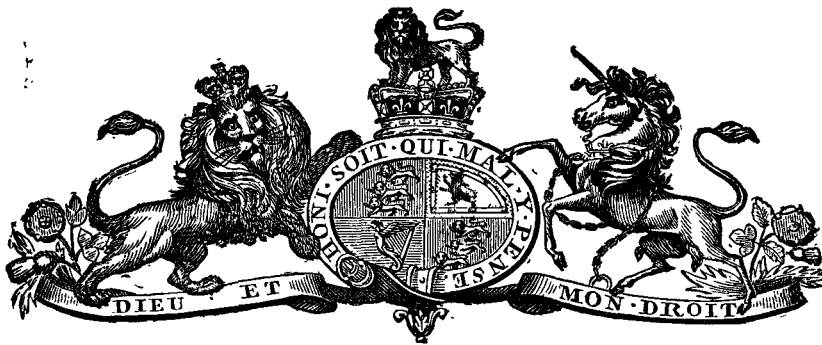


NEW ZEALAND.



TRICESIMO TERTIO ET TRICESIMO QUARTO

VICTORIÆ REGINÆ.

No. VII.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. No indictment for offences herein named to be preferred without previous authorization.</p> <p>3. In certain cases where prosecutor desires to prefer an indictment, Justice to take his recognizance to prosecute.</p> | <p>4. Limitation of provisions of second section of this Act.</p> <p>5. On acquittal &c. of person indicted, who has not been committed or held to bail, Court may order prosecutor to pay costs to accused, if it think the prosecution unreasonable.</p> |
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AN ACT to prevent vexatious Indictments for certain Misdemeanours. Title.
[23rd July, 1870.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be “The Vexatious Indictments Act, 1870.” Short Title.

2. After the thirty-first day of December, one thousand eight hundred and seventy, no bill of indictment for any of the offences following, namely—

- Perjury,
- Subornation of perjury,
- Conspiracy,
- Obtaining money or other property by false pretences,
- Keeping a gambling house,
- Keeping a disorderly house, and
- Any indecent assault,

No indictment for offences herein named to be preferred without previous authorization.
 22 and 23 Vict. c. 17, s. 1.

shall be presented to or found by any Grand Jury unless the prosecutor or other person presenting such indictment has been bound by recognizance to prosecute or give evidence against the person accused of such offence, or unless the person accused has been committed to or detained in custody, or has been bound by recognizance to appear to answer to an indictment to be preferred against him for such offence, or unless such indictment for such offence be preferred by the direc-

Vexatious Indictments.

tion or with the consent in writing of a Judge of the Supreme Court, or of Her Majesty's Attorney-General, or (in the case of an indictment for perjury) by the direction of any Court, Judge, or public functionary authorized by any Act or Acts for the time being in force in New Zealand to direct a prosecution for perjury.

In certain cases where prosecutor desires to prefer an indictment, Justice to take his recognizance to prosecute.

22 and 23 Vict. c. 17, s. 2.

3. Where any charge or complaint shall be made before any Justice of the Peace that any person has committed any of the offences in the last preceding section mentioned within the jurisdiction of such Justice, and such Justice shall refuse to commit or to bail the person charged with such offence to be tried for the same, then, in case the prosecutor shall desire to prefer an indictment respecting the said offence, it shall be lawful for the said Justice and he is hereby required to take the recognizance of such prosecutor to prosecute the said charge or complaint, and to transmit such recognizance information and depositions (if any) to the Court in which such indictment ought to be preferred, in the same manner as such Justice would have done in case he had committed the person charged to be tried for such offence.

Limitation of provisions of second section of this Act.

30 and 31 Vict. c. 35, s. 1.

4. The provisions of the second section of this Act shall not extend or be applicable to prevent the presentment to or finding by a Grand Jury of any bill of indictment containing a count or counts for any of the offences in the said second section mentioned, if such count or counts be such as may now be lawfully joined with the rest of such bill of indictment, and if the same count or counts be founded (in the opinion of the Court in or before which the same bill of indictment be preferred) upon the facts or evidence disclosed in any examinations or depositions taken before a Justice of the Peace in the presence of the person accused or proposed to be accused by such bill of indictment, and transmitted or delivered to such Court in due course of law; and nothing in this Act shall extend or be applicable to prevent the presentment to or finding by a Grand Jury of any bill of indictment if such bill be presented to the Grand Jury with the consent of the Court in or before which the same may be preferred.

On acquittal &c. of person indicted, who has not been committed or held to bail, Court may order prosecutor to pay costs to accused, if it think the prosecution unreasonable.

Ib. s. 2.

5. Whenever any bill of indictment shall be preferred to any Grand Jury, under the provisions of the third or fourth sections of this Act, against any person who has not been committed to or detained in custody, or bound by recognizance to answer such indictment, and the person accused thereby shall be acquitted thereon, it shall be lawful for the Court before which such indictment shall be tried, in its discretion, to direct and order that the prosecutor or other person by or at whose instance such indictment shall have been preferred shall pay unto the accused person the just and reasonable costs charges and expenses of such accused person and his witnesses (if any), caused or occasioned by or consequent upon the preferring of such bill of indictment, to be taxed by the proper officer of the Court; and upon non-payment of such costs and charges and expenses within one calendar month after the date of such direction and order, it shall be lawful for the Supreme Court of New Zealand, or any Judge thereof, to issue against the person on whom such order is made such and the like writ or writs, process or processes, as may now be lawfully issued by the said Supreme Court for enforcing judgments thereof.

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