictable offence of such a nature that upon an indictment charging him with it he might have been convicted of the offence with which he is actually charged, he may be convicted of the offence with which he is so charged.

A person so tried is not liable to be afterwards prosecuted for the offence so established by the evidence, unless the Court before which the trial is had thinks fit to discharge the jury from giving any verdict, and to direct the accused person to be indicted for that offence; in which case he may be dealt with in all respects as if he had not been put upon his trial for the offence with which he is actually charged.

603. A person convicted under any of the foregoing provisions of this chapter is liable to the same punishment as if he had been convicted on an indictment charging him with the offence of which he is actually convicted.

604. If, on the trial of a person charged with an indictable offence relating to elections, the evidence establishes that he is not guilty of the offence charged, but is guilty of an offence relating to elections and punishable on summary conviction, he may be convicted of such last-mentioned offence, and is liable to the same punishment as if he had been summarily convicted of that offence.

605. If, on the trial of a person charged with an offence relating to elections and punishable on summary conviction, the evidence establishes that

When evidence shows offence of similar nature.  
Code, s. 602.  
Amended by No. 55 of 1953, s. 11.

Effect of conviction.  
Code, s. 603.

Corrupt practices.  
Code, s. 604.

Illegal practices.  
Code, s. 605.

he is guilty of an indictable offence relating to elections, he is not entitled to have the charge dismissed if the evidence also establishes that he did any act or acts such as to constitute the offence with which he is actually charged.

Charge of  
stealing  
cattle.  
Code, s. 606.

606. If, on the trial of a person charged with stealing a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, goat, pig, or dog, or the young of any such animal, the evidence establishes that he is not guilty of the offence charged, but is guilty of any of the offences following, that is to say:—

- (a) Unlawfully using, or taking for the purpose of using the animal without the consent of the owner, or of the person in lawful possession thereof;
- (b) Branding or marking the animal, or knowingly permitting it to be branded or marked, with his registered brand or registered mark, knowing that he is not the owner of the animal;
- (c) Altering or defacing, or otherwise rendering undistinguishable, any registered brand or registered mark upon the animal;
- (d) Knowingly permitting any such act as last aforesaid to be done by any person over whom he has control;

he may be convicted of the offence so established by the evidence, and is liable to the same punishment as if he had been summarily convicted of that offence.

Indictment  
for joint  
receiving.  
Code, s. 607.

607. Upon an indictment charging two or more persons jointly with an offence of which the receiving of any property is an element, if the evidence establishes that one or more of them separately received any part or parts of the property under such circumstances as to constitute an offence, such one or more of the accused persons may be convicted of the offence or offences so established by the evidence.

607A. Nothing in this chapter shall be deemed to authorise the conviction of any person of any offence on any prosecution which has not been commenced within the time (if any) limited by law for the commencement of a prosecution for such offence.

Saving of provisions as to time.  
Added by  
No. 32 of  
1918, s. 20.

CHAPTER LXIV.—TRIAL: ADJOURNMENT: PLEAS:  
PRACTICE.

608. A person committed for trial before any Court for an indictable offence may make application in open Court at any time during the first sittings of the Court held after his committal to be brought to his trial.

Right to be tried.  
Code, s. 608.

If an indictment is not presented against him at some time during those sittings, the Court may, upon motion made on his behalf on the last day of such sittings, admit him to bail, and is required so to do, unless it appears upon oath that some material evidence for the Crown could not be produced at those sittings.

Any person committed as aforesaid, who has made such an application to be brought to his trial, and who is not brought to trial at the second sittings after his committal for trial, is entitled to be discharged.

609. When an indictment is presented in any Court against any person who has not been committed for trial or held to bail upon the charge set forth in the indictment, and the accused person is not brought to trial within a year after the indictment is presented, the Court may, upon the application of the accused person, or any of the accused persons, if more than one, authorise him to bring on the trial, and he may bring on the trial accordingly, unless in the meantime the Court is informed that the Crown will not further proceed upon the indictment.

Accelerat-  
ing trial of  
persons not  
under  
committal.  
Code, s. 609.

Adjourn-  
ment of  
trial.  
Code, s. 610.

610. The Court before which an indictment is presented may, in any case, if it thinks fit, adjourn the trial of the accused person.

A trial may be adjourned at any period of the trial, whether a jury has or has not been sworn, and whether evidence has or has not been given.

On adjourn-  
ment of trial  
accused  
may be  
remanded  
to another  
Court  
having  
jurisdiction.  
Code, s. 611.

611. When the trial of a person charged with an offence on indictment is adjourned, the Court may direct the trial to be held either at a later sitting of the same Court, or before some other Court of competent jurisdiction, and may remand the accused person accordingly, and may, in a proper case, admit him to bail, or enlarge his bail if he has already been admitted to bail, and may enlarge the recognisances of the witnesses.

In any such case, the indictment and other proceedings are to be transmitted to the proper officer of the Court to which the accused person is so remanded, and that Court has the same jurisdiction to try him as if he had been originally committed to be tried before it; and the accused person is bound to attend to be tried, and the witnesses are bound to attend to give evidence at the time and place to which the trial is adjourned, without entering into any fresh recognisances for that purpose, in the same manner as if they had respectively been originally bound by their recognisances to appear and to attend and give evidence at the time and place to which the trial is adjourned.

Accused  
person to be  
called upon  
to plead to  
indictment.  
Code, s. 612.

612. At the time appointed for the trial of an accused person he is to be informed in open Court of the offence with which he is charged, as set forth in the indictment, and is to be called upon to plead to the indictment, and to say whether he is guilty or not guilty of the charge.

The trial is deemed to begin when he is so called upon.

Delivery of  
copy of  
indictment.  
Code, s. 613.

613. When an indictment is presented against any person, the Court is required, upon his application, to order a copy of the indictment to be delivered to him without fee.

614. The accused person may, before pleading, apply to the Court to quash the indictment on the ground that it is calculated to prejudice or embarrass him in his defence to the charge, or that it is formally defective.

Motion to  
quash  
Indictment.  
Code, s. 614.

Upon such motion the Court may quash the indictment, or may order it to be amended in such manner as the Court thinks just, or may refuse the motion.

615. If the accused person says that he is wrongly named in the indictment, the Court shall, on being satisfied by affidavit or otherwise of the error, order the indictment to be amended.

Misnomer.  
Code, s. 615.

616. If the accused person does not apply to quash the indictment, he must either plead to it or demur to it on the ground that it does not disclose any offence cognisable by the Court. If he pleads, he may plead either—

Pleas.  
Code, s. 616.

- (1) That he is guilty of the offence charged in the indictment, or, with the consent of the Crown, of any other offence of which he might be convicted upon the indictment;
- (2) That he is not guilty;
- (3) That he has already been convicted upon an indictment on which he might have been convicted of the offence with which he is charged, or has already been convicted of an offence of which he might be convicted upon the indictment;
- (4) That he has already been acquitted upon an indictment on which he might have been convicted of the offence with which he is charged, or has already been acquitted upon indictment of an offence of which he might be convicted upon the indictment;
- (5) That he has already been tried and convicted or acquitted of an offence committed or alleged to be committed under such circumstances that he cannot, under the provisions of this Code, be tried for the offence charged in the indictment;
- (6) That he has received the Royal pardon for the offence charged in the indictment; or

(7) That the Court has no jurisdiction to try him for the offence.

Two or more pleas may be pleaded together, except that the plea of guilty cannot be pleaded with any other plea to the same charge.

An accused person may plead and demur together.

Defence of  
truth of  
defamatory  
matter to be  
specially  
pleaded.  
Code, s. 617.

617. A person charged with the unlawful publication of defamatory matter, who sets up as a defence that the defamatory matter is true, and that it was for the public benefit that the publication should be made, must plead that matter specially, and may plead it with any other plea, except the plea of guilty.

Persons  
committed  
for sentence.  
Code, s. 618.  
Amended by  
No. 32 of  
1918, s. 21.

618. When a person has been committed by a justice for sentence for an offence, he is to be called upon to plead to the indictment in the same manner as other persons, and may plead either that he is guilty of the offence charged in the indictment, or, with the consent of the Crown, of any other offence of which he might be convicted upon the indictment.

If he pleads that he is not guilty, the Court, upon being satisfied that he was duly convicted of the offence charged in the indictment or that he duly admitted before the justice that he was guilty of the offence charged in the indictment, is to direct a plea of guilty to be entered, notwithstanding his plea of not guilty. A plea so entered has the same effect as if it had been actually pleaded.

If the Court is not so satisfied, or if, notwithstanding that the accused person pleads that he is guilty, it appears to the Court upon examination of the depositions of the witnesses that he has not in fact committed the offence charged in the indictment, or any other offence of which he might be convicted upon the indictment, the plea of not guilty is to be entered, and the trial is to proceed as in other cases when that plea is pleaded.

A person who has been committed for sentence may plead any of the other pleas mentioned in the last preceding section but one.

619. If an accused person, on being called upon to plead to an indictment, will not plead or answer directly to the indictment, the Court may, if it thinks fit, order a plea of not guilty to be entered on behalf of the accused person. A plea so entered has the same effect as if it had been actually pleaded.

Standing  
mute.  
Code, s. 619.

620. In a plea that the accused person has already been convicted or acquitted, it is sufficient to state that he has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment, or of the other offence of which he alleges that he has been convicted or acquitted, and, in the latter case, to describe the offence by any term by which it is commonly known.

Plea of  
autrefois  
convict or  
autrefois  
acquit.  
Code, s. 620.

621. Upon a plea to the jurisdiction of the Court, the Court is to proceed to satisfy itself in such manner and upon such evidence as it thinks fit, whether it has jurisdiction or not, and may ascertain the fact by the verdict of a jury or otherwise.

Trial on  
plea to the  
jurisdiction.  
Code, s. 621.

622. If the accused person pleads any plea or pleas other than the plea of guilty, or a plea to the jurisdiction of the Court, he is by such plea, without any further form, deemed to have demanded that the issues raised by such plea or pleas shall be tried by a jury, and is entitled to have them tried accordingly.

Trial by  
jury.  
Code, s. 622.

623. When an accused person demurs only and does not plead any plea, the Court is to proceed to hear and determine the matter forthwith. If the demurrer is overruled, he is to be called upon to plead to the indictment.

Demurrer.  
Code, s. 623.

When an accused person pleads and demurs together, it is in the discretion of the Court whether the plea or demurrer shall be first disposed of.

No joinder in demurrer is necessary.

Upon the hearing of a demurrer, the Court may allow the demurrer or may order the indictment to be amended in such manner as the Court thinks just, or may overrule the demurrer.

Separate trials.  
Code, s. 624.

624. When two or more persons are charged in the same indictment, whether with the same offence or with different offences, the Court may at any time during the trial, on the application of any of the accused persons, direct that the trial of the accused persons, or any of them, shall be had separately from the trial of the other or others of them, and for that purpose may, if a jury has been sworn, discharge the jury from giving a verdict as to any of the accused persons.

Juries.  
Code, s. 625.

625. The law respecting the qualifications of jurors and the summoning of jurors to attend for the trial of persons charged with indictable offences, and the challenges allowed to such persons, is set forth in the laws relating to juries and jurors.

Accused person to be informed of his right of challenge.  
Code, s. 626.

626. When an accused person has demanded to be tried by a jury, the proper officer of the Court is to inform him in open Court that the persons whose names are to be called are the jurors to be sworn for his trial, and is further to inform him that if he desires to challenge any of them he must do so before they are sworn.

Challenge to array.  
Code, s. 627.

627. If the accused person desires to object to the whole panel of jurors, he must do so before any juror is sworn for his trial.

Challenges to individual jurors for cause.  
Code, s. 628.

628. The Crown or the accused person may object to a particular juror on either of the following grounds, that is to say:—

- (1) That the juror is not qualified by law to act as a juror;
- (2) That the juror is not indifferent as between the Crown and the accused person.

Such objections are in addition to any peremptory challenges to which the Crown or the accused person is by law entitled.

Time for challenging.  
Code, s. 629.

629. An objection to a juror, either by way of peremptory challenge or by way of challenge for cause, may be made at any time before the officer has begun to recite the words of the oath to the juror, but not afterwards.

630. If at any time it becomes necessary to ascertain the truth of any matter alleged as cause for challenge, the fact shall be tried by the jurors already sworn, if more than one, or, if one juror only has been sworn, by such juror together with some indifferent person chosen by the Court from the panel of jurors, or, if no juror has been sworn, by two indifferent persons chosen by the Court from such panel. The persons so appointed are to be sworn to try the cause for challenge, and their decision on the fact is final and conclusive.

Ascertain-  
ment of  
facts as to  
challenge.  
Code, s. 630.

If the persons so appointed cannot agree, the Court may discharge them from giving a decision, and may appoint two other persons to try the fact, to be chosen as in the case when no juror has been sworn.

631. If, when the accused person is called upon to plead to the indictment, it appears to be uncertain, for any reason, whether he is capable of understanding the proceedings at the trial, so as to be able to make a proper defence, a jury of twelve men, to be chosen from the panel of jurors, are to be empanelled forthwith, who are to be sworn to find whether he is so capable or no.

Want of  
understand-  
ing of  
accused  
person.  
Code, s. 631.

If the jury finds that he is capable of understanding the proceedings, the trial is to proceed as in other cases.

If the jury find that he is not so capable, the finding is to be recorded, and the Court may order the accused person to be discharged, or may order him to be kept in custody in such place and in such manner as the Court thinks fit, until he can be dealt with according to law.

A person so found to be incapable of understanding the proceedings at the trial may be again indicted and tried for the offence.

632. The jury are to be sworn to give a true verdict according to the evidence upon the issues to be tried by them.

Jury to be  
sworn and  
informed of  
charge.  
Code, s. 632.

When the jury have been sworn, the proper officer of the Court is to inform them of the charge set forth in the indictment, and of their duty as jurors upon the trial.

Discharge  
of juror by  
Court.  
Code, s. 633.

633. If, after a juror has been sworn, it appears to the Court from his own statement that he is not indifferent as between the Crown and the accused person, or that for any other reason he ought not to be allowed or required to act as a juror on the trial, the Court may, without discharging the whole of the jury, discharge that particular juror, and direct another juror to be sworn in his place.

Defence by  
counsel.  
Code, s. 634.

634. Every person charged with an offence is entitled to make his defence at his trial and to have the witnesses examined and cross-examined by his counsel.

The term "counsel" includes any person entitled to audience as an advocate.

Presence of  
accused.  
Code, s. 635.

635. The trial must take place in the presence of the accused person, unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable, in which case the Court may order him to be removed, and may direct the trial to proceed in his absence.

Provided that the Court may, in any case, if it thinks fit, permit a person charged with a misdemeanour to be absent during the whole or any part of the trial on such conditions as it thinks fit.

If the accused person absents himself during the trial without leave, the Court may direct a warrant to be issued to arrest him and bring him before the Court forthwith.

Exclusion of  
persons  
from  
hearing.  
Inserted by  
No. 32 of  
1918, s. 22.

635a. At the trial on indictment of any person under eighteen years of age (either alone or in conjunction with any other person) for any offence, or at the trial on indictment of any person for any offence of an indecent character committed against a person under the age of eighteen years, the court may exclude all or any persons not directly

interested in the case from the court-room or place of trial, and may prohibit the publication of all or any portion of the evidence or proceedings.

636. At the close of the evidence for the prosecution the proper officer of the Court is required to ask the accused person whether he intends to adduce evidence in his defence.

Evidence in defence.  
Code, s. 636.

637. Before any evidence is given at the trial of an accused person the counsel for the Crown is entitled to address the jury for the purpose of opening the evidence intended to be adduced for the prosecution.

Speeches by counsel.  
Code, s. 637.  
Amended by No. 55 of 1853, s. 12.

If the accused person or any of the accused persons, if more than one, is defended by counsel, and if such counsel or any of such counsel says that he does not intend to adduce evidence, the counsel for the Crown is entitled to address the jury a second time for the purpose of summing up the evidence already given against such accused person or persons for whom evidence is not intended to be adduced.

At the close of the evidence for the prosecution the accused person, and each of the accused persons, if more than one, may by himself or his counsel address the jury for the purpose of opening the evidence, if any, intended to be adduced for the defence, and after the whole of the evidence is given may again address the jury upon the whole case.

Where the only witness to the facts of the case called by the defence is the accused person, he shall be called as a witness immediately after the close of the evidence for the prosecution.

Added by No. 55 of 1853, s. 12.

If evidence is adduced for an accused person, the counsel for the Crown is entitled to reply.

If evidence is adduced for one or more of several accused persons, but not for all of them, the counsel for the Crown is entitled to reply with respect to the person or persons by whom evidence is so adduced, but not with respect to the other or others of them.

Provided that the Attorney General is entitled to reply in all cases, whether evidence is adduced by any accused person or not.

Added by  
No. 55 of  
1953, s. 12.

In this section the expression, "Attorney General" does not include Minister for Justice.

Summing  
up.  
Code, s. 638.

638. After the evidence is concluded and the counsel or the accused person or persons, as the case may be, have addressed the jury, it is the duty of the Court to instruct the jury as to the law applicable to the case, with such observations upon the evidence as the Court thinks fit to make.

After the Court has instructed the jury they are to consider their verdict.

Jury not  
to separate.  
Code, s. 639.

639. Except as hereinafter stated, after the jury have been sworn and the charge has been stated to them by the proper officer, they must not separate until they have given their verdict or are discharged by the Court.

And no person except the officer of the Court who has charge of them is to be allowed to speak to or communicate with any of them without the leave of the Court until they are discharged.

Provided that on the trial of a person charged with any indictable offence other than a crime punishable with death, the Court may, in its discretion, permit the jury to separate before considering their verdict for such period during any adjournment of the trial as the Court may think fit.

If any person disobeys the directions of this section he may be punished summarily as for contempt of Court.

The validity of the proceedings is not affected by any such disobedience, but, if the fact is discovered before the verdict is given, the Court, if it is of opinion that such disobedience is likely to prejudice the fair trial of the charge, may discharge the jury, and may direct that a fresh jury be sworn during the same sittings of the Court, or may adjourn the trial.

Confine-  
ment of  
jury.  
Code, s. 640.

640. While the jury are kept together, and until they have given their verdict, they are to be kept, during any adjournment of the Court, and while they are considering their verdict, in some private place under the charge of an officer of the Court,

and are to be provided with necessary fire and lights and with such reasonable refreshment, if any, as the Court may allow.

641. The court may in any case, if it thinks fit, direct that the jury shall view any place or thing which the Court thinks it desirable that they should see, and may give any necessary directions for that purpose.

View.  
Code, s. 641.  
Amended by  
No. 55 of  
1953, s. 13.

The validity of the proceedings is not affected by disobedience to any such directions, but, if the fact is discovered before the verdict is given, the Court, if it is of opinion that such disobedience is likely to prejudice the fair trial of the charge, may discharge the jury, and may direct that a fresh jury be sworn during the same sittings of the Court, or may adjourn the trial.

642. In any case in which it appears to the Court that the question whether an accused person ought or ought not to be convicted of an offence may depend upon some specific fact, or that the proper punishment to be awarded upon conviction may depend upon some specific fact, the Court may require the jury to find that fact specially.

Special  
verdict.  
Code, s. 642.

643. Notwithstanding the provisions of the last preceding section, the jury, on the trial of a person charged with the unlawful publication of defamatory matter, may give a general verdict of guilty or not guilty upon the whole matter in issue in like manner as in other cases.

General  
verdict on  
charge of  
defamation.  
Code, s. 643.

644. When the trial of an accused person is adjourned after the jury have been sworn, the Court may discharge the jury.

Discharge  
of jury.  
Code, s. 644.

If the jury cannot agree as to the verdict to be given, or if any emergency arises of such a nature as to render it, in the opinion of the court, necessary or highly expedient for the ends of justice to do so, the Court may, in its discretion, discharge the jury without giving a verdict, and may direct that a fresh jury be sworn during the same sittings of the Court, or may adjourn the trial.

Such an exercise of discretion is not subject to review by any Court.

Incapacity  
of Judge.  
Code, s. 645.

645. If the presiding Judge becomes incapable of proceeding with the trial or directing the discharge of the jury, it is the duty of some officer of the Court to discharge the jury.

In any such case the accused person must remain in custody, and may be again put on his trial. But he has the same rights with respect to admission to bail as upon an original committal for trial for the offence with which he is charged, and any justice may, in a proper case, admit him to bail accordingly.

Incapacity  
of juror.  
Code, s. 646.  
Amended by  
No. 55 of  
1953, s. 14.

646. If at any time during the trial a juror dies, or becomes, in the opinion of the Court, incapable of continuing to act as a juror, the Court may, in its discretion, discharge the jury under the provisions hereinbefore contained, or may, if it thinks fit, at the request of the accused person, and with the consent of the Crown, discharge the juror, if any, so becoming incapable, and direct that the trial shall proceed with the remaining jurors. In any such case the verdict of the remaining jurors, not being less than ten, shall have the same effect as if all the jurors had continued present.

Verdict on  
Sunday.  
Code, s. 647.

647. The taking of a verdict or any other proceeding of the Court is not invalid by reason of its happening on a Sunday.

Procedure  
on charge  
of an offence  
committed  
after  
previous  
conviction.  
Code, s. 648.

648. The proceedings upon an indictment for committing an offence after a previous conviction or convictions are required to be as follows, that is to say:—

- (1) The accused person is, in the first instance, to be called upon to plead to so much only of the indictment as charges the subsequent offence;
- (2) If he pleads any plea which raises an issue to be tried by a jury, the jury are to be charged in the first instance to inquire concerning the subsequent offence only;

- (3) If he pleads guilty, or if upon trial he is convicted of the subsequent offence, he is then, and not before, to be asked whether he had been previously convicted as alleged in the indictment;
- (4) If he answers that he had been so previously convicted, the Court may proceed to pass sentence upon him accordingly;
- (5) If he denies that he had been so previously convicted, or will not answer directly to the question, the jury are then to be charged to inquire concerning the previous conviction or convictions; and in that case it is not necessary that the jury should be sworn afresh, but the oath already taken by them is deemed to extend to such last-mentioned inquiry.

649. [Repealed by No. 32 of 1918, s. 23.]

650. A charge in an indictment of having been previously convicted or of being an habitual criminal shall, for all purposes of procedure and evidence, be deemed a charge of having committed an offence.

Procedure  
and  
evidence to  
be as on  
charge of  
an offence.  
Code, s. 650.

651. When the issues raised by any plea or pleas, except the plea of not guilty, have been found against an accused person who has not pleaded the plea of not guilty, he is to be called upon to plead afresh, and if those issues have been tried by a jury, the Court may direct the issues raised by any fresh plea to be tried by the same jury or by another jury. If the Court directs them to be tried by the same jury, it is not necessary that the jury should be sworn afresh; but the oath already taken by them is to be deemed to extend to the trial of such fresh issues.

Further  
pleas.  
Code, s. 651.

#### CHAPTER LXV.—VERDICT: JUDGMENT.

652. If on the trial of any person charged with an indictable offence it is alleged or appears that he is not of sound mind, the jury are to be required to consider the matter, and if the jury find that he is not of sound mind, the finding is to be recorded,

Accused  
person  
insane  
during trial.  
Code, s. 652.

and thereupon the Court is required to order him to be kept in strict custody, in such place and in such manner as the Court thinks fit, until he is dealt with under the laws relating to insane persons.

A person so found to be not of sound mind may be again indicted and tried for the offence.

Discharge  
of person  
acquitted.  
Code, s. 653.

Acquittal  
on ground  
of insanity.

653. If the jury find that the accused person is not guilty, or give any other verdict which shows that he is not liable to punishment, he is entitled to be discharged from the charge of which he is so acquitted; provided that if on the trial of a person charged with any indictable offence, it is alleged or appears that he was not of sound mind at the time when the act or omission alleged to constitute the offence occurred, the jury are to be required to find specially if they find that he is not guilty, whether he was of unsound mind at the time when such act or omission took place, and to say whether he is acquitted by them on account of such unsoundness of mind; and if they find that he was of unsound mind, at the time when such act or omission took place, and say that he is acquitted by them on account of such unsoundness of mind, the Court is required to order him to be kept in strict custody in such place and in such manner as the Court thinks fit, until His Majesty's pleasure is known.

In any such case the Governor, in the name of His Majesty, may give such order for the safe custody of such person during his pleasure, in such place of confinement and in such manner as the Governor may think fit.

Convicted  
person to be  
called on to  
show cause.  
Code, s. 654.

654. When an accused person pleads that he is guilty of any offence, and when, upon trial, an accused person is convicted of any offence, the proper officer is required to ask him whether he has anything to say why sentence should not be passed upon him: But an omission to do so does not invalidate the judgment.

655. A person convicted of an indictable offence, whether on his plea of guilty or otherwise, may at any time before sentence move that judgment be arrested on the ground that the indictment does not disclose any offence.

Arrest of  
judgment.  
Code, s. 655.  
Amended by  
No. 55 of  
1953, s. 15.

Upon the hearing of the motion, the Court may allow any such amendments of the indictment as it might have allowed before verdict.

The Court may either hear and determine the motion forthwith or may reserve the question of law for the consideration of the Court of Criminal Appeal.

Sentence.  
Code, s. 656.  
Amended by  
No. 32 of  
1918, s. 24;  
No. 55 of  
1953, s. 16.

656. If a motion to arrest the judgment is not made or is dismissed, the Court may either pass sentence upon the offender forthwith or may discharge him on his recognisance, as hereinbefore provided, conditioned that he shall appear and receive judgment at some future sittings of the Court, or when called upon.

Amended by  
No. 55 of  
1953, s. 16.

If the trial was had in a Circuit Court or Court of Session, the recognisance may, in the discretion of the Court, be conditioned to appear and receive judgment before the Supreme Court at some fixed future time, or when called upon.

Substituted  
by No. 32 of  
1918, s. 24.

If sentence is not passed forthwith, the court or any judge or chairman of the court may, at any subsequent sitting of the court at which the offender is present, pass sentence upon him.

Substituted  
by No. 32 of  
1918, s. 24.

When an offender has been discharged on his recognisance as aforesaid, any judge or chairman of the court may at any time, on an *ex parte* application made by or on behalf of the Attorney General, issue a warrant under his hand to arrest the offender and bring him before a justice of the peace, and the justice may commit him to prison until he can be brought before the court to receive sentence, and the sheriff or other proper officer shall bring him before the court to receive sentence as soon as practicable.

The Court may, before passing sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed.

Sentence  
of death.  
Code, s. 657.  
Amended  
by No. 32 of  
1918, s. 25.

657. The sentence to be pronounced upon a person who is convicted of a crime punishable with death is that he be returned to his former custody, and that, at a time and place to be appointed by the Governor, he be hanged by the neck until he is dead: Provided that when a person is convicted of any crime punishable with death, except treason and wilful murder, if the Court is of opinion that, under the circumstances of the case, it is proper that the offender should be recommended for the Royal mercy, the Court may, if it thinks fit, direct the proper officer, instead of asking the offender whether he has anything to say why sentence of death should not be passed upon him, to ask the offender, and thereupon such officer is to ask the offender, whether he has anything to say why judgment of death should not be recorded against him.

Recording  
sentence of  
death.

In any such case the Court may abstain from pronouncing sentence of death, and may, instead thereof, order judgment of death to be entered on record.

And thereupon the proper officer is to enter judgment of death on record against the offender in the usual form, as if sentence of death had actually been pronounced by the Court against the offender in open Court.

A record of a judgment of death so entered has the same effect in all respects as if sentence of death had been pronounced in open Court.

Pregnant  
women.  
Code, s. 658.

658. When sentence of death is passed upon a woman, she may apply for an order to stay execution on the ground that she is with child of a quick child.

If such application is made, the Court is required to direct one or more legally qualified medical practitioners to be sworn to examine the woman in some private place either together or successively, and to ascertain whether she is with child of a quick child or not.

If upon his or their report, verified on oath, it appears that she is with child of a quick child, the Court is required to order that execution of the sentence be respite until she is delivered of a child or until it is no longer possible, in the course of nature, that she should be delivered.

659. When an offender is sentenced to whipping, the Court is required to give directions in the sentence as to the whipping. The number of strokes, which may not exceed twenty-five, and, in the case of an offender under the age of eighteen years, may not exceed twelve, and the instrument with which they are to be given, must be specified in the sentence.

Whipping.  
Code, s. 659.  
Amended  
by No. 32 of  
1912, s. 31.

The instrument must be either a birch rod, a cane, a leather strap, or the instrument commonly called a cat, which shall be made of leather or cord without any metallic substance interwoven therewith: Provided that the cat shall not be used in the case of an offender under the age of eighteen years.

660. (1) When any person is convicted upon an indictment of a crime, after a previous conviction of a crime, the Court may, in addition to any other punishment, direct that such person be subject to the supervision of the police for two years, or for such less period as the Court may direct, commencing immediately after the expiration of the sentence passed on him for the last of such crimes.

Police  
supervision.  
Code, s. 660.

(2) Any person subject to the supervision of the police, who is at large in Western Australia, is required to notify his place of residence to the police officer in charge of the police district where he resides, and whenever he changes his residence within the same district to notify such change to the police officer in charge of the district, and whenever he is about to leave the police district to notify his intention to the police officer in charge of the district, stating the place to which he is going, and, if required, and so far as is practicable, his address at that place, and whenever he arrives in any police district to forthwith notify his place of residence to the police officer in charge of such last mentioned district.

(3) Any person failing to comply with the requirements of this section is guilty of an offence, and is liable on summary conviction to imprisonment with hard labour for one year.

It is a defence to a charge of an offence defined in this section to prove that the accused person, being on a journey, tarried no longer in the place in which he is charged with failing to notify his place of residence than was reasonably necessary, or that otherwise he did his best to act in conformity with the law.

Indeterminate sentence on habitual criminal.

Code, s. 661.

Repealed by No. 32 of 1918, s. 26.

New section substituted by No. 32 of 1918, s. 27.

661. When any person apparently of the age of eighteen years or upwards is convicted of any indictable offence, not punishable by death, and has been previously so convicted on at least two occasions, the court before whom such person is convicted may declare that he is an habitual criminal, and direct that on the expiration of the term of imprisonment then imposed upon him, he be detained during the Governor's pleasure in a reformatory prison.

Indeterminate sentence on person convicted of indictable offence.

Code, s. 662.

Repealed by No. 32 of 1918, s. 26.

New section substituted by No. 32 of 1918, s. 27.

Amended by No. 40 of 1945, s. 4.

662. When any person is convicted of any indictable offence, not punishable by death (whether such person has been previously convicted of any indictable offence or not), the court before which such person is convicted may, if it thinks fit, having regard to the antecedents, character, age, health, or mental condition of the person convicted, the nature of the offence or any special circumstances of the case—

- (a) direct that on the expiration of the term of imprisonment then imposed upon him he be detained during the Governor's pleasure in a reformatory prison; or,
- (b) without imposing any term of imprisonment upon him sentence him to be forthwith committed to a reformatory prison, and to be detained there during the Governor's pleasure.

663. Any question arising under this chapter as to whether any person is or is not an habitual criminal or has or has not been previously convicted, or should or should not be detained in a reformatory prison, shall be determined by the court on such evidence as the court may think fit to hear.

Question of liability to detention in a reformatory prison to be determined by the Court.

Code, s. 663. Repealed by No. 32 of 1918, s. 26.

New section substituted by No. 32 of 1918, s. 27.

What to be deemed previous convictions.

Code, s. 664. Repealed by No. 32 of 1918, s. 26.

New section substituted by No. 32 of 1918, s. 27.

664. A person shall be deemed to have been previously convicted of an offence for the purposes of this chapter if so convicted anywhere or at any time whether heretofore or hereafter, and whether within or outside of Western Australia, and any conviction for any offence outside of Western Australia shall, if such offence is of the same or substantially the same nature as any offence defined by the law of this State, be deemed for the purposes aforesaid a conviction for the offence so defined.

665. (1) An indeterminate sentence shall commence and become operative on the expiry or sooner determination of any sentence involving deprivation of liberty which the convicted person is undergoing or has been sentenced to undergo.

Service of indeterminate sentence.

Code, s. 665. Repealed by No. 32 of 1918, s. 26.

New section substituted by No. 32 of 1918, s. 27.

(2) Indeterminate sentences shall be served in a reformatory prison under and subject to such provisions as shall be made by law for the establishment of such prisons and for prescribing the manner of serving such sentences and regulating the treatment, employment, and discipline of persons undergoing such sentences.

(3) The fact that any person is subject to an indeterminate sentence shall not prevent him from undergoing or suffering any other punishment to which he may be or become liable.

666. (1) The Governor may at any time, subject to any provisions to be made under any law relating to prisons, and subject to any conditions which he may see fit to impose, direct the release on probation for two years of any person undergoing an indeterminate sentence hereunder, and such person shall be so released accordingly.

Release on probation.

Code, s. 666. Repealed by No. 32 of 1918, s. 26.

New section substituted by No. 32 of 1918, s. 27.

(2) Any such license may prescribe as a condition that the released person be placed and remain under the supervision or authority of any society named in the license which may be willing to take charge of the case, and such society shall, whenever required by the Governor or Comptroller General of Prisons, report on the conduct and circumstances of the released person.

(3) Every person so released while he remains in Western Australia shall (except in so far as the Governor shall, in the case of a person placed under the supervision or authority of some society, otherwise order) be subject to police supervision, and the provisions of subsections two and three of section six hundred and sixty of this Code shall apply to him accordingly.

(4) Nothing herein shall prevent the exercise by the Governor of the Royal Prerogative of Mercy in respect of any person on whom an indeterminate sentence has been imposed.

Recommittal of person released on probation or termination of his reformative detention. Code, s. 667. Repealed by No. 32 of 1918, s. 26. New section substituted by No. 32 of 1918, s. 27.

667. (1) If, during the period of probation, a person so released—

- (a) is proved at any court of petty sessions to have failed (without some excuse which such court deems reasonable) to comply with any of the said provisions of section six hundred and sixty, or with any condition on which he has been released, or to have been associating with reputed thieves or other reputed criminals; or
- (b) is convicted of any indictable offence or of any simple offence which is punishable by imprisonment for a period exceeding one month,

then the court of petty sessions or the court before which he is so convicted as aforesaid, as the case may be, may by order direct that such person forthwith or on the completion of the term of imprisonment (if any) then imposed upon him be recommitted to a reformatory prison during the Governor's pleasure,

and he shall be so recommitted and the indeterminate sentence shall, subject to any such imprisonment as aforesaid, again become operative.

(2) Complaint of any matter necessary to secure an order of recommittal by a court of petty sessions hereunder may be made in manner provided in the Justices Act, 1902\*, in respect of a charge of a simple offence, and for the purpose of having such matter heard and determined such summonses, warrants, and other proceedings may be issued and taken as could be issued or taken if the complaint were in respect of such a charge.

(3) An order of recommittal under this section on the ground of the conviction of the person concerned may be made at any time during the period of probation and before the expiry of the sentence (if any) imposed on the conviction and, when the order is not made at the time of the conviction, the person concerned may be brought before the court or justice having power to make such order in the same manner as if he were charged with an offence to be dealt with by such court or justice, and (if he is in prison) the provisions of section fifty-two of the Prisons Act, 1903†, shall be deemed to apply to the case accordingly.

(4) If during the period of probation none of the events aforesaid happens, or if no order of recommittal is made in consequence of any such event which has happened, then the indeterminate sentence shall be deemed to be annulled as from the end of such period.

668. Any person at or immediately prior to the commencement of these provisions undergoing or liable to undergo a sentence of preventive detention, which has been heretofore imposed on him as an habitual criminal, or released on probation from such detention, shall be deemed to have been sentenced or released under these provisions, and these provisions shall apply to him accordingly: provided that if a period shall have been fixed as the dura-

Application  
of these  
provisions  
to sentences  
of  
preventive  
detention  
heretofore  
imposed.  
Code, s. 668.  
Repealed by  
No. 32 of  
1918, s. 26.  
New section  
substituted  
by No. 32  
of 1918, s. 27.

\* Now the Justices Act 1902-1948.

† Now the Prisons Act 1903-1918.

tion of the preventive detention of such person, then the sentence to which he is subject by virtue of these provisions shall be deemed to be annulled at the end of that period.

First  
offenders.  
Code, s. 669.

**669.** (1) When upon the trial of any person on a charge of any offence not punishable with more than three years imprisonment, with or without any alternative punishment, such person shall plead guilty, or the Court shall think the offence proved, if it appears to the Court that regard being had to the youth, character, or antecedents of the offender, or the trivial nature of the offence, or to any extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment, and provided that no previous conviction is proved against the offender,—

- (a) The Court may, without proceeding to conviction, dismiss the indictment or complaint and make an order to that effect, and if the Court thinks fit may, upon such dismissal, order the offender to make restitution of any property in respect of which the offence was committed, or to pay compensation for any injury done to such property, or compensation for any injury done to any person injured, as the case may be, and may assess the amount to be paid by the offender in any such case with such costs of the prosecution as the Court may think reasonable, and may direct when and to whom and in what instalments the amount ordered to be paid is to be paid, and such order may be enforced in the same manner as orders made by Justices on summary conviction; or
- (b) The Court may convict the offender and discharge him conditionally on his entering into a recognisance with or without sureties, and during such period as the Court may direct, to appear and receive judgment when called upon, and, in the meantime, to keep the peace and be of good

behaviour, and either without payment of damages and costs as aforesaid, or subject to the payment of such damages and costs, or either of them, as the Court may think reasonable.

(2) Any order of dismissal or conviction and conditional discharge under the provisions of this section is a bar to all further or other proceedings, civil or criminal, for the same cause.

(3) (a) If it is proved to the Court having power to deal with the offender in respect of his original offence, or to any justices, that the offender has failed to observe any of the conditions of his recognisance, the Court or justices may forfeit the recognisance, and issue a warrant for his apprehension.

(b) The offender when apprehended on any such warrant if not brought before the Court having power to sentence him, is required to be brought before two justices, who may either remand him by warrant until the time at which he was required by his recognisance to appear for judgment, or until the sitting of a Court having power to deal with the original offence, or may admit him to bail with a sufficient surety conditional on his appearing for judgment.

(c) The offender when so remanded may be committed to any prison near the place where he is bound to appear for judgment; and the warrant of remand must order him to be brought before the Court before which he was bound to appear for judgment, or to answer as to his conduct since his release.

(4) The term "Court" in this section includes a Court of summary jurisdiction.

670. Any convicted offender under the age of eighteen years, or being any aboriginal native, and being a male, may, in addition to or in substitution for any other punishment, be sentenced to whipping.

*Juvenile offenders  
or  
aboriginal natives  
may be  
sentenced  
to whipping.  
Code, s. 670.  
Amended by  
No. 32 of  
1918. s. 31.*

Discharge  
of offender  
in certain  
cases.  
Code, s. 671.

671. When a person is summarily convicted of any offence relating to property, the justices may discharge the offender without inflicting any punishment, upon his making such satisfaction to the person aggrieved for damages, with or without costs, as may be approved by the justices.

When such satisfaction has been made, the offender is not liable to any civil proceedings for the same cause at the suit of the person aggrieved.

Assessment  
of value  
of property:  
Appropria-  
tion of  
fines  
dependent  
on value.  
Code, s. 672.

672. On a summary conviction by which any penalty is imposed upon the basis of the value of any property taken, killed, or destroyed, or of the amount of any injury done to any property, such value or amount is to be assessed by the convicting justices, and the amount, when recovered, is to be paid to the person aggrieved, unless he is unknown, or unless the property taken or injured is of a public nature; in either of which cases it is to be applied in the same manner as other fines imposed by justices:

Provided that when several persons join in the commission of the same offence, and on conviction a penalty is imposed upon each of them upon the basis of the value of the property or of the amount of the injury, no further sum than such value or amount is to be paid to the person aggrieved, and the remainder is to be applied in the same manner as other fines imposed by justices.

Effect of  
summary  
conviction  
for  
indictable  
offences.  
Code, s. 673.

673. When a person has been summarily convicted of an indictable offence, the conviction is to be deemed a conviction of a simple offence only, and not of an indictable offence.

#### CHAPTER LXVI.—COSTS.

Costs of  
prosecution  
in certain  
cases.  
Code, s. 674.

674. When a person is convicted on indictment of any indictable offence relating to the person of any person, the Court, on the application of the

person aggrieved by the offence, may, in addition to any sentence which is passed upon the offender, adjudge him to pay to the person aggrieved his costs of prosecution, together with a sum by way of compensation for any loss of time suffered by him by reason of the offence of which the offender is convicted.

An order for the payment of such costs, or of any sum so awarded by way of compensation, may be enforced in the same manner as a judgment of the Court given in an action.

If any money was found on the person of the offender on his arrest, the Court may order it to be applied towards the payment of any money so ordered to be paid by him.

When an order is made under the provisions of this section for the payment of money by way of compensation to an aggrieved person, the offender is not liable to any civil proceedings for the same cause at the suit of that person.

675. (1) In the case of a prosecution of any person on the complaint of a private prosecutor on a charge of the unlawful publication of defamatory matter, if the accused person is indicted and acquitted he is entitled to recover from the prosecutor his costs of defence, unless the Court otherwise orders.

Costs in  
cases of  
defamation.  
Code, s. 675.

(2) In the case of a prosecution of any person on the complaint of a private prosecutor on a charge of the unlawful publication of defamatory matter, if the accused person pleads that the defamatory matter was true, and that it was for the public benefit that the publication should be made, then, if that issue is found for the Crown, the prosecutor is entitled to recover from the accused person the costs sustained by him by reason of such plea, unless the Court otherwise orders.

Taxation.  
Code, s. 676.  
Amended by  
No. 55 of  
1953, s. 17.

676. Costs of a prosecution or defence must be taxed by the proper officer of the Court in which the indictment is presented.

If the indictment is presented in a Circuit Court, Court of Session or Court of General or Quarter Sessions, the costs must be taxed by the proper officer of the Supreme Court.

The term "costs of prosecution" includes costs incurred by the person aggrieved in order to the committal of the offender, and costs incurred by him with the consent of the Crown for the purposes of the trial.

The term "costs of defence" includes costs incurred by the accused person both before and after his committal.

Enforce-  
ment of  
judgment  
of Circuit  
Court, Court  
of Session, or  
Court of  
General or  
Quarter  
Sessions.  
Code, s. 677.  
Amended by  
No. 55 of  
1953, s. 18.

677. When an order is made by a Circuit Court, Court of Session or Court of General or Quarter Sessions under the provisions of this chapter, it may be recorded in the Supreme Court, and may then be enforced in the same manner as a judgment of that Court given in an action.

#### CHAPTER LXVII.—EXECUTION OF SENTENCE.

Execution  
of sentence  
of death.  
Code, s. 678.  
Amended by  
No. 32 of  
1918, s. 28;  
No. 27 of  
1952, s. 2.

678. The punishment of death is executed by hanging the offender by his neck until he is dead. The execution is required to take place within the walls or enclosed yard of a prison. The time and place of execution are to be appointed by the Governor.

Substituted  
by No. 32 of  
1918, s. 28.

Notwithstanding the provisions of any law heretofore enacted, every sentence of death shall be executed by the Comptroller General of Prisons or his deputy, or by some substitute appointed by such Comptroller General or deputy by writing under his hand.

Substituted  
by No. 32 of  
1918, s. 28.

The Comptroller General or his deputy is required to be present at the execution, together with the superintendent or gaoler and proper officers of the prison, including the medical officer. Such adult spectators as the Comptroller General or his deputy may think fit may also be present.

All the persons attending the execution are required to remain in the enclosure until execution has been done according to law, and until the medical officer has signed a certificate in the form following, that is to say:—

I (A.B.), being the medical officer of the prison at ..... do hereby certify that I have this day witnessed the execution of C.D., lately, as I am informed, convicted and duly sentenced to death at the ..... Court; and I further certify that the said C.D. was, in pursuance of such sentence, hanged by the neck until he was dead.

Given under my hand this ..... day of in the year .....

The Comptroller General of Prisons or his deputy, and the superintendent, or gaoler, and officers of the prison, and the police officers, who are present, are required to subscribe, and such other persons as aforesaid who are present may subscribe, before their departure from the prison, a declaration in the form following, adding their description, that is to say:—

Amended by  
No. 32 of  
1918, s. 28.

We, the undersigned, do hereby declare and testify that we were this day present when the extreme penalty of the law was executed on C.D., lately, as we are informed, convicted at the ..... Court, and duly sentenced to death on the ..... day of ..... ; and that the said C.D. was, in pursuance of such sentence, hanged by the neck until he was dead.

Every such certificate and declaration is to be transmitted by the sheriff, or under sheriff, or such deputy, whichever is present at the execution, to the Registrar of the Supreme Court at Perth, and is to be entered and kept in his office as a record of the Court, and a copy of it is to be twice published in the *Government Gazette*.

The body of the offender is to be buried at such place as the Chief Secretary\* may direct.

\*Formerly Colonial Secretary; amended by No. 8 of 1925, s. 2.

Commuta-  
tion of  
capital  
sentence.  
Code. s. 679.

679. In any case in which the Governor is authorised to extend the Royal mercy conditionally to an offender under sentence of death, he may extend mercy on condition of the offender being imprisoned, with or without hard labour, for such term as the Governor may think fit.

Any such extension of mercy is to be signified in writing to the Chief Secretary\*, and the Chief Secretary\* is required thereupon to allow the offender the benefit of a conditional pardon, and to make an order that he be imprisoned with or without hard labour, according to the direction of the Governor. Such allowance or order has the effect of a valid sentence passed by the Court before which the offender was convicted.

Whipping.  
Code, s. 680.  
Amended  
by No. 32  
of 1918, s. 31.

680. The punishment of whipping is not in any case to be inflicted after the expiration of six months from the passing of the sentence.

The punishment of whipping, except in the case of a boy under the age of eighteen, summarily convicted, and except in the case of an aboriginal native, must be inflicted in some gaol or prison, and no person who is not officially connected with the gaol or prison may be present at the infliction of the punishment.

The punishment of whipping in the case of a boy under the age of eighteen, summarily convicted, must be inflicted privately.

The punishment of whipping in the case of an aboriginal native must be inflicted in the presence of a justice of the peace, the Protector of Aborigines, or an officer of police not under the rank of sergeant.

The punishment of whipping must be inflicted before the offender is put to any employment or labour at any place outside the walls of any prison in which he is confined.

**681.** When any person is convicted of the unlawful publication of any defamatory matter which was published by means of printing, the prosecutor may levy the fine, if any, and costs out of any property of the offender in like manner as in civil actions, and also out of the whole of the types, presses, or printing materials, which, at the time when the offence was committed, belonged to any person to whom any types, presses, or printing materials, used in printing such defamatory matter, belonged at the time when the offence was committed, to whomsoever the same may belong at the time of the levy.

Levy of fine  
and costs  
on  
conviction  
for  
defamation.  
Code, s. 681.

**682.** Any judgment or order by any Court (including a court of summary jurisdiction) under this Code for payment of any fine or costs or any other sum of money whatsoever by any person or corporation may, without prejudice to any other method of enforcement, be entered up as a judgment of the Supreme Court on the order of a Judge, and shall be enforceable with costs accordingly.

Enforce-  
ment of  
order for  
payment  
of money.  
Code, s. 682.

**682A.** (1) When any decision of the Supreme Court, Court of Session or any court of general or quarter sessions of the peace adjudges or orders the payment of a pecuniary penalty or compensation or sum of money or costs, then such decision may be enforced in such manner and by such means as a similar decision of justices is enforceable, and shall for that purpose be deemed an order made by justices, and the relative provisions of the Justices Act, 1902\*, shall apply thereto accordingly.

Enforce-  
ment of  
order for  
payment of  
penalty,  
compen-  
sation, or  
costs.

Added by  
No. 32 of  
1918, s. 29;  
amended by  
No. 55 of  
1953, s. 19.

(2) For the purposes of enforcing such decision the Registrar or Clerk of the Court, as the case may be, shall have power to make such subsidiary orders and to sign and issue such warrants as any justices might make and sign in a similar case or as may be authorised by rules of court.

\* Now the Justices Act 1902-1948.

(3) The provisions of this section shall be without prejudice to any other method of enforcement.

(4) "Decision" means any judgment, sentence, or order given, pronounced, or made in or in connection with a criminal cause or matter.

CHAPTER LXVIII.—EFFECT OF CONVICTION AS REGARDS PRISONERS' PROPERTY.

Forfeitures abolished.  
Code, s. 663.

683. Forfeitures, escheats, attainders and corruptions of blood on account of crime or conviction stand abolished.

Curator may be appointed of prisoner's estate.  
Code, s. 684.

684. (1) Whilst any person heretofore or hereafter sentenced to a term of imprisonment or detention exceeding twelve months or to detention during the Governor's pleasure is under and subject to such sentence the Court may, on the application of the Comptroller-General of Prisons, appoint a curator of such prisoner's estate, and may at any time remove such curator, and, if deemed expedient, appoint another person in his place.

Estate to vest in curator.

(2) Subject to any order or direction of the Court, the prisoner's real and personal estate shall vest in the curator, and such vesting shall be deemed a transmission within the meaning of the Transfer of Land Act, 1893\*, and may be registered under that Act accordingly, subject to such and the like conditions as apply in the case of transmissions of the lands of a deceased person; provided that nothing herein shall affect the prisoner's right to dispose of his estate whilst there is no curator thereof.

Powers of curator.

(3) The curator shall have power—

(a) to pay and discharge out of the said estate all such debts and liabilities as are justly payable out of the same;

(b) to make and pay out of the said estate all such allowances for the support or maintenance of any wife or child or reputed wife or child of the prisoner or of any other relative or reputed relative of such prisoner

dependent upon him for support or for the benefit of the prisoner himself if and while he shall be lawfully at large under any license, as to such curator shall seem fit;

- (c) to manage the said estate and take such steps and do such things for the preservation and advantage thereof (including the carrying on of any business) as shall be approved by the Court;
- (d) to lease, sell or otherwise dispose of any part of the said estate whenever he shall judge it expedient so to do;
- (e) to sue or defend any action on behalf of the prisoner;
- (f) to exercise such powers in respect of the said estate as an administrator may exercise in respect of the estate of his intestate:

Provided that no real estate shall be leased for a longer term than one year or sold or mortgaged except pursuant to an order of the Court.

(4) The Court may require any curator to give security or may make any appointment subject to security being given, and may impose any such conditions, restrictions and limitations on the appointment as may appear expedient, and may allow the curator such remuneration as shall be just.

*Security.*

(5) Notwithstanding anything herein no property acquired by a prisoner whilst he shall be lawfully at large under any license shall vest in any curator, but such prisoner shall be entitled thereto without interference.

*Prisoner may retain property acquired whilst on license.*

(6) A curator shall be entitled at any time to apply to the Court for advice and directions as to the performance of his duties and the exercise of his powers, and any person may summon the curator before the Court to show cause why he should not do or submit to any act, matter, or thing in his character as such curator, and the Court may make such order as shall be just.

*Curator may apply to Court for directions.*

Interpreta-  
tion.

(7) In this chapter the word "Court" means the Supreme Court or any Judge thereof, and the word "prisoner" includes any person under and subject to such sentence as aforesaid though he be not in actual custody, and the provisions of this chapter shall extend to any person who is undergoing or subject to a term of imprisonment by way of commuted sentence as if he had been originally sentenced to such term.

Vesting of  
property on  
death,  
bankruptcy,  
or liberation  
of prisoner.  
Code, s. 685.

685. When any person for whose estate a curator has been appointed under this chapter shall die or be made bankrupt or shall cease to be a prisoner the powers, authorities, and discretions of any curator of his estate shall cease, and the estate and all accretions thereto shall, subject and without prejudice to the administration and application thereof under and according to this chapter, vest in the person who would be entitled thereto if no curator had been appointed: Provided that the curator may do such things as may be necessary for the care and preservation of the estate or any part thereof until it can be handed over to the person entitled thereto.

Curator to  
account.  
Code, s. 686.

686. A curator shall be accountable to the person entitled to the estate that was vested in him in the same manner in which a trustee is accountable to his *cestui que trust*, without prejudice, however, to the administration and application of the estate under this chapter, and on his authority coming to an end the curator shall pass his accounts before the Master of the Supreme Court in manner to be prescribed by rules which the Judges of the Supreme Court or a majority of them are hereby empowered to make: Provided that a curator shall not be answerable to any person for any property which shall not actually have come to his hands by virtue of this Chapter nor for any loss or damage which may happen through any mere omission or non-feasance on his part.

## CHAPTER LXIX.—APPEAL: PARDON.

687. (1) The Full Court (as defined by section fifty-seven of the Supreme Court Act, 1935-1950\*) shall, subject as hereinafter provided, have jurisdiction to hear and determine appeals under this chapter, and the expression *Court of Criminal Appeal* in this Code shall mean the said Full Court.

Court of  
Criminal  
Appeal.  
Code, s. 687.  
Amended by  
No. 55 of  
1953, s. 20.

(2) The determination of any question before the Court of Criminal Appeal shall be according to the opinion of the majority of the members of the Court hearing the case.

(3) The Court of Criminal Appeal shall, for the purposes of and subject to the provisions of this chapter, have full power to determine, in accordance with this chapter, any questions necessary to be determined for the purpose of doing justice in the case before the Court.

(4) Rules of Court shall provide for securing sittings of the Court of Criminal Appeal, if necessary, during vacation.

(5) The Registrar of the Supreme Court shall be Registrar of the Court of Criminal Appeal.

(6) It shall be no objection to a Judge taking part in the determination of any question that he presided at the trial of the appellant or that the appeal is against his own decision.

(7) Appeals under this chapter shall be heard and determined before an uneven number of Judges.

688. (1) A person convicted on indictment may appeal to the Court of Criminal Appeal—

- (a) against his conviction on any ground of appeal which involves a question of law alone; and
- (b) with the leave of the Court of Criminal Appeal or upon the certificate of the Judge who tried him that it is a fit case for appeal against his conviction on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact,

Right of  
appeal in  
criminal  
cases.  
Code, s. 688.  
Amended  
by No. 32  
of 1918, s. 30;  
No. 20 of  
1954, s. 8.

or any other ground which appears to the Court to be a sufficient ground of appeal; and

- (c) against any sentence of detention in a reformatory prison passed upon him; and
- (d) with the leave of the Court of Criminal Appeal against any other sentence passed on his conviction, unless the sentence is one fixed by law.

(2) An appeal may be made to the Court of Criminal Appeal on the part of the prosecution—

- (a) against any decision allowing a demurrer to an indictment or arresting judgment on an indictment or quashing an indictment; or
- (b) against any verdict of acquittal on an indictment and any judgment founded thereon when such verdict has been found by direction of the Judge or other authority entitled to give directions on law to the jury at the trial; or
- (c) against any judgment (including any verdict on which the same is founded) given on a plea to the jurisdiction of a Court to try an accused person for an offence alleged in an indictment.
- (d) against any sentence which in the circumstances of the case cannot lawfully be passed on the convicted person for the offence of which he stands convicted.

Para. (d)  
added by No.  
20 of 1954, s. 8.

Determina-  
tion of  
appeals in  
ordinary  
cases.  
Code, s. 689.  
Amended by  
No. 20 of  
1954, s. 9.

689. (1) The Court of Criminal Appeal on any such appeal against conviction shall allow the appeal, if they think that the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the Court before whom the appellant was convicted should be set aside on the ground of a wrong decision of any question of law or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal:

Provided that the Court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred.

(2) Subject to the appeal provisions of this chapter the Court of Criminal Appeal shall, if they allow an appeal against conviction, quash the conviction and either direct a judgment and verdict of acquittal to be entered or order a new trial.

(3) On an appeal against sentence the Court of Criminal Appeal shall, if they think that a different sentence should have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law by the verdict or which may lawfully be passed for the offence of which the appellant or an accused person stands convicted (whether more or less severe) in substitution therefor as they think ought to have been passed and in any other case shall dismiss the appeal.

690. (1) On any appeal against a decision allowing a demurrer, quashing an indictment, or arresting judgment the Court may affirm, reverse, or modify the decision, and give any judgment and make any order which ought to have been given or made in the first instance, and exercise any powers of amendment or any other powers and direct any step to be taken which ought to have been exercised or taken in the first instance.

How other  
appeals  
disposed of.  
Code, s. 690

(2) If an order arresting judgment is reversed, the Court is to direct that judgment be pronounced upon the offender, and he is to be ordered to appear, at such time and place as the Court may direct, to receive judgment, and any justice or the Registrar may, for the purpose of securing such appearance, issue his warrant for the arrest and detention of the offender. An offender so arrested may be admitted to bail by order of the Court, which may be made at the time when the order directing judgment to be pronounced is made or afterwards.

(3) On any appeal against an acquittal by direction or on an appeal against any judgment given on a plea to the jurisdiction, the Court, if it allows

the appeal, may reverse any judgment, decision, or verdict, the correctness of which was in question in the appeal, and may order a new trial or that the accused shall stand his trial, as the case may require.

Court may  
give  
directions  
as to new  
trial.  
Code, s. 691.

**691.** (1) When the Court orders a new trial or that any person do stand his trial or be called upon to plead to an indictment, or when there is or may be any issue to be tried in consequence of the Court's decision, the Court may fix the time and place of the trial, and may give such directions with regard thereto as may appear necessary.

(2) Any justice or the Registrar may, with a view to securing such person's appearance at and during the trial, issue his warrant for the arrest and detention of the person to be tried or directed to be called upon to plead, and such person may be admitted to bail by order of the Court of Criminal Appeal or of the Court before which he is being or to be tried, which order may be made at any time.

Appeal by  
person  
acquitted  
on the  
ground of  
insanity.  
Code, s. 692.

**692.** When a person charged on indictment has been acquitted on account of unsoundness of mind, he shall have the like right of appeal as if he had been convicted, and the verdict shall for the purposes of the appeal be deemed to be a verdict convicting the accused with a declaration of his unsoundness of mind added, and the Court shall deal with the appeal accordingly: provided that if the appeal be allowed, the Court shall either order an unqualified verdict and judgment of acquittal to be entered or order a new trial.

Powers of  
Court in  
special  
cases.  
Code, s. 693.

**693.** (1) If it appears to the Court of Criminal Appeal that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the Court may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as they think proper, and as may be warranted in law by the verdict on the count or part of the indictment on which the Court consider that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Criminal Appeal that the jury must have been satisfied of facts which proved him guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence not being a sentence of greater severity.

(3) Where on the conviction of the appellant the jury have found a special verdict, and the Court of Criminal Appeal consider that a wrong conclusion has been arrived at by the Court before which the appellant has been convicted on the effect of that verdict, the Court of Criminal Appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

(4) When it appears to the Court that a convicted appellant ought to have been acquitted on account of unsoundness of mind, they may quash the conviction and direct a judgment and verdict of acquittal on account of unsoundness of mind to be entered, and shall thereupon order the appellant to be kept in strict custody until His Majesty's pleasure is known, and in any such case the Governor in the name of His Majesty may give such order for the safe custody of the appellant during the pleasure of the Governor, in such place of confinement and in such manner as the Governor may think fit.

694. The operation of any order for the restitution of any property to any person made on a conviction on indictment, and the operation, in case of any such conviction, of the provisions of subsection one of section twenty-four of the Sale of Goods Act, 1895, as to the re-vesting of the property in stolen goods on conviction, shall (unless the Court

Re-vesting  
and  
restitution  
of property  
on  
conviction.  
Code, s. 694.

before whom the conviction takes place direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute) be suspended—

- (a) in any case until the expiration of ten days after the date of the conviction; and
- (b) in cases where notice of appeal or leave to appeal is given within ten days after the date of conviction, until the determination of the appeal;

and in cases where the operation of any such order, or the operation of the said provisions, is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal. Provision may be made by rules of Court for securing the safe custody of any property, pending the suspension of the operation of any such order or of the said provisions.

(2) The Court of Criminal Appeal may by order annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect, and if varied, shall take effect as so varied.

(3) Any person against whom an order of restitution is made may, subject to rules of Court, appeal to the Court of Criminal Appeal against such order.

Time for  
appealing.  
Code, s. 695.

695. (1) Where a person convicted desires to appeal under this Chapter to the Court of Criminal Appeal; or to obtain the leave of that Court to appeal, he shall give notice of appeal or notice of his application for leave to appeal, in such manner as may be directed by rules of court, within ten days of the date of conviction. Such rules shall enable any convicted person to present his case and his argument in writing instead of by oral argument if he so desires. Any case or argument so presented shall be considered by the Court.

In other cases notice of appeal must be given within ten days after the pronouncement, finding, or making of the judgment, verdict, order, or decision complained of.

Except in the case of a conviction involving sentence of death, the time within which notice of appeal or notice of an application for leave to appeal may be given may be extended at any time by the Court of Criminal Appeal, and such extension may be ordered although the application for the same is not made until after the expiration of the time appointed.

(2) In the case of a conviction involving sentence of death or corporal punishment—

- (a) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and
- (b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal, or, in cases where an application for leave to appeal is finally refused, of the application.

696. The Judge or chairman of any Court before whom a person is convicted shall, in the case of an appeal under this Chapter against the conviction or against the sentence, or in the case of an application for leave to appeal under this Chapter, furnish to the Registrar, in accordance with rules of court, his notes of the trial; and in all cases of an appeal against sentence, and in any other case if he thinks it desirable in the interests of justice to do so, or if required by the Court of Criminal Appeal, shall also furnish to the Registrar in accordance with the rules of court a report giving his opinion upon the case or upon any point arising in the case.

Judge's  
notes and  
report to be  
furnished  
on appeal.  
Code, s. 696.

697. For the purposes of this Chapter, the Court of Criminal Appeal may, if they think it necessary or expedient in the interests of justice—

Sup-  
plemental  
powers of  
Court.  
Code, s. 697.

- (a) order the production of any document, exhibit, or other thing connected with the proceedings the production of which appears to them necessary for the determination of the case; and

- (b) if they think fit order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in manner provided by rules of the Court before any Judge of the Court or before any officer of the Court or justice of the peace or other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court; and
- (c) if they think fit receive the evidence, if tendered, of any witness (including a convicted appellant) who is a competent but not compellable witness: Provided that the evidence of the wife or husband of a convicted appellant shall not be received, except on behalf of the appellant, unless she or he has been first informed by the Court that she or he is not compellable to give evidence if she or he is unwilling to do so.
- (d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the Court conveniently be conducted before the Court, order the reference of the question in manner provided by rules of court for inquiry and report to a special commissioner appointed by the Court, and act upon the report of any such commissioner so far as they think fit to adopt it; and
- (e) appoint any person with special expert knowledge to act as assessor to the Court in any case where it appears to the Court that such special knowledge is required for the proper determination of the case;

and exercise in relation to the proceedings of the Court any other powers which may for the time being be exercised by the Supreme Court on appeals in civil matters, and issue any warrants necessary

for enforcing the orders or sentences of the Court: Provided that in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

698. The Court of Criminal Appeal may at any time assign a convicted appellant a solicitor and counsel or counsel only in any appeal or proceedings preliminary or incidental to an appeal in which, in the opinion of the Court, it appears desirable in the interests of justice that the appellant should have legal aid, and that he has not sufficient means to enable him to obtain that aid.

Legal assistance to appellant.  
Code, s. 698.

699. (1) Subject to any order to the contrary made by the Court of Criminal Appeal, a convicted appellant, notwithstanding that he is in custody, shall be entitled to be present if he desires it on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone, but in that case and on any proceedings preliminary or incidental to an appeal shall not be entitled to be present, except where rules of court provide that he shall have the right to be present, or where the Court gives him leave to be present.

Right of appellant to be present.  
Code, s. 699.

(2) The power of the Court to pass any sentence under this Chapter may be exercised notwithstanding that the appellant is for any reason not present.

700. (1) A convicted appellant who is not admitted to bail shall, pending the determination of his appeal or of his application for leave to appeal, be treated in accordance with the special regulations for the time being applicable to prisoners unconvicted of crime during the period of their detention for safe custody only.

Admission of appellant to bail, and custody when attending Court.  
Code, s. 700.

(2) The Court of Criminal Appeal may, if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal.

701. (1) The registrar shall take all necessary steps for obtaining a hearing under this Chapter of any appeals or applications, notice of which is given to him under this Chapter, and shall obtain

Duties of registrar with respect to notices of appeal, etc.  
Code, s. 701.

and lay before the Court in proper form all documents, exhibits, and other things relating to the proceedings in the Court before which any convicted appellant or applicant was tried, which appear necessary for the proper determination of the appeal or application.

(2) If it appears to the registrar that any notice of an appeal against a conviction purporting to be on a ground of appeal which involves a question of law alone does not show any substantial ground of appeal, the registrar may refer the appeal to the Court for summary determination, and where the case is so referred, the Court may, if they consider that the appeal is frivolous or vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon.

(3) Any documents, exhibits, or other things connected with the proceedings on the trial of any person on indictment, who, if convicted, is entitled to or may be authorised to appeal under this Chapter, shall be kept in the custody of the Court of trial in accordance with rules of court made for the purpose, for such time as may be provided by the rules, and subject to such power as may be given by the rules for the conditional release of any such documents, exhibits, or things from that custody.

(4) The registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under this chapter to any person who demands the same, and to officers of Courts, governors of prisons, and such other officers or persons as he thinks fit, and the governor of a prison shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal, or to make any application under this chapter, and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the registrar.

(5) The registrar shall report to the Court or some Judge thereof any case in which it appears to him that, although no application has been made

for the purpose, a solicitor and counsel or counsel only ought to be assigned to an appellant under the powers given to the Court by this chapter.

702. The powers of the Court of Criminal Appeal under this Act to give leave to appeal, to extend the time within which notice of appeal or of an application for leave to appeal may be given, to assign legal aid to an appellant, to allow the appellant to be present at any proceedings in cases where he is not entitled to be present without leave, and to admit an appellant to bail, may be exercised by any Judge of the Supreme Court in the same manner as they may be exercised by the Court of Criminal Appeal, and subject to the same provisions; but if the Judge refuses an application on the part of the appellant to exercise any such power in his favour, the appellant shall be entitled to have the application determined by the Court of Criminal Appeal as duly constituted for the hearing and determination of appeals under this chapter.

Powers  
which may  
be exercised  
by a Judge  
of the Court.  
Code, s. 702.

703. In the provisions of this Code relating to appeals to the Court of Criminal Appeal, unless the context otherwise requires—

Definitions.  
Code, s. 703.

The expression "convicted appellant" includes a person who has been convicted, or who has been acquitted on account of unsoundness of mind, and who desires to appeal or to obtain the leave of the said Court to appeal under this chapter, and has given notice of appeal or of his application for leave to appeal within the time or extended time limited by or pursuant to this chapter for that purpose; and

The expression "sentence" includes any order of the Court made on conviction with reference to the person convicted, and the power of the Court of Criminal Appeal to pass a sentence includes a power to make any such order of the Court.

The expression "Judge who tried him," used in relation to any convicted appellant, means the Judge or Chairman of the Court from the conviction before which such appellant desires to appeal.

Writs or  
error and  
motions for  
new trials  
in criminal  
cases  
abolished.  
Code, s. 704.

704. Proceedings in error in cases to which any of the preceding provisions of this chapter apply and any powers or practice which may now exist in the Supreme Court in respect of motions for new trials or the granting thereof in such cases other than such as are provided for in this chapter are hereby abolished.

Conditional  
remission of  
sentence by  
Governor.  
Code, s. 705.

705. In any case in which the Governor is authorised, on behalf of His Majesty, to extend the Royal mercy to an offender under sentence of imprisonment with or without hard labour, he may extend mercy upon condition of the offender entering into a recognizance conditioned to keep the peace and be of good behaviour for a period from the date of the sentence equal to the term of the sentence or for any less period. Upon complaint being made on oath before any Justice of any breach of the condition of recognizance, such Justice may issue his warrant for the apprehension of the offender, and for his detention in custody until he can be brought before a Justice to be dealt with hereunder, and any Justice, on such offender being brought before him, may, on due proof of such breach, declare the recognizance forfeited, and commit the offender to prison to serve, as under the sentence aforesaid, any unexpired balance of the term of such sentence, which, for this purpose, shall be deemed to be revived.

Pardon in  
case of  
imprison-  
ment for  
non-  
payment of  
money.  
Code, s. 706.

706. The Governor may extend the Royal mercy to any person imprisoned upon conviction of any of the offences defined in chapters forty-four and forty-seven, although he is imprisoned for non-payment of money which is payable to some private person.

Effect of  
pardon.  
Code, s. 707.

707. A pardon by the Governor, on behalf of His Majesty, has the effect of discharging the convicted person from the consequences of the conviction.

CHAPTER LXX.—SUMMARY TRIAL OF CHILDREN  
UNDER TWELVE.

708. (1) A child who is charged with committing or attempting to commit any indictable offence other than treason, wilful murder, murder, or manslaughter, and whose age at the time of the commission or attempted commission of the offence did not, in the opinion of the justices before whom he is brought, exceed the age of twelve years, may be tried in a summary manner before two justices, if they think it expedient so to do, and if, in case the charge is one in respect of which the right to trial by jury exists, the parent or guardian of the child so charged, when informed of his right to have the child tried by jury, consent to the case being dealt with summarily.

Summary jurisdiction of Justices in case of indictable offences committed by children not more than twelve years of age.  
Code, s. 708.

In any such case the justices may, except as hereinafter provided, award the same kind of punishment as might have been awarded if the offender had been convicted on indictment.

Provided that—

- (a) When imprisonment is awarded, the term of imprisonment cannot exceed one month;
- (b) When a fine is imposed, the amount cannot exceed Forty shillings; and
- (c) When the child is a male, the justices may, either in addition to or instead of any other punishment, adjudge that the child be, as soon as practicable, privately whipped with not more than six strokes of a birch rod, cane, or leather strap, in the presence of some police officer of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of the child.

(2) If, when a child is charged before justices with committing or attempting to commit an indictable offence, the parent or guardian of the child is not present, the justices may remand the child for the purpose of causing notice to be served on such

parent or guardian in order, if practicable, to secure his attendance at the hearing of the charge; or they may proceed to deal with the case summarily under the provisions of this section.

(3) If the parent or guardian of the child is present, then, whenever during the hearing of the charge the justices become satisfied by the evidence that it is expedient to deal with the case summarily under the provisions of this section, they are required to cause the charge to be reduced into writing and read to the parent or guardian of the child, and then, if the case is one in which the right to trial by jury exists, to address a question to such parent or guardian to the following effect:—

Do you desire the child to be tried by a jury, or do you consent to the case being dealt with summarily?

adding a statement, if they think such statement desirable for the information of the parent or guardian, of the meaning of the case being dealt with summarily, and also a statement of the sittings of the Court at which the child will be tried if he is committed for trial by a jury.

(4) The provisions of this section do not render punishable for an offence any child who is not, in the opinion of the justices before whom he is charged, above the age of seven years and of sufficient capacity to commit the offence in question.

(5) The provisions of this section do not affect any power of justices under any Statute to send a child to an industrial or reformatory school, and they may exercise such power instead of dealing with him summarily under this section.

(6) No right to trial by jury shall be deemed to exist in the case of a child to whom this chapter applies in respect of any charge of having committed or attempted to commit an offence which is of such a nature that a person of full age might be convicted thereof summarily before justices without any consent on his part.

## CHAPTER LXXI.—SUMMARY TRIAL OF YOUNG PERSONS.

709. When a young person is charged with committing or attempting to commit any indictable offence other than treason, wilful murder, murder, or manslaughter, and whose age at the time of the commission or attempted commission of the offence was over twelve years, but did not, in the opinion of the justices before whom he is brought, exceed the age of eighteen years, the justices may deal with the charge summarily.

Summary jurisdiction of justices in case of indictable offences committed by young persons.  
Code, s. 709.  
Amended by No. 32 of 1918, s. 31.

The offender is liable on such summary conviction to imprisonment with hard labour for three months, or to a fine of Ten pounds; and if the offender is a male the justices may, either in addition to or instead of any other punishment, adjudge that the offender be, as soon as practicable, privately whipped with not more than twelve strokes of a birch rod, cane, or leather strap, in the presence of some police officer of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of the offender.

Procedure. Code, s. 710.

710. (1) Before the accused young person is asked to show cause why he should not be convicted of any offence of which he could not if of full age be summarily convicted without his consent, the justices are required to explain to him that he is entitled to be tried by a jury, and is not obliged to make any defence before them, and to ask whether he objects to the charge being dealt with summarily, adding a statement of the meaning of the case being dealt with summarily, and also a statement of the sittings of the Court at which the young person will be tried if he is committed for trial by jury.

(2) In the case of every charge proposed to be dealt with summarily under this chapter, the justices are required to reduce the charge to writing, and to read it to the accused young person, and then to ask him whether he is guilty or not guilty of the offence; and if he says that he is guilty they are to convict him of the offence, but if he says that he is not guilty they are required to hear his defence, and then deal with the charge summarily.

(3) If the accused young person is charged with obtaining or procuring the delivery of anything by a false pretence with intent to defraud, the justices are required, after the charge has been reduced to writing and read to the accused young person, to state in effect that a false pretence means a false representation by words, writing, or conduct that some fact exists or existed, and that a promise as to future conduct not intended to be kept is not by itself a false pretence, and may add such explanation as the justices may deem suitable to the circumstances.

(4) If the justices find that the charge is proved, they may, whether they impose any punishment or not, order the offender to make restitution of the property, if any, in respect of which the offence was committed, to the owner thereof, and if the property is not at once restored, they may order the offender to pay the amount of its value, to be assessed by them, to the owner, either in one sum or by such instalments, and at such times, as they think fit.

(5)—(a) If it appears that by reason of the accused young person having been previously convicted of some offence, he is liable, on conviction of the offence charged, to imprisonment for a term of more than three years; or

(b) If for any reason the justices are of opinion that the charge is a fit subject for prosecution by indictment;

the justices are required to abstain from dealing with the case summarily.

(6) The provisions of this section do not affect the right of justices under any Statute to send a young person to an industrial or reformatory school, and they may exercise such powers instead of dealing with him summarily under this section.

CHAPTER LXXII.—SEIZURE AND DETENTION OF PROPERTY  
CONNECTED WITH OFFENCES: CUSTODY OF WOMEN  
UNLAWFULLY DETAINED FOR IMMORAL PURPOSES:  
RESTITUTION OF PROPERTY UNLAWFULLY ACQUIRED.

711. If it appears to a justice, on complaint made on oath, that there are reasonable grounds for suspecting that there is in any house, vessel, or place—

- (a) Anything with respect to which any offence has been or is suspected, on reasonable grounds, to have been committed; or
- (b) Anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of any offence; or
- (c) Anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any offence;

Search  
warrant.  
Code, s. 711.  
Amended  
by No. 32  
of 1918, s. 32.

he may issue his warrant directing a police officer or police officers named therein, or all police officers, to search such house, vessel, or place, and to seize any such thing if found, and to take it before a justice to be dealt with according to law.

Any such warrant is to be executed by day, unless the justice, by the warrant, specially authorises it to be executed by night, in which case it may be so executed.

712. When, on the arrest of any person on a charge of an offence relating to property, the property in respect of which the offence is alleged to be committed is found in his possession, the person arresting him may take such property before a Justice to be dealt with according to law.

Property  
found on  
offenders  
on arrest.  
Code, s. 712.

713. If any person finds in any place whatever, or in the possession of any person who has the same without lawful authority or excuse—

- (a) Any counterfeit gold, silver, or copper coin; or
- (b) Any tool, instrument, or machine adapted and intended for making any such counterfeit coin; or

Seizure of  
counterfeit  
coin, tools  
for coining,  
etc.  
Code, s. 713.

(c) Any filings or clippings of gold or silver, or any gold or silver in bullion, dust, solution, or any other state, which are or is suspected, on reasonable grounds, to have been obtained by dealing with any current gold or silver coin in such a manner as to diminish its weight;

the person who so finds the same may seize the thing or things found, and take the same forthwith before a justice to be dealt with according to law.

Disposal of  
property  
seized.  
Code, s. 714.

**714.** When anything is seized or taken under the provisions of this Code, the person seizing or taking it is required forthwith to carry it before a justice.

The justice may cause the thing so seized or taken to be detained in such custody as he may direct, taking reasonable care for its preservation, until the conclusion of any investigation that may be held with respect to it; and if any person is committed for trial for any offence committed with respect to the thing so seized or taken, or committed under such circumstances that the thing so seized or taken is likely to afford evidence at the trial, he may cause it to be further detained in like manner for the purpose of being produced in evidence at such trial.

If no person is so committed, the justice is required to direct that the thing be returned to the person from whom it was taken, unless he is authorised or required by law to dispose of it otherwise.

If the thing so seized or taken is anything forged or counterfeit, or is of such a nature that a person who has it in his possession without lawful authority or excuse is guilty of an offence, then if any person is committed for trial for any offence committed with respect to it, or committed under such circumstances as aforesaid and is convicted, the Court before which he is convicted, or, in any other case, any justice may cause it to be defaced or destroyed.

If the thing so seized or taken is of such a nature that a person who has it in his possession, knowing its nature and without lawful authority or excuse, is guilty of an offence, then, as soon as it appears that it will not be required, or further required, in

evidence against the person who had it in his possession, it is to be delivered to the Treasurer\*, or some person authorised by him to receive it.

715. If the thing seized or taken is an explosive substance found in a vessel or vehicle, the person acting in the execution of the warrant may for twenty-four hours after seizure, and for such longer time as is necessary for the purpose of removal to a safe place of deposit, use the vessel or the vehicle, with the tackle and furniture thereof, or the beasts and accoutrements belonging thereto, as the case may be, paying afterwards to the owner of the vessel or vehicle a sufficient recompense for its use, which is to be assessed by the justice or justices before whom the suspected offender is brought, and, in case of non-payment, immediately after such assessment, may be recovered before two justices in a summary way.

Explosives.  
Code, s. 715.

716. If it appears to a justice, on complaint made on oath by a parent, relative, or guardian of a woman or girl, or any other person, who in the opinion of the justice is acting in good faith in the interests of a woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within his jurisdiction, he may issue a warrant directed to a police officer, and authorising him to search for such woman or girl, and, when found, to take her to and detain her in a place of safety until she can be brought before a justice; and the justice before whom she is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as the circumstances may permit and require.

women  
detained  
for immoral  
purposes.  
Code, s. 716.

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

---

\* Formerly Colonial Treasurer; amended by No. 8 of 1925, s. 2.

A woman or girl is deemed to be unlawfully detained for immoral purposes if she—

- (a) Is under the age of seventeen years; or
- (b) Being of or over the age of seventeen years, and under the age of eighteen years, is so detained against her will, or against the will of her father or mother, or of any other person who has the lawful care or charge of her; or
- (c) Being of or above the age of eighteen years, is so detained against her will;

and, in either case, is detained by any person in order to her being unlawfully carnally known by any man, whether a particular man or not.

A person authorised by warrant under this section to search for a woman or girl may enter, and if need be, by force, any house or other place specified in the warrant, and may remove the woman or girl therefrom.

The warrant must be executed by the police officer mentioned in it, who must, unless the justice otherwise directs, be accompanied by the parent, relative, guardian, or other person by whom the complaint is made, if such person so desires.

Restitution  
of property.  
Code, s. 717.  
Amended by  
No. 55 of  
1953, s. 21.

717. When a person is prosecuted, on the complaint of the owner of property, or any person on whom the right to property has devolved by operation of law, on a charge of an indictable offence of which the unlawful acquisition of the property by him is an element, and is convicted of the offence on indictment, the Court may order the property to be restored to the owner.

Such an order has the effect of a judgment, and is binding on the offender, and any person claiming through him as determining the ownership of the property, but as regards any other person has the effect only of changing the possession of the property, and does not affect any right of property or right of action.

In any such case the Court before which the offender is convicted may order that any personal property which is found in his possession, and which appears to the Court to have been derived, directly or indirectly, from such unlawful acquisition of property, shall be delivered to any person who appears to the Court to be entitled to the property so unlawfully acquired.

This section does not apply to a valuable security if it appears that the security has been paid or discharged in good faith by some person liable to the payment thereof, or being a negotiable instrument, has been taken or received by transfer or delivery in good faith by some person for a valuable consideration, without any notice, and without any reasonable cause to suspect that the same had been so unlawfully acquired.

718. When a person has been convicted on indictment or summarily of stealing, and the offender has sold the stolen property to any person, and such person had no knowledge that the property was stolen, and any money was taken from the offender on his apprehension, the Court, on the application of such purchaser, and on restitution of the stolen property to the owner, may order that out of such money a sum not exceeding the amount of the proceeds of such sale may be delivered to the purchaser.

Money  
found on  
prisoner  
may be  
paid to  
purchaser  
of stolen  
property on  
restitution.  
Code, s. 718.

719. It shall be lawful for any court before which any person shall have been convicted (whether on indictment or summarily) upon the application of any person aggrieved, and immediately after the conviction, to award any sum of money, to be paid by the person convicted to the person aggrieved, by way of satisfaction or compensation for any loss of property suffered or expenses incurred by the applicant through or by means of the said offence, but the sum awarded shall not exceed in the case of a summary conviction, twenty-five pounds, and in other cases, one

Power to  
award  
compen-  
sation to  
persons  
aggrieved  
by offence.  
Code, s. 719.

hundred pounds: Provided that such an order may be varied, annulled or appealed against as if it were an order for restitution, and that it shall be deemed to be annulled if the conviction is quashed on appeal.

CHAPTER LXXIII.—INFORMATION BY PRIVATE PERSONS FOR INDICTABLE OFFENCES: EX OFFICIO INDICTMENTS.

Information  
by leave of  
the court by  
private  
prosecutors.  
Code, s. 720.

720. Any person may, by leave of the Supreme Court, present an information against any other person for any indictable offence not punishable with death, alleged to have been committed by such other person.

An information presented by leave of the Court is to be signed by the person on whose application the leave is granted, or some other person appointed by the Court in that behalf, and filed in the Supreme Court.

The person who signs the information is called the prosecutor.

The information is to be intituled “The King on the prosecution of the prosecutor (naming him) against the accused person” (naming him), and must state that the prosecutor informs the Court by leave of the Court.

Except as otherwise expressly provided, the information and the proceedings upon it are subject to the same rules and incidents in all respects as an indictment presented by the Attorney General and the proceedings upon such an indictment as hereinbefore set forth.

Security to  
be given by  
prosecutor  
for costs of  
defence.  
Code, s. 721.

721. Before the information is presented, the prosecutor is to be required to give security in such amounts and in such manner as the Court on giving leave to present the information may direct, that he will prosecute the information without delay, and will pay to the accused person such costs incurred by him in respect of his defence to the charge as the Court may order him to pay.

722. An office copy of the information is to be served upon the accused person, upon which copy there must be indorsed a summons, under the hand of the Registrar and seal of the Court, requiring him to plead to the information within the same time after service within which he would be required to file a defence after service of a writ in a civil action.

Service of information.  
Code, s. 722, amended by  
No. 20 of 1954, s. 10.

723. (1) The accused person is required within the time so limited to file his plea in writing in the Supreme Court, and to deliver a copy thereof forthwith to the prosecutor.

Plea.  
Code, s. 723, amended by  
No. 20 of 1954, s. 11.

(2) The plea in writing shall contain an address for service of notices and other documents required to be served on the accused person.

Subsec. (2)  
added by  
No. 20 of  
1954, s. 11.

724. If the accused person does not plead to the information according to the exigency of the summons indorsed on the copy served on him, the prosecutor may serve him with a notice to the effect that, unless he pleads or demurs within eight days, a plea of not guilty will be filed in his name. Upon filing an affidavit setting forth the service of the information and of such notice, and of default of pleading in accordance with the exigency of the notice, the prosecutor may cause a plea of not guilty to be filed for the accused person, and thereupon the same proceedings may be had as if the accused person had filed a plea of not guilty.

Default of  
plea.  
Code, s. 724.

Or, in the case of a misdemeanour, judgment of conviction may, by leave of the Court or a Judge, be entered against him for want of a plea.

But the Court or a Judge may, either before or after the time so prescribed, allow further time for the accused person to plead or demur to the information.

725. When the accused person pleads any plea, or when a plea of not guilty is filed for him by the prosecutor, either party may apply to a Judge to appoint the time and place of trial, of which notice is to be given to the accused person.

Time and  
place of  
trial.  
Code, s. 725.

Effect and  
judgment  
for  
prosecutor  
on  
demurrer.  
Code, s. 726.

726. If the accused person demurs only, and does not plead any plea, and judgment is given against him on demurrer, he is required to plead to the information within such time as the Court or a Judge may allow. If he makes default in doing so, the same proceedings may be taken as if he had made default in pleading in the first instance.

Effect of  
judgment  
by default.  
Code, s. 727.

727. If judgment of conviction is entered against the accused person for want of a plea, he is required to attend to receive the judgment of the Court at a time and place to be appointed by a Judge. If he does not so attend, any justice may issue his warrant to arrest him and bring him before the Court to receive judgment.

Costs of  
defence.  
Code, s. 728.

728. In either of the following cases, that is to say:—

- (1) If the accused person pleads to the information, and is not brought to trial within a year after filing his plea; or
- (2) If the Attorney General informs the Court that he will not further proceed on the information; or
- (3) If the accused person is acquitted upon trial;

the Court, or the Judge before whom the trial, if any, is had, may award costs to the accused person.

Practice to  
be applied  
on *ex officio*  
information.  
Code, s. 729.  
Amended by  
No. 55 of  
1953, s. 22;  
No. 20 of  
1954, s. 12.

729. When an indictment is presented in any court of criminal jurisdiction by the Attorney General against any person who has not been committed for trial for the offence charged in the indictment, subject to section five hundred and eighty of the Code, the accused person shall be dealt with in all respects and the indictment and the proceedings upon it are subject to the same procedure as if the accused person had been committed for trial for the offence charged in the indictment.

When the indictment is presented in any court other than the Supreme Court, the foregoing provisions of this chapter shall be read and construed with reference thereto as if such court were

mentioned in such provisions in lieu of the Supreme Court and as if in lieu of an officer of the Supreme Court the corresponding officer of such other court were mentioned. For the purposes of this section a Chairman of General or Quarter Sessions or a Court of Session shall be deemed to correspond to a Judge of the Supreme Court and a Clerk of General or Quarter Sessions or a Court of Session to the Registrar of the Supreme Court.

CHAPTER LXXIV.—MISCELLANEOUS PROVISIONS.

730. When a person is to be tried for the crime of treason, or of becoming an accessory after the fact to treason, or of failing, when he knows that any person intends to commit treason, to give information thereof with all reasonable despatch to a justice or use other reasonable endeavours to prevent the commission of the crime, a list of the jurors, with their Christian names and surnames written at full length, and with the true place of abode and description of every juror, is required to be given to him, in the presence of two credible witnesses, ten days before he is called upon to plead to the indictment.

Names of  
jury to be  
given to  
person  
charged  
with  
treason or  
concealment  
of treason.  
Code, s. 730.

731. If it appears to any Court that any person has been guilty of perjury in any testimony given before it, the Court may commit him to take his trial for such perjury before any Court of competent jurisdiction in the same manner as if he had been charged before a justice with the same perjury, and sufficient evidence had been given against him.

Court may  
direct  
certain  
persons to  
be  
prosecuted  
for perjury.  
Code, s. 731.

A person so committed may be admitted to bail in the same manner as if he had been committed for trial by a justice.

The Court may require any person to enter into a recognisance conditioned to appear and give evidence at the trial of a person so directed to be prosecuted.

In this section the term "Court" includes any person before whom a writ of inquiry is executed, but does not include justices in petty sessions.

Committal  
of  
fraudulent  
debtors.  
Code, s. 732.

732. If, on the examination of any person whose affairs are in course of administration under the provisions of the laws relating to bankrupt debtors before a Court which has jurisdiction to examine him in the course of such administration, it appears to the Court that he has been guilty of any of the offences defined in chapter  *fifty-four*, the Court may commit him to take his trial for such offence before some Court of competent jurisdiction, or may hold him to bail to appear before a justice to answer any charge that may be brought against him for any such offence.

A person so committed may be admitted to bail in the same manner as if he had been committed for trial by a justice.

Staying  
prosecution  
for  
publication  
of  
Parlia-  
mentary  
paper.  
Code, s. 733.

733. A person prosecuted on a charge of the unlawful publication of defamatory matter which is contained in any paper published by him, or by his servant, by order or under the authority of either House of Parliament, may at any stage of the proceedings apply to the Supreme Court or a Judge thereof, or to the Court in which the proceedings are pending, for an order staying the prosecution, first giving twenty-four hours' notice of his intention so to do to the prosecutor; and upon production to the Court or Judge of a certificate under the hand of the President or Clerk of the Legislative Council, or Speaker or Clerk of the Legislative Assembly, as the case may be, stating that the paper in respect of which the prosecution is instituted was published by the defendant, or by his servant, by order or under the authority of the Council or Assembly, together with an affidavit verifying such certificate, the Court or Judge is required immediately to stay the prosecution, and may order the prosecutor to pay to the defendant his costs of defence.

A person prosecuted on a charge of the unlawful publication of defamatory matter which is contained in a copy of, or an extract from or abstract of, any such paper, may, at any stage of the proceedings, apply to the Supreme Court or a Judge thereof, or to the Court in which the proceedings are pending,

for an order, staying the prosecution; and upon production to the Court or Judge of an original of such paper, together with such a certificate as aforesaid, and an affidavit verifying the same, the Court or Judge is required to stay the prosecution, and may order the prosecutor to pay to the defendant his costs of defence.

734. When justices dismiss a complaint of an offence punishable on summary conviction, whether an indictable offence or not, they may, if required, and if they think fit, give the accused person a certificate of dismissal. Such a certificate is a bar to any further prosecution of the accused person for the same cause.

*Certificate  
of dismissal  
by justices.  
Code, s. 734.*

735. On the summary conviction of any aboriginal native for any indictable offence the justices are required to transmit to the Registrar of the Supreme Court a record of the conviction, and to the Minister for Native Welfare a report of such conviction together with an abstract of the information and of the evidence for and against the convicted person.

*Record and  
report of  
conviction  
of aboriginal  
native.  
Code, s. 735.  
Amended by  
No. 55 of  
1953, s. 23.*

736. When, on the trial of a person charged with any of the offences defined in chapter twenty-two, relating to women or girls, it is proved to the satisfaction of the Court that the seduction or prostitution of a girl under the age of seventeen has been caused, encouraged, or favoured by her father, mother, guardian, master, or mistress, the Court may make an order divesting such father, mother, guardian, master, or mistress of all authority over her, and may appoint any person or persons who is or are willing to take charge of the girl to be her guardian or guardians until she has attained the age of twenty-one years, or any such age under twenty-one years as the Court may direct.

*Custody of  
girls under  
seventeen.  
Code, s. 736.*

The Supreme Court, or a Judge thereof, may from time to time rescind or vary any such order by the appointment of any other person or persons as such guardian or guardians, or in any other respect.

Saving of  
civil  
remedies.  
Code, s. 737.

737. Except when expressly so provided, the prosecution or conviction of a person for an offence does not affect any civil remedy which any person aggrieved by the offence may have against the offender.

Incriminating  
answers  
and  
discovery.  
Code, s. 738.

738. No person shall in any civil or criminal proceeding be excused from answering any question put either *viva voce* or by interrogatory or from making any discovery of documents on the ground that the answer or discovery may criminate or tend to criminate him in respect of any offence against Chapter XXXV. or Chapter LV.: Provided that his answer shall not be admissible in evidence against him in any criminal proceedings other than a prosecution for perjury.

Limitation  
of  
proceedings.  
Code, s. 739.  
Amended by  
No. 55 of  
1953, s. 24;  
and by No. 35  
of 1955, s.  
48A and 2nd  
Sched. as  
inserted by  
No. 73 of  
1954, ss. 5  
and 8.

739. A prosecution against any person for anything done in pursuance of any of the provisions of this Code with respect to the arrest of offenders or the seizure of goods must be commenced within six months after the fact committed, and not otherwise.

No Court  
fees in  
criminal  
cases.  
Code, s. 740.

740. No fees can be taken in any Court of criminal jurisdiction or before any justice from any person who is charged with an indictable offence for any proceeding had or taken in the Court or before the justice with respect to the charge.

Court may  
order  
payment of  
witnesses  
for defence.  
Code, s. 741.

741. The Attorney General may, in his discretion, order payment of the expenses of any witnesses bound by recognisance to appear on behalf of an accused person as if such witness were bound over on behalf of the prosecution, and any such payment is deemed to be part of the expenses of the prosecution.

Police and  
Resident  
Magistrates  
may act  
alone.  
Code, s. 742.

742. Any Police Magistrate or Resident Magistrate may exercise alone any jurisdiction conferred by this Code on two justices in Petty Sessions.

743. Any one justice may exercise the jurisdiction of two justices under this Code whenever no other justice usually residing in the district can be found at the time within a distance of ten miles; provided that the justice, on any conviction, certifies, in writing, that no other justice can be found within ten miles. But no sentence of whipping inflicted by one justice may be inflicted until approved by the Governor.

Jurisdiction of one justice in certain circumstances.  
Code, s. 743.  
Amended by No. 55 of 1953, s. 25.

A certificate under this section is conclusive evidence of the facts stated.

744. In the case of the absence of the Attorney General or of his inability to perform the duties of his office, or of a vacancy in the office, the Solicitor General or the Crown Solicitor may exercise, perform, and discharge all the powers, duties, and functions which the Attorney General is required or able to perform or discharge under the provisions of this Code, and the warrant of the Governor directing the Solicitor General or the Crown Solicitor to exercise, perform, and discharge such powers, duties, and functions is conclusive evidence of the absence or inability of the Attorney General, or of a vacancy in the office, as the case may be.

Powers of Attorney General may be delegated to Solicitor General or Crown Solicitor.  
Code, s. 744.

745. Any person who is committed for trial or held to bail for any indictable offence is entitled to have on demand, from the person who has the lawful custody thereof, copies of the depositions of the witnesses on whose depositions he has been so committed or held to bail.

Copies of depositions to be allowed to persons committed for trial.

Provided that, if the demand is not made before the day appointed for the commencement of the sittings of the Court at which the trial of the person on whose behalf the demand is made is to take place, he is not entitled to have any such copy unless the Judge is of opinion that the copy may be made and delivered without delay or inconvenience to the trial.

Demand for copy to be made prior to commencement of sittings.  
Code, s. 745.

The Court may postpone a trial on account of the accused person not having previously had a copy of the depositions.

Inspection  
of  
depositions  
at trial.  
Code, s. 746.

746. Any person who is tried for any offence is entitled, at the time of his trial, to inspect without fee all depositions or copies of depositions which have been taken against him and returned into the Court before which the trial is had.

Enforcing  
recognis-  
ances.  
Inserted by  
No. 32  
of 1918, s. 33;  
amended by  
No. 55 of  
1953, s. 26.

746A. When a person bound by recognisance (by whomsoever ordered or permitted to be entered into and before whomsoever taken) to take his trial or attend any other proceeding before the Supreme Court, a Court of Session or a court of general or quarter sessions of the peace in any criminal cause or matter or bound by any other recognisance, before whomsoever taken (entered into pursuant to any judgment, order, or sentence of any such court, given, made, or pronounced in a criminal cause or matter), to keep the peace or be of good behaviour or receive judgment or do or refrain from doing anything or observe or comply with any other condition whatsoever, fails in any condition of the recognisance, such court or any judge or chairman thereof, on the production of the recognisance, and on the application of counsel for the Crown may order that the recognisance be estreated forthwith, and that such person and any surety bound by the recognisance shall forthwith pay to the Attorney General to the use of the Crown the sum in which he is bound.

The provisions of this section shall be without prejudice to any other method of enforcing recognisances.

Rules and  
Forms of  
criminal  
proceedings.  
Code, s. 747.

747. The Judges of the Supreme Court, or a majority of them, may make general rules prescribing forms of complaint, summonses, depositions, indictments, judgments, records, convictions, warrants, recognisances, and other proceedings, to be used in any Court, or before justices in respect of any offences; and every form so prescribed is to be deemed sufficient for the purpose, and sufficiently to state the offence or matter for or in respect of which it is prescribed to be used.

The Judges, or a majority of them, may also make general rules not inconsistent with the provisions of this Code, regulating the proceedings upon the trial

of persons charged with indictable offences, and the proceedings upon informations presented by leave of the Court, and the procedure and practice relative to appeals to the Court of Criminal Appeal.

Rules so made for the regulation of the procedure and practice relative to such appeals may make provision with respect to any matter for which provision is to be made under chapter sixty-nine by rules of court or which it may be necessary or convenient to prescribe for any of the purposes of that chapter or for the efficient conduct of any proceeding thereunder, and may regulate generally the practice and procedure under that chapter; and the officers of any Court before whom an appellant has been convicted, and the governor or other officers of any prison or other officer having the custody of an appellant, and any other officers or persons, shall comply with any requirements of those rules so far as they affect those officers or persons, and compliance with those rules may be enforced by order of the Court of Criminal Appeal.

The Judges or a majority of them may also, subject to this Code, make general rules for regulating the practice and procedure of the said Court in its criminal jurisdiction.

748. [Repealed by No. 32 of 1918, s. 34.]



# INDEX TO CODE.

[The reference is to the Code, unless either the Criminal Code Act, Compilation Act, 1913 ("Compilation Act") or the Criminal Code Act, 1913 ("C.C. Act") is mentioned.]

Subject.	Section.
Abduction of—	
child under fourteen ....	343
girl under eighteen ....	193
girl under sixteen ....	330
heiress ....	329 (2)
woman against will ....	329
Abolition of—	
forfeitures, escheats, etc. ....	683
Aboriginal—	
record of conviction of ....	735
whipping ....	670, 680
Abortion—	
attempt to procure ....	199, 200
supplying drugs or instruments to procure ....	201
conviction for, on charge of homicide ....	595
Absconding bankrupt ....	516
Absence—	
for seven years, when defence to charge of bigamy ....	339
of accused at trial ....	635
Abuse of office—	
administering oath without authority ....	90
bail, requiring excessive ....	139 (1)
exercising jurisdiction when interested ....	139 (2)
false certificate ....	89, 334
falsely assuming authority ....	91, 334
generally ....	87
interfering with political liberty ....	75
by judge ....	121
by justice ....	122
by personating public officer ....	92, 334
by public officer ....	82-89, 122
by valuator ....	88
Acceptance—	
of valuable security, procuring by false pretence ....	410
by threat ....	399 (a)
Accessory after the fact—	
crime, to a ....	562
definition ....	10
husband and wife ....	10
misdemeanour, to a ....	563
murder, to ....	284
place of trial ....	575 (6)
punishment of ....	562, 563
treason, to ....	38 (1)
trial of, with or without principal....	586 (5)
Accessory before the fact. See <i>Counselling</i> .	
procuring ....	7 (d)
Accident, no criminal responsibility for ....	23
Account—	
agent, giving false to ....	532
bankrupt, failing to deliver up ....	521
bankrupt, failing to keep books of ....	522
false statement of, by creditor ....	525 (1)

INDEX—*continued.*

Subject.	Section.
Account— <i>continued.</i>	
falsification or destruction of—	
by bankrupt .... .... .... .... .... .... ....	519
by clerk or servant .... .... .... .... .... ....	424
by director or officer of company .... .... ....	419, 420, 548
defence to charge of .... .... .... .... ....	422
by public officer .... .... .... .... .... ....	425
required in evidence .... .... .... .... ....	132
Accountable receipt, forgery of .... .... .... ....	473 (2) (i)
Accused person—	
application by for acceleration of trial .... ....	609
giving, in charge to jury .... .... .... .... ....	632
notice to, to appear for sentence .... .... ....	656
refusal to plead .... .... .... .... .... ....	619
removal of from Court .... .... .... .... ....	635
searching the person of .... .... .... .... ....	236
trial in presence of .... .... .... .... ....	635
Acids—	
landing from ships .... .... .... .... .... ....	312
shipping under false description .... .... ....	311
Acknowledgement of—	
deed, false .... .... .... .... .... ....	512
deposit of money, etc., forging .... .... ....	473 (2) (i)
Acquittal—	
discharge upon .... .... .... .... .... ....	653
former (See <i>Autrefois acquit</i> ), verdict of ....	653
verdict of on ground of insanity .... .... ....	653
Act of Parliament (see Statute).	
Action—	
saving of, commenced before compile Act .... ....	Compilation Act, s. 3
compounding penal .... .... .... .... .... ....	137
fictitious, bringing on penal statute .... .... ....	141
limitation of .... .... .... .... .... ....	739
none after conviction of offence—	
analogous to stealing .... .... .... .... ....	440
of killing, etc., animal .... .... .... .... ....	468
relating to property .... .... .... .... ....	468, 671
none for assault after certificate of dismissal ....	323
none when order for compensation made .... ....	674
notwithstanding conviction .... .... .... .... ....	737
right of, how effected by prosecution or conviction ....	323, 417, 440, 468, 671, 674, 737
none in respect of Act declared lawful by Code ....	C.C. Act. s. 5
saving of right of .... .... .... .... .... ....	C.C. Act. s. 5
trustee, against, after prosecution for same cause ....	417
Address—	
to jury .... .... .... .... .... ....	637
printer, etc., of an electoral placard .... .... ....	102 (2)
Adjacent building, when deemed part of dwelling house....	1
Adjournment of—	
court, refreshment to jurors during trial .... ....	640
for amendment of indictment .... .... .... ....	591
for delivery of depositions .... .... .... ....	745
on disagreement of jury .... .... .... .... ....	644
in case of disobedience of jury .... .... .... ....	639, 641
generally .... .... .... .... .... ....	610
for delivery of particulars .... .... .... ....	592
on account of separation of jurors .... .... ....	639
to another court .... .... .... .... .... ....	611
Administering drug or noxious thing. See Drug ; Noxious thing.	
oath. See Oath.	

INDEX—*continued.*

Subject.	Section.
<b>Administration—</b>	
letters of, granted on false evidence, obtaining property upon of justice, offences relating to .... .... .... .... .... ....	480 120-143
<b>Administrator—</b>	
deemed trustee .... .... .... .... .... .... ....	417
fraudulently disposing of property .... .... .... .... .... ....	417
<b>Admiralty, jurisdiction, piracy within</b> .... .... .... .... ....	77
<b>Admission—</b>	
of guilt, summary conviction on .... .... .... .... .... ....	426, 465 (2)
<b>Adulteration of—</b>	
beverage .... .... .... .... .... .... ....	219
liquor .... .... .... .... .... .... ....	218
<b>Advertisement—</b>	
as to reward for return of stolen property .... .... .... ....	138
inserting without authority of court .... .... .... ....	142
“ Advice given ”—See <i>Secret Commission.</i>	
<b>Affidavit—</b>	
false assumption of authority to take .... .... .... ....	91 (2)
false statement in .... .... .... .... .... ....	169
forgery of .... .... .... .... .... ....	473 (4)
unlawfully taking .... .... .... .... .... ....	90
<b>Affirmation. See Affidavit.</b>	
<b>Affray</b> .... .... .... .... .... ....	71
<b>Age—</b>	
belief as to immaterial except where otherwise stated.... ....	205
immature, how it affects criminal responsibility .... ....	29
<b>Aged person, duty to provide necessaries for</b> .... ....	262
<b>Agent—</b>	
candidate, of—	
procuring withdrawal of candidate .... .... .... ....	101 (6)
commission agent included in term “ clerk ” or “ servant ” ....	1
corruption of. See <i>Secret Commission.</i>	
false warranty by, on sale of food .... .... .... ....	492
fraud by, on sale of mortgage .... .... .... ....	413
funds held under direction by .... .... .... ....	373
ownership of money received by .... .... .... ....	375
pledge or lien by, when not deemed stealing .... .... ....	372 (2)
funds received by agent for sale .... .... .... ....	374
stealing by .... .... .... .... .... ....	372-375, 378 (9)
<b>Aggravated assault. See Assault.</b>	
<b>Aggravation. See Circumstance of Aggravation.</b>	
<b>Agreement. See Contract.</b>	
<b>Agricultural Machine, damaging</b> .... .... .... .... ....	453 VII. (f) (g)
<b>Agricultural produce—</b>	
setting fire to .... .... .... .... .... ....	446
threatening to burn or destroy .... .... .... ....	463
<b>Aiding. See Counselling ; Arrest ; Procuring breach of peace,</b>	
in preventing .... .... .... .... .... ....	237
<b>commission of offence—</b>	
indictment of person .... .... .... .... .... ....	587
as principal offender .... .... .... .... .... ....	7 (e)
enemy .... .... .... .... .... ....	37 (8), 77 (2)
escape of—	
guilty person .... .... .... .... .... ....	10
prisoner .... .... .... .... .... ....	145
prisoner of war .... .... .... .... .... ....	42
execution of—	
process .... .... .... .... .... ....	225, 230, 231
warrant .... .... .... .... .... ....	226, 229, 230
pirates .... .... .... .... .... ....	80

INDEX—*continued.*

Subject.	Section.
<b>Aiding—<i>continued</i></b>	
police officer—	
assaulting person while	318 (2)
force by, to prevent escape	233
to arrest without warrant	564 (b)
punishment for not—	
in arresting offender	176
in suppressing riot	175
Secret Commissions—	
in offences in regard to	536
self defence, in	250
suicide	288
<b>Alteration of—</b>	
document—	
by bankrupt	517, 519
by director	548
when termed “making false document”	471
valuable security—	
obtaining by false pretence	410
procuring by threat	399
<b>Amendment of—</b>	
code, how printed	C.C. Act, s. 8
indictment	591
after conviction	655
misnomer, to rectify	615
upon motion to quash	614
<b>Amends, tender of, in action under code</b>	739
<b>Animal—</b>	
capable of being stolen	370
carnal knowledge of	181 (2)
confinement, when deemed in state of	370
defined	370
diseased, dealing in carcase of	217
infected, travelling with	460
infectious disease, communicating to	459
injuring or killing	452
summary conviction for	465 (b)
killing, with intent to steal skin, etc.	382
summary conviction for	426 (b)
mortgaged, fraudulent disposition of	389
servant taking food for, when not deemed stealing	372 (3)
stealing	378 (3)
conviction for what offence on charge of	606
dead body of wild	372 (1)
suspicion of	429
tame	370
stolen, possession of skin or carcase of	429
unlawfully using	428, 606 (a)
wild, taking dead body of	372 (1)
<b>Answer—</b>	
false (see <i>Perjury</i> ).	
in examination before Parliament	57
in examination before Royal Commission	127
to questions at elections	109
incriminating in civil or criminal proceedings	422, 738
refusal to give before Parliament, etc.	59 (2)
to defamatory matter	357 (7)
<b>Apparel of woman or girl, withholding</b>	194 (2)
<b>Appeal. See case reserved; Court of Criminal Appeal</b>	
rules as to running of sentences pending appeals	20
<b>Appearance for sentence, recognisance</b>	19 (8), 656
<b>Applies force, meaning of term</b>	222

Subject.	Section.
Appointment, procuring benefit in respect of	119
Apprehension. See Arrest.	
Apprentice—	
endangering life and health of	264, 303
correction of	257
necessaries for	264, 303
Appropriation—	
fraudulent. See Stealing.	
of power	390
of property, by director or officer	419
defence	422
of fine	672
wrongful by member of local authority	423
Aqueduct, damaging, etc.	453 II. (a), (c), VII. (d), (e)
interfering with work appertaining to	458
Arbitrator, corruption of	121
Arms—	
assault under, with intent to steal	394
going under, with intent to commit crime	407 (a), (b)
going under, so as to cause fear	68
loaded—	
assault with intent to steal and wounding by	394
definition of term	392
discharging to alarm persons in dwelling house	74 (2)
pirate, furnishing with	77 (5) (i)
robbery under	393
Arraignment—	
of accused	612
on charge alleging previous conviction	648
Array, challenge to	627
Arrest—	
of accused absent at trial	635
acts intended to prevent	294
aiding	225, 226, 542 (b)
of wrong person	229
punishment for not	175, 176
assault to prevent	318 (1)
breach of peace, of person committing	237
delay in taking before magistrate after	140
for detaining woman for immoral purpose	716
duty of person making	232
examination of person of accused after	236
escape from. See escape.	
<i>ex officio</i> information, on	580
force, use of in making	231
lawful, under process or warrant	225, 226
limitation of proceedings against person making	739
of judgment. See Judgment.	
of minister of religion under pretence of executing process	179 (3)
of offender—	
after judgment by default	727
neglect to aid in	176
police officer, by. See Police Officer.	
process, in execution of	225
property found on offender, on	712
rescue after, preventing	235
unlawful, not necessarily provocation for assault	245
warrant for	226
where necessary	5

INDEX—*continued.*

Subject.	Section.
<b>Arrest—<i>continued</i></b>	
without warrant—	
by owner of stolen or injured property .....	464
by police officer. See Police Officer.	565
conditions as to .....	5
crime, offender committing, may be arrested unless otherwise provided .....	568
during flight .....	564
generally .....	667
habitual criminal of .....	464
in case of injury to property .....	438
in cases of, analogous to stealing .....	5
meaning of “offender cannot be arrested without warrant” .....	5
meaning of “offender may be arrested without warrant” .....	5
of person—	
escaping from justice .....	568
found committing offence .....	566
found committing offence at night .....	567
offering stolen property for sale .....	569
wrongful .....	229
limitation of proceedings for .....	739
<b>Arson—</b>	
attempt to commit .....	445, 448
crops and growing plants .....	447
stacks, etc. .....	446
generally .....	441
threat to commit .....	463
<b>Articles of Association—</b>	
false statement in .....	418
uttering false copy of .....	489
<b>Asportation, in stealing</b> .....	371 (6)
<b>Assault. See Violence.</b>	
aggravated .....	318
summary conviction for .....	322
bodily harm, occasioning .....	317
causing death, consent immaterial .....	261
certificate of dismissal .....	323
child, on .....	322
common .....	313, 321
defined .....	222
dismissal of complaint for .....	323
excessive force is .....	260
grievous bodily harm, occasioning. See Bodily harm .....	294
in defence of property against trespasser. See Trespasser .....	252-256
in interference with freedom of trade or work .....	324
in self-defence. See Self-defence.	
indecent. See Indecent assault.	
lawful—	
breach of the peace, to prevent .....	237
correction of child for .....	257
discipline of ship, to maintain .....	258
escape or rescue, to prevent .....	233-235
prevention of certain crimes for .....	243
repetition of insult, to prevent .....	247
riot, to suppress .....	238-242
sentence, process or warrant, to execute .....	224-232
to search person of accused in custody .....	236
violence by insane person, to prevent .....	243
minister of religion, etc., on .....	179 (3), 180
piracy with .....	78
piracy, with intent to commit .....	79 (1)
power to convict for, on, charge of defilement .....	596A
provocation for, defence of .....	245, 246

INDEX—*continued.*

Subject.	Section.
<i>Assault—continued</i>	
provoked, self-defence against .... .... .... .... .... ....	249
rescue, property to .... .... .... .... .... ....	318 (4)
serious .... .... .... .... .... ....	318
justice not to deal with .... .... .... .... .... ....	320
steal, with intent to .... .... .... .... .... ....	394, 395
summary conviction for .... .... .... .... .... ....	319-324
aggravated assault, in case of .... .... .... .... .... ....	322
assaults not to be dealt with summarily .... .... .... .... .... ....	320
common assault, in case of .... .... .... .... .... ....	321
effect of .... .... .... .... .... ....	323
interference with freedom of trade, in case of .... .... .... .... .... ....	324
surgical operation, to perform .... .... .... .... .... ....	259
trifling, discharge in case of .... .... .... .... .... ....	321
unlawful .... .... .... .... .... ....	223
unnatural offence, with intent to commit .... .... .... .... .... ....	314
unprovoked, self-defence against .... .... .... .... .... ....	248
wreck, on person protecting .... .... .... .... .... ....	316
<i>Assembly—</i>	
mutinous, inciting persons to make .... .... .... .... .... ....	41
unlawful. See Breach of the Peace; Riot; Unlawful assembly....	62, 63
<i>Assessment of.</i> See also Compensation	
compensation for use of vessel containing seized explosive .... ....	715
value of property for purpose of fine .... .... .... .... .... ....	672
<i>Assignment.</i> See Transfer.	
forging. See Forgery “transfer.”	
<i>Assisting.</i> See Aiding.	
<i>Association—</i>	
circulating false rules of .... .... .... .... .... ....	489
forging—	
share in capital stock of .... .... .... .... .... ....	473 (2) (b)
transfer of share in .... .... .... .... .... ....	473 (2) (b)
included in terms “person,” “owner,” etc. .... .... .... .... ....	1
officer, etc., of, immaterial that person converting is .... .... .... .... ....	376
stealing by officer of .... .... .... .... .... ....	376
unlawful—	
defence of compulsion by person who has joined .... .... .... .... .... ....	31 (4), 49
oath in connection with, attempt to induce person to take....	48 (3)
oath, not to reveal .... .... .... .... .... ....	48 (1) (f) (g)
oath, to join .... .... .... .... .... ....	48 (1) (d) (2)
oath, to obey order of .... .... .... .... .... ....	48 (1) (e) (2)
using premises of, for committee room .... .... .... .... .... ....	103 (3) (b)
<i>Attachment—</i>	
removal of property to defeat .... .... .... .... .... ....	150
<i>Attainders abolished</i> .... .... .... .... .... ....	683
<i>Attempt to commit—</i>	
crime .... .... .... .... .... ....	552, 553
misdemeanour .... .... .... .... .... ....	552, 554
offence .... .... .... .... .... ....	552
conviction on charge of .... .... .... .... .... ....	601
meaning of .... .... .... .... .... ....	4
reduction of punishment for, in certain cases .... .... .... .... ....	555
pervert justice.... .... .... .... .... ....	143
procure—	
commission of crime out of Western Australia .... .... .... .... .... ....	556
commission of offence, conviction on charge of .... .... .... .... .... ....	601
utter, term “utter” includes .... .... .... .... .... ....	1,152
<i>Attendance of—</i>	
accused person—	
to receive judgment .... .... .... .... .... ....	727
warrant to secure .... .... .... .... .... ....	635
parent or guardian when child charged .... .... .... .... .... ....	708 (2)

INDEX—*continued.*

Subject.	Section.
Attestation—	
of claims, etc., without inquiry   ...	114
false, to voting paper   ...	112 (3)
of document, forging   ...	473 (2) (n)
of justice, forging   ...	473 (4) (i)
to power of attorney, forging   ...	473 (4) (p)
Attorney General—	
definition   ...	1,637
direction of prosecution by—	
judicial corruption, in cases of   ...	121
false statements by Directors, etc., with intent to affect price	
of shares, in cases of   ...	421
misappropriation by local authority, in case of   ...	423
secret commissions, in cases of   ...	545
uttering defaced coin, in case of   ...	166
information by, as to settlement of property in case of ab- duction   ...	329
information, <i>ex officio</i> ...	579, 729
may refer petition for exercise of His Majesty's mercy to Court of Criminal Appeal   ...	21
<i>nolle prosequi</i> , by   ...	581
costs in case of, on private information   ...	728 (2)
presentment of indictment by   ...	578, 579
powers of may be delegated to Solicitor General, or Crown Solici- tor   ...	744
right of to reply   ...	637
signature of to indictments, judicial notice to be taken of   ...	579
Auditor of company, false statement by   ...	420
Australia, Commonwealth of—	
Statutes—	
indictable offence, when triable and punishable under   ...	C.C. Act, s. 4
Author, fair comment as to character of   ...	355 (5) (6)
Authority—	
abuse of. See Abuse of Office.	
false assumption of   ...	91, 334 (2)
forging   ...	473 (4) (o)
for payment of money, or delivery of property   ...	473 (2) (h) (j)
(4) (t)	
473 (2) (m)	
473 (3) (c)	
to execute security, register, etc.   ...	
to receive public money   ...	
interference with, of—	
Governor or Minister   ...	54
Parliament   ...	55
local. See Local Authority.	
Parliament of—	
impairing, respect due to   ...	56 (2)
proof of. See Onus of Proof.	
public—	
falsifying warrant for money payable under   ...	483
offences against   ...	168-178
Sovereign, of, offences against   ...	37-43
statutory—	
disobedience to order issued under   ...	178
making document without   ...	479
Autrefois acquit—	
plea of   ...	17, 616, (4) (5), 620
concealment of treason   ...	50
inciting to mutiny   ...	41
treason, etc.   ...	39, 50

INDEX—*continued.*

Subject.	Section.
<i>Autrefois convict.</i> See also Previous conviction.	
plea of	17, 616 (3) (5) 620
concealment of treason	50
inciting to mutiny	41
treason, etc.	39, 50
<b>B.</b>	
Bail. See also Recognisance.	
adjournment of trial, on	611
application for	608
enlargement of—	
on adjournment of trial	611
when place of trial changed	577
fraudulent debtor, on committal of	732
indictable offence, in case of	573
justice requiring excessive	139 (1)
perjury, in case of committal by Court for	731
person charged in <i>ex officio</i> information	580
when jury discharged owing to incapacity of judge	645
Ballot paper. See Elections.	
Bank—	
in gaming house	210 (2) (a)
possessing paper used for document evidencing indebtedness of	494
Bank draft included in term “money”	1
Bank note—	
defined	469
forging	473 (2) (g)
included in term “money”	1
possessing forged	481
possessing paper or materials for making	494
Bank or wall of sea, river, etc.—	
damaging	453, II. (a), VII. (d)
interfering with	458
Bankrupt—	
absconding with property—	
immediately after bankruptcy	516 (1)
in contemplation of bankruptcy	516 (2)
altering document	517 (1) (b) (2)
books of, falsifying	519
committal of, in case of fraud	732
concealment of—	
documents, etc., by	519, 523
property of	526
property or debt by	518, 527 (2)
credit, obtaining	528
debtor—	
committal of	732
fraudulently dealing with property	527
departing from Western Australia	516
estate—	
false claim by creditor against	525
fraud against	524-527
no summary jurisdiction for assault arising in connection with	321

INDEX—*continued.*

Subject.	Section.
<b>Bankrupt—<i>continued</i></b>	
failing to—	
deliver property to trustee .....	521, 524
discover concealed property of, to trustee .....	526
discover property to trustee .....	521
give information to trustee .....	520 (1)
keep proper books .....	522
falsification of books, etc., by .....	519
fictitious losses or expenses, alleging .....	517 (3) (4)
frauds by .....	517-523, 527
in course of bankruptcy proceedings .....	520
fraudulently obtaining—	
consent to agreement with creditors .....	520 (2)
credit .....	517 (5), 518 (2)
gift by, with intent to defraud .....	527 (1)
indictment, relating to .....	584 (18)
meaning of .....	515
pawning, etc., goods obtained on credit .....	518 (2) (d)
preventing production of document .....	523
receiving property of, with intent to defraud .....	524
removal of property by .....	517 (1), 527 (1)
removal of property by person prior to becoming .....	517 (2), 527 (2)
statement of affairs, making fraudulent omission from .....	521 (4)
transfer by, with intent to defraud .....	527 (1)
trustee of, offences by. See Trustee .....	417
Bargaining for office in public service .....	119
Barrister. See Counsel.	
Bawdy house. See Brothel.	
Beacon, marine—	
damaging .....	453, VII. (c)
interfering with .....	449 (3)
with intent to endanger vessel .....	457
Besetting—	
house or place of work to intimidate workmen .....	550
Bestiality .....	181
Betting-house—	
common .....	211
keeping .....	211
keeper, who deemed .....	213
permitting house to be used as .....	211 (2)
Beverage, adulteration of .....	219
Bigamy .....	339
Bill of Exchange. See Valuable Security .....	473 (2) (g)
Bill of lading—	
forging .....	473 (2) (j)
document accompanying .....	473 (2) (k)
Bill of sale, fraudulent removal of goods .....	389
Bird included in term “animal” .....	370
Birth—	
concealment of .....	291
conviction for, upon charge of homicide .....	595
killing child at .....	269, 271
killing child before .....	290
Blasphemous matter, publication of .....	354 (3)
Boat. See Ship.	
included in term “vessel” .....	1
Bodily harm—	
apprentice or servant, to .....	264, 303
assault, occasioning .....	317
attempted robbery by person causing .....	394
causing, to prevent making of proclamation in case of riot .....	65
death, resulting in .....	274
defined .....	1

INDEX—*continued.*

Subject.	Section.
Bodily harm— <i>continued</i>	
explosive substance by grievous—	298, 299
acts intended to cause	294
administering noxious thing causing	300
compulsion of husband, no defence	32
death following infliction of	275
definition of	1
doing	297
justification, when act done in fear of	31 (4)
murder resulting from intention to commit	279 (1) (3)
punishment	297
setting mantraps likely to cause	305
use of force in self-defence to prevent	249, 250
use of force likely to cause—	
to prevent escape	233, 235
upon provocation	246, 247
in defence of property. See <i>Trespasser</i>	251–256
negligent act causing	306
robbery by person causing	393, 394
Sovereign, to, is treason	37 (1)
threat to commit. See <i>Threat</i>	338
<i>Bona fide</i> claim of right, effect on criminal responsibility	22
Bond—	
forging	473 (2) (h)
Book—	
account, of. See <i>Account</i> .	
bankrupt—	
failing to deliver, to trustee	521 (3)
failing to keep proper	522
preventing production of	523
company, of, falsifying or destroying	419 (2), 548
destroying, required in evidence	132
“document” when included in term	469
fair comment respecting	355 (5)
falsification of. See <i>Account</i> .	
forging entry in, as to title of land	473 (2) (d)
obscene, selling, etc.	204 (1)
refusal to produce, before Parliament	59 (1)
sale of containing defamatory matter	365, 366
Bore for water, damaging	453, VII. (b)
Boundary mark, removing	461
Box—	
opening locked, with intent to steal	378 (5) (f)
Boy—	
fourteen—	
not over, aggravated assault on	322
under, deemed incapable of having carnal knowledge	29
under, indecent treatment of	183
sixteen, under, not to be whipped with cat	659
permitting to resort to brothel	195
Brand, registered—	
defacing	431
conviction for, on charge of stealing	585 (c)
time for prosecution for	432
defined	1
using, with criminal intention	384
Branding—	
illegal	430
conviction for, on charge of stealing	606
time for prosecution for	432
with criminal intention	384
Breach of duty. See <i>Neglect</i> .	

xii  
INDEX—*continued.*

Subject.	Section.
Breach of the Peace. See also Riot ; Unlawful assembly	62-74
affray	71
challenge to fight duel	72
dwelling-house, with intent to alarm person in	74 (2)
entry on land	69
forcible detainer of land	70
going armed so as to cause fear	68
order to give security in case of. See Security.	
prevention of	237
prize fight	73
witness of, may detain offender	237
Breaking—	
and entering, meaning of expression	400
building—	
and committing crime	403, 586 (4a)
meaning of expression	400
with intent to commit crime	404
dwelling-house—	
being armed with intention of	407 (a) (b)
preventing	244
threats, as to	74
with intent to commit crime	402
into or out of—	
dwelling-house	401 (1) (2)
place of worship	405, 406
schoolhouse, shop, etc.	403 (1) (2)
Brewer adulterating beverage	219
Bribery—	
elections at	99
advancing money for	99 (4)
holder of judicial office, of	121 (2)
juror, of	123
member of Parliament, of	60, 61
office in public service, to obtain	119
prosecution, to prevent or delay	136
public officer, of	82 (1) (2), 83
without reference to pending election	99 (5) (6)
witness, of	130
Bridge—	
damaging	453, II. (c), VII. (e)
destroying	453, II. (b)
used with mine—	
damaging	453 VII. (i)
destruction or damage of, by rioters	66 (d), 67
Brothel—	
custody of girl allowed by parent to be inmate of	736
detention of woman or girl in	194
keeper, of, who is deemed	213
keeping	209
permitting boys to resort to	195
procuring female to become inmate of	191 (4)
Brother—	
carnal connection with	198
Bugger. See Unnatural Offence.	
Building—	
breaking into—	
and committing crime	403
with intent to commit crime	404
breaking, meaning of expression	400
dwelling-house—	
adjacent to, breaking into or out of	403, 404
when deemed	1

INDEX—*continued.*

Subject.	Section.
<i>Building—continued</i>	
entering, meaning of expression .... .... .... .... .... ....	400
letter threatening to destroy .... .... .... .... .... ....	463
night, being in, by, with intent to commit crime .... .... .... .... .... ....	407 (f)
setting fire to .... .... .... .... .... ....	444 (a)
Bullion, seizure of gold or silver in .... .... .... .... .... ....	713 (c)
<i>Buoy, marine—</i>	
damaging .... .... .... .... .... .... ....	453 VII. (c)
interfering with .... .... .... .... .... ....	457
<i>Burden of proof. See Onus of proof.</i>	
<i>Burglary—</i>	
defence of dwelling-house from .... .... .... .... .... ....	244
generally .... .... .... .... .... ....	400, 401
<i>Burial—</i>	
executed person, of .... .... .... .... .... ....	678
neglect with respect to .... .... .... .... .... ....	214
service, interfering with minister of religion .... .... .... .... ....	179
supplying false statement, relating to .... .... .... .... ....	487
<i>Burning. See Arson.</i>	
<i>Business—</i>	
assault in interference of .... .... .... .... .... ....	324
assault in pursuance of conspiracy respecting .... .... .... .... ....	318 (6)
conspiracy to injure person in .... .... .... .... .... ....	560 (4) (5)
intimidation in respect of employment in .... .... .... .... ....	550
public officer interested in .... .... .... .... .... ....	85
<i>By-law—</i>	
construction of .... .... .... .... .... ....	C.C. Act, s. 3
of society, etc., uttering false copy of .... .... .... .... ....	489
<b>C.</b>	
<i>Canal. See Bank or wall</i>	
<i>Cancelled—</i>	
document, uttering .... .... .... .... .... ....	475
stamp or impression of seal, uttering .... .... .... .... ....	476
<i>Candidate. See Elections.</i>	
<i>Capable—</i>	
of being killed, meaning of expression .... .... .... .... ....	269
of being stolen, what is .... .... .... .... ....	370
<i>Capital of Company, concealment by officer on reduction of</i>	547
<i>Capital offence. See also Death.</i>	
attempted piracy with personal violence is .... .... .... ....	79
compulsion of husband, no defence .... .... .... .... ....	32
jury not to separate .... .... .... .... ....	639
murder .... .... .... .... ....	282
piracy .... .... .... .... ....	78
private prosecutor cannot present information for .... .... ....	720
rescue of person guilty or suspected of .... .... .... ....	144
treason .... .... .... .... ....	37
unlawful oath to commit .... .... .... .... ....	47
wilful murder .... .... .... .... ....	282
<i>Carcase—</i>	
killing with intent to steal .... .... .... .... ....	382
summary conviction for .... .... .... .... ....	426 (b)
of stolen animal, possession of .... .... .... .... ....	429
<i>Carelessness. See Neglect.</i>	

INDEX—*continued.*

Subject.	Section.
Cargo. See Goods. shipping dangerous ....	311
Carnal— connection— father or brother, with .... meaning of term .... procuring .... by threat, etc. ....	198 6 191 192 (1) (2)
knowledge. See also Defilement, Rape, Unnatural Offence. abduction of girl under eighteen with intent to have .... animal, of an .... conviction upon an indictment for having of girl under thirteen .... daughter or sister of .... male under fourteen deemed incapable of .... meaning of term ....	193 181 596 197 29 6
Case— reserved. See Court of Criminal Appeal. on motion for arrest of judgment ....	655
Casting away ship ....	449
attempt ....	450
Cat, whipping by ....	659
Cattle. See also Animal. illegally branding. See Brand. stealing .... conviction for what offences on charge of .... suspicion of .... unlawfully using ....	378 (3) 606 429 428
Cause. See Challenge. for challenge ....	628, 630
Cemetery, obstructing minister of religion ....	179 (1)
giving false statements relating to ....	487
Certificate— applying relating to certain food, to other food .... dismissal of, by justices .... on complaint of assault .... execution of sentence of death ....	492 (3) 734 323 678
false— execution of sentence of death, as to .... food or drug, as to .... liberty, affecting .... marriage, of, sending to registrar .... procuring confinement of sane person on .... public officer, by .... remuneration or delivery of goods, affecting ....	168 492 (3) 334 485 336 89, 334 86 334 (2)
giving, without authority ....	514
lending, for personation ....	678
medical officer, of, as to execution of capital punishment ....	549
mixing articles bearing, with uncertified articles ....	733
Parliamentary paper, as to authorised publication of ....	513
personation of person named in ....	488
status, etc., as to, attempt to procure ....	
Challenge— of jury— accused to be informed of right of .... array to .... ascertainment of facts as to .... general law, as to, applicable .... peremptory or for cause .... time for .... whole panel to ....	626 627 430 625 628, 629 629 627
publication of Defamatory matter on, of person defamed ....	357 (6)
to fight duel ....	72

INDEX—*continued.*

Subject.	Section.
Character—	
defamation of. See Defamatory matter.	
evidence of conviction in answer to evidence as to person, of, fair comment as to	648 355 (2)-(7)
Charge—	
conspiracy to make false	134
fraudulent disposition of goods subject to	389
of defilement, power to convict for assault, on	596A
of indictable offence, threatening to make—	
for extortion	398
to induce crime	398
to procure execution of deed, etc.	399
Charter-party, forging	473 (2) (k)
Chattels. See also Goods.	
stealing, by tenant or lodger	378 (11) 584 (13)
Cheating. See also False pretence	408-413
conviction of other offences on charge of	599
generally	411
Cheque. See also Valuable Security.	
included in term "money"	1
obliterating crossing on	478 (1)
uttering, with obliterated crossing	478 (2)
Child—	
abandoning	304
abduction of. See Abduction.	
aggravated assault on	322
birth, killing at	269, 271
concealing birth of	291
conviction for, on charge of homicide	595
correction by force	257
desertion of	344
endangering of life, by exposure	304
human being, when it becomes	269
illegitimate, taking away, by father	343
killing, at birth	269, 271
killing unborn	290
necessaries for	262, 264, 344
stealing	343
article on person of	343
summary conviction—	
of children under twelve	708
of young persons under sixteen	709, 710
unborn—	
killing	290
surgical operation upon	259
under seven, not criminally responsible	29
under fourteen, responsibility of	29
Circuit Court—	
change of place of trial when indictment presented in	577
discharge of convicted person upon recognisance after trial in	656
enforcement of judgment of	677
Circumstance of aggravation—	
malicious injury with	453
meaning of term	1
statement of, in indictment	582
stealing with	378
Civil servant. See Officer, public.	
Claim—	
attesting electoral, without inquiry	114

**INDEX—continued.**

Subject.	Section.
<b>Claim—continued</b>	
<b>false—</b>	
bankruptcy, in     ...	525
electoral     ...	113
official, by     ...	86
of creditor, misrepresentation as to, on reduction of capital     ...	547 (2)
<b>Claim of right—</b>	
<b>bona fide</b> , defence of     ...	22
<b>defence of—</b>	
land or vessel under     ...	255
movable property under     ...	252
movable property without     ...	253
easement, in respect of     ...	256
obtaining possession of movable property held without     ...	253
right of way, in respect of     ...	256
<b>Clergyman.</b> See Religion ; Religious worship.	
<b>Clerk or servant—</b>	
<b>defined</b> ...	1
<b>false accounting by</b> ...	424
<b>stealing by</b> ...	378 (7)
summary conviction     ...	426 (d)
<b>Clipping.</b> See Coin.	
<b>Clothing—</b>	
<b>for apprentice</b> ...	264, 303
<b>withholding</b> , from female in brothel     ...	194
<b>Club.</b> See Association.	
<b>Code—</b>	
<b>amendment</b> , how printed     ...	...
<b>application of</b> , to offences—	C.C. Act, s. 8
<b>partially committed in Western Australia</b> ...	12
<b>procured in Western Australia to be committed out of Western Australia</b> ...	14
<b>procured or counselled out of Western Australia</b> ...	13
<b>commencement of operation of</b> ...	...
<b>compilation Act</b> , <b>s. 1</b>	19
<b>C.C. Act, s. 2</b>	...
<b>C.C. Act, s. 2</b>	...
<b>C.C. Act, s. 4</b>	3
<b>Compilation Act</b> , <b>s. 3</b>	...
<b>C.C. Act, s. 5</b> , 737	...
<b>Compilation Act</b> , <b>s. 3</b>	...
<b>Coercion.</b> See Compulsion.	
<b>Coin—</b>	
<b>clipping</b> ...	155
<b>clippings of—</b>	
<b>included in term "counterfeit coin"</b> ...	152
<b>possession of</b> ...	156
<b>seizure of</b> ...	713 (c)
<b>copper as applied to</b> , defined     ...	152
<b>counterfeit—</b>	
<b>defined</b> ...	152
<b>destruction of</b> ...	714
<b>exporting</b> ...	164
<b>importing</b> ...	154 (3) (b)
<b>seizure of</b> ...	713 (a) (c)
<b>seizure of tools for making</b> ...	713 (b)
<b>counterfeit copper—</b>	
<b>disposing of</b> , below value of genuine coin     ...	160 (2) (b)
<b>making</b> ...	160

INDEX—*continued.*

Subject.	Section.
<b>Coin—<i>continued</i></b>	
onus of proof .... .... .... .... .... .... .... ....	160 (2)
possessing .... .... .... .... .... .... .... ....	161 (2)
tools for making .... .... .... .... .... .... ....	160 (2)
preparation for making .... .... .... .... .... ....	160
uttering .... .... .... .... .... .... .... ....	161
counterfeit foreign—	
making .... .... .... .... .... .... .... ....	153, 160
possession and forfeiture of .... .... .... ....	165
uttering, as current coin .... .... .... ....	163
counterfeit gold or silver—	
disposing of, below value of genuine coin .... ....	154 (3) (a)
making .... .... .... .... .... .... .... ....	153
onus of proof in case of sale of .... .... ....	154 (3)
possessing .... .... .... .... .... .... .... ....	158
after previous conviction .... .... .... ....	159
tools for making .... .... .... .... .... ....	154
preparation for making .... .... .... .... ....	154
uttering .... .... .... .... .... .... .... ....	157, 163
after previous conviction .... .... .... ....	159
repeated .... .... .... .... .... .... ....	158
current, defined .... .... .... .... .... ....	152
defaced—	
tendering, is illegal .... .... .... .... ....	166
uttering .... .... .... .... .... .... .... ....	166
consent of Crown Law Officer necessary to prosecution for ....	166
defacing current, by stamping words thereon .... ....	162
exporting counterfeit .... .... .... .... .... ....	164
filings .... .... .... .... .... .... .... ....	155
filings of—	
included in term “counterfeit coin” .... .... ....	152
possession of .... .... .... .... .... .... ....	156
seizure of .... .... .... .... .... .... .... ....	713 (c)
foreign—	
counterfeiting .... .... .... .... .... .... ....	153, 160
possession and destruction of counterfeit .... ....	165, 681 (a), 714
preparation for coining .... .... .... .... ....	154
previous conviction for offence in respect of ....	159
uttering counterfeit gold or silver, medals, etc. ....	157, 163
gilding—	
defined .... .... .... .... .... .... .... ....	152
punishment for .... .... .... .... .... .... ....	154 (1)
gold or silver—	
filing or clipping current .... .... .... .... ....	155
possessing filings or clippings of .... .... ....	156
seizure of filings or clippings of .... .... ....	713 (c)
importing counterfeit .... .... .... .... .... ....	154 (3) (b)
silvering, defined .... .... .... .... .... .... ....	152
uttering defined. See also Uttering .... .... ....	152
Collector of money .... .... .... .... .... .... ....	1
Commission Agent .... .... .... .... .... .... ....	1
Commission, Secret. See Secret Commission.	
Committal—	
<i>ex officio</i> information, upon charge in .... .... ....	580
fraudulent debtor, of .... .... .... .... .... ....	732
indictable offence, upon charge of .... .... ....	572
perjury, for, by Court .... .... .... .... .... ....	731
right to be tried after .... .... .... .... .... ....	608
right to depositions after .... .... .... .... ....	745
sentence, for, procedure after .... .... .... .... ....	618
where indictment alleges offence not mentioned in commitment for sentence .... .... .... .... .... ....	579

INDEX—*continued.*

Subject.	Section.
Committal— <i>continued</i>	
trial, for, instead of summary conviction	427 (2), 433, 466
Common—	
law, indictment for offence at, abolished	C.C. Act, s. 4
nuisances	207
purpose, offence committed in prosecution of	8
Common Gaming House. See Gaming House.	
Commutation of capital sentence	679
Company—	
circulating false copy of rules, etc.	489
defined	1
false statement to induce person to become member of	420 (b)
false statement with intent to defraud member or creditor of	420 (a)
falsification or destruction of books, etc., of	419 (2), 548
forging share in capital stock of	473 (2) (b)
forging transfer of share in	473 (2) (b)
indictment relating to property of	584 (8)
liquidator of, fraudulently disposing of property	417
member of, offence by, in respect of corporate property	34
officer, etc., of—	
allegation in indictment as to property of	584 (8)
concealment by, on reduction of capital	547
deemed trustee	417
defence to charge of fraud, etc., against	422
false statement by	420
false statement by, with intent to affect price of shares	421
Attorney General to consent to prosecution	421
falsification of books, etc., by	419, 548
fraudulently appropriating property	419
fraudulently disposing of property	417
stealing by	376, 378 (8)
signing memorandum of association, etc., containing false statement	418
when included in terms “person,” “owner”	1
Compensation—	
enforcement of order for payment of	682 A
payment of, by offender—	
convicted on indictment	674
discharged on summary conviction	671
first offenders	669
order for restitution of property or. See Restitution.	
to persons aggrieved by offence	719
use of vessel, etc., for, upon seizure of explosive	715
Complaint—	
certificate of—	
dismissal of	734
in case of assault	323
may be similar to form of indictment	593
search warrant, to ground	711
Compounding—	
crime	136
penal action	137
Comptroller General of Prisons—	
presence of, at execution	678
to report on persons undergoing preventive detention	664 (1)
to be assisted by Committee	664 (1)
Compulsion. See also Force.	
defence of, in case of—	
incest	198
unlawful oath	49
husband of	32
justification, when act done under	31 (3), (4)

Subject.	Section.
Concealment of—	
birth of child ....	291
conviction for, on charge of homicide ....	595
crime, giving or taking benefit with a view to ....	136
debt, due to or from bankrupt ....	518 (1) (b), (2) (b)
deed ....	381
documents—	
by director, etc. ....	548
by bankrupt ....	519 (1) (a), 523
to defraud purchaser or mortgagee ....	413
evidence of title ....	381
incumbrance, on sale or mortgage ....	413 (1)
instrument material to title, on sale, etc. ....	413 (1)
liberty, matters affecting ....	335
names of creditors on reduction of capital of company ....	547
ore in mine ....	385, 386
property—	
by bankrupt ....	518 (1) (a), (2) (a)
to avoid execution ....	527 (2)
of bankrupt ....	526
to defeat attachment ....	150
register ....	379
rescued or escaped insane person ....	149 (4)
royalty ....	386
stolen property, aiding in ....	414
treason. See Treason ....	38
will ....	380
Confinement—	
animal when deemed in state of ....	370
Consent—	
assault, notwithstanding ....	222, 223
no defence in offences against morality ....	202
girl under sixteen, of, to abduction, immaterial ....	330
incest, to, immaterial ....	197
indecent assault, girl under sixteen incapable of consent to ....	328
indecent assault, girl under seventeen incapable of consent to, by guardian, etc. ....	328
marriage, to, forging ....	473 (4) (l)
marriage, to, in case of person under twenty-one ....	340 (2)
rape notwithstanding, in case of force or fraud ....	325
violation, to, no defence in case of treason ....	37 (9)
Conspiracy—	
act of, when deemed overt act ....	43
assault, in pursuance of, respecting trade, etc. ....	318 (6)
crime, to commit ....	558, 559
defence of compulsion not available to person guilty of ....	31 (4)
defile, to ....	196
defraud, to ....	412
false accusation, to bring ....	134
freedom of contract, to prevent ....	560
generally ....	558-561
injure person, in his trade or reputation to ....	560
justice, to defeat ....	135
murder, to ....	286
none between husband and wife alone ....	33
offence, to commit ....	558, 559
pirate, to induce officer or seaman to turn ....	77 (4) (d), 80
pirate, with ....	77 (5) (k)
process, to defeat execution of ....	560 (1)
seditious enterprise, to carry out ....	52 (1)
Sovereign, against, when treason ....	37 (4) (6)

INDEX—*continued.*

Subject.	Section.
Conspiracy— <i>continued</i>	
trade disputes, in .....	561
unlawful purpose, to prosecute, each person liable in case of war, to levy, against Sovereign .....	8
37 (6)	
Construction of. See also Definitions.	
Code, as to punishment .....	19
reference to repealed Acts .....	C.C. Act, s. 3 (5)
terms, in statutes, by-laws, etc. .....	C.C. Act, s. 3
Contempt of Court—	
authority of Courts of record to punish for, not limited .....	
disobedience to order of Court .....	178
separation of jurors without leave is .....	639
Contract. See also Agreement.	
freedom of. See Freedom of Contract.	
goods, to deliver, induced by false pretence .....	409
public officer interested in .....	84
Contributory of Company, falsification of books by .....	548
Control included in term “possession” .....	1
Conversion, fraudulent. See Stealing	
defined .....	371 (2)
of trust property .....	417
Convict, power, to, for assault on charge of defilement .....	596 A
Conviction—	
appeals against. See Court of Criminal Appeal.	
civil remedy, how affected by .....	323, 417, 440, 468, 671, 674, 737
discharge notwithstanding. See Discharge of Convicted Person.	
effect of, as regards prisoner's property, and see “Curator of Prisoners' Estate” .....	683-686
for offence of similar nature to that charged .....	602, 603
for offence other than that charged .....	594
for what offences on charge of—	
attempt to commit offence, etc. .....	601
attempt to procure commission of offence .....	601
offence causing specific result .....	597
counselling commission of offence .....	7
homicide .....	595
indictable offence .....	602
affecting elections .....	604
injury to property .....	598
joint receiving .....	607
murder or manslaughter .....	595
procuring commission of offence .....	7, 600, 601
rape, etc. .....	596
stealing cattle .....	606
stealing, false pretences or cheating .....	599
unlawfully killing .....	595
wilful murder .....	595
former. See <i>Autrefois convict</i> .	
habitual criminal, no conviction except on indictment charging subsequent crime .....	662 (1)
judgment of, for want of plea, in case of misdemeanour .....	724
not twice for same offence .....	C.C. Act, ss. 6, 7, 493
previous. See <i>Autrefois convict</i> ; Previous Conviction.	
previous, what to be deemed .....	664
restitution of property after .....	717
second, in respect of offence causing death .....	16
stealing or receiving for .....	586 (4)
summary. See Summary conviction.	
Co-owner, property of, how named in indictment. See also Partner Corporation. See Company; Local Authority; Secret Commission.	584 (6)

INDEX—*continued.*

Subject.	Section.
Corpse. See Dead Body.	
Corroboration. See Uncorborated testimony.	
Corrosive fluid, putting anywhere, to do grievous bodily harm. See Noxious thing	294 (6) (7)
Corrupt practices. See Elections.	
Corruption. See also Abuse of Office; Bribery; Secret Commission.	
Agents, Trustees, etc., of	529-546
bargaining for public office	119
judicial	121
jurors, of	123
official	82
official, not judicial, but relating to offences	122
procuring withdrawal of candidate	101 (6)
providing food, drink, etc., at election	97 (1)
receiving benefit for recovery of property, stolen, etc.	416
receiving food, drink, etc., at election	97 (2)
surveyor, and valuator of	88
transferring property, etc., to effect registration of person as elector	99 (5)
trustees, etc., of	529-546
witness, of	130
Corruptions of blood abolished	683
Costs—	
defamation, in case of	675
defence of—	
counterfeiting trade marks, etc., in cases of	505
defamation, in case of	675, (1)
information by private person, in case	728
prosecution for publication of Parliamentary paper, in case of	
what included in	733
enforcement of Order of Circuit Court, etc., as to	677, 682
enforcement of order for payment of	682A
fine, included in	322
levy of, on conviction for defamation	681
proceedings of, with respect to arrest, etc.	739
prosecution of	674, 675
counterfeiting trade marks, etc., in cases of	505
what included in	676
security for—	
by private prosecutor	721
none required—	
in case of information, <i>ex officio</i>	729
Counsel—	
defence by	634
may be assigned to appellant in appeals	698, 701 (5)
meaning of term	634
privilege of, in respect of defamation	352
speeches by	637
Counselling. See also Procuring.	
commission of offence	7, 9
by person out of Western Australia	13
indictment of person	587
person counselling, is a "principal offender"	7
place of trial of person charged with	575 (6)
perjury, evidence on charge of	126
summary conviction for	426 (j)
suicide	288 (2)
Counterfeit—	
Coin. See Coin.	
mark, meaning of	470

INDEX—*continued.*

Subject.	Section.
Counterfeit— <i>continued</i>	
meaning of—	
as applied to coin ....	152
seal. See Seal.	
stamp ....	495
thing—	
place of trial on charge of making ....	575 (5)
seizure and destruction of ....	713, 714
trade marks, and trade descriptions ....	496-509
Counting House. See Warehouse.	
Counts in indictments ....	585, 586
Court. See also Judge; Court of Criminal Appeal	
advertisement, inserting, without authority of ....	142
committal by. See Committal.	
constitution of, before which perjury committed immaterial ....	124
contempt of. See Contempt of Court.	
disobedience to order of ....	178
enforcement of judgment or order of ....	677, 682
jurisdiction of—	
on adjourned trial ....	611
trial of offenders, with respect to ....	571
meaning of, in connection with committal for perjury ....	731
obstructing officer executing order of ....	151
of record, power of, to punish for contempt of court ....	
officer of—	
asks accused as to evidence in defence ....	636
asks accused why sentence should not be passed ....	654
discharge of jury by, if Judge incapable ....	645
fair comment as to conduct of, is lawful ....	355 (3)
informs accused as to right of challenge ....	626
informs jury of charge ....	632
jury to be under charge of ....	640
obstruction of ....	151
refusal by, to perform duty ....	173
transmission of proceedings to, on adjournment ....	611
order of, necessary to—	
compounding of penal action ....	137
prosecution of—	
newspaper ....	368
trustee ....	417
proceedings, publication of report of, when protected ....	354 (3)
protection of judge, etc., publishing defamatory matter in ....	352
seal, forging ....	473 (4) (a)
summing up by, to jury ....	638
Supreme. See Supreme Court.	
wrong person brought before ....	576
Court of Criminal Appeal—	
appeal, certain powers in cases of, may be exercised by a judge, subject to appeal to ....	702
appeals determined by uneven number of Judges ....	687 (7)
appeals may be made to—	
acquittal, against verdict of, on indictment, and judgment founded thereon ....	688 (2) (b)
against sentence which cannot lawfully be passed ....	688 (2) (d)
arresting judgment on or quashing indictment against decision demurrer to indictment, against decision allowing ....	688 (2) (a)
jurisdiction, on question of ....	688 (2) (c)
detention, in reformatory prison, against sentence of ....	688 (1) (c)
question of fact or question of mixed law and fact or other sufficient ground, on, with leave of Court or on Certificate of Judge ....	688 (1) (b)
question of law, on ....	688 (1) (a)
sentence, against any other (unless fixed by law), with leave ....	688 (1) (d)

**INDEX—continued.**

Subject.	Section.
Court of Criminal Appeal— <i>continued</i>	
appeals, ordinary cases in, determination of, by—	
acquittal, verdict of .... .... .... .... .... ....	689 (2)
dismissal of appeal .... .... .... .... .... ....	689 (1)
miscarriage of justice, on ground of .... .... .... .... .... ....	689 (1)
new trial may be ordered .... .... .... .... .... ....	689 (2), 690 (3), 691, 692, 689 (2)
quashing conviction .... .... .... .... .... ....	689 (3)
quashing sentence and passing other sentence .... .... .... .... .... ....	689 (1)
question of law .... .... .... .... .... ....	701 (2)
may be determined summarily .... .... .... .... .... ....	689 (1)
unreasonable verdict, on ground of .... .... .... .... .... ....	690 (3)
appeals, other, disposal of, by .... .... .... .... .... ....	690 (1) (2)
acquital by direction, against .... .... .... .... .... ....	690 (1)
arresting judgment, against decision .... .... .... .... .... ....	692
demurrer, against decision allowing .... .... .... .... .... ....	690 (3)
insanity, appeal by person acquitted on ground of .... .... .... .... .... ....	689 (2), 690 (3), 691, 692
jurisdiction, against judgment given on plea to .... .... .... .... .... ....	690 (1)
new trial may be ordered .... .... .... .... .... ....	20, 700 (1)
quashing indictment, against decision .... .... .... .... .... ....	
appellant, convicted, to be treated as unconvicted prisoner, pending appeal .... .... .... .... .... ....	700 (2)
may be admitted to bail pending appeal .... .... .... .... .... ....	699
when entitled to be present at hearing of appeal .... .... .... .... .... ....	697 (e)
assessor may be appointed by .... .... .... .... .... ....	21
Attorney General may refer certain petitions to .... .... .... .... .... ....	688 (1), (b)
certificate by Judge that case fit for appeal .... .... .... .... .... ....	
commissioner, special, may be appointed to examine documents, etc. .... .... .... .... .... ....	697 (d)
“convicted appellant,” meaning of .... .... .... .... .... ....	703
counsel may be assigned to appellant .... .... .... .... .... ....	698, 701 (5)
directions as to new trial may be given by .... .... .... .... .... ....	691
documents may be ordered to be produced by .... .... .... .... .... ....	697 (a)
evidence of witness, if tendered, may be received by .... .... .... .... .... ....	697 (e)
exhibits may be ordered to be produced.... .... .... .... .... ....	697 (a)
Full Court means .... .... .... .... .... ....	687 (1)
insanity, appeal by person acquitted on ground of .... .... .... .... .... ....	692
Judge in, not to be objected to if appeal against his decision, etc. .... .... .... .... .... ....	687 (6)
Judge of Supreme Court may exercise certain powers .... .... .... .... .... ....	702
Judge's notes to be furnished to Registrar .... .... .... .... .... ....	696
report in certain cases, to be furnished to Registrar .... .... .... .... .... ....	696
“Judge who tried him,” meaning of .... .... .... .... .... ....	703
majority of Court to determine appeals .... .... .... .... .... ....	687 (2)
meaning of .... .... .... .... .... ....	687 (1)
new trial may be ordered by .... .... .... .... .... ....	689 (2), 690 (3), 691, 692
directions for may be given by .... .... .... .... .... ....	691
new trials, motions for, as existing in Supreme Court abolished .... .... .... .... .... ....	704
procedure and practice relative to appeals, rules may be made.... .... .... .... .... ....	747
question of law, appeal involving, may be determined summarily .... .... .... .... .... ....	701 (2)
Registrar of, to be Registrar of Supreme Court .... .... .... .... .... ....	687 (5)
assigning counsel to appellant, to report to Court as to .... .... .... .... .... ....	701 (5)
documents, etc., custody of by .... .... .... .... .... ....	701 (3)
duties of, with respect of notices of appeal .... .... .... .... .... ....	701
forms, necessary, to furnish .... .... .... .... .... ....	701 (4)
summary determination of appeal involving question of law, may refer to Court .... .... .... .... .... ....	701 (2)
report by Judge to be furnished to Registrar in certain cases .... .... .... .... .... ....	696
restitution of property on conviction—	
appeal by person against whom order made .... .... .... .... .... ....	694 (3)
order may be varied or annulled .... .... .... .... .... ....	694 (2)
suspension of order for, on appeal, etc. .... .... .... .... .... ....	694

INDEX—*continued.*

Subject.	Section.
Court of Criminal Appeal— <i>continued</i>	
rules may be made by Judges regulating procedure and practice of sentence may be passed by, in absence of appellant .....	747 699 (2)
“sentence,” meaning of .....	703
sentences, pending appeals, rules as to running of .....	20
solicitor may be assigned to appellant .....	698, 701 (5)
special cases, powers of Court in—	
may substitute sentence .....	693 (3)
may substitute verdict of guilty of another offence .....	693 (2)
unsoundness of mind, Court may order verdict of acquittal on account of .....	693 (4)
where appellant not properly convicted on one count, is properly convicted on another .....	693 (1)
where Court consider wrong conclusion arrived at on special verdict .....	693 (3)
special commissioner may be appointed to examine documents, etc. ....	697 (d)
time for appealing to—	
case may be presented in writing .....	695 (1)
corporal punishment, in case of .....	695 (2)
death sentence, in case of .....	695 (2)
extension of .....	695 (1)
notice of appeal .....	695 (1)
notice of application for leave to appeal .....	695 (1)
uneven number of Judges, appeals to be determined before ....	687 (7)
unsoundness of mind, appeal by person acquitted on account of Court may order verdict of acquittal on account of .....	692
vacation, rules to provide for sitting of Court during ....	692
warrant for arrest of offender to receive judgment or stand new trial may be issued by Justice or Registrar .....	687 (4)
warrant for enforcing order of Court may be issued ....	690 (3), 691 (2)
witnesses may be ordered to be examined by ....	697
writs of error abolished .....	697 (b) 704
Credit—	
forging order for procuring ....	473 (2) (h)
obtaining property on—	
false pretence, by ....	518 (2) (c)
bankruptcy, immediately prior to ....	517 (5)
Creditor—	
company of, false statement to defraud ....	420 (a)
concealment of name of, on reduction of capital ....	547 (1) (2)
debtor dealing with property to defraud ....	527
false proof of debt, making ....	525 (1)
fraud to obtain consent of, to agreement ....	520 (2)
receiving bankrupt's property to defraud ....	524
Crime. See also Criminal responsibility.	
accessory after the fact to. See Accessory ....	562
arrest without warrant for. See Arrest. ....	5
attempt to commit or to procure commission of. See Attempt ....	4, 552–556
compounding ....	136
conspiracy to commit ....	558, 559
is indictable offence ....	3
on conviction for which person deemed to be habitual criminal ....	661
person found armed, etc., with intent to commit ....	407
preparation to commit, with explosives, etc. ....	557
prevention of, by use of force. See Force ....	243
term “felony” in statute, by-law, etc., means ....	C.C. Act, S. 3 (1)
treasonable. See Treasonable crime.	
Criminal Law, Application of ....	11–17

## INDEX—continued.

Subject.	Section.
<b>Criminal responsibility—</b>	
age, immature, how it affects .....	29
arrest of wrong person, in case of .....	229
compulsion, how it affects .....	31, 32
defined .....	1
delusion on some specific matter, how it affects .....	27
execution of illegal sentence, process, or warrant, in case of .....	227, 228
execution of irregular process, or warrant, in case of .....	230
extraordinary emergency, in .....	25
husband and wife, no conspiracy between .....	33
husband and wife, of, in respect to the other's property .....	35
ignorance of law, how it affects .....	22
insanity, how it affects .....	27
intention, how it affects .....	23
intoxication, how it affects .....	28
judicial officer, of .....	30
killing person, for, notwithstanding consent .....	261
married woman, of, for act done in presence of husband .....	32
mistake of fact, how it affects .....	24
motive is in general immaterial as regards none. See also Defence .....	23
none for conspiracy between husband and wife alone .....	33
none for injury to property caused in self-defence .....	441
none in case of accident .....	23
none when <i>bona fide</i> claim of right .....	22
none when justification or excuse .....	31
order of competent authority protects from .....	31
partner and member of company, of .....	34
sanity, presumption of .....	26
<b>Criminally responsible, meaning of term</b> .....	1
<b>Criticism, when protected under defamation law</b> .....	355
<b>Crops—</b>	
attempt to set fire to .....	448
fraudulent disposition of mortgaged .....	389
setting fire to .....	447 (a) (b)
<b>Cross-examination by counsel</b> .....	634
<b>Crossing on cheque, obliterating</b> .....	478
<b>Crown. See also Sovereign.</b>	
consent of—	
to plea of guilty to offence other than that charged, entry of .....	616 (1), 618
to trial by remaining jurors .....	646
dealing with land fraudulently acquired from .....	221
included in terms "person," "owner," etc. .....	1
lands—	
Acts, fraud on .....	220, 221
fraudulently acquired, purchase or lease of .....	221
pardon by. See Pardon.	
property in indictment, when laid in .....	584 (14)
<b>Crown case reserved. See Case reserved.</b>	
<b>Crown Prosecutor—</b>	
election by, as to charges upon which he will proceed .....	585, 586 (3)
<i>nolle prosequi</i> by .....	581
presentment of indictment by .....	578, 579
right of reply by .....	637
<b>Crown Solicitor—</b>	
powers of Attorney General may be delegated to .....	744
<b>Cumulative sentence</b> .....	20
<b>Curator of prisoner's estate—</b>	
appointment of .....	684 (1)
"Court," meaning of .....	684 (7)
may apply to for directions .....	684 (6)
estate may be retained by prisoner whilst on license .....	684 (5)
estate to vest in .....	684 (2)

INDEX—*continued.*

Subject.	Section.
Curator of Prisoner's estate— <i>continued</i>	
powers of .... .... .... .... .... .... ....	684 (3)
to cease on death, bankruptcy, or liberation of prisoner .... .... ....	685
"prisoner," meaning of .... .... .... .... ....	684 (7)
security, to give .... .... .... .... ....	684 (4)
to account .... .... .... .... .... ....	686
Current coin, meaning of. See Coin .... .... ....	152
Custody. See also Escape; Rescue.	
examination of accused person when in .... .... ....	236
order as to, of accused person found insane .... .... ....	652, 653
parent or guardian, of, abduction of girl from. See Abduction	193, 330
rescuing capital offender from .... .... ....	144
seduced girl, of, under seventeen .... .... ....	736
unlawful, of insane person .... .... .... ....	337
Custom, defence of .... .... .... .... ....	542
D.	
Dam, damaging .... .... .... .... .... ....	453 VII. (l)
Damage. See Destruction; Injury.	
meaning of, in relation to injured documents, etc. .... ....	443
Dangerous. See also Endangering.	
act—	
carelessness in doing .... .... .... .... ....	267
duty of person doing .... .... .... .... ....	265
goods, evading laws as to shipping .... .... ....	311
goods, landing .... .... .... .... ....	312
instrument. See Arms; Instrument.	
thing—	
duty of person in charge of .... .... .... ....	266
possessing, to commit crime .... .... ....	557
sending, to do grievous bodily harm .... ....	294 (4) (5)
Date—	
document with false, when "false document" .... ....	470 (b)
impossible, in indictment not fatal .... ....	590
Daughter, carnal knowledge of .... .... ....	197
Dead body—	
burial of. See Burial.	
misconduct with regard to .... .... .... ....	214
of child, secreting .... .... .... ....	291
of wild animal is capable of being stolen .... ....	370, 372 (1)
Dealer, meaning of in Chap. LII. .... ....	497
Dealing with—	
boy under fourteen .... .... .... .... ....	183
carcase of diseased animal .... .... .... ....	217
Crown lands, fraudulently .... .... .... ....	220
girl under sixteen .... .... .... .... ....	187, 189
land fraudulently acquired from Crown .... ....	221
meaning of term .... .... .... .... ....	183, 189
mineral in mine, fraudulent .... .... .... ....	385
property, fraudulent, by debtor .... ....	527
railway, to endanger passengers .... ....	296 (1)
uttering includes .... .... .... .... ....	1
uttering with reference to coin, includes .... ....	152
Death—	
acceleration of .... .... .... .... ....	273
causing, is "killing" .... .... .... ....	270
childbirth, by acts done at .... .... .... ....	271
consent to, by deceased is no excuse for homicide .... ....	261
conviction for offence causing, after previous conviction for same offence .... .... .... ....	16

INDEX—*continued.*

Subject.	Section.
<b>Death—<i>continued</i></b>	
deceit, caused by ....	272
following infliction of bodily harm ....	274, 275
hastening ....	273
judgment of, recording ....	657
juror, of ....	646
justification when act done in fear of ....	31 (4)
limitation as to time of ....	276
necessaries, caused by not supplying ....	262-264
offences punishable with. See Capital offence.	
prevention of, by proper precaution ....	274
punishment of, may be inflicted ....	18
Western Australia, in, caused by act done outside ....	12
register of. See Register.	
sentence of. See Sentence.	
setting man-trap likely to cause ....	305
sudden, justice administering oath in case of ....	90
surgical treatment, in consequence of ....	275
threat, caused by ....	272
use of force in self-defence to prevent ....	248, 249
use of force likely to cause—	
to prevent escape ....	233, 235
upon provocation ....	246, 247
want of skill or care in treatment, caused by ....	265
<b>Debentures, forgery in connection with</b>	473 (2) (a), 494
<b>Debt—</b>	
bank, of, possessing paper used for documents relating to ....	494
company, of, forging transfer of share in ....	473 (2) (b)
creditor, of, misrepresentation as to, on reduction of capital	547 (2)
false proof of—	
failure by insolvent to notify trustee as to ....	520 (1)
making ....	525
bankrupt, due to, or from, concealment of ....	518 (1) (b) (2) (b)
public, forgery in connection with ....	473 (2) (a), 494 (1) (a) 515-528, 732
<b>Debtor, fraudulent. See Bankrupt</b> ....	
<b>Deceit. See also False; Fraudulent.</b>	
causing death by ....	272
practising, to affect testimony of witness ....	131
<b>Declaration. See also Oath.</b>	
execution of capital sentence, as to ....	678
false—	
as to debt in bankruptcy ....	525
as to execution of sentence of death ....	168
at election ....	109 (2)
making ....	170, 171
indictment for ....	584 (2) (3)
statement in ....	169
forgery of ....	473 (4)
unlawfully taking ....	90
<b>Deed. See also Document; Valuable Security.</b>	
concealing ....	381
damaging ....	443, 453 VIII.
falsely acknowledging ....	512
forging ....	473 (2) (h)
procuring execution of, by threat ....	399
<b>Defacing—</b>	
boundary mark ....	461
brand or mark. See Brand ....	431, 432
coin. See Coin.	
marine light, beacon, etc. See Marine light ....	457
stamp. See Stamp ....	495
thing seized, under order of Court ....	714

INDEX—*continued.*

Subject.	Section.
Defamation. See Defamatory matter.	
meaning of    ....    ....    ....    ....    ....    ....    ....	348
Defamatory matter—	
incriminating answers and discovery of documents, in charges respecting    ....    ....    ....    ....    ....    ....    ....	738
meaning of term    ....    ....    ....    ....    ....    ....    ....	346
publication of—	
candidate at election, concerning    ....    ....    ....    ....	101 (4)
conspiracy to injure by    ....    ....    ....    ....    ....	560 (2)
costs in cases of    ....    ....    ....    ....    ....    ....	675
execution against type, etc., on conviction for    ....    ....	681
extortion, for purposes of    ....    ....    ....    ....    ....	363
foreign prince, concerning    ....    ....    ....    ....    ....	53
general verdict on charge of    ....    ....    ....    ....    ....	643
in good faith—	
burden of proof of want of    ....    ....    ....    ....	358
evidence of want of    ....    ....    ....    ....    ....	354
excuse for    ....    ....    ....    ....    ....    ....	357
fair comment    ....    ....    ....    ....    ....    ....	355
of matter of public interest    ....    ....    ....    ....	354, 357
what is deemed    ....    ....    ....    ....    ....    ....	354, 357
is <i>prima facie</i> unlawful    ....    ....    ....    ....	350
levy of fine and costs on conviction for    ....    ....	681
meaning of    ....    ....    ....    ....    ....    ....	349
member of Parliament concerning    ....    ....    ....	351
newspaper, in. See Periodical    ....    ....    ....    ....	345, 364–368
offence of, unlawful    ....    ....    ....    ....    ....	350
oral defamation, in case of    ....    ....    ....    ....	348, 362
periodical, in. See Periodical    ....    ....    ....    ....	345, 364–368
plea of truth and public benefit on charge of    ....    ....	356, 617
punishment for    ....    ....    ....    ....    ....	360
punishment for defamation of Members of Parliament    ....    ....	361
question of fact in proceedings for    ....    ....    ....	347, 359
public benefit is    ....    ....    ....    ....    ....	359
relevancy is    ....    ....    ....    ....    ....	359
whether comment is fair    ....    ....    ....    ....	355
question of law in proceedings for    ....    ....    ....	347
whether matter is defamatory    ....    ....    ....    ....	347
sale of book, etc., by    ....    ....    ....    ....    ....	365, 366, 367
special plea of truth, etc., on charge of    ....    ....	356, 617
stay of prosecution for, contained in Parliamentary paper    ....    ....	733
summary jurisdiction for trivial cases of    ....    ....	369
threat to extort money by    ....    ....    ....    ....	363
unlawful to publish    ....    ....    ....    ....    ....	350
protection for publication of—	
absolute, in certain cases    ....    ....    ....    ....    ....	351, 353
privilege of judges, witnesses, etc.    ....    ....    ....	352
privilege of Parliament    ....    ....    ....    ....	351
reports of official inquiries    ....    ....    ....    ....	353
book, by selling    ....    ....    ....    ....    ....	366, 367
censure by person in authority    ....    ....    ....    ....	355
court of justice, in    ....    ....    ....    ....    ....	354 (3)
employer, by    ....    ....    ....    ....    ....	367
fair comment containing    ....    ....    ....    ....    ....	355, 357 (8)
if true and if publication for public benefit    ....    ....	356
in good faith, for information of—	
person inquiring    ....    ....    ....    ....    ....	357 (5)
public    ....    ....    ....    ....    ....    ....	354, 355 (1)
in report of—	
Government Department    ....    ....    ....    ....    ....	354 (5)
matters of public interest    ....    ....    ....    ....    ....	354
official inquiry    ....    ....    ....    ....    ....    ....	353

INDEX—*continued.*

Subject.	Section.
Defamatory matter— <i>continued</i>	
in report of proceedings of—	
Court of justice .... .... .... .... .... .... ....	354 (3), 355 (4)
unless report blasphemous or obscene .... .... ....	354 (3)
unless report prohibited by Court .... .... ....	354 (3)
Local Authority .... .... .... .... .... .... ....	354 (6)
official inquiry .... .... .... .... .... .... ....	354 (4)
Parliament .... .... .... .... .... .... ....	354 (1), (2)
public body .... .... .... .... .... .... ....	354 (6)
public meeting .... .... .... .... .... .... ....	354 (7)
Judge by .... .... .... .... .... .... ....	352
member of Parliament, by .... .... .... .... ....	351 (1)
no likelihood of injury, in case of .... .... ....	362
oral defamation, in case of .... .... .... .... ....	348, 262
order of Parliament, by .... .... .... .... .... ....	351 (3)
petition to Parliament, in .... .... .... .... ....	351 (2)
public benefit, for .... .... .... .... .... .... ....	356, 617
publisher, etc., by. See Periodical .... .... ....	364, 368
qualified .... .... .... .... .... .... ....	357
slander, in case of .... .... .... .... .... .... ....	348, 562
which is true and for public benefit .... .... ....	356, 617
witness, by .... .... .... .... .... .... ....	352
sale of writing containing .... .... .... .... .... ....	366, 367
threat to publish, for purposes of extortion .... ....	362
what is, is a question of fact .... .... .... .... ....	347
whether matter is capable of being, is question of law .... ....	347
Default—	
of plea to indictment .... .... .... .... .... ....	619
of plea to information by private prosecutor .... ....	724
after judgment on demurrer .... .... .... .... ....	726
judgment of conviction in case of .... .... .... ....	724, 727
service of notice on accused, in case of .... .... ....	724
Defect. See Formal Defect.	
Defence. See also Criminal responsibility; Evidence; Onus of proof; Plea.	
costs of—	
information by private person, in case of .... .... ....	728
on prosecution for publication of Parliamentary paper ....	733
security by private prosecutor for .... .... .... ....	721
what included in .... .... .... .... .... ....	676
of accused—	
addresses to jury in .... .... .... .... .... ....	637
<i>autrefois acquit</i> . See <i>Autrefois acquit</i> .... .... ....	17
<i>autrefois convict</i> . See <i>Autrefois convict</i> .... .... ....	17
belief that girl was over sixteen .... .... .... .... ....	186, 188, 189
belief that girl was over eighteen .... .... .... .... ....	193
claim of right. See Claim of right .... .... .... ....	22
in defence of property .... .... .... .... .... ....	251-255
compulsion. See Compulsion .... .... .... .... ....	31 (3), (4), 32
counsel, by .... .... .... .... .... .... ....	634
evidence in .... .... .... .... .... .... ....	636
former acquittal. See <i>Autrefois acquit</i> .... .... ....	17
former conviction. See <i>Autrefois convict</i> .... .... ....	17
ignorance of law .... .... .... .... .... .... ....	22
intoxication or stupefaction .... .... .... .... ....	28
necessity .... .... .... .... .... .... ....	265
provocation .... .... .... .... .... .... ....	246
surgical operation for benefit of patient .... .... ....	259
of custom—	
in cases of corruption of agents, etc. .... .... ....	542

INDEX—*continued.*

Subject.	Section.
Defence— <i>continued</i>	
of person—	
against provoked assault .....	249
against unprovoked assault .....	248
aiding another in his .....	31 (3), 250
of property, against trespasser. See Trespasser .....	251–256
of want of knowledge on indictment for attempting offence .....	4
defamation—	
against employer .....	367
against publisher .....	364
defilement of girl .....	186, 188, 189, 193, 205
selling libellous book .....	366
selling libellous periodical .....	365
tampering with machinery by engineer .....	310
on indictment for—	
abduction of girl under eighteen .....	193
absconding with property in case of insolvency .....	516
bigamy .....	339
child-stealing .....	343
concealing property, etc., by bankrupt .....	518
defamation .....	351, 357
against publisher, etc. ....	364
not in writing .....	362
truth, etc., is .....	356, 617
defilement of girl or idiot .....	186, 188, 189, 193, 205
exhibiting indecent show for public benefit .....	204
failure by bankrupt to discover property .....	521
failure to keep proper books .....	522
falsification of books, etc., by bankrupt .....	519
fraud, against trustee or officer of company .....	422
incest, coercion is .....	198
indecently dealing with girl under sixteen .....	189
injuring property .....	441
offence, the initial element of which did not occur in Western Australia .....	12 (2)
permitting defilement of girl on premises .....	186
possessing shipwrecked goods .....	434, 435
preventing production of documents by bankrupt .....	523
sending unseaworthy ship to sea .....	308
slander .....	362
suspicion of stealing cattle .....	429
taking unlawful oath, compulsion, how far a self. See Self-defence.	49
where witness for, is accused person .....	637
Defence Force—	
officer of—	
giving information of, unlawful oath to .....	49
is a "person employed in the Public Service" .....	1
landing gunpowder from ship under control of .....	310
order by, as to suppression of riot .....	242
officers and men of, deemed to be employed in public service .....	1
subject to Code and special Laws .....	15
Defendant. See Accused person.	
Deficiency, general—	
charge for amount of .....	586 (1)
Defilement. See also Age.	
administering drug with object of .....	192 (3)
conspiracy with object of .....	196
householder permitting, of young girl on premises .....	186
of boy under fourteen .....	183

INDEX—*continued.*

Subject.	Section.
Defilement— <i>continued</i>	
of girl—	
under sixteen .... .... .... .... .... .... .... ....	187, 189
under thirteen .... .... .... .... .... .... .... ....	185
by guardian .... .... .... .... .... .... .... ....	190
of idiot .... .... .... .... .... .... .... ....	188
of woman or girl .... .... .... .... .... .... .... ....	185, 197
want of knowledge of age on charge of, when immaterial ....	205
power to convict for assault on charge of .... .... .... ....	596A
procuring, of women by drugs, fraud, or threats .... .... ....	192
treason, when .... .... .... .... .... .... .... ....	37 (9)
unlawful detention, for purpose of .... .... .... .... ....	194
warrant to search for female detained for .... .... .... ....	716
whipping to be inflicted in certain cases of defilement of girls, etc.	206
Definitions—	
accessory after the fact .... .... .... .... .... .... ....	10
“ agent,” in Chapter LV. .... .... .... .... .... ....	546 (1)
“ advice given,” in Chapter LV. .... .... .... .... ....	546 (12)
aggravation, circumstance of .... .... .... .... ....	1
“ animal ” capable of being stolen .... .... .... .... ....	370
animal in a state of confinement .... .... .... .... ....	370
applies force .... .... .... .... .... .... ....	222
arms, loaded .... .... .... .... .... .... ....	392
arrest without warrant .... .... .... .... .... ....	5
arson .... .... .... .... .... .... ....	444
assault .... .... .... .... .... .... ....	222
assembly, unlawful .... .... .... .... .... ....	62
attempt to commit offence .... .... .... .... ....	4
Attorney General .... .... .... .... .... ....	1, 637
ballot-box .... .... .... .... .... ....	93
“ bank-note ” with reference to forgery .... .... .... ....	469
bankrupt .... .... .... .... .... ....	515
bawdy house, keeper of .... .... .... .... .... ....	213
betting house, common .... .... .... .... .... ....	211
keeper of .... .... .... .... .... ....	213
bigamy .... .... .... .... .... ....	339
bodily harm .... .... .... .... .... ....	1
grievous .... .... .... .... .... ....	1
brand, registered .... .... .... .... .... ....	1
breaking and entering a building .... .... .... .... ....	400
bribery at election .... .... .... .... .... ....	99
building, breaking and entering .... .... .... .... ....	400
carnal connection .... .... .... .... .... ....	6
carnal knowledge .... .... .... .... .... ....	6
circumstance of aggravation .... .... .... .... ....	1
clerk .... .... .... .... .... ....	1
common betting house .... .... .... .... .... ....	211
gaming house .... .... .... .... .... ....	210
nuisance .... .... .... .... .... ....	207
company .... .... .... .... .... ....	1
concealment of treason .... .... .... .... .... ....	38
connection, carnal .... .... .... .... .... ....	6
contract .... .... .... .... .... ....	546
conversion, fraudulent .... .... .... .... .... ....	371
convicted appellant .... .... .... .... .... ....	703
conviction, summary .... .... .... .... .... ....	1
“ copper,” as applied to coin .... .... .... .... ....	152
costs of defence .... .... .... .... .... ....	676
cost of prosecution .... .... .... .... .... ....	676
counsel .... .... .... .... .... ....	634
counterfeit—	
as applied to coin .... .... .... .... .... ....	152
as applied to trade mark.... .... .... .... ....	497

INDEX—*continued.*

Subject.	Section.
<b>Definitions—<i>continued</i></b>	
<b>Counterfeit—<i>continued</i></b>	
mark	470
representation of impression of seal	470
seal	470
Court of Criminal Appeal	687
“Court,” in Chapter LXVIII.	684 (7)
“Court,” in connection with trial of First Offenders	669 (4)
“Court,” in connection with committal for perjury	731
covering	499
crime	3
criminal responsibility	1
criminally responsible	1
Crown Law Officer	1
“current,” as applied to coin	152
“damage,” in relation to injured documents	443
deal with	183, 189
dealer	497
defamation	348
defamatory	346
defamatory matter	346
delivery of thing sent by post	1
“detention,” of woman or girl—	
for immoral purposes	716
in a brothel	194
with intent to defile	194
“document,” with reference to forgery	469, 470
double voting	95
dwelling house	1
election	93
elector	93
entering a building	400
explosive substance	1, 299, 455, 557
false document or writing	470
false name or initials	497
false pretence	408
false trade description	497
force, applies	222
forgery	471
fraudulent taking or conversion	371 (2)
“fraudulently,” in connection with uttering false documents, etc.	474
gaming house, common	210
gaming house, keeper of	213
“gild,” as applied to coin	152
“good faith,” in connection with defamation	354, 357
goods	497
grievous bodily harm	1
habitual criminal	661
have in possession	1
holder of a judicial office	121
indictable offence	3
indictment	1
“in relation to his principal’s affairs or business,” in Chapter LV.	546 (11)
insanity	27
“judge who tried him”	703
judicial office, holder of	121
judicial proceeding	120
keeper of bawdy house, gaming house, betting house, or lottery	213
killing	270
“knowingly” used in connection with “uttering” or “using”	1
knowledge, carnal	6
label	499
liable	1

INDEX—*continued.*

Subject.	Section.
Definitions— <i>continued</i>	
loaded arms ....	392
local authority ....	423
lottery ....	212
lottery, keeper of	213
mail ....	1
mail, conveyance ....	1, 167
making a false document or writing ....	471
manslaughter ....	280
manufacturer ....	497
mark, counterfeit ....	470
mark, forgery of ....	471
mark, registered ....	1
meeting, public ....	354
metal ....	152
misdemeanour ....	3
money ....	1
mortgaged goods ....	389
murder ....	279
wilful ....	278
name ....	497
“negligence,” with respect to defamation in newspaper ....	364
night ....	1
night-time ....	1
nuisance, common ....	207
offence ....	2
attempt to commit ....	4
indictable ....	3
simple ....	3
“offender cannot be arrested without warrant” ....	5
“offender may be arrested without warrant” ....	5
overt act ....	43
owner ....	1
periodical ....	345
perjury ....	124
“person,” in Chapter LII. ....	497
person employed in the public service ....	1
“person having business relations with the principal” in Chapter LV. ....	546 (10)
person, used with reference to property ....	1
personation at election ....	94
piracy ....	76, 77
pirate ....	76, 77
“place,” in connection with trespass ....	254
police officer ....	1
polling booth ....	93
possession, have in ....	1
Post Office ....	1
post, thing sent by	1
delivery of ....	1
pretence, false ....	408
“previously convicted,” as regards habitual criminal ....	661 (2)
“principal,” in Chapter LV. ....	546
principal offender ....	7
“prisoner,” in Chapter LXVIII. ....	684 (7)
property ....	1, 35, 414
proprietor ....	497
provocation ....	245
public meeting ....	354
public place ....	203 (1)
public service, person employed in ....	1
“publication,” with reference to defamation ....	204 (2)
	347

INDEX—*continued.*

Subject.	Section.
Definitions— <i>continued</i>	
railway ....	1
rape ....	325
registered brand ....	1
registered mark ....	1
“resemble,” in connection with forgery ....	470
riot ....	62
riotously assembled ....	62
robbery ....	391
seal—	
counterfeit ....	470
counterfeit representation of impression of ....	470
forgery of ....	471
with reference to forgery ....	469
security, valuable ....	1
seditious—	
enterprise ....	46
intention ....	44
words ....	46
writing ....	46
sentence ....	703
servant ....	1
ship ....	1
“silver,” as applied to coin ....	152
simple offence ....	3
“solicit any valuable consideration” in Chapter LV.	546
“special property,” in connection with stealing ....	371
stealing ....	371
summary conviction ....	1
taking, fraudulent ....	371
testimony, uncorroborated ....	1
thing capable of being stolen ....	370
thing sent by post ....	1
delivery of ....	1
trade description ....	497
trade description, false ....	497
trade mark ....	497
trader ....	497
treason ....	37
treason, concealment of ....	38
treasonable crime ....	39
treating ....	97
trustee ....	417, 546
uncorroborated testimony ....	1
“undue influence,” at election ....	98
“unlawful act,” with reference to injury to property ....	441, 442
unlawful assembly ....	62
utter ....	1
as applied to coin ....	152
“valuable consideration,” ....	546 (4) (5) (6)
“valuable consideration solicited” ....	546 (9)
valuable security ....	1
vessel ....	1
voting, double ....	95
warrant, arrest without ....	5
watch ....	501
wilful murder ....	278
writing, false ....	470
writing, forgery of ....	471
writing, seditious ....	46
“writing,” with reference to forgery ....	469
Defraud. See Fraudulent.	

INDEX—*continued.*

Subject.	Section.
<b>Delay—</b>	
in taking arrested person before magistrate	140
<b>Delivery of.</b> See also <i>Service.</i>	
false warrant for money payable	483
goods. See <i>Goods.</i>	
particulars to accused person	592
property. See also <i>Goods.</i>	
after conviction	717
authority for, forging	473 (2) (h) (j) (4) (s) 527 (1)
creditor, to defraud	472, 473 (2) (4)
documents relating to, forging	(s) (t)
false certificate by public officer as to	86
obtaining by false pretence. See <i>False pretence.</i>	409
obtaining by trick. See <i>Fraudulent trick</i>	411
of bankrupt to trustee, failure in respect of	524
procuring, upon forged will	480
thing seized to Treasurer	714
valuable security, etc., forging order for	473 (2) (h)
woman detained for immoral purposes, to guardian	716
<b>Delusion, criminal responsibility in case of</b>	27
<b>Demand of—</b>	
jury	622
property—	
by threats	396, 397
upon forged testamentary instrument	480
<b>Demurrer—</b>	
judgment for private prosecutor on, when overruled	726
to indictment	616, 623
to private information	724
<b>Departmental reports, etc., protected under defamation law</b>	354 (5)
<b>Deposit—</b>	
of money, etc., forging acknowledgment of	473 (2) (i)
stealing from place of	378 (5) (c)
<b>Depositions—</b>	
accused to be allowed copy of	745
inspection of, at trial	746
<b>Deputy—</b>	
Comptroller General of Prisons. See <i>Comptroller General of Prisons.</i>	
sheriff. See <i>Sheriff.</i>	
<b>Description—</b>	
of document, in indictment. See <i>indictment</i>	583 (1), 584
on label	492 (2)
with respect to dangerous goods sent on ship	311 (2)
<b>Desertion of child under sixteen</b>	344
<b>Destruction of. See also <i>Injury.</i></b>	
building, etc., sending letter threatening	463
counterfeit foreign coin	165
documents, accounts, etc. See <i>Account.</i>	
evidence	132
fish	437
machinery. See <i>Machinery</i>	453 VII.
property—	
by explosive, attempt to cause	454, 455
conviction for what offences on indictment for	598
summary conviction for	465 (a)
railway bridge, etc.	453 II. (b)
rope, tackle, etc., used in mine	453 VII. (k)
ship. See <i>Ship</i>	449, 453, VII. (a)
thing seized by order of Court	714

Subject.	Section.
Destruction of— <i>continued.</i>	
trust property ....	417
valuable security, procuring. See Valuable Security	399 (a), 410
Detention. See also Arrest.	
against will ....	332, 333
assault, to prevent ....	318 (1)
breach of the peace, of person committing ....	237
child, of, fraudulent ....	343 (1)
compel to work, with intent to ....	332
disabling person to prevent arrest or ....	294
insane person, of ....	337
necessaries for person in case of ....	262
preventive. See Habitual Criminal.	
process or warrant under lawful ....	225, 226
reformatory prison ....	18
reformatory school, in. See Reformatory school	18, 185, 663, 667, 708 (5) 714
seized property, of. See Seizure	
woman or girl, of—	
for immoral purposes ....	194, 716
having interest in property ....	329 (2)
in a brothel ....	194
with intent to defile ....	194
with intent to marry, etc. ....	329
Device, fraudulent. See False pretence ; Fraudulent trick.	
Dice, distribution of property depending on throwing of ....	212
Die. See also Instrument.	
included in term “seal.” See Seal	469
making and possessing for purpose of forging trade mark	496
possessing—	
counterfeiting stamp, for ....	495
Direction—	
for prosecution for perjury ....	731
stealing money received with ....	373, 374, 378 (9) (a) (b)
Director. See Company, officer of.	
Disabling, with intent to commit offence ....	292, 294
Disagreement, discharge of jury in case of ....	644
Discharge of—	
accused person—	
acquittal, on: ....	653
found incapable of understanding proceedings ....	631
<i>nolle prosequi</i> , on entry of ....	581
right to, if not brought to trial ....	608
convicted person—	
damages, upon payment of ....	671
pardon has effect of ....	707
summary conviction after—	
trifling assault, in case of ....	321
trivial offence, in case of ....	467
upon entering into recognisance ....	19 (7)
upon making satisfaction ....	671
upon entering into recognisance ....	656, 705
conditioned to appear when called upon ....	19 (8)
jury. See Jury.	
persons chosen to ascertain facts as to challenge ....	630
Discharging arms. See Arms.	
Discipline—	
domestic ....	257
of ship ....	258

INDEX—*continued.*

Subject.	Section.
<b>Disclosure</b> —	
as to how vote given at election .....	110
of fraud, by trustee or officer of company when a defence .....	422
of official secrets. See <i>Secrets</i> .....	81
<b>Discovery</b> —	
of concealed property, failure in respect of .....	526
of documents, no excuse from making in certain cases .....	738
of property, failure by bankrupt in respect of .....	521
time after, for prosecution for illegal branding .....	432
<b>Disease, infectious</b> —	
communicating, to animal .....	459
travelling animal with .....	460
<b>Diseased meat, dealing in</b> .....	217
<b>Disfigure, unlawful act with intent to</b> .....	294
<b>Disguise</b> —	
with intent to commit crime .....	407 (e)
<b>Dismissal, certificate of</b> .....	734
on complaint of assault .....	323
<b>Disobedience to</b> —	
lawful order, issued under Statute .....	178
order of Court, by Jury .....	639, 641
Statute law .....	177
<b>Disorderly</b> —	
conduct in presence of Parliament .....	56 (2)
house. See <i>Brothel</i> .	
person, removal of, from premises .....	254
<b>Disposing of</b> . See also <i>Fraudulent disposition</i>	
dead body of child, to conceal birth .....	291
die, etc.—	
for counterfeiting stamp .....	495
materials for forgery of paper, etc., used for public documents, bank notcs, etc. .....	494
<b>property</b> —	
conspiring to obstruct person lawfully .....	560 (3)
obtained on credit .....	518 (2) (d)
seized under Code .....	714, 715
stolen property, aiding in .....	414
<b>Disqualification</b> —	
juror, of, challenge on ground of .....	628 (1)
for bribery on part of Member of Parliament .....	60
<b>Distress, resisting</b> .....	318 (3) (4)
<b>Disturbance</b> . See <i>Breach of the Peace</i> ; <i>Interference</i> ; <i>Obstruction</i>	
<b>Dividend</b> in respect of public debt, forging title to .....	473 (2) (a)
<b>Dock</b> —	
damaging work appertaining to .....	453 II. (a)
VII. (d)	
interfering with work appertaining to .....	458
warrant, forging .....	473 (2) (j)
<b>Doctor</b> . See <i>Medical</i> .	
<b>Document</b> —	
alteration of. See <i>Alteration</i>	
company of. See <i>Company</i> .	
concealment of. See <i>Concealment</i> .	
damage to, what is included in term .....	443
description of, in indictment .....	583 (1) 584
destruction of. See <i>Document</i> , “falsification or destruction.”	
execution of. See <i>Execution</i> .	
failure to deliver, to trustee. ....	521 (3)
false—	
acknowledging .....	512
meaning of term .....	470
falsely assuming authority to sign .....	91 (3), 334 (2)

Subject.	Section.
Document— <i>continued.</i>	
falsification or destruction of—	
company, of     ...	419, 420, 548
employer, of     ...	424
bankrupt, by     ...	519
required in evidence     ...	132
forgery of. See Forgery     ...	473
giving false to agent     ...	532
lending for personation     ...	514
making false, meaning of term     ...	471
meaning of, with reference to forgery     ...	469
official secret, containing, communicating     ...	81
personating person by uttering     ...	513
procuring execution of. See Execution.	
production of—	
before Parliament or Committee     ...	59 (1)
bankrupt preventing     ...	523
public, damaging     ...	453 VIII.
public debt, relating to	
forging     ...	473 (2) (a)
possessing paper used for     ...	494
public revenue, relating to—	
forging     ...	473 (3) (c)
possessing paper used for...     ...	494 (1)
removing stamp from     ...	491 (1), 495 (3)
signature of witness to, forging     ...	473 (2) (n)
signing, for another without authority     ...	479 (1)
title of. See Title.	
uttering. See Uttering.	
valuable security, which is     ...	1
Domestic discipline     ...	257
Double voting at elections     ...	95
Draft, bank, term “money” includes     ...	1
Drainage works, maliciously injuring     ...	453 VI.
Dragging with net upon ground of fishery     ...	436 (2)
Drawing—	
obscene, selling or exposing...     ...	204 (1) (2)
Dredging for oysters, unlawfully     ...	436
Drilling, unlawful     ...	51
Drink, corruptly providing or receiving, at election     ...	97 (1) (2)
driving, reckless or dangerous     ...	291A
conviction for, upon indictment for manslaughter     ...	595
Drug—	
administering—	
abortion, to procure     ...	199, 200
conviction for on charge of rape, etc.     ...	596 (a)
indictable offence, to commit     ...	293
injure, with intent to     ...	300, 301 (2)
murder resulting from     ...	279 (4)
procuring defilement of woman by     ...	192 (3)
false warranty, giving, with respect to sale of     ...	492 (1)
offence committed under influence of     ...	28
supplying, to procure abortion     ...	201
Drunkenness, how far an excuse     ...	28
Duel, challenge to fight     ...	72
Duplicity in indictment     ...	585, 586
Duress. See Compulsion ; Threat.	
Duty—	
neglect to perform. See Neglect ; Negligence.	
preservation of human life, relating to     ...	262-267
refusal of public officer to perform     ...	173
stamp. See Stamp.	

INDEX—*continued.*

Subject.	Section.
Dwelling-house. See also Building ; House.	
being armed with intent to break   ...	407 (a) (b)
breaking and entering   ...	401
to commit crime   ...	402
building, adjacent to, breaking into or out of   ...	403
to commit crime   ...	404
damaging, with explosive   ...	453 I.
defence of   ...	244, 254, 255
Discharging firearms to alarm person in   ...	74 (2)
entering, with intent to commit crime   ...	402
man-trap, setting at night in   ...	305
meaning of   ...	1
protection of, by persons is not unlawful assembly   ...	62
stealing from   ...	378 (5) (b)
threat to break or injure   ...	74 (1)
E.	
Easement, exercise of right-of-way or   ...	256
Editor of periodical. See Periodical.	
Election by Prosecutor—	
as to what acts of stealing to proceed with   ...	586 (3)
when distinct offences charged   ...	585
Elections. See also Elector.	
advancing money for bribery at   ...	99 (4)
agents, acts of   ...	115
attesting claim, etc., without authority   ...	114
ballot, attempting to violate secrecy of, at   ...	105, 106
ballot-box—	
meaning of, with reference to   ...	93
stuffing, at   ...	107
ballot-paper at—	
attempt to take or taking out of polling booth   ...	106 (1)
deposit of, in presence of presiding officer   ...	105 (c)
failure to conceal names of candidates on   ...	105 (b)
informal, placing in ballot-box   ...	107
marking for blind or illiterate elector   ...	108
placing unauthorised mark or writing on   ...	105, 110 (4)
unauthorised marking of   ...	105 (a)
unfastening fold of   ...	110 (1)
wilfully misusing   ...	105
blind person's voting paper may be marked by another person	108
breaking seal of packet used at   ...	111
bribery at   ...	99
advancing money for   ...	99 (4)
bribery, without reference to pending   ...	99 (5) (6)
cabs, etc., providing   ...	102
candidate at. See Candidate.	
certificate of returning officer, evidence   ...	117
conviction for offence relating to, other than that charged	604, 605
corrupt and improper, practices at   ...	103
conviction for illegal practice on charge of   ...	604, 605
time to prosecute for   ...	103
double voting at   ...	95
false answer to question at   ...	109 (1)
false claim at   ...	113
false declaration at   ...	109 (2)
franchise obstructing free exercise of, at	98 (2)

INDEX—*continued.*

Subject.	Section.
<b>Elections—<i>continued.</i></b>	
illegal practices at	100, 102, 103
conviction for what offences on charge of	604, 605
time to prosecute for	103
indirect acts	116
interference at	104
interference with secrecy at	110
meaning of terms relating to	93
municipal, Chapter XIV. of Code not to apply to	118
opening packet used at	111
Parliamentary, Chapter XIV. of Code not to apply to	118
personal solicitation on polling day	100
person at	94
meaning of term	94
polling booth at—	
intrusion into	104 (1)
meaning of term	93
post, voting by, offences at elections when	112
poster, omitting to put name of printer on	102 (2)
presiding officer at—	
ballot-paper to be deposited in presence of	105 (c)
direction by, for arrest of offender	104, 106, 109
offences by	109
onus of proof on, in case of stuffing of ballot-box	107
publication of false statement as to candidate at	101 (3) (4)
recording excessive number of votes	96
road board, Chapter XIV. of Code not to apply to	118
secrecy at, interfering with	110
stuffing ballot box at	107
time for prosecuting for corrupt or illegal practices at	103
treating at	103
undue influence at	97
voting at. See Voting; Voting paper	98
withdrawal of candidates at	101
<b>Elector.</b> See also Elections.	
asking for bribe	99 (2)
false claim by	113
meaning of term	93
transfer of property to secure registration of	99 (5) (6)
unlawfully procuring benefit for	99 (1)
<b>Electric power, fraudulent appropriation of</b>	390
<b>Embezzlement.</b> See Stealing.	
<b>Embracery</b>	123
<b>Emergency—</b>	
discharge of jury in case of	644
extraordinary, criminal responsibility in	25
suppression of riot in case of	241
<b>Employer.</b> See Master.	
assault in interference with freedom of	324
conspiracy to injure	560
assault in pursuance of	318 (6)
escaped prisoner, of	148
fraudulent accounting by servant, with intent to defraud	424
selling libellous book	367
<b>Enactment of compiled Act</b>	Compilation Act, s. 2, Appendix B.
<b>Enclosure—</b>	
included in term “place”	254
<b>Encumbrance, concealment of, on sale or mortgage</b>	413 (1)
<b>Endangering—</b>	
life—	
abandoning child by	304
administering noxious thing	300, 303

INDEX—*continued.*

Subject.	Section.
<b>Endangering—continued.</b>	
<b>life—continued.</b>	
apprentice or servant, of     ....     ....     ....     ....     ....	264, 303
carelessness, by     ....     ....     ....     ....     ....	265, 266, 267
damaging house or ship with explosive, by     ....     ....     ....	453 I.
murder resulting from unlawful act     ....     ....     ....	279 (2)
necessaries, by failure to supply     ....     ....     ....	302, 303, 344
or health     ....     ....     ....     ....     ....	292-312
piracy     ....     ....     ....     ....     ....	78, 79 (3)
railway passengers, of. See Railway.     ....     ....     ....	296
sending unseaworthy ships to sea, by     ....     ....     ....	308
railway, etc. See Railway.	
steamship     ....     ....     ....     ....     ....	309, 310
<b>Enforcement or Order for payment of money</b>	
penalty, compensation or costs     ....     ....     ....	682
recognisances     ....     ....     ....	682A
746A	
<b>Engine.</b> See also Machinery.	
railway, obstructing     ....     ....     ....     ....	462
setting, to harm trespasser     ....     ....     ....	305
to destroy vermin, not unlawful     ....     ....	305
to protect dwelling-house, not unlawful     ....     ....	305
<b>Engineer endangering steamship by tampering with machinery</b>	309, 310
<b>Engraving—</b>	
obscene, selling or exposing for sale     ....     ....     ....	204
<b>Enlargement of recognizance—</b>	
on adjournment of trial     ....     ....     ....     ....	611
when place of trial changed     ....     ....     ....	577
<b>Entertainment—</b>	
indecent     ....     ....     ....     ....     ....	204
public, fair comment as to     ....     ....     ....     ....	355 (7)
<b>Enticing away.</b> See Abduction.	
<b>Entry—</b>	
building of, meaning of expression     ....     ....	400
certificate of execution, of, as record of Court	678
dwelling-house, of. See Dwelling-house.	
false—	
in book of Account. See Account Book.	
in record     ....     ....     ....     ....     ....	335 (1), 484
in register, permitting to be made     ....     ....	484
judgment, of. See Judgment.	
land, upon. See Land.	
<i>nolle prosequi</i> , of     ....     ....     ....     ....	581, 728 (2)
premises of, for removal of woman or girl     ....     ....	716
property, of, by trespasser. See Trespasser	251-256
record, on. See Record.	
when said to be a “false document”     ....     ....	470 (a)
register, in—	
falsification of     ....     ....     ....     ....	484
forging. See Register     ....     ....     ....	473 (2) (d) (o) (p)
ship, upon, force to prevent     ....     ....	254, 255
wrongful. See Trespasser.	
Erasure of anything written on stamp     ....     ....     ....	495 (6)
Error. See Formal defect.	
<b>Escape—</b>	
aiding. See Aiding Escape.	
harbouring prisoner after     ....     ....     ....	148
insane, person of     ....     ....     ....	149
justice, from, arrest of person trying to	568
offender, of, disabling with intent to facilitate	292, 293
permitting, of accused or prisoner     ....     ....	147
preventing—	
from wreck     ....     ....     ....     ....	295
of accused or prisoner     ....     ....     ....	233, 234, 235

INDEX—*continued.*

Subject.	Section.
Escape— <i>continued.</i>	
prisoner, by     ...	146
effect of, upon sentence, in case of recapture     ...	20
rescue of—	
capital offender after     ...	144
insane person after     ...	149
wife assisting husband to     ...	10
Escheats abolished     ...	683
Estate—	
in land, title to. See Title.	
of bankrupt. See Bankrupt estate.	
of Prisoner. See Curator of Prisoner's Estate.	
Evasion—	
land laws, of     ...	220
shipping dangerous goods, of law as to     ...	311
Evidence. See also Affidavit ; Defence ; Onus of Proof ; Presumption ; Uncorroborated testimony ; Witness.	
avermont as to money, in case of...     ...	584 (5)
contract, of, forging writing which is     ...	473 (4) (r)
conviction according to—	
circumstances of aggravation, on indictment alleging     ...	594
upon charge of—	
attempt to commit offence, etc.     ...	601
damage to property     ...	598
elections, offence relating to     ...	604, 605
habitual criminal, being     ...	650
joint receiving     ...	607
murder or wilful murder     ...	595
perjury     ...	126
procuring commission of offence     ...	7, 600, 601
rape, etc.     ...	596
stealing and receiving     ...	586 (4)
stealing cattle     ...	606
stealing, false pretences, or cheating     ...	599
unlawfully killing child     ...	595
when offence of similar nature proved     ...	602
when specific injury or specific intent charged     ...	597
defence, in     ...	636
depositions, in. See Depositions.	
destroying     ...	132
detention of thing seized for purpose of being produced in     ...	714
examination of person of accused to discover     ...	236
fabricating     ...	129
false. See also Perjury.	
obtaining property on probate, or administration granted on     ...	480
Parliament, before     ...	57
Royal Commission, before     ...	127
forging document to be used in     ...	473 (4) (b), (e)
giving or taking benefit to withhold     ...	136
good faith, of want of     ...	354
husband, of. See Witness.	
husband or wife, in case of prosecution by, with respect to the other's property     ...	35
indebtedness of Western Australia, of, forging     ...	473 (2) (c)
instrument made, by statute, forging     ...	473 (4) (h)
oath not to give, is unlawful     ...	48 (1) (f)
on charge of—	
abduction of girl under eighteen     ...	193
bigamy     ...	339
breach of duty by engineer of steamship     ...	310

Subject.	Section.
Evidence— <i>continued.</i>	
on charge of— <i>continued.</i>	
defamation—	
against publisher, etc. ....	364
as to occasion and circumstances ....	362
when book, etc., sold containing defamatory matter ....	366, 367
defilement of—	
girl under sixteen ....	188, 189
girl under thirteen ....	185
idiot ....	188
defilement, permitting, on premises ....	186
detention with intent to defile or in a brothel ....	194
incest, as to relationship ....	197, 198
intimidation of workmen or employers....	550
joint receiving ....	607
perjury or subornation of perjury ....	124, 126, 731
possession of shipwrecked goods, being in ....	434, 435
rape, etc. ....	331
receiving stolen goods ....	414
ship, sending unseaworthy to sea ....	308
stealing child under fourteen ....	343
stuffing ballot box ....	107
treason and treasonable crimes ....	40
opening and summing up, to jury ....	637, 638
ownership of property, of allegation in indictment as to ....	584 (15)
Parliamentary paper, on application to stay prosecution for	
publication of ....	733
preventing witness from producing ....	133
provocation for assault, of ....	245
receipt of property, of, forging ....	473 (4) (s)
search warrant to obtain ....	711 (b)
sentence, before passing ....	656
summing up, to jury ....	637, 638
title of. See Title.	
variance between indictment and ....	591
wife of. See Witness.	
witness, refusing to give, before Parliament or Parliamentary Committee ....	59
Examination—	
false evidence on, before Parliament or Committee ....	57
of person of accused person ....	236
of persons charged with indictable offence ....	572
of witnesses, by counsel ....	634
Excessive force. See Force ....	260
Excuse. See also Defence.	
ignorance of law in general, is not ....	22
onus of proof on person alleging. See Onus of proof ....	
publication of defamatory matter, for ....	357
Execution of—	
deeds, etc., procuring, by threat ....	399
document—	
for another, without authority ....	479 (1)
procuring, by false pretence ....	410, 477
procuring, by violence or threat ....	399
false document or writing, meaning of ....	471
judgment. See Judgment.	
law, no criminal responsibility in respect of act done in process. See Process.	31 (1)
sentence. See Sentence ....	224
valuable security—	
procuring, by threat ....	399 (a)
procuring, by false pretence ....	410
warrant. See Warrant.	

INDEX—*continued.*

Subject.	Section.
Executive Council, member of— forging signature of .... .... .... .... .... .... ....	473 (3) (a) 54
Executor— deemed trustee .... .... .... .... .... .... ....	417
fraudulently disposing of property.... .... .... .... .... ....	417
Exhausted document, uttering .... .... .... .... ....	475
Exhibition— obscene publication or public, fair comment on, is lawful .... .... .... .... ....	204 355 (6)
<i>Ex Officio</i> information— arrest of person charged in .... .... .... .... ....	580
practice to be applied on .... .... .... .... ....	729
presentment of .... .... .... .... ....	579
Explosion— likely to endanger life, causing .... .... .... .... ....	298
attempting .... .... .... .... ....	299
conspiring to cause .... .... .... .... ....	299
likely to injure property, causing .... .... .... .... ....	454
attempting, etc. .... .... .... .... ....	455
Explosive substance— arms, loaded with .... .... .... .... ....	392
attempt to destroy property by .... .... .... .... ....	455
attempt to injure by .... .... .... .... ....	299
damaging house or ship with .... .... .... .... ....	453 I.
disposal of, after seizure .... .... .... .... ....	715
exploding, to do grievous bodily harm .... .... .... .... ....	294 (3)
landing, from ship .... .... .... .... ....	312
making or having in possession .... .... .... .... ....	299, 455, 557
meaning of term .... .... .... .... ....	1, 299, 455
placing or throwing, to do grievous bodily harm .... .... .... .... ....	294 (6), (7)
sending, in ship .... .... .... .... ....	311 (2)
sending, to do grievous bodily harm .... .... .... .... ....	294 (4)
Exporting counterfeit coin .... .... .... .... ....	164
Exposing— child under seven .... .... .... .... ....	304
for sale. See Sale.	
obscene publication, etc., to view .... .... .... .... ....	204 (2)
of person, indecent .... .... .... .... ....	203
Expressions defined. See Definitions.	
Extortion— attempt at, by threat .... .... .... .... ....	397, 398
conspiracy with object of .... .... .... .... ....	412
defaming for purposes of .... .... .... .... ....	363
demanding property by written threat with object of ....	397
public officer, by .... .... .... .... ....	83
publishing defamatory matter with object of .... .... ....	363
Extract from Parliamentary paper, staying prosecution for publication of .... .... .... .... ....	733
Extra-judicial oath, administering .... .... .... .... ....	90
F.	
Fabricating evidence .... .... .... .... .... .... ....	129
Face, disguising, with intent to commit crime .... .... .... ....	407 (e)
Fact— accessory after thec. See Accessory.	
as to challenge, ascertainment of .... .... .... .... ....	630

INDEX—*continued.*

Subject.	Section.
<b>Fact—continued.</b>	
mistake of, criminal responsibility how affected by	24
specific, Court may require jury to find	642
Factor, pledge or lien by, when not deemed stealing	372 (2)
Factories and Shops Laws, forging document relating to	490
<b>Fair comment—</b>	
is lawful	355, 357 (8)
what is, is a question of fact	355
<b>False.</b> See also <i>Fraudulent.</i>	
accounting. See <i>Account.</i>	
accusation, conspiracy to bring	134
acknowledgment of deed, recognisance, etc.	512
answer. See <i>Perjury</i>	
in question at elections	109 (1)
assumption of authority. See <i>Authority</i>	91
books of account, etc., keeping. See <i>Account.</i>	
certificate. See <i>Certificate.</i>	
claim. See <i>Claim.</i>	
coin. See <i>Coin.</i>	
copy of rules or lists of members of society or company, circulating	489
date, document with, when “false document”	470 (b)
declaration. See <i>Declaration.</i>	
description on label	492 (2)
description with respect to dangerous goods sent on ship	311 (2)
document. See <i>Document</i> ; <i>Forgery.</i>	
<b>entry in—</b>	
book of account. See <i>Account</i> ; <i>Book.</i>	
record	335 (1), 484
register	484
<b>evidence.</b> See <i>Evidence</i> ; <i>Perjury.</i>	
information affecting liberty	335 (2) (b)
information as to health of foreign ship	215
label relating to sale of food, giving	492 (2)
light or signal. See <i>Marine light</i> ; <i>Railway light.</i>	
pedigree, making, on sale or mortgage	413 (2)
<b>pretence—</b>	
conspiracy by, to defile	196
conviction for what offences on indictment alleging	599
defined	408
details of, need not be set out in indictment	584 (17)
execution of document, procuring, by	410, 477
indictment in respect of	584 (16)
obtaining execution of security by	410
obtaining money or goods by	409
conviction for what offences upon indictment for	599
particulars in indictment for	584 (16) (17)
summary conviction for	426 (f)
duty of Justices to explain charge	427
obtaining property on credit under	518 (2) (c)
procuring female to have carnal connection by	192 (2)
<b>proof of debt—</b>	
giving information to trustee as to	520 (1)
making	525
record affecting liberty	335 (1)
register, keeping	484
<b>representation—</b>	
certificate, as to being person named in	513
certificate as to status, etc., to procure	488
certificates relating to liberty, as to	334
consent of creditors to agreement, to obtain	520 (2)
debt of creditor, as to, on reduction of capital	547 (2)
document relating to seamen, factories, etc., as to person	
named in ....	490 (2)

INDEX—*continued.*

Subject.	Section.
<b>False—<i>continued.</i></b>	
representation— <i>continued.</i>	
execution of document, procuring, by .... .... .... .... ....	477
bankrupt obtaining property on credit by .... .... .... .... ....	517 (5)
of matter of fact is false pretence .... .... .... .... ....	408
public officer, as to being .... .... .... .... ....	92 (2)
rape, to commit .... .... .... .... ....	325
testimony of witness, to affect .... .... .... .... ....	131
return as to moneys received by public officer .... .... .... .... ....	86, 425
statement—	
as to candidate at election .... .... .... .... ....	101 (3) (4)
as to electoral claim .... .... .... .... ....	113 (2)
of affairs by bankrupt .... .... .... .... ....	517 (4)
official of company, by .... .... .... .... ....	420, 421, 422
or declaration. See also Declaration .... .... .... .... ....	169, 170, 171
public officer, by—	
as to moneys received .... .... .... .... ....	425
touching remuneration .... .... .... .... ....	86
register of births, etc., for purposes of or relating to .... .... .... .... ....	486, 487
security, to induce person to enter into .... .... .... .... ....	420 (b)
testimony of witness, to affect .... .... .... .... ....	131
withdrawal of candidate, as to .... .... .... .... ....	101
testimony. See Perjury.	
warrant for money payable under public authority .... .... .... .... ....	483
warranty or label relating to sale of food .... .... .... .... ....	492
writing. See Document; Forgery; Writing.	
Family, duty of head of, to provide necessaries .... .... .... .... ....	263
Father. See also Guardian; Parent.	
carnal connection with .... .... .... .... ....	198
Fear. See also Compulsion; Threats.	
going armed so as to cause .... .... .... .... ....	68
Fee—	
Court, none in criminal cases .... .... .... .... ....	740
none, for copy of indictment .... .... .... .... ....	613
none, for inspection of depositions .... .... .... .... ....	746
stamp denoting, forging .... .... .... .... ....	473 (4) (j)
Felony, construction of term, in statute, by law, etc. .... .... .... .... ....	C.C. Act, s. 3 (1)
Female. See also Girl; Woman.	
whipping, punishment of, cannot be inflicted upon .... .... .... .... ....	18
Fictitious—	
action on penal statute, bringing .... .... .... .... ....	141
losses, insolvent alleging .... .... .... .... ....	517 (3) (4)
person—	
document purporting to be made by .... .... .... .... ....	470 (c)
voting in name of .... .... .... .... ....	94
Fight—	
challenge to, a duel .... .... .... .... ....	72
in public place, taking part in .... .... .... .... ....	71
prize .... .... .... .... ....	73
Filing—	
information by private person. See Information .... .... .... .... ....	720
Filings of coin. See Coin.	
Finding—	
of jury. See Jury.	
stealing by .... .... .... .... ....	371 (5)
Fine—	
appropriation of, when dependent on value .... .... .... .... ....	672
enforcement of order for payment of .... .... .... .... ....	682
imprisonment, instead of or in addition to .... .... .... .... ....	19 (3)
imprisonment until payment of .... .... .... .... ....	19 (5)
levy of, on conviction for defamation .... .... .... .... ....	681
limitation of, in case of summary conviction of child for indictable offence .... .... .... .... .... ....	708 (1) (b)

INDEX—*continued.*

Subject.	Section.
Fine— <i>continued.</i>	
punishment by     ...	18
reduction of     ...	19 (4)
value of injury done, equal to     ...	465
Fire. See Arson.	
attempting to set, to property     ...	445
necessary, for jurors     ...	640
Firearms. See Arms.	
First offenders—	
Court may dismiss information on restitution being made     ...	669 (1) (a)
may convict and discharge on recognisance     ...	669 (1) (b)
order of dismissal on conviction or conditional discharge a bar to further proceedings     ...	669 (2)
forfeiture of recognisance and committal     ...	669 (3)
Fishing, unlawfully     ...	437, 465
Fixture—	
stealing, by tenant or lodger     ...	378 (11)
indictment for     ...	584 (13)
Flight. See Escape.	
Flooding mine     ...	453 VII. (h), 456 (1) (a)
Fluid—	
corrosive, unlawful use of     ...	294 (6) (7)
Food—	
corruptly providing or receiving, at election     ...	97 (1) (2)
exposing for sale thing unfit for     ...	216
false warranty as to     ...	492 (1)
necessary, duty of providing. See Necessaries.	
servant taking, for animal, not deemed stealing     ...	372 (3)
Force. See also Compulsion.	
accused person, to search or examine, by     ...	236
British ship, entering, by     ...	77 (3)
capital offender, to rescue     ...	144
disorderly person, to remove, from land, vessel, etc.     ...	254
domestic discipline, to maintain     ...	257
excessive     ...	233, 234
what is     ...	260
land—	
wrongful entry on, by     ...	69
wrongfully holding possession of, by     ...	70
obstructing minister of religion, by     ...	179
private person, by—	
to prevent serious crime     ...	243
to suppress riot—	
under order of justice     ...	240
without order of justice     ...	241
provocation, in case of     ...	246
removal of woman or girl, by     ...	716
self-defence in, against assault     ...	248, 249
sentence, process, or warrant, to execute     ...	231
use of, to prevent—	
assault, or further assault     ...	247, 248
breach of the peace     ...	237
breaking of dwelling-house     ...	244
committal of serious crime     ...	243
entry on vessel     ...	254, 255
entry upon land     ...	254, 256
escape     ...	233, 235
injury to person or property     ...	441
movable property being taken by trespasser. See Trespasser	251–253
repetition of insult     ...	247
riot     ...	238, 239, 242
whether, reasonably necessary, inquiry as to     ...	232

INDEX—*continued.*

Subject.	Section.
Forcible entry on land	69
Forcible detainer of land	70
Foreign—	
coin. See Coin.	
Government—	
forging evidence of indebtedness of	473 (2) (c), 494 (1) (a)
prosecution only at request of	14, 556
prince, defamation of	53
ship—	
false information as to health of	215
Forfeiture—	
adulterated beverage, of	219
counterfeit foreign coins, of	165
land, of, fraudulently acquired	220, 221
notice of enlargement of recognisance of bail to be given before on account of crime or conviction, abolished	577
Forged—	
bank note, purchasing or receiving	481
testamentary instrument, demanding property upon	480
Forgery	469—473
accountable receipt, of	473 (2) (i)
acknowledgment of deposit of money or goods of	473 (2) (i)
acquittance on receipt of property, of	473 (4) (s)
acts of State, of documents relating to	473 (3)
assignment of. See Forgery “transfer”	473 (2) (a)
attestation of. See Attestation	473 (2) (4)
authority of. See Authority.	
bank note, meaning of, in connection with	469
bank note of	473 (2) (g)
bill of exchange, of	473 (2) (g)
bills of lading, of	473 (2) (j), 473 (2) (k)
bond, of	473 (2) (h)
certificate of—	
interest on public debt in respect of	473 (2) (a)
interest on share in company, in respect of	473 (2) (b)
marriage, of	473 (4) (k), (m), (n)
quarantine, relating to	473 (4) (u)
record of court of	473 (4) (g)
warehouse-keeper, of	473 (2) (j)
charter-party, of	473 (2) (k)
consols, in connection with	473 (2) (a), 494 (1) (a)
contract of	473 (4) (q)
Court, seal, record, process, etc., of	473 (4)
debenture	473 (2) (a), 494
defined	469—471
deed of	473 (2) (h)
destruction of things seized in case of	714
dock, warrant of	473 (2) (j)
document of—	
acts of State, relating to	473 (3)
authorising execution of another document	473 (2) (m), (3) (c)
company, of	473 (2) (b)
Court, of	473 (4) (d), (e), (g)
delivery of property, relating to. See Delivery	472
evidence to be used in	473 (4) (b), (e), (h) (s)
evidence of title, which is	473 (d)
Factories and Shops Laws, under	490 (1)
justice, required to be made by	473 (4) (i)
meaning of	471
money, relating to payment of	472, 473 (4) (r)

INDEX—*continued.*

Subject.	Section.
<b>Forgery—<i>continued.</i></b>	
document of— <i>continued.</i>	
obligation, relating to performance of ....	....
possessing materials for ....	....
power of attorney ....	....
public debt, relating to ....	....
public revenue, relating to ....	....
public seal, etc., having ....	....
required for registration of title ....	....
seamen, relating to engagement of ....	....
shipping, relating to ....	....
signature of witness to ....	....
title of ....	....
what constitutes ....	....
what is immaterial on charge of document, writing, or seal, of ....	....
evidence, of ....	....
instrument for, possessing ....	....
letters of administration, of ....	....
mark, of—	
denoting quality of article ....	....
meaning of term ....	....
marriage, of consent to ....	....
marriage certificate or license, of ....	....
meaning of term ....	....
money, of request for payment of ....	....
of indorsement of—	
acknowledgment of deposit ....	....
bill of exchange, etc. ....	....
charter party ....	....
warrant for delivery of goods ....	....
of order for—	
delivery of goods ....	....
delivery of valuable security ....	....
payment of money ....	....
procuring credit ....	....
offences analogous to—	
bank note, purchasing or possessing forged ....	....
counterfeiting trade mark ....	....
executing document, without authority ....	....
false. See also False.	
certificate of—	
marriage, sending to registrar ....	....
message sent by telegraph, signing ....	....
copies of rules, etc., of society or company, circulating ....	....
statement for purpose of register of births, etc. ....	....
warrant for money payable under public authority ....	....
warrantly relating to sale of food ....	....
falsification of register ....	....
obliterating, etc., crossing on cheque ....	....
procuring execution of document by false pretence ....	....
stamp, fraudulent use of adhesive ....	....
status, attempt to procure unauthorised ....	....
summary conviction for ....	....
testamentary instrument, demanding property upon forged ....	....
uttering. See Uttering.	
place of trial on charge of ....	....
policy of insurance, of ....	....
power of attorney, of, See Power of Attorney ....	....

INDEX—*continued.*

Subject.	Section.
<b>Forgery—<i>continued.</i></b>	
preparation for—	
counterfeiting stamps .....	495
possessing materials for forgery .....	494
probate of .....	473 (2) (f)
process, of .....	473 (4) (e)
promissory note, of .....	473 (2) (g)
public debt, in connection with .....	473 (2) (a)
public records, of .....	473 (1) (b)
public seals, etc., of .....	473 (1)
punishment for .....	473
quarantine certificate, of .....	473 (4) (n)
receipt, of. See Receipt. ....	473 (2) (a) (b) (i)
record of Court .....	473 (4) (f)
register of, or copy of, or entry in. See Register .....	473 (2) (o) (p)
registrar's seal, of .....	473 (2) (q)
revenue, of documents relating to .....	473 (3)
seal of. See Seal .....	473 (1) (4)
meaning of seal, in connection with .....	469
seamen's ticket, of .....	490
securities, titles, registers, and other documents, of .....	473 (2)
share in company, etc., of .....	473 (2) (b)
signature, of. See Signature.	
stamp, of. See Stamp.	
denoting percentages .....	473 (4) (j)
summary conviction for .....	490-493
provisions as to, are alternative .....	493
telegram, of .....	473 (5)
testamentary instrument, of .....	473 (2) (f)
title, of .....	473 (2)
title to land, of .....	473 (2) (d) (e)
trade marks, etc. ....	496-509
transfer, of .....	472, 473 (2) (d)
of acknowledgment of deposit .....	473 (2) (i)
of bill of exchange, etc. ....	473 (2) (g)
of charter party, etc. ....	473 (2) (k)
of share in company, etc. ....	473 (2) (b)
of title to portion of public debt .....	473 (2) (a)
of warrant for delivery of goods .....	473 (2) (j)
what is immaterial on charge of offence involving .....	472
valuable security, of. See Valuable Security.	
what is immaterial on charge of .....	471, 472
will, of .....	473 (2) (f)
writing, of. See Writing. ....	469, 471, 473
<b>Form of—</b>	
certificate of medical officer, at execution .....	678
complaint .....	593
declaration, by persons at execution .....	678
indictment. See also Indictment .....	578, 582
private information .....	720
proclamation in case of riot .....	65
recognition. See Recognition.	
<b>Formal defect—</b>	
in indictment .....	590
amendment of .....	591, 615
motion to quash indictment for .....	614, 615
<b>Former acquittal, plea of.</b> See <i>Autrefois acquit.</i>	
<b>Former conviction.</b> See previous Conviction, plea of. See <i>Autrefois Convict.</i>	
<b>Forms.</b> See also Form.	
power to prescribe .....	747

Subject.	Section.
Fraudulent. See also False.	
accounting. See Account.	
acts—	
details of, need not be set out in indictment .....	584 (17)
injury to property, causing .....	442
testimony of witness, to affect .....	131
trustees and officers of company, or corporation, by .....	417, 419
appropriation. See Appropriation.	
attempt to influence member of Parliament .....	61 (2)
conversion. See Stealing.	
meaning of .....	371 (2)
of trust property .....	417
dealing with—	
Crown lands .....	220, 221
mineral in mine .....	385
property by debtor .....	527
debtor, committal of. See also Bankrupt....	732
detention of child .....	343 (1)
device. See False Pretences. Fraudulent trick.	
disposition of—	
mortgaged goods .....	389
ore in mine .....	385
trust property by trustees .....	417
defence to charge of .....	422
bankruptcy. See Bankrupt	515-528
intention—	
acts causing injury to property done with .....	442
claim of right without .....	22
false document in respect of .....	470 (b) (d)
meaning of, in connection with uttering false document, etc. ....	474
onus of proof as to. See Onus of proof.	
uttering foreign coin with .....	163
means, conspiracy by—	
to defile woman or girl .....	196
to defraud public .....	412
means, property recovered by, taking reward, in case of	
misappropriation by member of Local Authority .....	416
mortgage or sale of property .....	423
prevention of free right of franchise .....	413, 527 (1)
procuring defilement of women .....	98 (2)
receiving of property of bankrupt .....	192
representation. See False Representation.	524
sale or mortgage of property .....	413, 527 (1)
taking, meaning of .....	371
trade mark, use of, etc. ....	496
trick, obtaining money or goods by .....	411
conviction for what offences upon indictment for .....	599 (d)
particulars in indictment for .....	584 (16) (17)
summary conviction for .....	426 (f) (g)
use of adhesive stamp .....	491
uttering of false document. See Uttering .....	474
Freedom of contract—	
assault, interfering with .....	324
conspiracy to prevent .....	560
assault in pursuance of .....	316 (6)
intimidation to prevent .....	550
Frightening. See Threats.	
Fuel, setting fire to mineral or vegetable .....	446
Full Court. See Court of Criminal Appeal.	

INDEX—*continued.*

Subject.	Section.
G.	
Game, injury done in pursuit of .... .... .... .... .... ....	465
Gaming house—	
common, meaning of .... .... .... .... .... ....	210
keeping common .... .... .... .... .... ....	210
keeper of common, who is deemed .... .... .... .... ....	213
prosecution for keeping—	
averments .... .... .... .... .... ....	210
penalties .... .... .... .... .... ....	210
Gaol. See Prison.	
Garrotting .... .... .... .... .... ....	292
Gaseous substance—	
fraudulent appropriation of .... .... .... .... .... ....	390
included in term “explosive substance” .... .... .... .... ....	1
Gazette—	
copy of certificate of execution to be published in .... .... .... .... ....	678
unauthorised advertisement in .... .... .... .... ....	142
General—	
deficiency—	
charge of, in indictment for stealing money .... .... .... .... ....	586 (I)
rules, power of Judges to make .... .... .... .... ....	747
verdict on charge of defamation .... .... .... .... ....	643
General Sessions, Court of, taxation of costs of prosecution or defence	
in .... .... .... .... .... ....	676
enforcement of judgment of .... .... .... .... ....	677
practice in private prosecutions, in .... .... .... .... ....	729
Gestures, publication of defamatory matter by .... .... .... .... ....	348
Gift by debtor to defraud creditor .... .... .... .... ....	527 (1)
Gilding coin—	
meaning of expression .... .... .... .... .... ....	152
punishment for .... .... .... .... .... ....	154 (1)
Girl—	
abduction of. See Abduction. .... .... .... .... ....	193, 330
administering drug, etc., to. See Drug.	
aggravated assault on .... .... .... .... ....	322
belief as to age of—	
when immaterial .... .... .... .... .... ....	205
when material .... .... .... .... .... ....	186, 188, 189, 193
carnal connection with. See Carnal connection ; Carnal knowledge.	
conspiracy to defile .... .... .... .... .... ....	196
custody of, power to Court to make order as to .... .... .... ....	736
detention of—	
permitting, on promises .... .... .... .... .... ....	186
under sixteen .... .... .... .... .... ....	187, 189
under thirteen .... .... .... .... .... ....	185
by guardian .... .... .... .... .... ....	190
detention of—	
for immoral purposes .... .... .... .... .... ....	194, 716
having interest in property .... .... .... .... .... ....	329 (2)
in a brothel .... .... .... .... .... ....	194
search warrant in case of .... .... .... .... .... ....	716
with intent to defile .... .... .... .... .... ....	194
with intent to marry .... .... .... .... .... ....	329
incest, by, over eighteen .... .... .... .... .... ....	198
indecent assault on .... .... .... .... .... ....	328
conviction for, on charge of rape, etc. .... .... .... .... ....	596 (b) (c)
indecent dealing with, under sixteen and others .... .... .... .... ....	189
procuring, to have carnal connection .... .... .... .... ....	191
by threats, fraud, etc. .... .... .... .... ....	192

Subject.	Section.
Goat. See also Animal.	
possession of skin or carcase of .... .... .... .... ....	429
stealing .... .... .... .... ....	370
conviction for what offences on charge of .... .... .... ....	606
suspicion of .... .... .... .... ....	429
unlawfully using .... .... .... .... ....	428
Going armed so as to cause fear .... .... .... .... ....	68
Gold or Silver coin. See Coin.	
Good faith—	
arrest of wrong person in .... .... .... .... ....	229
claim of right in .... .... .... .... ....	22
defamation, in connection with. See Defamatory matter ....	354, 357, 358
executing—	
illegal sentence, process, or warrant in .... .... .... ....	227, 228
irregular process or warrant in .... .... .... ....	230
mistake of fact in .... .... .... .... ....	24
no restitution of valuable security when discharged in ....	717
operation upon patient or unborn child in .... .... .... ....	259
seditious intention, when material on charge of .... ....	45
surgical or medical treatment applied in, death from ....	275
using force in—	
in aid of persons provoked .... .... .... .... ....	250
under order of justice .... .... .... .... ....	240
Goods—	
applying false trade mark, etc., to .... .... .... .... ....	496-509
assault on person protecting, after ship-wreck .... .... ....	316
capable of being stolen .... .... .... .... ....	370
damaging bank or wall of sea used for. See Bank or Wall.	
defence of—	
against trespasser .... .... .... .... ....	251
with claim of right .... .... .... .... ....	252
without claim of right .... .... .... .... ....	253
definition of, in Chapter LII. .... .... .... .... ....	497
false certificate by public officer touching delivery of ....	86
forfeiting and destroying, in cases of counterfeiting trade marks, etc. .... .... .... .... ....	504
forging acknowledgment of deposit, etc., of .... .... .... ....	473 (2) (i)
forging document relating to delivery of .... .... .... ....	472, 473 (2) (j)
(4) (s) (t)	
503	
imported, evidence in case of in Chapter LII. .... .... ....	376 (5) (c)
in transit, stealing .... .... .... .... ....	312
landing dangerous .... .... .... .... ....	739
limitation of proceedings with respect to seizure of .... ....	383
making movable, with intent to steal .... .... .... ....	426 (e)
summary conviction for .... .... .... .... ....	497
meaning of in Chap. LII. .... .... .... .... ....	389
mortgaged, fraudulent disposition of .... .... .... .... ....	
obtaining by—	
false pretence. See False pretence .... .... .... ....	409
trick. See Fraudulent trick .... .... .... .... ....	411
piratical acts affecting .... .... .... .... ....	76, 80
property in, in whom laid .... .... .... .... ....	584
seizure of. See Seizure.	
selling, etc., with forged trade mark or false trade description ....	496
shipping dangerous, evading laws as to .... .... .... ....	311
shipwrecked. See Shipwrecked goods.	
stolen. See Stolen Property.	
tenant removing. See Chattels.	
Government—	
department, publication of report, etc., at request of .... ....	354 (5)
foreign. See Foreign Government.	
of Western Australia, forging evidence of indebtedness of ....	473 (2) (c)
	494 (1) (a)

INDEX—*continued.*

Subject.	Section.
<b>Government—<i>continued.</i></b>	
seditious intention against—	
what is .... .... .... .... .... .... .... ....	44
what is not .... .... .... .... .... .... .... ....	45
Governor—	
forging seal of .... .... .... .... .... .... ....	473 (1)
forging signature of .... .... .... .... .... ....	473 (3) (a)
interference with .... .... .... .... .... ....	54
pardon by. See Pardon.	
Governor in Council—	
appoints—	
officer to present indictment .... .... .... ....	578, 579
place for safe custody of insane accused .... ....	653
time and place of execution of sentence of death ....	657, 678
report of inquiry under authority of, protected under defamation law .... .... .... .... .... .... ....	352, 353, 354 (4)
Grant, forging signature to .... .... .... .... ....	473 (3) (a)
Grass, setting fire to .... .... .... .... .... ....	447 (b), 448
Great seal, forgery of .... .... .... .... .... ....	473 (1) (a)
Grievance, public, defaming persons to remedy .... ....	357 (2)
Grievous bodily harm. See Bodily harm.	
Guano, removing without license .... .... .... ....	387
Guardian—	
abduction from custody of. See Abduction.	
consent of—	
to marriage .... .... .... .... .... .... ....	340 (1)
to summary dealing with child .... .... .... ....	708
delivery to, of woman detained for immoral purpose ....	716
defilement by .... .... .... .... .... ....	190
insult to, with respect to child may be “provocation” ....	245
marriage without consent of .... .... .... .... ....	340
objection by, to summary conviction by justice ....	708
seduced girl, for, appointment of .... .... .... ....	736
stealing child from .... .... .... .... .... ....	343
use of force by, by way of correction .... .... ....	257
Guilty—	
plea of .... .... .... .... .... .... ....	612, 616 (1)
after committal for sentence .... .... .... ....	618
verdict of .... .... .... .... .... ....	654
on charge of defamation .... .... .... .... ....	643
Gun. See Arms.	
Gunpowder. See Explosive substance.	
H.	
<b>Habitual Criminal—</b>	
apprehension of without warrant, whenever necessary ....	667
conviction for offence outside of Western Australia, meaning of	661 (3)
crimes, table of, on conviction for which person deemed to be	661
definition of .... .... .... .... .... .... ....	661
indeterminate sentence on .... .... .... .... .... ....	661
indictment of .... .... .... .... .... .... ....	586 (6), 650, 662
may be included in indictment for a crime .... .... ....	586 (6)
previous convictions in .... .... .... .... .... ....	589
no conviction of except on indictment charging subsequent crime	662 (1)
police supervision of .... .... .... .... .... ....	665 (5), 660 (2) (3)

INDEX—*continued.*

Subject.	Section.
<b>Habitual Criminal—<i>continued.</i></b>	
preventive detention of .... .... .... .... .... ....	662 (2)
appeal against sentence of .... .... .... .... .... ....	688 (1) (c)
commencement of sentence of .... .... .... .... .... ....	663 (1)
committee to periodically interview persons undergoing ....	664 (2)
Comptroller General of Prisons to report annually on persons undergoing .... .... .... .... .... ....	664 (1)
Comptroller General to be assisted by Committee .... ....	664 (1)
confinement, place of, for persons sentenced to .... ....	663 (2)
may be a prison .... .... .... .... .... ....	663 (5)
discharge on license of person undergoing .... .... ....	665
discharge on license not to determine sentence .... ....	665 (2)
does not affect other sentences .... .... .... .... ....	668
habitual criminal, sentenced to, may be apprehended without warrant whenever necessary .... .... .... .... ....	667
license, discharge on, of person undergoing .... .... ....	665 (1)
license may be revoked by Governor at any time .... ....	665 (6)
license may prescribe supervision of society or person ....	665 (3) (4)
license suspends operation of sentence of .... .... ....	665 (2)
other sentences not affected by .... .... .... .... ....	668
police supervision, of person released on license .... ....	665 (5), 660 (2) (3)
person sentenced to, may be required to work, and be paid remuneration .... .... .... .... .... ....	663 (3) (4)
disposal of remuneration .... .... .... .... .... ....	663 (3)
termination of .... .... .... .... .... ....	666
by order of Governor .... .... .... .... .... ....	666 (1) (b)
of habitual criminal free for three years by virtue of license on expiration of term, if any .... .... .... .... ....	666 (1) (c)
time during which habitual criminal absent under license to be treated as part of term of .... .... .... .... .... ....	666 (1) (a)
previously convicted of a crime, meaning of .... .... ....	666 (2)
procedure on trial, of .... .... .... .... .... ....	661 (2)
procedure and evidence to be as in charge for an offence ....	649, 650
supervision of society or person, may be placed under ....	650
table of crimes on conviction for which person deemed to be ....	665 (3) (4)
who deemed to be .... .... .... .... .... ....	661
661	
<b>Hanging—</b>	
offences punishable by. See Capital offence.	
sentence of death by .... .... .... .... .... ....	657, 678
<b>Harbour—</b>	
damaging work appertaining to .... .... .... .... ....	453 II. (a)
interfering with work appertaining to .... .... .... ....	VII. (d)
458	
<b>Harbouring—</b>	
escaped prisoner .... .... .... .... .... ....	148
husband .... .... .... .... .... ....	10
stolen child .... .... .... .... .... ....	343 (2)
<b>Hard labour—</b>	
infliction of imprisonment with .... .... .... .... ....	18
power to dispense with .... .... .... .... .... ....	19 (2) (3)
<b>Harm. See Bodily harm; injury.</b>	
<b>Have in possession, meaning of expression</b>	1
<b>Hay, setting fire to</b> .... .... .... .... .... ....	447 (b), 448
<b>Head of family. See Parent.</b>	
<b>Health—</b>	
bodily injury causing permanent injury to, is grievous bodily harm .... .... .... .... ....	1
bodily injury interfering with, is bodily harm .... .... .... .... ....	1
carelessness in respect of thing dangerous to .... .... .... .... ....	266
injury—	
by not supplying necessities. See Necessaries .... .... .... .... ....	262, 264, 302, 303
by want of skill or care in treatment .... .... .... .... ....	265
offences endangering life or. See Endangering .... .... .... .... ....	292-312

INDEX—*continued.*

Subject.	Section.
Health— <i>continued.</i>	
permanently injuring—	
by failure to supply necessaries .... .... .... ....	302, 303
of child under seven, by abandoning .... .... .... ....	304
of servant or apprentice .... .... .... ....	264, 303
public, offences against—	
adulterating beverages .... .... .... .... ....	219
adulterating liquor .... .... .... .... ....	218
diseased meat, dealing in .... .... .... .... ....	217
exposing for sale things unfit for food .... .... .... ....	216
giving false information as to health of foreign ship .... ....	215
nuisance, dangerous to health .... .... .... ....	207
Hearing. See Trial.	
Heath, etc., setting fire to .... .... .... .... ....	447 (d), 448
Heir-apparent, treason against .... .... .... .... ....	37 (2)
Heiress, abduction of .... .... .... .... ....	329 (2)
disposal of property of abducted .... .... .... ....	329
Hide—	
killing animal with intent to steal .... .... .... .... ....	382
summary conviction for .... .... .... .... ....	426 (6)
of stolen animal, possession of .... .... .... .... ....	429
High seas—	
aiding escape of prisoner of war upon .... .... .... .... ....	42 (2)
piracy on .... .... .... .... ....	76
High treason. See Treason.	
Highway—	
fighting in .... .... .... .... .... ....	71
property of thing in, how laid .... .... .... .... ....	584 (11)
rendering dangerous by damaging railway, bridge, etc. .... ....	453 II. (c), VII. (e)
used with Mine, damaging .... .... .... .... ....	453 VII. (h)
Hiring. See also Tenant.	
committee room at elections .... .... .... .... ....	102 (3)
Holder of judicial office. See Judge.	
meaning of expression, in connection with judicial corruption .... ....	121
Homicide. See Killing; Manslaughter; Murder; Suicide.	
Horse. See also Animal.	
illegally branding. See Brand; Branding.	
stealing .... .... .... .... .... ....	378 (3)
conviction for what offences on charge of .... .... .... ....	606
suspicion of .... .... .... .... ....	429
unlawfully injuring .... .... .... .... ....	452
unlawfully using .... .... .... .... ....	428
Hotel. See Licensed House.	
House. See also Building; Dwelling-house.	
defence of .... .... .... .... .... ....	244, 254, 255
warrant to search .... .... .... .... ....	711
for female detained for immoral purpose .... .... ....	716
Housebreaking. See also Dwelling-house.	
crime of .... .... .... .... .... ....	401
possessing instrument for .... .... .... .... ....	407 (c) (d)
Householder permitting defilement of young girls on premises .... ....	186
Hunting, injury to property in course of .... .... ....	465
Husband—	
accessory after the fact, is not, in respect of guilty wife .... ....	10
compulsion by .... .... .... .... ....	32
conspiracy with, wife not criminally responsible for .... ....	33
indictment of, with respect to wife's separate property .... ....	584 (7)
insult to, when deemed provocation .... .... .... ....	245
liability of, for offence with respect to wife's property .... ....	35
personation of, commission of rape by .... .... .... ....	325
procuring, to deal with property of wife .... .... .... ....	377
witness, as. See Witness.	

INDEX—*continued.*

Subject.	Section.
Husband and wife— cannot institute criminal proceedings against each other while living together	35
I.	
Idiot. See also Insanity.	
defilement of	188 (2)
Ignorance of law in general no excuse	22
Illegal. See also Unlawful.	
branding. See Branding.	
practices at elections. See Elections.	
Illegitimate child, taken away, by father	343
Illuminating power, fraudulent appropriation of	390
Imitation of— paper used for public documents, etc.	494 (1)
Immorality, offences relating to	181-206
search warrant in case of	716
Imperial— Statutes— indictable offence, when triable and punishable under	C.C. Act, s. 4
Implements. See Machinery.	
Importing counterfeit coin	154 (3) (b)
Impression of seal. See Seal.	
Imprisonment— conditional remission of sentence of	705
fine in addition to or instead of	19 (3)
hard labour— may be dispensed with, in sentence of	19 (2)
with or without	18
limit of, in case of sentence of imprisonment— until fine paid	19 (5)
until recognisance entered into	19 (6)
limit of, in case of summary conviction of child for indictable offence	708 (1) (a)
non-payment of money, for, pardon in case of	706
pardon, of person allowed, conditional	679
punishment of, with or without hard labour	18
term of sentence of— commencement of	20
in case of appeal	20
may be less than convicted person liable to	19 (1)
Imputation, defamatory. See Defamatory matter.	
meaning of	346
publication of	348
Incapacity of— judge	645
juror	633, 646
Incest— female over eighteen, by	198
man, by	197
Incriminating answers in certain cases	738
Incumbrance, concealment of, on sale or mortgage	413 (1)
Indecent— acts	203
assault. See also Defilement.	
conviction for, on charge of rape, etc.	596 (a) (b) (c)
on female	328
whipping to be inflicted in certain cases	206
on male	315

INDEX—*continued.*

Subject.	Section.
Indecent— <i>continued</i>	
interference with dead body .....	214 (2)
matter, publication of, not protected .....	354 (3)
practices between males .....	184
publication or exhibition .....	204
show or performance .....	204 (3)
treatment—	
of boy under fourteen .....	183
of girl under sixteen .....	187, 189
Indeterminate sentence. See Habitual Criminal.	
service of .....	665
Indictable offence—	
arrest of person found committing .....	5, 566, 567
attempt to commit .....	552
breaking and entering .....	586 (4) (a)
effect of summary conviction for .....	673
fees of Court not to be taken on charge of .....	740
indeterminate sentence .....	662
meaning of term .....	3
procedure on charge of .....	572
receiving thing obtained by. See Stolen property .....	414
restitution of property to owner after conviction for. See Restitution .....	717
summary conviction for. See Summary conviction .....	426, 465, 673, 710
taking reward for recovery of property obtained by means of threatening to make charge of .....	416
time for prosecution of, in order to summary conviction .....	398, 399
triable and punishable only under Code or other statute .....	574
	C.C. Act s. 4
Indictment. See also Information.	
accessory, of .....	586 (5), 587
allegations in, rules as to .....	583, 590
amendment of. See Amendment .....	591
arrest of person charged in <i>ex officio</i> information .....	580
conviction upon indictment for offence other than that charged. See Conviction .....	
counts in .....	585, 586 (2)
delivery of copy of, to accused .....	613
demurrer to .....	616, 623
distinct offences when joined in same .....	585, 586 (2)
document need not to be set out in .....	583 (1)
election by prosecutor in case of .....	585
form of .....	578, 582
formal defects in. See Formal defect .....	
general rules applicable to .....	583
habitual criminal, of .....	586 (6), 650, 662
joinder of several charges in same .....	585, 586
joint, receiving for .....	607
meaning of .....	1
misdemeanor in .....	615
name of aggrieved person to be stated in .....	582
nature of .....	578
no offence disclosed in, arrest of judgment when. See Judgment <i>nolle prosequi</i> , entry of, to .....	655
none in respect of offence at common law .....	581, 728, (2)
offence, statement of, in .....	C.C. Act, s. 4
one offence only, to charge .....	582
particulars of matter alleged in, order for .....	585
place of trial to be named in margin of .....	592
plea to. See Plea .....	582
power to prescribe forms of .....	747

INDEX—*continued.*

Subject.	Section.
<b>Indictment—<i>continued.</i></b>	
presentment of	578
for any offence disclosed by evidence before Magistrate	579
in case of offence not mentioned in commitment for sentence	579
whether person committed for trial or not	579
previous conviction, statement of, in	588
punishment on conviction for offence other than that charged in	603
quashing of	614
for formal defect, before jury sworn	590
saving of provisions as to time	607 A
several charges in same	585, 586
several offenders, charging, in same	586 (4a), (5)
statement of offence in	582
statement of particulars in, relating to—	
bankrupt	584 (18)
document	583 (1)
false pretence, etc.	584, (16) (17)
false testimony, etc.	584, (2) (3)
fixtures in square, street, etc.	584 (11)
fraud, pretence, trick, etc.	584 (16) (17)
instrument or means by which offence committed	584 (4)
money	584 (5)
oath	584 (2)
perjury	584 (2) (3)
post and telegraph department	584 (4)
property of—	
company	584 (8)
co-owners	584 (6)
Crown	584 (14)
institution	584 (9)
person letting chattel	584 (13)
wife	584 (7)
uncertain owner	584 (15)
property, ownership of	584 (4) (6)–(16)
public office, thing taken from	584 (11)
public Officer	584 (14)
public place, thing relating to	584 (11)
separate property	584 (7)
stealing—	
chattel let to offender	584 (13)
different acts of	586 (2)
title to land	584 (12)
trade mark	583 (2)
treason	584 (1)
trick	584 (16) (17)
value of property	583 (3)
will	584 (10)
statement of particulars in, when unnecessary	583, 587
statement of previous conviction in	588
stealing of or conversion of money	586 (1)
stealing, for, charging distinct acts in	586 (2)
summary convictions, complaints in	593
time, saving of provisions as to	607 A
title of	582
trial on. See Trial.	
young person convicted on	19 (6a)
<b>Indorsement—</b>	
copy information, on, for service	722
forgery of. See Forgery.	
of security, obtaining, by false pretence	410
of security, procuring, by threat	399 (a)

INDEX—*continued.*

Subject.	Section.
Industrial dispute—	
assault in connection with .....	550, 318 (6), 324
conspiracy in connection with .....	560, 561
intimidation in connection with .....	550
Industrial school. See <i>Reformatory School</i> .	
Infant. See <i>Age</i> ; <i>Child</i> .	
Infectious disease. See <i>Disease</i> .	
Infernal machine. See <i>Explosive Substance</i> .	
Informalities. See <i>Formal defect</i> .	
Information. See also <i>Indictment</i> .	
by Attorney General as to settlement of property .....	329
by private person .....	720-728
affidavit of service of .....	724
application for leave to present .....	720
costs of defence to .....	721, 728
demurrer to .....	724, 726
filing of .....	720
filing of defence .....	722, 723
indorsements on copy of, for service .....	722
introductory part of .....	720
judgment on .....	724, 726, 728
judgment of conviction for want of plea to .....	724
notice of trial in case of .....	725
notice to attend for sentence in case of .....	727
plea to .....	723, 726
default of .....	724, 726, 727
delivery of, to prosecutor .....	723
presentment of .....	720
record upon trial of .....	727
security to prosecute .....	721
affidavit of service of order to obtain judgment on .....	724
service of .....	722
affidavit of .....	724
signature to and filing of .....	720
summons to appear to .....	722
time and place of trial of .....	725
title of .....	720
warrant for arrest of accused in case of .....	727
<i>ex officio</i> —	
accelerating trial of person charged in .....	609
arrest of person charged in .....	580
practice to be applied on .....	729
presentment of .....	579
Injury to. See also <i>Alteration</i> ; <i>Defacing</i> ; <i>Destruction</i> .	
agricultural machine, etc. .....	453 VII. (f) (g)
animal .....	452, 465 (b)
bank or wall of sea, etc. See <i>Bank or Wall</i> .	
deeds and records .....	453 VIII.
document, meaning of .....	443
drainage works .....	453 VI.
dwelling-house with explosive .....	453 I.
light, signal, etc. See <i>Marine Light</i> ; <i>Railway light</i> .	
manufacturing implement .....	453 VII. (f) (g)
mine. See <i>Mine</i> .	453 VII. (h) (k)
person. See <i>Bodily Harm</i> .	
conviction upon indictment charging specific .....	597
prevention of, by proper precaution .....	274
property .....	441-468
conviction upon indictment charging, specific .....	597, 598
malicious .....	453
with circumstances of aggravation .....	453
nuisance, amounting to .....	207

INDEX—*continued.*

Subject.	Section.
Injury to— <i>continued.</i>	
property— <i>continued.</i>	
on Railway. See Railway. .... .... .... .... .... ....	451
self-defence, caused in, no criminal responsibility for .... .... .... .... .... ....	441
summary conviction for .... .... .... .... .... ....	465, 468
“unlawful act,” with reference to .... .... .... .... ....	441, 442
unlawful, if done with intent to defraud .... .... .... ....	442
railway bridge, etc. .... .... .... .... .... ....	453 II. (b) V.
register required to be sent to public officer .... .... ....	VII. (e)
well, bore, etc. .... .... .... .... .... ....	453 III.
will or register .... .... .... .... .... ....	453 VII. (1)
Inland water. See Reservoir.	453 III.
Inquiry—	
previous conviction, as to .... .... .... .... .... ....	648 (5)
publication of defamatory matter—	
in answer to .... .... .... .... .... ....	357 (7)
in the course of .... .... .... .... .... ....	352
report of proceedings at .... .... .... .... .... ....	354 (4)
report of official, protected under defamation law .... .... ....	353
writ of, committal for perjury by person executing .... .... ....	731
Insane person. See also Insanity.	
defilement of .... .... .... .... .... ....	188 (2)
liberty of—	
concealment of matters affecting .... .... .... .... .... ....	335
false certificate respecting .... .... .... .... .... ....	334, 336
necessaries, duty to provide for .... .... .... .... .... ....	262
prevention of crime or violence by .... .... .... .... .... ....	243
rescuing or permitting escape of .... .... .... .... .... ....	149
unlawful detention or custody of .... .... .... .... .... ....	337
Insanity. See also Insane person.	
criminal responsibility, none in case of .... .... .... .... ....	27
drugs, caused by .... .... .... .... .... ....	28
intoxication, caused by .... .... .... .... .... ....	28
meaning of .... .... .... .... .... ....	27
of accused—	
acquittal on the ground of .... .... .... .... .... ....	653
order upon .... .... .... .... .... ....	653
award of jury upon allegation of .... .... .... .... .... ....	631
finding as to, at time of trial .... .... .... .... .... ....	652
finding as to want of understanding or, before trial .... .... .... .... ....	631
order on finding as to .... .... .... .... .... ....	652
Inscription. See Writing.	
Instalments—	
fine payable in .... .... .... .... .... ....	465
payment by, of value of thing stolen .... .... .... .... ....	427
Institution—	
indictment relating to property of .... .... .... .... ....	584 (9)
of prosecution. See Prosecution.	
Instrument. See also Die ; Document ; Plate.	
coining, seizure of .... .... .... .... .... ....	713 (b)
counterfeiting coin, for, possession of .... .... .... .... ....	154 (3), 160 (2)
dangerous. See also Arms.	
being armed with .... .... .... .... .... ....	407 (a) (b)
for housebreaking .... .... .... .... .... ....	407 (c)
person armed with, robbery by .... .... .... .... ....	393, 394
placing, to injure trespasser .... .... .... .... ....	305
possessing, to commit crime .... .... .... .... ....	407 (e) (d)
possessing—	
counterfeiting stamp, for .... .... .... .... ....	495
forgery, for committing .... .... .... .... ....	494

Subject.	Section.
<b>Instrument—<i>continued.</i></b>	
<b>possessing—<i>continued.</i></b>	
forging trade mark, for ....	496
to commit crime ....	407 (d)
supplying, to procure abortion ....	201
testamentary. See Will.	
title of. See Title.	
using, to open locked room, etc., when stealing ....	378 (5)
when unnecessary to refer to, in indictment ....	583 (4)
<b>Insult—</b>	
amounting to “ provocation ” ....	245, 246
indecent act, with intent to ....	203 (2)
prevention of repetition of ....	247
Insurance, policy of, forging ....	473 (2) (l)
<b>Intention</b> ....	23
common, to prosecute unlawful purpose ....	8
fraudulent. See Fraudulent intention.	
how far material, on charge of—	
attempting to commit offence ....	4, 555
forgery ....	471
murder ....	279
unlawful assembly, taking part in ....	62
material, on charge of—	
committing offence, when initial element did not occur in Western Australia ....	12 (2)
fraudulent conversion ....	371 (2)
wilful murder ....	278
not seditious ....	45
overt act manifesting ....	43
particular result, to cause, in general material ....	23
seditious. See Sedition.	
meaning of term ....	44
specific result, to cause, conviction on charge of	
to defraud. See Fraudulent intention.	597
treason, when amounting to ....	37 (3), 39
<b>Interest—</b>	
in land—	
forfeiture of ....	220, 221
person acting as valuator having ....	88
question as to, arising on charge of assault ....	321
in thing injured, injury by person having ....	441
in thing stolen, stealing by person having ....	376
justice having personal, exercising jurisdiction ....	139 (2)
public debt, in respect of, forging title to ....	473 (2) (a)
public officer of, in contract ....	84
public officer of, in property administered by him ....	85
publishing—	
defamatory matter to person having ....	357 (5)
matter of public ....	354
<b>Interference with.</b> See also Injury; Obstruction; Removal.	
administration of justice. See Justice ....	122 (1)
bank or wall of sea, etc. See Bank or Wall.	
boundary mark ....	461
dead body ....	214 (2)
elections, secrecy at ....	110
freedom of contract. See Freedom of contract ....	324
Governor ....	54
legislature ....	55, 56
light, etc. See Marine Light; Railway light.	
Minister ....	54
navigation works ....	458
person to prevent breach of the peace ....	237
persons at elections ....	104

INDEX—*continued.*

Subject.	Section.
Interference with— <i>continued.</i>	
political liberty     ...	75
possession of land. See Land.	
railway. See Railway	451, 462
religious worship     ...	180
Interpretation of terms. See Definitions.	
Interrogatory, answer to, as to offence, in civil proceedings	440
Intimidation. See Threat.	
in trade disputes     ...	550, 551, 561
Intoxication—	
effect of on criminal responsibility	28
Intrusion into—	
compartment of polling-booth     ...	106 (2)
presiding officer allowing	108
polling-booth     ...	104 (1)
Invalidity. See Validity.	
Invasion—	
instigating, by foreigner, is treason	37 (7)
intention to instigate, by foreigner	39 (c)
Invoice, giving false to agent	532
Irregular process or warrant, execution of	230
Irregularity. See Formal defect.	
Issue, trial of—	
as to cause for challenge     ...	630
by jury     ...	622
on further plea after issue on former plea determined	651
previous conviction, on charge of committing offence after	648 (2) (5)
J.	
Joinder—	
distinct offences, of, in same indictment	585, 586 (2)
in demurrer, not necessary	623
stealing and receiving, of charges of	586 (4)
Joint owner. See Partner.	
Joint receiving, indictment for	607
Judge—	
incapacity of, discharge of jury in case of	645
or judicial officer—	
corruption of	121
criminal responsibility of	30
fair comment as to conduct of, is lawful	355 (4)
interested in property adjudicated upon	85
not criminally responsible for judicial acts	30
privilege of, with respect to defamation	350
sanction of, necessary to—	
compounding of penal action	137
prosecution of newspaper	368
prosecution of trustee	417
Supreme Court, of, power of, to make Rules	747
Judgment. See also Sentence.	
arrest of—	
motion for	655
Circuit Court, etc., of—	
enforcement of	677, 682
death, of, recording	657
entry of—	
of conviction for want of plea	724

INDEX—*continued.*

Subject.	Section.
Judgment— <i>continued.</i>	
execution of—	
against type, etc., on conviction for defamation .....	681
no criminal responsibility for act done in .....	31 (1)
information by private person, on. See Information .....	724, 726-728
removal of property before unsatisfied .....	527 (2)
restitution of property for .....	717
validity of. See Validity. ....	654
verdict, on. See Verdict.	
Judicial—	
corruption .....	121
officer. See Judge.	
criminal responsibility of .....	30
proceedings, defined .....	120
Jurisdiction—	
Admiralty, piracy within .....	77
Court, of—	
need not be set out in indictment for false testimony .....	584 (3)
with respect to trial of offenders .....	571
execution of sentence, process or warrant without .....	228
justice exercising, when personally interested .....	139 (2)
plea to ....	616 (7)
right to enter not affected .....	576
trial on .....	621
territorial, of Western Australia. See also Western Australia.	
aiding escape of prisoner of war within .....	42 (2)
piracy committed, or attempted within .....	78, 79
within which trial may take place .....	575
Juror. See Jury.	
Jury—	
addresses to .....	637
challenge of. See Challenge .....	626-630
communication with, by leave of Court .....	639
corrupting or threatening .....	123
death of juror while serving on .....	646
discharge of—	
adjournment, on .....	644
death of juror, owing to .....	646
disagreement, in case of .....	644
disobedience to order not to separate, for .....	639
disobedience to order to view, for .....	641
incapacity of judge, in case of .....	645
incapacity of juror, in case of .....	646
juror from serving on .....	633, 646
separate trials, with a view to .....	624
wrong Court, when person brought before .....	576
finding of—	
cause for challenge as to .....	630
insanity of accused, as to .....	652, 653
order upon .....	652, 653
specific fact, as to .....	642
want of understanding by accused, as to .....	631
giving accused in charge to .....	632
granting of, for trial of charge .....	622
incapacity of juror .....	633, 646
insanity of accused, inquiry by, as to .....	631, 652
jurors and, general law as to, applicable .....	625
names of, to be given to accused on charge of treason or conceal- ment of treason .....	730
not to separate .....	639
oath of .....	632
previous conviction, inquiry by, as to .....	648 (5)
privilege of, with respect to defamation .....	352

INDEX—*continued.*

Subject.	Section.
<b>Jury—continued.</b>	
refreshment to ....	640
separation of, not allowed ....	639
speeches by accused or counsel to ....	637
summing up by judge to ....	638
swearing of ....	632
challenge to array to be made before ....	627
objection to formal defect in indictment before ....	590
threatening ....	123
time for challenge of ....	627, 629
trial by—	
demand for ....	622
on charge of defamation before justice ....	369
of Issue. See Issue ....	630, 648, 651
right to, on certain charges before justices ....	427, 466, 708
verdict of. See Verdict.	
view by, of place or thing ....	641
<b>Justice, administration of—</b>	
acts and offences relating to ....	121, 143
attempt to pervert ....	143
conspiracy to defeat ....	135
escape from. See Escape.	
giving or taking benefit, with a view to interference with ....	122
obstructing officer executing order concerning ....	151
seditionist intention against—	
what is ....	44 (b)
what is not ....	45 (b)
<b>Justice of the Peace—</b>	
appeal from. See Appeal.	
arrest without warrant by ....	566
arrested person—	
property found, to be taken before ....	712
to be taken before ....	570
assault on, when protecting wreck ....	316
assault—	
serious, not to be dealt with by ....	320
summary conviction for, by. See Assault.	
certificate of dismissal of complainant by ....	734
in case of assault ....	323
compensation assessed by, for use of vessel containing explosive ....	715
corruption of ....	121
not acting judiciously ....	122
counterfeit coin, etc., to be taken before ....	713
discharge of accused by. See Discharge ....	321, 467
disqualification of—	
when interested ....	139 (2)
document required to be made by, forging ....	473 (4) (i)
duty of—	
child under twelve, before dealing summarily with ....	708
young persons ....	709, 710
detention of women for immoral purposes, in case of ....	716
information, <i>ex officio</i> , when person charged in ....	580
injury to property, before dealing summarily with charge of ....	465, 466
stealing, etc., before convicting summarily on charge of ....	427
execution, may attend ....	678
information to—	
as to unlawful oaths ....	49
of intention to commit treason ....	38 (2)
interested, acting when ....	139
oaths administered by, in matter relating to preservation of peace, etc. ....	90
one justice may exercise jurisdiction of two in certain circumstances ....	743

Subject.	Section.
<b>Justice of the Peace—<i>continued.</i></b>	
oppressively, acting .... .... .... .... .... .... ....	139
order of, how enforced .... .... .... .... .... .... ....	574
police magistrate may act alone .... .... .... .... .... ....	742
practice before, relating to indictable offences .... .... .... ....	572
pretending to be .... .... .... .... .... .... ....	91 (1)
property—	
found on arrest to be taken before .... .... .... .... ....	712
seized to be taken before .... .... .... .... .... ....	711, 713, 714
protecting wreck, assault on .... .... .... .... ....	316
publisher, etc., prosecution of, before .... .... .... ....	369
resident magistrate may act alone .... .... .... .... ....	742
riot, neglect of, to aid in suppressing .... .... .... ....	175, 176
riot, neglect of, to suppress .... .... .... .... ....	174
riot, suppression of—	
by .... .... .... .... .... .... ....	65, 239
by order of .... .... .... .... .... .... ....	240
without order of .... .... .... .... .... .... ....	241
search warrant, issue of, by .... .... .... .... ....	711
when woman detained for immoral purposes .... ....	716
summary conviction by. See Summary conviction.	
warrant, issue of, by. See Warrant .... .... .... ....	439, 711
when to abstain from dealing summarily .... .... ....	320, 427, 433, 466
<b>Justices—</b>	
appeal from. See Appeal.	
procedure with respect to indictable offences .... .... ....	572
<b>Justification of act or omission. See Onus of proof</b>	31
<b>Juvenile offender, may be sentenced to whipping</b>	670
<b>K.</b>	
<b>Key, opening room, box, etc., with, when deemed stealing</b>	378 (5) (f)
<b>Kidnapping</b>	332
<b>Killing—</b>	
animal—	
unlawfully .... .... .... .... .... .... ....	452
summary conviction for .... .... .... .... .... ....	465 (b)
with intent to steal skin, etc. .... .... .... .... ....	382
summary conviction for .... .... .... .... .... ....	426 (b)
child at birth .... .... .... .... .... .... ....	269, 271
consent to death no excuse for .... .... .... .... ....	261
deceit, by .... .... .... .... .... .... ....	272
definition of .... .... .... .... .... .... ....	270
hastening death by .... .... .... .... .... ....	273
not deemed, if death after one year and a day .... ....	276
provocation, on .... .... .... .... .... ....	281
Sovereign, eldest son, or Queen consort is treason ....	37 (1) (2)
threats, by .... .... .... .... .... .... ....	272
unborn child .... .... .... .... .... .... ....	259, 290
unlawful .... .... .... .... .... .... ....	268, 277
unlawful, is wilful murder, murder, or manslaughter. See Manslaughter ; Murder .... .... .... .... .... ....	277, 281
when death caused by subsequent treatment .... .... ....	275
when death preventable by proper treatment .... .... ....	274
<b>Knowingly, meaning of term, in connection with “uttering” or “using”</b>	1

Subject.	Section.
Knowledge— carnal. See Carnal knowledge.	
of law, when necessary to constitute offence ..... .... ....	22
that property was stolen, when immaterial ..... ....	415
want of, by offender, as to impossibility of committing offence is immaterial ..... .... .... ....	4
want of. See Defence.	
L.	
Label, false, relating to sale of food ..... .... .... ....	492
meaning of ..... .... ....	499
Lake, bank or wall of. See Bank or Wall.	
Land— boundary mark on, interfering with ..... .... ....	461
corrupt report of valuator as to ..... .... ....	88
Crown— fraud for purpose of acquiring ..... .... ....	220
fraudulently acquired, purchase or lease of ..... ....	221
defence of— against trespasser ..... .... .... ....	254, 255
under claim of right ..... .... .... ....	255
without colour of right ..... .... .... ....	70
description of, in indictment ..... .... .... ....	584 (12)
document evidence of title to. See Title.	
entry upon— breach of the peace, so as to cause ..... .... ....	69
disputed right-of-way, in exercise of ..... ....	256
force to prevent ..... .... .... ....	70, 254, 256
interest in, question as to, arising on charge of assault ..... ....	321
laws, fraud on ..... .... .... ....	220, 221
possession of, holding, without colour of right ..... ....	70
removal of disorderly person from ..... .... ....	254
title to. See Title.	
Landlord. See Tenant.	
Language of forged document immaterial ..... .... ....	471
Larceny. See Stealing.	
term, in Statute, by-law, etc., means “stealing” ..... ....	C.C. Act s. 3 (3)
Law— declaration of, in Code, affects civil remedy ..... ....	C.C. Act s. 5
effect of changes in ..... .... .... ....	11
ignorance of, in general, no excuse ..... .... ....	22
military, suppression of riot by person bound by ..... ....	242
no offence in respect of act done in execution of ..... ....	31 (1)
other than Code, punishment under ..... .... ....	16
special, relating to Defence Force ..... .... ....	15
statute. See Statute Law.	
Lawful Authority— act done under, excusable ..... .... .... ....	31
Leasing land fraudulently acquired from the Crown ..... .... ....	221
Leave to file— information. See Information by private person ..... ....	720
Legal document. See Document.	
Legal proceeding. See Action.	
Legal tender, tender of defaced coin is not ..... .... ....	166
Legislature. See Parliament.	
Lending certificate for personation ..... .... .... ....	514
Lessee, stealing of thing leased by ..... .... .... ....	376

Subject.	Section.
Letter. See also Mail ; Post.	
publication of defamatory matter, explaining	354
sending threatening to burn or destroy	463
stealing	378 (2)
Letter of attorney, forging	473 (4) (o) (p)
Letters of Administration—	
forging	473 (2) (f)
obtained by false evidence, demanding property by virtue of	480
Letting. See also Tenant.	
premises for committee-room at elections	102 (4)
Levy upon conviction for defamation	681
Liable, meaning of term	1
Libel. See Defamatory matter.	
Liberty—	
concealment of matters affecting	335
deprivation of	333
false certificate by officer charged with duties relating to	334
false information affecting, giving	335 (2) (b)
insane person, of, unlawful interference with	337
offences against	332-338
political, interfering with	75
threat to interfere with personal	338
License—	
discharge on, of habitual criminal undergoing preventive detention. See Habitual Criminal	665
marriage, forging	473 (4) (k)
public revenue, possessing paper for making	494 (1) (c) (4)
Licensed House—	
holding election meeting in	100
hiring committee-room in	102
Lien. See also Mortgage ; Pledge.	
fraudulent disposition of goods subject to	389
giving, by factor or agent, when not deemed stealing	372 (2)
included in term "special property"	371 (2)
Life—	
offences endangering health or. See Endangering ; Health	292, 312
preservation of—	
duty relating to	262-267
operation for	259
saving, obstruction of person, in case of shipwreck	295
Light—	
for jurors	640
marine. See Marine.	
on railway, interfering with. See Railway	296 (2), 451 (2)
Limitation of time—	
for action in respect of—	
arrest of offenders	739
seizure of goods	739
for prosecution in case of—	
arrest, wrongful	739
concealment of treason	40
corrupt practices at elections	103
counterfeiting trade marks, etc.	506
defacing brand	432
defilement of—	
girl under sixteen	188
girl under thirteen	185
idiot	188
drilling, unlawful	51 (3)
homicide	276
illegal branding	432
illegal practices at elections	103
offences punishable on summary conviction	574

INDEX—*continued.*

Subject.	Section.
Limitation of time— <i>continued</i>	
for prosecution in case of— <i>continued</i>	
riotous assembly     ...	65
secret commission     ...	544
sedition     ...	52
seizure of goods, wrongful     ...	739
simple offence     ...	574
treason     ...	40
Liquidator—	
deemed trustee     ...	417
fraudulently disposing of property     ...	417
Liquor—	
adulterating     ...	218
intoxicating—	
insanity caused by     ...	28
sold, election meeting not be held where     ...	100 (1), 103 (3)
List—	
of electors, making false statement as to claim to be inserted in	
of jurors to be given on charge of treason     ...	730
uttering false, of members of company, etc.     ...	489
Literary production, fair comment as to, lawful     ...	355 (5)
Loaded arms. See Arms loaded.	
Local Authority—	
meaning of term     ...	423
misappropriation by member of     ...	423
publication of proceedings of     ...	354 (6)
Lodger—	
stealing by, of fixture or chattel     ...	378 (11)
description of property in indictment for     ...	584 (13)
Lodging—	
corruptly providing or receiving, at election	
necessary. See Necessaries....     ...	97 (1), (2) 264, 303
Loitering—	
by night, arrest of person     ...	564 (f)
Lottery—	
keeper of, who is deemed     ...	213
keeping     ...	212, 213
meaning of term     ...	212
Lunacy. See Insanity.	
M.	
Machinery—	
agricultural, etc., damaging     ...	453 VII. (f), (g)
coining, for, seizure of     ...	713 (b)
counterfeiting coin, for, possession of     ...	154 (3), 160 (2)
destruction or damage of, by rioters     ...	66 (b), 67
drainage     ...	453 VI.
endangering steamship by tampering with	309, 310
manufacturing, etc., damaging     ...	453 VII. (f), (g)
of mine—	
damaging     ...	453 VII. (i)
obstructing working of     ...	456
possessing for making paper, etc., used for—	
postage stamps     ...	494
public documents, bank notes, etc.     ...	494
public revenue stamps     ...	494 (1) (b), 495
Madness. See Insanity.	
Magazine included in term “periodical”     ...	345

Subject.	Section.
Magistrate. See Justice of the Peace.	
Mail—	
meaning of term .... .... .... .... .... .... .... ....	1
stopping .... .... .... .... .... .... .... ....	167
Mail conveyance—	
meaning of term .... .... .... .... .... .... ....	1, 167
Maiming—	
acts done with intention of .... .... .... .... .... ....	294
animal .... .... .... .... .... .... ....	452
summary conviction for .... .... .... .... .... ....	465 (b)
Maintenance. See also Necessaries.	
of escaped prisoner .... .... .... .... .... ....	148
Male. See also Boy.	
incest by .... .... .... .... .... .... ....	197
indecent assault on .... .... .... .... .... ....	315
indecent practice by male with .... .... .... ....	184
permitting, to have carnal knowledge against nature ....	181
under fourteen deemed incapable of having carnal knowledge ....	29
Malfeasance of public officer. See Officer.	
Malicious—	
administering of poison with intent to harm .... .... ....	300
injuries .... .... .... .... .... ....	453
with circumstances of aggravation .... .... ....	453
Man. See Male.	
Manslaughter. See also Killing.	
conviction for, on charge of murder .... .... .... ....	595
conviction for concealing birth of child, on charge of ....	595
conviction for reckless or dangerous driving on indictment for	
crime of .... .... .... .... .... .... ....	277, 280
definition of .... .... .... .... .... ....	280
joinder of, with other charges not allowed .... .... ....	585
killing in heat of passion on provocation is .... .... ....	281
punishment of .... .... .... .... .... ....	287
Mantrap, setting .... .... .... .... .... ....	305
Manufacture—	
assault interfering with freedom of person employed in ....	324
conspiracy respecting person employed in .... ....	560
assault in pursuance of .... .... .... ....	318 (6)
damaging anything in course of .... .... .... ....	453 VII. (f), (g)
intimidation in respect of employment in .... .... ....	550
public officer, interested in, carried on by him .... ....	84
Manufacture—	
meaning of in Chapter LII. .... .... .... ....	497
Marine—	
light, mark, or signal, interfering with or removing .... ....	449 (3), 450, 457
light or mark—	
exhibiting false .... .... .... .... .... ....	449 (3), 450
injury to .... .... .... .... .... ....	453 VII. (c)
Mark. See also Brand; Branding.	
ballot-paper, unauthorised on .... .... .... .... ....	105 (a), 110 (4)
boundary, removing .... .... .... .... .... ....	461
counterfeit, meaning of .... .... .... .... .... ....	470
denoting quality of article, forging .... .... .... ....	473 (4) (t)
description of, in indictment .... .... .... .... ....	583 (2)
forgery of, meaning of term .... .... .... .... ....	471
goods with, mixing with unmarked goods .... .... ....	549
marine. See Marine.	
registered. See Brand.	
meaning of term .... .... .... .... .... ....	1
trade. See Trade Mark.	
writing, included in term .... .... .... .... ....	469
Market price—	
conspiracy to effect .... .... .... .... .... ....	412

INDEX—*continued.*

Subject.	Section.
Marriage. See also Husband ; Wife.	
certificate, etc., of—	
forging    ...    ...    ...    ...    ...    ...	473 (4) (k), (m), (n)
sending false, to registrar    ...    ...    ...    ...    ...	485
going through form of—	
during life of wife or husband    ...    ...    ...    ...    ...	339 (1)
with married person    ...    ...    ...    ...    ...	339 (2)
guardian, without consent of    ...    ...    ...    ...    ...	340 (5), (6)
of minor, forging consent to    ...    ...    ...    ...    ...	473 (4) (l)
register of. See Register.	
registration of, supplying false statements as to    ...    ...	487
unlawful celebration of    ...    ...    ...    ...	340
unlawful celebration by minister unregistered by inadvertence    ...    ...	341
unqualified person obtaining authority to celebrate    ...    ...	342
Married woman. See Wife.	
Mask, wearing, with intent to commit crime    ...    ...	407 (e)
Master. See also Employer.	
and servant, provocation affecting relation of    ...    ...	245
animal of, feeding, contrary to orders    ...    ...	372 (3)
divesting, of authority over seduced girl    ...    ...	736
endangering life or health of apprentice or servant    ...    ...	303
necessaries, duty of, to provide, for servant or apprentice    ...    ...	264
of Ship. See Ship.	
use of force by—	
by way of correction    ...    ...    ...    ...    ...	257
to maintain discipline    ...    ...    ...    ...    ...	258
when responsible for sale of libellous book, etc., by servant    ...	367
Material. See Paper.	
Mayor—	
duty of, in case of riot    ...    ...    ...    ...    ...	65
neglect of, to suppress riot    ...    ...    ...    ...    ...	174
neglect to aid, in suppressing riot    ...    ...    ...    ...	175, 176
Meanings of terms. See Definitions.	
Meat—	
diseased, dealing in    ...    ...    ...    ...    ...	217
mixing certified meat with uncertified    ...    ...    ...	492 (3)
Mechanical power, fraudulent appropriation of    ...    ...	390
Medal, uttering foreign, as current coin, with intent to defraud    ...	163
Medical—	
officer—	
duty of, upon execution of death sentence    ...    ...	678
foreign ship, of, giving false information as to health    ...	215
practitioner—	
examination of accused person by    ...    ...	236
when pregnancy alleged after death sentence    ...    ...	658
responsibility of, for surgical operation    ...    ...	259
treatment—	
death arising from, after grievous bodily harm    ...    ...	275
death caused by improper, when immaterial    ...    ...	274
duty in case of surgical or    ...    ...	265
Meeting—	
election, candidate holding, at hotel    ...    ...	100, 103 (3)
for unlawful drilling    ...    ...	51 (1) (b), (2)
in unlawful assembly. See Unlawful assembly    ...	62, 63
public—	
meaning of term    ...    ...	354
publication of proceedings of    ...    ...	354 (7)
Member of—	
company. See Company.	
Executive Council—	
forging signature of    ...    ...	473 (3) (a)
interference with    ...    ...	54
Local Authority, misappropriation by    ...    ...	423

Subject.	Section.
Member of— <i>continued.</i>	
Parliament—	
bribing     ....     ....     ....     ....     ....     ....     ....	61
defaming     ....     ....     ....     ....     ....     ....     ....	361
interference with     ....     ....     ....     ....     ....     ....     ....	55
intimidation of     ....     ....     ....     ....     ....     ....     ....	61 (2)
publishing defamatory matter, protected     ....     ....     ....     ....	351
publishing defamatory matter regarding     ....     ....     ....     ....	361
receiving bribes     ....     ....     ....     ....     ....     ....     ....	60
Memorandum—	
of association, signing false     ....     ....     ....     ....     ....	418
uttering false copy of     ....     ....     ....     ....     ....     ....	489
Menace. See Threat.	
Mending—	
die, etc., for making counterfeit stamp     ....     ....     ....     ....	495 (1)
stamp, tool, press, etc., adapted for making coin     ....     ....     ....	154 (3) (e), (d), (e),
	160 (2) (a)
Mental Infirmitv. See Insanity.	
Merchandise. See Goods.	
Mercy, Royal. See Pardon.	
Metal—	
in mine, concealment of     ....     ....     ....     ....     ....	385
meaning of term     ....     ....     ....     ....     ....	152
preparing, for counterfeit coin     ....     ....     ....     ....	154
uttering, as current coin     ....     ....     ....     ....	163 (b)
Military. See also Defence Force.	
law, suppression of riot by person bound by     ....     ....     ....	242
Millpond, injury to dam, etc., of     ....     ....     ....     ....	453 VII. (1)
Mine—	
attempt to injure     ....     ....     ....     ....     ....	456
concealment of ore in     ....     ....     ....     ....     ....	385
damaging machine, etc., appertaining to     ....     ....     ....	453 VII. (i)
damaging rope, chain, or tackle of     ....     ....     ....	453 VII. (k)
	456 (3)
damaging shaft or passage of     ....     ....     ....     ....	453 VII. (h)
destruction of rope, chain, or tackle in     ....     ....     ....	453 VII. (j)
destruction or damage of structure used with, by rioters     ....	66 (c) 67
fraudulent dealing with mineral in     ....     ....     ....	385
obstructing working of     ....     ....     ....     ....	456
setting fire to     ....     ....     ....     ....	444 (c)
stealing minerals in mines     ....     ....     ....     ....	278 (4)
unfastening rope, chain, or tackle in     ....     ....     ....	456 (3)
Minister of Crown—	
forging signature of     ....     ....     ....     ....     ....	473 (3) (a)
interference with     ....     ....     ....     ....     ....	54 (2)
Minister of Religion. See Religion.	
Minor. See also Age.	
forging consent to marriage of     ....     ....     ....     ....	473 (4) (1)
unlawful celebration to marriage of     ....     ....     ....	340
Mint, conveyance of stamp, tool, etc., out of     ....     ....     ....	154 (3), (f)
Misappropriation. See Appropriation ; Stealing.	
Miscarriage. See Abortion.	
Misdemeanour—	
accessory after the fact to     ....     ....     ....     ....	563
arrest of person found committing     ....     ....     ....	567, 602
conspiring to commit     ....     ....     ....	559
is indictable offence     ....     ....     ....	3
judgment of conviction for want of plea, in case of     ....	724
punishment for attempt to commit     ....     ....     ....	554
Misnomer, amendment of, in indictment     ....     ....     ....	615
Misprision of treason. See Treason, concealment of     ....     ....	38
Mistake of fact, criminal responsibility, how affected by	
Mistress. See Master.	

INDEX—*continued.*

Subject.	Section.
Mitigation of punishment .....	19
Mixing uncertified with certified articles .....	549
Model, obscene, selling or exposing .....	204 (1), (2)
Molesting workman or employer in respect of employment .....	550
Money—	
advanced on stolen property, offer to return .....	138 (2)
agent for sale, received by .....	374
stealing .....	378 (9)
“bank note” includes negotiable instrument used as equivalent for .....	469
collector of, when deemed clerk or servant .....	1
direction in writing, held under .....	373
stealing .....	378 (9)
forging acknowledgment of deposit, etc., of .....	473 (2) (i)
found on prisoner may be paid to purchaser of stolen property on restitution .....	718
indictment referring to .....	584 (5)
Local Authority, of, misappropriation of .....	423
meaning of term .....	1
obtaining by—	
false pretence. See False pretence .....	409
trick. See Fraudulent trick .....	411
offender, found on, may go in payment of costs .....	674
pardon in case of imprisonment for non-payment of .....	706
payment of—	
bribery for, at election .....	99 (4)
company, to, to induce person to make false statement .....	420 (b)
false return by official as to .....	86, 425
falsifying warrant to obtain under public authority .....	483
forging document relating to .....	473 (2) (h) (4) (s)
what is immaterial on charge of .....	472
fraudulently dealing with property to defeat order for illegal purpose, for, at election .....	527
immaterial on charge of exhibiting indecent show, etc. into Court, in proceedings with respect to arrest, etc. .....	102 (1)
order for, is money .....	203 (1), 204 (2) (3)
procuring, for withdrawal of candidate .....	739
procuring, upon forged will .....	1
registration of elector, to procure .....	101 (6)
reward for. See Reward. .....	480
withdrawal of candidate, for .....	99 (5)
received—	
by agent for sale, stealing .....	101 (5)
false return as to, by public officer .....	374, 378 (9)
for another, is deemed the property of that order .....	86, 425
stealing. See Stealing. .....	375
Money order—	
term “money” includes .....	1
Morality, offences against .....	181-206
Mortgage. See also Lien; Pledge.	
fraudulent, of property .....	413
by debtor .....	527 (1)
goods subject to—	
destroying or damaging .....	389
fraudulent disposition of .....	389
meaning of term .....	389
included in term “special property” .....	371 (2)
Mother. See Guardian; Parent.	
Motive—	
immaterial in general .....	23
in relation to publication of defamatory matter .....	354, 357
Mould for coining, possession of .....	154 (3), 160 (2) (a)

Subject.	Section.
Moveable property. See Goods.	
Moving is an element of stealing	371 (6)
Municipal—	
council included in local authority	423
elections, Chapter XIV. of Code, not to apply to	118
Murder. See also Killing.	
accessory after the fact to	10, 284
attempt to	283
conspiring to	286
construction of term, in statute, by-law, etc.	C.C. Act s. 3 (2)
conviction for what offences upon charge of	595
Court may abstain from pronouncing sentence for, in certain cases	657
crime of	277, 279
definition of	279
joinder of, with other charges not allowed	585
piracy, with attempt	78, 79
punishment of	282
wilful—	
conviction for what offences on charge of	595
crime of	278
definition of	278
joinder of, with other charges not allowed	585
punishment of	282
sentence of death for	657
written threat to	285
Mute, entry of plea of not guilty in case of accused standing	619
Mutilation. See Destruction; Injury.	
of stamps	495 (4)
Mutiny—	
inciting to	41
oath to incite to	48 (1) (a)
N.	
Name, amendment of, in indictment	615
meaning of, in Chapter LII.	497
“name or initials false,” meaning of	497 (3)
Navigation works—	
injury to	453 II. (a), VII. (c) (d)
interfering with	449, 450 457, 458
Necessaries—	
duty to provide	262-264, 344
failure to supply	302, 303, 344
master, duty of, to provide	264
parent, etc., duty of, to provide	263, 342
Necessity, doing dangerous act in case of	265
Neglect. See also Negligence.	
burial, with respect to	214 (1)
by person administering medical treatment	265, 275
by person doing dangerous acts	265, 267
by person in charge of dangerous things	266
child under sixteen, to maintain	344
information to give, with respect to—	
health of foreign ship	215
person in confinement	335 (2)
taking unlawful oath	47, 48
necessaries, to supply	302, 303, 344

Subject.	Section.
Neglect— <i>continued</i>	
officer of, to suppress riot .... .... .... .... ....	174
Parliament or Committee, to obey summons of .... .... .... .... ....	59 (1)
railway, endangering safety of .... .... .... .... ....	307
intentional .... .... .... .... ....	462
record, to keep, affecting liberty .... .... .... .... ....	335 (1)
to aid in arresting offender .... .... .... .... ....	176
to aid in suppressing riot .... .... .... .... ....	175
Negligence. See also Neglect.	
explosives, in landing or delivering .... .... .... .... ....	312
harm, causing .... .... .... .... ....	306
meaning of, with respect to defamation in newspaper .... .... .... .... ....	364
Negotiable instrument. See also Bank Note; Valuable Security.	
restitution of, in certain cases .... .... .... .... ....	717
New Trial in case of disagreement of jury .... .... .... .... ....	644
Newspaper. See Periodical; Post.	
term “periodical” includes .... .... .... .... ....	345
Night—	
arrest without warrant by .... .... .... .... ....	564 (e) (f)
when person found committing indictable offence .... .... .... .... ....	567
being armed by with intent to commit crime .... .... .... .... ....	407 (b)
being in building by, with intent to commit crime .... .... .... .... ....	407 (f)
breaking and entering house at .... .... .... .... ....	401
with intent to commit crime .... .... .... .... ....	402
having housebreaking instrument at .... .... .... .... ....	407 (c)
injuring animal unlawfully by .... .... .... .... ....	452
malicious injuries, by .... .... .... .... ....	453
night-time, defined .... .... .... .... ....	1
search warrant by, authority to execute .... .... .... .... ....	711
setting man-trap in house at, not unlawful .... .... .... .... ....	305
threatening violence at .... .... .... .... ....	74
No Jurisdiction, plea of .... .... .... .... ....	616 (7)
<i>Nolle prosequi</i> , entry of .... .... .... .... ....	581
costs of accused in case of .... .... .... .... ....	728
Not guilty—	
plea of .... .... .... .... .... ....	612, 616 (2), 651
after committal for sentence .... .... .... .... ....	618
order to enter in case of accused standing mute .... .... .... .... ....	619
verdict of—	
entry of judgment on .... .... .... .... ....	653
on charge of defamation .... .... .... .... ....	643
Note. See Bank Note.	
Notice—	
action of, with respect to arrest or seizure of goods .... .... .... .... ....	739
application of—	
for sanction to prosecution of newspaper .... .... .... .... ....	368
to stay prosecution of publication of Parliamentary paper .... .... .... .... ....	733
bail of. See Bail.	
departmental, publication of, is lawful .... .... .... .... ....	354 (5)
election, printing, without name of printer .... .... .... .... ....	102 (2)
information by private person, in case of. See Information.	
parent or guardian, to when child charged with indictable offence	
process of, to be given if practicable .... .... .... .... ....	427, 466, 708 (2)
right of way, as to disputed .... .... .... .... ....	232
sentence, to attend for .... .... .... .... ....	256
private information, in case of .... .... .... .... ....	656
service of. See Service.	
trial of, in case of private information .... .... .... .... ....	727
warrant, of, to be given if practicable .... .... .... .... ....	232
Noxious thing. See also Drug; Explosive.	
administering, with intent to harm .... .... .... .... ....	300
adulterating beverage with .... .... .... .... ....	219
adulterating liquor with .... .... .... .... ....	218 (1)

Subject.	Section.
Noxious thing— <i>continued</i>	
causing to be administered ....	301 (2)
possessing with intent to commit crime ....	557
sending, to do grievous bodily harm ....	294 (4), (5)
Nuisance, common ....	207
O.	
Oath. See also Affidavit ; Affirmation ; Declaration.	
administering extra-judicial ....	90
compulsion to take, when a defence ....	49
false statement in statement made under ....	169
falsely assuming authority to administer ....	91 (2)
indictment for offences relating to ....	584 (2)
juror, by ....	632
fresh, when unnecessary ....	648, 651
upon trial as to cause for challenge ....	630
not to inform against confederate ....	48 (1) (f)
not to reveal unlawful association ....	48 (1) (g)
to commit—	
capital offence ....	47, 49
offence other than capital offence ....	48, 49
to obey order of unlawful association ....	48 (1) (e)
Obliteration—	
brand, of ....	431, 432
crossing, of on cheque ....	478
“damage,” with reference to document includes ....	443
Obscene. See also Indecent.	
exhibitions and publications ....	204
matter, publication of, not protected ....	354 (3)
Obstruction of. See also Interference ; Resisting.	
election, proceedings at. See Election.	
employer in respect of employment ....	550
execution of process against property ....	318 (3) (4)
free right of franchise ....	98 (2)
justice. See Justice, administration of ....	135, 143, 151
minister of religion ....	179
navigation. See Navigation ....	458 (2)
officer of Court of Justice ....	151
person making proclamation in case of riot ....	65
person saving life of person wrecked ....	295 (2)
police officer ....	318 (2)
public officer ....	172
public right ....	207
railway. See Railway ....	461, 462
workman, in respect of employment ....	550
wreck, of person escaping from ....	295 (1)
Occupation. See also Employer.	
assault in interference with freedom of ....	324
assault in pursuance of conspiracy respecting ....	318 (6)
conspiracy to obstruct person in his ....	560 (4) (5)
intimidation of person employed in any ....	550
Occupier permitting defilement of young girls on premises ....	186
Offence—	
attempt to commit, defined ....	4
attempts and preparation to commit ....	552-557, 601
capital. See Capital Offence	
classes of ....	3

**INDEX—continued.**

Subject.	Section.
Offence— <i>continued</i>	
construction of reference to, by specific name, in statute, by-law, etc. ....	C.C. Act s. 3 (4) 594
conviction on indictment for, other than that charged ....	16
counselling commission of. See Counselling ....	7
definition of ....	2
indictable. See Indictable offence.	
parties to ....	7-10
person not to be twice punished for same offence ....	16
except when death caused ....	16
prevention of, by use of force. See Force. ....	243
previous conviction, after ....	648
principal offender, by ....	7
procuring commission of. See Procuring. ....	7
prosecution for, under Code or other statute ....	C.C. Act s. 6 3
simple, definition of ....	
statement of—	
in indictment. See Indictment ....	582
unnatural. See Unnatural offence.	
Western Australia, partially committed in. See Western Australia ....	12-14, 556
Offender. See Offence.	
Offensive weapon. See Arms.	
Offering for sale. See Sale, exposing for.	
Office. See also Officer.	
abuse of. See Abuse ; Corruption.	
public—	
bargaining for ....	119
description of property in indictment as to thing taken from ....	584 (11)
stealing from ....	378 (5) (e)
Officer—	
company, of. See Company.	
Court, of. See Court.	
Defence Force, of. See Defence Force.	
“employed in Public Service,” meaning of ....	1
false certificate by, charged with duties relating to liberty ....	334 (1)
friendly society, of, is clerk or servant ....	1
indictment, description of, in ....	590
institution, of, allegation as to property of, in indictment ....	584 (9)
judicial. See Judge.	
medical. See Medical officer.	
military. See Defence Force.	
police. See Police officer.	
prison, of. See Prison.	
public—	
abuse of office by ....	87
bribery of ....	82, 122
contract, interested in ....	84
corruption of ....	82
not judicial but relating to offences ....	122
description in indictment as to property of ....	584 (8)
description of, in indictment ....	590
extortion by ....	83
fair comment on conduct of, is lawful ....	355 (3)
false accounting by ....	425
false certificate by ....	89, 334
false certificate or claim by ....	86
false information to, as to health of foreign ship ....	215
false representation as to being ....	92 (2), 334 (2)
false return by, as to moneys received ....	86, 425
false statement by, touching remuneration ....	86
falsifying warrant for payment of money ....	483
forging document relating to money receivable by ....	473 (3) (c)

INDEX—*continued.*

Subject.	Section.
Officer— <i>continued.</i>	
public— <i>continued.</i>	
forging mark denoting approval of article by indictment against, lays property in Crown ....	473 (4) (t) 584 (14)
interested in contract ....	84
interested in property being dealt with by him ....	85
interfering with political liberty ....	75
mixing articles certified to by, with uncertified articles ....	549
obstructing or resisting ....	172
personating ....	91, 92, 334 (2)
place of trial of ....	575 (3)
pretending to be ....	91, 92
refusal of, to perform duty ....	173
resisting ....	172
seizure of shipwrecked goods by ....	435
stealing by ....	378 (6)
valuer of land, being, corruption of ....	88
public Service, employed in, meaning of expression ....	1
riot, neglect of, to suppress ....	174
ship, of. See Ship, master or officer of.	
State, of, publication of report, etc., at request of ....	345 (5)
Official. See Officer, public.	
Official corruption ....	82, 122
Official inquiry, reports, etc., in connection with, protected under defamation law ....	352, 353
Official secrets, disclosure of ....	81
defences, relating to ....	81
obtaining ....	82
One witness. See Uncorroborated testimony.	
Onus of proof. See also Defence; Evidence.	
absence of good faith, as to ....	358
belief as to girl being of or above age of—	
eighteen, on charge of abduction of girl ....	193
sixteen, on charge of defiling girl ....	186, 188, 189
defamation, on charge of ....	358
against publisher, etc. ....	364
incest, on charge of—	
as to coercion ....	189
intention to defraud, as to, on prosecution upon insolvency ....	516, 518, 519, 521, 522
of authority or excuse on charge of—	
counterfeiting stamps ....	495
exporting counterfeit coin ....	164
falsely acknowledging deed, recognisance, etc. ....	512
forged bank note, purchasing ....	481
forgery, possessing instruments or materials for ....	494
possessing or disposing of counterfeit—	
copper coin, or appliances for coining ....	160 (2)
foreign coin or appliances for coining ....	165
gold or silver coin or appliances for coining ....	154 (3)
of excuse on charge of—	
disobedience to—	
lawful order of Court or under statute ....	178
law ....	177
housebreaking, having at night instrument of ....	407 (c)
of insanity ....	26
of justification or excuse on charge of—	
child stealing ....	343
corpse, misconduct with regard to ....	214
disturbing religious worship ....	180
exhibiting indecent show ....	204
nuisance, committing ....	207
publishing indecent book, etc. ....	204

Subject.	Section.
<b>Onus of proof—<i>continued</i></b>	
selling shipwrecked goods .... .... .... .... .... ....	435
sending unseaworthy ship to sea .... .... .... .... ....	308
suspicion of stealing—	
cattle .... .... .... .... .... ....	429
shipwrecked goods .... .... .... .... .... ....	434
tampering with machinery by engineer .... .... .... ....	309
poisoning water-holes, on charge of .... .... .... ....	208
presiding officer, on, in case of stuffing of ballot-box ....	107
secret commission, that gift not .... .... .... ....	543
stuffing ballot-box, on charge of .... .... .... ....	107
Opening evidence to jury .... .... .... .... ....	637
<b>Operation.</b> See <i>Medical</i> .	
surgical, criminal responsibility for .... .... .... ....	259
<b>Oral defamation.</b> See <i>Defamatory matter</i> .... .... ....	348, 362
<b>Order.</b> See also <i>Court</i> .	
enforcement of .... .... .... .... .... ....	677, 682
for payment of money is money .... .... .... .... ....	1
for payment of penalty, compensation or costs, enforcement of	
forging. See <i>Forgery</i> .	
statute, under disobedience to lawful .... .... .... ....	178
Ore in mine, concealment of .... .... .... .... ....	385
<b>Overt act—</b>	
attempt to commit offence indicating .... .... .... ....	4
evidence of, in case of treason, etc. .... .... .... ....	40
manifesting intention—	
meaning of expression .... .... .... .... .... ....	43
to commit treason .... .... .... .... .... ....	37 (3)
to commit treasonable crime .... .... .... .... ....	39
statement of, indictment .... .... .... .... ....	584 (1)
<b>Owner—</b>	
arrest by, for certain offences analogous to stealing, etc. ....	438, 464
compensation to, for use of vessel containing seized explosive ....	715
injured property, of, arrest by .... .... .... .... ....	464
meaning of term .... .... .... .... .... ....	1
premises, of, permitting defilement of young girls .... ....	186
restitution of property to. See <i>Restitution</i> .... .... ....	427, 717
stealing by, of thing subject to special property of another ....	376
<b>Ownership—</b>	
allegation of, in indictment for offence against Post and Tele-	
graph Department .... .... .... .... .... ....	584 (4)
of property, allegation in indictment as to .... .... ....	584 (4) (6)-(16)
receiving property after change of .... .... .... .... ....	415
<b>Oysters—</b>	
unlawfully dredging for .... .... .... .... .... ....	436
when capable of being stolen .... .... .... .... .... ....	370
<b>P.</b>	
<b>Paper.</b> See also <i>Document</i> .	
“document” when included in term .... .... .... .... ....	469
<b>Parliamentary—</b>	
publication of, protected under defamation law .... .... ....	351 (3), 352 (2)
stay of prosecution for publication of .... .... .... ....	733
possessing or disposing of—	
for counterfeiting stamps .... .... .... .... .... ....	495 (2)
public documents, bank notes, etc., used for .... .... ....	494
procuring name to be written on, to use as valuable security....	399 (b)
writing name, etc., on, to use as valuable security .... ....	410

Subject.	Section.
Pardon—	
Attorney General may refer petition for to Court of Criminal Appeal	21
conditional, by Governor in capital cases	679
when person under sentence of imprisonment	705
effect of	707
imprisonment for non-payment of money, in case of	706
plea of	616 (6)
prerogative of Crown as to, not affected by Code	21
Parent. See also Child ; Guardian.	
consent by, to summary dealing with child	427, 466, 708
deserting child	344
divesting, of authority over seduced girl	736
duty of, to supply necessaries	263, 344
insult to, with respect to child, may be “provocation”	245
of Agent, giving or receiving secret gift	531
use of force by, by way of correction	257
Parliament—	
administering oath in proceedings before	90
Committee of—	
administering oath in proceedings before	90
false evidence before	57
interference with member of	55
publication of report of proceedings of, when protected	354 (1)
witness refusing to give evidence before	59
disqualification from sitting in, after conviction. See Disqualification.	
disturbing	56
false evidence before	57
inquiry directed by—	
publication of defamatory matter in course of	352
publication of report of	353
interference with	55
levying war to intimidate	37 (5) (b)
intention of, is treasonable crime	39 (b)
member of. See Member.	
paper issued by. See Paper, Parliamentary.	
petition to, is protected under defamation law	351 (2)
privilege of, in respect of defamation	351
report of proceedings of, protected under defamation law	354 (1) (2)
seditious intention against—	
what is	44
what is not	45
threatening witness before	58
witness refusing to give evidence before	59
Parliamentary elections, Chapter XIV. of Code not to apply to	118
Particulars—	
adjournment of trial for delivery of	592
necessary in indictment. See Indictment	582-586
Parties to offence	7-10
Partner—	
criminal responsibility of	34
description of property of, in indictment	584 (6)
of Agent, giving or receiving secret gift	531
stealing by	376
Passengers by Railway, endangering safety of. See Railway	296, 307
Passion—	
assault in heat of	246
killing in heat of	281
Pastoral produce, damaging machine for preparing	453 VII. (f) (g)
Pawn. See Pledge.	
Payment of Money. See Money.	

Subject.	Section.
<b>Peace—</b>	
breach of the. See Breach.	
neglect to aid in preserving	174, 176
oath to disturb public	48 (1) (c)
<b>Pedigree, falsifying, on sale or mortage</b>	413
<b>Penal action, compounding</b>	137
<b>Penal statute—</b>	
bringing fictitious action on	141
compounding action on	137
<b>Penalty, omission in Code as to, not to affect certain rights of action</b>	C.C. Act, s. 5
order for enforcement of	682 A
<b>Performance—</b>	
indecent, exhibiting	204 (3)
public, fair comment as to, is lawful	355 (6)
<b>Periodical—</b>	
definition of term	345
editor, proprietor, or publisher of—	
defence to charge of defamation against	364
refusing to publish letter	354
sanction of Judge to prosecution of	368
innocent seller of, containing defamatory matter, protected	365
publication of defamatory matter in—	
employer, extent of liability of, for	367
levy of fine and costs on conviction for	681
negligence with respect to, what constitutes	364
proprietor, etc., liability of, for	364
report of public meeting, respecting	354
sanction of Judge to prosecution in respect of	368
sale of, containing defamatory matter	365, 366
unauthorised advertisement in	142
<b>Perjury. See also Declaration ; False statement</b>	
affidavit in	124
affirmation	124
upon	124
agreement to cause witness to commit	130 (1)
Court where testimony given	124
Court may direct prosecution for	731
evidence on charge of	124, 126, 127
incriminating answers admissible in evidence	738
indictment for, what particulars unnecessary in	584 (2) (3)
meaning of term	124
Parliament, before	57
punishment of	125
recognisance to give evidence on charge of	731
Royal commission, before	127
<b>Person—</b>	
employed in public service, meaning of. See Officer, public	1
injury to. See Bodily harm.	
meaning of term, with reference to property	1
in Chapter LII.	497
private. See Private person.	
stealing from the	378 (5) (1)
<b>Personation—</b>	
certificate, of person named in	513
elections, at	94
meaning of term	94
falsely acknowledging deed, by	512
generally	510
husband, of, in case of rape	325
lending certificate for	514
of officer authorised to give certificate	334 (2)
of owner of shares	511
property, to obtain	510
public officer, of	92, 334 (2)

Subject.	Section.
Petition to Parliament, protected under defamation law ....	351 (2)
Photograph. See Picture.	
Picketing ....	550
Picture—	
obscene, selling or exposing ....	204 (1) (2)
Pigeon, when capable of being stolen ....	370
Piracy—	
aiding in acts of ....	80
attempted murder, with ....	79
attempted, with personal violence ....	79
British ship, on ....	77, 78
British subject, by ....	77, 78
Court may abstain from pronouncing sentence of death for ....	657
high seas, on ....	76
meaning of term, and of term “pirate” ....	76, 77
nations, by the law of ....	77
punishment of ....	78
with violence, endangering life ....	78, 79
Placard, election, printing without name of printer, etc. ....	102 (2)
Place—	
betting, used for ....	211
defence of, against trespasser. See Trespasser ....	254
meaning of term, in connection with trespass ....	254
of trial. See Trial, place of.	
out of Western Australia, offence partly conceived or committed at. See Western Australia ....	12-14, 575 (7)
Public—	
indictment for offence relating to ....	584 (11)
meaning of term ....	203 (1), 204 (2)
where offence committed, to be stated in indictment ....	582
worship, of, breaking into or out of ....	405, 406
Plaintiff—	
fictitious, action in name of ....	141
in action for wrongful arrest, etc. ....	739
Plant, growing, setting fire to ....	447, 448
Plate. See also Instrument.	
making words, etc., on, resembling those on public document, bank notes, etc. ....	494 (2)
possessing—	
counterfeiting stamp, for ....	495
upon which are words, etc., resembling those on public document	494 (3)
Plea—	
after committal for sentence ....	618
autrefois <i>acquit</i> , of. See <i>Autrefois acquit</i> ....	17, 616 (4) (5), 620
autrefois <i>convict</i> , of. See <i>Autrefois convict</i> ....	17, 616 (3) (5), 620
default of. See Default.	
delivery of copy of, to private prosecutor ....	723
demurrer overruled, after ....	623
demurrer, together with ....	616
former acquittal, of. See <i>Autrefois acquit</i> ....	17, 616 (4) (5), 620
former conviction, of. See <i>Autrefois convict</i> ....	17, 616 (3) (5), 620
fresh, after issues raised by other pleas determined ....	651
guilty, of ....	612, 616 (1)
after committal for sentence ....	618
information by private person, to ....	723, 727
after judgment on demurrer ....	726
more than one, may be pleaded ....	616
no jurisdiction, of ....	616 (7), 621
not guilty of ....	612, 616 (2)
after committal for sentence ....	618
when accused stands mute ....	619

Subject.	Section.
Plea— <i>continued.</i>	
pardon, of .... .... .... .... .... .... ....	616 (6)
to be in writing .... .... .... .... .... ....	723 (2)
to contain address for service of documents, etc. .... ....	723 (2)
truth and public benefit of, on charge of defamation .... ....	617
costs on failure of .... .... .... .... ....	675
when previous conviction charged .... .... .... ....	648
Pleadings. See also Indictment; Plea.	
joinder in demurrer is unnecessary .... .... .... ....	623
Pledge. See also Lien; Mortgage.	
arrest of person offering stolen property for .... .... ....	569
by factor or agent, when not deemed stealing .... .... ....	372 (2)
of property obtained on credit .... .... .... ....	518 (2) (d)
taking property to use as .... .... .... ....	371 (2) (c)
Poaching .... .... .... .... .... .... ....	370, 378
Poison. See Drug, Noxious thing.	
Poisoning waterholes .... .... .... .... .... ....	208
onus of proof on accused .... .... .... ....	208
Police Magistrate. See Justice.	
may act alone .... .... .... .... ....	742
Police officer—	
aiding. See Aiding.	
arrest without warrant by—	
breach of the peace, in case of .... .... .... ....	237
committing offence, of person found .... .... ....	564, 566 (1) (2)
generally .... .... .... .... ....	564
injury to property, for .... .... .... ....	464
night, at .... .... .... .... ....	564 (f), 567
stealing, for certain offences analogous to .... ....	438
assaulting, etc. .... .... .... .... ....	318 (2)
deemed person employed in public service .... .... ....	1
escape from arrest, preventing .... .... .... ....	233
meaning of term .... .... .... .... ....	1
neglect of, to suppress riot .... .... .... ....	174
neglect to aid .... .... .... .... ....	175, 176
permitting escape .... .... .... .... ....	147
preventing escape from arrest .... .... .... ....	233
principal—	
publication of report, etc., at request of .... .... ....	354 (5)
right of—	
to request medical practitioner to examine accused ....	236
to search accused .... .... .... .... ....	236
riot, suppression of, by .... .... .... .... ....	239
search warrant directed to .... .... .... .... ....	711
warrant to, in case of detention of woman for immoral purposes	716
whipping of child in presence of .... .... .... ....	708 (1) (c)
Police supervision .... .... .... .... .... ....	660, 665 (5)
Policy of insurance, forging .... .... .... .... ....	473 (2) (1)
Political—	
club, use of, for committee room .... .... .... ....	102 (3) (b)
liberty, offence against .... .... .... .... ....	75
Polling-booth—	
intrusion into .... .... .... .... .... ....	104 (1)
meaning of term .... .... .... .... ....	93
Port—	
damaging or interfering with work appertaining to .... ....	453 II. (a), VII. (d), 458
Possession of. See also Using; Uttering.	
counterfeit coin, etc. See Coin.	
instrument to commit crime. See Instrument; Plate.	
materials for forging .... .... .... .... ....	494, 495
property, defending. See Trespasser .... .... .... ....	251–256
shipwrecked goods .... .... .... .... ....	434

Subject.	Section.
Possession of— <i>continued.</i>	
skin or carcase of stolen animal .... .... .... .... ....	429
stolen property. See Stolen property	388, 414, 415
thing includes control .... .... .... .... ....	1
Post—	
indictment for offence in respect of .... .... .... .... ....	584 (4)
stealing things sent by .... .... .... .... ....	378 (2)
voting by, at elections, offences in case of .... .... .... .... ....	112
indictment for offence committed with respect to .... .... .... .... ....	584 (4)
things sent by, definition of .... .... .... .... ....	1
Posting placard, at election, without name of printer, etc. ....	102 (2)
Postmaster General—	
description of, in indictment .... .... .... .... ....	584 (4)
indictment, allegation in, as to property of .... .... .... .... ....	584 (4)
Postponement of—	
execution, in case of pregnant woman .... .... .... .... ....	658
trial. See Adjournment.	
Power, electrical, etc., fraudulent appropriation of ....	390
Power of attorney. See also Authority.	
conversion by person holding .... .... .... .... ....	371 (4)
forging .... .... .... .... ....	473 (4) (o) (p)
relating to public service moneys .... .... .... .... ....	473 (3) (e)
to execute securities, documents of title, etc. .... .... .... .... ....	473 (2) (m)
stealing funds, etc., by person holding .... .... .... .... ....	373, 374, 378
stealing proceeds of property received by virtue of .... .... .... .... ....	378 (9) (d)
stealing property received under .... .... .... .... ....	378 (9) (d)
Pregnant woman, stay of execution in case of ....	658
Preparation for. See also Attempt; Conspiracy.	
commission of offences .... .... .... .... ....	552-561
counterfeiting coin .... .... .... .... ....	154, 160
forging .... .... .... .... ....	494
Prerogative, Royal. See Pardon.	
Presentment of—	
indictment .... .... .... .... ....	578, 579
information by private person .... .... .... .... ....	720
information <i>ex officio</i> .... .... .... .... ....	579
Preservation of—	
life—	
duty relating to .... .... .... .... ....	262-267
operation for .... .... .... .... ....	259
peace. See Security to keep the peace.	
property seized under the provisions of the Code ....	714
Presiding officer. See Elections.	
Press—	
for coining, possession of .... .... .... .... ....	154 (3) (e)
for coining, removing, from mint .... .... .... .... ....	154 (3) (f)
printing, execution against, on conviction for defamation ....	681
Presumption—	
as to incapacity of male under fourteen to have carnal knowledge	29
on charge of possessing—	
shipwrecked goods .... .... .... .... ....	434, 435
skin or carcase of stolen animal .... .... .... .... ....	429
sanity, of .... .... .... .... ....	26
Pretence. See False pretence.	
of bringing penal action with a view of compounding ....	137
of executing process, arresting minister of religion under ....	179 (3)
Preventive detention—	
punishment by .... .... .... .... ....	18, 662-668
see Habitual criminal.	
Previous conviction—	
affects punishment, in case of—	
adulterating beverage .... .... .... .... ....	219
being armed, etc., with intent to commit crime .... .... ....	407

INDEX—*continued.*

Subject.	Section.
Previous conviction— <i>continued.</i>	
affects punishment, in case of— <i>continued.</i>	
counterfeiting copper coin .... .... .... .... .... ....	160
possessing or uttering counterfeit coin .... .... .... .... .... ....	158
sedition .... .... .... .... .... ....	52
stealing .... .... .... .... .... ....	378 (12)
habitual criminal, in case of .... .... .... .... .... ....	589, 661
on same facts, plea of. See <i>Autrefois convict.</i>	
procedure on charge of offence committed after .... .... .... .... .... ....	648, 649, 650
statement in indictment of .... .... .... .... .... ....	588, 589
summary jurisdiction of justice, may affect .... .... .... .... .... ....	427
what to be deemed .... .... .... .... .... ....	664
Price—	
market, trick to affect .... .... .... .... .... ....	412
Prince, foreign, defamation of .... .... .... .... .... ....	53
Principal—	
and agent. See Agent.	
offender—	
accessory may be tried with or without .... .... .... .... .... ....	586 (5), 587
meaning of term .... .... .... .... .... ....	7
Print. See also Periodical.	
obscene, selling or exposing .... .... .... .... .... ....	204 (1) (2)
Printing—	
advertisement offering reward for stolen property .... .... .... .... .... ....	138
amendments in Code .... .... .... .... .... ....	C.C. Act s. 8
defamatory matter, levy of fine on conviction for .... .... .... .... .... ....	681
election notice without name of printer, etc. .... .... .... .... .... ....	102 (2)
Printing press, levy of fine on, in defamation case .... .... .... .... .... ....	681
Prison—	
escape from. See Escape.	
execution of sentence of death within walls of .... .... .... .... .... ....	678
officer of—	
permitting escape .... .... .... .... .... ....	147
to be present at execution .... .... .... .... .... ....	678
superintendent of—	
to be present at execution .... .... .... .... .... ....	678
Prisoner. See also Accused.	
duty to provide necessaries for .... .... .... .... .... ....	262
escape of. See Escape.	
Prisoner's Estate. See Curator of Prisoner's Estate.	
Private person—	
information by. See Information.	
suppression of riot by .... .... .... .... .... ....	240, 241
use of force by. See Force.	
Private property, taking fish from .... .... .... .... .... ....	437
Privilege. See Defamatory matter “protection.”	
attempt to procure, by false representation .... .... .... .... .... ....	488
of judge, witnesses, etc., in respect of publication of defamatory matter .... .... .... .... .... ....	352
of member of Parliament to publish defamatory matter .... .... .... .... .... ....	351
Privy seal or signet, forgery of .... .... .... .... .... ....	473 (1)
Prize fight, subscribing to or promoting .... .... .... .... .... ....	73
Probate—	
demanding property by virtue of, granted upon forged will .... .... .... .... .... ....	480
forging .... .... .... .... .... ....	473 (2) (f)
Probation, release on .... .... .... .... .... ....	666
recommittal of persons on .... .... .... .... .... ....	667
Procedure. See Proceedings.	
Proceedings—	
bankruptcy, need not be set out in indictment .... .... .... .... .... ....	584 (18)
civil. See Action.	
commenced before Code in operation, continuation of .... .... .... .... .... ....	Compilation Act, s. 3

Subject.	Section.
Proceedings— <i>continued.</i>	
judicial, meaning of ....	120
limitation of. See Limitation ....	739
record of. See Record.	
report of, when protected under defamation law. See Report ....	354
validity of. See Validity.	
Proceeds of—	
property—	
held under direction ....	373
received by agent for sale ....	374
stealing ....	378 (9) (d)
valuable security, stealing ....	369, 374, 378 (9) (c)
Process—	
arrest of minister of religion under pretence of executing ....	179 (3)
Court, of—	
forging ....	473 (4) (c)
execution of—	
assault, lawful in ....	225
commencement of prosecution, when deemed ....	103
erroneous ....	227
irregular ....	230
issued without authority in the particular case ....	227
issued without jurisdiction ....	228
question as to, arising on charge of assault ....	321
removal, etc., of property to defeat ....	150
resisting ....	318 (3) (4)
use of force in ....	231
issue of, when deemed commencement of prosecution ....	103
person executing—	
deemed to be employed in public service ....	1
duty of ....	232
limitation of proceedings against ....	739
service of, when deemed commencement of prosecution ....	103
Procession—	
unlawfully procuring benefit for elector on account of joining in ....	99 (1)
Proclamation—	
drilling, etc., as to ....	51
ordering rioters to disperse, form of ....	65
Procuration ....	191
Procuring. See also Counselling.	
abortion. See Abortion ....	201
commission of criminal acts ....	556
out of Western Australia ....	556
commission of offence ....	7
conviction of what offence on indictment for ....	599 (c), 600, 601
in Western Australia, to be committed out of Western Australia	14
indictment of person for ....	587
person, is a "principal offender" ....	7
persons out of Western Australia, by ....	13
place of trial of person charged with ....	575 (6)
trial together of a number of persons ....	586 (5)
conviction for capital offence, etc., by perjury ....	125
defilement of women by drugs, fraud, or threats ....	192
execution of deeds, etc., by threat ....	399
execution of document by false pretence ....	410, 477
false testimony, indictment for ....	584 (2) (3)
husband or wife to steal from the other ....	377
indecent practices between males ....	184
perjury, commission of ....	126
suicide ....	288
summary conviction in certain cases of ....	426 (j)
woman to have carnal knowledge with man ....	191

Subject.	Section.
Production of— document— before Parliament or Committee .... .... .... ....	59 (1)
insolvent preventing .... .... .... ....	523
warrant or process by person executing it .... .... ....	232
Profession— conspiring to injure person in his .... .... .... ....	560 (4) (5)
procuring certificates of status in, by false representation ....	488
Projectile, attempt to strike with .... .... .... ....	294 (2)
Promise of benefit. See Bribery.	
Promissory note. See Valuable security. forging .... .... .... .... .... ....	473 (2) (g)
Promoter of company, false statement by .... .... ....	420
Proof. See Evidence. of debt— failure by insolvent to notify trustee of false .... .... ....	520 (1)
making false .... .... .... ....	525
onus of. See Onus of proof.	
Property— corruptly obtaining. See Bribery. definition for purposes of .... .... .... ....	414
delivery of. See Delivery. injury to. See Destruction ; Injury .... .... ....	441-468
meaning of term .... .... .... ....	1, 35
meaning of term "person," with reference to .... .... ....	1
movable. See Goods. ownership of, statement of particulars in indictment as to. See Indictment .... .... .... .... ....	584 (6)-(16)
partner or company, of offence in respect of .... .... ....	34
prisoner, of. See Curator of prisoner's estate.	
private, taking fish from .... .... .... .... ....	437
real. See Land. removal of. See Removal. restitution of. See Restitution .... .... ....	717
sale of. See Sale. separate liability of husband with respect to wife's special, meaning of term, in connection with stealing .... ....	35
stolen. See Stolen property.	371
value of. See Value.	
Proprietor— meaning of, in Chap. LII. .... .... .... ....	497
Prosecution— civil remedy unaffected by .... .... .... ....	737
Code or other statute, under .... .... .... ....	C.C. Act s. 6
commenced before compiled Act in operation, continuation of ....	Comp. Act s. 3
commencement of— limitation of time for. See Limitation. what is deemed .... .... .... .... ....	103
effect of prosecution in charges of sedition .... .... ....	50
foreign Government, only at request of .... .... ....	14, 556
fraudulent debtor, of, by direction of Court .... .... ....	732
giving or taking benefit to prevent or delay .... .... ....	136
newspaper, of, sanction of Judge necessary to .... .... ....	368
none in certain cases, after prosecution or civil proceedings ....	323, 417, 440, 468,
perjury, for, by direction of Court .... .... .... ....	671, 674, 737
saving of provisions as to time in relation to .... .... ....	731
stay of, for publication of Parliamentary paper .... .... ....	607A
time for. See Limitation. trustee, of, sanction of Judge when necessary to .... ....	733
Prosecutor, private. See Information by private person.	417

lxxxviii.  
INDEX—*continued.*

Subject.	Section.
Prostitution—	
detention of female for purposes of	194
girl, of, guardianship in case of	736
keeping place for	209, 213
procuring female for purposes of	191
Protection against proceedings for defamation	351, 357
See Defamatory matter.	
Provocation—	
defence of	246
force to prevent repetition of act amounting to	247
killing on	281
meaning of term	245
self-defence in case of assault—	
after	249
without	248
Public—	
authority. See Authority, public.	
benefit—	
defence as to indecent show being for	204
defence of truth and public, on charge of defamation	617
costs on failure of	675
publication of defamatory matter for	356, 357 (8)
whether public discussion is for, is question of fact	359
conduct of public man, fair comment on, is lawful	355 (2)
conspiracy to defraud the	412
debt—	
forging evidence of title to	473 (2) (a)
possessing paper used for document evidencing	494 (1) (a)
document, damaging	453, VIII.
grievance, defaming persons to remedy	357 (2)
health. See Health	
highway. See Highway.	
house, holding election meeting in	100 (1), 102 (3)
interest, publication of matter of, is lawful	354
meeting—	
meaning of term	354
publication of report of, is lawful	354 (7)
office. See Office.	
officer. See Officer, public.	
place—	
indictment for offence relating to	584 (11)
meaning of term	203 (1), 204 (2)
records—	
falsification of	335 (1), 484
forging	473 (1) (b)
injury to	453, VIII.
revenue—	
false return as to, received by public officer	425
forging documents relating to	473 (3) (c)
forging seal or stamp used for	473 (3) (b)
possessing paper for making permit in connection with	494 (1) (b)
uttering cancelled impression of seal connected with	476
right, obstruction of	207
sale, conspiracy to defraud at	412
seal, forgery of	473 (1)
service. See Officer, public.	
bribery to obtain appointment in	119
persons deemed to be employed in, who are	1
wrong, publishing defamatory matter to remedy	357 (2)
Publication of—	
advertisement—	
offering reward for return of stolen property	138
without authority of Court	142

Subject.	Section.
Publication of— <i>continued</i>	
copy of certificate of execution .....	678
defamatory matter. See Defamatory matter.	
election notice, without name of publisher .....	102 (2)
false statement—	
as to personal character of candidate .....	101 (4)
as to withdrawal of candidate .....	101 (3)
by director, etc. ....	421, 422
obscene book, etc. ....	204
official secret ....	81
report. See Report.	
seditious words or writing ....	52 (2)
Publisher. See Periodical.	
Punishment—	
accessory after the fact, of .....	562, 563
attempt to commit offence, of. See Attempt. ....	553, 556
circumstance of aggravation is circumstance increasing .....	1
conspiracy to commit crime, for .....	558
conspiracy to commit misdemeanour, for .....	559
construction of Code as to infliction of .....	19
contempt of Court, for, apart from Code .....	C.C. Act s. 7
conviction without, by justice ....	321, 427
counselling commission of offence, for .....	7
criminally responsible means liability to, as for an offence .....	1
death of. See Capital offence; Death.	
direction as to, when convicted person already undergoing imprisonment .....	20
disobedience to order of Court or under statute, for .....	178
disobedience to statute law, for .....	177
escaped prisoner, of .....	20
finding security, of, instead of or in addition to other punishment .....	19 (7)
intention affects .....	4
kinds of .....	18
limitation of, when changes in law effected .....	11
offence, for—	
other than that charged .....	603
partially committed in Western Australia .....	12
procured in Western Australia to be committed out of Western Australia .....	14
procured or counselled by person out of Western Australia .....	13
once only for same offence .....	C.C. Act ss. 6, 7, 16
except when death caused .....	16
procuring commission of offence, for .....	7
reduction of .....	555
specific fact, dependent upon .....	642
whipping to be inflicted in certain offences against morality .....	206
when none, for trifling offence .....	321, 467
Pupil, force towards, by way of correction....	257
Purchase—	
forged bank note, of .....	481
land, of, fraudulently acquired from Crown .....	221
vendor of food giving false warranty upon .....	492
Q.	
Qualification of. See also Disqualification.	
elector, false statement as to .....	113
juror, general law as to, applicable .....	625
Qualified protection in case of defamation .....	357

INDEX—*continued.*

Subject.	Section.
Quality, mark denoting, forgery of ....	473 (4) (t)
Quarantine— certificate, forging ....	473 (4) (u)
law, giving false information as to health of ship under ....	215
Quarter Sessions, Court of— change of place of trial when indictment presented in ....	577
enforcement of judgment of ....	677
practice in private prosecutions in ....	729
taxation of costs of prosecution or defence in ....	676
Quashing— indictment— for formal defect, before jury sworn ....	590
motion for ....	614
Queen Consort— killing, is treason ....	37 (2)
violating, is treason ....	37 (9)
R.	
Railway— damaging ....	453, II. (b) (c) V. VII. (e)
damaging bridge, etc., over ....	453, II. (b) (c) VII. (e)
destroying ....	453, II.
endangering safety of persons travelling by ....	296, 307, 451 296
intentionally ....	1
light or signal, interfering with or removing ....	296 (2), 451 (2)
meaning of term ....	451, 462 1
obstructing or injuring ....	206
official included in term “person employed in the Public Service”	
Ram. See Sheep.	
Rank, attempt to procure, by false representation ....	488
Rape— attempt to commit ....	327
Chapter XXII. not to apply to, or to attempted rape ....	205A
conviction for what offences upon indictment for ....	596
crime of ....	325
meaning of term ....	325
punishment of ....	326
whipping to be inflicted in certain cases ....	206
Real Property. See Land.	
Receipt— forging— accountable ....	473 (2) (i)
for interest in respect of— public debt ....	473 (2) (a)
share in company ....	473 (2) (b) 532
giving false to agent ....	
of property, forging document which is evidence of ....	473 (4) (s)
Receiving. See also Receipt.	
forged bank note ....	481
indictment for joint ....	607
joinder of stealing and ....	586 (4)
property— obtained by means of indictable offence. See Stolen property	414
of insolvent with intent to defraud ....	524
stolen child under fourteen ....	343 (2)

INDEX—*continued.*

Subject.	Section.
Receiving— <i>continued.</i>	
stolen property, etc. See Stolen property	414, 415
summary conviction for	426 (i)
Recent possession. See Suspicion.	
Recognisance. See also Bail; Security.	
appearance for—	
when called upon	19 (8), 656
bail of. See Bail.	
enforcing of	746A
enlargement of—	
on adjournement of trial	611
when place of trial changed	557
falsely acknowledging	512
first offender, by	669
forging	473 (2) (h)
indictment or information, to answer	573
on conditional remission of sentence	705
breach of	705
perjury, on committal for, by Court	731
sentence, conditional remission of, upon entering into	705
sentence, to, appear for	19 (8), 656
notice to defendant on	656
to keep the peace and to be of good behaviour. See Security	18, 19 (6) (7)
trial, to appear at	573
witness, of. See Witness	577, 611, 731
Recommendation to mercy by Court instead of pronouncing sentence of death	657
Record—	
amended indictment, of	591
Circuit Court or Court of General or Quarter Sessions, proceedings, of, to be filed in Supreme Court	677
damaging	453, VIII.
entry on, of—	
certificate of execution	678
finding as to insanity of accused	652
finding as to want of understanding of accused	631
sentence of death	657
false entry in	484
relating to person in confinement	335
forging	473 (4) (f)
public	473 (1) (b)
seal of Court of	473 (4) (a)
liberty affecting—	
keeping false	335 (1)
neglect to keep	335 (1)
of proceedings, at trial. See Trial.	
when said to be “false document”	470
Recovery of property. See Restitution; Stolen property.	
Reduction of—	
bail, by Supreme Court Judge	573
capital, concealment by officer of company on	547
punishment in case of attempt to commit offence	555
Reference to—	
certain terms in statute, by-law, etc., how construed	C.C. Act s. 3
repealed provisions, how construed	C.C. Act s. 3 (5)
Reformatory detention	18
Reformatory school—	
boy under sixteen may be sent to, in certain cases	185
child under twelve may be sent to	708 (5)
young persons	19 (6a), 710
punishment of detention in, may be inflicted	18

INDEX—*continued.*

Subject.	Section.
Reformatory school— <i>continued.</i>	
question of liability to detention in, to be determined by Court	663
recommittal of persons released from reformatory detention	667
640	
Refreshment for jurors	
Register. See also Registrar; Registration.	
births, deaths, marriages, of—	
false statement for purpose of or relating to	486, 487
forging	473 (2) (o)
copy of or entry in	473 (2) (p) (4) (n)
seal or signature of registrar keeping	473 (2) (q)
concealing, with intent to defraud	379
damaging	453, III.
falsifying	484
forgery of entry in, as to title of land	473 (2) (d)
when included in term "document"	469
when said to be "false document"	470 (a)
Registered brand or mark. See Brand.	
Registrar of Supreme Court—	
certificate of execution to be transmitted to	678
failure to discover concealed property to	526
Registration—	
attempt to procure, by false representation	488 (3)
of elector—	
transfer of property to secure	99 (5)
of births, deaths, and marriages, false statements relating to	487
procuring, as person to celebrate marriages when not qualified	342
Release on probation	666
recommittal of persons on	667
Relevancy—	
is an element in good faith	357
of defamatory matter to other matter is a question of fact	359
Religion—	
minister of—	
celebrating marriage when not qualified as	340
obstructing, from officiating	179
wrongfully obtaining registration to celebrate marriages as	342
Religious worship—	
disturbing	180
offences relating to	179, 180
place of, breaking into or out of	405, 406
Remand of—	
accused—	
brought before wrong Court	576
on adjournment of trial	611
child charged with indictable offence	708 (2)
Remission of sentence. See Pardon.	
Removal of. See also Interference.	
accused from Court for misconduct	635
article required for equipment of ship	311 (1)
boundary mark	461
disorderly person from premises	254
explosive after seizure	715
goods, mortgaged	389
light, etc. See Marine light; Railway light.	
mineral from mine	385
navigation works	458 (1)
property—	
before unsatisfied judgment	527 (2)
by bankrupt	517 (1) (2)
taken under lawful seizure	150

Subject.	Section.
Removal of— <i>continued.</i>	
stamp from document .....	491 (1)
for purpose of counterfeiting stamp .....	495 (3)
woman detained for immoral purposes .....	716
Remuneration, false returns as to, by public officer .....	86, 425
Repeal—	
Acts and parts of Act .....	Comp. Act, s. 2, Appendix A
Repealed Acts, matters and things originating under, to enure reference to, in statute, by-law, etc., how construed .....	Comp. Act, s. 3
Repetition of insult, prevention of .....	C.C. Act, s. 3 (5)
Reply by Counsel for Crown .....	247 637
Report of—	
Government department, publication of, when protected .....	354 (5)
matter of public interest, protected .....	354
medical practitioner, in case of woman sentenced to death .....	658
official inquiry protected under defamation law .....	353
proceedings of—	
Court of justice protected .....	354 (3)
unless report blasphemous or obscene .....	354 (3)
unless report prohibited by Court .....	354 (3)
local or public authority protected .....	354 (6)
official inquiry protected .....	354 (4)
Parliament protected .....	354 (1)
public meeting protected .....	354 (7)
public meeting, when not published in good faith .....	354 (7)
valuator as to compensation for injury to land .....	88
Representation. See False pretence ; Fraudulent representation ; Personation.	
Reprieve. See Pardon.	
Reputation—	
conspiracy to injure .....	560 (2)
Rescue—	
capital offender, of, by force .....	144
insane person, of .....	149
preventing, after arrest .....	235
property, committing assault with intent to .....	318 (4)
Resemble—	
meaning of term, in connection with forgery .....	470
Reservation of question of law. See Case reserved. Court of Criminal Appeal .....	655
Reservoir—	
bank or wall of, damaging .....	453 II., VII.
damaging .....	453 II.
interfering with work appertaining to .....	453 II., 458
Residence. See Dwelling house.	
Resident Magistrate may act alone .....	742
Resisting. See also Obstruction.	
arrest, disabling, etc., with object of .....	294
arrest or detention, by assault .....	318 (1)
disabling to prevent person .....	292
execution of process against property .....	318 (3) (4)
execution of process or arrest, use of force to overcome force used in .....	231
officer of Court of justice .....	151
police officer .....	318 (2)
public officer .....	172
trespasser. See Trespasser. ....	251
Respite of—	
sentence in case of pregnant woman .....	658
Restitution of—	
property—	
money found on prisoner may be paid to purchaser on .....	718

INDEX—*continued.*

Subject.	Section.
Restitution of— <i>continued.</i>	
property— <i>continued.</i>	
order for compensation or for, in case of—	
indictable offence ..... ..... ..... ..... ..... ..... ..... .....	674, 717, 719
affecting valuable security ..... ..... ..... ..... ..... .....	717
which may be dealt with summarily ..... ..... ..... .....	427, 719
offender discharged—	
on summary conviction ..... ..... ..... ..... ..... .....	671, 672
things seized ..... ..... ..... ..... ..... .....	714, 715
shipwrecked goods, order for ..... ..... ..... ..... .....	434
on payment of reward ..... ..... ..... ..... .....	435
Retirement. See Withdrawal.	
Return—	
of property. See Restitution.	
of stolen property, reward for ..... ..... ..... ..... .....	138, 416
Revenue. See Public revenue.	
stamp. See Stamp.	
Review included in term “periodical” ..... ..... ..... .....	345
Revoked document, uttering ..... ..... ..... .....	475
Reward—	
acceptance of, by public officer ..... ..... ..... ..... .....	82, 83
restitution of shipwrecked goods on payment of ..... .....	435
stolen property, offering, for return of ..... .....	138
taking, for recovery of property fraudulently obtained ..... .....	416
Right—	
claim of. See Claim of right.	
of action, saving of. See Action ..... ..... ..... .....	C.C. Act, s. 5
of way, defending possession of ..... ..... ..... .....	254
public, obstruction of ..... ..... ..... .....	207
to demand jury ..... ..... ..... .....	622
under Code, saving of. See Code.	
Riot—	
demolishing buildings, machinery, etc., in ..... ..... .....	66
injuring buildings, machinery, etc., in ..... ..... .....	67
meaning of ..... ..... ..... .....	62
misdemeanour, is ..... ..... ..... .....	64
proclamation ordering rioters to disperse in case of ..... .....	65
punishment of ..... ..... ..... .....	64
suppression of—	
justice, by ..... ..... ..... ..... .....	65, 174, 239
military officer, by ..... ..... ..... .....	242
neglect of officer in ..... ..... ..... .....	174
neglect to aid in ..... ..... ..... .....	175
order of justice, by ..... ..... ..... .....	240
police officer, by ..... ..... ..... .....	174
private person, by ..... ..... ..... .....	240, 241
use of force in ..... ..... ..... .....	238
without order, in case of emergency ..... ..... .....	241
“Riotously assaulted,” meaning of ..... ..... .....	62
River, bank or wall of—	
damaging ..... ..... ..... ..... .....	453 II. (a), (VII.)
interfering with ..... ..... ..... .....	(d)
Road. See Highway.	458
Road Board Elections, Chapter XIV. of Code not to apply to	118
Robbery. See also Stealing.	
attempted ..... ..... ..... ..... .....	394
in company ..... ..... ..... ..... .....	393, 394
meaning of term ..... ..... ..... .....	391
punishment of ..... ..... ..... .....	393
under arms ..... ..... ..... .....	393
with violence ..... ..... ..... .....	393
wounding, accompanied by ..... ..... ..... .....	394

INDEX—*continued.*

Subject.	Section.
Room—	
for betting, keeping   ...   ...   ...   ...   ...   ...	211, 213
for prostitution, keeping   ...   ...   ...   ...   ...   ...	209, 213
opening with key, etc., when stealing   ...   ...   ...   ...   ...	378 (5) (f)
Rope used in mine, injury to. See Mine   ...   ...   ...   ...   ...	453 VII. (k), 456 (3)
Royal—	
Commission, publication if defamatory matter by   ...   ...   ...	352
false evidence before   ...   ...   ...   ...   ...	127
threatening witnesses   ...   ...   ...   ...   ...	128
prerogative of mercy. See Pardon.	
warrant, false representation as to   ...   ...   ...   ...	509
Royalty concealing   ...   ...   ...   ...   ...	386
Rules—	
of Code as to criminal responsibility apply to statutory offences	36
of company or society, circulating false copy of	489
of Court, power to make   ...   ...   ...   ...   ...	747
S.	
Sacrilege. See Religious Worship.	
Sale—	
arrest of person offering stolen property for   ...   ...   ...	569
book, pamphlet, etc., of, containing defamatory matter	366, 367
counterfeit coin, of   ...   ...   ...   ...   ...	154 (3) (a), 160 (2)
exposing for, or selling—	
adulterated liquor   ...   ...   ...   ...   ...	218 (2)
diseased meat   ...   ...   ...   ...   ...	217 (2)
food unfit for man   ...   ...   ...   ...   ...	216
obscene publication   ...   ...   ...   ...   ...	204 (1)
shipwrecked goods   ...   ...   ...   ...   ...	435
food, of, false warranty in respect of   ...   ...   ...	492 (1)
periodical, of, containing defamatory matter   ...   ...   ...	365
property, of—	
fraud on   ...   ...   ...   ...   ...	413 (1), 527
held under direction   ...   ...   ...   ...   ...	373
received by agent   ...   ...   ...   ...   ...	374
public, conspiracy to defraud at   ...   ...   ...   ...	412
public office, of   ...   ...   ...   ...   ...	119
Sanction of—	
Court or Judge, when necessary. See Judge.	
Attorney General. See Attorney General.	
oath. See Oath.	
Sanity. See also Sound Mind, Insanity.	
presumption of   ...   ...   ...   ...   ...	26
Sapling, standing, setting fire to   ...   ...   ...   ...	447 (e), 448
Satisfaction. See Compensation; Restitution.	
Saving, of rights under Code. See Code.	
provisions as to time   ...   ...   ...   ...   ...	607 A
Schoolhouse—	
breaking into—	
and committing crime   ...   ...   ...   ...   ...	403 (1)
with intent to commit crime   ...   ...   ...   ...	404
breaking out of, having committed crime   ...   ...   ...	403 (2)
Schoolmaster, use of force by, by way of correction   ...   ...   ...	257
Sea, bank or wall of. See also Marine.	
damaging   ...   ...   ...   ...   ...	453 II. (a), VII. (d)
interfering with   ...   ...   ...   ...   ...	458

INDEX—*continued.*

Subject.	Section.
<b>Seal—</b>	
breaking, of packet used at elections .....	112
counterfeit, meaning of term .....	470
counterfeit representation of impression of, what is .....	470
forging .....	473
Court, of .....	473 (4) (a)
public .....	473 (1) (a) (b)
registrar, of .....	473 (2) (q)
revenue purposes, used for .....	473 (3) (b)
to document to be used in evidence .....	473 (4) (b)
what constitutes .....	471
impression of—	
making counterfeit .....	471
uttering cancelled .....	476
meaning of, with reference to forgery .....	469
procuring, to be affixed to paper to use as valuable security .....	399 (b), 410
uttering—	
cancelled impression of .....	476
counterfeit .....	473
<b>Seaman—</b>	
conspiracy to induce, to become pirate .....	77 (4) (d), 80 (2)
false representation as to person named in document relating to .....	490 (2)
forging document relating to engagement of .....	490 (1)
<b>Search—</b>	
accused, right of police officer to .....	236
warrant—	
complaint on oath to ground .....	711
in case of detention of woman for immoral purpose .....	716
in case of counterfeiting trade marks, etc. ....	504
<b>Secrecy—</b>	
ballot, of, attempt to violate .....	105, 106
disposition of dead body of child, as to .....	291
elections at, interference with .....	110
not essential to fraudulent taking .....	371 (3)
<b>Secretary of State—</b>	
forging signature of .....	473 (3) (a)
<b>Secret Commission—</b>	
account, giving false receipt or, to agent .....	532
advice given, giving or receiving, in return for .....	533
advice given, offering or soliciting, in return for .....	534
contract, to enter into .....	533 (a), 534 (a)
trustee, to appoint third person as .....	533 (b), 534 (b)
where not applicable .....	533, 534
“Advice given,” meaning of .....	546 (12)
agent, gift or offer of, to .....	530
gift to or received by parent, wife, etc., of .....	531
giving false receipt or account to .....	532
“Agent,” meaning of .....	546 (1)
aiding and abetting offence in regard to .....	536
attempting offences .....	536
Attorney General to consent to prosecution .....	545
child of agent, giving or receiving secret gift .....	531
clerk or employee of agent, giving or receiving secret gift .....	531
“Contract,” meaning of .....	546 (7)
corporation, penalty on, on conviction .....	538
Court may order withdrawal of trifling or technical cases .....	539
custom, defence of, not sufficient .....	542
directors, etc., liability of, acting without authority in regard to .....	537
discovery of documents .....	738
document, giving false, to agent .....	532
gift or receipt of, in return for advice given .....	534
incriminating answers .....	738
indirect acts prohibited .....	546 (8)

INDEX—*continued.*

Subject.	Section.
Secret Commission— <i>continued.</i>	
“ in relation to his principal’s affairs or business,” meaning of .....	546 (11)
invoice, giving false to agent .....	532
limitation of time for prosecution .....	544
offer or solicitation of in return for advice given .....	534
onus of proof that gift not secret commission .....	543
parent of agent giving or receiving secret gift .....	531
partner of agent giving or receiving secret gift .....	531
penalties .....	538
“ person having business relations with the principal,” meaning of .....	546 (10)
“ principal,” meaning of .....	546 (2)
prosecution, Attorney General must consent to .....	545
receipt, giving false to agent .....	532
“ solicit any valuable consideration,” meaning of .....	546 (9)
trifling or technical cases, withdrawal of .....	539
“ trustee,” meaning of .....	546 (3)
trustee in return for substituted appointment, offering to or receiving .....	535
“ valuable consideration,” meaning of .....	546 (4) (5) (6)
“ valuable consideration solicited,” meaning of .....	546 (9)
valuable consideration, agent receiving or soliciting as commission giving or offering to agent as commission .....	529
valuable consideration to be repaid in event of conviction .....	530
witness, protection of giving incriminating answers .....	538
stay of proceeding against .....	540, 541, 738
Secret Commissions Act, 1905, repealed .....	541
Secret Gift. See Secret Commission.	Compilation Act
Secrets, disclosure of official—	Appendix A
by person employed in public service .....	81
Security—	
Curator of prisoner’s estate, by .....	684
false acknowledgment of .....	512
false statement to induce person to enter into .....	420 (b)
for costs. See Costs.	
forging .....	473 (2) (h)
none required—	
information <i>ex officio</i> , in case of .....	729
private person, by, to prosecute information .....	721
affidavit of service of order, etc., to obtain judgment on recognisance, by. See Bail; Recognisance.	724
to keep the peace—	
aggravated assault, in case of .....	322
convicted person, in case of .....	19 (6) (7)
discharge upon giving, in case of summary conviction .....	19 (9)
punishment of finding, may be inflicted .....	18
valuable. See Valuable security.	
Sedition—	
and like offences .....	44-53
meaning of .....	52
punishment for .....	52
Seditious—	
enterprise—	
conspiracy to carry out .....	52 (1)
meaning of term .....	46
oath to engage in .....	48 (1) (a)
intention—	
meaning of term .....	44
to carry out seditious enterprise .....	46
what is .....	44
what is not .....	45

Subject.	Section.
<b>Seditious—<i>continued.</i></b>	
words—	
meaning of term .... .... .... .... .... .... .... ....	46
publication of .... .... .... .... .... .... .... ....	52 (2)
writing—	
meaning of .... .... .... .... .... .... .... ....	46
publication of .... .... .... .... .... .... .... ....	52
Seduction of girl, guardianship in case of .... .... .... ....	736
<b>Seizure—</b>	
counterfeit coin, coining tools, etc., of .... .... .... ....	713
disposal of property after .... .... .... .... .... ....	714, 715
explosive substance, of .... .... .... .... .... ....	715
forfeiture after. See Forfeiture.	
goods of—	
limitation of proceedings with respect to .... .... .... ....	739
removing property, etc., under lawful .... .... .... ....	150
search warrant, under .... .... .... .... ....	711
shipwrecked goods, of, by public officer .... .... .... ....	435
Self-defence. See also Defence.	
against provoked assault .... .... .... .... .... ....	249
against unprovoked assault .... .... .... .... ....	248
aiding in .... .... .... .... .... ....	31 (3), 250
no criminal responsibility for injury caused in .... .... ....	31 (3) (4), 441
publication of defamatory matter in .... .... .... ....	357 (7)
Selling. See Sale.	
Sentence. See also Judgment.	
appeal, effect of, on .... .... .... .... .... ....	20
arrest of judgment before .... .... .... .... ....	655
discharge upon recognisance in case of .... .... .... ....	656
committal for, procedure in Higher Court on .... .... ....	618
concurrent .... .... .... .... .... ....	20
conditional remission of .... .... .... .... .... ....	679, 705
cumulative .... .... .... .... .... ....	20
delayed .... .... .... .... .... ....	656
death of. See also Capital offence .... .... .... .... ....	18, 657
commutation of .... .... .... .... .... ....	679
conditional pardon to person under .... .... .... ....	679
entering, on record .... .... .... .... ....	657
execution of.... .... .... .... .... ....	678
false declaration as to execution of .... .... .... ....	168
pregnant woman, in case of .... .... .... ....	658
directing in—	
generally .... .... .... .... .... ....	19, 20
whipping, as to .... .... .... .... ....	659, 680
enforcement of order for payment of penalty, compensation or costs .... .... .... .... .... ....	682A
executing—	
duty of officer .... .... .... .... .... ....	224
erroneous .... .... .... .... .... ....	227
passed without jurisdiction .... .... .... .... ....	228
use of force for purposes of .... .... .... ....	231
indeterminate, or habitual criminal .... .... .... ....	661
on indictable offence .... .... .... .... ....	662
serving of .... .... .... .... ....	665
notice to attend for .... .... .... .... ....	656
after conviction on private information .... .... .... ....	727
offence, for, committed after previous conviction .... .... ....	648 (4)
on young person .... .... .... .... .... ....	19 (6a)
order as to conditional pardon equivalent to .... .... ....	679
passing of .... .... .... .... .... ....	656
question to accused before .... .... .... ....	654
pending appeal .... .... .... .... .... ....	20
preventive detention, of. See Habitual criminal.	

INDEX—*continued.*

Subject.	Section.
Sentence— <i>continued.</i>	
recognition to appear for ....	19 (8), 648
remission of, on entering into recognisance ....	705
term of—	
calculation of ....	20
commencement of ....	20
warrant to arrest accused person who does not attend to receive ....	727
when convicted person already undergoing sentence ....	20
when convicted person appeals ....	20
when sentence takes effect ....	20
Separate trial—	
when persons jointly charged ....	624
when several charges in one indictment ....	585
Servant. See also Apprentice.	
arrest by, for certain offences—	
analogous to stealing ....	438
relating to injury to property ....	464
clerk or. See Clerk.	
master and. See Master.	
public. See Officer, public.	
Service—	
of notice of private information—	
in default of plea ....	724
of private information ....	722
affidavit of ....	724
of process is commencement of prosecution ....	103
public. See Officer, public ; Public Service.	
Setting man-trap ....	305
Settlement of property upon information by Attorney General in case of abduction ....	329
Severing with intent to steal ....	383
Shaft of mine.	
damaging ....	453 VII. (h)
obstructing ....	456 (1) (a)
Share in company, etc., forging transfer of ....	473 (2) (b)
false statement by official with intent to affect price of ....	421
Attorney General to consent to proceedings ....	421
defence to charge ....	422
Shareholder, false statement with intent to defraud ....	420 (a)
Shares, personation of owner of ....	511
Sheep. See also Animal.	
stealing ....	378 (3)
conviction for what offences on charge of ....	606
suspicion of ....	429
unlawfully injuring ....	452
unlawfully using ....	428, 585 (a)
Sheriff—	
duty of, in case of riot ....	65
neglect of, to suppress riot ....	174
neglect to aid, in suppressing riot ....	175, 176
Ship—	
casting away or destroying ....	449, 450
damaging—	
with explosive ....	453 I.
with intent to destroy ....	450, 453 VII. (b)
dangerous goods—	
landing, from ....	312
sending, in ....	311 (2)
defence of—	
against trespasser ....	254
under claim of right ....	255
destroying ....	449, 453 VII. (a)
attempt at ....	450
discipline of, on voyage ....	258

INDEX—*continued.*

Subject.	Section.
<b>Ship</b> — <i>continued.</i>	
endangering, by tampering with machinery	309, 310
entry upon, force to prevent	254, 255
evading laws as to equipment of	311
explosives—	
found in, disposal of	715
landing, from	312
sending, by	311 (2)
foreign—	
false information as to health of	215
forging—	
documents relating to	473 (2) (k)
engagement of seamen on	490
letter threatening to destroy	463
loss of, act tending to cause	449 (2)
mail conveyance, when it is	1
master or officer of—	
conspiring with, to aid pirate	80
endangering steamship, by tampering with machinery	309, 310
evading laws as to equipment of ships	311 (1)
giving false information as to health of foreign ship	215
piratical acts affecting	77 (4), 80
shipment of dangerous goods by	311 (2)
taking unseaworthy ship to sea	308 (2)
meaning of term	1
piratical acts affecting. See Piracy.	
removal of disorderly person from	254
setting fire to	444 (b)
stealing goods from	378 (5) (c) (d)
unseaworthy, sending or taking, to sea	308
warrant to search	711
wrecked—	
assault on person protecting	316
damaging	453 IV.
goods, offering for sale	435
goods, possessing	434
goods, stealing	378 (5) (d)
preventing escape from	295 (1)
wrecking	449, 450
<b>Shipping.</b> See Navigation works ; Ship.	
<b>Shooting.</b> See also Arms.	
<b>Shop</b> —	
breaking into—,	
and committing crime	403 (1)
with intent to commit crime	404
breaking out of, having committed crime	403 (2)
forging document under Act relating to factory or	490 (1)
<b>Show</b> —	
indecent, exhibiting	204 (3)
public, fair comment on, is lawful	355 (6)
<b>Shrub</b> , standing, setting fire to	447 (c), 448
<b>Sickness</b> , necessities for person in case of	262
<b>Signal</b> —	
defamation by	348
marine. See Marine.	
railway. See Railway.	
<b>Signature</b> —	
affixing to—	
document for another without authority	91 (3), 479 (1)
false certificate as to execution of sentence of death	168
false certificate of marriage	435
false certificate of message sent by telegraph	482
name on voting-paper unlawfully	112

INDEX—*continued.*

Subject.	Section.
<b>Signature—<i>continued.</i></b>	
forging—	
document to be used as evidence, seal or signature to for purposes of evidence .... .... .... .... .... ....	473 (4) (b)
Governor, Minister, or Under Secretary, of .... .... .... .... .... ....	473 (4) (b)
grant, commission, etc., to .... .... .... .... .... ....	473 (3) (a)
power of attorney, of witness to .... .... .... .... .... ....	473 (3) (a)
registrar, of .... .... .... .... .... ....	473 (4) (p)
witness, of, to security, register, etc. .... .... .... .... ....	473 (2) (q)
473 (2) (n)	
included in term “writing” .... .... .... .... .... ....	469
indictment, to .... .... .... .... .... ....	578
information, to, by private prosecutor .... .... .... .... .... ....	720
personation by affixing, to document .... .... .... .... .... ....	91 (3), 479 (1)
procuring, by false pretence .... .... .... .... .... ....	477
registrar, of, to indorsement of summons on private information	722
<b>Silver—</b>	
coin. See Coin.	
meaning of term, as applied to coin .... .... .... .... .... ....	152
<b>Silvering coin</b> .... .... .... .... .... ....	154
<b>Similar offence to that charged, conviction for</b> .... .... .... .... ....	602
<b>Simple offence—</b>	
arrest of person found committing .... .... .... .... .... ....	566
meaning of term .... .... .... .... .... ....	3
time for prosecution of .... .... .... .... .... ....	574
<b>Sister—</b>	
carnal knowledge of .... .... .... .... .... ....	197
insult to, may be provocation .... .... .... .... .... ....	245
<b>Sittings—</b>	
imprisonment for indictable offence takes effect from first day of recognition to appear at. See <i>Recognisance</i> . .... .... ....	20
<b>Skin—</b>	
killing animal with intent to steal .... .... .... .... .... ....	382
summary conviction for .... .... .... .... .... ....	426 (b)
of stolen animal, possession of .... .... .... .... .... ....	429
<b>Slander.</b> See <i>Defamation</i> .	
<b>Slaughter-house, taking diseased meat into</b> .... .... .... .... ....	217 (1)
<b>Society.</b> See <i>Association</i> .	
<b>Sodomy.</b> See <i>Unnatural offence</i> .... .... .... .... ....	181
<b>Solemn declaration.</b> See <i>Declaration</i> .	
<b>Solicitor.</b> See also <i>Counsel</i> .	
Crown. See <i>Crown Solicitor</i> .	
fair comment as to conduct of, is lawful .... .... .... .... ....	355 (4)
fraud by, on sale or mortgage of property .... .... .... .... ....	413
<b>Solicitor General, Powers of Attorney General may be delegated to</b> Sound mind. See also <i>Insanity</i> .	744
presumed .... .... .... .... .... ....	26
<b>Sovereign.</b> See also <i>Crown</i> .	
allegiance to, seducing person from .... .... .... .... ....	41 (a)
foreign, defamation of .... .... .... .... ....	53
forgery of privy seal or signet, etc., of .... .... .... .... ....	473 (1)
included in terms “person,” “owner,” etc. .... .... .... .... ....	1
prerogative of mercy of .... .... .... .... ....	679, 705, 707
not affected by Code .... .... .... .... ....	21
property of public officer may be described in indictment as property of .... .... .... .... .... ....	584 (14)
sedition intention against—	
what is .... .... .... .... .... ....	44
what is not .... .... .... .... .... ....	45
stealing property of .... .... .... .... .... ....	378 (6)
treason against .... .... .... .... .... ....	37, 40
reasonable crime against .... .... .... .... .... ....	39
<b>Special—</b>	
finding as to insanity of accused .... .... .... .... ....	653

INDEX—*continued.*

Subject.	Section.
<b>Special—<i>continued</i></b>	
<b>property—</b>	
in thing stolen, immaterial .....	376
meaning of term, in connection with stealing .....	371
verdict .....	642
<b>Specific damage to property, conviction on indictment charging</b>	593
<b>Specific result, conviction on charge of offence causing</b>	597
<b>Speech—</b>	
defamatory, in Parliament .....	351 (1)
to jury by counsel .....	637
<b>Sports, public, fair comment as to</b>	355 (7)
<b>Spring-gun, setting</b>	305
<b>Square. See Highway.</b>	
<b>Stack of produce—</b>	
attempting to set fire to .....	446
letter threatening to destroy .....	463
setting fire to .....	446
<b>Stamp—</b>	
adhesive, fraudulent use of .....	491, 495
coin, for making or defacing. See Coin .....	154 (3), 162
counterfeiting .....	495
Court fees, denoting, forging .....	473 (4) (j)
defaced, using .....	476, 491, 495
erasure of writing on .....	495 (6)
fraudulent removal of .....	491 (1)
for purpose of counterfeiting stamp .....	495 (3)
writing from stamp .....	495 (6)
included in term "seal" .....	469
mutilation of .....	495 (4)
preparing paper or die for making .....	495
public revenue—	
counterfeiting .....	495
forging .....	473 (3) (b)
possessing paper, etc., for making .....	494 (1) (b), 495
uttering cancelled .....	476
tampered with, possessing, etc. .....	495 (7)
uttering. See Uttering.	
<b>Standing mute, plea in case of accused</b>	619
<b>State—</b>	
documents, forging .....	473 (3)
<b>Statement, false. See False statement.</b>	
<b>Status. See also Personation.</b>	
attempt to procure unauthorised .....	488
<b>Statute—</b>	
disobeyance to order issued under .....	177, 178
penal—	
bringing fictitious action on .....	141
compounding action on .....	137
resisting officer discharging duty under .....	172
sufficiency of words of, in indictment .....	582
<b>Statute law—</b>	
conspiring to defeat enforcement of .....	560 (1)
disobedience to .....	177
<b>Statutes—</b>	
Imperial. See Imperial Statutes.	
matters and things originating under repealed Acts to enure for purposes of compiled Act .....	Compilation Act, s. 3
rules as to construction of .....	C.C. Act, s. 3
unrepealed, construction of, not affected .....	C.C. Act, s. 4
<b>Stay of—</b>	
execution in case of pregnant woman .....	658
prosecution for publication of Parliamentary paper .....	733

INDEX—*continued.*

Subject.	Section.
Stealing. See also Robbery ; Stolen.	
agent, etc., by	372 (2), 373, 374, 375, 378 (9)
animal. See Animal	378 (3)
assault with intention of	394, 395
cattle. See Cattle	378 (3)
chattel let to hire	378 (11)
indictment for	584 (13)
child or article on person of child	343
child under fourteen	343
circumstances of aggravation, with	378
clerk or servant, by. See Clerk or Servant	378 (7), 426 (d)
conviction of, what offences on indictment for	599
demanding property with intention of	396
director or officer of company, by	376, 378 (8)
distinct acts of, charging, in same indictment	586 (2)
dwelling-house, from. See Dwelling house.	
when value over five pounds	378 (5) (b)
with violence	378 (5) (b)
factor, pledge or lien by, when not deemed	372 (2)
food, taking, for animal of master, is not	372 (3)
form of indictment for	586
from the person	378 (5) (a)
general deficiency, evidence of, on charge of	586 (1)
goods in transit, etc.	378 (5) (c)
heiress	329 (2)
interest in stolen thing, by person having	376
joinder of charges of receiving and	586 (4)
joint owner, by	376
letter	378 (2)
meaning of term	371
minerals in mines	378 (4)
money—	
indictment for	586 (1)
received for another	375
received with direction	373, 374, 378 (9)
offences analogous to	(b)
punishable on summary conviction	379-390
opening locked room, box, etc., for purposes of	428-440
partner, by	378 (5) (f)
person, from the	376
place of trial on charge of	378 (5) (a)
pledge by factor or agent, when not deemed	575 (2) (3)
post, things sent by	372 (2)
power of attorney, property received under	378 (2)
	373, 374, 378 (9)
	(a)
previous conviction, after	378 (12)
proceeds of property received under power of attorney	373, 374, 378 (9)
	(a)
procuring husband or wife to steal from the other	377
public office, from	378 (5) (c)
public service, by person in	378 (6)
punishment for	378
security, taking with intent to use as, is	371 (2) (c)
severing, with intention of	383
sheep. See Sheep.	
ship, from	378 (5) (c) (d)
skin or carcase, killing animal with intention of	382, 426 (b)
summary conviction for, in certain cases	426
procedure on	427
summary conviction for offences analogous to	426-440
suspicion of. See Suspicion.	

civ.  
INDEX—*continued.*

Subject.	Section.
<b>Stealing—<i>continued.</i></b>	
tenant or lodger, by, of fixture or chattel .....	378 (11), 584 (13)
term “larceny” in statute, by-law, etc., means .....	C.C. Act, s. 3 (3)
things capable of being stolen, meaning of expression .....	370
title to land, indictment for .....	584 (12)
trust property .....	417
valuable security, proceeds of .....	373, 374, 378 (9) (c) 378 (10)
value of five hundred pounds, property of .....	378 (5) (b)
value of five pounds, property of .....	378 (1)
will .....	391–395
with violence. See Robbery .....	
Steam engine. See Engine.	
Steamship. See Ship.	
Stock. See Animal; Public debt.	
Stolen animal, possessing skin or carcase of .....	429
Stolen child under fourteen, receiving .....	343 (2)
Stolen property. See also Stealing.	
arrest of person offering .....	569
bringing into Western Australia .....	388
offering reward for return of .....	138
possessing .....	388, 414, 415
receiving .....	414
after change of ownership .....	415
joinder of charges of stealing and .....	586
place of trial on charge of .....	575 (4)
summary conviction for .....	426 (i)
trial of a number of persons for .....	586 (5)
restitution of, by offender. See Restitution .....	427, 717
stealing by person having interest in .....	376
taking reward for recovery of .....	416
Stopping mail .....	167
Stranded ship. See Ship “wrecked.”	
Strangling, with intent to commit indictable offence .....	292
Street. See also Highway.	
indictment for offence relating to any thing in .....	584 (11)
Strikes in trade disputes .....	550, 561
Structure. See Building; Dwelling-house.	
Stuffing ballot-box .....	107
Stupefying thing. See Drug.	
Subornation of perjury. See Perjury.	
Subscribing. See Signature.	
to prize fight .....	73
Suffocating, with intent to commit indictable offence .....	292
Suicide—	
aiding .....	288
attempt to commit .....	289
Summary conviction. See also Justice of the Peace.	
accessory after the fact, of .....	563
accused may elect to be tried on indictment in certain cases .....	551
assault, for. See Assault .....	319–324
assessment of value of property on .....	672
certificate of dismissal on complaint punishable on .....	323, 734
child under twelve, of .....	708
under sixteen .....	709, 710
civil liability with reference to .....	323, 440, 468, 671, 674, 737
defamation, in trivial case of .....	369
defined .....	1
discharge after. See Discharge .....	321, 467, 671
effect of, for indictable offence .....	673
fine, appropriation of, on .....	672
for attempt to commit indictable offence .....	552

Subject.	Section.
Summary conviction— <i>continued.</i>	
for indictable offence—	
animal, killing or maiming, in case of child under twelve, in case of	465 (b), 467 708
elections, in case of offence relating to	604
injury to property, in case of	465 (a), 467 426, 427 709
stealing and like indictable offences, in case of young person, in case of	426, 427 709
for trivial case—	
of defamation	369
of injury to property	467
forgery, and like offences, for	490-493 593
indictment, provisions as to, apply to complaint in order to	465 (a), 467 320, 427, 433, 466 706
injury to property for	427, 466, 574
justice, when to abstain from	465 (a), 467 3
pardon on	426, 427
procedure upon prosecution in order to	428, 440
property, for damaging	574 20
simple offence, of	
stealing and like indictable offences, for	
stealing, for offences analogous to	
time for prosecution of indictable offence in order to	
time from which sentence of imprisonment takes effect in case of	
Summary jurisdiction. See Summary conviction.	
contempt of Court, in respect of	C.C. Act, s. 7
Summing up—	
by counsel for Crown	637
by Court to jury	638
Summons—	
of juror, general law as to, applicable	625
Sunday, verdict on, valid	647
Superintendent of prison. See Prison.	
Suppression of riot. See Riot.	
Supreme Court. See also Court; Judge; Court of Criminal Appeal.	
Circuit Court or Court of General or Quarter Sessions, judgment	
may be recorded in	677
change of place of trial when indictment presented in	577
private information, leave by, to file. See Information by private person	720
Sureties. See Bail; Recognisance; Security.	
Surgical operation. See Medical.	
criminal responsibility with reference to	255, 265
Surrender to be demanded before extreme force used	233
Surveyor and valuator, corruption of	88
Suspicion—	
aiding arrest by police officer in case of	564 (b)
as to woman being detained for immoral purpose	716
of stealing—	
cattle	429
search warrant in case of	711
shipwrecked goods	434
Swearing. See Oath.	
T.	
Tackle of mine, injury to. See Mine	453 VII. (j) (k), 456 (3)
Taking, fraudulent, meaning of	371
Tame animals, stealing	370

INDEX—*continued.*

Subject.	Section.
Tampering with. See Interference.	
machinery, endangering steamship by	309, 310
Taxation of costs	676
Telegram. See also Telegraph.	
false certificate of	482
forging	473 (5)
indictment for offence in respect of	584 (4)
Telegraph—	
false certificate of message received by	482
Tenant—	
stealing by, of fixture or chattel	378 (11)
description of property in indictment for	584 (13)
Tender—	
before action with respect to arrest, etc.	739
of defaced coin is not legal tender	166
Terms—	
construction of. See Definitions.	
Testamentary instrument. See Will.	
Testimony. See Evidence.	
false. See Perjury.	
uncorroborated. See Uncorroborated testimony.	
Theft. See Stealing.	
Thing—	
capable of being stolen. See Stealing	370
sent by post, definition of	1
Threat. See also Compulsion.	
assault, may constitute	222
attempt to rob with	394
death caused by	272
defamatory matter, to publish, to extort money	363, 398, 399
defilement of woman, to procure	192
demanding property with	396, 397
with intent to steal	396
dwelling-house, to injure	74
elector, to induce, to vote	98 (1)
employee, to, in respect of employment	550, 551
execution of deeds, etc., to procure	399
extortion by	363, 397, 398
generally	338
injure, to	338
juror, to	123
legal proceedings, to institute, for taking wearing apparel from	
brothel	194
member of Parliament, to	61
minister of religion, to	179 (1) (2)
obtaining entrance into building by, is breaking and entering	400
Parliament, to levy war on	37 (5) (b), 39 (b)
political liberty, interfering with	75
rape, consent obtained by, to, is immaterial	202
to use violence	74
justification of act by reason of	31 (3) (4)
when stealing	391
from dwelling-house	378 (5) (b)
witness before Parliament, against	58
witness before Royal Commission, against	128
workman, to, in respect of employment	550
written—	
demanding property by	397
to burn or destroy	463
to murder	285
Ticket, seaman's, forgery of	490

INDEX—*continued.*

Subject.	Section.
Time—	
bankrupt, person deemed to be a	515
challenge of juror, for	627, 629
commencement of proceedings, for, with respect to arrest, etc.	
See Limitation	739
death, of, when material	276
dispersing, for—	
after proclamation made in case of riot	65
execution, of, fixed by Governor in Council	657, 678
husband or wife absent, material on charge of bigamy	339
indictment—	
for motion to quash, for formal defect	590
of offence to be stated in	582
of previous conviction to be stated in	588
statement, of, when necessary in	590
limitation of. See Limitation.	
night, what is	1
notice, for, of application to stay prosecution for publishing Parliamentary paper	733
notice, for, of intended proceedings in respect of wrongful arrest, etc.	739
oath, for giving information as to unlawful	49
private information—	
for appearance to	722, 723
for plea or demurrer to	724
for plea to	722, 723
after judgment on demurrer to	726
for trial, in case of	725
prosecution, for. See Limitation.	
reckoning of	276
saving provisions as to	607A
sentence of imprisonment takes effect	20
treason—	
for giving names of jury, on charge of	730
for proceeding in case of	40
trial, for—	
in case of private information	725
of person committed	566, 567
whipping, for	680
Title—	
of proceedings in criminal jurisdiction—	
in case of information by leave	720
to land—	
assault, question as to, arising on charge of	321
concealing document which is evidence of	381
damaging document which is evidence of	453, VIII.
forcible detainer against person having	70
forging evidence of	473 (2) (d) (e)
having, is no justification of forcible entry	69
indictment relating to document which is	584 (12)
to property—	
concealing register authenticating	379
damaging register recording	453 III.
forgery of, punishment for	473 (2)
fraud to induce acceptance of	413
receiving stolen property after another has acquired, is lawful	415
to public debt, evidence of forging	473 (2) (a)
Tool. See Instrument.	
Totalisator, Western Australian Turf Club, etc., may use	211
Totalisator Regulation Act, 1911. Provisions of Chapter XXIII., subject to	211

INDEX—*continued.*

Subject.	Section.
Trade—	
assault in interference with freedom of	324
assault in pursuance of conspiracy respecting	318 (6)
conspiring to injure person in his	560 (4) (5)
disputes—	
conspiracy in	561
intimidation, etc.	550
intimidation in respect of employment in	550
offences connected with. See Bankrupt	515—528
public officer interested in, carried on by him	85
with pirate	77 (5) (h)
Trade marks and trade descriptions—	
applying to goods	499
article of commerce, on, not included in term “document”	469
definitions	497
offence	496
forging	498
applying marks and descriptions	499
exemption of persons employed in ordinary course of business	500
watches, application to	501
how described in information, etc.	502
evidence	503
search warrant, and forfeiting and destroying goods seized	504
costs	505
limitation of proceedings	506
provisions of chapter not to apply to certain trade descriptions	
used prior to November, 1888	507
savings	508
Royal warrant, false representation as to	509
Trader, meaning of in Chap. LII.	497
Trade union. See Association.	
Trafficking in offices	119
Train. See Railway.	
Training to use of arms in contravention of proclamation	51 (1) (a)
Tramway. See Railway.	
included in term “railway”	1
Transfer of property—	
forging. See Forgery “transfer”	472, 473 (2)
to Curator. See Curator of prisoner’s estate	
to defraud creditor	527 (1)
to secure registration of elector	99 (5)
Trap to destroy vermin, not unlawful	305
Travelling—	
by railway. See Railway.	
with infected animal	460
Treason. See also Treasonable crime	
concealment of	38
jury list given to person charged with	730
prosecution for, does not lie in certain cases	50
time for proceeding in case of	40
two witnesses necessary on charge of	40
crime of	37
evidence on charge of	40
giving information to justice as to intention to commit	38 (2)
indictment for, what to be alleged in	584 (1)
jury list to be given to person charged with	730
prosecution for, does not lie in certain cases	39

INDEX—*continued.*

Subject.	Section.
Treason— <i>continued.</i>	
sentence of death for ....	657
time for proceeding in case of ....	40
two witnesses necessary on charge of ....	40
Treasonable crime	39
prosecution for, does not lie in certain cases ....	39
two witnesses necessary on charge of ....	40
Treasurer, delivery of thing seized to ....	714
Treating at elections ....	97
meaning of term ....	97
Treatment—	
indecent. See Indecent.	
medical or surgical. See Medical.	
Tree, standing setting fire to ....	447 (c), 448
Trespasser—	
defence of—	
dwelling-house against ....	244, 254, 255
land against....	254, 255
to maintain right-of-way ....	256
with claim of right ....	255
moveable property against ....	251
under claim of right ....	252
without claim of right ....	253
place against ....	254
right-of-way against ....	256
structure against ....	254
with claim of right ....	255
vessel against ....	254, 255
with claim of right ....	255
forcible detainer by ....	70
forcible entry by ....	69
setting mantrap to harm ....	305
use of force against. See Force ....	251, 256, 441
Trial—	
acceleration of, application for ....	609
accessory, etc., of ....	586 (5), 587
accused, of—	
brought before wrong court ....	576
found incapable of understanding proceedings ....	631
accused, presence of, at ....	635
adjournment of. See Adjournment.	
amended indictment, on ....	591
application by accused—	
to be brought to ....	608, 609
to be tried by less than twelve jurors ....	646
by Jury. See Jury.	
case reserved at. See Case reserved.	
cause for challenge, as to ....	630
change of place of ....	576, 577
enlargement of recognisance in case of ....	577
when accused brought before wrong Court ....	576
commencement of ....	612
committal for. See Committal	572
committal for sentence instead of for ....	618
counsel, defence by, at ....	634, 637
depositions at, inspection of ....	746
escaped prisoner, of ....	146
evidence in defence at ....	636
fresh issues at ....	651
hearing, exclusion of persons from ....	635A
inspection of depositions at ....	746
jurisdiction of Courts, with respect to, of offenders. See also Jurisdiction.	571

Subject.	Section.
Trial— <i>continued.</i>	
jury by. See Jury. .... .... .... .... .... .... ....	622, 625
habitual criminal, of, proceedings in .... .... .... .... .... ....	650
notice of, in case of information by private person .... .... .... ....	725
place of	575
accessory after the fact, of .... .... .... .... .... ....	575 (6)
change of .... .... .... .... .... ....	576, 577
naming of, in margin of indictment .... .... .... ....	582
of person charged with committing offence out of Western Australia .... .... .... .... .... ....	575 (7)
on charge of—	
counselling defence .... .... .... .... .... ....	575 (6)
forging and uttering .... .... .... .... .... ....	575 (5)
receiving property .... .... .... .... .... ....	575 (4)
stealing .... .... .... .... .... ....	575 (2) (3)
when property in possession .... .... .... .... .... ....	575 (4)
plea at. See Plea. .... .... .... .... .... ....	612
proceedings at	608 <i>et seq.</i>
validity of, notwithstanding disobedience of jury. See also Validity	639, 641
Validity .... .... .... .... .... ....	573
recognition to appear at .... .... .... .... .... ....	635
removal of accused for misconduct at	
separate—	
of distinct charges .... .... .... .... .... ....	585
of persons jointly charged .... .... .... .... .... ....	624
summing up at .... .... .... .... .... ....	638
verdict at. See Verdict.	
view of place or thing, order for, during	641
Tribunal. See also Court.	
Trick. See False pretence; Fraudulent trick.	
Trivial case of—	
assault .... .... .... .... .... .... ....	321
defamation may be dealt with summarily .... .... .... .... ....	369
injury to property, etc. .... .... .... .... .... ....	467
oral defamation, defence to .... .... .... .... ....	362
secret commission, receiving, etc. .... .... .... .... ....	539
Trustee—	
bankrupt failing to—	
deliver papers or property to .... .... .... .... ....	521
discover property to .... .... .... .... ....	521
give information as to false proof of debt to .... .... .... ....	520 (1)
corruption of. See Secret Commission.	
destruction of trust property by .... .... .... .... ....	417
failure to—	
deliver bankrupt's property to .... .... .... .... ....	524
discover concealed property to .... .... .... .... ....	526
fraudulently disposing of trust property .... .... .... ....	417
meaning of term .... .... .... .... .... ....	417
prosecution of, sanction of Court, when necessary to .... .... ....	417
publication of proceedings of public, protected .... .... .... ....	354 (6)
stealing trust property .... .... .... .... ....	417
Truth—	
publication of, protected .... .... .... .... .... ....	356
special plea of, on charge of defamation .... .... .... .... ....	617
costs on failure of .... .... .... .... .... ....	675 (2)
Type, levy out of, on conviction for defamation .... .... .... .... ....	681

INDEX—*continued.*

Subject.	Section.
U.	
Umpire, corruption of ....	121
Unauthorised use of vehicles ....	390A
Unborn child—	
killing ....	290
surgical operation on....	259
Uncorroborated testimony—	
defined ....	1
insufficient on charge of—	
defilement of—	
girl under sixteen ....	188
girl under thirteen ....	185
idiot ....	188
giving false evidence before Parliament or Committee ....	57
making false claim in connection with election ....	114
making false statement in declarations, etc. ....	171
perjury ....	126
procuration ....	191
procuring defilement by threats, etc. ....	192
sedition ....	52
treason ....	40
concealment of ....	40
treasonable crime ....	40
Under Secretary, forging signature of ....	473 (3) (a)
Under Sheriff. See Sheriff.	
Understanding, want of. See Insanity.	
Undischarged bankrupt obtaining credit ....	528
Undue influence at election ....	98
Union. See Association.	
Unlawful. See also Illegal ; Unlawfully using.	
act, with reference to injury to property ....	441, 442
assault. See Assault	223
assembly. See also breach of the peace ; Riot.	62-74
inciting persons to make mutinous ....	41
meaning of ....	62
punishment of ....	63
training to the use of arms, for ....	51 (1) (b), (2)
association. See Association.	
celebration of marriage ....	340
custody of insane person ....	337
detention. See Detention.	
drilling ....	51
killing. See Killing ....	268, 277
oath, to commit offence. See Oath ....	47-49
publication of defamatory matter. See Defamatory matter ....	360
wounding. See Wounding ....	294 (1), 301 (1)
Unlawfully using—	
animal, conviction for, on charge of stealing ....	606 (a)
cattle ....	428
Unnatural offence ....	181
assault with intent to commit ....	314
attempt to commit ....	182
Unqualified person procuring registration as person qualified to	
celebrate marriages ....	342
Unseaworthy ship, sending or taking to sea ....	308
Unsound mind. See Insanity.	
Use of vehicles, unauthorised ....	390 A
Using. See also Possession ; Uttering.	
adhesive stamp fraudulently ....	491
dangerous thing carelessly ....	266
die, etc., for counterfeiting stamp ....	495 (1)
force. See Force.	

Subject.	Section.
Using— <i>continued.</i>	
hotel, club, etc., for committee room .....	102 (3)
knowingly uttering or, meaning of expression .....	1
means to procure abortion .....	199, 200
paper, etc., provided for—	
public documents, bank notes, etc. ....	494
registered brand with criminal intention .....	384
term "uttering" includes .....	1, 152
unlawfully. See Unlawfully using.	
used stamp .....	491, 495
violence to workman or employer in respect of employment.	
See also Violence .....	550
Utter—	
Meaning of term .....	1
as applied to coin .....	152
Uttering—	
cheque with obliterated crossing .....	478 (2)
coin—	
base copper .....	161
counterfeit gold or silver .....	157
after previous conviction .....	159
repeatedly .....	158
defaced .....	166
foreign, as current coin .....	157, 163
medal, etc., of less value than genuine .....	163 (b)
document or writing—	
cancelled or exhausted .....	475
executed for another without authority .....	479 (2)
personation, for purposes of .....	513
seamen, factories, etc., relating to .....	490 (2)
with used stamp affixed .....	491 (4)
false document .....	474
place of trial on charge of .....	575 (5)
purporting to be rules of company, etc. ....	489
fraudulent, of false document, etc., meaning of .....	474
knowingly, meaning of expression .....	1
meaning of term, as applied to coin .....	152
seal—	
cancelled impression of .....	476
counterfeit .....	474
stamp—	
fraudulently removed from document .....	491 (3)
used or cancelled .....	476
Validity of—	
judgment when accused not asked to show cause .....	654
legal proceeding on Sunday .....	647
proceedings, notwithstanding disobedience of jury with respect to order to view .....	641
proceedings notwithstanding separation of jurors .....	639
Valuable consideration. See Secret Commission.	
Valuable security—	
execution or destruction of—	
obtaining, by false pretences .....	410
procuring by threat .....	399 (a)

## V.

INDEX—*continued.*

Subject.	Section.
Valuable security— <i>continued.</i>	
falsification or destruction of—	
bankrupt, by .... .... .... .... .... .... .... ....	519
company, of .... .... .... .... .... .... .... ....	419, 548
employer, of .... .... .... .... .... .... .... ....	424
forging .... .... .... .... .... .... .... .... ....	473 (2) (g) (h)
acknowledgment of deposit, etc., of .... .... .... ....	473 (2) (i)
order for delivery or transfer of .... .... .... ....	473 (2) (h)
meaning of term .... .... .... .... .... .... .... ....	1
procuring the writing of name, etc., on paper, to use as ....	399 (b), 410
restitution of, after conviction .... .... .... .... ....	717
stealing, proceeds of .... .... .... .... .... .... ....	373, 374, 378 (9)
(c)	
88	
Valuator, corruption of .... .... .... .... .... .... ....	
Value—	
fine assessed at—	
of fish destroyed .... .... .... .... .... .... ....	437
of shipwrecked goods .... .... .... .... .... ....	434, 435
in indictment, when not necessary to set out .... .... ....	583 (3)
of five hundred pounds—	
obtaining goods of, by false pretence .... .... ....	409
stealing property of .... .... .... .... .... ....	378 (10)
of five pounds—	
stealing fixture or chattel of .... .... .... .... ....	378 (11)
stealing property from dwelling house of .... ....	378 (5) (b)
of ten pounds—	
bankrupt concealing property of .... .... .... ....	518 (1) (a), (2) (a)
bankrupt removing property of .... .... .... ....	517 (1) (a), (2)
absconding with property of .... .... .... ....	516
of fifty pounds—	
summary conviction where property in question not over ....	426, 465
property, of—	
appropriation of fine dependent on .... .... .... ....	672
assessment of penalty dependent on .... .... .... ....	672
conspiring to depreciate .... .... .... .... ....	560 (2) (3)
order for payment of. See Compensation.	
uttering medal, etc., of less than genuine coin .... .... ....	163 (b)
Valuer, corruption of .... .... .... .... .... .... ....	88
Variance between indictment and evidence .... .... .... ....	591
Varying order appointing guardian .... .... .... .... ....	736
Vegetable produce—	
setting fire to crop of .... .... .... .... .... ....	447 (a)
setting fire to stack of .... .... .... .... .... ....	446
threatening by writing to set fire to .... .... .... ....	463
Vehicle—	
disposal of explosive substance found in .... .... .... ....	715
railway, obstructing .... .... .... .... .... .... ....	462
stealing goods from .... .... .... .... .... .... ....	378 (5) (c)
unauthorised use of .... .... .... .... .... .... ....	390 A
Venue. See Trial, place of.	
change of .... .... .... .... .... .... .... ....	576, 577
Verdict—	
acquittal, of .... .... .... .... .... .... .... ....	653
consideration of, by jury .... .... .... .... .... ....	638, 640
defamation, on charge of .... .... .... .... .... ....	643
disagreement of jury with respect to .... .... .... ....	644
general, on charge of defamation .... .... .... ....	643
given on Sunday, validity of .... .... .... .... ....	647
guilty, of .... .... .... .... .... .... .... ....	654
on charge of defamation .... .... .... .... ....	643

INDEX—*continued.*

Subject.	Section.
Verdict— <i>continued.</i>	
jurisdiction of Court, as to	621
not guilty, of	653
on charge of defamation	643
on ground of insanity	653
order on	653
previous conviction, as to	648
special	642
Vermin, trap to destroy, not unlawful	305
Vessel. See Ship.	
meaning of term	1
Viaduct—	
damaging	453 II. (c), VII. (e)
destroying	453 II. (b)
View by jury of place or thing	641
Violation. See Defilement.	
Violence. See also Assault.	
execution of deed, etc., procuring, by	399
insane person, by, prevention of	243
interfering with political liberty by	75
minister of religion, to, offering	179
piracy, attempted, with personal	79
piracy with, endangering life	78
stealing with. See Robbery	391, 394
threatened, justification of act done to resist	31 (3) (4)
threatening. See also Threat	74
to person in dwelling-house with, stealing	378 (5) (b)
workman or employer, to intimidate	550
Voting—	
bribery to influence manner of—	
by elector	99
by member of Parliament	60
by person not entitled to vote	101 (2)
Court may order disclosure as to manner of	110 (3)
discovering manner of	110 (2)
double, at elections	95
meaning of term	95
in name of another	94
post, by, offences in connection with	112
recording excessive number of votes	96
threat, etc., to induce elector to vote or refrain from	98
when prohibited by law	101 (1) (2)
Voting paper—	
at election. See Elections, ballot-paper at, signing name on,	
unlawfully	112
Voucher, forging	473 (4) (s)
W.	
Wages—	
assault in pursuance of conspiracy affecting	318 (6)
Wall of the sea, river, etc.—	
damaging	453 II. (a), VII. (d)
interfering with	458
Want of knowledge. See also Defence.	
as to impossibility of committing attempted offence is immaterial	4
Want of understanding. See Insanity.	
of accused, finding as to	631

Subject.	Section.
War—	
aiding escape of prisoner of	42
aiding public enemy at, with Sovereign	37 (8)
instigating foreigner to levy, on Sovereign	37 (7), 39 (c)
intention to levy, against Sovereign	39 (b)
levying, against Sovereign, when treason	37 (5)
Warder permitting escape	147
Warehouse—	
breaking into and committing crime	403 (1)
breaking into with intent to commit crime	404
breaking out of and committing crime	403 (2)
Warehouse-keeper's certificate, forging	473 (2) (j)
Warrant—	
arrest, for—	
after judgment for want of plea	727
necessary except when Code otherwise provides	5
of person charged in indictment	635
of person charged in information <i>ex officio</i>	580
when accused does not attend to receive sentence	727
arrest of wrong person under	229
arrest without. See Arrest.	
execution of	226
erroneous	227
irregular	230
issued without jurisdiction	228
obstructing officer in	151
use of force in	231
in first instance	439
production of, if required	232
search—	
detention for immoral purpose, in case of	716
issue of	711
stealing, for certain offences analogous to	439
trial, to bring accused to	635
when necessary before arrest. See Arrest.	
Warranty, false, relating to sale of food	492
Watch, meaning of, in Chap. LII.	501
Water, causing to run into mine	456 (1) (a)
Water-holes, poisoning	208
onus of proof in charge of	208
Waterworks. See Reservoir.	
Way, right of, exercise of disputed	256
Weapon. See Arms; Instrument.	
Wearing apparel—	
lawful to take away, from brothel	194
withholding, evidence of unlawful detention	194
Well, damaging	453 VII. (1)
Western Australia—	
attempt to procure commission of criminal acts out of	556
forging evidence of indebtedness of	473 (2) (c), 494
(1) (a)	473 (1) (a)
forging great seal of	661 (2) (3)
offence committed out of, by habitual criminal	
offence, initial element of which occurs—	
in	12
out of	12
offence procured in, to be committed out of	14
offence procured or counselled by person out of	13
place of trial in case of offence committed out of	575 (7)
statutes of—	
repealed	Compilation Act.
s. 2, Appendix A	
stolen goods, bringing, into	388

Subject.	Section.
Western Australian Turf Club, etc., may use the totalisator	211
Wether. See Sheep.	
Wharf—	
injury to	453 VII. (d)
interfering with	458
Wheat. See Crops.	
Whipping—	
directions as to	659, 670, 680
punishment of—	
not allowed, in case of female	18
time for infliction of	665
to be inflicted in certain offences against morality	206
Wife—	
accessory after the fact, does not become, in respect of guilty	
husband	10
criminal responsibility of, when act done in presence of husband	32
husband and, not criminally responsible for conspiracy	33
insult to, when deemed provocation for assault	245
liability of, for offence with respect to husband's property	35
procuring, to deal with property of husband	377
rape of, by personating husband	325
separate property of, allegation as to, in indictment	584 (7)
witness, as. See Witness.	
Wild animal, when capable of being stolen	370, 372 (1)
Wilful murder. See Murder, wilful.	
Will. See also Intention.	
concealing	380
damaging	453 III.
forged, demanding property upon	480
forging	473 (2) (f)
indictment relating to	584 (10)
stealing	378 (1)
Withdrawal of candidate. See Elections.	
Witness. See also Evidence; Uncorroborated testimony.	
attendance of, at adjourned trial	611
breach of the peace, of, may detain offender	237
corruption of	130
deceiving	131
depositions of, to be allowed to accused	745
expense of, for defence, Court may order payment of	741
examination of, by counsel	634
fair comment as to conduct of, is lawful	355 (4)
for defence, where accused person is	637
forging signature of. See Attestation	473 (2) (4)
husband or wife—	
is compellable, in case of complaint by husband against wife	
with respect to his property	35
in cases of rape and abduction	193, 331
detention with intent to defile or in a brothel	194
householder permitting defilement on premises	186
incest by wife	198
procuration	191
procuring defilement by threats, etc.	192
preventing attendance of	133
Parliament, before, threatening	58
privilege of, with respect to evidence given in Court	352
protection of, in cases of defamation, corruption of agents, etc.,	
See Secret commission	540, 541, 738
publishing defamatory matter, protection to	352
recognisance of—	
enlargement of, on adjournment of trial	611
when Court directs prosecution for perjury	731
when place of trial changed	577

INDEX—*continued.*

Subject.	Section.
Witness— <i>continued.</i>	
refusing to attend or give evidence before Parliament or Committee .....	59
Royal commission, before, threatening .....	128
wife—	
is compellable, in case of complaint by wife against husband with respect to her property .....	35
in competent and compellable, in case of abduction of girl under eighteen .....	193
abduction of girl under sixteen .....	331
abuse of girl under ten .....	187
attempt to commit rape .....	327, 331
defilement of—	
girl under sixteen .....	188
girl under thirteen .....	185
idiot .....	188
detention with intent to defile, or in a brothel .....	194
incest by husband .....	197
indecent assault on female .....	328, 331
under sixteen .....	189
permitting defilement of girl on premises .....	186
procuration .....	191
procuring defilement by threats, etc. .....	192
rape .....	325, 326, 331
Woman. See also Girl ; Wife ; Witness.	
abduction of. See Abduction.	
abortion of, attempt to procure. See Abortion .....	200
administering drug, etc., to. See Drug.	
age of, when immaterial, in case of offences against morality. See also Age .....	205
aggravated assault on .....	322
carnal connection with. See Carnal connection ; Carnal knowledge.	
conspiracy to defile .....	196
detention of—	
immoral purpose, for .....	194, 716
in brothel .....	194
interest in property, having .....	329 (2)
with intent to defile .....	194
with intent to marry .....	329
incest by .....	198
indecent assault on .....	328
conviction for, on charge of rape, etc. .....	596 (b) (c)
married. See Wife ; Witness.	
pregnant, stay of execution in case of .....	658
procuring defilement of .....	191
by administering drugs .....	192
by fraud or threats .....	192
rape of. See Rape.	
whipping cannot be inflicted on .....	18
Words. See also Definitions.	
of Code or statute, sufficient in indictment .....	582
of oath need not be set out in indictment .....	584 (2)
seditious. See Seditious words.	
Workman. See also Employer.	
assault in interference with freedom of .....	324
conspiracy to injure .....	560
assault in pursuance of .....	318 (6)
intimidation of .....	550
Wounding. See also Assault ; Bodily harm.	
animal, unlawfully .....	452
summary conviction for .....	465 (b)
piracy, with intent to commit .....	79 (2)

INDEX—*continued.*

Subject.	Section.
Wounding— <i>continued.</i>	
pirate, by .... .... .... .... .... .... .... ....	78
unlawfully .... .... .... .... .... .... .... ....	301 (1)
with intent to do grievous bodily harm, etc. .... .... .... ....	294 (1)
Wreck. See Ship.	
Writ of—	
inquiry, committal for perjury by person executing .... .... ....	731
Writing. See also Document; Uttering.	
accusation, containing, for purpose of extortion .... .... ....	398 (3)
charge to be dealt with summarily to be in .... .... ....	427, 466, 708 (3)
consent in, to marriage .... .... .... .... .... ....	340 (1)
false—	
making .... .... .... .... .... .... .... ....	471
meaning of term .... .... .... .... .... .... ....	470
to affect testimony of witness .... .... .... ....	131
forgery of .... .... .... .... .... .... .... ....	473
definition of writing in connection with .... .... ....	469
what constitutes .... .... .... .... .... ....	471
inscription on wood, etc., when included in term .... .... ....	469
on paper, procuring, to use as valuable security .... .... ....	399 (b), 410
or inscription, damage to, meaning of .... .... ....	443
sedition. See Seditious .... .... .... .... ....	46
threats in. See Threats, written.	
uttering. See Uttering.	
Wrongful arrest .... .... .... .... .... .... .... ....	229
limitation of proceedings in respect of .... .... ....	739
Wrongful entry. See Trespasser.	
Y.	
Young persons—	
Indictment of .... .... .... .... .... .... .... ....	19 (6a)
summary trial of. See Summary conviction .... .... ....	709, 710