

No II.

IMPERIAL ACTS
ADOPTION.

An Act for adopting certain Acts of Parliament passed in the Third and Fourth Years of the Reign of His present Majesty King William the Fourth and the Fourth and Fifth Years of the Reign of His said Majesty and the Sixth and Seventh Years of the Reign of His said Majesty respectively and applying the same in the Administration of Justice in New South Wales in like manner as other Laws of England are applied therein. [13th July, 1837.]

Preamble. WHEREAS a certain Act of Parliament was passed in the third and fourth years of the reign of His present Majesty intituled 3 & 4 Wm. IV. c. 49. "An Act to allow Quakers and Moravians to make Affirmation in all cases where an Oath is or shall be required" and whereas a certain other Act of Parliament was passed in the fourth and fifth years of the 4 & 5 Wm. IV. c. 26. reign of His said Majesty intituled "An Act to abolish the practice of hanging the Bodies of Criminals in Chains" and whereas also certain other Acts of Parliament were passed in the sixth and seventh years of the reign of His said Majesty intituled respectively 6 and 7 Wm. IV. c. 30. "An Act to repeal so much of two Acts of the ninth and tenth years of the reign of King George the Fourth as directs the period of Execution and the prison discipline of persons convicted of the Crime of Murder" and "An Act to prevent the fact of a previous conviction being given as Evidence to the Jury on the case before them except when Evidence to Character is given" and whereas it is expedient to adopt and apply the said several recited Acts of Parliament in the administration of justice in New South Wales Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That the said recited Acts of Parliament and every clause provision and enactment therein respectively contained shall be and the same are and is hereby adopted and directed to be applied in the administration of justice in the said Colony and its Dependencies in like manner as other Laws of England are therein applied.

Adopted and applied
in the administration
of justice.Commencement of
Act.

2. And be it further enacted That this Act shall commence and take effect from and after the first day of August one thousand eight hundred and thirty-seven.

ANNO TERTIO ET QUARTO GULIELMI IV. REGIS.
CAP. XLIX.

ENGLISH AFFIRMA-
TIONS ACT ADOPTED.

An Act to allow Quakers and Moravians to make Affirmation in all cases where an Oath is or shall be required. [28th August, 1833.]

WHEREAS it is expedient and reasonable that the solemn affirmation of persons of the persuasion of the people called Quakers and of Moravians should be allowed in all cases where an oath is or shall be required Be it therefore enacted by the King's Most Excellent

English Affirmations Act Adopted, 3 & 4 Wm. 4, c. 49.

Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same That every person of the persuasion of the people called Quakers and every Moravian be permitted to make his or her solemn affirmation or declaration instead of taking an oath in all places and for all purposes whatsoever where an oath is or shall be required either by the Common Law or by any Act of Parliament already made or hereafter to be made which said affirmation or declaration shall be of the same force and effect as if he or she had taken an oath in the usual form and if any such person making such solemn affirmation or declaration shall be lawfully convicted wilfully falsely and corruptly to have affirmed or declared any matter or thing which if the same had been in the usual form would have amounted to wilful and corrupt perjury he or she shall incur the same penalties and forfeitures as by the laws and statutes of this realm are enacted against persons convicted of wilful and corrupt perjury any law statute or custom to the contrary notwithstanding. Provided always That every such affirmation or declaration shall be in the words following (that is to say)

Quakers and Moravians permitted to make a solemn affirmation or declaration instead of an oath.

Penalty on affirming or declaring falsely.

“ I A. B. being one of the people called Quakers [or one of the form of declaration. “ persuasion of the people called Quakers or of the United Brethren called Moravians as the case may be] do solemnly sincerely and truly declare and affirm.”

2. And whereas some doubts may arise as to the form of the affirmation to be taken in lieu of the oath of abjuration by persons of the persuasion of the people called Quakers Be it therefore enacted That instead of the form of affirmation prescribed in lieu of the abjuration oath by an Act of the eighth year of the reign of His late Majesty King George the First intituled “ *An Act for granting the form of affirmation in lieu of oath of abjuration.* 8 Geo. I. c. 6. “ people called Quakers such forms of affirmation or declaration as may remove the difficulties which many of them lie under” and instead of the form of the oath of abjuration prescribed by an Act of the sixth year of the reign of His late Majesty King George the Third intituled “ *An Act for altering the oath of abjuration and the assurance and for amending so much of an Act of the seventh year of Her late Majesty Queen Anne intituled ‘ An Act for the improvement of the Union of the two Kingdoms’ as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or misprison of Treason* ” every person of the persuasion of the people called Quakers shall be permitted to make his or her solemn affirmation in the following words (videlicet)

“ I A. B. being one of the people called Quakers [or one of the “ persuasion of the people called Quakers or of the United Brethren called Moravians as the case may be] do solemnly sincerely and truly acknowledge profess testify and declare that King William is lawful and rightful King of this Realm and of all other his Dominions and Countries thereunto belonging and I do solemnly and sincerely declare that I do believe that not any of the descendants of the person who pretended to be Prince of Wales during the life of the late King James the Second and since his decease pretended to be and took upon himself the style and title of King of England by the name of James the Third or of Scotland by the name of James the Eighth or the style and title of King of Great Britain hath any right or title whatsoever to the Crown of this Realm or any other the Dominions thereunto belonging and I do renounce and refuse any allegiance or obedience to any of them and I do solemnly promise

“ promise that I will be true and faithful and bear true
 “ allegiance to King William and to him will be faithful
 “ against all traitorous conspiracies and attempts whatso-
 “ ever which shall be made against his Person Crown or
 “ Dignity and I will do my best endeavour to disclose and
 “ make known to King William and his successors all
 “ treasons and traitorous conspiracies which I shall know
 “ to be made against him or any of them and I will be
 “ true and faithful to the succession of the Crown against
 “ the descendants of the said James and against all
 “ other persons whatsoever which succession by an
 “ Act intituled ‘*An Act for the further limitation of the
 ‘Crown and better securing the rights and liberties of
 ‘the Subject*’ is and stands limited to the Princess Sophia
 “ Electress and Duchess Dowager of Hanover and the
 “ heirs of her body being Protestants and all these things
 “ I do plainly and sincerely acknowledge promise and
 “ declare according to these express words by me spoken
 “ and according to the plain and common sense and under-
 “ standing of the same words without any equivocation
 “ mental evasion or secret reservation whatsoever and I
 “ do make this recognition acknowledgment renunciation
 “ and promise heartily willingly and truly.”

ANNO QUARTO ET QUINTO GULIELMI IV. REGIS.

CAP. XXVI.

ENGLISH HANGING
IN CHAINS ABOLITION
ACT ADOPTED.

An Act to abolish the practice of hanging the Bodies of Criminals in Chains. [25th July, 1834.]

9 Geo. IV. c. 31.

10 Geo. IV. c. 34.

2 & 3 W. IV. c. 75.

WHEREAS by an Act passed in the ninth year of the reign of His late Majesty King George the Fourth intituled “*An Act for consolidating and amending the Statutes in England relating to offences against the Person*” it is amongst other things enacted That the body of every person convicted of murder shall after execution either be dissected or hung in chains as to the Court which tried the offender shall seem meet and that the sentence to be pronounced by the Court shall express that the body of the offender shall be dissected or hung in chains whichever of the two the Court shall order And whereas by a certain Act passed in the tenth year of the same reign intituled “*An Act for consolidating and amending the Statutes in Ireland relating to offences against the Person*” a like provision is made with respect to persons convicted of murder in Ireland And whereas by a certain Act made and passed in the second and third year of the reign of His present Majesty intituled “*An Act for regulating Schools of Anatomy*” so much of the provision of the said recited Act made and passed in the ninth year of the reign of his said late Majesty King George the Fourth as authorized the Court to direct that the body of a person convicted of murder should after execution be dissected is repealed and instead thereof it was enacted That in every case of conviction of any prisoner for murder the Court before which such prisoner shall have been tried shall direct such prisoner either to be hung in chains or to be buried within the precincts of the prison in which such prisoner shall have been confined after conviction as to such Court should seem meet and that the sentence to be pronounced by the Court should express that the body of such prisoner shall

shall be hung in chains or buried within the precincts of the prison whichever of the two the Court should order. And whereas it is expedient to amend the said recited Acts. Be it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same That so much of the said recited Act made and passed in the ninth year of the reign of His Majesty King George the Fourth as authorizes the Court to direct that the body of a person convicted of murder should after execution be hung in chains and also so much of the said recited Act made and passed in the tenth year of the same reign as authorizes the Court to direct that the body of a person convicted of murder should after execution be dissected or hung in chains and also so much of the said recited Act made and passed in the second and third year of the reign of His present Majesty as provides that in every case of conviction of any prisoner for murder the Court shall direct such prisoner to be hung in chains shall be and the same is hereby repealed.

2. And be it further enacted That in every case of conviction on conviction for murder in Ireland in Ireland the Court shall direct the prisoner to be buried within the prison.

ANNO SEXTO AND SEPTIMO GULIELMI IV. REGIS.

CAP. XXX.

An Act to repeal so much of two Acts of the Ninth and Tenth Years of King George the Fourth as directs the period of the Execution and the Prison Discipline of persons convicted of the Crime of Murder. [14th July, 1836.]

ENGLISH EXECUTION
AND PRISON DISCI-
PLINE ACTS REPEAL
ADOPTED.

WHEREAS by an Act passed in the ninth year of the reign of his late Majesty King George the Fourth intituled "An Act ^{Geo. IV. c. 31.} for consolidating and amending the Statutes in England relative to offences against the Person" it was amongst other things enacted That every person convicted of murder should be executed according to Law on the day next but one after that on which the sentence should be passed unless the same should happen to be Sunday and in that case on the Monday following and that sentence should be pronounced immediately after the conviction of every murderer unless the Court should see reasonable cause for postponing the same and such sentence should express not only the usual judgment of death but also the time thereby appointed for the execution thereof and it was by the said Act provided That after such sentence should have been pronounced it should be lawful for the Court or Judge to stay the execution thereof if such Court or Judge should so think fit and whereas it was by the said Act amongst other things further provided That every person convicted of murder should after judgment be fed with bread and water only and with no other food or liquor except in case of receiving the Sacrament or in case of any sickness or wound in which case the surgeon of the prison might order other necessaries to be administered and that no person but the gaoler and his servants and the chaplain and surgeon of the prison

English Criminal Evidence Act Adopted, 6 & 7 Wm. 4, c. 111.

10 Geo. IV. c. 34.

Recited Acts in part repealed.

As to the pronouncing of sentence of death for murder.

prison should have access to any such convict without the permission in writing of the Court or Judge before whom such convict should have been tried or of the Sheriff or his deputy and it was by the said Act further provided That in case the Court or Judge should think fit to respite the execution of such convict such Court or Judge might by a license in writing relax during the period of the respite all or any of the restraints or regulations therein before directed to be observed and whereas by another Act passed in the tenth year of the same reign intituled “*An Act for consolidating and amending the Statutes in Ireland relating to offences against the Person*” the like provisons were made with respect to persons convicted of murder in Ireland And whereas for the ends of justice and especially more effectually to preserve from an irrevocable punishment any persons who may hereafter be convicted upon erroneous or perjured evidence it is expedient to alter and amend the said recited Acts in these respects Be it therefore enacted by the King’s Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same That so much of the said Acts of the ninth and tenth years respectively of the reign of His late Majesty King George the Fourth as is hereinbefore recited shall be and the same is hereby repealed.

2. And be it further enacted That from and after the passing of this Act sentence of death may be pronounced after convictions for murder in the same manner and the Judge shall have the same power in all respects as after convictions for other capital offences.

ANNO SEXTO ET SEPTIMO GULIELMI IV. REGIS.

CAP. CXI.

ENGLISH CRIMINAL
EVIDENCE ACT
ADOPTED.

An Act to prevent the Fact of a previous Conviction being given in Evidence to the Jury on the case before them except when Evidence to Character is given. [20th August, 1836.]

7 & 8 Geo. IV. c. 28.

A previous conviction not to be given in charge or read to the jury until after the finding for a subsequent felony.

WHEREAS by an Act passed in the seventh and eighth years of the reign of King George the Fourth intituled “*An Act for further improving the Administration of Justice in Criminal Cases*” provision is made for the more exemplary punishment of offenders who shall commit any felony not punishable with death after a previous conviction for felony and whereas since the passing of the said Act the practice has been on the trial of any person for any such subsequent felony to charge the jury to inquire at the same time concerning such previous conviction and whereas doubts may be reasonably entertained whether such practice is consistent with a fair and impartial inquiry as regards the matter of such subsequent felony and it is expedient that such practice should from henceforth be discontinued Be it therefore enacted by the King’s Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same That from and after the passing of this Act it shall not be lawful on the trial of any person for any such subsequent felony to charge the jury to inquire concerning such previous conviction until after they shall have inquired concerning such subsequent felony and shall have found such person guilty of the same and whenever in any indictment such previous conviction shall be stated

English (Realty) Limitation Act Adopted, 3 & 4 Wm. 4, c. 27.

stated the reading of such statement to the jury as part of the indictment shall be deferred until after such finding as aforesaid Provided nevertheless that if upon the trial of any person for any such subsequent felony as aforesaid such person shall give evidence of his or her good character it shall be lawful for the prosecutor in answer thereto to give evidence of the indictment and conviction of such person for the previous felony before such verdict of guilty shall have been returned and the jury shall inquire concerning such previous conviction for felony at the same time that they inquire concerning the subsequent felony.

Except when evidence as to good character is given.
