

WESTERN AUSTRALIA

ANNO VICESIMO NONO

VICTORIÆ REGINÆ

No. 5

An Ordinance to consolidate and amend the Statute  
Laws and Ordinances relating to Criminal Offences.

[Assented to 7th July, 1865.]

WHEREAS by six several Acts of the Imperial Parliament, relating respectively to offences against the person, malicious injuries to property, larceny, forgery, coining and accessories and abettors, divers Acts and parts of Acts have been consolidated and amended, whereby a great improvement has been effected in the criminal laws of England: And whereas the criminal laws of this Colony have been from time to time, with few exceptions, assimilated to the laws in force in England by adopting the Statutes of the Imperial Parliament, it is now expedient that the said six several Acts should, except as hereinafter is excepted, be adopted: Be it therefore 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. The six several Acts of the Imperial Parliament specified and named in the Schedule A to this Ordinance annexed, and every clause and enactment in the said several Acts contained, shall, except only the third, eleventh and forty-eighth sections of the Statute passed in the session of Parliament held in the twenty-fourth and twenty-fifth years of the reign of Queen Victoria, chapter one hundred (which said three several sections are hereby expressly excluded), extend to and be in force in this Colony, and the same, except as aforesaid, are hereby adopted and directed to be applied in the administration of justice in like manner as in England, so far as the provisions of the same are

Criminal Statute  
Law Consolidation  
Acts of the  
24 and 25 Vic.  
adopted, with the  
exception of the  
3rd, 11th, and  
48th sections of  
chapter 109

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within the scope and power of colonial legislation, and can be applied to the circumstances of the Colony.

Administering  
poison, or wound-  
ing with intent  
to murder—  
Death

2. Whosoever shall administer to, or cause to be administered to or to be taken by any person, any poison or other destructive thing, or shall by any means whatsoever wound or cause any grievous bodily harm to any person, with intent in any of the cases aforesaid to commit murder, shall be guilty of felony, and being convicted thereof shall suffer death.

Rape—Death

3. Whosoever shall be convicted of the crime of rape shall suffer death as a felon.

Burglary with  
violence—Death

4. Whosoever shall burglariously break and enter into any dwelling house, and shall assault with intent to murder any person being therein, or shall wound, beat or strike any such person, shall be guilty of felony, and being convicted thereof shall suffer death.

Recital of 24 &  
25 Vic., c. 95, and  
repeal *quoad*  
this Colony, of  
Acts and parts  
of Acts men-  
tioned in Sched-  
ule of said Or-  
dinance

Recital of certain  
Ordinances and  
parts of Ordi-  
nances and repeal  
thereof

5. And whereas by the Act of the session holden in the twenty-fourth and twenty-fifth years of the reign of Queen Victoria, chapter ninety-five, after reciting that by six several Acts of the then present session of Parliament, relating to offences against the person, malicious injuries to property, larceny, forgery, coining and accessories and abettors, divers Acts and parts of Acts had been consolidated and amended, and that it was expedient to repeal the enactments so consolidated and amended and certain other enactments, the several Acts and parts of Acts in the Schedule to the said Statute annexed are thereby repealed: And whereas many of the said Acts and parts of Acts enumerated in the said Schedule are now in force in this Colony, some by reason of their being at the period of the settlement of the Colony in force in the parent country of general import and applicable to the state of colonists, and others by reason of their being subsequently adopted by Ordinances of the Legislative Council of the said Colony: and it is necessary that all such Acts and parts of Acts should be repealed as to this Colony: and whereas it is also expedient to repeal the several Ordinances and parts of Ordinances in the Schedule B hereto annexed: Be it therefore enacted that on and after the day of the coming into operation and taking effect of this Ordinance, the several Acts and parts of Acts in the said Schedule to the said Act passed in the session of Parliament held in the twenty-fourth and twenty-fifth years of the reign of Queen Victoria, chapter ninety-five, annexed, and by the said Act repealed, and also the several Ordinances and parts of Ordinances in the said Schedule B hereto annexed, shall be and stand repealed as to this Colony, any Ordinance to the contrary notwithstanding.

Repeal not to  
affect offences,  
&c., committed  
before the com-  
mencement of  
this Ordinance

6. Provided that every offence which shall have been wholly or partly committed against any of the said Acts or parts of Acts, Ordinances or parts of Ordinances before this Ordinance comes into operation, shall be dealt with, inquired of, tried, determined, and punished, and every penalty in respect of any such offence shall be recovered, in the same manner as if the said Acts and parts of Acts, Ordinances and parts of Ordinances had not been repealed; and that every Act duly done and every warrant and other instrument duly made or granted before this Ordinance comes into operation shall continue and be of the same force and effect as if the said Acts and parts of Acts, Ordinances

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and parts of Ordinances had not been repealed; and that every right, liability, privilege, and protection in respect of any matter or thing committed or done before this Ordinance comes into operation shall continue and be of the same force and effect as if the said Acts and parts of Acts, Ordinances and parts of Ordinances had not been repealed; and that every action, prosecution, and other proceeding which shall have been commenced before this Ordinance comes into operation, or shall thereafter be commenced in respect of any such matter or thing, may be prosecuted, continued, and defended in the same manner as if the said Acts and parts of Acts, Ordinances and parts of Ordinances had not been repealed.

7. Wherever this or any other Ordinance, or any Act herein named, or any other Statute now or hereafter in force in this Colony, relating to any offence, whether punishable upon indictment, information or summary conviction, in describing or referring to the offence, or the subject matter with respect to which it shall be committed, or to the offender or party affected or intended to be affected by the offence, hath used or shall use words importing the singular number, or the masculine gender only, yet the Ordinance or Statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is payable to a party aggrieved it shall be payable to a body corporate in every case where such body corporate shall be the party aggrieved: And the word 'month' shall be deemed and taken to mean calendar month, unless words be added showing lunar month to be intended; and the word 'land' shall include messuages, tenements, and hereditaments, houses, and buildings, of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and the words 'oath,' 'swear,' and 'affidavit' shall include affirmation, declaration, affirming and declaring in the case of persons by law allowed to declare or affirm, instead of swearing.

8. This Ordinance may be cited for all purposes as 'The Criminal Law Consolidation Ordinance, 1865.'

J. S. HAMPTON,  
GOVERNOR AND COMMANDER-IN-CHIEF.

## SCHEDULE A

An Act to consolidate and amend the Statute Law of England and Ireland, relating to Accessories to and Abettors of Indictable Offences.	24 & 25 Vic., c. 94
An Act to consolidate and amend the Statute Law of England and Ireland, relating to Larceny and other Similar Offences.	24 & 25 Vic., c. 96
An Act to consolidate and amend the Statute Law of England and Ireland, relating to Malicious Injuries to property.	24 & 25 Vic., c. 97
An Act to consolidate and amend the Statute Law of England and Ireland, relating to Indictable Offences by Forgery.	24 & 25 Vic., c. 98
An Act to consolidate and amend the Statute Law of the United Kingdom against Offences relating to the Coin.	24 & 25 Vic., c. 99
An Act to consolidate and amend the Statute Law of England and Ireland, relating to Offences against the Person.	24 & 25 Vic., c. 100

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## SCHEDULE B

References to Ordinances	Title of Ordinance	Extent of Repeal
16 Vic., No. 5	<i>An Ordinance for the removal of defects in the Administration of Criminal Justice</i>	Sections one, two, and three
16 Vic., No. 6	<i>An Ordinance for the better Prevention of Offences.</i>	Sections two, three, four and six
16 Vic., No. 8	<i>An Ordinance for further improving the Administration of Criminal Justice</i>	Sections four, six, eight, eleven, thirteen, fourteen, fifteen, sixteen, and so much of section five as relates to forging or uttering any instrument; and so much of section twenty-seven as relates to any indecent assault, or any assault occasioning actual bodily harm, or any attempt to have carnal knowledge of a girl under 12 years of age
23 Vic., No. 1	<i>An Ordinance for more effectually preventing Embezzlements by persons employed in the Public Service of Her Majesty in Western Australia</i>	The whole
24 Vic., No. 10	<i>An Ordinance to make better provision for the Punishment of Frauds committed by Trustees, Bankers and other persons entrusted with property</i>	The whole