

ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

****

CAP. XXIV.

An Act to provide for carrying out of Capital Punishment within Prisons. [29th *May* 1868.]

WHEREAS it is expedient that Capital Punishments should be carried into effect within Prisons: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited for all Purposes as "The Capital Punishment Amendment Act, 1868."

Judgment of Death to be executed within Walls of Prison.

2. Judgment of Death to be executed on any Prisoner sentenced after the passing of this Act on any Indictment or Inquisition for Murder shall be carried into effect within the Walls of the Prison in which the Offender is confined at the Time of Execution.

Sheriff, &c. to be present.

3. The Sheriff charged with the Execution, and the Gaoler, Chaplain, and Surgeon of the Prison, and such other Officers of the Prison as the Sheriff requires, shall be present at the Execution.

Any Justice of the Peace for the County, Borough, or other Jurisdiction to which the Prison belongs, and such Relatives of the Prisoner or other Persons as it seems to the Sheriff or the Visiting Justices of the Prison proper to admit within the Prison for the Purpose, may also be present at the Execution.

Surgeon to certify Death; and Declaration to be signed by Sheriff, &c.

4. As soon as may be after Judgment of Death has been executed on the Offender, the Surgeon of the Prison shall examine the Body of the Offender, and shall ascertain the Fact of Death, and shall sign a Certificate thereof, and deliver the same to the Sheriff.

The Sheriff and the Gaoler and Chaplain of the Prison, and such Justices and other Persons present (if any) as the Sheriff requires or allows, shall also sign a Declaration to the Effect that Judgment of Death has been executed on the Offender.

Coroner's Inquest on Body.

5. The Coroner of the Jurisdiction to which the Prison belongs wherein Judgment of Death is executed on any Offender shall within Twenty-four Hours after the Execution hold an Inquest on the Body of the Offender, and the Jury at the Inquest shall inquire into and ascertain the Identity of the Body, and whether Judgment of Death was duly executed on the Offender; and the Inquisition shall be in duplicate, and One of the Originals shall be delivered to the Sheriff.

No Officer of the Prison or Prisoner confined therein shall in any Case be a Juror on the Inquest.

Burial of Body.

6. The Body of every Offender executed shall be buried within the Walls of the Prison within which Judgment of Death is executed on him; provided that if One of Her Majesty's Principal Secretaries of State is satisfied on the Representation of the Visiting Justices of a Prison that there is not convenient Space within the Walls thereof for the Burial of Offenders executed therein, he may, by Writing under his Hand, appoint some other fit Place for that Purpose, and the same shall be used accordingly.

Power to Secretary of State to make Rules, &c. to be observed on Execution of Judgment of Death.

7. One of Her Majesty's Principal Secretaries of State shall from Time to Time make such Rules and Regulations to be observed on the Execution of Judgment of Death in every Prison as he may from Time to Time deem expedient for the Purpose, as well of guarding against any Abuse in such Execution as also of giving greater Solemnity to the same, and of making known without the Prison Walls the Fact that such Execution is taking place.

8. All

Such Rules to be laid before Parliament.

8. All such Rules and Regulations shall be laid upon the Tables of both Houses of Parliament within Six Weeks after the making thereof, or if Parliament be not then sitting within Fourteen Days after the next Meeting thereof.

Penalty for signing false Certificate, &c.

9. If any Person knowingly and wilfully signs any false Certificate or Declaration required by this Act, he shall be guilty of a Misdemeanor, and on Conviction thereof shall be liable, at the Discretion of the Court, to Imprisonment for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Certificate, &c. to be sent to Secretary of State, and exhibited on or near Entrance to Prison.

10. Every Certificate and Declaration and the Duplicate of the Inquisition required by this Act shall in each Case be sent with all convenient Speed by the Sheriff to One of Her Majesty's Principal Secretaries of State, and printed Copies of the same several Instruments shall as soon as possible be exhibited and shall for Twenty-four Hours at least be kept exhibited on or near the principal Entrance of the Prison within which Judgment of Death is executed.

Provisions as to Duties and Powers of Sheriff, &c. extended.

11. The Duties and Powers by this Act imposed on or vested in the Sheriff may be performed by and shall be vested in his Under Sheriff or other lawful Deputy acting in his Absence and with his Authority, and any other Officer charged in any Case with the Execution of Judgment of Death.

The Duties and Powers by this Act imposed on or vested in the Gaoler of the Prison may be performed by and shall be vested in the Deputy Gaoler (if any) acting in his Absence and with his Authority, and (if there is no Officer of the Prison called the Gaoler) by the Governor, Keeper, or other Chief Officer of the Prison and his Deputy (if any) acting as aforesaid.

The Duties and Powers by this Act imposed on or vested in the Surgeon may be performed by and shall be vested in the chief Medical Officer of the Prison (if there is no Officer of the Prison called the Surgeon).

The Duties by this Act imposed on the Chaplain may, in the event of the Absence of the Chaplain, be performed by the Assistant Chaplain or other Person acting in place of the Chaplain.

Forms in Schedule.

12. The Forms given in the Schedule to this Act, with such Variations or Additions as Circumstances require, shall be used for

for the respective Purposes in that Schedule indicated, and according to the Directions therein contained.

Modifications of Act in Scotland.

13. This Act shall apply to *Scotland*, with the Modifications following; *viz.*,

The Expression "Judgment of Death" shall mean "Sentence of Death" pronounced by any competent Court.

"Indictment" shall include "Criminal Letters."

Any Duty appointed to be performed to or by, or any Power given to, a Sheriff in *England*, shall in *Scotland* be performed to or by, or be exercised by, the Lord Provost, or Provost and other Magistrates charged with seeing the Sentence of Death carried into effect, or by any one of their Number specially named by the others for that Purpose.

The Expression "the Visiting Justices of the Prison" shall in *Scotland* mean the Members of the County Prison Board, acting under the Provisions of the Act Twenty-third and Twenty-fourth *Victoria*, Chapter One hundred and five.

In lieu of the Provisions contained in the Sixth Section hereof, the Procurator Fiscal of the Jurisdiction within which the Prison is situated wherein Sentence of Death is executed on any Offender shall within Twenty-four Hours after the Execution hold a public Inquiry before the Sheriff or Sheriff Substitute of the County on the Body of the Offender, and in particular shall inquire into and ascertain the Identity of the Body, and whether Sentence of Death was duly executed on the Offender; and the Report or Deliverance of the Sheriff or Sheriff Substitute shall be in duplicate, and One of the Originals shall be delivered to the Lord Provost or Provost, or Magistrates or Magistrate, charged with seeing the Sentence of Death carried into effect.

The Expression "a Misdemeanor" shall mean "a Crime and Offence."

The Expression "the Duplicate of the Inquisition" in the Tenth Section hereof shall mean "the Duplicate of the Report or Deliverance of the Sheriff or Sheriff Substitute."

Application of Act to Ireland.

14. In the Application of this Act to *Ireland* the Expressions "Chief Secretary to the Lord Lieutenant," and "Board of Superintendence," shall be substituted for the Expressions "One of Her Majesty's Principal Secretaries of State," and "Visiting Justices," respectively.

15. The

Saving Clause as to Legality of Execution.

15. The Omission to comply with any Provision of this Act shall not make the Execution of Judgment of Death illegal in any Case where such Execution would otherwise have been legal.

General Saving.

16. Except in so far as is hereby otherwise provided, Judgment of Death shall be carried into effect in the same Manner as if this Act had not passed.

The SCHEDULE.

Certificate of Surgeon.

I, *A.B.*, the Surgeon [*or as the Case may be*] of the [*describe Prison*], hereby certify that I this Day examined the Body of *C.D.*, on whom Judgment of Death was this Day executed in the [*describe same Prison*]; and that on that Examination I found that the said *C.D.* was dead.

Dated this Day of .

(Signed) *A.B.*

Declaration of Sheriff and others.

We, the undersigned, hereby declare that Judgment of Death was this Day executed on *C.D.* in the [*describe Prison*] in our Presence.

Dated this Day of .

(Signed) *E.F.*, Sheriff of .
L.M., Justice of the Peace for .
G.H., Gaoler of .
J.K., Chaplain of .
&c. *&c.*

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