

Crimes (Amendment) Bill, 1923.

EXPLANATORY NOTE.

THE object of this Bill is to make various amendments in the criminal law. It embodies a great number of suggestions received from time to time since the passing of the Crimes Act, 1900, from those concerned in the administration of criminal justice.

1. The principal amendments of the Crimes Act, 1900, proposed are the insertion of provisions relating to:—

- (a) Incest—based on the English Punishment for Incest Act, 1908, 7 Edw. VII, c. 45.
- (b) Concealment of birth.
- (c) The white slave traffic.
- (d) The unlawful using of vehicles or boats, including motor cars.
- (e) Receiving goods stolen out of New South Wales.
- (f) The authorising of prosecutions for perjury committed before a police or stipendiary magistrate.
- (g) Arrests by constables, power of search, medical examination, photographing and taking finger prints of persons in custody.
- (h) The extension of power to issue search warrants to cases where it is suspected that a person has in his possession goods stolen out of New South Wales.
- (i) Comment by judge as to prisoner's failure to give evidence on oath.
- (j) Compellability of witnesses in certain cases. (See clause 15 (d) (iii) of Bill.)

The offences referred to in the list of sections in clause 15 (d) iii (c) are—(s. 42)—Injuries to child at time of birth; (s. 43)—Exposing or abandoning child under 2; (s. 44)—Not providing wife, child, or servant with food, &c.; (s. 45)—Wife or child desertion; (s. 63)—Rape; (s. 65)—Attempt to rape; (s. 66)—Procuring carnal knowledge by fraud; (s. 67)—Carnally knowing girl under 10; (s. 68)—Assault with intent to carnally know girl under 10; (s. 71)—Carnally knowing girl between 10 and 16; (s. 72)—Attempting last-mentioned offence; (s. 72A)—Having or attempting to have carnal knowledge of idiot or imbecile woman or girl; (s. 73)—Teacher carnally knowing girl between 10 and 17; (s. 74)—Attempting last-mentioned offence; (s. 76)—Indecent assault; (s. 78A)—Incest; (s. 78B)—Attempted incest; (s. 79)—Buggery; (s. 80)—Attempting last-mentioned offence; (s. 81)—Indecent offence on male; (s. 82)—(s. 83)—(s. 84)—Attempts to procure abortion; (s. 85)—Concealment of birth; (s. 86)—(s. 87)—(s. 89)—(s. 90)—Abductions; (s. 91)—Child stealing; (s. 91A)—(s. 91B)—Procuring; (s. 91C)—Male living on proceeds of prostitution; (s. 91D)—Employing young girls in brothel; (s. 92)—(s. 93)—Bigamy, &c.

- (k) Prisoner pleading guilty to an offence not charged but of which he might lawfully be convicted on the indictment.
- (l) The abolition of the presumption of coercion by a husband in future cases.
- (m) Evidence by certificate of scientific examination at inquests and before the justices before committal for trial.
- (n) Form of punishment for misdemeanour.
- (o) Order for compensation in cases of misdemeanour.

(p) Sentences and punishments in certain cases.

(q) The jurisdiction of justices in summary proceedings—

(A) where the accused consents to the charge being dealt with summarily ;

(B) where the jurisdiction is to be exercisable without the consent of the accused.

As to (A), by clause 23 of the Bill the limit of the subject-matter of the charge is raised from £20 to £100, and the power of the justices to punish is varied by increasing the sentences which they may impose from six months to twelve months, and increasing the fine which they may inflict from £20 to £50. The clause also sets out the offences which may be dealt with by one or more justices. Section 477 of the Crimes Act at present enumerates a number of offences which may be so dealt with. To these have been added a number of other offences.

Of the offences referred to in clause 23 (b) the following are not now within the jurisdiction of the justices, viz., (s. 85)—Concealment of birth ; Escape ; (s. 126)—Cattle stealing ; (s. 131)—Unlawfully using cattle ; (s. 134)—Stealing valuable security ; (s. 144)—Stealing from mine ; (s. 147)—Fraud on partner in mine ; (s. 148)—Stealing from dwelling-house ; (s. 150)—Stealing goods in process of manufacture ; (s. 151)—Fraudulent disposal of goods entrusted, &c., for manufacture ; (s. 154)—Stealing by tenants ; (s. 158)—Falsification of accounts, &c. ; (s. 165)—Fraudulent appropriation by agent of moneys ; (s. 166)—Same as to goods ; (s. 168)—Fraudulent sale by agent ; (s. 169)—Same by person under power of attorney ; (s. 179)—False pretences ; (s. 186)—Corrupt rewards ; (ss. 188-9)—Receiving ; (s. 190)—Receiving cattle ; (s. 192)—Receiving material or tools entrusted for manufacture ; (s. 208)—Tenants maliciously damaging houses, &c. ; (ss. 216-220)—Malicious injuries to trees, shrubs, crops, &c. ; (s. 244)—Same to works of art, &c. ; (ss. 245-246)—Injuries to cattle ; (s. 247)—Other injuries to property ; (s. 248)—Letters threatening to destroy property, &c. ; (ss. 273-275)—Certain forgeries.

As to (B), that is the jurisdiction exercisable summarily without the consent of the accused, it is proposed to give *two* or more justices jurisdiction to hear and determine cases of larceny and other similar offences, false pretences, frauds, &c., where the value of the property involved does not exceed £50, and to confer jurisdiction to award imprisonment not exceeding twelve months or to impose a fine not exceeding £50. The offences referred to in the sections enumerated in new section 501, introduced by clause 24, are as follows :—

(s. 125)—Larceny by bailee ; (s. 126)—Cattle stealing ; (s. 131)—Unlawfully using cattle ; (s. 133)—Taking money, &c., for restoration of dogs, &c. ; (s. 139)—Stealing fixtures, &c. ; (s. 140)—Stealing shrubs, &c. ; (s. 144)—Stealing ore, &c., from mines ; (s. 147)—Fraud on partners in mines ; (s. 148)—Stealing in dwelling ; (s. 150)—Stealing goods in process of manufacture ; (s. 151)—Selling material entrusted, &c., for manufacture ; (s. 152)—Stealing from ships, &c. ; (s. 154)—Tenants stealing, &c. ; (ss. 156-160)—Larceny or embezzlement by clerks or public servants ; (ss. 165-166, 168)—Frauds by agents or factors ; (s. 179)—False pretences ; (s. 186)—Corrupt rewards ; (s. 188)—(s. 189)—(s. 190)—(s. 192)—Receiving.

Jurisdiction is also given to *two* justices to deal with certain malicious injuries by tenants to houses, maliciously driving cattle, &c., on to enclosed land, certain injuries to mines or to cattle, where the value or injury done does not exceed £50 ; also to deal with certain classes of forgery where the amount involved does not exceed £50 ; and also to deal with persons unlawfully using vehicle or boat whatever the value.

- (r) Making clear the power of justices to award damages for injury done or value of property stolen, destroyed, &c., in addition to the penalty for the offence.
- (s) Recognizances to be taken from first offenders, &c., and provisions dealing with the terms and conditions thereof, and for the appointment of probation officers, &c.
- (t) In addition to many other amendments of detail, the opportunity has been taken of consolidating in the Crimes Act, 1900, with slight amendments the provisions of the Crimes (Girls' Protection) Acts, 1910, 1911.

2. The Lunacy Act, 1898, is proposed to be amended to place all persons detained during the Governor's pleasure on the same footing. At present an accused who is found by a jury to be insane at the date of trial may be released on license and may be retaken if any condition of the license is broken, while the accused found to be insane at the time of the commission of the offence, if released, may not be so retaken on a breach of conditions.

3. The Justices Act, 1902, is proposed to be amended to remove doubts as to the power of a Court of Quarter Sessions to increase a sentence on an appeal.

4. The Habitual Criminals Act, 1905, is proposed to be amended. The schedule of offences has been revised and enlarged, and the classes of offences reduced to five.

A provision is proposed whereby under certain circumstances a police or stipendiary magistrate may direct an application to a judge of the Supreme Court or a Court of Quarter Sessions to have an offender declared an habitual criminal.

Other amendments as to payment of earnings and tickets of leave are included in the Bill.

5. The Criminal Appeal Act of 1912 is proposed to be amended by the introduction of a section empowering the trial judge to state a case for the determination of the Court.

Appended is a table showing the various sections of the Crimes Act, 1900, and other Acts amended by the Bill, the subject matter of those sections, and the clauses of the Bill whereby the various sections are amended, together with a list of the new sections inserted in the various Acts and their subject matter.

TABLE OF AMENDMENTS.

Section of Act.	Subject matter.	Clause of Bill.
Crimes Act, 1900—		
Section 1	(Contents)	Clause 26 (2).
" 4	(Definitions)	" 4 (a).
" 8	(Public Place)	" 4 (b).
" 36	(Definition)	" 5 (a) & 4 (a).
" 64	(Rape and similar offences)	" 5 (b).
" 69	" " " " " " " "	" "
" 70-78... ..	" " " " " " " "	" "
" 79	(Buggery)	" 5 (c).
" 85	(Concealment of birth)	" 7.
" 114	(Found at night with intent to commit felony)...	" 9 (a).
" 124	(Verdict of offence punishable summarily)	" 9 (b).
" 244	(Injuring works of art in museums or other public places)	" 9 (e).
" 275	(Obliterating crossings on cheques)	" 10.
" 340	(Directing prosecution for perjury)	" 11 (a).
" 341	(Restraining vexatious actions)	" 11 (b).
" 352	(Arrest without warrant)	" 12.
" 354	(Search warrant for property where indictable offence committed)	" 14.
" 370	(Separate offences in same indictment)	" 15 (a).
" 392	(Indictment for perjury)	" 15 (b).
" 406	(Depositions of persons dangerously ill)	" 15 (c).
" 407	(Compellability of parties and accused persons and their husbands and wives to give evidence)	" 15 (d).
" 409	(Depositions may be read as evidence for prosecution)	" 15 (e).
" 415	(Proof of banking account)	" 15 (f).

TABLE OF AMENDMENTS—Continued.

Section of Act.	Subject matter.	Clause of Bill.
Crimes Act, 1900—		
Section 416 ...	(Proof of by-laws) ...	Clause 15 (g).
" 418 ...	(Evidence of children of tender years)...	" 15 (h).
" 429 ...	(Juvenile offenders) ...	" 20 (a) (b).
" 432 ...	(Common law misdemeanour—Punishment) ...	" 21 (a).
" 437 ...	(Order for payment of compensation) ...	" 21 (b).
" 442 ...	(Reduction of sentence or fine below term or amount fixed) ...	" 21 (c).
" 463 ...	(Release of prisoner on license) ...	" 22.
" 476 ...	(Indictable offences punishable summarily— extent of jurisdiction) ...	" 23 (a).
" 477 ...	(Offences) ...	" 23 (b).
" 478 ...	(Punishment) ...	" 23 (c).
" 500 ...	(Exception from jurisdiction) ...	" 23 (d).
" 503 ...	(Stealing dogs) ...	" 23 (e).
" 505 ...	(Stealing animals, &c., ordinarily kept in confinement) ...	" "
" 507 ...	(Possession of stolen animals, &c.) ...	" "
" 511 ...	(Killing pigeons) ...	" "
" 512 ...	(Taking fish in water in private property) ...	" "
" 513 ...	(Stealing shrubs, &c., of value of 1s.) ...	" "
" 515 ...	(Stealing, &c., live or dead fence) ...	" "
" 517 ...	(Unlawful possession of trees, fences, &c.) ...	" "
" 518 ...	(Stealing dead wood) ...	" "
" 520 ...	(Stealing plants, &c., in gardens) ...	" "
" 522 ...	(Possession of shipwrecked goods) ...	" "
" 523 ...	(Offering shipwrecked goods for sale) ...	" "
" 532 ...	(Damaging trees, &c., to amount of 1s.) ...	" "
" 533 ...	(" " " " second offence) ...	" "
" 535 ...	(Destroying cultivated roots, &c., not in garden) ...	" "
" 536 ...	(" " " " second offence) ...	" "
" 537 ...	(Destroying fence, &c.) ...	" "
" 538 ...	(" " " " second offence) ...	" "
" 539 ...	(Killing or maiming animals, not being cattle)...	" "
" 541 ...	(Injuring property not previously provided for) ...	" "
" 542 ...	(" " " " second offence) ...	" "
" 529 ...	(Receiver punishable summarily) ...	" 23 (f).
" 547 ...	(Apprehended violence or injury) ...	" 23 (g) (h).
" 501 ...	(Unlawfully using, &c., another person's cattle) ...	" 24.
" 558 ...	(Suspension of sentence on first conviction) ...	" 27 (a).
" 559 ...	(Order for restitution or payment of compensation) ...	" 27 (b).
" 561 ...	(Conditions under which offender may be arrested) ...	" 27 (d).
Lunacy Act, 1898—		
Section 72 ...	(Persons ordered to be kept in custody during the Governor's pleasure) ...	" 28.

TABLE OF AMENDMENTS—*continued.*

Section of Act.	Subject matter.	Clause of Bill.
Justices Act, 1902— Section 125	(Powers of Quarter Sessions on hearing of appeals)	Clause 29.
Habitual Criminals Act, 1905— Section 3	(Judge may declare convicted person to be an habitual criminal)	” 30 (a).
” 6	(Gaol earnings of habitual criminals)	” 30 (b).
” 7	(Release of habitual criminals)... ..	” 30 (c).
” 8	(Conditions under which released habitual criminals may be arrested)	” 30 (d).
” 12	(Regulations—Punishment for Gaol offences)... ..	” 30 (e).
Schedule	(Classification of offences)	” 30 (f).

PROPOSED NEW SECTIONS.

Crimes Act, 1900— Section 72A	(Carnal knowledge of idiot or imbecile)	Clause 5 (b).
” 78A	(Incest)	” 6.
” 78B	(Incest, Attempts)	” ”
” 78C	(Sufficient defence—Consent no defence)	” ”
” 78D	(Removal from guardianship)	” ”
” 78E	(On charge of rape or attempt—Verdict of incest or attempt may be returned if jury satisfied that accused so guilty)	” ”
” 78F	(Sanction of Attorney-General for prosecution under ss. 78A and 78B, and proceedings to be in camera)	” ”
” 91A	(Procuring, &c., female under 21)	” 8.
” 91B	(” ” by drugs, &c.)	” ”
” 91C	(Male living on earnings of prostitution)	” ”
” 91D	(Employment, &c., in brothel of female under 18)	” ”
” 154A	(Unlawfully using another's vehicle or boat)	” 9 (c).
” 154B	(Alternative verdict—Trial for larceny)	” ”
” 189A	(Receiving, &c., goods stolen out of New South Wales)	” 9 (d).
” 353A	(Power to search person in lawful custody, make medical examination, take photograph, finger prints)	” 13.
” 394A	(Plea to offence not mentioned in indictment and acceptance of plea)	” 16.
” 407A	(Abolition of presumption of coercion by husband)	” 17.
” 414A	(Evidence of scientific examination may be given by certificate before coroner or justice)	” 18.
” 414B	(Proof of service of notice to produce)... ..	” ”
” 423A	(Joint trial in case of perjury, &c.)	” 19.
” 447A	(Punishment on escape)	” 21 (d).

PROPOSED NEW SECTIONS—*continued.*

New Section.	Subject matter.	Clause of Bill.
Crimes Act, 1900—		
Section 526A	(Unlawfully using vehicle or boat—summary proceedings)	Clause 25.
„ 531A	(Injuries by tenants—Injuries to cattle—Extension of jurisdiction of justices)	„ 26 (1) (a).
„ 545A	(Extension of jurisdiction of justices in certain forgeries)	„ 26 (1) (b).
„ 548A	(Power of justices to commit for trial)... ..	„ 26 (1) (c).
„ 560A	(Probation officers—Regulations)	„ 27 (e).
Criminal Appeal Act, 1912—		
Section 5A	(Judge may submit question of law arising at trial and same shall be dealt with as an appeal)	„ 31.

No. , 1923.

A BILL

To amend the criminal law, and for that purpose to amend the Crimes Act, 1900, and certain other Acts; and for purposes connected therewith.

[MR. BAVIN;—12 *September*, 1923.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Crimes (Amend- Short title.
ment) Act, 1923," and shall be read with the Crimes Act, 1900, hereinafter called the Principal Act.

Interpreta-
tion.

2. In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act as amended by this Act.

Repeals.

3. The enactments mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed 5
except as to offences committed and things done or commenced before the passing of this Act, which shall be dealt with and continued, and in respect of which every right and liability shall remain as if this Act had 10
not been passed.

Amendment of
Part I of Crimes
Act, 1900, No. 40.

4. Part I of the Principal Act is amended as follows:—

Sec. 4.

(a) Section four:—

*Ibid.**Ibid.*

- (i) By adding at the end of the definition of "dwelling-house": "Any building or 15
other place which if occupied would be a dwelling-house shall be deemed to be a dwelling-house notwithstanding that it is temporarily unoccupied."
- (ii) by inserting after the definition of 20
"Governor" the following definition:—
"Grievous bodily harm" includes any permanent or serious disfiguring of the person.
- (iii) by inserting after the definition of 25
"justice" the following definition:—
"Loaded arms" means any gun, pistol, or other arms, loaded in the barrel or chamber with gun-
powder or other explosive sub- 30
stance, and with ball, shot, slug, or other destructive material, although the attempt to dis-
charge may fail from want of proper priming, or from any 35
other cause; and every gun, pistol, or other arms, unlawfully presented at any person, shall be deemed to be loaded unless the contrary is shown. 40

(b)

(b) Section eight: By inserting after the words Sec. 8.
 "Where, by this or any other Act," the words
 "or by any rule, regulation, ordinance or
 by-law, duly made under or by virtue of the
 provisions of any Act,"

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5. Part III of the Principal Act is amended as Amendment
of Part III
of Principal
Act.
 follows:—

(a) By omitting section thirty-six.

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(b) by omitting sections sixty-four, sixty-nine,
 seventy, seventy-one, seventy-two, seventy-
 three, seventy-four, seventy-five, seventy-six,
 seventy-seven, and seventy-eight, and by
 inserting the following sections:—

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64. Where on the trial of a person for rape Trial for
rape—verdict
of carnal
knowledge.
Ibid. s. 369.
1910, No. 2,
s. 2.
 the jury are satisfied that the female was a
 girl under the age of sixteen years, but above
 the age of ten years, and that the accused had
 carnal knowledge of her but with her consent,
 they may acquit him of the rape charged and
 find him guilty of an offence under section
 seventy-one of this Act, and he shall be liable
 to punishment accordingly.

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69. Where on the trial of a person for Trial for
carnal
knowledge—
girl in fact
over 10.
Ibid. s. 369.
Ibid. s. 2.
 carnally knowing a girl under the age of ten
 years, the jury are satisfied that she was of or
 above that age, but under the age of sixteen
 years, and that the accused had carnal
 knowledge of such girl, they may acquit him
 of the offence charged and find him guilty of
 an offence under section seventy-one of this
 Act, and he shall be liable to punishment
 accordingly.

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70. Where on the trial of a person for Trial for
carnal
knowledge—
verdict of
assault with
intent.
55 Vic. No. 5,
s. 15.
1910, No. 2,
s. 2.
 carnally knowing a girl under the age of ten
 years, the jury are satisfied that she was of or
 above that age, but under the age of sixteen
 years, and that the accused had not carnal
 knowledge of such girl, but was guilty of an
 offence under section seventy-two of this Act,
 they may acquit him of the offence charged
 and find him guilty of an offence under the
 said last-mentioned section, and he shall be
 liable to punishment accordingly. 71.

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Carnally know-
ing girl between
ten and sixteen.
46 Vic. No. 17,
s. 42.
1910, No. 2, s. 2.

Attempts.
Ibid. s. 42.
Ibid. s. 2.

Carnal
knowledge
of idiot or
imbecile.

Carnal
knowledge by
teacher, &c.
Ibid. s. 43.
Ibid. ss. 2, 3.

Attempts.
Ibid. s. 43.
Ibid. ss. 2, 3.

Alternative
charge.
Ibid. s. 43.
Ibid. s. 3.

Indecent
assault.
Ibid. s. 44.
Ibid. s. 2.
Act No. 21,
1911, s. 3.

71. Whosoever unlawfully and carnally knows any girl of or above the age of ten years, and under the age of sixteen years, shall be liable to penal servitude for *ten* years.

72. Whosoever attempts unlawfully and carnally to know any girl above the age of ten years, and under the age of sixteen years, or assaults any such girl with intent carnally to know her, shall be liable to penal servitude for *five* years. 5

72A. Whosoever knowing a woman or girl to be an idiot or imbecile has or attempts to have unlawful carnal knowledge of her shall be liable to penal servitude for *five* years. 10

73. Whosoever, being a schoolmaster or other teacher, or step-father, unlawfully and carnally knows any girl of or above the age of ten years, and under the age of seventeen years, being his pupil or step-daughter, shall be liable to penal servitude for *fourteen* years. 15 20

74. Whosoever, being a schoolmaster or teacher, or step-father, by any means attempts unlawfully and carnally to know any girl of or above the age of ten years, and under the age of seventeen years, being his pupil or step-daughter, or assaults any such girl with intent carnally to know her, shall be liable to penal servitude for *seven* years. 25

75. Nothing in the two last preceding sections shall prevent such schoolmaster, teacher, or step-father from being prosecuted under section seventy-one or seventy-two of this Act. 30

76. Whosoever assaults any female and, at the time of, or immediately before or after such assault, commits any act of indecency upon or in the presence of such female, shall be liable to imprisonment for *three* years, or, if the female be under the age of sixteen years, to penal servitude for *five* years. 35

5 77. The consent of the woman, girl, pupil, or step-daughter shall be no defence to any charge under sections sixty-seven, sixty-eight, seventy-one, seventy-two, 72A, seventy-three, or seventy-four of this Act, or, if the female be under the age of sixteen years, to any charge under section seventy-six of this Act :

Consent no
defence in
certain cases.

Ibid. ss. 42,

43.

Ibid. s. 3.

10 Provided that it shall be a sufficient defence to any charge which renders a person liable to be found guilty of an offence under sections seventy-one or seventy-two of this Act, or if the female be under the age of sixteen years to any charge under section seventy-six of this Act, if it be made to appear to the court or jury before whom the charge is brought—

Defences.

1910, No. 2,

s. 2.

15 (a) that the girl was over the age of fourteen years at the time of the alleged offence ;
and

20 (b) that she consented to the commission of the offence ; and

(c) either—

(i) that she was at the said time a common prostitute or an associate of common prostitutes ; or

25 (ii) that the person so charged had at the said time reasonable cause to believe, and did in fact believe, that she was of or above the age of sixteen years.

30 78. No prosecution in respect of any offence under sections seventy-one, seventy-two, or seventy-six of this Act shall, if the girl in question was at the time of the alleged offence over the age of fourteen years and under the age of sixteen years, be commenced after the expiration of twelve months from the time of the alleged offence.

Limitation.

cf. Act No.

21, 1911, s. 2.

35 (c) by omitting from section seventy-nine the words “penal servitude for life or any term not less than five years” and by inserting the words “penal servitude for *fourteen* years”
40 in lieu thereof.

Sec. 79.

Further amendment of Part III of Principal Act.

Incest.
cf. 8 Edw. VII, c. 45, ss. 1, 2, 3.

Incest, attempts.
Ibid. s. 1 (2).

Defences.
Ibid. ss. 1, 2.

Consent no defence.
Ibid. ss. 1, 2.

Removal from guardianship, &c.
Ibid. s. 1 (4).

Rape or attempt—verdict of incest or attempt.
Ibid. s. 4.

6. Part III of the Principal Act is further amended by the insertion of the following sections next after section seventy-eight of the Principal Act as inserted by this Act:—

78A. Whosoever, being a male, has carnal knowledge of his mother, sister, daughter, or granddaughter, or being a female of or above the age of sixteen years, with her consent permits her grandfather, father, brother, or son to have carnal knowledge of her (whether in any such case the relationship is of half or full blood, or is or is not traced through lawful wedlock) shall be liable to penal servitude for *seven* years. 5

78B. Whosoever, being a male, attempts to commit any offence under the last-preceding section, shall be liable to imprisonment for *two* years. 15

78C. (1) It shall be a sufficient defence to a charge under either of the last two preceding sections that the person charged did not know that the person with whom the offence is alleged to have been committed was related to him or her, as alleged. 20

(2) It shall be no defence to a charge under either of the last two preceding sections that the person with whom the offence is alleged to have been committed consented thereto. 25

78D. On the conviction of a male person of an offence under section 78A or under section 78B of this Act, the court may divest the offender of all authority over the female with whom the offence has been committed, and if the offender is the guardian of such female, may remove the offender from such guardianship, and in any such case may appoint any person or persons to be the guardian or guardians of such female during her minority, or for any greater or less period. 30

78E. If on the trial of any male person for an offence under section sixty-three or under section sixty-five of this Act the jury are not satisfied that he is guilty of the offence charged, but are satisfied that he is guilty of an offence under section 78A or under 40

under section 78B of this Act, they may acquit such person of the offence charged, and find him guilty of an offence under section 78A or under section 78B of this Act, and he shall be liable to punishment accordingly.

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78F. (1) No prosecution for an offence under sections 78A or 78B shall be commenced without the sanction of the Attorney-General.

Sanction of Attorney-General.
Ibid., s. 6.

(2) All proceedings under the said sections shall be held in camera.

Proceedings in camera.
Ibid., s. 5.

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7. Part III of the Principal Act is further amended by omitting section eighty-five and by inserting the following section in lieu thereof:—

Further amendment of Part III.

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85. (1) Whosoever by any disposition of the dead body of a child, whether the child died before or after or during its birth, wilfully conceals or attempts to conceal the birth of the child, shall be liable to imprisonment for *two* years.

Concealment of birth.

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(2) It shall be a sufficient defence to any charge under this section if the accused person shall satisfy the court or jury that the dead body in respect of which the disposition took place had issued from the body of its mother before the expiration of the twenty-eighth week of pregnancy.

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8. Part III of the Principal Act is further amended by inserting the following sections after section ninety-one:—

Insertion of new ss. 91A, 91B, 91C, 91D.

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91A. Whosoever procures, entices or leads away any female under the age of twenty-one years, whether with her consent or not, with intent that some other person may have carnal knowledge of such female, either within or without New South Wales, shall, notwithstanding that some one or more of the various acts constituting the offence may have been committed outside New South Wales, be liable to penal servitude for *seven* years.

Procuring, &c., female under twenty-one.

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91B. Whosoever by means of any fraud, violence, threat, or abuse of authority, or by the use of any drug or intoxicating liquor, procures, entices, or leads away any woman of or above the age of twenty-one

Procuring female by drugs, &c.

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twenty-one years with intent that some other person may have carnal knowledge of such woman, either within or without New South Wales, shall, notwithstanding that some one or more of the various acts constituting the offence may have been committed outside New South Wales, be liable to penal servitude for *seven* years. 5

Male living on earnings of prostitution.

91c. Whosoever having been convicted under the provisions of the Vagrancy Act, 1902, or of any Act amending or replacing such Act, of being a male person knowingly living, wholly or in part, on the earnings of prostitution afterwards commits the said offence shall be liable to imprisonment for *three* years. 10

Employment, &c., in brothel of female under eighteen. 1910, No. 2, s. 5.

91d. Whosoever employs in, or under any circumstances whatever knowingly suffers to resort to, or be upon, any premises used as a brothel or house of ill-fame, any girl under the age of eighteen years, shall be liable to penal servitude for *five* years. 15

Amendment of Part IV of Principal Act.

9. Part IV of the Principal Act is amended as follows:— 20

- (a) (i) By inserting in section one hundred and fourteen before the word "felony" wherever occurring, the word "a";
- (ii) and by inserting in the same section after the word "felony" wherever occurring, the words "or misdemeanour."
- (b) by omitting section one hundred and twenty-four and by inserting the following section in lieu thereof:— 30

Fraudulent appropriation.

124. Where, upon the trial of a person for larceny, it appears—

- (a) that he had fraudulently appropriated to his own use or that of another, the property in respect of which he is indicted, although he had not originally taken the property with any fraudulent intent; or 35
- (b) that he had fraudulently retained the property in order to secure a reward for its restoration, 40

the

the jury may return a verdict accordingly, and thereupon he shall be liable to imprisonment for *two* years, or to a fine of *one hundred* pounds.

- 5 (c) by inserting after section one hundred and fifty-four the following new heading and sections :—

Of vehicles or boats.

10 154A. Whosoever, without the consent of the owner or person in lawful possession thereof—

Unlawfully using another's vehicle or boat.

takes and uses, or takes for the purpose of using, any vehicle or boat ; or

15 takes any such vehicle or boat for the purpose of secreting the same, or obtaining a reward for the restoration or pretended finding thereof, or for any other fraudulent purpose,

shall be liable to imprisonment for *three* years.

20 In this and the next succeeding section "vehicle" includes any cart, waggon, cab, carriage, motor car, motor lorry, motor or other bicycle, and "boat" includes launch, yacht, or other vessel.

25 154B. Where on the trial of a person for larceny of a vehicle or boat the jury are not satisfied that he is guilty thereof, but are satisfied that he is guilty of an offence under the next preceding section, they may acquit him of the offence charged, and find him guilty of an offence under the said last-mentioned section, and he shall be liable to punishment accordingly.

Trial for larceny—alternative verdict.

- 30 (d) by inserting the following section next after section one hundred and eighty-nine :—

35 189A. (1) Whosoever, without lawful excuse, receives, or has in his possession, any property stolen outside the State of New South Wales, knowing the same to have been stolen, shall be liable to penal servitude for *ten* years.

Receiving, &c., goods stolen out of New South Wales.

40

(2)

(2) For the purposes of this section property shall be deemed to have been stolen if it has been taken, extorted, obtained, embezzled, converted, or disposed of under such circumstances that if the act had been committed in the State of New South Wales the person committing it would have been guilty of an indictable offence according to the law for the time being of the State of New South Wales. 5

Sec. 244.

(e) Section two hundred and forty-four: Omit the words "or to imprisonment for three years." 10

Further amendment of Part V of Principal Act. Sec. 275.

10. Part V of the Principal Act is further amended by omitting from section two hundred and seventy-five all the words after the words "crossed with" down to and including the word "firm" and substituting the following words therefor— 15

- "(a) the name of a banker between two parallel transverse lines; or
- (b) the word 'bank' or the words 'and company' or any abbreviation of them respectively between two parallel transverse lines; or 20
- (c) two parallel transverse lines simply; or
- (d) the word 'credit' followed by the name of any individual or firm between two parallel transverse lines; 25

either with or without the words 'not negotiable.'"

Amendment of Part VII of Principal Act. Sec. 340.

11. Part VII of the Principal Act is amended as follows:—

- (a) By inserting in section three hundred and forty after the word "sessions" when it first occurs the words "stipendiary or police magistrate," and by inserting after the words "judge or chairman" the words "or magistrate"; and by omitting from the same section the words "or any circuit" and the words "or circuit"; 30 35
- (b) (i) by inserting in subsection one of section three hundred and forty-one after the word "chairman" the words "or magistrate"; and
- (ii) by inserting in subsection two of the same section after the word "justices" the words "other than a police or stipendiary magistrate." 40

Sec. 341.

12.

12. Part X of the Principal Act is amended as follows:—

Amendment
of Part X of
Principal Act.
Sec. 352.

5 (a) By inserting in subsection two (a) of section three hundred and fifty-two after the word "such" the words "offence or."

(b) by inserting after subsection three of section three hundred and fifty-two the following new subsection:—

10 (4) Any constable may, although the warrant is not at the time in his possession, apprehend any person for whose apprehension on any ground other than a charge of felony or misdemeanour or offence punishable as a misdemeanour a warrant has been lawfully issued,
15 provided the issue of such warrant has been certified by telegraph by the Inspector-General of Police or by the justice who has signed such warrant.

13. Part X of the Principal Act is further amended by inserting next after section three hundred and fifty-three the following new section:—

Further
amendment
of Part X of
Principal Act.

25 353A. (1) Where a person is in lawful custody upon a charge of committing any crime or offence, any constable may search his person and take from him anything found upon his person, and may use such force as is reasonably necessary for that purpose.

Power to
search person,
make medical
examination,
take photo-
graph, finger
prints, &c.

30 (2) When a person is in lawful custody upon a charge of committing any crime or offence which is of such a nature and is alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the crime or offence, any legally
35 qualified medical practitioner acting at the request of any constable, and any person acting in good faith in his aid and under his direction, may make such an examination of the person so in custody as is reasonable in order to ascertain the facts which may afford such evidence, and may use such force
40 as is reasonably necessary for that purpose.

(3)

(3) When a person is in lawful custody for any offence punishable on indictment or summary conviction, the officer in charge of police at the station where he is so in custody may take or cause to be taken all such particulars as may be deemed necessary for the identification of such person, including his photograph and finger-prints, and may use or cause to be used such reasonable force as may be necessary to secure the same. 5

Further amendment of Part X of Principal Act.
Sec. 351.

14. Part X of the Principal Act is further amended as follows:—By inserting in section three hundred and fifty-four after the word “indictment” the words “or which would be punishable by indictment if it had been committed within the State of New South Wales”; and by inserting before the words “such justice” the words “whether in or beyond the State of New South Wales.” 10 15

Amendment of Part XI of Principal Act.

15. Part XI of the Principal Act is amended as follows:—

Sec. 370.

(a) By adding at the end of section three hundred and seventy the words “Provided further that nothing in this section shall affect the right of the Crown to insert alternative counts in any indictment describing the offence in different terms.” 20

Sec. 392.

(b) by adding at the end of section three hundred and ninety-two the words “and it shall be sufficient to state generally that the matter charged as having been falsely sworn was false in fact without negating each assignment specifically.” 25 30

Sec. 406.

(c) by inserting in section four hundred and six after the words “for the murder” the words “or manslaughter”; and by inserting after the words “attend the trial” the words “or to give evidence.” 35

Sec. 407.

(d) (i) by inserting in section four hundred and seven after the word “but” the words “save as hereinafter provided”;

(ii)

5 (ii) by inserting in the same section after the words "on his own behalf" the words "except that the judge may, if in his opinion it is necessary in the interests of justice, call the attention of the jury to the fact that the accused has not given evidence on oath."

10 (iii) by adding to the same section the following new subsection:—

(3) The husband or wife of any accused person in a criminal proceeding shall be compellable to give evidence in such proceeding in every court, either for the prosecution or for the defence, and without the consent of the accused—

15 (a) where at common law the husband or wife of the accused person was a compellable witness;

20 (b) where the offence charged is under any Act or Imperial Act by which the husband or wife of the accused is made a compellable witness in a proceeding in respect of the offence;

25 (c) where the offence charged is under any of the following sections of this Act, namely, sections forty-two, forty-three, forty-four, forty-five, sixty-three, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-one, seventy-two, 72A, seventy-three, 30 seventy-four, seventy-six, 78A, 78B, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six, eighty-seven, 35 eighty-nine, ninety, ninety-one, 91A, 91B, 91c, 91D, ninety-two, ninety-three;

40 (d) where the offence charged is under the provisions of any of the following Acts, namely, the Deserted Wives and Children's Act, 1901, the State Children

- Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, the Neglected Children and Juvenile Offenders Act, 1905, or any Act amending or replacing all or any of the said Acts. 5
- Sec. 409. (e) by inserting in section four hundred and nine the words "or coroner" after the word "justice" wherever it occurs in the section. 10
- Sec. 415. (f) by inserting in section four hundred and fifteen after the word "given" the words "either orally or by affidavit."
- Sec. 416. (g) by inserting in section four hundred and sixteen after the word "by-laws" wherever occurring the words "rules ordinances." 15
- Sec. 418. (h) by omitting from subsection one of section four hundred and eighteen the words "sixty-seven to eighty-one inclusive" and by inserting in lieu thereof the words "sixty-seven to 78D, 20 inclusive, or under sections seventy-nine, eighty, or eighty-one."
- Further amendment of Part XI. **16.** Part XI of the Principal Act is further amended by inserting the following new section next after section three hundred and ninety-four:— 25
- Conviction on indictment. cf. 4 & 5 Geo. V, c. 58, s. 39. 394A. Where a prisoner is arraigned on an indictment for any offence and can lawfully be convicted on such indictment of some other offence not charged in such indictment, he may plead not guilty of the offence charged in the indictment, 30 but guilty of such other offence, and the Crown may elect to accept such plea of guilty or may require the trial to proceed upon the charge upon which the prisoner is arraigned.
- Amendment of Part XI—new section 407A. **17.** Part XI of the Principal Act is further amended 35 by inserting next after section four hundred and seven the following new subsection:—
- Abolition of presumption of coercion of wife by husband. 407A. (1) Any presumption of law that an offence committed by a wife in the presence of her husband is committed under the coercion of the 40 husband is hereby abolished.

(2) This section shall come into operation as from the date of the passing of the Crimes (Amendment) Act, 1923.

5 **18.** Part XI of the Principal Act is further amended by inserting next after section four hundred and fourteen the following new sections :—

Further amendment of Part XI—addition of new sections.

10 414A. At any inquest or where a person is charged before a justice or justices with an indictable offence it shall not be necessary for any person who has made a scientific examination of any article or body to give evidence of the result of the examination, but a certificate under the hand of such person setting out that he has made the examination, the nature of his scientific qualifications, and the facts and conclusions he has arrived at shall be prima facie evidence of the matters stated in the certificate.

Certificate of scientific examination evidence.

15
20 Where the certificate is tendered by the prosecutor the justice or justices shall not dispose of the case summarily except with the consent of the accused.

25 414B. An affidavit by the clerk of the peace or his clerk, or by the accused or his solicitor or his solicitor's clerk, or by any officer of police of the service of any notice to produce in respect of which notice to admit shall have been given and of the time when it was served, with a copy of such notice annexed to such affidavit, shall be sufficient evidence of the service of the original of such notice and of the time when it was served.

Proof of service of notice to produce.

30 **19.** Part XI of the Principal Act is further amended by inserting next after section four hundred and twenty-three the following new section :—

Further amendment of Part XI.

35 423A. Where any two or more persons are severally indicted for perjury or false swearing and the statements alleged to be false are alleged to have been made on the same occasion and before the same tribunal and in respect of the same subject matter and are in each case to the same effect, whether

Joint trial in case of perjury, &c.

whether in identical terms or not, all such persons may be tried together at the same time and before the same jury, provided that each person shall have his full right of challenge.

Amendment of
Part XII of
Principal Act.

Sec. 429.

20. Part XII of the Principal Act is amended as follows :—

- (a) By inserting at the commencement of section four hundred and twenty-nine the following brackets and numeral “(1).”
- (b) by adding to the same section the following new subsection :—

1910, No. 2,
s. 4.

(2) Where a person of or above the age of sixteen years and under the age of eighteen years is convicted of an offence under sections seventy-one, seventy-two, or seventy-six of this Act, and the jury was satisfied that the girl in question was at the time of the offence of or above the age of fourteen years and under the age of sixteen years, he may be dealt with in the manner provided in subsection one of this section, or under the provisions of sections thirty, thirty-one, thirty-two, and thirty-three of the Neglected Children and Juvenile Offenders Act, 1905.

Further amend-
ment of Part
XII of Principal
Act.
Secs. 432, 433.

21. Part XII of the Principal Act is further amended as follows :—

- (a) By omitting sections four hundred and thirty-two and four hundred and thirty-three, and by inserting the following section :—

Misde-
meanours.
Punishment.

432. (1) Where any offender is sentenced to imprisonment, whether for a misdemeanour at common law, or under this or any other Act, or Imperial Act, he shall be kept, if a male, to hard labour, and if a female, to light labour, unless the court shall in and by the sentence otherwise direct.

Recogni-
zances.

(2) The Court may, in the sentence, also require the offender to enter into a recognizance, with or without sureties, for keeping the peace and being of good behaviour for a term not exceeding three years :

Provided

Provided that no person shall be imprisoned under this Act more than one year for not finding sureties.

5 (b) by inserting in section four hundred and thirty-seven after the word "felony" wherever occurring the words "or misdemeanour." Sec. 437.

(c) by omitting section four hundred and forty-two and by inserting the following section:— Sec. 442.

10 442. (1) Where by any section of this Act an offender is made liable to penal servitude for life or to penal servitude or imprisonment for a fixed term, the judge may nevertheless pass a sentence of either penal servitude or imprisonment of less duration. Provision for passing sentences of less duration than those fixed.

15 Nothing in this subsection shall prevent the awarding of hard labour or solitary confinement, or whipping, where at present authorised by law, or the directing of the offender to enter into recognizances to keep the peace and be of good behaviour.

20

(2) Where by any section of this Act an offender is made liable to a fine of any fixed amount, the judge may nevertheless inflict a fine of less amount.

25 (d) by inserting the following new section after section four hundred and forty-seven:—

30 447A. Whosoever escapes from lawful custody while undergoing a sentence involving deprivation of liberty, shall be liable upon recapture to undergo the punishment which he was undergoing at the time of his escape, for a term equal to that during which he was absent from prison after the escape and before the expiration of the term of his original sentence, whether at the time of his recapture the term of that sentence has or has not expired, in addition to any punishment which may be awarded for the escape. Punishment on escape.

35

Amendment
of Part XIII
of Principal
Act.
Sec. 463.

Revocation
of ticket.

22. Part XIII of the Principal Act is amended as follows:—By omitting subsection two of section four hundred and sixty-three and by inserting the following new subsection:—

(2) Any such license may be revoked by the Governor at his discretion, and shall be revoked by a justice on proof before him in a summary way that the licensee has been guilty of a breach of any condition of the license. 5

Where a license is revoked as aforesaid the person released on license may be taken by any member of the police force and returned to gaol, and may be detained there to undergo the remainder of his sentence. 10

Amendment of
Part XIV of
Principal Act.

Sec. 476.

Sec. 477.

23. Part XIV of the Principal Act is amended as follows:— 15

(a) By omitting from section four hundred and seventy-six the word "twenty" and by inserting the words "one hundred" in lieu thereof.

(b) by omitting from section four hundred and seventy-seven all paragraphs after paragraph (a) and by inserting the following new paragraphs:— 20

(b) concealment of birth where the accused is the mother of the child, and is not charged jointly with any other person; 25

(c) committing simple larceny;

(d) escape from lawful custody;

(e) stealing any chattel, money, or valuable security from the person of another; 30

(f) any offence mentioned in any of the following sections of this Act, namely, sections one hundred and twenty-five, one hundred and twenty-six, one hundred and thirty-one, one hundred and thirty-two, one hundred and thirty-three, one hundred and thirty-four, one hundred and thirty-nine, one hundred and forty, one hundred and forty-four, one hundred and forty-seven, 40
one

5 one hundred and forty-eight, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-two, one hundred and fifty-four, one hundred and fifty-six, one hundred and fifty-seven, one hundred and fifty-eight, one hundred and fifty-nine, one hundred and sixty, one hundred and sixty-five, one hundred and sixty-six, one hundred and sixty-eight, one hundred and sixty-nine, one hundred and seventy, one hundred and seventy-one, one hundred and seventy-two, one hundred and seventy-three, one hundred and seventy-four, one hundred and seventy-five;

(g) attempting to commit any offence hereinbefore mentioned.

30 (c) by omitting from section four hundred and seventy-eight the word "six" and by inserting the word "twelve" in lieu thereof; and by omitting the word "twenty" and inserting the word "fifty" in lieu thereof. Sec. 478.

35 (d) (i) by inserting in section five hundred the words "and determine" after the word "hear." Sec. 500.

(ii) by omitting from the same section the words "affecting the same."

40 (iii) by adding at the end of the same section the words "unless such determination does not involve any determination as to the title to the land or to any interest therein or accruing therefrom." (e)

Secs. 503, 505, 507, 511, 512, 513, 515, 517, 518, 520, 521, 522, 523, 532, 533, 535, 536, 537, 538, 539, 541, 542.

(c) by omitting from sections five hundred and three, five hundred and five, five hundred and seven, five hundred and eleven, five hundred and twelve, five hundred and thirteen, five hundred and fifteen, five hundred and seven- 5 teen, five hundred and eighteen, five hundred and twenty, five hundred and twenty-one, five hundred and twenty-two, five hundred and twenty-three, five hundred and thirty-two, five hundred and thirty-three, five hundred and 10 thirty-five, five hundred and thirty-six, five hundred and thirty-seven, five hundred and thirty-eight, five hundred and thirty-nine, five hundred and forty-one, and five hundred and forty-two respectively the word "above" before 15 the words "the value" or "the amount" as the case may be, and by inserting the words "in addition to" before the words "a fine."

Sec. 529.

(f) by inserting in section five hundred and twenty-nine after the words "punishable on summary 20 conviction" the words "whether under the provisions of section four hundred and seventy-six of this Act, or otherwise."

Sec. 547.

(g) by omitting from subsection one of section five hundred and forty-seven the words "as in any 25 case of a like nature" and by inserting in lieu thereof the words "for a term not exceeding six months, and, in default of its being entered into forthwith, the defendant may be imprisoned for three months, unless such 30 recognizance is sooner entered into."

Sec. 547.

(h) by omitting from subsection two of section five hundred and forty-seven the words "six" and "three" and substituting therefor the words "twelve" and "six" respectively. 35

Further amendment of Part XIV. Sec. 501.

24. Part XIV of the Principal Act is further amended by omitting section five hundred and one and the heading "Larceny and unlawful taking, &c., of animals," immediately preceding and by inserting in lieu thereof the following section:— 40

List of offences punishable summarily without consent of accused.

501. Whosoever commits or attempts to commit—

- (a) simple larceny; or (b)

5 (b) any offence mentioned in the following
 sections of this Act, namely, one hundred
 and twenty-five, one hundred and twenty-
 six, one hundred and thirty-one, one
 hundred and thirty-three, one hundred
 and thirty-nine, one hundred and forty,
 one hundred and forty-four, one hundred
 and forty-seven, one hundred and forty-
 eight, one hundred and fifty, one hundred
 10 and fifty-one, one hundred and fifty-two,
 one hundred and fifty-four, one hundred
 and fifty-six, one hundred and fifty-seven,
 one hundred and fifty-eight, one hundred
 and fifty-nine, one hundred and sixty, one
 15 hundred and sixty-five, one hundred and
 sixty-six, one hundred and sixty-eight,
 one hundred and seventy-nine, one hundred
 and eighty-six, one hundred and eighty-
 eight, one hundred and eighty-nine, one
 20 hundred and ninety, one hundred and
 ninety-two;

and the amount of money or the value of the
 property stolen, taken, embezzled, secreted, re-
 25 moved, appropriated, or obtained, or attempted
 to be stolen, taken, embezzled, secreted, removed,
 appropriated or obtained, or of the reward, does
 not exceed fifty pounds, shall on conviction in a
 summary manner before two justices be liable to
 30 imprisonment for *twelve* months or to pay a fine of
fifty pounds.

25. Part XIV of the Principal Act is further
 amended by inserting after section five hundred and
 twenty-six the following new short heading and
 section:— Further
 amendment
 of Part XIV.
 Sec. 26A.

35 *Unlawfully using vehicle or boat.*

526A. Whosoever, without the consent of the
 owner or person in lawful possession thereof— Unlawfully
 using vehicle
 or boat.
 s. 154A.
 takes and uses, or takes for the purpose of using
 any vehicle or boat, or

takes

takes any such vehicle or boat for the purpose of secreting the same or obtaining a reward for the restoration or pretended finding thereof or for any other fraudulent purpose, shall on conviction before two justices be liable to imprisonment for *twelve* months or to pay a fine of *one hundred* pounds. 5

In this section the words "vehicle" and "boat" have the meanings ascribed to those words in section 154A. 10

Further amendment of Part XIV. New s. 531A.

26. (1) Part XIV of the Principal Act is further amended—

Certain malicious injuries punishable summarily.

(a) By inserting the following section next after section five hundred and thirty-one:—

531A. Whosoever commits, or attempts to commit, any offence mentioned in any of the following sections of this Act, namely, sections two hundred and eight, two hundred and twenty, two hundred and forty-five, two hundred and forty-six, and the value of the property or the amount of injury done does not exceed fifty pounds, shall on conviction in a summary manner before two justices be liable to imprisonment for *twelve* months or to pay a fine of *fifty* pounds. 20 25

New s. 545A.

(b) by inserting the following short heading and section next after section five hundred and forty-five:—

(D1) *Forgeries.*

Certain offences punishable summarily.

545A. Whosoever commits any offence mentioned in any of the following sections of this Act, namely, sections two hundred and seventy-three, two hundred and seventy-four, or two hundred and seventy-five, and the amount purporting to be payable or of the credit to be procured or given or of the value involved does not exceed fifty pounds, shall on conviction in a summary manner before two justices be liable to imprisonment for *twelve* months or to pay a fine of *fifty* pounds. 30 35 40

(c)

- (c) by inserting the following section and short heading next after section five hundred and forty-eight :—

Power to commit.

5 548A. On the hearing of a charge for any offence referred to in sections five hundred and one, 526A, 531A or 545A of this Act if the justices are of opinion that the charge should not be disposed of summarily they shall abstain from any adjudication thereupon and shall deal with the case by committal or holding to bail as in an ordinary case of an indictable offence.

10 (2) Section one of the Principal Act is amended by inserting before the heading “(E) Abettors” the heading “(D1) Forgeries—s. 545A.”

15 **27.** Part XV of the Principal Act is amended as follows :—

(a) In paragraph two of section five hundred and fifty-eight :—

- 20 (i) by inserting after the words “for a period” the words “which shall not be less than twelve months”;
- 25 (ii) by omitting the words “equal to the term of the sentence or if the term of the sentence is less than twelve months then for the period of twelve months”;
- (iii) by omitting the word “like” and substituting therefor the word “said”;
- 30 (iv) by omitting the words “hereinafter contained” after the word “provisions” and by inserting in lieu thereof the words “of this Act”;
- 35 (v) by inserting at the end of the paragraph the following words: “Such recognizance may also contain additional conditions with respect to all or any of the following matters :—
- (i) The supervision of the offender by a probation officer during the period specified

specified in the recognizance, and such other conditions for securing such supervision as may be specified therein.

- (ii) For prohibiting the offender from associating with thieves and other undesirable persons, or from frequenting undesirable places. 5
- (iii) As to the abstention of the offender from intoxicating liquor. 10
- (iv) Generally for securing that the offender shall lead an honest and industrious life."

Sec. 559.

- (b) (i) by inserting in subsection two of section five hundred and fifty-nine after the words "of any such order" the words "or may direct that the recognizance mentioned in section five hundred and fifty-eight, subsection two, shall be further conditioned that the offender shall perform any order made or any directions given under subsection one of this section, and may in the sentence passed upon the offender sentence him to such additional terms as to the court may seem fitting to be served by him in the event of his failure to give such security or to comply with such condition of the recognizance"; 15 20 25
- (ii) by adding at the end of subsection two of the same section the words "or recognizance so conditioned being entered into." 20

New s. 560A.

Probation officers, regulations, &c.

- (c) by inserting the following section next after section five hundred and sixty:—
560A. (1) The Governor may appoint probation officers for the purposes of this Act, and may make regulations relating to the supervision of offenders by such probation officers. 15

(2) Such regulations shall—

- (i) be published in the Gazette; 40
- (ii)

- (ii) take effect from the date of publication, or from a later date to be specified in such regulations;
- 5 (iii) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within 10 fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.
- 15 (d) by omitting section five hundred and sixty-one and inserting the following section in lieu thereof:—

20 561. (1) If during the period specified in the recognizance an offender so discharged— Sec. 561. Forfeiture of recognizance, &c.

- (a) is proved to any judge or justice to have failed to comply with any condition of his recognizance or to report his address and occupation to the person at the times and in the manner prescribed by the last preceding section; or
- 25 (b) is charged by an officer of police with getting his livelihood by dishonest means, and, being brought before any justice, it appears to such justice that there are reasonable grounds for believing that he is getting his livelihood by dishonest means; or
- 30 (c) on being charged with an offence punishable on indictment, or summary conviction, and on being required by the justices before whom he is charged to give his name and address, refuses to do so, or gives a false name or a false address; or
- 35 40

(d) is convicted of any offence against the Vagrancy Act, 1902, or of any indictable offence, or of any offence punishable on summary conviction, and for which imprisonment for a period exceeding one month may be imposed ; then, and in any of such cases, the judge or the justice or justices before whom such proof is given, or before whom the offender is so charged, or convicted, may, whether the period named in the recognizance has or has not expired, forfeit the recognizance, and may direct him to be committed to prison to perform his sentence as aforesaid or so much thereof as remains to be performed, under the provisions hereinbefore contained, and he shall be so committed accordingly, and the judge or justice or justices may grant any necessary warrant for his committal.

(2) Upon the production of a certificate under the hand of the clerk of the peace stating that the recognizance is liable to be forfeited or that the offender is liable to be committed to prison any judge may exercise all or any of the powers vested by subsection one of this section in the judge or justice or justices therein mentioned.

Amendment
of Lunacy
Act, 1898—
Act No. 45 of
1898, s. 72.

28. The Lunacy Act, 1898, is amended by inserting in section seventy-two after the word "permit" the words "any such person or."

Amendment
of Act
No. 27, 1902.

29. The Justices Act, 1902, is amended by inserting in subsection one of section one hundred and twenty-five after the word "vary" the word "increase."

Amendment
of Act No. 15
of 1905.

30. The Habitual Criminals Act, 1905, is amended as follows:—

Sec. 3.

- (a) (i) By inserting at the beginning of section three the brackets and numeral "(1)";
- (ii) by omitting paragraphs (a) and (b) of the same section and by inserting the following new paragraphs in lieu thereof:—
- (a) When such person is so convicted of an offence included in classes (i)
- (ii)

5 (ii) (iii) (iv) of the offences mentioned in the Schedule and has been previously so convicted on at least two occasions of an offence within any of such classes; or has
10 been previously convicted on one occasion of an offence within any of the said classes and on two occasions of an offence within class (v) of the offences mentioned in the Schedule,
15 the judge before whom such person is so convicted may in his discretion declare as part of the sentence of such person that he is an habitual criminal.

(b) When such person is so convicted
20 of an offence included in class (v) of the offences mentioned in the Schedule and has previously been convicted either on indictment or summarily on at least three occasions of an offence within the same class or on at least two occasions of an offence within the same class and on one
25 occasion of an offence within any other such class such judge may in his discretion declare as aforesaid that such person is an habitual criminal.

(iii) by inserting in the same section before the
30 last paragraph the following new subsections :—

(2) Where a person is convicted before
35 a stipendiary or police magistrate of an offence punishable summarily with or without the consent of the accused under any of the following sections of the Crimes Act, 1900, as amended by the Crimes (Amendment) Act, 1923, namely, sections four hundred and seventy-seven, five hundred
40 and one, 526A or 545A, and such person has

has been previously convicted either on indictment or summarily on more than three occasions of an offence comprised in any of the classes in the Schedule, the stipendiary or police magistrate may, in his discretion, in addition to the sentence, direct that an application be made by the clerk of the peace to a judge of the Supreme Court or to a court of quarter sessions to have the person so convicted declared an habitual criminal.

(3) A judge of the Supreme Court or a court of quarter sessions may, upon the application of the clerk of the peace, by warrant declare the person so convicted to be an habitual criminal.

(iv) by inserting before the last paragraph the brackets and numeral "(4)."

Sec. 6.

(b) by omitting the proviso to section six and by inserting in lieu thereof the words "The part of such proceeds to be paid to the habitual criminal shall be fixed by regulation."

Sec. 7.

(c) (i) by omitting from section seven the words "by his warrant direct his release" and by inserting in lieu thereof the words "grant to him a written license to be at large, subject to such conditions endorsed on the license as the Governor shall prescribe";

(ii) by inserting in the same section after the word "period" the words "fixed by the license or when no period is so fixed during the period."

Sec. 8.

(d) by inserting in section eight after the word "failed" the words "to comply with a condition of the license or."

Sec. 12.

(e) by inserting in section twelve after the words "ten shillings" the words "or confinement in cells for any term not exceeding three days."

(f)

(f) by omitting the whole of the Schedule and by inserting the following Schedule in its place:—

SCHEDULE.

Classification of offences for the purposes of this Act.

5	Class (i)	—Crimes Act, 1900—	Sections 33 to 37 inclusive—Wounding.
	" (ii)	" "	Sections 38 to 41 inclusive—Poisoning.
	" (iii)	" "	Sections 62 to 81 inclusive—Sexual offences.
	" (iv)	" "	Sections 83 to 84 inclusive—Abortion.
10	" (v)	" "	Sections 94 to 98 inclusive—Robbery. Sections 99 to 105 inclusive—Extortion. Sections 106 to 114 inclusive—Burglary, &c.
15			Sections 117 to 131 inclusive, 134 to 139 inclusive, 148 to 153 inclusive—Larceny. Sections 155 to 178 inclusive—Embezzlement.
20			Sections 179 to 193 inclusive—False pretences. Sections 196 to 204 inclusive, 209 to 217 inclusive, 221 to 226 inclusive, 228 to 243 inclusive—Arson and injuries to property.
25			Under any of the sections in Part V of the Crimes Act, 1900—Forgery. Under any of the sections in Part VI of the Crimes Act, 1900—Coinage.
30			Under the Crimes (Amendment) Act, 1905—Fraudulent misappropriation.
31. The Criminal Appeal Act of 1912 is amended			
by inserting the following section next after section five:—			<small>Amendment of Act No. 16 of 1912.</small>
35	5A.	The judge before whom any person is tried and convicted may submit any question of law arising at or in reference to such trial or conviction to the Court of Criminal Appeal for determination, and such submission shall be dealt with as if it were an appeal under this Act.	<small>Point of law stated by judge.</small>

Sec. 3.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
No. 2, 1910 ...	Crimes (Girls' Protection) Act, 1910.	The whole Act.
No. 21, 1911 ...	Crimes (Girls' Protection) Amendment Act, 1911.	The whole Act. 5

[2s. 3d.]

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