

PART XXI.

CRIMES AFFECTING CONJUGAL AND PARENTAL RIGHTS—
BIGAMY — ABDUCTION.

SECTION 216.

* BIGAMY.

Bigamy is

(a) The act of any person who, whilst any valid marriage wherever contracted subsists between himself or herself and any person, goes through a form of marriage with any other person in any place in any part of the world; or

(b) The act of any person who, not being married, knowingly goes through a form of marriage in any place in any part of the world with any person whom he or she knows to be married.

The expression "form of marriage" means any form either recognized as a valid form of marriage by the law of the place where it is gone through, or, though not so recognized by the law of that place, such that a marriage celebrated there in that form is recognized as binding by the law of England or Ireland: Provided that every such form otherwise valid shall for the purposes of this section be deemed to be valid notwithstanding any act or default of the person charged with committing bigamy: Provided also, that the fact that the parties would if unmarried have been incompetent to contract marriage shall be no defence upon a prosecution for bigamy:

Provided also, that no one shall be deemed to commit bigamy by going through such a form of marriage as aforesaid, if he or she has been continually absent from his or her wife or husband for seven years then last past, and is not proved to have known that his wife or her husband was alive at any time during those seven years; † but unless there be such absence as aforesaid, a belief on any grounds whatever that a wife or husband is dead shall be no defence to a charge of bigamy, if such wife or husband was in fact alive when the form of marriage was gone through:

Provided also, that no person not being a subject of Her Majesty shall be liable to be convicted of bigamy under this Act in respect of having gone through a form of marriage in any place not in England or Ireland.

* 24 & 25 Vict. c. 100, s. 57, and cases. See the Report, p. 25.

† This expresses the construction put upon the existing statute in *R. v. Gibbons*, 12 Cox, 237.

The opposite view was taken in *R. v. Moore*, 13 Cox, 544. See the Report, p. 25.

SECTION 217.

‡ PUNISHMENT OF BIGAMY.

Every one who commits bigamy shall be guilty of an indictable offence, and shall be liable upon conviction thereof to seven years penal servitude.

Every one who commits this offence after a previous conviction for a like offence shall be liable to penal servitude for fourteen years.

Every one charged with an offence under this section shall be bailable at discretion.

‡ 24 & 25 Vict. c. 100, s. 57.

SECTION 218.

§ ABDUCTION OF A WOMAN AGAINST HER WILL.

Every one shall be guilty of an indictable offence, and shall be liable upon conviction thereof to fourteen years' penal servitude, who, with intent to marry or carnally know any female whether married or not, or with intent to cause any female to be married to or carnally known by any other person, takes away or detains such female against her own will.

Every one charged with any offence under this section may be arrested without warrant, and shall be bailable at discretion.

§ See as to this and the following sections 24 & 25 Vict. c. 100, ss. 53 and 54.

SECTION 219.

ABDUCTION OF HEIRESSSES UNDER TWENTY-ONE AGAINST PARENT'S WILL.

Every one shall be guilty of an indictable offence, and shall be liable upon conviction thereof to fourteen years' penal servitude, who, from motives of lucre takes away or detains any female under the age of twenty-one years,

having any such interest in property as is herein-after mentioned, against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her, or with intent to cause her to be married to or to be carnally known by any other person.

Every one charged with any offence under this section shall be bailable at discretion.

SECTION 220.

PROVISION AS TO PROPERTY OF SUCH WOMEN.

A female who has any interest legal or equitable present or future absolute conditional or contingent in any real or personal estate, or is a presumptive heiress or co-heiress or presumptive next of kin or one of the presumptive next of kin to anyone having such interest has such an interest in property as is referred to in Section 219 of this Act.

Every one convicted of any offence under Section 218 or Section 219 of this Act, in respect of any female having any such interest as aforesaid shall be incapable of taking any estate or interest legal or equitable in any real or personal property of such female, or in which she has any interest, or which comes to her as such heiress co-heiress or next of kin; and if any such marriage takes place, such property shall upon such conviction be settled in such manner as the High Court of Justice in England or Ireland may upon any information at the instance of the Attorney General for England or Ireland appoint. If such property is situated in any other part of Her Majesty's dominions, such settlement shall be made under the direction of such court, and upon the information of such officer, as may correspond to the said High Court and Attorney General respectively.

When any one is prosecuted for any offence under either of the sections aforesaid, a female who after having been taken away is married to the offender, shall notwithstanding that marriage be competent to be a witness against him.

SECTION 221.

* ABDUCTION OF GIRL UNDER SIXTEEN.

Every one shall be guilty of an indictable offence, and shall upon conviction thereof be liable† to seven years' penal servitude, and if a male under sixteen years to be once whipped, who takes or causes to be taken an unmarried girl under the age of sixteen years who was and whom he had reason to believe to be under the lawful care or charge of her father or mother or any other person, without the consent of any such person, to any place where such person cannot exercise control over her, with intent to carnally know her or to cause her to be carnally known by any other person.

It is immaterial whether the girl is taken with her own consent or at her own suggestion or not.

‡ It is immaterial whether or not the offender believed the girl to be of or above the age of sixteen.

Every one charged with any offence under this section shall be bailable at discretion.

SECTION 222.

§ STEALING CHILDREN UNDER FOURTEEN.

Every one shall be guilty of an indictable offence, and shall be liable upon conviction thereof to seven years' penal servitude, and if a male under sixteen years to be once whipped, who, with intent to deprive any parent or guardian or other person having the lawful care or charge of any child under the age of fourteen years of the possession of such child, unlawfully

(a) Leads or takes away or decoys or entices away or detains any such child; or

(b) Receives or harbours any such child, knowing it to have been dealt with as aforesaid:

Provided that nothing in this section shall extend to any one who gets or takes possession of any child, claiming in good faith a right to the possession of the child.

Every one charged with any offence under this section shall be bailable at discretion.

* 24 & 25 Vict. c. 100, s. 55.

† This punishment has been increased from two years hard labour because the offence is confined to abduction with intent to carnally know.

‡ See *R. v. Prince*, L.R. C.C.R. 154.

§ 24 & 25 Vict. c. 100, s. 56.