ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

****

C A P. LXV.

An Act for the more speedy Trial of certain Homicides committed by Persons subject to the Mutiny Act. [29th *July* 1862.]

WHEREAS it is expedient that Persons subject to the present or any future Mutiny Act who shall be guilty of the Murder or Manslaughter of any Person subject to the said Act or Acts should be brought to speedy Punishment, and that the Offences of such Persons should in certain Cases be inquired of and tried with all convenient Speed, and that the Inquiry, Trial, and Punishment should in certain Cases be more speedy than the usual Course of Practice in respect of the Times of issuing Her Majesty's Commissions of Oyer and Terminer or Gaol Delivery will allow: And whereas it would contribute to the more speedy Punishment of Persons guilty thereof, and to the Maintenance of good Order and Military Discipline, if, when charged with Murder or Manslaughter committed in *England* or *Wales*, and out of the Jurisdiction of the Central Criminal Court, such Persons were rendered liable to be indicted and tried at the Central Criminal Court, and if when charged with Murder or Manslaughter committed in *Ireland* and elsewhere than in the County of the City of *Dublin* or the County of *Dublin* such Persons were rendered liable to be indicted and tried before and

 by

by the Commissioners appointed by virtue of any Commission of Oyer and Terminer or of Gaol Delivery under the Great Seal of *Ireland* for the County of the City of *Dublin*: Be it therefore 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:

The Queen's Bench or a Judge may order certain Prisoners to be indicted and tried under the Provisions of this Act.

1. Whenever any Person shall have been committed for any Murder or Manslaughter committed or supposed to have been committed at any Place in *England* or *Wales*, and out of the Jurisdiction of the Central Criminal Court, or at any Place in *Ireland* other than the County of the City of *Dublin* or the County of *Dublin*, and it shall appear to Her Majesty's Court of Queen's Bench in that Part of the United Kingdom wherein the said Offence was committed or supposed to have been committed, in Term Time, or to any Judge thereof, or of any of Her Majesty's Superior Courts of Common Law in the same Part of the United Kingdom, in Vacation, that the said Person (herein-after called the Prisoner) was at the Time of the Commission or supposed Commission of the said Murder or Manslaughter subject to the present or any future Mutiny Act, and that the Person (herein-after called the Deceased) for the Murder or Manslaughter of whom the Prisoner shall have been committed was at the Time last aforesaid subject to the said Act or Acts, it shall be lawful for such Court of Queen's Bench in Term Time, or for such Judge in Vacation, without the Prisoner being brought or appearing in Person before the said Court or Judge, upon the Application of Her Majesty's Principal Secretary of State for the War Department, and upon his Certificate in Writing, in the Form numbered 1. in the Schedule to this Act annexed, or to the like Effect, duly signed, that it would contribute to the Maintenance of good Order and Military Discipline if the said Prisoner were to be indicted and tried under the Provisions of this Act, to order that the said Prisoner shall be indicted and tried under the Provisions of this Act, and such Order may be in One of the Forms numbered 2. in the Schedule to this Act annexed, or to the like Effect.

And upon such Order the Prisoner shall be removed to the Gaol of Newgate in London or the Richmond Bridewell in Dublin, and the

2. Whenever any such Order shall have been made, the Gaoler or Keeper of any Gaol or House of Correction in which the said Prisoner shall be confined shall forthwith upon the Delivery to him of an Office Copy of such Order, without Writ of Habeas corpus or other Writ for that Purpose, cause such Prisoner, with his Commitment and Detainer, to be safely removed to Her Majesty's Gaol of *Newgate* in the City of *London* if the said Prisoner shall be confined in *England* or *Wales*, and to Her Majesty's Gaol called the

the *Richmond Bridewell* in the County of the City of *Dublin* if the said Prisoner shall be confined in *Ireland*, and thereupon the Keeper of such Gaol shall receive such Prisoner into his Custody in such Gaol, there to remain until he shall be delivered by due Course of Law; and the Justice or Coroner by whom the Prisoner was committed, or any other Person having the Custody or Possession thereof, shall forthwith upon the Delivery to him of an Office Copy of such Order transmit any Recognizances, Depositions, Examinations, or Informations relating to the Murder or Manslaughter mentioned in such Order which shall be in his Custody or Possession to the proper Officer of the Court at and before which the Prisoner shall be rendered liable to be indicted under the Provisions of this Act, to be by him kept among the Records of the Court.

Depositions, &c. returned to the Court at which the Prisoner is to be indicted.

3. Whenever any Prisoner shall have been removed to the said Gaol of *Newgate* in the City of *London* under the Provisions of this Act, the Murder or Manslaughter of the Deceased by the Prisoner may be inquired of, heard, and determined, and the Prisoner may be indicted, arraigned, tried, and convicted for the Murder or Manslaughter of the Deceased, in the same Manner in all respects as if such Murder or Manslaughter had been committed within the Jurisdiction of the Central Criminal Court; and whenever any Prisoner shall have been removed to the *Richmond Bridewell* in the County of the City of *Dublin* under the Provisions of this Act, the Murder or Manslaughter of the Deceased by the Prisoner may be inquired of, heard, and determined, and the Prisoner may be indicted, arraigned, tried, and convicted for the Murder or Manslaughter of the Deceased, in the same Manner in all respects as if such Murder or Manslaughter had been committed in the County of the City of *Dublin*.

A Prisoner removed may be indicted and tried in London or Dublin.

4. Whenever any Prisoner so removed to One of the said Gaols shall be indicted under the Provisions of this Act, an Office Copy of the before-mentioned Order of the Court of Queen's Bench, or of a Judge, shall be delivered to the proper Officer of the Court at and before which the Prisoner shall be rendered liable to be indicted under the Provisions of this Act, and such Officer shall thereupon, by Indorsement on the Back of the Bill of Indictment, before its Presentment by the Grand Jury, or by Direction of the Justices, Judges, or Commissioners of the Court before whom such Indictment shall be tried, or any Two or more of them, at any other Time, certify that the Prisoner was committed for the Murder or Manslaughter of the Deceased, and was removed to the Gaol of *Newgate* or the *Richmond Bridewell*, as the Case may be, under the Provisions of this Act; and such Indorsement, which may be in the Form numbered 3. in the Schedule to this Act annexed, or to the like Effect, and which may be amended by the said last-mentioned Justices, Judges, or Commissioners,

A Certificate of his Removal under this Act and of the Cause of his Committal shall be endorsed on the Indictment.

sioners, or any Two or more of them, at any Time, and in such Manner, and as often as to them shall seem fit, shall be conclusive Proof that the said Prisoner was committed for the Murder or Manslaughter of the Deceased, and was removed to the said Gaol of *Newgate* or the said *Richmond Bridewell* under the Provisions of this Act; and such Indorsement shall not constitute or be deemed or taken to be a Portion of the Indictment.

When Indictment is amended the Indorsement is to be also amended.

5. Whenever any Indictment found under the Provisions of this Act shall be amended in any Manner, the before-mentioned Indorsement thereon shall, if it be necessary, be amended in the like Manner.

Indictment need not follow the Commitment.

6. A Prisoner committed for Murder may be indicted under the Provisions of this Act for Manslaughter, and a Prisoner committed for Manslaughter may be indicted under the same Provisions for Murder.

No Objection to be taken to any Order, and no Proof to be required of the Subjection of any Person to the Mutiny Act.

7. It shall not be lawful for any Person, either by himself or his Counsel, to take any Objection, either in the Court at, before, or by which the Prisoner shall be indicted, arraigned, tried, convicted, or sentenced under the Provisions of this Act, or in any Court of Error, to any Order of the said Court of Queen's Bench or of any Judge, or to any other Proceeding under or by virtue of which the Prisoner shall have been removed to the Gaol of *Newgate* or the *Richmond Bridewell;* and the Form of the Indictment under the Provisions of this Act shall be the same as that of Indictments for Murder or Manslaughter committed within the Jurisdiction of the Court at and before which such Prisoner shall be indicted under the Provisions of this Act; and it shall not be necessary to prove on the Trial of the Prisoner that either the Prisoner or the Deceased was or were at the Time of the Commission or supposed Commission of the said Murder or Manslaughter subject to the Provisions of any Mutiny Act; and the Prisoner shall not be acquitted by reason only of its appearing that the Prisoner or the Deceased was not or were not at the Time last aforesaid subject to the Provisions of any Mutiny Act.

Any Person convicted may be sentenced to be punished either in the County where the Offence was committed or within the Jurisdiction of the Court by which he shall be tried.

8. When any Person shall have been convicted of any Offence upon the Trial of any Indictment found under the Provisions of this Act, it shall be lawful for the Justices, Judges, or Commissioners of the Court before which any such Conviction shall have taken place, or for any Two or more of them, or, in case Sentence shall not then be passed, for the Justices, Judges, or Commissioners of the said Court, or for any Two or more of them, at any subsequent Sessions of the said Court, to order and adjudge such Convict to be punished according to Law at any Place either within the Jurisdiction of the said Court, or within the County or Place where such Offence shall have been committed or supposed to have been committed; and in

Cases

Cases where such Justices, Judges, or Commissioners, or any Two or more of them, shall order such Convict to be punished in such County or Place, it shall be lawful for such Justices, Judges, or Commissioners, or any Two or more of them, after passing Sentence upon such Convict, to make an Order commanding the Keeper of the Gaol of *Newgate* or of the *Richmond Bridewell* to cause such Convict to be delivered into the Custody of the Gaoler or Keeper of the Gaol or House of Correction in such County or Place, together with such Order, and commanding such Gaoler or Keeper to receive such Convict into his Custody in such Gaol or House of Correction, and him there safely to keep until such Sentence shall have been executed upon such Convict according to Law, or until he shall be otherwise delivered by due Course of Law, and also to make an Order commanding the Sheriff of such County or Place to execute such Sentence upon such Convict within such County or Place according to Law in the same Manner as if he had been tried and received such Sentence in such County or Place; and every such Sheriff, Gaoler, and Keeper respectively is hereby commanded to perform and execute according to Law each and everything which he shall be commanded to perform and execute by any such Order; and the several Forms in the Schedule to the Act made and passed in the Nineteenth Year of Queen *Victoria*, intituled *An Act to empower the Court of Queen's Bench to order certain Offenders to be tried at the Central Criminal Court*, contained, or Forms to the like Effect, shall be deemed good, valid, and sufficient in Law, and in the Case of any Order directed to any Sheriff, and commanding him to execute any Sentence, it shall be sufficient to deliver such Order either to such Sheriff or to his Under Sheriff.

On Notice given by Prosecutor, Recognizances to bind Parties to give Evidence at the Inquiry and Trial.

9. Every Recognizance which shall have been entered into for the Prosecution of the Prisoner, and every Recognizance of any Witness to give Evidence against him for his said Offence, shall, in case any such Order shall be made as is mentioned in the First Section of this Act, be obligatory on each of the Parties bound by such Recognizance to prosecute and give Evidence, and to do all other Things mentioned with reference to the said Inquiry and Trial at the Court at or before which the Prisoner shall be indicted or tried under the Provisions of this Act, in like Manner as if such Recognizance had been originally entered into for prosecuting such Offence, or giving Evidence, or doing other Things before the said last-mentioned Court; provided that Notice in Writing shall have been given either personally, or by leaving the same at the Place of Residence as of which the Parties bound by such Recognizance are therein described, to appear before the said last-mentioned Court upon the Inquiry into and Trial of the said Offence; and the Prosecutor is hereby required, on Notice given to him that such

Order as is mentioned in the First Section of this Act has been made, to give such Notice or Notices in Writing as are in this Section mentioned.

Power to compel Witnesses to attend Trials.

10. Whenever any Indictment shall have been found at any Court under the Provisions of this Act, it shall be lawful for the said Court to issue Process to compel the Attendance of Witnesses, as well on the Part of the Prosecution as on the Part of the Defence, on the Trial of such Indictment, in like Manner as in Cases of Indictments found at the said Court for Offences committed within the Jurisdiction of the said Court; and every such Process shall and may be lawfully executed at any Place in that Part of the United Kingdom wherein the Gaol to which the Prisoner shall have been removed under the Provisions of this Act shall be situate.

Expenses of Prosecution and Rewards may be ordered to be paid.

11. Whenever any Indictment shall have been found at any Court under the Provisions of this Act, it shall be lawful for the said Court to order such Expenses of the Prosecutor and Witnesses, and such other Expenses, and such of the several Rewards payable in pursuance of any Statute made or to be made as to such Court may seem reasonable and sufficient, to be paid forthwith by the proper Officer of the said Court, and such Monies shall be repaid to the said Officer by the same Persons who would have been liable to pay the same, as if such Court were holden under Commissions of Oyer and Terminer and Gaol Delivery for the County or Place in which the Prisoner was committed.

Power to order Payment of Expenses of Prisoner's Witnesses.

12. Whenever any Prisoner shall be tried at any Court under the Provisions of this Act, it shall be lawful for the Justices, Judges, or Commissioners of the said Court before whom any such Prisoner shall be tried, or for any Two or more of them, if it shall seem reasonable so to do, to order the Payment of the Expenses of the Witnesses on the Part of the Defence, and such Payment shall be made accordingly in the same Manner in all respects as if such Witnesses were Witnesses on the Part of the Prosecution; and the Commissioners of Her Majesty's Treasury shall, upon Receipt of such last-mentioned Order, and out of any Monies provided by Parliament for Law Charges in *England* or *Ireland*, as the Case may be, repay such Sum or Sums as shall be therein specified to the Person who shall have paid the same.

No Proof to be required of due Removal of Prisoner.

13. Whenever any such Order shall have been made as is mentioned in the First Section of this Act, it shall not be necessary for any Purpose whatsoever to prove that the Prisoner has been duly removed to the Gaol of *Newgate* or the *Richmond Bridewell* under the Provisions of this Act, or that he was committed for the Murder

or

or Manslaughter of the Deceased; and no Evidence or Proof to the contrary shall be admitted: And every Verdict and Judgment which shall be given upon any Indictment tried under the Provisions of this Act shall be deemed as good, valid, and sufficient in Law as if the Offence charged in such Indictment had been actually committed within the Jurisdiction of the said Court before which such Indictment shall be tried.

Verdicts and Judgments to be valid.

14. Whenever any Person shall have been removed into the Custody of the said Keeper of the said Gaol of *Newgate* or of the *Richmond Bridewell* under the Provisions of this Act, such Person shall, without Writ of Habeas corpus or other Writ for that Purpose, be removed into and from the Court at or before which such Indictment shall be found, tried, or proceeded upon, when and as often as it may be necessary, by the Keeper of the said Gaol of *Newgate* or of the *Richmond Bridewell*, with his Commitment and Detainer, in order that he may be tried, sentenced, or otherwise dealt with according to Law; and such Removal shall not be deemed an Escape.

The Prisoner may be removed to and from the Central Criminal Court as often as necessary.

15. Whenever any Indictment shall have been found under the Provisions of this Act, the Justices, Judges, or Commissioners of the Court at or before which such Indictment shall be found, tried, or proceeded upon for the Time being, or any Two or more of them, shall possess the same Power, Jurisdiction, and Authority as to all Matters and Things whatsoever as if the Offence charged in the said Indictment had actually been committed within the Jurisdiction of the said Court; and every such Offence may be dealt with, tried, and determined by and before such Justices, Judges, or Commissioners, or any Two or more of them, in the same Manner in all respects as if the same had actually been committed within the Jurisdiction of the said Court: Provided that nothing in this Section contained shall limit or lessen any Power, Jurisdiction, or Authority conferred upon the said Justices, Judges, or Commissioners, or any Two or more of them, by this Act.

Court before which Indictment found to have the same Authority as if the Offence had been committed within its Jurisdiction.

16. The Provisions of the Twenty-first Section of the said Act made and passed in the Nineteenth Year of Her Majesty Queen *Victoria* shall apply to every Prisoner removed to any Gaol under the Provisions of this Act, in the same Manner in all respects and for all Intents and Purposes as if such Prisoner had been so removed as in any of the preceding Sections of the said Act is mentioned, and as if that Section had been re-enacted herein with reference to Prisoners removed to any Gaol under the Provisions of this Act; and where any Person shall have been removed to any Gaol under the Provisions of this Act, the Provisions of the Twenty-seventh and Twenty-eighth Sections of the same Act shall apply in the

Sects. 21. 27, and 28 of 19 Vict. c. 16. extended to this Act.

the same Manner in all respects as in the Case where any Person shall have been removed or committed to the said Gaol of *Newgate* under the Provisions of the said Act.

Prosecut or and Witnesses may be bound by Recognisances to appear again before the said Court.

17. Whenever any Prosecutor and Witnesses in any Case where any Indictment shall have been found under the Provisions of this Act shall appear before the Court at or before which such Indictment shall be found, tried, or proceeded upon, it shall be lawful for such Court, from Time to Time and as often as to the same Court shall seem fit, to require such Prosecutor and Witnesses to enter into such Recognizance in such Sum of Money, and with such Condition as to Appearance at the said Court, and otherwise, as to the said Court shall seem fit.

Her Majesty in Council may make Rules for Purposes of this Act.

18. It shall be lawful for Her Majesty, by and with the Advice of Her Most Honourable Privy Council, from Time to Time to make Rules and Regulations touching the said Gaol of *Newgate*, or any other Gaol or Prison, and the Government and Keeping thereof; and it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, by and with the Advice of the Privy Council, from Time to Time to make Rules and Regulations touching the said *Richmond Bridewell* for the Purposes of this Act, and touching the Alteration of any Commissions, Writs, Precepts, or other Proceedings whatsoever for carrying into effect the Purposes of this Act; and all such Rules and Regulations shall be of the like Force and Effect as if the same had been made by Authority of Parliament, and shall be notified in the *London* or *Dublin* Gazette, or in such other Manner as Her Majesty, by and with the Advice of Her Most Honourable Privy Council, shall think fit to direct.

Act not to affect any Peer.

19. Nothing in this Act contained shall render any Person claiming the Privilege of Peerage triable under the Provisions of this Act.

Interpretation of Terms.

20. In the Construction of this Act the Words "present Mutiny Act" shall be understood to mean the Act made and passed in this present Parliament, intituled *An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters;* and the Words "future Mutiny Act" shall be understood to mean any Act hereafter to be made and passed for the Purposes and with the Intents and Objects of the present Mutiny Act, or for the like Purposes, and with the like Intents and Objects.

Short Title.

21. In citing this Act in any Instrument, Document, or Proceeding it shall be sufficient to use the Expression "The Jurisdiction in Homicides Act, 1862."

SCHE-

SCHEDULE referred to in the foregoing Act.

1. *Form of Certificate mentioned in the First Section.*

I the undersigned, Her Majesty's Principal Secretary of State for the War Department, having been credibly informed that [*Name or Names of Prisoner or Prisoners*] lately committed for the Murder [*or* Manslaughter] of [*Name of Person killed*] deceased, and now confined in the Gaol [House of Correction] at in the County of is a Person [are Persons] subject to the Mutiny Act, and that the said [*Name of Person deceased*] deceased was at the Time of the alleged Murder [*or* Manslaughter] also subject to the said Act, and that the said Murder or supposed Murder [*or* Manslaughter or supposed Manslaughter] was committed in England or Wales, and out of the Jurisdiction of the Central Criminal Court, [*or in Ireland and elsewhere than in the County of the City of Dublin*, in the County of Dublin,] and having been credibly informed of the Circumstances relating to the said alleged Crime, and deeming it expedient that a more speedy Trial of the said [*Name or Names of Prisoner or Prisoners*] should be had than the usual Course of Practice allows, do hereby certify my Belief that it would contribute to the Maintenance of good Order and Military Discipline if the said [*Name or Names of Prisoner or Prisoners*] were to be indicted and tried under the Provisions of the Jurisdiction in Homicides Act, 1862.

Given under my Hand this Day of A.D.

[*Signature of the said Secretary of State.*]

2. *Form of Order of the Court of Queen's Bench mentioned in the First Section.*

In Her Majesty's Court of Queen's Bench. [*Name of Term*] Term, A.D. [*Year of our Lord*].

WHEREAS it appears by the Affidavit [*or* Affidavits] of [*Name or Names of Deponent or Deponents*], that [*Name or Names of Prisoner or Prisoners*], now in the Custody of the Gaoler or Keeper of the Gaol [*or* House of Correction] at in the County of was [*or* were] committed for the Murder [*or* Manslaughter]

Manslaughter] of [*Name of Deceased*] deceased, and that as well the said [*Name or Names of Prisoner or Prisoners*] as the said [*Name of Deceased*] deceased were at the Time of the Commission or supposed Commission of the said Murder [*or* Manslaughter] subject to the Mutiny Act: Now thereupon, and on the Application and Certificate of Her Majesty's Principal Secretary of State for the War Department, it is ordered, That the said [*Name or Names of Prisoner or Prisoners*] be indicted and tried under the Provisions of the Jurisdiction in Homicides Act, 1862.

By the Court.

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2. *Form of Order of a Judge mentioned in the First Section.*

WHEREAS it appears [*follow the last preceding Form as far as the Words* "Secretary of State for the War Department"], I do order that the said [*Name or Names of Prisoner or Prisoners*] be indicted and tried under the Provisions of the Jurisdiction in Homicides Act, 1862. Given under my Hand in Vacation, this

Day of A.D. [*Year of our Lord*].

[*Signature of Judge.*]

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3. *Form of Indorsement mentioned in the Fourth Section.*

I certify that [*Name or Names of Prisoner or Prisoners*] was [*or* were] committed for the Murder [*or* Manslaughter] of [*Name of Deceased*] deceased, and that he [*or* they] has [*or* have] been removed to the Gaol of Newgate [*or* the Richmond Bridewell] under the Provisions of the Jurisdiction in Homicides Act, 1862.

[*Signature of proper Officer of the Court.*]

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