

New South Wales.



ANNO UNDEVICESIMO

GEORGII V REGIS.

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Act No. 2, 1929.

An Act to amend the criminal law, and for that purpose to repeal the Crimes (Amendment) Act, 1905, and to amend the Crimes Act, 1900, and certain other Acts; and for purposes connected therewith. [Assented to, 12th March, 1929.]

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 (Amendment) Act, 1929." Short title.

2. The Crimes Act, 1900, as subsequently amended, is in this Act referred to as the Principal Act. Interpretation.

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Repeal of Crimes (Amendment) Act, 1905, No. 12.

Amendment of s. 22 of Principal Act.

Amendment of s. 119 of Principal Act.

Amendment of s. 120 of Principal Act.

New s. 178A.

Fraudulent misappropriation of moneys collected or received.

**3.** The Crimes (Amendment) Act, 1905, is hereby repealed.

**4.** Section twenty-two of the Principal Act is amended by omitting the words "for the murder of a child," and by substituting therefor the words "for the murder or manslaughter of a child."

**5.** Section one hundred and nineteen of the Principal Act is amended by omitting the proviso to the section and by substituting therefor the following new proviso:—

Provided always that evidence shall not in any such case be given of any taking which occurred more than six months in point of time from any other of such takings.

**6.** Section one hundred and twenty of the Principal Act is amended by inserting after the words "the offence of embezzlement" the words "or fraudulent misappropriation."

**7.** The Principal Act is further amended by inserting after section one hundred and seventy-eight the following new sub-heading and section:—

**FRAUDULENT MISAPPROPRIATION.**

178A. Whosoever having collected or received any money or valuable security under any authority upon terms requiring him to deliver or account for or pay to any person the whole or any part of—

- (a) such money or valuable security or the proceeds thereof; or
- (b) any balance of such money, valuable security, or proceeds thereof after any authorised deductions or payments have been made thereout,

fraudulently misappropriates to his own use or the use of any other person, or fraudulently omits to account for or pay the whole or any part of such money, valuable security, or proceeds, or the whole or any part of such balance in violation of the terms on which he collected or received such money or valuable security, shall be liable to penal servitude for seven years.

For

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For the purposes of this section any such money, valuable security, or proceeds thereof, or any balance thereout shall be deemed to be the property of the person under whose authority the money or valuable security was collected or received notwithstanding that the accused may have been authorised to make any deduction thereout on his own behalf, or any payment thereout to another person, or to mix such money, valuable security, or proceeds thereof, or such balance with his own moneys.

**8.** Section one hundred and eighty-three of the Principal Act is amended—

Amendment  
of s. 183 of  
Principal  
Act.

- (a) by inserting after the words "amount in law to larceny" the words "or fraudulent misappropriation," and
- (b) by inserting after the words "in the Public Service" the words "or of fraudulent misappropriation."

**9.** The Principal Act is further amended by inserting after subsection two of section three hundred and forty-one the following new subsection:—

Amendment  
of s. 341 of  
Principal  
Act.

(3) Where by reason of the death, illness, termination of appointment, or absence, of any judge, chairman of quarter sessions, or magistrate, it is impossible to apply to such judge, chairman, or magistrate for leave to prosecute under subsection one of this section, in respect of any statement on oath as in the last preceding section mentioned, or it is for any other reason impracticable to do so, a prosecution in respect of any such statement on oath may be instituted with the leave of a judge of the Supreme Court.

**10.** The Principal Act is further amended by omitting sections three hundred and sixty-five and three hundred and sixty-six and substituting therefor the following new sections:—

Amendment  
of ss. 365 and  
366 of  
Principal  
Act.

365. (1) Where, before trial, or at any stage of a trial, it appears to the court that the indictment is defective, the court shall make such order for the amendment of the indictment as the court thinks necessary

Orders for  
amendment of  
indictment,  
separate trial  
and postpone-  
ment of trial.  
cf. 5 & 6 Geo. V.  
c. 90, s. 2

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necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) Where, before trial, or at any stage of a trial, the court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the court may order a separate trial of any count or counts of such indictment.

(3) Where, before trial, or at any stage of a trial, the court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the court under this Act to amend an indictment or to order a separate trial of a count, the court shall make such order as appears necessary.

(4) Where an order of the court is made under this section for a separate trial, or for the postponement of a trial—

- (a) if such an order is made during a trial, the court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed, or on the indictment as the case may be; and
- (b) the procedure on the separate trial of a count and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged), as if the trial had not commenced; and
- (c) the court may make such order as to admitting the accused person to bail and as to the enlargement of recognizances and otherwise as the court thinks fit.

(5) Any power of the court under this section shall be in addition to and not in derogation of any other power of the court for the same or similar purposes.

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366. Where any indictment is amended, a note <sup>Amended</sup> of the order for amendment shall be endorsed on <sup>indictment.</sup> the indictment, and the indictment in its amended form shall be treated as the indictment for the purposes of the trial, and for the purposes of all proceedings in connection therewith or consequent thereon.

**11.** (1) Section 419A of the Principal Act is amended <sup>Amendment</sup> by inserting after the words "and adjoining such dock, <sup>of s. 419A of</sup> wharf, or quay" the words "or in the course of transit <sup>Principal</sup> from any vessel, barge, or boat, or from any store or <sup>Act.</sup> shed used in connection with and adjoining such wharf, dock, or quay."

(2) The Principal Act is further amended— <sup>Further amend-</sup>

(a) by inserting in subsection two of section four <sup>ment of</sup> hundred and sixty-three after the words <sup>Principal Act.</sup> "police force" the words "with or without a <sup>Sec. 463.</sup> warrant"; <sup>(Revocation</sup>

(b) by inserting at the end of the subsection the <sup>of license.)</sup> words "Any justice may issue a warrant for the apprehension of any person who has been convicted of an offence committed within the State whether the offence is indictable or punishable on summary conviction, and whose license is revoked as aforesaid. Any such warrant may be in the form stated in the Eighth Schedule";

(c) by inserting next after the Seventh Schedule the following new Schedule:—

EIGHTH SCHEDULE.

Sec. 463.

*Warrant for arrest of person whose license has been  
revoked.*

To the Commissioner of Police and all other Peace Officers in the State of New South Wales—

Whereas A.B. was on the                    day of  
convicted of (the indictable offence of                    or  
an offence punishable upon summary conviction) and the  
said offence was committed within the said State And  
Whereas for his said offence the said A.B. was sentenced  
to be imprisoned for the space of                    thereafter And  
Whereas

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Whereas the said A.B. was afterwards released under license from the gaol at \_\_\_\_\_ in the said State And Whereas the said license has been revoked These are therefore to command you to take the said A.B. and (him or her) safely to convey to the said gaol and deliver (him or her) to the keeper thereof together with this precept And I do hereby command you, the said keeper of the said gaol to receive the said A.B. into your custody in the said gaol there to undergo the remainder of (his or her) said sentence.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord one thousand nine hundred and \_\_\_\_\_ at \_\_\_\_\_ in the said State.

C.D. (L.S.)

A Justice of the Peace for the  
State of New South Wales.

New s. 526B.

**12.** The Principal Act is further amended by inserting after section 526A the following new sub-heading and section:—

*Person drunk while driving vehicle.*

Penalty for  
drunkenness  
while in  
charge of  
motor  
vehicle.

cf. 15 & 16  
Geo. V, c. 86,  
s. 40.

526B. (1) Any person who, while driving on any highway or other public place any mechanically-propelled vehicle, is drunk or being under the influence of intoxicating liquor is incapable of properly controlling such vehicle, shall, on conviction before two justices, be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds, or to both such imprisonment and fine.

(2) The court before whom any person is convicted under the preceding subsection may, in addition to any punishment or penalty, order that the person convicted shall be disqualified to hold a license for any period stated in the order, and any license held by him shall, so long as the disqualification continues, be of no effect.

The court before whom any person is so convicted shall cause particulars of any such conviction and of the disqualification (if any) to be endorsed upon any license held by the person convicted, and shall send notice of the conviction and disqualification (if any) to the licensing authorities by whom the license was granted.

(3)

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(3) If a person who under this section is disqualified to hold a license applies for or obtains a license while he is so disqualified, he shall be guilty of an offence and shall be liable to a penalty not exceeding twenty pounds, and any license so obtained shall be of no effect.

(4) A person who by virtue of a conviction under this section is disqualified to hold a license, or who, by virtue of an order made under any Act or any regulation made thereunder on his being convicted of an offence is disqualified to obtain a license or whose license is suspended, may at any time after the expiration of six months from the date of the conviction, apply from time to time to the court before which he was convicted to remove the disqualification or suspension, and on any such application the court may by order, as it thinks proper, having regard to the character of the person convicted and his conduct subsequent to conviction, the nature of the offence, and the other circumstances of the case, either remove the disqualification or suspension from such date and on such condition as may be specified in the order or refuse the application, and if the court orders a disqualification or suspension to be removed the court shall order particulars of the order to be endorsed on the license, if any, held by the applicant.

(5) In this section the expression "license" means a license to drive a vehicle, and includes any such license under the Metropolitan Traffic Act, 1900, the Motor Traffic Act, 1909, the Local Government Act, 1919, or any other Act providing for the grant of such a license, and the expression "licensing authorities" means the persons authorised to grant such a license.

(6) Nothing in this section shall affect any liability of any person by virtue of any statute or at common law.

(7) Any person who is arrested for an offence under this section shall be entitled upon request

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request made by him or on his behalf to be examined by a legally qualified medical practitioner, and where any such request is made the arresting officer shall afford all reasonable facilities for the holding of such an examination.

New s. 547A.

**13.** The Principal Act is amended by inserting after section five hundred and forty-seven the following new sub-heading and section :—

(G) FALSE STATEMENT RESPECTING BIRTHS,  
DEATHS, OR MARRIAGES.

False  
statements  
respecting  
births,  
deaths, and  
marriages.

547A. (1) Every person who wilfully gives to any district registrar, or assistant district registrar, appointed under any Act providing for the registration of births or deaths, any false information concerning any birth or death, or the cause of any death, or who wilfully makes any false declaration under or for the purpose of any Act relating to the registration of births or deaths, shall on conviction before two justices be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds.

(2) Any person who wilfully makes any false statement before any minister of religion, or district registrar, authorised to celebrate marriages, or before any person authorised to give his written consent to the marriage of any minor, for the purpose of procuring the celebration of any marriage, or any person who induces or endeavours to induce any person to celebrate a marriage between parties where such first-mentioned person knows that one of such parties is under age, and that the written consent required by law has not previously been obtained, shall upon conviction before two justices be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds.

(3) Proceedings for an offence against this section may be commenced within one year after the date of the commission of the offence, and subject to the permission of the Attorney-General.



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**14.** Subsection two of section five hundred and fifty-four of the Principal Act is amended—

Amendment  
of s. 554 of  
Principal  
Act.

- (a) by omitting the words “or in substitution for any sentence of imprisonment” and by substituting therefor the words “or in substitution for any sentence imposing a fine or a term of imprisonment”; and
- (b) by omitting the words “to be of good behaviour for a term not exceeding twelve months,” and by substituting therefor the words “to be of good behaviour for a term which shall not be less than twelve months or more than three years.”

**15.** The Principal Act is further amended by inserting after section five hundred and fifty-six the following new sub-heading and section :—

New s. 556A.

*Conditional release of offenders.*

556A. (1) Where any person is charged before a court of summary jurisdiction with an offence punishable by such court, and the court thinks that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment, or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court may, without proceeding to conviction, make an order either—

Power to  
permit  
conditional  
release of  
offenders.  
cf. 7 Edw.  
VII, c. 17,  
s. 1.

- (a) dismissing the charge; or
- (b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

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(2) Where an order is made under this section the order shall, for the purpose of revesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner, and as to the payment of money upon or in connection with such restitution or delivery, and for the purpose of the exercise of any power conferred by subsection three of section five hundred and fifty-four, have the like effect as a conviction.

Amendment of Sixth Schedule of Principal Act. (Offences in which whipping may be ordered.)

**16.** (1) The Sixth Schedule of the Principal Act is amended—

- (a) by inserting at the commencement of the column headed "Sections enumerated" the figures "33" and "34" and by inserting opposite thereto respectively in the column headed "Offences" the words "Wounding, &c., with intent to do bodily harm, &c.," and the words "Maliciously wounding or inflicting grievous bodily harm";
- (b) by omitting from the column headed "Sections enumerated" the figures "64" opposite the words "Attempt to commit rape, &c." and by inserting in lieu thereof the figures "65";
- (c) by omitting from the same column the figures "65" opposite the words "Procuring or having carnal knowledge by fraud" and by inserting in lieu thereof the figures "66";
- (d) by omitting from the same column the figures and word "77 and 78" opposite the words "Indecent assaults" and by inserting in lieu thereof the figures "76."

New s. 353B.

(2) by inserting next after section 353A the following new subsection:—

Person apprehended carrying razor, &c.

**353B.** Where a person is in lawful custody upon a charge of committing any crime or offence and is found to have been carrying at the time or immediately before he was apprehended any razor, razor blade or other cutting weapon, he shall, unless the justice before whom he is brought is satisfied that

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that he was carrying the same for a lawful purposes the proof of which shall lie upon the accused, be liable to imprisonment for a term not exceeding six months.

**17.** Section 5B of the Criminal Appeal Act, 1912, is amended by inserting at the end of the section the words "and the Court of Criminal Appeal may make any such order or give any such direction to the Court of Quarter Sessions as it thinks fit."

Amendment of Act No. 16, 1912.

Sec. 5B.

**18.** The Criminal Appeal Act, 1912, is further amended by inserting after section 5D the following new section :—

Further amendment of Criminal Appeal Act, 1912, No. 16.

5E. Any person who is declared to be an habitual criminal, may, by leave of the court, appeal against such declaration, and the provisions of this Act applicable to an appeal against a sentence passed on a conviction on indictment shall apply to such an appeal.

Appeal by person declared an habitual criminal.

**19.** The Jury Act, 1912, is amended by inserting after section twenty-seven the following new section :—

Amendment of Jury Act, 1912, No. 31.

27A. Where in the course of a criminal trial any member of a jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give), and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly.

Provision for continuance of trial where juror dies or becomes incapable.

cf. 15 & 16, Geo. V, c. 86, s. 15.

**20.** The Police Offences Act, 1901, is amended by omitting section thirty and by substituting therefor the following new section :—

Amendment of s. 30 of the Police Offences Act, 1901, No. 5.

**30.** If any goods or money charged to be stolen or fraudulently obtained are in the custody of any constable in connection with any criminal charge, or

Order for delivery of goods in custody of constable.

cf. 60 & 61 Vic., c. 30, s. 1.

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or of any offence punishable summarily, any police or stipendiary magistrate may, on application by an officer of police or by a claimant of the property, make an order for the delivery of such goods or money to the person who appears to be the rightful owner thereof, or if the owner cannot be ascertained, may make such order with respect to such goods or money as to such magistrate seems meet.

No such order shall be any bar to the right of any person to sue the person to whom such goods or money are delivered, and to recover such goods or money from him by an action commenced within six months next after the making of such order.

Consequential and corrective amendments of Principal Act.

**21.** The Principal Act is amended—

- (a) by omitting section one and the headings preceding it, and by inserting in lieu thereof the following section and headings :—

## PART I.

## PRELIMINARY AND INTERPRETATION.

*Short title and division into Parts.*

1. This Act may be cited as the "Crimes Act 1900," and is divided into Parts, as follows :—

## PART I.—PRELIMINARY AND INTERPRETATION—

(1) *Short title and division into Parts.*—  
s. 1.

(2) *Repeals and savings.*—s. 2.

(3) *Application of certain sections and parts.*—s. 3.

(4) *Interpretation.*—ss. 4-8.

(5) *What offences to be deemed and treated as felonies or misdemeanours.*—ss. 9, 10.

PART

Short title and contents of Act.

Amended, Act No. 10, 1924, s. 26, (b).

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 PART II.—OFFENCES AGAINST THE SOVEREIGN—*Treason felony.*—ss. 11-16.

## PART III.—OFFENCES AGAINST THE PERSON—

- (1) *Homicide.*—ss. 17-25.
- (2) *Conspiracy to murder.*—s. 26.
- (3) *Attempts to murder.*—ss. 27-30.
- (4) *Letters threatening to murder.*—s. 31.
- (5) *Acts causing danger to life or bodily harm.*—ss. 32-54.
- (6) *Possessing or making explosives, &c., with intent to injure the person.*—s. 55.
- (7) *Assaults upon clergymen, officers, and others.*—ss. 56-60.
- (8) *Common assault.*—s. 61.
- (9) *Rape and similar offences.*—ss. 62-78F.
- (10) *Unnatural offences.*—ss. 79-81
- (11) *Attempts to procure abortion.*—ss. 82-84.
- (12) *Concealing birth of a child.*—s. 85.
- (13) *Abduction.*—ss. 86-91D.
- (14) *Bigamy.*—ss. 92, 93.

## PART IV.—OFFENCES RELATING TO PROPERTY—

 CHAPTER I.—*Stealing and like offences*—

- (a) ROBBERY—ss. 94-98.
- (b) EXTORTION, &C., BY MENACE  
THREAT.—ss. 99-105.

(c)

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- (c) SACRILEGE, BURGLARY, AND HOUSE-BREAKING.—ss. 106-115.
- (d) LARCENY—
- (1) *Declaratory.*—s. 116.
  - (2) *Simple larceny and general provisions.*—ss. 117-124.
  - (3) *Larceny by bailees.*—s. 125.
  - (4) *Of animals.*—ss. 126-133.
  - (5) *Of written instruments.*—ss. 134-138.
  - (6) *Of things attached to or growing on land.*—ss. 139-143.
  - (7) *From mines.*—ss. 144-147.
  - (8) *In dwelling-house.*—ss. 148, 149.
  - (9) *Of goods in process of manufacture, tools, &c.*—ss. 150, 151.
  - (10) *From ships or wharfs.*—ss. 152, 153.
  - (11) *By tenants or lodgers.*—s. 154.
  - (12) *Of vehicles or boats.*—ss. 154A, 154B.
- (e) EMBEZZLEMENT OR LARCENY—
- (1) *By clerks or servants.*—ss. 155-158.
  - (2) *By persons employed in the Public Service.*—ss. 159, 160.
  - (3) *General deficiency.*—s. 161.
  - (4) *By joint owners.*—s. 162.
  - (5) *Alternative verdict.*—s. 163.
- (f) FRAUDS BY FACTORS AND OTHER AGENTS.—ss. 164-178.
- (fl) FRAUDULENT MISAPPROPRIATION.—s; 178A.
- (g) FALSE PRETENCES.—ss. 179-185.
- (h) CORRUPT REWARDS.—s. 186.
- (i) RECEIVERS.—ss. 187-193.

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CHAPTER II.—*Malicious injuries to property—*

- (1) *Declaratory and general.*—ss. 194  
195.
- (2) *Injuries to buildings, &c., by fire.*—  
ss. 196–202.
- (3) *Injuries to buildings by explosive  
substances.*—ss. 203, 204.
- (4) *Injuries to buildings by rioters.*—  
ss. 205–207.
- (5) *Injuries to buildings by tenants.*—  
s. 208.
- (6) *Injuries to manufactures, machinery,  
&c.*—ss. 209, 210.
- (7) *Injuries to corn, haystacks, trees, &c.*  
—ss. 211–220.
- (8) *Injuries to mines.*—ss. 221–224.
- (9) *Injuries to sea or river banks, &c.*—  
ss. 225, 226.
- (10) *Injuries to ponds, reservoirs, &c.*—  
s. 227.
- (11) *Injuries to bridges, viaducts, and  
toll-bars.*—ss. 228, 229.
- (12) *Injuries to railway carriages and  
telegraphs.*—ss. 230–234.
- (13) *Injuries to vessels.*—ss. 235–243.
- (14) *Injuries to books, works of art, &c.,  
in museums, &c.*—s. 244.
- (15) *Injuries to cattle.*—ss. 245, 246.
- (16) *Injuries over five pounds not other-  
wise provided for.*—s. 247.
- (17) *Letters threatening to burn or destroy  
property.*—s. 248.
- (18) *Making or having gunpowder, &c.,  
with intent to commit offences against  
property.*—s. 249.

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## PART V.—FORGERY—

- (1) *Declaratory and general.*—ss. 250, 251.
- (2) *Forgeries not specially provided for.*—s. 252.
- (3) *Forgery, &c., of public seals or official signatures.*—ss. 253, 254.
- (4) *Forgery of Acts, proclamations, &c.*—s. 255.
- (5) *Forgery, &c., of transfers of stock, &c.*—ss. 256-259.
- (6) *Forgery of India bonds, Exchequer bills, &c.*—ss. 260-263.
- (7) *Forgery, &c., of stamps or having forged dies, &c.*—s. 264.
- (8) *Forgery, &c., of or engraving plate, &c., for bank notes, &c.* ss. 265-270.
- (9) *Forgery, &c., of wills, deeds, bills of exchange, &c.*—ss. 271-276.
- (10) *Forgery of instruments, &c., made by Judges, Officers of Court, Justices of the Peace, &c., or of signature thereto.*—ss. 277, 278.
- (11) *Forgery, &c., of records, &c., or copies thereof.*—ss. 279-283.
- (12) *Forgery, &c., of instruments of evidence.*—ss. 284-292.
- (13) *Forgery of instruments, &c., under Registration of Deeds Acts.*—s. 293.
- (14) *Falsely acknowledging recognizances &c.*—s. 294.
- (15) *Forgery, &c., of matters relating to marriage.*—s. 295.
- (16) *Falsifying entries of birth, deaths, &c.*—ss. 296, 297.
- (17) *Obtaining or demanding property on forged instruments.*—s. 298.
- (18) *Forgery or fraudulent use of trade-marks.*—s. 299.

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PART VI.—OFFENCES RELATING TO THE  
COINAGE—

- (1) *Interpretation and general clauses.*—  
ss. 300–302.
- (2) *Counterfeiting, uttering, or impairing  
the Queen's gold or silver coin.*—  
ss. 303–314.
- (3) *Counterfeiting or uttering the Queen's  
copper coin.*—ss. 315–317.
- (4) *Counterfeiting or uttering foreign coin.*  
—ss. 318–322.
- (5) *Importing or exporting counterfeit  
coin.*—s. 323.
- (6) *Making or having, &c., tools for  
coining.*—ss. 324, 325.
- (7) *Provisions for cutting suspected coin.*  
—s. 326.

PART VII.—PERJURY AND LIKE OFFENCES.—  
ss. 327–343.PART VIII.—CONSPIRACY TO ACCUSE OF  
CRIME.—s. 344.PART IX.—ABETTORS AND ACCESSORIES.—  
ss. 345–351.PART X.—APPREHENSION OF OFFENDERS,  
SEARCH WARRANTS, AND DISCHARGE OF  
PERSONS IN CUSTODY—

- (1) *Apprehension of offenders.*—ss. 352–  
353A.
- (2) *Search warrants.*—ss. 354–357.
- (3) *Discharge of persons in custody.*—  
s. 358.

PART XI.—PROCEDURE, EVIDENCE, VERDICT,  
&c.—

- (1) *As to indictment—Form, venue,  
amendments, &c.*—ss. 359–393.
- (2) *Arraignment, plea, and trial.*—ss. 394–  
405.

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- (3) *Rules respecting evidence.*—ss. 406-424.
- (4) *Verdict generally.*—ss. 425-427.
- (5) *Reserving questions of law.*—s. 428.  
(*Repealed, 1912, No. 16, s. 23 (2).*)

## PART XII.—SENTENCES—

- (1) *Juvenile offenders.*—s. 429.
- (2) *Sentences of death.*—ss. 430, 431.
- (3) *Sentences of imprisonment—Hard labour—Solitary confinement—and Sureties.*—s. 432.
- (4) *Sentences of whipping or irons.*—ss. 434-436.
- (5) *Order for payment of compensation.*—s. 437.
- (6) *Order for restitution of property stolen, &c.*—s. 438.
- (7) *Disposal of insane persons.*—s. 439.
- (8) *Sentences for statutory offences.*—s. 440.
- (9) *Deferred sentences.*—s. 441.
- (10) *Reduction of sentence or fine below term or amount fixed.*—s. 442.
- (11) *Additional and cumulative sentences.*—ss. 443-447A.

## PART XIII.—PROCEEDINGS AFTER SENTENCE—

## (A) EXECUTION OF SENTENCE—

- (1) *Capital sentences.*—ss. 448-452.
- (2) *Penal servitude sentences.*—ss. 453, 454.
- (3) *Whipping sentences.*—ss. 455, 456.
- (4) *Enforcing payment of compensation.*—s. 457.
- (5) *Sentences of Courts-martial.*—s. 458.

## (B) COMMUTATION OR MITIGATION OF SENTENCES.—ss. 459-464.

(c)

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*Crimes (Amendment).*


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(C) CONSEQUENCES, &C., OF CONVICTION FOR FELONY.—ss. 465-469.

(D) APPEALS—

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(2) *Writs of error.*—s. 471. (*Repealed, Ibid.*)

(3) *General provisions as to informalities*—ss. 472, 473. (*Repealed, Ibid.*)

(4) *New trials.*—s. 474. (*Repealed, Ibid.*)

(E) INQUIRY SUBSEQUENT TO CONVICTION.—s. 475.

PART XIV.—OFFENCES PUNISHABLE BY JUSTICES AND PROCEDURE BEFORE JUSTICES GENERALLY—

CHAPTER I.—*Indictable offences punishable summarily only by consent of the accused*—

(1) *Extent of jurisdiction.*—s. 476.

(2) *Offences and punishment.*—ss. 477, 478.

(3) *Procedure in such cases.*—ss. 479-481.

CHAPTER II.—OFFENCES PUNISHABLE SUMMARILY IN CERTAIN CASES BY WHIPPING.—ss. 482-492.

CHAPTER III.—OTHER OFFENCES PUNISHABLE SUMMARILY—

(A) ASSAULTS.—ss. 493-500.

(B) LARCENY AND SIMILAR OFFENCES—

(1) *Larceny, &c., of animals.*—ss. 501-512.

(2) *Larceny of things attached to land.*—ss. 513-521.

(3) *Larceny of shipwrecked goods.*—ss. 522-524.

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*Crimes (Amendment).*


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- (4) *Larceny from a public library, &c.*—  
ss. 525, 526.
  - (4A) *Unlawfully using vehicle or boat.*  
—s. 526A.
  - (4B) *Person drunk while in charge of  
vehicle.*—s. 526B.
  - (5) *Fraudulently appropriating or re-  
taining property.*—s. 527.
  - (6) *Offering rewards for stolen property.*—  
s. 528.
  - (7) *Receivers.*—s. 529.
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.*—ss. 530, 531.
  - (2) *Injuries to trees, shrubs, vegetable  
produce, fences, &c.*—ss. 532-538.
  - (3) *Injuries to certain animals.*—ss. 539,  
540.
  - (4) *Injuries not otherwise provided for.*—  
ss. 541, 542.
  - (5) *Application of compensation.*—s. 543.
- (D) COINAGE OFFENCES.—ss. 544, 545.
- (D1) BOGUS ADVERTISEMENTS.—s. 545A.
- (E) ABETTORS.—s. 546.
- (F) APPREHENDED VIOLENCE OR INJURY.—  
s. 547.
- (G) FALSE STATEMENT RESPECTING BIRTHS,  
DEATHS, OR MARRIAGES.—s. 547A.
- CHAPTER IV.—PROCEDURE, &C., BEFORE  
JUSTICES—
- (1) *Alternative methods of procedure.*—  
s. 548.
  - (1A) *Power to commit.*—s. 548A.
  - (2) *Enforcing appearance.*—s. 549.
  - (3) *Certain averments.*—ss. 550, 551.
  - (4)

New heading  
added,  
Act No. 10,  
1924, s. 26  
(b).

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*Crimes (Amendment).*

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- (4) *Discharge of juvenile first offenders.*—s. 552.
- (5) *Reduction of sentence below fixed term.*—s. 553.
- (6) *Sentence to hard labour.*—s. 554.
- (7) *Penalties, &c.—application.*—s. 555.
- (8) *Summary conviction, &c., a bar.*—s. 556.
- (9) *Conditional release of offenders.*—s. 556A.

## PART XV.—FIRST OFFENDERS.—ss. 557-562.

## PART XVI.—MISCELLANEOUS ENACTMENTS.—ss. 563-577.

- (b) by inserting the following short heading immediately before section two: “Repeals and savings”;
- (c) by inserting the following short heading immediately before section three: “Application of certain sections and Parts”;
- (d) by inserting immediately before section five hundred and one and after the heading “(B) LARCENY AND SIMILAR OFFENCES” the following short heading: “*Larceny, &c, of animals.*”

**22.** The First Offenders (Women) Act, 1918, is amended by inserting next after section four the following new section:—

5. This Act shall not apply when the offence charged is committing or attempting to commit simple larceny, and the offence is charged with respect to goods in a shop where goods are sold by retail:

Amendment of Act No. 1, 1919.

Act not to apply to certain cases of larceny.

Provided

*Crimes (Amendment).*

Provided that where a woman who has not been previously convicted of any offence is charged with the offence referred to in this section and no conviction is recorded, no person shall publish in any newspaper a report or account of the proceedings. Any person publishing any such report or account, contrary to the terms of this proviso, shall be liable to a penalty not exceeding fifty pounds.

By Authority :

ALFRED JAMES KENT, Government Printer, Sydney, 1929.

[9d.]

*I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 7th March, 1929.*

## New South Wales.



ANNO UNDEVICESIMO

## GEORGI V REGIS.

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### Act No. 2, 1929.

An Act to amend the criminal law, and for that purpose to repeal the Crimes (Amendment) Act, 1905, and to amend the Crimes Act, 1900, and certain other Acts; and for purposes connected therewith. [Assented to, 12th March, 1929.]

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, 1929."

2. The Crimes Act, 1900, as subsequently amended,Interpreta- is in this Act referred to as the Principal Act.tion.

3.

*Crimes (Amendment).*

- Repeal of Crimes (Amendment) Act, 1905, No. 12.  
Amendment of s. 22 of Principal Act.
- 3.** The Crimes (Amendment) Act, 1905, is hereby repealed.
- 4.** Section twenty-two of the Principal Act is amended by omitting the words "for the murder of a child," and by substituting therefor the words "for the murder or manslaughter of a child."
- Amendment of s. 119 of Principal Act.
- 5.** Section one hundred and nineteen of the Principal Act is amended by omitting the proviso to the section and by substituting therefor the following new proviso:—
- Provided always that evidence shall not in any such case be given of any taking which occurred more than six months in point of time from any other of such takings.
- Amendment of s. 120 of Principal Act.
- 6.** Section one hundred and twenty of the Principal Act is amended by inserting after the words "the offence of embezzlement" the words "or fraudulent misappropriation."
- New s. 178A.
- 7.** The Principal Act is further amended by inserting after section one hundred and seventy-eight the following new sub-heading and section:—

## FRAUDULENT MISAPPROPRIATION.

Fraudulent misappropriation of moneys collected or received.

178A. Whosoever having collected or received any money or valuable security under any authority upon terms requiring him to deliver or account for or pay to any person the whole or any part of—

(a) such money or valuable security or the proceeds thereof; or

(b) any balance of such money, valuable security, or proceeds thereof after any authorised deductions or payments have been made thereout,

fraudulently misappropriates to his own use or the use of any other person, or fraudulently omits to account for or pay the whole or any part of such money, valuable security, or proceeds, or the whole or any part of such balance in violation of the terms on which he collected or received such money or valuable security, shall be liable to penal servitude for seven years.

For



*Crimes (Amendment).*

For the purposes of this section any such money, valuable security, or proceeds thereof, or any balance thereout shall be deemed to be the property of the person under whose authority the money or valuable security was collected or received notwithstanding that the accused may have been authorised to make any deduction thereout on his own behalf, or any payment thereout to another person, or to mix such money, valuable security, or proceeds thereof, or such balance with his own moneys.

**8.** Section one hundred and eighty-three of the Principal Act is amended—

Amendment  
of s. 183 of  
Principal  
Act.

- (a) by inserting after the words "amount in law to larceny" the words "or fraudulent misappropriation," and
- (b) by inserting after the words "in the Public Service" the words "or of fraudulent misappropriation."

**9.** The Principal Act is further amended by inserting after subsection two of section three hundred and forty-one the following new subsection:—

Amendment  
of s. 311 of  
Principal  
Act.

(3) Where by reason of the death, illness, termination of appointment, or absence, of any judge, chairman of quarter sessions, or magistrate, it is impossible to apply to such judge, chairman, or magistrate for leave to prosecute under subsection one of this section, in respect of any statement on oath as in the last preceding section mentioned, or it is for any other reason impracticable to do so, a prosecution in respect of any such statement on oath may be instituted with the leave of a judge of the Supreme Court.

**10.** The Principal Act is further amended by omitting sections three hundred and sixty-five and three hundred and sixty-six and substituting therefor the following new sections:—

Amendment  
of ss. 365 and  
366 of  
Principal  
Act.

365. (1) Where, before trial, or at any stage of a trial, it appears to the court that the indictment is defective, the court shall make such order for the amendment of the indictment as the court thinks necessary

Orders for  
amendment of  
indictment,  
separate trial  
and postpone-  
ment of trial.  
cf. 5 & 6 Geo. V  
c. 90, s. 5.

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*Crimes (Amendment).*

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necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) Where, before trial, or at any stage of a trial, the court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the court may order a separate trial of any count or counts of such indictment.

(3) Where, before trial, or at any stage of a trial, the court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the court under this Act to amend an indictment or to order a separate trial of a count, the court shall make such order as appears necessary.

(4) Where an order of the court is made under this section for a separate trial, or for the postponement of a trial—

- (a) if such an order is made during a trial, the court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed, or on the indictment as the case may be; and
- (b) the procedure on the separate trial of a count and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged), as if the trial had not commenced; and
- (c) the court may make such order as to admitting the accused person to bail and as to the enlargement of recognizances and otherwise as the court thinks fit.

(5) Any power of the court under this section shall be in addition to and not in derogation of any other power of the court for the same or similar purposes.

*Crimes (Amendment).*

366. Where any indictment is amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment in its amended form shall be treated as the indictment for the purposes of the trial, and for the purposes of all proceedings in connection therewith or consequent thereon.

Amended  
indictment.

**11.** (1) Section 419A of the Principal Act is amended by inserting after the words "and adjoining such dock, wharf, or quay" the words "or in the course of transit from any vessel, barge, or boat, or from any store or shed used in connection with and adjoining such wharf, dock, or quay."

Amendment  
of s. 419A of  
Principal  
Act.

(2) The Principal Act is further amended—

Further amend-  
ment of  
Principal Act.

- a) by inserting in subsection two of section four hundred and sixty-three after the words "police force" the words "with or without a warrant";
- b) by inserting at the end of the subsection the words "Any justice may issue a warrant for the apprehension of any person who has been convicted of an offence committed within the State whether the offence is indictable or punishable on summary conviction, and whose license is revoked as aforesaid. Any such warrant may be in the form stated in the Eighth Schedule";
- (c) by inserting next after the Seventh Schedule the following new Schedule:—

Sec. 463.  
(Revocation  
of license.)

## EIGHTH SCHEDULE.

Sec. 463.

*Warrant for arrest of person whose license has been  
revoked.*

To the Commissioner of Police and all other Peace Officers  
in the State of New South Wales—

Whereas A.B. was on the                      day of  
convicted of (the indictable offence of                      or  
an offence punishable upon summary conviction) and the  
said offence was committed within the said State And  
Whereas for his said offence the said A.B. was sentenced  
to be imprisoned for the space of                      thereafter And  
Whereas

## Act No. 2, 1929.

*Crimes (Amendment).*

Whereas the said A.B. was afterwards released under license from the gaol at \_\_\_\_\_ in the said State And Whereas the said license has been revoked These are therefore to command you to take the said A.B. and (him or her) safely to convey to the said gaol and deliver (him or her) to the keeper thereof together with this precept And I do hereby command you, the said keeper of the said gaol to receive the said A.B. into your custody in the said gaol there to undergo the remainder of (his or her) said sentence.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord one thousand nine hundred and \_\_\_\_\_ at \_\_\_\_\_ in the said State.

C.D. (l.s.)

A Justice of the Peace for the  
State of New South Wales.

Now s. 526B.

**12.** The Principal Act is further amended by inserting after section 526A the following new sub-heading and section:—

*Person drunk while driving vehicle.*

Penalty for  
drunkenness  
while in  
charge of  
motor  
vehicle.

cf. 15 & 16  
Geo. V, c. 86,  
s. 40.

**526B.** (1) Any person who, while driving on any highway or other public place any mechanically-propelled vehicle, is drunk or being under the influence of intoxicating liquor is incapable of properly controlling such vehicle, shall, on conviction before two justices, be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds, or to both such imprisonment and fine.

(2) The court before whom any person is convicted under the preceding subsection may, in addition to any punishment or penalty, order that the person convicted shall be disqualified to hold a license for any period stated in the order, and any license held by him shall, so long as the disqualification continues, be of no effect.

The court before whom any person is so convicted shall cause particulars of any such conviction and of the disqualification (if any) to be endorsed upon any license held by the person convicted, and shall send notice of the conviction and disqualification (if any) to the licensing authorities by whom the license was granted.

(3)

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*Crimes (Amendment).*

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(3) If a person who under this section is disqualified to hold a license applies for or obtains a license while he is so disqualified, he shall be guilty of an offence and shall be liable to a penalty not exceeding twenty pounds, and any license so obtained shall be of no effect.

(4) A person who by virtue of a conviction under this section is disqualified to hold a license, or who, by virtue of an order made under any Act or any regulation made thereunder on his being convicted of an offence is disqualified to obtain a license or whose license is suspended, may at any time after the expiration of six months from the date of the conviction, apply from time to time to the court before which he was convicted to remove the disqualification or suspension, and on any such application the court may by order, as it thinks proper, having regard to the character of the person convicted and his conduct subsequent to conviction, the nature of the offence, and the other circumstances of the case, either remove the disqualification or suspension from such date and on such condition as may be specified in the order or refuse the application, and if the court orders a disqualification or suspension to be removed the court shall order particulars of the order to be endorsed on the license, if any, held by the applicant.

(5) In this section the expression "license" means a license to drive a vehicle, and includes any such license under the Metropolitan Traffic Act, 1900, the Motor Traffic Act, 1909, the Local Government Act, 1919, or any other Act providing for the grant of such a license, and the expression "licensing authorities" means the persons authorised to grant such a license.

(6) Nothing in this section shall affect any liability of any person by virtue of any statute or at common law.

(7) Any person who is arrested for an offence under this section shall be entitled upon request

*Crimes (Amendment).*

request made by him or on his behalf to be examined by a legally qualified medical practitioner, and where any such request is made the arresting officer shall afford all reasonable facilities for the holding of such an examination.

New s. 547A.

**13.** The Principal Act is amended by inserting after section five hundred and forty-seven the following new sub-heading and section :—

(G) FALSE STATEMENT RESPECTING BIRTHS,  
DEATHS, OR MARRIAGES.

False  
statements  
respecting  
births,  
deaths, and  
marriages.

547A. (1) Every person who wilfully gives to any district registrar, or assistant district registrar, appointed under any Act providing for the registration of births or deaths, any false information concerning any birth or death, or the cause of any death, or who wilfully makes any false declaration under or for the purpose of any Act relating to the registration of births or deaths, shall on conviction before two justices be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds.

(2) Any person who wilfully makes any false statement before any minister of religion, or district registrar, authorised to celebrate marriages, or before any person authorised to give his written consent to the marriage of any minor, for the purpose of procuring the celebration of any marriage, or any person who induces or endeavours to induce any person to celebrate a marriage between parties where such first-mentioned person knows that one of such parties is under age, and that the written consent required by law has not previously been obtained, shall upon conviction before two justices be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds.

(3) Proceedings for an offence against this section may be commenced within one year after the date of the commission of the offence, and subject to the permission of the Attorney-General.

**14.**

*Crimes (Amendment).*

**14.** Subsection two of section five hundred and fifty-four of the Principal Act is amended—

Amendment  
of s. 554 of  
Principal  
Act.

- (a) by omitting the words "or in substitution for any sentence of imprisonment" and by substituting therefor the words "or in substitution for any sentence imposing a fine or a term of imprisonment"; and
- (b) by omitting the words "to be of good behaviour for a term not exceeding twelve months," and by substituting therefor the words "to be of good behaviour for a term which shall not be less than twelve months or more than three years."

**15.** The Principal Act is further amended by inserting after section five hundred and fifty-six the following new sub-heading and section :—

New s. 556A.

*Conditional release of offenders.*

556A. (1) Where any person is charged before a court of summary jurisdiction with an offence punishable by such court, and the court thinks that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment, or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court may, without proceeding to conviction, make an order either—

Power to  
permit  
conditiona  
release of  
offenders.  
cf. 7 Edw.  
VII, c. 17,  
s. 1.

- (a) dismissing the charge; or
- (b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(2)

*Crimes (Amendment).*

(2) Where an order is made under this section the order shall, for the purpose of revesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner, and as to the payment of money upon or in connection with such restitution or delivery, and for the purpose of the exercise of any power conferred by subsection three of section five hundred and fifty-four, have the like effect as a conviction.

Amendment  
of Sixth  
Schedule of  
Principal Act.  
(Offences in  
which  
whipping may  
be ordered.)

**16.** (1) The Sixth Schedule of the Principal Act is amended—

- (a) by inserting at the commencement of the column headed "Sections enumerated" the figures "33" and "34" and by inserting opposite thereto respectively in the column headed "Offences" the words "Wounding, &c., with intent to do bodily harm, &c.," and the words "Maliciously wounding or inflicting grievous bodily harm";
- (b) by omitting from the column headed "Sections enumerated" the figures "64" opposite the words "Attempt to commit rape, &c." and by inserting in lieu thereof the figures "65";
- (c) by omitting from the same column the figures "65" opposite the words "Procuring or having carnal knowledge by fraud" and by inserting in lieu thereof the figures "66";
- (d) by omitting from the same column the figures and word "77 and 78" opposite the words "Indecent assaults" and by inserting in lieu thereof the figures "76."

New s. 353B.

(2) by inserting next after section 353A the following new subsection:—

Person  
apprehended  
carrying  
razor, &c.

353B. Where a person is in lawful custody upon a charge of committing any crime or offence and is found to have been carrying at the time or immediately before he was apprehended any razor, razor blade or other cutting weapon, he shall, unless the justice before whom he is brought is satisfied that



*Crimes (Amendment).*

that he was carrying the same for a lawful purposes the proof of which shall lie upon the accused, he liable to imprisonment for a term not exceeding six months.

**17.** Section 5B of the Criminal Appeal Act, 1912, is amended by inserting at the end of the section the words "and the Court of Criminal Appeal may make any such order or give any such direction to the Court of Quarter Sessions as it thinks fit." Amendment of Act No. 16, 1912.  
Sec. 5B.

**18.** The Criminal Appeal Act, 1912, is further amended by inserting after section 5D the following new section :— Further amendment of Criminal Appeal Act, 1912, No. 16.

5E. Any person who is declared to be an habitual criminal, may, by leave of the court, appeal against such declaration, and the provisions of this Act applicable to an appeal against a sentence passed on a conviction on indictment shall apply to such an appeal. Appeal by person declared an habitual criminal.

**19.** The Jury Act, 1912, is amended by inserting after section twenty-seven the following new section :— Amendment of Jury Act, 1912, No. 21.

27A. Where in the course of a criminal trial any member of a jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give), and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly. Provision for continuance of trial where juror dies or becomes incapable.  
cf. 15 & 16, Geo. V, c. 86, s. 15.

**20.** The Police Offences Act, 1901, is amended by omitting section thirty and by substituting therefor the following new section :— Amendment of s. 30 of the Police Offences Act, 1901, No. 5.

30. If any goods or money charged to be stolen or fraudulently obtained are in the custody of any constable in connection with any criminal charge, Order for delivery of goods in custody of constable.  
cf. 60 & 61 Vic., c. 39, s. 1.  
or

*Crimes (Amendment).*

or of any offence punishable summarily, any police or stipendiary magistrate may, on application by an officer of police or by a claimant of the property, make an order for the delivery of such goods or money to the person who appears to be the rightful owner thereof, or if the owner cannot be ascertained, may make such order with respect to such goods or money as to such magistrate seems meet.

No such order shall be any bar to the right of any person to sue the person to whom such goods or money are delivered, and to recover such goods or money from him by an action commenced within six months next after the making of such order.

Consequential  
and corrective  
amendments of  
Principal  
Act.

**21.** The Principal Act is amended—

- (a) by omitting section one and the headings preceding it, and by inserting in lieu thereof the following section and headings:—

## PART I.

## PRELIMINARY AND INTERPRETATION.

*Short title and division into Parts.*

1. This Act may be cited as the "Crimes Act 1900," and is divided into Parts, as follows:—

## PART I.—PRELIMINARY AND INTERPRETATION—

- (1) *Short title and division into Parts.*—  
s. 1.
- (2) *Repeals and savings.*—s. 2.
- (3) *Application of certain sections and parts.*—s. 3.
- (4) *Interpretation.*—ss. 4–8.
- (5) *What offences to be deemed and treated as felonies or misdemeanours.*—ss. 9, 10.

PART

Short title  
and contents  
of Act.

Amended,  
Act No. 10,  
1924, s. 26,  
b).

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*Crimes (Amendment).*


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 PART II.—OFFENCES AGAINST THE  
 SOVEREIGN—*Treason felony.*—ss. 11-16.

## PART III.—OFFENCES AGAINST THE PERSON—

- (1) *Homicide.*—ss. 17-25.
- (2) *Conspiracy to murder.*—s. 26.
- (3) *Attempts to murder.*—ss. 27-30.
- (4) *Letters threatening to murder.*—s. 31.
- (5) *Acts causing danger to life or bodily harm.*—ss. 32-54.
- (6) *Possessing or making explosives, &c., with intent to injure the person* —s. 55.
- (7) *Assaults upon clergymen, officers, and others.*—ss. 56-60.
- (8) *Common assault.*—s. 61.
- (9) *Rape and similar offences.*—ss. 62-78F.
- (10) *Unnatural offences.*—ss. 79-81
- (11) *Attempts to procure abortion.*—ss. 82-84.
- (12) *Concealing birth of a child.*—s. 85.
- (13) *Abduction.*—ss. 86-91D.
- (14) *Bigamy.*—ss. 92, 93.

 PART IV.—OFFENCES RELATING TO PRO-  
 PERTY—

 CHAPTER I.—*Stealing and like offences*—

- (a) ROBBERY—ss. 94-98.
- (b) EXTORTION, &C., BY MENACE  
 THREAT.—ss. 99-105.

(c)

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*Crimes (Amendment).*

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(c) SACRILEGE, BURGLARY, AND HOUSE-BREAKING.—ss. 106-115.

(d) LARCENY—

(1) *Declaratory.*—s. 116.

(2) *Simple larceny and general provisions.*—ss. 117-124.

(3) *Larceny by bailees.*—s. 125.

(4) *Of animals.*—ss. 126-133.

(5) *Of written instruments.*—ss. 134-135.

(6) *Of things attached to or growing on land.*—ss. 139-143.

(7) *From mines.*—ss. 144-147.

(8) *In dwelling-house.*—ss. 148, 149.

(9) *Of goods in process of manufacture, tools, &c.*—ss. 150, 151.

(10) *From ships or wharfs.*—ss. 152, 153.

(11) *By tenants or lodgers.*—s. 154.

(12) *Of vehicles or boats.*—ss. 154A, 154B.

(e) EMBEZZLEMENT OR LARCENY—

(1) *By clerks or servants.*—ss. 155-158.

(2) *By persons employed in the Public Service.*—ss. 159, 160.

(3) *General deficiency.*—s. 161.

(4) *By joint owners.*—s. 162.

(5) *Alternative verdict.*—s. 163.

(f) FRAUDS BY FACTORS AND OTHER AGENTS.—ss. 164-178.

(fi) FRAUDULENT MISAPPROPRIATION.—s. 178A.

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(B) LARCENY AND SIMILAR OFFENCES—

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- (C) MALICIOUS INJURIES TO PROPERTY—
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- (2) *Injuries to trees, shrubs, vegetable  
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- (3) *Injuries to certain animals.*—ss. 539,  
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- (1) *Alternative methods of procedure.*—  
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New heading  
added,  
Act No. 10,  
1924, s. 26  
(b).

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- (4) *Discharge of juvenile first offenders.*—s. 552.
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- (6) *Sentence to hard labour.*—s. 554.
- (7) *Penalties, &c.—application.*—s. 555.
- (8) *Summary conviction, &c., a bar.*—s. 556.
- (9) *Conditional release of offenders.*—s. 556A.

## PART XV.—FIRST OFFENDERS.—ss. 557-562.

PART XVI.—MISCELLANEOUS ENACTMENTS.—  
ss. 563-577.

- (b) by inserting the following short heading immediately before section two: "Repeals and savings";
- (c) by inserting the following short heading immediately before section three: "Application of certain sections and Parts";
- (d) by inserting immediately before section five hundred and one and after the heading "(B) LARCENY AND SIMILAR OFFENCES" the following short heading: "*Larceny, &c., of animals.*"

**22.** The First Offenders (Women) Act, 1918, is amended by inserting next after section four the following new section:—

5. This Act shall not apply when the offence charged is committing or attempting to commit simple larceny, and the offence is charged with respect to goods in a shop where goods are sold by retail:

Act not to apply to certain cases of larceny.

Provided

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*Crimes (Amendment).*

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Provided that where a woman who has not been previously convicted of any offence is charged with the offence referred to in this section and no conviction is recorded, no person shall publish in any newspaper a report or account of the proceedings. Any person publishing any such report or account, contrary to the terms of this proviso, shall be liable to a penalty not exceeding fifty pounds.

*In the name and on behalf of His Majesty I assent to this Act.*

*Government House,*  
*Sydney, 12th March, 1929.*

D. R. S. DE CHAIR,  
*Governor.*

CRIMES (AMENDMENT) BILL.

(Schedule of the Legislative Assembly's Amendments.)

Page 5, clause 11, lines 21, 22. *Omit* "the arrest of the person whose license is revoked as aforesaid" *insert* "the apprehension of any person who has been convicted of an offence committed within the State whether the offence is indictable or punishable on summary conviction, and whose license is revoked as aforesaid. Any such warrant may be in the form stated in the Eighth Schedule."

Page 5, clause 11. *After* line 28 *insert*—

"(c) by inserting next after the Seventh Schedule the following new Schedule:—

Sec. 433.

"EIGHTH SCHEDULE.

*Warrant for arrest of person whose license has been revoked.*

"To the Commissioner of Police and all other Peace Officers in the State of New South Wales—

"Whereas A.B. was on the                    day of                    convicted of (the indictable offence of                    or                    an offence punishable upon summary conviction) and the said offence was committed within the said State And Whereas for his said offence the said A.B. was sentenced to be imprisoned for the space of                    thereafter And Whereas the said A.B. was afterwards released under license from the gaol at                    in the said State And Whereas the said license has been revoked These are therefore to command you to take the said A.B. and (him or her) safely to convey to the said gaol and deliver (him or her) to the keeper thereof together with this precept And I do hereby command you the said keeper of the said gaol to receive the said A.B. into your custody in the said gaol there to undergo the remainder of (his or her) said sentence.

"Given under my hand and seal this                    day of                    in the year of our Lord one thousand nine hundred and                    at                    in the said State.

"C.D. (L.S.)

"A Justice of the Peace for the State of New South Wales."

Page 6, clause 12, line 18. *Omit* "in charge of" *insert* "driving"

Page 6, clause 12, line 19. *Omit* "in charge" *insert* "driving"

Page 6, clause 12, line 20. *Omit* "of"

Page 7, clause 12. At end of clause *add* new subsection (7).

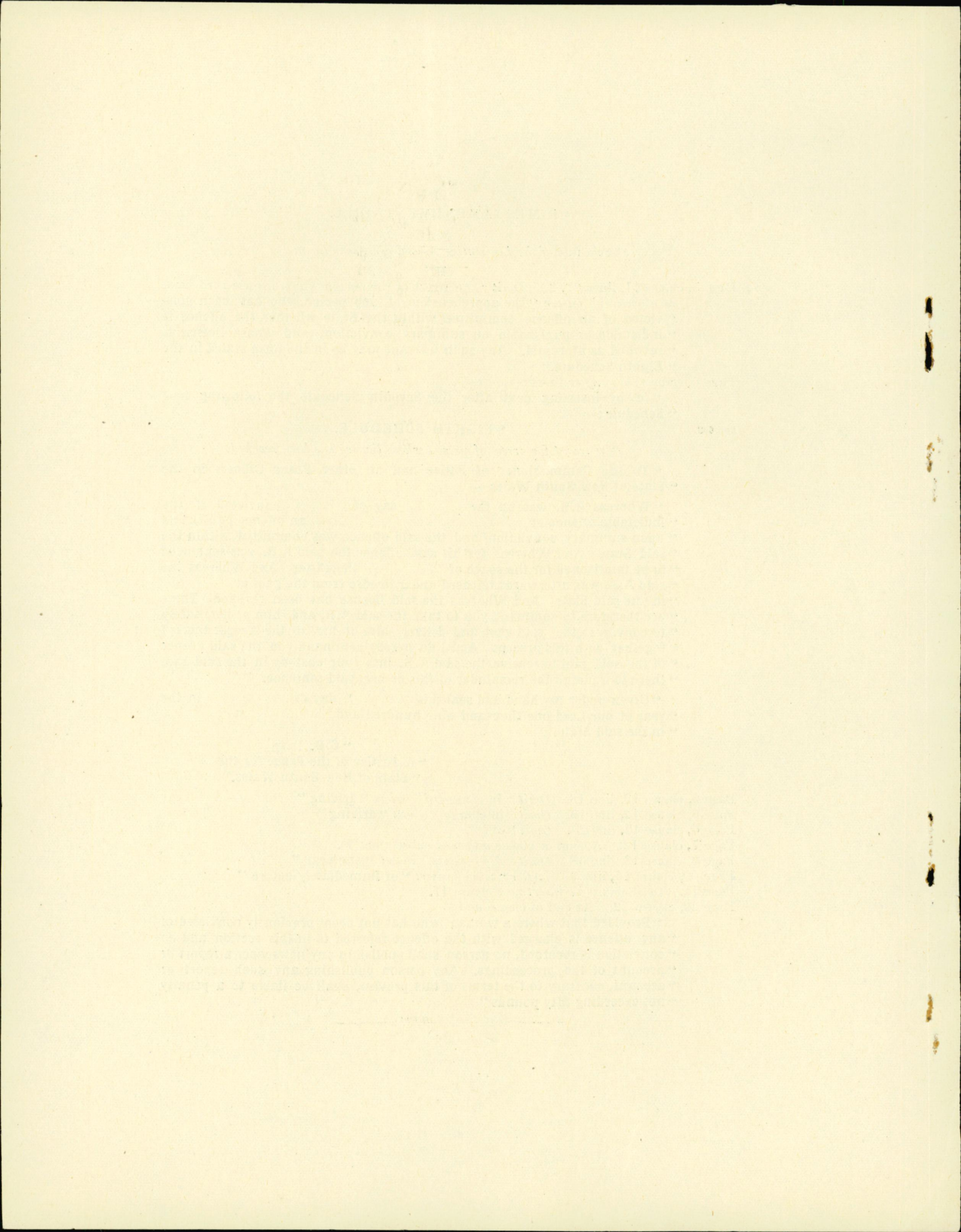
Page 8, clause 13, line 38. *Omit* "three years" *insert* "one year"

Page 10, clause 16, line 37. *After* "time" *insert* "or immediately before"

Page 11. *Omit* clause 17 *insert* new clause 17.

Page 22, clause 22. At end of clause *add*—

"Provided that where a woman who has not been previously convicted of any offence is charged with the offence referred to in this section and no conviction is recorded, no person shall publish in any newspaper a report or account of the proceedings. Any person publishing any such report or account, contrary to the terms of this proviso, shall be liable to a penalty not exceeding fifty pounds"



*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*

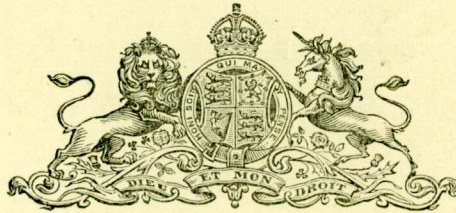
*Legislative Council Chamber,  
Sydney, 10th October, 1928.*

*The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with Amendments.*

S. G. BOYDELL,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 28 February, 1929.*

## New South Wales.



ANNO UNDEVICESIMO

# GEORGI V REGIS.

\*\*\*\*\*

Act No. , 1929.

An Act to amend the criminal law, and for that purpose to repeal the Crimes (Amendment) Act, 1905, and to amend the Crimes Act, 1900, and certain other Acts; and for purposes connected therewith.

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  
5 the same, as follows:—

1. This Act may be cited as the "Crimes (Amend- Short title, ment) Act, 1929."

2. The Crimes Act, 1900, as subsequently amended, Interpretation. is in this Act referred to as the Principal Act.

53175 c 1—A

3.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

*Crimes (Amendment).*

3. The Crimes (Amendment) Act, 1905, is hereby repealed. Repeal of Crimes (Amendment) Act, 1905, No. 12.

4. Section twenty-two of the Principal Act is amended by omitting the words "for the murder of a child," and by substituting therefor the words "for the murder or manslaughter of a child." Amendment of s. 22 of Principal Act.

5. Section one hundred and nineteen of the Principal Act is amended by omitting the proviso to the section and by substituting therefor the following new proviso:— Amendment of s. 119 of Principal Act.

Provided always that evidence shall not in any such case be given of any taking which occurred more than six months in point of time from any other of such takings.

6. Section one hundred and twenty of the Principal Act is amended by inserting after the words "the offence of embezzlement" the words "or fraudulent misappropriation." Amendment of s. 120 of Principal Act.

7. The Principal Act is further amended by inserting after section one hundred and seventy-eight the following new sub-heading and section:— New s. 178A.

FRAUDULENT MISAPPROPRIATION.

178A. Whosoever having collected or received any money or valuable security under any authority upon terms requiring him to deliver or account for or pay to any person the whole or any part of— Fraudulent misappropriation of moneys collected or received.

(a) such money or valuable security or the proceeds thereof; or

(b) any balance of such money, valuable security, or proceeds thereof after any authorised deductions or payments have been made thereout,

fraudulently misappropriates to his own use or the use of any other person, or fraudulently omits to account for or pay the whole or any part of such money, valuable security, or proceeds, or the whole or any part of such balance in violation of the terms on which he collected or received such money or valuable security, shall be liable to penal servitude for seven years.

For



*Crimes (Amendment).*

For the purposes of this section any such money, valuable security, or proceeds thereof, or any balance thereof shall be deemed to be the property of the person under whose authority the money or valuable security was collected or received notwithstanding that the accused may have been authorised to make any deduction thereout on his own behalf, or any payment thereout to another person, or to mix such money, valuable security, or proceeds thereof, or such balance with his own moneys.

**8.** Section one hundred and eighty-three of the Principal Act is amended—

(a) by inserting after the words "amount in law to larceny" the words "or fraudulent misappropriation," and

(b) by inserting after the words "in the Public Service" the words "or of fraudulent misappropriation."

**9.** The Principal Act is further amended by inserting after subsection two of section three hundred and forty-one the following new subsection :—

(3) Where by reason of the death, illness, termination of appointment, or absence, of any judge, chairman of quarter sessions, or magistrate, it is impossible to apply to such judge, chairman, or magistrate for leave to prosecute under subsection one of this section, in respect of any statement on oath as in the last preceding section mentioned, or it is for any other reason impracticable to do so, a prosecution in respect of any such statement on oath may be instituted with the leave of a judge of the Supreme Court.

**10.** The Principal Act is further amended by omitting sections three hundred and sixty-five and three hundred and sixty-six and substituting therefor the following new sections :—

365. (1) Where, before trial, or at any stage of a trial, it appears to the court that the indictment is defective, the court shall make such order for the amendment of the indictment as the court thinks necessary

Amendment  
of s. 183 of  
Principal  
Act.

Amendment  
of s. 341 of,  
Principal  
Act.

Amendment  
of ss. 365 and  
366 of  
Principal  
Act.

Orders for  
amendment of  
indictment,  
separate trial  
and postpone-  
ment of trial.  
cf. 5 & 6 Geo. V.  
c. 90, s. 5.

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*Crimes (Amendment).*

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necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

5 (2) Where, before trial, or at any stage of a trial, the court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason  
10 it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the court may order a separate trial of any count or counts of such indictment.

15 (3) Where, before trial, or at any stage of a trial, the court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the court under this Act to amend an indictment or to order a separate trial of a count, the court shall  
20 make such order as appears necessary.

(4) Where an order of the court is made under this section for a separate trial, or for the postponement of a trial—

25 (a) if such an order is made during a trial, the court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed, or on the indictment as the case may be; and

30 (b) the procedure on the separate trial of a count and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged), as if the trial had not commenced; and

35 (c) the court may make such order as to admitting the accused person to bail and as to the enlargement of recognizances and otherwise as the court thinks fit.

40 (5) Any power of the court under this section shall be in addition to and not in derogation of any other power of the court for the same or similar purposes.

*Crimes (Amendment).*

366. Where any indictment is amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment in its amended form shall be treated as the indictment for the purposes of the trial, and for the purposes of all proceedings in connection therewith or consequent thereon.

Amended indictment.

11. (1) Section 419A of the Principal Act is amended by inserting after the words "and adjoining such dock, wharf, or quay" the words "or in the course of transit from any vessel, barge, or boat, or from any store or shed used in connection with and adjoining such wharf, dock, or quay."

Amendment of s. 419A of Principal Act.

(2) The Principal Act is further amended—

(a) by inserting in subsection two of section four hundred and sixty-three after the words "police force" the words "with or without a warrant";

Further amendment of Principal Act.

Sec. 463.

(Revocation of license.)

(b) by inserting at the end of the subsection the words "Any justice may issue a warrant for the arrest of the person whose license is revoked as aforesaid." **the apprehension of any person who has been convicted of an offence committed within the State whether the offence is indictable or punishable on summary conviction, and whose license is revoked as aforesaid. Any such warrant may be in the form stated in the Eighth Schedule**";

(c) by inserting next after the Seventh Schedule the following new Schedule :—

## EIGHTH SCHEDULE.

Sec. 463.

*Warrant for arrest of person whose license has been revoked.*

To the Commissioner of Police and all other Peace Officers in the State of New South Wales—

Whereas A.B. was on the day of convicted of (the indictable offence of or an offence punishable upon summary conviction) and the said offence was committed within the said State And Whereas for his said offence the said A.B. was sentenced to be imprisoned for the space of thereafter And Whereas the said A.B. was afterwards released under license from the gaol at in the said State And

Whereas

*Crimes (Amendment).*

Whereas the said license has been revoked These are therefore to command you to take the said A.B. and (him or her) safely to convey to the said gaol and deliver (him or her) to the keeper thereof together with this precept And I do hereby command you, the said keeper of the said gaol to receive the said A.B. into your custody in the said gaol there to undergo the remainder of (his or her) said sentence.

Given under my hand and seal this                    day of  
in the year of Our Lord one thousand nine  
hundred and                    at                    in the said State.

C.D. (L.S.)

A Justice of the Peace for the  
State of New South Wales.

- 15 **12.** The Principal Act is further amended by insert- New s. 526B.  
ing after section 526A the following new sub-heading  
and section :—

*Person drunk while in-charge of driving vehicle.*

- 20 526B. (1) Any person who, while in-charge **driving** Penalty for  
on any highway or other public place of any mechani- drunkenness  
cally-propelled vehicle, is drunk or being under the while in  
influence of intoxicating liquor is incapable of charge of  
properly controlling such vehicle, shall, on conviction motor  
before two justices, be liable to imprisonment vehicle.  
25 for a term not exceeding six months, or to pay a cf. 15 & 16  
fine not exceeding fifty pounds, or to both such Geo. V, c. 86,  
imprisonment and fine. s. 4).

- 30 (2) The court before whom any person is  
convicted under the preceding subsection may, in  
addition to any punishment or penalty, order that  
the person convicted shall be disqualified to hold  
a license for any period stated in the order, and  
any license held by him shall, so long as the  
disqualification continues, be of no effect.

- 35 The court before whom any person is so convicted  
shall cause particulars of any such conviction and  
of the disqualification (if any) to be endorsed upon  
any license held by the person convicted, and shall  
40 send notice of the conviction and disqualification  
(if any) to the licensing authorities by whom the  
license was granted.

(3)

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*Crimes (Amendment).*

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5 (3) If a person who under this section is disqualified to hold a license applies for or obtains a license while he is so disqualified, he shall be guilty of an offence and shall be liable to a penalty not exceeding twenty pounds, and any license so obtained shall be of no effect.

10 (4) A person who by virtue of a conviction under this section is disqualified to hold a license, or who, by virtue of an order made under any Act or any regulation made thereunder on his being convicted of an offence is disqualified to obtain a license or whose license is suspended, may at any time after the expiration of six months from the date of the conviction, apply from time to time to the court before which he was convicted to remove the disqualification or suspension, and on any such application the court may by order, as it thinks proper, having regard to the character of the person convicted and his conduct subsequent to conviction, the nature of the offence, and the other circumstances of the case, either remove the disqualification or suspension from such date and on such condition as may be specified in the order or refuse the application, and if the court orders a disqualification or suspension to be removed the court shall order particulars of the order to be endorsed on the license, if any, held by the applicant.

25 (5) In this section the expression "license" means a license to drive a vehicle, and includes any such license under the Metropolitan Traffic Act, 1900, the Motor Traffic Act, 1909, the Local Government Act, 1919, or any other Act providing for the grant of such a license, and the expression "licensing authorities" means the persons authorised to grant such a license.

30 (6) Nothing in this section shall affect any liability of any person by virtue of any statute or at common law.

35 (7) Any person who is arrested for an offence under this section shall be entitled upon request

*Crimes (Amendment).*

request made by him or on his behalf to be examined by a legally qualified medical practitioner, and where any such request is made the arresting officer shall afford all reasonable facilities for the holding of such an examination.

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**13.** The Principal Act is amended by inserting after section five hundred and forty-seven the following new sub-heading and section :—

(G) FALSE STATEMENT RESPECTING BIRTHS,  
DEATHS, OR MARRIAGES.

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547A. (1) Every person who wilfully gives to any district registrar, or assistant district registrar, appointed under any Act providing for the registration of births or deaths, any false information concerning any birth or death, or the cause of any death, or who wilfully makes any false declaration under or for the purpose of any Act relating to the registration of births or deaths, shall on conviction before two justices be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds.

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(2) Any person who wilfully makes any false statement before any minister of religion, or district registrar, authorised to celebrate marriages, or before any person authorised to give his written consent to the marriage of any minor, for the purpose of procuring the celebration of any marriage, or any person who induces or endeavours to induce any person to celebrate a marriage between parties where such first-mentioned person knows that one of such parties is under age, and that the written consent required by law has not previously been obtained, shall upon conviction before two justices be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds.

40

(3) Proceedings for an offence against this section may be commenced within ~~three years~~ **one year** after the date of the commission of the offence, and subject to the permission of the Attorney-General.

**14.**

False statements respecting births, deaths, and marriages.

*Crimes (Amendment).*

**14.** Subsection two of section five hundred and fifty-four of the Principal Act is amended—

Amendment  
of s. 554 of  
Principal  
Act.

- 5 (a) by omitting the words “or in substitution for any sentence of imprisonment” and by substituting therefor the words “or in substitution for any sentence imposing a fine or a term of imprisonment”; and
- 10 (b) by omitting the words “to be of good behaviour for a term not exceeding twelve months,” and by substituting therefor the words “to be of good behaviour for a term which shall not be less than twelve months or more than three years.”

**15.** The Principal Act is further amended by inserting after section five hundred and fifty-six the following new sub-heading and section :—

New s. 556A.

*Conditional release of offenders.*

20 556A. (1) Where any person is charged before a court of summary jurisdiction with an offence punishable by such court, and the court thinks that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment, or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court may, without proceeding to conviction, make an order either—

Power to  
permit  
conditional  
release of  
offenders.  
cf. 7 Edw.  
VII, c. 17,  
s. 1.

- 25 (a) dismissing the charge; or
- 30 (b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

35

*Crimes (Amendment).*

(2) Where an order is made under this section the order shall, for the purpose of re-vesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner, and as to the payment of money upon or in connection with such restitution or delivery, and for the purpose of the exercise of any power conferred by subsection three of section five hundred and fifty-four, have the like effect as a conviction.

**16.** (1) The Sixth Schedule of the Principal Act is amended—

- (a) by inserting at the commencement of the column headed "Sections enumerated" the figures "33" and "34" and by inserting opposite thereto respectively in the column headed "Offences" the words "Wounding, &c., with intent to do bodily harm, &c.," and the words "Maliciously wounding or inflicting grievous bodily harm";
- (b) by omitting from the column headed "Sections enumerated" the figures "64" opposite the words "Attempt to commit rape, &c." and by inserting in lieu thereof the figures "65";
- (c) by omitting from the same column the figures "65" opposite the words "Procuring or having carnal knowledge by fraud" and by inserting in lieu thereof the figures "66";
- (d) by omitting from the same column the figures and word "77 and 78" opposite the words "Indecent assaults" and by inserting in lieu thereof the figures "76."

(2) by inserting next after section 353A the following new subsection:—

- 353B.** Where a person is in lawful custody upon a charge of committing any crime or offence and is found to have been carrying at the time **or immediately before** he was apprehended any razor, razor blade or other cutting weapon, he shall, unless the justice before whom he is brought is satisfied that

Amendment  
of Sixth  
Schedule of  
Principal Act.  
(Offences in  
which  
whipping may  
be ordered.)

Person  
apprehended  
carrying  
razor, &c.



*Crimes (Amendment).*

- that he was carrying the same for a lawful purpose, the proof of which shall lie upon the accused, be liable to imprisonment for a term not exceeding six months.
- 5** **17.** Section 5B of the Criminal Appeal Act, 1912, is amended by omitting the words "and such submission shall be dealt with as if it were an appeal under this Act" and by substituting the words "and the Court of Criminal Appeal may make any such order or give any such direction to the court of quarter sessions as it thinks fit." Amendment of Criminal Appeal Act, 1912, No. 16, Sec. 5b.
- 10** **17.** Section 5B of the Criminal Appeal Act, 1912, is amended by inserting at the end of the section the words "and the Court of Criminal Appeal may make any such order or give any such direction to the Court of Quarter Sessions as it thinks fit." Amendment of Act No. 16, 1912, Sec. 5b.
- 15** **18.** The Criminal Appeal Act, 1912, is further amended by inserting after section 5D the following new section :— Further amendment of Criminal Appeal Act, 1912, No. 16.
- 20** **5E.** Any person who is declared to be an habitual criminal, may, by leave of the court, appeal against such declaration, and the provisions of this Act applicable to an appeal against a sentence passed on a conviction on indictment shall apply to such an appeal. Appeal by person declared an habitual criminal.
- 25** **19.** The Jury Act, 1912, is amended by inserting after section twenty-seven the following new section :— Amendment of Jury Act, 1912, No. 21.
- 30** **27A.** Where in the course of a criminal trial any member of a jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give), and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly. Provision for continuance of trial where juror dies or becomes incapable. cf. 15 & 16, Geo. V, c. 86, s. 15.
- 35** **20.** The Police Offences Act, 1901, is amended by omitting section thirty and by substituting therefor the following new section :— Amendment of s. 30 of the Police Offences Act, 1901, No. 5.
- 40** **30.** If any goods or money charged to be stolen or fraudulently obtained are in the custody of any constable in connection with any criminal charge, Order for delivery of goods in custody of constable. cf. 60 & 61 Vic., c. 30, s. 1.
- 45** **or**

*Crimes (Amendment).*

5 or of any offence punishable summarily, any police or stipendiary magistrate may, on application by an officer of police or by a claimant of the property, make an order for the delivery of such goods or money to the person who appears to be the rightful owner thereof, or if the owner cannot be ascertained, may make such order with respect to such goods or money as to such magistrate seems meet.

10 No such order shall be any bar to the right of any person to sue the person to whom such goods or money are delivered, and to recover such goods or money from him by an action commenced within six months next after the making of such order.

15 **21.** The Principal Act is amended—

(a) by omitting section one and the headings preceding it, and by inserting in lieu thereof the following section and headings :—

Consequential and corrective amendments of Principal Act.

## PART I.

## PRELIMINARY AND INTERPRETATION.

*Short title and division into Parts.*

20 1. This Act may be cited as the " Crimes Act 1900," and is divided into Parts, as follows :—

## PART I.—PRELIMINARY AND INTERPRETATION—

Short title and contents of Act.  
Amended, Act No. 10, 1924, s. 26, (b).

25 (1) *Short title and division into Parts.*—  
s. 1.

(2) *Repeals and savings.*—s. 2.

30 (3) *Application of certain sections and parts.*—s. 3.

(4) *Interpretation.*—ss. 4–8.

(5) *What offences to be deemed and treated as felonies or misdemeanours.*—ss. 9, 10.

## PART

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*Crimes (Amendment).*


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PART II.—OFFENCES AGAINST THE SOVEREIGN—*Treason felony.*—ss. 11-16.

## PART III.—OFFENCES AGAINST THE PERSON—

- (1) *Homicide.*—ss. 17-25.
- 5 (2) *Conspiracy to murder.*—s. 26.
- (3) *Attempts to murder.*—ss. 27-30.
- (4) *Letters threatening to murder.*—s. 31.
- (5) *Acts causing danger to life or bodily harm.*—ss. 32-54.
- 10 (6) *Possessing or making explosives, &c., with intent to injure the person.*—s. 55.
- (7) *Assaults upon clergymen, officers, and others.*—ss. 56-60.
- (8) *Common assault.*—s. 61.
- 15 (9) *Rape and similar offences.*—ss. 62-78F.
- (10) *Unnatural offences.*—ss. 79-81
- (11) *Attempts to procure abortion.*—ss. 82-84.
- 20 (12) *Concealing birth of a child.*—s. 85.
- (13) *Abduction.*—ss. 86-91D.
- (14) *Bigamy.*—ss. 92, 93.

## PART IV.—OFFENCES RELATING TO PROPERTY—

25 CHAPTER I.—*Stealing and like offences—*

- (a) ROBBERY—ss. 94-98.
- (b) EXTORTION, &C., BY MENACE OR THREAT.—ss. 99-105.

(c)

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*Crimes (Amendment).*

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- (c) SACRILEGE, BURGLARY, AND HOUSE-BREAKING.—ss. 106-115.
- (d) LARCENY—
- 5 (1) *Declaratory.*—s. 116.
- (2) *Simple larceny and general provisions.*—ss. 117-124.
- (3) *Larceny by bailees.*—s. 125.
- (4) *Of animals.*—ss. 126-133.
- (5) *Of written instruments.*—ss. 134-138.
- 10 (6) *Of things attached to or growing on land.*—ss. 139-143.
- (7) *From mines.*—ss. 144-147.
- (8) *In dwelling-house.*—ss. 148, 149.
- 15 (9) *Of goods in process of manufacture, tools, &c.*—ss. 150, 151.
- (10) *From ships or wharfs.*—ss. 152, 153.
- (11) *By tenants or lodgers.*—s. 154.
- (12) *Of vehicles or boats.*—ss. 154A, 154B.
- (e) EMBEZZLEMENT OR LARCENY—
- 20 (1) *By clerks or servants.*—ss. 155-158.
- (2) *By persons employed in the Public Service.*—ss. 159, 160.
- (3) *General deficiency.*—s. 161.
- (4) *By joint owners.*—s. 162.
- 25 (5) *Alternative verdict.*—s. 163.
- (f) FRAUDS BY FACTORS AND OTHER AGENTS.—ss. 164-178.
- (fl) FRAUDULENT MISAPPROPRIATION.—s. 178A.
- 30 (g) FALSE PRETENCES.—ss. 179-185.
- (h) CORRUPT REWARDS.—s. 186.
- (i) RECEIVERS.—ss. 187-193.

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*Crimes (Amendment).*


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CHAPTER II.—*Malicious injuries to property—*

- (1) *Declaratory and general.*—ss. 194  
195.
- 5 (2) *Injuries to buildings, &c., by fire.*—  
ss. 196–202.
- (3) *Injuries to buildings by explosive  
substances.*—ss. 203, 204.
- (4) *Injuries to buildings by rioters.*—  
ss. 205–207.
- 10 (5) *Injuries to buildings by tenants.*—  
s. 208.
- (6) *Injuries to manufactures, machinery,  
&c.*—ss. 209, 210.
- 15 (7) *Injuries to corn, haystacks, trees, &c.*  
—ss. 211–220.
- (8) *Injuries to mines.*—ss. 221–224.
- (9) *Injuries to sea or river banks, &c.*—  
ss. 225, 226.
- 20 (10) *Injuries to ponds, reservoirs, &c.*—  
s. 227.
- (11) *Injuries to bridges, viaducts, and  
toll-bars.*—ss. 228, 229.
- (12) *Injuries to railway carriages and  
telegraphs.*—ss. 230–234.
- 25 (13) *Injuries to vessels.*—ss. 235–243.
- (14) *Injuries to books, works of art, &c.,  
in museums, &c.*—s. 244.
- (15) *Injuries to cattle.*—ss. 245, 246.
- 30 (16) *Injuries over five pounds not other-  
wise provided for.*—s. 247.
- (17) *Letters threatening to burn or destroy  
property.*—s. 248.
- 35 (18) *Making or having gunpowder, &c.,  
with intent to commit offences against  
property.*—s. 249.

PART

*Crimes (Amendment).*

## PART V.—FORGERY—

- 5 (1) *Declaratory and general.*—ss. 250, 251.
- (2) *Forgeries not specially provided for.*—s. 252.
- (3) *Forgery, &c., of public seals or official signatures.*—ss. 253, 254.
- (4) *Forgery of Acts, proclamations, &c.*—s. 255.
- 10 (5) *Forgery, &c., of transfers of stock, &c.*—ss. 256–259.
- (6) *Forgery of India bonds, Exchequer bills, &c.*—ss. 260–263.
- 15 (7) *Forgery, &c., of stamps or having forged dies, &c.*—s. 264.
- (8) *Forgery, &c., of or engraving plate, &c., for bank notes, &c.*—ss. 265–270.
- 20 (9) *Forgery, &c., of wills, deeds, bills of exchange, &c.*—ss. 271–276.
- (10) *Forgery of instruments, &c., made by Judges, Officers of Court, Justices of the Peace, &c., or of signature thereto.*—ss. 277, 278.
- 25 (11) *Forgery, &c., of records, &c., or copies thereof.*—ss. 279–283.
- (12) *Forgery, &c., of instruments of evidence.*—ss. 284–292.
- 30 (13) *Forgery of instruments, &c., under Registration of Deeds Acts.*—s. 293.
- (14) *Falsely acknowledging recognizances &c.*—s. 294.
- (15) *Forgery, &c., of matters relating to marriage.*—s. 295.
- 35 (16) *Falsifying entries of birth, deaths, &c.*—ss. 296, 297.
- (17) *Obtaining or demanding property on forged instruments.*—s. 298.
- 40 (18) *Forgery or fraudulent use of trade-marks.*—s. 299.

PART

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*Crimes (Amendment).*

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PART VI.—OFFENCES RELATING TO THE  
COINAGE—

- 5 (1) *Interpretation and general clauses.—*  
ss. 300–302.
- (2) *Counterfeiting, uttering, or impairing*  
*the Queen's gold or silver coin.—*  
ss. 303–314.
- (3) *Counterfeiting or uttering the Queen's*  
*copper coin.—ss. 315–317.*
- 10 (4) *Counterfeiting or uttering foreign coin.*  
—ss. 318–322.
- (5) *Importing or exporting counterfeit*  
*coin.—s. 323.*
- 15 (6) *Making or having, &c., tools for*  
*coining.—ss. 324, 325.*
- (7) *Provisions for cutting suspected coin.*  
—s. 326.

PART VII.—PERJURY AND LIKE OFFENCES.—  
ss. 327–343.

20 PART VIII.—CONSPIRACY TO ACCUSE OF  
CRIME.—s. 344.

PART IX.—ABETTORS AND ACCESSORIES.—  
ss. 345–351.

25 PART X.—APPREHENSION OF OFFENDERS,  
SEARCH WARRANTS, AND DISCHARGE OF  
PERSONS IN CUSTODY—

- (1) *Apprehension of offenders.—ss. 352–*  
*353A.*
- (2) *Search warrants.—ss. 354–357.*
- 30 (3) *Discharge of persons in custody.—*  
s. 358.

PART XI.—PROCEDURE, EVIDENCE, VERDICT,  
&c.—

- 35 (1) *As to indictment—Form, venue,*  
*amendments, &c.—ss. 359–393.*
- (2) *Arraignment, plea, and trial.—ss. 394–*  
*405.*

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- (3) *Rules respecting evidence.*—ss. 406-424.
- (4) *Verdict generally.*—ss. 425-427.
- (5) *Reserving questions of law.*—s. 428.  
(*Repealed, 1912, No. 16, s. 23 (2).*)

## PART XII.—SENTENCES—

- (1) *Juvenile offenders.*—s. 429.
- (2) *Sentences of death.*—ss. 430, 431.
- (3) *Sentences of imprisonment—Hard labour—Solitary confinement—and Sureties.*—s. 432.
- (4) *Sentences of whipping or irons.*—ss. 434-436.
- (5) *Order for payment of compensation.*—s. 437.
- (6) *Order for restitution of property stolen, &c.*—s. 438.
- (7) *Disposal of insane persons.*—s. 439.
- (8) *Sentences for statutory offences.*—s. 440.
- (9) *Deferred sentences.*—s. 441.
- (10) *Reduction of sentence or fine below term or amount fixed.*—s. 442.
- (11) *Additional and cumulative sentences.*—ss. 443-447A.

## PART XIII.—PROCEEDINGS AFTER SENTENCE—

## (A) EXECUTION OF SENTENCE—

- (1) *Capital sentences.*—ss. 448-452.
- (2) *Penal servitude sentences.*—ss. 453, 454.
- (3) *Whipping sentences.*—ss. 455, 456.
- (4) *Enforcing payment of compensation.*—s. 457.
- (5) *Sentences of Courts-martial.*—s. 458.

## (B) COMMUTATION OR MITIGATION OF SENTENCES.—ss. 459-464.

(c)



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*Crimes (Amendment).*

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(C) CONSEQUENCES, &C., OF CONVICTION FOR  
FELONY.—*ss.* 465-469.

(D) APPEALS—

5

(1) *Questions reserved.*—*s.* 470. (*Repealed, Act No. 16, 1912, s. 23 (2)*).

(2) *Writs of error.*—*s.* 471. (*Repealed, Ibid.*)

10

(3) *General provisions as to informalities*  
—*ss.* 472, 473. (*Repealed, Ibid.*)

(4) *New trials.*—*s.* 474. (*Repealed, Ibid.*)

(E) INQUIRY SUBSEQUENT TO CONVICTION.—  
*s.* 475.

15

PART XIV.—OFFENCES PUNISHABLE BY  
JUSTICES AND PROCEDURE BEFORE  
JUSTICES GENERALLY—

CHAPTER I.—*Indictable offences punishable  
summarily only by consent of the  
accused—*

20

(1) *Extent of jurisdiction.*—*s.* 476.

(2) *Offences and punishment.*—*ss.* 477,  
478.

(3) *Procedure in such cases.*—*ss.* 479-481.

25

CHAPTER II.—OFFENCES PUNISHABLE SUM-  
MARILY IN CERTAIN CASES BY WHIP-  
PING.—*ss.* 482-492.

CHAPTER III.—OTHER OFFENCES PUNISH-  
ABLE SUMMARILY—

(A) ASSAULTS.—*ss.* 493-500.

30

(B) LARCENY AND SIMILAR OFFENCES—

(1) *Larceny, &c., of animals.*—*ss.* 501-  
512.

(2) *Larceny of things attached to land.*—  
*ss.* 513-521.

35

(3) *Larceny of shipwrecked goods.*—*ss.*  
522-524.

(4)

*Crimes (Amendment).*

- (4) *Larceny from a public library, &c.*—  
ss. 525, 526.
- (4A) *Unlawfully using vehicle or boat.*  
—s. 526A.
- 5 (4B) *Person drunk while in charge of  
vehicle.*—s. 526B.
- (5) *Fraudulently appropriating or re-  
taining property.*—s. 527.
- 10 (6) *Offering rewards for stolen property.*—  
s. 528.
- (7) *Receivers.*—s. 529.
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.*—ss. 530, 531.
- 15 (2) *Injuries to trees, shrubs, vegetable  
produce, fences, &c.*—ss. 532-538.
- (3) *Injuries to certain animals.*—ss. 539,  
540.
- (4) *Injuries not otherwise provided for.*—  
ss. 541, 542.
- 20 (5) *Application of compensation.*—s. 543.
- (D) COINAGE OFFENCES.—ss. 544, 545.
- (D1) BOGUS ADVERTISEMENTS.—s. 545A.
- (E) ABETTORS.—s. 546.
- (F) APPREHENDED VIOLENCE OR INJURY.—  
25 s. 547.
- (G) FALSE STATEMENT RESPECTING BIRTHS,  
DEATHS, OR MARRIAGES.—s. 547A.
- CHAPTER IV.—PROCEDURE, &C., BEFORE  
JUSTICES—
- 30 (1) *Alternative methods of procedure.*—  
s. 548.
- (1A) *Power to commit.*—s. 548A.
- (2) *Enforcing appearance.*—s. 549.
- (3) *Certain averments.*—ss. 550, 551.
- (4)

New heading  
added,  
Act No. 10,  
1924, s. 26  
(b).

*Crimes (Amendment).*

- (4) *Discharge of juvenile first offenders.—*  
*s. 552.*
- (5) *Reduction of sentence below fixed*  
*term.—s. 553.*
- 5 (6) *Sentence to hard labour.—s. 554.*
- (7) *Penalties, &c.—application.—s. 555.*
- (8) *Summary conviction, &c., a bar.—*  
*s. 556.*
- 10 (9) *Conditional release of offenders.—s.*  
*556A.*

PART XV.—FIRST OFFENDERS.—*ss. 557-562.*

PART XVI.—MISCELLANEOUS ENACTMENTS.—  
*ss. 563-577.*

- 15 (b) by inserting the following short heading immediately before section two: "Repeals and savings";
- (c) by inserting the following short heading immediately before section three: "Application of certain sections and Parts";
- 20 (d) by inserting immediately before section five hundred and one and after the heading "(B) LARCENY AND SIMILAR OFFENCES" the following short heading: "*Larceny, &c., of animals.*"

25 **22.** The First Offenders (Women) Act, 1918, is amended by inserting next after section four the following new section:—

30 5. This Act shall not apply when the offence charged is committing or attempting to commit simple larceny, and the offence is charged with respect to goods in a shop where goods are sold by retail:

c 1—C

Provided

Act not to apply to certain cases of larceny.

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*Crimes (Amendment).*

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5      **Provided that where a woman who has not been previously convicted of any offence is charged with the offence referred to in this section and no conviction is recorded, no person shall publish in any newspaper a report or account of the proceedings. Any person publishing any such report or account, contrary to the terms of this proviso, shall be liable to a penalty not exceeding fifty pounds.**

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Sydney: Alfred James Kent, Government Printer—1929.

[1s. 6d.]

*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 10th October, 1928.*

## New South Wales.



ANNO UNDEVICESIMO

# GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1928.

An Act to amend the criminal law, and for that purpose to repeal the Crimes (Amendment) Act, 1905, and to amend the Crimes Act, 1900, and certain other Acts; and for purposes connected therewith.

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, 1928."

2. The Crimes Act, 1900, as subsequently amended, Interpreta- is in this Act referred to as the Principal Act. tion.

*Crimes (Amendment).*

3. The Crimes (Amendment) Act, 1905, is hereby repealed. Repeal of Crimes (Amendment) Act, 1905, No. 12.

4. Section twenty-two of the Principal Act is amended by omitting the words "for the murder of a child," and by substituting therefor the words "for the murder or manslaughter of a child." Amendment of s. 22 of Principal Act.

5. Section one hundred and nineteen of the Principal Act is amended by omitting the proviso to the section and by substituting therefor the following new proviso:— Amendment of s. 119 of Principal Act.

Provided always that evidence shall not in any such case be given of any taking which occurred more than six months in point of time from any other of such takings.

6. Section one hundred and twenty of the Principal Act is amended by inserting after the words "the offence of embezzlement" the words "or fraudulent misappropriation." Amendment of s. 120 of Principal Act.

7. The Principal Act is further amended by inserting after section one hundred and seventy-eight the following new sub-heading and section:— New s. 178A

FRAUDULENT MISAPPROPRIATION.

178A. Whosoever having collected or received any money or valuable security under any authority upon terms requiring him to deliver or account for or pay to any person the whole or any part of— Fraudulent misappropriation of moneys collected or received.

(a) such money or valuable security or the proceeds thereof; or

(b) any balance of such money, valuable security, or proceeds thereof after any authorised deductions or payments have been made thereout,

fraudulently misappropriates to his own use or the use of any other person, or fraudulently omits to account for or pay the whole or any part of such money, valuable security, or proceeds, or the whole or any part of such balance in violation of the terms on which he collected or received such money or valuable security, shall be liable to penal servitude for seven years.

For

*Crimes (Amendment).*

For the purposes of this section any such money, valuable security, or proceeds thereof, or any balance thereof shall be deemed to be the property of the person under whose authority the money or valuable security was collected or received notwithstanding that the accused may have been authorised to make any deduction thereout on his own behalf, or any payment thereout to another person, or to mix such money, valuable security, or proceeds thereof, or such balance with his own moneys.

**8.** Section one hundred and eighty-three of the Principal Act is amended—

(a) by inserting after the words "amount in law to larceny" the words "or fraudulent misappropriation," and

(b) by inserting after the words "in the Public Service" the words "or of fraudulent misappropriation."

**9.** The Principal Act is further amended by inserting after subsection two of section three hundred and forty-one the following new subsection:—

(3) Where by reason of the death, illness, termination of appointment, or absence, of any judge, chairman of quarter sessions, or magistrate, it is impossible to apply to such judge, chairman, or magistrate for leave to prosecute under subsection one of this section, in respect of any statement on oath as in the last preceding section mentioned, or it is for any other reason impracticable to do so, a prosecution in respect of any such statement on oath may be instituted with the leave of a judge of the Supreme Court.

**10.** The Principal Act is further amended by omitting sections three hundred and sixty-five and three hundred and sixty-six and substituting therefor the following new sections:—

365. (1) Where, before trial, or at any stage of a trial, it appears to the court that the indictment is defective, the court shall make such order for the amendment of the indictment as the court thinks necessary

Amendment  
of s. 183 of  
Principal  
Act.

Amendment  
of s. 341 of  
Principal  
Act.

Amendment  
of ss. 365 and  
366 of  
Principal  
Act.

Orders for  
amendment of  
indictment,  
separate trial,  
and postpone-  
ment of trial.  
cf. 5 & 6 Geo. V,  
c. 90, s. 5.

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*Crimes (Amendment).*

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necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

5 (2) Where, before trial, or at any stage of a trial, the court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason  
10 it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the court may order a separate trial of any count or counts of such indictment.

15 (3) Where, before trial, or at any stage of a trial, the court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the court under this Act to amend an indictment or to order a separate trial of a count, the court shall  
20 make such order as appears necessary.

(4) Where an order of the court is made under this section for a separate trial, or for the postponement of a trial—

25 (a) if such an order is made during a trial, the court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed, or on the indictment as the case may be; and

30 (b) the procedure on the separate trial of a count and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged), as if the trial had not commenced; and

35 (c) the court may make such order as to admitting the accused person to bail and as to the enlargement of recognizances and otherwise as the court thinks fit.

40 (5) Any power of the court under this section shall be in addition to and not in derogation of any other power of the court for the same or similar purposes. 366.



*Crimes (Amendment).*

5 366. Where any indictment is amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment in its amended form shall be treated as the indictment for the purposes of the trial, and for the purposes of all proceedings in connection therewith or consequent thereon. Amended indictment.

10 **11.** (1) Section 419A of the Principal Act is amended by inserting after the words "and adjoining such dock, wharf, or quay" the words "or in the course of transit from any vessel, barge, or boat, or from any store or shed used in connection with and adjoining such wharf, dock, or quay." Amendment of s. 419A of Principal Act.

15 (2) The Principal Act is further amended— Further amendment of Principal Act.

(a) by inserting in subsection two of section four hundred and sixty-three after the words "police force" the words "with or without a warrant"; Sec. 463. (Revocation of license.)

20 (b) by inserting at the end of the subsection the words "Any justice may issue a warrant for the arrest of the person whose license is revoked as aforesaid."

25 **12.** The Principal Act is further amended by inserting after section 526A the following new sub-heading and section :— New s. 526B.

*Person drunk while in charge of vehicle.*

30 526B. (1) Any person who, while in charge on any highway or other public place of any mechanically-propelled vehicle, is drunk or being under the influence of intoxicating liquor is incapable of properly controlling such vehicle, shall, on conviction before two justices, be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds, or to both such imprisonment and fine. Penalty for drunkenness while in charge of motor vehicle. cf. 15 & 16 Geo. V, c. 86, s. 40.

35 (2) The court before whom any person is convicted under the preceding subsection may, in addition to any punishment or penalty, order that the person convicted shall be disqualified to hold

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*Crimes (Amendment).*

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a license for any period stated in the order, and any license held by him shall, so long as the disqualification continues, be of no effect.

5       The court before whom any person is so convicted shall cause particulars of any such conviction and of the disqualification (if any) to be endorsed upon any license held by the person convicted, and shall send notice of the conviction and disqualification (if any) to the licensing authorities by whom the  
10       license was granted.

(3) If a person who under this section is disqualified to hold a license applies for or obtains a license while he is so disqualified, he shall be guilty of an offence and shall be liable to a  
15       penalty not exceeding twenty pounds, and any license so obtained shall be of no effect.

(4) A person who by virtue of a conviction under this section is disqualified to hold a license, or who, by virtue of an order made under  
20       any Act or any regulation made thereunder on his being convicted of an offence is disqualified to obtain a license or whose license is suspended, may at any time after the expiration of six months from the date of the conviction, apply from time to  
25       time to the court before which he was convicted to remove the disqualification or suspension, and on any such application the court may by order, as it thinks proper, having regard to the character of the person convicted and his conduct subsequent  
30       to conviction, the nature of the offence, and the other circumstances of the case, either remove the disqualification or suspension from such date and on such condition as may be specified in the order or refuse the application, and if the court orders  
35       a disqualification or suspension to be removed the court shall order particulars of the order to be endorsed on the license, if any, held by the applicant.

(5) In this section the expression  
40       “license” means a license to drive a vehicle, and includes any such license under the Metropolitan  
Traffic

*Crimes (Amendment).*

Traffic Act, 1900, the Motor Traffic Act, 1909, the Local Government Act, 1919, or any other Act providing for the grant of such a license, and the expression "licensing authorities" means the persons authorised to grant such a license.

(6) Nothing in this section shall affect any liability of any person by virtue of any statute or at common law.

**13.** The Principal Act is amended by inserting after section five hundred and forty-seven the following new sub-heading and section :—

(G) FALSE STATEMENT RESPECTING BIRTHS,  
DEATHS, OR MARRIAGES.

547A. (1) Every person who wilfully gives to any district registrar, or assistant district registrar, appointed under any Act providing for the registration of births or deaths, any false information concerning any birth or death, or the cause of any death, or who wilfully makes any false declaration under or for the purpose of any Act relating to the registration of births or deaths, shall on conviction before two justices be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds.

False statements respecting births, deaths, and marriages.

(2) Any person who wilfully makes any false statement before any minister of religion, or district registrar, authorised to celebrate marriages, or before any person authorised to give his written consent to the marriage of any minor, for the purpose of procuring the celebration of any marriage, or any person who induces or endeavours to induce any person to celebrate a marriage between parties where such first-mentioned person knows that one of such parties is under age, and that the written consent required by law has not previously been obtained, shall upon conviction before two justices be liable to imprisonment for a term not exceeding six months, or to pay a fine not exceeding fifty pounds.

(3)

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(3) Proceedings for an offence against this section may be commenced within three years after the date of the commission of the offence, and subject to the permission of the Attorney-General.

5 **14.** Subsection two of section five hundred and fifty-four of the Principal Act is amended—

Amendment  
of s. 554 of  
Principal  
Act.

10 (a) by omitting the words "or in substitution for any sentence of imprisonment" and by substituting therefor the words "or in substitution for any sentence imposing a fine or a term of imprisonment"; and

15 (b) by omitting the words "to be of good behaviour for a term not exceeding twelve months," and by substituting therefor the words "to be of good behaviour for a term which shall not be less than twelve months or more than three years."

20 **15.** The Principal Act is further amended by inserting after section five hundred and fifty-six the following new sub-heading and section :—

New s. 556A.

*Conditional release of offenders.*

25 556A. (1) Where any person is charged before a court of summary jurisdiction with an offence that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment, or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court may, without proceeding to conviction, make an order either—

Power to  
permit  
conditional  
release of  
offenders.  
cf. 7 Edw.  
VII, c. 17,  
s. 1.

35 (a) dismissing the charge; or  
(b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called

*Crimes (Amendment).*

called on at any time during such period, not exceeding three years, as may be specified in the order.

5 (2) Where an order is made under this section the order shall, for the purpose of re-vesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner, and as to the payment of money upon or in connection with such restitution or delivery, and for the purpose of the exercise of 10 any power conferred by subsection three of section five hundred and fifty-four, have the like effect as a conviction.

15 **16.** (1) The Sixth Schedule of the Principal Act is amended—

Amendment of Sixth Schedule of Principal Act. (Offences in which whipping may be ordered.)

20 (a) by inserting at the commencement of the column headed "Sections enumerated" the figures "33" and "34" and by inserting opposite thereto respectively in the column headed "Offences" the words "Wounding, &c., with intent to do bodily harm, &c.," and the words "Maliciously wounding or inflicting grievous bodily harm";

25 (b) by omitting from the column headed "Sections enumerated" the figures "64" opposite the words "Attempt to commit rape, &c." and by inserting in lieu thereof the figures "65";

30 (c) by omitting from the same column the figures "65" opposite the words "Procuring or having carnal knowledge by fraud" and by inserting in lieu thereof the figures "66";

35 (d) by omitting from the same column the figures and word "77 and 78" opposite the words "Indecent assaults" and by inserting in lieu thereof the figures "76."

(2) by inserting next after section 353A the following new subsection :—

New s. 353A. Person apprehended carrying razor, &c.

40 353B. Where a person is in lawful custody upon a charge of committing any crime or offence and is found to have been carrying at the time he was apprehended any razor, razor blade or other cutting weapon

*Crimes (Amendment).*

5 weapon, he shall, unless the justice before whom he is brought is satisfied that he was carrying the same for a lawful purpose, the proof of which shall lie upon the accused, be liable to imprisonment for a term not exceeding six months.

17. Section 5B of the Criminal Appeal Act, 1912, is amended by omitting the words "and such submission shall be dealt with as if it were an appeal under this Act" and by substituting the words "and the Court of Criminal Appeal may make any such order or give any such direction to the court of quarter sessions as it thinks fit."

Amendment of Criminal Appeal Act, 1912, No. 16. Sec. 5B.

18. The Criminal Appeal Act, 1912, is further amended by inserting after section 5D the following new section :—

Further amendment of Criminal Appeal Act, 1912, No. 16

5E. Any person who is declared to be an habitual criminal, may, by leave of the court, appeal against such declaration, and the provisions of this Act applicable to an appeal against a sentence passed on a conviction on indictment shall apply to such an appeal.

Appeal by person declared an habitual criminal.

19. The Jury Act, 1912, is amended by inserting after section twenty-seven the following new section :—

Amendment of Jury Act, 1912, No. 31.

27A. Where in the course of a criminal trial any member of a jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give), and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly.

Provision for continuance of trial where juror dies or becomes incapable. cf. 15 & 16, Geo. V, c. 86, s. 15.

20. The Police Offences Act, 1901, is amended by omitting section thirty and by substituting therefor the following new section :—

Amendment of s. 30 of the Police Offences Act, 1901, No. 5.

30. If any goods or money charged to be stolen or fraudulently obtained are in the custody of any constable in connection with any criminal charge,

Order for delivery of goods in custody of constable. cf. 60 & 61 Vic., c. 20, s. 1.

OR

*Crimes (Amendment).*

5 or of any offence punishable summarily, any police or stipendiary magistrate may, on application by an officer of police or by a claimant of the property, make an order for the delivery of such goods or money to the person who appears to be the rightful owner thereof, or if the owner cannot be ascertained, may make such order with respect to such goods or money as to such magistrate seems meet.

10 No such order shall be any bar to the right of any person to sue the person to whom such goods or money are delivered, and to recover such goods or money from him by an action commenced within six months next after the making of such order.

15 **21.** The Principal Act is amended—

(a) by omitting section one and the headings preceding it, and by inserting in lieu thereof the following section and headings :—

Consequentia  
and correc-  
tive amend-  
ments of  
Principal  
Act.

## PART I.

## 20 PRELIMINARY AND INTERPRETATION.

*Short title and division into Parts.*

1. This Act may be cited as the "Crimes Act 1900," and is divided into Parts, as follows :—

Short title  
and contents  
of Act.

## 25 PART I.—PRELIMINARY AND INTERPRETATION—

Amended,  
Act No. 10,  
1924, s. 26,  
(b).

(1) *Short title and division into Parts.*—  
s. 1.

(2) *Repeals and savings.*—s. 2.

30 (3) *Application of certain sections and parts.*—s. 3.

(4) *Interpretation.*—ss. 4-8.

(5) *What offences to be deemed and treated as felonies or misdemeanours.*—ss. 9, 10.

PART

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*Crimes (Amendment).*

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PART II.—OFFENCES AGAINST THE SOVEREIGN—*Treason felony.*—ss. 11-16.

PART III.—OFFENCES AGAINST THE PERSON—

- (1) *Homicide.*—ss. 17-25.
- 5 (2) *Conspiracy to murder.*—s. 26.
- (3) *Attempts to murder.*—ss. 27-30.
- (4) *Letters threatening to murder.*—s. 31.
- (5) *Acts causing danger to life or bodily harm.*—ss. 32-54.
- 10 (6) *Possessing or making explosives, &c., with intent to injure the person.*—s. 55.
- (7) *Assaults upon clergymen, officers, and others.*—ss. 56-60.
- (8) *Common assault.*—s. 61.
- 15 (9) *Rape and similar offences.*—ss. 62-78F.
- (10) *Unnatural offences.*—ss. 79-81.
- (11) *Attempts to procure abortion.*—ss. 82-84.
- 20 (12) *Concealing birth of a child.*—s. 85.
- (13) *Abduction.*—ss. 86-91D.
- (14) *Bigamy.*—ss. 92, 93.

PART IV.—OFFENCES RELATING TO PROPERTY—

- 25 CHAPTER I.—*Stealing and like offences*—
  - (a) ROBBERY—ss. 94-98.
  - (b) EXTORTION, &C., BY MENACE OR THREAT.—ss. 99-105.
  - (c)



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(c) SACRILEGE, BURGLARY, AND HOUSE-BREAKING.—ss. 106-115.

(d) LARCENY—

(1) *Declaratory.*—s. 116.

5 (2) *Simple larceny and general provisions.*—ss. 117-124.

(3) *Larceny by bailees.*—s. 125.

(4) *Of animals.*—ss. 126-133.

(5) *Of written instruments.*—ss. 134-138.

10 (6) *Of things attached to or growing on land.*—ss. 139-143.

(7) *From mines.*—ss. 144-147.

(8) *In dwelling-house.*—ss. 148, 149.

15 (9) *Of goods in process of manufacture, tools, &c.*—ss. 150, 151.

(10) *From ships or wharfs.*—ss. 152, 153.

(11) *By tenants or lodgers.*—s. 154.

(12) *Of vehicles or boats.*—ss. 154A, 154B.

(e) EMBEZZLEMENT OR LARCENY—

20 (1) *By clerks or servants.*—ss. 155-158.

(2) *By persons employed in the Public Service.*—ss. 159, 160.

(3) *General deficiency.*—s. 161.

(4) *By joint owners.*—s. 162.

25 (5) *Alternative verdict.*—s. 163.

(f) FRAUDS BY FACTORS AND OTHER AGENTS.—ss. 164-178.

(fl) FRAUDULENT MISAPPROPRIATION.—s. 178A.

30 (g) FALSE PRETENCES.—ss. 179-185.

(h) CORRUPT REWARDS.—s. 186.

(i) RECEIVERS.—ss. 187-193.

CHAPTER

*Crimes (Amendment).*CHAPTER II.—*Malicious injuries to property—*

- (1) *Declaratory and general.—ss. 194, 195.*
- 5 (2) *Injuries to buildings, &c., by fire.—ss. 196–202.*
- (3) *Injuries to buildings by explosive substances.—ss. 203, 204.*
- (4) *Injuries to buildings by rioters.—ss. 205–207.*
- 10 (5) *Injuries to buildings by tenants.—s. 208.*
- (6) *Injuries to manufactures, machinery, &c.—ss. 209, 210.*
- 15 (7) *Injuries to corn, haystacks, trees, &c.—ss. 211–220.*
- (8) *Injuries to mines.—ss. 221–224.*
- (9) *Injuries to sea or river banks, &c.—ss. 225, 226.*
- 20 (10) *Injuries to ponds, reservoirs, &c.—s. 227.*
- (11) *Injuries to bridges, viaducts, and toll-bars.—ss. 228, 229.*
- (12) *Injuries to railway carriages and telegraphs.—ss. 230–234.*
- 25 (13) *Injuries to vessels.—ss. 235–243.*
- (14) *Injuries to books, works of art, &c., in museums, &c.—s. 244.*
- (15) *Injuries to cattle.—ss. 245, 246.*
- 30 (16) *Injuries over five pounds not otherwise provided for.—s. 247.*
- (17) *Letters threatening to burn or destroy property.—s. 248.*
- 35 (18) *Making or having gunpowder, &c., with intent to commit offences against property.—s. 249.*

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## PART V.—FORGERY—

- (1) *Declaratory and general.*—ss. 250, 251.
- 5 (2) *Forgeries not specially provided for.*—s. 252.
- (3) *Forgery, &c., of public seals or official signatures.*—ss. 253, 254.
- (4) *Forgery of Acts, proclamations, &c.*—s. 255.
- 10 (5) *Forgery, &c., of transfers of stock, &c.*—ss. 256–259.
- (6) *Forgery of India bonds, Exchequer bills, &c.*—ss. 260–263.
- (7) *Forgery, &c., of stamps or having forged dies, &c.*—s. 264.
- 15 (8) *Forgery, &c., of or engraving plate, &c., for bank notes, &c.*—ss. 265–270.
- (9) *Forgery, &c., of wills, deeds, bills of exchange, &c.*—ss. 271–276.
- 20 (10) *Forgery of instruments, &c., made by Judges, Officers of Court, Justices of the Peace, &c., or of signature thereto.*—ss. 277, 278.
- (11) *Forgery, &c., of records, &c., or copies thereof.*—ss. 279–283.
- 25 (12) *Forgery, &c., of instruments of evidence.*—ss. 284–292.
- (13) *Forgery of instruments, &c., under Registration of Deeds Acts.*—s. 293.
- 30 (14) *Falsely acknowledging recognizances &c.*—s. 294.
- (15) *Forgery, &c., of matters relating to marriage.*—s. 295.
- 35 (16) *Falsifying entries of birth, deaths, &c.*—ss. 296, 297.
- (17) *Obtaining or demanding property on forged instruments.*—s. 298.
- 40 (18) *Forgery or fraudulent use of trade-marks.*—s. 299.

PART

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PART VI.—OFFENCES RELATING TO THE  
COINAGE—

- 5 (1) *Interpretation and general clauses.*—  
ss. 300–302.
- (2) *Counterfeiting, uttering, or impairing  
the Queen's gold or silver coin.*—  
ss. 303–314.
- (3) *Counterfeiting or uttering the Queen's  
copper coin.*—ss. 315–317.
- 10 (4) *Counterfeiting or uttering foreign coin.*  
—ss. 318–322.
- (5) *Importing or exporting counterfeit  
coin.*—s. 323.
- 15 (6) *Making or having, &c., tools for  
coining.*—ss. 324, 325.
- (7) *Provisions for cutting suspected coin.*  
—s. 326.

PART VII.—PERJURY AND LIKE OFFENCES.—  
ss. 327–343.20 PART VIII.—CONSPIRACY TO ACCUSE OF  
CRIME.—s. 344.PART IX.—ABETTORS AND ACCESSORIES.—  
ss. 345–351.25 PART X.—APPREHENSION OF OFFENDERS,  
SEARCH WARRANTS, AND DISCHARGE OF  
PERSONS IN CUSTODY—

- (1) *Apprehension of offenders.*—ss. 352–  
353A.
- (2) *Search warrants.*—ss. 354–357.
- 30 (3) *Discharge of persons in custody.*—  
s. 358.

PART XI.—PROCEDURE, EVIDENCE, VERDICT,  
&c.—

- 35 (1) *As to indictment—Form, venue,  
amendments, &c.*—ss. 359–393.
- (2) *Arraignment, plea, and trial.*—ss. 394–  
405.

(3)

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(3) *Rules respecting evidence.*—ss. 406-424.

(4) *Verdict generally.*—ss. 425-427.

(5) *Reserving questions of law.*—s. 428.  
(*Repealed, 1912, No. 16, s. 23 (2) .*)

## PART XII.—SENTENCES—

(1) *Juvenile offenders.*—s. 429.

(2) *Sentences of death.*—ss. 430, 431.

(3) *Sentences of imprisonment—Hard labour—Solitary confinement—and Sureties.*—s. 432.

(4) *Sentences of whipping or irons.*—ss. 434-436.

(5) *Order for payment of compensation.*—s. 437.

(6) *Order for restitution of property stolen, &c.*—s. 438.

(7) *Disposal of insane persons.*—s. 439.

(8) *Sentences for statutory offences.*—s. 440.

(9) *Deferred sentences.*—s. 441.

(10) *Reduction of sentence or fine below term or amount fixed.*—s. 442.

(11) *Additional and cumulative sentences.*—ss. 443-447A.

## PART XIII.—PROCEEDINGS AFTER SENTENCE—

## (A) EXECUTION OF SENTENCE—

(1) *Capital sentences.*—ss. 448-452.

(2) *Penal servitude sentences.*—ss. 453, 454.

(3) *Whipping sentences.*—ss. 455, 456.

(4) *Enforcing payment of compensation.*—s. 457.

(5) *Sentences of Courts-martial.*—s. 458.

## (B) COMMUTATION OR MITIGATION OF SENTENCES.—ss. 459-464.

(c)

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(C) CONSEQUENCES, &C., OF CONVICTION FOR  
FELONY.—ss. 465-469.

(D) APPEALS—

5

(1) *Questions reserved.*—s. 470. (*Repealed, Act No. 16, 1912, s. 23 (2)*).

(2) *Writs of error.*—s. 471. (*Repealed, Ibid.*)

(3) *General provisions as to informalities*  
—ss. 472, 473. (*Repealed, Ibid.*)

10

(4) *New trials.*—s. 474. (*Repealed, Ibid.*)

(E) INQUIRY SUBSEQUENT TO CONVICTION.—  
s. 475.

PART XIV.—OFFENCES PUNISHABLE BY  
JUSTICES AND PROCEDURE BEFORE  
JUSTICES GENERALLY—

15

CHAPTER I.—*Indictable offences punishable  
summarily only by consent of the  
accused—*

(1) *Extent of jurisdiction.*—s. 476.

20

(2) *Offences and punishment.*—ss. 477,  
478.

(3) *Procedure in such cases.*—ss. 479-481.

CHAPTER II.—OFFENCES PUNISHABLE SUM-  
MARILY IN CERTAIN CASES BY WHIP-  
PING.—ss. 482-492.

25

CHAPTER III.—OTHER OFFENCES PUNISH-  
ABLE SUMMARILY—

(A) ASSAULTS.—ss. 493-500.

(B) LARCENY AND SIMILAR OFFENCES—

30

(1) *Larceny, &c., of animals.*—ss. 501-  
512.

(2) *Larceny of things attached to land.*—  
ss. 513-521.

35

(3) *Larceny of shipwrecked goods.*—ss.  
522-524.

(4)

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- (4) *Larceny from a public library, &c.—*  
*ss. 525, 526.*
- (4A) *Unlawfully using vehicle or boat.*  
*—s. 526A.*
- 5 (4B) *Person drunk while in charge of*  
*vehicle.—s. 526B.*
- (5) *Fraudulently appropriating or re-*  
*taining property.—s. 527.*
- 10 (6) *Offering rewards for stolen property.—*  
*s. 528.*
- (7) *Receivers.—s. 529.*
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.—ss. 530, 531.*
- 15 (2) *Injuries to trees, shrubs, vegetable*  
*produce, fences, &c.—ss. 532-538.*
- (3) *Injuries to certain animals.—ss. 539,*  
*540.*
- (4) *Injuries not otherwise provided for.—*  
*ss. 541, 542.*
- 20 (5) *Application of compensation.—s. 543.*
- (D) COINAGE OFFENCES.—*ss. 544, 545.*
- (D1) BOGUS ADVERTISEMENTS.—*s. 545A.*
- (E) ABETTORS.—*s. 546.*
- (F) APPREHENDED VIOLENCE OR INJURY.—  
*s. 547.*
- 25 (G) FALSE STATEMENT RESPECTING BIRTHS,  
 DEATHS, OR MARRIAGES.—*s. 547A.*
- CHAPTER IV.—PROCEDURE, &C., BEFORE  
 JUSTICES—
- 30 (1) *Alternative methods of procedure.—*  
*s. 548.*
- (1A) *Power to commit.—s. 548A.*
- (2) *Enforcing appearance.—s. 549.*
- (3) *Certain averments.—ss. 550, 551.*  
 (4)

New heading  
 added,  
 Act No. 10,  
 1924, s. 26  
 (b).

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- (4) *Discharge of juvenile first offenders.—*  
s. 552.
- (5) *Reduction of sentence below fixed*  
*term.—s. 553.*
- 5 (6) *Sentence to hard labour.—s. 554.*
- (7) *Penalties, &c.—application.—s. 555.*
- (8) *Summary conviction, &c., a bar.—*  
s. 556.
- 10 (9) *Conditional release of offenders.—s.*  
556A.

PART XV.—FIRST OFFENDERS.—ss. 557–562.

PART XVI.—MISCELLANEOUS ENACTMENTS.—  
ss. 563–577.

- 15 (b) by inserting the following short heading imme-  
diately before section two: “Repeals and  
savings”;
- (c) by inserting the following short heading imme-  
diately before section three: “Application of  
certain sections and Parts”;
- 20 (d) by inserting immediately before section five  
hundred and one and after the heading “(B)  
LARCENY AND SIMILAR OFFENCES” the fol-  
lowing short heading: “*Larceny, &c., of*  
*animals.*”

25 **22.** The First Offenders (Women) Act, 1918, is Amendment  
of Act No. 1,  
1919.  
amended by inserting next after section four the fol-  
lowing new section:—

30 5. This Act shall not apply when the offence Act not to  
apply to  
certain cases  
of larceny.  
charged is committing or attempting to commit  
simple larceny, and the offence is charged with  
respect to goods in a shop where goods are sold by  
retail.



1928.

Legislative Council.

## Crimes (Amendment) Bill, 1928.

### EXPLANATORY NOTE.

- Clause 3. For convenience of reference the Crimes (Amendment) Act, 1905, is repealed, and by clause 7 re-enacted as part of the Principal Act.
- Clause 4. By section 22 of the Principal Act a verdict of concealment of birth may be found where a person is charged with murder of a child. It is considered that the jury should also have this power to find an alternative verdict of concealment of birth where a person is charged with manslaughter of a child.
- Clause 5. The proviso in its existing form is taken from section 6 of 24 and 25 Vict. c. 96, see Criminal Law Manual, p. 142. Section 6 of 24 and 25 Vict. c. 96 is now repealed by the Larceny Act, 1916. The proviso does not, however, correctly enact the provisions of that section. If the proviso is left in its present form objection may be taken that the common law right of the Crown to give evidence of several takings to establish system, or to rebut a defence of accident or mistake, has been interfered with. The words proposed to be omitted, that evidence shall not be given of more than three takings, presumably mean that a person shall not be charged with more than three different offences in the same indictment. This is already provided for by section 370, and therefore the words proposed to be omitted are unnecessary.
- Clause 6. This is consequential to clause 7 and permits a verdict for fraudulent misappropriation upon a trial for larceny.
- Clause 7. This clause re-enacts the provisions of section 2 of the Crimes (Amendment) Act, 1905, which is repealed by clause 3.
- Clause 8. This is consequential to clause 7 and permits a verdict for fraudulent misappropriation upon a trial for false pretences.
- Clause 9. Section 341 (1) provides that where a false statement on oath has been made before a judge, or chairman of quarter sessions, or a stipendiary or police magistrate, no prosecution can be instituted unless a prosecution has been directed by the judge, chairman or magistrate, or without the leave of the judge, chairman or magistrate. In cases where perjury has been committed it may be impossible to obtain leave to prosecute if the judge, chairman or magistrate has died, or his commission has terminated. The amendment provides that in such cases a judge of the Supreme Court may give leave to prosecute.
- Clause 10. The object of this amendment is to confer additional powers on Criminal Courts in regard to amendment of indictments, separate trial of counts in an indictment, and postponement of trial. It is considered that, in regard to these matters, Criminal Courts should have the powers which, in England, have been given by section 5 of the Indictments Act, 1915.
- Clause 11. Section 419A of the Crimes Act, 1900, is intended to facilitate proof of the ownership of goods in certain cases of larceny. The object of the proposed amendment is to make the provisions of section 419A applicable in cases where the theft occurs in course of transit from a store, etc., as well as where the theft takes place from the store, etc.
- An amendment of section 463 is inserted to enable a warrant to be issued for the arrest of any person on license whose license has been revoked. A case has occurred which shows that it would be desirable to have the power to issue a warrant and have it executed in another State.
- Clause 12. The object of this amendment is to impose an additional penalty upon drunken persons in charge of motor vehicles. A similar provision is made by section 40 of the Criminal Justice Act, 1925. See also *R. v. Presdee*, 20 Cr. App. Rep. 95. Section 4 (2) of the Motor Traffic (Amendment) Act, 1915, provides that any person who drives a motor vehicle whilst he is under the influence of intoxicating liquor shall be guilty of an offence. Apart from power of suspension of a license, the punishment for an offence, under the Motor Traffic Act, 1909, is a penalty not exceeding £20.

- Clause 13. The object of this amendment is to enable the offences referred to to be dealt with summarily, instead of by indictment under section 337 of the Crimes Act, 1900, or by prosecution for perjury under section 27 (2) of the Marriage Act, 1899. The intention is to provide an alternative method of procedure for cases in which the punishment provided upon the charge of an indictable offence appears to be unnecessarily severe. The right to proceed by indictment in serious cases is not interfered with.
- Clause 14. The object of this amendment is to give magistrates additional power to require an offender to enter into recognizances for good behaviour. Where the punishment for an offence is a pecuniary penalty there appears to be no reason why a magistrate should not have power to bind the offender over instead of imposing a fine. Under the existing section this can only be done in substitution for a sentence of imprisonment. Power is given to bind the offender over to be of good behaviour for a period not exceeding three years, or less than one year. It is considered that if this power is conferred the power of binding persons over to be of good behaviour may be availed of by magistrates in cases in which otherwise a sentence of fine or imprisonment would be imposed.
- Clause 15. This amendment which is taken from section 1 of the Probation of Offenders Act, 1907, gives magistrates power of conditional release of offenders in suitable cases.
- Clause 16. (1) (a) This amendment is intended to enable whipping to be ordered in cases of wounding with intent to do bodily harm, or of "maliciously wounding or inflicting grievous bodily harm," and is introduced as a deterrent to the practices of razor gangs, and to the use of bottles as instruments of offence. The other amendments are corrections.
- (2) The amendment proposed by this subclause will enable the justice before whom an arrested person is brought to inflict a term of imprisonment not exceeding six months if there is found on the person arrested a razor, razor blade or other cutting instrument, and he does not satisfy the justice that he is carrying same for a lawful purpose.
- Clause 17. The words proposed to be inserted appear to be more appropriate than the words omitted where the Court of Criminal Appeal is dealing with a question of law arising upon an appeal to Quarter Sessions, and is not dealing with an appeal from a conviction upon indictment.
- Clause 18. This clause gives a right of appeal where a person is declared to be an habitual criminal under section 3 (3) of the Habitual Criminals Act, 1912, as amended by section 31 (a) (iii) (3) of the Crimes (Amendment) Act, 1924. It was held in *R. v. Turner*, 25 S.R. 523, that there is no right of appeal in such cases.
- Clause 19. This amendment enables a trial to proceed where a member of the jury is discharged, if the accused consents in writing, provided that the number of jurymen is not reduced below ten.
- Clause 20. This amendment extends the power to make orders for the delivery of goods in possession of the police. The existing section applies where the person charged has not been found, or has been tried. It does not apply where no proceedings are taken.
- Clause 21. The object of this clause is to make the contents and headings in the Act, as stated in section 1, correspond with the amendments made since the Principal Act was consolidated.
- Clause 22. The object of this clause is to take shoplifting offences out of the category of minor offences under the First Offenders (Women) Act, 1918, which provides for the hearing of first minor offences by women in camera.

Legislative Council.

No. , 1928.

## A BILL

To amend the criminal law, and for that purpose to repeal the Crimes (Amendment) Act, 1905, and to amend the Crimes Act, 1900, and certain other Acts; and for purposes connected therewith.

[MR. BOYCE;—26 *September*, 1928.]

**B**E 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 (Amendment) Act, 1928." Short title.

**2.** The Crimes Act, 1900, as subsequently amended, is in this Act referred to as the Principal Act. Interpretation.

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c 1—A

**3.**

Repeal of  
Crimes (Amend-  
ment) Act, 1905,  
No. 12.  
Amendment  
of s. 22 of  
Principal  
Act.

**3.** The Crimes (Amendment) Act, 1905, is hereby repealed.

**4.** Section twenty-two of the Principal Act is amended by omitting the words "for the murder of a child," and by substituting therefor the words "for the murder or manslaughter of a child." 5

Amendment  
of s. 119 of  
Principal  
Act.

**5.** Section one hundred and nineteen of the Principal Act is amended by omitting the proviso to the section and by substituting therefor the following new proviso:— 10

Provided always that evidence shall not in any case be given of any taking which occurred more than six months in point of time from any other of such takings.

Amendment  
of s. 120 of  
Principal  
Act.

**6.** Section one hundred and twenty of the Principal Act is amended by inserting after the words "the offence of embezzlement" the words "or fraudulent misappropriation." 15

New s. 178A.

**7.** The Principal Act is further amended by inserting after section one hundred and seventy-eight the following new sub-heading and section:— 20

#### FRAUDULENT MISAPPROPRIATION.

Fraudulent  
misappropriation  
of moneys  
collected or  
received.

**178A.** Whosoever having collected or received any money or valuable security under any authority upon terms requiring him to deliver or account for or pay to any person the whole or any part of— 25

- (a) such money or valuable security or the proceeds thereof; or
- (b) any balance of such money, valuable security, or proceeds thereof after any authorised deductions or payments have been made thereout, 30

fraudulently misappropriates to his own use or the use of any other person, or fraudulently omits to account for or pay the whole or any part of such money, valuable security, or proceeds, or the whole or any part of such balance in violation of the terms on which he collected or received such money or valuable security, shall be liable to penal servitude for *seven* years. 35

40

For

For the purposes of this section any such money, valuable security, or proceeds thereof, or any balance thereof shall be deemed to be the property of the person under whose authority the money or valuable security was collected or received notwithstanding that the accused may have been authorised to make any deduction thereof on his own behalf, or any payment thereof to another person, or to mix such money, valuable security, or proceeds thereof, or such balance with his own moneys.

**8.** Section one hundred and eighty-three of the Principal Act is amended—

Amendment  
of s. 183 of  
Principal  
Act.

- (a) by inserting after the words "amount in law to larceny" the words "or fraudulent misappropriation," and
- (b) by inserting after the words "in the Public Service" the words "or of fraudulent misappropriation."

**9.** The Principal Act is further amended by inserting after subsection two of section three hundred and forty-one the following new subsection:—

Amendment  
of s. 341 of  
Principal  
Act.

(3) Where by reason of the death, illness, termination of appointment, or absence, of any judge, chairman of quarter sessions, or magistrate, it is impossible to apply to such judge, chairman, or magistrate for leave to prosecute under subsection one of this section, in respect of any statement on oath as in the last preceding section mentioned, or it is for any other reason impracticable to do so, a prosecution in respect of any such statement on oath may be instituted with the leave of a judge of the Supreme Court.

**10.** The Principal Act is further amended by omitting sections three hundred and sixty-five and three hundred and sixty-six and substituting therefor the following new sections:—

Amendment  
of ss. 365 and  
366 of  
Principal  
Act.

365. (1) Where, before trial, or at any stage of a trial, it appears to the court that the indictment is defective, the court shall make such order for the amendment of the indictment as the court thinks necessary

Orders for  
amendment of  
indictment,  
separate trial,  
and postpone-  
ment of trial.  
cf. 5 & 6 Geo. V,  
c. 20, s. 5.

necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) Where, before trial, or at any stage of a trial, the court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the court may order a separate trial of any count or counts of such indictment.

(3) Where, before trial, or at any stage of a trial, the court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the court under this Act to amend an indictment or to order a separate trial of a count, the court shall make such order as appears necessary.

(4) Where an order of the court is made under this section for a separate trial, or for the postponement of a trial—

- (a) if such an order is made during a trial, the court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed, or on the indictment as the case may be; and
- (b) the procedure on the separate trial of a count and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged), as if the trial had not commenced; and
- (c) the court may make such order as to admitting the accused person to bail and as to the enlargement of recognizances and otherwise as the court thinks fit.

(5) Any power of the court under this section shall be in addition to and not in derogation of any other power of the court for the same or similar purposes.

5 366. Where any indictment is amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment in its amended form shall be treated as the indictment for the purposes of the trial, and for the purposes of all proceedings in connection therewith or consequent thereon.

10 **11.** (1) Section 419A of the Principal Act is amended by inserting after the words "and adjoining such dock, wharf, or quay" the words "or in the course of transit from any vessel, barge, or boat, or from any store or shed used in connection with and adjoining such wharf, dock, or quay."

15 (2) The Principal Act is further amended—  
 (a) by inserting in subsection two of section four hundred and sixty-three after the words "police force" the words "with or without a warrant";  
 20 (b) by inserting at the end of the subsection the words "Any justice may issue a warrant for the arrest of the person whose license is revoked as aforesaid."

25 **12.** The Principal Act is further amended by inserting after section 526A the following new sub-heading and section :—

*Person drunk while in charge of vehicle.*

30 526B. (1) Any person who, while in charge on any highway or other public place of any mechanically-propelled vehicle, is drunk or being under the influence of intoxicating liquor is incapable of properly controlling such vehicle, shall, on conviction before two justices, be liable to imprisonment for a term not exceeding *six* months, or to pay a fine not exceeding *fifty* pounds, or to both such imprisonment and fine.

35 (2) The court before whom any person is convicted under the preceding subsection may, in addition to any punishment or penalty, order that the person convicted shall be disqualified to hold

Amended indictment

Amendment of s. 419A of Principal Act.

Further amendment of Principal Act. Sec. 463. (Revocation of license.)

New s. 526B.

Penalty for drunkenness while in charge of motor vehicle. cf. 15 & 16 Geo. V, c. 86, s. 40.

a license for any period stated in the order, and any license held by him shall, so long as the disqualification continues, be of no effect.

The court before whom any person is so convicted shall cause particulars of any such conviction and of the disqualification (if any) to be endorsed upon any license held by the person convicted, and shall send notice of the conviction and disqualification (if any) to the licensing authorities by whom the license was granted. 5  
10

(3) If a person who under this section is disqualified to hold a license applies for or obtains a license while he is so disqualified, he shall be guilty of an offence under the Motor Traffic Act, 1909, and any license so obtained shall be of no effect. 15

(4) In this section the expression "license" means a license under the Motor Traffic Act, 1909, and the expression "licensing authorities" means the persons authorised to grant such a license. 20

(5) Nothing in this section shall affect any liability of any person by virtue of any statute or at common law.

New s. 547A. **13.** The Principal Act is amended by inserting after section five hundred and forty-seven the following new sub-heading and section :— 25

(G) FALSE STATEMENT RESPECTING BIRTHS,  
DEATHS, OR MARRIAGES.

False  
statements  
respecting  
births,  
deaths, and  
marriages.

547A. (1) Every person who wilfully gives to any district registrar, or assistant district registrar, appointed under any Act providing for the registration of births or deaths, any false information concerning any birth or death, or the cause of any death, or who wilfully makes any false declaration under or for the purpose of any Act relating to the registration of births or deaths, shall on conviction before two justices be liable to imprisonment for a term not exceeding *six* months, or to pay a fine not exceeding *fifty* pounds. 30  
35

(2)



*Crimes (Amendment).*

5 (2) Any person who wilfully makes any  
false statement before any minister of religion, or  
district registrar, authorised to celebrate marriages,  
or before any person authorised to give his written  
consent to the marriage of any minor, for the  
purpose of procuring the celebration of any  
marriage, or any person who induces or endeavours  
to induce any person to celebrate a marriage  
between parties where such first-mentioned person  
10 knows that one of such parties is under age, and  
that the written consent required by law has not  
previously been obtained, shall upon conviction  
before two justices be liable to imprisonment for a  
term not exceeding *six* months, or to pay a fine not  
15 exceeding *fifty* pounds.

(3) Proceedings for an offence against this  
section may be commenced within three years  
after the date of the commission of the offence.

20 **14.** Subsection two of section five hundred and  
fifty-four of the Principal Act is amended—

Amendment  
of s. 554 of  
Principal  
Act.

(a) by omitting the words "or in substitution  
for any sentence of imprisonment" and by  
substituting therefor the words "or in  
substitution for any sentence imposing a fine  
or a term of imprisonment"; and

25 (b) by omitting the words "to be of good behaviour  
for a term not exceeding twelve months," and  
by substituting therefor the words "to be of  
good behaviour for a term which shall not be  
30 less than twelve months or more than three  
years."

**15.** The Principal Act is further amended by New s. 556A.  
inserting after section five hundred and fifty-six the  
following new sub-heading and section :—

35 *Conditional release of offenders.*

556A. (1) Where any person is charged before a  
court of summary jurisdiction with an offence  
punishable by such court, and the court thinks  
that the charge is proved, but is of opinion that,  
40 having regard to the character, antecedents, age,  
health, Power to  
permit  
conditiona  
release of  
offenders.  
cf. 7 Edw.  
VII, c. 17,  
s. 1.

health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment, or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court may, without proceeding to conviction, make an order either—

- (a) dismissing the charge; or
- (b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(2) Where an order is made under this section the order shall, for the purpose of revesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner, and as to the payment of money upon or in connection with such restitution or delivery, and for the purpose of the exercise of any power conferred by subsection three of section five hundred and fifty-four, have the like effect as a conviction.

Amendment  
of Sixth  
Schedule of  
Principal Act.

(Offences in  
which  
whipping may  
be ordered.)

**16.** (1) The Sixth Schedule of the Principal Act is amended—

- (a) by inserting at the commencement of the column headed "Sections enumerated" the figures "33" and "34" and by inserting opposite thereto respectively in the column headed "Offences" the words "Wounding, &c., with intent to do bodily harm, &c.," and the words "Maliciously wounding or inflicting grievous bodily harm";

(b)

- (b) by omitting from the column headed "Sections enumerated" the figures "64" opposite the words "Attempt to commit rape, &c." and by inserting in lieu thereof the figures "65";
- 5 (c) by omitting from the same column the figures "65" opposite the words "Procuring or having carnal knowledge by fraud" and by inserting in lieu thereof the figures "66";
- 10 (d) by omitting from the same column the figures and word "77 and 78" opposite the words "Indecent assaults" and by inserting in lieu thereof the figures "76."

(2) by inserting next after section 353A the New s. 353B. following new subsection:—

15 353B. Where a person is in lawful custody upon a charge of committing any crime or offence and is found to have been carrying at the time he was apprehended any razor, razor blade or other cutting weapon, he shall, unless the justice before whom he is brought is satisfied that he was carrying the same for a lawful purpose, the proof of which shall lie upon the accused, be liable to imprisonment for a term not exceeding *six* months.

25 **17.** Section 5B of the Criminal Appeal Act, 1912, is amended by omitting the words "and such submission shall be dealt with as if it were an appeal under this Act" and by substituting the words "and the Court of Criminal Appeal may make any such order or give any such direction to the court of quarter sessions as it thinks fit."

**18.** The Criminal Appeal Act, 1912, is further amended by inserting after section 5D the following new section:—

35 5E. Any person who is declared to be an habitual criminal, may, by leave of the court, appeal against such declaration, and the provisions of this Act applicable

applicable to an appeal against a sentence passed on a conviction on indictment shall apply to such an appeal.

Amendment of  
Jury Act, 1912,  
No. 31.

**19.** The Jury Act, 1912, is amended by inserting after section twenty-seven the following new section:— 5

Provision for  
continuance  
of trial where  
juror dies or  
becomes  
incapable.

cf. 15 & 16,  
Geo. V, c. 86,  
s. 15.

27A. Where in the course of a criminal trial any member of a jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless, subject to assent being given in writing by 10 or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give), and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly 15 constituted, and the trial shall proceed and a verdict may be given accordingly.

Amendment of  
s. 30 of the  
Police Offences  
Act, 1901, No. 5.

**20.** The Police Offences Act, 1901, is amended by omitting section thirty and by substituting therefor the following new section:— 20

Order for  
delivery of  
goods in custody  
of constable.  
cf. 60 & 61 Vic.,  
c. 30, s. 1.

30. If any goods or money charged to be stolen or fraudulently obtained are in the custody of any constable in connection with any criminal charge, or of any offence punishable summarily, any police or stipendiary magistrate may, on application by an 25 officer of police or by a claimant of the property, make an order for the delivery of such goods or money to the person who appears to be the rightful owner thereof, or if the owner cannot be ascertained, may make such order with respect to such goods 30 or money as to such magistrate seems meet.

No such order shall be any bar to the right of any person to sue the person to whom such goods or money are delivered, and to recover such goods or money from him by an action commenced 35 within six months next after the making of such order.

**21.**

21. The Principal Act is amended—

Consequentia  
and correc-  
tive amend-  
ments of  
Principal  
Act.

(a) by omitting section one and the headings pre-  
ceding it, and by inserting in lieu thereof the  
following section and headings :—

5

PART I.

PRELIMINARY AND INTERPRETATION.

*Short title and division into Parts.*

1. This Act may be cited as the " Crimes Act, Short title  
1900," and is divided into Parts, as follows :— and contents  
of Act.

10

PART I.—PRELIMINARY AND INTERPRETA-  
TION—

Amended,  
Act No. 10,  
1924, s. 26,  
(b).

(1) *Short title and division into Parts.*—  
s. 1.

(2) *Repeals and savings.*—s. 2.

15

(3) *Application of certain sections and  
parts.*—s. 3.

(4) *Interpretation.*—ss. 4-8.

(5) *What offences to be deemed and treated  
as felonies or misdemeanours.*—ss. 9,  
10.

20

PART II.—OFFENCES AGAINST THE  
SOVEREIGN—*Treason felony.*—ss. 11-16.

PART III.—OFFENCES AGAINST THE PERSON—

(1) *Homicide.*—ss. 17-25.

25

(2) *Conspiracy to murder.*—s. 26.

(3) *Attempts to murder.*—ss. 27-30.

(4) *Letters threatening to murder.*—s. 31.

(5) *Acts causing danger to life or bodily  
harm.*—ss. 32-54.

30

(6) *Possessing or making explosives, &c.,  
with intent to injure the person.*—s. 55.

(7)

*Crimes (Amendment).*

- 
- (7) *Assaults upon clergymen, officers, and others.*—ss. 56–60.
- (8) *Common assault.*—s. 61.
- (9) *Rape and similar offences.*—ss. 62–78F. 5
- (10) *Unnatural offences.*—ss. 79–81.
- (11) *Attempts to procure abortion.*—ss. 82–84.
- (12) *Concealing birth of a child.*—s. 85.
- (13) *Abduction.*—ss. 86–91D. 10
- (14) *Bigamy.*—ss. 92, 93.

## PART IV.—OFFENCES RELATING TO PROPERTY—

CHAPTER I.—*Stealing and like offences*—

- (a) ROBBERY—ss. 94–98. 15
- (b) EXTORTION, &C., BY MENACE OR THREAT.—ss. 99–105.
- (c) SACRILEGE, BURGLARY, AND HOUSE-BREAKING.—ss. 106–115.
- (d) LARCENY— 20
- (1) *Declaratory.*—s. 116.
- (2) *Simple larceny and general provisions.*—ss. 117–124.
- (3) *Larceny by bailees.*—s. 125.
- (4) *Of animals.*—ss. 126–133. 25
- (5) *Of written instruments.*—ss. 134–138.
- (6) *Of things attached to or growing on land.*—ss. 139–143.
- (7) *From mines.*—ss. 144–147.
- (8) *In dwelling-house.*—ss. 148, 149. 30
- (9) *Of goods in process of manufacture, tools, &c.*—ss. 150, 151.
- (10)

- (10) *From ships or wharfs.*—ss. 152, 153.  
 (11) *By tenants or lodgers.*—s. 154.  
 (12) *Of vehicles or boats.*—ss. 154A, 154B.
- 5 (e) EMBEZZLEMENT OR LARCENY—  
 (1) *By clerks or servants.*—ss. 155–158.  
 (2) *By persons employed in the Public Service.*—ss. 159, 160.  
 (3) *General deficiency.*—s. 161.  
 (4) *By joint owners.*—s. 162.  
 10 (5) *Alternative verdict.*—s. 163.
- (f) FRAUDS BY FACTORS AND OTHER AGENTS.—ss. 164–178.  
 (fl) FRAUDULENT MISAPPROPRIATION.—s. 178A.
- 15 (g) FALSE PRETENCES.—ss. 179–185.  
 (h) CORRUPT REWARDS.—s. 186.  
 (i) RECEIVERS.—ss. 187–193.
- CHAPTER II.—*Malicious injuries to property*—
- 20 (1) *Declaratory and general.*—ss. 194, 195.  
 (2) *Injuries to buildings, &c., by fire.*—ss. 196–202.  
 (3) *Injuries to buildings by explosive substances.*—ss. 203, 204.  
 25 (4) *Injuries to buildings by rioters.*—ss. 205–207.  
 (5) *Injuries to buildings by tenants.*—s. 208.  
 30 (6) *Injuries to manufactures, machinery, &c.*—ss. 209, 210.  
 (7) *Injuries to corn, haystacks, trees, &c.*—ss. 211–220.  
 (8) *Injuries to mines.*—ss. 221–224.  
 35 (9) *Injuries to sea or river banks, &c.*—ss. 225, 226.  
 (10)

- (10) *Injuries to ponds, reservoirs, &c.*—  
s. 227.
- (11) *Injuries to bridges, viaducts, and  
toll-bars.*—ss. 228, 229.
- (12) *Injuries to railway carriages and  
telegraphs.*—ss. 230–234. 5
- (13) *Injuries to vessels.*—ss. 235–243.
- (14) *Injuries to books, works of art, &c.,  
in museums, &c.*—s. 244.
- (15) *Injuries to cattle.*—ss. 245, 246. 10
- (16) *Injuries over five pounds not other-  
wise provided for.*—s. 247.
- (17) *Letters threatening to burn or destroy  
property.*—s. 248.
- (18) *Making or having gunpowder, &c., with  
intent to commit offences against  
property.*—s. 249. 15

## PART V.—FORGERY—

- (1) *Declaratory and general.*—ss. 250,  
251. 20
- (2) *Forgeries not specially provided for.*—  
s. 252.
- (3) *Forgery, &c., of public seals or  
official signatures.*—ss. 253, 254.
- (4) *Forgery of Acts, proclamations, &c.*— 25  
s. 255.
- (5) *Forgery, &c., of transfers of stock, &c.*  
—ss. 256–259.
- (6) *Forgery of India bonds, Exchequer  
bills, &c.*—ss. 260–263. 30
- (7) *Forgery, &c., of stamps or having  
forged dies, &c.*—s. 264.
- (8) *Forgery, &c., of or engraving plate,  
&c., for bank notes, &c.*—ss. 265–  
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New heading added, Act No. 10, 1924, s. 26 (b).

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- (b) by inserting the following short heading immediately before section two: "Repeals and savings";
- (c) by inserting the following short heading immediately before section three: "Application of certain sections and Parts";
- (d) by inserting immediately before section five hundred and one and after the heading "(B) LARCENY AND SIMILAR OFFENCES" the following short heading: "*Larceny, &c., of animals.*"

Amendment  
of Act No. 1,  
1919.

**22.** The First Offenders (Women) Act, 1918, is amended by inserting next after section four the following new section:—

Act not to  
apply to  
certain cases  
of larceny.

5. This Act shall not apply when the offence charged is committing or attempting to commit simple larceny, and the offence is charged with respect to goods in a shop where goods are sold by retail.