

but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this Ordinance.

(3) Nothing in this Ordinance shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in this Colony who *bona-fide* acts in obedience to the instructions of such master, and on demand made by or on behalf of the prosecutor has given full information as to his master.

False representation as to Royal Warrant or Government department.

18. Any person who falsely represents that any goods are made by a person holding a Royal Warrant or for the service of Her Majesty, or any of the Royal Family, or any Government department, shall be liable on summary conviction to a penalty not exceeding twenty pounds.

Regulations.

19. The Governor in Council may from time to time make, alter and rescind regulations for the better administration of this Ordinance in any matter not sufficiently provided for.

CRIMINAL LAW AMENDMENT.

Ordinance No. 3 of 1889.

[9th March, 1889.]

Be it enacted by the Governor of the Falkland Islands and their Dependencies, with the advice and consent of the Legislative Council thereof, as follows :—

Short title.

1. This Ordinance may be cited as "The Criminal Law Amendment Ordinance, 1889."

2. Any person who—

Procuration.

(1) Procures or attempts to procure any girl or woman under twenty-one years of age, not being a common prostitute, or of known immoral character, to have carnal connection, either within or without this Colony, with any other person or persons; or

(2) Procures or attempts to procure any woman or girl to become, either within or without this Colony, a common prostitute; or

(3) Procures, or attempts to procure, any woman or girl to leave this Colony with intent that she may become an inmate of a brothel elsewhere; or

(4) Procures, or attempts to procure, any woman or girl to leave her usual place of abode in this Colony (such place not being a brothel) with intent that she may, for the purposes of prostitution, become an inmate of a brothel within or without this Colony,

shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years, with or without hard labour :

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness, unless such witness be corroborated in some material particular by evidence implicating the accused.

3. Any person who—

Procuring defilement of women by threats or fraud or administering drugs.

(1) By threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection, either within or without this Colony; or

(2) By false pretences or false representations procures any woman or girl, not being a common prostitute, or of known immoral character, to have any unlawful carnal connection either within or without this Colony; or

(3) Applies, administers to or causes to be taken by any woman or girl any drug, matter or thing, with intent to stupify or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl,

shall be guilty of a misdemeanour, and convicted thereof, shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years, with or without hard labour :

Provided that no person shall be convicted of an offence under this section upon the evidence of one person only; unless such witness be corroborated in some material particular by evidence implicating the accused.

4. Any person who—

Unlawfully and carnally knows any girl under the age of thirteen years,

shall be guilty of felony, and being convicted thereof shall be liable at the discretion of the court to be kept in penal servitude for life, or for any term not less than five years, or to be imprisoned for any term not exceeding two years with or without hard labour.

Any person who attempts to have unlawful carnal knowledge of any girl under the age of thirteen years shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years, with or without hard labour :

Provided that in the case of an offender whose age does not exceed sixteen years the Court may, instead of sentencing him to any term of imprisonment, order him to be whipped, as prescribed by the Act of the Imperial Parliament 25 and 26 Victoria, Cap. 18, intituled "An Act to amend the law as to the whipping of Juvenile and other Offenders," and the said Act shall apply, so far as circumstances admit, as if the offender had been convicted in manner in that Act mentioned.

Where, upon the hearing of a charge under this section, the girl in respect of whom the offence is

Defilement of
girl under
thirteen years
of age.

charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the Court or Justices, understand the nature of an oath, the evidence of such girl or other child of tender years may be received, though not given upon oath, if, in the opinion of the Court or Justices, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth :

Provided that no person shall be liable to be convicted of the offence unless the testimony admitted by virtue of this section, and given on behalf of the prosecution, shall be corroborated by some other material evidence in support thereof implicating the accused :

Provided also, that any witness whose evidence has been admitted under this section shall be liable to indictment and punishment for perjury in all acts as if he or she had been sworn.

Whereas doubts have been entertained whether a man who induces a married woman to permit him to have carnal connection with her by personating her husband is not guilty of rape, it is hereby enacted and declared that every such offender shall be deemed to be guilty of rape.

5. Any person who—

(1) Unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any girl being of or above the age of thirteen years and under the age of sixteen years; or

(2) Unlawfully or carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile,

shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years, with or without hard labour :

Offence of a
girl between
thirteen and
sixteen years of
age.

Provided that it shall be a sufficient defence to any charge under sub-section (1) of this section if it shall be made to appear to the Court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years :

Provided also, that no prosecution shall be commenced for an offence under sub-section (1) of this section more than three months after the commission of the offence.

Householder,
etc., permitting
defilement of
young girl on
his premises.

6. Any person who being the owner or occupier of any premises, or having, or acting or assisting in, the management or control thereof—

Induces or knowingly suffers any girl of such age as is in this section mentioned, to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally—

(1) Shall, if such girl is under the age of thirteen years, be guilty of felony, and being convicted thereof shall be liable at the discretion of the Court to be kept in penal servitude for life, or for any term not less than five years, or to be imprisoned for any term not exceeding two years with or without hard labour; and

(2) If such girl is of or about the age of thirteen and under the age of sixteen years, shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years, with or without hard labour :

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the Court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of and above the age of sixteen years.

7. Any person who—

With intent that any unmarried girl under the age of eighteen years should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally—

Abduction of a girl under eighteen with intent to have carnal knowledge.

Takes or causes to be taken such girl out of the possession and against the will of her father or mother, or any other person having the lawful care or charge of her,

shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years with or without hard labour :

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the Court or jury that the person so charged had reasonable cause to believe that the girl was of or above the age of eighteen years.

8. Any person who detains any woman or girl against her will—

Unlawful detention with intent to have carnal knowledge.

(1) In or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man, or generally, or

(2) In any brothel,

shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years, with or without hard labour.

Where a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel, if with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her, or, where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the direction of such person, such person threatens such woman or girl with legal

proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

Power on indictment for rape to convict of certain misdemeanours.

9. If upon the trial of any indictment for rape, or any offence made felony by Section 4 of this Ordinance, the jury shall be satisfied that the defendant is guilty of an offence under Section 3, 4, or 5 of this Ordinance, or of an indecent assault, but are not satisfied that the defendant is guilty of the felony charged in such indictment, or of an attempt to commit the same, then and in every such case the jury may acquit the defendant of such felony, and find him guilty of such offence as aforesaid, or of an indecent assault, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such offence aforesaid, or for the misdemeanour of indecent assault.

Power of search.

10. If it appears to any Justice of the Peace, on information made before him on oath by any parent, relative, or guardian of any woman or girl, or any other person who, in the opinion of the Justice, is *bona-fide* acting in the interest of any woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such Justice, such Justice may issue a warrant authorising any person named therein to search for, and when found, to take to and detain in a place of safety such woman or girl until she can be brought before a Justice of the Peace; and the Justice of the Peace before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit or require.

The Justice of the Peace issuing such warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before

a Justice, and proceedings to be taken for punishing such person according to law.

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being carnally known by any man, whether any particular man or generally, and—

(a) Either is under the age of sixteen years; or

(b) If of or over the age of sixteen years, and under the age of eighteen years, is so detained against her will, or against the will of her father or mother, or of any person having the lawful care or charge of her; or

(c) If of or above the age of eighteen years is so detained against her will.

Any person authorised by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be by force) any house, building, or other place specified in such warrant, and may remove such woman or girl therefrom :

Provided always, that every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other officer of police, who shall be accompanied by the parent, relative, or guardian, or other person making the information, if such person so desire, unless the Justice shall otherwise direct.

11. Any male person who in public or private commits, or is a party to the commission of, or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding two years, with or without hard labour.

Outrages on decency.

12. Where on the trial of any offence under this Ordinance it is proved to the satisfaction of the Court that the seduction or prostitution of a girl under the age of sixteen has been caused, encouraged, or favoured by her father, mother, guardian, master, or mistress, it shall be in the power of the Court to divest such father, mother, guardian, master or

Custody of girls under sixteen.

mistress of all authority over her, and to appoint any person or persons willing to take charge of such girl to be her guardian until she has attained the age of twenty-one, or any age below this as the Court may direct, and the Supreme Court shall have the power from time to time to rescind or vary such order by the appointment of any other person or persons as such guardian, or in any other respect.

Saving of liability to other criminal proceedings.

13. This Ordinance shall not exempt any person from any proceeding for an offence which is punishable at common law, or under any Act of Parliament or Ordinance other than this Ordinance, so that a person be not punished twice for the same offence.

Costs.

14. The Court before which any misdemeanour indictable under this Ordinance, or any case of indecent assault, shall be prosecuted or tried may allow the costs of the prosecution, in the same manner as in cases of felony, and may in like manner, on conviction, order payment of such costs by the person convicted; and every order for the allowance or payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid upon the same terms and in the same manner in all respects as in cases of felony.

Repeal of enactments.

15. Section 49, and in Section 52 the words "or any attempt to have carnal knowledge of any girl under twelve years of age," of the Act of the Imperial Parliament 24 and 25 Victoria, Cap. 100, intituled "An Act to consolidate and amend the Statute Law of England and Ireland relating to offences against the person," are hereby repealed and shall cease to have effect in this Colony.

Person charged and his wife to be competent witnesses.

16. Every person charged with an offence under this Ordinance or under Section 48 and Sections 52 to 55, both inclusive, of the Act of the Imperial Parliament 24 and 25 Victoria, Cap. 100, or any of such sections, and the husband or wife of the person so charged, shall be competent but not compellable witnesses on every hearing at every stage of such charge.