



ST. CHRISTOPHER AND NEVIS

CHAPTER 4.21

OFFENCES AGAINST THE PERSON ACT

Revised Edition

showing the law as at 31 December 2017

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OFFENCES AGAINST THE PERSON ACT

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Page

3

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CHAPTER 4.21
OFFENCES AGAINST THE PERSON ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

1. Short title

PART II

HOMICIDE

2. Murder
3. Sentence for murder
4. Conspiring or soliciting to commit murder
5. Manslaughter
6. Offences of Infanticide
7. Accessory after the fact to murder
8. Excusable homicide
9. Provision for trial of murder and manslaughter in certain cases

PART III

ATTEMPTS TO MURDER

10. Administering poison, etc.
11. Destroying or damaging a building with gunpowder with intent to murder
12. Setting fire to, or casting away a ship, with intent to murder
13. Attempting to administer poison, or shooting, or attempting to shoot, or attempting to drown, etc., with intent to murder
14. By any other means attempting to commit murder

PART IV

LETTERS THREATENING TO MURDER

15. Sending letters threatening to murder

PART V

ACTS CAUSING OR TENDING TO CAUSE DAMAGE
TO LIFE, OR BODILY HARM

16. Impeding a person endeavouring to save himself or herself from shipwreck
17. Shooting or attempting to shoot, or wounding with intent
18. What shall constitute loaded arms
19. Inflicting bodily injury with or without weapon
20. Attempting to choke, etc., in order to commit an indictable offence
21. Using chloroform, etc., to commit an indictable offence
22. Maliciously administering poison, etc., so as to endanger life or inflict bodily harm

23. Maliciously administering poison, etc., with intent to injure, aggrieve, or annoy any other person.
24. If the jury be not satisfied that the person charged is guilty of a felony, etc.
25. Not providing apprentices or servants with food, etc., whereby life is endangered
26. Exposing children whereby life is endangered
27. Causing bodily injury by gunpowder
28. Causing gunpowder to explode or sending to any person an explosive substance, etc.
29. Placing gunpowder near a building with intent to do bodily injury to any person
30. Setting spring-gun etc., with intent to inflict grievous bodily harm
31. Drivers of carriages injuring persons by furious driving
32. Causing bodily injury by doing or omitting to do any act

PART VI

ASSAULTS

33. Obstructing or assaulting a clergyman or clergywoman, or other minister in the discharge of his or her duties
34. Disturbing or interrupting assemblage of persons met for religious, moral, social, or benevolent purpose
35. Assaulting a Magistrate, etc., on account of his or her preserving wreck, etc.
36. Assault with intent to commit felony
37. Assault with intent to obstruct the sale of grain or its free passage
38. Assaults on seamen, etc.
39. Assault arising from combination
40. Common assault or battery
41. Aggravated assaults on females, and boys under 14 years
42. Certificate of dismissal of complaint
43. Certificate or conviction shall be a bar to any other proceedings
44. These provisions not to apply to certain cases
45. Assault occasioning bodily harm

PART VII

RAPE, ABDUCTION, AND DEFILEMENT OF WOMEN

46. Rape
47. Indecent assault
48. Abduction of a woman against her will from motives of lucre
49. Forcible abduction of any woman with intent to marry her
50. Abduction of a girl under 16 years

PART VIII

CHILD STEALING

51. Child stealing

PART IX

BIGAMY

52. Bigamy

PART X

ATTEMPTS TO PROCURE ABORTION

53. Administering drugs, or using instruments, to procure abortion
54. Procuring drugs, etc., to cause abortion

PART XI

CONCEALING THE BIRTH OF A CHILD

55. Concealing the Birth of a Child

PART XII

UNNATURAL OFFENCES

56. Sodomy and bestiality
57. Attempt to commit an infamous crime

PART XIII

PROOF IN CERTAIN CASES

58. Carnal knowledge defined

PART XIV

MAKING GUNPOWDER TO COMMIT OFFENCES AND
SEARCHING FOR THE SAME

59. Making or having gunpowder, etc., with intent to commit any felony against this Act
60. Magistrate may issue search warrants
61. Forfeiture of dangerous or noxious things

PART XV

KIDNAPPING

62. Kidnapping
63. Defence of non-resistance
64. Where offences against this Act may be tried

PART XVI

OTHER MATTERS

65. Fines, and sureties for keeping the peace
66. Persons convicted under this Act to pay costs of prosecution if court thinks fit
67. Such costs may be levied by distress
68. Persons loitering at night and suspected of any felony against this Act may be apprehended

69. Punishment of principals in the second degree and accessories
70. Fines and penalties not payable to prosecutor to be paid to the Crown
71. Offences mentioned in this Act committed within the jurisdiction of the Admiralty
72. Hearings in camera
73. Anonymity of complainant
74. Incest

CHAPTER 4:21**OFFENCES AGAINST THE PERSON ACT**

AN ACT TO MAKE PROVISION RESPECTING OFFENCES AGAINST THE PERSON; AND TO MAKE PROVISION FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Offences against the Person Act.

PART II

HOMICIDE

Murder.

2. A person convicted of murder shall suffer death as a felon.

Sentence for murder.

3. (1) Upon every conviction for murder, the court shall pronounce sentence of death, and the same may be carried into execution, and all other proceedings upon such sentence, and in respect thereof, may be had and taken in the same manner, and the court, before which the conviction takes place, shall have the same power, in all respects, as after a conviction for any other felony for which a prisoner may be sentenced to suffer death as a felon:

Provided that sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he or she was under eighteen years; but *in lieu* thereof the court shall sentence him or her to be detained during the Crown's pleasure; and if so sentenced he or she shall be liable to be detained in such place and under such conditions as the Governor-General may direct and while so detained, be deemed to be in legal custody.

(Amended by Act 6 of 1976)

- (2) The Governor-General shall direct the time and place for the execution of the sentence of death on persons convicted of murder, and the Provost-Marshal shall cause the body of such murderer to be buried in such place as the Governor-General may approve.

(Amended by Act 6 of 1976)

Conspiring or soliciting to commit murder.

4. All persons who conspire, confederate, and agree, to murder any person, whether he or she be a subject of the Crown or not, and whether he or she be within the Commonwealth or not, and whosoever solicits, encourages, persuades, endeavours to persuade, or proposes to any person to murder any other person,

whether he or she be a subject of the Crown or not, and whether he or she be within the Commonwealth or not, commits a misdemeanour, and shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Manslaughter.

5. A person who is convicted of manslaughter shall be liable, at the discretion of the court, to life imprisonment with or without hard labour, or to pay such fine as the court may award, in addition to or without any such other discretionary punishment as aforesaid.

(Amended by Act 10 of 1998)

Offences of Infanticide.

6. (1) Where a woman by any wilful act or omission causes the death of her child being a child under twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this Act the offence would have amounted to murder, she commits a felony, to wit infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.

(2) Where upon the trial of a woman for the murder of her child, being a child under twelve months, the jury are of the opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child, or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for the provisions of this Act they might have returned a verdict of murder, return *in lieu* thereof a verdict of infanticide.

(3) Nothing in this Act shall affect the power of the jury upon an indictment for the murder of a child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section 55, except that for the purposes of the proviso to that section a child shall be deemed to have recently been born if it had been born within twelve months before its death.

(4) Section 55 shall apply in the case of an acquittal of a woman upon an indictment for infanticide as it applies upon the acquittal of a woman upon an indictment for murder, and upon the trial of any person for infanticide it shall be lawful for the jury, if they are satisfied that the accused is guilty of an offence under section 26, to find the accused guilty of such offence (notwithstanding the death of the child in respect of whom the offence is committed) and in that case that section shall apply accordingly.

Accessory after the fact to murder.

7. Every accessory after the fact to murder shall be liable to be imprisoned for life, or for any term not exceeding ten years, with or without hard labour.

Excusable homicide.

8. No punishment or forfeiture shall be incurred by any person who kills another by misfortune, or in his or her own defence, or in any other manner without felony.

Provision for trial of murder and manslaughter in certain cases.

9. Where any person, being feloniously stricken, poisoned, or otherwise hurt upon the sea, or at any place out of the State, dies of such stroke, poisoning, or hurt in the State, or being feloniously stricken, poisoned, or otherwise hurt at any place in the State, dies of such stroke, poisoning, or hurt upon the sea, or at any place out of the State, every offence committed in respect of any such case, whether the same amounts to murder or manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried and determined, and punished in the Circuit, district, or place in the State, in which such death, stroke, poisoning or hurt happens, in the same manner in all respects as if such offence had been wholly committed in that Circuit, district or place.

PART III

ATTEMPTS TO MURDER

Administering poison, etc.

10. Any person who administers to, or causes to be administered to, or to be taken by any person, any poison, or other destructive substance, or, by any means, wounds, or causes any grievous bodily harm to any person with intent, in any of the cases aforesaid, to commit murder commits a felony, and, on conviction, may be imprisoned for a term not exceeding twenty-five years, with or without hard labour.

(Amended by Act 7 of 2008)

Destroying or damaging a building with gunpowder with intent to murder.

11. Any person who, by the explosion of gunpowder or other explosive substance, destroys or damages any building, with intent to commit murder, commits a felony, and, on conviction, shall be imprisoned for a term not exceeding ten years, with or without hard labour.

Setting fire to, or casting away a ship, with intent to murder.

12. Any person who sets fire to any ship or vessel, or any part of the ship or vessel, or any part of the tackle, apparel, or furniture thereof, or any goods or any chattels being therein, or casts away or destroys any ship or vessel, with the intent, in any of such cases, to commit murder, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Attempting to administer poison, or shooting, or attempting to shoot, or attempting to drown, etc., with intent to murder.

13. Any person who attempts to administer to, or attempts to cause to be administered to, or to be taken by any person, any poison or other destructive thing, or shoots at any person, or by drawing a trigger, or in any other manner attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate, or strangle any person, with intent in any of the cases aforesaid to commit murder, whether any bodily injury be effected or not, commits a felony, and shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

By any other means attempting to commit murder.

14. Any person who, by any means other than those specified in the preceding sections of this Act, attempts to commit murder, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

PART IV

LETTERS THREATENING TO MURDER

Sending letters threatening to murder.

15. Any person who maliciously sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding four years, with or without hard labour.

PART V

ACTS CAUSING OR TENDING TO CAUSE DAMAGE TO LIFE, OR BODILY HARM

Impeding a person endeavouring to save himself or herself from shipwreck.

16. Any person who unlawfully and maliciously prevents, or impedes, any person being on board of, or having quitted any ship or vessel in distress, or wrecked, stranded, or cast on shore, in his or her endeavour to save his or her life, or unlawfully and maliciously prevents, or impedes any person in his or her endeavour to save the life of any such person as in this section first aforesaid commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Shooting or attempting to shoot, or wounding with intent.

17. Any person who, unlawfully and maliciously, by any means, wounds, or causes any grievous bodily harm to any person, or shoots at any person, or by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person, with intent, in any of the cases aforesaid, to maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person, or with the intent to resist, or prevent the lawful apprehension, or detainer, of any person, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding twenty years, with or without hard labour.

(Amended by Act 7 of 2008)

What shall constitute loaded arms.

18. Any gun, pistol, or other arm, loaded in the barrel with gunpowder, or other explosive substance, and ball, shot, slug, or other destructive material, or charged with compressed air and having ball, shot, slug, or other destructive material in the barrel, shall be deemed to be loaded arms within the meaning of this Act, although the attempt to discharge the same may fail for want of proper priming or other causes.

Inflicting bodily injury with or without weapon.

19. Any person who, unlawfully and maliciously, wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour; and, if upon the trial of any indictment for any felony (except in case of murder or manslaughter), the indictment alleges that the defendant did cut, stab, wound, or inflict grievous bodily harm on any person, and the jury be satisfied that the defendant is guilty of the cutting, stabbing or wounding or inflicting grievous bodily harm charged in the indictment but be not satisfied that the defendant is guilty of the felony charged in the indictment, the jury may acquit of the felony and find the defendant guilty of unlawfully cutting, stabbing, or wounding, or inflicting grievous bodily harm, and such defendant shall be liable to be imprisoned for a term not exceeding seven years with or without hard labour.

(Amended by Act 7 of 2008)

Attempting to choke, etc., in order to commit an indictable offence.

20. Any person who, by any means, attempts to choke, suffocate, or strangle any other person, or, by any means calculated to choke, suffocate, or strangle, attempts to render any other person insensible, unconscious, or incapable of resistance, with intent, in any of such cases, thereby to enable himself or herself, or any other person, to commit, or with intent, in any of such cases, thereby to assist any other person in committing an indictable offence, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years.

Using chloroform, etc., to commit an indictable offence.

21. Any person who unlawfully applies or administers to, or causes to be taken by, or attempts or causes to be administered to, or taken by, any person, any chloroform, laudanum, or other stupefying or overpowering drug, matter, or substance, with intent, in any of such cases, thereby to enable himself or herself, or any other person, to commit, or with intent, in any of such cases, thereby to assist any other person in committing, an indictable offence commits a felony, and, on conviction, shall be liable to be imprisoned for a period not exceeding ten years, with or without hard labour.

Maliciously administering poison, etc., so as to endanger life or inflict bodily harm.

22. Any person who, unlawfully and maliciously, administers to, or causes to be administered to or taken by, any other person, any poison, or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Maliciously administering poison, etc., with intent to injure, aggrieve, or annoy any other person.

23. Any person who, unlawfully and maliciously, administers to, or causes to be administered to, or taken by, any other person, any poison, or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding four years, with or without hard labour.

If the jury be not satisfied that the person charged is guilty of a felony, etc.

24. If, upon the trial of any person for a felony mentioned in section 22, the jury are not satisfied that such person is guilty thereof, but are satisfied that he or she is guilty of a misdemeanour mentioned in section 23, then, and in every such case, the jury may acquit the accused of such felony and find him or her guilty of such misdemeanour, and thereupon, he or she shall be punished in the same manner as if convicted upon an indictment for such misdemeanour.

Not providing apprentices or servants with food, etc., whereby life is endangered.

25. Any person who, being legally liable, either as a husband, parent, guardian or committee, master or mistress, nurse or otherwise to provide for any person as wife, child, ward, lunatic or idiot, apprentice or servant, infant, or otherwise, necessary food, clothing, or lodging, wilfully and without lawful excuse, refuses or neglects to provide the same, or unlawfully or maliciously does, or causes to be done, any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been or is likely to be, permanently injured, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

Exposing children whereby life is endangered.

26. Any person who unlawfully abandons or exposes any child being under two years, whereby the life of such child is endangered, or the health of such child has been, or is likely to be permanently injured commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

Causing bodily injury by gunpowder.

27. Any person who, unlawfully and maliciously, by the explosion of gunpowder, or other explosive substance, burns, maims, disfigures, disables, or does any grievous bodily harm to any person, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Causing gunpowder to explode or sending to any person an explosive substance, etc.

28. Any person who, unlawfully and maliciously, causes any gunpowder, or other explosive substance, to explode, or sends or delivers to, or causes to be taken or received by, any person, any explosive substance, or any other dangerous or noxious thing, or puts or lays at any place, or casts or throws at or upon, or otherwise applies to any person, any corrosive fluid, or any destructive or explosive substance, with intent, in any of the cases aforesaid, to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, whether any bodily harm be effected or not, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Placing gunpowder near a building with intent to do bodily injury to any person.

29. Any person who, unlawfully and maliciously, places or throws in, into, upon, against, or near, any building, ship or vessel, any gunpowder, or other explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place, and whether or not any bodily injury is effected, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Setting spring-gun etc., with intent to inflict grievous bodily harm.

30. Any person who sets or places, or causes to be set or placed, any spring-gun, man-trap, picket or other engine, calculated to destroy human life or inflict grievous bodily harm, with the intent that the same, or whereby the same, may destroy or inflict grievous bodily harm upon any trespasser, or other person, coming in contact therewith, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

Drivers of carriages injuring persons by furious driving.

31. Any person who, having the charge of any carriage or vehicle, by wanton or furious driving or racing, or other wilful misconduct, or by wilful neglect, does, or causes to be done, any bodily harm to any person, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

Causing bodily injury by doing or omitting to do any act.

32. Any person who, by any unlawful act, or by doing negligently, or omitting to do, any act which it is his or her duty to do, causes grievous bodily injury to any other person, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

PART VI

ASSAULTS

Obstructing or assaulting a clergyman or clergywoman, or other minister in the discharge of his or her duties.

33. Any person who, by threats or force, unlawfully obstructs or prevents, or endeavours to obstruct or prevent, any clergyman or clergywoman or other minister, in, or from, celebrating divine service, or otherwise officiating in any church, chapel, meeting-house, school-house, or other place used for divine worship, or in, or from, the performance of his or her duty in the lawful burial of the dead in any churchyard, or other burial place, or strikes, or offers any violence to, or upon any civil process, or, under the pretence of executing any civil process, arrests any clergyman or clergywoman, or other minister, who is engaged in, or, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

Disturbing or interrupting assemblage of persons met for religious, moral, social, or benevolent purpose.

34. Any person who wilfully disturbs, interrupts, or disquiets any assemblage of persons met for religious worship, or for any moral, social, or benevolent purpose, by profane discourse, by rude or indecent behaviour, or by making a noise, either within the place of such meeting, or so near it as to disturb the order, or solemnity of the meeting, may be arrested on view by any peace officer present at such meeting, or by any other person present, thereto verbally authorised by any Justice of the Peace present thereat, and detained until he or she can be brought before a Magistrate, and such offender shall, on summary conviction, forfeit and pay such sum of money, not exceeding two hundred dollars, as the convicting Magistrate may think fit, and costs.

(Amended by Acts 7 of 1976 and 9 of 1986)

Assaulting a Magistrate, etc., on account of his or her preserving wreck, etc.

35. Any person who assaults and strikes or wounds any Magistrate, officer, or any other person lawfully authorised, in, or on account of, the exercise of his or her 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, commits a misdemeanour, and, on conviction, is liable to be imprisoned for a term not exceeding two years, with or without hard labour.

Assault with intent to commit felony.

36. Any person who assaults any person with intent to commit a felony, or assaults, resists, or wilfully obstructs any revenue or peace officer in the due execution of his or her duty, or any person acting in aid of such officer, or assaults any person with the intent to resist or prevent the lawful apprehension or detainer of himself or herself, or of any other person, for any offence, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

Assault with intent to obstruct the sale of grain or its free passage.

37. Any person who beats, or uses any violence or threat of violence to, any person, to deter or hinder him or her from buying, selling, or otherwise disposing of any wheat or other grain, flour, meal, malt, or potatoes, or other produce, or goods, in any market or other place, or beats, or uses any such violence or threat to, any person having the charge, or care, of any wheat, or other grain, flour, meal, malt, or potatoes, whilst on the way to or from any city, market-town, or other place, with intent to stop the conveyance of the same, shall, on summary conviction, be liable to be imprisoned and kept to hard labour for a term not, exceeding three months:

Provided, that no person punished for any such offence by virtue of this section shall be punished for the same offence by virtue of any other law.

Assaults on seamen, etc.

38. Any person who unlawfully and with force hinders, or prevents any seaman, stevedore, ship-carpenter, or other person usually working at or on board any ship or vessel, from working at or exercising his or her lawful trade, business, or occupation, or beats, or uses any violence to, any such person, with intent to hinder, or prevent him or her from working at, or exercising the same, shall, on summary conviction, be liable to be imprisoned and kept to hard labour for a term not exceeding three months:

Provided, that no person punished for any such offence by reason of this section shall be punished for the same offence by any other law.

Assault arising from combination.

39. Any person who, in pursuance of any unlawful combination, or conspiracy to raise the rate of wages, or of unlawful combination, or conspiracy, respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or, in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with a view to hinder him or her from working or being employed at such trade, business or manufacture, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

Common assault or battery.

40. When any person unlawfully assaults or beats any other person, any Magistrate, upon complaint by or on behalf of the party aggrieved, praying him or her to proceed summarily on the complaint, may hear and determine such offence, and the offender shall, on summary conviction, at the discretion of the Magistrate, either be imprisoned, with or without hard labour for a term not exceeding two months, or else shall forfeit and pay such fine as shall appear to the Magistrate to be meet, not exceeding the sum of two hundred dollars, together with costs (if ordered).

(Amended by Acts 7 of 1976 and 9 of 1986)

Aggravated assaults on females, and boys under 14 years.

41. When any person is charged before a Magistrate with an assault or battery upon any male child, whose age shall not, in the opinion of the Magistrate, exceed fourteen years, or upon any female, either upon the complaint of the party aggrieved or otherwise, the Magistrate, if the assault or battery is of such an aggravated nature that it cannot, in his or her opinion, be sufficiently punished under the provisions hereinbefore contained as to common assaults and batteries, may proceed to hear and determine the same, and every such offender shall be liable, on summary conviction, to be imprisoned, with or without hard labour, for a period not exceeding six months, or to pay a fine, not exceeding (together with costs) the sum of five hundred dollars, and, if the Magistrate shall so think fit, in any of the said cases, shall be bound to keep the peace and be of good behaviour for a period not exceeding six months from the expiration of such sentence.

(Amended by Acts 7 of 1976 and 9 of 1986)

Certificate of dismissal of complaint.

42. If the Magistrate, upon the hearing of any case of assault or battery upon the merits, where the complaint was preferred by, or on behalf of the party aggrieved under either of the last two preceding sections, deems the offence not to be proved, or finds the assault or battery to have been justified, or so trifling as not to merit any punishment, and accordingly dismisses the complaint, he or she shall forthwith make out a certificate under his or her hand stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

Certificate of conviction shall be a bar to any other proceedings.

43. If any person, against whom any such complaint, as in either of the last two preceding sections mentioned, has been preferred by or on behalf of the party aggrieved, has obtained such certificate, or, having been convicted, has paid the whole amount adjudged, or has suffered the imprisonment, or imprisonment with hard labour, awarded, in every such case he or she shall be released from all further or other proceedings, civil or criminal, for the same cause.

These provisions not to apply to certain cases.

44. In case the Magistrate finds any assault or battery complained of to have been accompanied by an attempt to commit a felony, or is of opinion that the same is, from any other circumstance, a fit subject for prosecution by indictment, he or she shall abstain from any adjudication thereupon, and shall deal with the case, in all respects, in the same manner as if he or she had no authority finally to hear and determine the same:

Provided that nothing herein contained shall authorize any Magistrate to hear and determine any case of assault or battery in which any question shall arise as to the

title to any lands, tenements or hereditaments, or any interest therein or accruing thereon, or as to any bankruptcy or insolvency, or any execution under the process of any Court of Justice.

Assault occasioning bodily harm.

45. Any person who is convicted, upon an indictment, of any assault occasioning actual bodily harm shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour; and any person who is convicted, upon an indictment, for a common assault shall be liable to be imprisoned for a term not exceeding one year, with or without hard labour.

PART VII

RAPE, ABDUCTION, AND DEFILEMENT OF WOMEN

Rape.

46. Any person who is convicted of the crime of rape, shall be guilty of a felony, and, on conviction, shall be liable, at the discretion of the court, to life imprisonment, with or without hard labour.

(Amended by Act 10 of 1998)

Indecent assault.

47. (1) Any person who is convicted of any indecent assault upon any female shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

(Amended by Act 10 of 1998)

(2) It shall be no defence to a charge on indictment for an indecent assault on any female under sixteen years to prove that she consented to the act of indecency.

Abduction of a woman against her will from motives of lucre.

48. Where any woman of any age has any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or is a presumptive heiress or co-heiress, or presumptive next-of-kin, to any one having such interest, any person who, from motives of lucre, takes away or detains any such woman against her will, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, and any person who fraudulently allures, takes away, or detains such woman, being under twenty-one years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour; and any person who is convicted of any offence against this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any such interest, or which shall come to her as such heiress, co-heiress, or next-of-kin as aforesaid; and if any such marriage as aforesaid shall have taken place, such property shall, upon such conviction, be settled in such manner as a Judge shall appoint, upon any information at the suit of the Attorney-General.

Forcible abduction of any woman with intent to marry her.

49. Any person who, by force, takes away or detains against her will any woman of any age with intent to marry or carnally know her, or to cause her to be married, or carnally known by any other person, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding five years.

Abduction of a girl under 16 years.

50. Any person who unlawfully takes, or causes to be taken, any unmarried girl, being under sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

PART VIII

CHILD STEALING

Child stealing.

51. Any person who unlawfully, either by force or fraud, leads or takes away, or decoys or entices away or detains, any child under fourteen years, with intent to deprive any parent, guardian, or 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 which ever person such article may belong, and any person, with such intent, receives or harbours any such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away, or detained as in this section before mentioned, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour, and if a male under sixteen years, with or without whipping:

Provided that, no person who has claimed any right to the possession of such child, or is the mother, or has claimed to be the father, of child born out of wedlock, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child, or taking such child out of the possession of any person having the lawful charge thereof.

(Amended by Act 19 of 1983)

PART IX

BIGAMY

Bigamy.

52. Any person who, being married, marries any other person during the life of the former husband or wife, whether the second marriage has taken place in the State or elsewhere, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding three years; and any such offence may be dealt with, inquired of, tried, determined and punished in any Circuit, district, or place in the State, where the offender is apprehended or is in custody, in the same manner, in all respects, as if the offence had been actually committed in that Circuit, district or place:

Provided that, nothing contained in this section shall extend to any second marriage contracted elsewhere than in the State, by any other than a subject of the Crown resident in the State, and leaving the same with intent to commit the offence, or to any person marrying a second time, whose husband or wife has been continually absent from such person for the space of seven years then last past, and was not known by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, was divorced from the bond of the first marriage, or to any person whose former marriage has been declared void by the sentence of any Court of competent jurisdiction.

(Amended by Act 6 of 1976)

PART X

ATTEMPTS TO PROCURE ABORTION

Administering drugs, or using instruments, to procure abortion.

53. Every woman, being with a child, who, with the intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument, or any other means, with the like intent; and any person who, with intent to procure the miscarriage of any woman, whether she be or be not with a child, unlawfully administers to her, or causes to be taken by her, any poison or other noxious thing, or unlawfully uses any instrument or any other means, with the like intent, commits a felony, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Procuring drugs, etc., to cause abortion.

54. Any person who unlawfully supplies, or procures, any poison or other noxious thing, or any instrument or any thing, knowing that the same is intended to be unlawfully used, or employed, with intent to procure the miscarriage of any woman, whether she be or be not with a child, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour.

PART XI

CONCEALING THE BIRTH OF A CHILD

Concealing the Birth of a Child.

55. If any woman is delivered of a child, every person who, by any secret disposition of the dead body of the said child, whether such child died before, at, or after its birth, endeavours to conceal the birth of the child commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour:

Provided that, if any person tried for the murder of any child be acquitted thereof, it shall be lawful for the jury, by whose verdict such person is acquitted, to find, in case it so appears in evidence, that the child had recently been born, and that such person did, by some secret disposition of such child, or of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such

sentence as if such person had been convicted upon an indictment for the concealment of birth.

PART XII

UNNATURAL OFFENCES

Sodomy and bestiality.

56. Any person who is convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

Attempt to commit an infamous crime.

57. Any person who attempts to commit the said abominable crime, or is guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

(Amended by Act 6 of 2012)

PART XIII

PROOF IN CERTAIN CASES

Carnal knowledge defined.

58. Whenever, upon the trial of any offence punishable under this Act, it is necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete on proof of any degree of penetration only.

PART XIV

MAKING GUNPOWDER TO COMMIT OFFENCES AND SEARCHING FOR THE SAME

Making or having gunpowder, etc., with intent to commit any felony against this Act.

59. Any person who knowingly has in his or her possession, or makes, or manufactures any gunpowder or explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent, by means thereof, to commit, or for the purpose of enabling any other person to commit, any of the felonies in this Act, or in any other Act, mentioned, commits a misdemeanour, and, on conviction, shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour, and, if a male under sixteen years, with or without whipping.

Magistrate may issue search warrants.

60. Any Magistrate in any district in which such gunpowder or other explosive, dangerous, or noxious substance or thing, or any such machine, engine, instrument or thing, is suspected to be made, kept, or carried for the purpose of being used in committing any of the felonies in this Act, or in any other Act, mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant, under his or her hand and seal, for searching, in the daytime, any house, mill, magazine, storehouse, warehouse, shop, cellar, or yard, wharf, or other place, or any carriage, wagon, cart, ship, boat, or vessel, in which the same is suspected to be made, kept, or carried for such purpose as hereinbefore mentioned; and every person, acting in the execution of any such warrant, may seize any gunpowder or explosive substance, or any dangerous or noxious thing, or any machine, engine, or instrument, or thing, which he or she has good cause to suspect is intended to be used in committing, or enabling any other person to commit, any offence against this Act, and, with all convenient speed after the seizure, shall remove the same to such proper place as he or she thinks fit, and detain the same until ordered by a Judge to restore it to the person who may claim the same.

Forfeiture of dangerous or noxious things.

61. Any gunpowder, explosive substance, or dangerous or noxious thing, or any machine, engine, instrument or thing, intended to be used in committing, or to enable any other person to commit, any offence against this Act, and seized and taken possession of, under the provisions hereof, shall, in the event of the person in whose possession the same is found, or of the owner thereof, being convicted of any offence against this Act, be forfeited; and the same shall be sold under the direction of the court before which any such person may be convicted, and the proceeds thereof shall be paid into the Treasury to and for the use of the State.

PART XV

KIDNAPPING

Kidnapping.

62. Any person who, without lawful authority, forcibly seizes and confines or imprisons any other person within the State, or kidnaps any other person with intent—

- (a) to cause such other person to be secretly confined or imprisoned in the State against his or her will;
- (b) to cause such other person to be unlawfully sent or transported out of the State against his or her will; or
- (c) to cause such other person to be in any way held to serve against his or her will,

commits a felony, and, on conviction, shall be liable to life imprisonment, with or without hard labour.

(Amended by Act 10 of 1998)

Defence of non-resistance.

63. Upon the trial of any offence under the preceding section, the non-resisting of the person so kidnapped or unlawfully confined thereto, shall not be a defence unless it appears to the satisfaction of the court and jury that it was not caused by threats, duress, force, or exhibition of force.

Where offences against this Act may be tried.

64. Every offence against the provisions of this Act may be tried in the Circuit in which such offence has been committed, or in the Circuit in which such person has been committed by a Magistrate and sent for trial, but no person, who has been once duly tried for any such offence, shall be liable to be again indicted or tried for the same offence.

PART XVI

OTHER MATTERS

Fines, and sureties for keeping the peace.

65. When any person is convicted of any indictable misdemeanour punishable under this Act, the court may, if it thinks fit, in addition to, or *in lieu* of, any punishment by this Act authorised, fine the offender and require him or her to enter into his or her own recognizances, and to find sureties both, or either, for keeping the peace and being of good behaviour, and such fine may be proportioned to the means of the offender; and, in case of any felony punishable under this Act otherwise than with death, the court may, if it thinks fit, require the offender to enter into his or her own recognizances, and to find sureties both, or either, for keeping the peace and being of good behaviour, in addition to any punishment by this Act authorised:

Provided that no person shall be imprisoned for not finding sureties under this section for a period exceeding one year.

Persons convicted under this Act to pay costs of prosecution if court thinks fit.

66. When any person is convicted, on any indictment, of any assault, whether with or without battery and wounding, or either of them, such person may, if the court thinks fit, in addition to any sentence which the court may deem proper for the offence, be adjudged to pay to the prosecutor his or her actual and necessary costs and expenses of the prosecution, and such moderate allowance for loss of time as the court shall, by affidavit or other enquiry or examination, ascertain to be reasonable; and, unless the sums so awarded are sooner paid, the offender shall be imprisoned for any term the court shall award, not exceeding three months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

Such costs may be levied by distress.

67. The court may, by warrant in writing, order such sum as shall be so awarded to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and that the surplus (if any) arising from such sale shall be paid to the owner; and, in case such sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease.

Persons loitering at night and suspected of any felony against this Act may be apprehended.

68. Any constable, or peace officer, may take into custody, without a warrant, any person whom he or she shall find loitering in any highway, yard, or other place during the night and whom he or she shall have good cause to suspect of having committed, or being about to commit any felony in this Act mentioned, and shall take such person, as soon as reasonably may be, before a Magistrate to be dealt with according to law.

Punishment of principals in the second degree and accessories.

69. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act (except murder) shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour; and any person who counsels, aids, or abets the commission of any indictable misdemeanour punishable under this Act, shall be liable to be proceeded against, indicted, and punished as a principal offender.

Fines and penalties not payable to prosecutor to be paid to the Crown.

70. Every fine or penalty awarded under this Act, and not thereby directed to be paid to the prosecutor or party aggrieved, shall be payable to the Crown, and shall be paid into the Treasury.

(Amended by Act 6 of 1976)

Offences mentioned in this Act committed within the jurisdiction of the Admiralty.

71. All indictable offences mentioned in this Act, which shall be committed within the jurisdiction of the Admiralty of England or Northern Ireland, shall be deemed to be offences of the same nature and liable to the same punishment as if they had been committed upon land within the State, and may be dealt with, enquired of, tried, and determined in the State in the same manner, in all respects, as if they had been actually committed in the State and in any indictment for any such offence or for being an accessory to such an offence, the venue shall be the same as if the offence had been committed in the State, and the offence shall be averred to have been committed "on the high seas":

Provided that nothing herein contained shall alter or affect any of the laws relating to the Government of Her Majesty's land or naval forces.

Hearings in camera.

72. (1) Notwithstanding anything in any enactment or rules of practice, a Judge or Magistrate shall, in the interest of public morality, exclude from proceedings in relation to the offences mentioned in subsection (2), persons other than the parties thereto and the legal practitioners representing them but such Judge or Magistrate may, at the request of the complainant, permit the presence of any other person.

(2) The offences referred to in subsection (1) are—

- (a) rape;
- (b) defilement of a girl under sixteen years;
- (c) indecent assault;

- (d) sodomy;
- (e) incest;
- (f) any offence involving children;
- (g) an attempt to commit any of the offences in paragraphs (a) to (f) above.

(3) The passing of sentence in relation to any offence to which this section applies shall take place in public.

(Inserted by Act 7 of 1990)

Anonymity of complainant.

73. (1) After a person is charged with an offence mentioned in section 72(2), no matter which is likely to lead members of the public to identify a person as the complainant or as the accused in relation to that offence shall either be published in a written publication or be broadcast in Saint Christopher and Nevis except—

- (a) where, on the application of the complainant or the accused, the court directs that the effect of the restriction is to impose a substantial and unreasonable restriction on the reporting of proceedings and that it is in the public interest to remove the restriction in respect of the applicant; or
- (b) in the case of an accused, after he or she has been tried and convicted of the offence.

(2) A person who publishes or broadcasts any matter contrary to subsection (1) commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years.

(3) The person referred to in subsection (2) is—

- (a) in the case of a publication in a newspaper or periodical, any proprietor, editor or publisher of such newspaper or periodical;
- (b) in the case of any other publication, the person who publishes it; and
- (c) in the case of a broadcast, a body corporate which transacts or provides the programme in which the broadcast is made and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(4) In this section and section 72(1)—

“accused” means—

- (a) a person named in an information laid alleging that the person has committed the offence;
- (b) a person who appears before a Court charged with the offence;

“complainant” includes, in relation to a person accused of an offence under this Act, the person against whom the offence is alleged to have been committed.

(Inserted by Act 7 of 1990)

Incest.

74. (1) A person commits the offence of incest who, knowing that another person is by blood relationship, his or her parent, child, brother, sister, grandparent,

grandchild, uncle, niece, aunt or nephew, as the case may be, has sexual intercourse with that person.

(2) A person who commits the offence of incest is liable, on conviction, to imprisonment—

- (a) if committed by an adult with a person under sixteen years, for life;
- (b) if committed by an adult with a person sixteen years or more, for ten years;
- (c) if committed between minors fourteen years or more, for two years.

(3) A person is not guilty of an offence under this section if that person committed the offence under restraint, duress or fear.

(4) In this section, any expression importing a relationship between two persons shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock, and “brother” includes half-brother and “sister” includes half-sister.

(Inserted by Act 7 of 1990)

(5) A person commits an offence, who, knowing that another person is his or her adopted child, step-child, foster-child or ward, has sexual intercourse with that person, and is liable on conviction to the punishment provided for in respect of a conviction for the offence of incest.

(Inserted by Act 5 of 1991)
