



ANNO TRICESIMO TERTIO ET TRICESIMO QUARTO

# VICTORIÆ REGINÆ.

A.D. 1870-71.

## No. 24.

*An Act to amend the Law relating to Assaults.*

[Assented to, 13th January, 1871.]

**W**HEREAS it is expedient to provide for the further protection of Her Majesty's subjects against violence, and for that purpose to amend the law relating to assaults: Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows: Preamble.

1. From and after the passing of this Act, clauses 27, 28, and 29, of the Imperial Statute, No. 9 of George IV., cap. 31, shall cease to have any force or effect within the said Province; and clause 55 of the "Police Act, 1869," shall be and is hereby repealed. Repeal of part 9 Geo. IV., c. 31.

2. Where any person shall unlawfully assault or beat any other person, any Special Magistrate or two Justices of the Peace for the said Province, upon complaint by, or on behalf of, the party aggrieved, may hear and determine such offence in a summary way; and the offender shall, upon conviction thereof before him or them, at the discretion of such Special Magistrate or Justices, forfeit and pay such fine as shall appear to him or them to be meet, not exceeding, together with costs (if ordered), the sum of Five Pounds; and if such fine as shall be so awarded, together with the costs, if ordered, shall not be paid, either immediately after the conviction, or within such period as the said Special Magistrate or Justices shall, at the time of the conviction, appoint, he or they may commit the offender to one of Her Majesty's gaols in the said Province, there to be imprisoned, with or without hard labor, for any term not exceeding two calendar months, unless such fine and costs be sooner paid. Summary punishment for common assault or battery.

*Law of Assaults Amendment Act.—1870-71.*

Certificate of dismissal.

3. If the Special Magistrate or Justices upon the hearing of any such case of assault or battery upon the merits, where the complaint was preferred by or on the behalf of the party aggrieved, under the preceding section, shall deem the offence not to be proved, or shall find the assault or battery to have been justified, or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, he or they shall forthwith make out a certificate under his or their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

Certificate or conviction a bar to future proceedings.

4. If any person against whom any such complaint as before-mentioned shall have been preferred, by or on the behalf of the party aggrieved, shall have obtained such certificate, or having been convicted, shall have paid the whole amount adjudged to be paid, or shall have suffered the imprisonment, or imprisonment with hard labor, awarded, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

Provisions of Ordinance No. 6 of 1850 to apply to summary convictions under this Act.

5. Subject to the provisions of this Act, an Ordinance of the Governor and Legislative Council, No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of session with respect to summary convictions and orders," shall be applicable to all proceedings taken under the preceding sections of this Act, and in any case of the adjudication of a pecuniary penalty thereunder, and of imprisonment for non-payment thereof, together with costs (if costs are awarded), the conviction may be in the form contained in Schedule No. I 2 to the said Ordinance.

Where assault of an aggravated nature, offender may be committed to Supreme Court, or dealt with under "Minor Offences Procedure Act, 1869."

6. If it shall appear to the Special Magistrate or Justices, upon the hearing of any complaint for any of the matters aforesaid, that the offence is of such an aggravated nature that it cannot, in his or their opinion, be sufficiently punished under the provisions hereinbefore contained, such Special Magistrate or Justices may either commit the person charged with such offence for trial before the Supreme Court, or may, with the consent of the person so charged, proceed to deal with and determine the case in the manner prescribed by, and in accordance with, the provisions of "The Minor Offences Procedure Act, 1869," and in the latter case such Special Magistrate or Justices shall have power, on conviction, to award any of the punishments mentioned in the said Act.

These provisions not to apply to certain cases.

7. In case the Special Magistrate or Justices shall find the assault or battery complained of to have been accompanied by any attempt to commit felony, he or they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if he or they had no authority finally to hear and determine the same: and nothing herein contained shall authorize any Special Magistrate or Justices to hear and determine in a summary way, and without the consent of the person charged given in

---

*Law of Assaults Amendment Act.—1870-71.*

---

in the manner prescribed by the "Minor Offences Procedure Act, 1869," any case of assault or battery in which any question shall arise as to the title to any lands, tenements, or hereditaments, or any interest therein or accruing therefrom, or as to any insolvency, or any execution under the process of any Court of Justice.

8. Whosoever shall be convicted upon an information by the Supreme Court, of any assault occasioning actual bodily harm, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding two years, with or without hard labor; and whosoever shall be convicted upon an information as last aforesaid of a common assault, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding one year, with or without hard labor.

Punishment for  
assault occasioning  
bodily harm.

For common assault.

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

JAMES FERGUSSON, Governor.