

VICTORIA.



ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.

No. III.

An Act to make provision for the better Administration of Justice in Courts of General Sessions in the Colony of Victoria. [Assented to 3rd September, 1852.]

WHEREAS by an Act of the Imperial Parliament of Great Britain and Ireland, passed in the thirteenth and fourteenth Years of the Reign of Her present Majesty Queen Victoria, intituled "*An Act for the better Government of Her Majesty's Australian Colonies,*" it was enacted that it should be lawful for the Governors and Councils of the Colonies of New South Wales, Van Diemen's Land, and Victoria respectively, from time to time, by any Act or Acts, to make such provision as to them might seem meet for the better administration of Justice; and for defining the constitution of the Courts of Law and Equity, and of Juries within the said Colonies respectively, or within any present or future Dependencies thereof respectively; anything in an Act of the ninth Year of King George the Fourth intituled "*An Act to provide for the more effectual Administration of Justice in New South Wales and its Dependencies,*" or in the said recited Act, or in any Charter of Justice or Order in Council, made or issued in pursuance thereof respectively, or in any Law, Statute, or Usage to the contrary thereof notwithstanding: And whereas the exigencies of the said Colony of Victoria have rendered it necessary to make provision for the better administration of Justice, in Courts of General Sessions, of the Peace, and it is expedient to repeal the several Acts hereinafter mentioned: Be it therefore enacted by His Excellency the Lieutenant Governor of the said Colony of Victoria, by and with the advice and consent of the Legislative Council thereof, that from and after the commencement of this Act, an Act of the Governor and Council of the said Colony of New South Wales passed in the tenth Year of the Reign of His late Majesty King George the Fourth intituled, "*An Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales,*" and the fourteenth and fifteenth sections of an Act passed in the third Year of the Reign of His late Majesty King William the Fourth intituled, "*An Act to consolidate and amend the Laws for the Transportation and Punishment of Offenders in New South Wales, and for defining*" the

Preamble.

Repeal of Acts.

10 Geo. IV. No. 7.

3 Will. IV. No. 3.,
§ 14 and 15.

4 Will. IV., No. 16.

5 Will. IV., No. 17.

5 Will. IV., No. 22,
§ 3.

3 Vic., No. 10.

13 Vic., No. 7, § 7.

15 Vic., No. 13.

“the respective powers and authorities of General Quarter Sessions and of Petty Sessions, and for determining the places at which the same shall be holden, and for better regulating the summary Jurisdiction of Justices of the Peace, and for repealing certain Laws and Ordinances relating thereto,” and an Act passed in the fourth Year of the Reign of His late Majesty King William the Fourth intituled, “An Act to amend an Act of the Governor and Council, intituled an Act for instituting Courts of General and Quarter Sessions in New South Wales,” and an Act passed in the fifth Year of the Reign of His late Majesty King William the Fourth intituled, “An Act to amend an Act intituled an Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales,” and also the third Section of an Act passed in the fifth Year of the Reign of His late Majesty King William the Fourth intituled, “An Act to regulate summary proceedings, before Justices of the Peace,” and an Act passed in the third Year of the Reign of Her present Majesty Queen Victoria intituled, “An Act to alter and improve the mode of electing a Chairman for Courts of General and Quarter Sessions in New South Wales,” and the seventh section of an Act passed in the thirteenth Year of the Reign of Her present Majesty Queen Victoria intituled, “An Act for the removal of defects in the Administration of Criminal Justice,” and also an Act of the Lieutenant-Governor and Legislative Council of the said Colony of Victoria, passed in the fifteenth year of the reign of Her present Majesty, Queen Victoria, intituled “An Act to enable the Lieutenant-Governor of the Colony of Victoria to appoint a Chairman of, and also a Crown Prosecutor at, General and Quarter Sessions,” shall be and the same are hereby repealed so far as they relate to the said Colony of Victoria.

Courts of General Sessions established.

II. That from and after the commencement of this Act, Courts of General Sessions of the Peace, shall be established, and the same shall be holden in and for the City of Melbourne, the Town of Geelong, and such other places or districts within the said Colony of Victoria, as the Lieutenant-Governor thereof shall appoint, and it shall be lawful for the Lieutenant-Governor of the said Colony from time to time to define and appoint by proclamation the limits and boundaries of such places or districts within which all such Courts shall have jurisdiction respectively, and the places and times at which such Courts shall be holden, and such limits, districts, places, and times respectively to revoke, alter and vary as the said Lieutenant-Governor shall think fit.

Appointment of Chairman.

III. That it shall be lawful for the Lieutenant-Governor of the said Colony, and he is hereby authorised and empowered to appoint a Chairman to preside over every such Court, and also from time to time to appoint a fit and proper person qualified as hereinafter mentioned, as a substitute to perform the duty and exercise the power of such Chairman for such time as may be necessary, every such Chairman being a barrister of England, or Ireland, or an advocate of Scotland, of not less than three years standing, or a practising barrister of the Supreme Court of the said Colony, of not less than five years standing, and such Chairman shall be by virtue of his office a Justice of the Peace in and for the City of Melbourne, and Town of Geelong, and also in and for the Colony of Victoria, and no Chairman to be appointed by virtue of this Act shall undertake the duties of his office until he shall have taken before a Judge of the Supreme Court of the said Colony, an oath, faithfully to execute the duties of his office, and also the oath of allegiance.

Power to Lieutenant Governor to appoint a Crown Prosecutor at Courts of General Sessions.

IV. That it shall be lawful for the Lieutenant-Governor of the said Colony, from time to time, to appoint some fit and proper person by whom, and in whose name, all felonies, misdemeanours, and offences, cognizable in every such Court, shall be prosecuted: Provided that nothing herein contained shall be construed to limit, or control, any authority vested by law in Her Majesty's Attorney General for the said Colony.

V. That

V. That every such Court shall have an officer to be called "*Clerk of the Peace*," and such and so many other officers as to the Lieutenant Governor of the said Colony shall appear to be necessary for the administration of Justice and the due execution of the powers and authorities of the said Court, and the appointment of the said Clerk of the Peace, and of such other officers shall be from time to time made by the said Lieutenant-Governor, and every such appointment as well of Chairman as of other Officers shall be during pleasure, and every such Clerk of the Peace, shall, by himself or his deputies duly appointed under his hand and seal, (and for whose acts he shall be responsible,) issue all process, arraign prisoners, record verdicts, judgments, and proceedings of the said Court, enter appeals, file convictions, and orders of record, and perform all ministerial acts whatsoever necessary to give effect to the decisions of the said Court. And the said Clerk of the Peace and his deputies are hereby authorised and empowered to take, administer, and cause to be taken and administered, oaths, declarations, and affirmations respecting the service, verification or attestation, of any process of the said Court, or respecting any other matter, or thing, arising out of, or incident to, any proceeding in the said Court. And no Clerk of the Peace shall undertake the duties of his office until he shall have given security to the satisfaction of the Chairman of the Court to the amount of one hundred pounds, for the due execution of the duties of his office by himself and his deputies, so appointed as aforesaid, and until he shall have taken before such Chairman, an oath, (which oath the said Chairman is hereby empowered to administer) that he will well and faithfully execute the duties of his office as such Clerk of the Peace as aforesaid.

Clerk of the Peace:—
his duties and recognizances.

VI. That every such Court shall be a Court of Record; and it shall be lawful for the Chairman thereof to take, administer, and cause to be taken and administered, oaths, declarations, affirmations, and depositions in any trial, matter, examination, or other proceeding in such Court, as occasion may require; and every such Court shall have and use a seal bearing an impression of the Royal Arms, and having inscribed thereon the words, "The Court of General Sessions." And if any person shall forge any process of the said Court, or serve or deliver, or cause to be served or delivered, or enforce, or attempt to enforce, any process of the said Court, knowing the same to be forged, he shall be guilty of felony, and, being convicted thereof, shall be liable to be sentenced, at the discretion of the Judge presiding at the trial to hard labour on the roads, or other public works, of the said Colony for any period not less than seven nor exceeding fifteen years, or to be imprisoned for any period not exceeding three years. And if any person taking or making an oath, declaration, affirmation, or deposition before the Chairman, or Clerk of the Peace, of such Court, or his deputies in any proceeding whatsoever under the provisions of this Act, shall swear, depose, or affirm falsely, he shall be guilty of perjury, and being convicted thereof, shall be punished by fine or imprisonment or both, according to the discretion of the Judge presiding at the trial.

Court to be a Court
of Record with
power to administer
Oaths.

Court to have a Seal.

Punishment for forging
Process.

VII. That if any person, duly summoned to attend as a Juror or duly subpoenaed to attend as a Witness at any such Court in any proceeding, shall neglect to appear and give evidence, or shall refuse to be sworn, or to answer any lawful question, without some sufficient excuse, or shall prevaricate in giving his evidence, or if any person shall wilfully interrupt the proceedings of such Court, or shall conduct himself disrespectfully to the Chairman thereof, or to any Justice of the Peace while sitting therein, or shall hinder, obstruct, or assault any of the parties, plaintiff or defendant, or any witness in attendance on such Court, or any officer thereof, in the lawful execution of his duty, he shall be guilty of contempt of Court, and it shall be lawful for such Chairman, either on his own view, or on the oath of one or more credible witnesses, to punish any person guilty of such contempt in a summary way by imprisonment

Punishment for contempt
of Court.

in any

in any of Her Majesty's Gaols in the said Colony for any time not exceeding three calendar months, or by fine not exceeding fifty pounds, such fine to go to Her Majesty for the public uses of the said Colony and in support of the Government thereof; and if such fine be not forthwith paid, it shall be lawful for such Chairman to punish the person so offending by imprisonment, in any such gaol as aforesaid, for any time not exceeding three calendar months, unless such fine shall be sooner paid, the commitment of every such person in the form or to the effect in the Schedule hereto marked A, or in the Schedule hereto marked B, as the case may be, being valid to all intents and purposes.

Civil Jurisdiction.

VIII. That it shall be lawful for the Chairman of the said Court, together with one or more Justices of the Peace in and for the said City of Melbourne, Town of Geelong, or Colony of Victoria, as the case may be, to try, hear, and determine all appeals, and to make all orders, and take cognizance of all matters and things cognizable according to the Laws in force up to the time of the commencement of this Act, in Courts of General and Quarter Sessions of the Peace in England or in the said Colony of Victoria, in their appellate Jurisdiction, and all appeals to any Court of Quarter Sessions, under any Acts or Statutes in force in the said Colony shall be made, and all such appeals and all appeals now pending, shall be tried, heard, and determined under the several provisions of this Act to and by any Court of General Sessions of the Peace having jurisdiction in the place where the order or decision appealed from was made or given.

Criminal Jurisdiction.

IX. That it shall be lawful for the Chairman of every such Court, together with one or more Justices of the Peace in and for the said City of Melbourne, Town of Geelong, or Colony of Victoria, as the case may be, and a Jury of twelve Men, to enquire of, try, hear and determine all felonies, misdemeanors, and offences, of what nature or kind soever, committed in the said City of Melbourne, Town of Geelong, or any other part of the said Colony: Provided that it shall not be lawful for any such Court to try, hear or determine any of the felonies, misdemeanors or offences following, that is to say:—

Exemption of Criminal Jurisdiction.

1. Treason, Misprision of Treason, Murder, or any Capital Felony.
2. Offences against the Queen's Title, Prerogative or Government, or against the Legislature of the said Colony.
3. Offences subject to the penalties of Premunire.
4. Blasphemy, or Offences against Religion.
5. Administering or taking unlawful Oaths.
6. Perjury, or subornation of Perjury.
7. Making or suborning any other person to make any false Oath, Affirmation or Declaration, punishable as Perjury.
8. Unlawfully and maliciously setting fire to crops of Corn, Grain, or Pulse, or to any part of any Wood, Coppice, or Plantation of Trees, or any Arson.
9. Bigamy, or Offences against the Laws relating to Marriage.
10. Abduction of Women or Girls.
11. Endeavouring to conceal the birth of a Child.
12. Offences against any provisions of the Laws relating to Insolvents.
13. Composing, printing, or publishing blasphemous, seditious, or defamatory libels.
14. Bribery.
15. Unlawful combinations or conspiracies.
16. Stealing, or fraudulently taking, or injuring, or destroying, Records or Documents belonging to any Court of Law or Equity, or Court with Ecclesiastical or Admiralty Jurisdiction, or relating to any proceeding therein

Certain Courts may be held within the limits of Melbourne and Geelong.

X. That any such Court having Jurisdiction in or for the whole or any part either of the County of Bourke or the County of Grant, may be held, either in its appellate or criminal jurisdiction, and any Justice of the Peace for the said Colony may sit and act in such Court, although the same be held within the limits of the said City of Melbourne, or Town of Geelong respectively, and process of any Court of General Sessions of the Peace in the said Colony, may be issued and enforced, and offenders may be arrested, detained, and committed, and may be

may be imprisoned in any Gaol or House of Correction within the limits of the said City or Town, or in any other part of the said Colony.

XI. That all felonies, misdemeanors and other offences cognizable in any such Court, shall be prosecuted by information in brief and concise form; and all issues of Law shall be determined by the said Court; and all issues of fact (save in the cases of summary and appellate jurisdiction herein mentioned), shall be tried before such Court and a Jury of Twelve Men as hereinbefore mentioned, to be summoned, chosen and returned according to the provisions of the Acts now, or hereafter to be, in force for regulating Juries in the said Colony; and every such Jury shall be subject to, and governed by, the same rules, regulations, and manner of proceeding as are observed upon any Criminal Trial in the Supreme Court of the said Colony of Victoria.

Proceeding by Information.

XII. That every such Court shall have Jurisdiction to try, in a summary way, and without a Jury, any person, who, being under the sentence of any Court having Criminal Jurisdiction within the said Colony, shall escape, abscond, or absent himself from any Gaol, Factory, House of Correction, Hulk, Stockade, or other Penal Establishment, or from the Roads or other Public Works of the said Colony, or who shall escape from the Custody of any Gaoler, Keeper, Constable, Guard or Escort or who being under any such sentence as aforesaid, shall either wilfully disable himself, or designedly prevent or protract the cure of any disease, complaint, or injury from which he shall be suffering, or who shall feign sickness, or be guilty of malingering, in order, in any such case, to evade the performance of the servitude to undergo which he has been sentenced, or who shall be charged with the commission, while undergoing any such sentence, of any crime or misdemeanor whatsoever, not punishable with death, or with any act of drunkenness or other disorderly conduct, disobedience or neglect of orders, or with using any abusive insolent or indecent language: And it shall be lawful for the said Court to direct that any person, convicted of any offence herein-before mentioned, be forthwith sent back to the custody from which he escaped, absconded, or absented himself, or in which he was at the time of the commission of such offence, or to such other custody as the Lieutenant Governor of the said Colony shall direct, there to complete the term of his original sentence; and also to direct, either that such person be forthwith, and whilst undergoing such original sentence, subjected to solitary confinement and prison discipline for any period, not exceeding one month at any one time, or three months in any one year, or that such person in addition to, and after the termination of such original sentence, be kept to hard labour in irons on the Roads or other Public Works of the Colony, for any period not exceeding three years.

Summary Jurisdiction.

XIII. That in all cases in which any person shall be or is now entitled to appeal from any Judgment, or conviction of any Justice, under or by virtue of any Act of Council, (and no other mode of proceeding shall have been or shall be in that behalf provided), if such person (in case a pecuniary penalty shall have been awarded), shall forthwith pay into the hands of the convicting Justice the full amount of such penalty, together with the assessed costs and charges, or, (in case no pecuniary penalty shall have been awarded), shall enter into a bond to the convicting Justice to the use of Her Majesty, Her Heirs and Successors, with two sufficient Sureties to be approved by such Justice conditioned to prosecute such appeal with effect, and to abide the event of the same appeal, and to pay the full amount of all such costs as shall or may on such appeal be awarded against the appealing party; it shall be lawful for such person to appeal from such judgment or conviction to the Court of General Sessions to be held next after such judgment or conviction, (unless such Sessions shall be held within fourteen days next ensuing, and in that case to the Court of General Sessions next

Mode of appeal.

next

next but one afterwards), and every such appeal shall be heard and determined under the provisions of this Act.

Uniformity of time for notice of Appeal; notice of Appeal to be in writing and signed, and grounds of Appeal to be stated.

XIV. That in every case of appeal to any Court of General Sessions of the Peace fourteen clear days notice of appeal, at least, shall be given, and such shall be sufficient notice, any Act of Council, rule or practice of any Court to the contrary notwithstanding; and such notice of appeal shall be in writing signed by the person giving the same, or by his attorney on his behalf, and the grounds of appeal shall be specified in every such notice: Provided always that it shall not be lawful for the appellant, on the trial of any such appeal, to go into, or give evidence of, any other ground of appeal besides those set forth in such notice.

Defective statement of grounds of Appeal, and amendment of grounds.

XV. That upon the hearing of an Appeal to any such Court, no objection on account of any defect in the form of setting forth any ground of Appeal, shall be allowed; and no objection to the reception of legal evidence offered in support of any grounds of Appeal, shall prevail, unless the Court shall be of opinion, that such ground of Appeal is so imperfectly or incorrectly set forth, as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial: Provided, that in all cases, where the Court shall be of opinion that any objection to any ground of Appeal, or to the reception of evidence in support thereof, ought to prevail, it shall be lawful for such Court, if it shall think fit, to cause any such ground of Appeal to be forthwith amended, by some officer of the Court, or otherwise, on such terms as to payment of costs to the other party, or postponement of the trial to another day in the same, or the next subsequent Sessions, or both payment of costs and postponement, as to such Court shall appear just and reasonable.

Frivolous Ground of Appeal.

XVI. That if, in any Notice of Appeal, the appellant shall have included any ground of Appeal which shall, in the opinion of such Court, be frivolous or vexatious, such appellant shall be liable, if the Court shall think fit, and irrespective of the result of such Appeal, to pay the whole, or any part of the costs incurred by the respondent in disputing any such ground of Appeal; such costs to be recoverable in the manner hereinafter directed as to the other costs incurred by reason of such Appeal.

Sessions to have a general power to give Costs in all Cases of Appeal.

XVII. That upon any Appeal to any such Court of General Sessions of the Peace, such Court may, if it think fit, order and direct the party, against whom the same shall be decided, to pay to the other party such costs and charges as may appear just and reasonable,—such costs to be recoverable in the manner provided for the recovery of costs upon an Appeal against an order or conviction by an Act of the Imperial Parliament passed in the eleventh and twelfth years of Her present Majesty's Reign, intituled "*An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to summary convictions and orders.*"

Sessions to have power to give costs in cases of Appeal not prosecuted.

XVIII. That every such Court, upon proof of any notice of Appeal having been given to the party entitled to receive the same, though such Appeal was not afterwards prosecuted or entered, may, if it think fit, at the Sessions for which such notice was given, order to the party receiving the same, such costs and charges as by the said court shall be thought reasonable and just, to be paid by the party giving such notice, and to be recoverable in the manner last aforesaid.

Amendment of orders or judgments of Justices on Appeal, or upon return to *certiorari*.

XIX. That if, upon the trial of an Appeal against any order, or judgment, made, or given, by any Justice of the Peace, or if, upon the return to any Writ of *Certiorari*, any objection shall be made on account of any omission, or mistake, in the drawing up of such order or judgment, and it shall be shewn to the satisfaction of the Court, that sufficient grounds were in proof before the Justice making such order, or giving such judgment, to have authorized the drawing up thereof, free from the said omission or mistake, it shall be lawful for the Court, upon such terms as to payment of costs, as it shall think fit, to amend such order

order or judgment, and to adjudicate thereupon, as if no such omission or mistake had existed: Provided, that no objection on account of any omission or mistake in any such order or judgment brought up upon a return to a writ of *certiorari*, shall be allowed unless such omission or mistake shall have been specified in the rule for issuing such *certiorari*.

Rule for *certiorari* to state objections.

XX. That where any Recognizance which shall have been entered into, within the time by Law required, before any Justice for the purpose of complying with the requirements of any Act or Statute, giving a right of Appeal against Orders on Summary Convictions, shall appear to any Court of General Sessions to have been insufficiently entered into, or to be otherwise defective or invalid, it shall be lawful for such Court, if it shall think fit, to permit the substitution of a new and sufficient Recognizance to be entered into before such Court in the place of such insufficient defective or invalid Recognizance; and, for that purpose, to allow such time, make such Examination, and impose such Terms, as to payment of Costs to the Respondent, as such Court shall deem just and reasonable; and such substituted Recognizance shall be as valid and effectual, to all intents and purposes, as if the same had been duly entered into at any earlier time as required by any Act or Statute for that purpose.

Amendment of Recognizances.

XXI. That every such Court shall have power to amend at any time and at any stage of the proceedings, any affidavit, jurat, or title of affidavit, notice, record, decree, judgment, order, writ, præcipe, process, or other proceeding used before or in such Court, in any matters that shall appear to such Court not likely to mislead in any point essential to the merits of the case, and although there may be no document, writing, or other matter to amend by and to impose such terms, and to award such reasonable costs of such amendment, as to such Court shall seem meet.

Amendments generally.

XXII. That the decisions of the said Courts of General Sessions of the Peace upon the hearing of any Appeal, as to the sufficiency of the statement of any ground of Appeal, and as to the amending, or refusing to amend, any Order or Judgment of a Justice appealed against, or the statement of any ground of Appeal, and as to the substitution of any new Recognizance as aforesaid, shall be final, and shall not be liable to be reviewed in any Court by means of a Writ of *Certiorari*, *Mandamus*, or otherwise.

Decisions of Sessions when final.

XXIII. That at any time after Notice given of Appeal to any such Court against any judgment, order, rate, or other matter, (except a proceeding under or by virtue of any of the Acts or Statutes relating to the Customs, Taxes, or Post Office), for which the remedy is by such Appeal, it shall be lawful for the parties by consent, and by order of any Judge of the Supreme Court of the said Colony, to state the facts of the case in the form of a Special Case for the opinion of the said Supreme Court, and to agree that a Judgment, in conformity with the decision of such Court, and for such costs as such Court shall adjudge, may be entered, on Motion by either party, at the Sessions next, or next but one, after such decision shall have been given; and such Judgment shall and may be entered accordingly, and shall be of the same effect in all respects, as if the same had been given, by such Court of General Sessions, upon an Appeal duly entered and continued.

Power to state a Special Case without going to the Sessions previously.

XXIV. That no Recognizance entered into, pursuant to any Act or Statute, for the Prosecution and Trial of any Appeal, shall be deemed to be forfeited by such Agreement, as aforesaid, for the statement of a Special Case, without previously going to the Court of General Sessions.

Recognizances for prosecution, and trial of Appeal.

XXV. That in all cases where any order shall be made by any of the said Courts of General Sessions of the Peace, it shall be lawful for the Supreme Court of the said Colony, or for any Judge thereof, upon the application of any person entitled to enforce such order, and upon

Enforcing Orders of Sessions.

upon the production of a copy of such order, under the hand of the Clerk of the Peace or his deputy, and upon proof of refusal or neglect to obey such order, to direct the said order of the Court of General Sessions to be removed into the said Supreme Court; and thereupon such order shall be of the same force and effect, and may be enforced in the same manner, as a rule made by the said Supreme Court; and all the reasonable costs and charges attendant upon such application and removal shall be recoverable in like manner as if the same were part of such order.

Levying and recovery of fines, issues and amerciaments.

XXVI. That all fines except those herein specially provided for, and all issues, amerciaments, and recognizances, set, imposed, lost, or forfeited, by or before any such Court, shall be levied and recovered in the manner provided for the recovery of fines, issues, amerciaments, and forfeited recognizances, by an Act of the Imperial Parliament passed in third year of the reign of King George the Fourth intituled, "*An Act for the more speedy return and levying of fines, penalties, and forfeitures, and recognizances estreated.*"

No Officer of the Court to act as Attorney or Agent in such Court.

XXVII. That no Clerk of the Peace, or other officer of any of the said Courts, shall either by himself, or his partner, directly, or indirectly, be engaged as Attorney, or Agent, for any party, in any proceeding whatsoever, in such Court either in its Criminal or Civil Jurisdiction.

Chairman and Justices to make Rules for regulating practice.

XXVIII. That it shall be lawful for the Chairman of every such Court, and any four or more Justices of the Peace, for the said City of Melbourne or Town of Geelong, or for the said Colony of Victoria, as the case may be, from time to time, to make and prescribe Rules for regulating the practice of the said Court in its Criminal Jurisdiction; and also respecting the entering and hearing of appeals and the fees payable thereon, and for conducting other matters in the said Court, as to such Chairman and Justices shall seem meet; and such Rules respectively may be, from time to time, by such Chairman and Justices repealed, altered or varied: Provided that every such Rule shall be forwarded by the said Chairman to the Prothonotary, or other proper officer of the Supreme Court of the said Colony of Victoria, and by him laid before the Judges of the said Court, who shall have power to allow or disallow the same; and no such Rule shall have effect until one month after it shall have been so laid before the said Judges, nor until it shall have been published in the *Government Gazette*. And every Rule when so allowed and published as aforesaid, shall have the like force and effect as if the same had been inserted in this present Act.

Action against Officers of the Court.

XXIX. That all actions to be brought against any person for any thing done under this Act shall, be commenced within four calendar months after the act complained of was committed; and no writ shall be sued out against, nor any copy of any process served upon, any person, for anything by him done in the execution of his office under this Act, until a notice in writing of such intended writ or process shall have been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to cause the same to be sued out, or served, at least one calendar month before the suing out or serving the same: And such notice shall clearly and explicitly set forth the nature of the intended action, and the cause of action, and on the back thereof shall be endorsed the name and place of abode of the party intending to bring such action, and the name and place of business of his attorney or agent.

Defendant may pay money into Court, and plead the general issue.

XXX. That it shall be lawful for the Defendant in any such action, at any time before plea pleaded to tender or cause to be tendered any sum of money as amends for the injury complained of, to the party complaining or to his attorney or agent; and if the same be not accepted it shall be lawful for the Defendant to pay such sum tendered, or any other sum into Court, and to plead the general issue, and to give the special matter of his defence, and also such payment into Court in

evidence

evidence by virtue of this Act. And no such Plaintiff shall be entitled to recover in such action unless it be proved at the trial thereof that such notice was given as aforesaid; and no such Plaintiff shall be permitted to give any evidence at the trial of such action, of any cause of action, except such as is contained in such notice. And no Plaintiff shall be entitled to recover in any such action if the Jury which try the same be of opinion that the sum of money paid into Court by the Defendant is sufficient amends for the injury complained of. And if the Plaintiff shall discontinue such action, or if upon demurrer or otherwise, judgment be given against the Plaintiff or if the Plaintiff be nonsuited, or if a verdict pass for the Defendant, the Defendant shall be entitled to recover his full costs as between attorney and client, and shall have the like remedy for the recovery of the same as any defendant has by law in other cases.

Plaintiff must prove service of notice. No evidence may be given except that in the Notice. Verdict. Costs.

XXXI. That this Act shall commence and take effect from and after the first day of November, which will be in the Year of our Lord one thousand eight hundred and fifty-two.

Commencement of Act.

SCHEDULE A.

COURT OF GENERAL SESSIONS, }
To Wit. }

To A. B. and C. D., and to their assistants, and to the Keeper of the Common Gaol at
WHEREAS G. H., late of *laborer*, was this day duly convicted before me J. K., Chairman of the Court of General Sessions, of the Peace, for that he the said G. H., on the *day of* in the year of our Lord 185 *, at* in the Colony of Victoria, was guilty of a contempt of the said Court, and so deemed and adjudged by me the said J. K., and I the said J. K., did thereupon adjudge the said G. H., for this his said offence to be imprisoned in the Common Gaol at *for the space of* : These are therefore to command you the said A. B., and C. D., and your assistants to take the said G. H., and him safely to convey to the said Common Gaol aforesaid, and there to deliver him to the said Keeper thereof, together with this precept. And I do hereby command you the said Keeper to receive the said G. H., into the said Common Gaol, and there to imprison him for the space of *and for your so doing, this shall be your sufficient warrant.*

GIVEN under my Hand and the Seal of the Court, this *day of*
in the year of our Lord 18

J. K.
Chairman.

SCHEDULE B.

COURT OF GENERAL SESSIONS, }
To Wit. }

To A. B. and C. D., and their assistants, and to the keeper of the Common Gaol at
WHEREAS G. H. late of *laborer*, was this day duly convicted before me J. K. Chairman of the Court of General Sessions of the Peace for that he the said G. H. on the *day of* in the year of our Lord 185 *, at* in the Colony of Victoria, was guilty of a contempt of the said Court, and I the said J. K., did thereupon adjudge the said G. H. for his said offence, to forfeit and pay the sum of £ *: and whereas the said sum has not been paid.* These are therefore to command you the said A. B. and C. D. and your assistants, to take the said G. H., and him safely to convey to the said Common Goal aforesaid, and there to deliver him to the said keeper thereof, together with this precept. And I do hereby command you the said keeper to receive the said G. H. into the said Common Goal, and there to imprison him for the space of *unless the said sum shall be sooner paid, and for your so doing this shall be your sufficient warrant.*

GIVEN under my Hand and the Seal of the Court, this *day of*
in the year of our Lord 18

J. K.
Chairman.