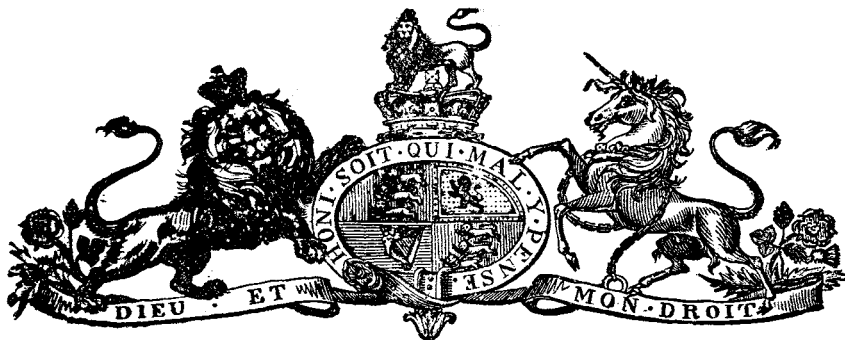


T A S M A N I A.



1873.

ANNO TRICESIMO-SEPTIMO

VICTORIÆ REGINÆ,

No. 6.

AN ACT to Consolidate and Amend various A.D. 1873.
Enactments relating to the Administration of
the Criminal Law. [1 August, 1873.]

WHEREAS it is desirable and necessary that the Legislative PREAMBLE.
Enactments relating to the Mode of Pleading and Procedure in Criminal
Cases should be consolidated in one Act and amended :

Be it therefore enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows :—

Short Title.

1 This Act may be cited as “The Criminal Law Procedure Act, Short title.
1873.”

Interpretation.

2 In this Act, unless the context otherwise determines—

Interpretation.

“Judge” means either a Judge of the Supreme Court or the
Recorder of any Court of General Sessions of the Peace :

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"The Court" means and includes any Session of Oyer and Terminer and General Gaol Delivery of the Supreme Court, whether held before one Judge or not, and also any Court of General Sessions of the Peace held before a Recorder :

"The Supreme Court" means "The Supreme Court of *Tasmania*."

"Attorney-General" includes any Officer appointed to prosecute crimes, misdemeanors, and offences by virtue of the provisions contained in Section 5 of the Act of the Imperial Parliament of the 9th *George* the 4th, Chapter 83.

16 V., No. 7.,
s. 32.

"Information" includes any "plea," "replication," or other pleading :

Ib.

"Person" includes bodies corporate :

Ib.

"Property" includes goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed :

"Offence" means and includes any crime, misdemeanor, or offence cognizable in the Supreme Court :

"Sheriff" includes a Deputy Sheriff :

"Statute" includes any Act of the Legislature of this Colony.

The term "cattle" defined.

3 The term "cattle" used in the Fortieth Section of the Act of the Parliament of *Tasmania* of the 27th *Victoria*, No. 7, includes any horse, mare, gelding, colt, or filly ; any bull, cow, ox, heifer, or calf ; any ram, ewe, sheep, or lamb ; any mule or ass ; and any pig or goat.

Discharge of Persons committed for Trial.

Attorney-General may discharge persons by his certificate.
[11 G. 4, No. 7.]

4 It shall be lawful for the Attorney-General, in respect of any person now or hereafter imprisoned in any Gaol charged with any offence, to grant at any time a Certificate under his hand in the form in the Schedule (1), and the Sheriff or Gaoler in whose custody any such prisoner then is shall, upon the delivery of any such Certificate to him, immediately and without fee or reward discharge the prisoner therein mentioned from imprisonment in respect of the offence mentioned in the same Certificate ; and if the Sheriff or any such Gaoler refuses or neglects so to do, he shall for every such offence forfeit and pay a penalty of Fifty Pounds, which may be recovered before any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*.

Criminal Information.

Proceedings on criminal informations filed by leave of the Court.
[19 V., No. 23, s. 4.]

5 Every criminal information exhibited by leave of the Supreme Court shall be in such form, and subject to such rules and manner of proceeding, and the leave to exhibit the same shall be granted upon such terms and conditions, as the said Court in any case for the purpose of securing the substantial ends of justice thinks fit to direct ; and in every case not otherwise provided for, every such criminal information, and all proceedings in relation thereto, shall, as far as may be practicable, be subject in all respects to the same rules as would be observed in *England* with respect to a similar criminal information in the name of the Master of the Crown Office ; and for the purpose of dis-

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tinguishing criminal informations exhibited by leave of the said Court from informations filed in fact by the Attorney-General there shall be indorsed on every criminal information so exhibited the words "By leave of the Supreme Court of *Tasmania*," and also the name of the person prosecuting such information; and it shall not be necessary for the signature of the Attorney-General or such other officer as aforesaid to be subscribed to any such information, but the same shall be subscribed only by such ministerial officer of the Court as the Court in that behalf directs.

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Pleading.

6 In every information for embezzlement it shall be sufficient to allege that the defendant, being the clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, as the case may be, of *A.B.* did fraudulently and feloniously embezzle certain money (or as the case may be) the property of his said master; and in any case where two or three embezzlements are charged in the same information, it shall be sufficient, in charging such second or third embezzlement, to allege that the defendant, being the clerk or servant, or being employed as aforesaid, as the case may be, of the said *A.B.*, did, within the space of Six calendar months from the commission of the offence in the first count mentioned, fraudulently and feloniously embezzle certain other money (or as the case may be) the property of his said master.

Form of information in cases of embezzlement.

7 In every information for stealing, embezzling, destroying, or concealing, or for obtaining by false pretences any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof, without setting out any copy or fac-simile thereof or otherwise describing the same or the value thereof.

Description of instrument in information for stealing, &c., or obtaining by false pretences.
[16 V. No. 7, s. 5.]

8 In all other cases wherever it is necessary to make any averment in any information as to any instrument, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

In other cases.
[*Ib.*, s. 7.]

9 In any information for any offence in which it is necessary to state the ownership of any property which belongs to or is in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons and to state such property to belong to the person so named and another or others, as the case may be; and whenever in any information for any offence it is necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall be construed to extend to all Joint Stock Companies and Trustees.

Property of partners may be laid in any one and others.
[7 G. 4, c. 64, s. 14.]

10 In every information in which it is necessary to make any averment as to any money or any bank-note, it shall be sufficient to describe such money or bank-note simply as money, without specifying any particular coin or bank-note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of

Coin and bank notes may be described simply as money.
[*Ib.*, s. 20.]

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coin or of any bank-note although the particular species of coin of which such amount was composed or the particular nature of the bank-note is not proved; and in cases of obtaining money or bank-notes by false pretences, by proof that the offender obtained any piece of coin or bank-note, or any portion of the value thereof, although such piece of coin or bank-note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part has been returned accordingly.

Form of information for a subsequent felony.
[7 & 8 G. 4, c. 28, s. 11.]

11 In every information for any felony not punishable with death committed after a previous conviction for felony, it shall be sufficient, (except where otherwise provided by any Law), after charging the subsequent offence, to state that the offender was at a certain time and place convicted of felony, without otherwise describing the previous felony.

Extending the 23 Geo. 2, c. 11, s. 1 to other offences, and simplifying informations for perjury and other like offences.
[16 V. No. 7, s. 22.]

12 In every information for perjury, or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court, or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, was taken, made, signed, or subscribed, without setting forth the bill, answer, information, declaration, or any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

Extending the 23 Geo. 2, c. 11, s. 2, as to form of informations for subornation of perjury and other like offences.
[*Ib.*, s. 23.]

13 In every information for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly to take, make, sign, or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, wherever such perjury or other offence aforesaid has been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, wilfully, and corruptly did cause and procure the said person the said offence in manner and form aforesaid to do and commit; and wherever such perjury or other offence aforesaid has not been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Sufficient to charge the offence in the terms of the Statute creating or defining it.

14 Wherever the offence charged in any information has been or is hereafter created or defined by any Statute, or subjected to a greater, less, or different degree of punishment by any Statute, the information shall be sufficient to all intents and purposes whatsoever if it describe the offence in the words of the Statute.

Venue in margin of information sufficient except where local description necessary.
[16 V., No. 7, s. 25.]

15 It shall not be necessary to state any *venue* in the body of any information, but the jurisdiction named in the margin thereof shall be taken to be the *venue* for all the facts stated in the body of such information; where local description is required, the same shall be given in the body of the information.

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16 No information for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the Statute," or "of the Act of Council of this Island," or "of the Act of the Parliament of *Tasmania*," or any or either of them, instead of the words "against the form of the Statutes," or "of the Acts of Council of this Island," or "of the Acts of the Parliament of *Tasmania*," or any or either of them, or *vice versa*, nor for the omission of any such last-mentioned words, nor for that any person mentioned in the information is designated by a name of office or other descriptive appellation instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the exhibiting of the information, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect *venue*, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil in any case where the value or price, or the amount of damage, injury, or spoil is not of the essence of the offence.

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What defects shall not vitiate an information.
[*Ib.*, s. 26.]

17 In any plea of *autrefois* convict or *autrefois* acquit it shall be sufficient for any prisoner to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the information.

As to plea of *autrefois* convict or acquit.
[*Ib.*, s. 30.]

18 Every objection to any information for any formal defect apparent on the face thereof shall be taken by demurrer or motion to quash such information before the jury are sworn, and not afterwards; and every Court before which any such objection is taken for any formal defect may, if it be thought necessary, cause the information to be forthwith amended in such particular by some Officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

Formal objections to informations to be taken before jury are sworn. Court may amend any formal defect.
[*Ib.*, s. 27.]

19 Whenever on the trial of any information for any offence there appears to be any variance between any matter in writing or in print produced in evidence and the recital or setting forth thereof in the information, or between the statement in such information and the evidence offered in proof thereof, in the name of any place mentioned or described in such information, or in the name or description of any person or body politic or corporate therein stated or alleged to be the owner of any property, real or personal, which forms the subject of any offence charged therein, or in the name or description of any person, body politic or corporate, therein stated or alleged to be injured or damaged, or intended to be injured or damaged, by the commission of such offence, or in the Christian name or surname, or both Christian name and surname, or other description whatsoever of any person whomsoever therein named or described, or in the name or description of any matter or thing whatsoever therein named or described, or in the ownership of any property named or described therein, it shall be lawful for the Court before which the trial is had, if it considers such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence on such

The Court may amend certain variances not material to the merits of the case, and by which the defendant cannot be prejudiced in his defence, and may either proceed with or postpone the trial to be had before the same or another jury.
[9 G. 4, c. 15; 4 W. 4, No. 12, s. 2; 22 V., No. 1, s. 1.]

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merits, to order such information to be amended, according to the proof, by some Officer of the Court or other person, both in that part of the information where such variance occurs, and in every other part of the information which it may become necessary to amend, on such terms, as to postponing the trial to be had before the same or another Jury, as the Court thinks reasonable; and after any such amendment the trial shall proceed, whenever the same is proceeded with, in the same manner in all respects, and with the same consequences, both with respect to the liability of witnesses to be prosecuted for perjury and otherwise, as if no such variance had occurred; and in all cases the order for the amendment shall either be endorsed on the information or shall be engrossed on parchment, and filed, together with the information, among the records of the Court.

Where the trial is so postponed as aforesaid, it shall be lawful for the Court to respite the recognizances of the prosecutor and witnesses, and of the defendant, and of the surety or sureties, if any, of the prosecutor, witnesses, and defendant accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and to give evidence respectively, and the defendant shall be bound to attend to be tried at the time and place to which such trial is postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and prosecute or to give evidence, or to attend to be tried, at the time and place to which such trial has been so postponed:

Where any such trial is had before another jury, the crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

Verdicts and judgments valid after amendments. [16V., No. 7, s. 2.]

20 Every verdict and judgment which is given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the information had originally been in the same form in which it was after any such amendment was made.

Records to be drawn up in amended form without noticing the amendments. [Ib., s. 3.]

21 If it becomes necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment has been made under the provisions of this Act, such record shall be drawn up in the form in which the information was after such amendment was made, without taking any notice of the fact of such amendment having been made.

Evidence.

Proof of notice to produce. [18 V. No. 9, s. 107.]

22 An affidavit of the service upon any person afterwards tried for any offence, of any notice to produce any document or paper writing upon the trial of such person, and of the time when it was served, with a copy of such notice to produce annexed to such affidavit, shall be sufficient evidence of the service of the original of such notice, and of the time when it was served.

Where necessary to prove conviction or acquittal of any person, same may be certified under hand of Clerk of Court. [17 V., No. 15, s. 8.]

23 Whenever in any proceeding whatever it may be necessary to prove in any Court the previous trial and conviction or acquittal of any person charged with any offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof, but a certificate containing the substance and effect only (omitting the formal part) of the information and conviction or

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acquittal of the person therein named purporting to be signed by the Clerk of the Court or other officer having the custody of the records of the Court where such conviction or acquittal took place, or by the Deputy of such Clerk or other officer, shall be sufficient evidence of the previous trial and conviction or acquittal of such person without proof of the signature or official character of the person appearing to have signed the same. A.D. 1873.

24 Upon the trial of any person for felony committed after a previous conviction for felony, a certificate containing the substance and effect only (omitting the formal part) of the information and conviction for the previous felony, purporting to be signed by the Clerk of the Court or other officer having the custody of the records of the Court where the offender was first convicted, or by the Deputy of such Clerk or officer (for which certificate no fee shall be demanded or taken) shall, (except where otherwise provided by Law), upon proof of the identity of the person of the offender, be sufficient evidence of the previous conviction without proof of the signature or official character of the person appearing to have signed the same. Proof of previous conviction for felony.
[7 & 8 G. 4, c. 28, s. 11.]

25 A certificate containing the substance and effect only (omitting the formal part) of the information and trial for any offence purporting to be signed by the Clerk of the Court or other Officer having the custody of the Records of the Court where such information was tried, or by the Deputy of such Clerk or other Officer, shall, upon the trial of any information for perjury or subornation of perjury, be sufficient evidence of the trial of such information for such offence without proof of the signature or official character of the person appearing to have signed the same. On trials for perjury a certificate of the former trial on which the perjury was committed, evidence of such trial.
[16 V., No. 7, s. 24.]

26 A copy of any conviction or order made under *The Magistrates Summary Procedure Act* purporting to be signed by the Clerk or Deputy-Clerk of the Peace, in whose custody the same then is, (for which copy a sum of not more than One Shilling shall be paid) shall be sufficient evidence of such conviction or order without proof of the signature or official character of the person appearing to have signed the same. Copy of summary conviction or order evidence.

27. It shall be lawful for any Judge, or the Commissioner of Bankruptcy or of the Court of Requests at *Launceston*, or any Police Magistrate acting at *Hobart Town* or *Launceston*, when and as he sees fit, by any verbal order to the Sheriff, or by an order in writing addressed to any Gaoler, to cause any person under imprisonment for any cause to be brought up in order to his being examined as a witness in any case or matter, civil or criminal, depending before such Judge, Commissioner, or Police Magistrate; and after his evidence has been given, such Sheriff or Gaoler shall cause such prisoner to be removed and again imprisoned, the non-issue of a writ of *Habeas Corpus* in any such case notwithstanding. Mode of bringing prisoners before Courts to give evidence.
[8 V., No. 13, s. 26.]

Arraignment.

28 If any person arraigned upon any information for any offence pleads thereto a plea of "Not Guilty," he shall by such plea, without any further form, be deemed to have put himself upon the country for trial; and the Court shall in the usual manner order a Jury for the trial of such person accordingly. A plea of not guilty shall put the prisoner on his trial by jury.
[7 & 8 G. 4,

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If he refuses to plead, Court may order a plea of "Not Guilty" to be entered.
[*Ib.*, s. 2.]

Every challenge beyond the legal number shall be void.
[*Ib.*, s. 3.]

Court may order the Sheriff to bring up the body of a prisoner to be arraigned, without writ of *Habeas Corpus*.
[34 V., No. 3, s. 9.]

29 If any person arraigned upon any information for any offence stands mute of malice, or will not answer directly to the information, in every such case it shall be lawful for the Court, if it thinks fit, to order the proper officer to enter a plea of "Not Guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

30 If any person arraigned for any offence challenges peremptorily a greater number of Jurors than such person is entitled by law so to challenge, every peremptory challenge beyond the number allowed by law shall be entirely void, and the trial of such person shall proceed as if no such challenge had been made.

31 Whenever any information for any offence is filed by the Attorney-General in any Court against any person, and such person is then in any gaol under warrant of commitment, or under sentence for some other offence, it shall be lawful for the Court either verbally or by order in writing to direct the Sheriff to bring up the body of such person, in order that he may be arraigned upon such information, without writ of *Habeas Corpus*, and the Sheriff shall thereupon obey such order.

Trial.

Persons tried may make defence by counsel ;

and inspect depositions on trial.
[6 & 7 W. 4, c. 114, ss. 1, 4, 8 W. 4, No. 1, s. 6.]

Previous conviction not to be given in charge or read to the jury until after the finding for a subsequent felony ;

except when evidence as to good character is given.
[6 & 7 W. 4, c. 111. 8 W. 4, No. 1, s. 6.]

Person tried for any offence may be found guilty of an attempt to commit the same.
[16 V., No. 7, s. 9.]

32 All persons tried for any offence shall be admitted to make full answer and defence thereto by Counsel or Attorney on their behalf.

33 All persons under trial shall be entitled at the time of their trial to inspect without fee or reward all depositions which have been taken against them and forwarded to the Attorney-General.

34 It shall not be lawful on the trial of any person for any felony committed after a previous conviction for felony, (except where otherwise provided by any Law), to charge the Jury to enquire concerning such previous conviction until after they have enquired concerning such subsequent felony, and have found such person guilty of the same ; and whenever in any information such previous conviction is stated, the reading of such statement to the Jury as part of the information shall be deferred until after such finding as aforesaid :

If upon the trial of any person for any such subsequent felony as aforesaid such person gives evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such person for the previous felony, and the Jury shall, before they return their verdict, enquire concerning such previous conviction for felony at the same time that they enquire concerning the subsequent felony.

35 If on the trial of any person charged with any offence it appears to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the offence, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for attempting to commit the particular offence charged in

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the said information, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the offence for which he was so tried. A.D. 1873.

36 If on the trial of any person charged with any felony which includes an assault against the person it appears to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an assault with intent to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony charged, but is guilty of an assault with intent to commit the same; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for an assault with intent to commit the particular felony charged in the said information; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the felony for which he was so tried.

Person tried for felony may be found guilty of an assault with intent to commit the same. [22 V., No. 7, s. 5.]

37 If upon the trial of any person charged with any of the following offences :—

Person tried for certain offences may be found guilty of an indecent assault.

Rape :

Unlawfully and carnally knowing and abusing any girl under the age of Ten years :

Unlawfully and carnally knowing and abusing any girl being above the age of Ten years and under the age of Twelve years :

Assault with intent to commit rape :

Sodomy :

Assault with intent to commit sodomy :

it appears to the jury upon the evidence that such person did not complete the offence charged, but was guilty of an indecent assault only, such person shall not by reason thereof be entitled to be acquitted; but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the offence charged in the information, but is guilty of an indecent assault, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for an indecent assault; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for committing an indecent assault upon the person named in the information at the time therein specified.

38 If upon the trial of any person for any felony, except murder or manslaughter, where the information alleges that the defendant did wound or cause any grievous bodily harm to any person, or did shoot at any person, or did by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, the Jury is satisfied that the defendant is guilty of the wounding or causing grievous bodily harm, or of the shooting or attempting to discharge a loaded arm charged in such information, but are not satisfied that the defendant is guilty of the felony charged therein, then and in every such case the Jury may acquit the defendant of such felony, and find him guilty of unlawfully and maliciously wounding or causing grievous bodily harm to such person, or shooting at such person, or attempting to discharge a loaded arm at such person, as the case may be, and thereupon

On trial for feloniously wounding, &c. the jury may acquit of the felony, and convict of misdemeanor. [19 V., No. 15, s. 5.]

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such defendant shall be liable to be punished in the same manner as if he had been convicted upon an information for the misdemeanor of which he has been convicted.

Person tried for misdemeanor not to be acquitted if the offence turn out to be felony unless the Court so direct.
[16 V., No. 7, s. 12.]

39 If upon the trial of any person for any misdemeanor it appears that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor, and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts unless the Court before which such trial is had thinks fit in its discretion to discharge the Jury from giving any verdict upon such trial and to direct such person to be prosecuted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

Person tried for stealing any horse, cattle, or sheep, not to be acquitted if a killing with intent to steal the same is proved.
[1b., s. 13.]

40 If upon the trial of any person for feloniously stealing any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep or lamb, or any pig, it is proved that such person did not feloniously steal the same, but that such person did feloniously and wilfully kill the same with the felonious intent to steal the carcase or skin, or any part of the animal so killed, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that such person is not guilty of feloniously stealing such animal, but is guilty of feloniously and wilfully killing the same with the felonious intent to steal the carcase or skin, or any part thereof as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for feloniously and wilfully killing such animal with the felonious intent to steal the carcase or skin, or any part thereof, as the case may be.

Persons charged as principals may be found guilty as accessories after the fact.

41 If upon the trial of any person charged as a principal in the commission of any felony it appears to the jury upon the evidence that such person was not a principal in the commission of such felony, but that he was an accessory thereto after the said felony was committed, such person shall not by reason thereof be entitled to be acquitted of the offence charged, but the jury shall be at liberty to return as their verdict that such person is guilty as an accessory after the fact to the felony charged in the said information, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for being accessory after the fact to the felony charged in the said information; and no person so tried as in this Section mentioned shall be liable to be afterwards prosecuted as an accessory after the fact to such felony upon the same facts.

Verdict of not guilty of stealing, but guilty of feloniously receiving, may be returned upon any information on which the defendant may be liable to be convicted of larceny.

42 If on the trial of any person upon any information upon which he may be liable to be convicted of larceny it appears to the jury that such person became possessed of the property mentioned in the information, or any part thereof, under circumstances which do not amount in law to a larceny of the same, but do amount in law to a receiving of the same by such person he well knowing the same to have been feloniously stolen, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of the offence charged in such information, but is guilty of feloniously receiving the property mentioned therein, or part thereof, knowing the same to have been feloniously stolen, and thereupon such

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person shall be liable to be punished in the same manner as if he had been convicted upon an information for receiving the same property knowing the same to have been feloniously stolen; and no person so tried as is herein mentioned shall be liable to be afterwards prosecuted for receiving stolen property, knowing the same to have been stolen, upon the same facts.

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43 No person prosecuted shall be entitled to traverse or postpone the trial of any information exhibited against him at any Court.

Provision as to postponing trial.
[16 V., No. 7, s. 29.]

If the Court, upon the application of the person against whom any information is exhibited or otherwise, is of opinion that he ought to be allowed a further time either to prepare for his defence or otherwise, such Court may adjourn the trial of such person to the next subsequent Session upon such terms as to bail or otherwise as to the Court seems meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent Session, without entering into any fresh recognizance for that purpose.

44 If any person tried for any offence is upon arraignment found to be insane by a Jury lawfully impanelled for that purpose, so that such person cannot be tried for such offence, or if upon the trial of any person for any offence such person appears to the Jury to be insane, it shall be lawful for the Court before whom any such person is arraigned or tried as aforesaid to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until Her Majesty's pleasure is known; and if any person charged with any offence is brought before any Court to be discharged for want of prosecution, and such person appears to be insane, it shall be lawful for such Court to order a Jury to be impanelled to try the sanity of such person; and if such Jury finds such person to be insane, it shall be lawful for the Court to order such person to be kept in strict custody in such place and in such manner as to such Court seems fit until Her Majesty's pleasure is known; and in all cases of insanity so found, it shall be lawful for the Governor to give such order for the safe custody of such person so found to be insane during Her Majesty's pleasure in such place and in such manner as to the Governor seems fit.

Insane persons tried for any offence and found to be insane by a jury impanelled on their arraignment, &c. shall be ordered by the Court to be kept in custody until Her Majesty's pleasure is known, &c.
[39 & 40 G. 3, c. 94, s. 2.]

45 In all cases where it is given in evidence upon the trial of any person charged with any offence that such person was insane at the time of committing such offence and such person is acquitted, the Jury shall be required to find specially whether such person was acquitted by them on account of such insanity; and if they find that such person was insane at the time of the committing of such offence, the Court before which such trial is had shall order such person to be kept in strict custody in such place and in such manner as to the Court seems fit, until Her Majesty's pleasure is known; and it shall thereupon be lawful for the Governor to give such order for the safe custody of such person during Her Majesty's pleasure in such place and in such manner as to the Governor seems fit.

Provision for case of persons acquitted of offences on ground of insanity.
[39 & 40 G. 3, c. 94, s. 1. 22 V., No. 23, s. 20.]

Punishment for certain Offences.

46 Every person convicted of any felony not punishable with death shall be punished in the manner prescribed by the Statute specially relating to such felony; and every person convicted of any felony for which no punishment is specially provided shall be liable to be imprisoned for Four years.

Punishment for certain felonies.
[7 & 8 G. 4, c. 28, s. 8.]

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Punishment for a subsequent felony.
[*Ib.*, s. 11.]

47 If any person is convicted of any felony not punishable with death, committed after a previous conviction for felony, such person shall on such subsequent conviction (except where otherwise provided by Law) be liable to be imprisoned for Life.

Punishment of person committing larceny after a previous conviction of misdemeanor.
[24 & 25 V. c. 96, s. 8.]

48 Whosoever shall commit the offence of simple larceny or any offence made punishable like simple larceny under the Act of the 27th Victoria, No. 8, after having been previously convicted of any misdemeanor punishable under the said Act upon information filed in any Court by the Attorney-General, shall be liable to be imprisoned for Six years.

Punishment of persons convicted of assault with intent to commit rape, &c.
[27 Vict. No. 5, s. 49.]

49 Whosoever is convicted of any assault with intent to commit rape, or of any attempt to unlawfully and carnally know and abuse any girl under the age of Ten years, shall be liable to be imprisoned for Ten years; and whosoever is convicted of any attempt to have carnal knowledge of any girl being above the age of Ten years and under the age of Twelve years, shall be liable to be imprisoned for Four years.

Punishment for perjury.
[2 G. 2, c. 25, s. 2.]

50 Whosoever is convicted of perjury, or subornation of perjury, shall be liable to be imprisoned for Seven years.

Punishment for certain misdemeanors.

51 Whosoever is convicted of any misdemeanor for which no punishment is specially provided, shall be liable to be imprisoned for Two years.

Nothing contained in this or the last preceding section shall be held to take away the power of the Court to order any such person to pay any fine or to find sureties for his good behaviour, either in addition to or in lieu of such term of imprisonment.

Court may pass a cumulative sentence upon a person already under sentence.
[7 & 8 G. 4, c. 28, s. 10.]

52 Wherever sentence is passed for any offence on a person already imprisoned under sentence for another offence, it shall be lawful for the Court to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person has been previously sentenced, although the aggregate term of imprisonment awarded may exceed the term which could be otherwise awarded.

Sentences passed under 31 Vict. No. 12, may be made cumulative.

53 Wherever sentence is passed under "The Petty Offences Act" on a person already imprisoned under sentence for another offence, it shall be lawful for the Justices before whom such person is convicted to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person has been previously sentenced, although the aggregate term of imprisonment awarded may exceed the term which could be otherwise awarded.

Court may direct offender to be kept in solitary confinement.
[24 & 25 V. c. 96, s. 119.]

54 When any person is sentenced to be imprisoned for any term, it shall be lawful for the Court to direct the offender to be kept in solitary confinement for any portion or portions of the term of imprisonment, not exceeding One month at any one time, and not exceeding Three months in any one year.

Short sentences may be passed in certain cases.

55 When any person is convicted of any offence for which he is liable to be sentenced to be imprisoned for any term, it shall be lawful for the Court to pass a sentence for any shorter period.

Court may order imprisonment without hard labour in certain cases.

When any person is sentenced to imprisonment for any term not exceeding Two years it shall be lawful for the Court to order that the same shall be carried out without hard labour, and the same shall be carried out accordingly; and in every other case every sentence of imprisonment shall be deemed to be a sentence of imprisonment with hard labour.

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56 Whenever judgment of death has been passed upon any person, and a day fixed for the execution of such judgment, the Sheriff, or some person appointed by the Sheriff for that purpose, shall execute such judgment, or cause the same to be executed, privately within the walls of the gaol mentioned in the warrant for the execution of such judgment, or within the enclosed yard of such gaol.

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Judgment of death to be executed privately within gaol.
[19 V., No. 2, s. 1.]

57 The Sheriff, or person as aforesaid, shall be present at such execution, together with the Gaoler and proper Officers of the Gaol, and all Magistrates who think fit, and such constables and adult male spectators as the Sheriff may think fit to admit.

Sheriff, &c. to witness execution.
[*Ib.*, s. 2.]

58 All the persons as aforesaid attending such execution shall remain within the walls or enclosed yard of the gaol until execution has been done according to law; and the Sheriff, or person as aforesaid, and the said Gaoler, Officers of the Gaol, and constables, and such other persons present as may think fit, shall, before their departure from the Gaol, subscribe a declaration according to the form in the Schedule (2).

Witnesses to sign declaration that execution effected.
[*Ib.*, s. 3.]

59 After such execution, and on the same day, the Medical Officer of the Gaol shall examine the body of the person executed, and shall sign a certificate in the form in the Schedule (3).

Medical Officer to certify that body dead.
[*Ib.*, s. 4.]

60 Any person who subscribes any such declaration or certificate knowing the same to be false, or to contain any false statement, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any period not exceeding Ten years.

Penalty for false declaration or certificate, &c.
[*Ib.*, s. 5.]

61 Every such declaration and certificate as aforesaid shall be transmitted by the Sheriff to the Registrar of the Supreme Court, and shall be entered and kept in his office as a record of the said Court, and shall be published in the *Gazette* on two separate occasions.

Complete execution to be recorded in the Supreme Court.
[*Ib.*, s. 6.]

Payment of Witnesses' Expenses.

62 In any case in which a person attends and gives evidence before a Justice against any person charged with an offence not punishable summarily by a Justice or Justices, and the case is dismissed by the said Justice, or is not further prosecuted by the Attorney-General, or being further prosecuted by the Attorney-General such witness is not served with a subpoena to give evidence before the Court at which the accused person is tried, it shall be lawful for such Justice, if he sees fit, to grant a certificate under his hand addressed to the Clerk of the Peace at *Hobart Town* or *Launceston* as the case may require, allowing to such witness the amount of the expenses necessarily incurred by him and a reasonable sum for loss of time in attending before such Justice, at a rate not exceeding the scale of expenses and compensation adopted by the Supreme Court for the payment of witnesses in criminal cases.

Remuneration of witnesses for attendance before Magistrates.
[8 V., No. 10, s. 1.]

No such certificate shall be granted to any person (except a legally qualified medical practitioner) who has not been obliged to travel five miles or upwards in order to attend before such Justice.

63 Upon production of such certificate as aforesaid to the Clerk of the Peace, to whom the same is addressed, he shall, if the case is dismissed, or not further prosecuted by the Attorney-General, or if the person named in such order is not served with a subpoena to give

Mode of obtaining remuneration.
[*Ib.*, s. 2.]

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evidence before the Court at which the accused person is tried, forthwith out of the moneys to be received by him for that purpose pay to the person named in such certificate, or to some person authorised by indorsement thereon to receive the same, the sum or sums of money mentioned in such certificate, and the same shall be allowed in the accounts of such Clerk of the Peace accordingly.

Remuneration for attendance voluntarily and on subpoena when no information filed. [*Ib.*, s. 3.]

64 Where any person attends before any Court and gives evidence against any person tried for any offence not having been served with a subpoena for that purpose, and where any person having been served with a subpoena to give evidence against any person tried as aforesaid attends any Court in obedience thereto and no information is filed at such Court by the Attorney-General, it shall be lawful for the Court before which any person attends as aforesaid to order payment unto such person of such reasonable sums of money as to the Court seems sufficient to reimburse him for the expenses he has incurred by reason of such his attendance as aforesaid, or in obedience to such subpoena as aforesaid, and all such expenses and compensation as aforesaid shall be ascertained and paid in manner hereinafter provided.

Courts may order payment of the expenses of witnesses. [4 W. 4, No. 16, s. 1.]

65 Every Court before which any person is prosecuted for any offence by the Attorney-General may in its discretion, at the request of any person who appears on subpoena to give evidence against any person accused of such offence, order payment unto such witness of such reasonable sums of money as to the Court or a Judge thereof seems sufficient to reimburse such witness for the expenses incurred by him in obedience to such subpoena, or in attending before the examining Justice, or otherwise in or about such prosecution, and also to compensate him for his loss of time therein.

How expenses to be ascertained. [*Ib.*, s. 2.]

66 The amount of all such expenses and compensation as aforesaid shall be ascertained under the direction of the Court by the proper officer thereof, but subject nevertheless (as to the rate of all such expenses and compensation) to such regulations as may be made by the Supreme Court from time to time, and such regulations may at any time be altered as to such Court seems expedient.

Allowance of expenses for attending before examining Justice.

No expenses or compensation shall be allowed to any witness for attending before the examining Justice unless he produces to the Court or a Judge thereof a certificate from such Justice of the amount of expenses incurred by such witness and of the amount of compensation (if any) which such Justice thinks fair and reasonable to be allowed to such witness for his loss of time therein.

Order for payment. [*Ib.*, s. 3.]

67 Every order for payment to any witness as aforesaid shall be addressed to the Registrar of the Supreme Court or the Clerk of the Peace acting at the Court before which the accused person is tried as the case may be, signed by the presiding Judge and delivered to such witness or to some authorised person on his behalf; and the officer to whom the same is addressed shall upon sight thereof forthwith pay to the person named in such order, or to some person authorised by indorsement thereon to receive the same, the amount named in such order, and the same shall be allowed in the accounts of such officer accordingly.

If witnesses for accused bound by recognizance

68 The Court before which any person is tried for any offence is hereby authorised and empowered, in its discretion, to order payment unto any witness examined for the defence (if such witness

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has been bound by recognizance to appear and give evidence for the person so tried) of such sum of money as to the Court seems reasonable and sufficient to compensate such witness for the expenses, trouble, and loss of time he has incurred or sustained in attending before the examining Justice, and at or before such Court; and the amount of such expenses of attending before the examining Justice, and compensation for trouble and loss of time therein, shall be ascertained by the certificate of such Justice granted before the attendance in Court; and all the provisions hereinbefore contained for payment of the expenses of witnesses for the prosecution shall extend and be applied to any sums ordered to be paid to witnesses for the accused as aforesaid.

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appear at the trial,
Court may allow
expenses.
[34 V., No. 3,
s. 4.]

Enforcement of Forfeited Recognizances.

69 If any person charged with any offence is admitted to bail to surrender himself and plead to any information that may be filed against him at the Court named in the recognizance of bail, or for whose appearance at any such Court any other person is bound by recognizance, fails or neglects to appear at such Court pursuant to such recognizance, or if any person bound by recognizance to appear and give evidence at the Court named in such recognizance, or for whose appearance any other person is so bound, fails or neglects to appear and give evidence in pursuance of such recognizance, it shall be lawful for the Court upon the production of such recognizance to order and adjudge that any sum or sums of money in which such recognizance is acknowledged shall be forfeited, and thereupon the proper officer of such Court shall enter on a roll the particulars of such recognizance and the sum or sums ordered and adjudged to be forfeited as aforesaid, and shall within such time as the Court appoints, send an extract from the said roll containing the particulars of such recognizance with a Writ of *Distringas* and *Capias* or *Fieri Facias* and *Capias* in the form in the Schedule (4) or to the like effect, to the Sheriff, which shall be his authority for levying the sum or sums of money so ordered and adjudged forfeited as aforesaid on the goods and chattels, lands and tenements of the several persons bound in any such recognizance, or for taking into custody the bodies of such persons in case sufficient goods and chattels, lands and tenements cannot be found whereon distress can be made for the recovery of such sum or sums of money, and every person so taken shall be lodged in the nearest gaol there to abide the judgment of the Court.

Recognizances of
persons bound to
appear and take
trial or give
evidence at any
Court if default
made may be
adjudged forfeited.
[12 Vict., No. 13,
ss. 1, 2.]

It shall be lawful for any person bound by such recognizance, within the period appointed by the Court as aforesaid, to show cause before a Judge thereof why the condition of such recognizance should not be enforced, and thereupon such Judge shall enquire into the circumstances of the case, and may, if he sees fit, order the discharge of the whole or any part of the sum or sums of money ordered and adjudged to be forfeited as aforesaid; and the proper officer of the Court shall, upon such order being made, abstain from sending to the Sheriff the extract from the said roll with such writ or writs as aforesaid, or shall send the same for the whole or such part of such forfeited sum or sums of money as is ordered by such Judge, and shall otherwise act in accordance with such order.

Person bound
may apply to
Judge for relief.

70 Nothing herein contained shall be held to render any person bound by recognizance to appear as a witness at any Court liable or subject to have the sum in which he is so bound ordered and adjudged

Recognizance of
witness not to be
forfeited unless

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subpœna issued
and served.
[*Ib.*, s. 6.]

Upon proof of
conviction, a
recognizance to
keep the peace,
&c., may be de-
clared forfeited.
[19 V., No. 15,
s. 8.]

Recognizances
may be declared
forfeited in certain
other cases.

Limiting im-
prisonment of
persons for not
entering into
recognizance.
[*Ib.*, s. 9.]

Where recogni-
zances entered
into, Justices to
give notice thereof
to persons bound
therein.
[12 V., No. 13,
s. 5.]

forfeited as aforesaid, unless a subpœna is actually issued for the appearance of such witness at the Court at which the accused person appears, or is bound to appear, and proof is given to the satisfaction of the Court that such subpœna has been duly served, or that the person intended to be served therewith has kept out of the way to avoid service thereof.

71 Where any recognizance to keep the peace or to be of good behaviour is entered into by any person, as principal or surety, before any Court, or before any Justice or Justices of the Peace, it shall be lawful for any Judge of such Court, upon application made to him, or in case any such recognizance has been entered into before any Justice or Justices of the Peace, it shall be lawful for any Court of General Sessions of the Peace upon application made to such Court, and upon production of such recognizance, to declare such recognizance to be forfeited, upon proof of a conviction of the party bound by such recognizance of any offence which is in law a breach of the condition of the same; and upon further proof that a notice in writing, signed by the person seeking to put such recognizance in force, has, seven clear days before such application is made, been personally served upon or left at the usual place of abode of the party or each of the parties (if more than one) who entered into such recognizance, that an application will be made to the said Judge or Court of General Sessions that the said recognizance shall be declared forfeited; and if such recognizance is declared forfeited the same shall be enforced as a forfeited recognizance, in like manner as any recognizance ordered and adjudged to be forfeited as hereinbefore provided may be enforced.

72 If any person bound by recognizance to surrender himself and plead to any information that may be filed against him at any Court named in such recognizance, and his surety or sureties, if any, are served with a notice from the Attorney-General that such first-mentioned person will be put upon his trial at some Court other than that named in such recognizance, and such person fails to appear at the Court named in such notice, then, upon proof, either by affidavit or otherwise, of due service of such notice upon the person named in such recognizance and his surety or sureties (if any), at least Seven days before the day of such trial, the condition of any such recognizance shall be deemed broken, and the sum or sums of money named in any such recognizance may be declared forfeited in manner hereinbefore provided.

73 No person committed to prison under any warrant or order of one Justice of the Peace for or on account of not entering into a recognizance or finding a surety or sureties to keep the peace, or to be of good behaviour, shall be detained under such warrant or order for more than Twelve months from the time of such commitment.

74 Every Justice of the Peace before whom any recognizance is entered into shall (except in cases otherwise provided by law), when such recognizance is entered into, give to every person bound thereby a notice thereof in the form in the Schedule (5), or to the like effect, adapting the same to the particular circumstances of the case, and in such recognizance there shall be set forth the christian names and surname, with the place of residence and occupation of every person bound thereby, and in case such residence is either in *Hobart Town* or *Launceston* shall also specify the name of the street in which such person resides.

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75 Where in any Act proceedings are directed to be taken for enforcing the condition of any forfeited recognizance entered into before any Court or any Justice or Justices of the Peace in any mode prescribed by the Act of Council of the 12th *Victoria*, No. 13, and where no mode for enforcing the condition of any recognizance is provided in any Act, all such proceedings shall be had and taken in the manner hereinbefore directed for enforcing the condition of any recognizance to keep the peace or be of good behaviour.

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Mode of proceeding upon forfeited recognizances generally.

Miscellaneous.

76 It shall be lawful for any Judge or any Chairman or Deputy-Chairman of any Court of General or Quarter Sessions of the Peace, or for any Commissioner of Bankruptcy or of any Court of Requests, or for any Commissioner before whom any writ of inquiry or writ of trial from the Supreme Court is executed, in case it appears to him that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer, or other proceeding made or taken before him, to direct such person to be prosecuted for such perjury in case there appears to him a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted until the next Session of Oyer and Terminer and Gaol Delivery of the said Supreme Court to be holden at the city or town within or nearest to which such perjury was committed, unless such person enters into a recognizance with one or more sufficient surety or sureties conditioned for the appearance of such person at such next Session of Oyer and Terminer and Gaol Delivery, and that he will then surrender himself and take his trial and not depart the Court without leave; and to require any person he may think fit to enter into a recognizance conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid.

Any Judge, Commissioner, &c. may direct a person guilty of perjury in any evidence, &c. to be prosecuted;

and commit him unless he enters into recognizance to appear and take his trial;

and bind persons to give evidence. [16 V., No. 7. s. 21.]

No such direction shall be given in evidence upon any trial to be had against any person upon the prosecution so directed as aforesaid.

77 It shall be lawful for any person whatsoever to apprehend any other person who is found committing in the night any offence punishable upon information filed in any Court by the Attorney-General, and to convey or deliver him to some constable or other peace officer, in order to his being conveyed, as soon as conveniently may be, before a Justice of the Peace, to be dealt with according to law.

Any person may apprehend persons committing certain offences in the night. [14 & 15 V. c. 19, ss. 11, 13.]

The time at which the night shall commence and conclude in any offence mentioned in this Section shall be the same as in cases of Burglary.

78 If any person liable to be apprehended under the provisions of this Act assaults or offers any violence to any person by law authorised to apprehend or detain him, or to any person acting in his aid and assistance, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding Three years.

Any person assaulting a person entitled to apprehend him, guilty of a misdemeanor. [19 V. No. 15, s. 12.]

79 The appointment of an officer, by virtue of the provision for the prosecution of crimes, misdemeanors, and offences cognizable in the Supreme Court contained in Section 5 of the Act of the Imperial Parliament of the 9th *George* the 4th, chapter 83, shall not in any manner affect the powers vested in the Attorney-General by the said recited statute; but all crimes, misdemeanors, and offences cognizable

Appointment of an Officer under 9 G. 4, c. 83, s. 5, not to affect powers of Attorney-General. [21 V., No. 17.]

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in the said Court may lawfully be prosecuted during the continuance of the appointment of any such officer as aforesaid by information either in the name of the Attorney-General or of such officer as aforesaid, any law to the contrary notwithstanding.

Provides for the case of the Attorney-General being personally interested in any criminal charge. [19 V., No. 23, s. 5.]

80 In case any person is charged with any offence, and the Attorney-General is individually the prosecutor, or is in any other manner personally interested in such charge, it shall be lawful for the Governor to appoint some other person in whose name the information for such offence shall be exhibited; and any such appointment shall not, otherwise than as respects such charge, in any manner affect the powers then by law vested in the Attorney-General; and such appointment may either be made for some particular and specified case only, or generally as applicable to all such cases as aforesaid which may happen, and every such appointment shall be revocable at the pleasure of the Governor.

Sect. 3 of 60 Geo. 3, cap. 4, not in force in this Colony since 1 Oct., 1852. [16 V., No. 7, s. 28.]

81 It is hereby declared that the Third Section of the Act of the Imperial Parliament passed in the Sixtieth year of the reign of His late Majesty King *George* the Third, Chapter Four, has not since the First day of *October*, 1852, extended to this Colony, or been of any force within the same.

Sect. 3 of 6 W. 4, No. 17, revived.

82 The Third Section of the Act of Council of the 6th *William* the Fourth, No. 17, is hereby revived.

Repeal.

83 The several Acts and parts of Acts set forth in the Schedule (6) shall continue in force until and throughout the Thirty-first day of *August* in the present year, and shall from and after that day be repealed.

Every offence wholly or partly committed against any of the said Acts or parts of Acts before this Act comes into operation shall be dealt with, inquired of, tried, determined, and punished; and every penalty in respect of any such offence shall be recovered in the same manner as if the said Acts and parts of Acts had not been repealed.

Every act duly done, and every instrument duly made or granted before this Act comes into operation, shall continue and be of the same force and effect as if the said Acts and parts of Acts had not been repealed.

Every right, liability, privilege, and protection in respect of any matter or thing committed or done before this Act comes into operation shall continue and be of the same force and effect as if the said Acts and parts of Acts had not been repealed.

Every proceeding whatever which has been commenced before this Act comes into operation or is thereafter commenced in respect of any such matter or thing may be prosecuted and continued in the same manner as if the said Acts and parts of Acts had not been repealed.

Commencement of Act.

84 This Act shall commence and take effect on the First day of *September*, 1873.

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SCHEDULE.

A.D. 1873.

(1.)

To *A.B.*, Esquire, Sheriff, [or to *C.D.* Keeper of Her Majesty's Gaol at
in the Island of *Tasmania*.]

WHEREAS *E.F.* is detained in your custody under the Warrant of *G.H.*, Esquire,
upon a charge of And whereas I do not intend upon the
evidence before me to file any information against the said *E.F.* for the said offence;
you are therefore hereby authorised and required forthwith to discharge the said *E.F.*
from your custody upon the said Warrant.

Given under my hand this _____ day of _____

(2.)

WE, the undersigned, do hereby declare and testify that we have this day been present
when the extreme penalty of the law was executed on the body of [*C.D.*], lately
convicted at the Supreme Court held at _____ and sentenced to death;
and that the said [*C.D.*] was, in pursuance of the said Sentence, "hanged by the neck
until his body was dead."

Sheriff.
Gaoler.
Warder.
Constables.
Magistrates.
Other Spectators.

(3.)

I [*A.B.*] being the Medical Officer of the Gaol at _____ do hereby
declare and certify that I have this day examined the body of [*C.D.*] lately convicted
and sentenced to death at the Supreme Court held at _____ and I further
certify that, upon such examination, I found that the body of the said [*C.D.*] was
dead.

Given under my hand this _____ day of _____ 18 _____
_____ *A.B.*

(4.)

*VICTORIA, by the Grace of God, of the United Kingdom of
Great Britain and Ireland Queen, Defender of the Faith.*

To the Sheriff of *Tasmania* and its Dependencies.

You are hereby required and commanded, as you regard yourself and all yours, that
of all the goods and chattels, lands, and tenements of all and singular the persons in
the several extracts to this writ annexed, you cause to be levied all and singular the
debts and sums of money upon them in the same extracts severally imposed and
charged, so that the money may be ready for payment at the next Session of Oyer and
Terminer and General Gaol Delivery of the Supreme Court of *Tasmania* at
[or at the next Session of the Court of General or Quarter Sessions of the Peace
to be held at _____], to be paid over in such manner as is or may be lawfully
appointed; and if any of the said several debts cannot be levied by reason of no goods
or chattels, lands or tenements being to be found belonging to the parties, then in all
cases that you take the bodies of the parties refusing to pay the aforesaid debts and
lodge them in the proper gaol, there to remain until such debts or sums of money
are paid or satisfied, or such persons are lawfully discharged therefrom.

Witness the Honorable _____ Our Chief
Justice of Our said Court, [or _____, Esquire, Recorder
(or Chairman) of the said Court of General Sessions of the
Peace, at _____] the _____ day of
in the _____ year of Our reign.

By the Court,

[Clerk of the Court.]
or

[Clerk (or Deputy Clerk) of the Peace.]

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(5.)

TASMANIA } TAKE notice that you
TO WIT. } of are bound in the sum of
Pounds, and your Sureties
and
of Pounds each, that [as in the condition of the
Recognizance], and unless you the said [as in the Recognizance], the Recognizance
entered into by you and your Sureties will be forthwith levied on you and them.
Dated this day of 18 .
Justice of the Peace.

(6.)

ACTS TO BE REPEALED.

Date and Number of Act.	Title.	Extent of Repeal.
11 Geo. 4, No. 7.	An Act to provide for the Summary Discharge in certain Cases of Persons under Committal for Felony or Misdemeanor.	The whole Act.
4 Will. 4, No. 12.	An Act for extending to <i>Van Diemen's Land</i> certain Statutes passed in <i>England</i> in the ninth year of his late and first year of his present Majesty for the amendment of the law.	Section Two.
4 Will. 4, No. 16.	An Act to provide for paying the Expenses of Witnesses in Criminal Cases.	The whole Act.
8 Will. 4, No. 1.	An Act for extending to this Colony sundry Statutes passed for the amendment of the Criminal Law.	Section Six.
7 Vict. No. 2.	An Act for the more effectual Punishment of Offences against the Person.	The whole Act.
8 Vict. No. 9.	An Act to repeal so much of an Act of this Island passed in the Eighth Year of the Reign of His late Majesty King William the Fourth intituled An Act for extending to this Colony sundry Statutes passed for the Amendment of the Criminal Law as precludes transported Offenders from making full Defence by Counsel or Attorney when upon Trial summarily before any Justice or two Justices only and to make other provision in lieu thereof.	The whole Act.
8 Vict. No. 10.	An Act to provide for the Payment of Expenses of Witnesses attending before Justices of the Peace in certain Cases and before the Supreme Court in Cases where Informations are not filed by the Attorney-General and for other Purposes connected therewith.	The whole Act.
8 Vict. No. 13.	An Act to consolidate and amend the Laws in respect to the Constitution of Courts of General and Quarter Sessions to define the Jurisdiction Powers and Authorities of such Courts and of Justices of the Peace in certain Cases relating to Transported and other Offenders and for other Purposes connected therewith.	Sections Twenty-six and Thirty-one.
12 Vict. No. 13.	An Act for the Enforcement of certain forfeited Recognizances in this Colony.	The whole Act.

Criminal Law Procedure Act, 1873.

A.D. 1873.

<i>Date and Number of Act.</i>	<i>Title.</i>	<i>Extent of Repeal.</i>
16 Vict. No. 7.	An Act for further improving the Administration of Criminal Justice in the Colony of <i>Van Diemen's Land</i> .	The whole Act.
17 Vict. No. 15.	An Act to amend the Law of Evidence.	Section Eight.
19 Vict. No. 2.	An Act to regulate the Execution of Criminals.	The whole Act.
19 Vict. No. 15.	An Act for the better Prevention and Punishment of certain Offences.	The whole Act.
19 Vict. No. 23.	An Act to facilitate the Administration of Justice in the Supreme Court.	Sections Four and Five.
20 Vict. No. 22.	An Act for Electric Telegraphs.	Section Ten.
21 Vict. No. 17.	An Act relating to the Prosecution of Crimes and Offences.	The whole Act.
21 Vict. No. 23.	An Act to regulate the Business of Pawnbrokers.	So much of Section Twenty-two as relates to forging or altering, or offering, uttering, disposing of, or putting off any Pawnbroker's Duplicate with intent to defraud.
22 Vict. No. 1.	An Act to amend the Act of Council of this Island, intituled <i>An Act for further improving the Administration of Criminal Justice in the Colony of Van Diemen's Land</i> .	The whole Act.
22 Vict. No. 7.	An Act to amend the Law relating to Offences against the Person.	The whole Act.
22 Vict. No. 23.	An Act for the Regulation of the Care and Treatment of the Insane, and for the Appointment, Maintenance, and Regulation of Hospitals for the Insane.	Section Twenty.
27 Vict. No. 5.	An Act to consolidate and amend the Legislative Enactments relating to Offences against the Person.	Section Forty-nine.
27 Vict. No. 11.	An Act to repeal certain Legislative Enactments which have been consolidated in several Acts of the present Session relating to certain Offences and other Matters.	So much as repeals the Third Section of the Act of Council of the 6th Will. 4 No. 17.
31 Vict. No. 15.	An Act for the more easy Recovery of small Debts and Demands.	Section One hundred and eleven.
33 Vict. No. 8.	An Act to consolidate and amend the Laws relating to Cross and Bye Roads.	Section Sixty.
34 Vict. No. 3.	An Act to remove some Defects in the Administration of the Criminal Law.	Sections Four and Nine.

