

JUDGES' SALARIES.

No. 37 of 1963.

AN ACT to amend the *Judges' Salaries Act 1920.*
[18 September 1963.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title,
citation, and
commence-
ment.

1—(1) This Act may be cited as the *Judges' Salaries Act 1963.*

(2) The *Judges' Salaries Act 1920*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall be deemed to have commenced on the first day of July 1963.

Judges'
salaries.

2 Section two of the Principal Act is amended—

(a) by omitting from paragraph (a) thereof the words “five thousand two hundred” and substituting therefor the words “six thousand four hundred”; and

(b) by omitting from paragraph (b) thereof the words “four thousand six hundred” and substituting therefor the words “five thousand six hundred”.

CRIMINAL CODE.

No. 38 of 1963.

AN ACT to amend the *Criminal Code Act 1924.*
[18 September 1963.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title
and citation.

1—(1) This Act may be cited as the *Criminal Code Act 1963.*

(2) The *Criminal Code Act 1924*, as subsequently amended, is in this Act referred to as the Principal Act.

2—(1) Section four of the Principal Act is amended by omitting subsection (3) and substituting therefor the following subsection:— Construction of statutes.

“(3) Except as provided in section thirty-six of the *Acts Interpretation Act* 1931, nothing contained in this Act or in the *Code* shall be construed to affect the construction of any statute, or of any provision thereof, creating an offence punishable summarily or referring or relating to summary proceedings.”.

(2) This section shall be deemed to have commenced on the eighteenth day of January 1932.

3 Section three hundred and ten of the *Criminal Code* is repealed and the following section is substituted therefor:—

“310—(1) When a person charged with a crime has been committed for trial and it is intended to put him on his trial therefor, the charge is to be reduced to writing in a document called an indictment. Indictments. Cf. Q'd Crim. Code, ss. 560, 561.

“(2) An indictment shall be signed by a Crown Law Officer and filed in the Supreme Court.

“(3) A Crown Law Officer may file an indictment against any person for a crime whether he has been committed for trial or not.

“(4) Before filing an indictment a Crown Law Officer shall satisfy himself that there is evidence against the defendant sufficient to put him on his trial or to raise a strong or probable presumption of his guilt.”.

4 Section three hundred and eighty-six of the *Criminal Code* is amended by omitting paragraph (d) of subsection (1) and substituting therefor the following paragraph:— Judgment.

“(d) pass sentence upon the convicted person and, upon such conditions as the judge may think fit—

- (i) suspend the execution of the sentence; or
- (ii) in the case of a sentence of imprisonment, suspend the further execution of the sentence after such term as he thinks fit;”.

5 After section three hundred and ninety-seven of the *Criminal Code* the following sections are inserted:—

“397A—(1) Where a person convicted of a crime is sentenced to pay a fine the court by which he is sentenced may, without prejudice to any other power or process of the Supreme Court— Time to pay fines and subsequent enforcement.

- (a) allow time for payment of the fine; or
- (b) direct payment of the fine by instalments of such amounts and on such days as it may specify,

and in either case specify the municipal district in which payment shall be made.

“(2) Where the court exercises the power conferred by subsection (1) of this section, it shall cause a memorandum in a summary form of so much of the plea as is necessary for the purposes of this section to be made up on paper, sealed with the seal of the Supreme Court, and sent to the clerk of petty sessions for the specified municipal district.

“(3) Upon the transmission of a memorandum under subsection (2) of this section payment shall be made and all further proceedings either upon payment or upon default of payment shall be taken and had as if the fine, and any term of imprisonment in default imposed under subsection (4) of this section, had been adjudged upon conviction by the justices in petty sessions for the specified district and they had allowed the time to pay or directed the payment by instalments under section seventy-eight of the *Justices Act* 1959, except that all moneys recovered shall be paid into the Consolidated Revenue.

“(4) Where the court exercises the power conferred by subsection (1) of this section, it may order that the person sentenced to pay shall be liable to a specified term of imprisonment in default of payment of the fine or an instalment thereof.

“(5) Where a period of imprisonment in default of payment is imposed under subsection (4) of this section, subsection (3) of section seventy-eight of the *Justices Act* 1959 does not apply.

Civil
execution.

“397B Where by any judgment or order of the Supreme Court or a judge made under the *Code* a sum of money is payable to the Crown or any other person by way of forfeiture, damages, costs, or otherwise a memorandum in a summary form of so much of the plea as is necessary for the purposes of this section may be made on paper, sealed with the seal of the Supreme Court, and at the instance of the party entitled to the payment may be—

- (a) entered like a judgment subject to the *Supreme Court Civil Procedure Act* 1932 and enforced under that Act; or
- (b) registered in any court under the *Local Courts Act* 1896 and enforced under that Act.”.

Interpre-
tation.

6 Section three hundred and ninety-nine of the *Criminal Code* is amended by inserting, at the end of the definition of “Registrar”, the words “and includes the Deputy Registrar so appointed”.

Court of
Criminal
Appeal.

7 Section four hundred of the *Principal Act* is amended by adding at the end thereof the following subsection:—

“(6) The Deputy Registrar of the Supreme Court shall be the Deputy Registrar of the Court and may act in place of the Registrar when required by him so to do.”.

8 Section four hundred and seven of the Principal Act is amended by inserting, after subsection (1), the following subsection:—

Time for appealing.

“(1A) A notice under subsection (1) of this section shall be signed by the person giving it or his attorney.”

9 Section four hundred and eight of the *Criminal Code* is repealed and the following section is substituted therefor:—

“408—(1) On receiving a notice of appeal or of application for leave to appeal, the Registrar shall cause an appeal book to be prepared for the use of the Court. Appeal book.

“(2) For that purpose the Registrar may, if it will assist him so to do, appoint a time to settle the contents of the appeal book and give notice thereof to the Attorney-General and to the other party, or his attorney, requiring him then to attend.

“(3) For the purposes of this section the judge of the court of trial shall, if so requested by the Registrar, furnish him with his notes of the trial and also a report giving his opinion on the case or upon any point arising in the case.”

10 After section four hundred and thirteen of the *Criminal Code* the following section is inserted:—

“413A—(1) When any cause or matter, after being fully heard before the Court, is ordered to stand for judgment, it is not necessary that both or all judges before whom it was heard be present together in court to declare their opinions thereon, but the opinion of any of them may be reduced to writing and may be read by any other judge at any subsequent sitting of the Court at which judgment in the cause or matter is appointed to be delivered. Reserved judgments. No. 6 of 1903 (C'th), s. 14.

“(2) In any such case the question shall be decided in the same manner, and the judgment of the Court shall have the same force and effect as if the judge whose opinion is so read had been present in court and had declared his opinion in person.

“(3) Nothing in this section affects the practice of publishing in writing a judge's reasons for his opinion.”

11 Section four hundred and twenty-one of the Principal Act is repealed and the following section is substituted therefor:—

“421 Where an indictment is filed by a Crown Law Officer against a person who has not been committed for trial for the offence charged in the indictment, the Crown may, without any leave, by filing an indictment described as an *ex officio* indictment, proceed thereon in the manner prescribed in this chapter.” Ex officio indictments in Queen's Bench jurisdiction. Q'ld Crim. Code, s. 695.

12 Section four hundred and twenty-five of the Principal Act is repealed and the following sections are substituted therefor:—

Costs
against
convicts.

“425—(1) The court by which judgment is given on conviction of a person for a crime may, in addition to any other sentence, condemn that person to pay the whole or part of the costs or expenses incurred in or about the prosecution and conviction for the crime of which he is convicted.

“(2) The payment of costs and expenses adjudged under this section may—

- (a) be ordered by the court to be made out of moneys taken from the convicted person on his apprehension; or
- (b) subject to any law relating to the administration of a convict's property, be enforced as provided in section three hundred and ninety-seven B.

Award of
damages in
certain cases.
Cf. No. 77 of
1959, s. 140.

“425A—(1) In this section ‘civil party’ means a person—

- (a) who has suffered damage through or by means of a crime; and
- (b) on whose behalf the prosecutor of the crime claims damages therefor.

“(2) The prosecutor of a crime may with the written consent of the civil party claim such damages and the court may, subject to subsection (4), if the defendant is convicted, assess the damages and adjudge that the civil party recover them, with or without costs, from the defendant, up to an amount of five hundred pounds.

“(3) A claim for damages under this section may be made by notice in writing before arraignment, or by word of mouth on the conviction of the defendant.

“(4) The court which convicts the defendant shall, where damages are claimed under this section—

- (a) forthwith, or after such adjournment as is just, assess and adjudge the damages; or
- (b) adjourn the claim and order the damages to be assessed under the *Supreme Court Civil Procedure Act 1932*.

“(5) On the application of the prosecutor after the conviction of the defendant, the civil party shall be allowed to conduct as a party so much of the proceedings as concerns him.

“(6) If an application for damages is made, the civil party is bound by the finding thereon and the judgment of the court is a bar to any civil proceeding by him against the offender in respect of the damage in respect of which the application was made.”