

Public Works before any Justice of the Peace having jurisdiction within the town of Port of Spain.

39. And be it enacted, That in the interpretation of this Ordinance save where there is any thing in the subject or context repugnant to such construction the word "House" shall be construed to extend to and include every dwelling house, warehouse, office, counting house, manufactory, store, shop, shed and every other building, and every yard whether open or inclosed used or occupied for the purposes of trade or business, words denoting the masculine gender shall include females as well as males and words denoting the singular number shall include two or more persons or things as well as one person or thing and vice versa.

Passed in Council this Eighteenth day of November, in Year of our Lord One thousand eight hundred and fifty-one.

RICHARD D. CADIZ,

Clerk of Council.

The foregoing Ordinance was duly proclaimed in Port of Spain, by me, this Twenty-fifth day of November, One thousand eight hundred and fifty-one.

EDWARD MURRAY,

Marshal.

No. 2.—1852.

9th February.

AN ORDINANCE for improving the administration of Criminal Justice.

W. C. WARD,

Col. R.E., Acting Governor.

WHEREAS an Act was passed in the session of Parliament held in the fourteenth and fifteenth years of Her present Majesty entitled "An Act for further improving the administration of Criminal Jus-
The court may amend certain variances not material to the merits of

defendant
by which the
the case, and
cannot be
prejudiced in
his defence,
and may
either proceed
with or post-
pone the trial
to be had
before the
same or
another jury.

tice;" And whereas it is expedient that the provisions of the said Act so far as the same are applicable, should be introduced into this colony: Be it therefore enacted by his Excellency the Governor by and with the advice and consent of the Council of Government: That from and after the coming of this Ordinance into operation whenever on the trial of any indictment for any felony or misdemeanor there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof in the name of any county division town parish or place mentioned or described in any such indictment or in the name or description of any person or persons or body politic or corporate therein stated or alleged to be the owner or owners of any property real or personal which shall form the subject of any offence charged therein or in the name or description of any person or persons body politic or corporate therein stated or alleged to be injured or damaged or intended to be injured or damaged by the commission of such offence or in the christian name or surname or both christian name and surname or other description whatsoever of any person or persons whomsoever therein named or described, or in the name or description of any matter or thing whatsoever therein named or described or in the ownership of any property named or described therein it shall and may be lawful for the Court before which the trial shall be had if it shall consider such variance not material to the merits of the case and that the defendant cannot be prejudiced thereby in his defence on such merits to order such indictment to be amended according to the proof by some officer of the Court or other person, both in that part of the indictment where such variance occurs and in every other part of the indictment which it may become necessary to amend on such terms as to postponing the trial to be had before the same or another jury as such Court shall think reasonable: and after any such amendment the trial shall proceed, whenever the same shall be proceeded with in the same manner in all respects and with the same consequences both with respect to the liability of witnesses to be indicted for perjury and otherwise as if no such variance had occurred: Provided that in all such cases where the trial shall be so postponed as afore-

said it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses and of the defendant and his surety or sureties if any accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the defendant shall be bound to attend to be tried at the time and place to which such trial shall be postponed without entering into any fresh recognizances for that purpose in such and the same manner as if they were originally bound by their recognizances to appear and prosecute or give evidence or be tried at the time and place to which such trial shall have been so postponed; Provided also, that where any such trial shall be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

2. That every verdict and judgment which shall be given after the making of any amendment under the provisions of this Ordinance shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

Verdicts and judgments valid after amendments.

3. That if it shall become necessary at any time for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Ordinance, such record shall be drawn up in the form in which the indictment was after such amendment was made without taking any notice of the fact of such amendment having been made.

Records to be drawn up in amended form, without noticing the amendments.

4. That in any indictment for murder or manslaughter preferred after the coming of this Ordinance into operation, it shall not be necessary to set forth the manner in which or the means by which the death of the deceased was caused, but it shall be sufficient in every indictment for murder to charge that the defendant did feloniously, wilfully and of his malice aforethought kill and murder the deceased and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased.

The means by which the injury was inflicted need not be specified in indictments for murder and manslaughter.

5. That in any indictment for forging uttering stealing embezzling destroying or concealing or for ob-

Forms of indictment in cases of

forgery and
uttering,
stealing and
embezzling, or
obtaining by
false pre-
tences

taining by false pretences any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof without setting out any copy or fac simile thereof or otherwise describing the same or the value thereof.

In engraving
plates.

6. That in any indictment for engraving or making the whole or any part of any instrument matter or thing whatsoever or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument matter or thing whatsoever shall have been engraved or made or for having the unlawful possession of any paper upon which the whole or any part of any instrument matter or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument matter or thing by any name or designation by which the same may be usually known without setting out any copy or fac-simile of the whole or any part of such instrument matter or thing.

In other cases.

7. That in all other cases wherever it shall be necessary to make any averment in any indictment as to any instrument whether the same consists wholly or in part of writing print or figures it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof without setting out any copy or fac-simile of the whole or any part thereof.

Intent to
defraud
particular
persons need
not be alleged
or proved in
cases of
forgery,
uttering or
false pre-
tences.

8. That from and after the coming of this Ordinance into operation it shall be sufficient in any indictment for forging uttering offering disposing of or putting off any instrument whatsoever or for obtaining or attempting to obtain any property by false pretences to allege that the defendant did the act with intent to defraud without alleging the intent of the defendant to be to defraud any particular person, and on the trial of any of the offences in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud.

9. That if on the trial of any person charged with any felony or misdemeanor it shall appear to the jury upon the evidence that the defendant did not complete the offence charged but that he was guilty only of an attempt to commit the same such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict ~~that~~ the defendant is not guilty of the felony or misdemeanour charged but is guilty of an attempt to commit the same and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanour charged in the said indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanour for which he was so tried.

A party indicted for felony or misdemeanor may be found guilty of an attempt to commit the same and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for the same.

10. And whereas it is enacted by a certain Ordinance passed in Council on the thirty-first day of December, One thousand eight hundred and forty-two, entitled "An Ordinance for assimilating the laws of this colony relating to offences against the person to the laws of England in like cases," That on the trial of any person for any felony whatever, when the crime charged shall include an assault against the person, it shall be lawful for the jury to acquit of the felony and to find a verdict of guilty of assault against the person indicted, if the evidence shall warrant such finding, Be it enacted, that the said enactment shall be, and the same is hereby repealed.

Repeal of the 28th section of Ordinance, No. 10, 1842.

11. That if upon the trial of any person upon any indictment for robbery it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob, and no person so tried as is herein lastly mentioned

On the trial of an indictment for robbery the jury may convict of an assault with an intent to rob. No person so tried to be afterwards prosecuted for the same.

shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

Person tried for misdemeanor not to be acquitted if the offence turn out to be felony unless the Court so

12. That if upon the trial of any person for any misdemeanor it shall appear that the facts given in evidence amount in law to a felony such person shall not by reason thereof be entitled to be acquitted of such misdemeanor, and no person tried for such misdemeanour shall be liable to be afterwards prosecuted for felony on the same facts unless the Court before which such trial may be had shall think fit in its discretion to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

Person indicted for embezzlement as a clerk, &c., not to be acquitted if the offence turn out to be larceny and vice versa.

✕ **13.** That if upon the trial of any person indicted for embezzlement, as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose or in the capacity of a clerk or servant as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny, and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, and no person so tried for embezzlement or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

14. That if upon the trial of two or more persons indicted for jointly receiving any property it shall be proved that one or more of such persons separately received any part of such property it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

Upon indictment for jointly receiving persons guilty of separately receiving may be convicted.

15. That any number of accessories or receivers may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Separate accessories and receivers may be included in the same indictment in the absence of the principal felon.

***16.** That it shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six calendar months from the first to the last of such acts, and to proceed thereon for all or any of them.

Three larcenies from the same person may be included in the same indictment.

***17.** That if upon the trial of any indictment for larceny it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed unless it shall appear that there were more than three takings, or that more than the space of six calendar months elapsed between the first and the last of such takings, and in either of such last mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six calendar months from the first to the last of such takings.

Where a single taking is charged the prosecutor not required to elect unless it appear that there were more than three takings or more than six months between the first and last taking.

***18.** That in every indictment in which it shall be necessary to make any averment as to any money or any note of any bank it shall be sufficient to describe such money or bank note simply as money without specifying any particular coin or bank note, and such allegation, so far as regards the description of the property shall be sustained by proof of any amount of coin, or of any bank note, although the particular species of coin, of which such amount was composed, or the par-

Coin and bank notes may be described simply as money.

ticular nature of the bank note shall not be proved, and in cases of embezzlement and obtaining money or bank notes by false pretences by proof that the offender embezzled or obtained any piece of coin or any bank note, or any portion of the value thereof, although such piece of coin or bank note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

The Supreme Courts, or any judge or justices in Petty Sessions may direct a person guilty of perjury in any evidence, &c., to be prosecuted and commit the party unless he enter into a recognizance to appear and take his trial and bind persons to give evidence.

19. That it shall and may be lawful for the Judges, or any Judge of the Supreme Civil Court, or of the Supreme Criminal Court, or for any Justices of the Peace holding any petty sessions in case it shall appear to him or them that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer, or other proceeding, made or taken before him or them, to direct such person to be prosecuted for such perjury in case there shall appear to him or them a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted until the next session of the Supreme Criminal Court, unless such person shall enter into a recognizance with one or more sufficient surety or sureties, conditioned for the appearance of such persons at such next session of the Supreme Criminal Court, and that he will then surrender and take his trial, and not depart the Court without leave, and to require any person he or they may think fit to enter into a recognizance, conditioned to give evidence against such person so directed to be prosecuted as aforesaid.

Form of indictments for perjury and other like offences.

20. That in every indictment for perjury or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer notice, certificate, or other writing, was taken, made, signed, or subscribed without setting forth the bill, answer,

information, indictment, declaration, or any part of any proceeding either at law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

21. That in every indictment for the subornation of perjury, or for corrupt bargaining, or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, wilfully and corruptly did cause and procure the said person, the said offence in manner and form aforesaid, to do and commit, and wherever such perjury, or other offence aforesaid, shall not have been actually committed it shall be sufficient to set forth the substance of the offence charged upon the defendant without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Form of indictments for subornation of perjury and other like offences.

22. That a certificate containing the substance and effect only (omitting the formal part) of the indictment and trial for any felony or misdemeanor, purporting to be signed by the Registrar of the Court, or other officer having the custody of the records of the Court, where such indictment was tried, shall upon the trial of any indictment for perjury, or subornation of perjury, be sufficient evidence of the trial of such indictment for felony or misdemeanor without proof of the signature or official character of the person appearing to have signed the same.

On trials for perjury and subornation a certificate of the trial of the indictment on which the perjury was committed sufficient evidence of such trial.

23. That no indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved nor for the omission of the words "as appears by the record," or of the words "with

What defects shall not vitiate an indictment.

force and arms," or of the words "against the peace," nor for that any person mentioned in the indictment is designated by a name of office or other descriptive appellation instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the filing of the indictment or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the value or price, or the amount of damage, injury, or spoil is not of the essence of the offence.

Formal objections to indictments shall be taken before jury are sworn. Court may amend any formal defect.

24. That every objection to any indictment for any formal defect apparent on the face thereof shall be taken by demurrer or motion to quash such indictment before the jury shall be sworn and not afterwards, and every Court before which any such objection shall be taken for any formal defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

Provisions as to traversing indictments.

25. That no person prosecuted shall be entitled to traverse or postpone the trial of any indictment: Provided always, that if the Court upon the application of the person so indicted or otherwise shall be of opinion that he ought to be allowed a further time either to prepare for his defence or otherwise such Court may adjourn the trial of such person to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent Session without entering into any fresh recognizance for that purpose.

Provision as to plea of autrefois

26. That in any plea of autrefois convict or autrefois

acquit it shall be sufficient for any derendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the indictment. convict or autrefois acquit.

27. That whenever any person shall be convicted of any one of the offences following as an indictable misdemeanor, that is to say, any cheat or fraud punishable at common law in England, any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert or defeat the course of public justice, any escape or rescue from lawful custody on a criminal charge, any public and indecent exposure of the person, any indecent assault, or any assault occasioning actual bodily harm, any attempt to have carnal knowledge of a girl under ten years of age, any public selling or exposing for public sale or to public view of any obscene book, print, picture or other indecent exhibition, it shall be lawful for the Court to sentence the offender to be imprisoned for any term now warranted by law, and also to be kept to hard labour during the whole or any part of such term of imprisonment. Punishment for certain indictable misdemeanors

28. That in all cases where the Supreme Criminal Court now has power to sentence any person convicted of any offence to imprisonment with hard labour for any portion or portions but not the whole of such imprisonment it shall be lawful for the Court to sentence such offender to be imprisoned for any term now warranted by law, and also to be kept to hard labour during the whole of the term of such imprisonment. On conviction Court may order hard labour for the whole time of imprisonment.

29. That in the construction of this Ordinance the word "indictment" shall be understood to include any "plea," "replication" or other pleading, and wherever in this Ordinance in describing or referring to any person or party, matter or thing, any word importing the singular number or masculine gender is used the same shall be understood to include and shall be applied to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, Interpretation of terms.

whether real or personal upon or with respect to which any offence may be committed.

Commence-
ment of
Ordinance.

30. That this Ordinance shall come into operation upon and from and after the Fifteenth day of this present month of February, in the Year of our Lord One thousand eight hundred and fifty-two.

Passed in Council this Ninth day of February, in the Year of our Lord One thousand eight hundred and fifty-two.

RICHARD D. CADIZ,
Clerk of Council.

The foregoing Ordinance was duly proclaimed in Port of Spain, by me, this Fourteenth day of February, One thousand eight hundred and fifty-two.

EDWARD MURRAY,
Marshal.

No. 3.—1852.

AN ORDINANCE to amend an Ordinance entitled
“an Ordinance for the establishment of a Public
Library in the town of Port of Spain.”

W. C. WARD,
Colonel, R. E., Acting Governor.

WHEREAS on the First day of February, in the Year of our Lord One thousand eight hundred and fifty-one, an Ordinance was passed in Council, entitled “An Ordinance for the establishment of a Public Library in the town of Port of Spain,”: And whereas it is expedient that so much of the said Ordinance as fixes the yearly sum for which any person is entitled to become a subscriber to such Library, and also the time and manner of paying such subscription should be repealed, and that other provision should be made in lieu thereof; Be it therefore enacted by His Excellency the Governor, by and with the advice and consent of the Council of Government, that so much of the said Ordinance of the First day of February, One thousand eight hundred and fifty-one, as enacts that