8. Nothing in this Ordinance shall empower, or be construed, deemed, or taken to empower, the Commissioners or the Lord High Admiral to sell or dispose of (otherwise than by way of surrender to His Majesty), any property reserved or granted by the Governor for naval or public purposes and held or accepted by the said Commissioners or Lord High Admiral under any grant, lease, licence, or appropriation made by the Governor in that behalf. Restriction on power of alienation of property.

— 1864. —

No. 1 of 1864.

[*Originally* No. 13 of 1864.]

An Ordinance to amend the laws of trade and commerce.

[13th September, 1864.]

1. This Ordinance may be cited as the Mercantile Law Amendment Ordinance, 1864. Short title.

2. No special promise made by any person to answer for the debt, default, or miscarriage of another person, being in writing and signed by the party charged therewith or some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action, suit, or other proceeding to charge the person by whom such promise has been made, by reason only that the consideration for such promise does not appear in writing or by necessary inference from a written document. Consideration for guarantee need not appear by writing. 19 & 20 Vict. c. 97, s. 3.

3. Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty, pays such debt or performs such duty shall be entitled to have assigned to him, or to a trustee for him, every judgment, specialty, or other security which is held by the creditor in respect of such debt or duty, whether such judgment, specialty or other security is or is not deemed at law to have been satisfied by the payment of the debt or performance of the duty, and such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, if need be and upon a proper Right of surety who discharges liability to assignment of all securities held by creditor. 19 & 20 Vict. c. 97, s. 5.

indemnity, to use the name, of the creditor in any action or other proceeding, at law or in equity, in order to obtain from the principal debtor or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who has so paid such debt or performed such duty, and such payment or performance so made by such surety shall not be pleadable in bar of any such action or other proceeding by him: Provided always that no co-surety, co-contractor, or co-debtor shall be entitled to recover from any other co-surety, co-contractor, or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last-mentioned person is justly liable.

Limitation of actions for merchants' accounts. 19 & 20 Vict. c. 97, s. 9.

4. All actions of account or for not accounting, and suits for such accounts as concern the trade of merchandise, between merchant and merchant, their factors or servants, shall be commenced and sued within six years after the cause of such actions or suits; and no claim in respect of a matter which arose more than six years before the commencement of any such action or suit shall be enforceable by action or suit by reason only of some other matter of claim comprised in the same account having arisen within six years next before the commencement of such action or suit.

Certain periods of limitation of actions and suits *not to* be extended by absence from the Colony or imprisonment of person entitled. 19 & 20 Vict. c. 97, s. 10.

5. No person or persons who is or are entitled to any action or suit with respect to which the period of limitation within which the same shall be brought is fixed by section 3 of the Act 21 James 1, chapter 16 (the Limitation Act, 1623), or by section 17 of the Act 4 & 5 Anne, chapter 3, or by section 5 of the Act 53 George 3, chapter 127, or by sections 40, 41 and 42 of the Act 3 & 4 William 4, chapter 27 (the Real Property Limitation Act, 1833), or by section 3 of the Act 3 & 4 William 4, chapter 42, or by section 20 of the Act 16 & 17 Victoria, chapter 113, shall be entitled to any time within which to commence and sue such action or suit beyond the period so fixed for the same by the enactments aforesaid, by reason only of such person or some one or more of such persons being, at the time of such cause of action or suit accrued, absent from the Colony, or, in the cases in which,

* 4 and 5 Anne, c. 3 is equivalent to the 4 and 5 Anne, c. 16 of Ruffhead's Edition.

by virtue of any of the aforesaid enactments, imprisonment is now a disability, by reason of such person or some one or more of such persons being imprisoned at the time of such cause of action or suit accrued.

Period of limitation to run as to joint debtors in the Colony, though some absent. 19 & 20 Vict. c. 97, s. 11.

6. Where such cause of action or suit with respect to which the period of limitation is fixed by the enactments aforesaid or any of them lies against two or more joint debtors, the person who is entitled to the same shall not be entitled to any time within which to commence and sue any such action or suit against any one or more of such joint debtors who is or are not absent from the Colony at the time such cause of action or suit accrued, by reason only that some other one or more of such joint debtors was or were at the time such cause of action accrued so absent; and such person so entitled as aforesaid shall not be barred from commencing and suing any action or suit against the joint debtor or joint debtors who was or were so absent at the time the cause of action or suit accrued after his or their return to the Colony, by reason only that judgment was already recovered against any one or more of such joint debtors who was not or were not absent at the time aforesaid.

Extension of certain enactments to acknowledgment by agent. 19 & 20 Vict. c. 97, s. 13.

7. In reference to the provisions of sections 1 and 8 of the Act 9 George 4, chapter 14, (the Statute of Frauds Amendment Act, 1828), and section 24 of the said Act 16 & 17 Victoria, chapter 113, an acknowledgment or promise made or contained by or in a writing signed by an agent of the party chargeable thereby, duly authorized to make such acknowledgment or promise, shall have the same effect as if such writing had been signed by such party himself.

Saving of benefit of statute to contractor or debtor whose co-contractor or co-debtor makes payment. 19 & 20 Vict. c. 97, s. 14.

8. In reference to the provisions of the said section 3 of the Act 21 James 1, chapter 16, the said section 3 of the Act 3 & 4 William 4, chapter 42, and the said section 20 of the Act 16 & 17 Victoria, chapter 113, when there are two or more co-contractors or co-debtors, whether bound or liable jointly only or jointly and severally, or executors or administrators of any contractor, no such co-contractor or co-debtor, or executor or administrator, shall lose the benefit of the said enactments, or any of them, so as to be chargeable in respect or by reason only of payment of any principal, interest, or other money

by any other of such co-contractors or co-debtors or executors or administrators.

[s. 9, *rep.* No. 50 of 1911.]

— 1865. —

No. 1 of 1865, *repealed* by No. 58 of 1911.

No. 2 of 1865.

[*Originally* No. 4 of 1865.

No. 13 of 1929. No. 25 of 1930.]

An Ordinance to consolidate and amend the laws relating to offences against the person.

[14th June, 1865.]

Short title. 24 & 25 Vict. c. 100.

1. This Ordinance may be cited as the Offences against the Person Ordinance, 1865.

Homicide.

Murder. 24 & 25 Vict. c. 100, s. 1.

2. Every person who is convicted of murder shall suffer death as a felon.

Sentence for murder. 24 & 25 Vict. c. 100, s. 2.

3. On every conviction for murder the court shall pronounce sentence of death, and the same may be carried into execution, and all other proceedings upon such sentence and in respect thereof may be had and taken, in the same manner in all respects as sentence of death might have been pronounced and carried into execution, and all other proceedings thereupon and in respect thereof might have been had and taken, before the commencement of this Ordinance, on a conviction for any other felony for which the prisoner might have been sentenced to suffer death as a felon.

Burial of body of person executed. 24 & 25 Vict. c. 100, s. 3.

4. The body of every person executed for murder shall be buried in such place as the Governor may order, and the sentence of the court shall so direct.