

A REPORT BY **JUSTICE**

*Legal
Penalties*

The Need for Revaluation

CHAIRMAN
SIR DAVID CAIRNS, Q.C.



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JUSTICE

British Section of the International Commission of Jurists

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JUSTICE invites support for its work not only from lawyers, but from all who are concerned with its objects.

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Justice

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Legal Penalties: The Need for Revaluation

The Report of a Committee appointed by JUSTICE

SCOPE OF THE INQUIRY

In this report we treat the word "penalty" as meaning any type of punishment authorised by law to be inflicted by a criminal court and we assume that the purpose of our inquiry is to form an opinion as to whether some general review is needed of penalties laid down by statute or available under the common law. What the law provides is, of course, almost always, a *maximum* penalty.

It must always be remembered that English law allows a much wider discretion as to the penalty to be imposed than is common under other systems of law. In practice, especially in the case of offences dealt with on indictment, the punishment awarded by an English court is usually far below the maximum, and full use is made by the courts of the powers to make orders for probation or for conditional or absolute discharge, even in cases where the statutory maximum is a very long term of imprisonment. The breadth of the discretion granted to the courts makes it possible for considerable discrepancies to exist between the ways in which different courts deal with similar offences. On the other hand, it is only by allowing a wide discretion that the court can be enabled to take account of the innumerable factors, affecting the nature and circumstances of the crime and the history and personality of the defendant, which ought to be taken into account in assessing punishment.

We are conscious that when any criticism is made of penalties actually inflicted such criticism is much more often directed against the way in which a court has exercised its discretion in fixing the penalty than against the legal limitations to that discretion. After considerable discussion we decided that any useful investigation of possible injustices involved in sentences which have been passed, or of the apparent discrepancies in sentencing practice between one court and another, would necessitate the collection of a vast amount of material which would be quite beyond the scope of this committee. We understand that two pieces of research are being carried out in the universities on the sentencing policy of the courts, which will cover certain aspects of these matters.

Further, we have not attempted to deal with any question whether new types of penalty should be introduced or whether any of the present methods of punishment should be superseded. We do not regard "revaluation" of penalties as including the examination of such matters as the desirability or otherwise of corporal punishment or the finding of suitable substitutes for ordinary imprisonment. We assume that, broadly speaking, punishment will continue to be by death, deprivation of liberty or fine, and that what are to be revalued are the terms of imprisonment and the fines that are provided for different crimes.

We have not found it easy to isolate the problem of revaluation of penalties from the general question of reform of the criminal law. The first thing that must strike anybody who looks at a list of maximum penalties such as that contained in Archbold's *Criminal Pleading and Practice* is the immense variety of maxima provided for crimes which are not inherently very different from each other.

There may well have been valid historical reasons for such apparent anomalies, though in many cases such reasons are now undiscoverable and in many more they have ceased to have any practical significance. The obvious solution in most cases would be to reduce the number of separate categories of crime rather than merely to bring the maxima into line. Thus, for instance, the normal maximum penalty for malicious damage is two years' imprisonment; but for malicious damage to buoys it is seven years; and for malicious damage to hopbinds it is fourteen. On the face of it, damaging buoys would seem to be a more serious offence than damaging hopbinds, but damaging an aircraft or a piece of delicate machinery would be likely to be more serious still. The truth is, however, that the mere question of what type of article is damaged is only one, and not the most important, of the elements that go to make a particular act of malicious damage grave or trivial. There seems to be no point in having these different maximum penalties, but for that matter there seems to be no point in having this series of different crimes, and the logical course would be to bring all types of malicious damage under one head—or else to provide different categories on some basis more in accordance with contemporary ideas. But at this stage we come to a general problem of reform of the substantive criminal law.

Confining ourselves, then, to the matter of prescribed penalties, these questions seem to arise:

- (1) Are some of the maxima too low?
- (2) Are some of them too high, and if so does it matter?

- (3) Should an effort be made to remove the many existing anomalies?
- (4) Should some general rules be laid down as to matters that may be taken into account by way of aggravation or mitigation?
- (5) Is there a case for having fixed or minimum penalties for some crimes?

We consider these questions in turn.¹

DISCUSSION OF THE QUESTIONS INVOLVED

(1) *Are some of the maxima too low?* A penalty is too low if it forms no real deterrent to the commission of the offence. It is in our view wrong in principle that a penalty should be so limited that a large proportion of the people who are inclined to commit the offence in question will consider it worth while to do so continually and to pay the penalty exacted by the law, regarding it merely as a tiresome expense incidental to their activities. Prostitution and street betting are two obvious examples. If any form of behaviour is constituted a crime it seems clear that the maximum penalty should be sufficient to act as a real deterrent.

(We recognise that there are some offences, *e.g.*, some of those connected with Sunday observance, which are themselves archaisms. While those remain on the Statute-book, we should not suggest increasing the penalties. In such cases it is the substantive law and not the penalty provision which needs revision.)

If the maximum penalty is frequently imposed for some offence the reasonable inference is that the maximum is too low. The maximum should be high enough to be adequate punishment for the worst cases in the category covered. A conspicuous example, until recently, of a penalty that was too low was the maximum fine of £2 for fraudulent travelling on the railways. That maximum must have been imposed in many thousands of cases before it was raised in 1950 to £5. We express no opinion as to whether the new limit is high enough.

We have, indeed, no means of carrying out the elaborate investigation that would be needed to form any definite opinion as to whether any particular maximum penalty is too low; but we are satisfied that there must be many that could be raised with advantage. Possible candidates would include indecent assault on females (2 years); simple drunkenness (10s. to 40s.); and being drunk and disorderly (40s. or one month). We consider that this is a matter that should be looked into by some properly equipped

¹ See also classified tables at pp. 11 *et seq.*, *post.*

body, with a view to preparing legislation raising the maxima in all cases where there is a serious doubt as to the adequacy of the existing penalty.

(2) *Are some of them too high, and if so does it matter?* There must be many crimes for which the maximum punishment has not in fact been imposed for generations. It is inconceivable today that a life sentence should be imposed for "personating an owner of stock" or for destruction of a baptismal register; that fourteen years' imprisonment should be awarded for poaching by three armed persons, or five years for cheating at games. These are oddities and archaisms which are not of great practical importance but two points of much wider significance may be mentioned. The first is that there is normally no definable limit to the amount of a fine that may be imposed on conviction on indictment (see *R. v. Morris*,^{1a} where it was held that the only limit was that provided by Magna Carta and the Bill of Rights, *i.e.*, that the fine must not be "excessive"). The second is that there is no limit to the imprisonment that may be imposed on conviction on indictment for any common law offence, including, in general, any *attempt* to commit a felony or misdemeanour.² While the Court of Criminal Appeal has laid down that an attempt should not be punished with a heavier penalty than the maximum prescribed for the full offence,³ it remains true that, in theory at least, the maximum imprisonment for, say, forgery of documents not otherwise provided for is two years but there is no fixed maximum for an attempt to commit such a forgery. Similar considerations apply to a conspiracy to commit an offence.⁴

Does it matter? Everybody knows that the maximum sentence is hardly ever imposed for any crime except murder and some minor crimes where the penalty happens to be a very low one. Courts of assize and quarter sessions are dealing constantly with housebreakers who are liable to fourteen years' imprisonment but in practice, apart from the defendants put on probation, discharged, fined, or sent to Borstal, corrective training or preventive detention, the sentence will range from, say, nine months to five years according to the previous record and the number and gravity of the offences being dealt with. Does it then make any practical difference to anybody whether the maximum is seven, fourteen or twenty years?

In our opinion the amount of the maximum is of importance for the following reasons:

^{1a} [1951] 1 K.B. 394.

² *R. v. Pearce* (1942) 36 Cr.App.R. 146.

³ Archbold, 34th ed., § 4111.

⁴ See *R. v. Morris*, *supra*.

(a) The provisions of the law have an effect upon both judicial and lay attitudes to crimes, and if the maximum penalty is fixed high the crime tends to be regarded as more serious than if the maximum were low. This point is made with great force in the case of capital punishment by the Royal Commission on Capital Punishment.⁵ It is, we think, inevitable, and indeed right, that a judge or bench of magistrates in considering sentence should pay some regard to the statutory maximum (apart from the obligation not to exceed it). If the legislature considers that two years is a suitable maximum for indecent assault on a female and ten years is the proper maximum for indecent assault on a male, then a judge must and should regard the latter as an offence which demands heavier punishment than the former, circumstances being as nearly as possible equal. Moreover the public, in so far as they are aware of the difference, are likely to be affected by it in the degree of repugnance that they feel for the crime. So far as the potential criminal is concerned, if he knows of the maximum at all and pays any heed to it, a maximum which bears some relation to the punishment he is likely to receive may be more effective than one which is so high that he does not regard it as a serious risk.

(b) The purpose of fixing maxima is to put some limit on judicial discretion and if there is to be such a limit for some crimes there should be a limit for all and it should be chosen rationally. The whole notion of legality, to which JUSTICE is dedicated, involves a distrust of excessively wide discretionary powers and seeks to impose such limitations as are consistent with the public interest.

(3) *Should an effort be made to remove the many existing anomalies?* The removal of anomalies may be said to consist in the raising of maxima which are too low and the lowering of those which are too high, and therefore to be covered by the discussion in the last two sections. The points we wish to emphasise in this section are: (i) that while for any crime considered in isolation all that matters is that the maximum penalty should be sufficient to deal with any case likely to arise and not so great that it cannot conceivably be necessary to impose it, it is desirable that in a rational legal system the *relationship* between the maxima for different crimes should be a logical one; and (ii) that the law should aim at being as simple, intelligible and consistent as possible.

As an example we take Larceny. Larceny of dogs after a previous conviction is punishable by eighteen months' imprisonment; for larceny of deer (after a previous conviction), of fish, of

⁵ 1953, Cmd. 8932, para. 59.

hares or rabbits by night, of ore, or any larceny of up to £5 in value by a tenant or lodger, the maximum is two years' imprisonment: for simple larceny and also for larceny of documents of title, electricity, fixtures, plants or trees it is five years; for larceny of postal packets by an officer of the post office, or for larceny over the value of £5 by a tenant or lodger it is seven years; for larceny by a clerk or servant, larceny from the person or from ships, docks, etc., larceny in a dwelling-house, larceny of cattle or of certain goods in process of manufacture, it is fourteen years; and for larceny of postal packets from mail bags or of wills or for larceny by an officer of the post office of a packet containing a valuable security, it is life imprisonment. (This list is far from including all the varieties of larceny known to the law.)

The maximum penalty for obtaining goods, money or a valuable security by false pretences is five years' imprisonment.

Clearly the theft of a valuable greyhound may be a graver offence than the theft of half a crown in a dwelling-house. He who obtains an enormous sum by a cleverly devised scheme of false pretences may deserve heavier punishment than he who, on the spur of the moment, steals a letter containing a postal order.

We draw attention to the extraordinary jumble of criteria which govern the maximum: sometimes it depends on value; sometimes on the type of goods stolen; sometimes on the status or occupation of the thief; sometimes on the place of theft; sometimes on whether it is a first or subsequent offence. For rabbits and hares, but for nothing else, the maximum depends on whether it is a day or a night offence; the gravity of a lodger's theft depends on the value but for a clerk or servant it does not; and so forth.

In our opinion the criminal law would be greatly improved by a simplification of the provisions as to the punishment for larcenies and by the making of some more realistic assessment of the comparative gravity of larceny and false pretences. For larceny the defect is one of over-elaboration, for false pretences it is rather one of excessive uniformity.

We recognise that different types of larceny may require different maxima. For instance, any circumstances which permit a special opportunity for theft (*e.g.*, in the postal service) may necessitate a high penalty to act as a sufficient deterrent. The same may be so in the case of thefts of a type which of their nature are difficult to detect. Again, it may be right to maintain the broad differentiation between larceny, which involves a direct violation of proprietary rights, and obtaining by false pretences; but we consider that the same considerations which justify the

retention of several categories of larceny would also make appropriate the introduction of several categories of false pretences with different maxima.

One reason why many penalties now seem anomalous is that changes have occurred in the social and moral climate since they were laid down by Parliament. The legal penalties imposed in any society reflect the social and moral values of the period, and the view taken by lawmakers of the potential harmfulness of various crimes to the existing social order. When the social climate changes, the law is changed only after a certain delay during which the law may fall into disrepute and not be enforced. An obvious example from the past is the refusal of many juries to convict for theft during a considerable period before the abolition of the death penalty for this offence.

In the last thirty years, there has probably been a bigger revolution in social values than in any previous hundred years, but our scales of punishment have remained largely unchanged. For example, many existing penalties still reflect the extreme fear with which attacks on the existing order and the sanctity of established institutions were formerly regarded. Thus we find life imprisonment still prescribed for such offences as arson of public buildings, stations and churches; trading with pirates; riot after proclamation; unlawful oaths; malicious damage to river banks, bridges, and railways; destruction of registers; fraudulent cancellation of wills; false entry of stock at the Bank of England (14 years only at the L.C.C.); counterfeiting gold and silver; forgery of wills and deeds; and sacrilege.

Another similar tendency in our system of penalties is for offences against property to command heavier punishment than physical offences against persons, particularly where sexual offences against women and girls are concerned. The long list of property offences (larceny, forgery, arson, etc.), for which sentences of from seven years to life can be imposed, often dating from a time when the defence of property was the main concern of the law, now looks out of keeping with the maximum of two years for a whole range of sexual offences such as procuration by threats, fraud or drugs; detention in a brothel; living on the earnings of prostitution; indecent assault on any woman or girl; and sexual intercourse with a girl of between thirteen and sixteen years of age. A striking example of this anomaly is that the abduction of a woman with intent on her fortune involves a maximum of fourteen years, but the abduction of a girl of fourteen with intent on her virtue only two years. Again, the maximum for cruelty to children is only two years—unless the accused was interested in

money accruing on the death of the child, in which case it is five years.

We are not here concerned to say whether the maxima for offences against property are too high, or those against the bodily and moral welfare of persons are too low; we desire only to call attention to the disparity of concern evinced by the present law.

As we indicated at the beginning of this report, any attempt to remove anomalies such as we have referred to, which run right through our criminal law, might well involve reforms which do not come under the heading of revaluation of penalties, but affect the substantive law, and it is obvious that very full inquiry would be needed before any legislation could be prepared.

We would, however, suggest that in a modern system of law any differentiation as to maximum penalty between one crime and another within the same broad category should be based on the motive and intention with which the act is done and on other circumstances (e.g., whether a breach of trust is involved), rather than on the actual loss or damage inflicted by it.

(4) *Should some general rules be laid down as to matters that may be taken into account by way of aggravation or mitigation?* Aggravating circumstances are dealt with in a very haphazard way by English law. Thus the fact that a crime is committed by night is in general immaterial, though a judge could of course take it into account if he thought fit in fixing a penalty within the maximum. We have, however, already mentioned one example of a case where commission of the offence during the night is regarded as an aggravation requiring a higher maximum penalty. A still more striking example is that of breaking into a dwelling-house with intent to steal therein, which is the crime of housebreaking, punishable by seven years' imprisonment, if done by day, but is elevated into the separate crime of burglary and made punishable with life imprisonment if done by night. The fact that the defendant has been convicted of a similar offence on a previous occasion, or on a number of previous occasions, has normally no bearing on the maximum available sentence, though it is one of the principal matters ordinarily considered in fixing the actual sentence and is the basis for the special sentences of Corrective Training and Preventive Detention. For a comparatively small proportion of crimes, however, a higher maximum is fixed for a second or subsequent offence (mainly in the case of some less serious crimes such as betting and driving offences). There are some quite absurd anomalies, e.g., that for the theft of dogs or deer (but not of fish, hares or cattle) the maximum is higher after a previous conviction.

Mitigating circumstances are hardly ever provided for by law, except in the sense that certain statutes require regard to be paid to the youth of the offender or to the fact that he had not been previously convicted. Murder may be "reduced" to manslaughter by certain mitigating circumstances, *e.g.*, provocation, but in general it is left entirely to the judge's discretion to take into account by way of mitigation anything which seems to him to lessen the gravity of the offence.

It appears to us that certain matters to be taken into account by way of aggravation might with advantage be laid down by law so as to apply to criminal offences generally. Thus, in connection with previous offences, the present haphazard provisions for certain crimes to be more heavily punishable after a previous conviction might be swept away and some general rules laid down for higher maxima for persons previously convicted. One advantage of dealing in this way with this and other matters of aggravation would be to enable the ordinary maximum to be reduced so as to be more closely related to what should represent a fitting punishment for the crime in question. At present most maxima are fixed high simply because provision has to be made for the case which may arise only once in many years where the aggravating circumstances are such as to demand a very heavy punishment. It would, we consider, be more satisfactory that the matters which will justify an unusually severe sentence should be laid down by the law than that they should be left entirely to the discretion of the judge.

Similarly there might be a general provision for a reduced maximum penalty in the case of offenders who had no previous convictions, of any kind or of a similar kind.

We consider that some codification of grounds for aggravation or mitigation, and of the degree to which these should affect the penalty, would be of assistance in co-ordinating the sentencing practice of different courts; though we are far from suggesting that any attempt should be made to lay down such precise regulations that the sentence could be arrived at by mere rule of thumb. Whatever guidance is given to the courts by statute, we consider it essential that they should not be deprived of the power to take account of circumstances for which the legislature has made no provision, and to give such weight to them as they think fit, within reasonable limits. A valuable check on any tendency for a particular court to exercise its discretion in a way that is out of line with current practice is provided by the decisions and observations on sentences made by the Court of Criminal Appeal and the Divisional Court.

(5) *Is there a case for having fixed or minimum penalties for some crimes?* Except for the death penalty and the penalty of life imprisonment for non-capital murder, there are practically no fixed or minimum penalties laid down by English law. Under war-time legislation it was provided that for certain offences a fine should be imposed not less than sufficient to ensure that the defendant made no profit from his offence. But the rule is practically universal that the court can impose any fine from a nominal sum up to the maximum (if any) fixed by statute, or any term of imprisonment (or detention) from one day up to the maximum.⁶ Many Continental systems of law do fix minima as well as maxima, and fixed penalties are not unknown.

We do not feel called upon to express any opinion on the question of whether sentence of death or of life imprisonment should be the automatic sequel to conviction for the gravest crimes. As to penalties generally, we do not consider that the introduction of minimum or fixed penalties would be advantageous. So long as the court has it in its power to make an order for probation or for absolute or conditional discharge (and we see no reason to think that any limitation is likely to be or ought to be imposed on the discretion to make such orders), it would be illogical to compel the court, if it punishes at all, to impose some fixed or minimum penalty. Moreover, the definition of almost every kind of crime is necessarily so worded as to include some acts which are little more than technical offences; and the possible circumstances of mitigation are so many and various that we consider it should always be open to a court to reduce the penalty to any extent it thinks fit.

CONCLUSION

It has not been practicable for this sub-committee to do more than make a brief survey of the subject of revaluation of penalties, but this has been sufficient to satisfy us that there is a strong case for the setting up of an official committee or commission of inquiry into the matter, either as a separate subject for investigation or, perhaps more profitably, as part of a wider examination directed to finding ways of simplifying, strengthening and rationalising the criminal law of this country.

⁶ On certain convictions for driving offences, however, disqualification must be imposed in the absence of special reasons for ordering otherwise; and for driving while disqualified the punishment is imprisonment unless the court, having regard to special circumstances, considers a fine an adequate punishment.

NOTE ON CLASSIFIED TABLES

The tables which follow are intended to give a general picture of the present range of maximum penalties for indictable offences. They have been condensed from fuller tables prepared by the Committee when it undertook this study. They are not designed as comprehensive lists for legal reference.

No attempt has been made to survey the wide range of minor offences punishable summarily in Magistrates' Courts.

MAXIMUM PENALTIES CLASSIFIED IN SOCIAL CATEGORIES

Offences against the State—Security

| | |
|---|----------|
| Treason | Death |
| Treason felony, inciting to mutiny | Life |
| Spying | 14 years |
| Illegal training and drilling | 7 years |
| Shooting at naval vessel or aircraft | 5 years |
| Inciting to disaffection, disclosure of information, harbouring spies | 2 years |

Offences against the State—Public Order

| | |
|--|----------|
| Arson of ships, piracy with violence | Death |
| Arson of public buildings, stations, mines, churches, stacks | Life |
| Malicious damage to river and sea banks, bridges, railways, ships, machinery and certain goods | Life |
| Riot, riot after proclamation, unlawful assembly, endangering safety of railways | Life |
| Causing explosions | 20 years |
| Attempted arson of public buildings, etc. | 14 years |
| Possessing firearms to endanger life | 14 years |
| Assault on officer saving wreck | 7 years |
| Malicious damage to electric lines, telegraphs, trees in parks (over £1), trees not in parks (over £5) | 5 years |
| Assault on police officer in execution of duty | 2 years |
| Causing disaffection among police | 2 years |
| Signalling to smugglers | 1 year |

Offences against the State—Coinage and Currency

| | |
|---|----------|
| Counterfeiting gold and silver coins, possessing counterfeiting tools | Life |
| Impairing gold and silver coins, possessing forged banknotes | 14 years |
| Counterfeiting copper coins, making paper for banknotes | 7 years |
| Possessing 3 or more counterfeit gold or silver coins | 5 years |
| Uttering counterfeit coin twice in 10 days | 2 years |
| Defacing coin, uttering counterfeit coin | 1 year |

Offences against the State—Financial

| | |
|---|----------|
| Embezzlement by Post Office or Bank of England officials, false entry of Bank of England stock | Life |
| Forgery of wills, bonds, deeds or banknotes | Life |
| Larceny and receiving of postal packets | Life |
| Bribery of public officials | Life |
| False entry of L.C.C. stock | 14 years |
| Compounding by corruptly taking reward, forgery of official documents | 7 years |
| Personation of Inland Revenue officer, smuggling | 2 years |
| Corruption of members or servants of public bodies | 2 years |

Offences against the State—General Social Order

| | |
|--|----------------------|
| Destruction of registers of births, deaths, etc. | Life |
| Obscene, seditious or blasphemous libel | Life |
| Sacrilege, blasphemy, gaming, public mischief, inciting to commit crime, conspiracy generally | Life |
| Offences against Marriage Act, time, place, banns, Holy Orders, etc. | 14 years |
| Contravention of Dangerous Drugs Act | 10 years |
| Bigamy, perjury, personation of bail | 7 years |
| False entries of birth | 5 years |
| Concealment of birth, forgery of passports, perjury in statutory declaration | 2 years |
| Bribery at elections, keeping common gaming house | 1 year |
| Street betting (3rd offence) | 6 months (or £50) |

Offences against Private Property

| | |
|---|-----------|
| Burglary, robbery (aggravated) | Life |
| Housebreaking and committing felony | 14 years |
| Larceny, by clerk or servant; larceny in house or of cattle | 14 years |
| Damage to cattle, certain goods, and machinery | 14 years |
| Possession of housebreaking implements (2nd offence) | 10 years |
| Housebreaking with intent | 7 years |
| Larceny by tenant or lodger | 7 years |
| Larceny of documents, electricity, plants, trees; and simple larceny | 5 years |
| Larceny of fish, and of hares and rabbits by night | 2 years |
| Larceny of dogs | 18 months |
| Taking motor-vehicle without owner's consent | 1 year |

Financial Offences against Persons or Firms

| | |
|--|----------|
| Demanding money with menaces | Life |
| Larceny of wills, conspiracy to defraud | Life |
| Personation of heir, or of owner of stock | Life |
| Embezzlement by clerk or servant, forgery of documents | 14 years |
| Falsification of accounts by clerk or servant | 7 years |
| Fraudulent conversion, frauds by directors, sharepushing | 7 years |
| Bankruptcy (non-disclosure of property) | 5 years |

Financial Offences against Persons or Firms—continued

| | |
|--|-----------|
| Cheating at games, false pretences (re securities), demanding money with intent to steal | 5 years |
| Fraudulent mediums | 2 years |
| Bankruptcy: absconding, gambling, etc. | 2 years |
| Corruptly taking money for recovery of stolen dog | 18 months |
| Obtaining credit by false pretences | 1 year |

Physical Offences against Adult Persons (not Sexual)

| | |
|--|----------|
| Capital or repeated murder | Death |
| Non-capital murder, manslaughter, attempted murder | Life |
| Abortion, by use of drugs, poison or instrument | Life |
| Armed robbery, aggravated assault, attempt to maim, false imprisonment | Life |
| Abduction of woman for financial gain | 14 years |
| Conspiracy or threat to murder | 10 years |
| Assault occasioning actual bodily harm | 5 years |
| Supplying means for abortion | 5 years |
| Causing bodily harm by wanton or furious driving | 2 years |
| Common assault | 1 year |

Offences against Children (not Sexual)

| | |
|--|-------------------------|
| Child destruction, infanticide | Life |
| Abduction of child with intent to steal | 7 years |
| Abandonment and exposure of children under 2 | 5 years |
| Cruelty to children with financial interest on death | 5 years |
| Cruelty, generally; abduction of girl under 16 | 2 years |
| Allowing child to live in or frequent brothel | 6 months (&/or fine) |

*Sexual Offences against Children and Young Persons**Under 13*

| | |
|---|---------|
| Sexual intercourse, incest, permitting defilement | Life |
| Attempt at sexual intercourse | 2 years |

13-16

| | |
|---|---------|
| Sexual intercourse or attempt, encouraging seduction, permitting defilement, encouraging prostitution | 2 years |
|---|---------|

Under 18

| | |
|--|---------|
| Abduction of girl for sexual intercourse | 2 years |
|--|---------|

Under 21

| | |
|---|---------|
| Attempt to procure for sexual intercourse | 2 years |
|---|---------|

Sexual Offences against Women

| | |
|--|---------|
| Rape | Life |
| Attempted Rape, Incest | 7 years |
| Attempt to cause prostitution, procuring by threat, woman exercising control of prostitute | 2 years |
| Indecent assault, administering drugs with intent | 2 years |
| Living on immoral earnings | 2 years |
| Attempt to procure defective, attempting intercourse with idiot or imbecile | 2 years |

Sexual Offences against Males

| | |
|---------------------------------------|----------|
| Buggery | Life |
| Assault with intent to commit buggery | 10 years |
| Indecent assault on males | 10 years |
| Incest | 7 years |
| Attempted incest | 2 years |
| Gross indecency with male person | 2 years |

MAXIMUM PENALTIES CLASSIFIED ACCORDING TO SEVERITY

Under Two Years

| | | |
|--|--|----------------------|
| Assault, common | Common Law | 1 year |
| Bankruptcy, obtaining credit, etc. | Bankruptcy Act, 1914, s. 156 | 1 year |
| Bawdy house, allowing child of 4-16 to frequent or reside in | Children and Young Persons Act, 1933, s. 3 | 6 months (&/or fine) |
| Betting (various offences after first conviction) | Betting and Lotteries Act, 1934, ss. 1, 2, 3, 11 | 1 year (&/or £750) |
| Brothel keeping (after previous conviction) | Sexual Offences Act, 1956, ss. 33, 37 | 6 months (or £250) |
| Counterfeiting coin—uttering | Coinage Offences Act, 1936, s. 5 | 1 year |
| Dredging for oysters | Larceny Act, 1861, s. 26 | 3 months |
| Larceny of dogs | Larceny Act, 1916, s. 5 | 18 months |
| Libel, publishing | Libel Act, 1843, s. 5 | 1 year |
| Malicious damage to Post Office letter box | Post Office Act, 1953, s. 60 | 1 year |
| Motor-vehicles, driving when under influence of drink or drugs | Road Traffic Act, 1930, s. 15 | 6 months (or fine) |
| Obtaining credit by false pretences | Debtors Act, 1869, s. 13 | 1 year |
| Signalling to smugglers | Customs and Excise Act, 1952, s. 71 | 1 year (&/or fine) |

Two Years

| | | |
|--|--|-------|
| Abduction, of girl under 16, of girl under 18 or of woman defective for sexual intercourse | Sexual Offences Act, 1956, ss. 20, 19, 21 | |
| Assault on peace officer in execution of his duty | Offences against the Person Act, 1861, s. 38 | |
| Assault with intent to commit felony | do. | |
| Attempted intercourse with girl under 13 or 13-16 | Sexual Offences Act, 1956, ss. 4, 5, 37 | |
| Attempts to procure a woman by threats, a defective or girl under 21 | do. | s. 37 |
| Cruelty to children | Children and Young Persons Act, 1933, s. 1 | |

Two Years—continued

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|---|--|
| Concealment of birth | Offences against the Person Act, 1861, s. 60 |
| Corruption by or of agents | Prevention of Corruption Act, 1906, s. 1 |
| Drugs, administering to female with view to carnal knowledge | Sexual Offences Act, 1956, ss. 4, 37 |
| Escape, assisting prisoners to | Prison Act, 1952, s. 39 |
| Forgery of documents (generally) | Forgery Act, 1913, s. 4 |
| Indecent assault on females | Sexual Offences Act, 1956, s. 14 |
| Larceny of deer (after previous conviction), of fish, of hares and rabbits at night | Larceny Act, 1861, ss. 12, 24, 17 |
| Larceny of ore, of up to £5 value by tenant or lodger | Larceny Act, 1916, ss. 11, 16A |
| Malicious damage (various offences) | Malicious Damage Act, 1861 |
| Moneylenders, false statements by | Moneylenders Act, 1900, s. 4 (and /or fine £500) |
| Motor-vehicle, reckless or dangerous driving | Road Traffic Act, 1930, s. 11 |
| Official secrets, harbouring spies or wrongful communication | Official Secrets Act, 1911, ss. 7, 2 |
| Police, causing disaffection | Police Act, 1919, s. 3 |
| Prostitution, living on earnings of | Sexual Offences Act, 1956, ss. 30, 37 |
| Threatening to publish with intent to extort or induce favour | Larceny Act, 1916, s. 31 |
| Sexual intercourse with girl 13-16 | Sexual Offences Act, 1956, ss. 6, 37 |

Five Years

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| Abandonment or exposure of child under 2 | Offences against the Person Act, 1861, s. 27 |
| Abortion, supplying poison or instruments for procuring | do. s. 59 |
| Assault, actual bodily harm or with intent to rob | Larceny Act, 1916, s. 23 (3) |
| Cheating at games | Gaming Act, 1845, s. 17 |
| Cruelty to children (where money interest on death) | Children and Young Persons Act, 1933, s. 1 (5) |
| Drugs or poison, administering with intent to injure | Offences against the Person Act, 1861, s. 24 |
| False pretences, obtaining chattels or money, etc. | Larceny Act, 1916, s. 32 |
| Housebreaking implements, possession of by night | do. s. 28 |
| Larceny of electricity, fixtures, plants, trees, documents of title; simple larceny | Larceny Act, 1916, ss. 10, 8, 7, 2 |
| Malicious damage to works of art over £20 if committed by night | Malicious Damage Act, 1861, s. 51 |
| Marriage, issue of illegal certificates | Marriage Act, 1949, s. 75 (3) |

Five Years—continued

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|--|--|
| Menaces, demanding money with intent to steal | Larceny Act, 1916, s. 30 |
| Smuggling, interfering with Revenue vessels or aircraft | Customs and Excise Act, 1952, s. 72 (2) |
| Spring guns, setting with intent to inflict grievous bodily harm | Offences against the Person Act, 1861, s. 31 |

Seven Years

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|---|---|
| Abduction of child under 14 with intent to steal | Offences against the Person Act, 1861, s. 56 |
| Assault on gamekeeper by poacher | Night Poaching Act, 1828, s. 2 |
| Bigamy | Offences against the Person Act, 1861, s. 57 |
| Corruption when H.M. Government is concerned | Prevention of Corruption Act, 1916, s. 1 |
| Falsification of accounts by clerks or servants | Falsification of Accounts Act, 1875, s. 1. |
| Frauds by directors, etc. | Larceny Act, 1861, ss. 82, 83, 84 |
| Fraudulent conversion generally | Larceny Act, 1916, s. 20 |
| Housebreaking with intent | Larceny Act, 1916, s. 27 |
| Illegal training and drilling | Unlawful Drilling Act, 1819 |
| Incest by males and by females over 16 | Sexual Offences Act, 1956, ss. 10, 11, 37 |
| Larceny by tenant or lodger (over £5), by postal officer of postal packet | Larceny Act, 1916, ss. 16 (a), 18 (b); Post Office Act, 1953, s. 57 |
| Malicious damage to buoys, fish ponds, mines | Malicious Damage Act, 1861, ss. 48, 32, 29 |
| Perjury as to births, deaths, marriages and judicial proceedings | Perjury Act, 1911, ss. 4, 3, 1 |
| Receiving (where stealing is a misdemeanour) | Larceny Act, 1916, s. 33 (1) |
| Unlawful oaths, generally | Unlawful Oaths Act, 1797, s. 1 |

Ten Years

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|--|--|
| Assault with intent to commit buggery | Offences against the Person Act, 1861, s. 62 |
| Conspiracy to murder | do. s. 4 |
| Indecent assault on males | Sexual Offences Act, 1956, s. 15 |
| Poison, administering so as to endanger life, etc. | Offences against the Person Act, 1861, s. 23 |
| Threats to burn houses | Malicious Damage Act, 1861, s. 50 |
| Threats to murder | Offences against the Person Act, 1861, s. 16 |

Fourteen Years

| | |
|-------------------------------------|---------------------------------------|
| Abduction of woman for her property | Sexual Offences Act, 1956, s. 17 |
| Abduction of heiress | do. s. 18 |
| Arson of buildings and crops | Malicious Damage Act, 1861, ss. 6, 16 |

Fourteen Years—continued

| | |
|---|--|
| Explosives, making or possessing in suspicious circumstances | Explosive Substances Act, 1883, s. 4 |
| Forgery of valuable securities, registers, seals and dies | Forgery Act, 1913, ss. 2 (2), 3 (2), 5 |
| Housebreaking and committing felony | Larceny Act, 1916, s. 26 |
| Larceny by clerk or servant, and from the person | Larceny Act, 1916, ss. 17, 14 |
| Larceny from ships and docks, in dwelling-houses, of cattle, of goods in process of manufacture | do. ss. 15, 13, 3, 9 |
| Malicious damage to cattle and hobbinds | Malicious Damage Act, 1861, ss. 40, 19 |
| Official secrets, spying | Official Secrets Act, 1911, s. 1 |
| Poaching by three or more armed persons | Night Poaching Act, 1828, s. 9 |
| Receiving any property (if stealing a felony) | Larceny Act, 1916, s. 33 (1) |
| Robbery | Larceny Act, 1916, s. 23 (2) |
| Marriage, offences <i>re</i> time, banns, place and Holy Orders | Marriage Act, 1949, s. 75 |

Twenty Years

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| Conspiracy to cause explosions, etc. | Explosive Substances Act, 1883, s. 3 |
|--------------------------------------|--------------------------------------|

Life

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| Abortion, using poison, instrument or drugs to procure | Offences against the Person Act, 1861, s. 58 |
| Arson of churches, mines, public buildings, stacks | Malicious Damage Act, 1861, ss. 1, 26, 5, 17 |
| Attempts to commit crime generally | Common law (and/or fine) |
| Blasphemy | Common law (and/or fine) |
| Breaking prison | do. |
| Bribery of public officials | do. |
| Buggery | Sexual Offences Act, 1956, ss. 12, 37 |
| Burglary | Larceny Act, 1916, s. 25 |
| Carnal knowledge of girl under 13 | Sexual Offences Act, 1956, ss. 5, 37 |
| Cheating generally | Common law (and/or fine) |
| Child destruction | Infant Life, Preservation Act, 1929 |
| Coinage, gilding, counterfeiting gold and silver | Coinage Offences Act, 1936, ss. 2, 1 |
| Compounding offences | Common law (and/or fine) |
| Conspiracy generally | do. |
| Corrosive throwing | Offences against the Person Act, 1861, s. 29 |
| Destruction of registers of births, baptisms | Forgery Act, 1861, ss. 36, 37 |

Life—continued

| | |
|--|--|
| Embezzlement by officer of Post Office | Post Office Act, 1953, s. 57 |
| False imprisonment | Common law (and/or fine) |
| False entries of stock in books of Bank of England | Forgery Act, 1861, s. 5 |
| Forgery of wills and deeds and banknotes | Forgery Act, 1913, s. 2 (1) |
| Fraudulent cancellation of wills | Larceny Act, 1861, s. 29 |
| Inciting to commit crime | Common law (and/or fine) |
| Indecent prints, selling | do. |
| Infanticide | Infanticide Act, 1938 |
| Larceny of wills | Larceny Act, 1916, s. 6 |
| Larceny by postal officer (valuable security), or of packet from mailbag | Post Office Act, 1953, ss. 57, 52 |
| Libel, obscene, blasphemous or seditious | Common law (and/or fine) |
| Malicious damage to bridges, river banks, and railways | Malicious Damage Act, 1861, ss. 33, 30, 35 |
| Manslaughter | Common law (and/or fine) |
| Menaces, demanding money with intent to extort or injure | Larceny Act, 1916, s. 29 |
| Non-capital murder | Homicide Act, 1957, s. 9 |
| Nuisance | Common law (and/or fine) |
| Personation of heir | False Personation Act, 1874, s. 1 |
| Personation of owner of Indian Stock | Indian Stock Certificate Act, 1863, s. 14 |
| Pirates, trading with | Piracy Act, 1721, s. 1 |
| Rape | Sexual Offences Act, 1956, ss. 1, 37 |
| Riot after proclamation | Riot Act, 1714, s. 1 |
| Robbery, armed or aggravated or with violence | Larceny Act, 1916, s. 23 (1) (a) |
| Sacrilege | (b) |
| Sexual intercourse with girl under 13 | Larceny Act, 1916, s. 24 |
| Suicide, attempted | Sexual Offences Act, 1956, ss. 5, 37 |
| Unlawful oaths, to commit treason or murder | Common law (and/or fine) |
| Unlawful assembly | Unlawful Oaths Act, 1812, s. 1 |
| | Common law (and/or fine) |

Death

| | |
|----------------------------|---|
| Arson of ships | Dockyards Protection Act, 1772, ss. 1, 42 |
| Capital or repeated murder | Homicide Act, 1957, ss. 5, 6 |
| Piracy with violence | Piracy Act, 1837, s. 2 |
| Treason | Treason Act, 1351, and Forfeiture Act, 1870, s. 1 |

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