Crime in the Port Phillip District 1835–51

Subject Index

Aborigines

Aborigines and the Law 6, 32-42

Batman's treaty with 2-4

Cases involving Aborigines 5, 33-41, 253-59, 259-64, 265-6, 273-5, 285-9, 289, 290-97, 298-303, 303-06, 307-08, 311, 312, 313-14, 353-7, 365-9, 369-75, 375-6, 388-90, 398-400, 412, 414, 490-2, 588-90, 666-8, 676-80, 684, 685-6

education of 7

evidence by 37, 151-54

firearms 40-41

interpreters for 40, 85, 114, 129, 135, 261-3, 265, 275, 313, 399, 414, 430, 487-8, 491, 589, 590, 667

legal representation 39

Missions 7-8

Protectorate 37 (see also Name Index for the Protectors)

Abduction 5, 55, 167, 466

Accomplices (see Witness)

Administration

of Community 13-19

of Justice 19-26

Affirmations (see witness)

Affray 735-41

Animals – Offences involving 652-69

Cattle Stealing 652-4

Horse Stealing 654-64

Killing or wounding 668-9

Law 652

Pig Stealing 664-5

Sheep Stealing 665-8

Turkey Stealing 668

(See also Bestiality)

```
Approver (see witness)
Arrest
       by citizens 50, 56-58
       Law 50
       Warrants 51-2, 54-5, 58
       without warrant 55-6
Arson 709-10
Assault – 402-27
       domestic 402-06
       Law 402
       of Police 417-27
       physical 413-15,
       sectarian background 745ff
       with firearms 406-08, 417, 424
       with some weapon involved 408-13, 418, 419, 422, 423, 424, 425, 426
Bail 70-6
Bank notes 47-8, 720
Barristers (see Legal Profession)
Batman's Treaty 2-3
Bestiality 710-15
Bribery 673-6
Brothels (and Disorderly houses) 18, 49, 141, 157, 184, 185, 186, 194, 210, 403, 426, 429,
495, 499, 530, 535, 552, 680, 698,
Burglary 543-8
       buildings included 543-4
       entry to premises 47, 565
       departure from premises 543
       Law 543
Burning dead bodies 676-80
Calendar of Cases 94-7
Cattle stealing 652-4
Clothing 429
Committal for Trial 60-76
       'bedside' 62, 397, 433
```

Cross-examination at 67

Defence witnesses 68

Depositions 60

Discharge of prisoner 69

Joint or Separate 64-5

Legal representation 65

Private Prosecution 65

Procedure 65-70

Public aspects 82

Statement by prisoner 67-8

Common nuisance 715-16

Compounding a Felony 680-1

Concealing a birth 282

Conspiracy in restraint of trade 716-17

Conspiracy to defraud 93

Contempt of court

Intoxication 138

Prevarication 136-7

Convicts viii, x, 1, 4-6, 10-13, 17, 18, 25, 45, 71, 81, 101-03, 127, 135, 140, 146, 151, 182, 187, 188, 194, 203, 291, 297, 493, 562, 689-90, 693, 695, 729

Coroner (and Inquests) 39, 50, 103, 161, 169, 234, 281, 298, 299, 304, 306, 307, 317, 321, 328, 329, 336-7, 339, 345, 346, 348, 349, 350, 358, 359-60, 361, 365, 368, 376, 680

Counterfeit coinage and banknotes 717-21

Court of General Quarter Sessions 19-20

Court of Petty Sessions xv, 19, 60, 101, 103, 566

Court of Requests 9, 19, 28, 73, 82, 109, 282-3, 396, 501, 507, 691-3, 700,

Criminal damage ix

Criminal libel x

Defence

at committal 61-2, 65, 67-8

at trial 144-6

unsworn statement 146

witnesses 145

Delirium Tremens 217, 239, 348

Depositions

```
admissibility as evidence, 67, 296, 306, 336-7, 346, 463, 500
       taking (see Committal)
Directed acquittals 87, 137, 138, 163, 168, 174, 279, 308, 420, 423, 425, 488, 638, 640, 644,
692, 729, 732,
Discharge of prisoner 69, 147-8
Disorderly houses (see Brothels)
Document
       as evidence (see Evidence)
       forged (see Forgery)
Dying declaration (see Evidence)
Economic depression 9 (see also Fraudulent Insolvency)
Embezzlement 134, 579
Escape 682-91
Evidence
       Aborigines 37, 151-4
       admissibility of evidence
              Cautions 179-81
              Entrapment 182-3
       admissions against interest 178-83
       accomplices/approvers 154ff, 266-8, 548-9,
       bad character 184-8
       Child 160-72 (See also Sex offence cases)
       complaint 161, 429, 435, 445, 446
       dying declarations 232, 250, 320, 337, 346, 497,
       good character 183-4
       Husband and wife 172-4
       Non-Christians 158-60
       opinion 178
Exiles (see Convicts)
Exploration of Port Phillip District 1-2
Extortion 691
```

False pretences 638-51

Law 638

```
Types of Pretences 638-51
```

False Statement 693-95

Fitness to plead (see Jury and Trial)

Forgery and Uttering 615-36

Changing detail in document 635-6

Cheques 618-27

Law 615-18

Letters 630

Names 633-4

Money Orders 628-9

Orders to collect goods 630

Signatures 631

Fraudulent insolvency 721-7

Good character (see Evidence, Trial)

Habeas corpus (see Bail, Trial)

High seas - offences on 21, 248, 326-28, 727-9

Horse stealing 654-64

Housebreaking 548-52

Identification of persons 45-7

Identification of property 47-50

Indecent assault (see Sexual Offences)

Indents 203, 206, 686-8

Information 80-94

against Aborigines 85-6

alternative charges 86-7

amendment of 92

copy to prisoner 93

ex officio 81-2

joint charges 84-7

making 84

'No Information' 82-4

Names in Information 85-93

```
particulars in Information 86-93
       private prosecution 81
Inquest (see Coroner)
Insanity 217-42
       After conviction 220
       Defence of Insanity at Trial 230-9
       Defence not raised 240-2
       Delirium Tremens 239
       Fitness to be tried 130, 220, 221-30
       History 217-18
       Law 218-20
       Legislation 220-1
       Lunatic Asylum 221
       McNaughton Rules 219-20
       Mental Illnesses 217-18
Insolvency 9, 171, 721-7
Interpreter (see Witness)
Investigative techniques 45-50
Judges (see in the Name Index, Legal profession)
Jurisdiction
       Courts 19-22
       high seas 21, 248, 326-8, 727-9
       territorial 21
Jury 101-24
       challenges 109-10
       disagreement 118
       discharge 118
       excuses 107-08
       exemptions 101
       history 101
       issue of unfit to plead (see Trial)
       judicial speeches to jury 108, 127
       jurors – deaf, drunk, ill 111-13
       jury de medietate linguae 106-07
```

jury fees 123

jury fines 106

jury list 103-04

legislation 101-02

military jury 101

note taking 113

of matrons 124

panel 102, 104, 106-11

pray a tales 111

precept 102, 105

questions 113-14

recommending mercy 120

retirement 116-17

special jury 104

stand aside 110

summoning 101-02, 105

swearing 111

verdict 115-22

withdrawing a juror 114, 118

Justices of the Peace 6, 14, 19, 22, 41, 50, 60-4, 70-1, 80, 103-04, 136, 161, 249, 269, 274, 300, 303, 386, 404, 433, 488, 525, 530, 618, 630, 700, 702, 712, 731, 733, 738, 749

Keeping a disorderly house (see Brothel)

Larceny 570-611

Defences advanced 607-09

Law 570-2

Organised Larceny 603-07

Property stolen 574-88

Repeat offenders 594-603

Thieves 588-94

Legal aid

Aborigines 39

General 131, 163, 253, 376, 434, 464, 488

Legal profession

Bench 22-26

Bar 26-30

Solicitors 30-31

Magistrates 14-15

Manslaughter 324-62

Acquitted Murder but convicted Manslaughter 324-44

By dog-chain 351

By firearm 330, 331, 338, 340, 344, 351, 359

By knife, shears etc 324, 325, 333, 335, 340, 350-1

By medication 332

By mistreatment 353

By negligence 357-61

By physical assault 326, 328, 345-50

Manslaughter only charge 345-62

Law 324

No trial 344

Marital coercion 257, 564

Married women

Bail 73

Ownership of property 91

Murder 247-321

By bayonet, 252

By blows from a stick or blunt instrument 269, 290, 297, 308, 317, 318, 320, 321

By choking 321

By firearms 249, 251, 253, 266, 285, 290, 303, 306, 307, 312

By firearms, spears etc 264

By knife or shears, 276, 279, 319

By leanguil, spears, waddies etc. 259, 273, 289, 298, 307, 311, 313, 320

By physical assault 310

By poker 272

By unknown means 315

Law 247-9

Cases of Conviction 249-83

Cases of Acquittal 285-321

Concealing Birth 282

Mutiny 727-29

Nolle prosequi 147

Oath

Competence to take 151-71

Offences against Justice 673-703

Bribery 673-6

Burning Dead bodies 676-80

Compounding Felony 680-1

Convicts at large 690

Dissuading witness from giving evidence 681-2

Escape 682-9, 690-1

Extortion 691-93

False Statements 693-5

Harbouring Escaped convict 689-90

Perjury 695-703

Offenders

Capture 55-8

Description 52-4

Identification (see Identification)

Pardons 2, 5, 11, 45, 137, 154, 156, 157, 193, 199, 204, 207-08, 251, 271, 291, 402-03, 467, 481, 482, 510, 516, 549, 617, 623, 624, 686, 688, 696

Pentonvillians (see Convicts)

Perjury 695-703

Pig Stealing 664-5

Police

Administration 15-17

Detective 17-19

Special constables 80

Port Phillip Association 2-3

Prerogative of mercy 192

Prevarication (see Contempt)

```
Prize fights 729-35
Private prosecutions (see Information)
Procedures
       Bail 70-6
       Committals 60-76
       Information 80-94
       Notice to produce 305, 722
       Submission of no case 144
       Trial 127-48
Protectors (see Aborigines)
Receiving 572, 609
Rewards 45
Robbery 485-526
       Law 458
       Physical violence - 485, 486, 494-5, 495, 495-96, 499-500, 500, 501-03, 503, 503-04,
       505, 505-06, 506-07, 507-08, 508-09, 509-10, 510, 517-18, 519, 521, 522, 522-3,
       Weapon used - 486-9, 490-2, 492-3, 493-4, 496-9, 504-05, 510-12, 512-17, 518, 519-
       20, 520-1, 523, 524, 524-6
Riots 729-35
Sacrilege 565
Search (see Investigative techniques)
Scene of crime (see Investigative techniques)
Sectarianism 745-54
Sentencing 191-212
       aggravating circumstances 193
       character 193
       correcting mistake 197
       crown expressing view 198
       denouncing the offence 194
       deterrence 195
       drunkenness 194
       family 195-6, 197
```

female factory 194, 198, 202

insanity 240

jury involvement 123

Law 191-3

pardon 207 (see Pardons)

plea of guilty 196

poverty 196

practice and procedure 205

protection of the community 196

purposes of punishment 193-8

records 205

remission or early release 208-12

time already spent in custody 206

Types of sentence

Common law bond 198

Death sentence 198-201

Discharge without penalty 201

Forfeiture 201-02

Imprisonment 202-03

Transportation 203

Whipping 204

Settlement of the Port Phillip District 1-12

Sexual Offences against Females 429-78

Assault with intent 444-64

Child victim 464-78

Law 429

Rape 430-44

Sexual Offences against Males 480-84

Buggery 480-2

Assault with intent 482-4

Sheep Stealing 665-8

Stealing from the Person 529-38

By females - 529-33

By males -533-7

By females and males 537-8

Stealing from Warehouse 562

Stealing in a Dwelling House 552-60

Stealing lead 560

Store breaking 561

Subpoena 79-80

Superintendent 13-14

Supreme Court 20-22, 565

Treadmill 203, 397, 448, 608, 668

Trial 127-48

Address – opening 132-134

Address - closing 146

Arraignment 129-30

Arrest of Judgment 146

Calendar 94-6

Defence Case 145

Discharge of prisoner 147-8

Dock 128-9

Evidence 136ff

Exhibits 139

Fitness to be tried 130

Judge's Charge to jury 146

Plea – changing 131

Plea – demurrer 132

Plea – guilty 130

Plea – not guilty 129

Plea – rejecting 131

Postponement of 127-8

Preparation for 79ff

Remanding prisoner 131

Standing mute 129

Submissions 144

The Information (see Information)

Witness – (see Witness)

Uttering (see Forgery)

Warrants (see Investigative techniques) Wife as witness 172-4 de facto 174 marital coercion 257, 564 paraphernalia 91, 571 property 91, 571 Witness Aborigines (see Aborigines) Absent 140-4 Accomplices 154-8 Affirmation 151 Approvers 154-8 Child 160-72 Competence to be sworn Aborigine 151-4 Child 160ff Non-Christians 158-60 Youth 171-2 Contempt by (see Contempt) Cross-examination 136 De facto couples 174 Dissuading a witness from giving evidence 681-2 Drunk witness 138 Evidence-in-chief 136 Hostile witness 137 Husband and wife 172-4 Ill witness 138 Interpreter used 135 Law Reform 175 Non-Christians 158-60 Oath 151

Ordering witness out of court 134-5

Prosecution not calling 139-40

Prevarication 137

Recalling witness 64, 113, 187, 288, 300, 387, 420, 435, 445, 462, 502, 505, 526, 557-8, 559, 562, 663, 673

Subpoena of witness 79-80

Wounding 364-400, 745ff

By blows from a stick or blunt instrument 390, 391, 746, 747, 753

By firearms 365-86, 386-90, 749,

By knife or sharp instrument 392, 392-3, 393-4, 394-6, 397, 398

By spears 398

By whip 391, 396-7, 751

Law 364-65

Shooting with intent 365-86