

New South Wales



ANNO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 70, 1961.

An Act to make provisions with respect to kidnapping, obtaining credit by fraud and the admissibility of certain evidence as to credit, reputation or character of persons charged; to amend the Crimes Act, 1900, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 15th December, 1961.]

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, 1961".

2.

Crimes (Amendment).

Amendment
of Act No.
40,1900.

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

New sec.
90A.

(a) by inserting next after section ninety the following new section :—

Kidnapping.

90A. Whosoever leads takes or entices away or detains a person with intent to hold him for ransom or for any other advantage to any person shall be liable to penal servitude for twenty years or, if it is proved to the satisfaction of the judge that the person so led taken enticed away or detained was thereafter liberated without having sustained any substantial injury, to penal servitude for fourteen years.

This section does not apply to any person who shall, in good faith, have claimed a right to the possession of the person so led, taken or enticed away or detained.

New short
heading
and sec.
178C.

(b) by inserting next after section 178B the following new short heading and section :—

OBTAINING CREDIT BY FRAUD.

Obtaining
credit by
fraud.

178C. Whosoever incurring any debt or liability obtains credit by any false pretence or by any wilfully false promise or partly by a false pretence and partly by a wilfully false promise or by any other fraud shall be liable to imprisonment for one year.

Sec. 349.
(Punishment
of acces-
sories after
the fact to
murder,
etc.)

(c) by inserting in subsection two of section three hundred and forty-nine after the word "persons," the words "or the crime of kidnapping referred to in section 90A of this Act,";

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

(d) by inserting in paragraph (f) of section four hundred and seventy-seven after the figures and letter "178B," the figures and letter "178C,";

(e)

Crimes (Amendment).

(e) by inserting in paragraph (c) of subsection one of section five hundred and one after the words "one hundred and fifty-two," the figures and letter "178c,";

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

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

New sec. 579.

579. (1) Where, following the conviction of any person for an offence or a finding that a charge of an offence has been proved against any person, whether the conviction or finding was before or after the commencement of the Crimes (Amendment) Act, 1961—

Evidence of proceedings dealt with by way of recognizance after 15 years.

(a) sentence in respect of the conviction was suspended or deferred upon the person entering into a recognizance or, in substitution for sentence in respect of the conviction, the person was required to enter into a recognizance, or no conviction in respect of the finding was made and the person was discharged conditionally on his entering into a recognizance; and

(b) a period of fifteen years has elapsed since the recognizance was entered into—

(i) without the recognizance having been forfeited during that period or a court having found during that period that the person failed to observe any condition of the recognizance; and

(ii) without the person having, during that period, been convicted of an indictable offence on indictment or otherwise or of any other offence punishable by imprisonment (otherwise than under section eighty-two of the Justices Act, 1902, as amended

by

Crimes (Amendment).

by subsequent Acts) or without a finding during that period that a charge of such an indictable or other offence has been proved against the person,

the conviction or finding shall, where that period expired before the commencement of the Crimes (Amendment) Act, 1961, as on and from that commencement, or, where that period expires or has expired after that commencement, as on and from the expiration of that period—

- (c) be disregarded for all purposes whatsoever; and
- (d) without prejudice to the generality of paragraph (c) of this subsection, be inadmissible in any criminal, civil or other legal proceedings as being no longer of any legal force or effect.

Without prejudice to the generality of the foregoing provisions of this section, any question asked of or concerning that person in or in relation to any criminal, civil or other legal proceedings otherwise than by his counsel, attorney or agent or other person acting on his behalf may be answered as if the conviction or finding had never taken place or the recognizance had never been entered into.

(2) Notwithstanding the provisions of subsection one of this section, where in any criminal, civil or other legal proceedings the person first referred to in that subsection, by himself, his counsel, attorney or agent or other person acting on his behalf, otherwise than in answer to a question that can, in accordance with the last paragraph of that subsection, be answered in the negative, makes an assertion that denies the fact that

Crimes (Amendment).

that the conviction or finding took place or that the recognizance was entered into, then the conviction, finding or recognizance is admissible—

- (a) in those proceedings, as to the character credit or reputation of the person so referred to;
- (b) in any prosecution for perjury or false swearing founded on the assertion.

The non-disclosure of the conviction, finding or recognizance in the making or giving of a statement or evidence as to the good character, credit or reputation of the person so referred to shall not of itself be taken, for the purposes of this subsection, to mean that the statement or evidence contains such an assertion.

(3) In this section “legal proceedings” includes any application for a license, registration, authority, permit or the like under any statute.

By Authority:

V. C. N. BLIGHT, Government Printer, Sydney, 1962

Chapter 100 (Continued)

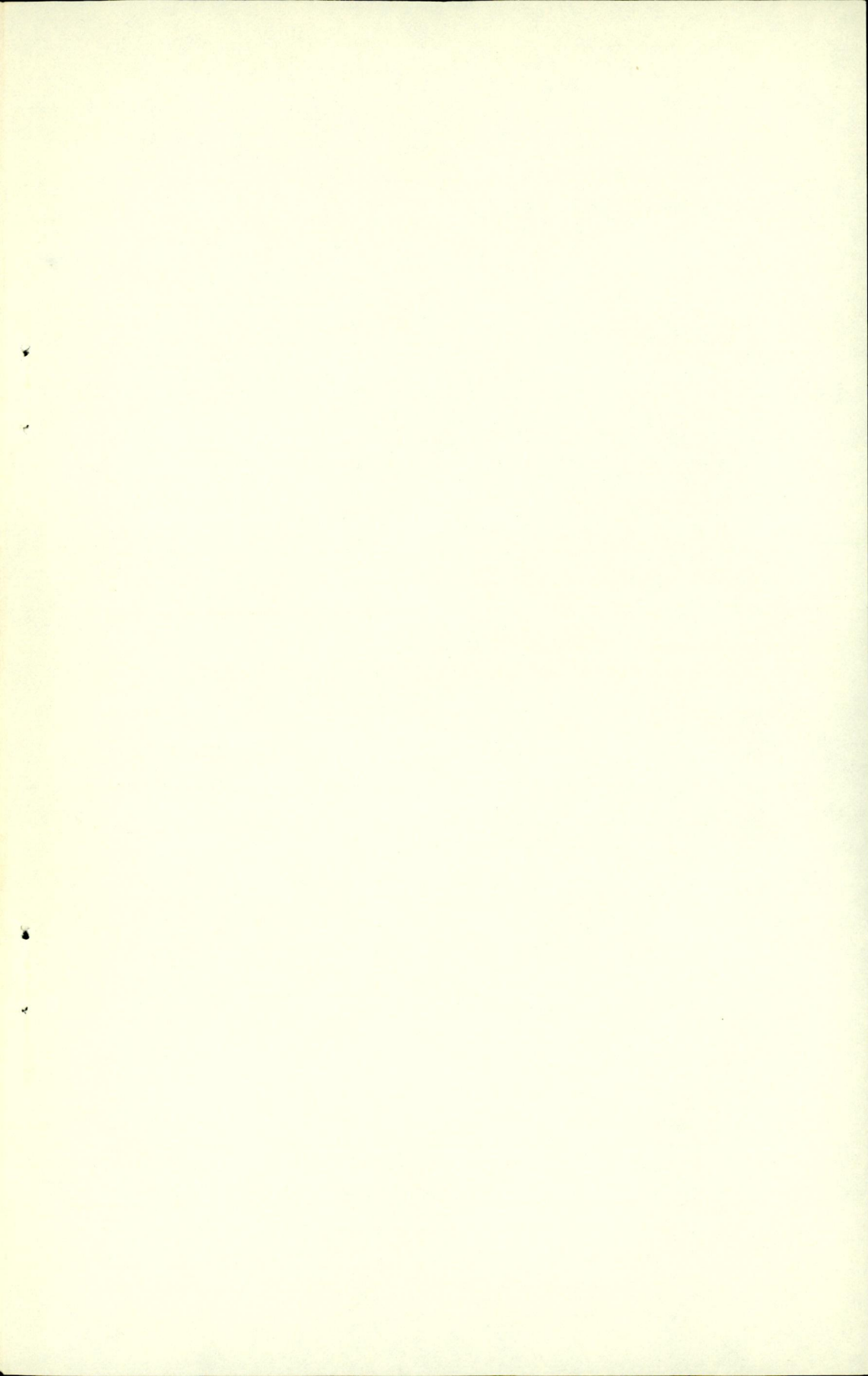
that the condition or finding took place or that the recognition was entered into. If the condition finding or recognition is admissible—

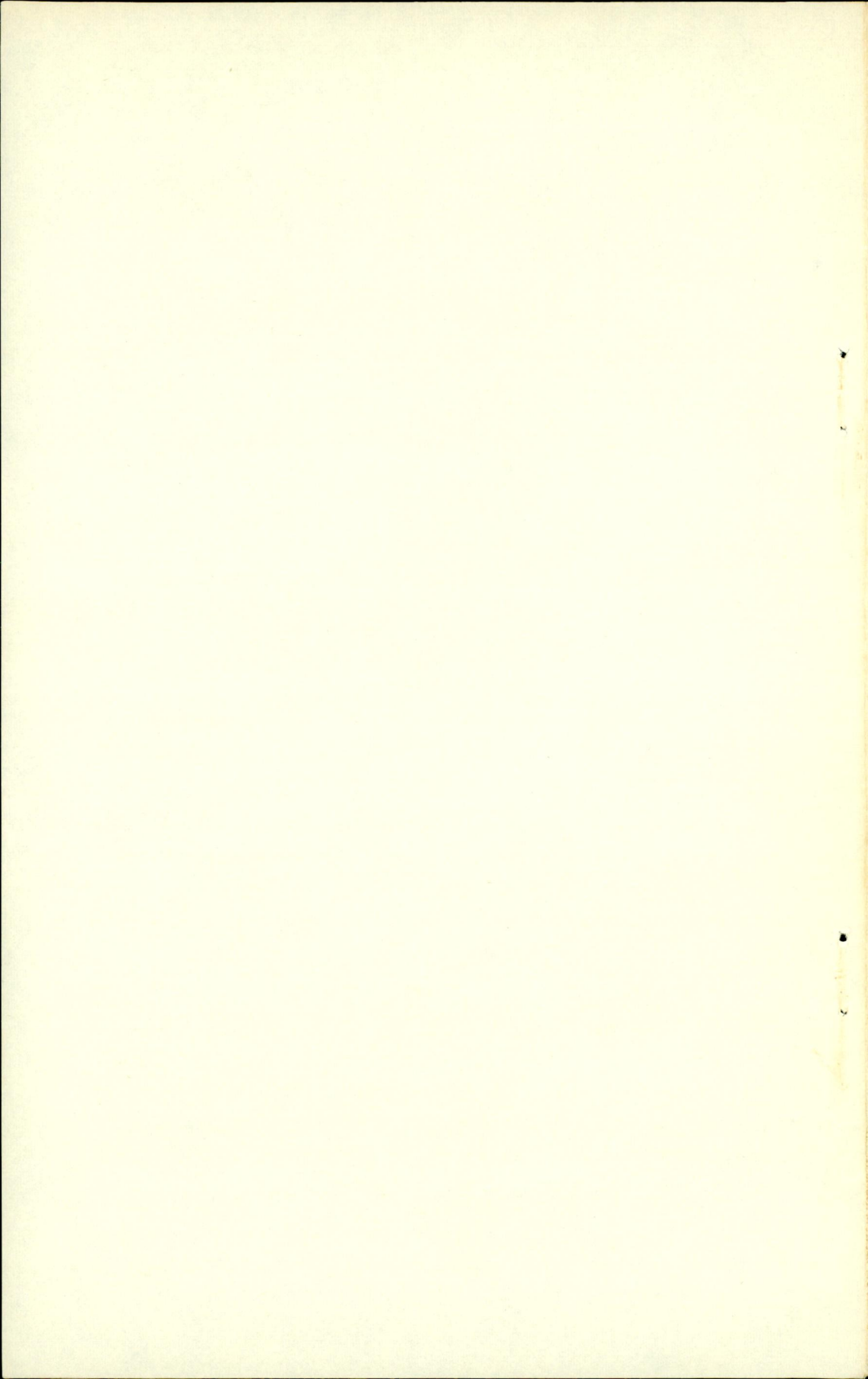
(a) in those proceedings as to the character, credit or reputation of the person so related to;

(b) in any proceeding for injury or false swearing founded on the relation.

The non-disclosure of the condition, failing or agreement in the making or giving of a statement or evidence as to the good character, credit or reputation of the person so related shall not of itself be taken for the purpose of this subsection, to mean that the statement or evidence contains such an admission.

(3) In this section "legal proceedings" includes any proceeding for a hearing, recognition or authority granted or the like under any statute.





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.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 30 November, 1961.*

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ELIZABETHÆ II REGINÆ

Act No. 70, 1961.

An Act to make provisions with respect to kidnapping, obtaining credit by fraud and the admissibility of certain evidence as to credit, reputation or character of persons charged; to amend the Crimes Act, 1900, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 15th December, 1961.]

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) Short title. Act, 1961".

2.

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

HOWARD T. FOWLES,
Chairman of Committees of the Legislative Assembly.

Crimes (Amendment).

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

New sec. 90A. (a) by inserting next after section ninety the following new section :—

Kidnapping.

90A. Whosoever leads takes or entices away or detains a person with intent to hold him for ransom or for any other advantage to any person shall be liable to penal servitude for twenty years or, if it is proved to the satisfaction of the judge that the person so led taken enticed away or detained was thereafter liberated without having sustained any substantial injury, to penal servitude for fourteen years.

This section does not apply to any person who shall, in good faith, have claimed a right to the possession of the person so led, taken or enticed away or detained.

New short heading and sec. 178c.

(b) by inserting next after section 178B the following new short heading and section :—

OBTAINING CREDIT BY FRAUD.

Obtaining credit by fraud.

178C. Whosoever incurring any debt or liability obtains credit by any false pretence or by any wilfully false promise or partly by a false pretence and partly by a wilfully false promise or by any other fraud shall be liable to imprisonment for one year.

Sec. 349.
(Punishment of accessories after the fact to murder, etc.)

(c) by inserting in subsection two of section three hundred and forty-nine after the word "persons," the words "or the crime of kidnapping referred to in section 90A of this Act,";

Sec. 477.
(List of offences within this jurisdiction.)

(d) by inserting in paragraph (f) of section four hundred and seventy-seven after the figures and letter "178B," the figures and letter "178C,";

(e)

Crimes (Amendment).

(e) by inserting in paragraph (c) of subsection one of section five hundred and one after the words "One hundred and fifty-two," the figures and letter "178c,";

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

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

New sec. 579.

579. (1) Where, following the conviction of any person for an offence or a finding that a charge of an offence has been proved against any person, whether the conviction or finding was before or after the commencement of the Crimes (Amendment) Act, 1961—

Evidence of proceedings dealt with by way of recognizance after 15 years.

(a) sentence in respect of the conviction was suspended or deferred upon the person entering into a recognizance or, in substitution for sentence in respect of the conviction, the person was required to enter into a recognizance, or no conviction in respect of the finding was made and the person was discharged conditionally on his entering into a recognizance; and

(b) a period of fifteen years has elapsed since the recognizance was entered into—

(i) without the recognizance having been forfeited during that period or a court having found during that period that the person failed to observe any condition of the recognizance; and

(ii) without the person having, during that period, been convicted of an indictable offence on indictment or otherwise or of any other offence punishable by imprisonment (otherwise than under section eighty-two of the Justices Act, 1902, as amended by

Crimes (Amendment).

by subsequent Acts) or without a finding during that period that a charge of such an indictable or other offence has been proved against the person,

the conviction or finding shall, where that period expired before the commencement of the Crimes (Amendment) Act, 1961, as on and from that commencement, or, where that period expires or has expired after that commencement, as on and from the expiration of that period—

- (c) be disregarded for all purposes whatsoever; and
- (d) without prejudice to the generality of paragraph (c) of this subsection, be inadmissible in any criminal, civil or other legal proceedings as being no longer of any legal force or effect.

Without prejudice to the generality of the foregoing provisions of this section, any question asked of or concerning that person in or in relation to any criminal, civil or other legal proceedings otherwise than by his counsel, attorney or agent or other person acting on his behalf may be answered as if the conviction or finding had never taken place or the recognizance had never been entered into.

(2) Notwithstanding the provisions of subsection one of this section, where in any criminal, civil or other legal proceedings the person first referred to in that subsection, by himself, his counsel, attorney or agent or other person acting on his behalf, otherwise than in answer to a question that can, in accordance with the last paragraph of that subsection, be answered in the negative, makes an assertion that denies the fact that

Crimes (Amendment).

that the conviction or finding took place or that the recognizance was entered into, then the conviction, finding or recognizance is admissible—

- (a) in those proceedings, as to the character credit or reputation of the person so referred to;
- (b) in any prosecution for perjury or false swearing founded on the assertion.

The non-disclosure of the conviction, finding or recognizance in the making or giving of a statement or evidence as to the good character, credit or reputation of the person so referred to shall not of itself be taken, for the purposes of this subsection, to mean that the statement or evidence contains such an assertion.

(3) In this section "legal proceedings" includes any application for a license, registration, authority, permit or the like under any statute.

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

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 15th December, 1961.*



