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GEORGII IV. REGIS.

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An Act for improving the Administration of Justice in Criminal Cases in *Ireland*. [15th *July* 1828.]

WHEREAS it is expedient, with a View to improve the Administration of Justice in Criminal Cases in *Ireland*, to define under what Circumstances Persons may be admitted to Bail in Cases of Felony; and to make better Provisions for taking Examinations, Informations, Bailments, and Recognizances, and returning the same to the proper Tribunals; and to relax in some Instances the technical Strictness of Criminal Proceedings, so as to ensure the Punishment of the Guilty without depriving the Accused of any just Means of Defence; and to abolish the Benefit of Clergy and some Matters of Form which impede the due Administration of Justice; and to make better Provisions for the Punishment of Offenders in certain Cases: Be it therefore enacted by the King'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, That where any Person shall be taken on a Charge of Felony, or Suspicion of Felony, before One or more Justice or Justices of the Peace, and the Charge shall be supported by positive and credible Evidence of the Fact, or by such Evidence as if not explained or contradicted shall, in the Opinion of the Justice or Justices, raise a strong Presumption of the Guilt of the Person charged, such Person shall be committed to Prison by such Justice or Justices in the Manner herein-after mentioned; but if there shall be only One Justice present, and the whole Evidence

Who may be admitted to Bail on a Charge of Felony, and who may not.

given before him shall be such as neither to raise a strong Presumption of Guilt, nor to warrant the Dismissal of the Charge, such Justice shall order the Person charged to be detained in Custody, and such Person shall be taken before Two Justices at the least; and where any Person so taken, or any Person in the first Instance taken before Two Justices of the Peace, shall be charged with Felony, or on Suspicion of Felony, and the Evidence given in support of the Charge shall, in the Opinion of such Justices, not be such as to raise a strong Presumption of the Guilt of the Person charged, and to require the Committal of such Person, or such Evidence shall be adduced on behalf of the Person charged as shall, in the Opinion of such Justices, weaken the Presumption of Guilt, but there shall, notwithstanding, appear to such Justices, in either of such Cases, to be sufficient Ground for judicial Enquiry into the Guilt of the Person charged, such Person shall be admitted to Bail by such Two Justices in the Manner herein-after mentioned: Provided always, that nothing herein contained shall be construed to require any such Justice or Justices to hear Evidence on behalf of any Person so charged as aforesaid, unless it shall appear to such Justice or Justices to be meet and conducive to the Ends of Justice to hear the same.

Justice not obliged to hear Evidence on behalf of Persons charged.

Before any Person charged with Felony, &c. shall be bailed or committed, the Justices shall take down the Examination, &c. and bind Witnesses to appear.

Power to summon Witnesses.

II. And be it enacted, That Two Justices of the Peace, before they shall admit to Bail, and One or more Justice or Justices, before he or they shall commit to Prison, any Person arrested for Felony or on Suspicion of Felony, shall take the Examination of such Person, and the Information upon Oath of those who shall know the Facts and Circumstances of the Case, and shall put the same, or as much thereof as shall be material, into Writing, and the Two Justices admitting to Bail shall certify the Bailment in Writing; and every such Justice shall have Authority to summon any Person within his Jurisdiction, whom he shall have reason to consider capable of giving material Evidence concerning any such Felony or Suspicion of Felony, and to examine such Person on Oath touching the same, and to bind by Recognizance all such Persons as know or declare any thing material touching any such Felony or Suspicion of Felony, to appear at the next Court of Oyer and Terminer or Gaol Delivery, or other Court at which the Trial of such Offence is intended to be had, then and there to prosecute and give Evidence against the Party accused; and such Justices and Justice respectively shall subscribe all such Examinations, Informations, Bailments, and Recognizances, and deliver or cause to be delivered the same to the proper Officer of the Court in which the Trial is to be, before or at the opening of the Court; and in case any Person so summoned shall refuse to submit to such Examination or to enter into such Recognizance, it shall be lawful for the Justice or Justices to commit such Person to the public Gaol of the County, City, or Town, until such Person shall submit to such Examination, or shall enter into such Recognizance, or be discharged by due Course of Law; provided that no such Examination shall subject the Party examined to any Prosecution or Penalty, or be given in Evidence against such Party, save on any Indictment for having committed wilful and corrupt Perjury in such Examination.

Examinations, &c. to be delivered to the Court.

Punishment of Party refusing to be examined.

Examination not to be Evidence against the Party, except as to Perjury.

Duty and Power of Justice on Charges of Misdemeanor.

III. And be it further enacted, That every Justice of the Peace before whom any Person shall be taken on a Charge of Misdemeanor, or Suspicion thereof, shall take the Examination of the Person charged, and the Information upon Oath of those who shall know the Facts and Circumstances of the Case, and shall put the same, or as much thereof as shall be material, into Writing, before he shall commit to Prison or require Bail from the Person so charged; and in every Case of Bailment shall certify the Bailment in Writing; and shall have Authority to bind all Persons by Recognizance to appear to prosecute or give Evidence against the Party accused, in like Manner as in Cases of Felony; and shall subscribe all Examinations, Informations, Bailments, and Recognizances, and deliver or cause to be delivered the same to the proper Officer of the Court in which the Trial is to be, before or at the opening of the Court, in like Manner as in Cases of Felony.

Duty and Power of Coroner on Inquests whereon Parties are indictable for Murder.

IV. And be it further enacted, That every Coroner, upon any Inquisition taken before him, whereby any Person shall be indicted for Manslaughter or Murder, or as an Accessory to Murder before the Fact, shall put in Writing the Evidence given to the Jury before him, or as much thereof as shall be material; and shall have Authority to bind by Recognizance all such Persons as know or declare any thing material touching the said Manslaughter or Murder, or the said Offence of being accessory to Murder, to appear at the next Court of Oyer and Terminer or Gaol Delivery, or other Court at which the Trial is to be, then and there to prosecute or give Evidence against the Party charged; and every such Coroner shall certify and subscribe the same Evidence, and all such Recognizances, and also the Inquisition before him taken, and shall deliver the same to the proper Officer of the Court in which the Trial is to be, before or at the opening of the Court.

Courts may fine Justices and Coroners for Neglect, &c.

V. And be it further enacted, That if any Justice or Coroner shall neglect or offend in any thing contrary to the true Intent and Meaning of any of the Provisions of this Act, it shall be lawful for the Court to whose Officer any such Examination, Information, Evidence, Bailment, Recognizance, or Inquisition ought to have been delivered, and such Court is hereby authorized and required, upon Examination and Proof of the Offence, in a summary Manner to set such Fine upon every such Justice or Coroner as the Court shall think meet.

Provisions to apply to all Justices and Coroners.

VI. And be it further enacted, That the Provisions of this Act relating to Justices and Coroners shall apply to the Justices and Coroners not only of Counties at large, but also of all other Jurisdictions.

Plea of Not guilty, without more, shall put the Prisoner on his Trial by Jury.

VII. And be it enacted, That whenever any Person, not having Privilege of Peerage, being arraigned upon any Indictment for Treason, Felony, or Piracy, shall plead thereto a Plea of Not guilty, such Person shall, by such Plea, without any further Form, be deemed to have put himself or herself upon the Country for Trial, and

and the Court shall, in the usual Manner, order a Jury for the Trial of such Person accordingly.

If Prisoner refuse to plead, Court may order Plea of Not guilty to be entered.

VIII. And be it enacted, That if any Person, being arraigned upon or charged with any Indictment or Information for Treason, Felony, Piracy, or Misdemeanor, shall stand mute of Malice, or will not answer directly to the Indictment or Information, in every such Case it shall be lawful for the Court, if it shall so think fit, to order the proper Officer to enter a Plea of Not guilty on behalf of such Person; and the Plea so entered shall have the same Force and Effect as if such Person had actually pleaded the same.

The King shall only challenge for Cause certain.

IX. And be it further enacted, That in all Inquests to be taken before any of the Courts in *Ireland*, wherein the King is a Party, howsoever it be, notwithstanding it be alleged by them that sue for the King that the Jurors of those Inquests, or some of them, be not indifferent for the King, yet such Inquests shall not remain untaken for that Cause; but if they that sue for the King will challenge any of those Jurors, they shall assign of their Challenge a Cause certain, and the Truth of the same Challenge shall be inquired of according to the Custom of the Court; and it shall be proceeded to the taking of the same Inquisitions, as it shall be found, if the Challenges be true or not, after the Discretion of the Court: Provided always, that nothing herein contained shall affect or be construed to affect the Power of any Court in *Ireland* to order any Juror to stand by until the Panel shall be gone through, at the Prayer of them that prosecute for the King, as has been heretofore accustomed; and that no Person arraigned for Treason or Murder, or for other Felony, shall be admitted to any peremptory Challenge above the Number of Twenty; and if any Person so arraigned for Treason or Murder, or for other Felony, shall peremptorily challenge more than Twenty, such excessive Challenge shall be rejected, and the Jurors so challenged beyond the Number of Twenty shall be sworn on the Inquest, and the Trial shall proceed as if such excessive Challenge had not been made or taken.

Courts may bid a Juror stand by.

Prisoner allowed 20 peremptory Challenges only in Felony.

Attainder not pleadable in Bar.

X. And be it enacted, That no Plea setting forth any Attainder shall be pleaded in Bar of any Indictment, unless the Attainder be for the same Offence as that charged in the Indictment.

Jury shall not enquire of Prisoner's Lands, &c.

XI. And be it enacted, That where any Person shall be indicted for Treason or Felony, the Jury impannelled to try such Person shall not be charged to enquire concerning his Lands, Tenements, or Goods, nor whether he fled for such Treason or Felony.

Benefit of Clergy abolished.

XII. And be it enacted, That Benefit of Clergy with respect to Persons convicted of Felony shall be abolished; but that nothing herein contained shall prevent the Joinder in any Indictment of any Counts which might have been joined before the passing of this Act.

What Felonies only shall be Capital.

XIII. And be it enacted, That no Person convicted of Felony shall suffer Death, unless it be for some Felony which was excluded from the

the Benefit of Clergy before or on the First Day of the present Session of Parliament, or which hath been or shall be made punishable with Death by some Act passed after that Day.

Persons convicted of certain Felonies, after Punishment, declared competent Witnesses.

XIV. And be it enacted, That every Person convicted of a Felony which was not excluded from the Benefit of Clergy before or on the First Day of the present Session of Parliament, and which hath not been and shall not be made punishable with Death by any Statute passed after that Day, shall, after having suffered the Punishment awarded by the Court upon such Conviction, be a competent Witness.

Felonies, not capital, punishable under the Acts relating thereto, or according to this Act, by Transportation, &c.

XV. And be it enacted, That every Person convicted of any Felony not punishable with Death shall be punished in the Manner prescribed by the Statute or Statutes specially relating to such Felony; and that every Person convicted of any Felony for which no Punishment hath been or hereafter may be specially provided, shall be deemed to be punishable under this Act, and shall be liable, at the Discretion of the Court, to be transported beyond the Seas for the Term of Seven Years, or to be imprisoned for any Term not exceeding Two Years, 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.

Persons returning from Transportation punishable with Death as Felons, may be tried where found, &c.

XVI. And be it enacted, That if any Person heretofore sentenced or ordered, or hereafter to be sentenced or ordered, to be transported, or who shall have agreed or shall agree to transport or banish himself or herself on certain Conditions, either for Life or for any Number of Years, shall be afterwards at large within any Part of the United Kingdom, without some lawful Cause, before the Expiration of his or her Term of Transportation or Banishment, every such Offender shall be guilty of Felony, and shall suffer Death as a Felon; and every such Offender may be tried, either in the County or Place where such Offender shall be found at large, or in the County or Place at which such Sentence or Order of Transportation or Banishment was passed or made.

Allegation of Sentence, &c. of Transportation sufficient, without reference to Indictment,

XVII. And be it enacted, That in any Indictment or Information against any Offender for being found at large contrary to the Provisions of this Act, or of any other Act now in force or hereafter to be in force, whether such Offender shall have been tried before any Court or Judge within or without the United Kingdom, or before any Naval or Military Court Martial, it shall be sufficient to allege the Sentence or Order of Transportation or Banishment of such Offender, without alleging any Indictment, Information, Trial, Conviction, Judgment, or other Proceeding, or any Pardon or Intention of Mercy, or Signification thereof, of or against or in any Manner relating to such Offender.

Certificate of the Sentence of Transportation by the Clerk of the

XVIII. And be it enacted, That the Clerk of the Court, or other Officer having the Custody of the Records of the Court where any such Sentence or Order of Transportation or Banishment shall have been passed or made, or his Deputy, shall, at the Request of any Person

Court sufficient Evidence, &c.

on behalf of His Majesty, make out and give a Certificate in Writing, signed by him, containing the Effect and Substance only (omitting the formal Part) of any Indictment, Information, and Conviction of such Offender, and of the Sentence or Order for his or her Transportation or Banishment, (not taking for the same more than the Sum of Six Shillings and Eight-pence,) which Certificate shall be sufficient Evidence of the Conviction and Sentence or Order for the Transportation or Banishment of such Offender; and every such Certificate, if made by the Clerk or Officer of any Court in *Ireland*, or by his Deputy, shall be received in Evidence upon Proof of the Signature of the Person signing the same; and every such Certificate, if made by the Clerk or Officer of any Court out of *Ireland*, shall be received in Evidence, if verified by the Seal of the Court, or by the Signature of the Judge or of one of the Judges of such Court, without further Proof.

The Court may order hard Labour or solitary Confinement as Part of the Sentence of Imprisonment.

XIX. And be it enacted, That where any Person shall be convicted of any Offence punishable under this Act, for which Imprisonment may be awarded, it shall be lawful for the Court to sentence the Offender to be imprisoned, or to be imprisoned and kept to hard Labour, in the Common Gaol or House of Correction; and also to direct that the Offender shall be kept in solitary Confinement for the whole or any Portion or Portions of such Imprisonment, or with such Imprisonment with hard Labour, as to the Court in its Discretion shall seem meet.

On Conviction of Felony of a Person under Sentence for a former Crime, the Court may pass a second Sentence, to commence after the Expiration of the first.

XX. And be it enacted, That whenever Sentence shall be passed for Felony on a Person already imprisoned under Sentence for another Crime, it shall be lawful for the Court to award Imprisonment for the subsequent Offence, to commence at the Expiration of the Imprisonment to which such Person shall have been previously sentenced; and where such Person shall be already under Sentence, either of Imprisonment or of Transportation, the Court, if empowered to pass Sentence of Transportation, may award such Sentence for the subsequent Offence, to commence at the Expiration of the Imprisonment or Transportation to which such Person shall have been previously sentenced, although the aggregate Term of Imprisonment or Transportation respectively may exceed the Term for which either of those Punishments could be otherwise awarded.

Punishment for Felony (not capital) committed subsequent to a previous Conviction for Felony, Transportation, &c.

XXI. And whereas it is expedient to provide for the more exemplary Punishment of Offenders who commit Felony after a previous Conviction for Felony, whether such Conviction shall have taken place before or after the Commencement of this Act; be it therefore enacted, That if any Person shall be convicted of any Felony not punishable with Death, committed after a previous Conviction for Felony, such Person shall on such subsequent Conviction be liable, at the Discretion of the Court, to be transported beyond the Seas for Life, or for any Term not less than Seven Years, or to be imprisoned for any Term not exceeding Four Years, 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; and in any Indictment for any such Felony committed after a previous Conviction for Felony,

Form of Indictment for the sub-

it shall be sufficient to state, that the Offender was at a certain Time and Place convicted of Felony, without otherwise describing the previous Felony; and a Certificate, containing the Substance and Effect only (omitting the formal Part) of the Indictment and Conviction for the previous Felony, purporting to be signed by the Clerk of the Court or other Officer having the Custody of the Records of the Court where the Offender was first convicted, or by the Deputy of such Clerk or Officer, (for which Certificate a Fee of Six Shillings and Eight-pence, and no more, shall be demanded or taken,) shall, upon Proof of the Identity of the Person of the Offender, be sufficient Evidence of the first Conviction, without Proof of the Signature or official Character of the Person appearing to have signed the same; and if any Clerk, Officer, or Deputy shall utter any false Certificate of any Indictment and Conviction for a previous Felony, or of any Sentence or Order of Transportation or Banishment, or if any Person, other than such Clerk, Officer, or Deputy, shall sign any such Certificate as such Clerk, Officer, or Deputy, or shall utter any such Certificate with a false or counterfeit Signature thereto, every such Offender shall be guilty of Felony, and being lawfully convicted thereof, shall be liable, at the Discretion of the Court, to be transported beyond the Seas for the Term of Seven Years, or to be imprisoned for any Term not exceeding Two Years, 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.

sequent Felony.

Proof of the first Conviction by Certificate of Clerk of the Court.

Uttering a false Certificate of Conviction, Felony, punishable by Transportation.

XXII. And be it enacted, That all Offences prosecuted in the High Court of Admiralty of *Ireland* shall upon every first and subsequent Conviction be subject to the same Punishment, whether of Death or otherwise, as if such Offences had been committed upon the Land.

Admiralty Offences.

XXIII. And, for the more effectual Prosecution of Accessories before the Fact to Felony, be it enacted, That if any Person shall counsel, procure, or command any other Person to commit any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes made or to be made, the Person so counselling, procuring, or commanding, shall be deemed guilty of Felony, and may be indicted and convicted as an Accessory before the Fact to the principal Felony, either together with the principal Felon, or after the Conviction of the principal Felon; or may be indicted for and convicted of a substantive Felony, whether the principal Felon shall or shall not have been previously convicted, or shall or shall not be amenable to Justice, and may be punished in the same Manner as an Accessory before the Fact to the same Felony, if convicted as an Accessory, may be punished; and the Offence of the Person so counselling, procuring, or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any Court which shall have Jurisdiction to try the principal Felon, in the same Manner as if such Offence had been committed at the same Place as the principal Felony, although such Offence may have been committed either on the High Seas, or at any Place on Land, whether within His Majesty's Dominions or without; and in case the principal Felony shall have been committed within the Body of any County, and

Accessory before the Fact may be tried as such, or as a substantive Felon, by any Court which has Jurisdiction to try the principal Felon, although the Offence be committed on the Seas or Abroad.

If the Offences be committed in

different Counties, Accessory may be tried in either.

and the Offence of counselling, procuring, or commanding shall have been committed within the Body of any other County, the last-mentioned Offence may be inquired of, tried, determined, and punished in either of such Counties: Provided always, that no Person who shall be Once duly tried for any such Offence, whether as an Accessory before the Fact, or as for a substantive Felony, shall be liable to be again indicted or tried for the same Offence.

Accessory after the Fact may be tried by any Court which has Jurisdiction to try the principal Felon.

XXIV. And for the more effectual Prosecution of Accessories after the Fact to Felony, be it enacted, That if any Person shall become an Accessory after the Fact to any Felony, whether the same be a Felony at Common Law, or by virtue of any Statute or Statutes made or to be made, the Offence of such Person may be inquired of, tried, determined, and punished by any Court which shall have Jurisdiction to try the principal Felon, in the same Manner as if the Act by reason whereof such Person shall have become an Accessory had been committed at the same Place as the principal Felony, although such Act may have been committed, either on the High Seas, or at any Place on Land, whether within His Majesty's Dominions or without; and that in case the principal Felony shall have been committed within the Body of any County, and the Act by reason whereof any Person shall have become Accessory shall have been committed within the Body of any other County, the Offence of such Accessory may be inquired of, tried, determined, and punished in either of such Counties: Provided always, that no Person who shall be Once duly tried of any Offence of being an Accessory shall be liable to be again indicted or tried for the same Offence.

If the Offences be committed in different Counties, Accessory may be tried in either.

Accessory may be prosecuted after Conviction of the Principal, though the Principal be not attainted, &c.

XXV. And in order that all Accessories may be convicted and punished in Cases where the principal Felon is not attainted, be it enacted, That if any principal Offender shall be in anywise convicted of any Felony, it shall be lawful to proceed against any Accessory either before or after the Fact, in the same Manner as if such principal Felon had been attainted thereof, notwithstanding such principal Felon shall die, or be pardoned, or otherwise delivered before Attainder; and every such Accessory shall suffer the same Punishment, if such Accessory be in anywise convicted, as such Accessory should have suffered if the Principal had been attainted.

Offences committed on the Boundaries of Counties may be tried in either County.

XXVI. And for the more effectual Prosecution of Offences committed near the Boundaries of Counties, or partly in one County and partly in another, be it enacted, That where any Felony or Misdemeanor shall be committed on the Boundary or Boundaries of Two or more Counties, or within the Distance of Five hundred Yards of any such Boundary or Boundaries, or shall be begun in one County and completed in another, every such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in any of the said Counties, in the same Manner as if it had been actually and wholly committed therein.

Offences committed during a Journey or

XXVII. And for the more effectual Prosecution of Offences committed during Journies from Place to Place, be it enacted, That where any Felony or Misdemeanor shall be committed on any Person, or on or in

in respect of any Property, in or upon any Coach, Waggon, Cart, or other Carriage whatever, employed in any Journey, or shall be committed on any Person, or on or in respect of any Property, on board any Vessel whatever employed in any Voyage or Journey upon any navigable River, Canal, or inland Navigation, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in any County through any Part whereof such Coach, Waggon, Cart, Carriage, or Vessel shall have passed in the Course of the Journey or Voyage during which such Felony or Misdemeanor shall have been committed, in the same Manner as if it had been actually committed in such County; and in all Cases where the Side, Centre, or other Part of any Highway, or the Side Bank, Centre, or other Part of any such River, Canal, or Navigation, shall constitute the Boundary of any Two Counties, such Felony or Misdemeanor may be dealt with, inquired of, tried, determined, and punished in either of such Counties through or adjoining to or by the Boundary of any Part whereof such Coach, Cart, Waggon, Carriage, or Vessel shall have passed in the Course of the Journey or Voyage during which such Felony or Misdemeanor shall have been committed, in the same Manner as if it had been actually committed in such County.

Voyage, may be tried in any County through which the Coach, &c. passed.

When Sides, &c. of Highway constitute Boundary, Offender may be tried in either County.

XXVIII. And in order to remove the Difficulty of stating the Names of all the Owners of Property, in the Case of Partners and other Joint Owners, be it enacted, That in any Indictment or Information for any Felony or Misdemeanor wherein it shall be requisite to state the Ownership of any Property whatsoever, whether Real or Personal, which shall belong to or be in the Possession of more than One Person, whether such Persons be Partners in Trade, Joint Tenants, Parceners or Tenants in Common, it shall be sufficient to name One of such Persons, and to state such Property to belong to the Person so named and another or others, as the Case may be; and whenever in any Indictment or Information for any Felony or Misdemeanor it shall be necessary to mention, for any Purpose whatsoever, any Partners, Joint Tenants, Parceners or Tenants in Common, it shall be sufficient to describe them in the Manner aforesaid; and this Provision shall be construed to extend to all Joint Stock Companies and Trustees.

In Indictments for Offences committed on the Property of Partners, it may be laid in any one Partner by Name, and others.

XXIX. And be it enacted, That in any Indictment or Information for any Felony or Misdemeanor committed in, upon, or with respect to any Church, Chapel, or Place of Religious Worship, or to any Bridge, Court, Court House, Sessions House, Gaol, House of Correction, Infirmary, Asylum, or other public Building, erected or maintained in whole or in part at the Expence of any County, County of a City, or County of a Town, or on or with respect to any Goods or Chattels whatsoever, provided for or at the Expence of any County, County of a City, or County of a Town, to be used for making, altering, or repairing any Bridge or Highway, or any Court or other such Building as aforesaid, or to be used in or with any such Court or other Building, it shall not be necessary to state such Church, Chapel, or Place of Religious Worship, or such Bridge, Court, Court House, Sessions House, Gaol, House of Correction, Infirmary, Asylum,

In Indictments for Felonies, &c. relating to Churches, Bridges, or Public Buildings, Property need not be stated as being in any Person.

or other Building, or any such Goods or Chattels, to be the Property of any Person.

Indictments shall not be abated by dilatory Plea of Misnomer, or of Want of Addition, &c.

XXX. And for preventing Abuses from dilatory Pleas, be it enacted, That no Indictment shall be abated by reason of any dilatory Plea of Misnomer, or of Want of Addition or of wrong Addition, of any Party offering such Plea, if the Court shall be satisfied, by Affidavit or otherwise, of the Truth of such Plea; but in such Case the Court shall forthwith cause the Indictment or Information to be amended according to the Truth, and shall call upon such Party to plead thereto, and shall proceed as if no such dilatory Plea had been pleaded.

What Defects shall not vitiate an Indictment after Verdict, or otherwise.

XXXI. And in order that the Punishment of Offenders may be less frequently intercepted in consequence of technical Niceties, be it enacted, That no Judgment upon any Indictment or Information for any Felony or Misdemeanor, whether after Verdict or Outlawry, or by Confession, Default, or otherwise, shall be stayed or reversed 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 Force and Arms," or of the Words "against the Peace," nor for the Insertion of the Words "against the Form of the Statute" instead of the Words "against the Form of the Statutes," or *vice versâ*, nor for that any Person or Persons mentioned in the Indictment or Information is or are designated by a Name of Office or other descriptive Appellation instead of his, her, or their proper Name or Names, 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 finding of the Indictment or exhibiting the Information, or on an impossible Day, or on a Day that never happened, nor for Want of a proper or perfect Venue where the Court shall appear by the Indictment or Information to have had Jurisdiction over the Offence.

Certain formal Defects shall not stay or reverse Judgment after Verdict.

XXXII. And be it further enacted, That no Judgment after Verdict upon any Indictment or Information for any Felony or Misdemeanor shall be stayed or reversed for want of a Similiter, nor by reason that the Jury Process has been awarded to a wrong Officer upon an insufficient Suggestion, nor for any Misnomer or Misdescription of the Officer returning such Process, or of any of the Jurors, nor because any Person has served upon the Jury who has not been returned as a Juror by the Sheriff or other Officer; and that where the Offence charged shall be an Offence theretofore created by any Statute, or subjected to a greater Degree of Punishment, or excluded from the Benefit of Clergy, by any Statute, the Indictment or Information shall after Verdict be held sufficient, if it describe the Offence in the Words of the Statute creating the Offence or prescribing the Punishment or excluding the Offender from the Benefit of Clergy.

Effect of a free or conditional Par-

XXXIII. And be it declared and enacted, That where the Royal Mercy shall be extended to any Offender convicted of any Felony punish-

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able with Death or otherwise, and either a free Pardon or a conditional Pardon shall by Warrant in due Form be granted to such Offender, the Discharge of such Offender out of Custody in the Case of a free Pardon, and the Performance of the Condition in the Case of a conditional Pardon, shall have the Effect of a Pardon under the Great Seal for such Offender as to the Felony for which such Pardon shall be so granted: Provided always, that no free Pardon, nor any such Discharge in consequence thereof, nor any conditional Pardon, nor the Performance of the Condition thereof, in any of the Cases aforesaid, shall prevent or mitigate the Punishment to which the Offender might otherwise be lawfully sentenced on a subsequent Conviction for any Felony committed after the granting of any such Pardon.

don to a Convict.

Proviso.

XXXIV. And whereas the Practice of indiscriminately estreating Recognizances for the Appearance of Persons to prosecute or give Evidence, or to answer for a common Assault, or in the other Cases herein-after specified, has been found in many Instances productive of Hardship to Persons who have entered into such Recognizances; be it therefore enacted, That in every Case where any Person bound by Recognizance for his or her Appearance (or for whose Appearance any other Person shall be so bound) to prosecute or give Evidence in any Case of Felony or Misdemeanor, or to answer for any common Assault, or to Articles of the Peace, shall therein make Default, the Officer of the Court by whom the Estreats are made out shall, and such Officer is hereby required to prepare a List in Writing, specifying the Name of every Person so making Default, and the Nature of the Offence in respect of which every such Person, or his or her Surety, was so bound, together with the Residence, Trade, Profession, or Calling of every such Person and Surety, and shall in such List distinguish the Principals from the Sureties, and shall state the Cause, if known, why each such Person has not appeared, and whether, by reason of the Non-appearance of such Person, the Ends of Justice have been defeated or delayed; and every such Officer shall, and such Officer is hereby required, before any such Recognizances shall be estreated, to lay such List, if at a Court of Oyer and Terminer or Gaol Delivery in any County, before one of the Justices of those Courts respectively, and if at a Court wherein a Recorder or other Corporate Officer is the Judge or one of the Judges, before such Recorder or other Corporate Officer, and if at a Session of the Peace, before the Assistant Barrister or Two other Justices of the Peace who shall have attended such Court, who are respectively authorized and required to examine such List, and to make such Order touching the estreating or putting in Process any such Recognizance as shall appear to them respectively to be just; and it shall not be lawful for the Officer of any Court to estreat or put in Process any such Recognizance without the written Order of the Justice, Recorder, Corporate Officer, Assistant Barrister, or Justices of the Peace before whom respectively such List shall have been laid.

Recognizance in certain Cases not to be estreated without a Judge's Order.

XXXV. And be it enacted, That wherever in this Act, or in any other Act relating to any Offence, whether punishable upon Indictment or summary Conviction, in describing or referring to the Offence, or the Subject Matter on or with respect to which it shall be committed, or

Rule for the Interpretation of this and all Criminal Statutes.

or the Offender or the Party affected or intended to be affected by the Offence, any Word or Words have been or shall be used or employed, importing the Singular Number or the Masculine Gender only, every such Act shall be understood to include several Matters of the same Kind as well as One Matter, and several Persons as well as One Person, and Females as well as Males, and Bodies Corporate as well as Individuals, unless it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction; and wherever any Forfeiture or Penalty is or shall be made payable to a Party aggrieved, it shall be payable to a Body Corporate in every Case where such Body shall be the Party aggrieved.

Commencement of this Act.

XXXVI. And be it enacted, That this Act shall commence and take effect on the First Day of *September* One thousand eight hundred and twenty-eight, and that it shall extend only to that Part of the United Kingdom called *Ireland*.

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