



Western Australia.

ANNO QUADRAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. VI.

AN ACT to consolidate and amend the Laws providing for the Abolition of Grand Juries, and for the Summary Discharge, in certain cases, of Persons under Committal for Trial for Felonies and Misdemeanors.

[Assented to, 8th September, 1883.]

WHEREAS it is expedient to consolidate and amend the Ordinances of the 18th Vict. No. 5, and the 23rd Vict. No. 2. and to make further provision for the summary discharge, in certain cases, of persons under committal as aforesaid: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. THIS Act may be cited as “The Grand Jury Abolition Act Amendment Act, 1883.” Short Title.

2. IN the construction of this Act the words “General Quarter Sessions” shall mean the Courts established under the provisions of 9th Vict. No. 4. Interpretation of terms.

47° VICTORIÆ, No. 6.

Grand Jury Abolition Act—Amendment.

Repeal of Acts. **3.** THE Acts mentioned in the Schedule hereto are hereby repealed.

No Grand Jury to be summoned. **4.** A GRAND Jury shall not be summoned for the Supreme Court of Western Australia, nor for any General Quarter Sessions for the said Colony.

Information to be filed. **5.** WHENEVER any person shall be or shall have been committed to custody or held to bail for trial for any felony or misdemeanor before the Supreme Court or before any Court of General Quarter Sessions, an information may be filed if the person is committed for trial before the Supreme Court by the Attorney General with the Registrar of the said Court, and if the person is committed for trial before any Court of General Quarter Sessions an information may be filed by the Chairman thereof with the Clerk of such Court of Sessions.

Information to be in lieu of an indictment. **6.** SUCH information when filed shall be in lieu of a bill of indictment found by a Grand Jury, and it shall have the like effect in all respects as an indictment, whether as to trial or otherwise.

Information not to be bad because it charges a different offence. **7.** NO such information shall be held to be bad or invalid by reason that the offence charged therein differs from the offence specified in the commitment or detainer or for which the person charged was held to bail, provided that such information shall apply to or charge some act or offence disclosed or to be inferred from the depositions, or from the commitment or recognizance.

Form of information. **8.** THE information shall specify the offence with which the person is charged, and shall be as nearly as possible in the form No. 1 in the Schedule hereto. Provided always, that no information shall be held to be bad or invalid for mere inaccuracy in form, and that no objection shall be allowed to prevail in any court of justice whatever in the said Colony except such an objection as by the laws of England may now be made to an indictment; and the Supreme Court and every Judge thereof, and every Court of General Quarter Sessions, shall have all the powers of amendment which by the laws of England are given to the Judge or Court on a trial for an indictable offence in England.

Not to be bad for want of form.

Attorney General and Chairman of Quarter Sessions to act as a Grand Jury. **9.** THE Attorney General shall exercise every function with regard to criminal trials and proceedings in the Supreme Court that were exercised by Grand Juries within the said Colony before the 1st June, 1855; and the chairman of every Court of General Quarter Sessions shall exercise the same functions with regard to criminal trials and proceedings in his court. And no information as aforesaid shall be filed in the Supreme Court or in any Court of

47° VICTORIÆ, No. 6.

Grand Jury Abolition Act—Amendment.

General Quarter Sessions unless such information shall have been approved in writing, endorsed thereon by the Attorney General or by such chairman respectively, as aforesaid.

10. THE Attorney General and the Crown Solicitor, or either of them, or some other person duly appointed for that purpose, shall act as public prosecutors, and conduct all criminal trials held in the Supreme Court.

Attorney General and Crown Solicitor to be Public Prosecutors.

11. WHEN a person has been committed or held to bail as aforesaid to take his trial before the Supreme Court for any felony or misdemeanor, and the Attorney General shall, in the exercise of his discretion, decline to file an information against such person, the Attorney General shall forthwith grant a certificate under his hand in the form No. 2 in the Schedule to this Act, addressed to the Chief Justice of the Supreme Court, which shall be filed by the Registrar thereof with the records of the said Court; and if the said person has been committed to gaol pending his trial the Attorney General shall also, by warrant under his hand, in the form No. 3 in the Schedule to this Act, forthwith direct the Sheriff or gaoler in whose custody such person may be to discharge immediately such person from imprisonment, and every such Sheriff or gaoler shall forthwith discharge such person from custody; and if the said person is on bail the Registrar of the Supreme Court shall, by writing under his hand, forthwith inform the person charged, and the persons who are bail for his appearance at the trial, that the Attorney General has declined to prosecute, and that the recognizances are discharged.

Proceedings when Attorney General declines to file an information.

12. IF such person has been committed to take his trial before any Court of General Quarter Sessions, and the chairman of the said sessions shall in the exercise of his discretion decline to file an information against such person, the said chairman shall forthwith grant a certificate under his hand, in the form No. 4 in the Schedule to this Act, addressed to the Court of General Quarter Sessions of which he is chairman, and the said certificate shall be filed by the clerk of such court amongst the records of the court; and if the said person has been committed to gaol, and is in custody pending his trial, he shall also by warrant under his hand, in the form No. 5 in the Schedule to this Act, forthwith direct the Sheriff or gaoler in whose custody such person is to discharge immediately such person from custody, and every such Sheriff or gaoler shall immediately discharge such person from custody; and if such person is on bail, the clerk of the said court shall, by writing under his hand, inform the person charged, and the persons who are bail for his appearance at the trial, that the said chairman has declined to prosecute, and that the recognizances are discharged.

Proceedings when Chairman of Quarter Sessions declines to file an information.

47° VICTORIÆ, No. 6.

Grand Jury Abolition Act—Amendment.

Penalty if Sheriff or Gaoler refuse to discharge prisoner. **13.** IF any such Sheriff or gaoler, after receiving a warrant as aforesaid, shall refuse or neglect to discharge immediately such person from custody as aforesaid, he shall for every such refusal or neglect be guilty of a misdemeanor, and he shall be liable to forfeit and pay to the use of Her Majesty a fine or penalty of Fifty pounds, to be recovered by action in the Supreme Court in the name of Her Majesty's Attorney General.

Information or trial in a district other than that mentioned in the Act not to be invalid. **14.** NO information or trial or proceedings in connection therewith in any Court of General Quarter Sessions shall be held to be bad or invalid by reason of such information having been filed or such trial or proceedings having been held or taken in a district other than that in which the committing Justice or Justices reside or in which the offence charged was committed.

Commencement of Act. **15.** THIS Act shall commence and take effect from and after the first day of November, 1883.

In the name and on behalf of the Queen I hereby assent to this Act.

F. NAPIER BROOME, Governor.

47° VICTORIÆ, No. 6.

Grand Jury Abolition Act—Amendment.

SCHEDULE OF THIS ACT.

18 Vic., No. 5.—“ An Act to abolish Grand Juries, and to substitute other provisions in lieu thereof.”

23 Vic., No. 2.—“ An Ordinance to provide for the Summary Discharge, in certain cases, of Persons under Committal for Felony and Misdemeanor.”

FORM No 1.

In the Supreme Court Western Australia.

BE it remembered that the Honorable (*name of Attorney General*) Attorney General of our Sovereign Lady the Queen who for our said Lady the Queen prosecutes in this behalf, in his proper person comes into the Supreme Court of our said Lady the Queen, at Perth, in the Colony aforesaid, on the day of in the year of our Lord one thousand eight hundred and eighty ; and for our said Lady the Queen gives the Court here to understand and be informed that (*here state the offence charged as in an indictment*).

In the Court of General Quarter Sessions of (*name of district*) Western Australia.

BE it remembered that (*name of Chairman*) the Chairman of the General Quarter Sessions of the Peace held at (*name of place*) in his proper person comes into the said Court at (*name of place*) in the Colony aforesaid, on the day of in the year of our Lord one thousand eight hundred and eighty , and gives the Court here to understand and be informed that (*name of prisoner*) is charged for that (*Here state the offence charged as in an indictment*).

FORM No. 2.

To , Esquire, Chief Justice of the Supreme Court of Western Australia.

THIS is to certify that I decline to file any information against (*name of person charged*), on a charge of (*here state what the charge is*).

Given under my hand this day of , 188 .

Attorney General.

47° VICTORIÆ, No. 6.

Grand Jury Abolition Act—Amendment.

FORM No. 3.

To _____, Esquire, Sheriff of the Colony of Western Australia
(or to A.B. the Gaoler of _____ as the case may be).

WHEREAS _____ detained in your custody under a Warrant of _____ Esquire, Justice of the Peace, upon a charge of _____; And whereas I have declined to file any information against the said _____ for the said offence; You are hereby authorised and required forthwith to discharge the said _____ from your custody upon the said Warrant.

Given under my hand this _____ day of _____ 188 _____.

Attorney General.

FORM No. 4.

To the Court of General Quarter Sessions of _____

THIS is to certify that I decline to file any information against (*name of person charged*) on a charge of (*here state what the charge is*)

Given under my hand this _____ day of _____ 188 _____

(*Name*) Chairman of General Quarter Sessions.

FORM No. 5.

To _____ the Gaoler of _____

WHEREAS _____ detained in your custody under the warrant of _____ Justice of the Peace, upon a charge of _____; And whereas I have declined to file any information against the said _____ for the said offence; You are therefore hereby authorised and required forthwith to discharge the said _____ from your custody upon the said warrant.

Given under my hand this _____ day of _____ 188 _____.

Chairman of General Quarter Sessions.