

CRIMINAL OFFENCES ACT

Repealed by Act 2011-23 as from 23.11.2012

Principal Act

Act. No. 1960-17	<i>Commencement</i>	1.9.1960
	<i>Assent</i>	1.7.1960

With which are consolidated	Relevant sections	Relevant current provisions
Acts. 1961-24	ss.167, 171, 172 and 174	ss.3, 7, 8 and 17
1967-04	s.3	s.68
1970-01	s.3	s.58
1971-04	s.13	s.226

Amending enactments	Relevant current provisions	Commencement date
Acts. 1961-08	ss.2 and 41	
1961-20	ss.37, 53-57 and 89	
1961-24		
1963-02	ss.152, 153, 155, 156 and 279	
1966-11	ss. 45 and 277	
1967-01	ss.18, and 59(2) and (3)	
1967-04	ss.67 and 68	
1967-09	s. 276	
1970-09	ss.2 and 277(2)	
Regs. of 28.5.1970	ss. 209, 212 and 235	
Acts. 1970-13	s.272	
1971-04	s.226	
1971-19	ss.20, 170-185, 187-189, 191, 192, 200-204 and Sch.1	
1972-04	ss.18 and 19	
1972-05	ss.4, 30(2), 31(3), 32(3), 33(3), 34, 38, 41, 53, 55(1), 57, 186, 205, 245, 261, 262, 263(1), 264, 265(1), 266, 267-269 and 280	
1972-06	ss. 114(1) and 122(1)	
1972-15	ss. 45(1), 107(2), 112(2), 117(1),	

	119, 157-163 and 275	
1973-34	ss.166-168	
1976-14	ss.108(4) and 279	
1976-16	s.114	
1977-02	s.246	
1977-28	s.40(3)	
1977-29	Part XIV Repealed	
1978-06	ss. 11-16, 44, 65, 66 and 270	
1978-31	s.163(1)	
1981-19	s.164	
1983-45	ss. 6, 11(1) and (2), 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 47, 59, 119, 169, 193, 194, 198, 199, 201, 244(2) and (6), 254, 255(3), 256 and Sch.	
1986-12	ss. 244(2) and (6), 255(3) and 256(1)	3.12.1987
1986-13	ss.165A to E, and Sch. 3	17.7.1986
1987-07	ss. 163 and 196A	19.2.1987
1988-01	ss. 212(4)(c) and 216(2)(b)	4.4.1988
1990-19	s. 222(b) and (f)	7.6.1990
1990-45	s. 222(b) and (f)	10.9.1992
1991-20	s.277(1)(b)	18.7.1991
1993-02	ss. 19(2), 26(1) and (2), 29(1), 30, 31(3), 32(3), 33(1) and (3), 34, 35, 36(1), 37, 38, 39, 40(1)(a) and (b), 41, 42, 44(4)(a), 45(4), 46(3), 48, 49(1), 50, 51, 53, 54, 55, 56, 57, 82(1)(a) and (b), 82(4)(a), 89(1), 95, 96(a), 116A, 119(1), 129, 132, 134, 135, 136(1), 137, 147(1) and (2), 148(1), 153(1)(a), 154, 164, 165, 165D, 168(1), 169(1), 184(1), 185(1), 186(1), 188, 192(3), 193(3), 196A(1), 205(1), 210, 213(1) and (2), 226(1)(a) and (2), 227(3), 236, 248, 249(1)(d)(ii),253(a) and (b), 254(1) and (2), 259(3), 260(1), 261, 262, 263(1), 264(1), (2) and (3), 265(1) and (2), 266, 267, 268, 269, 271, 272(a)(ii), 273, 274, 275(1), 276(1)(ii) and (2), 277(1), 278, 279, 280(1) and (2) and 281(1)	1.3.1993
LN. 1994/048	Sch. 3	19.5.1994

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Acts.	1995-16	s.279	13.5.1999
	1997-11	s.283	27.3.1997
	2000-02	s.21(2)	20.4.2000
	2002-09	s.271	7.8.2002
	2005-67	ss. 206, 207, 209A, 214, 220 & 221A	22.12.2005
	2006-11	s. 264	7.7.2006
	2007-17	ss. 151(1)(a), 209(2)(e) & (3)(l), 212(4)(a), 216(2)(c), 226(1)	14.6.2007

English sources:

Vagrancy Act 1824 (5 Geo. 4 c. 83)
Offences against the Person Act 1828 (9 Geo. 4 c. 31)
Statutory Declarations Act 1835 (5 & 6 Wm. 4 c. 62)
Metropolitan Police Act 1839 (2 & 3 Vict, c.47)
Metropolitan Police Courts Act 1839 (2 & 3 Vict. c. 71)
Town Police Clauses Act 1847 (10 & 11 Vict. c. 89)
Ecclesiastical Courts Jurisdiction Act 1860 (23 & 24 Vict. c. 32)
Offences against the Person Act 1861 (24 & 25 Vict. c. 100)
Naval Discipline Act 1866 (29 & 30 Vict. c. 109)
Licensing Act 1872 (35 & 36 Vict. c. 94)
Public Stores Act 1875 (38 & 39 Vict. c. 25)
Public Bodies Corrupt Practices Act 1889 (52 & 53 Vict. c. 69)
Uniforms Act 1894 (57 & 58 Vict. c. 45)
Intoxicating Liquors (Sale to Children) Act 1901 (1 Edw. 7 c. 27)
Licensing Act 1902 (2 Edw. 7. c. 28)
Prevention of Corruption Act 1906 (6 Edw. 7 c. 34)
Public Meeting Act 1908 (8 Edw. 7 c. 66)
Perjury Act 1911 (1 & 2 Geo. 5 c. 6)
Forgery Act 1913 (3 & 4 Geo. 5 c. 27)
Larceny Act 1916 (6 & 7 Geo. 5 c. 50)
Prevention of Corruption Act 1916 (6 & 7 Geo. 5 c. 64)
Criminal Justice Act 1925 (15 & 16 Geo. 5 c. 86)
Judicial Proceedings (Regulation of Reports) Act 1925
(16 & 17 Geo. 5 c. 61)
Infant Life (Preservation) Act 1929 (19 & 20 Geo. 5 c. 34)
Children and Young Persons Act 1933 (23 & 24 Geo. 5 c. 12)
Counterfeit Currency (Convention) Act 1935 (25 & 26 Geo. 5 c. 25)
Coinage Offences Act 1936 (26 Geo. 5 & 1 Edw. 8 c. 16)
Public Order Act 1936 (1 Edw. 8 & 1 Geo. 6 c. 6)
Infanticide Act 1938 (1 & 2 Geo. 6 c. 36)
Coinage Act 1946 (9 & 10 Geo. 6 c. 74)
British Nationality Act 1948 (11 & 12 Geo. 6c. 56)
Prevention of Crimes Act 1953 (1 & 2 Eliz. 2 c. 14)
Telegraph Act 1954 (2 & 3 Eliz. 2 c. 28)
Children and Young Persons (Harmful Publications) Act 1955
(3 & 4 Eliz. 2 c. 28)

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Sexual Offences Act 1956 (4 & 5 Eliz. 2 c. 69)
Homicide Act 1957 (5 & 6 Eliz. 2 c. 11)
Highways Act 1959 (7 & 8 Eliz. 2 c. 25)
Restriction of Offensive Weapons Act 1959 (7 & 8 Eliz. 2 c.37)
Obscene Publications Act 1959 (7 & 8 Eliz. 2 c. 66)
Indecency with Children Act 1960 (8 & 9 Eliz. 2 c . 33)
Suicide Act 1961 (9 & 10 Eliz. 2 c. 60)
Murder (Abolition of Death Penalty) Act 1965 (1965 c. 71)
Criminal Law Act 1967 (1967 c. 58)
Criminal Justice Act 1967 (1967 c. 80)
Genocide Act 1969 (1969 c. 12)
Criminal Damage Act 1971 (1971 c. 48)

RENUMBERING OF SECTIONS

Previous number	New number	42	88
		43	92
2	2	44	93
2A	4	45	91
3	10	46	96
4	282	47	95
4A	6	48	97
4B	21	49	98
4C	22	50	<i>Omitted</i>
4D	23	51	94
4E	24	52	71
5	59	53	72
6	60	54	73
7	61	55	143
8	62	56	<i>Transferred to Marriage Act as s.30</i>
9	67		
9A	68		
10	65		
11	63	57	43
12	64	58	<i>Transferred to Criminal Procedure Act as s. 28</i>
13	<i>Repealed</i>		
14	<i>Repealed</i>		
15	69		
16	70		
17-21	<i>Repealed</i>	59	99
22	66	60	100
23	74	61	101
24	75	62	102
25	<i>Repealed</i>	63	103
26	76	64	104
27	77	65	105
28	78	66	106
29	79(a)	67	107
30	79(b)	68	108
31	80	69	109
32	81	70	110
33	82	71	111
34	83	72	112
35	84	73	113
36	85	74	115
37	86	75	116
38	87	76	117
39	40	77	118
40	41	78	120
41	90	78A	119

79	138	118	200
80	139	119	201
81	140	120	202
82	141	121	203
83	142	122	204
84	121	123	183
85	122	124	184
86	123	125	185
87	124	126	187
88	125	127	188
89	126	128	182
90	127	129	181
91	128	130(1) and	189
92	129	(2)	
93	130	130(3) - (5)	190
94	131	131	<i>Transferred</i>
95	133		<i>to Criminal</i>
96	134		<i>Procedure</i>
97	135		<i>Act</i>
98	136		<i>as s.241¹</i>
99	137	132	20
100	114	133	<i>Transferred</i>
101	<i>Transferred</i>		<i>to Criminal</i>
	<i>to Criminal</i>		<i>Procedure</i>
	<i>Procedure</i>		<i>Act as</i>
	<i>Act as</i>		<i>s.75¹</i>
	<i>s.30</i>	134	157
102	170	135	159
103	171	136	160
104	172	137	161
105	173	138	163
106	174	139	162
107	175		
108	176	140	<i>Transferred</i>
109	177		<i>to Criminal</i>
110	178		<i>Procedure</i>
111	179		<i>Act as</i>
112	180		<i>s.31</i>
113	191	141	<i>Transferred</i>
114	192		<i>to Criminal</i>
114A	193		<i>Procedure</i>
115	195		<i>Act as</i>
116	196		<i>s.75</i>
117	197	142	158
117A	198		
117B	199		
117C	194		

¹ Re-numbered as a result of re-numbering of Criminal Procedure Ordinance.

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Repealed

143-148	<i>Repealed</i>	181	25
149	206	182	26
150	207	183	145
151	208	184	146
152	209	185	147
153	211	186	148
154	212	187	149
155	210	188 (1)	<i>Transferred to Criminal Procedure Act as s.32</i>
156	213		
157	214		
158	215		
159	216		
160	217	188(2)	150
161	218	189	151
162	219	190	152
163	<i>Transferred to Criminal Procedure Act as s.36(1) and (2)</i>	191	153
		192(1) and (2)	<i>Transferred to Criminal Procedure Act as s.33</i>
164	<i>Transferred to Criminal Procedure Act as s.36(3)</i>	192(3)-(7)	155
		193	156
		194	235
		195	236
165	220	196	237
166	221	197	238
167	222	198	239
168	223	200	241
169	224	201	242
170	225	202	243
171	227	203	244
172	228	203 A	245
173	229	203 B	246
174	230	204	247
175	231	205	248
176	232	206	249
177(1)	<i>Transferred to Criminal Procedure Act 1961-24 as s.13</i>	207	250
		208	251
		209	252
		210	253
		211	254
		212	255
177(2)-(5)	37	212A	256
178	233	213	257
179	234	214	258
180	144	214A	11

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214B	12	238	267
214C	13	239-243	<i>Repealed</i>
214D	14	244	39, 42, 51,
214E (1), (2) and (4)	<i>Omitted</i>		132, 154, 165, 271-279
214E(3)	15	244A	164
214F(5)	16	245	35
and(6)		246	38
215	27	247	36
216	30	248	260
217	29	249	259
218	31	250	268
219	<i>Repealed</i>	251	269
220	34	252	270
221	33	252A	47
222	32	253	186, 205 and 280
223	28		
223A	168	254	<i>Repealed</i>
223B	166	254A(1),	18
223C	167	(3) and (4)	
223D	169	254A(2)	9
224	45	254B	19
225	12	254C	44
226	49(1)	255	56
227	50	256	89
228	49(2)	257	53
229	48	258	55(1)
230	281	259	55(2)
231	46	260	57
232	261	261	54
233	262	262	37
234	263	263	52
235	264	Sch.	Sch. 1
236	265		
237	266		

CRIMINAL OFFENCES ACT

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5. Coercion.
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36. Riotous behaviour in churches.
37. Disorderly conduct in police station.
38. Printing abusive matter, etc.
39. Setting on dogs.

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AN ACT TO CONSOLIDATE THE LAW RELATING TO CERTAIN CRIMINAL OFFENCES AND FOR PURPOSES CONNECTED THEREWITH.

PART I.
PRELIMINARY.

Title.

1. This Act may be cited as the Criminal Offences Act.

Interpretation.

- (1913 c.27, s.18). 2. (1) In this Act, unless the context otherwise requires,—

“arrestable offence” means an offence for which a person may be arrested without warrant, pursuant to the powers conferred by Part II of the Criminal Procedure Act¹;

“bank note” includes any currency note issued under the provisions of the Currency Notes Act and any note of a similar character by whatever name called, issued by or on behalf of the government of any part of Her Majesty’s dominions or the government of any foreign state, and any note or bill of exchange of the Bank of England or Bank of Ireland, or of any person, body corporate or company carrying on the business of banking in any part of the world, and includes bank bill, bank post bill, blank bank note, blank bank bill of exchange and blank bank post bill;

“coin” means gold, silver, and bronze or other coin legally current in Gibraltar;

“court” means a court of competent jurisdiction;

“document of title to goods” includes any bill of lading, India warrant, dock warrant, warehouse keepers certificate, warrant or order for the delivery of goods or transfer of any goods or valuable thing, bought or sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize either by endorsement or by delivery the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to;

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“document of title to lands” includes any deed, map, roll, or register, paper or parchment, written or printed or partly written and partly printed being or containing evidence of the title to any real estate or to any interest in or out of any real estate;

“dwelling house” does not include a building although within the same curtilage with any dwelling house and occupied therewith unless there is a communication between such building and dwelling house either immediately or by means of a covered and enclosed passage leading from one to another;

“firearms” means any firearm or other weapon of any description from which any shot, bullet or other missile can be discharged;

“mail” includes every conveyance by which postal packets are carried, whether it be a carriage, coach, cart, horse or any other conveyance, and also a person employed in conveying or delivering postal packets, and also any vessel employed by or under the post office for the transmission of postal packets by contract or otherwise in respect of postal packets transmitted by the vessel;

“mail bag” includes a bag, box, parcel or any other envelope or covering in which postal packets in course of transmission by post are conveyed, whether it does or does not contain any such packet;

“money” includes bank notes, bank drafts, cheques and any other orders, warrants or requests for the payment of money;

“night” means the interval between nine o’clock in the evening and six o’clock in the morning of the next succeeding day;

“offensive weapon” means any article made or adapted for use for causing injury to the person or intended by the person having it with him for such use by him;

“officer of the post office” includes the Director of Postal Services and any person employed in the business of the post office by or under the Director for the purposes of the Post Office Act;

“paddling” means being upright in water which is not above knee depth prior to the receding of a wave;

“person” and “owner” and other like terms when used with reference to property include corporations of all kinds and any other association of persons capable of owning property, and also when so used include Her Majesty;

“postal packet” means a letter, postcard, reply postcard, newspaper, book, packet, pattern or sample packet or parcel, and every packet or article transmissible by post, and includes telegram;

“post office” includes any house, room, carriage or place used for the purposes of the post office and any pillar box, wall box provided by the permission or under the authority of the Director of Postal Services for the purpose of receiving postal packets or any of them for transmission by or under the authority of the Director;

“property” includes any description of real or personal property, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property or giving a right to recover or receive any money or goods, and also includes not only such property as has been originally in the possession of or under the control of any person but also any property into or for which the same has been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise;

“trustee” means a trustee on some express trust created by some deed, will or instrument in writing and includes the heir or personal representative of any such trustee and any other person upon or to whom the duty of such trust shall have devolved or come and also an executor and administrator and an official receiver, trustee, assignee, liquidator or other like officer acting under any present or future Act relating to joint stock companies or bankruptcy;

“valuable security” includes any writing entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund or debt of any part of Her Majesty’s dominions or of any foreign state, or in any stock, annuity, fund or debt of any body corporate, company or society, whether within or without Her Majesty’s dominions or to any deposit in any bank, and also includes any scrip, debenture, bill, note, warrant, order or other security for the payment of money or for the delivery or transfer of any goods or chattels, or an accountable receipt, release or discharge or any receipt or other instrument evidencing the payment of money or the delivery of any chattel personal and any document title to lands or goods as hereinbefore defined;

“vessel” includes any ship and boat and any other kind of vessel used in navigation, and also includes aircraft;

“young person” means a person who has attained the age of fourteen years and is under the age of seventeen.

(2) For the purposes of this Act a postal packet shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the person to whom it is addressed.

(3) References in this Act to any Act or enactment shall be held to include a reference to that Act or enactment as amended, replaced, extended or applied by any other Act or enactment.

(4) References to any Government department shall, in relation to any functions performed by that department be held to include reference to any other Government department by which the same functions are or were previously performed.

(5) For the purposes of this Act—

- (a) any person who is the parent or legal guardian of a child or young person or who is legally liable to maintain him shall be presumed to have the custody of him, and as between father and mother the father shall not be deemed to have ceased to have the custody of him by reason only that he has deserted, or otherwise does not reside with, the mother and the child or young person; and
- (b) any person to whose charge a child or young person is committed by any person who has the custody of him shall be presumed to have charge of the child or young person;
- (c) any other person having actual custody or control of the child or young person shall be presumed to have the care of him.

PART II. CRIMINAL LIABILITY.

Age of criminal responsibility.

3. It shall be conclusively presumed that no child under the age of eight years (1933 c.12, s.50) can be guilty of any offence.

Inferences as to intent.

4. A court or jury, in determining whether a person has committed an offence,— (1967 c.80, s.8).

- (a) shall not be bound in law to infer that he intended or foresaw a result of his actions by reason only of its being a natural and probable consequence of those actions; but
- (b) shall decide whether he did intend or foresee that result by reference to all the evidence, drawing such inferences from the evidence as appear proper in the circumstances.

Coercion.

(1925 c.86, s.47). 5. Where a married woman is charged with an offence other than treason or murder, it is a good defence to prove that the offence was committed in the presence of, and under the coercion of, her husband.

Offences committed partly outside Gibraltar.

6. (1) An offence begun outside Gibraltar and completed in Gibraltar may be treated as having been committed in Gibraltar.

(2) Where—

- (a) a person dies in Gibraltar in consequence of any act or omission outside Gibraltar; and
- (b) the person committing that act or making that omission would, if the act or omission had been in Gibraltar, be guilty of the murder or manslaughter of the person who dies,—

the offence may be treated as having been committed in Gibraltar.

(3) Where a person—

- (a) dies outside Gibraltar in consequence of any act or omission in Gibraltar; and
- (b) the person committing the act or making the omission would, if the death had occurred in Gibraltar, be guilty of the murder or manslaughter of the person who dies,

the offence may be treated as having been committed in Gibraltar.

PART III.
ATTEMPTS AND COGNATE OFFENCES.

Attempts.

7. A provision which constitutes an offence, shall unless the contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence against such provision.

Person tried for offence may be convicted of attempt.

8. Subject to the provisions of any other law, any person charged with any offence may, if it appears upon the evidence that he did not complete the offence charged but that he was guilty only of an attempt to commit the same, be convicted of an attempt to commit the same; and thereupon such person shall, where no punishment is specified for such attempt, be liable to be punished in the same manner as if he had been convicted of the offence with which he was charged. *(1851 c.100, s.9).*

Person tried for offence may be convicted as accessory.

9. If on the trial of an indictment for an arrestable offence the jury are satisfied that the offence charged (or some other offence of which the accused might on that charge be found guilty) was committed, but find the accused not guilty of it, they may find him guilty of an offence under section 18(1) of which they are satisfied that he is guilty in relation to the offence charged (or that other offence).

Conviction of offence other than that charged.

10. (1) Where any person is charged on indictment with any offence specified in the first column of Schedule 1 and the jury are not satisfied that he is guilty of the offence charged but are satisfied that he is guilty of any offence specified in the second column of that Schedule with reference to that offence, the jury may convict him of such other offence so specified or of any offence of which they could find him guilty had he been indicted for the offence so specified.

(2) Where in Schedule 1 there is used a phrase descriptive of an offence or group of offences followed by a reference to a section by its number only, the reference is to a section of this Act and the phrase shall be taken as referring to any offence under the section mentioned.

(3) Nothing in this section or in Schedule 1 shall exclude the application to any of the offences specified in the first column of that Schedule—

- (a) of any law which relates to the summary trial of young offenders for indictable offences; or
- (b) of any law restricting the power of a court to imprison; or

- (c) of any law authorizing an offender to be dealt with in a way not authorized by the enactments specially relating to his offence; or
- (d) of any law authorizing a person to be found guilty of an offence other than that with which he is charged.

**PART IV.
CONSPIRACY.**

Conspiracy.

11. (1) Subject to the following provisions of this Part, a person who agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either—

- (a) will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement, or
- (b) would do so but for the existence of facts which render the commission of the offence or any of the offences impossible,

is guilty of conspiracy to commit the offence or offences in question.

(2) This section shall not apply where an agreement was entered into before the commencement of this Act unless the conspiracy continued to exist after that date.

(3) Where liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of the offence, a person shall nevertheless not be guilty of conspiracy to commit that offence by virtue of subsection (1) unless he and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.

(4) In this Part “offence” means an offence triable in Gibraltar, except that it includes murder notwithstanding that the murder in question would not be so triable if committed in accordance with the intentions of the parties to the agreement.

(5) This Part shall not apply to any conspiracy under the common law of England.

Exemptions from liability.

12. (1) A person shall not by virtue of section 11 be guilty of conspiracy to commit any offence if he is an intended victim of that offence.

(2) A person shall not by virtue of section 11 be guilty of conspiracy to commit any offence or offences if the only other person or persons with whom he agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions, that is to say—

- (a) his spouse;
- (b) a person under the age of criminal responsibility; and
- (c) an intended victim of that offence or of each of those offences.

Penalties.

13. (1) A person guilty by virtue of section 11 of conspiracy to commit any offence or offences shall be liable on conviction on indictment—

- (a) in a case falling within subsection (2) or (3) of this section, to imprisonment for a term related in accordance with that subsection to the gravity of the offence or offences in question (referred to below in this section as the relevant offence or offences); and
- (b) in any other case, to a fine.

Paragraph (b) shall not be taken as prejudicing the application of section 179 of the Criminal Procedure Act, in a case falling within subsection (2) or (3) of this section.

(2) Where the relevant offence or any of the relevant offences is an offence of any of the following descriptions, that is to say—

- (a) murder, or any offence the sentence for which is fixed by law;
- (b) an offence for which a sentence extending to imprisonment for life is provided; or
- (c) an indictable offence punishable with imprisonment for which no maximum term of imprisonment is provided,

the person convicted shall be liable to imprisonment for life.

(3) Where in a case other than one to which subsection (2) applies the relevant offence or any of the relevant offences is punishable with imprisonment, the person convicted shall be liable to imprisonment, for a term not exceeding the maximum term provided for that offence or (where more than one such offence is in question) for any one of those offences (taking the longer or the longest term as the limit for the purposes of this section where the terms provided differ).

In the case of an offence triable either summarily or on indictment the references in this subsection to the maximum term provided for that offence are references to the maximum term so provided on conviction on indictment.

Restrictions on the institution of proceedings.

14. (1) Proceedings under section 11 for conspiracy to commit any offence or offences shall not be instituted against any person except by or with the consent of the Attorney-General.

(2) Where—

- (a) an offence has been committed in pursuance of any agreement; and
- (b) proceedings may not be instituted for that offence because any time limit applicable to the institution of any such proceedings has expired,

proceedings under section 11 for conspiracy to commit that offence shall not be instituted against any person on the basis of that agreement.

Conspiracy under other enactments.

15. The rules laid down by sections 11 and 12 shall apply for determining whether a person is guilty of an offence of conspiracy under any enactment other than section 11 but conduct which is an offence under any such other enactment shall not also be an offence under section 11.

Effect of acquittal of other accused.

16. (1) The fact that the person or persons who, so far as appears from the indictment on which any person has been convicted of conspiracy, were the only other parties to the agreement on which his conviction was based have been acquitted of conspiracy by reference to that agreement (whether after being tried with the person convicted or separately) shall not be a ground for quashing his conviction unless under all the circumstances of the case his

conviction is inconsistent with the acquittal of the other person or persons in question.

(2) Any rule of law or practice inconsistent with the provisions of subsection (1) is abolished.

PART V. ACCESSORIES.

Aiding and abetting.

17. A person who aids, abets, counsels, procures or commands the commission of an offence is liable to be dealt with, indicted, tried and punished as a principal offender. *(1952 c.5, s.35).*

Penalties for assisting offenders.

18. (1) Where a person has committed or attempts to commit an arrestable offence any other person who, knowing or believing him to be guilty of the offence or of some other arrestable offence, does without lawful authority or reasonable excuse any act with intent to impede his apprehension or prosecution is guilty of an offence. *(1967 c.58, s.4).*

(2) A person committing an offence against subsection (1) with intent to impede another person's apprehension or prosecution is liable on conviction on indictment to imprisonment according to the gravity of the other person's offence, as follows:—

- (a) if that offence is murder: for life;
- (b) if that offence is any other offence for which the sentence is fixed by law: for ten years;
- (c) if it is one for which a person (not previously convicted) may be sentenced to imprisonment for a term of fourteen years: for seven years;
- (d) if it is not one included above but is one for which a person (not previously convicted) may be sentenced to imprisonment for ten years: for five years;
- (e) in any other case: for three years.

(4) No proceedings shall be instituted for an offence under subsection (1) except by or with the consent of the Attorney-General:

Provided that this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for such an offence, or the remand in custody or on bail of a person charged with such an offence.

Concealment of offences and false information.

(1967 c.58, s.5). 19. (1) Where a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence has been committed, and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, is guilty of an offence and liable on conviction on indictment to imprisonment for two years.

(2) A person who causes any wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any persons or property, or tending to show that he has information material to any police inquiry, is guilty of an offence and is liable on summary conviction to imprisonment for six months and to a fine at level 4 on the standard scale.

(3) No proceedings shall be instituted for an offence under this section except by or with the consent of the Attorney-General.

**PART VI.
HUSBAND AND WIFE.**

Husband and wife.

(1968 c.60, s.30). 20. (1) This Act shall apply in relation to the parties to a marriage, and to property belonging to the wife or husband whether or not by reason of an interest derived from the marriage, as it would apply if they were not married and any such interest subsisted independently of the marriage.

(2) A person shall have the same right to bring proceedings against that person's wife or husband for any offence (whether under this Act or otherwise) as if they were not married, and a person bringing any such proceedings shall be competent to give evidence for the prosecution at every stage of the proceedings.

(3) Where a person is charged in proceedings not brought by that person's wife or husband with having committed any offence with reference to that person's wife or husband or to property belonging to the wife or

husband, the wife or husband shall be competent to give evidence at every stage of the proceedings, whether for the defence or for the prosecution, and whether the accused is charged solely or jointly with any other person:

Provided that—

- (a) the wife or husband (unless compellable at common law) shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him during the marriage by the accused; and
- (b) her or his failure to give evidence shall not be made the subject of any comment by the prosecution.

(4) Proceedings shall not be instituted against a person for any offence of stealing or doing unlawful damage to property which at the time of the offence belongs to that person's wife or husband, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Attorney-General:

Provided that—

- (a) this subsection shall not apply to proceedings against a person for an offence—
 - (i) if that person is charged with committing the offence jointly with the wife or husband; or
 - (ii) if by virtue of any judicial decree or order (wherever made) that person and the wife or husband are at the time of the offence under no obligation to cohabit; and
- (b) this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for an offence, or the remand in custody or on bail of a person charged with an offence, where the arrest (if without a warrant) is made, or the warrant of arrest issues on an information laid, by a person other than the wife or husband.

PART VII.
TREASON AND SEDITION.

Treason.

Treason.

21. (1) A person commits treason if, owing allegiance to Her Majesty, he—
- (a) kills, wounds or causes bodily harm to Her Majesty, or imprisons or restrains Her;
 - (b) forms an intention to do any such act as is mentioned in paragraph (a) and manifests such intention by an overt act;
 - (c) levies war against Her Majesty—
 - (i) with the intent to depose Her Majesty from the style, honour and royal name of the Crown of the United Kingdom or of any other of Her Majesty's dominions; or
 - (ii) in order by force or constraint to compel Her Majesty to change Her measures or counsels, or in order to put any force or constraint upon, or to intimidate or overawe, Parliament or the legislature of any British territory;
 - (d) instigates any foreigner with force to invade the United Kingdom or any British territory;
 - (e) assists by any means whatever any public enemy at war with Her Majesty; or
 - (f) conspires with any other person to do anything mentioned in paragraph (a) or (c).
- (2) A person who commits treason is guilty of an offence and upon conviction on indictment shall be sentenced to imprisonment for life.

Treasonable offences.

(1848 c.12, ss.3 and 7).

22. (1) A person who forms an intention to effect any of the following purposes, that is to say—
- (a) to depose Her Majesty from the style, honour and royal name of the Crown of the United Kingdom or of any other of Her Majesty's dominions;
 - (b) to levy war against Her Majesty within the United Kingdom or any British territory in order by force or constraint to compel Her Majesty to change Her measures or counsels, or in order to put any force or constraint upon, or to intimidate or overawe, Parliament or the legislature of any British territory; or

- (c) to instigate any foreigner with force to invade the United Kingdom or any British territory,

and manifests such intention by an overt act or by publishing any printing or writing is guilty of an offence and is liable on conviction upon indictment to imprisonment for life.

(2) It shall be no defence to a charge under this section that any act proved against the person charged amounts to treason under section 21; but no person convicted or acquitted of an offence under this section shall afterwards be prosecuted for treason under section 21 upon the same facts.

Limitation and procedure.

23. (1) A person shall not be prosecuted for any offence under section 21 or 22 unless the prosecution is commenced within 3 years after the offence is committed. *(1695 c.3, s.6; 1800 c.93, s.1; 1967 c.58, s.12).*

(2) This section does not apply to cases in which the overt act alleged is the killing of Her Majesty, or a direct attempt to endanger the life of Her Majesty.

(3) The procedure on trials for treason or any treasonable offence shall be the same as the procedure on trials for murder.

Assaults on the Queen.

24. (1) A person who wilfully— *(1842 c.51, s.2).*

- (a) produces or has near Her Majesty any arms or destructive or dangerous thing with intent to use the same to injure Her Majesty;
- (b) with intent to alarm or to injure Her Majesty, or to provoke a breach of the peace or whereby a breach of the peace is likely to be caused—
 - (i) discharges, or points, aims or presents any arms at or near Her Majesty;
 - (ii) causes any explosive substance to explode near Her Majesty;
 - (iii) assaults Her Majesty; or
 - (iv) throws anything at or upon Her Majesty.

is guilty of an offence and is liable on conviction upon indictment to imprisonment for 7 years.

- (2) In this section, “arms” includes imitation and toy arms.

Sedition.

Seditious intention.

25. (1) A “seditious intention” is an intention—

- (i) to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, Her heirs or successors, or the Government of Gibraltar as by law established; or
- (ii) to excite Her Majesty’s subjects or inhabitants of Gibraltar to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Gibraltar as by law established; or
- (iii) to bring into hatred or contempt or to excite disaffection against the administration of justice in Gibraltar; or
- (iv) to raise discontent or disaffection amongst Her Majesty’s subjects or inhabitants of Gibraltar; or
- (v) to promote feelings of ill-will and hostility between different classes of the population of Gibraltar,

but an act, speech or publication is not seditious by reason only that it intends—

- (a) to show that Her Majesty has been misled or mistaken in any of Her measures; or
- (b) to point out errors or defects in the government or constitution of Gibraltar as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
- (c) to persuade Her Majesty’s subjects or inhabitants of Gibraltar to attempt to procure by lawful means the alteration of any matter in Gibraltar as by law established; or

- (d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of Gibraltar.

(2) In determining whether the intention with which any act was done, any words spoken, or any document published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.

Seditious offences.

26. (1) A person who,—

- (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;
- (b) utters any seditious words;
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious,

is guilty of an offence and is liable on conviction to imprisonment for two years and to a fine, and for a second or subsequent offence, to imprisonment for three years; and any seditious publication shall be forfeited to Her Majesty.

(2) A person who without lawful excuse has in his possession any seditious publication is guilty of an offence and liable on conviction to imprisonment for one year and to a fine, and for a second or subsequent offence, to imprisonment for two years; and such publication shall be forfeited to Her Majesty.

(3) No prosecution for an offence against this section shall be begun except within six months after the offence is committed.

(4) No prosecution for an offence against this section shall be commenced without the consent of the Attorney-General.

(5) No person shall be convicted of an offence against this section on the uncorroborated testimony of one witness.

PART VIII.
PUBLIC ORDER.

Interpretation.

(1936 c.6, s.9). 27. In this Part, unless the context otherwise requires,—

“meeting” means a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;

“private premises” means premises to which the public have access (whether on payment or otherwise) only by permission of the owner, occupier, or lessee of the premises;

“public meeting” includes any meeting in a public place and any meeting which the public or any section thereof are permitted to attend, whether on payment or otherwise;

“public procession” means a procession in a public place;

“recognised corps” means a rifle club, miniature rifle club or cadet corps approved by the Governor.

Variation and revocation of orders.

28. Any order made under this Part by the Commissioner of Police may be varied or revoked by a subsequent order made in like manner.

Quasi-military Organisations, Uniforms, etc.

Quasi-military organisations.

(1936 c.6, s.2). 29. (1) If the members or adherents of any association of persons, whether incorporated or not, are—

- (a) organized or trained or equipped for the purpose of enabling them to be employed in usurping the functions of the police or of the armed forces of the Crown; or
- (b) organized and trained or organized and equipped either for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object, or in such manner as to arouse reasonable apprehension that they are organized and either trained or equipped for that purpose,

then any person who takes part in the control or management of the association, or in so organizing or training as aforesaid any members or adherents thereof, is guilty of an offence against this section and is liable on summary conviction to imprisonment for six months and to a fine at level 3 on the standard scale, on conviction on indictment, to imprisonment for two years and to a fine :

Provided that in any proceedings against a person charged with the offence of taking part in the control or management of such an association as aforesaid it shall be a defence to that charge to prove that he neither consented to nor connived at the organisation, training, or equipment of members or adherents of the association in contravention of the provisions of this section.

(2) No prosecution shall be commenced under this section without the consent of the Attorney-General.

(3) If upon application being made by the Attorney-General it appears to the Supreme Court that any association is an association of which members or adherents are organized, trained, or equipped in contravention of the provisions of this section, the court may make such order as appears necessary to prevent any disposition without the leave of the court of property held by or for the association and in accordance with rules of court may direct an inquiry and report to be made as to any such property and as to the affairs of the association and make such further orders as appear to the court to be just and equitable for the application of such property in or towards the discharge of the liabilities of the association lawfully incurred before the date of the application or since that date with the approval of the court, in or towards the repayment of moneys to persons who became subscribers or contributors to the association in good faith and without knowledge of any such contravention as aforesaid, and in or towards any costs incurred in connection with any such inquiry and report as aforesaid or in winding-up or dissolving the association, and may order that any property which is not directed by the court to be so applied shall be forfeited to the Crown.

(4) In any criminal or civil proceedings under this section proof of things done or of words written, spoken or published (whether or not in the presence of any party to the proceedings) by any person taking part in the control or management of an association or in organizing, training or equipping members or adherents of an association shall be admissible as evidence of the purposes for which, or the manner in which, members or adherents of the association (whether those persons or others) were organized, or trained, or equipped.

(5) If the Chief Justice is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this section has been

committed, and that evidence of the commission thereof is to be found at any premises or place specified in the information, he may, on an application made by a police officer of a rank not lower than that of inspector, grant a search warrant authorizing any such police officer as aforesaid named in the warrant together with any other persons named in the warrant and any other police officers to enter the premises or place at any time within one month from the date of the warrant, if necessary by force, and to search the premises or place and every person found therein, and to seize anything found on the premises or place or on any such person which the officer has reasonable ground for suspecting to be evidence of the commission of such an offence as aforesaid:

Provided that no woman shall, in pursuance of a warrant issued under this subsection, be searched except by a woman.

(6) Nothing in this section shall be construed as prohibiting the employment of a reasonable number of persons as stewards to assist in the preservation of order at any public meeting held upon private premises, or the making of arrangements for that purpose or the instruction of the persons to be so employed in their lawful duties as such stewards, on their being furnished with suitable badges or other appropriate distinguishing signs.

Prohibition of uniforms in connection with political objects.

30. (1) Subject as hereinafter provided a person who in any public place or at any public meeting wears any uniform signifying his association with any political organisation or with the promotion of any political object is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 3 on the standard scale:

(1936 c.6, s.1).

Provided that, if the Commissioner of Police is satisfied that the wearing of any such uniform on any ceremonial, anniversary, or any special occasion will not be likely to involve risk of public disorder, he may, with the consent of the Governor, by order permit the wearing of such uniform on that occasion either absolutely or subject to such conditions as may be specified in the order.

(2) Where any person is charged before any court with an offence against this section, no further proceedings in respect thereof shall be taken against him without the consent of the Attorney-General except such as the court may think necessary by remand (whether in custody or on bail) or otherwise to secure the due appearance of the person charged, so, however, that if that person is remanded in custody he shall, after the expiration of a period of eight days from the date on which he was so remanded, be entitled to be discharged from custody on entering into a recognizance without sureties, unless within that period the Attorney-General has consented to such further proceedings.

*Processions and Assemblies.***Regulation and prohibition of processions.**

31. (1) If the Commissioner of Police, having regard to the time or place at which and the circumstances in which any public procession is taking place or is intended to take place and to the route taken or proposed to be taken by the procession, has reasonable ground for apprehending that the procession may occasion serious public disorder, he may give directions imposing upon the persons organizing or taking part in the procession such conditions as appear to him necessary for the preservation of public order, including conditions prescribing the route to be taken by the procession and conditions prohibiting the procession from entering any public place specified in the directions:

Provided that no conditions restricting the display of flags, banners or emblems shall be imposed under this subsection except such as are reasonably necessary to prevent risk of a breach of the peace.

(2) If at any time the Commissioner of Police is of opinion that by reason of particular circumstances existing in Gibraltar, the powers conferred on him by subsection (1) will not be sufficient to enable him to prevent serious public disorder being occasioned by the holding of public processions in Gibraltar, he shall apply to the Governor for an order prohibiting for such period not exceeding three months as may be specified in the application the holding of all public processions or of any class of public processions so specified in Gibraltar, and upon receipt of the application the Governor may make an order, either in terms of the application or with such modifications as he may deem fit.

(3) A person who knowingly fails to comply with any directions given or conditions imposed under this section, or organizes or assists in organizing any public procession held or intended to be held in contravention of an order of the Governor made under this section or incites any person to take part in such a procession, is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 3 on the standard scale.

Restrictions on public meetings.

32. (1) In addition to, and without derogation from, the powers conferred by this Part, the Commissioner of Police, with the sanction of the Governor may issue a notice forbidding any public meeting from assembling in any road or public place.

(2) The Governor may in writing authorize the Commissioner of Police or any police officer to enter and remain as long as may be considered necessary upon any premises wherein a public meeting is being or is about to be held, and if necessary to use force for the purpose of entry.

(3) A person who contravenes any notice issued under this section, or who obstructs or interferes with any police officer in the execution of his duty under this section is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 4 on the standard scale.

Breaches of the Peace.

Attempts to break up public meetings.

(1908 c.66, s.1). 33. (1) A person who at any public meeting acts in a disorderly manner for the purpose of preventing the transaction of the business for which such meeting was called together is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 2 on the standard scale.

(2) A person who incites others to commit an offence against the section is guilty of a like offence.

(3) If a police officer reasonably suspects any person of committing an offence under the foregoing provisions of this section, he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address he is guilty of an offence against this subsection and is liable on summary conviction thereof to a fine at level 2 on the standard scale, and if he refuses or fails so to declare his name and address or if the police officer reasonably suspects him of giving a false name and address the police officer may without warrant arrest him.

Offensive conduct conducive to breaches of the peace.

(1908 c.66, s.5). 34. A person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, is guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine at level 4 on the standard scale.

Making disturbances, etc.

35. A person who, in or near to any public place or in any patio, yard, way, staircase or other means of access to any occupied premises or in the port of

Gibraltar, makes or causes to be made any disturbance or who uses any threatening, abusive or insulting words or riotous, violent or indecent behaviour with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, or the annoyance of any person, is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 4 on the standard scale.

Riotous behaviour in churches.

36. (1) A person who is guilty of riotous, violent or indecent behaviour in any cathedral, church, chapel or other place of worship of any religious denomination, or who wilfully disquiets or disturbs any meeting, assembly or congregation of persons assembled in any cathedral, church, chapel, or other place of worship, whether during the celebration of divine service or at any other time, or in any churchyard or burial ground, or who molests, lets, disturbs, vexes or troubles or by any other unlawful means disquiets or misuses any preacher duly authorized to preach therein or any clergyman of any denomination lawfully ministering or celebrating any sacrament or any divine service, rite or office in any cathedral, church, or chapel, or in other places of worship or in any churchyard or burial ground is guilty of an offence and is liable on summary conviction to imprisonment for two months or to a fine at level 4 on the standard scale. *(1860 c.32, ss.2 and 3).*

(2) Every such offender may forthwith be apprehended by any police officer or by any person present at the commission of the offence and may be taken to a police station to be brought before the magistrates' court at the first convenient opportunity to be dealt with according to law.

Disorderly conduct in police station.

37. A person who in any police station, police post or building occupied for police purposes behaves in a riotous, indecent, disorderly or insulting manner is guilty of an offence and liable on summary conviction to imprisonment for two months and to a fine at level 2 on the standard scale.

Printing abusive matter, etc.

38. A person who prints, publishes, offers for sale, distributes or disperses, or who assists in the printing, publishing, offering for sale, distributing or dispersing any newspaper or other publication whatsoever containing threatening, abusive or insulting matter calculated to excite enmity, tumult or disorder, or to provoke a breach of the peace is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 3 on the standard scale and may be ordered to give security for good behaviour, and it shall be lawful for any police officer to seize all such newspapers or other publications to be dealt with in such manner as the court may direct.

Setting on dogs.

(1839 c.47,
s.54).

39. A person, not being a police officer or a member of the armed forces of the Crown acting in the execution of his duty, who sets on or urges any dog or other animal to attack, worry or put in fear any person or animal is guilty of an offence and is liable on conviction to a fine.

*Offensive Weapons and Explosives.***Carrying of offensive weapons.**

(1953 c.14, s.1).

40. (1) A person who, without lawful authority or reasonable excuse, the proof whereof shall lie on him, has with him in any public place any offensive weapon is guilty of an offence and is liable—

- (a) on summary conviction to imprisonment for three months and to a fine at level 3 on the standard scale;
- (b) on conviction on indictment to imprisonment for two years and to a fine .

(2) Where any person is convicted of an offence under subsection (1), the court may make an order for the forfeiture or disposal of the weapon in respect of which the offence was committed.

Manufacture and sale of offensive weapons.

(1959 c.37, s.1).

41. A person who manufactures, sells or hires or offers for sale or hire, or exposes for sale or hire or has in his possession for the purpose of sale or hire, or lends or gives to any other person—

- (a) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a “flick knife” or “flick gun”; or
- (b) any knife which has a blade which is released from the handle or sheath by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever or other device, sometimes known as a “gravity knife”,

is guilty of an offence and is liable on summary conviction in the case of a first offence to imprisonment for three months and to a fine at level 3 on the

standard scale, and in the case of a second or subsequent offence, to imprisonment for six months and to a fine at level 4 on the standard scale.

Discharging firearms, etc.

42. A person who wantonly discharges any firearm, or any person, other than a member of the armed forces of the Crown acting in the execution of his duty, who in any manner or from any place throws or discharges any stone or other missile or thing whatsoever to the damage or danger of any person or makes any bonfire, is guilty of an offence and is liable on conviction to a fine at level 3 on the standard scale. (1839 c.47, s.54(15)).

Possession, etc., of explosives.

43. A person who knowingly has in his possession, or makes or manufactures, any 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 offence against this Act is guilty of an offence and is liable on conviction to imprisonment for two years. (1861 c.100, s.64).

Bomb Hoaxes.

Bomb hoaxes.

44. (1) A person who—

- (a) places any article in any place whatever; or
- (b) dispatches any article by post or any other means whatever of sending things from one place to another,

with the intention (in either case) of inducing in some other person a belief that it is likely to explode or ignite and thereby cause personal injury or damage to property is guilty of an offence.

In this subsection “article” includes “substance”.

(2) A person who communicates any information which he knows or believes to be false to another person with the intention of inducing in him or any other person a false belief that a bomb or other thing liable to explode or ignite is present in any place or location whatever is guilty of an offence.

(3) For a person to be guilty of an offence against subsection (1) or (2) it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief mentioned in that subsection.

- (4) A person guilty of an offence against this section is liable—
- (a) on summary conviction to imprisonment for three months and to a fine at level 5 on the standard scale.
 - (b) on conviction on indictment, to imprisonment for five years.

PART IX.
OFFENCES RELATING TO SECURITY.

Restricted areas.

45. (1) Without the permission in writing of the Governor or other lawful authority no person shall—

- (a) enter upon, or loiter in the immediate vicinity of, any land belonging to or in the occupation of the Crown or the Ministry of Defence which the Governor may declare by notice in the Gazette to be closed to the public; or
- (b) photograph, sketch or otherwise make any picture in or of any place prescribed by the Governor by notice in the Gazette.

(2) The Governor may by notice in the Gazette impose conditions of entry into the Upper Rock Area.

(3) Every place to which subsection (1) applies shall have placed thereon such notices forbidding entry or otherwise as the Governor may consider desirable, and every such notice shall be in such form as the Governor may direct.

(4) A person who contravenes any provision of subsection (1) or who contravenes any condition contained in any permit granted to him by or under the authority of the Governor under the provisions of subsection (1) or any condition of entry into the Upper Rock Area is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 3 on the standard scale.

(5) Any photograph, sketch or other picture or material for making the same which may be found in the possession of any person found guilty of contravening this section may be forfeited by the court.

Importing and keeping carrier pigeons, etc.

46. (1) No person shall import or keep in Gibraltar any carrier pigeons or any pigeons which the Governor may consider capable of being used for the

purpose of conveying intelligence, without the permission in writing of the Governor and under such conditions as may be prescribed in such permission.

(2) It shall be lawful for the Governor by order in writing to authorize the Commissioner of Police or any other person named by him in such order to enter at any time by day or night and by force, if necessary, any premises or place or vessel in Gibraltar and to search for any such pigeons as are described in subsection (1) and to seize and remove the same to be dealt with in such manner as the Governor may direct.

(3) A person who offends against the provisions of subsection (1), or resists or in any way interferes with any person charged with the execution of any order by the Governor under subsection (2), is guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine at level 2 on the standard scale.

Disclosure of classified Euratom information.

47. (1) Where a person owing either—

- (a) to his duties as a member of any Euratom institution or committee, or as an officer or servant of Euratom; or
- (b) to his dealings in any capacity (official or unofficial) with any Euratom institution or installation or with any Euratom joint enterprise,

has occasion to acquire, or obtain cognizance of, any classified information, he is guilty of an offence if, knowing or having reason to believe that it is classified information, he communicates it to any unauthorized person or makes any public disclosure of it, whether in Gibraltar or elsewhere and whether before or after the termination of those duties or dealings; and for this purpose “classified information” means any facts, information, knowledge, documents or objects that are subject to the security rules of a member State or of any Euratom institution.

(2) For the purposes of this section, it is immaterial that the person charged is or is not a Commonwealth citizen.

(3) This subsection shall be construed, and the Official Secrets Acts, 1911 to 1939, shall have effect, as if this subsection were contained in the Official Secrets Act, 1911, but so that in that Act sections 10 and 11, except section 10(4), shall not apply.

PART X.
OFFENCES RELATING TO THE ARMED
FORCES AND THE POLICE.

The Armed Forces.

Assisting etc., desertion from the Navy.

48. A person not belonging to Her Majesty's Navy and borne on the books of any one of Her Majesty's ships in commission who assists or procures any person in or belonging to Her Majesty's Navy and borne on the books of any one of Her Majesty's ships in commission to desert or improperly to absent himself from his duty, or who conceals, employs or continues to employ any such person who is a deserter or so improperly absent from his duty, knowing him to be a deserter or so improperly absent, is, for every such assistance, procurement, concealment, employment or continuance of employment, guilty of an offence and liable on summary conviction to imprisonment for three months and to a fine at level 2 on the standard scale.

Uniforms not to be worn without authority.

(1894 c.45, s.2). 49. (1) A person not serving in the armed forces of the Crown, who wears without Her Majesty's permission the uniform of any of those forces, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale:

Provided that this section shall not prevent any person from wearing any uniform or dress in the course of a stage play performed in a place duly licensed or authorized for the public performance of stage plays, or in the course of a music hall or circus performance or in the course of any bona fide military representation.

(2) For the purposes of this section and of section 50—

“the armed forces of the Crown” mean any of Her Majesty's military, naval or air forces, and shall include the Women's Royal Naval Service, the Women's Royal Army Corps, the Women's Royal Air Force and similar formations.

Penalty for bringing contempt on uniform.

(1894 c.45, s.3). 50. Any person not serving in the armed forces of the Crown who wears without Her Majesty's permission the uniform of any of those forces, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or under such circumstances as to be likely to bring contempt upon that uniform, or

employs any other person so to wear that uniform or dress, is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 1 on the standard scale.

Annoying or interfering with troops, etc.

51. A person who wilfully interferes with or causes annoyance to any troops or police, or interferes with or causes annoyance to any guard or sentry after being warned to retire; is guilty of an offence and is liable on conviction to a fine at level 2 on the standard scale.

The Police.

Interpretation.

52. In sections 53 to 57–

“police officer” and “member of the Force” mean any member of the Gibraltar Police Force established under the Police Act, any person deemed to be a member of such Force under the provisions of that Act and any civilian police officer in the employment of the Ministry of Defence.

“the Force” means the Gibraltar Police Force as constituted by the Police Act, and any reference in this Part to the Force, shall be deemed to include a reference to the Gibraltar Security Police.

Causing disaffection among police.

53. A person who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst police officers, or induces or attempts to induce or does any act calculated to induce any police officer to withhold his services or to commit breaches of discipline, is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 3 on the standard scale.

Aiding illegal withdrawal from the Force.

54. A person who–

- (a) knowingly aids or assists any police officer illegally to withdraw himself from the Force; or
- (b) knowingly conceals any police officer who has illegally withdrawn himself from the Force; or

- (c) knowing that any police officer has illegally withdrawn himself from the Force, aids him to quit Gibraltar,

is guilty of an offence and is liable on summary conviction to imprisonment for two months and to a fine at level 2 on the standard scale.

Harbouring police officers.

55. (1) A person who knowingly harbours or entertains or permits to remain on his premises any police officer at a time appointed for the performance of duty of such police officer, or any person who by threats or by gifts or offers of money or spirituous or other liquors or other valuable consideration endeavours to induce any police officer to commit a breach of his duty as a member of the Force, or to omit any part of such duty, is guilty of an offence and is liable on summary conviction to imprisonment for one month and to a fine at level 2 on the standard scale.

(2) If any person convicted under subsection (1) is the keeper of any premises licensed for the sale of wine, spirits, or malt liquors, or is employed in connection with the business of any such keeper, such keeper is liable at the discretion of the court to the forfeiture or suspension of his licence irrespective of any penalty suffered under such conviction.

Improperly assuming dress, etc., of police.

56. A person not being a police officer who has in his possession any article being part of the clothing or equipment supplied to any police officer and who is not able satisfactorily to account for the possession thereof and a person who puts on or assumes the dress, name, designation or description of any police officer, to which he is not entitled, for the purpose of obtaining admission into any house or other place, or of doing or procuring to be done any other act which such person would not by law be entitled to do, or procure to be done, of his own authority, is guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine at level 3 on the standard scale.

Unlawful possession of arms, etc., of police.

57. A person who knowingly detains, buys, exchanges, or receives from any police officer or deserter from the Force, or any person acting for or on his behalf, or who solicits or entices any police officer, or who is employed by any police officer or deserter from the Force knowing him to be such, to sell, put away or dispose of any arms, ammunition, clothing, accoutrements or equipment furnished for the use of the Force or any police officer, or who has in his possession any such arms, ammunition, clothing, accoutrements or equipment and does not give a satisfactory account of how he came by the same, is guilty of an offence and is liable on summary conviction to a fine at

level 3 on the standard scale, together with double the value of all or any of the several articles which the offender has in his possession.

PART XI.
OFFENCES AGAINST THE PERSON.

Causing and Threatening Death.

Genocide.

58. (1) A person who commits any act falling within the definition of “genocide” in Article II of the Convention on the Prevention and Punishment of the Crime of Genocide approved by the General Assembly of the United Nations on the 9th day of December 1948, as set out in Schedule 2 is guilty of an offence and on conviction on indictment— *(1969 c.12, ss.1 and 4).*

- (a) if the offence consists of the killing of any person, shall be sentenced to imprisonment for life;
- (b) in any other case, is liable to imprisonment for fourteen years.

(2) No prosecution for an offence against this section shall be commenced except by or with the consent of the Attorney-General.

Murder.

59. (1) A person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of the offence of murder and on conviction upon indictment shall be sentenced to imprisonment for life. *(1965 c.71, s.1).*

(2) On sentencing any person convicted of murder to imprisonment for life the court may at the same time declare the period which it recommends to the Governor as the minimum period which in its view should elapse before the Governor orders the release of that person on licence under section 35A of the Prison Act.

(3) No person convicted of murder shall be released by the Governor on licence under section 35A of the Prison Act⁵ unless the Governor has prior to such release consulted the Chief Justice, and the trial judge if available.

Abolition of constructive malice.

60. (1) Where a person kills another in the course or furtherance of some other offence, the killing shall not amount to murder unless done with the *(1957 c.11, s.1).*

⁵ 1949-03

same malice aforethought (express or implied) as is required for a killing to amount to murder when not done in the course or furtherance of another offence.

(2) For the purposes of subsection (1), a killing done in the course or for the purpose of resisting an officer of justice, or of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody, shall be treated as a killing in the course or furtherance of an offence.

Diminished responsibility.

(1957 c.11,s.2). 61. (1) Where a person kills or is a party to the killing of another he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

Provocation.

(1957 c.11, s.3). 62. Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

Manslaughter.

63. A person who is guilty of manslaughter is liable on conviction on indictment to imprisonment for life and a fine.

Excusable homicide.

64. No punishment shall be incurred by any person who kills another by misfortune or in his own defence. *(1861 c.100, s.7).*

Soliciting to commit murder.

65. Any person who solicits, encourages, persuades or endeavours to persuade or proposes to any person, to murder any other person and whether such person be within Gibraltar or not, is guilty of an offence and is liable on conviction to imprisonment for life.

Threats to kill.

66. A person who without lawful excuse makes to another a threat intending that that other would fear it would be carried out, to kill that other or a third person is guilty of an offence and is liable on conviction on indictment to imprisonment for ten years.

Suicide pacts.

67. (1) It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or be party to the other being killed by a third person. *(1957 c.11, s.4).*

(2) Where it is shown that a person charged with the murder of another killed the other or was a party to his being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

(3) For the purposes of this section "suicide pact" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

Complicity in suicide.

68. (1) A person who aids, abets, counsels or procures the suicide of another or an attempt by another to commit suicide, is guilty of an offence and is liable on conviction on indictment to imprisonment for fourteen years. *(1961 c.60., s.2).*

(2) If on the trial of an indictment for murder or manslaughter it is proved that the accused aided, abetted, counselled or procured the suicide of the person in question, the jury may find him guilty of that offence.

(3) No proceedings shall be instituted for an offence against this section except by or with the consent of the Attorney-General.

Infanticide.

(1938 c.36, s.1). 69. Where a woman by any wilful act or omission causes the death of her child being a child under the age of 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 a 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 section the offence would have amounted to murder, she is guilty of the offence of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of such child.

Child destruction.

(1929 c.34, s.1). 70. (1) Subject as hereinafter in this subsection provided, a person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, is guilty of child destruction and is liable on conviction on indictment to imprisonment for life:

Provided that no person shall be found guilty of an offence against this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(2) For the purposes of this section evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be prima facie proof that she was at that time pregnant of a child capable of being born alive.

*Attempts to Procure Abortion.***Administering drugs or using instruments.**

(1861 c.100, s.58). 71. A woman, being with child, who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any other means whatsoever with the like intent, and a person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, are guilty of an offence and are liable on conviction to imprisonment for life.

Procuring drugs, etc.

72. A person who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of a woman, whether she is or is not with child, is guilty of an offence and is liable on conviction to imprisonment for five years. (1861 c.100, s.59).

Concealing the Birth of a Child.

Concealing the birth of a child.

73. If a woman is delivered of a child, any person who, by any secret disposition of the dead body of such child, whether such child died before, at, or after its birth, endeavours to conceal the birth thereof, is guilty of an offence and is liable on conviction to imprisonment for two years. (1861 c.100, s.60).

Endangering Life.

Impeding rescue from shipwreck.

74. A person who unlawfully and maliciously prevents or impedes any person, who is on board of or has quitted any ship or vessel which is in distress, or wrecked, stranded or cast on shore, in his endeavour to save his life, or unlawfully and maliciously prevents or impedes any person in his endeavour to save the life of any person in such peril is guilty of an offence and is liable on conviction to imprisonment for life. (1861 c.100, s.17).

Wounding with intent to do grievous bodily harm.

75. A person who unlawfully and maliciously by any means whatsoever wounds or causes any grievous bodily harm to any person, or shoots at any person, or attempts to discharge any kind of loaded arms at any person, with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person is guilty of an offence and is liable on conviction to imprisonment for life. (1861 c.100, s.18).

Wounding.

76. A person who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, is guilty of an offence and is liable on conviction to imprisonment for five years. (1861 c.100, s.20).

Attempting to choke, etc., with intent to facilitate indictable offence.

(1861 c.100, s.21). 77. A person who, by any means whatsoever, 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 any other person to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, is guilty of an offence and is liable on conviction to imprisonment for life.

Using drugs to facilitate offence.

(1861 c.100, s.22). 78. A person who unlawfully applies or administers to or causes to be taken by, or attempts to apply or administer to or attempts to cause to be administered to or taken by, any person, any chloroform, laudanum, or other stupefying or overpowering drug, matter, or thing, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, is guilty of an offence and is liable on conviction to imprisonment for life.

Administering poison.

(1861 c.100, ss.23 and 24). 79. A 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 is guilty of an offence and

- (a) if he thereby endangered the life of such person or inflicted on him any grievous bodily harm, is liable on conviction to imprisonment for ten years;
- (b) if he did so with intent to injure, aggrieve or annoy such person, is liable on conviction to imprisonment for five years.

Withholding food from apprentice or servant.

(1861 c.100, s.26). 80. A person who, being legally liable, either as a master or mistress, to provide for any apprentice or servant necessary food, clothing or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, or unlawfully and 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 is or is likely to be permanently injured, is guilty of an offence and is liable on conviction to imprisonment for five years.

Abandoning young children.

(1861 c.100, s.27).

81. A person who unlawfully abandons or exposes any child, under the age of two years, whereby the life of such child is endangered, or the health of such child is or is likely to be permanently injured, is guilty of an offence and is liable on conviction to imprisonment for five years.

Cruelty to young persons.

82. (1) A person who has attained the age of sixteen years and has the custody, charge or care of any child or young person under that age and who wilfully assaults, ill-treats, neglects, abandons or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight or hearing or limb or organ of the body, and any mental derangement), is guilty of an offence and is liable—

- (a) on conviction on indictment, to imprisonment for two years and to a fine ; and
- (b) on summary conviction, to imprisonment for six months and to a fine at level 4 on the standard scale.

(2) For the purposes of this section—

- (a) a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided under any enactment relating to the relief of the poor;
- (b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) while the child was in bed with some other person who has attained the age of sixteen years, that other person shall, if he was, when he went to bed, under the influence of drink, be deemed to have neglected the child in a manner likely to cause injury to its health.

(3) A person may be convicted of an offence under this section—

- (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;

(b) notwithstanding the death of the child or young person in question.

(4) If it is proved that a person convicted under this section was directly or indirectly interested in any sum of money accruing or payable in the event of the death of the child or young person, and had knowledge that that sum of money was accruing or becoming payable, then—

(a) in the case of a conviction on indictment, the person convicted is liable to imprisonment for five years and to a fine ; and

(b) in the case of a summary conviction, the court in determining the sentence to be awarded shall take into consideration the fact that the person was so interested and had such knowledge.

(5) For the purposes of subsection (4)—

(a) a person shall be deemed to be directly or indirectly interested in a sum of money if he has any share in or any benefit from the payment of that money, notwithstanding that he may not be a person to whom it is legally payable; and

(b) a copy of a policy of insurance, certified to be a true copy by an officer or agent of the insurance company granting the policy, shall be evidence that the child or young person therein stated to be insured has in fact been so insured and that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable.

(6) Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a child or young person to administer punishment to him.

Causing or Intending Bodily Injury.

Causing grievous harm by explosion.

(1861 c.100, s.28). 83. A person who unlawfully and maliciously, by the explosion of any explosive substance, burns, maims, disfigures, disables or does any grievous bodily harm to any person, is guilty of an offence and is liable on conviction to imprisonment for life.

Causing explosion with intent.

(1861 c.100, s.29). 84. A person who unlawfully and maliciously causes any 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 such case to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, whether any bodily injury is effected or not, is guilty of an offence and is liable on conviction to imprisonment for life.

Placing explosives.

85. A person who unlawfully and maliciously places or throws in, into, upon, against or near any building, ship, or vessel any explosive substance, with intent to do any bodily injury to any person, is, whether or not any explosion takes place, and whether or not any bodily injury is effected, guilty of an offence and is liable on conviction to imprisonment for fourteen years. *(1861 c.100, s.30).*

Setting spring guns, etc.

86. A person who sets or places or causes to be set or placed, any spring gun, man trap or other engine calculated to destroy human life or inflict grievous harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, is guilty of an offence and is liable on conviction to imprisonment for five years; and any person who knowingly and wilfully permits any such spring gun, man trap or other engine which may have been set or placed in any place then being in or afterwards coming into his possession or occupation by some other person to continue so set or placed, shall be deemed to have set and placed such gun, trap or engine with such intent as aforesaid: *(1861 c.100, s.31).*

Provided that nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as may have been or may be usually set or placed with the intent of destroying vermin:

Provided also that nothing in this section shall be deemed to make it unlawful to set or place or cause to be set or placed, or to be continued set or placed, from sunset to sunrise, any spring gun, man trap or other engine which shall be set or placed, or caused or continued to be set or placed, in a dwelling house, for the protection thereof.

Causing harm by furious driving.

87. Any person who, having 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 is guilty of an offence and is liable on conviction to imprisonment for two years. *(1861 c.100, s.35).*

*Assaults.***Assaulting magistrates, etc., when preserving wrecks.**

(1861 c.100, s.37). 88. A person who assaults and strikes or wounds any magistrate, officer, or other person lawfully authorized, in or on account of the exercise of his duty 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, is guilty of an offence and is liable on conviction to imprisonment for seven years.

Assaulting police officers.

89. (1) A person who assaults, obstructs, or resists any police officer in the execution of his duty or aids or incites any other person to assault, obstruct or resist any police officer or any person aiding or assisting a police officer in the execution of his duty, is guilty of an offence and liable on summary conviction to imprisonment for six months and to a fine at level 4 on the standard scale.

(2) In this section “police officer” includes a member of the Gibraltar Security Police.

Obstructing or assaulting clergymen.

(1861 c.100, s.36). 90. A person who, by threats or force, obstructs or prevents or endeavours to obstruct or prevent, any clergyman or other minister in or from celebrating divine service or otherwise officiating in any church, chapel, meeting house or other place of divine worship, or in or from the performance of his duty in the lawful burial of the dead in any 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 other minister, who is engaged in, or to the knowledge of the offender is about to engage in, any rites or duties or who to the knowledge of the offender shall be going to perform the same or returning from the performance.

Assaults on seamen, etc.

(1861 c.100, s.40). 91. A person who unlawfully and with force hinders or prevents any seaman, keelman or caster from working at or exercising his lawful trade, business, or occupation, or beats or uses any violence to any such person with intent to hinder or prevent him from working at or exercising the same is guilty of an offence and is liable on summary conviction to imprisonment for three months.

Assault to prevent arrest.

92. A person who assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, is guilty of an offence and is liable on conviction to imprisonment for two years. *(1861 c.100, s.38).*

Assault with intent to obstruct sale.

93. A person who beats, or uses any violence or threat of violence to any person, with intent to deter or hinder him from buying, selling, or otherwise disposing of, or to compel him to buy, sell or otherwise dispose of, any commodity in any market or other place, or beats or uses any such violence or threat to any person having the care or charge of any commodity, with intent to stop the conveyance of the same, is guilty of an offence and is liable on summary conviction to imprisonment for three months. *(1861 c.100, s.39).*

Assault occasioning bodily harm.

94. A person who commits an assault occasioning actual bodily harm is guilty of an offence and is liable on conviction on indictment to imprisonment for five years. *(1861 c.100, s.47).*

Aggravated assaults on females and boys under fourteen.

95. When a person is charged before the magistrates' court with an assault or battery upon any male child whose age does not in the opinion of the court exceed fourteen years, or upon any female, the court, if the assault or battery is of such an aggravated nature that it cannot in its opinion be sufficiently punished under section 96 may proceed to hear and determine the same in a summary way and every such offender is liable on conviction to imprisonment for six months or to a fine at level 3 on the standard scale. *(1861 c.100, s.43).*

In addition to imposing any penalty the court may order the offender to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour for a period not exceeding twelve months.

Common assault.

96. A person who unlawfully assaults or beats any other person is liable— *(1861 c.100, ss.42 and 47).*
- (a) on summary conviction to imprisonment for two months or to a fine at level 2 on the standard scale; and
 - (b) on conviction on indictment to imprisonment for one year.

Certificate of dismissal.

(1861 c.100, s.44). 97. If the magistrates' court, 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 section 95 or 96, 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, the court shall forthwith make out a certificate stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

Effect of certificate.

(1861 c.100, s.45). 98. If a person, against whom any such complaint, as is mentioned in section 95, 96 or 97 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 to be paid, or has suffered the imprisonment awarded, he shall be released from all further or other proceedings, civil or criminal, for the same cause.

PART XII.
SEXUAL OFFENCES.

Interpretation.

Meaning of "sexual intercourse."

(1956 c.69, s.44). 99. Where, on the trial of any offence under this Part, it is necessary to prove sexual intercourse (whether natural or unnatural), it shall not be necessary to prove the completion of the intercourse by the emission of seed, but the intercourse shall be deemed complete upon proof of penetration only.

Meaning of "defective".

(1956 c.69, s.45). 100. (1) In this Part "defective" means a person—

- (a) in whose case there exists mental defectiveness which is of such a degree that he requires care, supervision and control for his own protection or for the protection of others or, in the case of a child, involves disability of mind of such a nature and extent as to make him, for the purposes of the Education Act, incapable of receiving education at a school; or
- (b) in whose case there exists mental defectiveness coupled with strongly vicious or criminal propensities and who requires care, supervision and control for the protection of others.

(2) For the purposes of this section “mental defectiveness” means a condition of arrested or incomplete development of mind existing before the age of eighteen, whether arising from inherent causes or induced by disease or injury.

Use of words “man”, “boy”, “woman”, and “girl”.

101. The use in any provision of this Part of the word “man” without the addition of the word “boy”, or vice versa, shall not prevent the provision applying to any person to whom it would have applied if both words had been used, and similarly with the words “woman” and “girl”. (1956 c.69, s.46).

Proof of exceptions.

102. Where in any of the sections of this Part the description of an offence is expressed to be subject to exceptions mentioned in the section, proof of the exception is to lie on the person relying on it. (1956 c.69, s.47).

Intercourse by Force, Intimidation, etc.

Rape.

103.(1) A man who rapes a woman is guilty of an offence and is liable on conviction to imprisonment for life. (1956 c.69, s.1 and 2nd Sch.).

(2) A man who attempts to rape a woman is guilty of an offence and is liable on conviction to imprisonment for seven years.

(3) A man who induces a married woman to have sexual intercourse with him by impersonating her husband commits rape.

Procurement by threats.

104.(1) A person who procures a woman, by threats or intimidation, to have sexual intercourse in any part of the world, is guilty of an offence and is liable on conviction to imprisonment for two years. (1956 c.69, s.2 and 2nd Sch.).

(2) A person shall not be convicted of an offence against this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

Procurement by false pretences.

105.(1) A person who procures a woman by false pretences or false representations to have sexual intercourse in any part of the world is guilty of an offence and is liable on conviction to imprisonment for two years. (1956 c.69, s.3 and 2nd Sch.).

(2) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

Administration of drugs to procure intercourse.

*(1956 c.69, s.3
and 2nd Sch.)*

106.(1) A person who applies or administers to, or causes to be taken by, any woman any drug, matter or thing with intent to stupefy or overpower her so as thereby to enable any man to have unlawful sexual intercourse with her is guilty of an offence and is liable on conviction to imprisonment for two years.

(2) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

Intercourse with Young Girls.

Intercourse with girl under 13.

*(1956 c.69, s.5
and 2nd Sch.)*

107.(1) A man who has unlawful sexual intercourse with a girl under the age of thirteen is guilty of an offence and is liable on conviction to imprisonment for life.

(2) A man who attempts to have unlawful sexual intercourse with a girl under the age of thirteen is guilty of an offence and is liable on conviction to imprisonment for seven years.

Intercourse with girl between 13 and 16.

*(1956 c.69, s.6
and 2nd Sch.)*

108.(1) Subject to the exceptions mentioned in this section a man who has unlawful sexual intercourse with a girl not under the age of thirteen but under the age of sixteen is guilty of an offence and is liable on conviction to imprisonment for two years.

(2) No prosecution for an offence under this section shall be instituted more than twelve months after the commission of the offence.

(3) A man is not guilty of an offence under this section because he has unlawful sexual intercourse with a girl under the age of sixteen if, at the date of the alleged offence, he is under the age of twenty-four and he believes her to be over the age of sixteen and has reasonable cause for his belief.

(4) For the purpose of this section it shall not be unlawful for a man to have sexual intercourse with a girl under the age of sixteen who is his wife,

and it shall be a defence to a charge under this section to prove that at the time when the offence is alleged to have been committed, the man had reasonable cause to believe that the girl was his wife.

Intercourse with Defectives.

Intercourse with idiots and imbeciles.

109.(1) A man who has unlawful sexual intercourse with a woman whom he knows to be an idiot or imbecile is guilty of an offence and is liable on conviction to imprisonment for two years. *(1956 c. 69, s.7 and 2nd Sch.).*

(2) It shall be a defence to a charge under this section to prove that at the time when the offence is alleged to have been committed the man had reasonable cause to believe that the woman was his wife.

Intercourse with defective.

110.(1) Subject to the exception mentioned in this section, a man who has unlawful sexual intercourse with a woman who is under care or treatment in a mental hospital within the meaning of the Mental Health Act⁶, or is released therefrom in accordance with the provisions of section 40 of that Act is guilty of an offence and is liable on conviction to imprisonment for two years. *(1956 c.69, s.8 and 2nd Sch.).*

(2) A man is not guilty of an offence against this section because he has unlawful sexual intercourse with such a woman if he does not know and has no reason to suspect her to be a defective.

Procurement of defective.

111.(1) Subject to the exception mentioned in this section, a person who procures a woman who is a defective to have unlawful sexual intercourse in any part of the world is guilty of an offence and is liable on conviction to imprisonment for two years. *(1956 c.69, s.9 and 2nd Sch.).*

(2) A person is not guilty of an offence against this section because he procures a defective to have unlawful sexual intercourse, if he does not know and has no reason to suspect her to be a defective.

Incest.

Incest by a man.

⁶ 1968-24

*(1956 c.69, s10
and 2nd Sch.)*

112.(1) A man who has sexual intercourse with a woman whom he knows to be his grand-daughter, daughter, sister or mother, is guilty of an offence and is liable on conviction—

- (a) if the girl with whom the offence is committed is at the time of the offence under thirteen, to imprisonment for life; or
- (b) in any other case, to imprisonment for seven years.

(2) A man who attempts to have sexual intercourse with a woman whom he knows to be his grand-daughter, daughter, sister or mother is guilty of an offence and is liable on conviction—

- (a) if with a girl under thirteen who is stated to have been so in the indictment, to imprisonment for seven years; or
- (b) in any other case, to imprisonment for two years.

(3) In subsection (1), “sister” includes half-sister, and for the purposes of that subsection any expression importing a relationship between two people shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock.

(4) No prosecution for an offence against this section shall be instituted without the consent of the Attorney-General.

Incest by a woman.

*(1956 c.69, s.11
and 2nd Sch.)*

113.(1) A woman of the age of sixteen and over who permits any man who she knows to be her grandfather, father, brother or son to have sexual intercourse with her is guilty of an offence and is liable and on conviction to imprisonment for seven years.

(2) In subsection (1), “brother” includes half-brother, and for the purposes of that subsection any expression importing a relationship between two people shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock.

(3) No prosecution for an offence against this section shall be instituted without the consent of the Attorney-General.

Supplementary powers of the court on convicting of incest.

114. (1) On a person’s conviction of an offence under section 112 against a girl under the age of eighteen, or of an offence under section 113 against a boy under that age, or of attempting to commit such an offence, the court may by order divest that person of all authority over the girl or boy.

(2) An order divesting a person of authority over a girl or boy under the foregoing subsection may, if that person is the guardian of the girl or boy, remove that person from the guardianship.

(3) An order under this section may appoint a person to be the guardian of the girl or boy during his or her minority or any less period.

(4) An order under this section may be varied from time to time or rescinded by the Supreme Court and, if made on conviction of an offence against a girl or boy who is a defective, may, so far as it has effect for any of the purposes of the Mental Health Act, be rescinded either before or after the girl or boy has attained the age of eighteen.

Unnatural Offences.

Buggery.

115.(1) A person who commits buggery with another person or with an animal is guilty of an offence and is liable on conviction to imprisonment for life. *(1956 c.69, s.12 and 2nd Sch.).*

(2) A person who attempts to commit buggery with another person or with an animal is guilty of an offence and is liable on conviction to imprisonment for ten years.

Indecency between men.

116. A man who commits an act of gross indecency with another man, whether in public or in private, or is a party to the commission by a man of an act of gross indecency with another man, or procures the commission by a man of an act of gross indecency with another man is guilty of an offence and is liable on conviction to imprisonment for two years. *(1956 c.69, s.13 and 2nd Sch.).*

Exceptions to sections 115 and 116.

116A. (1) Where the acts constituting the offences referred to in sections 115 and 116, occurred in private between two men who consented thereto and at the time were over the age of 18–

- (a) in the case of section 115, neither of such persons shall be guilty of an offence;
- (b) in the case of section 116–

- (i) neither of such persons committing the acts shall be guilty of an offence; and
- (ii) the person who procures the commission of such acts, shall not thereby be guilty of an offence.

(2) An act which would otherwise be treated for the purposes of this section as being done in private, shall not be so treated if done—

- (a) when more than two persons take part or are present; or
- (b) in a lavatory to which the public have or are permitted to have access, whether on payment or otherwise.

(3) A man who is a defective cannot in law give any consent which, by virtue of subsection (1) of this section, would prevent the acts referred to in sections 115 and 116 from being an offence, but a person shall not be convicted on account of the incapacity of such a man to give consent, of an offence consisting of such an act if he proves that he did not know and had no reason to suspect that man to be a defective.

(4) Subsection (1) of this section shall not prevent an act from being an offence (other than a civil offence) under any provision of the Gibraltar Regiment Act.

(5) Where in any proceedings, the defendant alleges that the provisions of this section apply in respect of the acts complained of, it shall be for the prosecutor to prove that the act or acts were done otherwise than in private or otherwise done with the consent of the parties or that any of the parties had not attained the age of 18 years.

Indecent Assaults.

Indecent assault on a woman.

*(1956 c.69, s.14
and 2nd Sch.)*

117.(1) Subject to the provisions of this section a person who makes an indecent assault upon a woman is guilty of an offence and is liable on conviction—

- (a) if with a girl under thirteen who is stated to have been so in the indictment, to imprisonment for five years; or
- (b) in any other case, to imprisonment for two years.

(2) A girl under the age of sixteen cannot in law give any consent which would prevent an act being an assault for the purposes of this section:

Provided that such consent can in law be given by a girl not under the age of thirteen if, at the date of the alleged offence, the accused is under the age of twenty-four and believes her to be over the age of sixteen and has reasonable cause for such belief.

(3) Where a marriage is invalid under section 15 of the Marriage Act (the wife being a girl under the age of fourteen) the invalidity does not make the husband guilty of an offence against this section by reason of her incapacity to consent while under the age of sixteen if he believes her to be his wife and has reasonable cause for the belief.

(4) A woman who is a defective cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a person is only to be treated as guilty of an indecent assault on a defective by reason of that incapacity to consent, if that person knew or had reason to suspect her to be a defective.

(5) It shall be a defence to a charge under this section if it is proved that at the time when the offence is alleged to have been committed, the person charged had reasonable cause to believe that the woman in respect of whom it is alleged to have been committed was his wife.

Indecent assault on a man.

118.(1) A person who makes an indecent assault on a man shall be guilty of an offence and liable on conviction to imprisonment for two years . *(1956 c.69, s.15 and 2nd Sch.).*

(2) A boy under the age of sixteen cannot in law give any consent which would prevent an act being an assault for the purposes of this section.

(3) A man who is a defective cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a person is only to be treated as guilty of an indecent assault on a defective by reason of that incapacity to consent, if that person knew or had reason to suspect him to be a defective.

Indecent conduct towards young child.

119.(1) A person who commits an act of gross indecency with or towards a child under the age of fourteen, or who incites a child under that age to such an act with him or another, is guilty of an offence and is liable on conviction on indictment to imprisonment for two years, or on summary conviction to imprisonment for six months and to a fine at level 4 on the standard scale. *(1960 c.33, s.1).*

(2) On a charge of an offence under this section, the wife or husband of the accused shall be competent to give evidence at every stage of the

proceedings, whether for the defence or for the prosecution, and whether the accused is charged solely or jointly with any other person:

Provided that—

- (a) the wife or husband shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him during the marriage by the accused; and
- (b) the failure of the wife or husband of the accused to give evidence shall not be made the subject of any comment by the prosecution.

This subsection shall not affect section 73 of the Criminal Procedure Act¹ or any case where the wife or husband of the accused may at common law be called as a witness without the consent of the accused.

Assault with intent to commit buggery.

(1956 c.69, s.16 and 2nd Sch.) 120. A person who assaults another person with intent to commit buggery is guilty of an offence and is liable on conviction to imprisonment for ten years.

Prostitution, Procuration, etc.

Causing prostitution of women.

(1956 c.69, s.22 and 2nd Sch.) 121.(1) A person who—

- (a) procures a woman to become, in any part of the world, a common prostitute; or
- (b) procures a woman to leave Gibraltar, intending her to become an inmate of or frequent a brothel elsewhere; or
- (c) procures a woman to leave her usual place of abode in Gibraltar, intending her to become an inmate of or frequent a brothel in any part of the world for the purpose of prostitution,

is guilty of an offence and is liable on conviction to imprisonment for two years.

(2) A person shall not be convicted of an offence under this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

¹ 1961-24

Procuration of girl under 18.

122.(1) A person who procures a girl under the age of eighteen to have unlawful sexual intercourse in any part of the world with a third person is guilty of an offence and is liable on conviction to imprisonment for two years. *(1956 c.69, s.23 and 2nd Sch.)*

(2) A person shall not be convicted of an offence against this section on the evidence of one witness only, unless the witness is corroborated in some material particular by evidence implicating the accused.

Detention of woman in brothel or other premises.

123.(1) A person who detains a woman against her will on any premises with the intention that she shall have unlawful sexual intercourse with men or with a particular man, or detains a woman against her will in a brothel, is guilty of an offence and is liable on conviction to imprisonment for two years. *(1956 c.69, s.24 and 2nd Sch.)*

(2) Where a woman is on any premises for the purpose of having unlawful sexual intercourse or is in a brothel, a person shall be deemed for the purposes of subsection (1) to detain her there if, with the intention of compelling or inducing her to remain there, he either withholds from her clothes or any other property belonging to her or threatens her with legal proceedings in the event of her taking away clothes provided for her by him or on his directions.

(3) A woman shall not be liable to any legal proceedings, either civil or criminal, for taking away or being found in possession of any clothes she needed to enable her to leave premises on which she was for the purpose of having unlawful sexual intercourse or to leave a brothel.

Permitting girl under 13 to use premises for intercourse.

124. A person being the owner or occupier of any premises or having or acting or assisting in the management or control of any premises who induces or knowingly suffers a girl under the age of thirteen to resort to or be on those premises for the purpose of having unlawful sexual intercourse with men or with a particular man is guilty of an offence and is liable on conviction to imprisonment for life. *(1956 c.69, s.25 and 2nd Sch.)*

Permitting girl between 13 and 16 to use premises for intercourse.

125. A person, being the owner or occupier of any premises or having or acting or assisting in the management or control of any premises, who induces or knowingly suffers a girl not under the age of thirteen but under the age of sixteen to resort to or be on those premises for the purpose of having unlawful sexual intercourse with men or with a particular man is *(1956 c.69, s.26 and 2nd Sch.)*

guilty of an offence and is liable on conviction to imprisonment for two years.

Permitting defective to use premises for intercourse.

*(1956 c.69, s.27
and 2nd Sch.)*

126.(1) Subject to the exception mentioned in this section, any person being the owner or occupier of any premises or having or acting or assisting in the management or control of any premises who induces or knowingly suffers a woman who is a defective to resort to or be on those premises for the purpose of having unlawful sexual intercourse with men or with a particular man is guilty of an offence and is liable on conviction to imprisonment for two years.

(2) A person is not guilty of an offence under this section because he induces or knowingly suffers a defective to resort to or be on any premises for the purpose mentioned, if he does not know and has no reason to suspect her to be a defective.

Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under 16.

*(1956 c.69, s.28
and 2nd Sch.)*

127.(1) A person who causes or encourages the prostitution of, or the commission of unlawful sexual intercourse with, or of an indecent assault on, a girl under the age of sixteen for whom he is responsible is guilty of an offence and is liable on conviction to imprisonment for two years.

(2) Where a girl has become a prostitute, or has had unlawful sexual intercourse, or has been indecently assaulted, a person shall be deemed for the purposes of this section to have caused or encouraged it, if he knowingly allowed her to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

(3) The persons who are to be treated for the purposes of this section as responsible for a girl are (subject to subsection (4))–

- (a) any person who is her parent or legal guardian; and
- (b) any person who has actual custody or control of her, or to whose charge she has been committed by her parent or legal guardian or by a person having the custody of her; and
- (c) any other person who has the custody, charge or care of her.

(4) In subsection (3)–

- (a) “parent” does not include, in relation to any girl, a person deprived of the custody of her by order of a court of competent

jurisdiction but (subject to that) in the case of a girl who has been adopted under the Adoption Act means her adopters and, in the case of a girl who is illegitimate (and has not been so adopted) means her mother and any person who has been adjudged to be her putative father;

- (b) “legal guardian” means, in relation to any girl, any person who is for the time being her guardian, having been appointed according to law by deed or will or by order of a court of competent jurisdiction.

(5) If, on a charge of an offence against a girl under this section, the girl appears to the court to have been under the age of sixteen at the time of the offence charged, she shall be presumed for the purposes of this section to have been so, unless the contrary is proved.

Causing or encouraging prostitution of defective.

128.(1) Subject to the exception mentioned in this section, a person who causes or encourages the prostitution in any part of the world of a woman who is a defective is guilty of an offence and is liable on conviction to imprisonment for two years. *(1956 c.69, s.29 and 2nd Sch.).*

(2) A person is not guilty of an offence under this section because he causes or encourages the prostitution of such a woman, if he does not know and has no reason to suspect her to be a defective.

Allowing persons under 16 to be in brothels.

129. A person who, having the custody, charge or care of a child or young person who has attained the age of four years and is under the age of sixteen years, allows that person to reside in or to frequent a brothel, is guilty of an offence and is liable on conviction to imprisonment for six months and to a fine . *(1933 c.12, s.3).*

Man living on earnings of prostitution.

130.(1) A man who knowingly lives wholly or in part on the earnings of prostitution is guilty of an offence and is liable— *(1956 c.69, s.30 and 2nd Sch.).*

- (a) on conviction on indictment to imprisonment for two years; or
- (b) on summary conviction to imprisonment for six months.

(2) For the purposes of this section a man who lives with or is habitually in the company of a prostitute, or who exercises control, direction or influence over a prostitute’s movements in a way which shows he is aiding,

abetting or compelling her prostitution with others, shall be presumed to be knowingly living on the earnings of prostitution, unless he proves the contrary.

Woman exercising control over prostitute.

(1956 c.69, s.3
and 2nd Sch.).

131. Any woman who for purposes of gain exercises control, direction or influence over a prostitute's movements in a way which shows she is aiding, abetting or compelling her prostitution is guilty of an offence and is liable—

- (a) on conviction on indictment to imprisonment for two years; or
- (b) on summary conviction to imprisonment for six months.

Prostitutes loitering.

(1839 c.47,
s.54(11)).

132. A common prostitute or night-walker who loiters and importunes passengers for the purpose of prostitution or being otherwise offensive is guilty of an offence and is liable on conviction to a fine .

Solicitation.

Solicitation by men.

(1956 c.69, s.32
and 2nd Sch.).

133.(1) A man who persistently solicits or importunes in a public place for immoral purposes is guilty of an offence and is liable—

- (a) on conviction on indictment to imprisonment for two years; or
- (b) on summary conviction to imprisonment for six months.

Suppression of Brothels.

Keeping a brothel.

(1956 c.69, s.33
and 2nd Sch.).

134. A person who keeps a brothel or manages or acts or assists in the management of a brothel is guilty of an offence and is liable on summary conviction to imprisonment for three months, and on any second or subsequent conviction, to imprisonment for six months and to a fine at level 5 on the standard scale.

Letting premises for use as a brothel.

(1956 c.69, s.34
and 2nd Sch.).

135. A person who is the lessor or landlord of any premises or the agent of such lessor or landlord and who lets the whole or any part of the premises

with the knowledge that it is to be used in whole or in part as a brothel, or, where the whole or part of the premises is used as a brothel, is willingly a party to that use continuing is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 3 on the standard scale, and in the case of a second or subsequent conviction, to imprisonment for six months and to a fine at level 5 on the standard scale.

Permitting use of premises as a brothel.

136.(1) A tenant or occupier or a person in charge of any premises who knowingly permits the whole or any part of the premises to be used as a brothel is guilty of an offence and is liable on summary conviction, for a first offence to imprisonment for three months and to a fine at level 3 on the standard scale, and on a second or subsequent conviction, to imprisonment for six months and to a fine at level 5 on the standard scale. *(1956 c.69, s.35 and 2nd Sch.).*

(2) Where the tenant or occupier of any premises is convicted under this section of knowingly permitting the whole or part of the premises to be used as a brothel, the rights of the lessor or landlord with respect to the assignment or determination of the lease or other contract under which the premises are held by the person convicted shall be enlarged in the following manner—

- (a) the lessor or landlord may require the tenant or occupier to assign the lease or other contract under which the premises are held by him to some person approved by the lessor or landlord;
- (b) if the tenant or occupier fails to do so within three months, the lessor or landlord may determine the lease or contract (but without prejudice to the rights or remedies of any party thereto accrued before the date of the determination);
- (c) where the lease or contract is determined under this subsection, the court by which the tenant or occupier was convicted may make a summary order for delivery of the possession of the premises to the lessor or landlord;
- (d) the approval of a lessor or landlord for the purposes of paragraph (a) of this subsection shall not be unreasonably withheld;
- (e) this subsection shall have effect subject to the provisions of the Landlord and Tenant (Miscellaneous Provisions) Act. *

(3) Where the tenant or occupier of any premises is so convicted and either—

* *But see s.83 of the Landlord and Tenant Ordinance (Ord. 1983-49).*

- (a) the lessor or landlord, after having the conviction brought to his notice, fails to exercise his statutory rights in relation to the lease or contract under which the premises are held by the person convicted; or
- (b) the lessor or landlord, after exercising his statutory rights so as to determine that lease or contract, grants a new lease or enters into a new contract of tenancy of the premises to, with or for the benefit of the same person, without having all reasonable provisions to prevent the recurrence of the offence inserted in the new lease or contract,

then, if subsequently an offence under this section is committed in respect of the premises during the subsistence of the lease or contract referred to in paragraph (a) of this subsection or (where paragraph (b) applies) during the subsistence of the new lease or contract, the lessor or landlord shall be deemed to be a party to that offence unless he shows that he took all reasonable steps to prevent the recurrence of the offence.

References in this section to the statutory rights of a lessor or landlord refer to his rights under subsection (2) of this section.

Permitting premises to be used for prostitution.

*(1956 c.69, s.36
and 2nd Sch.)*

137. A person who is the tenant or occupier of any premises and who knowingly permits the whole or part of the premises to be used for the purposes of habitual prostitution, is guilty of an offence and is liable on summary conviction, for a first offence to imprisonment for three months and to a fine at level 3 on the standard scale, and on conviction for a second or subsequent offence, to imprisonment for six months and to a fine at level 5 on the standard scale.

PART XIII.

ABDUCTION AND KIDNAPPING.

Abduction.

Abduction of woman.

*(1956 c.69, s.17
and 2nd Sch.)*

138.(1) A person who takes away or detains any woman against her will with the intention that she shall marry or have unlawful sexual intercourse with that or any other person, is, if she is taken away or detained by force or for the sake or her property or expectation of property, guilty of an offence and is liable on conviction to imprisonment for fourteen years.

(2) In subsection (1), the reference to a woman's expectations of property relates only to property of a person to whom she is next of kin or one of the next of kin, and "property" includes any interest in property.

Abduction of heiress.

139.(1) A person who takes or detains a girl under the age of eighteen out of the custody of her parent or guardian against his will is, if she has property or expectations of property and is so taken or detained by fraud and with the intention that she shall marry or have unlawful sexual intercourse with that or any other person, guilty of an offence and is liable on conviction to imprisonment for fourteen years. *(1956 c.69, s.18 and 2nd Sch.).*

(2) In subsection (1) the reference to a girl's expectations of property relates only to property of a person to whom she is next of kin or one of the next of kin, "property" includes any interest in property and "guardian" means any person having the lawful care or charge of the girl.

Abduction of girl under 18.

140.(1) Subject to the exception mentioned in this section, a person who takes an unmarried girl under the age of eighteen out of the custody of her parent or guardian against his will, is, if she is so taken with the intention that she shall have unlawful sexual intercourse with men or any particular man, guilty of an offence and liable on conviction to imprisonment for two years: *(1956 c.69, s.19 and 2nd Sch.).*

Provided that a person is not guilty of an offence under this section if he believes the girl to be of the age of eighteen or over and has reasonable cause for the belief.

(3) In this section "guardian" means any person having the lawful care or charge of the girl.

Abduction of girl under 16.

141.(1) A person who, acting without lawful authority or excuse, takes an unmarried girl under the age of sixteen out of the custody of her parent or guardian against his will, is guilty of an offence and is liable on conviction to imprisonment for two years. *(1956 c.69, s.20 and 2nd Sch.).*

(2) In this section "guardian" means any person having the lawful care or charge of the girl.

Abduction of defective.

142.(1) Subject to the exception mentioned in this section, a person who takes a woman who is a defective out of the custody of her parent or guardian against his will, if she is so taken with the intention that she shall *(1956 c.69, s.21 and 2nd Sch.).*

have unlawful sexual intercourse with men or with a particular man, is guilty of an offence and is liable on conviction to imprisonment for two years:

Provided that a person is not guilty of an offence against this section if he does not know and has no reason to suspect the woman to be a defective.

(2) In this section “guardian” means any person having the lawful care or charge of the woman.

Kidnapping.

Kidnapping.

(1956 c.69, s.56). 143. A person who unlawfully, either by force or fraud, leads or takes away, or decoys or entices away or detains, any child with intent to deprive any parent, guardian or other person having the lawful care or charge of such child of the custody of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong, and a person who, with any 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 is guilty of an offence and is liable on conviction to imprisonment for seven years:

Provided that no person who claims any right to the custody of such child, or is the mother or claims to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of getting control of such child, or taking such child out of the custody of any person having the lawful charge thereof.

PART XIV.
HARMFUL AND OBSCENE PUBLICATIONS.

Interpretation.

144. In this Part, unless the context otherwise requires—

“harmful publication” means any publication which is of a kind likely to fall into the hands of children or young persons and consists wholly or mainly of stories told in pictures (with or without the addition of written matters), being stories portraying—

- (a) the commission of crimes; or
- (b) acts of violence or cruelty; or
- (c) incidents of a repulsive or horrible nature,

in such a way that the work as a whole would tend to corrupt a child or young person into whose hands it might fall;

“import” includes,—

- (a) to bring into Gibraltar; and
- (b) to bring within the port and harbour of Gibraltar whether or not the publication is brought ashore, and whether or not there is an intention to bring the same ashore;

“periodical publication” includes every publication issued periodically or in parts or numbers at intervals whether regular or irregular;

“plate” (except where it occurs in the expression “photographic plate”) includes block, mould, matrix and stencil and the expression “photographic film” includes photographic plate;

“prohibited publication” means any publication the importation of which has been prohibited under section 146;

“publication” includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication.

Harmful and Undesirable Publications.

Prohibition of importation of harmful publications.

145. The importation of any harmful publication and of any plate prepared for the purpose of printing copies of a harmful publication and any photographic film prepared for that purpose is prohibited. *(1955 c.28, s.4).*

Power to prohibit importation.

146. If the Governor is of opinion that the importation of any publication would be contrary to the public interest he may, in his absolute discretion, by order prohibit the importation of such publication, and in the case of a periodical publication may, by the same or a subsequent order, prohibit the importation of any past or future issue thereof.

Offences with respect to prohibited publications.

147.(1) A person who imports, prints, publishes, sells, offers for sale, lets on hire, distributes, reproduces or has in his possession for the purpose of sale or hire any prohibited publication or extract therefrom, or any harmful publication or extract therefrom, or any plate or film the importation of which is prohibited by section 146 is guilty of an offence and is liable on conviction to imprisonment for two years and to a fine and for a second or subsequent offence to imprisonment for three years; and such publication or extract therefrom or plate or film shall be forfeited to Her Majesty.

(2) A person who without lawful excuse has in his possession any prohibited publication, or any extract therefrom, is guilty of an offence and is liable on conviction to imprisonment for one year and to a fine and for a second or subsequent offence to imprisonment for two years; and such prohibited publication or extract therefrom shall be forfeited to Her Majesty.

(3) In any proceedings taken under this section against a person in respect of selling or letting on hire a harmful publication, plate or film the importation of which is prohibited by section 145 or of having it in his possession for the purpose of selling it or letting it on hire, it shall be a defence for him to prove that he had not examined the contents of the work and had no reasonable cause to suspect that it was one to which this section applies.

Delivery of prohibited publication to police.

148.(1) A person to whom any prohibited publication or any extract therefrom, is sent without his knowledge or privity or in response to a request made before the prohibition of the importation of such publication came into effect, or who has such a publication or extract therefrom in his possession at the time when the prohibition of its importation comes into effect, shall forthwith if or as soon as the nature of its contents have become known to him, or in the case of a publication or extract therefrom coming into the possession of such person before an order prohibiting its importation has been made forthwith upon the coming into effect of an order prohibiting the importation of such publication deliver such publication or extract therefrom to the Commissioner of Police, and in default thereof is guilty of an offence and is liable on conviction to imprisonment for one year and to a fine and such publication or extract therefrom shall be forfeited to Her Majesty.

(2) A person who complies with the provisions of subsection (1) or is convicted of an offence under that subsection shall not be liable to be convicted for having imported or having in his possession the same publication or extract therefrom.

Publications previously prohibited.

149. For the purposes of sections 147 and 148 any publication the importation of which was prohibited prior to the 1st day of September 1960 by an order made by the Governor under section 3 of the Undesirable Publications Act² shall be deemed to be a publication the importation of which is prohibited under the provisions of section 146 of this Act.

Forfeiture of prohibited publications, etc.

150. The court by or before which a person is convicted of an offence against section 147 or section 148 may order any copies of a prohibited publication or a harmful publication and any plate prepared for the purpose of printing copies of a harmful publication or photographic film prepared for that purpose, being copies which have, or a plate or film which has, been found in his possession or under his control to be forfeited: *(1955 c.28, s.3).*

Provided that an order made under this subsection by the magistrates' court shall not take effect until the expiration of the ordinary time within which an appeal in the matter of the proceedings in which the order was made may be lodged (whether by giving notice of appeal or applying for a case to be stated for the opinion of the Supreme Court) or, where such an appeal is duly lodged, until the appeal is finally decided or abandoned.

Power to examine packages.

151.(1) Any of the following officers, that is to say:—

- (a) the Financial Secretary;
- (b) the Director of Postal Services;
- (c) the Commissioner of Police;
- (d) the Deputy Commissioner of Police;
- (e) any other official authorized in that behalf by the Governor,

may detain, open and examine any package or article which he suspects to contain any prohibited publication or extract therefrom, harmful publication, plate or film which is an offence against the provisions of section 147 to import, publish, sell, offer for sale, let on hire, distribute, reproduce, possess for the purpose of sale or hire or possess, and during such examination may detain any person importing, distributing, or posting such package or article or in whose possession such package or article is found.

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(2) If any such prohibited publication or extract therefrom, harmful publication, plate or film is found in such package or article, the whole package or article may be impounded and retained by the officer and the person importing, distributing, or posting it, or in whose possession it is found, may forthwith be arrested and proceeded against for the commission of an offence against section 147 or 148 as the case may be.

Obscene Publications.

Test of obscenity.

(1959 c.66, s.1). 152.(1) For the purposes of this Part an article shall be deemed to be obscene if its effect or (where the article comprises two or more distinct items) the effect of any one of its items is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.

(2) In this Part “article” means any description of article containing or embodying matter to be read or looked at or both, any sound record, and any film or other record of a picture or pictures and includes the photographic negative of such film or record.

- (3) For the purposes of this Part a person publishes an article who—
- (a) distributes, circulates, sells, lets on hire, gives, or lends it, or who offers it for sale or for letting on hire; or
 - (b) in the case of an article containing or embodying matter to be looked at or a record, shows, plays or projects it.

Publication of obscene matter.

(1959 c.66, s.2). 153.(1) Subject as hereinafter provided, a person who, whether for gain or not, publishes an obscene article is guilty of an offence and is liable—

- (a) on summary conviction to imprisonment for six months or to a fine at level 3 on the standard scale;
- (b) on conviction on indictment to imprisonment for three years and to a fine.

(2) Notwithstanding anything in section 117 of the Criminal Procedure Act, summary proceedings for an offence against this section may be brought at any time within twelve months from the commission of the offence.

(3) A prosecution on indictment for an offence against this section shall not be commenced more than two years after the commission of the offence.

(4) A person publishing an article shall not be proceeded against for an offence at common law consisting of the publication of any matter contained or embodied in the article where it is of the essence of the offence that the matter is obscene.

(5) A person shall not be convicted of an offence against this section if he proves that he had not examined the article in respect of which he is charged and had no reasonable cause to suspect that it was such that his publication of it would make him liable to be convicted of an offence against this section.

(6) In any proceedings against a person under this section the question whether an article is obscene shall be determined without regard to any publication by another person unless it could reasonably have been expected that the publication by the other person would follow from publication by the person charged.

Sale, etc., of obscene matter.

154. A person who sells or distributes or offers for sale or distribution, or exhibits to public view any profane, indecent or obscene book, paper, print, drawing, painting or representation, or sings any profane, indecent or obscene song, or ballad, or writes or draws any indecent or obscene word, figure or representation, or uses any profane, indecent or obscene language to the annoyance of any person is guilty of an offence and is liable on conviction to a fine .

Forfeiture of obscene articles.

155. (1) Any articles seized under section 33 of the Criminal Procedure Act¹ shall be brought before a justice of the peace and the justice before whom the articles are brought may thereupon issue a summons to the occupier of the premises or, as the case may be, the user of the stall or vehicle to appear on a day specified in the summons before the magistrates' court to show cause why the articles or any of them should not be forfeited; and if the court is satisfied, as respects any of the articles, that at any time when they were seized they were obscene articles kept for publication for gain, the court shall order those articles to be forfeited: *(1959 c.66, s.3).*

Provided that if the person summoned does not appear, the court shall not make an order unless service of the summons is proved.

¹ 1961-24

(2) In addition to the person summoned, any other person being the owner, author or maker of any of the articles brought before the court, or any other person through whose hands they had passed before being seized, shall be entitled to appear before the court on the day specified in the summons to show cause why they should not be forfeited.

(3) Where an order is made under this section for the forfeiture of any articles, any person who appeared, or was entitled to appear, to show cause against the making of the order may appeal or state a case to the Supreme Court; and no such order shall take effect until the expiration of fourteen days after the day on which the order is made, or until the final determination or abandonment of the proceedings on the appeal or case.

(4) If as respects any articles brought before it the court does not order forfeiture, the court may if it thinks fit order the person on whose information the warrant for the seizure of the articles was issued to pay such costs as the court thinks reasonable to any person who has appeared before the court to show cause why those articles should not be forfeited; and costs ordered to be paid under this subsection shall be enforceable as a civil debt.

(5) For the purposes of this section the question whether an article is obscene shall be determined on the assumption that copies of it would be published in any manner likely having regard to the circumstances in which it was found, but in no other manner.

Defence of public good.

(1959 c.66, s.4). 156. A person shall not be convicted of an offence against section 153 and an order for forfeiture shall not be made under section 155 if it is proved that publication of the article in question is justified as being for the public good on the ground that it is in the interests of science, literature, art or learning, or of other objects of general concern.

PART XV.

DAMAGE TO PROPERTY AND TRESPASS.

Interpretation.

(1971 c.48, s.10). 157.(1) In this Part “property” means property of a tangible nature, whether real or personal, including money and—

- (a) including wild creatures which have been tamed or are ordinarily kept in captivity, and any other wild creatures or their carcasses if, but only if, they have been reduced into possession which has not been lost or abandoned or are in the course of being reduced into possession; but

- (b) not including mushrooms growing wild on any land or flowers, fruit or foliage and a plant growing wild on any land.

For the purposes of this subsection “mushroom” includes any fungus and “plant” includes any shrub or tree.

(2) Property shall be treated for the purposes of this Part as belonging to any person—

- (a) having the custody or control of it;
- (b) having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest); or
- (c) having a charge on it.

(3) Where property is subject to a trust, the persons to whom it belongs shall be so treated as including any person having a right to enforce the trust.

(4) Property of a corporation sole shall be so treated as belonging to the corporation notwithstanding a vacancy in the corporation.

Saving.

158. No rule of law ousting the jurisdiction of the magistrates’ court to try offences where a dispute of title to property is involved shall preclude the court from trying offences under this Part or any other offences of destroying or damaging property. (1971 c.48, s.7(2)).

Destruction of and Damage to Property.

Destroying or damaging property.

159.(1) A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged is guilty of an offence. (1971 c.48, s.1).

(2) A person who without lawful excuse destroys or damages any property, whether belonging to himself or another—

- (a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and

- (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be thereby endangered, is guilty of an offence.

(3) An offence committed under this section by destroying or damaging property by fire shall be charged as arson.

Threats to destroy or damage property.

(1971 c.48, s.2). 160. A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out,—

- (a) to destroy or damage any property belonging to that other or a third person; or
- (b) to destroy or damage his own property in a way which he knows is likely to endanger the life of that other or a third person,

is guilty of an offence.

Possessing anything with intent to destroy or damage property.

(1971 c.48, s.3). 161. A person who has anything in his custody or under his control intending without lawful excuse to use it or cause or permit another to use it—

- (a) to destroy or damage any property belonging to some other person; or
- (b) to destroy or damage his own or the user's property in a way which he knows is likely to endanger the life of some other person,

is guilty of an offence.

Lawful excuse.

(1971 c.48, s.5). 162.(1) This section applies to any offence under section 159(1) and any offence under section 160 or 161 other than one involving a threat by the person charged to destroy or damage property in a way which he knows is likely to endanger the life of another or involving an intent by the person charged to use or cause or permit the use of something in his custody or under his control so to destroy or damage property.

(2) A person charged with an offence to which this section applies shall, whether or not he would be treated for the purposes of this Part as having a lawful excuse apart from this subsection, be treated for those purposes as having a lawful excuse—

- (a) if at the time of the act or acts alleged to constitute the offence he believed that the person or persons whom he believed to be entitled to consent to the destruction of or damage to the property in question had so consented, or would have so consented to it if he or they had known of the destruction or damage and its circumstances; or
- (b) if he destroyed or damaged or threatened to destroy or damage the property in question or, in the case of a charge of an offence under section 161, intended to use or cause or permit the use of something to destroy or damage it, in order to protect property belonging to himself or another or a right or interest in property which was or which he believed to be vested in himself or another, and at the time of the act or acts alleged to constitute the offence he believed—
 - (i) that the property, right or interest was in immediate need of protection; and
 - (ii) that the means of protection adopted or proposed to be adopted were or would be reasonable having regard to all the circumstances.

(3) For the purposes of this section it is immaterial whether a belief is justified or not if it is honestly held.

(4) For the purposes of subsection (2) a right or interest in property includes any right or privilege in or over land, whether created by grant, licence or otherwise.

(5) This section shall not be construed as casting doubt on any defence recognised by law as a defence to criminal charges.

Penalties.

163. (1) A person guilty of arson under section 159(1) or of an offence under section 159(2) (whether arson or not) is liable on conviction on indictment to imprisonment for life. *(1971 c.48 s.4).*

(2) A person guilty of any offence under section 159(1) (other than arson) or an offence under section 160 or section 161, is liable on conviction on indictment to imprisonment for ten years.

Damaging gardens.

164. A person who , without the authority of the Government,—

- (a) wilfully breaks, destroys or damages any tree, plant, shrub, or seat in any public walk or garden; or
- (b) wilfully breaks or plucks any flower, fruit or other produce growing on any tree, plant or shrub in any public walk or garden; or
- (c) damages, cuts down, pulls up or removes any tree, plant or shrub growing on any land in Gibraltar belonging to the Crown—

is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale or of twice the sum which appears to the Court to be the value of the thing so broken, destroyed, damaged, plucked, cut down, pulled up or removed, whichever is the greater amount.

Cutting grass, etc.

165. A person who cuts any grass or other herbage or fodder on any land in Gibraltar which belongs to the Crown or is in the occupation of the Secretary of State for Defence, without permission in writing from the Governor or from such officer of the armed forces of the Crown as the Governor may authorize is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

Camping.

Interpretation.

165A. In sections 165B and 165C—

“camping” includes—

- (a) erecting a tent or temporary structure of any kind;
- (b) bringing a caravan onto any land;
- (c) occupying any derelict or unused building or structure;
- (d) occupying any cave; and
- (e) sleeping in the open, whether in a sleeping-bag or otherwise;

“caravan” means any structure designed or adapted for human habitation which is capable of being moved from one place to another

(whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted;

“Crown land” means all land other than private land, and includes—

- (a) cliffs, beaches and foreshore;
- (b) streets, roads, paths, lay-bys and areas set aside for parking; and
- (c) recreation and pleasure grounds and public gardens;

“Director” means the Director of Crown Lands;

“owner”, in relation to land, means the person in whom the freehold estate is vested or who holds the land under a lease from the Crown for a term of years or from year to year;

“private land” means freehold land or land held under a lease from the Crown for a term of years or from year to year.

Prohibition of camping on Crown land.

165B. (1) No person shall camp on Crown land except—

- (a) persons authorised to use the places specified in Schedule 3, within the limits of their authorisation; or
- (b) with the previous permission in writing of the Director:

Provided that nothing in this section shall apply to the use of any portion of the seashore under and in accordance with a permit issued by the Minister under rule 3 of the Seashore Rules.

(2) The Governor may by order add to Schedule 3 any area of land specified in such order or delete or vary any item appearing in the Schedule.

Restriction on camping on private land.

165C. No person shall camp on private land except with the previous permission of the owner or his agent.

Offences.

165D. A person who contravenes the provisions of section 165B or 165C is guilty of an offence and is liable, on summary conviction, to imprisonment for three months and to a fine at level 3 on the standard scale.

Saving for H.M. Forces, police, etc.

165E. Nothing in section 165B or 165C shall affect any member of Her Majesty's Forces (including the Gibraltar Regiment), the Police Force or the civilian police in the employment of the Ministry of Defence when engaged in the execution of his duty.

*Trespass.***Forcible entry.**

166. A person who, in order to take possession thereof, enters on any land in a violent manner, whether such violence consists in actual force applied to any other person or in threats or in breaking open any house or in collecting an unusual number of people, is guilty of forcible entry and is liable on summary conviction to imprisonment for six months.

It is immaterial whether he is entitled to enter on the land or not, provided that a person who enters upon land of his own which is in the custody of his servant does not commit forcible entry.

Forcible detainer.

167. A person who, being in actual possession of land without colour of right, holds possession of it, in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, against a person entitled by law to the possession of the land is guilty of forcible detainer and is liable on summary conviction to imprisonment for six months.

Trespass in dwelling-houses of the Crown.

168.(1) A person who, without lawful authority, enters upon or remains within any premises or part thereof belonging to the Crown which are used or are intended to be used as a dwelling house and who refuses to leave such premises within 24 hours of being requested in writing to do so by the Housing Manager and thereafter to remain out of such premises, is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

(2) No prosecution for an offence against this section shall be commenced without the consent of the Attorney-General.

Remaining in public premises after being required to leave.

169.(1) A person who having entered public premises persists, without lawful excuse (the proof whereof shall lie on him), in remaining therein after

being required to leave by a police officer acting on the request of a person in control of such premises, is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

(2) In this section—

“public premises” means any building, any part of a building, any land ancillary to a building, and the site comprising any building or buildings together with any land ancillary thereto, being a building, part of a building, land or site belonging to or in occupation of the Crown, the Secretary of State for Defence, the Ministry of Defence or any statutory public body, and also includes any premises used for public worship or for education, and for the purposes of this definition land is ancillary to a building if it is adjacent to it and used (or intended for use) in connection with the occupation of that building or any part of it;

“person in control” includes (without prejudice to the scope of that expression) the owner, tenant, or licensee of premises, and any person in lawful occupation thereof, and, in relation to premises belonging to or in occupation of the Crown, the Secretary of State for Defence or the Ministry of Defence, any Crown servant; and also any employee or agent of a person mentioned in this definition.

(3) Any police officer may arrest without warrant any person guilty, or whom he suspects on reasonable grounds of being guilty, of an offence against this section.

PART XVI. OFFENCES OF DISHONESTY.

Definition of “Theft”.

Basic definition of theft.

170.(1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and “thief” and “steal” shall be construed accordingly. *(1968 c.60, s.1).*

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief’s own benefit.

(3) The five following sections of this Part shall have effect as regards the interpretation and operation of this section (and, except as otherwise provided by this Part, shall apply only for purposes of this section).

“Dishonestly”.

(1968 c.60, s.2). 171.(1) A person’s appropriation of property belonging to another is not to be regarded as dishonest—

- (a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person; or
- (b) if he appropriates the property in the belief that he would have the other’s consent if the other knew of the appropriation and the circumstances of it; or
- (c) except where the property came to him as trustee or personal representative, if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) A person’s appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

“Appropriates”.

(1968 c.60, s.3). 172.(1) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

(2) Where property or a right or interest in property is or purports to be transferred for value to a person acting in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor’s title, amount to theft of the property.

“Property”.

(1968 c.60, s.4). 173.(1) “Property” includes money and all other property, real or personal, including things in action and other intangible property.

(2) A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say—

- (a) when he is a trustee or personal representative, or is authorized by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him; or

- (b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or
- (c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

For purposes of this subsection “land” does not include incorporeal hereditaments; “tenancy” means a tenancy for years or any less period and includes an agreement for such a tenancy, but a person who after the end of a tenancy remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and “let” shall be construed accordingly.

(3) A person who picks mushrooms growing wild on any land, or who picks flowers, fruit or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose.

For purposes of this subsection “mushroom” includes any fungus, and “plant” includes any shrub or tree.

(4) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcass of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession of it has not since been lost or abandoned, or another person is in course of reducing it into possession.

“Belonging to another”.

174.(1) Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest). *(1968 c.60, s.5).*

(2) Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having a right to enforce the trust, and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right.

(3) Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way, the property or proceeds shall be regarded (as against him) as belonging to the other.

(4) Where a person gets property by another's mistake, and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against him) as belonging to the person entitled to restoration, and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds.

(5) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation.

“With the intention of permanently depriving the other of it.”

(1968 c.60, s.6). 175.(1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's right; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

(2) Without prejudice to the generality of subsection (1), where a person, having possession or control (lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

General Definitions.

Interpretation.

(1968 c.60, s.34). 176.(1) Section 173(1) and 174(1) shall apply generally for purposes of this Part as they apply for purposes of section 170.

(2) For purposes of this Part—

(a) “gain” and “loss” are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and—

(i) “gain” includes a gain by keeping what one has, as well as a gain by getting what one has not; and

- (ii) “loss” includes a loss by not getting what one might get, as well as a loss by parting with what one has;
- (b) “goods”, except in so far as the context otherwise requires, includes money and every other description of property except land, and includes things severed from the land by stealing.

Theft, Robbery, Burglary, etc.

Theft.

177. A person guilty of theft is liable on conviction to imprisonment for ten years. (1968 c.60, s.7).

Robbery.

178.(1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force. (1968 c.60, s.8).

(2) A person guilty of robbery, or of an assault with intent to rob, is liable on conviction to imprisonment for life.

Burglary.

179. (1) A person is guilty of burglary if— (1968 c.60, s.9).

- (a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2); or
- (b) having entered any building or part of a building as a trespasser he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

(2) The offences referred to in subsection (1)(a) are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm or raping any woman therein, and of doing unlawful damage to the building or anything therein.

(3) References in subsections (1) and (2) to a building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.

(4) A person guilty of burglary is liable on conviction to imprisonment for fourteen years.

Aggravated burglary.

(1968 c.60, s.10). 180.(1) A person is guilty of aggravated burglary if he commits any burglary and at the time has with him any firearm or imitation firearm, any weapon of offence, or any explosive; and for this purpose—

- (a) “firearm” includes an airgun or air pistol, and “imitation firearm” means anything which has the appearance of being a firearm, whether capable of being discharged or not; and
- (b) “weapon of offence” means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use; and
- (c) “explosive” means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purposes.

(2) A person guilty of aggravated burglary is liable on conviction to imprisonment for life.

Going equipped for stealing etc.

(1968 c.60, s.25). 181.(1) A person is guilty of an offence if, when not at his place of abode, he has with him any article for use in the course of or in connection with any burglary, theft or cheat.

(2) A person guilty of an offence under this section is liable on conviction to imprisonment for three years.

(3) Where a person is charged with an offence under this section, proof that he had with him any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that he had it with him for such use.

(4) For purposes of this section an offence under section 192(1) of taking a conveyance shall be treated as theft, and “cheat” means an offence under section 196.

Offences Relating to Goods Stolen, etc.

Scope of offences relating to stolen goods.

(1968 c.60, s.24).

182.(1) The provisions of this Part relating to goods which have been stolen shall apply whether the stealing occurred in Gibraltar or elsewhere, provided that the stealing (if not an offence under this Act) amounted to an offence where and at the time when the goods were stolen; and references to stolen goods shall be construed accordingly.

(2) For purposes of those provisions references to stolen goods shall include, in addition to the goods originally stolen and parts of them (whether in their original state or not),—

- (a) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of the thief as being the proceeds of any disposal or realisation of the whole or part of the goods stolen or of goods so representing the stolen goods; and
- (b) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of a handler of the stolen goods or any part of them as being the proceeds of any disposal or realisation of the whole or part of the stolen goods handled by him or of goods so representing them.

(3) No goods shall be regarded as having continued to be stolen goods after they have been restored to the person from whom they were stolen or to other lawful possession or custody, or after that person and any other person claiming through him have otherwise ceased as regards those goods to have any right to restitution in respect of the theft.

(4) For purposes of the provisions of this Part relating to goods which have been stolen (including subsections (1) to (3) of this section) goods obtained in Gibraltar or elsewhere either by blackmail or in the circumstances described in section 196 shall be regarded as stolen; and “steal”, “theft” and “thief” shall be construed accordingly.

Handling stolen goods.

183.(1) A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so. *(1968 c.60, s.22).*

(2) A person guilty of handling stolen goods is liable on conviction to imprisonment for fourteen years.

Persons suspected of having or conveying stolen goods.

(1839 c.71, s.24). 184.(1) A person who is brought before the magistrates' court charged with having in his possession in any building, ship or other place or conveying in any manner in any place anything which may be reasonably suspected of being stolen or unlawfully obtained, and who does not give an account to the satisfaction of the court how he came by the same is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

(2) A person with anything in his possession as aforesaid who does not give an account as required by subsection (1) to a police officer may be arrested without warrant and brought before a court.

Dealers, etc., found in possession of stores.

(1875 c.25, ss.9 and 10). 185.(1) If stores are found in the possession or keeping of a person who is in Her Majesty's service, or in the service of a public department, or who is a dealer in marine stores or in old metals, or a pawnbroker, and he is taken or summoned before the magistrates' court, and the court sees reasonable grounds for believing the stores found to be or to have been Her Majesty's property, then if such person does not satisfy the court that he came lawfully by the stores so found, he is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

(2) For purposes of this section, stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another.

(3) In this section—

“dealer in old metals” means any person dealing in, buying or selling old metal, scrap metal, broken metal or partly manufactured metal goods or defaced or old metal goods, and whether such person deals in such articles only or otherwise;

“stores” means all goods and chattels, and includes any single article.

Framing a false bill of parcels.

(1839 c.47, s.29). 186.(1) A person who for the purpose of protecting or preventing anything whatever from being seized on suspicion of its being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence concerning any offence committed or supposed to be committed in Gibraltar, frames or causes to be framed, any bill of parcels containing any false statement in regard to the name or abode of any alleged

vendor, the quantity or quality of any such thing, the place whence or the conveyance by which the same was furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false, or fraudulently produces such bill of parcels knowing the same to have been fraudulently framed, is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 3 on the standard scale.

(2) A person charged with a second or subsequent offence against the provisions of this section shall be proceeded against by indictment and on conviction is liable to imprisonment for two years and to a fine.

Corruptly taking a reward.

187. A person who corruptly takes any money or reward, directly or indirectly under pretence or upon account of helping any person to recover any property which has been stolen or obtained in any way whatsoever, or received, is (unless he has used all due diligence to cause the offender to be brought to trial for the same) guilty of an offence and is liable on conviction to imprisonment for seven years. *(1916 c.50, s.34).*

Advertising rewards for return of goods stolen or lost.

188. Where any public advertisement of a reward for the return of any goods which have been stolen or lost uses any words to the effect that no question will be asked, or that the person producing the goods will be safe from apprehension or inquiry, or that any money paid for the purchase of the goods or advanced by way of loan on them will be repaid, the person advertising the reward and any person who prints or publishes the advertisement is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale. *(1968 c.60, s.23).*

Special Provisions Relating to Theft and Stolen Goods.

Procedure on charge of theft or handling stolen goods.

189.(1) Any number of persons may be charged in one indictment, with reference to the same theft, with having at different times or at the same time handled all or any of the stolen goods, and the persons so charged may be tried together. *(1968 c.60, s.27(1) and (2)).*

(2) On the trial of two or more persons indicted for jointly handling any stolen goods the jury may find any of the accused guilty if the jury are satisfied that he handled all or any of the stolen goods, whether or not he did so jointly with the other accused or any of them.

Evidence.

(1968 c.60,
s.27(3), (4) and
(5)).

190.(1) Where a person is being proceeded against for handling stolen goods (but not for any offence other than handling stolen goods), then at any stage of the proceedings, if evidence has been given of his having or arranging to have in his possession the goods the subject of the charge, or of his undertaking or assisting in, or arranging to undertake or assist in, their retention, removal, disposal or realisation, the following evidence shall be admissible for the purpose of proving that he knew or believed the goods to be stolen goods:—

- (a) evidence that he has had in his possession, or has undertaken or assisted in the retention, removal, disposal or realisation of, stolen goods from any theft taking place not earlier than twelve months before the offence charged; and
- (b) (provided that seven days' notice in writing has been given to him of the intention to prove the conviction) evidence that he has within the five years preceding the date of the offence charged been convicted of theft or of handling stolen goods.

(2) In any proceedings for the theft of anything in the course of transmission (whether by post or otherwise), or for handling stolen goods from such a theft, a statutory declaration made by any person that he despatched or received or failed to receive any goods or postal packet, or that any goods or postal packet when despatched or received by him were in a particular state or condition, shall be admissible as evidence of the facts stated in the declaration, subject to the following conditions:—

- (a) a statutory declaration shall only be admissible where and to the extent to which oral evidence to the like effect would have been admissible in the proceedings; and
 - (b) a statutory declaration shall only be admissible if at least seven days before the hearing or trial a copy of it has been given to the person charged, and he has not, at least three days before the hearing or trial or within such further time as the court may in special circumstances allow, given the prosecutor written notice requiring the attendance at the hearing or trial of the person making the declaration.
- (3) This section is to be construed in accordance with section 182.

Offences Akin to Theft.

Removal of articles from places open to the public.

191.(1) Subject to subsections (2) and (3), where the public have access to a building in order to view the building or part of it, or a collection or part of a collection housed in it, a person who without lawful authority removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it or in its grounds is guilty of an offence.

For this purpose “collection” includes a collection got together for a temporary purpose, but references in this section to a collection do not apply to a collection made or exhibited for the purpose of effecting sales or other commercial dealings.

(2) It is immaterial for purposes of subsection (1) that the public’s access to a building is limited to a particular period or particular occasion; but where anything removed from a building or its grounds is there otherwise than as forming part of, or being on loan for exhibition with, a collection intended for permanent exhibition to the public, the person removing it does not thereby commit an offence under this section unless he removes it on a day when the public have access to the building as mentioned in subsection (1).

(3) A person does not commit an offence against this section if he believes that he has lawful authority for the removal of the thing in question or that he would have it if the person entitled to give it knew of the removal and the circumstances of it.

(4) A person guilty of an offence under this section is liable on conviction to imprisonment for five years.

Taking a vehicle without authority.

192.(1) Subject to subsections (3) and (4), a person is guilty of an offence if, without having the consent of the owner or other lawful authority, he takes any conveyance for his own or another’s use or, knowing that any conveyance has been taken without such authority, drives it or allows himself to be carried in or on it. *(1968 c.60, s.12).*

(2) A person guilty of an offence against subsection (1) is liable on conviction to imprisonment for three years.

(3) Subsection (1) shall not apply in relation to pedal cycles; but, subject to subsection (4), a person who, without having the consent of the owner or other lawful authority, takes a pedal cycle for his own or another’s use, or rides a pedal cycle knowing it to have been taken without such authority, is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

(4) A person does not commit an offence against this section by anything done in the belief that he has lawful authority to do it or that he would have the owner's consent if the owner knew of his doing it and the circumstances of it.

(5) For purposes of this section—

- (a) “conveyance” means any conveyance constructed or adapted for the carriage of a person or persons whether by land, water or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried in or on it, and “drive” shall be construed accordingly; and
- (b) “owner”, in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the conveyance under that agreement.

Interference with vehicles.

193.(1) A person is guilty of the offence of vehicle interference if he interferes with a motor vehicle or trailer or with anything carried in or on a motor vehicle or trailer with the intention that an offence specified in subsection (2) below shall be committed by himself or some other person.

(2) The offences mentioned in subsection (1) are—

- (a) theft of the motor vehicle or trailer or part of it;
- (b) theft of anything carried in or on the motor vehicle or trailer; and
- (c) an offence against section 192,

and, if it is shown that a person accused of an offence under this section intended that one of those offences should be committed, it is immaterial that it cannot be shown which it was.

(3) A person guilty of an offence against this section is liable on summary conviction to imprisonment for three months and to a fine at level 4 on the standard scale.

(4) In this section “motor vehicle” and “trailer” have the meanings assigned to them by section 2 of the Traffic Act³.

Making off without payment.

³ 1957-04

194. (1) Subject to subsection (3), a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due, is guilty of an offence and is liable—

- (a) on summary conviction to imprisonment for six months, and
- (b) on conviction on indictment to imprisonment for two years.

(2) For purposes of this section, “payment on the spot” includes payment at the time of collecting goods on which work has been done or in respect of which service has been provided.

(3) Subsection (1) shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service done is such that payment is not legally enforceable.

Abstracting of electricity.

195. A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity is guilty of an offence and is liable on conviction to imprisonment for five years. *(1968 c.60, s.13).*

Fraud, False Accounting and Blackmail.

Obtaining property by deception.

196.(1) A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, is guilty of an offence and is liable on conviction to imprisonment for ten years. *(1968 c.60, s.15).*

(2) For purposes of this section a person is to be treated as obtaining property if he obtains ownership, possession or control of it, and “obtain” includes obtaining for another or enabling another to obtain or to retain.

(3) Section 175 shall apply for purposes of this section with the necessary adaptation of the reference to appropriating, as it applies for purposes of section 170.

(4) For purposes of this section “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.

Obtaining supplementary benefit by false representation.

196A. (1) If any person, for the purposes of obtaining supplementary benefit, or any other pecuniary benefit from the Government, whether for himself or another person—

- (a) makes any statement or representation which he knows to be false; or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he is guilty of an offence and liable on summary conviction to imprisonment for three months and to a fine at level 4 on the standard scale.

(2) For the purposes of this section—

- (a) the offence is committed when there is a false representation made which the person making such representation knows to be false;
- (b) the absence of an intention to defraud the Government shall not afford a defence to a person charged under this section;
- (c) “obtaining” means securing ownership, possession or control, and includes enabling another to so obtain;
- (d) “pecuniary benefit” includes any payment under any non-statutory scheme or system operated by Government for the relief of hardship, want or destitution, such benefit being paid in addition to any benefit or allowance under the provisions of any legislation for the time being in force relating to social security payments.

Obtaining pecuniary advantage by deception.

(1968 c.60, s.16). 197.(1) A person who by any deception dishonestly obtains for himself or another any pecuniary advantage is guilty of an offence and is liable on conviction to imprisonment for five years.

(2) The cases in which a pecuniary advantage within the meaning of this section is to be regarded as obtained for a person are cases where—

- (a) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement of the terms on which he is allowed to do so; or
- (b) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

(3) For purposes of this section “deception” has the same meaning as in section 196.

Obtaining services by deception.

198.(1) A person who by any deception dishonestly obtains services from another is guilty of an offence and is liable—

- (a) on summary conviction to imprisonment for six months, and
- (b) on conviction on indictment to imprisonment for five years.

(2) It is an obtaining of services where the other is induced to confer a benefit by doing some act, or causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.

(3) In this section and in section 199, “deception” has the same meaning as in section 196.

Evasion of liability by deception.

199.(1) Subject to subsection (2), where a person by any deception—

- (a) dishonestly secures the remission of the whole or part of any existing liability to make a payment, whether his own liability or another’s; or
- (b) with intent to make permanent default in whole or in part on any existing liability to make a payment, or with intent to let another do so, dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forego payment; or
- (c) dishonestly obtains any exemption from or abatement of liability to make a payment;

he is guilty of an offence and is liable—

- (i) on summary conviction to imprisonment for six months, and
- (ii) on conviction on indictment to imprisonment for five years.

(2) For purposes of this section “liability” means legally enforceable liability; and subsection (1) shall not apply in relation to a liability that has not been accepted or established to pay compensation for a wrongful act or omission.

(3) For purposes of subsection (1)(b), a person induced to take in payment a cheque or other security for money by way of conditional satisfaction of a pre-existing liability is to be treated not as being paid but as being induced to wait for payment.

(4) For purposes of subsection (1)(c), “obtains” includes obtaining for another or enabling another to obtain.

False accounting.

(1968 c.60, s.17). 200.(1) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another,—

- (a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or
- (b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular,

is guilty of an offence and is liable on conviction to imprisonment for seven years.

(2) For purposes of this section a person who makes or concurs in making in an account or other document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account or other document, is to be treated as falsifying the account or document.

Liability of company officers.

(1968 c.60, s.18). 201.(1) Where an offence committed by a body corporate under any of sections 196 to 200 is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such

capacity, he as well as the body corporate is guilty of that offence, and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

False statements by company directors, etc.

202.(1) An officer of a body corporate or unincorporate association (or person purporting to act as such), who with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular, is guilty of an offence and is liable on conviction to imprisonment for seven years. *(1968 c.60, s.19).*

(2) For purposes of this section a person who has entered into a security for the benefit of a body corporate or association is to be treated as a creditor of it.

(3) Where the affairs of a body corporate or association are managed by its members, this section shall apply to any statement which a member publishes or concurs in publishing in connection with his functions of management as if he were an officer of the body corporate or association.

Suppression, etc., of documents.

203.(1) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court of justice or any government department, is guilty of an offence and is liable on conviction to imprisonment for seven years. *(1968 c.60, s.20).*

(2) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, by any deception procures the execution of a valuable security is guilty of an offence and is liable on conviction to imprisonment for seven years; and this subsection shall apply in relation to the making, acceptance, indorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and in relation to the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as, a valuable security, as if that were the execution of a valuable security.

(3) For purposes of this section “deception” has the same meaning as in section 196, and “valuable security” means any document creating,

transferring, surrendering or releasing any right to, in or over property, or authorizing the payment of money or delivery of any property, or evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation.

Blackmail.

(1968 c.60, s.21). 204.(1) A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief—

- (a) that he has reasonable ground for making the demand; and
- (b) that the use of the menaces is a proper means of reinforcing the demand.

(2) The nature of the act or omission demanded is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.

(3) A person guilty of blackmail is liable on conviction to imprisonment for fourteen years.

Obtaining money by threatening to make complaint.

205.(1) A person who obtains or attempts to obtain any sum of money or other reward from any person by threatening directly or indirectly to lodge any information or make any complaint before a magistrate for any offence, or as an inducement for forbearing to lay such information or make such complaint, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(2) A person charged with a second or subsequent offence shall be proceeded against by indictment and on conviction is liable to imprisonment for two years and to a fine.

**PART XVII.
FORGERY.**

Interpretation.

(1913 c.27, s.18). 206. In this Part, unless the context otherwise requires,—

“die” includes any plate, type, tool or implement whatsoever, and also any part of any die, plate, type, tool or implement and any stamp or impression thereof or any part of such stamp or impression;

“monetary instrument” means any of the instruments mentioned in section 209A(1);

“revenue paper” means any paper provided by the proper authority for the purpose of being used for stamps, licences, permits, Post Office money orders, postal orders, Government lottery tickets issued under the Gaming Act or for any purpose whatsoever connected with the public revenue;

“seal” includes any stamp or impression of a seal, or any stamp or impression made or apparently intended to resemble the stamp or impression of a seal, as well as the seal itself;

“treasury bill” includes exchequer bill, exchequer bond, exchequer debenture and war bond.

Definition of forgery.

207.(1) For the purposes of this Part, forgery is the making of a false document or monetary instrument in order that it may be used as genuine, and in the case of the seals and dies mentioned in this Part the counterfeiting of a seal or die, and forgery with intent to defraud or deceive, as the case may be, is punishable as in this Part provided. *(1913 c.27, s.1; 1925 c.86, s.35).*

(2) A document or monetary instrument is false within the meaning of this Part if the whole or any material part thereof purports to be made by or on behalf or on account of a person who did not make it nor authorize its making; or if, though made by or on behalf or on account of the person by whom or by whose authority it purports to have been made, the time or place of making, where either is material, or, in the case of a document or monetary instrument identified by number or mark, the number or any distinguishing mark identifying the document or monetary instrument, is falsely stated therein; and in particular a document or monetary instrument is false,—

- (a) if any material alteration, whether by addition, insertion, obliteration, erasure, removal or otherwise, has been made therein;
- (b) if the whole or some material part of it purports to be made by or on behalf of a fictitious or deceased person;

- (c) if, though made in the name of an existing person, it is made by him or by his authority with the intention that it should pass as having been made by some person, real or fictitious other than the person who made or authorized it.

(3) For the purpose of removing doubts, it is hereby declared that a document or monetary instrument may be a false document or monetary instrument for the purposes of this Part, notwithstanding that it is not false in any such manner as is described in subsection (2).

(4) For the purposes of this Part—

- (a) it is immaterial in what language a document or monetary instrument is expressed or in what place within or without Her Majesty's dominions it is expressed to take effect;
- (b) forgery of a document or monetary instrument may be complete even if the document or monetary instrument when forged is incomplete, or is not or does not purport to be such a document or monetary instrument as would be binding or sufficient in law;
- (c) the crossing on any cheque, draft on a banker, Post Office money order, postal order, coupon or other document or monetary instrument the crossing of which is authorized or recognized by law, shall be a material part of such cheque, draft, order, coupon or document or monetary instrument.

Forgery of certain documents with intent to defraud.

(1913 c.27, s.2). 208.(1) A person who, with intent to defraud, forges any of the following documents—

- (a) any will, codicil or other testamentary document, either of a dead or of a living person, or any probate or letters of administration, whether with or without the will annexed;
- (b) any deed or bond, or any assignment at law or in equity of any deed or bond, or any attestation of the execution of any deed or bond;
- (c) any bank or currency note, or any endorsement on or assignment of any bank or currency note,

is guilty of an offence and is liable on conviction to imprisonment for life.

(2) A person who, with intent to defraud, forges any of the following documents—

- (a) any valuable security or assignment thereof or endorsement thereon, or, where the valuable security is a bill of exchange, any acceptance thereof;
- (b) any document of title to lands or any assignment thereof or endorsement thereon;
- (c) any document of title to goods or any assignment thereof or endorsement thereon;
- (d) any power of attorney or other authority to transfer any share or interest in any stock, annuity or public fund of Gibraltar or of the United Kingdom or of any part of Her Majesty's dominions or of any foreign state or country or to transfer any share or interest in the debt of any public body, company or society, British or foreign, or in the capital stock of any such company or society, or to receive any dividend or money payable in respect of such share or interest or any attestation of any such power of attorney or other authority;
- (e) any entry in any book or register which is evidence of the title of any person to any share or interest hereinbefore mentioned or to any dividend or interest payable in respect thereof;
- (f) any policy of insurance or any assignment thereof or endorsement thereon;
- (g) any charter-party or any assignment thereof;
- (h) any declaration, warrant, order, affidavit, affirmation, certificate or other document required or authorized to be made by or for the purposes of the Government Annuities Act, 1929, or by the National Debt Commissioners acting under the authority of the said Act;
- (i) any certificate of the Commissioner of Income Tax acting in execution of the Income Tax Act;
- (j) any certificate, certificate of valuation, sentence or decree of condemnation or restitution, or any copy of such sentence or decree, or any receipt required by the Slave Trade Acts,

is guilty of an offence and is liable on conviction to imprisonment for fourteen years.

Forgery of certain documents with intent to defraud or deceive.

(1913 c.27, s.3). 209.(1) A person who, with intent to defraud or deceive, forges any document whatsoever having thereupon or affixed thereto the stamp or impression of the Great Seal of the United Kingdom, Her Majesty's Privy Seal, and privy signet of Her Majesty, Her Majesty's Royal Sign Manual, any of Her Majesty's seals appointed by the Twenty-fourth Article of the Union between England and Scotland to be kept, used and continued in Scotland, the Great Seal of Ireland, the Privy Seal of Ireland, or the Public Seal of the City of Gibraltar is guilty of an offence and is liable on conviction to imprisonment for life.

(2) A person who, with intent to defraud or deceive, forges any of the following documents—

- (a) any register or record of births, baptisms, namings, dedications, marriages, deaths, burials or cremations, which now is, or hereafter may be, by law authorized or required to be kept in Gibraltar, relating to any birth, baptism, naming, dedication, marriage, death, burial or cremation, or any part of any such register, or any certified copy of any such register, or of any part thereof;
- (b) any copy of a register of baptisms, marriages, burials or cremations, directed or required by law to be transmitted to any registrar or other officer;
- (c) any register of the birth, baptism, death, burial or cremation of any person to be appointed a nominee under the provisions of the Government Annuities Act, 1929, or any copy or certificate of any such register, or the name of any witness to any such certificate;
- (d) any certified copy of a record purporting to be signed by any officer having charge of public records in Gibraltar;
- (e) any wrapper or label provided by or under the authority of the Commissioners of Inland Revenue or the Commissioners of Customs and Excise of the United Kingdom, or the Financial Secretary or Minister responsible for finance under any enactment in force in Gibraltar,

is guilty of an offence and is liable on conviction to imprisonment for fourteen years.

(3) A person who, with intent to defraud or deceive, forges any of the following documents—

- (a) any official document whatsoever of or belonging to any court of justice, or made or issued by any judge, magistrate, officer or clerk of any such court;
- (b) any register or book kept under the provisions of any law in or under the authority of any court of justice;
- (c) any certificate, office copy or certified copy of any such document, register or book or of any part thereof;
- (d) any document which any magistrate or the Master of the Court of Protection is authorized or required by law to make or issue;
- (e) any document which any person authorized to administer an oath under the Supreme Court Act is authorized or required by law to make or issue;
- (f) any document made or issued by an officer of state or law officer of the Crown, or any document upon which, by the law or usage at the time in force in Gibraltar, any court of justice or any officer might act;
- (g) any document or copy of a document used or intended to be used in evidence in any court of record, or any document which is made evidence by law;
- (h) any certificate required by any enactment for the celebration of marriage;
- (i) any licence for the celebration of marriage which may be given by law;
- (j) any certificate, declaration or order under any enactment relating to the registration of births or deaths;
- (k) any register book, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under Part I of the Merchant Shipping Act, 1894, or any entry or endorsement required by that Part of the said Act to be made in or on any of those documents, or any certificate, ticket, document, matter or thing named in the Merchant Shipping Act, or any regulation made thereunder;
- (l) any permit, certificate or similar document made or granted by or under the authority of the Commissioners of Customs and Excise of the United Kingdom or by or under the authority of the

Financial Secretary or Minister responsible for finance in respect of any matter or thing under the Imports and Exports Act;

- (m) any instrument, matter or thing authorized to be made under the Public Health Act,

is guilty of an offence and is liable on conviction to imprisonment for seven years.

Forgery of monetary instruments with intent to defraud or deceive.

209A.(1) A person who, with intent to defraud or deceive, forges any of the following monetary instruments—

- (a) money orders;
- (b) postal orders;
- (c) Gibraltar postage stamps;
- (d) share certificates;
- (e) cheques and other bills of exchange;
- (f) travellers' cheques;
- (g) bankers' drafts;
- (h) promissory notes;
- (i) cheque cards;
- (j) debit cards; and
- (k) credit cards,

is guilty of an offence and is liable on conviction to imprisonment for fourteen years.

(2) A person who, without lawful authority or excuse, has in his custody or under his control or sells or transfers to another person—

- (a) anything which is, and which he knows or believes to be, a forged monetary instrument; or
- (b) any computer, other machine, implement or computer programme, disc or tape or any paper or other material, which to his knowledge is specially designed or adapted for the making of a forged monetary instrument,

is guilty of an offence and is liable on conviction to imprisonment for ten years.

(3) For the purposes of subsections (1) and (2)(a), it is immaterial that the monetary instrument (or purported monetary instrument) is not in a fit state to be uttered or that the forging of it has not been perfected.

(4) In subsection (1)(d) “share certificate” means an instrument entitling or evidencing the title of a person to a share or interest—

- (a) in any public stock, annuity, fund or debt of any government or state, including a state which forms part of another state; or
- (b) in any stock, fund or debt of a body (whether corporate or unincorporated) established in Gibraltar or elsewhere.

(5) An instrument is also an instrument to which this section applies if it is a monetary instrument specified for the purpose of this section by an order made by the Government and published in the Gazette.

(6) An order made under subsection (5) is subject to annulment by a Resolution of the Parliament at its next meeting following the date of publication of the order.

Forgery of passports.

210. A person who forges a passport, whether for himself or for any other person, is guilty of an offence and is liable on conviction to imprisonment for two years and to a fine at level 3 on the standard scale. *(1925 c.86, s.36).*

Forgery of other documents.

211. A person who forges any other document with intent to defraud or, in the case of a public document, to defraud or deceive, is guilty of an offence and is liable on conviction to imprisonment for two years. *(1913 c.27, s.4).*

Forgery of seals and dies.

212.(1) A person who, with intent to defraud or deceive, forges any of the following seals— *(1913 c.27, s.5).*

- (a) the Great Seal of the United Kingdom, Her Majesty’s Privy Seal, any privy signet of Her Majesty, Her Majesty’s Royal Sign Manual, any of Her Majesty’s seals appointed by the Twenty-fourth Article of the Union between England and Scotland to be kept, used and continued in Scotland, the Great Seal of Ireland, the Privy Seal of Ireland or the Public Seal of the City of Gibraltar;
- (b) the seal of the Public Record Office in England;
- (c) the seal of any court of record;

- (d) the seal of the office of the Registrar of Births, Deaths and Marriages,

is guilty of an offence and is liable on conviction to imprisonment for life.

(2) A person who, with intent to defraud or deceive, forges any of the following seals—

- (a) the seal of any register office relating to births, baptisms, marriages or deaths;
- (b) the seal of any burial authority or of any local authority performing the duties of a burial authority;
- (c) the seal of or belonging to any office for the registry of deeds or titles to lands,

is guilty of an offence and is liable on conviction to imprisonment for fourteen years.

(3) A person who, with intent to defraud or deceive, forges any of the following seals—

- (a) the seal of any court of justice other than a court of record;
- (b) the seal of the office of the Master of the Court of Protection,

is guilty of an offence and is liable on conviction to imprisonment for seven years.

(4) A person who, with intent to defraud or deceive, forges any of the following dies—

- (a) any die provided, made or used by the Financial Secretary or the Commissioners of Inland Revenue or the Commissioners of Customs and Excise of the United Kingdom;
- (b) any die which is or has been required or authorized by law to be used for the marking or stamping of gold or silver plate, or gold or silver wares;
- (c) any die or stamp provided, made or used in pursuance of the Post Office Act or the Stamp Duties Act,

is guilty of an offence and is liable on conviction to imprisonment for fourteen years.

Imitation, etc., of currency or bank notes.

213.(1) A person who makes, or causes to be made, or uses for any purposes whatsoever, or utters, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any bank note, or any part thereof, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale and it shall be lawful for the court dealing with the case to order the document in respect of which the offence was committed, and any copies of that document, or any plates, blocks, dies or other instruments used for, or capable of being used for printing or reproducing any such document which are in the possession of the offender to be destroyed. *(1925 c.86, s.38).*

(2) A person whose name appears on any document the making of which is an offence under this section and who refuses, without lawful excuse, to disclose to a police officer on being so required the name and address of the person by whom it was printed or otherwise made is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under subsection (1), or any other document used or distributed in connection with that document, it shall be prima facie evidence that that person caused the document to be made.

Uttering.

214.(1) A person who utters any forged document, monetary instrument, seal or die is guilty of an offence and is liable on conviction to the same punishment as if he himself had forged the document, monetary instrument, seal or die. *(1913 c.27, s.6).*

(2) A person utters a forged document, monetary instrument, seal or die, who, knowing the same to be forged, and with either of the intents necessary to constitute the offence of forging such document, monetary instrument, seal or die, uses, offers, publishes, delivers, disposes of, tenders in payment or in exchange, exposes for sale or exchange, exchanges, tenders in evidence, or puts off such forged document, monetary instrument, seal or die.

(3) It is immaterial where the document, monetary instrument, seal or die was forged.

Demanding property on forged documents, etc.

215. A person who, with intent to defraud, demands, receives or obtains, or causes or procures to be delivered, paid or transferred to any person, or endeavours to receive or obtain or to cause or procure to be delivered, paid *(1913 c.27, s.7).*

or transferred to any person any money, security for money or other property, real or personal—

- (a) under, upon, or by virtue of any forged instrument whatsoever, knowing the same to be forged; or
- (b) under, upon, or by virtue of any probate or letters of administration, knowing the will, testament, codicil or testamentary writing on which such probate or letters of administration were obtained to have been forged, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation or affidavit,

is guilty of an offence and is liable on conviction to imprisonment for fourteen years.

Possession of forged documents, seals and dies.

(1913 c.27, s.8). 216.(1) A person who, without lawful authority or excuse, the proof whereof shall lie on the accused, purchases or receives from any person, or has in his custody or possession, a forged bank note, knowing the same to be forged, is guilty of an offence and is liable on conviction to imprisonment for fourteen years.

(2) A person who, without lawful authority or excuse, the proof whereof shall lie on the accused, and knowing the same to be forged, has in his custody or possession—

- (a) any forged die required or authorized by law to be used for the making of gold or silver plate, or of gold or silver wares, or any ware of gold, silver or base metal bearing the impression of any such forged die;
- (b) any forged die or stamp provided, made or used in pursuance of the Post Office Act or the Stamp Duties Act;
- (c) any forged wrapper or label provided by or under the authority of the Financial Secretary or the Commissioners of Inland Revenue or Commissioners of Customs and Excise of the United Kingdom, or by any authority under any local enactment in force in Gibraltar,

is guilty of an offence and is liable on conviction to imprisonment for fourteen years.

Making etc., paper or implements for forgery.

217. A person who, without lawful authority or excuse, the proof whereof shall lie on the accused, (1913 c.27, s.9).

- (a) makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as—
 - (i) special paper such as is provided and used for making any bank note or Treasury bill; or
 - (ii) revenue paper;
- (b) makes, uses, or knowingly has in his custody or possession, any frame, mould or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines or devices peculiar to and used in or on any such paper;
- (c) engraves or in anywise makes upon any plate, wood, stone or other material, any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund or debt of Gibraltar, or of any part of Her Majesty's dominions or of the Commonwealth or of any foreign state, or in any company or society, whether within or without Gibraltar or any part of Her Majesty's dominions;
- (d) uses or knowingly has in his custody or possession any plate, wood, stone or other material, upon which any such words, figures, letters, marks, lines or devices have been engraved or in anywise made as aforesaid;
- (e) uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines or devices have been printed or in anywise made as aforesaid,

is guilty of an offence and is liable on conviction to imprisonment for seven years.

Possession of certain paper before it has been stamped and issued.

218. A person who, without lawful authority or excuse, the proof whereof shall lie on the accused, purchases, receives, or knowingly has in his custody or possession— (1913 c.27, s.10).

- (a) any special paper provided and used for making bank notes, Treasury bills or any revenue paper before such paper has been duly stamped, signed and issued for public use;
- (b) any die peculiarly used in the manufacture of any such paper,

is guilty of an offence and is liable on conviction to imprisonment for two years.

Meaning of “possession”.

(1913 c.27, s.15). 219.(1) Where the having any document, seal or die in the custody or possession of any person is in this Part expressed to be an offence, a person shall be deemed to have a document, seal or die in his custody or possession if he—

- (a) has it in his personal custody or possession; or
- (b) knowingly and wilfully has it in the actual custody or possession of any other person, or in any building, lodging, apartment, field or other place, whether open or enclosed, and whether occupied by himself or not.

(2) It is immaterial whether the document, matter or thing is had in such custody, possession or place for the use of such person or for the use or benefit of another person.

Form of indictment and proof of intent.

(1913 c.27, s.17). 220.(1) In an indictment on information for an offence against this Part with reference to any document, monetary instrument, seal or die, it is sufficient to refer to the document, monetary instrument, seal or die by any name or designation by which it is usually known, or by its purport, without setting out any copy or facsimile of the whole or any part of the document, monetary instrument, seal or die.

(2) Where an intent to defraud or an intent to deceive is one of the constituent elements of an offence under this Act, or under any other law relating to forgery or any kindred offence it shall not be necessary to allege in the indictment or to prove an intent to defraud or deceive any particular person; and it shall be sufficient to prove that the accused did the act charged with the intent to defraud or deceive, as the case may require.

Forgery by co-partner, etc.

(1913 c.27, s.17). 221. If any person who is a member of any co-partnership, or is one of two or more beneficial owners of any property, forges any document, matter or

thing with intent to defraud the co-partnership or the other beneficial owners, he is liable to be dealt with, indicted, tried and punished as if he had not been or was not a member of the co-partnership, nor one of such beneficial owners.

Forgery by bodies corporate, etc.

221A.(1) where an offence under this part has been committed—

- (a) by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that body; or
- (b) by a partnership and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a member of that partnership,

or by any person who was purporting to act in any such capacity, he, as well as the body corporate, or as the case may be the partnership, is guilty of that offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the actions and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

PART XVIII.
COINAGE OFFENCES.

Interpretation.

222. For the purposes of this Part—

(1936 c.16, s.17).

- (a) the expression “copper coin” includes any coin of any metal or mixed metal not being a gold or silver coin;
- (b) a coin shall be deemed to be current if it has been coined in any of Her Majesty’s Mints or in pursuance of the Gibraltar Coinage Act, 1990, or in pursuance of the Gibraltar Coinage (ECU) Act, 1990 or is lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty’s dominions, whether within Gibraltar or otherwise, or is lawfully current in any part of the Commonwealth or in any foreign country;

- (c) a coin apparently intended to resemble or pass for any current coin shall be deemed to resemble that current coin;
- (d) a current coin which has been gilt, silvered, washed, coloured or cased over, or in any manner altered so as to resemble any current coin of a higher denomination shall be deemed to be a false or counterfeit coin resembling a current gold or silver coin;
- (e) a thing shall be deemed to be in possession of any person, if he himself has it in his personal possession or custody, and also if he knowingly and wilfully has it in the actual custody or possession of some other person, or in some building or place (whether belonging to or occupied by himself or not) and whether he has it for his own use or benefit or for that of any other person;
- (f) all references to silver coin shall include a reference to coin of cupro-nickel and to coin of any other metal or mixture of metals specified in any proclamation made in the United Kingdom under section 3 of the Coinage Act, 1946 or in any notice made under Section 2 of the Gibraltar Coinage Act, 1990 or in any notice made under section 3 of the Gibraltar Coinage (ECU) Act, 1990 and accordingly such coin shall be excluded from the definition of "copper coin" contained in this section.

Counterfeiting.

(1936 c.16, s.1). 223.(1) Any person who falsely makes or counterfeits any coin resembling any current coin is guilty of an offence and is liable on conviction—

- (a) in a case where the coin resembles a current gold or silver coin, to imprisonment for life or for any term not less than three years; and
- (b) in a case where the coin resembles a current copper coin, to imprisonment for a term not exceeding seven years or less than three years.

(2) The offence of falsely making or counterfeiting a coin shall be deemed to be complete although the coin made or counterfeited is not in a fit state to be uttered or the making or counterfeiting thereof has not been finished or perfected.

Gilding, silvering, filing or altering.

(1936 c.16, s.2). 224. A person who—

- (a) gilds or silvers, or, with any wash or materials capable of producing the colour or appearance of gold or silver or by any means whatsoever, washes, cases over or colours—
 - (i) any coin whatsoever resembling any current gold or silver coin; or
 - (ii) any current copper coin with intent to make it resemble or pass for any current gold or silver coin; or
 - (iii) any piece of silver or copper or of coarse gold or coarse silver or of any metal or mixture of metals, being of a fit size and figure to be coined, with intent that it shall be coined into false and counterfeit coin resembling any current gold or silver coin; or
- (b) gilds, or, with any wash or materials capable of producing the colour or appearance of gold or by means whatsoever, washes, cases over or colours, any current silver coin with intent to make it resemble or pass for any current gold coin; or
- (c) files or in any manner alters—
 - (i) any current silver coin with intent to make it resemble or pass for any current gold coin; or
 - (ii) any current copper coin with intent to make it resemble or pass for any current gold coin or silver coin,

is guilty of an offence and is liable on conviction to imprisonment for life or for any term not less than three years.

Impairing gold or silver coin, and possession of filings, etc.

225.(1) A person who impairs, diminishes or lightens any current gold or silver coin, with intent that the coin so impaired, diminished, or lightened may pass for a current gold or silver coin, is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding fourteen years or less than three years. *(1936 c.16, s.3).*

(2) A person who unlawfully has in his possession any filing or clipping, or any gold or silver bullion, or any gold or silver in dust, solution, or otherwise, which has been produced or obtained by impairing, diminishing, or lightening any current gold or silver coin, knowing that it has been so produced or obtained, is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding seven years or less than three years.

Melting or breaking metal coins.

(1969 c.19, s.14). 226.(1) A person who except under the authority of a licence granted by the Financial Secretary, melts down or breaks up any coin which is for the time being current in Gibraltar or which, having been current there, has at any time after the 21st day of January 1971 ceased to be so, is guilty of an offence and is liable—

(a) on summary conviction, to a fine at level 4 on the standard scale;

(b) on conviction on indictment, to a fine and to imprisonment for two years.

(2) If any condition attached to a licence granted under subsection (1) is contravened, the person to whom the licence was granted is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale:

Provided that where a person is charged with an offence against this subsection it shall be a defence to prove that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.

(3) The court by or before which any person is convicted of an offence under this section may, whether or not it imposes any other punishment, order the articles in respect of which the offence was committed to be forfeited to Her Majesty.

(4) Where an offence against this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly.

Defacing and uttering defaced coins.

(1936 c.16, s.4). 227.(1) A person who defaces any current coin by stamping thereon any name, or words, whether the coin is or is not thereby diminished or lightened, is guilty of an offence and is liable on conviction to imprisonment for one year.

(2) A tender of payment in money made in any coin which has been defaced as aforesaid shall not be legal tender.

(3) A person who tenders, utters or puts off any coin which has been defaced as aforesaid is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

Uttering counterfeit coin.

228.(1) A person who tenders, utters or puts off any false or counterfeit coin resembling any current coin knowing it to be false or counterfeit, is guilty of an offence and is liable on conviction to imprisonment for one year. *(1936 c.16, s.5).*

(2) A person who tenders, utters or puts off any false or counterfeit coin resembling any current gold or silver coin knowing it to be false or counterfeit, and—

- (a) at the time of the tendering, uttering or putting off has in his possession, besides that coin, any other such false or counterfeit coin; or
- (b) on the day of the tendering, uttering or putting off, or within the period of ten days next following, tenders, utters or puts off any other such false or counterfeit coin, knowing it to be false or counterfeit,

is guilty of an offence and is liable on conviction to imprisonment for two years.

(3) A person who has in his possession three or more false or counterfeit coins resembling any current gold or silver coin, knowing them to be false or counterfeit and with intent to utter or put off such coins or any of them, is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding five years or less than three years.

(4) A person who has in his possession three or more false or counterfeit coins resembling any current copper coin, knowing them to be false or counterfeit, and with intent to utter or put off such coins or any of them, is guilty of an offence and is liable on conviction to imprisonment for one year.

(5) A person who, with intent to defraud, tenders, utters, or puts off as or for any current gold or silver coin—

- (a) any coin not being that current coin and being of less value than that current coin; or
- (b) any medal or piece of metal or mixed metals resembling in size, figure and colour that current coin and being of less value than that current coin,

is guilty of an offence and is liable on conviction to imprisonment for one year.

(7) The offence of tendering, uttering or putting off a false or counterfeit coin shall be deemed to be complete although the coin is not in a fit state to be uttered or the counterfeiting thereof has not been finished or perfected.

Dealing in counterfeit coin for less than its denomination.

(1936 c.16, s.6). 229.(1) A person who, without lawful authority or excuse, the proof whereof shall lie on the person accused, buys, sells, receives, pays or puts off or offers to buy, sell, receive, pay or put off, any false or counterfeit coin resembling any current coin at or for a lower rate or value than the false or counterfeit coin imports, or apparently is intended to import, is guilty of an offence and is liable on conviction—

- (a) in a case where the coin resembles a current gold or silver coin, to imprisonment for life or for any term not less than three years; and
- (b) in a case where the coin resembles a current copper coin, to imprisonment for a term not exceeding seven years or less than three years.

(2) In any indictment for an offence against this section in respect of a coin resembling a current gold or silver coin, it shall be sufficient to allege that the person accused bought, sold, received, paid or put off or offered to buy, sell, receive, pay or put off the coin, at or for a lower rate of value than it imports or was apparently intended to import, without alleging at or for what rate, price or value it was bought, sold, received, paid or put off.

(3) An offence against this section shall be deemed to be complete although the coin bought, sold, received, paid or put off, or offered to be bought, sold, received, paid or put off is not in a fit state to be uttered, or the counterfeiting thereof has not been finished or perfected.

Importing and exporting counterfeit coin.

(1936 c.16, s.7). 230.(1) A person who, without lawful authority or excuse, the proof whereof shall lie on the person accused,—

- (a) imports or receives into Gibraltar any false or counterfeit coin resembling any current gold or silver coin, knowing it to be false or counterfeit; or
- (b) exports from Gibraltar or puts on board any vessel, for the purpose of being so exported, any false or counterfeit coin

resembling any current coin, knowing it to be false or counterfeit,

is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding fourteen years or less than three years.

(2) Nothing in this section shall affect the provisions relating to the importation of coin and imitation coin contained in any other law.

Making, etc., medals resembling gold or silver coin.

231. A person who, without lawful authority or excuse, the proof whereof shall lie on the person accused, makes, sells, offers for sale or has in his possession for sale any medal, cast, coin or other like thing made wholly or partially of metal or any mixture of metals and either— *(1936 c.16, s.8).*

- (a) resembling in size, figure and colour any current gold or silver coin; or
- (b) having thereon a device resembling a device on any such current coin; or
- (c) being so formed that it can, by gilding, silvering, colouring, washing or other like process be so dealt with as to resemble any such current coin,

is guilty of an offence and is liable on conviction to imprisonment for one year.

Making etc., coining implements.

232.(1) A person who, without lawful authority or excuse, the proof whereof shall lie on the person accused, knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession, any puncheon, counter-puncheon, matrix, stamp, die, pattern or mould in or upon which there is made or impressed, or which will make or impress, or which is adapted and intended to make or impress, the figure, stamp or apparent resemblance of both or either of the sides of any current gold or silver coin, or any part of both or either of those sides, is guilty of an offence and is liable on conviction to imprisonment for life or for any term not less than three years. *(1936 c.16, s.9).*

(2) A person who, without lawful authority or excuse, the proof whereof shall lie on the person accused, makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession—

- (a) any edger, edging or other tool, collar, instrument or engine adapted and intended for the marking of coin round the edges with letters, grainings or other marks or figures apparently resembling those on the edges of any current gold or silver coin, knowing it to be so adapted and intended; or
- (b) any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance round blanks out of gold, silver or other metal or mixture of metals, or any other machine, knowing the press to be a press for coinage or knowing the engine or machine to have been used or to be intended to be used for the false making or counterfeiting of any current gold or silver coin,

is guilty of an offence and is liable on conviction to imprisonment for life or for any term not less than three years.

(3) Any person who, without lawful authority or excuse, the proof whereof shall lie on the person accused, knowingly makes or mends, or begins or proceeds to make or mend or buys or sells, or has in his possession, any instrument, tool or engine adapted and intended for the counterfeiting of any current copper coin, is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding seven years or not less than three years.

Evidence.

(1936 c.16, s.13). 233. Where a person is charged with an offence against this Part, the fact that a coin produced in evidence against him is false or counterfeit may be proved by the evidence of any credible witness, and it shall not be necessary to prove that fact by the evidence of an officer of Her Majesty's Mint.

Breaking of coin suspected to be counterfeit.

(1936 c.16, s.14). 234.(1) If any person suspects any coin tendered to him as current gold or silver coin to have been diminished otherwise than by reasonable wearing, or to be counterfeit, it shall be lawful for him to break the coin.

(2) If any coin when so broken appears to have been diminished otherwise than as aforesaid, or to be counterfeit, the person tendering it shall bear the loss thereof, but if it is of due weight and appears to be lawful coin, the person breaking it shall receive it at the rate it was coined for.

(3) If any dispute arises whether any coin so broken has been diminished otherwise than as aforesaid, or is counterfeit, it shall be heard and finally determined in a summary manner by a magistrate.

(4) In this section references to breaking shall include references to cutting, bending and defacing.

PART XIX.
CORRUPTION.

Interpretation.

235. In this Part, unless the context otherwise requires,—

*(1889 c.69, s.7;
1906 c.34, s.1;
1916 c.64, s.4).*

“advantage” includes any office or dignity, and any forbearance to demand any money or money’s worth or valuable thing, and includes any aid, vote, consent or influence, or pretended aid, vote, consent or influence, and also includes any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of any gift, loan, fee, reward or advantage, as before defined;

“agent” includes any person employed by or acting for another and any person serving under the Crown, any corporation or a public body;

“consideration” includes valuable consideration of any kind;

“principal” includes an employer;

“public body” means any public authority constituted by any enactment but does not include any public body as above defined existing elsewhere than in Gibraltar;

“public office” means any office or employment of a person as a member, officer or servant of such public body;

“public service” means employment in a civil capacity in the service of the Government of Gibraltar or such employment in Gibraltar in the service of the Government of the United Kingdom.

Corrupt transactions with agents.

236. Subject to the provisions of section 239—

*(1906 c.34,
s.1(1)).*

- (a) an agent who corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal’s affairs or business, or for

showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

- (b) a person who corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or
- (c) a person who knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

is guilty of an offence and is liable on conviction on indictment to imprisonment for two years and to a fine or on summary conviction to imprisonment for four months and to a fine at level 2 on the standard scale.

Corruption in office.

(1889 c.69, ss.1 and 3).

237.(1) A person who by himself or by or in conjunction with any other person, corruptly solicits or receives, or agrees to receive, for himself, or for any other person, any gift, loan, fee, reward or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer or servant of the public service in the service of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the public service or the public body is concerned, is guilty of an offence.

(2) A person who by himself or by or in conjunction with any other person corruptly gives, promises or offers any gift, loan, fee, reward or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer or servant of the public service or of any public body, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the public service or the public body is concerned, is guilty of an offence.

(3) A person shall not be exempt from punishment under this section by reason of the invalidity of the appointment or election of a person to a public office.

Penalty for offences against section 237.

238. Subject to the provisions of section 239, any person on conviction for an offence against section 237 is—

- (a) liable to imprisonment for two years and or to a fine of £500; and
- (b) liable also to be ordered to pay to the Crown or the public body, and in such manner as the court directs, the amount or value of any gift, loan, fee or reward received by him or any part thereof; and
- (c) liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction; and
- (d) in the event of a second or subsequent conviction for a like offence, in addition to the foregoing penalties, liable to be adjudged to be for ever incapable of holding any public office, and to be incapable for seven years of being registered as an elector, or voting at an election of members to serve in the Parliament and the provisions of the Parliament Act for preventing the voting and registration of persons declared by reason of illegal practices to be incapable of voting, shall apply to a person adjudged in pursuance of this section to be incapable of voting; and
- (e) if such person is an officer or servant in the employ of the public service or of any public body upon such conviction, at the discretion of the court, liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

Increase of maximum penalty in certain cases.

239. A person convicted on indictment of an offence against this Part is, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with Her Majesty or any government department or any public body or a sub-contract to execute any work comprised in such a contract, liable to imprisonment for seven years: *(1916 c.64, s.1)*

Provided that nothing in this section shall prevent the infliction in addition to imprisonment of such punishment as under this Part may be inflicted in addition to imprisonment, or prevent the infliction in lieu of imprisonment of any punishment which may be inflicted under this Part.

Presumption of corruption.

(1916 c.64, s.2). 240. Where in any proceedings against a person for an offence against this Part, it is proved that any money, gift or other consideration has been paid or given to or received by a person in the employment of Her Majesty or any government department or a public body by or from a person, or agent of a person, holding or seeking to obtain a contract from Her Majesty or any government department or public body, the money, gift, or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Part unless the contrary is proved.

Time for taking proceedings.

(1916 c.64, s.3). 241. Notwithstanding anything in the Criminal Procedure Act, proceedings under section 236 instituted with a view to obtaining a summary conviction for an offence thereunder may be commenced at any time before the expiration of six months after the first discovery of the offence by the prosecutor.

Restrictions on prosecution.

(1889 c.69, s.4;
1906 c.34, s.2). 242.(1) No prosecution for an offence against this Part shall be instituted without the consent of the Attorney-General.

(2) Every information for any offence against section 236 shall be upon oath.

PART XX.

PERJURY AND FALSE STATEMENTS.

Interpretation.

(1911 c.6, s.15). 243. For the purposes of this Part, the forms and ceremonies used in administering an oath are immaterial, if the court or person before whom the oath is taken has power to administer an oath for the purpose of verifying the statement in question, and if the oath has been administered in a form and with ceremonies which the person taking the oath has accepted without objection, or has declared to be binding on him.

Perjury.

(1911 c.6, s.1). 244.(1) A person lawfully sworn as a witness or as an interpreter in a judicial proceeding who wilfully makes a statement material in that proceeding, which he knows to be false or does not believe to be true, is guilty of perjury, and is liable on conviction on indictment to imprisonment for seven years and to a fine.

(2) The expression “judicial proceeding” includes a proceeding before the European Court or any court attached thereto or any other court, tribunal or person having by law power to hear, receive, and examine evidence on oath.

(3) Where a statement made for the purposes of a judicial proceeding is not made before the tribunal itself, but is made on oath before a person authorized by law to administer an oath to the person who makes the statement, and to record or authenticate the statement, it shall, for the purposes of this section, be treated as having been made in a judicial proceeding.

(4) A statement made by a person lawfully sworn in Gibraltar for the purposes of a judicial proceeding in a country or territory outside Gibraltar shall, for the purposes of this section, be treated as a statement made in a judicial proceeding in Gibraltar.

(5) Where, for the purposes of a judicial proceeding in Gibraltar, a person is lawfully sworn under the authority of any enactment—

- (a) in any part of Her Majesty’s dominions; or
- (b) before a British tribunal or a British officer in a foreign country, or within the jurisdiction of the Admiralty of England,

a statement made by such person so sworn (unless the enactment under which it was made otherwise specifically provides) shall be treated for the purposes of this section as having been made in the judicial proceeding in Gibraltar for the purposes whereof it was made.

(6) For the purposes of this section, it is immaterial where the offence relates to a judicial proceeding before the European Court or any court attached thereto, that the person charged is or is not a Commonwealth citizen.

(7) The question whether a statement on which perjury is assigned was material is a question of law to be determined by the court of trial.

False written statements tendered in evidence.

245. A person who in a written statement tendered in evidence in criminal proceedings by virtue of section 78 or section 90 of the Criminal Procedure Act wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true, is guilty of an offence and is liable on conviction on indictment to imprisonment for two years and to a fine. *(1967 c.80, s.89).*

False unsworn statements under Evidence Act.

246. A person who, in giving any testimony (either orally or in writing) otherwise than on oath, where required to do so by an order under section 10 of the Evidence Act⁴, makes a statement—

- (a) which he knows to be false in a material particular; or
- (b) which is false in a material particular and which he does not believe to be true,

is guilty of an offence and is liable on conviction on indictment to imprisonment for two years and to a fine.

False statements on oath made otherwise than in a judicial proceeding.

(1911 c.6, s.2). 247. A person who—

- (a) being required or authorized by law to make any statement on oath for any purpose, and being lawfully sworn (otherwise than in a judicial proceeding) wilfully makes a statement which is material for that purpose and which he knows to be false or does not believe to be true; or
- (b) wilfully uses any false affidavit for the purposes of the Bills of Sale Act,

is guilty of an offence and is liable on conviction to imprisonment for seven years and to a fine.

False statements, etc., with reference to marriage.

(1911 c.6, s.3). 248. A person who—

- (a) for the purpose of procuring a marriage, or a certificate or licence for marriage, knowingly and wilfully makes a false oath, or makes or signs a false declaration, notice or certificate, required under any enactment for the time being in force relating to marriage; or
- (b) knowingly and wilfully makes, or knowingly and wilfully causes to be made, for the purpose of being inserted in any register of marriage, a false statement as to any particular required by law to be known and registered relating to any marriage; or

⁴ 1948-10

- (c) forbids any marriage or the issue of any certificate or licence for marriage by falsely representing himself to be a person whose consent to the marriage is required by law, or a person authorized to forbid such certificate, knowing such representation to be false,

is guilty of an offence and is liable on conviction on indictment to imprisonment for seven years and to a fine and on summary conviction to a fine at level 2 on the standard scale.

False statements, etc., as to births or deaths.

249.(1) A person who—

(1911 c.6, s.4).

- (a) wilfully makes any false answer to any question put to him by the Registrar of Births and Deaths relating to the particulars required to be registered concerning any birth or death, or, wilfully gives to such Registrar any false information concerning any birth or death or the cause of any death; or
- (b) wilfully makes any false certificate or declaration under or for the purposes of any enactment relating to the registration of births or deaths, or, knowing any such certificate or declaration to be false, uses the same as true or gives or sends the same as true to any person; or
- (c) wilfully makes, gives or uses, any false statement or declaration as to a child born alive as having been still-born, or as to the body of a deceased person or a still-born child in any coffin, or falsely pretends that any child born alive was still-born; or
- (d) makes any false statement with intent to have the same inserted in any register of births or deaths,

is guilty of an offence and is liable—

- (i) on conviction on indictment to imprisonment for seven years or to a fine; and
- (ii) on summary conviction to a fine at level 2 on the standard scale.

(2) A prosecution on indictment for an offence against this section shall not be instituted more than three years after the commission of the offence.

Time limit for summary proceedings under sections 248 and 249.

(1925 c.86, s.28). 250. Summary proceedings for an offence against section 248 or against section 249 may, notwithstanding any provision of the Criminal Procedure Act, be instituted at any time within twelve months after the commission of the offence.

False statutory declarations and other false statements.

(1911 c.6, s.5). 251. A person who knowingly and wilfully makes (otherwise than on oath) a statement false in a material particular, and the statement is made—

- (a) in a statutory declaration; or
- (b) in an abstract, account, balance sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return or other document which he is authorized or required to make, attest or verify, by any enactment for the time being in force in Gibraltar; or
- (c) in any oral declaration or oral answer which he is required to make by, under, or in pursuance of any enactment for the time being in force in Gibraltar,

is guilty of an offence and is liable on conviction on indictment to imprisonment for two years and to a fine.

False declarations, etc., to obtain registration, etc., for carrying on a vocation.

(1911 c.6,s.6). 252. A person who—

- (a) procures or attempts to procure himself to be registered on any register or roll kept under or in pursuance of any enactment for the time being in force in Gibraltar of persons qualified by law to practise any vocation or calling; or
- (b) procures or attempts to procure a certificate of the registration of any person on any such register or roll,

by wilfully making or producing or causing to be made or produced either verbally or in writing, any declaration, certificate, or representation which he knows to be false or fraudulent, is guilty of an offence and is liable on conviction on indictment to imprisonment for twelve months and to a fine.

False statement to procure passport.

253. A person who, for the purpose of procuring a passport whether for himself or for any other person makes a statement which is to his knowledge untrue is guilty of an offence and is liable—

- (a) on conviction on indictment to imprisonment for two years and to a fine ; or
- (b) on summary conviction to imprisonment for six months and to a fine at level 3 on the standard scale.

Offences against the British Nationality Act 1981.

254.(1) A person who, for the purpose of procuring anything to be done or not to be done under the British Nationality Act, 1981, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine at level 4 on the standard scale. *(1948 c.56, s.28).*

(2) A person who fails to comply with any requirement imposed on him by regulations made under the British Nationality Act, 1981 with respect to the delivering up of certificates of naturalization, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Power to direct a prosecution for perjury.

255.(1) Where any of the following authorities, namely, a judge of, or person presiding in, a court of record, or the magistrates' court, is of opinion that any person has, in the course of a proceeding before that authority, been guilty of perjury, the authority may order the prosecution of that person for such perjury, in case there shall appear to be reasonable cause for such prosecution, and may commit him, or admit him to bail, to take his trial at the proper court, and may require any person to enter into a recognizance to prosecute or give evidence against the person whose prosecution is so ordered, and may give the person so bound to prosecute a certificate of the making of the order for the prosecution, for which certificate no charge shall be made. *(1911 c.6, s.9).*

(2) An order made or a certificate given under this section shall not be given in evidence for the purpose or in the course of any trial of a prosecution resulting therefrom.

(3) In this section, references to a court do not include references to the European Court or any court attached thereto.

Powers of prosecution for perjury before European Court.

256.(1) Where a report is made under the authority of the European Court or any court attached thereto as to the commission of perjury in a judicial proceeding before that court, a bill of indictment for the offence may be preferred as in a case where a prosecution is ordered under section 255.

(2) A report referred to in subsection (1) shall not be given in evidence for the purpose of or in the course of any trial of a prosecution resulting from the report.

Corroboration.

(1911 c.6, s.13). 257. A person shall not be liable to be convicted of any offence against this Part (except an offence against section 253) or for any offence declared by any other enactment to be perjury or subornation of perjury, or to be punishable as perjury or subornation, solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Proof of former trial.

(1911 c.6,s.14). 258. On a prosecution—

- (a) for perjury alleged to have been committed on the trial of an indictment or criminal information; or
- (b) for procuring or suborning the commission of perjury on any such trial,

the fact of the former trial shall be sufficiently proved by the production of a certificate containing the substance and effect (omitting the formal parts) of the indictment or information and trial purporting to be signed by the clerk of the court, or other person having the custody of the records of the court where the indictment was tried, or by the deputy of that clerk or other person, without proof of the signature or official character of the clerk or person appearing to have signed the certificate.

PART XXI.

OFFENCES RELATING TO THE COURTS.

Restriction on reports of judicial proceedings.

(1925 c.61, s.1). 259.(1) It shall not be lawful to print or publish, or cause or procure to be printed or published—

- (a) in relation to any judicial proceedings any indecent matter or indecent medical, surgical or physiological details being matter or

details the publication of which would be calculated to injure public morals;

- (b) in relation to any judicial proceedings for dissolution of marriage, for nullity of marriage, or for judicial separation, or for restitution of conjugal rights, any particulars other than the following, that is to say:—
 - (i) the names, addresses and occupations of the parties and witnesses;
 - (ii) a concise statement of the charges, defences and countercharges in support of which evidence has been given;
 - (iii) submissions on any point of law arising in the course of the proceedings, and the decision of the court thereon;
 - (iv) the summing-up of the judge and the finding of the jury (if any) and the judgment of the court and observations made by the judge in giving judgment:

Provided that nothing in this part of this section shall be held to permit the publication of anything contrary to the provisions of paragraph (a) of this subsection.

(2) The expression “judicial proceeding” includes a proceeding before any court, tribunal, or person having by law power to hear, receive and examine evidence on oath.

(3) A person who acts in contravention of the provisions of this section is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine at level 5 on the standard scale:

Provided that no person, other than a proprietor, editor, master printer or publisher, shall be liable to be convicted under this section.

(4) No prosecution for an offence under this section shall be commenced by any person without the sanction of the Attorney-General.

(5) Nothing in this section shall apply to the printing of any pleading, transcript of evidence of other document for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the court; or to the printing or publishing of any matter in any separate volume or part of any bona fide series of law reports which does not form part of any other publication and consists solely

of reports of proceedings in courts of law, or in any publication of a technical character bona fide intended for circulation among members of the legal or medical profession.

Taking photographs, etc., in court.

(1925 c.86, s.41). 260.(1) No person shall—

- (a) take or attempt to take in any court any photograph or, with a view to publication, make or attempt to make in any court any portrait or sketch of any person, being a judge of the court or a juror or a witness in or a party to any proceedings before the court, whether civil or criminal; or
- (b) publish any photograph, portrait, or sketch taken or made in contravention of the foregoing provisions of this section or any reproduction thereof,

and a person who acts in contravention of this section is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(2) For the purposes of this section—

- (a) the expression “court” means any court of justice, including the court of a coroner;
- (b) the expression “judge” includes registrar, magistrate, justice and coroner;
- (c) a photograph, portrait or sketch shall be deemed to be a photograph, portrait or sketch taken or made in court if it is taken or made in the court room or in the building or in the precincts of the building in which the court is held, or if it is a photograph, portrait or sketch taken or made of the person while he is entering or leaving the court room or any such building or precincts as aforesaid.

PART XXII.

**OFFENCES IN CONNECTION WITH
INTOXICATING LIQUORS.**

Drunkenness in public places.

(1872 c.94, s.12). 261. A person who is found drunk in any public place is guilty of an offence and is liable on summary conviction to imprisonment for seven days or to a fine at level 1 on the standard scale, and on a second or subsequent

conviction, to imprisonment for two months or to a fine at level 2 on the standard scale.

Disorderly or indecent behaviour while drunk.

262. A person who, while drunk—

- (a) is guilty in any public place or police station of disorderly or indecent behaviour; or
- (b) is in possession of any firearm,

is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 2 on the standard scale, and on a second or subsequent conviction, to imprisonment for three months or to a fine at level 2 on the standard scale.

Being drunk while in charge of a child.

263.(1) A person who is found drunk in any public place, whether a building or not, or on any licensed premises, while having the charge of a child under the age of seven years, is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 2 on the standard scale. *(1902 c.28, s.2).*

(2) If the child appears to the court to be under the age of seven, the child shall, for the purposes of this section, be deemed to be under that age unless the contrary be proved.

264. *Repealed.*

Permitting drunkenness or disorderly conduct in public houses.

265.(1) The keeper of a house, shop, room or place of public resort wherein provisions, fermented or distilled liquors or refreshments of any kind are sold or consumed, whether the same are kept or retailed therein or procured elsewhere, who permits drunkenness or other disorderly conduct in such premises, or sells any intoxicating liquor to any drunken person, or knowingly suffers any unlawful games or any gaming whatsoever therein, or knowingly permits or suffers prostitutes or persons of notoriously bad character to meet together and remain therein, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale, and after two previous convictions, within eighteen months of the commission of any such offence, shall be liable in addition to the cancellation or suspension of his licence. *(1839 c.47, s.44; 1902 c.28, s.4).*

(2) It shall be lawful for any police officer to enter into any premises kept or used as aforesaid, and to take into custody all drunken, disorderly or improper persons found therein without lawful excuse, and every person so found is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

(3) Where a person who holds a licence for the sale of intoxicating liquors is charged with permitting drunkenness on his premises, and it is proved that any person was drunk on his premises, it shall lie upon the licensed person to prove that he and the persons employed by him took all reasonable steps for preventing drunkenness on the premises.

Making internal communications with public house.

(1839 c.47, s.45). 266. A person who makes or uses or allows to be made or used any internal communication between any house, shop, room or place of public resort not licensed for the sale of wine, spirits or beer, and any house, shop, room or place licensed for the sale of wine, spirits or beer is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale for every day that such communication is open.

Procuring drink for drunken person.

(1902 c.28, s.7). 267. A person who, being on any premises licensed for the sale of intoxicating liquors, procures, or attempts to procure, any intoxicating liquor for consumption by any drunken person, or aids and abets any drunken person in obtaining or consuming any intoxicating liquor on any premises so licensed, is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 1 on the standard scale.

PART XXIII.

IDLE AND DISORDERLY PERSONS.

Idle and disorderly persons.

(1824 c.83, s.3). 268. A person who—

- (a) being able, wholly or in part, to maintain himself or his family by work or otherwise, wilfully refuses or neglects so to do, by which refusal or neglect he or any of his family are left without means of support and become destitute; or
- (b) being a common prostitute wanders in the street and behaves in a riotous or indecent manner; or

- (c) wanders abroad or places himself in any street to beg or gather alms; or
- (d) wilfully gives a false name or makes a false statement for the purpose of obtaining relief from any person, or of obtaining admission into any hospital as required by the provisions of the Medical and Health Act or any rules made thereunder,

shall be deemed to be an idle and disorderly person and is guilty of an offence and is liable on summary conviction to imprisonment for one month and to a fine at level 2 on the standard scale.

Rogues and vagabonds.

269. A person who—

(1824 c.83, s.4).

- (a) commits any of the offences mentioned in section 268, after having been convicted as an idle and disorderly person; or
- (b) pretends or professes to tell fortunes, or uses any subtle craft, means or device, by palmistry or otherwise, to deceive and impose on any person; or
- (c) wanders abroad and lodges in any outhouse, or in any unoccupied building, or in the open air, or in any cart or vehicle, not having any visible means of subsistence, and not giving a good account of himself; or
- (d) wilfully exposes his person with intent to insult any female; or
- (e) wanders abroad and endeavours by exposure of wounds or deformities to obtain or gather alms; or
- (f) goes about as a gatherer or collector of alms, or endeavours to procure charitable contributions of any nature or kind under any false or fraudulent pretence; or
- (g) runs away and leaves his wife and his or her child or children without means of support whereby she or they or any of them become destitute; or
- (h) plays or bets by way of wagering or gaming in any public street at or with any table or instrument of gaming, or any coin, cash, token or other article used as an instrument of such wagering or gaming, at any game or pretended game of chance; or

- (i) has in his custody or possession any picklock, key, crow, jack, bit or other implement, with intent unlawfully to break into any dwelling house, warehouse, coach house, stable or out building; or
- (j) is armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, or has upon him any instrument with intent to commit any offence; or
- (k) is found in or upon any barrack, dwelling house, warehouse, coach house, stable, outhouse or other building, or in any patio, enclosed yard, garden or area, for any unlawful purpose; or
- (l) is a suspected person or reputed thief frequenting any landing place, wharf or warehouse or any avenue leading thereto, or any public street or any place adjacent thereto with intent to commit an offence; or
- (m) being apprehended as an idle and disorderly person; violently resists any police officer so apprehending him, and is subsequently convicted of the offence for which he was so apprehended,

shall be deemed a vagabond and a rogue and is guilty of an offence and liable on summary conviction to imprisonment for three months or to a fine at level 3 on the standard scale, and may, in addition, be ordered to repay any money or restore any property obtained by means of any such offence and in default of payment or restoration is liable to imprisonment for two months.

Incorrigible rogues.

(1824 c.83, ss.5 and 10). 270. A person who—

- (a) breaks or escapes out of any place of legal confinement before the expiration of the term for which he has been committed as a rogue and vagabond; or
- (b) is convicted as a rogue and vagabond after being previously so convicted; or
- (c) being apprehended as a rogue and vagabond, violently resists any police officer so apprehending him, and is subsequently convicted of the offence for which he was apprehended,

shall be deemed an incorrigible rogue and shall be committed to prison there to be kept until he be brought before the Supreme Court at such time, being not more than fourteen days after such committal, as that court shall direct

and when so brought it shall be lawful for the court to examine into the circumstances of the case and to order, if it thinks fit, that the offender be further imprisoned for one year.

PART XXIV.
NUISANCES.

Feeding of Rock apes.

271. A person who encourages the rock apes to come down from the Upper Rock or who, not being a person authorised by the Minister with responsibility for tourism, feeds them at any place is guilty of an offence and is liable on summary conviction to a fine up to level 3 on the standard scale.

Playing musical instruments.

272. (a) A person, not being a member of the armed forces of the Crown acting in the discharge of his duty, who—

- (i) between the hours of eleven at night and half past two in the morning sounds or plays upon any musical instrument or sings or makes any noise whatsoever in any premises or courtyard after having been required by any person residing in the neighbourhood or by any police officer, at the request of such resident or otherwise, to desist from making such sounds or noises for any reasonable cause; or
- (ii) between the hours of half past two and six in the morning makes any such sounds or noises,

is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale:

Provided that in relation to the annual fair it shall be lawful for the Governor to direct that this paragraph shall not have effect before the hour of four o'clock in the morning. Upon such direction being given subparagraph (ii) hereof shall apply as if the words "half past two" were replaced by the word "four".

For the purposes of this paragraph a person shall be deemed to sound or play upon any musical instrument if he operates or causes or suffers to be operated any wireless loudspeaker, gramophone, amplifier or similar instrument.

- (b) Where the person making such sounds or noises at the time is not known or cannot be found, then the occupier of such premises or courtyard, or if the courtyard is not occupied by him, then the caretaker of the premises to which the courtyard belongs, is, in respect of offences committed in such courtyard, liable to the penalty imposed on the person offending, after notice to desist, if required, shall have been given personally or otherwise, and if the occupier or other person having the custody of the premises or courtyard, as the case may require, or any other person obstructs any police officer in the performance of his duty for the purpose of enforcing the provisions of this paragraph, the person offending is liable to the same penalty.

Other noises.

*(1839 c.47,
ss.54(14) and
57).*

273. A person who—

- (a) persists in shouting or uttering cries of any description, or in playing any kind of instrument, or singing in any public place after being required by any householder personally or by his servant or by any police officer at the request of the householder or otherwise, to depart from the neighbourhood on account of the illness of any inmate of any such house or for other reasonable cause;
- (b) blows any horn or uses any other noisy instrument for the purpose of calling persons together or of announcing any show or entertainment or for the purpose of hawking, selling, distributing or collecting any article whatsoever or to the annoyance of any person; or
- (c) cries any article in any public place in such a manner as to create a public nuisance or to be calculated to cause annoyance to any person,

is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

Causing danger in public place.

*(1839 c.47,
s.60(8);
1847 c.89,
s.28).*

274. A person who—

- (a) fixes or places any flower-pot or box or other heavy article in any upper window or terrace situate above any public place without sufficiently guarding the same against falling down; or

- (b) leaves open any vault or cellar, or the entrance from any public place to any cellar or room underground, without a sufficient fence or handrail, or who leaves defective the door, window or other covering of any vault, cellar or store, or who does not sufficiently fence any area, pit or sewer left open, or who leaves such open area, pit or sewer without a sufficient light after sunset to warn and prevent persons from falling thereinto,

is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Obstruction and other nuisances in streets, etc.

275.(1) A person who—

- (a) without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway;
- (b) places, hangs up or otherwise exposes to sale any goods, wares, merchandise, matter or thing whatsoever, so that the same project into or over any footway or beyond the line of any house, shop or building at which the same are so exposed so as to obstruct or incommode the passage of any person over or along such footway;
- (c) throws or lays in any public place any coals, stones, slate, shells, lime, bricks, timber, iron or other materials, or who throws or lays down any wares (except materials which shall be placed or enclosed so as to prevent any mischief happening to passengers);
- (d) throws or lays rags, dirt, litter or ashes, or nightsoil, or any carrion, fish, offal or rubbish on any public place or drain, or on the seashore, or who causes any offensive matter to run into any public place;
- (e) discharges any smoke or steam from any premises (otherwise than from the top thereof) into any public place, or suffers or permits the condensed water or moisture from any steam pipe, flue or funnel to fall into or upon any public place;
- (f) in any public place, or upon or against any house, building, doorstep, doorway, wall, fencing or paling, commits a nuisance by the deposit of excrement, urine, or faecal matter of any kind;
- (g) follows, jostles, or otherwise annoys any person passing in any public place; or

(1839 c.47, ss.54(17) and 60(2); 1847 c.89, s.28; 1959 c.25, s.121).

- (h) flies any kite, rolls any hoop or plays at any game in a public place to the annoyance of any person;

is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale:

Provided always that it shall not be deemed an offence to lay straw, sand, sawdust or other like material in any public place in case of sickness to prevent noise, if the party laying such sand or other like material causes it to be removed as soon as the occasion for it ceases.

(2) If any rubbish, lead, iron, wood, goods, commodities or other articles, matter or thing whatever shall be placed or allowed to remain in any public place to the obstruction, annoyance or danger of any person, it shall be lawful for and in the power of a police officer to remove or cause the same immediately to be removed and carried to any place of safety there to remain at the risk of the owner and person offending, and to detain the same until the expense of removal and detention are paid, and if such expense are not paid within seven days to sell or dispose of the same, and apply the proceeds as the Governor shall direct.

Posting bills.

276.(1) A person—

- (i) who affixes any posting bill or other paper against or upon any building, wall, fence, or pole; or
- (ii) whose goods, trade, business occupation, profession or other concern is given publicity or intended to benefit by such posting bill or other paper,

is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale:

Provided that it shall be a defence, proof of which shall lie upon the person charged, to show that the bill or other paper was affixed with the express consent of the owner or occupier of the premises or property concerned or that the affixing of the bill whereby such publicity was given occurred without the consent of the person charged.

(2) A person who without the express consent of the owner or occupier, proof of which shall lie upon the person charged, writes upon, soils, defaces or marks any building, wall, fence or pole or wilfully breaks, destroys or damages any part of such building, wall, fence or pole or any fixture or appendage thereto, is guilty of an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

Prohibited areas for pleasure boats and bathing.

277.(1) A person who—

- (a) during the months of April to October inclusive, being the navigator of a pleasure boat propelled by an internal combustion engine, causes or suffers such vessel or any person or thing being towed behind it to enter—
 - (i) any area of the sea adjacent to Eastern Beach, Catalan Bay, Sandy Bay, Camp Bay or to any other part of the seashore, into which the entry by pleasure boats propelled by internal combustion engines or any person or thing being towed behind such vessels is prohibited by rules made by the Governor under section 218 of the Public Health Act; or
 - (ii) that area of the sea adjacent to Western Beach bounded to the east by the foreshore, and to the west by an imaginary straight line joining two can buoys, each painted in yellow and red check, moored approximately one hundred yards to the seaward of mean low water springs and opposite the British Lines and the pumphouse on the reclamation at the south-west corner of the Royal Air Force camp respectively, and to the north and south by two imaginary straight lines joining these buoys to the British Lines and the said pumphouse respectively; or
- (b) bathes in the sea at Catalan Bay, Sandy Bay, Eastern Beach, Little Bay or Camp Bay in breach of the signal given by the display of a flag prohibiting such bathing exhibited at the beach in question,

is guilty of an offence and liable on summary conviction to a fine at level 2 on the standard scale.

(2) In subsection (1)—

the words “bathes” and “bathing” do not include “paddles” or “paddling”;

“navigator” means the person who, whether as owner or otherwise, has the charge or control of a pleasure boat and includes a person who, being present, is entitled to give orders to the person having charge or control.

Vessels not to inconvenience bathers.

278. A person who being in charge of any vessel causes or allows the vessel to be navigated in such a manner as to be a source of danger or inconvenience to persons who may be bathing in the sea or being on the foreshore, is guilty of an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

Underwater fishing.

279. Subject to the provisions of the Nature Protection Act 1991 and any subsidiary legislation made thereunder a person who—

- (a) carries or uses an aqualung or any other respiratory apparatus for the purpose of underwater fishing in the seashore, port, harbour and so much of the sea adjacent thereto which is subject to the dominion of Her Majesty; or
- (b) carries or uses any weapon constructed or adapted for the purpose of underwater fishing within any area designated by order of the Governor in the Gazette and marked by notice boards at or near such area, as an area within which such carrying or use is prohibited,

is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Offences on ships and wharves.

*(1839 c.47,
ss.27, 28 and
30-32).*

280.(1) A person who—

- (a) wilfully causes to be broken, pierced, started, cut, torn or otherwise injured any cask, chest, bag or other package, containing, or prepared for containing, any goods while on board of any barge, lighter or other craft while in the port or harbour of Gibraltar, or on any wharf, quay or landing place adjacent to the same, or in the way to or from any warehouse with intent that the contents of such package or any part thereof may be spilled or dropped from such package;
- (b) bores, pierces, breaks, cuts open or otherwise injures any cask, box or package containing wine, spirits or other liquors on board any ship, boat, hulk, vessel, or in or upon any warehouse, wharf, quay, or bank with intent to steal or otherwise unlawfully obtain any part of the contents thereof, or unlawfully drinks, or wilfully spills or allows to run to waste any part of the contents thereof;

- (c) is in or upon any warehouse, wharf, quay or bank, or on board any ship, vessel or hulk having in his possession any tube or other instrument for the purpose of unlawfully obtaining any wine, spirits or other liquors or having in his possession any skin, bladder or other material or utensil for the purpose of unlawfully secreting or carrying away any such wine, spirits or other liquors, or attempts unlawfully to obtain any such wine, spirits or other liquors;
- (d) unlawfully cuts, damages, or destroys any of the ropes, cables, cordage, tackle, headfasts or other the furniture of or belonging to any ship, boat or vessel lying in the Bay of Gibraltar, or at any wharf, landing place or jetty adjacent thereto, with intent to steal or otherwise unlawfully obtain the same or any part thereof; or
- (e) wilfully, for the purpose of preventing the seizure or discovery of any materials, furniture, stores or merchandise belonging to or having been part of the cargo of any ship, boat or other vessel lying in the Bay of Gibraltar, or at any wharf, landing place or jetty adjacent thereto, or of any other articles unlawfully obtained from any ship or vessel, lets fall or throws into the Bay or in any other manner conveys away from any ship, boat or vessel, wharf, quay or landing place, any such article, or shall be accessory to any such offence,

is guilty of an offence and is liable on summary conviction to imprisonment for one month or to a fine at level 3 on the standard scale.

(2) A person guilty of a second or subsequent offence under any of the provisions of paragraph (c) of subsection (1) is liable on summary conviction to imprisonment for three months and to a fine at level 3 on the standard scale.

(3) A person charged with a second or subsequent offence against any of the provisions of paragraphs (a), (b) or (d) of subsection (1) shall be proceeded against by indictment and on conviction is liable to imprisonment for two years and to a fine.

(4) Any police officer may seize and detain any vessel in which a person committing an offence against the provisions of paragraph (c), of subsection (1) may be found or out of which any article may be let fall, thrown or conveyed away contrary to those provisions.

PART XXV. SUPPLEMENTARY.

Rules in aid of military requirements.

281. (1) The Governor may from time to time make such rules as to him shall seem fit in aid of the defence or security requirements of Gibraltar and any person failing or neglecting to comply with any of the provisions of such rules is guilty of an offence and liable on summary conviction to imprisonment for one month or to a fine at level 2 on the standard scale.

(2) Any rules made by the Governor under this section shall be published in the usual way, and also, when practicable, by notices placed in the locality affected by such rules, at least six days before they come into operation, and a copy thereof shall be transmitted forthwith to a Secretary of State.

Saving of other laws.

282. Save as hereinafter expressly provided, nothing in this Act shall affect—

- (a) the liability, trial or punishment of a person for an offence against the common law or against any other law in force in Gibraltar other than this Act;
- (b) the liability of a person to be tried or punished for an offence under the provisions of any law in force in Gibraltar relating to the jurisdiction of the Colonial Courts in respect of acts done beyond the ordinary jurisdiction of such courts; or
- (c) any of the statutes, Acts, regulations or articles for the time being in force for the government of Her Majesty's military or naval or air force or the military or police forces of Gibraltar:

Provided that if a person does an act which is punishable under this Act and is also punishable under another law of any of the kinds mentioned in this section, he shall not be punished for that act both under this Act and under that other law.

PART XXVI.**Intimidation, etc., of witnesses, jurors and others.**

283.(1) A person who does to another person—

- (a) an act which intimidates, and is intended to intimidate, that other person;

(b) knowing or believing that the other person is assisting in the investigation of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence; and

(c) intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with,

commits an offence.

(2) A person who does or threatens to do to another person—

(a) an act which harms or would harm, and is intended to harm, that other person;

(b) knowing or believing that the other person, or some other person, has assisted in an investigation into an offence, or has given evidence or particular evidence in proceedings for an offence, or has acted as a juror or concurred in a particular verdict in proceedings for an offence; and

(c) does or threatens to do the act because of what (within paragraph (b)) he knows or believes,

commits an offence.

(3) A person does an act “to” another person with the intention of intimidating, or (as the case may be) harming, that other person not only where the act is done in the presence of that other and directed at him directly, but also where the act is done to a third person and is intended, in the circumstances, to intimidate or (as the case may be) harm the person at whom the act is directed.

(4) The harm that may be done or threatened may be financial as well as physical (whether to the person or a person’s property) and similarly as respects an intimidatory act which consists of threats.

(5) The intention required by subsection (1)(c) and the motive required by subsection (2)(c) above need not be the only or the predominating intention or motive with which the act is done or, in the case of subsection (2), threatened.

(6) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both;

- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine at level 4 on the standard scale or both.

(7) If, in proceedings against a person for an offence under subsection (1) above, it is proved that he did an act falling within paragraph (a) with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the intention required by paragraph (c) of that subsection.

(8) If, in proceedings against a person for an offence under subsection (2) above, it is proved that he did or threatened to do an act falling within paragraph (a) within the relevant period with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the motive required by paragraph (c) of that subsection.

- (9) In this section—

“investigation into an offence” means such an investigation by the police or other person charged with the duty of investigating offences or charging offenders;

“offence” includes an alleged or suspected offence;

“potential”, in relation to a juror, means a person who has been summoned for jury service at the court at which proceedings for the offence are pending; and

“the relevant period”—

- (a) in relation to a witness or juror in any proceedings for an offence, means the period beginning with the institution of the proceedings and ending with the first anniversary of the conclusion of the trial;
- (b) in relation to a person who has, or is believed by the accused to have, assisted in an investigation into an offence, but was not also a witness in proceedings for an offence, means the period of one year beginning with any act of his or any act believed by the accused to be an act of his, assisting in the investigation; and
- (c) in relation to a person who both has, or is believed by the accused to have, assisted in the investigation into an offence and was a witness in proceedings for the offence, means the period beginning with any act of his, or any act believed by the accused

to be an act of his, assisting in the investigation and ending with the anniversary mentioned in paragraph (a) above.

(10) For the purpose of the definition of the relevant period in subsection (9) above—

- (a) proceedings for an offence are instituted at the earliest of the following times—
 - (i) when a justice of the peace issues a summons or warrant under section 107 of the Criminal Procedure Act in respect of the offence;
 - (ii) when a person is charged with the offence after being taken into custody without a warrant;
 - (iii) when a bill of indictment is preferred by virtue of section 137(2)(b) of the Criminal Procedure Act;
- (b) proceedings at a trial of an offence are concluded with the occurrence of any of the following, the discontinuance of the prosecution, the discharge of the jury without a finding, the acquittal of the accused or the sentencing of or other dealing with the accused for the offence of which he was convicted; and
- (c) proceedings on an appeal are concluded on the determination of the appeal or the abandonment of the appeal.

(11) This section is in addition to, and not in derogation of, any offence subsisting at common law.

SCHEDULE 1.

Section 10

SPECIFIED OFFENCES.

Offence	Other offences of which accused may be found guilty
1. Murder (s.59)	(i) Manslaughter (s.63) (ii) Infanticide (s.69) (iii) Child destruction (s. 70) or (iv) Where the murder charged is that of a child, concealment of birth (s. 73)

Criminal Offences

2. Manslaughter (s.63)	(i) Child destruction (s. 70) or (ii) On the trial of a person over 16 for the manslaughter of a person under 16 of whom he has the custody, charge or care, or (iii) Cruelty to young persons (s.82)
3. Infanticide (s.69)	(i) Child destruction (s.70) (ii) Concealment of birth (s.73) (iii) Cruelty to persons under 16 (s.82)
4. Child destruction (s.70)	(i) Administering drugs or using instrument (s.71) (ii) Concealment of birth (s. 73)
5. Administering drugs or using instruments (s.71)	Child destruction (s.70)
6. Wounding with intent to do grievous bodily harm (s.75)	Wounding (s.76)
7. Wounding (s.76)	Common assault (s.96)
8. Administering poison (s.79 (a))	Administering poison (s. 79 (b))
9. Assaults to prevent arrest (s.92)	Common assault (s. 96)
10. Assault occasioning bodily harm (s. 94)	Common assault (s.96)
11. Rape (s. 103)	(i) Procurement by threats (s. 104) (ii) Procurement by false pretences (s.105) (iii) Administering of drugs to procure intercourse (s. 106) (iv) Intercourse with girl under 13 (s.107) (v) Intercourse with girl between 13 and 16 (s.108)

Criminal Offences

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	<ul style="list-style-type: none"> (vi) Intercourse with idiots and imbeciles (s.109) (vii) Intercourse with defective (s.110) (viii) Incest by man (s.112) or (ix) Indecent assault on a woman (s.117)
12. Intercourse with girl under 13 (s.107)	Any of the offences mentioned in paragraphs (i), (ii), (iii), (v), (vi) and (ix) of the foregoing entry in this column
13. Incest by man (s. 112)	<ul style="list-style-type: none"> (i) Intercourse with girl under 13 (s. 107) (ii) Intercourse with girl between 13 and 16 (s.108) (iii) Intercourse with idiot or imbecile (s.109)
14. Permitting girl under 13 to use premises for intercourse (s.124)	Allowing persons under 16 to be in brothels (s. 129)
15. Permitting a girl between 13 and 16 to use premises for intercourse (s.125)	Allowing persons under 16 to be in brothels (s. 129)
16. Theft (s.177)	<ul style="list-style-type: none"> (i) Handling stolen goods (s.183) (ii) Removal of articles from place open to the public (s.191) (iii) Taking a vehicle without authority (s.192) (iv) Making off without payment (s.194) (v) Obtaining property by deception (s.196) (vi) Obtaining services by deception (s.198) (vii) Evasion of liability by deception (s.199)
17. Robbery (s.178)	<ul style="list-style-type: none"> (i) Theft (s.177) (ii) Handling stolen goods (s.183)
18. Burglary (s.179)	<ul style="list-style-type: none"> (i) Theft (s.177) (ii) Handling stolen goods (s.183)

Criminal Offences

19. Aggravated Burglary (s.180)	(i)	Burglary (s.179)
	(ii)	Theft (s. 177)
	(iii)	Handling stolen goods (s.183)
20. Making off without payment (s.194)	(i)	Theft (s.177)
	(ii)	Handling stolen goods (s. 183)
21. Obtaining property by deception (s. 196)	(i)	Theft (s.177)
	(ii)	Handling stolen goods (s.183)
22. Obtaining services by deception (s.198)	(i)	Theft (s.177)
	(ii)	Handling stolen goods (s.183)
23. Evasion of liability by deception (s. 199)	(i)	Theft (s.177)
	(ii)	Handling stolen goods (s.183)
24. Any offence included in this Act	An attempt to commit that offence.	

SCHEDULE 2.

Section 58

ARTICLE II OF THE GENOCIDE CONVENTION.

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

SCHEDULE 3.

Section 165B

PLACES WHERE CAMPING IS NOT PROHIBITED.

1 . *Governor's Lookout Scout Camp*

The land in the Upper Rock Area shown edged with red on plan numbered T39 and signed by the Director of Crown Lands.