

Passed in Council this fifth day of October, in the year of our Lord one thousand eight hundred and forty-one.

THOMAS F. JOHNSTON,
Clerk of Council.

The foregoing Ordinance has been duly proclaimed in Port of Spain on this nineteenth day of October, one thousand eight hundred and forty-one, by me,

RICHARD JOELL,
Assist. Marshal.

No. 10.—1842.

AN ORDINANCE for assimilating the Laws of the Colony, relating to Offences against the Person, to the Laws of England in the like cases.

(L. S.) C. CHICHESTER,

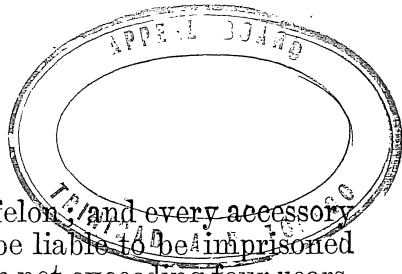
Acting Governor, Lieut.-Colonel 81st Regiment.

WHEREAS it is expedient that the laws of this Colony relative to offences against the person should be assimilated to the Laws of England in the like cases, and that the same should be consolidated into one Ordinance: Be it therefore, and it is hereby enacted and ordained by the Governor and Commander-in-Chief in and over the said Island and its Dependencies, by and with the advice and consent of the Council of Government thereof, That whosoever shall do or commit any act or acts which, if done or committed in England would amount to or constitute the offence of murder, manslaughter, buggery, or rape, shall be deemed guilty of murder, manslaughter, buggery, or rape, as the case may be; and every offence mentioned in this Ordinance, which would be a felony or misdemeanor according to the law of England, shall be, and be deemed to be a felony or misdemeanor, as the case may be, in this Colony.

Rule of construction.

Punishment of principals and accessories in murder.

§ 2. And be it enacted, That from and after the promulgation of this Ordinance, every person convicted of murder, or of being an accessory before the fact to



murder, shall suffer death as a felon: and every accessory after the fact to murder shall be liable to be imprisoned in the Royal Gaol for any term not exceeding four years, with or without hard labour, and with or without solitary confinement for any portion or portions of such imprisonment.

* * * * *

Section 3 is repealed by Ordinance 16 of 1877.

+ 4. And be it enacted, That every person convicted of manslaughter shall be liable, at the discretion of the Court, to be transported for life, or for any term not less than ten years, or to be imprisoned in the Royal Gaol for any term not exceeding four years, with or without hard labour, for any portion or portions of such imprisonment, or to pay such fine as the Court shall award. Punishment of manslaughter.

+ 5. Provided always, and be it enacted, That no punishment shall be incurred by any person who shall kill another by misfortune or in his own defence, or in any other manner without felony. As to homicide not felonious.

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Sections 6, 7, 8, are repealed by Ordinance 16 of 1877.

+ 9. And be it enacted, That whosoever shall unlawfully and maliciously 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 shall cast or throw upon, or otherwise apply to any person, any corrosive fluid or other destructive matter, with intent in any of the cases aforesaid to burn, maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person, and whereby in any of the cases aforesaid any person shall be burnt, maimed, disfigured, or disabled, or receive some other grievous bodily harm, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned in the Royal Gaol for any term not exceeding four years, with or without hard labour, for any portion or portions of such imprisonment. Punishment for sending explosive substances, or throwing destructive matter with intent to do bodily harm.

+ 10. And be it enacted, That whosoever with intent to procure the miscarriage of any woman, shall unlawfully Administering poison or using any

means to procure the miscarriage of a woman. 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 to be imprisoned in the Royal Gaol for any term not exceeding four years, with or without hard labour, for any portion or portions of such imprisonment.

A woman secreting the dead body of her child to conceal its birth, guilty of misdemeanor.

† 11. And be it enacted, That if any woman shall be delivered of a child, and shall by secret burying or otherwise disposing of the dead body of the said child, endeavour to conceal the birth thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned in the Royal Gaol for any term not exceeding two years, with or without hard labour, for any portion or portions of such imprisonment; and it shall not be necessary to prove whether the child died before, at, or after its birth: Provided always, that if any woman tried for the murder of her child shall be acquitted thereof, it shall be lawful for the jury by whose verdict she shall be acquitted, to find, in case it shall so appear in evidence, that she was delivered of a child, and that she did by secret burying, or otherwise disposing of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the Court may pass such sentence as if she had been convicted upon an indictment for the concealment of the birth.

Proviso.

Sodomy.

† 12. And be it enacted, That every person convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned in the Royal Gaol for any term not exceeding five years, nor less than two years, with or without hard labour, for any portion or portions of such imprisonment; and if a male, to be once, twice, or thrice publicly whipped, if the Court shall see fit, in addition to such imprisonment, or imprisonment with hard labour.

Rape.

† 13. And be it enacted, That every person convicted of the crime of rape shall be liable, at the discretion of the Court, to be transported for life, or for any term not less than ten years, or to be imprisoned in the Royal Gaol for any term not exceeding five years, nor less than

two years, with or without hard labour, for any portion or portions of such imprisonment.

† 14. And be it enacted, That if any person shall unlawfully and carnally know and abuse any girl under the age of seven years, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned in the Royal Gaol for any term not exceeding five years, nor less than two years, with or without hard labour, for any portion or portions of such imprisonment, and also to be once, twice, or thrice publicly whipped, if the Court shall see fit, in addition to such imprisonment, or imprisonment with hard labour. And if any person shall unlawfully and carnally know and abuse any girl being above the age of seven years and under the age of ten years, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned in the Royal Gaol for such term not exceeding four years, as the Court shall award, with or without hard labour, for any portion or portions of such imprisonment.

Carnal knowledge of a girl under seven.

The like of a girl above seven and under ten.

† 15. And whereas it is expedient that upon trials for the crimes of buggery, and rape, and carnally abusing girls under the respective ages hereinbefore mentioned, the provisions of the law of England, with regard to the proofs required for the conviction of any person charged with any such offence, should be adopted in this Colony: Be it therefore enacted, That it shall not be necessary in any case to prove the actual emission of seed in order to constitute a carnal knowledge, but that the carnal knowledge shall be deemed complete upon proof of penetration only.

What shall be sufficient proof of carnal knowledge in the four preceding cases.

16. And be it enacted, That where any woman shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or shall be an heiress presumptive or next of kin to any one having such interest, if any person shall from motives of lucre take away or detain such woman against her will with intent to marry or defile her, or to cause her to be married or defiled by any person, every such offender and every other person counselling, aiding, or abetting such offender shall be guilty of felony, and being convicted thereof shall be

Forcible abduction of a woman on account of her fortune with intent to marry her

liable to be imprisoned in the Royal Gaol for any term not exceeding four years, with or without hard labour, for any portion or portions of such imprisonment.

Unlawful abduction of a girl from her parents or guardians.

17. And be it enacted, That if any person shall unlawfully take, or cause to be taken, any unmarried girl, being under the age of fourteen years, out of the possession and against the will of her father or mother, or any other person having the lawful care or charge of her, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment, by fine or imprisonment, or by both, as the Court shall award.

Childstealing.

+ 18. And be it enacted, That if any person shall maliciously, either by force or fraud, lead or take away, or decoy, or entice away, or detain any child under the age of ten years, with intent to deprive the parent or parents or any 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; or if any person shall with any such intent as aforesaid receive or harbour any such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away, or detained, as hereinbefore mentioned, every such offender and every person counselling, aiding, or abetting such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned in the Royal Gaol for any term not exceeding two years, with or without hard labour, for any portion or portions of such imprisonment; and if a male, to be once, twice, or thrice, publicly or privately whipped (if the Court shall so think fit) in addition to such imprisonment, or imprisonment with hard labour: Provided always, that no person who shall have claimed to be the father of an illegitimate child, or to have any right to the possession of such child, shall be liable to be prosecuted by virtue hereof on account of his getting possession of such child, or taking such child out of the possession of the mother or any other person having the lawful charge thereof.

Not to extend to fathers taking their illegitimate children.

Bigamy.

19. And be it enacted, That if any person being married, shall marry any other person during the lifetime of the former husband or wife, whether the second marriage shall have taken place in this Colony or elsewhere, every

such offender and every person counselling, aiding, or abetting such offender, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned in the Royal Gaol for any term not exceeding four years, with or without hard labour, for any portion or portions of such imprisonment: Provided always, that nothing herein contained shall extend to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last passed, and shall not have been known by such person to be living within that time, or shall extend to any person who at the time of such second marriage shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any Court of competent jurisdiction. Exceptions.

20. And be it enacted, That if any person shall arrest any Clergyman upon any civil process while he shall be performing Divine Service, or shall, with the knowledge of such person, be going to perform the same, or returning from the performance thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall suffer such punishment by fine or imprisonment, or by both, as the Court shall award. Arresting a clergyman during divine service.

21. And be it enacted, That if any person shall assault and strike or wound any Magistrate, officer, or other person whatsoever lawfully authorized, 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, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned in the Royal Gaol for any term not exceeding four years, with or without hard labour, for any portion or portions of such imprisonment. Assaults on officers, and others endeavouring to save shipwrecked property.

22. And be it enacted, That whosoever shall by force prevent or impede any person endeavouring to save his life from any ship or vessel which shall be in distress or wrecked, stranded or cast on shore, (whether he shall be on board, or shall have quitted the same,) shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to any such punishment as last aforesaid. Impeding any person endeavouring to save his life from any vessel in distress guilty of felony.

Assault with intent to commit felony, or on any Magistrate, &c., or to prevent the arrest of offenders, or in pursuance of any conspiracy to raise the rate of wages; punishable with hard labour.

★ 23. And be it enacted, That where any person shall be charged with and convicted of any of the following offences as misdemeanors, that is to say, of any assault with intent to commit felony; of any assault upon any Magistrate, Stipendiary or other Justice of the Peace, constable, police officer, peace officer, or revenue officer, in the due execution of his duty, or upon any person acting in aid of such Magistrate, Stipendiary or other Justice of the Peace, constable, police officer, peace officer, or revenue officer; of any assault upon any person with intent to resist or prevent the lawful apprehension or detainer of the party so assaulting, or of any other person for any offence for which he or they may be liable by law to be apprehended or detained; or of any assault committed in pursuance of any conspiracy to raise the rate of wages; in any such case the Court may sentence the offender to be imprisoned in the Royal Gaol for any term not exceeding two years, with or without hard labour, for any portion or portions of such imprisonment, and may also (if it shall so think fit,) fine the offender and require him to find sureties for keeping the peace.

Common assault or battery.

★ 24. And be it enacted, That where any person shall be charged with and convicted by the Court for the Trial of Criminal Prosecutions, of any common assault or battery, every such offender shall be liable to suffer such punishment by imprisonment, not exceeding the term of two years, or by a fine not exceeding the sum of one hundred pounds sterling, or by both imprisonment and fine, as the Court shall award.

Provision for accessories to offences against this Ordinance.

25. And for the more effectual prosecution of accessories before the fact to any felony punishable under this Ordinance, Be it enacted, that if any person shall counsel, procure, or command any other person to commit any such felony, the person so counselling, procuring, or commanding, shall be deemed guilty of felony, and may be prosecuted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be prosecuted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted or shall not be amenable to justice.

26. And be it enacted, That in the case of every felony punishable under this Ordinance, every principal in the second degree, and every accessory before the fact, for whom no punishment has been hereinbefore provided, 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, for whom no punishment has been hereinbefore provided, shall on conviction be liable to be imprisoned in the Royal Gaol for any term not exceeding two years, with or without hard labour, for any period or periods of such imprisonment; and every person who shall compel, counsel, aid, or abet the commission of any misdemeanor punishable under this Ordinance, shall be liable to be proceeded against and punished as a principal offender.

Accessories
how punish-
able.

27. And be it enacted, That where any person shall be convicted of any offence punishable under this Ordinance, for which imprisonment with hard labour may be awarded, it shall be lawful for the Court to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, not exceeding one month at any one time, and not exceeding three months in any one year, as to the Court in its discretion shall seem meet.

Where im-
prisonment is
with hard
labour, Court
may direct
solitary con-
finement.

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Section 28 is repealed by Ordinance 16 of 1877.

29. And be it enacted, That this Ordinance shall take effect from and immediately after the promulgation thereof.

Commence-
ment of Ordi-
nance.

Passed in Council this thirty-first day of December, one thousand eight hundred and forty-two.

THOMAS F. JOHNSTON,
Clerk of Council.