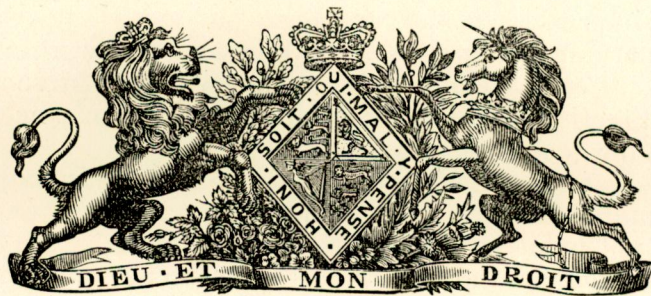


*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council Chamber,  
Sydney, 7th August, 1890. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO QUARTO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

No. .

An Act to amend the Criminal Law and certain laws for the administration of justice.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 1. This Act may be cited as the "Criminal Law and Evidence Short title. Amendment Act of 1890."

2. The Act herein referred to as the Principal Act is the "Criminal Law Amendment Act of 1883," forty-sixth Victoria number seventeen. Act referred to as Principal Act.

10 3. The following sections and parts of sections of the Principal Act, viz., sections eight, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-two, and four hundred and fifty-nine, in section three hundred and forty the words "more than twelve hours," in section four hundred and thirty-eight the words "other than the one hundred and fiftieth section," and in clause (a) of section four hundred and forty-six the words "in company with any other person," and the whole Repeal of certain sections and clauses of the Principal Act and of the whole of the "Criminal Law Amendment Act of 1884."



*Criminal Law and Evidence Amendment.*

whole of the "Criminal Law Amendment Act of 1884," are hereby repealed—except as to anything heretofore duly done thereunder, and except so far as may be necessary for the purpose of supporting and continuing any proceeding taken or of prosecuting or punishing any person for any offence committed before the passing of this Act.

4. Where by any section of the Principal Act an offender is made liable to penal servitude for life, or any other fixed term, the Judge may nevertheless pass a sentence of penal servitude or of imprisonment of less duration as follows—that is to say—instead of penal servitude for life, penal servitude for any term of years not less than seven—or imprisonment for any term not exceeding seven years—instead of penal servitude for fourteen years, penal servitude for any term of years not less than five, or imprisonment for any term not exceeding five years—instead of penal servitude for ten years, penal servitude for any term of years not less than four, or imprisonment for any term not exceeding three years—and instead of penal servitude for seven or five years, penal servitude for any term of years not less than three, or imprisonment for any term not exceeding two years. Provided that nothing in this section shall prevent the awarding of hard labour or solitary confinement, or whipping, where at present by law authorized, or directing the offender to enter into recognizances to keep the peace, and for good behaviour.

5. In the case of any sentence to a whipping or whippings under sections four hundred and one or four hundred and two of the Principal Act, it shall not be necessary that the time or times of such whippings shall be specified by the Court in such sentence, and in case the Court shall not specify the time or times of such whipping, the same shall be fixed by the Comptroller General of Prisons, under and in accordance with regulations in that behalf to be made by the Governor. In no case shall any whipping take place after the expiration of six months from the passing of the sentence.

6. Every person charged with an indictable offence, and the husband or wife, as the case may be, of the person so charged, shall be competent, but not compellable, to give evidence in every Court on the hearing of such charge. Provided that the person so charged shall not be liable to be called as a witness on behalf of the prosecution nor to be questioned on cross-examination as to his or her previous character or antecedents without the leave of the Judge.

7. Where upon the hearing of any charge under sections forty-one, forty-two, forty-three, forty-four, fifty-nine, or sixty of the Principal Act against any person, any child who is tendered as a witness, does not, in the opinion of the Court or Justices, understand the nature of an oath, the evidence of such child of tender years may be received, though not given upon oath, if, in the opinion of the Court or Justices, as the case may be, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. No person shall be allowed to be convicted of the offence charged unless the testimony admitted by virtue of this section and given on behalf of the prosecution shall be corroborated by some other material evidence in support thereof implicating the accused. Provided that if any witness whose evidence has been admitted under this section shall give false evidence such witness shall be deemed guilty of a misdemeanour, and shall be punishable as for perjury or as provided under section two hundred and ninety-two of the Principal Act. Provided also that no prosecution shall be instituted under or by virtue of this section without the leave first obtained of the Court or Justices before whom such evidence was given.

See 48 and 49 Vic.,  
ch. 69, sec. 19.

Provision for  
reducing terms of  
sentences of penal  
servitude and for  
imposing sentence of  
imprisonment.

Times of whipping  
need not be specified  
in sentence.

26 and 27 Vic.  
ch. 44.

Accused and husband  
or wife of accused  
competent witnesses  
under certain  
sections.

See 48 and 49 Vic.,  
ch. 69, sec. 20.

On hearing of a  
charge for any offence  
evidence not on oath  
may be received in  
case of children of  
tender years, but such  
evidence must be  
corroborated.

See 48 & 49 Vic., ch.  
69, sec. 4.



*Criminal Law and Evidence Amendment.*

8. Certified copies of registers, or entries of registers, made or given by the Registrar-General or any District Registrar, and purporting to be signed by such officers respectively, shall be received as *primâ facie* evidence in any Court of Justice within this Colony of the particulars therein contained respecting the birth, death, or marriage to which the same relate.

Certified copies of registers, &c., to be *primâ facie* evidence of particulars.

9. In any Court of Justice within the said Colony in which it shall be necessary to prove the age, marriage, or death of any person born or married or who shall have died in any part of the British dominions other than this Colony, a certificate of the birth, marriage, or death of such person, purporting to be issued by the officer authorized by the law in that behalf of the part of the said dominions in which such person shall have been born or married, or shall have died, as the case may be, shall be received as *primâ facie* evidence of the matters stated in such certificate, without proof of the seal or stamp or signature, or of the official character of the person appearing to have signed the same. And whosoever forges or utters or tenders in evidence, or causes to be tendered in evidence, any such certificate, knowing the same to be forged, shall be liable to penal servitude for any term of years not less than five or to imprisonment with or without hard labour for any term not exceeding five years.

Evidence of birth or marriage in other parts of the British Dominions.

10. In any Court of Justice within the said Colony in which it may be necessary to prove the incorporation or registration of any trading society or company, whether foreign or otherwise, it shall be sufficient *primâ facie* evidence of such incorporation or registration to prove that such society or company carried on business within the said Colony, or elsewhere outside the said Colony, as the case may be, under a certain name or style, without further proof as to the incorporation or registration of such society or company.

Evidence of incorporation, &c. of companies.

11. Printed copies in volumes of Statutes, codes, or other written law enacted by the Imperial or any foreign Government, or by any British Colony or dependency other than this Colony, purporting to have been published by the authority thereof, or proved, to the satisfaction of the Court or Judge, to be commonly admitted as evidence in the Courts and judicial tribunals of such Government, Colony, or dependency may be admitted in all Courts of Justice in this Colony on all occasions as *primâ facie* evidence of such laws. The books of reports of cases adjudged in the Courts of any part of the British dominions or of any foreign Government, purporting or proved, to the satisfaction of the Court or Judge, to be authorized reports, may also be admitted as *primâ facie* evidence of the unwritten or common law of that part of the said dominions or of the foreign Government to which the same relate.

Evidence of foreign law, &c.  
See Voorlie's Code of Procedure of State of New York, 7th ed., p. 565.

12. In any prosecution under section one hundred and twenty-one or one hundred and twenty-two of the Principal Act, where the charge is in respect of money, it shall not be necessary to prove the larceny or embezzlement by the accused of any specific sum of money, if there is proof of a general deficiency on the examination of the books of account, or entries, kept or made by him, or otherwise, and the jury are satisfied that the accused stole or fraudulently embezzled the deficient money or any part thereof.

Larceny or embezzlement by persons in the Public Service. Proof of general deficiency in accounts.

13. The provisions in respect of proof by affidavit or otherwise of the service of a summons upon any person, contained in the four hundred and thirty-fourth section of the Principal Act, shall henceforth be alike applicable to all cases where any charge or complaint for an indictable offence is made before any Justice, as well as to cases where a person is charged before a Justice or Justices with an offence punishable on summary conviction, whether under the Principal Act, this Act, or any other Act either heretofore or hereafter passed.

Extension of section 434.



*Criminal Law and Evidence Amendment.*

14. Where a person is charged before one or more Justices with attempting to commit suicide, or with the offence of stealing from the person of another, or simple larceny or embezzlement as a clerk or servant, or with any offence within any of the sections of the Principal Act hereinafter enumerated, that is to say: Sections seventy-one, seventy-five, eighty-one, eighty-two, one hundred and fifteen, one hundred and seventeen, or one hundred and forty-one; or with an attempt to commit any such offence, and the evidence for the prosecution is in the opinion of such Justice or Justices sufficient to put the accused on his trial, but it appears to him or them that the case may properly be disposed of summarily, the said Justice or Justices shall have jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged. The jurisdiction conferred by this section shall not extend to any case in which the subject-matter of the charge or charges that may be made in respect of any of the offences mentioned, or the value of the property involved is of the amount of twenty pounds or upwards; and the jurisdiction hereby conferred shall not be exercised if the accused desire the case to be determined by a jury.

Extension of summary jurisdiction of Justices in respect of certain offences.

15. In the cases referred to in the last preceding section the Justice or Justices shall first reduce the charge into writing and read it to the accused and shall ask him whether he consents to its being disposed of summarily, and if he consents shall ask him whether he is guilty or not, and if the accused pleads guilty the Justice or Justices shall pass sentence upon him, but if he says that he is not guilty, and has a defence, such Justice or Justices shall proceed to hear the same. Provided also that upon the close of the case for the prosecution, and before asking the accused whether he is guilty, the Justice or Justices shall explain to him that he is not obliged then to plead, but is entitled to have the case disposed of in the ordinary course of law.

Accused to be warned.

16. If in any such case the accused pleads guilty, or the Justice or Justices, after hearing the whole case, find the charge to be proved, such Justice or Justices shall convict him thereof, and upon such conviction the accused shall be liable to imprisonment for a term not exceeding six months or to pay a fine not exceeding twenty pounds, or where the offender's age is, in the opinion of such Justice or Justices, under sixteen years, then he shall be liable to imprisonment for a term not exceeding three months or to pay a fine not exceeding ten pounds; but if the Justice or Justices find the accused not guilty, such Justice or Justices shall dismiss the case, and shall, if requested, make out and deliver to him a certificate under his or their hands, stating the fact of such dismissal.

Punishment or dismissal in such cases.

17. The provisions in section three hundred and seven of the Principal Act shall be alike applicable to all cases in which any person is remanded to prison, and in which the Attorney-General may in his discretion think fit not further to proceed. The certificate and warrant referred to in the said section shall in such cases, in lieu of the words "to file any information," contain respectively the words "to proceed further upon an indictment filed," and in lieu of the words "under the warrant of R.W., Esquire, Justice of the Peace," the words "under the order of His Honor \_\_\_\_\_, a Judge of the Supreme Court, or A.M., Esquire, Chairman of Quarter Sessions;"—and the warrant shall contain in lieu of the words "said warrant" the words "said order."

Discharge of persons not further proceeded against.

18. The provisions of the Acts fourth William the Fourth number seven, second Victoria number two, and seventeenth Victoria number twenty-five, in respect of the taking of bail by a constable in certain cases, shall henceforward apply to cases in which any person shall, for such offences as in the said Acts respectively are mentioned, be brought into the custody of any constable attending at any watch-house within the

Watch-house bail.

4 Wm. IV. No. 7, s. 7.

2 Vic. No. 2, s. 7.

17 Vic. No. 25, s. 3.

the



*Criminal Law and Evidence Amendment.*

the Colony during the daytime, and the accused cannot be immediately brought before a Justice of the Peace. The condition of the recognizance taken under the said Acts, or under this section, shall, so far as relates to the time for the appearance of the accused, be that the accused appear before a Justice of the Peace or at the next ensuing sitting of the Court of Petty Sessions for the District in which he shall have been apprehended, at a time and place to be mentioned in the said recognizance.

19. In all cases of summary conviction, where there is no Court of General or Quarter Sessions appointed to be holden in the district where the cause of complaint arose, the person so convicted may appeal to the next Court of General or Quarter Sessions nearest to such district. Provided that if the day of sitting of such last-mentioned Court is within ten days of such conviction, then to the next such Court but one after the said conviction. Further provision as to appeal.

20. In all cases of adjudication by a Licensing Court or Court of Petty Sessions under the Acts forty-fifth Victoria number fourteen or forty-sixth Victoria number twenty-four, in which an appeal is, by the last-mentioned Act, allowed to a Court of Quarter Sessions, where there is no such Court holden in the Licensing District where the adjudication complained of was given, the person aggrieved by such adjudication may appeal to the next Court of Quarter Sessions nearest to such Licensing District unless the day of sitting of such last-mentioned Court shall be within fourteen days from the date of such adjudication, in which case the appeal shall be to the Quarter Sessions then next following. Provisions as to appeal under the Licensing Acts where no Court of Quarter Sessions holden in the Licensing District where adjudication made. See 46 Vic. No. 24, sec. 30.

21. The Court of General or Quarter Sessions may in the case of any appeal reduce or vary the sentence, order, or adjudication appealed against. Courts of Quarter Sessions may reduce or vary sentence on appeal.

22. No judgment shall be reversed or avoided for any error in law in the sentence imposed, but it shall be competent for the Judges of the Supreme Court, in case of any such error, either to pronounce such judgment and sentence as is authorized by law, or to remit the record to the Court whence it came, in order that such Court may pronounce such judgment and sentence as is authorized by law. Pronouncing proper judgment.

23. The two hundred and sixty-fifth section of the Principal Act shall henceforward be read and construed as if instead of the word "baptism" the word "birth" were used. Amendment of the 265th section as to "baptism."

24. The word "Judge" being the last word of the three hundredth section of the Principal Act shall henceforward be taken to mean a Judge of the Supreme Court, or a Judge of a District Court, or Chairman of General or Quarter Sessions. Amendment of the 300th section as to "Judge."

25. After the passing of this Act the words "Registrar or District Registrar in Bankruptcy" shall be read in section three hundred of the Principal Act, in substitution of the words therein, "District Commissioner of Insolvent Estates." Amendment of 300th section.

26. If the chairman of any Court of General or Quarter Sessions shall not be present at the time appointed for holding such Court, any Magistrate may open and adjourn such Court from time to time, if necessary, until such time as, in his opinion, such chairman may reasonably be expected to be present and able to hold such Court. For adjourning Quarter Sessions in certain cases.

27. It shall be lawful for the Governor, with the advice of the Executive Council by Commission, to appoint a Judge of the District Court or any duly qualified barrister or attorney legally qualified to be a District Court Judge, to be the chairman of any Court of General or Quarter Sessions for the purpose of holding a Second Court of General or Quarter Sessions in any District for which a chairman has already been appointed, and is at the time holding a Court of General or Quarter Sessions. For second Courts of Quarter Sessions in Districts.



*Criminal Law and Evidence Amendment.*

28. The Governor may by Proclamation establish Courts of General or Quarter Sessions and Petty Sessions, in addition to those existing at the time of the passing of this Act, and direct that they be holden severally at such places, and for such districts respectively as he  
5 thereby appoints; and in like manner he may abolish any such Court, whether now existing or hereafter established. Every such additional Court of General or Quarter Sessions and Court of Petty Sessions shall have respectively the same jurisdiction, criminal and civil, as the Courts of General or Quarter Sessions and Petty Sessions now possess  
10 respectively. The Governor may also from time to time, by Proclamation duly issued for such purpose, appoint the times at which the several Courts of General or Quarter Sessions already established, or which may hereafter be established, shall respectively be held.
29. Every police officer or constable may, in any case in which  
15 a warrant shall have been issued for the apprehension of any person for a misdemeanour, or for any offence punishable as a misdemeanour, apprehend such person and take him together with any property found upon him before a Justice of the Peace, to be dealt with according to law, although such warrant may not at the time of such apprehension  
20 be in the possession of such police officer or constable.
30. So much of section fourteen of the Act eleventh Victoria, number twenty, as exempts Justices of the Peace from being summoned or impanelled as jurors to serve at any General or Quarter Sessions of the Peace, and so much of section eight of the Act  
25 fifteenth Victoria number three, as provides that no person whose name is and appears on the Special Jury List for the Jurors' District of Sydney shall be liable or be compelled to attend as a juror in any Court of General or Quarter Sessions, unless summoned under a Special Jury Precept, is hereby repealed.
- 30 31. This Act in so far as its provisions are not inconsistent with the Principal Act, shall be incorporated with and construed as part and parcel of that Act.

Power to proclaim new Courts of Quarter and Petty Sessions and jurisdiction of same. Governor may fix times for holding Courts of Quarter Sessions already established or hereafter established. See 3 Wm. IV. No. 3, sec. 14.

Police officer or constable may arrest for misdemeanour where warrant has been issued.

Amendment of the laws relating to jurors.

This Act to be read with the Principal Act.

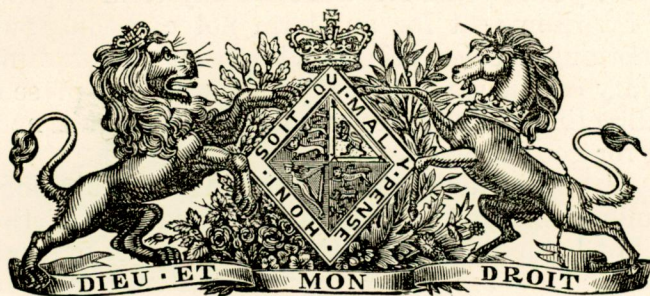


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*Legislative Council Chamber,  
Sydney, 7th August, 1890. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO QUARTO

# VICTORIÆ REGINÆ.

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No. .

An Act to amend the Criminal Law and certain laws for the administration of justice.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5       1. This Act may be cited as the "Criminal Law and Evidence Amendment Act of 1890." Short title.

2. The Act herein referred to as the Principal Act is the "Criminal Law Amendment Act of 1883," forty-sixth Victoria number seventeen. Act referred to as Principal Act.

10       3. The following sections and parts of sections of the Principal Act, viz., sections eight, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-two, and four hundred and fifty-nine, in section three hundred and forty the words "more than twelve hours," in section four hundred and thirty-eight the words "other than the one hundred and fiftieth section," and in clause (a) of section four hundred and forty-six the words "in company with any other person," and the whole



*Criminal Law and Evidence Amendment.*

whole of the "Criminal Law Amendment Act of 1884," are hereby repealed—except as to anything heretofore duly done thereunder, and except so far as may be necessary for the purpose of supporting and continuing any proceeding taken or of prosecuting or punishing any person for any offence committed before the passing of this Act.

4. Where by any section of the Principal Act an offender is made liable to penal servitude for life, or any other fixed term, the Judge may nevertheless pass a sentence of penal servitude or of imprisonment of less duration as follows—that is to say—instead of penal servitude for life, penal servitude for any term of years not less than seven—or imprisonment for any term not exceeding seven years—instead of penal servitude for fourteen years, penal servitude for any term of years not less than five, or imprisonment for any term not exceeding five years—instead of penal servitude for ten years, penal servitude for any term of years not less than four, or imprisonment for any term not exceeding three years—and instead of penal servitude for seven or five years, penal servitude for any term of years not less than three, or imprisonment for any term not exceeding two years. Provided that nothing in this section shall prevent the awarding of hard labour or solitary confinement, or whipping, where at present by law authorized, or directing the offender to enter into recognizances to keep the peace, and for good behaviour.

5. In the case of any sentence to a whipping or whippings under sections four hundred and one or four hundred and two of the Principal Act, it shall not be necessary that the time or times of such whippings shall be specified by the Court in such sentence, and in case the Court shall not specify the time or times of such whipping, the same shall be fixed by the Comptroller General of Prisons, under and in accordance with regulations in that behalf to be made by the Governor. In no case shall any whipping take place after the expiration of six months from the passing of the sentence.

6. Every person charged with an indictable offence, and the husband or wife, as the case may be, of the person so charged, shall be competent, but not compellable, to give evidence in every Court on the hearing of such charge. Provided that the person so charged shall not be liable to be called as a witness on behalf of the prosecution nor to be questioned on cross-examination as to his or her previous character or antecedents without the leave of the Judge.

7. Where upon the hearing of any charge under sections forty-one, forty-two, forty-three, forty-four, fifty-nine, or sixty of the Principal Act against any person, any child who is tendered as a witness, does not, in the opinion of the Court or Justices, understand the nature of an oath, the evidence of such child of tender years may be received, though not given upon oath, if, in the opinion of the Court or Justices, as the case may be, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. No person shall be allowed to be convicted of the offence charged unless the testimony admitted by virtue of this section and given on behalf of the prosecution shall be corroborated by some other material evidence in support thereof implicating the accused. Provided that if any witness whose evidence has been admitted under this section shall give false evidence such witness shall be deemed guilty of a misdemeanour, and shall be punishable as for perjury or as provided under section two hundred and ninety-two of the Principal Act. Provided also that no prosecution shall be instituted under or by virtue of this section without the leave first obtained of the Court or Justices before whom such evidence was given.



*Criminal Law and Evidence Amendment.*

8. Certified copies of registers, or entries of registers, made or given by the Registrar-General or any District Registrar, and purporting to be signed by such officers respectively, shall be received as *primâ facie* evidence in any Court of Justice within this Colony 5 of the particulars therein contained respecting the birth, death, or marriage to which the same relate. Certified copies of registers, &c., to be *primâ facie* evidence of particulars.
9. In any Court of Justice within the said Colony in which it shall be necessary to prove the age, marriage, or death of any person born or married or who shall have died in any part of the British 10 dominions other than this Colony, a certificate of the birth, marriage, or death of such person, purporting to be issued by the officer authorized by the law in that behalf of the part of the said dominions in which such person shall have been born or married, or shall have died, as the case may be, shall be received as *primâ facie* evidence of 15 the matters stated in such certificate, without proof of the seal or stamp or signature, or of the official character of the person appearing to have signed the same. And whosoever forges or utters or tenders in evidence, or causes to be tendered in evidence, any such certificate, knowing the same to be forged, shall be liable to penal servitude for 20 any term of years not less than five or to imprisonment with or without hard labour for any term not exceeding five years. Evidence of birth or marriage in other parts of the British Dominions.
10. In any Court of Justice within the said Colony in which it may be necessary to prove the incorporation or registration of any trading society or company, whether foreign or otherwise, it shall be 25 sufficient *primâ facie* evidence of such incorporation or registration to prove that such society or company carried on business within the said Colony, or elsewhere outside the said Colony, as the case may be, under a certain name or style, without further proof as to the incorporation or registration of such society or company. Evidence of incorporation, &c. of companies.
11. Printed copies in volumes of Statutes, codes, or other 30 written law enacted by the Imperial or any foreign Government, or by any British Colony or dependency other than this Colony, purporting to have been published by the authority thereof, or proved, to the satisfaction of the Court or Judge, to be commonly admitted as 35 evidence in the Courts and judicial tribunals of such Government, Colony, or dependency may be admitted in all Courts of Justice in this Colony on all occasions as *primâ facie* evidence of such laws. The books of reports of cases adjudged in the Courts of any part of the British dominions or of any foreign Government, purporting or 40 proved, to the satisfaction of the Court or Judge, to be authorized reports, may also be admitted as *primâ facie* evidence of the unwritten or common law of that part of the said dominions or of the foreign Government to which the same relate. Evidence of foreign law, &c. See Voorlie's Code of Procedure of State of New York, 7th ed., p. 565.
12. In any prosecution under section one hundred and twenty- 45 one or one hundred and twenty-two of the Principal Act, where the charge is in respect of money, it shall not be necessary to prove the larceny or embezzlement by the accused of any specific sum of money, if there is proof of a general deficiency on the examination of the books of account, or entries, kept or made by him, or otherwise, and the 50 jury are satisfied that the accused stole or fraudulently embezzled the deficient money or any part thereof. Larceny or embezzlement by persons in the Public Service. Proof of general deficiency in accounts.
13. The provisions in respect of proof by affidavit or otherwise of the service of a summons upon any person, contained in the four 55 hundred and thirty-fourth section of the Principal Act, shall henceforth be alike applicable to all cases where any charge or complaint for an indictable offence is made before any Justice, as well as to cases where a person is charged before a Justice or Justices with an offence punishable on summary conviction, whether under the Principal Act, this Act, or any other Act either heretofore or hereafter passed. Extension of section 434.



*Criminal Law and Evidence Amendment.*

14. Where a person is charged before one or more Justices with attempting to commit suicide, or with the offence of stealing from the person of another, or simple larceny or embezzlement as a clerk or servant, or with any offence within any of the sections of the Principal Act hereinafter enumerated, that is to say: Sections seventy-one, seventy-five, eighty-one, eighty-two, one hundred and fifteen, one hundred and seventeen, or one hundred and forty-one; or with an attempt to commit any such offence, and the evidence for the prosecution is in the opinion of such Justice or Justices sufficient to put the accused on his trial, but it appears to him or them that the case may properly be disposed of summarily, the said Justice or Justices shall have jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged. The jurisdiction conferred by this section shall not extend to any case in which the subject-matter of the charge or charges that may be made in respect of any of the offences mentioned, or the value of the property involved is of the amount of twenty pounds or upwards; and the jurisdiction hereby conferred shall not be exercised if the accused desire the case to be determined by a jury.
15. In the cases referred to in the last preceding section the Justice or Justices shall first reduce the charge into writing and read it to the accused and shall ask him whether he consents to its being disposed of summarily, and if he consents shall ask him whether he is guilty or not, and if the accused pleads guilty the Justice or Justices shall pass sentence upon him, but if he says that he is not guilty, and has a defence, such Justice or Justices shall proceed to hear the same. Provided also that upon the close of the case for the prosecution, and before asking the accused whether he is guilty, the Justice or Justices shall explain to him that he is not obliged then to plead, but is entitled to have the case disposed of in the ordinary course of law.
16. If in any such case the accused pleads guilty, or the Justice or Justices, after hearing the whole case, find the charge to be proved, such Justice or Justices shall convict him thereof, and upon such conviction the accused shall be liable to imprisonment for a term not exceeding six months or to pay a fine not exceeding twenty pounds, or where the offender's age is, in the opinion of such Justice or Justices, under sixteen years, then he shall be liable to imprisonment for a term not exceeding three months or to pay a fine not exceeding ten pounds; but if the Justice or Justices find the accused not guilty, such Justice or Justices shall dismiss the case, and shall, if requested, make out and deliver to him a certificate under his or their hands, stating the fact of such dismissal.
17. The provisions in section three hundred and seven of the Principal Act shall be alike applicable to all cases in which any person is remanded to prison, and in which the Attorney-General may in his discretion think fit not further to proceed. The certificate and warrant referred to in the said section shall in such cases, in lieu of the words "to file any information," contain respectively the words "to proceed further upon an indictment filed," and in lieu of the words "under the warrant of R.W., Esquire, Justice of the Peace," the words "under the order of His Honor \_\_\_\_\_, a Judge of the Supreme Court, or A.M., Esquire, Chairman of Quarter Sessions;"—and the warrant shall contain in lieu of the words "said warrant" the words "said order."
18. The provisions of the Acts fourth William the Fourth number seven, second Victoria number two, and seventeenth Victoria number twenty-five, in respect of the taking of bail by a constable in certain cases, shall henceforward apply to cases in which any person shall, for such offences as in the said Acts respectively are mentioned, be brought into the custody of any constable attending at any watch-house within the

Extension of summary jurisdiction of Justices in respect of certain offences.

Accused to be warned.

Punishment or dismissal in such cases.

Discharge of persons not further proceeded against.

Watch-house bail.  
4 Wm. IV. No. 7, s. 7.  
2 Vic. No. 2, s. 7.  
17 Vic. No. 25, s. 3.



*Criminal Law and Evidence Amendment.*

the Colony during the daytime, and the accused cannot be immediately brought before a Justice of the Peace. The condition of the recognizance taken under the said Acts, or under this section, shall, so far as relates to the time for the appearance of the accused, be that the  
5 accused appear before a Justice of the Peace or at the next ensuing sitting of the Court of Petty Sessions for the District in which he shall have been apprehended, at a time and place to be mentioned in the said recognizance.

19. In all cases of summary conviction, where there is no Court  
10 of General or Quarter Sessions appointed to be holden in the district where the cause of complaint arose, the person so convicted may appeal to the next Court of General or Quarter Sessions nearest to such district. Provided that if the day of sitting of such last-mentioned Court is within ten days of such conviction, then to the next such  
15 Court but one after the said conviction.

20. In all cases of adjudication by a Licensing Court or Court  
of Petty Sessions under the Acts forty-fifth Victoria number fourteen or forty-sixth Victoria number twenty-four, in which an appeal is, by the last-mentioned Act, allowed to a Court of Quarter Sessions,  
20 where there is no such Court holden in the Licensing District where the adjudication complained of was given, the person aggrieved by such adjudication may appeal to the next Court of Quarter Sessions nearest to such Licensing District unless the day of sitting of such last-mentioned Court shall be within fourteen days from  
25 the date of such adjudication, in which case the appeal shall be to the Quarter Sessions then next following.

21. The Court of General or Quarter Sessions may in the case  
of any appeal reduce or vary the sentence, order, or adjudication appealed against.

30 22. No judgment shall be reversed or avoided for any error in law in the sentence imposed, but it shall be competent for the Judges of the Supreme Court, in case of any such error, either to pronounce such judgment and sentence as is authorized by law, or to remit the record to the Court whence it came, in order that such Court may  
35 pronounce such judgment and sentence as is authorized by law.

23. The two hundred and sixty-fifth section of the Principal Act shall henceforward be read and construed as if instead of the word  
"baptism" the word "birth" were used.

40 24. The word "Judge" being the last word of the three hundredth section of the Principal Act shall henceforward be taken to mean a Judge of the Supreme Court, or a Judge of a District Court, or Chairman of General or Quarter Sessions.

25. After the passing of this Act the words "Registrar or  
District Registrar in Bankruptcy" shall be read in section three  
45 hundred of the Principal Act, in substitution of the words therein, "District Commissioner of Insolvent Estates."

26. If the chairman of any Court of General or Quarter  
Sessions shall not be present at the time appointed for holding such Court, any Magistrate may open and adjourn such Court from time to  
50 time, if necessary, until such time as, in his opinion, such chairman may reasonably be expected to be present and able to hold such Court.

27. It shall be lawful for the Governor, with the advice of the  
Executive Council by Commission, to appoint a Judge of the District Court or any duly qualified barrister or attorney legally qualified to  
55 be a District Court Judge, to be the chairman of any Court of General or Quarter Sessions for the purpose of holding a Second Court of General or Quarter Sessions in any District for which a chairman has already been appointed, and is at the time holding a Court of General or Quarter Sessions.



*Criminal Law and Evidence Amendment.*

28. The Governor may by Proclamation establish Courts of General or Quarter Sessions and Petty Sessions, in addition to those existing at the time of the passing of this Act, and direct that they be holden severally at such places, and for such districts respectively as he thereby appoints; and in like manner he may abolish any such Court, whether now existing or hereafter established. Every such additional Court of General or Quarter Sessions and Court of Petty Sessions shall have respectively the same jurisdiction, criminal and civil, as the Courts of General or Quarter Sessions and Petty Sessions now possess respectively. The Governor may also from time to time, by Proclamation duly issued for such purpose, appoint the times at which the several Courts of General or Quarter Sessions already established, or which may hereafter be established, shall respectively be held.
29. Every police officer or constable may, in any case in which a warrant shall have been issued for the apprehension of any person for a misdemeanour, or for any offence punishable as a misdemeanour, apprehend such person and take him together with any property found upon him before a Justice of the Peace, to be dealt with according to law, although such warrant may not at the time of such apprehension be in the possession of such police officer or constable.
30. So much of section fourteen of the Act eleventh Victoria, number twenty, as exempts Justices of the Peace from being summoned or impanelled as jurors to serve at any General or Quarter Sessions of the Peace, and so much of section eight of the Act fifteenth Victoria number three, as provides that no person whose name is and appears on the Special Jury List for the Jurors' District of Sydney shall be liable or be compelled to attend as a juror in any Court of General or Quarter Sessions, unless summoned under a Special Jury Precept, is hereby repealed.
31. This Act in so far as its provisions are not inconsistent with the Principal Act, shall be incorporated with and construed as part and parcel of that Act.

Power to proclaim new Courts of Quarter and Petty Sessions and jurisdiction of same.  
Governor may fix times for holding Courts of Quarter Sessions already established or hereafter established. See 3 Wm. IV. No. 3, sec. 14.

Police officer or constable may arrest for misdemeanour where warrant has been issued.

Amendment of the laws relating to jurors.

This Act to be read with the Principal Act.



## Legislative Council.

## CRIMINAL LAW AND EVIDENCE AMENDMENT BILL.

(*New Clauses and Amendment to be proposed in Committee of the Whole*).

(1.) *By MR. O'CONNOR*—

*Omit* clause 6, *insert* the following new clause:—

6. Every one accused of any indictable offence shall be a competent witness for himself or herself upon his or her trial for such offence; and the wife or husband, as the case may be, of every such accused person shall be a competent witness for him or her upon such trial: Provided that no such person shall be liable to be called as a witness by the prosecutor; but every such witness called, and giving evidence on behalf of the accused, shall be liable to be cross-examined like any other witness, on any matter, though not arising out of his examination-in-chief: Provided that so far as the cross-examination relates to the credit of the accused, the Court may limit such cross-examination to such extent as it thinks proper, although the proposed cross-examination might be permissible in the case of any other witness.

At the end of clause 24 *add* “ And in all cases where, under the said section, the leave of the Supreme Court is necessary before instituting proceedings, the leave of a Judge of the said Court shall be sufficient.”

(2.) *By MR. SIMPSON*—

6. Every person charged with an indictable offence, and the husband or wife, as the case may be, of the person so charged, shall be competent, but not compellable, to give evidence in every Court on the hearing of such charge. Provided that the person so charged shall not be liable to be called as a witness on behalf of the prosecution. Provided also that such person giving evidence shall not be liable to be questioned on cross-examination as to his or her previous character or antecedents without the leave of the Judge.

Accused and husband or wife of accused competent witnesses under certain sections.  
See 48 and 49 Vic., ch. 69, sec. 20.

13. In any prosecution under section one hundred and twenty-one or one hundred and twenty-two of the Principal Act, where the charge is in respect of money, it shall not be necessary to prove the larceny or embezzlement by the accused of any specific sum of money, if there is proof of a general deficiency on the examination of the books of account, or entries, kept or made by him, or otherwise, and the jury are satisfied that the accused stole or fraudulently embezzled the deficient money or any part thereof.

Larceny or embezzlement by persons in the Public Service. Proof of general deficiency in accounts.

(3.) *By MR. HEYDON*—

*Omit* clause 8, and *insert* the following new clause:—

8. Section forty-two and the first subsection of section forty-four of the Principal Act shall be amended by the omission of the word “fourteen,” and the insertion of the word “sixteen” in lieu thereof. Provided that it shall be a sufficient defence to any charge under the said section or under the said subsection respectively, if it shall be made to appear to the jury before whom such charge shall be brought, that the accused had reasonable cause to believe and did believe that the girl in respect of whom the offence is charged to have been committed, was of or above the age of sixteen years. Provided that such belief shall not be based upon any statement made by the girl herself to the accused. Provided also that it shall be a sufficient defence to any charge that the accused himself is not of the age of sixteen years, or that the girl in respect of whom the offence is charged was a known prostitute, or for six months previously had been of notoriously bad character and of immoral life.



THE HISTORY OF THE UNITED STATES

The history of the United States is a story of growth and expansion. From a small collection of colonies on the eastern coast, it grew into a vast nation that stretched across the continent. The early years were marked by struggle and conflict, as the colonies fought for their independence from British rule. The American Revolution was a turning point in the nation's history, leading to the birth of a new republic. The years following the revolution were a time of rapid growth and development. The United States expanded its territory westward, acquiring new lands and settling them. The nation's economy grew, and its population increased. The United States emerged as a major power in the world, and its influence was felt in many parts of the globe. The history of the United States is a story of a nation that has overcome many challenges and achieved great things. It is a story of a nation that has grown from a small colony to a great power, and that has made a lasting impact on the world.

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6. Every person charged with an indictable offence, and the husband or wife, as the case may be, of the person so charged, shall be competent, but not compellable, to give evidence in every Court on the hearing of such charge. Provided that the person so charged shall not be liable to be called as a witness on behalf of the prosecution. Provided also that such person giving evidence shall not be liable to be questioned on cross-examination as to his or her previous character or antecedents without the leave of the Judge.

Accused and husband or wife of accused competent witnesses under certain sections.  
See 48 and 49 Vic., ch. 69, sec. 20.

13. In any prosecution under section one hundred and twenty-one or one hundred and twenty-two of the Principal Act, where the charge is in respect of money, it shall not be necessary to prove the larceny or embezzlement by the accused of any specific sum of money, if there is proof of a general deficiency on the examination of the books of account, or entries, kept or made by him, or otherwise, and the jury are satisfied that the accused stole or fraudulently embezzled the deficient money or any part thereof.

Larceny or embezzlement by persons in the Public Service. Proof of general deficiency in accounts.

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ORIGINAL LAW AND EVIDENCE

(The original law and evidence to be presented to the Committee of the House of Commons)

... of the original law and evidence to be presented to the Committee of the House of Commons ...

At the end of the original law and evidence to be presented to the Committee of the House of Commons ...

(2) The original law and evidence to be presented to the Committee of the House of Commons ...

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Legislative Council.

53<sup>o</sup> VICTORIÆ, 1890.

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## A BILL

To amend the Criminal Law and certain laws for the administration of justice.

[MR. SIMPSON ;—14 *May*, 1890.]

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5      1. This Act may be cited as the "Criminal Law and Evidence Amendment Act of 1890." Short title.

2. The Act herein referred to as the Principal Act is the "Criminal Law Amendment Act of 1883," forty-sixth Victoria number seventeen. Act referred to as Principal Act.

10      3. The following sections and parts of sections of the Principal Act, viz., sections eight, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-two, and four hundred and fifty-nine, the last clause of section three hundred and forty, in section four hundred and thirty-eight the words "other than the one hundred and fiftieth" Repeal of certain sections and clauses of the Principal Act and of the whole of the "Criminal Law Amendment Act of 1884."

15 section," and in clause (a) of section four hundred and forty-six the words



See 48 and 49 Vic.,  
ch. 69, sec. 19.

words "in company with any other person," and the whole of the "Criminal Law Amendment Act of 1884," are hereby repealed—except as to anything heretofore duly done thereunder, and except so far as may be necessary for the purpose of supporting and continuing any proceeding taken or of prosecuting or punishing any person for any offence committed before the passing of this Act. 5

Provision for  
reducing terms of  
sentences of penal  
servitude and for  
imposing sentences of  
imprisonment.

4. Where by any section of the Principal Act an offender is made liable to penal servitude for life, or any other fixed term, the Judge may nevertheless pass a sentence of penal servitude of less duration as follows—that is to say—instead of penal servitude for life, 10  
penal servitude for any term of years not less than seven—instead of penal servitude for fourteen years, penal servitude for any term of years not less than five—instead of penal servitude for ten years, penal servitude for any term of years not less than four—and instead of penal servitude for seven or for five years, penal servitude for any term of years not less than three years. 15  
Provided that the Judge may, in each of the above instances respectively, instead of penal servitude pass a sentence of imprisonment with or without hard labour, as follows—that is to say—instead of penal servitude for life, imprisonment for any term of years not exceeding seven nor less than 20  
three years—instead of penal servitude for fourteen years, imprisonment for any term not exceeding five years—instead of penal servitude for ten years, imprisonment for any term not exceeding three years—and instead of penal servitude for seven or for five years, imprisonment for any term not exceeding two years. 25  
Provided also that nothing in this section shall prevent the awarding of hard labour or solitary confinement, or whipping, where at present by law authorized, or directing the offender to enter into recognizances to keep the peace, and for good behaviour.

Times of whipping  
need not be specified  
in sentence.

26 and 27 Vic.  
ch. 44.

5. In the case of any sentence to a whipping or whippings 30  
under sections four hundred and one or four hundred and two of the Principal Act, it shall not be necessary that the time or times of such whippings shall be specified by the Court in such sentence; but in no case shall any whipping take place after the expiration of six months from the passing of the sentence. 35

Accused and husband  
or wife of accused  
competent witnesses  
under certain sections  
48 and 49 Vic.  
ch. 69, sec. 20.

6. Every person charged with an offence under sections twenty-nine or thirty, or under sections thirty-nine to forty-nine, both inclusive, of the Principal Act, or any of such sections, shall be competent, and the husband or wife, as the case may be, of the person so charged shall be competent and compellable to give evidence in every 40  
Court on the hearing of such charge.

On hearing of a  
charge for any offence  
evidence not on oath  
may be received in  
case of children of  
tender years, but such  
evidence must be  
corroborated.

See 48 & 49 Vic., ch.  
69, sec. 4.

7. Where upon the hearing of any charge under sections forty-one, forty-two, forty-three, forty-four, fifty-nine, or sixty of the Principal Act against any person, any child who is tendered as a witness, does not, in the opinion of the Court or Justices, understand the 45  
nature of an oath, the evidence of such child of tender years may be received, though not given upon oath, if, in the opinion of the Court or Justices, as the case may be, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. 50  
Provided that no person shall be allowed to be convicted of the offence charged unless the testimony admitted by virtue of this section and given on behalf of the prosecution shall be corroborated by some other material evidence in support thereof implicating the accused. 55  
Provided also that any witness whose evidence has been admitted under this section shall be liable to indictment and punishment for perjury or under section two hundred and ninety-two of the Principal Act in all respects as if he or she had been sworn.



8. It shall be a sufficient defence to any charge under section forty-two or under the first clause of section forty-four of the Principal Act, if it shall be made to appear to the jury before whom such charge shall be brought that the accused had reasonable cause to believe, and did believe, that the girl in respect of whom the offence is charged to have been committed was of or above the age of fourteen years. No prosecution shall be commenced for any offence under the sections in the Principal Act in this clause referred to more than three months after the commission of the offence.
9. Certified copies of registers, or entries of registers, made or given by the Registrar-General or any Deputy Registrar, and purporting to be signed by such officers respectively, shall be received as *prima facie* evidence in any Court of Justice within the said Colony of the particulars therein contained respecting the birth, death, or marriage to which the same relate.
10. In any Court of Justice within the said Colony in which it shall be necessary to prove the age, marriage, or death of any person born or married or who shall have died in any part of the British dominions other than this Colony, a certificate of the birth, marriage, or death of such person, purporting to be issued by the officer authorized by the law in that behalf of the part of the said dominions in which such person shall have been born or married, or shall have died, as the case may be, shall be received as *prima facie* evidence of the matters stated in such certificate, without proof of the seal or stamp or signature, or of the official character of the person appearing to have signed the same. And whosoever forges or utters or tenders in evidence, or causes to be tendered in evidence, any such certificate, knowing the same to be forged, shall be liable to penal servitude for any term of years not less than *five* or to imprisonment with or without hard labour for any term not exceeding *five* years.
11. In any Court of Justice within the said Colony in which it may be necessary to prove the incorporation or registration of any trading society or company, whether foreign or otherwise, it shall be sufficient *prima facie* evidence of such incorporation or registration to prove that such society or company carried on business within the said Colony, or elsewhere outside the said Colony, as the case may be, under a certain name or style, without further proof as to the incorporation or registration of such society or company.
12. Printed copies in volumes of Statutes, codes, or other written law enacted by the Imperial or any foreign Government, or by any British Colony or dependency other than this Colony, purporting to have been published by the authority thereof, or proved, to the satisfaction of the Court or Judge, to be commonly admitted as evidence in the Courts and judicial tribunals of such Government, Colony, or dependency may be admitted in all Courts of Justice in this Colony on all occasions as *prima facie* evidence of such laws. The books of reports of cases adjudged in the Courts of any part of the British dominions or of any foreign Government, purporting or proved, to the satisfaction of the Court or Judge, to be authorized reports, may also be admitted as *prima facie* evidence of the unwritten or common law of that part of the said dominions or of the foreign Government to which the same relate.
13. The provisions in respect of proof by affidavit or otherwise of the service of a summons upon any person, contained in the fourth hundred and thirty-fourth section of the Principal Act, shall henceforth be alike applicable to all cases where any charge or complaint for an indictable offence is made before any Justice, as well as to cases where a person is charged before a Justice or Justices with an offence punishable on summary conviction, whether under the Principal Act, this Act, or any other Act either heretofore or hereafter passed.

Evidence in cases of defilement of girl of or above 10 and under 14 years of age, and of indecent assault upon a girl under 14 years of age.

See 48 and 49 Vic., ch. 69, sec. 5.

Certified copies of registers, &c., to be *prima facie* evidence of particulars.

Evidence of birth or marriage in other parts of the British Dominions.

Evidence of incorporation, &c. of companies.

Evidence of foreign law, &c.  
See Voorlie's Code of Procedure of State of New York, 7th ed., p. 565.

Extension of section 434.



Extension of  
summary jurisdiction  
of Justices in respect  
of certain offences.

14. Where a person is charged before one or more Justices with attempting to commit suicide, or with the offence of stealing from the person of another, or simple larceny or embezzlement as a clerk or servant, or with any offence within any of the sections of the Principal Act hereinafter enumerated, that is to say: Sections seventy-one, seventy-five, eighty-one, eighty-two, one hundred and fifteen, one hundred and seventeen, or one hundred and forty-one; or with an attempt to commit any such offence, and the evidence for the prosecution is in the opinion of such Justice or Justices sufficient to put the accused on his trial, but it appears to him or them that the case may properly be disposed of summarily, the said Justice or Justices shall have jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged. The jurisdiction conferred by this section shall not extend to any case in which the subject-matter of the charge or charges that may be made in respect of any of the offences mentioned, or the value of the property involved is of the amount of twenty pounds or upwards; and the jurisdiction hereby conferred shall not be exercised if the accused desire the case to be determined by a jury.

Accused to be  
warned.

15. In the cases referred to in the last preceding section the Justice or Justices shall first reduce the charge into writing and read it to the accused and shall ask him whether he consents to its being disposed of summarily, and if he consents shall ask him whether he is guilty or not, and if the accused pleads guilty the Justice or Justices shall pass sentence upon him, but if he says that he is not guilty, and has a defence, such Justice or Justices shall proceed to hear the same. Provided also that upon the close of the case for the prosecution, and before asking the accused whether he is guilty, the Justice or Justices shall explain to him that he is not obliged then to plead, but is entitled to have the case disposed of in the ordinary course of law.

Punishment or dis-  
missal in such cases.

16. If in any such case the accused pleads guilty, or the Justice or Justices, after hearing the whole case, find the charge to be proved, such Justice or Justices shall convict him thereof, and upon such conviction the accused shall be liable to imprisonment for a term not exceeding *six* months or to pay a fine not exceeding *twenty* pounds, or where the offender's age is, in the opinion of such Justice or Justices, under sixteen years, then he shall be liable to imprisonment for a term not exceeding *three* months or to pay a fine not exceeding *ten* pounds; but if the Justice or Justices find the accused not guilty, such Justice or Justices shall dismiss the case, and shall, if requested, make out and deliver to him a certificate under his or their hands, stating the fact of such dismissal.

Discharge of persons  
not further proceeded  
against.

17. The provisions in section three hundred and seven of the Principal Act shall be alike applicable to all cases in which any person is remanded to prison, and in which the Attorney-General in his discretion think fit not further to proceed. The certificate and warrant referred to in the said section shall in such cases, in lieu of the words "to file any information," contain respectively the words "to proceed further upon an indictment filed," and in lieu of the words "under the warrant of R.W., Esquire, Justice of the Peace," the words "under the order of His Honor \_\_\_\_\_, a Judge of the Supreme Court, or A.M., Esquire, Chairman of Quarter Sessions;"—and the warrant shall contain in lieu of the words "said warrant" the words "said order."

Watch-house bail.

4 Wm. IV. No. 7, s. 7.  
2 Vic. No. 2, s. 7.  
17 Vic. No. 25, s. 3.

18. The provisions of the Acts fourth William the Fourth number seven, second Victoria number two, and seventeenth Victoria number twenty-five, in respect of the taking of bail by a constable in certain cases, shall henceforward apply to cases in which any person shall, for such offences as in the said Acts respectively are mentioned, be brought into



into the custody of any constable attending at any watch-house within the Colony during the daytime, and the accused cannot be immediately brought before a Justice of the Peace. The condition of the recognizance taken under the said Acts, or under this section, shall, so far as

5 relates to the time for the appearance of the accused, be that the accused appear before a Justice of the Peace or at the next ensuing sitting of the Court of Petty Sessions for the District in which he shall have been apprehended, at a time and place to be mentioned in the said recognizance.  
 10 19. In all cases of summary conviction, where there is no Court of General or Quarter Sessions appointed to be holden in the district where the cause of complaint arose, the person so convicted may appeal to the next Court of General or Quarter Sessions nearest to such district. Provided that if the day of sitting of such last-mentioned  
 15 Court is within ten days of such conviction, then to the next such Court but one after the said conviction.

Further provision as to appeal.

20. In all cases of adjudication by a Licensing Court or Court of Petty Sessions under the Acts forty-fifth Victoria number fourteen or forty-sixth Victoria number twenty-four, in which an appeal is,  
 20 by the last-mentioned Act, allowed to a Court of Quarter Sessions, where there is no such Court holden in the Licensing District where the adjudication complained of was given, the person aggrieved by such adjudication may appeal to the next Court of Quarter  
 25 Sessions nearest to such Licensing District unless the day of sitting of such last-mentioned Court shall be within fourteen days from the date of such adjudication, in which case the appeal shall be to the Quarter Sessions then next following.

Provisions as to appeal under the Licensing Acts where no Court of Quarter Sessions holden in the Licensing District where adjudication made.

See 46 Vic. No. 24, sec. 30.

21. The Court of General or Quarter Sessions may in the case of any appeal reduce or vary the sentence order or adjudication  
 30 appealed against.

Courts of Quarter Sessions may reduce or vary sentence on appeal.

22. No judgment shall be reversed or avoided for any error in law in the sentence imposed, but it shall be competent for the Judges of the Supreme Court, in case of any such error, either to pronounce such judgment and sentence as is authorized by law, or to remit the  
 35 record to the Court whence it came, in order that such Court may pronounce such judgment and sentence as is authorized by law.

Pronouncing proper judgment.

23. The two hundred and sixty-fifth section of the Principal Act shall henceforward be read and construed as if instead of the word  
 "baptism" the word "birth" were used.

Amendment of the 265th section as to "baptism."

24. The word "Judge" being the last word of the three hundredth section of the Principal Act shall henceforward be taken to mean a  
 40 Judge of the Supreme Court, or a Judge of a District Court, or Chairman of General or Quarter Sessions.

Amendment of the 300th section as to "Judge."

25. After the passing of this Act the words "Registrar or District Registrar in Bankruptcy" shall be read in section three  
 45 hundred of the Principal Act, in substitution of the words therein, "District Commissioner of Insolvent Estates."

Amendment of 300th section.

26. If the chairman of any Court of General or Quarter Sessions shall not be present at the time appointed for holding such  
 50 Court, any Magistrate may open and adjourn such Court from time to time, if necessary, until such time as, in his opinion, such chairman may reasonably be expected to be present and able to hold such Court.

For adjourning Quarter Sessions in certain cases.

27. It shall be lawful for the Governor, with the advice of the Executive Council by Commission, to appoint a Judge of the District  
 55 Court or any duly qualified barrister or attorney legally qualified to be a District Court Judge, to be the chairman of any Court of General or Quarter Sessions for the purpose of holding a Second Court of General or Quarter Sessions in any District for which a chairman has already been appointed, and is at the time holding a  
 60 Court of General or Quarter Sessions.

For second Courts of Quarter Sessions in Districts.



Power to proclaim new Courts of Quarter and Petty Sessions and jurisdiction of same. Governor may fix times for holding Courts of Quarter Sessions already established or hereafter established. See 3 Wm. IV. No. 3, sec. 14.

28. The Governor may by Proclamation establish Courts of General or Quarter Sessions and Petty Sessions, in addition to those existing at the time of the passing of this Act, and direct that they be holden severally at such places, and for such districts respectively as he thereby appoints; and in like manner he may abolish any such Court, whether now existing or hereafter established. Every such additional Court of General or Quarter Sessions and Court of Petty Sessions shall have respectively the same jurisdiction, criminal and civil, as the Courts of General or Quarter Sessions and Petty Sessions now possess respectively. The Governor may also from time to time, by Proclamation duly issued for such purpose, appoint the times at which the several Courts of General or Quarter Sessions already established, or which may hereafter be established, shall respectively be held. 5 10

Police officer or constable may arrest for misdemeanour where warrant has been issued.

29. Every police officer or constable may, in any case in which a warrant shall have been issued for the apprehension of any person for a misdemeanour, or for any offence punishable as a misdemeanour, apprehend such person and take him together with any property found upon him before a Justice of the Peace, to be dealt with according to law, although such warrant may not at the time of such apprehension be in the possession of such police officer or constable. 15 20

Amendment of the laws relating to Jurors.

30. So much of section fourteen of the Act eleventh Victoria, number twenty, as exempts Justices of the Peace from being summoned or impanelled as jurors to serve at any General or Quarter Sessions of the Peace, and so much of section eight of the Act fifteenth Victoria number three, as provides that no person whose name is and appears on the Special Jury List for the Jurors' District of Sydney shall be liable or be compelled to attend as a juror in any Court of General or Quarter Sessions, unless summoned under a Special Jury Precept, is hereby repealed. 25

This Act to be read with the Principal Act.

31. This Act in so far as its provisions are not inconsistent with the Principal Act, shall be incorporated with and construed as part and parcel of that Act. 30



Legislative Council.

53<sup>o</sup> VICTORIA, 1890.

## A BILL

To amend the Criminal Law and certain laws for the administration of justice.

[MR. SIMPSON ;—14 *May*, 1890.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5     1. This Act may be cited as the "Criminal Law and Evidence Amendment Act of 1890." Short title.

2. The Act herein referred to as the Principal Act is the "Criminal Law Amendment Act of 1883," forty-sixth Victoria number Act referred to as Principal Act. seventeen.

10     3. The following sections and parts of sections of the Principal Act, viz., sections eight, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-two, and four hundred and fifty-nine, the Repeal of certain sections and clauses of the Principal Act and of the whole of the "Criminal Law Amendment Act of 1884." last clause of section three hundred and forty, in section four hundred and thirty-eight the words "other than the one hundred and fiftieth 15 section," and in clause (a) of section four hundred and forty-six the words



See 48 and 49 Vic.,  
ch. 69, sec. 19.

words "in company with any other person," and the whole of the "Criminal Law Amendment Act of 1884," are hereby repealed—except as to anything heretofore duly done thereunder, and except so far as may be necessary for the purpose of supporting and continuing any proceeding taken or of prosecuting or punishing any person for any offence committed before the passing of this Act. 5

Provision for  
reducing terms of  
sentences of penal  
servitude and for  
imposing sentences of  
imprisonment.

4. Where by any section of the Principal Act an offender is made liable to penal servitude for life, or any other fixed term, the Judge may nevertheless pass a sentence of penal servitude of less duration as follows—that is to say—instead of penal servitude for life, 10  
penal servitude for any term of years not less than seven—instead of penal servitude for fourteen years, penal servitude for any term of years not less than five—instead of penal servitude for ten years, penal servitude for any term of years not less than four—and instead of penal servitude for seven or for five years, penal servitude for any 15  
term of years not less than three years. Provided that the Judge may, in each of the above instances respectively, instead of penal servitude pass a sentence of imprisonment with or without hard labour, as follows—that is to say—instead of penal servitude for life, imprisonment for any term of years not exceeding seven nor less than 20  
three years—instead of penal servitude for fourteen years, imprisonment for any term not exceeding five years—instead of penal servitude for ten years, imprisonment for any term not exceeding three years—and instead of penal servitude for seven or for five years, imprisonment for any term not exceeding two years. Provided also 25  
that nothing in this section shall prevent the awarding of hard labour or solitary confinement, or whipping, where at present by law authorized, or directing the offender to enter into recognizances to keep the peace, and for good behaviour.

Times of whipping  
need not be specified  
in sentence.  
26 and 27 Vic.  
ch. 44.

5. In the case of any sentence to a whipping or whippings 30  
under sections four hundred and one or four hundred and two of the Principal Act, it shall not be necessary that the time or times of such whippings shall be specified by the Court in such sentence; but in no case shall any whipping take place after the expiration of six months from the passing of the sentence. 35

Accused and husband  
or wife of accused  
competent witnesses  
under certain sections  
48 and 49 Vic.  
ch. 69, sec. 20.

6. Every person charged with an offence under sections twenty-nine or thirty, or under sections thirty-nine to forty-nine, both inclusive, of the Principal Act, or any of such sections, shall be competent, and the husband or wife, as the case may be, of the person so charged shall be competent and compellable to give evidence in every 40  
Court on the hearing of such charge.

On hearing of a  
charge for any offence  
evidence not on oath  
may be received in  
case of children of  
tender years, but such  
evidence must be  
corroborated.  
See 48 & 49 Vic., ch.  
69, sec. 4.

7. Where upon the hearing of any charge under sections forty-one, forty-two, forty-three, forty-four, fifty-nine, or sixty of the Principal Act against any person, any child who is tendered as a witness, does not, in the opinion of the Court or Justices, understand the 45  
nature of an oath, the evidence of such child of tender years may be received, though not given upon oath, if, in the opinion of the Court or Justices, as the case may be, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. Provided that no person shall be 50  
allowed to be convicted of the offence charged unless the testimony admitted by virtue of this section and given on behalf of the prosecution shall be corroborated by some other material evidence in support thereof implicating the accused. Provided also that any witness whose evidence has been admitted under this section shall be liable to 55  
indictment and punishment for perjury or under section two hundred and ninety-two of the Principal Act in all respects as if he or she had been sworn.



8. It shall be a sufficient defence to any charge under section forty-two or under the first clause of section forty-four of the Principal Act, if it shall be made to appear to the jury before whom such charge shall be brought that the accused had reasonable cause to believe, and did believe, that the girl in respect of whom the offence is charged to have been committed was of or above the age of fourteen years. No prosecution shall be commenced for any offence under the sections in the Principal Act in this clause referred to more than three months after the commission of the offence.

Evidence in cases of defilement of girl of or above 10 and under 14 years of age, and of indecent assault upon a girl under 14 years of age.

See 48 and 49 Vic., ch. 69, sec. 5.

9. Certified copies of registers, or entries of registers, made or given by the Registrar-General or any Deputy Registrar, and purporting to be signed by such officers respectively, shall be received as *prima facie* evidence in any Court of Justice within the said Colony of the particulars therein contained respecting the birth, death, or marriage to which the same relate.

Certified copies of registers, &c., to be *prima facie* evidence of particulars.

10. In any Court of Justice within the said Colony in which it shall be necessary to prove the age, marriage, or death of any person born or married or who shall have died in any part of the British dominions other than this Colony, a certificate of the birth, marriage, or death of such person, purporting to be issued by the officer authorized by the law in that behalf of the part of the said dominions in which such person shall have been born or married, or shall have died, as the case may be, shall be received as *prima facie* evidence of the matters stated in such certificate, without proof of the seal or stamp or signature, or of the official character of the person appearing to have signed the same. And whosoever forges or utters or tenders in evidence, or causes to be tendered in evidence, any such certificate, knowing the same to be forged, shall be liable to penal servitude for any term of years not less than *five* or to imprisonment with or without hard labour for any term not exceeding *five* years.

Evidence of birth or marriage in other parts of the British Dominions.

11. In any Court of Justice within the said Colony in which it may be necessary to prove the incorporation or registration of any trading society or company, whether foreign or otherwise, it shall be sufficient *prima facie* evidence of such incorporation or registration to prove that such society or company carried on business within the said Colony, or elsewhere outside the said Colony, as the case may be, under a certain name or style, without further proof as to the incorporation or registration of such society or company.

Evidence of incorporation, &c. of companies.

12. Printed copies in volumes of Statutes, codes, or other written law enacted by the Imperial or any foreign Government, or by any British Colony or dependency other than this Colony, purporting to have been published by the authority thereof, or proved, to the satisfaction of the Court or Judge, to be commonly admitted as evidence in the Courts and judicial tribunals of such Government, Colony, or dependency may be admitted in all Courts of Justice in this Colony on all occasions as *prima facie* evidence of such laws. The books of reports of cases adjudged in the Courts of any part of the British dominions or of any foreign Government, purporting or proved, to the satisfaction of the Court or Judge, to be authorized reports, may also be admitted as *prima facie* evidence of the unwritten or common law of that part of the said dominions or of the foreign Government to which the same relate.

Evidence of foreign law, &c.

See Voorlie's Code of Procedure of State of New York, 7th ed., p. 565.

13. The provisions in respect of proof by affidavit or otherwise of the service of a summons upon any person, contained in the four hundred and thirty-fourth section of the Principal Act, shall henceforth be alike applicable to all cases where any charge or complaint for an indictable offence is made before any Justice, as well as to cases where a person is charged before a Justice or Justices with an offence punishable on summary conviction, whether under the Principal Act, this Act, or any other Act either heretofore or hereafter passed.

Extension of section 434.



Extension of  
summary jurisdiction  
of Justices in respect  
of certain offences.

14. Where a person is charged before one or more Justices with attempting to commit suicide, or with the offence of stealing from the person of another, or simple larceny or embezzlement as a clerk or servant, or with any offence within any of the sections of the Principal Act hereinafter enumerated, that is to say: Sections seventy-one, 5  
seventy-five, eighty-one, eighty-two, one hundred and fifteen, one hundred and seventeen, or one hundred and forty-one; or with an attempt to commit any such offence, and the evidence for the prosecution is in the opinion of such Justice or Justices sufficient to put the accused 10  
on his trial, but it appears to him or them that the case may properly be disposed of summarily, the said Justice or Justices shall have jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged. The jurisdiction conferred by this section shall not extend to any case in which the subject-matter of the charge or charges that may be made in respect of any of 15  
the offences mentioned, or the value of the property involved is of the amount of twenty pounds or upwards; and the jurisdiction hereby conferred shall not be exercised if the accused desire the case to be determined by a jury.

Accused to be  
warned.

15. In the cases referred to in the last preceding section the 20  
Justice or Justices shall first reduce the charge into writing and read it to the accused and shall ask him whether he consents to its being disposed of summarily, and if he consents shall ask him whether he is guilty or not, and if the accused pleads guilty the Justice or Justices shall pass sentence upon him, but if he says that he is not guilty, and 25  
has a defence, such Justice or Justices shall proceed to hear the same. Provided also that upon the close of the case for the prosecution, and before asking the accused whether he is guilty, the Justice or Justices shall explain to him that he is not obliged then to plead, but is entitled to have the case disposed of in the ordinary course of law. 30

Punishment or dis-  
missal in such cases.

16. If in any such case the accused pleads guilty, or the Justice or Justices, after hearing the whole case, find the charge to be proved, such Justice or Justices shall convict him thereof, and upon such conviction the accused shall be liable to imprisonment for a term not exceeding *six* months or to pay a fine not exceeding *twenty* pounds, 35  
or where the offender's age is, in the opinion of such Justice or Justices, under sixteen years, then he shall be liable to imprisonment for a term not exceeding *three* months or to pay a fine not exceeding *ten* pounds; but if the Justice or Justices find the accused not guilty, such Justice or Justices shall dismiss the case, and shall, if requested, 40  
make out and deliver to him a certificate under his or their hands, stating the fact of such dismissal.

Discharge of persons  
not further proceeded  
against.

17. The provisions in section three hundred and seven of the Principal Act shall be alike applicable to all cases in which any person is remanded to prison, and in which the Attorney-General may 45  
in his discretion think fit not further to proceed. The certificate and warrant referred to in the said section shall in such cases, in lieu of the words "to file any information," contain respectively the words "to proceed further upon an indictment filed," and in lieu of the words "under the warrant of R.W., Esquire, Justice of the Peace," the 50  
words "under the order of His Honor \_\_\_\_\_, a Judge of the Supreme Court, or A.M., Esquire, Chairman of Quarter Sessions;"—and the warrant shall contain in lieu of the words "said warrant" the words "said order."

Watch-house bail.

4 Wm. IV. No. 7, s. 7.  
2 Vic. No. 2, s. 7.  
17 Vic. No. 25, s. 3.

18. The provisions of the Acts fourth William the Fourth number 55  
seven, second Victoria number two, and seventeenth Victoria number twenty-five, in respect of the taking of bail by a constable in certain cases, shall henceforward apply to cases in which any person shall, for such offences as in the said Acts respectively are mentioned, be brought into



into the custody of any constable attending at any watch-house within the Colony during the daytime, and the accused cannot be immediately brought before a Justice of the Peace. The condition of the recognizance taken under the said Acts, or under this section, shall, so far as relates to the time for the appearance of the accused, be that the accused appear before a Justice of the Peace or at the next ensuing sitting of the Court of Petty Sessions for the District in which he shall have been apprehended, at a time and place to be mentioned in the said recognizance.

10 19. In all cases of summary conviction, where there is no Court of General or Quarter Sessions appointed to be holden in the district where the cause of complaint arose, the person so convicted may appeal to the next Court of General or Quarter Sessions nearest to such district. Provided that if the day of sitting of such last-mentioned  
15 Court is within ten days of such conviction, then to the next such Court but one after the said conviction.

Further provision as to appeal.

20. In all cases of adjudication by a Licensing Court or Court of Petty Sessions under the Acts forty-fifth Victoria number fourteen or forty-sixth Victoria number twenty-four, in which an appeal is, by the last-mentioned Act, allowed to a Court of Quarter Sessions, where there is no such Court holden in the Licensing District where the adjudication complained of was given, the person aggrieved by such adjudication may appeal to the next Court of Quarter Sessions nearest to such Licensing District unless the day of sitting of such last-mentioned Court shall be within fourteen days from the date of such adjudication, in which case the appeal shall be to the Quarter Sessions then next following.

Provisions as to appeal under the Licensing Acts where no Court of Quarter Sessions holden in the Licensing District where adjudication made.

See 46 Vic. No. 24, sec. 30.

21. The Court of General or Quarter Sessions may in the case of any appeal reduce or vary the sentence order or adjudication  
30 appealed against.

Courts of Quarter Sessions may reduce or vary sentence on appeal.

22. No judgment shall be reversed or avoided for any error in law in the sentence imposed, but it shall be competent for the Judges of the Supreme Court, in case of any such error, either to pronounce such judgment and sentence as is authorized by law, or to remit the  
35 record to the Court whence it came, in order that such Court may pronounce such judgment and sentence as is authorized by law.

Pronouncing proper judgment.

23. The two hundred and sixty-fifth section of the Principal Act shall henceforward be read and construed as if instead of the word "baptism" the word "birth" were used.

Amendment of the 265th section as to "baptism."

40 24. The word "Judge" being the last word of the three hundredth section of the Principal Act shall henceforward be taken to mean a Judge of the Supreme Court, or a Judge of a District Court, or Chairman of General or Quarter Sessions.

Amendment of the 300th section as to "Judge."

45 25. After the passing of this Act the words "Registrar or District Registrar in Bankruptcy" shall be read in section three hundred of the Principal Act, in substitution of the words therein, "District Commissioner of Insolvent Estates."

Amendment of 300th section.

50 26. If the chairman of any Court of General or Quarter Sessions shall not be present at the time appointed for holding such Court, any Magistrate may open and adjourn such Court from time to time, if necessary, until such time as, in his opinion, such chairman may reasonably be expected to be present and able to hold such Court.

For adjourning Quarter Sessions in certain cases.

55 27. It shall be lawful for the Governor, with the advice of the Executive Council by Commission, to appoint a Judge of the District Court or any duly qualified barrister or attorney legally qualified to be a District Court Judge, to be the chairman of any Court of General or Quarter Sessions for the purpose of holding a Second Court of General or Quarter Sessions in any District for which a chairman has already been appointed, and is at the time holding a  
60 Court of General or Quarter Sessions.

For second Courts of Quarter Sessions in Districts.



Power to proclaim new Courts of Quarter and Petty Sessions and jurisdiction of same. Governor may fix times for holding Courts of Quarter Sessions already established or hereafter established. See 3 Wm. IV. No. 3, sec. 14.

28. The Governor may by Proclamation establish Courts of General or Quarter Sessions and Petty Sessions, in addition to those existing at the time of the passing of this Act, and direct that they be holden severally at such places, and for such districts respectively as he thereby appoints; and in like manner he may abolish any such Court, whether now existing or hereafter established. Every such additional Court of General or Quarter Sessions and Court of Petty Sessions shall have respectively the same jurisdiction, criminal and civil, as the Courts of General or Quarter Sessions and Petty Sessions now possess respectively. The Governor may also from time to time, by Proclamation duly issued for such purpose, appoint the times at which the several Courts of General or Quarter Sessions already established, or which may hereafter be established, shall respectively be held. 5 10

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29. Every police officer or constable may, in any case in which a warrant shall have been issued for the apprehension of any person for a misdemeanour, or for any offence punishable as a misdemeanour, apprehend such person and take him together with any property found upon him before a Justice of the Peace, to be dealt with according to law, although such warrant may not at the time of such apprehension be in the possession of such police officer or constable. 15 20

Amendment of the laws relating to Jurors.

30. So much of section fourteen of the Act eleventh Victoria, number twenty, as exempts Justices of the Peace from being summoned or impanelled as jurors to serve at any General or Quarter Sessions of the Peace, and so much of section eight of the Act fifteenth Victoria number three, as provides that no person whose name is and appears on the Special Jury List for the Jurors' District of Sydney shall be liable or be compelled to attend as a juror in any Court of General or Quarter Sessions, unless summoned under a Special Jury Precept, is hereby repealed. 25

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