

## No. XXVII.

DEFENCE ON TRIALS  
FOR FELONY.

An Act for enabling persons prosecuted for Felony to make their Defence by Counsel or Attorney. [23rd October, 1840.]

Preamble.

WHEREAS it is expedient to adopt an Act of the Imperial Parliament passed in the sixth and seventh year of the reign of His late Majesty King William the Fourth which recites that it is just and reasonable that persons accused of offences against the law should be enabled to make their full answer and defence to all that is alleged against them Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That all persons tried for felonies shall be admitted after the close of the case for the prosecution to make full answer and defence thereto by Counsel learned in the law or by Attorney in Courts where Attornies practise as Counsel.

In cases of summary conviction.

2. And be it enacted That in all cases of summary conviction persons accused shall be admitted to make their full answer and defence and to have all witnesses examined and cross examined by Counsel or Attorney.

Copies of depositions to be allowed to prisoners.

3. And be it enacted That all persons who after the passing of this Act shall be held to bail or committed to prison for any offence against the law shall be entitled to require and have on demand (from the person who shall have the lawful custody thereof and who is hereby required to deliver the same) copies of the examinations of the witnesses respectively upon whose depositions they have been so held to bail or committed to prison on payment to such person or his deputy of a reasonable sum for the same to be fixed from time to time by the Judges of the Supreme Court not exceeding four-pence for each folio of ninety words Provided always if such demand shall not be made before the day appointed for the commencement of the Criminal Court or Sessions at which the trial of the person on whose behalf such demand shall be made is to take place such person shall not be entitled to have any copy of such examination of witnesses unless the Judge or other person to preside at such trial shall be of opinion that such copy may be made and delivered without delay or inconvenience to such trial but it shall nevertheless be competent for such Judge or other person so to preside at such trial if he shall think fit to postpone such trial on account of such copy of the examination of witnesses not having been previously had by the party charged.

Proviso.

Prisoners entitled to inspect depositions on trial.

4. And be it enacted That all persons under trial shall be entitled at the time of their trial to inspect without fee or reward all depositions (or copies thereof) which have been taken against them and returned into the Court before which such trial shall be had.