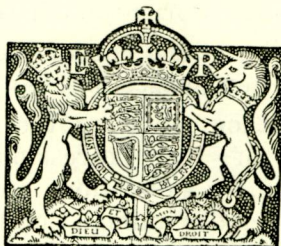


New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 16, 1955.

An Act to amend the Crimes Act, 1900, the Justices Act, 1902, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 14th April, 1955.]

BE it enacted by the Queen'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, 1955."

Short
title.

2. The Crimes Act, 1900, as amended by subsequent Acts, is amended—

Amendment
of Act No.
40, 1900.

(a) by inserting in subsections one and two of section 52A after the words "motor vehicle" the words "or through the impact of a motor vehicle

Sec. 52A.
(Culpable
driving.)

Crimes (Amendment).

with any vehicle or other object in, on or near which the person was at the time of impact and in either case the motor vehicle was at the time of impact”;

- (b) by inserting in subsection four of the same section after the word “offence” where thirdly occurring the words “under this Act”;
- (c) by inserting at the end of the same section the following new subsection:—

(7) Without limiting the generality of the meaning of the expression “object”, that expression, in subsections one and two of this section, includes animal, building and structure.

Further amendment of Act No. 40, 1900.

New secs. 81A, 81B.

Outrages on decency. cf. 48 & 49 Vic. c. 69, s. 11.

Soliciting, &c., male person in a public place.

3. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

- (a) by inserting next after section eighty-one the following new sections:—

81A. Whosoever, being a male person, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of indecency with another male person shall be liable to imprisonment for two years.

81B. (1) Whosoever, being a male person, in any public place—

(a) solicits or incites; or

(b) attempts to solicit or incite,

in any manner whatsoever any male person to commit or to be a party to the commission of any offence under section seventy-nine, eighty-one or 81A of this Act shall be liable to imprisonment for twelve months.

(2) A person shall not be convicted of an offence under this section upon the testimony of one witness only, unless such testimony is corroborated by some other material evidence implicating the accused in the commission of the offence.

(3)

Crimes (Amendment).

(3) This section does not exempt any person from any proceeding for an offence which is punishable at common law, but so that no person shall be punished twice for the same offence.

(4) An offence under this section shall not be prosecuted and punished under the Crimes Prevention Act, 1916.

- (b) by inserting next after section three hundred and seventy-nine the following new sections:—

New secs.
379A, 379B.

379A. In an indictment for an offence under section seventy-nine, eighty or eighty-one of this Act, a count may be added for an offence under section 81A of this Act.

Addition
of count
for an
offence
under
s. 81A.

379B. In an indictment for an unnatural crime, or an attempt to commit the same, counts may be added under both section three hundred and seventy-nine and section 379A of this Act.

Addition
of counts
under both
s. 379 and
s. 379A.

- (c) by omitting from subsection one of section four hundred and eighteen the words “or eighty-one” and by inserting in lieu thereof the words, figures and letters “eighty-one, 81A or 81B”;

Sec. 418.
(On hearing
of a charge
for certain
offences,
evidence not
on oath
may be
received in
case of
children of
tender years,
but such
evidence
must be
corroborated.)

- (d) by inserting in paragraph (f) of section four hundred and seventy-seven after the word “sections” where secondly occurring the figures and letters “81A, 81B,”;

Sec. 477.
(List of
offences
within this
jurisdic-
tion.)

(e)

Crimes (Amendment).

Subst. sec.
478.

- (e) by omitting section four hundred and seventy-eight and by inserting in lieu thereof the following section:—

Punishment
in such
cases.
55 Vic.
No. 5, s. 20.

478. Where under the provisions of this Chapter any person pleads guilty to or is convicted of an offence mentioned in section four hundred and seventy-seven of this Act, he shall—

- (a) where the offence is an offence under section 81B of this Act, be liable to imprisonment for six months;
- (b) where the offence is an offence under section 81A of this Act, be liable to imprisonment for twelve months;
- (c) in any other case, be liable to imprisonment for twelve months, or to a fine of fifty pounds, or if he is in the opinion of the Justice, or Justices, under sixteen years of age, to imprisonment for three months, or to a fine of ten pounds.

Further
amendment
of Act
No. 40,
1900.

4. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Sec. 360A.
(Indictment
of corpora-
tions.)

- (a) (i) by omitting from subsection two of section 360A the words “empowering the prosecutor appointed under section five hundred and seventy-two of this Act to prefer a bill for the offence named in the order or for such other offence as such prosecutor shall deem proper” and by inserting in lieu thereof the words “authorising an indictment to be filed for the offence named in the order or for such other offence as the Attorney-General or any other person authorised by law to prosecute indictable offences shall deem proper”;

(ii)

Crimes (Amendment).

(ii) by inserting at the end of the same section the following new subsection:—

(7) For the avoidance of doubt it is hereby declared that for the purposes of this section “indictable offence” means an offence punishable on indictment at common law or under any Act or Imperial Act.

- (b) by inserting in paragraph (a) of subsection one of section four hundred and nine after the word “evidence” the words “, or is absent from the Commonwealth of Australia”; Sec. 409.
(Depositions may be read as evidence for prosecution.)
- (c) by inserting next after section four hundred and forty the following short heading and new section:— New sec.
440A.

Power to fine in certain cases.

440A. Where a person is convicted on indictment of an offence mentioned in section four hundred and seventy-seven of this Act and the evidence before the Court is such that if— Power to fine in certain cases.

- (a) that person had been charged before a Justice or Justices with that offence; and
- (b) the same evidence had been given before the Justice or Justices,

the Justice or Justices would, with the consent of that person, have had power to hear and determine the charge in a summary manner under Chapter I of Part XIV of this Act, then the Court shall have the same power to impose a fine in respect of that offence as the Justice or Justices would have had if that person had pleaded guilty to, or been convicted of, the charge pursuant to that Chapter.

Nothing in this section affects any power of the Court to deal with the person so convicted or his property in any other manner in which
the

Crimes (Amendment).

the Court, apart from this section, has power to deal with him or his property, but any fine imposed under this section shall be in lieu of any period of penal servitude or imprisonment that might otherwise be imposed when sentence is being passed for the offence of which he is so convicted.

Section eighty-two of the Justices Act, 1902-1955, does not apply to or in respect of any fine imposed under this section.

New sec.
441A.

- (d) by inserting next after section four hundred and forty-one the following short heading and new section:—

Commencement of sentence.

Time from
which
sentences
shall take
effect.

cf. 21 & 22
Vic. c. 73,
s. 12.

441A. For the avoidance of doubt it is hereby declared that every sentence passed shall take effect from the time when it is passed, unless the Court otherwise directs.

New sec.
447B.

- (e) by inserting next after section 447A the following short heading and new section:—

Taking outstanding charges into account.

Outstanding
charges may
be taken
into account
in passing
sentence.

447B. (1) Where the Court before which a person is convicted on indictment of an offence not punishable with penal servitude for life is satisfied that—

- (a) there has been filed in court a document in or to the effect of the form contained in the Ninth Schedule to this Act, signed by a member of the police force and by the person so convicted, showing on the back thereof a list of other indictable offences not punishable with penal servitude for life with which he has been charged (whether or not he has been committed for trial in respect of those other offences);

(b)

Crimes (Amendment).

(b) a copy of that document has been furnished to the person so convicted; and

(c) in all the circumstances of the case it is proper so to do,

the Court may, with the consent of counsel for the Crown and before passing sentence on the person for the offence of which he has been convicted, ask that person whether he admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account in passing sentence upon him.

If the person so convicted admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account by the Court in passing sentence for the offence of which he has been convicted, the Court may, if it thinks fit, take all or any of the offences in respect of which he has so admitted guilt into account accordingly:

Provided that the sentence passed in any such case upon the person so convicted shall not exceed the maximum sentence that may be passed in respect of the offence of which he has been convicted.

(2) The Court shall certify upon the document filed in court the offences specified in the list on the back thereof that have, in respect of the conviction of the person concerned, been taken into account in passing sentence upon that conviction, and thereafter proceedings or further proceedings upon those offences shall not be taken against that person:

Provided that such proceedings or further proceedings may be taken where that conviction is quashed or set aside.

(3)

Crimes (Amendment).

(3) An admission of guilt under and for the purposes of this section in respect of an offence shall not be admissible in evidence—

- (a) in any proceedings or further proceedings taken under the proviso to subsection two of this section; or
- (b) in any proceedings or further proceedings in respect of the offence if the offence was not taken into account under this section in passing sentence.

(4) An offence taken into account under and in accordance with this section in passing sentence upon any person for another offence of which he has been convicted shall not, by reason of its being so taken into account, be regarded for any purpose as an offence of which that person has been convicted.

(5) Where the Court before which a person was convicted of an indictable offence in passing sentence for that offence took into account under and in accordance with this section any other offence or offences, then whenever in or in relation to any criminal proceeding—

- (a) reference may lawfully be made to the fact that that person was convicted of the indictable offence reference may also be made to the fact that that other offence or those other offences was or were so taken into account;
- (b) evidence may lawfully be given of the fact that that person was convicted of the indictable offence, evidence may also be given of the fact that that other offence or those other offences was or were so taken into account.

The

Crimes (Amendment).

The fact that that other offence or those other offences was or were so taken into account may be proved in the same manner as the conviction for the indictable offence may be proved.

Nothing in this subsection affects the operation of subsection four of this section.

- (f) (i) by inserting at the end of paragraph (d) of section four hundred and seventy-seven the words "except where such escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952"; Sec. 477. (List of offences within this jurisdiction.)
- (ii) by inserting in paragraph (f), as amended by paragraph (d) of section three of this Act, of the same section after the figures and letter "81B," the words "one hundred and thirteen, one hundred and fourteen,";
- (iii) by inserting in the same paragraph after the words "one hundred and sixty-nine," the figures and letters "178A, 178B,";
- (iv) by inserting in the same paragraph after the words "one hundred and eighty-nine," the figures and letter "189A,";

- (g) by inserting next after section four hundred and seventy-nine the following new section:— New sec. 479A.

479A. Notwithstanding anything contained in this Chapter, a charge against any person for any offence under section one hundred and thirteen or one hundred and fourteen of this Act or for an attempt to commit any such offence shall not be disposed of summarily under this Chapter if it appears to the Justice or Justices hearing the charge that— Certain offences not to be dealt with summarily.

- (a) the acts alleged against the person charged in respect of the offence were such as to give any person reasonable cause to apprehend violence from the person charged; or

(b)

Crimes (Amendment).

(b) where the charge is for breaking and entering or attempting to break and enter any premises mentioned in section one hundred and thirteen of this Act with intent to commit felony therein or is for being found at night under the following circumstances, that is to say, entering or being in any building with intent to commit a felony or misdemeanour therein, any person was lawfully in or upon those premises or that building at the time when the person charged is alleged to have committed the offence.

Sec. 499.

(Certificate
or conviction
a bar to
other pro-
ceedings.)

(h) by omitting from section four hundred and ninety-nine the words "shall be released from all proceedings, civil or criminal, for the same cause" and by inserting in lieu thereof the words and new subsection:—

"shall be released—

- (a) from all criminal proceedings for the same cause; and
- (b) from all civil proceedings for the same cause at the suit of the person laying the information in respect of the proceedings for assault.

(2) Any person against whom civil proceedings have been taken in respect of any act done by him which is an offence of which he might have been convicted under sections four hundred and ninety-three to four hundred and ninety-six both inclusive shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

(i)

Crimes (Amendment).

(i) (i) by inserting in paragraph (c) of subsection one of section five hundred and one after the words "one hundred and fifty-two" the words ", one hundred and seventy-nine, two hundred and forty-seven";

Sec. 501.
(List of offences punishable summarily without consent of accused.)

(ii) by omitting from the same subsection the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds";

(j) by omitting from section five hundred and fifty-six the words "or is discharged from his conviction by the Justices under section five hundred and fifty-two of this Act, he shall not be liable to any other proceeding for the same cause" and by inserting in lieu thereof the words and new subsection:—

Sec. 556.
(Summary conviction a bar to further proceedings.)

"he shall not be liable—

(a) to any other criminal proceedings for the same cause;

(b) to any civil proceedings for the same cause at the suit of the person laying the information upon which he was summarily convicted under this Act.

(2) Any person against whom civil proceedings have been taken in respect of any act or thing done or omitted to be done by him which is an offence of which he might have been convicted summarily without consent under this Act shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

(k)

Crimes (Amendment).

New Ninth
Schedule.

(k) by inserting next after the Eighth Schedule the following new Schedule:—

Sec. 447B.

NINTH SCHEDULE.

Form of list of other indictable offences charged.

Police Department,
Criminal Investigation Branch,
Sydney (or.....
.....Police Station.)

TO.....
indicted on a charge of.....
for trial at the sittings of the Supreme Court at.....
(or, as the case may be at.....Quarter
Sessions) commencing on....., 19 .

Memorandum for Accused's Information.

(1) The list on the back hereof gives particulars of.....
other alleged offences with which you are charged.

(2) If you are convicted of the charge of..... first
mentioned above, you may before sentence is passed, if the presiding
Judge so decides and counsel for the Crown consents, admit all or
any of the other offences set out on the back hereof and ask that
any of those offences that you have admitted be taken into account
by the presiding Judge in passing sentence upon you.

(3) If you are convicted and the presiding Judge does take any
of the other offences that you have admitted into account, the
maximum sentence that may be imposed upon you will nevertheless
be the maximum sentence for the offence of.....
first mentioned above.

(4) No further proceedings may be taken against you in respect
of the other offences taken into account unless your conviction for
the offence of..... first mentioned above is set aside
or quashed.

(5) If proceedings are taken in the circumstances mentioned in
(4) or if the presiding Judge does not for any reason take any one
or more of the other offences that you have admitted into account,
your admission cannot be used as evidence against you in any proceed-
ings taken in the circumstances mentioned or taken in respect of the
offences not taken into account.

Signature of member of the police force.....
Date.....

Signature of accused acknowledging receipt of copy
of this document.....
Date.....

Certificate.

Crimes (Amendment).

Certificate.

In sentencing..... for the offence of.....
this day, I have taken into account the following offences alleged
against and admitted by him, that is to say, the offences numbered
.....in the list on the back hereof.

Dated this day of , 19 .

.....
A Judge of the Supreme Court or
a Chairman of Quarter Sessions.

[BACK OF FORM.]

Number.	Place where offence was committed.	Date of offence.	Offence(s). (Brief description.)	Whether or not commit- ted for trial? Yes or No.

(1) (i) by omitting from the matter relating to Sec. 1.
Part III in section one the figures "81" and (Consequen
by inserting in lieu thereof the figures and tial.)
letter "81B";

(ii) by inserting in the matter relating to Part
XII in the same section after the figures
"440" the following:—

(8A) *Power to fine in certain cases.*—s.
440A.

(iii) by inserting in the same matter after the
figures "441" the following:—

(9A) *Commencement of sentence.*—s.
441A.

(iv)

Crimes (Amendment).

(iv) by inserting at the end of the same matter the following:—

(12) *Taking outstanding charges into account.*—s. 447B.

5. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 40, 1900.

Sec. 9.

(What offences felonies.)

(a) (i) by omitting from section nine the words “of death, or”;

(ii) by omitting from the same section the words “as aforesaid” and by inserting in lieu thereof the words “by death or penal servitude”;

Sec. 19.

(Murder—punishment.)

(b) by omitting from section nineteen the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life.

The provisions of section four hundred and forty-two of this Act shall not be in force with respect to the sentence to be passed under this section.”;

Sec. 27.

(Acts done to the person with intent to murder.)

(c) by omitting from section twenty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 28.

(Acts done to property with like intent.)

(d) by omitting from section twenty-eight the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 63.

(Rape.)

(e) by omitting from section sixty-three the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 67.

(Carnally knowing girl under 10.)

(f) by omitting from section sixty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 110.

(Breaking, entering, and assaulting with intent to murder, &c.)

(g) by omitting from section one hundred and ten the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

(h)

Crimes (Amendment).

- (h) by omitting from section one hundred and ninety-six the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 196.
(Setting fire to dwelling, etc., knowing person therein.)
- (i) by omitting from section two hundred and thirty-five the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 235.
(Setting fire to vessel, any person being therein.)
- (j) by omitting from section two hundred and forty the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 240.
(Exhibiting false signals, &c.)
- (k) by omitting section four hundred and thirty; Sec. 430.
(Sentences of death when to be pronounced.)
- (l) by omitting from section four hundred and thirty-one the words ", or some offence by this Act or hereafter made so punishable" and by inserting in lieu thereof the words "and for which no other punishment is provided by this Act." Sec. 431.
(Only certain felonies capital.)

6. The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40, 1900.

- (a) by inserting in the definition of "Loaded arms" in section four after the word "chamber" the words "or magazine"; Sec. 4.
(Interpretation.)
- (b) (i) by omitting from section 154A the words "shall be liable to imprisonment for three years" and by inserting in lieu thereof the words "shall be deemed to be guilty of larceny, and may be convicted thereof upon an indictment for simple larceny"; Sec. 154A.
(Unlawfully using another's vehicle or boat.)
- (ii) by omitting from the same section the words and figures "and in section 154B";
- (c) by omitting section 154B; Sec. 154B.
(Trial for larceny—alternative verdict.)

(d)

Crimes (Amendment).

Sec. 526A.
(Unlawfully
using
vehicle or
boat.)

- (d) by inserting in subsection one of section 526A after the word "shall" the words "be guilty of statutory larceny and shall";

New sec.
578.

- (e) by inserting next after section five hundred and seventy-seven the following new section:—

Publication
of evidence
may be
forbidden in
certain
cases.
cf. Act No.
14, 1899,
s. 81.

578. (1) Any Judge or Chairman of Quarter Sessions presiding at the trial of any person for an offence under sections sixty-three, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-one, seventy-two, 72A, seventy-three, seventy-four, seventy-six, 78A, 78B, seventy-nine, eighty, eighty-one, 81A, 81B, eighty-six, eighty-seven, eighty-nine, ninety, 91A, 91B, 91C or 91D of this Act may at any stage of the trial and from time to time make an order forbidding publication of the evidence therein or any report or account of that evidence either as to the whole or portions thereof:

Provided that if the accused or counsel for the Crown indicates to the Judge or Chairman that it is desired that any particular matter given in evidence should be available for publication, no such order shall be made in respect of that matter.

(2) Any person who commits a breach of an order made under subsection one of this section shall, on conviction before two Justices, be liable to a penalty of one thousand pounds.

Amendment
of Act No.
27, 1902.

7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended—

New sec.
51A.

- (a) by inserting next after section fifty-one the following short heading and new section:—

PLEA OF GUILTY IN COMMITTAL PROCEEDINGS.

Effect of
plea of
guilty in
committal
proceedings.

51A. (1) A person charged before one, or more than one, Justice with an indictable offence not punishable with penal servitude for life may, at any stage of the proceedings, plead guilty to the

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the charge and thereupon the following provisions of this section have effect:—

- (a) The Justice or Justices may accept or reject the plea.

The rejection of a plea of guilty at any stage of the proceedings does not prevent the accused from pleading guilty under this section at a later stage of the proceedings and the Justice or Justices have power to accept or reject the plea at that later stage;

- (b) Where the Justice or Justices reject the plea the proceedings before the Justice or Justices shall be continued as if the plea had not been made;

- (c) Where the Justice or Justices accept the plea, the Justice or Justices shall thereupon commit the accused to such sittings of the Supreme Court or such Court of Quarter Sessions as the Justice or Justices may direct to be dealt with as hereinafter in this section provided;

- (d) The Judge of the Supreme Court or the Chairman of Quarter Sessions, as the case may be, before whom the accused is brought in accordance with this section—

- (i) shall, if it appears to him from the information or evidence given to or before him that the facts in respect of which the accused was charged before the Justice or Justices do not support the charge to which the accused pleaded guilty or if the accused or counsel for the Crown requests that an order be made under this subparagraph, and may, if for any other reason the Judge or Chairman, as the case may be, sees fit so to do, order that the proceedings

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proceedings before the Justice or Justices at which the accused pleaded guilty be continued at a time and place to be specified in the order;

- (ii) unless an order is made under subparagraph (i) of this paragraph, has the same powers of sentencing or otherwise dealing with the accused, and of finally disposing of the charge and of all incidental matters, as he would have had if the accused on arraignment at any sittings of the Court had pleaded guilty to the offence charged on an indictment filed by the Attorney-General.

(2) All proceedings relating to a committal for trial apply, as nearly as may be, to a committal under paragraph (c) of subsection one of this section, and bail may be similarly granted; but no person shall be bound over to give evidence on any committal under that paragraph unless the committing Justice or Justices otherwise order.

(3) Where an order is made by a Judge or Chairman under subparagraph (i) of paragraph (d) of subsection one of this section that proceedings before a Justice or Justices at which an accused pleaded guilty be continued at a time and place specified in the order, those proceedings shall be continued in all respects as if the accused had not pleaded guilty and as if those proceedings had been adjourned by the Justice or Justices to the time and place so specified.

Upon the making of any such order the Judge or Chairman may exercise any power that the Justice or Justices might have exercised under

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under section thirty-four of this Act if the order had been an order made by the Justice or Justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the accused.

(4) Where a person has, in respect of any charge to which he has pleaded guilty under subsection one of this section, been committed under paragraph (c) of that subsection, the Attorney-General may in his discretion direct in writing that no further proceedings under this section be taken against the person so committed in respect of that charge.

Upon the giving of such direction—

- (a) no further proceedings shall be taken under this section against the person so committed in respect of that charge; and
- (b) the provisions of section three hundred and fifty-eight of the Crimes Act, 1900, as amended by subsequent Acts, apply to and in respect of the person concerned as if he were under committal for trial and the Attorney-General had declined to file any information against him.

(5) A committal under paragraph (c) of subsection one of this section shall, for all purposes relating to the venue or change of venue of proceedings consequent on that committal, be deemed to be a committal for trial.

(6) This section does not apply where—

- (a) the indictable offence with which the person is charged is an offence mentioned in section four hundred and seventy-seven of the Crimes

Act

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Act, 1900, as amended by subsequent Acts, and that person pleads guilty after all conditions prescribed by Chapter I of Part XIV of that Act which are necessary to be complied with in order to give jurisdiction to the Justice or Justices to hear and determine the charge in a summary manner have been complied with; or

- (b) the indictable offence with which the person is charged may be dealt with summarily without the consent of the accused and is being so dealt with.

New sec.
153A.

Person
apprehended
under bench
warrant
to be
committed
to prison or
admitted
to bail.

- (b) by inserting next after section one hundred and fifty-three the following new section:—

153A. (1) When a person is apprehended under a bench warrant issued by a Judge or a Chairman of Quarter Sessions in any criminal proceeding and a sittings of the Court out of which the bench warrant issued is not then being held, any Justice may—

- (a) by warrant commit that person to prison, there to be safely kept until the next sittings of the Court out of which the bench warrant issued or until he is delivered in due course of law or is admitted to bail as hereinafter in this section provided; or
- (b) if that person procures and produces a surety or sureties sufficient, in the opinion of the Justice, to ensure his appearance at the commencement of the next sittings of the Court out of which the bench warrant issued, admit him to bail.

If that person cannot then and there procure and produce such surety or sureties, the Justice may certify on the warrant of commitment his consent

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consent that that person be admitted to bail, stating the amount of bail that ought to be required.

(2) (a) The constable or other person to whom a warrant of commitment is directed by a Justice under paragraph (a) of subsection one of this section shall convey the person committed therein named or described to the prison therein mentioned, and there deliver him and the warrant to the gaoler, keeper or governor of such prison, who shall thereupon give the constable or other person delivering such person into his custody a receipt for such person, setting forth the state and condition in which such person was when delivered into the custody of such gaoler, keeper or governor.

(b) If it appears to the Justice by whom a warrant of commitment is granted as aforesaid that the person committed has money sufficient to pay the expenses or some part thereof of conveying him to such prison, the Justice may order the whole or a sufficient part of such money to be applied to that purpose.

(3) (a) When a Justice admits a person to bail as aforesaid he shall take the recognizance of such person and of the surety or sureties, conditioned that such person shall appear at the commencement of the next sittings of the Court out of which the bench warrant under which such person was apprehended was issued, and shall then surrender and not depart the Court without leave.

(b) Every recognizance shall be duly acknowledged by the person who enters into it, and shall be subscribed by the Justice.

(c) A notice of every recognizance signed by the Justice shall at the same time be given by him to each person bound thereby.

(4)

Crimes (Amendment).

(4) When a Justice has by warrant committed a person to prison under subsection one of this section and has given such a certificate as is mentioned in that subsection, any Justice being at the prison where such person is in custody, may on production of such certificate admit such person to bail in the manner hereinbefore in this section provided.

(5) Where any person apprehended under any bench warrant is committed to prison or admitted to bail by a Justice under the provisions of this section, the Justice shall forthwith transmit a certified copy of the warrant of commitment or, as the case may be, the recognizance or recognizances of bail to the Attorney-General.

Sec. 1.
(Consequential.)

- (c) by omitting from the matter relating to Part IV in section one the figures "51" and by inserting in lieu thereof the figures and letter "51A".

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1955.

By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1955.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of New South WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 1st April, 1955, A.M.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 16, 1955.

An Act to amend the Crimes Act, 1900, the Justices Act, 1902, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 14th April, 1955.]

BE it enacted by the Queen'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, 1955." Short title.
2. The Crimes Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 40, 1900.
 - (a) by inserting in subsections one and two of section 52A after the words "motor vehicle" the words "or through the impact of a motor vehicle with" Sec. 52A. (Culpable driving.)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Crimes (Amendment).

with any vehicle or other object in, on or near which the person was at the time of impact and in either case the motor vehicle was at the time of impact”;

- (b) by inserting in subsection four of the same section after the word “offence” where thirdly occurring the words “under this Act”;
- (c) by inserting at the end of the same section the following new subsection:—

(7) Without limiting the generality of the meaning of the expression “object”, that expression, in subsections one and two of this section, includes animal, building and structure.

Further amendment of Act No. 40, 1900.

New secs. 81A, 81B.

Outrages on decency. cf. 48 & 49 Vic. c. 69, s. 11.

Soliciting, &c., male person in a public place.

3. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

- (a) by inserting next after section eighty-one the following new sections:—

81A. Whosoever, being a male person, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of indecency with another male person shall be liable to imprisonment for two years.

81B. (1) Whosoever, being a male person, in any public place—

(a) solicits or incites; or

(b) attempts to solicit or incite, in any manner whatsoever any male person to commit or to be a party to the commission of any offence under section seventy-nine, eighty-one or 81A of this Act shall be liable to imprisonment for twelve months.

(2) A person shall not be convicted of an offence under this section upon the testimony of one witness only, unless such testimony is corroborated by some other material evidence implicating the accused in the commission of the offence.

(3)

Crimes (Amendment).

(3) This section does not exempt any person from any proceeding for an offence which is punishable at common law, but so that no person shall be punished twice for the same offence.

(4) An offence under this section shall not be prosecuted and punished under the Crimes Prevention Act, 1916.

- (b) by inserting next after section three hundred and seventy-nine the following new sections:—

New secs.
379A, 379B.

379A. In an indictment for an offence under section seventy-nine, eighty or eighty-one of this Act, a count may be added for an offence under section 81A of this Act.

Addition
of count
for an
offence
under
s. 81A.

379B. In an indictment for an unnatural crime, or an attempt to commit the same, counts may be added under both section three hundred and seventy-nine and section 379A of this Act.

Addition
of counts
under both
s. 379 and
s. 379A.

- (c) by omitting from subsection one of section four hundred and eighteen the words "or eighty-one" and by inserting in lieu thereof the words, figures and letters "eighty-one, 81A or 81B";

Sec. 418.
(On hearing
of a charge
for certain
offences,
evidence not
on oath
may be
received in
case of
children of
tender years,
but such
evidence
must be
corroborated.)

- (d) by inserting in paragraph (f) of section four hundred and seventy-seven after the word "sections" where secondly occurring the figures and letters "81A, 81B,";

Sec. 477.
(List of
offences
within this
jurisdic-
tion.)

Crimes (Amendment).

Subst. sec.
478.

- (e) by omitting section four hundred and seventy-eight and by inserting in lieu thereof the following section:—

Punishment
in such
cases.
55 Vic.
No. 5, s. 20.

478. Where under the provisions of this Chapter any person pleads guilty to or is convicted of an offence mentioned in section four hundred and seventy-seven of this Act, he shall—

- (a) where the offence is an offence under section 81B of this Act, be liable to imprisonment for six months;
- (b) where the offence is an offence under section 81A of this Act, be liable to imprisonment for twelve months;
- (c) in any other case, be liable to imprisonment for twelve months, or to a fine of fifty pounds, or if he is in the opinion of the Justice, or Justices, under sixteen years of age, to imprisonment for three months, or to a fine of ten pounds.

Further
amendment
of Act
No. 40,
1900.

4. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Sec. 360A.
(Indictment
of corpora-
tions.)

- (a) (i) by omitting from subsection two of section 360A the words “empowering the prosecutor appointed under section five hundred and seventy-two of this Act to prefer a bill for the offence named in the order or for such other offence as such prosecutor shall deem proper” and by inserting in lieu thereof the words “authorising an indictment to be filed for the offence named in the order or for such other offence as the Attorney-General or any other person authorised by law to prosecute indictable offences shall deem proper”;

(ii)

Crimes (Amendment).

(ii) by inserting at the end of the same section the following new subsection:—

(7) For the avoidance of doubt it is hereby declared that for the purposes of this section “indictable offence” means an offence punishable on indictment at common law or under any Act or Imperial Act.

- (b) by inserting in paragraph (a) of subsection one of section four hundred and nine after the word “evidence” the words “, or is absent from the Commonwealth of Australia”;
Sec. 409. (Depositions may be read as evidence for prosecution.)
- (c) by inserting next after section four hundred and forty the following short heading and new section:—
New sec. 440A.

Power to fine in certain cases.

440A. Where a person is convicted on indictment of an offence mentioned in section four hundred and seventy-seven of this Act and the evidence before the Court is such that if—
Power to fine in certain cases.

(a) that person had been charged before a Justice or Justices with that offence; and

(b) the same evidence had been given before the Justice or Justices,

the Justice or Justices would, with the consent of that person, have had power to hear and determine the charge in a summary manner under Chapter I of Part XIV of this Act, then the Court shall have the same power to impose a fine in respect of that offence as the Justice or Justices would have had if that person had pleaded guilty to, or been convicted of, the charge pursuant to that Chapter.

Nothing in this section affects any power of the Court to deal with the person so convicted or his property in any other manner in which
the

Crimes (Amendment).

the Court, apart from this section, has power to deal with him or his property, but any fine imposed under this section shall be in lieu of any period of penal servitude or imprisonment that might otherwise be imposed when sentence is being passed for the offence of which he is so convicted.

Section eighty-two of the Justices Act, 1902-1955, does not apply to or in respect of any fine imposed under this section.

New sec.
441A.

- (d) by inserting next after section four hundred and forty-one the following short heading and new section:—

Commencement of sentence.

441A. For the avoidance of doubt it is hereby declared that every sentence passed shall take effect from the time when it is passed, unless the Court otherwise directs.

Time from
which
sentences
shall take
effect.

cf. 21 & 22
Vic. c. 73,
s. 12.

New sec.
447B.

- (e) by inserting next after section 447A the following short heading and new section:—

Taking outstanding charges into account.

447B. (1) Where the Court before which a person is convicted on indictment of an offence not punishable with penal servitude for life is satisfied that—

Outstanding
charges may
be taken
into account
in passing
sentence.

- (a) there has been filed in court a document in or to the effect of the form contained in the Ninth Schedule to this Act, signed by a member of the police force and by the person so convicted, showing on the back thereof a list of other indictable offences not punishable with penal servitude for life with which he has been charged (whether or not he has been committed for trial in respect of those other offences);

(b)

Crimes (Amendment).

(b) a copy of that document has been furnished to the person so convicted; and

(c) in all the circumstances of the case it is proper so to do,

the Court may, with the consent of counsel for the Crown and before passing sentence on the person for the offence of which he has been convicted, ask that person whether he admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account in passing sentence upon him.

If the person so convicted admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account by the Court in passing sentence for the offence of which he has been convicted, the Court may, if it thinks fit, take all or any of the offences in respect of which he has so admitted guilt into account accordingly:

Provided that the sentence passed in any such case upon the person so convicted shall not exceed the maximum sentence that may be passed in respect of the offence of which he has been convicted.

(2) The Court shall certify upon the document filed in court the offences specified in the list on the back thereof that have, in respect of the conviction of the person concerned, been taken into account in passing sentence upon that conviction, and thereafter proceedings or further proceedings upon those offences shall not be taken against that person:

Provided that such proceedings or further proceedings may be taken where that conviction is quashed or set aside.

(3)

Crimes (Amendment).

(3) An admission of guilt under and for the purposes of this section in respect of an offence shall not be admissible in evidence—

- (a) in any proceedings or further proceedings taken under the proviso to subsection two of this section; or
- (b) in any proceedings or further proceedings in respect of the offence if the offence was not taken into account under this section in passing sentence.

(4) An offence taken into account under and in accordance with this section in passing sentence upon any person for another offence of which he has been convicted shall not, by reason of its being so taken into account, be regarded for any purpose as an offence of which that person has been convicted.

(5) Where the Court before which a person was convicted of an indictable offence in passing sentence for that offence took into account under and in accordance with this section any other offence or offences, then whenever in or in relation to any criminal proceeding—

- (a) reference may lawfully be made to the fact that that person was convicted of the indictable offence reference may also be made to the fact that that other offence or those other offences was or were so taken into account;
- (b) evidence may lawfully be given of the fact that that person was convicted of the indictable offence, evidence may also be given of the fact that that other offence or those other offences was or were so taken into account.

The

Crimes (Amendment).

The fact that that other offence or those other offences was or were so taken into account may be proved in the same manner as the conviction for the indictable offence may be proved.

Nothing in this subsection affects the operation of subsection four of this section.

- (f) (i) by inserting at the end of paragraph (d) of section four hundred and seventy-seven the words "except where such escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952"; (List of offences within this jurisdiction.)
- (ii) by inserting in paragraph (f), as amended by paragraph (d) of section three of this Act, of the same section after the figures and letter "81B," the words "one hundred and thirteen, one hundred and fourteen,";
- (iii) by inserting in the same paragraph after the words "one hundred and sixty-nine," the figures and letters "178A, 178B,";
- (iv) by inserting in the same paragraph after the words "one hundred and eighty-nine," the figures and letter "189A,";

- (g) by inserting next after section four hundred and seventy-nine the following new section:— New sec. 479A.

479A. Notwithstanding anything contained in this Chapter, a charge against any person for any offence under section one hundred and thirteen or one hundred and fourteen of this Act or for an attempt to commit any such offence shall not be disposed of summarily under this Chapter if it appears to the Justice or Justices hearing the charge that— Certain offences not to be dealt with summarily

- (a) the acts alleged against the person charged in respect of the offence were such as to give any person reasonable cause to apprehend violence from the person charged; or

(b)

Crimes (Amendment).

(b) where the charge is for breaking and entering or attempting to break and enter any premises mentioned in section one hundred and thirteen of this Act with intent to commit felony therein or is for being found at night under the following circumstances, that is to say, entering or being in any building with intent to commit a felony or misdemeanour therein, any person was lawfully in or upon those premises or that building at the time when the person charged is alleged to have committed the offence.

Sec. 499.
(Certificate
or conviction
a bar to
other pro-
ceedings.)

(h) by omitting from section four hundred and ninety-nine the words "shall be released from all proceedings, civil or criminal, for the same cause" and by inserting in lieu thereof the words and new subsection:—

"shall be released—

(a) from all criminal proceedings for the same cause; and

(b) from all civil proceedings for the same cause at the suit of the person laying the information in respect of the proceedings for assault.

(2) Any person against whom civil proceedings have been taken in respect of any act done by him which is an offence of which he might have been convicted under sections four hundred and ninety-three to four hundred and ninety-six both inclusive shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

(i)

Crimes (Amendment).

(i) (i) by inserting in paragraph (c) of subsection one of section five hundred and one after the words "one hundred and fifty-two" the words ", one hundred and seventy-nine, two hundred and forty-seven";

Sec. 501.
(List of offences punishable summarily without consent of accused.)

(ii) by omitting from the same subsection the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds";

(j) by omitting from section five hundred and fifty-six the words "or is discharged from his conviction by the Justices under section five hundred and fifty-two of this Act, he shall not be liable to any other proceeding for the same cause" and by inserting in lieu thereof the words and new subsection:—

Sec. 556.
(Summary conviction a bar to further proceedings.)

"he shall not be liable—

(a) to any other criminal proceedings for the same cause;

(b) to any civil proceedings for the same cause at the suit of the person laying the information upon which he was summarily convicted under this Act.

(2) Any person against whom civil proceedings have been taken in respect of any act or thing done or omitted to be done by him which is an offence of which he might have been convicted summarily without consent under this Act shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

(k)

*Crimes (Amendment).*New Ninth
Schedule.(k) by inserting next after the Eighth Schedule the
following new Schedule:—

Sec. 447B.

NINTH SCHEDULE.

Form of list of other indictable offences charged.

Police Department,

Criminal Investigation Branch,

Sydney (or.....)

.....Police Station.)

TO.....

indicted on a charge of.....

for trial at the sittings of the Supreme Court at.....

(or, as the case may be at.....Quarter

Sessions) commencing on....., 19 .

Memorandum for Accused's Information.(1) The list on the back hereof gives particulars of.....
other alleged offences with which you are charged.(2) If you are convicted of the charge of..... first
mentioned above, you may before sentence is passed, if the presiding
Judge so decides and counsel for the Crown consents, admit all or
any of the other offences set out on the back hereof and ask that
any of those offences that you have admitted be taken into account
by the presiding Judge in passing sentence upon you.(3) If you are convicted and the presiding Judge does take any
of the other offences that you have admitted into account, the
maximum sentence that may be imposed upon you will nevertheless
be the maximum sentence for the offence of.....
first mentioned above.(4) No further proceedings may be taken against you in respect
of the other offences taken into account unless your conviction for
the offence of..... first mentioned above is set aside
or quashed.(5) If proceedings are taken in the circumstances mentioned in
(4) or if the presiding Judge does not for any reason take any one
or more of the other offences that you have admitted into account,
your admission cannot be used as evidence against you in any proceed-
ings taken in the circumstances mentioned or taken in respect of the
offences not taken into account.

Signature of member of the police force.....

Date.....

Signature of accused acknowledging receipt of copy
of this document.....

Date.....

Certificate.

*Crimes (Amendment).**Certificate.*

In sentencing..... for the offence of.....
 this day, I have taken into account the following offences alleged
 against and admitted by him, that is to say, the offences numbered
in the list on the back hereof.

Dated this day of , 19 .

.....
 A Judge of the Supreme Court or
 a Chairman of Quarter Sessions.

[BACK OF FORM.]

Number.	Place where offence was committed.	Date of offence.	Offence(s). (Brief description.)	Whether or not commit- ted for trial? Yes or No.

(1) (i) by omitting from the matter relating to **Sec. 1.**
 Part III in section one the figures "81" and **(Consequen-**
 by inserting in lieu thereof the figures and **tial.)**
 letter "81B";

(ii) by inserting in the matter relating to Part
 XII in the same section after the figures
 "440" the following:—

(8A) *Power to fine in certain cases.*—s.
 440A.

(iii) by inserting in the same matter after the
 figures "441" the following:—

(9A) *Commencement of sentence.*—s.
 441A.

(iv)

Crimes (Amendment).

(iv) by inserting at the end of the same matter the following:—

(12) *Taking outstanding charges into account.*—s. 447B.

Further amendment of Act No. 40, 1900.

5. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Sec. 9.
(What offences felonies.)

- (a) (i) by omitting from section nine the words “of death, or”;
- (ii) by omitting from the same section the words “as aforesaid” and by inserting in lieu thereof the words “by death or penal servitude”;

Sec. 19.
(Murder—punishment.)

- (b) by omitting from section nineteen the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life.”

The provisions of section four hundred and forty-two of this Act shall not be in force with respect to the sentence to be passed under this section.”;

Sec. 27.
(Acts done to the person with intent to murder.)

- (c) by omitting from section twenty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 28.
(Acts done to property with like intent.)

- (d) by omitting from section twenty-eight the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 63.
(Rape.)

- (e) by omitting from section sixty-three the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 67.
(Carnally knowing girl under 10.)

- (f) by omitting from section sixty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 110.
(Breaking, entering, and assaulting with intent to murder, &c.)

- (g) by omitting from section one hundred and ten the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

(h)

Crimes (Amendment).

- (h) by omitting from section one hundred and ninety-six the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 196.
(Setting fire to dwelling, etc., knowing person therein.)
- (i) by omitting from section two hundred and thirty-five the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 235.
(Setting fire to vessel, any person being therein.)
- (j) by omitting from section two hundred and forty the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 240.
(Exhibiting false signals, &c.)
- (k) by omitting section four hundred and thirty; Sec. 430.
(Sentences of death when to be pronounced.)
- (l) by omitting from section four hundred and thirty-one the words ", or some offence by this Act or hereafter made so punishable" and by inserting in lieu thereof the words "and for which no other punishment is provided by this Act." Sec. 431.
(Only certain felonies capital.)

6. The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40, 1900.

- (a) by inserting in the definition of "Loaded arms" in section four after the word "chamber" the words "or magazine"; Sec. 4.
(Interpretation.)
- (b) (i) by omitting from section 154A the words "shall be liable to imprisonment for three years" and by inserting in lieu thereof the words "shall be deemed to be guilty of larceny, and may be convicted thereof upon an indictment for simple larceny"; Sec. 154A.
(Unlawfully using another's vehicle or boat.)
- (ii) by omitting from the same section the words and figures "and in section 154B";
- (c) by omitting section 154B; Sec. 154B.
(Trial for larceny—alternative verdict.)

(d)

Crimes (Amendment).

Sec. 526A.
(Unlawfully
using
vehicle or
boat.)

New sec.
578.

Publication
of evidence
may be
forbidden in
certain
cases.
cf. Act No.
14, 1899,
s. 81.

- (d) by inserting in subsection one of section 526A after the word "shall" the words "be guilty of statutory larceny and shall";
- (e) by inserting next after section five hundred and seventy-seven the following new section:—

578. (1) Any Judge or Chairman of Quarter Sessions presiding at the trial of any person for an offence under sections sixty-three, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-one, seventy-two, 72A, seventy-three, seventy-four, seventy-six, 78A, 78B, seventy-nine, eighty, eighty-one, 81A, 81B, eighty-six, eighty-seven, eighty-nine, ninety, 91A, 91B, 91C or 91D of this Act may at any stage of the trial and from time to time make an order forbidding publication of the evidence therein or any report or account of that evidence either as to the whole or portions thereof:

Provided that if the accused or counsel for the Crown indicates to the Judge or Chairman that it is desired that any particular matter given in evidence should be available for publication, no such order shall be made in respect of that matter.

(2) Any person who commits a breach of an order made under subsection one of this section shall, on conviction before two Justices, be liable to a penalty of one thousand pounds.

Amendment
of Act No.
27, 1902.

New sec.
51A.

Effect of
plea of
guilty in
committal
proceedings.

7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended—

- (a) by inserting next after section fifty-one the following short heading and new section:—

PLEA OF GUILTY IN COMMITTAL PROCEEDINGS.

51A. (1) A person charged before one, or more than one, Justice with an indictable offence not punishable with penal servitude for life may, at any stage of the proceedings, plead guilty to the

(5)

Crimes (Amendment).

the charge and thereupon the following provisions of this section have effect:—

- (a) The Justice or Justices may accept or reject the plea.

The rejection of a plea of guilty at any stage of the proceedings does not prevent the accused from pleading guilty under this section at a later stage of the proceedings and the Justice or Justices have power to accept or reject the plea at that later stage;

- (b) Where the Justice or Justices reject the plea the proceedings before the Justice or Justices shall be continued as if the plea had not been made;
- (c) Where the Justice or Justices accept the plea, the Justice or Justices shall thereupon commit the accused to such sittings of the Supreme Court or such Court of Quarter Sessions as the Justice or Justices may direct to be dealt with as hereinafter in this section provided;
- (d) The Judge of the Supreme Court or the Chairman of Quarter Sessions, as the case may be, before whom the accused is brought in accordance with this section—
- (i) shall, if it appears to him from the information or evidence given to or before him that the facts in respect of which the accused was charged before the Justice or Justices do not support the charge to which the accused pleaded guilty or if the accused or counsel for the Crown requests that an order be made under this subparagraph, and may, if for any other reason the Judge or Chairman, as the case may be, sees fit so to do, order that the proceedings

Crimes (Amendment).

proceedings before the Justice or Justices at which the accused pleaded guilty be continued at a time and place to be specified in the order;

- (ii) unless an order is made under subparagraph (i) of this paragraph, has the same powers of sentencing or otherwise dealing with the accused, and of finally disposing of the charge and of all incidental matters, as he would have had if the accused on arraignment at any sittings of the Court had pleaded guilty to the offence charged on an indictment filed by the Attorney-General.

(2) All proceedings relating to a committal for trial apply, as nearly as may be, to a committal under paragraph (c) of subsection one of this section, and bail may be similarly granted; but no person shall be bound over to give evidence on any committal under that paragraph unless the committing Justice or Justices otherwise order.

(3) Where an order is made by a Judge or Chairman under subparagraph (i) of paragraph (d) of subsection one of this section that proceedings before a Justice or Justices at which an accused pleaded guilty be continued at a time and place specified in the order, those proceedings shall be continued in all respects as if the accused had not pleaded guilty and as if those proceedings had been adjourned by the Justice or Justices to the time and place so specified.

Upon the making of any such order the Judge or Chairman may exercise any power that the Justice or Justices might have exercised under

Crimes (Amendment).

under section thirty-four of this Act if the order had been an order made by the Justice or Justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the accused.

(4) Where a person has, in respect of any charge to which he has pleaded guilty under subsection one of this section, been committed under paragraph (c) of that subsection, the Attorney-General may in his discretion direct in writing that no further proceedings under this section be taken against the person so committed in respect of that charge.

Upon the giving of such direction—

- (a) no further proceedings shall be taken under this section against the person so committed in respect of that charge; and
- (b) the provisions of section three hundred and fifty-eight of the Crimes Act, 1900, as amended by subsequent Acts, apply to and in respect of the person concerned as if he were under committal for trial and the Attorney-General had declined to file any information against him.

(5) A committal under paragraph (c) of subsection one of this section shall, for all purposes relating to the venue or change of venue of proceedings consequent on that committal, be deemed to be a committal for trial.

(6) This section does not apply where—

- (a) the indictable offence with which the person is charged is an offence mentioned in section four hundred and seventy-seven of the Crimes Act

Crimes (Amendment).

Act, 1900, as amended by subsequent Acts, and that person pleads guilty after all conditions prescribed by Chapter I of Part XIV of that Act which are necessary to be complied with in order to give jurisdiction to the Justice or Justices to hear and determine the charge in a summary manner have been complied with; or

- (b) the indictable offence with which the person is charged may be dealt with summarily without the consent of the accused and is being so dealt with.

New sec.
153A.

Person
apprehended
under bench
warrant
to be
committed
to prison or
admitted
to bail.

- (b) by inserting next after section one hundred and fifty-three the following new section:—

153A. (1) When a person is apprehended under a bench warrant issued by a Judge or a Chairman of Quarter Sessions in any criminal proceeding and a sittings of the Court out of which the bench warrant issued is not then being held, any Justice may—

- (a) by warrant commit that person to prison, there to be safely kept until the next sittings of the Court out of which the bench warrant issued or until he is delivered in due course of law or is admitted to bail as hereinafter in this section provided; or
- (b) if that person procures and produces a surety or sureties sufficient, in the opinion of the Justice, to ensure his appearance at the commencement of the next sittings of the Court out of which the bench warrant issued, admit him to bail.

If that person cannot then and there procure and produce such surety or sureties, the Justice may certify on the warrant of commitment his consent

Crimes (Amendment).

consent that that person be admitted to bail, stating the amount of bail that ought to be required.

(2) (a) The constable or other person to whom a warrant of commitment is directed by a Justice under paragraph (a) of subsection one of this section shall convey the person committed therein named or described to the prison therein mentioned, and there deliver him and the warrant to the gaoler, keeper or governor of such prison, who shall thereupon give the constable or other person delivering such person into his custody a receipt for such person, setting forth the state and condition in which such person was when delivered into the custody of such gaoler, keeper or governor.

(b) If it appears to the Justice by whom a warrant of commitment is granted as aforesaid that the person committed has money sufficient to pay the expenses or some part thereof of conveying him to such prison, the Justice may order the whole or a sufficient part of such money to be applied to that purpose.

(3) (a) When a Justice admits a person to bail as aforesaid he shall take the recognizance of such person and of the surety or sureties, conditioned that such person shall appear at the commencement of the next sittings of the Court out of which the bench warrant under which such person was apprehended was issued, and shall then surrender and not depart the Court without leave.

(b) Every recognizance shall be duly acknowledged by the person who enters into it, and shall be subscribed by the Justice.

(c) A notice of every recognizance signed by the Justice shall at the same time be given by him to each person bound thereby.

(4)

Crimes (Amendment).

(4) When a Justice has by warrant committed a person to prison under subsection one of this section and has given such a certificate as is mentioned in that subsection, any Justice being at the prison where such person is in custody, may on production of such certificate admit such person to bail in the manner hereinbefore in this section provided.

(5) Where any person apprehended under any bench warrant is committed to prison or admitted to bail by a Justice under the provisions of this section, the Justice shall forthwith transmit a certified copy of the warrant of commitment or, as the case may be, the recognizance or recognizances of bail to the Attorney-General.

Sec. 1.
(Consequential.)

(c) by omitting from the matter relating to Part IV in section one the figures "51" and by inserting in lieu thereof the figures and letter "51A".

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1955.

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

J. NORTHCOTT,
Governor.

Government House,
Sydney, 14th April, 1955.

CRIMES (AMENDMENT) BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 30th March, 1955.*

Page 3, clause 3. *After line 28 insert:—“(b) where the offence is an offence under section 81A of this Act, be liable to imprisonment for twelve months;”.*

Page 4, clause 4, lines 31 to 41 inclusive. *Omit all words on these lines and insert in lieu thereof:—*

440A. Where a person is convicted on indictment of an offence mentioned in section four hundred and seventy-seven of this Act and the evidence before the Court is such that if—

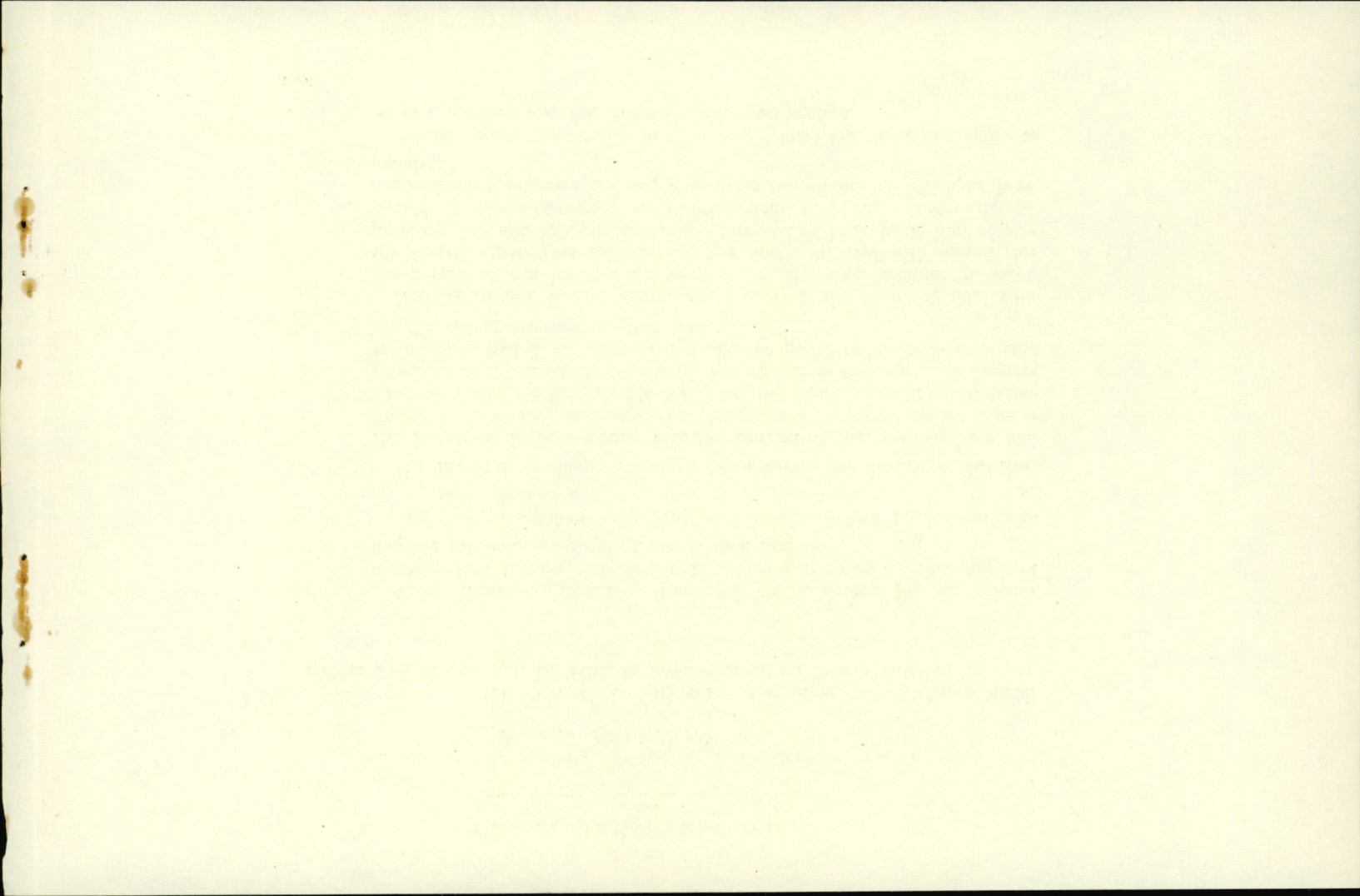
*Power
to fine
in certain
cases.*

(a) that person had been charged before a Justice or Justices with that offence; and

(b) the same evidence had been given before the Justice or Justices, the Justice or Justices would, with the consent of that person, have had power to hear and determine the charge in a summary manner under Chapter I of Part XIV of this Act, then the Court shall have the same power to impose a fine in respect of that offence as the Justice or Justices would have had if that person had pleaded guilty to, or been convicted of, the charge pursuant to that Chapter.

Nothing in this section affects any power of the Court to deal with the person so convicted or his property in any other manner in which the Court, apart from this section, has power to deal with him or his property, but any fine imposed under this section shall be in lieu of any period of penal servitude or imprisonment that might otherwise be imposed when sentence is being passed for the offence of which he is so convicted.

Section eighty-two of the Justices Act, 1902-1955, does not apply to or in respect of any fine imposed under this section.



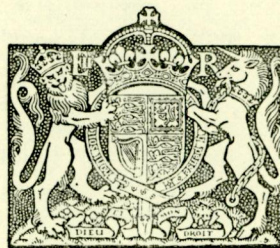
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 24 March, 1955.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

*J. R. STEVENSON,
Clerk of the Parliaments
Legislative Council Chamber,
Sydney, 30th March, 1955.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to amend the Crimes Act, 1900, the Justices Act, 1902, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the Queen'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, 1955." Short title.

2. The Crimes Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 40, 1900.
10 (a) by inserting in subsections one and two of section 52A after the words "motor vehicle" the words "or through the impact of a motor vehicle" Sec. 52A. (Culpabl driving.)

88647 94—A

with

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

Crimes (Amendment).

with any vehicle or other object in, on or near which the person was at the time of impact and in either case the motor vehicle was at the time of impact”;

5 (b) by inserting in subsection four of the same section after the word “offence” where thirdly occurring the words “under this Act”;

(c) by inserting at the end of the same section the following new subsection:—

10 (7) Without limiting the generality of the meaning of the expression “object”, that expression, in subsections one and two of this section, includes animal, building and structure.

3. The Crimes Act, 1900, as amended by subsequent
15 Acts, is further amended—

Further amendment of Act No. 40, 1900.

(a) by inserting next after section eighty-one the following new sections:—

New secs. 81A, 81B.

20 81A. Whosoever, being a male person, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of indecency with another male person shall be liable to imprisonment for two years.

Outrages on decency. cf. 48 & 49 Vic. c. 69, s. 11.

25 81B. (1) Whosoever, being a male person, in any public place—

Soliciting, &c., male person in a public place.

(a) solicits or incites; or

(b) attempts to solicit or incite,

30 in any manner whatsoever any male person to commit or to be a party to the commission of any offence under section seventy-nine, eighty-one or 81A of this Act shall be liable to imprisonment for twelve months.

35 (2) A person shall not be convicted of an offence under this section upon the testimony of one witness only, unless such testimony is corroborated by some other material evidence implicating the accused in the commission of the offence.

40 (3) This section does not exempt any person from any proceeding for an offence which is punishable at common law, but so that no person shall be punished twice for the same offence.

45 (4) An offence under this section shall not be prosecuted and punished under the Crimes Prevention Act, 1916. (b)

Crimes (Amendment).

- (b) by inserting next after section three hundred and seventy-nine the following new sections:—
- 379A. In an indictment for an offence under section seventy-nine, eighty or eighty-one of this Act, a count may be added for an offence under section 81A of this Act.
- 379B. In an indictment for an unnatural crime, or an attempt to commit the same, counts may be added under both section three hundred and seventy-nine and section 379A of this Act.
- (c) by omitting from subsection one of section four hundred and eighteen the words “or eighty-one” and by inserting in lieu thereof the words, figures and letters “eighty-one, 81A or 81B”;
- (d) by inserting in paragraph (f) of section four hundred and seventy-seven after the word “sections” where secondly occurring the figures and letters “81A, 81B,”;
- (e) by omitting section four hundred and seventy-eight and by inserting in lieu thereof the following section:—
478. Where under the provisions of this Chapter any person pleads guilty to or is convicted of an offence mentioned in section four hundred and seventy-seven of this Act, he shall—
- (a) where the offence is an offence under section 81B of this Act, be liable to imprisonment for six months;
- (b) where the offence is an offence under section 81A of this Act, be liable to imprisonment for twelve months;
- (b) (c) in any other case, be liable to imprisonment for twelve months, or to a fine of fifty pounds, or if he is in the opinion of the Justice, or Justices, under sixteen years of age, to imprisonment for three months, or to a fine of ten pounds.

New secs.
379A, 379B.

Addition
of count
for an
offence
under
s. 81A.

Addition
of counts
under both
s. 379 and
s. 379A.

Sec. 418.
(On hearing
of a charge
for certain
offences,
evidence not
on oath
may be
received in
case of
children of
tender years,
but such
evidence
must be
corroborated.)

Sec. 477.
(List of
offences
within this
jurisdic-
tion.)

Subst. sec.
478.

Punishment
in such
cases.
55 Vic.
No. 5, s. 20.

Crimes (Amendment).

4. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 40, 1900.

Sec. 360A. (Indictment of corporations.)

(a) (i) by omitting from subsection two of section 360A the words “empowering the prosecutor appointed under section five hundred and seventy-two of this Act to prefer a bill for the offence named in the order or for such other offence as such prosecutor shall deem proper” and by inserting in lieu thereof the words “authorising an indictment to be filed for the offence named in the order or for such other offence as the Attorney-General or any other person authorised by law to prosecute indictable offences shall deem proper”;

(ii) by inserting at the end of the same section the following new subsection:—

(7) For the avoidance of doubt it is hereby declared that for the purposes of this section “indictable offence” means an offence punishable on indictment at common law or under any Act or Imperial Act.

(b) by inserting in paragraph (a) of subsection one of section four hundred and nine after the word “evidence” the words “, or is absent from the Commonwealth of Australia”;

Sec. 409. (Depositions may be read as evidence for prosecution.) New sec. 440A.

(c) by inserting next after section four hundred and forty the following short heading and new section:—

Power to fine in certain cases.

~~440A. Where a person is convicted on indictment of an offence mentioned in section four hundred and seventy-seven of this Act and the subject matter of the count contained in the indictment on which he was so convicted, or the value of the property involved, does not amount to two hundred and fifty pounds the Court may, in lieu of imposing any other punishment that may apart from this section be lawfully imposed in respect of the offence, impose a penalty not exceeding fifty pounds.~~

Power to fine in certain cases.

440A. Where a person is convicted on indictment of an offence mentioned in section four hundred and seventy-seven of this Act and the evidence before the Court is such that if—

Power to fine in certain cases.

(a) that person had been charged before a Justice or Justices with that offence; and

(b)

Crimes (Amendment).

(b) the same evidence had been given before the Justice or Justices, the Justice or Justices would, with the consent of that person, have had power to hear and determine the charge in a summary manner under Chapter I of Part XIV of this Act, then the Court shall have the same power to impose a fine in respect of that offence as the Justice or Justices would have had if that person had pleaded guilty to, or been convicted of, the charge pursuant to that Chapter.

Nothing in this section affects any power of the Court to deal with the person so convicted or his property in any other manner in which the Court, apart from this section, has power to deal with him or his property, but any fine imposed under this section shall be in lieu of any period of penal servitude or imprisonment that might otherwise be imposed when sentence is being passed for the offence of which he is so convicted.

Section eighty-two of the Justices Act, 1902-1955, does not apply to or in respect of any fine imposed under this section.

(d) by inserting next after section four hundred and forty-one the following short heading and new section:—

Commencement of sentence.

441A. For the avoidance of doubt it is hereby declared that every sentence passed shall take effect from the time when it is passed, unless the Court otherwise directs.

Time from which sentences shall take effect.
cf. 21 & 22 Vic. c. 73, s. 12.

(e) by inserting next after section 447A the following short heading and new section:—

New sec. 447B.

Taking outstanding charges into account.

447B. (1) Where the Court before which a person is convicted on indictment of an offence not punishable with penal servitude for life is satisfied that—

Outstanding charges may be taken into account in passing sentence.

(a) there has been filed in court a document in or to the effect of the form contained in the Ninth Schedule to this Act, signed by

Crimes (Amendment).

5 by a member of the police force and by the person so convicted, showing on the back thereof a list of other indictable offences not punishable with penal servitude for life with which he has been charged (whether or not he has been committed for trial in respect of those other offences);

10 (b) a copy of that document has been furnished to the person so convicted; and

(c) in all the circumstances of the case it is proper so to do,

15 the Court may, with the consent of counsel for the Crown and before passing sentence on the person for the offence of which he has been convicted, ask that person whether he admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account in passing sentence upon him.

20 If the person so convicted admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account by the Court in passing sentence for the offence of which he has been convicted, the Court may, if it thinks fit, take all or any of the offences in respect of which he has so admitted guilt into account accordingly:

25 Provided that the sentence passed in any such case upon the person so convicted shall not exceed the maximum sentence that may be passed in respect of the offence of which he has been convicted.

30 (2) The Court shall certify upon the document filed in court the offences specified in the list on the back thereof that have, in respect of the conviction of the person concerned, been taken into account in passing sentence upon that conviction,

Crimes (Amendment).

conviction, and thereafter proceedings or further proceedings upon those offences shall not be taken against that person:

5 Provided that such proceedings or further proceedings may be taken where that conviction is quashed or set aside.

11 (3) An admission of guilt under and for the purposes of this section in respect of an offence shall not be admissible in evidence—

10 (a) in any proceedings or further proceedings taken under the proviso to subsection two of this section; or

15 (b) in any proceedings or further proceedings in respect of the offence if the offence was not taken into account under this section in passing sentence.

20 (4) An offence taken into account under and in accordance with this section in passing sentence upon any person for another offence of which he has been convicted shall not, by reason of its being so taken into account, be regarded for any purpose as an offence of which that person has been convicted.

25 (5) Where the Court before which a person was convicted of an indictable offence in passing sentence for that offence took into account under and in accordance with this section any other offence or offences, then whenever in or in relation to any criminal proceeding—

30 (a) reference may lawfully be made to the fact that that person was convicted of the indictable offence reference may also be made to the fact that that other offence or those other offences was or were so taken into account;

(b)

Crimes (Amendment).

5 (b) evidence may lawfully be given of the fact that that person was convicted of the indictable offence, evidence may also be given of the fact that that other offence or those other offences was or were so taken into account.

10 The fact that that other offence or those other offences was or were so taken into account may be proved in the same manner as the conviction for the indictable offence may be proved.

Nothing in this subsection affects the operation of subsection four of this section.

15 (f) (i) by inserting at the end of paragraph (d) of section four hundred and seventy-seven the words "except where such escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952"; (List of offences within this jurisdiction.)

20 (ii) by inserting in paragraph (f), as amended by paragraph (d) of section three of this Act, of the same section after the figures and letter "81B," the words "one hundred and thirteen, one hundred and fourteen,";

25 (iii) by inserting in the same paragraph after the words "one hundred and sixty-nine," the figures and letters "178A, 178B,";

(iv) by inserting in the same paragraph after the words "one hundred and eighty-nine," the figures and letter "189A,";

30 (g) by inserting next after section four hundred and seventy-nine the following new section:— New sec. 479A.

35 479A. Notwithstanding anything contained in this Chapter, a charge against any person for any offence under section one hundred and thirteen or one hundred and fourteen of this Act Certain offences not to be dealt with summarily.

Crimes (Amendment).

Act or for an attempt to commit any such offence shall not be disposed of summarily under this Chapter if it appears to the Justice or Justices hearing the charge that—

5 (a) the acts alleged against the person charged in respect of the offence were such as to give any person reasonable cause to apprehend violence from the person charged; or

10 (b) where the charge is for breaking and entering or attempting to break and enter any premises mentioned in section one hundred and thirteen of this Act with intent to commit felony therein or is for being found at night under the following circumstances, that is to say, entering or being in any building with intent to commit a felony or mis-
15 demeanour therein, any person was lawfully in or upon those premises or that building at the time when the person charged is alleged to have committed the offence.

25 (h) by omitting from section four hundred and ninety-nine the words “shall be released from all proceedings, civil or criminal, for the same cause” and by inserting in lieu thereof the words and new subsection:—
Sec. 499.
(Certificate or conviction a bar to other proceedings.)

“shall be released—

30 (a) from all criminal proceedings for the same cause; and

(b) from all civil proceedings for the same cause at the suit of the person laying the information in respect of the proceedings for assault.

35 (2) Any person against whom civil proceedings have been taken in respect of any act done by him which is an offence of which he might
 have

Crimes (Amendment).

5 have been convicted under sections four hundred and ninety-three to four hundred and ninety-six both inclusive shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

10 (i) (i) by inserting in paragraph (c) of subsection one of section five hundred and one after the words "one hundred and fifty-two" the words "one hundred and seventy-nine, two hundred and forty-seven";

Sec. 501.
(List of offences punishable summarily without consent of accused.)

(ii) by omitting from the same subsection the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds";

15 (j) by omitting from section five hundred and fifty-six the words "or is discharged from his conviction by the Justices under section five hundred and fifty-two of this Act, he shall not be liable to any other proceeding for the same cause" and by inserting in lieu thereof the words and new subsection:—

Sec. 556.
(Summary conviction a bar to further proceedings.)

"he shall not be liable—

(a) to any other criminal proceedings for the same cause;

25 (b) to any civil proceedings for the same cause at the suit of the person laying the information upon which he was summarily convicted under this Act.

30 (2) Any person against whom civil proceedings have been taken in respect of any act or thing done or omitted to be done by him which is an offence of which he might have been convicted summarily without consent under this Act shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

(k)

Crimes (Amendment).

(k) by inserting next after the Eighth Schedule the following new Schedule:—

New Ninth Schedule.

NINTH SCHEDULE.

Sec. 447B.

Form of list of other indictable offences charged.

5 Police Department,
Criminal Investigation Branch,
Sydney (or.....
.....Police Station.)

TO.....
10 indicted on a charge of.....
for trial at the sittings of the Supreme Court at.....
(or, as the case may be at.....Quarter
Sessions) commencing on....., 19 .

Memorandum for Accused's Information.

15 (1) The list on the back hereof gives particulars of.....
other alleged offences with which you are charged.

(2) If you are convicted of the charge of..... first
mentioned above, you may before sentence is passed, if the presiding
Judge so decides and counsel for the Crown consents, admit all or
20 any of the other offences set out on the back hereof and ask that
any of those offences that you have admitted be taken into account
by the presiding Judge in passing sentence upon you.

(3) If you are convicted and the presiding Judge does take any
of the other offences that you have admitted into account, the
25 maximum sentence that may be imposed upon you will nevertheless
be the maximum sentence for the offence of.....
first mentioned above.

(4) No further proceedings may be taken against you in respect
of the other offences taken into account unless your conviction for
30 the offence of..... first mentioned above is set aside
or quashed.

(5) If proceedings are taken in the circumstances mentioned in
(4) or if the presiding Judge does not for any reason take any one
or more of the other offences that you have admitted into account,
35 your admission cannot be used as evidence against you in any proceed-
ings taken in the circumstances mentioned or taken in respect of the
offences not taken into account.

Signature of member of the police force.....
Date.....

40 Signature of accused acknowledging receipt of copy
of this document.....

Date.....

Certificate.

Crimes (Amendment).

Certificate.

In sentencing..... for the offence of.....
this day, I have taken into account the following offences alleged
against and admitted by him, that is to say, the offences numbered
5in the list on the back hereof.

Dated this day of , 19 .

.....
A Judge of the Supreme Court *or*
a Chairman of Quarter Sessions.

[BACK OF FORM.]

Number.	Place where offence was committed.	Date of offence.	Offence(s). (Brief description.)	Whether or not commit- ted for trial? Yes or No.

15 (1) (i) by omitting from the matter relating to Sec. 1.
Part III in section one the figures "81" and (Consequen-
by inserting in lieu thereof the figures and tial.)
letter "81B";

(ii) by inserting in the matter relating to Part
XII in the same section after the figures
20 "440" the following:—

(8A) *Power to fine in certain cases.—s.*
440A.

(iii) by inserting in the same matter after the
25 figures "441" the following:—

(9A) *Commencement of sentence.—s.*
441A.

(iv)

Crimes (Amendment).

(iv) by inserting at the end of the same matter the following:—

(12) *Taking outstanding charges into account.*—s. 447B.

5 **5.** The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

(a) (i) by omitting from section nine the words “of death, or”; Further amendment of Act No. 40, 1900. Sec. 9. (What offences felonies.)

10 (ii) by omitting from the same section the words “as aforesaid” and by inserting in lieu thereof the words “by death or penal servitude”;

15 (b) by omitting from section nineteen the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life.” Sec. 19. (Murder—punishment.)

The provisions of section four hundred and forty-two of this Act shall not be in force with respect to the sentence to be passed under this section.”;

20 (c) by omitting from section twenty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 27. (Acts done to the person with intent to murder.)

25 (d) by omitting from section twenty-eight the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 28. Acts done to property with like intent.)

(e) by omitting from section sixty-three the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 63. (Rape.)

30 (f) by omitting from section sixty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 67. (Carnally knowing girl under 10.)

35 (g) by omitting from section one hundred and ten the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 110. (Breaking, entering, and assaulting with intent to murder, &c.)

(h)

Crimes (Amendment).

- (h) by omitting from section one hundred and ninety-six the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 196.
(Setting fire to dwelling, etc., knowing person therein.)
- 5 (i) by omitting from section two hundred and thirty-five the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 235.
(Setting fire to vessel, any person being therein.)
- 10 (j) by omitting from section two hundred and forty the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 240.
(Exhibiting false signals, &c.)
- (k) by omitting section four hundred and thirty; Sec. 430.
(Sentences of death when to be pronounced.)
- 15 (l) by omitting from section four hundred and thirty-one the words ", or some offence by this Act or hereafter made so punishable" and by inserting in lieu thereof the words "and for which no other punishment is provided by this Act." Sec. 431.
(Only certain felonies capital.)
- 20 **6.** The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40, 1900.
- (a) by inserting in the definition of "Loaded arms" in section four after the word "chamber" the words "or magazine"; Sec. 4.
(Interpretation.)
- 25 (b) (i) by omitting from section 154A the words "shall be liable to imprisonment for three years" and by inserting in lieu thereof the words "shall be deemed to be guilty of larceny, and may be convicted thereof upon an indictment for simple larceny"; Sec. 154A.
(Unlawfully using another's vehicle or boat.)
- 30 (ii) by omitting from the same section the words and figures "and in section 154B";
- (c) by omitting section 154B; Sec. 154B.
(Trial for larceny—alternative verdict.)
- (d)

Crimes (Amendment).

(d) by inserting in subsection one of section 526A Sec. 526A.
after the word "shall" the words "be guilty of (Unlawfully
statutory larceny and shall"; using
vehicle or
boat.)

5 (e) by inserting next after section five hundred and New sec.
seventy-seven the following new section:— 578.

10 578. (1) Any Judge or Chairman of Quarter Publication
Sessions presiding at the trial of any person for of evidence
an offence under sections sixty-three, sixty-five, may be
sixty-six, sixty-seven, sixty-eight, seventy-one, forbidden in
seventy-two, 72A, seventy-three, seventy-four, certain
seventy-six, 78A, 78B, seventy-nine, eighty, cases.
eighty-one, 81A, 81B, eighty-six, eighty-seven, cf. Act No.
eighty-nine, ninety, 91A, 91B, 91c or 91d of this 14, 1899,
Act may at any stage of the trial and from time s. 81.
15 to time make an order forbidding publication of
the evidence therein or any report or account of
that evidence either as to the whole or portions
thereof:

20 Provided that if the accused or counsel for
the Crown indicates to the Judge or Chairman
that it is desired that any particular matter given
in evidence should be available for publication,
no such order shall be made in respect of that
matter.

25 (2) Any person who commits a breach
of an order made under subsection one of this
section shall, on conviction before two Justices,
be liable to a penalty of one thousand pounds.

30 7. (1) The Justices Act, 1902, as amended by Amendment
subsequent Acts, is amended— of Act No.
27, 1902.

(a) by inserting next after section fifty-one the New sec.
following short heading and new section:— 51A.

PLEA OF GUILTY IN COMMITTAL PROCEEDINGS.

35 51A. (1) A person charged before one, or more Effect of
than one, Justice with an indictable offence not plea of
punishable with penal servitude for life may, guilty in
at any stage of the proceedings, plead guilty to committal
proceedings.
the

Crimes (Amendment).

the charge and thereupon the following provisions of this section have effect:—

- (a) The Justice or Justices may accept or reject the plea.

5

The rejection of a plea of guilty at any stage of the proceedings does not prevent the accused from pleading guilty under this section at a later stage of the proceedings and the Justice or Justices have power to accept or reject the plea at that later stage;

10

- (b) Where the Justice or Justices reject the plea the proceedings before the Justice or Justices shall be continued as if the plea had not been made;

15

- (c) Where the Justice or Justices accept the plea, the Justice or Justices shall thereupon commit the accused to such sittings of the Supreme Court or such Court of Quarter Sessions as the Justice or Justices may direct to be dealt with as hereinafter in this section provided;

20

- (d) The Judge of the Supreme Court or the Chairman of Quarter Sessions, as the case may be, before whom the accused is brought in accordance with this section—

25

- (i) shall, if it appears to him from the information or evidence given to or before him that the facts in respect of which the accused was charged before the Justice or Justices do not support the charge to which the accused pleaded guilty or if the accused or counsel for the Crown requests that an order be made under this subparagraph, and may, if for any other reason the Judge or Chairman, as the case may be, sees fit so to do, order that the proceedings

30

35

Crimes (Amendment).

proceedings before the Justice or Justices at which the accused pleaded guilty be continued at a time and place to be specified in the order;

- (ii) unless an order is made under subparagraph (i) of this paragraph, has the same powers of sentencing or otherwise dealing with the accused, and of finally disposing of the charge and of all incidental matters, as he would have had if the accused on arraignment at any sittings of the Court had pleaded guilty to the offence charged on an indictment filed by the Attorney-General.

(2) All proceedings relating to a committal for trial apply, as nearly as may be, to a committal under paragraph (c) of subsection one of this section, and bail may be similarly granted; but no person shall be bound over to give evidence on any committal under that paragraph unless the committing Justice or Justices otherwise order.

(3) Where an order is made by a Judge or Chairman under subparagraph (i) of paragraph (d) of subsection one of this section that proceedings before a Justice or Justices at which an accused pleaded guilty be continued at a time and place specified in the order, those proceedings shall be continued in all respects as if the accused had not pleaded guilty and as if those proceedings had been adjourned by the Justice or Justices to the time and place so specified.

Upon the making of any such order the Judge or Chairman may exercise any power that the Justice or Justices might have exercised under

Crimes (Amendment).

5 under section thirty-four of this Act if the order had been an order made by the Justice or Justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the accused.

10 (4) Where a person has, in respect of any charge to which he has pleaded guilty under subsection one of this section, been committed under paragraph (c) of that subsection, the Attorney-General may in his discretion direct in writing that no further proceedings under this section be taken against the person so committed
15 in respect of that charge.

Upon the giving of such direction—

- 20 (a) no further proceedings shall be taken under this section against the person so committed in respect of that charge; and
- 25 (b) the provisions of section three hundred and fifty-eight of the Crimes Act, 1900, as amended by subsequent Acts, apply to and in respect of the person concerned as if he were under committal for trial and the Attorney-General had declined to file any information against him.

30 (5) A committal under paragraph (c) of subsection one of this section shall, for all purposes relating to the venue or change of venue of proceedings consequent on that committal, be deemed to be a committal for trial.

35 (6) This section does not apply where—
(a) the indictable offence with which the person is charged is an offence mentioned in section four hundred and seventy-seven of the Crimes Act

Crimes (Amendment).

Act, 1900, as amended by subsequent Acts, and that person pleads guilty after all conditions prescribed by Chapter I of Part XIV of that Act which are necessary to be complied with in order to give jurisdiction to the Justice or Justices to hear and determine the charge in a summary manner have been complied with; or

(b) the indictable offence with which the person is charged may be dealt with summarily without the consent of the accused and is being so dealt with.

(b) by inserting next after section one hundred and fifty-three the following new section:—

New sec.
153A.

153A. (1) When a person is apprehended under a bench warrant issued by a Judge or a Chairman of Quarter Sessions in any criminal proceeding and a sittings of the Court out of which the bench warrant issued is not then being held, any Justice may—

Person
apprehended
under bench
warrant
to be
committed
to prison or
admitted
to bail.

(a) by warrant commit that person to prison, there to be safely kept until the next sittings of the Court out of which the bench warrant issued or until he is delivered in due course of law or is admitted to bail as hereinafter in this section provided; or

(b) if that person procures and produces a surety or sureties sufficient, in the opinion of the Justice, to ensure his appearance at the commencement of the next sittings of the Court out of which the bench warrant issued, admit him to bail.

If that person cannot then and there procure and produce such surety or sureties, the Justice may certify on the warrant of commitment his consent

Crimes (Amendment).

consent that that person be admitted to bail, stating the amount of bail that ought to be required.

5 (2) (a) The constable or other person to whom a warrant of commitment is directed by a Justice under paragraph (a) of subsection one of this section shall convey the person committed therein named or described to the prison therein mentioned, and there deliver him and the
10 warrant to the gaoler, keeper or governor of such prison, who shall thereupon give the constable or other person delivering such person into his custody a receipt for such person, setting forth the state and condition in which such person was
15 when delivered into the custody of such gaoler, keeper or governor.

(b) If it appears to the Justice by whom a warrant of commitment is granted as
20 aforesaid that the person committed has money sufficient to pay the expenses or some part thereof of conveying him to such prison, the Justice may order the whole or a sufficient part of such money to be applied to that purpose.

25 (3) (a) When a Justice admits a person to bail as aforesaid he shall take the recognizance of such person and of the surety or sureties, conditioned that such person shall appear at the commencement of the next sittings of the Court out of which the bench
30 warrant under which such person was apprehended was issued, and shall then surrender and not depart the Court without leave.

(b) Every recognizance shall be
35 duly acknowledged by the person who enters into it, and shall be subscribed by the Justice.

(c) A notice of every recognizance signed by the Justice shall at the same time be given by him to each person bound thereby.

(4)

Crimes (Amendment).

5 (4) When a Justice has by warrant committed a person to prison under subsection one of this section and has given such a certificate as is mentioned in that subsection, any Justice being at the prison where such person is in custody, may on production of such certificate admit such person to bail in the manner hereinbefore in this section provided.

10 (5) Where any person apprehended under any bench warrant is committed to prison or admitted to bail by a Justice under the provisions of this section, the Justice shall forthwith transmit a certified copy of the warrant of commitment or, as the case may be, the recognizance or recognizances of bail to the Attorney-General.

15 (c) by omitting from the matter relating to Part IV in section one the figures "51" and by inserting in lieu thereof the figures and letter "51A". Sec. 1.
(Consequential.)

20 (2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1955.

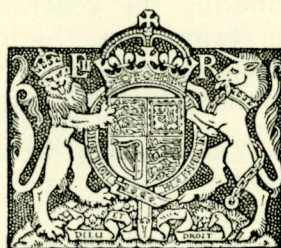
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 24 March, 1955.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

*Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, March, 1955.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to amend the Crimes Act, 1900, the Justices Act, 1902, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the Queen'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, 1955." Short title.

2. The Crimes Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 40, 1900.

10 (a) by inserting in subsections one and two of section 52A after the words "motor vehicle" the words "or through the impact of a motor vehicle" Sec. 52A. (Culpable driving.)

88647 94—A

with

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

Crimes (Amendment).

with any vehicle or other object in, on or near which the person was at the time of impact and in either case the motor vehicle was at the time of impact”;

- 5 (b) by inserting in subsection four of the same section after the word “offence” where thirdly occurring the words “under this Act”;
- (c) by inserting at the end of the same section the following new subsection:—

10 (7) Without limiting the generality of the meaning of the expression “object”, that expression, in subsections one and two of this section, includes animal, building and structure.

3. The Crimes Act, 1900, as amended by subsequent
15 Acts, is further amended—

Further amendment of Act No. 40, 1900.

- (a) by inserting next after section eighty-one the following new sections:—

New secs. 81A, 81B.

20 81A. Whosoever, being a male person, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of indecency with another male person shall be liable to imprisonment for two years.

Outrages on decency. cf. 48 & 49 Vic. c. 69, s. 11.

25 81B. (1) Whosoever, being a male person, in any public place—

Soliciting, &c., male person in a public place.

(a) solicits or incites; or

(b) attempts to solicit or incite,

30 in any manner whatsoever any male person to commit or to be a party to the commission of any offence under section seventy-nine, eighty-one or 81A of this Act shall be liable to imprisonment for twelve months.

35 (2) A person shall not be convicted of an offence under this section upon the testimony of one witness only, unless such testimony is corroborated by some other material evidence implicating the accused in the commission of the offence.

40 (3) This section does not exempt any person from any proceeding for an offence which is punishable at common law, but so that no person shall be punished twice for the same offence.

45 (4) An offence under this section shall not be prosecuted and punished under the Crimes Prevention Act, 1916. (b)

Crimes (Amendment).

- (b) by inserting next after section three hundred and seventy-nine the following new sections:—

New secs.
379A, 379B.

5 379A. In an indictment for an offence under section seventy-nine, eighty or eighty-one of this Act, a count may be added for an offence under section 81A of this Act.

Addition
of count
for an
offence
under
s. 81A.

10 379B. In an indictment for an unnatural crime, or an attempt to commit the same, counts may be added under both section three hundred and seventy-nine and section 379A of this Act.

Addition
of counts
under both
s. 379 and
s. 379A.

- (c) by omitting from subsection one of section four hundred and eighteen the words "or eighty-one" and by inserting in lieu thereof the words, figures and letters "eighty-one, 81A or 81B";

Sec. 418.
(On hearing
of a charge
for certain
offences,
evidence not
on oath
may be
received in
case of
children of
tender years,
but such
evidence
must be
corroborated.)

- 15 (d) by inserting in paragraph (f) of section four hundred and seventy-seven after the word "sections" where secondly occurring the figures and letters "81A, 81B,";

Sec. 477.
(List of
offences
within this
jurisdic-
tion.)

- 20 (e) by omitting section four hundred and seventy-eight and by inserting in lieu thereof the following section:—

Subst. sec.
478.

25 478. Where under the provisions of this Chapter any person pleads guilty to or is convicted of an offence mentioned in section four hundred and seventy-seven of this Act, he shall—

Punishment
in such
cases.
55 Vic.
No. 5, s. 20.

(a) where the offence is an offence under section 81B of this Act, be liable to imprisonment for six months;

30 (b) where the offence is an offence under section 81A of this Act, be liable to imprisonment for twelve months;

35 ~~(b)~~ (c) in any other case, be liable to imprisonment for twelve months, or to a fine of fifty pounds, or if he is in the opinion of the Justice, or Justices, under sixteen years of age, to imprisonment for three months, or to a fine of ten pounds.

Crimes (Amendment).

4. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 40, 1900.

Sec. 360A.

(Indictment of corporations.)

- 5 (a) (i) by omitting from subsection two of section 360A the words "empowering the prosecutor appointed under section five hundred and seventy-two of this Act to prefer a bill for the offence named in the order or for such other offence as such prosecutor shall deem proper" and by inserting in lieu thereof the words "authorising an indictment to be filed for the offence named in the order or for such other offence as the Attorney-General or any other person authorised by law to prosecute indictable offences shall deem proper";
- 10
- 15

- (ii) by inserting at the end of the same section the following new subsection:—

(7) For the avoidance of doubt it is hereby declared that for the purposes of this section "indictable offence" means an offence punishable on indictment at common law or under any Act or Imperial Act.

20

- (b) by inserting in paragraph (a) of subsection one of section four hundred and nine after the word "evidence" the words ", or is absent from the Commonwealth of Australia";
- 25

Sec. 409.

(Depositions may be read as evidence for prosecution.)

New sec. 440A.

- (c) by inserting next after section four hundred and forty the following short heading and new section:—
- 30

Power to fine in certain cases.

~~440A. Where a person is convicted on indictment of an offence mentioned in section four hundred and seventy-seven of this Act and the subject matter of the count contained in the indictment on which he was so convicted, or the value of the property involved, does not amount to two hundred and fifty pounds the Court may, in lieu of imposing any other punishment that may apart from this section be lawfully imposed in respect of the offence, impose a penalty not exceeding fifty pounds.~~

35

40

Power to fine in certain cases.

440A. Where a person is convicted on indictment of an offence mentioned in section four hundred and seventy-seven of this Act and the evidence before the Court is such that if—

45

Power to fine in certain cases.

- (a) that person had been charged before a Justice or Justices with that offence; and
- (b)

Crimes (Amendment).

(b) the same evidence had been given before the Justice or Justices, the Justice or Justices would, with the consent of that person, have had power to hear and determine the charge in a summary manner under Chapter I of Part XIV of this Act, then the Court shall have the same power to impose a fine in respect of that offence as the Justice or Justices would have had if that person had pleaded guilty to, or been convicted of, the charge pursuant to that Chapter.

Nothing in this section affects any power of the Court to deal with the person so convicted or his property in any other manner in which the Court, apart from this section, has power to deal with him or his property, but any fine imposed under this section shall be in lieu of any period of penal servitude or imprisonment that might otherwise be imposed when sentence is being passed for the offence of which he is so convicted.

Section eighty-two of the Justices Act, 1902-1955, does not apply to or in respect of any fine imposed under this section.

- (d) by inserting next after section four hundred and forty-one the following short heading and new section:—

Commencement of sentence.

441A. For the avoidance of doubt it is hereby declared that every sentence passed shall take effect from the time when it is passed, unless the Court otherwise directs.

Time from which sentences shall take effect.
cf. 21 & 22
Vic. c. 73,
s. 12.

- (e) by inserting next after section 447A the following short heading and new section:—

New sec.
447B.

Taking outstanding charges into account.

447B. (1) Where the Court before which a person is convicted on indictment of an offence not punishable with penal servitude for life is satisfied that—

Outstanding charges may be taken into account in passing sentence.

- (a) there has been filed in court a document in or to the effect of the form contained in the Ninth Schedule to this Act, signed by

Crimes (Amendment).

5 by a member of the police force and by the person so convicted, showing on the back thereof a list of other indictable offences not punishable with penal servitude for life with which he has been charged (whether or not he has been committed for trial in respect of those other offences);

10 (b) a copy of that document has been furnished to the person so convicted; and

(c) in all the circumstances of the case it is proper so to do,

15 the Court may, with the consent of counsel for the Crown and before passing sentence on the person for the offence of which he has been convicted, ask that person whether he admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account in passing sentence upon him.

20 If the person so convicted admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account by the Court in passing sentence for the offence of which he has been convicted, the Court may, if it thinks fit, take all or any of the offences in respect of which he has so admitted guilt into account accordingly:

25 Provided that the sentence passed in any such case upon the person so convicted shall not exceed the maximum sentence that may be passed in respect of the offence of which he has been convicted.

30 (2) The Court shall certify upon the document filed in court the offences specified in the list on the back thereof that have, in respect of the conviction of the person concerned, been taken into account in passing sentence upon that conviction,

35

Crimes (Amendment).

conviction, and thereafter proceedings or further proceedings upon those offences shall not be taken against that person:

5 Provided that such proceedings or further proceedings may be taken where that conviction is quashed or set aside.

(3) An admission of guilt under and for the purposes of this section in respect of an offence shall not be admissible in evidence—

10 (a) in any proceedings or further proceedings taken under the proviso to subsection two of this section; or

15 (b) in any proceedings or further proceedings in respect of the offence if the offence was not taken into account under this section in passing sentence.

20 (4) An offence taken into account under and in accordance with this section in passing sentence upon any person for another offence of which he has been convicted shall not, by reason of its being so taken into account, be regarded for any purpose as an offence of which that person has been convicted.

25 (5) Where the Court before which a person was convicted of an indictable offence in passing sentence for that offence took into account under and in accordance with this section any other offence or offences, then whenever in or in relation to any criminal proceeding—

30 (a) reference may lawfully be made to the fact that that person was convicted of the indictable offence reference may also be made to the fact that that other offence or those other offences was or were so taken into account;

35

(b)

Crimes (Amendment).

5 (b) evidence may lawfully be given of the fact that that person was convicted of the indictable offence, evidence may also be given of the fact that that other offence or those other offences was or were so taken into account.

10 The fact that that other offence or those other offences was or were so taken into account may be proved in the same manner as the conviction for the indictable offence may be proved.

Nothing in this subsection affects the operation of subsection four of this section.

15 (f) (i) by inserting at the end of paragraph (d) of section four hundred and seventy-seven the words "except where such escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952"; (List of offences within this jurisdiction.)

20 (ii) by inserting in paragraph (f), as amended by paragraph (d) of section three of this Act, of the same section after the figures and letter "81B," the words "one hundred and thirteen, one hundred and fourteen,";

25 (iii) by inserting in the same paragraph after the words "one hundred and sixty-nine," the figures and letters "178A, 178B,";

(iv) by inserting in the same paragraph after the words "one hundred and eighty-nine," the figures and letter "189A,";

30 (g) by inserting next after section four hundred and seventy-nine the following new section:— New sec. 479A.

35 479A. Notwithstanding anything contained in this Chapter, a charge against any person for any offence under section one hundred and thirteen or one hundred and fourteen of this Act Certain offences not to be dealt with summarily.

Crimes (Amendment).

Act or for an attempt to commit any such offence shall not be disposed of summarily under this Chapter if it appears to the Justice or Justices hearing the charge that—

- 5 (a) the acts alleged against the person charged in respect of the offence were such as to give any person reasonable cause to apprehend violence from the person charged; or
- 10 (b) where the charge is for breaking and entering or attempting to break and enter any premises mentioned in section one hundred and thirteen of this Act with intent to commit felony therein or is for being found at night under
- 15 the following circumstances, that is to say, entering or being in any building with intent to commit a felony or misdemeanour therein, any person was lawfully in or upon those premises or
- 20 that building at the time when the person charged is alleged to have committed the offence.
- 25 (h) by omitting from section four hundred and ninety-nine the words “shall be released from all proceedings, civil or criminal, for the same cause” and by inserting in lieu thereof the words and new subsection:—
- Sec. 499.
(Certificate or conviction a bar to other proceedings.)
- “shall be released—
- 30 (a) from all criminal proceedings for the same cause; and
- (b) from all civil proceedings for the same cause at the suit of the person laying the information in respect of the
- 35 proceedings for assault.
- (2) Any person against whom civil proceedings have been taken in respect of any act done by him which is an offence of which he might have

Crimes (Amendment).

5 have been convicted under sections four hundred and ninety-three to four hundred and ninety-six both inclusive shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

10 (i) (i) by inserting in paragraph (c) of subsection one of section five hundred and one after the words "one hundred and fifty-two" the words "one hundred and seventy-nine, two hundred and forty-seven";

Sec. 501.
(List of offences punishable summarily without consent of accused.)

(ii) by omitting from the same subsection the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds";

15 (j) by omitting from section five hundred and fifty-six the words "or is discharged from his conviction by the Justices under section five hundred and fifty-two of this Act, he shall not be liable to any other proceeding for the same cause" and by inserting in lieu thereof the words and new subsection:—

Sec. 556.
(Summary conviction a bar to further proceedings.)

"he shall not be liable—

25 (a) to any other criminal proceedings for the same cause;
(b) to any civil proceedings for the same cause at the suit of the person laying the information upon which he was summarily convicted under this Act.

30 (2) Any person against whom civil proceedings have been taken in respect of any act or thing done or omitted to be done by him which is an offence of which he might have been convicted summarily without consent under this Act shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

(k)

Crimes (Amendment).

(k) by inserting next after the Eighth Schedule the following new Schedule:—

New Ninth Schedule.

NINTH SCHEDULE.

Sec. 447B.

Form of list of other indictable offences charged.

5 Police Department,
Criminal Investigation Branch,
Sydney (or.....Police Station.)

TO.....
10 indicted on a charge of.....
for trial at the sittings of the Supreme Court at.....
(or, as the case may be at.....Quarter
Sessions) commencing on....., 19 .

Memorandum for Accused's Information.

15 (1) The list on the back hereof gives particulars of.....
other alleged offences with which you are charged.

(2) If you are convicted of the charge of..... first
mentioned above, you may before sentence is passed, if the presiding
Judge so decides and counsel for the Crown consents, admit all or
20 any of the other offences set out on the back hereof and ask that
any of those offences that you have admitted be taken into account
by the presiding Judge in passing sentence upon you.

(3) If you are convicted and the presiding Judge does take any
of the other offences that you have admitted into account, the
25 maximum sentence that may be imposed upon you will nevertheless
be the maximum sentence for the offence of.....
first mentioned above.

(4) No further proceedings may be taken against you in respect
of the other offences taken into account unless your conviction for
30 the offence of..... first mentioned above is set aside
or quashed.

(5) If proceedings are taken in the circumstances mentioned in
(4) or if the presiding Judge does not for any reason take any one
or more of the other offences that you have admitted into account,
35 your admission cannot be used as evidence against you in any proceed-
ings taken in the circumstances mentioned or taken in respect of the
offences not taken into account.

Signature of member of the police force.....
Date.....

40 Signature of accused acknowledging receipt of copy
of this document.....
Date.....

Certificate.

Crimes (Amendment).

Certificate.

In sentencing..... for the offence of.....
this day, I have taken into account the following offences alleged
against and admitted by him, that is to say, the offences numbered

5in the list on the back hereof.

Dated this day of , 19 .

.....
A Judge of the Supreme Court *or*
a Chairman of Quarter Sessions.

[BACK OF FORM.]

10

Number.	Place where offence was committed.	Date of offence.	Offence(s). (Brief description.)	Whether or not commit- ted for trial? Yes or No.

15 (1) (i) by omitting from the matter relating to Sec. 1.
Part III in section one the figures "81" and (Consequen-
by inserting in lieu thereof the figures and tial.)
letter "81B";

20 (ii) by inserting in the matter relating to Part
XII in the same section after the figures
"440" the following:—

(8A) *Power to fine in certain cases.*—s.
440A.

25 (iii) by inserting in the same matter after the
figures "441" the following:—

(9A) *Commencement of sentence.*—s.
441A.

(iv)

Crimes (Amendment).

(iv) by inserting at the end of the same matter the following:—

(12) *Taking outstanding charges into account.*—s. 447B.

- 5 **5.** The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40 1900.
- (a) (i) by omitting from section nine the words “of death, or”; Sec. 9. (What offences felonies.)
- 10 (ii) by omitting from the same section the words “as aforesaid” and by inserting in lieu thereof the words “by death or penal servitude”;
- 15 (b) by omitting from section nineteen the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life.” Sec. 19. (Murder—punishment.)
- The provisions of section four hundred and forty-two of this Act shall not be in force with respect to the sentence to be passed under this section.”;
- 20 (c) by omitting from section twenty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 27. (Acts done to the person with intent to murder.)
- 25 (d) by omitting from section twenty-eight the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 28. Acts done to property with like intent.)
- (e) by omitting from section sixty-three the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 63. (Rape.)
- 30 (f) by omitting from section sixty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 67. (Carnally knowing girl under 10.)
- 35 (g) by omitting from section one hundred and ten the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”; Sec. 110. (Breaking, entering, and assaulting with intent to murder, &c.)

(h)

Crimes (Amendment).

- (h) by omitting from section one hundred and ninety-six the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 196.
(Setting fire to dwelling, etc., knowing person therein.)
- 5 (i) by omitting from section two hundred and thirty-five the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 235.
(Setting fire to vessel, any person being therein.)
- 10 (j) by omitting from section two hundred and forty the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 240.
(Exhibiting false signals, &c.)
- (k) by omitting section four hundred and thirty; Sec. 430.
(Sentences of death when to be pronounced.)
- 15 (l) by omitting from section four hundred and thirty-one the words ", or some offence by this Act or hereafter made so punishable" and by inserting in lieu thereof the words "and for which no other punishment is provided by this Act." Sec. 431.
(Only certain felonies capital.)
- 20 **6.** The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40, 1900.
- (a) by inserting in the definition of "Loaded arms" in section four after the word "chamber" the words "or magazine"; Sec. 4.
(Interpretation.)
- 25 (b) (i) by omitting from section 154A the words "shall be liable to imprisonment for three years" and by inserting in lieu thereof the words "shall be deemed to be guilty of larceny, and may be convicted thereof upon an indictment for simple larceny"; Sec. 154A.
(Unlawfully using another's vehicle or boat.)
- 30 (ii) by omitting from the same section the words and figures "and in section 154B";
- (c) by omitting section 154B; Sec. 154B.
(Trial for larceny—alternative verdict.)
- (d)

Crimes (Amendment).

- (d) by inserting in subsection one of section 526A after the word "shall" the words "be guilty of statutory larceny and shall";

Sec. 526A.
(Unlawfully
using
vehicle or
boat.)

- 5 (e) by inserting next after section five hundred and seventy-seven the following new section:—

New sec.
578.

- 10 578. (1) Any Judge or Chairman of Quarter Sessions presiding at the trial of any person for an offence under sections sixty-three, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-one, seventy-two, 72A, seventy-three, seventy-four, seventy-six, 78A, 78B, seventy-nine, eighty, eighty-one, 81A, 81B, eighty-six, eighty-seven, eighty-nine, ninety, 91A, 91B, 91C or 91D of this Act may at any stage of the trial and from time to time make an order forbidding publication of the evidence therein or any report or account of that evidence either as to the whole or portions thereof:

Publication
of evidence
may be
forbidden in
certain
cases.
cf. Act No.
14, 1899,
s. 81.

- 20 Provided that if the accused or counsel for the Crown indicates to the Judge or Chairman that it is desired that any particular matter given in evidence should be available for publication, no such order shall be made in respect of that matter.

- 25 (2) Any person who commits a breach of an order made under subsection one of this section shall, on conviction before two Justices, be liable to a penalty of one thousand pounds.

- 30 7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended—

Amendment
of Act No.
27, 1902.

- (a) by inserting next after section fifty-one the following short heading and new section:—

New sec.
51A.

PLEA OF GUILTY IN COMMITTAL PROCEEDINGS.

- 35 51A. (1) A person charged before one, or more than one, Justice with an indictable offence not punishable with penal servitude for life may, at any stage of the proceedings, plead guilty to the

Effect of
plea of
guilty in
committal
proceedings.

Crimes (Amendment).

the charge and thereupon the following provisions of this section have effect:—

- (a) The Justice or Justices may accept or reject the plea.

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The rejection of a plea of guilty at any stage of the proceedings does not prevent the accused from pleading guilty under this section at a later stage of the proceedings and the Justice or Justices have power to accept or reject the plea at that later stage;

10

- (b) Where the Justice or Justices reject the plea the proceedings before the Justice or Justices shall be continued as if the plea had not been made;

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- (c) Where the Justice or Justices accept the plea, the Justice or Justices shall thereupon commit the accused to such sittings of the Supreme Court or such Court of Quarter Sessions as the Justice or Justices may direct to be dealt with as hereinafter in this section provided;

20

- (d) The Judge of the Supreme Court or the Chairman of Quarter Sessions, as the case may be, before whom the accused is brought in accordance with this section—

25

- (i) shall, if it appears to him from the information or evidence given to or before him that the facts in respect of which the accused was charged before the Justice or Justices do not support the charge to which the accused pleaded guilty or if the accused or counsel for the Crown requests that an order be made under this subparagraph, and may, if for any other reason the Judge or Chairman, as the case may be, sees fit so to do, order that the proceedings

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Crimes (Amendment).

proceedings before the Justice or Justices at which the accused pleaded guilty be continued at a time and place to be specified in the order;

5

- (ii) unless an order is made under subparagraph (i) of this paragraph, has the same powers of sentencing or otherwise dealing with the accused, and of finally disposing of the charge and of all incidental matters, as he would have had if the accused on arraignment at any sittings of the Court had pleaded guilty to the offence charged on an indictment filed by the Attorney-General.

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(2) All proceedings relating to a committal for trial apply, as nearly as may be, to a committal under paragraph (c) of subsection one of this section, and bail may be similarly granted; but no person shall be bound over to give evidence on any committal under that paragraph unless the committing Justice or Justices otherwise order.

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(3) Where an order is made by a Judge or Chairman under subparagraph (i) of paragraph (d) of subsection one of this section that proceedings before a Justice or Justices at which an accused pleaded guilty be continued at a time and place specified in the order, those proceedings shall be continued in all respects as if the accused had not pleaded guilty and as if those proceedings had been adjourned by the Justice or Justices to the time and place so specified.

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Upon the making of any such order the Judge or Chairman may exercise any power that the Justice or Justices might have exercised under

Crimes (Amendment).

5 under section thirty-four of this Act if the order had been an order made by the Justice or Justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the accused.

10 (4) Where a person has, in respect of any charge to which he has pleaded guilty under subsection one of this section, been committed under paragraph (c) of that subsection, the Attorney-General may in his discretion direct in writing that no further proceedings under this section be taken against the person so committed in respect of that charge.

15 Upon the giving of such direction—

- (a) no further proceedings shall be taken under this section against the person so committed in respect of that charge; and
- 20 (b) the provisions of section three hundred and fifty-eight of the Crimes Act, 1900, as amended by subsequent Acts, apply to and in respect of the person concerned as if he were under committal for trial and the Attorney-General had declined to file any information against him.
- 25

30 (5) A committal under paragraph (c) of subsection one of this section shall, for all purposes relating to the venue or change of venue of proceedings consequent on that committal, be deemed to be a committal for trial.

(6) This section does not apply where—

- 35 (a) the indictable offence with which the person is charged is an offence mentioned in section four hundred and seventy-seven of the Crimes Act

Crimes (Amendment).

Act, 1900, as amended by subsequent Acts, and that person pleads guilty after all conditions prescribed by Chapter I of Part XIV of that Act which are necessary to be complied with in order to give jurisdiction to the Justice or Justices to hear and determine the charge in a summary manner have been complied with; or

(b) the indictable offence with which the person is charged may be dealt with summarily without the consent of the accused and is being so dealt with.

(b) by inserting next after section one hundred and fifty-three the following new section:—

New sec.
153A.

153A. (1) When a person is apprehended under a bench warrant issued by a Judge or a Chairman of Quarter Sessions in any criminal proceeding and a sittings of the Court out of which the bench warrant issued is not then being held, any Justice may—

Person
apprehended
under bench
warrant
to be
committed
to prison or
admitted
to bail.

(a) by warrant commit that person to prison, there to be safely kept until the next sittings of the Court out of which the bench warrant issued or until he is delivered in due course of law or is admitted to bail as hereinafter in this section provided; or

(b) if that person procures and produces a surety or sureties sufficient, in the opinion of the Justice, to ensure his appearance at the commencement of the next sittings of the Court out of which the bench warrant issued, admit him to bail.

If that person cannot then and there procure and produce such surety or sureties, the Justice may certify on the warrant of commitment his consent

Crimes (Amendment).

consent that that person be admitted to bail, stating the amount of bail that ought to be required.

5 (2) (a) The constable or other person to whom a warrant of commitment is directed by a Justice under paragraph (a) of subsection one of this section shall convey the person committed therein named or described to the prison therein mentioned, and there deliver him and the
10 warrant to the gaoler, keeper or governor of such prison, who shall thereupon give the constable or other person delivering such person into his custody a receipt for such person, setting forth the state and condition in which such person was
15 when delivered into the custody of such gaoler, keeper or governor.

(b) If it appears to the Justice by whom a warrant of commitment is granted as aforesaid that the person committed has money
20 sufficient to pay the expenses or some part thereof of conveying him to such prison, the Justice may order the whole or a sufficient part of such money to be applied to that purpose.

(3) (a) When a Justice admits a
25 person to bail as aforesaid he shall take the recognizance of such person and of the surety or sureties, conditioned that such person shall appear at the commencement of the next sittings of the Court out of which the bench
30 warrant under which such person was apprehended was issued, and shall then surrender and not depart the Court without leave.

(b) Every recognizance shall be
35 duly acknowledged by the person who enters into it, and shall be subscribed by the Justice.

(c) A notice of every recognizance signed by the Justice shall at the same time be given by him to each person bound thereby.

(4)

Crimes (Amendment).

5 (4) When a Justice has by warrant committed a person to prison under subsection one of this section and has given such a certificate as is mentioned in that subsection, any Justice being at the prison where such person is in custody, may on production of such certificate admit such person to bail in the manner hereinbefore in this section provided.

10 (5) Where any person apprehended under any bench warrant is committed to prison or admitted to bail by a Justice under the provisions of this section, the Justice shall forthwith transmit a certified copy of the warrant of commitment or, as the case may be, the recognizance or recognizances of bail to the Attorney-General.

15 (c) by omitting from the matter relating to Part Sec. 1.
IV in section one the figures "51" and by (Consequen-
inserting in lieu thereof the figures and letter tial.)
"51A".

20 (2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1955.

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

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 24 March, 1955.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to amend the Crimes Act, 1900, the Justices Act, 1902, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the Queen'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, 1955." Short title.

Crimes (Amendment).

2. The Crimes Act, 1900, as amended by subsequent Acts, is amended—

Amendment
of Act No.
40, 1900.

5 (a) by inserting in subsections one and two of section 52A after the words "motor vehicle" the words "or through the impact of a motor vehicle with any vehicle or other object in, on or near which the person was at the time of impact and in either case the motor vehicle was at the time of impact";

Sec. 52A.
(Culpable
driving.)

10 (b) by inserting in subsection four of the same section after the word "offence" where thirdly occurring the words "under this Act";

(c) by inserting at the end of the same section the following new subsection:—

15 (7) Without limiting the generality of the meaning of the expression "object", that expression, in subsections one and two of this section, includes animal, building and structure.

20 3. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Further
amendment
of Act No.
40, 1900.

(a) by inserting next after section eighty-one the following new sections:—

New secs.
81A, 81B.

25 81A. Whosoever, being a male person, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of indecency with another male person shall be liable to imprisonment for two years.

Outrages
on decency.
cf. 48 & 49
Vic. c. 69,
s. 11.

30 81B. (1) Whosoever, being a male person, in any public place—

Soliciting,
&c., male
person in
a public
place.

(a) solicits or incites; or

(b) attempts to solicit or incite,

35 in any manner whatsoever any male person to commit or to be a party to the commission of any offence under section seventy-nine, eighty-one or 81A of this Act shall be liable to imprisonment for twelve months.

Crimes (Amendment).

5 (2) A person shall not be convicted of an offence under this section upon the testimony of one witness only, unless such testimony is corroborated by some other material evidence implicating the accused in the commission of the offence.

10 (3) This section does not exempt any person from any proceeding for an offence which is punishable at common law, but so that no person shall be punished twice for the same offence.

(4) An offence under this section shall not be prosecuted and punished under the Crimes Prevention Act, 1916.

15 (b) by inserting next after section three hundred and seventy-nine the following new sections:— New secs. 379A, 379B.

20 379A. In an indictment for an offence under section seventy-nine, eighty or eighty-one of this Act, a count may be added for an offence under section 81A of this Act. Addition of count for an offence under s. 81A.

379B. In an indictment for an unnatural crime, or an attempt to commit the same, counts may be added under both section three hundred and seventy-nine and section 379A of this Act. Addition of counts under both s. 379 and s. 379A.

25 (c) by omitting from subsection one of section four hundred and eighteen the words "or eighty-one" and by inserting in lieu thereof the words, figures and letters "eighty-one, 81A or 81B"; Sec. 418. (On hearing of a charge for certain offences, evidence not on oath may be received in case of children of tender years, but such evidence must be corroborated.)

30 (d) by inserting in paragraph (f) of section four hundred and seventy-seven after the word "sections" where secondly occurring the figures and letters "81A, 81B,"; Sec. 477. (List of offences within this jurisdiction.)

(e)

Crimes (Amendment).

(e) by omitting section four hundred and seventy-eight and by inserting in lieu thereof the following section:—

Subst. sec.
478.

5 478. Where under the provisions of this Chapter any person pleads guilty to or is convicted of an offence mentioned in section four hundred and seventy-seven of this Act, he shall—

Punishment
in such
cases.
55 Vic.
No. 5, s. 20.

10 (a) where the offence is an offence under section 81B of this Act, be liable to imprisonment for six months;

15 (b) in any other case, be liable to imprisonment for twelve months, or to a fine of fifty pounds, or if he is in the opinion of the Justice, or Justices, under sixteen years of age, to imprisonment for three months, or to a fine of ten pounds.

4. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Further
amendment
of Act
No. 40,
1900.

20 (a) (i) by omitting from subsection two of section 360A the words “empowering the prosecutor appointed under section five hundred and seventy-two of this Act to prefer a bill for the offence named in the order or for such other offence as such prosecutor shall deem proper” and by inserting in lieu thereof the words “authorising an indictment to be filed for the offence named in the order or for such other offence as the Attorney-General or any other person authorised by law to prosecute indictable offences shall deem proper”;

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Sec. 360A.
(Indictment
of corpora-
tions.)

(ii) by inserting at the end of the same section the following new subsection:—

35 (7) For the avoidance of doubt it is hereby declared that for the purposes of this section “indictable offence” means an offence punishable on indictment at common law or under any Act or Imperial Act.

(b)

Crimes (Amendment).

- (b) by inserting in paragraph (a) of subsection one of section four hundred and nine after the word "evidence" the words "or is absent from the Commonwealth of Australia";
- 5 (c) by inserting next after section four hundred and forty the following short heading and new section:—

Power to fine in certain cases.

- 10 440A. Where a person is convicted on indictment of an offence mentioned in section four hundred and seventy-seven of this Act and the subject matter of the count contained in the indictment on which he was so convicted,
- 15 or the value of the property involved, does not amount to two hundred and fifty pounds the Court may, in lieu of imposing any other punishment that may apart from this section be lawfully imposed in respect of the offence, impose a penalty not exceeding fifty pounds.

- 20 (d) by inserting next after section four hundred and forty-one the following short heading and new section:—

Commencement of sentence.

- 25 441A. For the avoidance of doubt it is hereby declared that every sentence passed shall take effect from the time when it is passed, unless the Court otherwise directs.

- (e) by inserting next after section 447A the following short heading and new section:—

Taking outstanding charges into account.

- 30 447B. (1) Where the Court before which a person is convicted on indictment of an offence not punishable with penal servitude for life is satisfied that—

- 35 (a) there has been filed in court a document in or to the effect of the form contained in the Ninth Schedule to this Act, signed by

Sec. 409.
(Depositions may be read as evidence for prosecution.)

New sec.
440A.

Power to fine in certain cases.

New sec.
441A.

Time from which sentences shall take effect.
cf. 21 & 22
Vic. c. 73,
s. 12.

New sec.
447B.

Outstanding charges may be taken into account in passing sentence.

Crimes (Amendment).

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by a member of the police force and by the person so convicted, showing on the back thereof a list of other indictable offences not punishable with penal servitude for life with which he has been charged (whether or not he has been committed for trial in respect of those other offences);

10

(b) a copy of that document has been furnished to the person so convicted; and

15

(c) in all the circumstances of the case it is proper so to do,

20

the Court may, with the consent of counsel for the Crown and before passing sentence on the person for the offence of which he has been convicted, ask that person whether he admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account in passing sentence upon him.

25

If the person so convicted admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account by the Court in passing sentence for the offence of which he has been convicted, the Court may, if it thinks fit, take all or any of the offences in respect of which he has so admitted guilt into account accordingly:

30

Provided that the sentence passed in any such case upon the person so convicted shall not exceed the maximum sentence that may be passed in respect of the offence of which he has been convicted.

35

(2) The Court shall certify upon the document filed in court the offences specified in the list on the back thereof that have, in respect of the conviction of the person concerned, been taken into account in passing sentence upon that conviction,

Crimes (Amendment).

conviction, and thereafter proceedings or further proceedings upon those offences shall not be taken against that person:

5 Provided that such proceedings or further proceedings may be taken where that conviction is quashed or set aside.

(3) An admission of guilt under and for the purposes of this section in respect of an offence shall not be admissible in evidence—

10 (a) in any proceedings or further proceedings taken under the proviso to subsection two of this section; or

15 (b) in any proceedings or further proceedings in respect of the offence if the offence was not taken into account under this section in passing sentence.

(4) An offence taken into account under and in accordance with this section in passing sentence upon any person for another offence of which he has been convicted shall not, by reason of its being so taken into account, be regarded for any purpose as an offence of which that person has been convicted.

25 (5) Where the Court before which a person was convicted of an indictable offence in passing sentence for that offence took into account under and in accordance with this section any other offence or offences, then whenever in or in relation to any criminal proceeding—

30 (a) reference may lawfully be made to the fact that that person was convicted of the indictable offence reference may also be made to the fact that that other offence or those other offences was or were so taken into account;

35

(b)

Crimes (Amendment).

5 (b) evidence may lawfully be given of the fact that that person was convicted of the indictable offence, evidence may also be given of the fact that that other offence or those other offences was or were so taken into account.

10 The fact that that other offence or those other offences was or were so taken into account may be proved in the same manner as the conviction for the indictable offence may be proved.

Nothing in this subsection affects the operation of subsection four of this section.

15 (f) (i) by inserting at the end of paragraph (d) of section four hundred and seventy-seven the words "except where such escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952"; Sec. 477. (List of offences within this jurisdiction.)

20 (ii) by inserting in paragraph (f), as amended by paragraph (d) of section three of this Act, of the same section after the figures and letter "81B," the words "one hundred and thirteen, one hundred and fourteen,";

25 (iii) by inserting in the same paragraph after the words "one hundred and sixty-nine," the figures and letters "178A, 178B,";

(iv) by inserting in the same paragraph after the words "one hundred and eighty-nine," the figures and letter "189A,";

30 (g) by inserting next after section four hundred and seventy-nine the following new section:— New sec. 479A.

35 479A. Notwithstanding anything contained in this Chapter, a charge against any person for any offence under section one hundred and thirteen or one hundred and fourteen of this Certain offences not to be dealt with summarily.

Act

Crimes (Amendment).

Act or for an attempt to commit any such offence shall not be disposed of summarily under this Chapter if it appears to the Justice or Justices hearing the charge that—

5 (a) the acts alleged against the person charged in respect of the offence were such as to give any person reasonable cause to apprehend violence from the person charged; or

10 (b) where the charge is for breaking and entering or attempting to break and enter any premises mentioned in section one hundred and thirteen of this Act with intent to commit felony therein or is for being found at night under the following circumstances, that is to say, entering or being in any building with intent to commit a felony or misdemeanour therein, any person was lawfully in or upon those premises or that building at the time when the person charged is alleged to have committed the offence.

25 (h) by omitting from section four hundred and ninety-nine the words “shall be released from all proceedings, civil or criminal, for the same cause” and by inserting in lieu thereof the words and new subsection:—

Sec. 499.
(Certificate or conviction a bar to other proceedings.)

“shall be released—

30 (a) from all criminal proceedings for the same cause; and

(b) from all civil proceedings for the same cause at the suit of the person laying the information in respect of the proceedings for assault.

35 (2) Any person against whom civil proceedings have been taken in respect of any act done by him which is an offence of which he might have

Crimes (Amendment).

5 have been convicted under sections four hundred and ninety-three to four hundred and ninety-six both inclusive shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

10 (i) (i) by inserting in paragraph (c) of subsection one of section five hundred and one after the words "one hundred and fifty-two" the words "one hundred and seventy-nine, two hundred and forty-seven";

Sec. 501.
(List of offences punishable summarily without consent of accused.)

(ii) by omitting from the same subsection the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds";

15 (j) by omitting from section five hundred and fifty-six the words "or is discharged from his conviction by the Justices under section five hundred and fifty-two of this Act, he shall not be liable to any other proceeding for the same cause" and by inserting in lieu thereof the words and new subsection:—

Sec. 556.
(Summary conviction a bar to further proceedings.)

"he shall not be liable—

(a) to any other criminal proceedings for the same cause;

25 (b) to any civil proceedings for the same cause at the suit of the person laying the information upon which he was summarily convicted under this Act.

30 (2) Any person against whom civil proceedings have been taken in respect of any act or thing done or omitted to be done by him which is an offence of which he might have been convicted summarily without consent under this Act shall be released from all criminal proceedings for the same cause on the information of the person by whom the civil proceedings were taken."

(k)

Crimes (Amendment).

(k) by inserting next after the Eighth Schedule the following new Schedule:—

New Ninth
Schedule.

NINTH SCHEDULE.

Sec. 447B.

Form of list of other indictable offences charged.

5 Police Department,
Criminal Investigation Branch,
Sydney (or.....
.....Police Station.)

TO.....
10 indicted on a charge of.....
for trial at the sittings of the Supreme Court at.....
(or, as the case may be at.....Quarter
Sessions) commencing on....., 19 .

Memorandum for Accused's Information.

15 (1) The list on the back hereof gives particulars of.....
other alleged offences with which you are charged.

(2) If you are convicted of the charge of..... first
mentioned above, you may before sentence is passed, if the presiding
Judge so decides and counsel for the Crown consents, admit all or
20 any of the other offences set out on the back hereof and ask that
any of those offences that you have admitted be taken into account
by the presiding Judge in passing sentence upon you.

(3) If you are convicted and the presiding Judge does take any
of the other offences that you have admitted into account, the
25 maximum sentence that may be imposed upon you will nevertheless
be the maximum sentence for the offence of.....
first mentioned above.

(4) No further proceedings may be taken against you in respect
of the other offences taken into account unless your conviction for
30 the offence of..... first mentioned above is set aside
or quashed.

(5) If proceedings are taken in the circumstances mentioned in
(4) or if the presiding Judge does not for any reason take any one
or more of the other offences that you have admitted into account,
35 your admission cannot be used as evidence against you in any proceed-
ings taken in the circumstances mentioned or taken in respect of the
offences not taken into account.

Signature of member of the police force.....
Date.....

40 Signature of accused acknowledging receipt of copy
of this document.....

Date.....

Certificate.

Crimes (Amendment).

Certificate.

In sentencing..... for the offence of.....
this day, I have taken into account the following offences alleged
against and admitted by him, that is to say, the offences numbered

5in the list on the back hereof.

Dated this day of , 19 .

.....
A Judge of the Supreme Court *or*
a Chairman of Quarter Sessions.

[BACK OF FORM.]

10

Number.	Place where offence was committed.	Date of offence.	Offence(s). (Brief description.)	Whether or not commit- ted for trial? Yes or No.

15 (1) (i) by omitting from the matter relating to **Sec. 1.**
Part III in section one the figures "81" and (Consequen-
by inserting in lieu thereof the figures and tial.)
letter "81B";

(ii) by inserting in the matter relating to Part
XII in the same section after the figures
20 "440" the following:—

(8A) *Power to fine in certain cases.—s.*
440A.

(iii) by inserting in the same matter after the
25 figures "441" the following:—

(9A) *Commencement of sentence.—s.*
441A.

(iv)

Crimes (Amendment).

(iv) by inserting at the end of the same matter the following:—

(12) *Taking outstanding charges into account.*—s. 447B.

5 **5.** The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 40, 1900.

(a) (i) by omitting from section nine the words “of death, or”;

Sec. 9.

(What offences felonies.)

10 (ii) by omitting from the same section the words “as aforesaid” and by inserting in lieu thereof the words “by death or penal servitude”;

15 (b) by omitting from section nineteen the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life.

Sec. 19.

(Murder—punishment.)

The provisions of section four hundred and forty-two of this Act shall not be in force with respect to the sentence to be passed under this section.”;

20 (c) by omitting from section twenty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 27.

(Acts done to the person with intent to murder.)

25 (d) by omitting from section twenty-eight the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 28.

(Acts done to property with like intent.)

(e) by omitting from section sixty-three the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 63.

(Rape.)

30 (f) by omitting from section sixty-seven the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 67.

(Carnally knowing girl under 10.)

35 (g) by omitting from section one hundred and ten the words “to suffer death” and by inserting in lieu thereof the words “to penal servitude for life”;

Sec. 110.

(Breaking, entering, and assaulting with intent to murder, &c.)

(h)

Crimes (Amendment).

- (h) by omitting from section one hundred and ninety-six the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 196.
(Setting fire to dwelling, etc., knowing person therein.)
- 5 (i) by omitting from section two hundred and thirty-five the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 235.
(Setting fire to vessel, any person being therein.)
- 10 (j) by omitting from section two hundred and forty the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 240.
(Exhibiting false signals, &c.)
- (k) by omitting section four hundred and thirty; Sec. 430.
(Sentences of death when to be pronounced.)
- 15 (l) by omitting from section four hundred and thirty-one the words ", or some offence by this Act or hereafter made so punishable" and by inserting in lieu thereof the words "and for which no other punishment is provided by this Act." Sec. 431.
(Only certain felonies capital.)
- 20 **6.** The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40, 1900.
- (a) by inserting in the definition of "Loaded arms" in section four after the word "chamber" the words "or magazine"; Sec. 4.
(Interpretation.)
- 25 (b) (i) by omitting from section 154A the words "shall be liable to imprisonment for three years" and by inserting in lieu thereof the words "shall be deemed to be guilty of larceny, and may be convicted thereof upon an indictment for simple larceny"; Sec. 154A.
(Unlawfully using another's vehicle or boat.)
- 30 (ii) by omitting from the same section the words and figures "and in section 154B";
- (c) by omitting section 154B; Sec. 154B.
(Trial for larceny—alternative verdict.)
- (d)

Crimes (Amendment).

(d) by inserting in subsection one of section 526A after the word "shall" the words "be guilty of statutory larceny and shall".

Sec. 526A.
(Unlawfully
using
vehicle or
boat.)

5 (e) by inserting next after section five hundred and seventy-seven the following new section:—

New sec.
578.

10 578. (1) Any Judge or Chairman of Quarter Sessions presiding at the trial of any person for an offence under sections sixty-three, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-one, seventy-two, 72A, seventy-three, seventy-four, seventy-six, 78A, 78B, seventy-nine, eighty, eighty-one, 81A, 81B, eighty-six, eighty-seven, eighty-nine, ninety, 91A, 91B, 91c or 91d of this Act may at any stage of the trial and from time to time make an order forbidding publication of the evidence therein or any report or account of that evidence either as to the whole or portions thereof:

Publication
of evidence
may be
forbidden in
certain
case.
cf. Act No.
14, 1899,
s. 81.

20 Provided that if the accused or counsel for the Crown indicates to the Judge or Chairman that it is desired that any particular matter given in evidence should be available for publication, no such order shall be made in respect of that matter.

25 (2) Any person who commits a breach of an order made under subsection one of this section shall, on conviction before two Justices, be liable to a penalty of one thousand pounds.

30 7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended—

Amendment
of Act No.
27, 1902.

(a) by inserting next after section fifty-one the following short heading and new section:—

New sec.
51A.

PLEA OF GUILTY IN COMMITTAL PROCEEDINGS.

35 51A. (1) A person charged before one, or more than one, Justice with an indictable offence not punishable with penal servitude for life may, at any stage of the proceedings, plead guilty to the

Effect of
plea of
guilty in
committal
proceedings.

Crimes (Amendment).

the charge and thereupon the following provisions of this section have effect:—

- (a) The Justice or Justices may accept or reject the plea.

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The rejection of a plea of guilty at any stage of the proceedings does not prevent the accused from pleading guilty under this section at a later stage of the proceedings and the Justice or Justices have power to accept or reject the plea at that later stage;

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- (b) Where the Justice or Justices reject the plea the proceedings before the Justice or Justices shall be continued as if the plea had not been made;

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- (c) Where the Justice or Justices accept the plea, the Justice or Justices shall thereupon commit the accused to such sittings of the Supreme Court or such Court of Quarter Sessions as the Justice or Justices may direct to be dealt with as hereinafter in this section provided;

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- (d) The Judge of the Supreme Court or the Chairman of Quarter Sessions, as the case may be, before whom the accused is brought in accordance with this section—

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- (i) shall, if it appears to him from the information or evidence given to or before him that the facts in respect of which the accused was charged before the Justice or Justices do not support the charge to which the accused pleaded guilty or if the accused or counsel for the Crown requests that an order be made under this subparagraph, and may, if for any other reason the Judge or Chairman, as the case may be, sees fit so to do, order that the proceedings

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Crimes (Amendment).

proceedings before the Justice or Justices at which the accused pleaded guilty be continued at a time and place to be specified in the order;

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- (ii) unless an order is made under subparagraph (i) of this paragraph, has the same powers of sentencing or otherwise dealing with the accused, and of finally disposing of the charge and of all incidental matters, as he would have had if the accused on arraignment at any sittings of the Court had pleaded guilty to the offence charged on an indictment filed by the Attorney-General.

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(2) All proceedings relating to a committal for trial apply, as nearly as may be, to a committal under paragraph (c) of subsection one of this section, and bail may be similarly granted; but no person shall be bound over to give evidence on any committal under that paragraph unless the committing Justice or Justices otherwise order.

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(3) Where an order is made by a Judge or Chairman under subparagraph (i) of paragraph (d) of subsection one of this section that proceedings before a Justice or Justices at which an accused pleaded guilty be continued at a time and place specified in the order, those proceedings shall be continued in all respects as if the accused had not pleaded guilty and as if those proceedings had been adjourned by the Justice or Justices to the time and place so specified.

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Upon the making of any such order the Judge or Chairman may exercise any power that the Justice or Justices might have exercised under

Crimes (Amendment).

5 under section thirty-four of this Act if
the order had been an order made by
the Justice or Justices adjourning the
proceedings to the time and place so
specified; and the provisions of the said section
thirty-four apply to and in respect of the
accused.

10 (4) Where a person has, in respect of
any charge to which he has pleaded guilty under
subsection one of this section, been committed
under paragraph (c) of that subsection, the
Attorney-General may in his discretion direct
in writing that no further proceedings under this
section be taken against the person so committed
15 in respect of that charge.

Upon the giving of such direction—

20 (a) no further proceedings shall be taken
under this section against the person
so committed in respect of that charge;
and

25 (b) the provisions of section three hundred
and fifty-eight of the Crimes Act, 1900,
as amended by subsequent Acts, apply
to and in respect of the person con-
cerned as if he were under committal
for trial and the Attorney-General had
declined to file any information against
him.

30 (5) A committal under paragraph (c) of
subsection one of this section shall, for all pur-
poses relating to the venue or change of venue
of proceedings consequent on that committal,
be deemed to be a committal for trial.

(6) This section does not apply where—

35 (a) the indictable offence with which
the person is charged is an offence
mentioned in section four hundred
and seventy-seven of the Crimes
Act

Crimes (Amendment).

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Act, 1900, as amended by subsequent Acts, and that person pleads guilty after all conditions prescribed by Chapter I of Part XIV of that Act which are necessary to be complied with in order to give jurisdiction to the Justice or Justices to hear and determine the charge in a summary manner have been complied with; or

(b) the indictable offence with which the person is charged may be dealt with summarily without the consent of the accused and is being so dealt with.

(b) by inserting next after section one hundred and fifty-three the following new section:—

New sec.
153A.

153A. (1) When a person is apprehended under a bench warrant issued by a Judge or a Chairman of Quarter Sessions in any criminal proceeding and a sittings of the Court out of which the bench warrant issued is not then being held, any Justice may—

Person
apprehended
under bench
warrant
to be
committed
to prison or
admitted
to bail.

(a) by warrant commit that person to prison, there to be safely kept until the next sittings of the Court out of which the bench warrant issued or until he is delivered in due course of law or is admitted to bail as hereinafter in this section provided; or

(b) if that person procures and produces a surety or sureties sufficient, in the opinion of the Justice, to ensure his appearance at the commencement of the next sittings of the Court out of which the bench warrant issued, admit him to bail.

If that person cannot then and there procure and produce such surety or sureties, the Justice may certify on the warrant of commitment his consent

Crimes (Amendment).

consent that that person be admitted to bail, stating the amount of bail that ought to be required.

5 (2) (a) The constable or other person to whom a warrant of commitment is directed by a Justice under paragraph (a) of subsection one of this section shall convey the person committed therein named or described to the prison therein mentioned, and there deliver him and the
10 warrant to the gaoler, keeper or governor of such prison, who shall thereupon give the constable or other person delivering such person into his custody a receipt for such person, setting forth the state and condition in which such person was
15 when delivered into the custody of such gaoler, keeper or governor.

(b) If it appears to the Justice by whom a warrant of commitment is granted as aforesaid that the person committed has money
20 sufficient to pay the expenses or some part thereof of conveying him to such prison, the Justice may order the whole or a sufficient part of such money to be applied to that purpose.

25 (3) (a) When a Justice admits a person to bail as aforesaid he shall take the recognizance of such person and of the surety or sureties, conditioned that such person shall appear at the commencement of the next sittings of the Court out of which the bench
30 warrant under which such person was apprehended was issued, and shall then surrender and not depart the Court without leave.

(b) Every recognizance shall be
35 duly acknowledged by the person who enters into it, and shall be subscribed by the Justice.

(c) A notice of every recognizance signed by the Justice shall at the same time be given by him to each person bound thereby.

(4)

Crimes (Amendment).

5 (4) When a Justice has by warrant committed a person to prison under subsection one of this section and has given such a certificate as is mentioned in that subsection, any Justice being at the prison where such person is in custody, may on production of such certificate admit such person to bail in the manner hereinbefore in this section provided.

10 (5) Where any person apprehended under any bench warrant is committed to prison or admitted to bail by a Justice under the provisions of this section, the Justice shall forthwith transmit a certified copy of the warrant of commitment or, as the case may be, the recognizance or recognizances of bail to the Attorney-General.

15 (c) by omitting from the matter relating to Part Sec. 1. IV in section one the figures "51" and by (Consequen-
inserting in lieu thereof the figures and letter tial.)
"51A".

20 (2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1955.

