

HONGKONG.

ANNO VICESIMO OCTAVO VICTORIÆ REGINÆ.

No. 4 of 1865.

By His Excellency WILLIAM THOMAS MERCER, Esquire, Acting Governor and Commander-in-Chief of the Colony of Hongkong and its Dependencies, and Vice-Admiral of the same, with the Advice of the Legislative Council of Hongkong.

W. T. MERCER.

An Ordinance to consolidate and amend the Enactments in Force in this Colony relating to Offences against the Person.

Title.

[2nd June, 1865.]

Whereas it is expedient to consolidate and amend the Enactments in Force in this Colony relating to Offences against the Person: Be it therefore enacted by His Excellency the Governor of Hongkong, with the Advice of the Legislative Council thereof, as follows:—

Preamble.

Homicide.

1. Whosoever shall be convicted of Murder shall suffer Death as a Felon. Murder.
2. Upon every Conviction for Murder the Court shall pronounce Sentence of Death, and the same may be carried into Execution, and all other Proceedings upon such Sentence and in respect thereof may be had and taken, in the same Manner in all respects as Sentence of Death might have been pronounced and carried into Execution, and all other Proceedings thereupon and in respect thereof might have been had and taken, before the passing of this Ordinance upon a Conviction for any other Felony for which the Prisoner might have been sentenced to suffer Death as a Felon. Sentence for Murder.
3. The Body of every Person executed for Murder shall be buried in such Place as the Governor shall order, and the Sentence of the Court shall so direct. Burial of Body.
4. All Persons who shall within this Colony conspire, confederate and agree to murder any Person, whether he be a Subject of Her Majesty or not, and whether he be within the Queen's Dominions or not, and whosoever within this Colony shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any Person, to murder any other Person, whether he be a Subject of Her Majesty or not, and whether he be within the Queen's Dominions or not, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not more than Ten and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour. Conspiring or soliciting to commit Murder.
5. Whosoever shall be convicted of Manslaughter shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, or to pay such Fine as the Court shall award, in addition to or without any such other discretionary Punishment as aforesaid. Manslaughter.
6. No Punishment or Forfeiture shall be incurred by any Person who shall kill another by Misfortune or in his own Defence, or in any other Manner without Felony. Excusable Homicide.
7. Every Offence which, before the Commencement of the Act of the Imperial Parliament of the Ninth Year of King *George* the Fourth, Chapter Thirty-one, would have amounted according to the Law of England to Petit Treason, shall be deemed to be Murder only, and no greater Offence; and all Persons guilty in respect thereof, whether as Principals or Accessories, shall be dealt with, indicted, tried, and punished as Principals and Accessories in Murder. Petit Treason.
8. Where any Person being feloniously stricken, poisoned, or otherwise hurt at any Place in this Colony, shall die of such Stroke, Poisoning, or Hurt upon the Sea, or at any Place out of this Colony, every Offence committed in respect of any such Case, whether the same shall amount to the Offence of Murder or of Manslaughter, or of being necessary to Murder or Manslaughter, may be dealt with, inquired of, tried, determined, and punished in this Colony in which such Stroke, Poisoning, or Hurt shall happen, in the same manner in all respects as if such Offence had been wholly committed in this Colony. Provision for Trial of Murder or Manslaughter where the Cause of Death only happens in this Colony.

Attempts to Murder.

Administering Poison or wounding with Intent to murder.

9. Whosoever shall administer to or cause to be administered to or to be taken by any Person any Poison or other destructive Thing or shall by any Means whatsoever wound, or cause any grievous bodily Harm to any Person, with Intent in any of the Cases aforesaid to commit Murder, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Destroying or damaging a Building with Intent to murder.

10. Whosoever, by the Explosion of Gunpowder or other explosive Substance, shall destroy or damage any Building with Intent to commit Murder, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Setting fire to or casting away a Ship with Intent to murder.

11. Whosoever shall set fire to any Ship or Vessel or any Part thereof, or any Part of the Tackle, Apparel, or Furniture thereof, or any Goods or Chattels being therein, or shall cast away or destroy any Ship or Vessel with Intent in any of such Cases to commit Murder, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour and with or without Solitary Confinement.

Attempting to administer Poison, or shooting, or attempting to shoot or drown, &c., with Intent to murder.

12. Whosoever shall attempt to administer to or shall attempt to cause to be administered to or to be taken by any Person any Poison or other destructive Thing, or shall shoot at any Person, or shall, by drawing a Trigger or in any other Manner, attempt to discharge any kind of loaded Arms at any Person, or shall attempt to drown, suffocate, or strangle any Person, with Intent, in any of the Cases aforesaid, to commit Murder, shall, whether any bodily Injury be effected or not, be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

By any other Means attempting to commit Murder.

13. Whosoever shall, by any Means other than those specified in any of the preceding Sections of this Ordinance, attempt to commit Murder, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Letters threatening to Murder.

Sending Letters threatening to murder.

14. Whosoever shall maliciously send, deliver, or utter, or directly or indirectly cause to be received, knowing the Contents thereof, any Letter or Writing threatening to kill or murder any Person, shall be guilty of Felony, and being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Ten Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and, if a Male under the Age of Sixteen Years, with or without Whipping.

Acts causing or tending to cause Danger to Life or bodily Harm.

Impeding a Person endeavouring to save himself from Shipwreck.

15. Whosoever shall unlawfully and maliciously prevent or impede any Person, being on board of or having quitted any Ship or Vessel, which shall be in Distress, or wrecked, stranded, or cast on shore, in his Endeavour to save his Life, or shall unlawfully and maliciously prevent or impede any Person in his Endeavour to save the Life of any such Person as in this Section first aforesaid, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Shooting or attempting to shoot, or wounding or striking with Intent to do grievous bodily Harm.

16. Whosoever shall unlawfully and maliciously by any means whatsoever wound or cause any grievous bodily Harm to any Person, or shoot at any Person, or, by drawing a Trigger or in any other Manner, attempt to discharge any kind of loaded

Arms at any Person, with Intent, in any of the Cases aforesaid, to maim, disfigure, or disable any Person, or to do some other grievous bodily Harm to any Person, or with Intent to resist or prevent the lawful Apprehension or Detainer of any Person, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life, or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

17. Any Gun, Pistol, or other Arms which shall be loaded in the Barrel with Gunpowder or any other explosive Substance, and, Ball, Shot, Slug, or other destructive Material, shall be deemed to be loaded Arms within the Meaning of this Ordinance, although the Attempt to discharge the same may fail from Want of proper Priming or from any other Cause. What shall constitute loaded Arms.

18. Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily Harm upon any other Person, either with or without any Weapon or Instrument, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour. Inflicting bodily Injury with or without Weapon.

19. Whosoever shall, by any Means, whatsoever, attempt to choke, suffocate, or strangle any other Person, or shall by any Means calculated to choke, suffocate, or strangle, attempt to render any other Person insensible, unconscious, or incapable of Resistance, with Intent in any of such Cases thereby to enable himself or any other Person to commit or with Intent in any of such Cases thereby to assist any other Person in committing any indictable Offence, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour. Attempting to choke, &c., in order to commit any indictable Offence.

20. Whosoever shall unlawfully apply or administer to or cause to be taken by, or attempt to apply or administer to or attempt to cause to be administered to or taken by, any Person, any Chloroform, Laudanum, Pepper or other stupefying or overpowering Drug, Matter, or Thing, with Intent in any of such Cases thereby to enable himself or any other Person to commit, or with Intent in any of such Cases thereby to assist any other Person in committing any indictable Offence, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour. Using Chloroform, &c., to commit any indictable Offence.

21. Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other Person any Poison or other destructive or noxious Thing, so as thereby to endanger the Life of such Person, or so as thereby to inflict upon such Person any grievous bodily Harm, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Ten Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour. Maliciously administering Poison, &c., so as to endanger Life or inflict grievous bodily Harm.

22. Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other Person any Poison or other destructive or noxious Thing, with Intent to injure, aggrieve, or annoy such Person, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour. Maliciously administering Poison, &c., with Intent to injure.

23. If upon the Trial of any Person for any Felony in the last but one preceding Section mentioned, the Jury shall not be satisfied that such Person is guilty thereof, but shall be satisfied that he is guilty of any Misdemeanor in the last preceding Section mentioned, then and in every such Case the Jury may acquit the Accused of such Felony, and find him guilty of such Misdemeanor, and thereupon he shall be liable to be punished in the same Manner, as if convicted upon an Information for such Misdemeanor. If Jury not satisfied that Person charged is guilty of Felony they may find him guilty of Misdemeanor.

24. Whosoever, being legally liable, either as a Master or Mistress, to provide for any Apprentice or Servant necessary Food, Clothing, or Lodging, shall wilfully and without lawful Excuse refuse or neglect to provide the same, or shall unlawfully and maliciously do or cause to be done any bodily Harm to any such Apprentice or Servant, so that the Life of such Apprentice or Servant shall be endangered, or the Health of Not providing Apprentices or Servants with Food, &c., whereby Life endangered.

such Apprentice or Servant shall have been or shall be likely to be permanently injured, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Exposing Children whereby Life endangered.

25. Whosoever shall unlawfully abandon or expose any Child, being under the Age of Two Years, whereby the Life of such Child shall be endangered, or the Health of such Child shall have been or shall be likely to be permanently injured, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Causing bodily Injury by Gunpowder, &c.

26. Whosoever shall unlawfully and maliciously, by the Explosion of Gunpowder or other explosive Substance, burn, maim, disfigure, disable, or do any grievous bodily Harm to any Person, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and, if a Male under the Age of Sixteen Years, with or without Whipping.

Causing Gunpowder to explode, &c., or throwing corrosive Fluid with Intent to do grievous bodily Harm.

27. Whosoever shall unlawfully and maliciously cause any Gunpowder or other explosive Substance to explode, or send or deliver to or cause to be taken or received by any Person any explosive Substance or any other dangerous or noxious Thing, or put or lay at any Place, or cast or throw at or upon or otherwise apply to any Person, any corrosive Fluid or any destructive or explosive Substance, with Intent, in any of the Cases aforesaid, to burn, maim, disfigure, or disable any Person, or to do some grievous bodily Harm to any Person, shall, whether any bodily Injury be effected or not, be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and, if a Male under the Age of Sixteen Years, with or without Whipping.

Placing Gunpowder near a Building, &c., with Intent to do bodily Injury to any Person.

28. Whosoever shall unlawfully and maliciously place, or throw in, into, upon, against, or near any Building, Ship, or Vessel any Gunpowder or other explosive Substance, with Intent to do any bodily Injury to any Person, shall, whether or not any Explosion take place, and whether or not any bodily Injury be effected, be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and, if a Male under the Age of Sixteen Years, with or without Whipping.

Setting Spring Guns, &c., with Intent to inflict grievous bodily Harm.

29. Whosoever shall set or place, or cause to be set or placed, any Spring Gun, Man Trap, or other Engine calculated to destroy Human Life or to inflict grievous bodily Harm, with the Intent that the same or whereby the same may destroy or inflict grievous bodily Harm upon a Tresspasser or other Person coming in Contact therewith, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and whosoever shall knowingly and wilfully permit any such Spring Gun, Man Trap, or other Engine which may have been set or placed in any Place then being in or afterwards coming into his Possession or Occupation by some other Person to continue so set or placed, shall be deemed to have set and placed such Gun, Trap, or Engine with such Intent as aforesaid: Provided that nothing in this Section contained shall extend to make it illegal to set or place any Gun or Trap such as may have been or may be usually set or placed with the Intent of destroying Vermin: Provided also that nothing in this Section shall be deemed to make it unlawful to set or place or cause to be set or placed, or to be continued set or placed, from Sunset to Sunrise, any Spring Gun, Man Trap, or other Engine which shall be set or placed, or caused or continue to be set or placed, in a Dwelling-house, for the Protection thereof.

Drivers of Carriages, &c., injuring Persons by furious Driving.

30. Whosoever, having the Charge of any Carriage or Vehicle, shall, by wanton or furious Driving or Racing, or other wilful Misconduct, or by wilful Neglect, do or cause to be done any bodily Harm to any Person whatsoever, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Assaults.

31. Whosoever shall, by Threats or Force, obstruct or prevent, or endeavour to obstruct or prevent, any Clergyman or other Minister in or from celebrating Divine Service or otherwise officiating in any Church, Chapel, Meeting House, or other Place of Divine Worship, or in or from the Performance of his Duty in the lawful Burial of the Dead in any Churchyard or other Burial Place, or shall strike or offer any Violence to, or shall, upon any Civil Process, or under the Pretence of executing any Civil Process, arrest any Clergyman or other Minister who is engaged in, or to the Knowledge of the Offender is about to engage in, any of the Rites or Duties in this Section aforesaid, or who to the Knowledge of the Offender, shall be going to perform the same or returning from the Performance thereof, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Obstructing or assaulting Clergyman, &c., in the Discharge of his Duties.

32. Whosoever shall assault and strike or wound any Police Magistrate, Justice of the Peace, Officer, or other Person whatsoever lawfully authorized, in or on account of the Exercise of his Duty in or concerning the Preservation of any Vessel in Distress, or of any Vessel, Goods, or Effects wrecked, stranded, or cast on Shore, or lying under Water, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Seven Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Assaulting a Magistrate, &c., on account of his preserving Wreck.

33. Whosoever shall assault any Person with Intent to commit Felony, or shall assault, resist, or wilfully obstruct any Constable or Police Officer in the due Execution of his Duty, or any Person acting in Aid of such Officer, or shall assault any Person with Intent to resist or prevent the lawful Apprehension or Detainer of himself or of any other Person for any Offence, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Assault with Intent to commit Felony or on Peace Officers, &c.

34. Whosoever shall beat, or use any Violence or Threat of Violence to any Person, with Intent to deter or hinder him from buying, selling, or otherwise disposing of or to compel him to buy, sell, or otherwise dispose of, any Corn, Rice, or other Grain, Flour, Plantains, Yams, Sweet Potatoes or other Vegetables or Salt in any Market or other Place, or shall beat or use any such Violence or Threat to any Person having the care or charge of any Corn, Rice, or other Grain, Flour, Plantains, Yams, Sweet Potatoes, or other Vegetables or Salt whilst on the way to or from any City, Town, or other Place with Intent to stop the Conveyance of the same, shall, on Conviction thereof, before any Police Magistrate, be liable to be imprisoned and kept to Hard Labour in the Common Gaol for any Term not exceeding Three Months: Provided that no Person, who shall be punished for any such Offence by virtue of this Section, shall be punished for the same Offence by virtue of any other Ordinance.

Summary Conviction in case of Assaults with Intent to obstruct the Sale of Grain or its free Passage.

35. Whosoever shall unlawfully and with Force hinder or prevent any Person from working at or exercising his lawful Trade, Business, or Occupation, or shall beat or use any Violence or any Threat of Violence to any such Person with Intent to hinder or prevent him from working at or exercising the same, shall, on Conviction thereof before any Police Magistrate, be liable to be imprisoned and kept to Hard Labour in the Common Gaol for any Term not exceeding Three Months: Provided that no Person, who shall be punished for any such Offence by reason of this Section, shall be punished for the same Offence by virtue of any other Ordinance.

Assaults on Persons with Intent to hinder them in working.

36. Whosoever, in pursuance of any unlawful Combination or Conspiracy to raise the Rate of Wages, or of any unlawful Combination or Conspiracy respecting any Trade, Business, or Manufacture, or respecting any Person concerned or employed therein, shall unlawfully assault any Person, shall be guilty of a Misdemeanor and, being convicted thereof, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Assaults arising from Combination.

37. When any Person shall be charged before any Police Magistrate with an Assault or Battery upon any Male Child whose Age shall not in the Opinion of such Magistrate exceed Fourteen Years, or upon any Female, either upon the Complaint of the Party aggrieved or otherwise, the said Magistrate may proceed to hear and determine the same in a summary Way, and, if the same be proved, may convict the Person accused; and every such Offender shall be liable to be imprisoned in the Common Gaol, with or without Hard Labour, for any period not exceeding Six Months or to pay a Fine not exceeding

Assaults on Females and Boys under Fourteen Years of Age.

(together with Costs) the Sum of One hundred Dollars, which Fine shall be paid to Her Majesty for the Use of the Colony, and in Default of Payment to be imprisoned in the Common Gaol, with or without Hard Labour, for any Period not exceeding Six Months, unless such Fine and Costs be sooner paid, and, if the Magistrate shall so think fit, in any of the said Cases, shall be bound to keep the Peace and be of good Behaviour for any Period not exceeding Six Months from the Expiration of such Sentence.

If the Magistrate dismiss the Complaint he shall make out a Certificate to that Effect.

38. If the Magistrate, upon the Hearing of any Case of Assault or Battery upon the Merits, where the Complaint was preferred by or on the Behalf of the Party aggrieved, and shall deem the Offence not to be proved, or shall find the Assault or Battery to have been justified, or so trifling as not to merit any Punishment, and shall accordingly dismiss the Complaint, he shall forthwith make out a Certificate under his Hand stating the Fact of such Dismissal, and shall deliver such Certificate to the Party against whom the Complaint was preferred.

Certificate or Conviction shall be a Bar to any other Proceeding.

39. If any Person, against whom any such Complaint as shall have been preferred by or on the Behalf of the Party aggrieved, shall have obtained such Certificate, or, having been convicted, shall have paid the whole Amount adjudged to be paid, or shall have suffered the Imprisonment or Imprisonment with Hard Labour awarded, in every such Case he shall be released from all further or other Proceedings, Civil or Criminal, for the same Cause.

These Provisions not to apply to certain Cases.

40. Provided, that in case the Magistrate shall find the Assault or Battery complained of to have been accompanied by any Attempt to commit Felony, or shall be of Opinion that the same is, from any other Circumstance, a fit Subject for a Prosecution by Information, he shall abstain from any Adjudication thereupon, and shall deal with the Case in all respects in the same Manner as if he had no Authority finally to hear and determine the same: Provided also, that nothing herein contained shall authorise any Magistrate to hear and determine any Case of Assault or Battery in which any Question shall arise as to the Title to any Lands, Tenements or Hereditaments or any Interest therein or accruing therefrom, or as to any Bankruptcy or Insolvency, or any Execution under the Process of any Court of Justice.

Assault occasioning Bodily Harm.

41. Whosoever shall be convicted upon an Information of any Assault occasioning actual bodily Harm shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and whosoever shall be convicted upon an Information for a Common Assault shall be liable, at the Discretion of the Court, or of a Police Magistrate, to be imprisoned for any Term not exceeding One Year, with or without Hard Labour.

Common Assault.

Rape, Abduction, and Defilement of Women.

Rape.

42. Whosoever shall be convicted of the Crime of Rape shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Procuring the Defilement of Girl under Age.

43. Whosoever shall, by false Pretences, false Representations or other fraudulent Means, procure any Woman or Girl under the age of Twenty-one Years to have illicit or carnal Connexion with any Man, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Carnally knowing a Girl under Ten Years of Age.

44. Whosoever shall unlawfully and carnally know and abuse any Girl under the Age of Ten Years shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Carnally knowing a Girl between the Ages of Ten and Twelve.

45. Whosoever shall unlawfully and carnally know and abuse any Girl being above the Age of Ten Years and under the Age of Twelve Years shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Attempts to commit the last two Offences.

46. Whosoever shall be convicted of any indecent Assault upon any Female, or of any Attempt to have carnal Knowledge of any Girl under Twelve Years of Age, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

47. Where any Woman of any Age shall have any Interest whether legal or equitable, present or future, absolute, conditional, or contingent, in any Real or Personal Estate or shall be a presumptive Heiress or Coheiress or presumptive Next of Kin, or one of the presumptive Next of Kin, to any one having such Interest, whosoever shall, from Motives of Lucre, take away or detain such Woman against her Will, with Intent to marry or carnally know her, or to cause her to be married or carnally known by any other Person; and whosoever shall fraudulently allure, take away, or detain such Woman, being under the Age of Twenty-one Years, out of the Possession and against the Will of her Father or Mother, or of any other Person having the lawful Care or Charge of her, with Intent to marry or carnally know her, or to cause her to be married or carnally known by any other Person, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and whosoever shall be convicted of any Offence against this Section, shall be incapable of taking any Estate or Interest, legal or equitable, in any Real or Personal Estate of such Woman, or in which she shall have any such Interest, or which shall come to her as such Heiress, Coheiress, or Next of Kin as aforesaid; and if any such Marriage as aforesaid shall have taken place, such Property shall, upon such Conviction, be settled in such Manner as the Supreme Court in this Colony sitting in its Equity Jurisdiction shall, upon any Information at the Suit of the Attorney General, appoint.

Abduction of a Woman against her Will from Motives of Lucre.

Fraudulent Abduction of a Girl against the Will of her Father, &c.

Offender incapable of taking any of her Property.

48. Whosoever shall, by Force, take away or detain against her Will any Woman of any Age, with Intent to marry or carnally know her, or to cause her to be married or carnally known by any other Person, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years with or without Hard Labour.

Forcible Abduction of any Woman with Intent to marry her.

49. Whosoever shall unlawfully take or cause to be taken any unmarried Girl, being under the Age of Sixteen Years out of the Possession and against the Will of her Father and Mother, or of any other Person having the lawful Care or Charge of her, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Abduction of a Girl under Sixteen Years of Age.

Forcible Taking or Detention.

50. Whosoever, shall, by Force, take away or detain against his Will any Man or Boy, Woman or Female Child with Intent to sell him or her or to procure a Ransom or Benefit for his or her Liberation, shall be guilty of Felony and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years with or without Hard Labour.

Forcible Taking or Keeping any Person.

Child Stealing.

51. Whosoever shall unlawfully, either by Force or Fraud, lead or take away, or decoy or entice away or detain any Child under the Age of Fourteen Years, with Intent to deprive any Parent, Guardian, or other Person having the lawful Care or Charge of such Child of the Possession of such Child, or with Intent to steal any Article upon or about the Person of such Child, to whomsoever such Article may belong, and whosoever shall, with any such Intent, receive or harbour any such Child, knowing the same to have been, by Force or Fraud, led, taken, decoyed, enticed away, or detained as in this Section before-mentioned, shall be guilty of Felony, and being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Seven Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and, if a Male under the Age of Sixteen Years, with or without Whipping: Provided, that no Person who shall have claimed any Right to the Possession of such Child, or shall be the Mother or shall have claimed to be the Father of an illegitimate Child, shall be liable to be prosecuted by virtue hereof on account of the getting Possession of such Child, or taking such Child out of the Possession of any Person having the lawful Charge thereof.

Child Stealing.

Bigamy.

52. Whosoever, being married, shall marry any other Person during the Life of the former Husband or Wife whether the second Marriage shall have taken place in this Colony or elsewhere, shall be guilty of Felony, and, being convicted thereof, shall be

Bigamy.

Not to extend to certain Marriages, &c., herein stated.

liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Seven Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour: Provided that nothing in this Section contained shall extend to any Second Marriage contracted elsewhere than in this Colony by any other than a Subject of Her Majesty, or to any Person marrying a Second Time whose Husband or Wife shall have been continually absent from such Persons for the Space of Seven Years then last past, and shall not have been known by such Persons to be living within that Time, or shall extend to any Person who, at the Time of such Second Marriage, shall have been divorced from the Bond of the First Marriage, or to any Person whose former Marriage shall have been declared void by the Sentence of any Court of competent Jurisdiction.

Attempt to procure Abortion.

Administering Drugs or using Instruments to procure Abortion.

53. Every Woman, being with Child, who with Intent to procure her own Miscarriage, shall unlawfully administer to herself any Poison or other noxious Thing, or shall unlawfully use any Instrument or other Means whatsoever with the like Intent, and whosoever, with Intent to procure the Miscarriage of any Woman, whether she be or be not with Child, shall unlawfully administer to her or cause to be taken by her any Poison or other noxious Thing, or shall unlawfully use any Instrument or other Means whatsoever with the like Intent, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Procuring Drugs, &c., to cause Abortion.

54. Whosoever shall unlawfully supply or procure any Poison or other noxious Thing or any Instrument or Thing whatsoever, knowing that the same is intended to be unlawfully used or employed with Intent to procure the Miscarriage of any Woman, whether she be or be not with Child, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Concealing the Birth of a Child.

Concealing the Birth of a Child.

55. If any Woman shall be delivered of a Child, every Person who shall, by any secret Disposition of the Dead Body of the said Child, whether such Child died before, at or after its Birth, endeavour to conceal the Birth thereof, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour: Provided that if any Person tried for the Murder of any Child shall be acquitted thereof, it shall be lawful for the Jury by whose Verdict such Person shall be acquitted to find in case it shall so appear in Evidence, that the Child had recently been born, and that such Person did, by some secret Disposition of the Dead Body of such Child, endeavour to conceal the Birth thereof, and thereupon the Court may pass such Sentence as if such Person had been convicted upon an Information for the Concealment of the Birth.

Unnatural Offence.

Sodomy and Bestiality.

56. Whosoever shall be convicted of the abominable Crime of Buggery, committed either with Mankind or with any Animal, shall be guilty of Felony and shall be liable, at the Discretion of the Court to be kept in Penal Servitude for Life, or for any Term not less than Ten Years.

Attempt to commit an unnatural Offence.

57. Whosoever shall attempt to commit the said abominable Crime, or shall be guilty of any Assault with Intent to commit the same, or of any indecent Assault upon any Male Person, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Ten Years and not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Carnal Knowledge defined.

58. Whenever upon the Trial for any Offence punishable under this Ordinance it may be necessary to prove carnal Knowledge, it shall not be necessary to prove the actual Emission of Seed in order to constitute a carnal Knowledge, but the carnal Knowledge shall be deemed complete upon Proof of Penetration only.

Making Gunpowder to commit Offences and searching for the same.

59. Whosoever shall knowingly have in his Possession, or make or manufacture, any Gunpowder, explosive Substance, or any dangerous or noxious Thing, or any Machine, Engine, Instrument, or Thing, with Intent by means thereof to commit or for the purpose of enabling any other Person to commit, any of the Felonies in this Ordinance mentioned shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement, and, if a Male under the Age of Sixteen Years, with or without Whipping.

Making or having Gunpowder with Intent to commit any Felony against this Ordinance.

60. Upon reasonable Cause assigned upon Oath or Declaration by any Person that any such Gunpowder, or other explosive, dangerous, or noxious Substance or Thing, or any such Machine, Engine, Instrument, or Thing, is suspected to be made, kept, or carried for the purpose of being used in committing any of the Felonies in this Ordinance mentioned, a Police Magistrate may issue a Warrant under his Hand and Seal for searching, in the Day-time, any House, Mill, Magazine, Storehouse, Warehouse, Shop, Cellar, Yard, Wharf, or other Place, or any Carriage, Waggon, Cart, Ship, Boat, or Vessel, in which the same is suspected to be made, kept, or carried for such purpose as hereinbefore mentioned; and the same Substances and Things shall be brought before a Police Magistrate, and, upon due Proof that the same has been made, kept, or carried for any of the purposes aforesaid whether in the Presence or Absence of the Owner of the same Substances and Things, a Police Magistrate may declare the same to be and the same shall be forfeited accordingly; and every Police Magistrate and Person acting in the Execution of any such Warrant shall have, for seizing, removing to proper Places, and detaining all such Gunpowder, explosive, dangerous, or noxious Substances, Machines, Engines, Instruments, or Things, found upon such Search, which he shall have good cause to suspect to be intended to be used in committing any such Offence, and the Barrels, Packages, Cases, and other Receptacles in which the same shall be, the same Powers and Protections which are given by Ordinance No. 10 of 1844.

Magistrate may issue Warrant for searching Houses, &c., for such Gunpowder, &c.

Other Matters.

61. Any Constable or Peace Officer may take into Custody, without a Warrant, any Person whom he shall find lying or loitering or being in any Highway, Yard, or other Place during the Night, and whom he shall have reasonable Cause to suspect of having committed or being about to commit or intending to commit any Felony or Misdemeanor in this Ordinance mentioned and shall take such Person, as soon as reasonably may be, before a Police Magistrate, to be dealt with according to Law.

A Person loitering at night and suspected of any Felony may be apprehended.

62. In the Case of every Felony, punishable under this Ordinance, every Principal in the Second Degree, and every Accessory before the Fact, shall be punishable in the same Manner as the Principal in the First Degree is by this Ordinance punishable; and every Accessory after the Fact to any Felony punishable under this Ordinance (except Murder) shall be liable to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and every Accessory after the Fact to Murder shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour; and whosoever shall conceal, aid, or abet the Commission of any indictable Misdemeanor, punishable under this Ordinance, shall be liable to be proceeded against, indicted, and punished as a principal Offender.

Punishment of Principals in the Second Degrees and Accessories.

63. Whenever Imprisonment, with or without Hard Labour, may be awarded for any indictable Offence under this Ordinance, the Court may sentence the Offender to be imprisoned, or to be imprisoned and kept to Hard Labour, and in either Case the Sentence shall be carried out in accordance with the Provisions of Ordinance No. 4 of 1863, Section XV.

Hard Labour.

64. Whenever Solitary Confinement may be awarded for any Offence under this Ordinance, the Court may direct the Offender to be kept in Solitary Confinement for any Portion or Portions of any Imprisonment, or of any Imprisonment with Hard Labour, which the Court may award, not exceeding One Month at any One Time, and not exceeding Three Months in any One Year.

Solitary Confinement.

65. Whenever any Person shall be convicted of any indictable Misdemeanor, punishable under this Ordinance, the Court may, if it shall think fit, in addition to or in lieu of any Punishment by this Ordinance authorized, fine the Offender, and require him to enter into his own Recognizances, and to find Sureties, both or either, for keeping the

In what Cases Fine and Sureties for keeping the Peace to be awarded.

Peace and being of good Behaviour; and in Case of any Felony, punishable under this Ordinance, otherwise than with Death the Court may, if it shall think fit, require the Offender to enter into his own Recognizances and to find Sureties, both or either, for keeping the Peace, in addition to any Punishment by this Ordinance authorized: Provided that no Person shall be imprisoned for not finding Sureties under this Section for any Period exceeding One Year.

No Summary Conviction or Warrant to be quashed for want of Form.

66. No Summary Conviction under this Ordinance shall be quashed for Want of Form or be removed by Certiorari, and no Warrant of Commitment shall be held void by reason of any Defect therein, provided it be therein alleged that the Party has been convicted, and there be a good and valid Conviction to sustain the same.

Procedure in cases of Summary Conviction.

67. Every Offence under this Ordinance made punishable on Summary Conviction by a Police Magistrate shall be prosecuted, tried and determined in all respects in the Manner directed by Ordinance No. 10 of 1844, and all Provisions contained in the said Ordinance shall be applicable to such Prosecutions in the same Manner as if they were incorporated in this Ordinance: Provided that nothing in this Ordinance contained shall, in any Manner otherwise than as respects the Punishment, alter or affect any Enactment now in Force relating to Procedure in the Case of any Offence punishable on Summary Conviction or the Recovery or Application of any Penalty or Forfeiture for any such Offence.

Commencement of Ordinance.

68. This Ordinance shall commence and take effect on the Fourteenth Day of June, in the Year One Thousand Eight Hundred and Sixty-Five.

Passed the Legislative Council of Hongkong, this 2nd Day of June, 1865.

L. D'ALMADA E CASTRO,
Clerk of Councils.

RULES AND ORDERS FOR REGULATING THE PRACTICE OF THE COURT OF SUMMARY JURISDICTION OF HONGKONG.

In pursuance of the powers vested in me by Ordinance No. 7 of 1862, I, HENRY JOHN BALL, Esquire, Judge of the Court of Summary Jurisdiction of Hongkong, have framed the following Rules and Orders and do certify the same to His Excellency the GOVERNOR and to the Legislative Council accordingly.

HENRY JOHN BALL.

Dated this 14th day of December, 1864.

Previous Orders.

I.

The Rules of Practice and the Forms now in use in the Court of Summary Jurisdiction shall continue to be used and adopted in the Court, except where otherwise directed by Ordinance or by these Rules.

Sittings of the Court.

II.

The Judge shall appoint the days and hours for holding his Court, and a notice of the day and hour on which each Court shall be holden shall, within a reasonable time before the holding thereof, be inserted in the *Government Gazette* and be affixed in some conspicuous place in the Court House and in the Clerk of Court's Office; and whenever any day or hour so appointed for holding the Court shall be altered, notice of such alteration shall immediately be inserted and posted in like manner; but the Judge may from time to time hold adjourned Courts.

Duties of Clerk of Court.

III.

The Clerk of the Court shall attend at his Office every day, except those days ordinarily allowed as holidays, from ten o'clock in the morning until four o'clock in the afternoon.