out or negatived ;[2] and it is immaterial whether the exemption be in another section or in a distinct Act of Parliament, if referred to and engrafted upon the enacting clause.[3] And where the essence of any offence depends on the absence of legal excuse, the act complained of must be charged as having been done without such legal excuse, notwithstanding no such condition or qualification is referred to in the statute.[4]

Written instruments, when referred to in an information, should be stated with great accuracy, and when the gist of the charge should be set out verbatim.[5]

Sums and quantities should be stated, for in many cases the summary jurisdiction given to Justices depends upon the amount of damage or injury done; and where the question turns upon particular sums or quantities—that is, where value or quantity are necessary parts of the case—they must be particularized with accuracy in the information. Moreover, as Justices may award compensation according to the amount of damage, it is important it should be specified. [6]

Recital of a Statute.—It has been usual in an information under a particular Act to set out its title, &c., and then to aver that that the offence complained of is contrary to its provisions; but this mode of describing a statute does not seem necessary: but it is proper to conclude an information against the form of a Statute, &c. When a Statute is referred to, it must be cited correctly; to describe a Statute as passed in more years than one of a Sovereign reign (as in the 4 & 5, &c.) is incorrect; and this, notwithstanding such Statute may be so recited in subsequent Acts of Parliament,[7] the proper way to describe such a Statute is to say "passed in the session of Parliament holden in the fourth and fifth years of the reign," &c. It is bad, also, to recite a Statute as of the Province of *Canada*, when it is a Statute of the Province of *Upper Canada*.[8] Many of the late Acts contain a very convenient provision giving a short title by which they may be cited: for instance, in "The Upper Canada Division Courts Extension Act," (16 Vic. c. 177, s. 32.)

Describing the property of partner, &c.—To obviate the difficulty which was frequently experienced of stating the ownership of property in informations and complaints, and the proceedings therein, the late Statute[9] has provided that where it is necessary to state the ownership of property belonging to or in the possession of *partners, joint tenants parceners* or *tenants in common*, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another, or others, as the case may be; and so, when it is necessary to mention such parties in any information or complaint, for any purpose whatsoever. And there is a like provision as to the ownership of any *work*, or *building*, *made*, *maintained*, or *repaired*, at the expense of any Territorial Division, or of any *materials* for the *making*, *altering* or *repairing* the same, which may be described as the property of the inhabitants of such Territorial Division.

The statement of the time and place of the offence is so immaterial as to strict accuracy that it may be sufficient to say that the object of such statement as to *time* is to show that the information was laid in due time, and to protect the defendant against another charge for the same matter—as to *place*, that it may appear the Magistrate had jurisdiction.[10]

But it has always been sufficient when the locality has once been named, as "at A in the County of B," to say afterwards "at A aforesaid."

It seems better, however, in every case to state the *time and place* of the offence as accurately as possible; and, indeed, it would seem that if in fact a particular locality, however limited, be an ingredient in the offence, it must be accurately described *in the information*, notwithstanding the latitude permitted generally by the late Act.[11]

Aiders and Abettors,—it seems in place here to notice, are now made punishable upon summary conviction. At Common Law accessories in misdemeanors were not punishable, but the 16 Vic. c. 178 thus enacts:

> That every person who shall aid, abet, counsel, or procure the commission of any offence which is or hereafter shall be punishable on summary conviction, shall be liable to be proceeded against and convicted for the same, *either together* with the principal offender, or before or after his conviction, and shall be liable on conviction to the same forfeiture and punishment as such principal offender is or shall be by law liable, and may be proceeded against and convicted either in the territorial division or place where such principal offender may be convicted, or in that in which such offence of aiding, abetting, counselling, or procuring, may had been committed.

For the "Law Journal."

In a late number of the *Law Times* appeared some observations on the present state of the profession in England, which are not without interest in their bearing as to the future for Upper Canada. It may be feared that breakers are ahead, that we are approaching the state of things that in England has produced such disastrous results. The article alluded to opens with the following candid admission:—

[2] Paley on Convictions, 118, Steel v. Smith, 1 B & Ald 94.
[3] R. v. Pratten, 6 T. R. 559, R. v. Matthews, 10 Mod. 27; R. v. Jarvis, 1 Burr 148; 1 East 643; R. v. Thud. 1 Ld. Raym 1375, and see also the recent case Van Boven, 16 L. J. 4 M. C.
[4] See In re. Turner, 16 L. J. 140, M. C.
[5] R. v. Powell, 2 East P. C. 976; Wright v Clement, 3 B. & Ald. 503.
[6] Charter v. Greame, 18 L. J. 73 M. C., R. v. Catherall, Str. 900; R. v. Marshall, 2 Keb. 691; R. v. Gibbs, 1 Str. 497.
[7] Huron D. C. v. London D. C. 4 U. C. R. 302; R. v. Biers, 1 A. & E. 327, Beah v. Beverly, 11 M. & W. 816.
[8] Huron D. C. v. London D. C. 4 U. C. R. 302.
[9] See 16 Vic. c. 178, s. 4

[10] See ante page 402 & 403.
[11] See Daybell's case, 4 B. & Ald. 243-247; R. v. Fletcher, 13 L. J. M. C. 16.