

**CRIMINAL CODE AMENDMENT ACT 1994**

No. 21 of 1994

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AN ACT to amend the *Criminal Code***[Royal Assent 17 March 1994]**

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

1—This Act may be cited as the *Criminal Code Amendment Act 1994*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

3—In this Act, the *Criminal Code** is referred to as the Code.

Section 350 amended (*Nolle prosequi*)

4—Section 350 (1) of the Code is amended as follows:—

- (a) by inserting in paragraph (a) “, if the trial of the accused person has begun and a jury has been sworn,” after “judge”;
- (b) by inserting the following paragraph after paragraph (a):—
 - (ab) the judge, if the trial of the accused person has begun but a jury has not been sworn, may direct that an entry of not guilty be made on the indictment in which case the entry has effect in all respects as if it were the verdict of a jury upon the trial of the accused person on the indictment; or
- (c) by omitting from paragraph (b) “any such direction” and substituting “a direction under paragraph (a) or (ab),”.

* Schedule 1 to 14 Geo. V No. 69. For the *Criminal Code*, as amended to 1 March 1980, see the continuing Reprint of Statutes. Subsequently amended by No. 19 of 1980, No. 52 of 1981, Nos. 33 and 99 of 1982, No. 77 of 1983, No. 3 of 1984, No. 17 of 1985, Nos. 77, 86 and 93 of 1986, Nos. 26, 71, 81 and 83 of 1987, Nos. 14 and 29 of 1988, Nos. 7, 9 and 33 of 1989, No. 13 of 1990, Nos. 3, 43 and 46 of 1991, No. 21 of 1992, Nos. 9, 72 and 89 of 1993, and Nos. 4, 7 and 10 of 1994.

Section 361A inserted

5—After section 361 of the Code, the following section is inserted:—

Argument before jury is sworn

361A—After an accused person has been called upon to plead as provided in section 351 (1), all or any of the following may occur before a jury is sworn if the court thinks fit:—

- (a) the accused person may make admissions under section 109 of the *Evidence Act 1910*;
- (b) the court may determine any question of law or procedure that has arisen or is expected to arise in the trial;
- (c) the court may determine any question of fact that may lawfully be determined by a judge alone without a jury;
- (d) the court may determine any other question that it considers necessary or convenient to determine in order to ensure that the trial will be conducted fairly and expeditiously;
- (e) the court may give such directions as it thinks fit in order to resolve any issue or matter that it considers necessary or convenient to resolve before a jury is sworn.

[Second reading presentation speech made in:—
House of Assembly on 24 February 1994
Legislative Council on 2 March 1994]

