

## CRIMES AND OTHER ACTS (AMENDMENT) BILL, 1974

### EXPLANATORY NOTE

THE objects of this Bill are to create certain offences, to amend the law relating to certain existing offences, to make further provision with respect to the administration of criminal justice and to alter the penalties which may be imposed for certain offences.

The Bill—

- (a) creates offences in relation to the following matters—
  - (i) threatening to destroy buildings, aircraft or other conveyances if demands are not met, for which a penalty of penal servitude for life may be imposed;
  - (ii) discharging loaded arms to resist lawful apprehension, for which a penalty of penal servitude for fourteen years may be imposed;
  - (iii) threatening to use an offensive weapon with intent to prevent lawful apprehension, for which a penalty of penal servitude for ten years may be imposed;
  - (iv) committing an act of indecency with or towards a girl under the age of sixteen years, for which a penalty of imprisonment for two years may be imposed;
  - (v) indecently or improperly interfering with a dead human body, for which a penalty of imprisonment for two years may be imposed;
  - (vi) knowingly making a false statement which tends to give rise to apprehension for the safety of any person or property, for which a penalty of \$1,000 or imprisonment for twelve months, or both, may be imposed on summary conviction, or imprisonment for five years may be imposed on indictment; and
  - (vii) knowingly making a false representation to a member of the police force that an act has been, or will be, done and the act as represented is such as calls for an investigation by the police force, for which a penalty of \$500 or imprisonment for six months, or both, may be imposed;
- (b) alters certain existing offences including offences relating to—
  - (i) culpable driving, so as to bring within the offence death or grievous bodily harm occasioned to a passenger in a car or by a car overturning on or leaving the highway;
  - (ii) employment in brothels, so as to extend the offence to the employment of males in brothels;
  - (iii) being found in certain circumstances, so as to extend the offence to being found in those circumstances by day as well as by night;

- (iv) unlawfully using another's vehicle, so as to include a person who allows himself to be carried in or on the vehicle knowing that the vehicle has been taken without the consent of the owner; and
  - (v) tampering with witnesses, so as to remove the requirement that the witnesses tampered with must be bound by recognizance or subpoena to attend before a Court, Justice or Coroner;
- (c) provides for a defence, by a person charged with murder, of diminished responsibility (to establish the defence the person so charged must prove that at the time of the acts or omissions causing the death charged he was suffering from such abnormality of mind as substantially impaired his mental responsibility for the acts or omissions; if the defence is established the person charged is liable to be convicted of manslaughter);
- (d) provides that on trial on indictment an accused person shall not, without the permission of the Court, adduce evidence in support of an alibi unless he gives notice in advance of particulars of the alibi;
- (e) re-enacts with modifications the law with respect to the rights of an accused person in a criminal trial so as to provide that—
- (i) an accused person is not entitled to make a statement without being sworn;
  - (ii) in certain circumstances an accused person, if not represented by counsel, may address the Court or jury otherwise than on oath in any situation where a counsel representing him could have done so;
  - (iii) no person other than the Judge, the accused person or his counsel may comment to the jury on the failure of the accused person to give evidence, and restricts the extent to which the Judge may so comment; and
  - (iv) an accused person giving evidence may be cross-examined as to previous convictions or as to disposition or reputation only in limited circumstances;
- (f) amends the law relating to the payment of compensation to a person aggrieved by a misdemeanour or felony so as to provide that—
- (i) compensation may be awarded in respect of offences taken into account in passing sentence;
  - (ii) compensation awarded shall be paid to the Clerk of the Peace for payment to the person aggrieved;
  - (iii) the amount of the compensation shall not exceed \$4,000 on trial on indictment and \$600 on summary trial;
  - (iv) the Clerk of the Peace shall issue to the person aggrieved a certificate specifying any amount of compensation awarded that has not been paid;
  - (v) an aggrieved person may file the certificate in the District Court at Sydney and thereupon the registrar shall enter judgment in favour of the aggrieved person for the amount shown in the certificate;
  - (vi) any amount paid by the Crown to an aggrieved person pursuant to the Criminal Injuries Compensation Act, 1967, may be recovered by way of judgment entered in the District Court; and

- (vii) the award of compensation does not affect any right which an aggrieved person may have to bring civil proceedings, but the damages recovered shall be reduced by the amount awarded and paid as compensation and by any amount paid to the aggrieved person under the Criminal Injuries Compensation Act, 1967;
- (g) makes provision with regard to certain matters of an evidential nature including—
  - (i) the method of proving a conviction of an accused person; and
  - (ii) the method of proving certain banking transactions,
 and provides that the methods provided for are in addition to any other methods of proving those matters;
- (h) provides that where on a charge of receiving stolen property it is proved that the property was stolen in the course of transmission between New South Wales and any other State or Territory in the Commonwealth, the accused person shall be liable to be convicted without proof that the stealing took place in New South Wales;
- (i) re-enacts with extensions and modification the provisions of the law relating to the power of a magistrate to deal summarily with certain indictable offences where the accused consents; the additional offences with which a magistrate can so deal relate to the following matters—
  - (i) carnal knowledge and indecent assault where the victim is over the age of fourteen years;
  - (ii) any offence punishable as larceny;
  - (iii) certain lesser injuries to property and the lesser assaults;
  - (iv) forgeries where not specifically provided for in the Crimes Act 1900; and
  - (v) breaking, entering and stealing where the accused person was not carrying weapons or safe-breaking implements and the property stolen did not exceed \$1,000 in value;
- (j) makes further provision with regard to search warrants;
- (k) repeals the provisions of the Crimes Act 1900 relating to certain minor injuries to property which are contained in sections 539–543 of that Act;
- (l) re-enacts with extensions and modifications the provisions of the Crimes Act 1900 allowing a court to defer sentence;
- (m) removes from the Crimes Act 1900 all references to whipping and keeping in irons;
- (n) amends the Jury Act, 1912, so as to provide that—
  - (i) a jury trying any felony (including murder) may be allowed to separate unless the Judge otherwise directs; and
  - (ii) a trial may, if the Judge so decides, continue notwithstanding that the number of jurors is reduced by death or illness to eleven or ten;
- (o) makes other provisions of a consequential or ancillary character.

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data. The second part of the document details the various methods used to collect and analyze the data. It describes how the information is processed and how it is used to identify trends and patterns. The final part of the document provides a summary of the findings and offers recommendations for future actions. It suggests that regular audits and updates to the system are essential for maintaining the accuracy and reliability of the data.

*PROOF*

No. , 1974.

---

---

## A BILL

To make provision for certain new offences; to amend the law relating to certain existing offences; to make provision for a defence of diminished responsibility in a trial for murder; to amend the law so as to remove the right of an accused person to make an unsworn statement in a criminal trial; to re-enact with modifications and additions certain provisions relating to the cross-examination of an accused person, the payment of compensation to a person aggrieved by a misdemeanour or felony, the summary trial of indictable offences, deferring sentence and the separation of juries; to repeal certain obsolete provisions of the Crimes Act 1900;

---

*Crimes and Other Acts (Amendment).*

---

to alter the penalties which may be imposed for certain offences; for these and other purposes to amend the Crimes Act 1900, the Justices Act, 1902, the Jury Act, 1912, the Criminal Appeal Act, 1912, and the Criminal Injuries Compensation Act, 1967; and for purposes connected therewith.

[MR McCaw—27 February, 1974.]

---

---

**B**E 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 and Other Acts (Amendment) Act, 1974". Short title.
2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette. Commencement.
3. (1) Subject to this section, in so far as it affects any matter of procedure or evidence or the jurisdiction or powers of any court in relation to an offence, this Act shall have effect in relation to proceedings on—
  - 15 (a) a trial on indictment for the offence if, but only if, the indictment is filed after the day appointed for the commencement of this Act; or
  - 20 (b) a summary trial for the offence if, but only if, the hearing is commenced after the day so appointed.

(2)

---

*Crimes and Other Acts (Amendment).*

---

(2) Section 5 (b) shall have effect in relation to an offence if, but only if, an indictment for that offence is filed after the day appointed for the commencement of this Act.

5 (3) Section 5 (r) shall have effect in relation to proceedings notwithstanding that they have been commenced before the day appointed for the commencement of this Act.

(4) Section 8 (b) shall have effect in a trial on indictment if, but only if, the committal proceedings in relation to the trial have been commenced on or after the day appointed  
10 for the commencement of this Act.

(5) Section 9 (c) and (d) shall have effect for the purpose of giving, on or after the day appointed for the commencement of this Act, a direction for the payment of compensation, and in relation to a direction so given.

15 (6) Section 15 (a) shall have effect with respect to a jury in the trial of a person for a felony, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

(7) Section 15 (b) shall have effect with respect to  
20 a jury in a criminal trial, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

(8) Section 17 shall have effect for the purpose of making any payment, and in respect of any payment made,  
25 under the Criminal Injuries Compensation Act, 1967, if, but only if—

(a) the payment is made under that Act after the day appointed for the commencement of this Act; and

(b) the payment so made follows on a direction for the payment of compensation given under section  
30 437 of the Crimes Act 1900 on or after the day so appointed.

(9)

---

*Crimes and Other Acts (Amendment).*


---

(9) The Criminal Injuries Compensation Act, 1967 (as in force immediately before the day appointed for the commencement of this Act) shall—

- 5 (a) continue to apply to and in respect of any payment made under that first-mentioned Act before the day so appointed; and
- (b) have effect for the purpose of making any payment, and in respect of any payment made, if section 17 does not (pursuant to subsection (8)) have effect
- 10 for that purpose and in that respect.

(10) Nothing in this Act shall affect any term of imprisonment or the amount of any fine which may be imposed on conviction for an offence committed before the day appointed for the commencement of this Act.

15 4. The Crimes Act 1900 is amended—

Amend-  
ment of  
Act No 40,  
1900.

- (a) (i) by inserting in the matter relating to Part III in section 1 after the matter "81B." the words "(10A) *Misconduct with regard to corpse.*—s. 81C.";
- 20 (ii) by inserting in the matter relating to Part IV in the same section after the word "*offences.*" the matter "(aa) GENERAL.—s. 93J.";
- (iii) by omitting from the same matter the word "*BURGLARY,*";
- 25 (iv) by omitting from the same matter the words "*Simple larceny and general*" and by inserting instead the word "*General*";
- (v) by omitting from the same matter the words "*and telegraphs.—ss. 230-234*" and by
- 30 inserting instead the matter "*—ss. 230-232*";

Sec. 1.  
(Short  
title and  
contents  
of Act.)

(vi)



---

*Crimes and Other Acts (Amendment).*

---

- (vi) by omitting from the same matter the matter "ss. 245, 246" and by inserting instead the matter "s. 245";
- 5 (vii) by inserting in the same matter after the matter "s. 248" the words "(17A) *False statement that person or property in danger.—s. 248A.*";
- (viii) by inserting after the matter relating to Part VIII in the same section the following matter :—
- 10                   PART VIII A.—ATTEMPTS.—s. 344A.
- (ix) by omitting from the matter relating to Part XI in the same section the matter "405" and by inserting instead the matter "405A";
- 15 (x) by omitting from the matter relating to Part XII in the same section the words "(4) *Sentences of whipping or irons.—ss. 434-436.*";
- (xi) by omitting from the same matter the matter "s. 437" and by inserting instead the matter "ss. 437, 437A";
- 20 (xii) by omitting from the matter relating to Part XIII in the same section the words "(3) *Whipping sentences.—ss. 455, 456.*";
- (xiii) by omitting from the matter relating to Part XIV in the same section the words "(2) *Offences and punishment.—ss. 477, 478.*";
- 25 (xiv) by omitting from the same matter the matter "ss. 479-481" and by inserting instead the matter "ss. 480, 481";

(xv)

---

*Crimes and Other Acts (Amendment).*

---

- (xv) by omitting from the same matter the words  
"CHAPTER II.—OFFENCES PUNISHABLE  
SUMMARILY IN CERTAIN CASES BY WHIPPING.  
—ss. 482-492.";
- 5 (xvi) by omitting from the same matter the following  
words :—
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.*—ss. 530,  
531.
- 10 (2) *Injuries to trees, shrubs, vege-  
table produce, fences, &c.*—ss.  
532-538.
- (3) *Injuries to certain animals.*—  
ss. 539, 540.
- 15 (4) *Injuries not otherwise provided  
for.*—ss. 541, 542.
- (5) *Application of compensation.*  
—s. 543.
- (D) COINAGE OFFENCES.—ss. 544, 545.
- 20 (xvii) by inserting in the same matter after the matter  
"s. 547A." the words "(H) PUBLIC MISCHIEF.  
—s. 547B.";
- (xviii) by omitting from the same matter the words  
"(1A) *Power to commit.*—s. 548A.";
- 25 (xix) by omitting from the same matter the words  
"(9) *Conditional release of offenders.*—ss.  
556A, 556B.";
- (xx) by omitting from the matter relating to Part  
XV in the same section the words "FIRST  
30 OFFENDERS.—ss. 557-562" and by inserting  
instead the words "CONDITIONAL RELEASE OF  
OFFENDERS.—ss. 556A-560A".

(b)

---

*Crimes and Other Acts (Amendment).*

---

- (b) (i) by omitting the definition of "*Dwelling-house*" in section 4 and by inserting instead the following definition :—

Sec. 4.  
(Interpre-  
tation.)

"*Dwelling-house*" includes—

- 5 (a) any building or other structure intended for occupation as a dwelling and capable of being so occupied, although it has never been so occupied;
- 10 (b) a boat or vehicle in or on which any person resides; and
- 15 (c) any building or other structure within the same curtilage as a dwelling-house, and occupied therewith or whose use is ancillary to the occupation of the dwelling-house.

- (ii) by inserting in section 4 after the definition of "*Night*" the following definition :—

20 "*Offensive weapon*" and "*Offensive weapon, or instrument*" include an imitation or replica of an offensive weapon or of an offensive weapon, or an instrument, as the case may require.

- 25 (iii) by inserting in section 4 after the definition of "*Vessel*" the following definition :—

30 "*Weapon*" and "*Weapon, or instrument*" include an imitation or replica of a weapon or of a weapon, or an instrument, as the case may require.

- (iv) by inserting at the end of section 4 the following subsection :—

35 (2) A dwelling-house does not cease to be a dwelling-house by reason only of being temporarily unoccupied.

(c)

*Crimes and Other Acts (Amendment).*

(c) by omitting from section 10 the words "or whipping," Sec. 10.  
(What offences mis-demeanours.)

5. The Crimes Act 1900 is further amended— Further amendment of Act No. 40, 1900.

5 (a) by omitting from section 18 (1) (a) the words "of an act obviously dangerous to life, or"; Sec. 18. 01  
(Murder defined.)

(b) by inserting after section 23 the following section :— Sec. 23A.

10 23A. (1) Where, on the trial of a person for murder, it appears that at the time of the acts or omissions causing the death charged the person was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for the acts or omissions, he shall not be convicted of murder. Diminished responsibility.

15 (2) It shall be upon the person accused to prove that he is by virtue of subsection (1) not liable to be convicted of murder.

20 (3) A person who but for subsection (1) would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

25 (4) The fact that a person is by virtue of subsection (1) not liable to be convicted of murder in respect of a death charged shall not affect the question whether any other person is liable to be convicted of murder in respect of that death.

(5)

---

*Crimes and Other Acts (Amendment).*

---

(5) Where, on the trial of a person for murder, the person contends—

5 (a) that he is entitled to be acquitted on the ground that he was mentally ill at the time of the acts or omissions causing the death charged; or

(b) that he is by virtue of subsection (1) not liable to be convicted of murder,

10 evidence may be offered by the Crown tending to prove the other of those contentions, and the Court may give directions as to the stage of the proceedings at which that evidence may be offered.

15 (c) by omitting from section 24 the words “, or for any term not less than three years, or to imprisonment for any term not exceeding three years”; Sec. 24. (Man-slaughter—punishment.)

(d) by inserting after section 32B the following Sec. 32c. section :—

20 32c. (1) Any person who makes a demand of any person with a threat to destroy or endanger the safety of an aircraft, vessel, motor vehicle, engine or carriage used upon a railway, or building, or to kill or injure all or any of the persons in or on any such aircraft, vessel, motor vehicle, engine, carriage or building, shall be liable to penal servitude for life. Threats to destroy aircraft or other conveyances.

25 (2) Any person who makes a demand of any person with any threat mentioned in subsection (1) and while that threat subsists discharges any firearm, or causes any explosion, or wounds or inflicts grievous bodily harm on any person, shall be liable to penal servitude for life.

30 (3) The provisions of section 442 shall not be in force with respect to the sentence to be passed under subsection (2).

(4)

*Crimes and Other Acts (Amendment).*

(4) For the purposes of subsection (1), "building" includes any bridge, mine or structure in the nature of a building.

5 (e) by inserting after section 33 the following sections :— Secs. 33A and 33B.

10 33A. Any person who maliciously discharges, or in any manner attempts to discharge, any kind of loaded arms with intent to do grievous bodily harm to any person, or with intent to resist, or prevent, the lawful apprehension or detention either of himself or any other person, shall be liable to penal servitude for fourteen years. Discharging loaded arms with intent.

15 33B. Any person who— Use of weapon to resist arrest, etc.  
(a) uses, attempts to use or threatens to use an offensive weapon or instrument ; or

20 (b) threatens injury to any person or property, with intent to prevent or hinder the lawful apprehension or detention either of himself or any other person or to prevent or hinder a member of the police force from investigating any act or circumstance which reasonably calls for investigation by the member shall be liable to penal servitude for ten years.

25 (f) by omitting from section 35 the word "five" and by inserting instead the word "seven"; Sec. 35. (Maliciously wounding or inflicting grievous bodily harm.)

(g) by omitting section 45; Sec. 45. (Wife or child desertion.)

(h)

*Crimes and Other Acts (Amendment).*

- (h) by omitting section 49 and by inserting instead the following section :—

49. (1) Any person who—

Setting  
trap, etc.

5 (a) places or sets, or causes to be placed or set, any trap, device or thing (whether its nature be electronic, electric, mechanical, chemical or otherwise) capable of destroying human life or inflicting grievous bodily harm on any person; or

10 (b) knowingly permits any such trap, device or thing to continue to be placed or set,

with intent to inflict grievous bodily harm shall be liable to imprisonment for five years.

15 (2) Nothing in subsection (1) shall extend to any gin or trap, placed with the intention of destroying vermin, or to any trap, device or thing placed in a dwelling-house for the protection thereof.

20 (i) by omitting from section 51 the word "life" and by inserting instead the words "ten years";

Sec. 51.  
(Casting  
stone, &c.,  
on a railway  
carriage.)

(j) (i) by omitting section 52A (1) and (2) and by inserting instead the following subsections :—

Sec. 52A.  
(Culpable  
driving.)

(1) Where the death of, or grievous bodily harm to, any person is occasioned through—

25 (a) the impact with any object of a motor vehicle in which that person was a passenger;

30 (b) a motor vehicle in which that person was a passenger overturning or leaving the highway;

(c)

---

*Crimes and Other Acts (Amendment).*

---

- (c) impact with a motor vehicle ; or
- (d) the impact of a motor vehicle with any vehicle or other object in, on or near which that person was at the time of the impact,

and the motor vehicle was at the time of the impact, or at the time of overturning or leaving the highway, being driven by another person—

- (e) under the influence of intoxicating liquor or of a drug ; or
- (f) at a speed or in a manner dangerous to the public,

the person who was so driving the motor vehicle shall be guilty of the misdemeanour of culpable driving.

(2) A person convicted of the misdemeanour of culpable driving is—

- (a) if the death of any person was occasioned, liable to imprisonment for five years ; or
- (b) if grievous bodily harm to any person was occasioned, liable to imprisonment for three years.

(ii) by omitting from section 52A (7) the words “and structure” and by inserting instead the words “, structure, earthwork, embankment, gutter, stormwater channel, drain, bridge, culvert, median strip, post and tree” ;

(k) by omitting from section 61 the words “, and if the person assaulted is a female, shall, in addition, be liable to be once privately whipped” ;

Sec. 61.  
(Common assault prosecuted by indictment.)

(1)



*Crimes and Other Acts (Amendment).*

- (l) by omitting from section 64 the words "but with her consent" and by inserting instead the words ", but are not satisfied that carnal knowledge was had without her consent";
- 5 (m) by omitting from section 70 the words "and that the accused had not carnal knowledge of such girl, but" and by inserting instead the words "but are not satisfied that the accused had carnal knowledge of the girl, and are satisfied that he";
- 10 (n) by inserting in section 72 after the words "any girl" the words "of or";
- (o) (i) by omitting from section 76 the word "three" and by inserting instead the word "four";
- 15 (ii) by omitting from section 76 the word "five" and by inserting instead the word "six";
- (p) by inserting after section 76 the following section :—
- 20 76A. Any person who commits any act of indecency with or towards any girl under the age of sixteen years, or incites a girl under that age to any act of indecency with him or another, shall be liable to imprisonment for two years.
- 25 (q) (i) by omitting from section 77 the words "or seventy-four" and by inserting instead the matter "74 or 76A";
- (ii) by omitting from section 77 the words "or seventy-two" and by inserting instead the matter ", 72 or 76A";

(r)

*Crimes and Other Acts (Amendment).*

- (r) by inserting after section 77 the following Sec. 77A.  
section :—

5 77A. Any proceedings in respect of an offence Pro-  
under section 63, 65, 66, 67, 68, 71, 72, 72A, 73, ceedings  
74, 76 or 76A shall, if the Court so directs, be held in camera  
in camera. in certain  
cases.

- (s) by inserting after section 81B the following Sec. 81c.  
section and subheading :—

*Misconduct with regard to corpses.*

10 81c. Any person who— Miscon-  
duct with  
regard to  
corpses.

(a) indecently interferes with any dead human  
body; or

(b) improperly interferes with, or offers any  
indignity to, any dead human body or  
15 human remains (whether buried or not),

shall be liable to imprisonment for two years.

- (t) by omitting from section 91A the words “female Sec. 91A.  
under the age of twenty-one years, whether with her (Procur-  
consent or not, with intent that some other person ing, &c.)  
may have carnal knowledge of such female” and by  
20 inserting instead the words “person, whether with  
that person’s consent or not, for purposes of  
prostitution”;

- (u) by omitting from section 91B the words “woman of Sec. 91B.  
or above the age of twenty-one years with intent (Pro-  
that some other person may have carnal knowledge curing  
of such woman” and by inserting instead the words person by  
25 “person for purposes of prostitution”;

- (v) by omitting from section 91D the word “female” Sec. 91D.  
and by inserting instead the words “person (not (Employ-  
being a member of the police force acting in the ment in  
30 course of his duty)”. brothel.)

---

*Crimes and Other Acts (Amendment).*


---

## 6. The Crimes Act 1900 is further amended—

Further  
amend-  
ment of  
Act No.  
40, 1900.

- (a) by inserting next after the words "Chapter I.—  
*Stealing and like offences.*" in Part IV the following  
section and subheading :—

Sec. 93J.

5

## GENERAL.

93J. Where on the trial of a person for any  
offence which includes the stealing of any property  
it appears that the property was, at the time when  
it was taken by the accused, already out of the  
possession of the owner by reason of its having been  
previously stolen, the accused may be convicted of  
the offence charged notwithstanding that it is not  
proved that the taking by him amounted to an  
interference with the right to possession of, or a  
trespass against, the owner.

Property  
previously  
stolen.

10

15

- (b) by omitting from section 99 the word "seven" and  
by inserting instead the word "ten";

Sec. 99.  
(Demand-  
ing money  
with  
intent to  
steal.)

- (c) by omitting from the subheading occurring before  
section 106 the word ", BURGLARY";

Sub-  
heading  
before  
sec. 106.

20

- (d) by omitting section 108;

Sec. 108.  
(Burglary.)

- (e) by omitting from section 109 the words "in the  
night, shall be deemed guilty of burglary, and";

Sec. 109.  
(Entering  
with  
intent, or  
stealing,  
&c., in  
dwelling-  
house and  
breaking  
out.)

(f)

*Crimes and Other Acts (Amendment).*

(f) by omitting section 114 and by inserting instead Sec. 114. the following section :—

114. (1) Any person who—

Being armed, &c., with intent to commit offence.

- 5 (a) is armed with any weapon, or instrument, with intent to enter a building and to commit a felony or misdemeanour therein;
- 10 (b) has in his possession, without lawful excuse, any implement of housebreaking or safe-breaking, or any implement capable of being used to enter or drive or enter and drive a conveyance;
- 15 (c) has his face blackened or otherwise disguised, or has in his possession the means of blacking or otherwise disguising his face, with intent to commit a felony or misdemeanour;
- 20 (d) enters or remains in or upon any part of a building or any land occupied or used in connection therewith with intent to commit a felony or misdemeanour in or upon the building,

shall be liable to penal servitude for seven years.

(2) For the purposes of subsection (1)

25 (b) "conveyance" means any cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.

30 (g) by omitting from the subheading appearing before section 117 the words "*Simple larceny and general*" and by inserting instead the word "*General*";

Sub-heading before sec. 117.

(h)

*Crimes and Other Acts (Amendment).*

- (h) by omitting from section 117 the word "simple" wherever occurring; Sec. 117.  
(Punishment for larceny.)
- 5 (i) by inserting in section 120 after the word "pretence" where firstly occurring the words "or by any wilfully false promise"; Sec. 120.  
(Trial for larceny—verdict of embezzlement, &c.)
- (j) by omitting from section 124 the words "two hundred dollars" and by inserting instead the words "\$2,000, or both"; Sec. 124.  
(Fraudulent appropriation.)
- 10 (k) by omitting from section 125 the words ", and may be convicted thereof upon an indictment for simple larceny"; Sec. 125.  
(Larceny by bailee.)
- (l) by omitting from section 126 the word "ten" and by inserting instead the word "fourteen"; Sec. 126.  
(Stealing cattle or killing with intent to steal.)
- (m) by omitting from section 134 the word "simple"; Sec. 134.  
(Stealing, destroying, &c., valuable security.)
- 15 (n) by inserting in section 136 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 136.  
(Proviso to sections 134 and 135.)
- (o) by omitting from section 139 the word "simple"; Sec. 139.  
(Stealing, &c., metal, glass, wood, &c., fixed to house or land.)
- 20 (p) by omitting from section 140 the word "simple"; Sec. 140.  
(Stealing, &c., trees, &c., in pleasure grounds.)

*Crimes and Other Acts (Amendment).*

- (q) by omitting from section 144 the word "simple"; Sec. 144.  
(Stealing ore of metal, coal, &c.)
- (r) by omitting from section 147 the word "simple"; Sec. 147.  
(Fraud on partners in mines, &c.)
- (s) by omitting from section 153 the word "fourteen" and by inserting instead the word "ten"; Sec. 153.  
(Stealing from ship in distress or wrecked.)
- 5 (t) by omitting from section 154 the word "simple"; Sec. 154.  
(Tenants, &c., stealing articles let to hire.)
- (u) by omitting section 154A and by inserting instead the following section :— Sec. 154A.

154A. (1) Any person who—

- 10 (a) without having the consent of the owner or person in lawful possession of a conveyance, takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or
- 15 (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,

20 shall be deemed to be guilty of larceny and liable to be indicted for that offence.

25 (2) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used or intended for navigation, and "drive" shall be construed accordingly.

(v)

*Crimes and Other Acts (Amendment).*

- (v) by omitting from section 154c the word "simple"; Sec. 154c.  
(Malicious or fraudulent abstraction, waste, &c., of electricity.)
- (w) by omitting from section 163 the word "simple"; Sec. 163.  
(Trial for embezzlement—verdict of larceny.)
- (x) by omitting from section 173 the word "ten" and by inserting instead the word "fourteen"; Sec. 173.  
(Directors, &c., fraudulently appropriating, &c., property.)
- 5 (y) by omitting from section 174 the word "ten" and by inserting instead the word "fourteen"; Sec. 174.  
(Directors, &c., omitting certain entries.)
- (z) by omitting from section 175 the word "ten" and by inserting instead the word "fourteen"; Sec. 175.  
(Director, &c., wilfully destroying, &c., books of company, &c.)
- 10 (aa) by omitting from section 176 the word "ten" and by inserting instead the word "fourteen"; Sec. 176.  
(Director or officer publishing fraudulent statements.)
- (bb) by inserting in section 177 after the word "insolvency" the words " , or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 177.  
(Proviso to ss. 165 to 176 incl.)
- 15 (cc) by omitting from section 183 the word "simple"; Sec. 183.  
(Trial for false pretences, &c.—verdict of larceny.)
- (dd)

*Crimes and Other Acts (Amendment).*

- (dd) by omitting from section 184 the word "life" and  
by inserting instead the words "seven years"; Sec. 184.  
(Fraudulent personation.)
- 5 (ee) by inserting in section 188 after the word "receives"  
the words ", or disposes of, or attempts to dispose  
of,"; Sec. 188.  
(Receiving where principal guilty of felony.)
- (ff) by inserting in section 189 after the word "receives"  
the words ", or disposes of, or attempts to dispose  
of,"; Sec. 189.  
(Receiving where principal guilty of misdemeanour.)
- 10 (gg) (i) by inserting in section 189A (1) after the word  
"receives" the words ", or disposes of, or  
attempts to dispose of,"; Sec. 189A.  
(Receiving, &c., goods stolen out of New South Wales.)
- (ii) by inserting in section 189A (1) after the  
words "been stolen," the words "and whether  
or not he took part in the stealing of the  
property,"; 15
- (hh) by inserting after section 189A the following Sec. 189B.  
section :—
- 189B. (1) Where in the trial of a person for the  
offence under section 188 or 189 of receiving, or  
20 disposing of, or attempting to dispose of, any  
property knowing it to have been stolen, it is proved  
that the property was stolen in the course of  
transmission between New South Wales and any  
other jurisdiction or between any other jurisdiction  
25 and New South Wales—
- (a) the person shall be liable to be convicted of  
the offence without proof that the stealing  
took place in New South Wales; and
- (b) for the purpose of determining whether or  
30 not the stealing amounts to a felony or a  
misdemeanour, the stealing shall be deemed  
to have taken place in New South Wales.  
(2)



*Crimes and Other Acts (Amendment).*

(2) For the purposes of subsection (1) "other jurisdiction" means a State (other than New South Wales) or Territory of the Commonwealth.

- 5 (ii) by inserting in section 190 after the word "receives" where secondly occurring the words ", or disposes of, or attempts to dispose of,"; Sec. 190. (Receiving cattle feloniously killed, or carcass, &c.)
- (jj) by omitting from section 213 the word "ten" and by inserting instead the word "five"; Sec. 213. (Setting fire to fences.)
- 10 (kk) by omitting from section 214 the words "liable to penal servitude for seven years" and by inserting instead the words "liable to penal servitude for three years"; Sec. 214. (Attempts to set fire to such things.)
- (ll) by omitting section 216; Sec. 216. (Injuring trees, shrubs, &c., in pleasure-ground, &c.)
- (mm) by omitting section 217; Sec. 217. (The like to value of over \$10 elsewhere.)
- 15 (nn) by omitting section 218; Sec. 218. (Injuring trees, &c., after two summary convictions.)
- (oo) by omitting section 219; Sec. 219. (Destroying plant, &c., in a garden after one summary conviction.)
- (pp)

*Crimes and Other Acts (Amendment).*

- (pp) by omitting from the subheading occurring before section 230 the words "*and telegraphs*"; Sub-heading before sec. 230.
- (qq) by omitting section 233; Sec. 233. (Injuring telegraph posts, &c.)
- (rr) by omitting section 234; Sec. 234. (Attempt.)
- 5 (ss) (i) by omitting from section 245 the words "other than pigs or goats,"; Sec. 245. (Killing or maiming cattle.)  
(ii) by omitting from section 245 the words "forty dollars" and by inserting instead the matter "\$1,000";
- 10 (tt) by omitting section 246; Sec. 246. (Cruelly wounding or torturing cattle.)
- (uu) (i) by omitting from section 247 the words " , to an amount exceeding ten dollars,"; Sec. 247. (Other injuries.)  
(ii) by omitting from section 247 the words "shall be liable to imprisonment for two years, and where such offence is committed in the night,";
- 15 (vv) by omitting from section 248 the word "seven" and by inserting instead the word "five"; Sec. 248. (Letters threatening to destroy property.)
- (ww) by inserting after section 248 the following section and subheading :—

20 *False statement that person or property in danger.*

248A. Where any person knowingly makes to any other person a false statement, or sends to any other person a document containing a statement that he knows to be false, and the statement tends to

to

*Crimes and Other Acts (Amendment).*

5 to give rise to apprehension for the safety of any person (including the person making the statement and the person to whom it is made) or property, or both, he shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for twelve months, or both, or on conviction on indictment to imprisonment for five years.

## 7. The Crimes Act 1900 is further amended—

Further  
amendment  
of Act No.  
40, 1900.

- 10 (a) by omitting from section 271 the word "life" and  
by inserting instead the words "fourteen years";
- (b) (i) by omitting from section 336 the words " in  
a judicial proceeding,";
- 15 (ii) by omitting from section 336 the words "such  
person being bound by recognizance or  
subpoena so to attend,";
- (c) by inserting after section 344 the following Part :—

## ATTEMPTS.

20 344A. (1) Subject to this Act, any person who  
attempts to commit any offence for which a penalty  
is provided under this Act shall be liable to that  
penalty.

25 (2) Where a person is convicted of an  
attempt to commit an offence and the offence  
concerned is a felony he shall be deemed to have  
been convicted of a felony.

- (d) by omitting from section 351 the word "Whosoever"  
and by inserting instead the words "Any person  
who aids,";
- (e) Sec. 351.  
(Abettors in  
misde-  
meanours  
—how tried  
and  
punished.)

*Crimes and Other Acts (Amendment).*

- (e) by inserting in section 353B after the word "months" the words ", or to a fine of \$500, or both"; Sec. 353B.  
(Person apprehended carrying razor, &c.)
- (f) by omitting section 354 and by inserting instead the following section :— Sec. 354.

5                    354. (1) Upon a complaint made on oath that there is reasonable ground to believe that there is in or on any premises— Search warrant for property where indictable offence in respect thereof committed, &c.

- 10                    (a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed;
- (b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of any indictable offence; or
- 15                    (c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any indictable offence,

20                    a justice may, by warrant, authorise and require any member of the police force to enter and search the premises.

                      (2) A warrant issued under subsection (1) shall be executed by day, unless the justice, by the warrant, authorises its execution by night.

25                    (3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

30                    (4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5)

---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force executing a warrant issued under subsection (1) may—

- 5 (a) seize or dispose of in a safe place, or guard in or on the premises, anything mentioned in the warrant and, in addition, any other thing that on reasonable grounds he believes has been obtained by, or has been used in, the commission of an offence, until any charge in relation thereto is dealt with; and
- 10 (b) arrest, search and bring before a justice any person found in the premises whom he suspects of having committed an offence in respect of anything so seized.

15 (6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on the premises, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

20 (7) Any person who without lawful excuse hinders or obstructs any person executing a warrant issued under subsection (1) shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000, or both.

25 (8) For the purposes of this section—

“indictable offence” includes any act or omission which if done, or omitted to be done, in New South Wales would constitute an offence punishable on indictment;

30 “premises” includes any structure, building, aircraft, vehicle, vessel, or place (whether built upon or not), and any part thereof.

(g)



---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force may—

- 5 (a) seize or dispose of in a safe place, or guard  
in or on the premises or in the vehicle, any  
animal found pursuant to a search under  
subsection (1) or (2) that is reasonably  
suspected of having been stolen or otherwise  
unlawfully obtained, until any charge in  
relation to the animal is dealt with; and
- 10 (b) arrest, search and bring before a justice any  
person found in premises, or in charge of or  
in any vehicle, whom he suspects of having  
committed an offence in respect of any  
animal.

15 (6) After it has been produced in  
evidence, or when it is not required as evidence,  
anything seized, disposed of in a safe place, or  
guarded in or on premises or in a vehicle, under  
subsection (5) (a) shall be disposed of as the Court  
or any stipendiary magistrate shall direct.

20 (7) Any person who without lawful  
excuse—

- 25 (a) hinders or obstructs any person executing a  
warrant issued under subsection (1), or a  
member of the police force searching a  
vehicle under subsection (2);
- (b) fails or neglects to cause a vehicle to stop  
or remain stationary when required to do  
so by a member of the police force acting  
under subsection (2); or
- 30 (c) fails to afford access to a vehicle to a  
member of the police force acting under  
subsection (2),

35 shall be guilty of an offence and liable to  
imprisonment for two years or to a fine of \$2,000,  
or both.

(8)

*Crimes and Other Acts (Amendment).*

5 (8) Nothing in subsection (1) shall prevent a member of the police force who finds on any premises any animal reasonably suspected of having been stolen or unlawfully obtained, from seizing or retaining the animal without a warrant.

(9) For the purposes of this section—  
“animal” means a bull, steer, cow, heifer, calf, horse, mare, gelding, colt, foal, filly, ram, ewe, sheep, lamb or pig, and includes any part, skin or carcass of any such animal;  
10 “premises” includes any structure, building, or place (whether built upon or not), and any part thereof;  
“vehicle” includes a vessel.

15 **8. The Crimes Act 1900 is further amended—**

**Further amendment of Act No. 40, 1900.**

(a) (i) by omitting section 405 (1) and by inserting instead the following subsections :—

Sec. 405.  
(Accused not entitled to give evidence without being sworn.)

20 (1) In any proceedings an accused person shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination.

25 (1A) Subsection (1) shall not affect the right of the accused, if not represented by counsel, to address the Court or jury otherwise than on oath on any matter on which, if he were so represented, counsel could address the Court or jury on his behalf.

(ii)



---

*Crimes and Other Acts (Amendment).*

---

(ii) by inserting after section 405 (2) the following subsection :—

5 (3) Where the accused does not give evidence or call any witness or witnesses in support of the defence the accused or his counsel shall be entitled to address the jury but, if counsel for the Crown addresses the jury, the accused or his counsel shall not be so entitled until after counsel for the Crown has done so.

10

(b) by inserting after section 405 the following **Sec. 405A.** section :—

15 405A. (1) On a trial on indictment the defendant shall not without the leave of the Court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi. **Notice of alibi.**

20 (2) Without prejudice to subsection (1), on a trial on indictment the defendant shall not without the leave of the Court call any other person to give evidence in support of an alibi unless—

25 (a) the notice under that subsection includes the name and address of the person, or, if the name or address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the person;

30 (b) if the name or the address is not included in the notice, the Court is satisfied that the defendant before giving the notice took, and thereafter continued to take, all reasonable steps to secure that the name or the address would be ascertained;

(c)

---

*Crimes and Other Acts (Amendment).*

---

5 (c) if the name or the address is not included in the notice, but the defendant subsequently discovers the name or address or receives other information which might be of material assistance in finding the person, he forthwith gives notice of the name, address or other information, as the case may be; and

10 (d) if the defendant is notified by or on behalf of the Crown that the person has not been traced by the name or at the address given by the defendant, he forthwith gives notice of any information which might be of material assistance in finding the person and  
15 which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

20 (3) The court shall not refuse leave under this section if it appears to the Court that on the committal for trial of the defendant he was not informed by the committing justice of the requirements of subsections (1), (2) and (5), and the statement in writing of the committing justice that the defendant was so informed shall be evidence  
25 that the defendant was so informed.

(4) Any evidence tendered to disprove an alibi may, subject to any direction by the Court, be given before or after evidence is given in support of the alibi.

30 (5) Any notice purporting to be given under this section on behalf of the defendant by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(6)

*Crimes and Other Acts (Amendment).*

5 (6) A notice under this section shall be given in writing to the Clerk of the Peace, and may be given by delivering it to the Clerk of the Peace, or by leaving it at his office, or by sending it in a registered letter or by certified mail addressed to him at his office.

(7) In this section—  
10 “evidence in support of an alibi” means evidence tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;  
15

“the prescribed period” means the period of ten days commencing at the time of the committal of the defendant for trial.

20 (c) (i) by omitting paragraph (1) of the proviso to section 407 and by inserting instead the following paragraph :—

Sec. 407.  
(Competency of parties and accused persons and their husbands and wives to give evidence.)

25 (1) No such person charged with an indictable offence shall be liable to be called as a witness on behalf of the prosecution.

(ii) by omitting paragraph (2) of the proviso to section 407 and by inserting instead the following paragraphs :—

30 (2) Where an accused person does not give evidence—

(a) no person other than the Judge or the accused or his counsel or any other person being tried together

with

---

*Crimes and Other Acts (Amendment).*

---

with the accused, or his counsel,  
shall make any comment to the  
jury on that failure to give  
evidence; and

5 (b) subject to paragraph (2B), any  
comment by the Judge on that  
failure to give evidence shall be  
restricted to informing the jury  
10 that the accused could have given  
evidence if he had chosen to do  
so.

(2A) Subject to paragraph (2B), the failure  
of the husband or wife, as the case  
15 may be, of an accused person to give  
evidence shall not be made the subject  
of any comment by the Judge or by  
counsel for the Crown.

(2B) Where two or more persons are being  
20 tried together, and comment is made,  
by or on behalf of any of them, upon  
the failure of any of them, or of the  
husband or wife, as the case may be,  
of any of them, to give evidence, the  
25 Judge may make such observation to  
the jury in regard to such comment or  
such failure to give evidence as he  
thinks fit.

(d) (i) by omitting from section 409 (1) the words "on oath that";  
30 (ii) by inserting in section 409 (1) (a) before the words "the witness" the words "on oath that";  
(iii) by inserting in section 409 (1) (b) (i) before the words "the deposition" the word "that";  
(iv)

Sec. 409.  
(Depositions  
may be read  
as evidence  
for prosecu-  
tion.)

*Crimes and Other Acts (Amendment).*

- (iv) by inserting in section 409 (1) (b) (ii) after the word "coroner," the word "that";
- (v) by inserting in section 409 (1) (c) before the words "the accused" the word "that";
- 5 (vi) by inserting after section 409 (4) the following subsections :—
- (5) For the purposes of subsection (1), unless it is proved to the contrary—
- 10 (a) a deposition, or a deposition in the form of a transcript, of the evidence of a witness shall be deemed to have been taken or made in the presence of the accused, or during any period when the accused, having been discharged under
- 15 section 41 (1B) of the Justices Act, 1902, was absent; and
- (b) the accused or his counsel or attorney shall be deemed to have had a full opportunity of cross-examining the witness, or the accused, having been
- 20 discharged under section 41 (1B), shall be deemed to have been absent when the deposition was taken and not represented by counsel or attorney,
- 25 if it appears from the deposition that it was so taken or made, and that the accused or his counsel had such an opportunity or was so absent and not represented by counsel or attorney, as the case may be.
- 30 (6) For the purposes of subsection (1) (b) (ii), where a deposition is in the form of a transcript of the record, unless it is proved to the contrary, the record shall be deemed to be a true record of the matter deposed, and the transcript shall be deemed to be a correct
- 35 transcript of the record if, in the case of a transcript of a record—
- (a) made in shorthand notes, the transcript is identified by, and signed in the handwriting

*Crimes and Other Acts (Amendment).*

handwriting of, the person purporting to have made the shorthand notes; or  
 5 (b) made by any other means (other than writing) authorised by law for the taking of a deposition, the transcript is certified in the manner prescribed by regulations made under the Justices Act, 1902.

10 (e) by inserting after section 413 the following sections :— Secs. 413A, 413B and 413C.

15 413A. (1) Subject to this section and section 413B, where in any proceedings an accused person gives evidence he shall not in cross-examination be asked, and if asked shall not be required to answer, any question tending to reveal to the Court or jury— Restriction on cross-examination of accused.

- 20 (a) the fact that he has committed, or has been charged with or convicted or acquitted of, any offence other than the offence charged; or
- (b) the fact that he is generally or in a particular respect a person of bad disposition or reputation.

25 (2) Subsection (1) shall not apply to a question tending to reveal to the Court or jury any fact such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose of proving the commission by the accused of the offence charged.

30 (3) Where, in any proceedings in which two or more persons are jointly charged, any of the accused persons gives evidence, subsection (1) shall not in his case apply to any question tending to reveal to the Court or jury a fact about him such as is mentioned in subsection (1) (a) or (b) if  
 35 evidence of that fact is admissible for the purpose of  
 of

---

*Crimes and Other Acts (Amendment).*

---

of showing any other of the accused to be not guilty of the offence with which that other is charged.

(4) Subsection (1) shall not apply if—

5 (a) the accused person has personally or by his  
counsel asked any witness for the prosecution or for a person jointly charged with  
him any question concerning the witness's  
10 conduct on any occasion (other than his  
conduct in the activities or circumstances  
giving rise to the charge or his conduct  
during the trial or in the activities, circum-  
stances or proceedings giving rise to the  
15 trial) or as to whether the witness has com-  
mitted, or has been charged with or  
convicted or acquitted of, any offence; and

(b) the Court is of the opinion that the main  
purpose of that question was to raise an  
issue as to the witness's credibility,

20 but the Court shall not permit a question falling  
within subsection (1) to be put to an accused per-  
son by virtue of this subsection unless it is of the  
opinion that the question is relevant to his credi-  
25 bility as a witness and that in the interests of justice  
and in the circumstances of the case it is proper to  
permit the question to be put.

(5) Subsection (1) shall not apply where  
the accused person has given evidence against any  
person jointly charged with him in the same  
30 proceedings.

*Crimes and Other Acts (Amendment).*

413B. (1) In any proceedings an accused person may—

Admissibility of evidence and questions about accused's disposition or reputation.

- 5 (a) personally or by his counsel ask questions of any witness with a view to establishing directly or by implication that the accused is generally or in a particular respect a person of good disposition or reputation;
- 10 (b) himself give evidence tending to establish directly or by implication that the accused is generally or in a particular respect such a person; or
- (c) call a witness to give any such evidence,

15 but where any of these things has been done, the prosecution may call, and any person jointly charged with the accused person may call, or himself give, evidence to establish that the accused person is a person of bad disposition or reputation, and the prosecution or any person so charged may in 20 cross-examining any witness (including, where he gives evidence, the accused person) ask him questions with a view to establishing that fact.

(2) Where by virtue of this section a party is entitled—

- 25 (a) to call evidence to establish that the accused person is a person of bad disposition or reputation, that party may call evidence of his previous convictions, if any, whether or not the party calls any other evidence for that purpose; or
- 30 (b) in cross-examining the accused to ask him questions with a view to establishing that he is such a person section 413A (1) shall not apply in relation to his cross-examination by that party.

413c.



*Crimes and Other Acts (Amendment).*

5 413c. (1) Where in any proceedings the fact that an accused person has been convicted of an offence is admissible in evidence, a document purporting to be a record of the conviction (whether in the State or elsewhere) of the accused person for the offence and purporting to be signed by an authorised person shall be received in the proceedings as evidence of that fact. Documentary evidence of previous convictions.

10 (2) The method of proving a conviction authorised by this section shall be in addition to and not to the exclusion of any other method of proving a conviction.

(3) For the purposes of subsection (1), "authorised person" means—

15 (a) the officer-in-charge of the Central Fingerprint Bureau of the Police Department, or any person authorised by him for the purposes of this section;

(b) a gaol recorder;

20 (c) the officer-in-charge of police at the town where the court, in which it is proposed to give evidence that an accused person has been convicted of an offence, is being held; or

25 (d) in the case of proceedings before a stipendiary magistrate, the police prosecutor conducting the proceedings.

(f) (i) by inserting in section 414A after the word "article" the words "or living person"; Sec. 414A. (Certificate of scientific examination evidence.)

(ii)

---

*Crimes and Other Acts (Amendment).*

---

(ii) by inserting at the end of section 414A the following subsections :—

5 (2) A certificate which would, by virtue of section 4E (12) (a) or (b) of the Motor Traffic Act, 1909, be prima facie evidence of the particulars certified in and by the certificate in proceedings for an offence under section 4E (1) of that Act shall be prima facie evidence of those particulars at any  
10 inquest or where a person is charged before a stipendiary magistrate or before any court with an indictable offence.

15 (3) Where any certificate is admitted in evidence by virtue of subsection (2), evidence of the condition of a breath analysing instrument or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced.

20 (g) by omitting section 415 and by inserting instead the **Sec. 415.** following section :—

415. (1) Subject to subsection (2), in any case **Proof of banking transactions.** where it is necessary to prove—

25 (a) the state of an account in the books or records of a banking corporation, or company;

(b) that any person has not or had not an account, or any funds, to his credit in any such books or records; or

30 (c) any entry in any such books or records with respect to—

(i) the opening of an account of any kind;

(ii)

---

*Crimes and Other Acts (Amendment).*

---

- 5 (ii) the specimen signature of any person;
- (iii) the account number of any account;
- (iv) the issue of, or the number on, any cheque, draft, warrant, cheque-book, bank-book or passbook;
- (v) the particulars of any deposit, deposit slip or remitting warrant;
- 10 (vi) the drawing, endorsement or marking of any cheque;
- (vii) the dishonouring of any cheque, draft or promissory note;
- (viii) the presentation and meeting of any cheque;
- 15 (ix) the depositing or withdrawal of any money in respect of any account;
- (x) any documents in respect of any such deposit or withdrawal; or
- 20 (xi) the lodgment of any document or security or other item in safe deposit or for safe custody or the granting of access to or withdrawal of any such item,

25 it shall not be necessary to produce any such book or record, but evidence of any such matter may be given, either orally or by affidavit, by any officer or clerk of the corporation or company who has examined the book or record.

30 (2) Where in any court evidence is given by affidavit under subsection (1) the court may if it thinks fit order that the evidence be not admitted unless the person who made the affidavit gives oral evidence in the proceedings or gives evidence by a further affidavit.

(3)

*Crimes and Other Acts (Amendment).*

(3) The method of proving any matter referred to in subsection (1) shall be in addition to and not to the exclusion of any other method of proving that matter.

- 5 (h) by omitting from section 420 (b) the words "such trial" and by inserting instead the words "the commission of the offence charged, or if more than one offence is charged, the commission of the earliest such offence charged"; Sec. 420. (Receivers. Evidence of guilty knowledge.)
- 10 9. The Crimes Act 1900 is further amended— Further amendment of Act No. 40, 1900.
- (a) by omitting the words "*Sentences of whipping or irons.*" occurring before section 434 and by omitting section 434; Sec. 434. (Juvenile offenders may be whipped.)
- (b) by omitting section 435; Sec. 435. (Whipping adults in certain cases.)
- 15 (c) (i) by omitting from section 437 (1) the words "two thousand dollars" and by inserting instead the matter "\$4,000"; Sec. 437. (Compensation to person aggrieved by any felony or misdemeanour.)
- 20 (ii) by inserting in section 437 (1) after the word "misdemeanour" where secondly occurring the words "or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour";
- 25 (iii) by inserting in section 437 (3) after the word "misdemeanour" the words "or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour";

(iv)

---

*Crimes and Other Acts (Amendment).*

---

(iv) by inserting after section 437 (3) the following subsection :—

5 (3A) Subject to section 9 of the Criminal Appeal Act, 1912, any sum directed under subsection (1) to be paid to an aggrieved person shall be paid forthwith, or within such period (if any) as is specified in the direction, to the Clerk of the Peace for payment to the person aggrieved.

10 (d) by inserting after section 437 the following section :—

15 437A. (1) This section shall have effect where a direction is given under section 437 (1) in favour of an aggrieved person in respect of any injury or loss and civil proceedings in respect of the injury or loss are subsequently brought by or on behalf of the aggrieved person. Effect of direction under s. 437 on civil proceedings.

20 (2) A direction under section 437 (1) shall not affect the right to bring the civil proceedings and the damages in the civil proceedings shall be assessed without regard to the direction, but where—

- 25 (a) the whole or part of the amount directed under section 437 (1) to be paid; or
- (b) an amount under the Criminal Injuries Compensation Act, 1967, in respect of the injury or loss,

30 has been paid, the judgment of the Court, in so far as it relates to an amount of damages equal to the amount so paid under the direction or that Act, or under the direction and that Act, shall not be entered without the leave of the Court.

(3)

*Crimes and Other Acts (Amendment).*

(3) Where there is an amount unpaid under a direction and a Court awards damages in civil proceedings, then the Court shall direct that the judgment—

5 (a) if it is for an amount not exceeding the amount unpaid under the direction, shall not be enforced; or

10 (b) if it is for an amount exceeding the amount unpaid under the direction, shall not be enforced as to the amount equal to the amount unpaid under the direction,

without the leave of the Court.

15 (e) by omitting from section 440B (1) the words “two thousand dollars” and by inserting instead the matter “\$4,000”;

Sec. 440B.  
(Imposition of fine on sentence being deferred or suspended.)

(f) by omitting from section 442 (1) the words “or whipping.”;

Sec. 442.  
(Provision for passing sentences of less duration than those fixed.)

20 (g) (i) by inserting in section 444 (1) after the word “Judge” the words “or magistrate”;

Sec. 444.  
(Sentence during any unexpired sentence may be cumulative.)

(ii) by inserting in section 444 (1A) after the word “Judge” the words “or magistrate”;

(iii) by inserting in section 444 (2) after the word “Judge” wherever occurring the words “or magistrate”;

25 (iv) by inserting in section 444 (3) after the word “Judge” the words “or magistrate”;

(v)

*Crimes and Other Acts (Amendment).*

(v) by omitting section 444 (4) and by inserting instead the following subsection :—

5 (4) Notwithstanding anything in this section, a magistrate, whether dealing with an offence or offences under section 476 or otherwise, shall not impose, or make an order having the effect of imposing, on any offender—

10 (a) more than one sentence of imprisonment or penal servitude to be served consecutively on any other sentence of imprisonment or penal servitude then imposed on, or being served by, the offender; or

15 (b) sentences of imprisonment or penal servitude, to be served consecutively, totalling more than three years.

10. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

(a) by omitting section 453;

Sec. 453. (Meaning and effect of penal servitude sentences.)

(b) by omitting section 454;

Sec. 454. (Existing laws to be applicable.)

20 (c) by omitting the words "*Whipping sentences.*" occurring before section 455 and by omitting section 455;

Sec. 455. (Kind of instrument and manner of use to be fixed by Comptroller-General.)

(d)

*Crimes and Other Acts (Amendment).*

(d) by omitting section 456;

Sec. 456.  
(Surgeon  
may  
remit  
whipping  
in certain  
cases.)

(e) by omitting section 457 and by inserting instead the following section :—

5           457. (1) Where pursuant to section 437 a court or a Judge directs that a sum be paid to an aggrieved person in respect of any injury or loss and the whole or any part of that sum is not paid in accordance with section 437 (3A) to the Clerk of the Peace, the Clerk of the Peace, on the application of the aggrieved person, shall issue to the aggrieved person a certificate specifying the direction of the court or the Judge and the amount of the sum required by the direction to be paid which has not, at the date of the certificate, been paid to the Clerk of the Peace.

Direction  
for com-  
pensation to  
be enforce-  
able by  
execution,  
etc.

(2) Where a certificate is issued pursuant to subsection (1) the Clerk of the Peace shall not thereafter accept any payments from the offender in respect of the direction specified in the certificate.

20           (3) An aggrieved person may file in the District Court at Sydney a certificate issued to him under subsection (1), and thereupon the registrar shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the amount specified in the certificate as having not been paid and any fees payable to the registrar in respect of the certificate.

(f)



*Crimes and Other Acts (Amendment).*

(f) by omitting from section 459 the following words :—

Sec. 459.  
(Commuta-  
tion of  
capital  
sentences.)

5 , and also, if the Governor thinks fit so to direct, that he be kept in irons, for any time not exceeding the first three years of such servitude or imprisonment.

10 In addition thereto, in cases of rape, or of carnal knowledge of a girl under ten years, the Governor may direct that the offender shall be once, twice, or thrice publicly or privately whipped, at such times and with so many strokes at each time, not more than fifty, as he thinks fit;

(g) by omitting section 467.

Sec. 467.  
(Position  
of wife  
of felon.)

11. The Crimes Act 1900 is further amended—

Further  
amendment  
of Act No.  
40, 1900.

15 (a) by omitting section 476 and by inserting instead the following section :—

Sec. 476.

20 476. (1) Where a person is charged before a stipendiary magistrate with an offence mentioned in subsection (6) the magistrate may require the person to state whether he intends to plead guilty or not guilty to the charge, and if the person does not so state he shall be taken for the purposes of this section to have stated that he intends to plead not guilty.

Indictable  
offences  
punishable  
summarily.

25 (2) Where a person states under subsection (1) that he intends to plead not guilty to a charge, and it appears to the magistrate that the case may properly be disposed of summarily and that the person consents to it being so disposed of,

the

---

*Crimes and Other Acts (Amendment).*

---

the magistrate shall have jurisdiction to hear and determine the charge in a summary manner and pass sentence upon the person.

5 (3) Where a person states under subsection (1) that he intends to plead guilty to a charge the magistrate may accept or reject the plea.

10 (4) Where a magistrate rejects a plea under subsection (3) the proceedings before the magistrate shall continue as though the person had stated under subsection (1) that he intends to plead not guilty.

(5) Where a magistrate accepts a plea under subsection (3) and it appears to the magistrate—

15 (a) that the case may be properly disposed of summarily and that the person consents to it being so disposed of, the magistrate shall have jurisdiction to pass sentence upon the person; or

20 (b) that the case may not properly be disposed of summarily, or that the person does not consent to it being so disposed of, the provisions of section 51A of the Justices Act, 1902, shall apply as though the person had  
25 pleaded guilty to the charge under that section.

(6) The offences referred to in subsection (1) are—

30 (a) (i) larceny, and any offence which under this Act is deemed to be, or is made punishable as, larceny or stealing;

(ii) the offence of stealing any chattel, money, or valuable security from the person of another; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

5 (iii) any offence mentioned in section 126,  
131, 145, 146, 148, 150, 151, 152,  
156, 157, 159, 160, 165, 166, 168,  
169, 170, 178A, 178B, 178C, 179, 186,  
188, 189, 189A, 190, 192, 208, 209,  
210, 220, 229, 244, 245, 247, 248,  
273, 274 or 275,

10 where the value of the property, matter or  
thing the subject of the charge or the  
damage thereto, or the amount of money or  
reward the subject of the charge, does not  
exceed \$1,000;

15 (b) any offence mentioned in section 71, 72, 76  
or 76A, where the female the subject of the  
charge was at the time of the commission  
of the offence of or above the age of  
fourteen years;

20 (c) any offence mentioned in section 81 where  
the person upon whom the assault was  
committed was at the time of the assault  
of or above the age of fourteen years;

(d) any offence mentioned in section 56, 57, 58,  
59, 61, 81A, 81B, 81C, 114, 132, 133, 154A,  
158 or 252;

25 (e) any offence mentioned in section 85 where  
the person charged is the mother of the child  
and is not charged with any other person;

(f) any offence mentioned in section 112  
where—

30 (i) the felony alleged is stealing ;  
(ii) the value of the property stolen does  
not exceed \$1,000; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

- 5 (iii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- (g) any offence mentioned in section 111 or 113 where—
- 10 (i) the felony intended is stealing; and
- (ii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- 15 (h) escape from lawful custody, except where the escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952; and
- 20 (i) (i) attempting to commit;
- (ii) where the offence is a felony, being an accessory before or after the fact to; or
- 25 (iii) where the offence is a misdemeanour, aiding, abetting, counselling or procuring the commission of,
- any offence mentioned in paragraph (a), (b), (c), (d), (f), (g) or (h).
- 30 (7) Notwithstanding anything in this Act to the contrary—
- (a) the maximum term of imprisonment, or penal servitude, to which a person may be sentenced by a magistrate under this section in

*Crimes and Other Acts (Amendment).*

5 in respect of any one offence is two years,  
or the maximum term of imprisonment, or  
penal servitude, fixed by law (other than  
by this subsection) in respect of the offence,  
whichever is the shorter term;

10 (b) the maximum fine which may be imposed by  
a magistrate under this section is, in respect  
of any one offence, \$2,000, or the maximum  
fine fixed by law (other than by this  
subsection) in respect of the offence,  
whichever is the smaller; and

15 (c) where the maximum punishment which may  
be imposed by law (other than by this  
subsection) in respect of an offence is a  
term of imprisonment or penal servitude, or  
a fine, or both, the maximum punishment  
20 which may be imposed by a magistrate  
under this section in respect of the offence  
is that term, or two years, whichever is the  
shorter term, or that fine, or \$2,000,  
whichever is the smaller fine, or both.

(8) The provisions of section 82 of the  
Justices Act, 1902, apply to any fine imposed by a  
magistrate under this section.

25 (9) Where, before the commencement of  
the Crimes and Other Acts (Amendment) Act,  
1974, a conviction in respect of an offence  
mentioned in this section would have been a  
conviction in respect of a felony, a conviction by  
30 a magistrate under this section in respect of that  
offence shall for all purposes be deemed to be a  
conviction in respect of a felony.

35 (b) by omitting the words "*Offences and punishment.*"  
occurring before section 477 and by omitting  
section 477;

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

*Crimes and Other Acts (Amendment).*

- (c) by omitting section 478; Sec. 478.  
(Punishment in such cases.)
- (d) by omitting section 479; Sec. 479.  
(Accused to have option of summary disposal of case or of trial by jury.)
- (e) by omitting section 479A; Sec. 479A.  
(Certain offences not to be dealt with summarily.)
- 5 (f) by omitting section 480 and by inserting instead the following section :— Sec. 480.
- 10       480. Where a charge is disposed of summarily under section 476, the magistrate shall, if the case is dismissed and he is requested to do so, make out and deliver to the person charged with the offence so disposed of, a certificate under the magistrate's hand stating the fact of the dismissal. Certificate of dismissal.
- 15 (g) by omitting the words "CHAPTER II.—*Offences punishable summarily in certain cases by whipping.*" occurring before section 482 and by omitting sections 482, 483, 484, 485, 486, 487, 488, 489, 490, 491 and 492; Secs. 482–492.
- (h) by omitting section 493 and by inserting instead the following section :— Sec. 493.
- 20       493. Whosoever assaults any person shall on summary conviction be liable to imprisonment for six months, or to a fine of \$500, or both. Common assaults.
- (i) by omitting from section 494 the words "two hundred dollars" and by inserting instead the words "\$500, or both"; Sec. 494.  
(Aggravated assaults.)
- (j)

*Crimes and Other Acts (Amendment).*

- (j) by omitting section 495; Sec. 495.  
(Assaults respecting the sale of grain.)
- (k) by omitting section 496; Sec. 496.  
(Assaults obstructing workmen.)
- (l) by omitting section 497; Sec. 497.  
(Where jurisdiction excluded.)
- 5 (m) by omitting from section 498 the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494"; Sec. 498. 01  
(Certificate of dismissal.)
- 10 (n) by omitting from section 499 (2) the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494"; Sec. 499.  
(Certificate or conviction a bar to other proceedings.)
- 15 (o) (i) by omitting from section 501 (1) (a) the word "simple"; Sec. 501.  
(List of offences punishable summarily without consent of accused.)
- (ii) by inserting in section 501 (1) (c) after the words "one hundred and fifty-two" the matter ", 178B";
- (iii) by omitting from section 501 (1) the words "one hundred dollars" where firstly occurring and by inserting instead the matter "\$500";
- 20 (iv) by omitting from section 501 (1) the words "one hundred dollars" where secondly occurring and by inserting instead the words "\$1,000, or both";
- 25 (p) by omitting from section 502 the words "one hundred dollars" and by inserting instead the words "\$500, or both"; Sec. 502.  
(Possession of skin, &c., of stolen cattle.)

(q)

*Crimes and Other Acts (Amendment).*

- (q) by omitting from section 503 the words "the value of the dog, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 503. (Stealing dogs.)
- 5 (r) by omitting from section 504 the words "forty dollars" and by inserting instead the matter "\$500"; Sec. 504. (Possessing stolen dog or skin.)
- (s) by omitting from section 505 the words "the value of the animal or bird, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 505. (Stealing animals, &c., ordinarily kept in confinement.)
- 10 (t) by omitting from section 507 the words "the value of such animal bird or skin, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 507. (Possession of stolen animals, &c.)
- 15 (u) by omitting from section 510 the words "forty dollars" and by inserting instead the matter "\$500"; Sec. 510. (Setting engine for deer, &c.)
- (v) by omitting from section 511 the words "the value of the bird, in addition to a fine of four dollars" and by inserting instead the words "a fine of \$200"; Sec. 511. (Killing pigeons.)
- 20 (w) (i) by omitting from section 513 the words "the value of or the injury done to which exceeds ten cents,"; Sec. 513. (Stealing shrubs, &c.)
- (ii) by omitting from section 513 the words "pay the value of the property stolen, or intended to be stolen, or the amount of injury done, in addition to a fine of ten dollars" and by inserting instead the words "imprisonment for six months, or to pay a fine of \$500, or both";
- 25 (x) by omitting section 514; Sec. 514. (The like—second offence.)
- (y)



*Crimes and Other Acts (Amendment).*

- (y) by omitting from section 515 the words "twenty dollars" and by inserting instead the matter "\$100"; Sec. 515.  
(Stealing, &c., live or dead fence, &c.)
- (z) by omitting section 516; Sec. 516.  
(The like —second offence.)
- 5 (aa) (i) by omitting from section 517 the words " , being of or above the value of ten cents,"; Sec. 517.  
(Unlawful possession of trees, fences, &c.)
- (ii) by omitting from section 517 the words "ten dollars" and by inserting instead the matter "\$100";
- 10 (bb) (i) by omitting from section 518 the words " , such wood being of the value of or above ten cents,"; Sec. 518.  
(Stealing dead wood.)
- (ii) by omitting from section 518 the words "ten dollars" and by inserting instead the matter "\$100";
- 15 (cc) by omitting section 519; Sec. 519.  
(The like —second offence.)
- (dd) by omitting from section 520 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 520.  
(Stealing plants, &c., in gardens.)
- 20 (ee) by omitting from section 521 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of two dollars" and by inserting instead the words "a fine of \$200"; Sec. 521.  
(Stealing plants, &c., not growing in gardens.)
- 25 (ff) (i) by omitting from section 522 the words "of the value of fifty cents,"; Sec. 522.  
(Possession of shipwrecked goods.)
- (ii) by omitting from section 522 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- (gg)

*Crimes and Other Acts (Amendment).*

- (gg) by omitting from section 523 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- 5 (hh) by inserting in section 525 after the word "fine" the words "of \$1,000 in addition to a fine";
- (ii) by omitting section 526A (1) and by inserting instead the following subsections :—
- (1) Any person who—
- 10 (a) without having the consent of the owner or person in lawful possession of a conveyance takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or
- 15 (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,
- 20 shall be guilty of larceny and shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.
- (1A) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.
- 25

Sec. 523.  
(Offering ship-wrecked goods for sale.)

Sec. 525.  
(Stealing or damaging books, &c., in public library, &c.)

Sec. 526A.  
(Taking a conveyance without the consent of the owner.)

(jj)

*Crimes and Other Acts (Amendment).*

- (jj) by omitting from section 527 the words "three months, or to pay a fine of forty dollars" and by inserting instead the words "six months, or to pay a fine of \$500, or both";
- 5 (kk) by omitting from section 528 the words "one hundred dollars" and by inserting instead the matter "500";
- (ll) by omitting section 529 and by inserting instead the following section :—
- 10 529. (1) In this section—
- "receives" includes disposes of, and attempts to dispose of;
- "stolen" includes taken, extorted, obtained, embezzled, and otherwise disposed of, unlawfully.
- 15 (2) Any person who receives any stolen property of a value not exceeding \$500, knowing the same to have been stolen, shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.
- 20
12. The Crimes Act 1900 is further amended—
- (a) by omitting the subheading "(C) MALICIOUS INJURIES TO PROPERTY. *Declaratory clauses.*" occurring before section 530 and by omitting section 530;
- 25 (b)

Sec. 527.  
(Fraudulently appropriating or retaining property.)

Sec. 528.  
(Advertising reward for return of stolen property.)

Sec. 529.

Receivers punishable summarily.

Further amendment of Act No. 40, 1900.

Sec. 530.  
(Ownership and possession of property injured.)

---

*Crimes and Other Acts (Amendment).*


---

- (b) by omitting section 531; Sec. 531.  
(Actual malice—  
certain acts not  
malicious.)
- (c) by omitting the words "*Injuries to trees, shrubs, vegetable produce, fences, &c.*" and "*Injuries to certain animals.*" occurring before section 539 and by omitting section 539; 5 (Killing or maiming animals not being cattle.)
- (d) by omitting section 540; Sec. 540.  
(The like—  
second offence.)
- (e) by omitting the words "*Injuries not otherwise provided for.*" occurring before section 541 and by omitting section 541; Sec. 541.  
(Injuring property not previously provided for.)
- 10 (f) by omitting section 542; Sec. 542.  
(The like—  
second offence.)
- (g) by omitting the words "*Application of compensation.*" occurring before section 543 and by omitting section 543; Sec. 543.  
(Application of compensation.)
- 15 (h) by omitting the words "(D) COINAGE OFFENCES." occurring before section 544 and by omitting section 544; Sec. 544.  
(Uttering defaced coin.)
- (i) by omitting section 545; Sec. 545.  
(Possessing above five pieces of counterfeit foreign coin.)
- 20 (j) by omitting from section 545A (1) the words "forty dollars" and by inserting instead the words "\$200, or both"; Sec. 545A.  
(Bogus advertisements.)

(k)

*Crimes and Other Acts (Amendment).*

- (k) by omitting from section 545B (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545B. (Intimidation or annoyance by violence or otherwise.)
- 5 (l) (i) by omitting from section 545C (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545C. (Knowingly joining or continuing in an unlawful assembly.)
- (ii) by omitting from section 545C (2) the words "one hundred dollars" and by inserting instead the words "\$1,000, or both";
- 10 (m) by omitting from section 545D the words "six months" and by inserting instead the words "twelve months, or to a fine not exceeding \$1,000, or both"; Sec. 545D. (Unlawful making or possession of explosives.)
- (n) by inserting in section 546 after the words "summary conviction," the word "aids,"; Sec. 546. (Abetting or procuring.)
- 15 (o) by inserting after section 547A the following section and subheading :— Sec. 547B.

## (H) PUBLIC MISCHIEF.

20 547B. (1) Any person who, by any means, knowingly makes to a member of the police force any false representation that an act has been, or will be, done or that any event has occurred, or will occur, which act or event as so represented is such as calls for an investigation by a member of the police force, shall be liable on conviction before a stipendiary magistrate to imprisonment for six months, or to a fine of \$500, or both. Public mischief.

25

(2) For the purposes of subsection (1), a person shall be deemed to make a representation to a member of the police force if he makes the representation

*Crimes and Other Acts (Amendment).*

representation to any other person and the nature of the representation reasonably requires that other person to communicate it to a member of the police force and that person does so communicate it.

- 5 (p) by omitting section 548A and the subheading thereto; **Sec. 548A.**  
(Power to commit.)
- (q) by omitting from section 554 (3) the words "three hundred dollars" and by inserting instead the matter "\$600"; **Sec. 554.**  
(Damages and compensation.)
- 10 (r) by omitting the words "*Conditional release of offenders.*" occurring before section 556A and by inserting instead the heading "PART XV. CONDITIONAL RELEASE OF OFFENDERS.";
- 15 (s) (i) by omitting from section 556A (1) the words "a court of summary jurisdiction" and by inserting instead the words "any court"; **Sec. 556A.**  
(Power to permit release of offenders.)
- (ii) by inserting in section 556A (1) after the word "committed," the words "or to any other matter which the court thinks it proper to consider,";
- 20 (iii) by inserting after section 556A (1) the following subsection :—
- (1A) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the court shall order.
- 25 (iv) by omitting from section 556A (2) the words "subsection three of section five hundred and fifty-four" and by inserting instead the matter
- 30 "section 437 (1) or section 554 (3)";

(v)

*Crimes and Other Acts (Amendment).*

(v) by omitting section 556A (3) and by inserting instead the following subsection :—

(3) Where under subsection (1) a charge is dismissed or an offender is conditionally discharged, the person charged shall have the same rights as to appeal on the ground that he was not guilty of the offence charged as he would have had if convicted of the offence.

(t) (i) by inserting in section 556B after the word "recognizance" where firstly occurring the words "(whether entered into for the purposes of section 556A or otherwise)";

Sec. 556B.  
(Proceedings on breach of condition of recognizance.)

(ii) by omitting from section 556B the words "summary jurisdiction" and by inserting instead the words "like jurisdiction to that court".

**13.** The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

(a) by omitting the heading "PART XV. FIRST OFFENDERS." occurring before section 557 and by omitting section 557;

Sec. 557.  
(Interpretation.)

(b) by omitting section 558 and by inserting instead the following section:—

Subst. sec. 558.

558. (1) A court before which a person comes to be sentenced for any offence may if it thinks fit defer passing sentence upon the person and order his release upon his entering into a recognizance, with or without sureties, in such amount as the court directs, to be of good behaviour for such period as the court thinks proper and to come up for sentence if called upon.

Deferring sentence.

---

*Crimes and Other Acts (Amendment).*

---

(2) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the court shall order.

5 (3) Where a person has entered into a  
recognizance mentioned in subsection (1) he may  
be removed to such gaol, or other place, as the  
court may determine, and there forthwith submitted  
10 to the examination customary for securing future  
identification, and may be detained for whatever  
period, not exceeding forty-eight hours, as may be  
necessary for this purpose.

(4) Where the penalty provided by law in  
15 respect of an offence is a sentence of imprisonment  
or a fine or both, nothing in this section prevents the  
imposition of a fine for the offence when sentence  
for the offence is deferred under subsection (1).

(5) The provisions of section 82 of the  
20 Justices Act, 1902, apply to a fine imposed as  
referred to in subsection (4).

(6) A person may be called up for  
sentence and sentenced on the breach by him of  
any of the terms or conditions of a recognizance  
25 entered into by him under this section if the breach  
occurs during the period of the recognizance fixed  
under subsection (1), notwithstanding that the  
period has expired.

(7) Any power conferred upon a court by  
30 the operation of this section shall be in addition  
to, and not in substitution for, any power conferred  
upon the court otherwise.

(c)



---

*Crimes and Other Acts (Amendment).*


---

- (c) by omitting section 559;                      Sec. 559.  
(Order for restitution or payment of compensation may be made by Court.)
- (d) by omitting section 560;                      Sec. 560.  
(Offender discharged to report himself.)
- (e) by omitting section 561;                      Sec. 561.  
(Forfeiture of recognizance, &c.)
- (f) by omitting section 562;                      Sec. 562.  
(Otherwise to be discharged and conviction not to be deemed a previous conviction.)
- 5        (g) by inserting in section 578 after the word "seventy-six," the matter "76A,";                      Sec. 578.  
(Publication of evidence may be forbidden in certain cases.)
- (h) by omitting the Second Schedule and by inserting instead the following Schedule :—                      Second Schedule.

SECOND SCHEDULE.

10            Parts and sections in force, so far as their provisions are applicable, with respect to all offences and courts.

15            Sections 4 to 10 inclusive, 23, 34, 40, 62, 77, 78, 116, 118 to 124 inclusive, 128 to 130 inclusive, 163, 183, 191, 193 to 195 inclusive, 206, 231, 250,

251,

*Crimes and Other Acts (Amendment).*

251, 344A, 345 to 347 inclusive, 351, Parts X to XIII inclusive, sections 547 to 556B inclusive, section 558 and Part XVI.

5 (i) by omitting from the Fourth Schedule the words Fourth Schedule.  
 “two hundred and thirty-three, two hundred and thirty-four,”;

(j) by omitting the Sixth Schedule. Sixth Schedule.

14. The Justices Act, 1902, is amended— Amendment of Act No. 27, 1902.

10 (a) by omitting section 51A (6) (a) and by inserting Sec. 51A. (Effect of plea of guilty in committal proceedings.)  
 instead the following paragraph :—

(a) a magistrate has jurisdiction to pass sentence upon the person under section 476 (5) (a) of the Crimes Act 1900; or;

15 (b) by omitting from section 80 the words “: Provided Sec. 80. (After hearing case Justices to convict or make an order or dismiss case.)  
 that in the case of an information, if upon the close of the case for the prosecution it appears to the Justice or Justices that the offence ought to be dealt with by indictment, he or they shall abstain from adjudication thereon and shall deal with the case for the purpose of committal for trial only”;

20 (c) by inserting after section 125 (1) the following subsection :— Sec. 125. (Powers of Court appealed to.)

25 (1A) Where the conviction, order, sentence, or adjudication appealed against was recorded, made, passed, or given under the jurisdiction conferred upon a magistrate under section 476 of the Crimes Act 1900, the Court hearing the appeal shall not vary any penalty imposed by increasing it beyond the penalty which could have been imposed by the  
 30 magistrate under that section.

*Crimes and Other Acts (Amendment).*

15. The Jury Act, 1912, is amended—
- Amendment  
of Act No.  
31, 1912.
- (a) by omitting section 27 (3) and by inserting instead  
the following subsection :—
- Sec. 27.  
(Trial by  
jury in  
criminal  
cases.)
- 5 (3) Upon the trial of any person for a felony  
the jury shall, unless the court otherwise orders, be  
permitted to separate, at any time before they  
consider their verdict, in the same way as the jury  
upon the trial of any person for a misdemeanour  
are permitted to separate.
- 10 (b) by omitting section 27A and by inserting instead the  
following section :—
- Sec. 27A.
- 15 27A. Where in the course of a criminal trial any  
member of the jury dies or is discharged by the  
court as being through illness incapable of  
continuing to act, or for any other reason, the jury  
shall nevertheless—
- Provision  
for con-  
tinuance of  
trial where  
juror dies  
or becomes  
incapable.
- (a) if the number of its members is not reduced  
below ten; or
- 20 (b) if the number of its members is reduced  
below ten and assent in writing is given by  
or on behalf of both the Crown Prosecutor  
and the accused (which assent the accused  
is hereby authorised to give),
- 25 and if the court so orders, be considered as  
remaining for all the purposes of that trial properly  
constituted.
16. The Criminal Appeal Act, 1912, is amended—
- Amend-  
ment  
of Act No.  
16, 1912.
- (a) by omitting from section 5A (2) (g) the words  
“for the New South Wales State Reports or Weekly  
Notes” and by inserting instead the words “for any  
lawful purpose of the Council of Law Reporting  
for New South Wales”;
- Sec. 5A.  
(Point of  
law stated  
by judge.)
- 30

(b)

*Crimes and Other Acts (Amendment).*

(b) by inserting after section 9 (3) the following subsections :—

Sec. 9.  
(Revest-  
ing and  
restitu-  
tion of  
property  
on  
convic-  
tion.)

5 (4) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence—

10 (a) the operation of the direction shall be suspended until the expiration of the time provided for appealing to the court; and

15 (b) where notice of appeal or of application for leave to appeal is given within the time provided, the operation of the direction shall be suspended until the determination of the appeal or refusal of the application,

20 and in cases where the operation of any such direction is suspended until the determination of the appeal, the direction shall not take effect if the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given, is quashed on appeal, except by the special order of the court.

25 (5) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence, the court may annul or vary any such direction although the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given is not  
30 quashed on appeal.

*Crimes and Other Acts (Amendment).*

17. The Criminal Injuries Compensation Act, 1967, is amended—

Amendment of Act No. 14, 1967.

(a) by omitting section 5 (2) and by inserting instead the following subsections :—

Sec. 5. (Payment of compensation by Treasurer to applicant.)

5 (2) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that in the circumstances of the case the making under this subsection of a payment to the applicant is justified, the Treasurer may make a payment to the applicant not exceeding the appropriate amount referred to in subsection 10 (1) (a) as specified in that statement.

15 (2A) In determining the amount of any payment to be made under subsection (2) the Treasurer shall have regard to—

(a) the appropriate amount referred to in subsection (1) (a); and

(b) any amounts referred to in subsection (1) (b),

20 as specified in the Under Secretary's statement, and any recommendations made by the Under Secretary with respect to any such amounts referred to in subsection (1) (b).

25 (2B) Any payment made under subsection (2) shall be made ex gratia and not as of right.

(b) by omitting section 7 and by inserting instead the following section :—

Sec. 7.

7. (1) Where a payment is made under section 5 (2) to an aggrieved person—

Rights against convicted person where payment made.

30 (a) the Under Secretary shall forthwith notify the Clerk of the Peace of the particulars of the payment, including the date and amount;

---

*Crimes and Other Acts (Amendment).*

---

5 (b) the Clerk of the Peace shall endorse on any certificate thereafter issued by him to the aggrieved person under section 457 (1) of the Crimes Act 1900 the date and amount of the payment so notified to him, and may also issue to the Under Secretary any certificate so endorsed;

10 (c) the Under Secretary may file a certificate so issued to him in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the Under Secretary against the offender specified in the certificate for the amount endorsed on the certificate under paragraph (b); and

15

(d) the aggrieved person may file a certificate endorsed under paragraph (b) in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the balance of the amount of the sum directed to be paid, specified in the certificate, after deduction of the amount endorsed on the certificate under paragraph (b).

20

25

30 (2) Where judgment has been entered in favour of an aggrieved person under section 457 (3) of the Crimes Act 1900 in respect of a direction made under section 437 (1) of that Act, and a payment has been made to the aggrieved person pursuant to section 5 (2) in respect of that direction, the Under Secretary may file a notice specifying the date and amount of the payment in

the

---

*Crimes and Other Acts (Amendment).*

---

the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall—

- (a) reduce the amount of the judgment by the amount specified in the notice; and
  - 5 (b) enter judgment in favour of the Under Secretary, against the offender against whom judgment in favour of the aggrieved person was entered, for the amount specified in the notice.
- 10 (3) The Under Secretary shall pay to the Consolidated Revenue Fund any money recovered by him pursuant to this section.

... and ...

The District Court of ... and ... shall ...

(a) reduce the amount of the ...

(b) enter judgment in favor of the ...

(c) The ... shall pay to the ...

BY ...

... COURT OF ...



No. , 1974.

---

## A BILL

To make provision for certain new offences; to amend the law relating to certain existing offences; to make provision for a defence of diminished responsibility in a trial for murder; to amend the law so as to remove the right of an accused person to make an unsworn statement in a criminal trial; to re-enact with modifications and additions certain provisions relating to the cross-examination of an accused person, the payment of compensation to a person aggrieved by a misdemeanour or felony, the summary trial of indictable offences, deferring sentence and the separation of juries; to repeal certain obsolete provisions of the Crimes Act 1900;

---

*Crimes and Other Acts (Amendment).*

---

to alter the penalties which may be imposed for certain offences; for these and other purposes to amend the Crimes Act 1900, the Justices Act, 1902, the Jury Act, 1912, the Criminal Appeal Act, 1912, and the Criminal Injuries Compensation Act, 1967; and for purposes connected therewith.

[MR McCaw—27 February, 1974.]

---

**B**E 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 and Other Acts Short title.  
(Amendment) Act, 1974".

2. This Act shall commence on such day as may be Commence-  
appointed by the Governor in respect thereof and as may be ment.  
10 notified by proclamation published in the Gazette.

3. (1) Subject to this section, in so far as it affects any Savings.  
matter of procedure or evidence or the jurisdiction or  
powers of any Court in relation to an offence, this Act shall  
have effect in relation to proceedings on—

- 15 (a) a trial on indictment for the offence if, but only if,  
the indictment is filed after the day appointed for  
the commencement of this Act; or
- (b) a summary trial for the offence if, but only if, the  
hearing is commenced after the day so appointed.

(2)

---

*Crimes and Other Acts (Amendment).*

---

(2) Section 5 (b) shall have effect in relation to an offence if, but only if, an indictment for that offence is filed after the day appointed for the commencement of this Act.

5 (3) Section 5 (r) shall have effect in relation to proceedings notwithstanding that they have been commenced before the day appointed for the commencement of this Act.

(4) Section 8 (b) shall have effect in a trial on indictment if, but only if, the committal proceedings in relation to the trial have been commenced on or after the day appointed  
10 for the commencement of this Act.

(5) Section 9 (c) and (d) shall have effect for the purpose of giving, on or after the day appointed for the commencement of this Act, a direction for the payment of compensation, and in relation to a direction so given.

15 (6) Section 15 (a) shall have effect with respect to a jury in the trial of a person for a felony, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

20 (7) Section 15 (b) shall have effect with respect to a jury in a criminal trial, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

25 (8) Section 17 shall have effect for the purpose of making any payment, and in respect of any payment made, under the Criminal Injuries Compensation Act, 1967, if, but only if—

- (a) the payment is made under that Act after the day appointed for the commencement of this Act; and
- 30 (b) the payment so made follows on a direction for the payment of compensation given under section 437 of the Crimes Act 1900 on or after the day so appointed.

(9)

*Crimes and Other Acts (Amendment).*

(9) The Criminal Injuries Compensation Act, 1967 (as in force immediately before the day appointed for the commencement of this Act) shall—

- 5 (a) continue to apply to and in respect of any payment made under that first-mentioned Act before the day so appointed; and
- (b) have effect for the purpose of making any payment, and in respect of any payment made, if section 17 does not (pursuant to subsection (8)) have effect for that purpose and in that respect.
- 10

(10) Nothing in this Act shall affect any term of imprisonment or the amount of any fine which may be imposed on conviction for an offence committed before the day appointed for the commencement of this Act.

15 4. The Crimes Act 1900 is amended—

- (a) (i) by inserting in the matter relating to Part III in section 1 after the matter "81B." the words "(10A) *Misconduct with regard to corpses.*—s. 81C.";
- 20 (ii) by inserting in the matter relating to Part IV in the same section after the word "*offences.*" the matter "(aa) GENERAL.—s. 93J.";
- (iii) by omitting from the same matter the word "*BURGLARY,*";
- 25 (iv) by omitting from the same matter the words "*Simple larceny and general*" and by inserting instead the word "*General*";
- (v) by omitting from the same matter the words "*and telegraphs.—ss. 230-234*" and by inserting instead the matter "*—ss. 230-232*";
- 30

(vi)

Amendment of Act No. 40, 1900.

Sec. 1. (Short title and contents of Act.)

---

*Crimes and Other Acts (Amendment).*

---

- (vi) by omitting from the same matter the matter "ss. 245, 246" and by inserting instead the matter "s. 245";
- 5 (vii) by inserting in the same matter after the matter "s. 248" the words "(17A) *False statement that person or property in danger.—s. 248A.*";
- (viii) by inserting after the matter relating to Part VIII in the same section the following matter :—
- 10                   PART VIIIA.—ATTEMPTS.—s. 344A.
- (ix) by omitting from the matter relating to Part XI in the same section the matter "405" and by inserting instead the matter "405A";
- 15 (x) by omitting from the matter relating to Part XII in the same section the words "(4) *Sentences of whipping or irons.—ss. 434-436.*";
- (xi) by omitting from the same matter the matter "s. 437" and by inserting instead the matter "ss. 437, 437A";
- 20 (xii) by omitting from the matter relating to Part XIII in the same section the words "(3) *Whipping sentences.—ss. 455, 456.*";
- 25 (xiii) by omitting from the matter relating to Part XIV in the same section the words "(2) *Offences and punishment.—ss. 477, 478.*";
- (xiv) by omitting from the same matter the matter "ss. 479-481" and by inserting instead the matter "ss. 480, 481";

(xv)

---

*Crimes and Other Acts (Amendment).*

---

- (xv) by omitting from the same matter the words  
"CHAPTER II.—OFFENCES PUNISHABLE  
SUMMARILY IN CERTAIN CASES BY WHIPPING.  
—ss. 482-492.";
- 5 (xvi) by omitting from the same matter the following  
words :—
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.*—ss. 530,  
531.
- 10 (2) *Injuries to trees, shrubs, vege-  
table produce, fences, &c.*—ss.  
532-538.
- (3) *Injuries to certain animals.*—  
ss. 539, 540.
- 15 (4) *Injuries not otherwise provided  
for.*—ss. 541, 542.
- (5) *Application of compensation.*  
—s. 543.
- (D) COINAGE OFFENCES.—ss. 544, 545.
- 20 (xvii) by inserting in the same matter after the matter  
"s. 547A." the words "(H) PUBLIC MISCHIEF.  
—s. 547B.";
- (xviii) by omitting from the same matter the words  
"(1A) *Power to commit.*—s. 548A.";
- 25 (xix) by omitting from the same matter the words  
"(9) *Conditional release of offenders.*—ss.  
556A, 556B.";
- (xx) by omitting from the matter relating to Part  
30 XV in the same section the words "FIRST  
OFFENDERS.—ss. 557-562" and by inserting  
instead the words "CONDITIONAL RELEASE OF  
OFFENDERS.—ss. 556A-560A".
- (b)

*Crimes and Other Acts (Amendment).*

- (b) (i) by omitting the definition of "*Dwelling-house*" in section 4 and by inserting instead the following definition :—

Sec. 4.  
(Interpre-  
tation.)

"*Dwelling-house*" includes—

- 5 (a) any building or other structure intended for occupation as a dwelling and capable of being so occupied, although it has never been so occupied;
- 10 (b) a boat or vehicle in or on which any person resides; and
- (c) any building or other structure within the same curtilage as a dwelling-house, and occupied therewith or whose use is ancillary to the occupation of the dwelling-house.

- (ii) by inserting in section 4 after the definition of "*Night*" the following definition :—

20 "*Offensive weapon*" and "*Offensive weapon, or instrument*" include an imitation or replica of an offensive weapon or of an offensive weapon, or an instrument, as the case may require.

- 25 (iii) by inserting in section 4 after the definition of "*Vessel*" the following definition :—

30 "*Weapon*" and "*Weapon, or instrument*" include an imitation or replica of a weapon or of a weapon, or an instrument, as the case may require.

- (iv) by inserting at the end of section 4 the following subsection :—

35 (2) A dwelling-house does not cease to be a dwelling-house by reason only of being temporarily unoccupied.

(c)

*Crimes and Other Acts (Amendment).*

(c) by omitting from section 10 the words "or whipping,". Sec. 10.  
(What offences mis-demeanours.)

5. The Crimes Act 1900 is further amended— Further amendment of Act No. 40, 1900.

5 (a) by omitting from section 18 (1) (a) the words "of an act obviously dangerous to life, or"; Sec. 18. 01  
(Murder defined.)

(b) by inserting after section 23 the following section :— Sec. 23A.

10 23A. (1) Where, on the trial of a person for murder, it appears that at the time of the acts or omissions causing the death charged the person was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for the acts or omissions, he shall not be convicted of murder. Diminished responsibility.

15 (2) It shall be upon the person accused to prove that he is by virtue of subsection (1) not liable to be convicted of murder.

20 (3) A person who but for subsection (1) would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

25 (4) The fact that a person is by virtue of subsection (1) not liable to be convicted of murder in respect of a death charged shall not affect the question whether any other person is liable to be convicted of murder in respect of that death.

(5)



*Crimes and Other Acts (Amendment).*

(5) Where, on the trial of a person for murder, the person contends—

5 (a) that he is entitled to be acquitted on the ground that he was mentally ill at the time of the acts or omissions causing the death charged; or

(b) that he is by virtue of subsection (1) not liable to be convicted of murder,  
10 evidence may be offered by the Crown tending to prove the other of those contentions, and the Court may give directions as to the stage of the proceedings at which that evidence may be offered.

15 (c) by omitting from section 24 the words “, or for any term not less than three years, or to imprisonment for any term not exceeding three years”; Sec. 24. (Man-slaughter—punishment.)

(d) by inserting after section 32B the following Sec. 32c.  
section :—

20 32c. (1) Any person who makes a demand of any person with a threat to destroy or endanger the safety of an aircraft, vessel, motor vehicle, engine or carriage used upon a railway, or building, or to kill or injure all or any of the persons in or on any such aircraft, vessel, motor vehicle, engine, carriage  
25 or building, shall be liable to penal servitude for life. Threats to destroy aircraft or other conveyances.

(2) Any person who makes a demand of any person with any threat mentioned in subsection (1) and while that threat subsists discharges any firearm, or causes any explosion, or wounds or  
30 inflicts grievous bodily harm on any person, shall be liable to penal servitude for life.

(3) The provisions of section 442 shall not be in force with respect to the sentence to be passed under subsection (2).

(4)

---

*Crimes and Other Acts (Amendment).*

---

(4) For the purposes of subsection (1), "building" includes any bridge, mine or structure in the nature of a building.

5 (e) by inserting after section 33 the following sections :— Secs. 33A  
and 33B.

33A. Any person who maliciously discharges, or in any manner attempts to discharge, any kind of loaded arms with intent to do grievous bodily harm to any person, or with intent to resist, or prevent, the lawful apprehension or detention either of himself or any other person, shall be liable to penal servitude for fourteen years. Discharging  
loaded arms  
with intent.

33B. Any person who— Use of  
weapon  
to resist  
arrest, &c.

15 (a) uses, attempts to use or threatens to use an offensive weapon or instrument; or

(b) threatens injury to any person or property, with intent to prevent or hinder the lawful apprehension or detention either of himself or any other person or to prevent or hinder a member of the police force from investigating any act or circumstance which reasonably calls for investigation by the member shall be liable to penal servitude for ten years.

25 (f) by omitting from section 35 the word "five" and by inserting instead the word "seven"; Sec. 35.  
(Maliciously  
wounding or  
inflicting  
grievous  
bodily  
harm.)

(g) by omitting section 45; Sec. 45.  
(Wife or  
child  
desertion.)

(h)

---

*Crimes and Other Acts (Amendment).*

---

(h) by omitting section 49 and by inserting instead the Sec. 49. following section :—

49. (1) Any person who—

Setting  
trap, &c.

5

(a) places or sets, or causes to be placed or set, any trap, device or thing (whether its nature be electronic, electric, mechanical, chemical or otherwise) capable of destroying human life or inflicting grievous bodily harm on any person; or

10

(b) knowingly permits any such trap, device or thing to continue to be placed or set,

with intent to inflict grievous bodily harm shall be liable to imprisonment for five years.

15

(2) Nothing in subsection (1) shall extend to any gin or trap, placed with the intention of destroying vermin, or to any trap, device or thing placed in a dwelling-house for the protection thereof.

20

(i) by omitting from section 51 the word "life" and by inserting instead the words "ten years";

Sec. 51.  
(Casting  
stone, &c.,  
on a railway  
carriage.)

(j) (i) by omitting section 52A (1) and (2) and by inserting instead the following subsections :—

Sec. 52A.  
(Culpable  
driving.)

25

(1) Where the death of, or grievous bodily harm to, any person is occasioned through—

(a) the impact with any object of a motor vehicle in which that person was a passenger;

30

(b) a motor vehicle in which that person was a passenger overturning or leaving the highway

(c`

---

*Crimes and Other Acts (Amendment).*

---

- 5 (c) impact with a motor vehicle ; or
- (d) the impact of a motor vehicle with any vehicle or other object in, on or near which that person was at the time of the impact,

and the motor vehicle was at the time of the impact, or at the time of overturning or leaving the highway, being driven by another person—

- 10 (e) under the influence of intoxicating liquor or of a drug ; or
- (f) at a speed or in a manner dangerous to the public,

15 the person who was so driving the motor vehicle shall be guilty of the misdemeanour of culpable driving.

(2) A person convicted of the misdemeanour of culpable driving is—

- 20 (a) if the death of any person was occasioned, liable to imprisonment for five years ; or
- (b) if grievous bodily harm to any person was occasioned, liable to imprisonment for three years.

25 (ii) by omitting from section 52A (7) the words “and structure” and by inserting instead the words “, structure, earthwork, embankment, gutter, stormwater channel, drain, bridge, culvert, median strip, post and tree” ;

30 (k) by omitting from section 61 the words “, and if the person assaulted is a female, shall, in addition, be liable to be once privately whipped” ;

Sec. 61.  
(Common assault prosecuted by indictment.)

(1)

*Crimes and Other Acts (Amendment).*

- (l) by omitting from section 64 the words "but with her consent" and by inserting instead the words "; but are not satisfied that carnal knowledge was had without her consent";
- 5 (m) by omitting from section 70 the words "and that the accused had not carnal knowledge of such girl, but" and by inserting instead the words "but are not satisfied that the accused had carnal knowledge of the girl, and are satisfied that he";
- 10 (n) by inserting in section 72 after the words "any girl" the words "of or";
- (o) (i) by omitting from section 76 the word "three" and by inserting instead the word "four";
- 15 (ii) by omitting from section 76 the word "five" and by inserting instead the word "six";
- (p) by inserting after section 76 the following section :—
- 20 76A. Any person who commits any act of indecency with or towards any girl under the age of sixteen years, or incites a girl under that age to any act of indecency with him or another, shall be liable to imprisonment for two years.
- 25 (q) (i) by omitting from section 77 the words "or seventy-four" and by inserting instead the matter "74 or 76A";
- (ii) by omitting from section 77 the words "or seventy-two" and by inserting instead the matter ", 72 or 76A";

(r)

*Crimes and Other Acts (Amendment).*

- (r) by inserting after section 77 the following section :—

5           77A. Any proceedings in respect of an offence under section 63, 65, 66, 67, 68, 71, 72, 72A, 73, 74, 76 or 76A shall, if the Court so directs, be held in camera. Pro-ceedings in camera in certain cases.

- (s) by inserting after section 81B the following section and subheading :—

*Misconduct with regard to corpses.*

10           81C. Any person who— Miscon-duct with regard to corpses.

(a) indecently interferes with any dead human body; or

(b) improperly interferes with, or offers any indignity to, any dead human body or human remains (whether buried or not),

15 shall be liable to imprisonment for two years.

- (t) by omitting from section 91A the words “female under the age of twenty-one years, whether with her consent or not, with intent that some other person may have carnal knowledge of such female” and by inserting instead the words “person, whether with that person’s consent or not, for purposes of prostitution”; Sec. 91A. (Procur-ing, &c.)

- (u) by omitting from section 91B the words “woman of or above the age of twenty-one years with intent that some other person may have carnal knowledge of such woman” and by inserting instead the words “person for purposes of prostitution”; Sec. 91B. (Pro-curing person by drugs, &c.)

- (v) by omitting from section 91D the word “female” and by inserting instead the words “person (not being a member of the police force acting in the course of his duty)”. Sec. 91D. (Employ-ment in brothel.)

*Crimes and Other Acts (Amendment).*

## 6. The Crimes Act 1900 is further amended—

Further  
amend-  
ment of  
Act No.  
40, 1900.

- (a) by inserting next after the words "Chapter I.—  
*Stealing and like offences.*" in Part IV the following  
section and subheading :—

Sec. 93J.

5

## GENERAL.

93J. Where on the trial of a person for any  
offence which includes the stealing of any property  
it appears that the property was, at the time when  
it was taken by the accused, already out of the  
possession of the owner by reason of its having been  
previously stolen, the accused may be convicted of  
the offence charged notwithstanding that it is not  
proved that the taking by him amounted to an  
interference with the right to possession of, or a  
trespass against, the owner.

Property  
previously  
stolen.

10

15

- (b) by omitting from section 99 the word "seven" and  
by inserting instead the word "ten";

Sec. 99.  
(Demand-  
ing money  
with  
intent to  
steal.)

- (c) by omitting from the subheading occurring before  
section 106 the word "; BURGLARY";

Sub-  
heading  
before  
sec. 106.

20

- (d) by omitting section 108;

Sec. 108.  
(Burglary.)

- (e) by omitting from section 109 the words "in the  
night, shall be deemed guilty of burglary, and";

Sec. 109.  
(Entering  
with  
intent, or  
stealing,  
&c., in  
dwelling-  
house and  
breaking  
out.)

(f)

*Crimes and Other Acts (Amendment).*

(f) by omitting section 114 and by inserting instead the following section :—

114. (1) Any person who—

Being armed, &c., with intent to commit offence.

- 5 (a) is armed with any weapon, or instrument, with intent to enter a building and to commit a felony or misdemeanour therein;
- 10 (b) has in his possession, without lawful excuse, any implement of housebreaking or safe-breaking, or any implement capable of being used to enter or drive or enter and drive a conveyance;
- 15 (c) has his face blackened or otherwise disguised, or has in his possession the means of blacking or otherwise disguising his face, with intent to commit a felony or misdemeanour;
- 20 (d) enters or remains in or upon any part of a building or any land occupied or used in connection therewith with intent to commit a felony or misdemeanour in or upon the building,

shall be liable to penal servitude for seven years.

(2) For the purposes of subsection (1)

25 (b) "conveyance" means any cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.

30 (g) by omitting from the subheading appearing before section 117 the words "*Simple larceny and general*" and by inserting instead the word "*General*";

Sub-heading before sec. 117.

(h)



*Crimes and Other Acts (Amendment).*

- (h) by omitting from section 117 the word "simple" wherever occurring; Sec. 117.  
(Punishment for larceny.)
- 5 (i) by inserting in section 120 after the word "pretence" where firstly occurring the words "or by any wilfully false promise"; Sec. 120.  
(Trial for larceny—verdict of embezzlement, &c.)
- (j) by omitting from section 124 the words "two hundred dollars" and by inserting instead the words "\$2,000, or both"; Sec. 124.  
(Fraudulent appropriation.)
- 10 (k) by omitting from section 125 the words ", and may be convicted thereof upon an indictment for simple larceny"; Sec. 125.  
(Larceny by bailee.)
- (l) by omitting from section 126 the word "ten" and by inserting instead the word "fourteen"; Sec. 126.  
(Stealing cattle or killing with intent to steal.)
- (m) by omitting from section 134 the word "simple"; Sec. 134.  
(Stealing, destroying, &c., valuable security.)
- 15 (n) by inserting in section 136 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 136.  
(Proviso to sections 134 and 135.)
- (o) by omitting from section 139 the word "simple"; Sec. 139.  
(Stealing, &c., metal, glass, wood, &c., fixed to house or land.)
- 20 (p) by omitting from section 140 the word "simple"; Sec. 140.  
(Stealing, &c., trees, &c., in pleasure grounds.)

*Crimes and Other Acts (Amendment).*

- (q) by omitting from section 144 the word "simple"; Sec. 144.  
(Stealing ore of metal, coal, &c.)
- (r) by omitting from section 147 the word "simple"; Sec. 147.  
(Fraud on partners in mines, &c.)
- (s) by omitting from section 153 the word "fourteen" and by inserting instead the word "ten"; Sec. 153.  
(Stealing from ship in distress or wrecked.)
- 5 (t) by omitting from section 154 the word "simple"; Sec. 154.  
(Tenants, &c., stealing articles let to hire.)
- (u) by omitting section 154A and by inserting instead the following section :— Sec. 154A.

154A. (1) Any person who—

- 10 (a) without having the consent of the owner or person in lawful possession of a conveyance, takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or Taking a conveyance without the consent of the owner.
- 15 (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,

20 shall be deemed to be guilty of larceny and liable to be indicted for that offence.

25 (2) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used or intended for navigation, and "drive" shall be construed accordingly.

(v)

*Crimes and Other Acts (Amendment).*

- (v) by omitting from section 154c the word "simple"; Sec. 154c.  
(Malicious or fraudulent abstraction, waste, &c., of electricity.)
- (w) by omitting from section 163 the word "simple"; Sec. 163.  
(Trial for embezzlement —verdict of larceny.)
- (x) by omitting from section 173 the word "ten" and by inserting instead the word "fourteen"; Sec. 173.  
(Directors, &c., fraudulently appropriating, &c., property.)
- 5 (y) by omitting from section 174 the word "ten" and by inserting instead the word "fourteen"; Sec. 174.  
(Directors, &c., omitting certain entries.)
- (z) by omitting from section 175 the word "ten" and by inserting instead the word "fourteen"; Sec. 175.  
(Director, &c., wilfully destroying, &c., books of company, &c.)
- 10 (aa) by omitting from section 176 the word "ten" and by inserting instead the word "fourteen"; Sec. 176.  
(Director or officer publishing fraudulent statements.)
- (bb) by inserting in section 177 after the word "insolvency" the words " , or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 177.  
(Proviso to ss. 165 to 176 incl.)
- 15 (cc) by omitting from section 183 the word "simple"; Sec. 183.  
(Trial for false pretences, &c. —verdict of larceny.)
- (dd)

*Crimes and Other Acts (Amendment).*

- (dd) by omitting from section 184 the word "life" and by inserting instead the words "seven years"; Sec. 184. (Fraudulent personation.)
- 5 (ee) by inserting in section 188 after the word "receives" the words ", or disposes of, or attempts to dispose of,"; Sec. 188. (Receiving where principal guilty of felony.)
- (ff) by inserting in section 189 after the word "receives" the words ", or disposes of, or attempts to dispose of,"; Sec. 189. (Receiving where principal guilty of misdemeanour.)
- 10 (gg) (i) by inserting in section 189A (1) after the word "receives" the words ", or disposes of, or attempts to dispose of,"; Sec. 189A. (Receiving, &c., goods stolen out of New South Wales.)
- (ii) by inserting in section 189A (1) after the words "been stolen," the words "and whether or not he took part in the stealing of the property,"; 15
- (hh) by inserting after section 189A the following section :— Sec. 189B.
- 20 189B. (1) Where in the trial of a person for the offence under section 188 or 189 of receiving, or disposing of, or attempting to dispose of, any property knowing it to have been stolen, it is proved that the property was stolen in the course of transmission between New South Wales and any other jurisdiction or between any other jurisdiction and New South Wales— 25
- (a) the person shall be liable to be convicted of the offence without proof that the stealing took place in New South Wales; and
- (b) for the purpose of determining whether or not the stealing amounts to a felony or a misdemeanour, the stealing shall be deemed to have taken place in New South Wales. 30
- (2)

*Crimes and Other Acts (Amendment).*

- (2) For the purposes of subsection (1) "other jurisdiction" means a State (other than New South Wales) or Territory of the Commonwealth.
- 5 (ii) by inserting in section 190 after the word "receives" where secondly occurring the words ", or disposes of, or attempts to dispose of,"; Sec. 190. (Receiving cattle feloniously killed, or carcass, &c.)
- (jj) by omitting from section 213 the word "ten" and by inserting instead the word "five"; Sec. 213. (Setting fire to fences.)
- 10 (kk) by omitting from section 214 the words "lible to penal servitude for seven years" and by inserting instead the words "liable to penal servitude for three years"; Sec. 214. (Attempts to set fire to such things.)
- (ll) by omitting section 216; Sec. 216. (Injuring trees, shrubs, &c., in pleasure-ground, &c.)
- (mm) by omitting section 217; Sec. 217. (The like to value of over \$10 elsewhere.)
- 15 (nn) by omitting section 218; Sec. 218. (Injuring trees, &c., after two summary convictions.)
- (oo) by omitting section 219; Sec. 219. (Destroying plant, &c., in a garden after one summary conviction.)
- (pp)

*Crimes and Other Acts (Amendment).*

- (pp) by omitting from the subheading occurring before section 230 the words "*and telegraphs*"; Sub-heading before sec. 230.
- (qq) by omitting section 233; Sec. 233. (Injuring telegraph posts, &c.)
- (rr) by omitting section 234; Sec. 234. (Attempt.)
- 5 (ss) (i) by omitting from section 245 the words "other than pigs or goats,"; Sec. 245. (Killing or maiming cattle.)  
(ii) by omitting from section 245 the words "forty dollars" and by inserting instead the matter "\$1,000";
- 10 (tt) by omitting section 246; Sec. 246. (Cruelly wounding or torturing cattle.)
- (uu) (i) by omitting from section 247 the words ", to an amount exceeding ten dollars,"; Sec. 247. (Other injuries.)  
(ii) by omitting from section 247 the words "shall be liable to imprisonment for two years, and where such offence is committed in the night,";
- 15 (vv) by omitting from section 248 the word "seven" and by inserting instead the word "five"; Sec. 248. (Letters threatening to destroy property.)
- (ww) by inserting after section 248 the following section and subheading :— Sec. 248A.
- 20 *False statement that person or property in danger.*  
248A. Where any person knowingly makes to any other person a false statement, or sends to any other person a document containing a statement that he knows to be false, and the statement tends to

to

*Crimes and Other Acts (Amendment).*

5 to give rise to apprehension for the safety of any person (including the person making the statement and the person to whom it is made) or property, or both, he shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for twelve months, or both, or on conviction on indictment to imprisonment for five years.

## 7. The Crimes Act 1900 is further amended—

Further  
amendment  
of Act No.  
40, 1900.

- 10 (a) by omitting from section 271 the word "life" and by inserting instead the words "fourteen years"; Sec. 271.  
(Forging wills.)
- (b) (i) by omitting from section 336 the words "in a judicial proceeding,"; Sec. 336.  
(Tampering with witness.)
- 15 (ii) by omitting from section 336 the words "such person being bound by recognizance or subpoena so to attend,";
- (c) by inserting after section 344 the following Part :— Part VIII.A.

## PART VIII.A.

## ATTEMPTS.

20 344A. (1) Subject to this Act, any person who attempts to commit any offence for which a penalty is provided under this Act shall be liable to that penalty. Attempts.

25 (2) Where a person is convicted of an attempt to commit an offence and the offence concerned is a felony he shall be deemed to have been convicted of a felony.

- (d) by omitting from section 351 the word "Whosoever" and by inserting instead the words "Any person who aids,"; Sec. 351.  
(Abettors in misdemeanours—how tried and punished.)

(e)

*Crimes and Other Acts (Amendment).*

(e) by inserting in section 353B after the word "months" the words ", or to a fine of \$500, or both"; Sec. 353B.  
(Person apprehended carrying razor, &c.)

(f) by omitting section 354 and by inserting instead the following section :— Sec. 354.

5           354. (1) Upon a complaint made on oath that there is reasonable ground to believe that there is in or on any premises— Search warrant for property where indictable offence in respect thereof committed, &c.

10           (a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed;

              (b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of any indictable offence; or

15           (c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any indictable offence,

20           a justice may, by warrant, authorise and require any member of the police force to enter and search the premises.

              (2) A warrant issued under subsection (1) shall be executed by day, unless the justice, by the warrant, authorises its execution by night.

25           (3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

30           (4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5)



---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force executing a warrant issued under subsection (1) may—

- 5 (a) seize or dispose of in a safe place, or guard in or on the premises, anything mentioned in the warrant and, in addition, any other thing that on reasonable grounds he believes has been obtained by, or has been used in, the commission of an offence, until any charge in relation thereto is dealt with; and
- 10 (b) arrest, search and bring before a justice any person found in the premises whom he suspects of having committed an offence in respect of anything so seized.

15 (6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on the premises, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

20 (7) Any person who without lawful excuse hinders or obstructs any person executing a warrant issued under subsection (1) shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000. or both.

25 (8) For the purposes of this section—  
“indictable offence” includes any act or omission which if done, or omitted to be done, in New South Wales would constitute an offence punishable on indictment;

30 “premises” includes any structure, building, aircraft, vehicle, vessel, or place (whether built upon or not), and any part thereof.

(g)

*Crimes and Other Acts (Amendment).*

- (g) by omitting from section 356 (1) the words "section three hundred and fifty-four or"; Sec. 356.  
(Pro-ceedings on finding explosive substances, &c., under warrant.)
- (h) by omitting section 357 and by inserting instead the following section :— Sec. 357.

5            357. (1) Upon a complaint made on oath that the complainant has reason to suspect, and believes, that an animal stolen or otherwise unlawfully obtained is concealed or lodged in or on any specified premises, a justice may, by warrant, authorise and require any member of the police force to enter and search the premises. Searching for stolen cattle.

10

(2) A member of the police force may without a warrant—

15            (a) require the person in charge of a vehicle to cause the vehicle to stop or remain stationary and afford him access to the vehicle, and may enter and search the vehicle; or

(b) enter and search a vehicle,

20            for the purpose of searching for any animal that has been stolen or otherwise unlawfully obtained, or that is reasonably suspected of having been stolen or otherwise unlawfully obtained.

25            (3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

30            (4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5)

---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force may—

- 5 (a) seize or dispose of in a safe place, or guard in or on the premises or in the vehicle, any animal found pursuant to a search under subsection (1) or (2) that is reasonably suspected of having been stolen or otherwise unlawfully obtained, until any charge in relation to the animal is dealt with; and
- 10 (b) arrest, search and bring before a justice any person found in premises, or in charge of or in any vehicle, whom he suspects of having committed an offence in respect of any animal.

15 (6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on premises or in a vehicle, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

20 (7) Any person who without lawful excuse—

- 25 (a) hinders or obstructs any person executing a warrant issued under subsection (1), or a member of the police force searching a vehicle under subsection (2);
- (b) fails or neglects to cause a vehicle to stop or remain stationary when required to do so by a member of the police force acting under subsection (2); or
- 30 (c) fails to afford access to a vehicle to a member of the police force acting under subsection (2),

35 shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000, or both.

(8)

*Crimes and Other Acts (Amendment).*

5 (8) Nothing in subsection (1) shall prevent a member of the police force who finds on any premises any animal reasonably suspected of having been stolen or unlawfully obtained, from seizing or retaining the animal without a warrant.

10 (9) For the purposes of this section—  
“animal” means a bull, steer, cow, heifer, calf, horse, mare, gelding, colt, foal, filly, ram, ewe, sheep, lamb or pig, and includes any part, skin or carcass of any such animal;  
“premises” includes any structure, building, or place (whether built upon or not), and any part thereof;  
“vehicle” includes a vessel.

15 8. The Crimes Act 1900 is further amended—

(a) (i) by omitting section 405 (1) and by inserting instead the following subsections :—

20 (1) In any proceedings an accused person shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination.

25 (1A) Subsection (1) shall not affect the right of the accused, if not represented by counsel, to address the Court or jury otherwise than on oath on any matter on which, if he were so represented, counsel could address the Court or jury on his behalf.

(ii)

Further amendment of Act No. 40, 1900.

Sec. 405. (Accused not entitled to give evidence without being sworn.)

---

*Crimes and Other Acts (Amendment).*

---

(ii) by inserting after section 405 (2) the following subsection :—

5 (3) Where the accused does not give evidence or call any witness or witnesses in support of the defence the accused or his counsel shall be entitled to address the jury but, if counsel for the Crown addresses the jury, the accused or his counsel shall not be so entitled until after counsel for the Crown has done so.

10

(b) by inserting after section 405 the following Sec. 405A. section :—

15 405A. (1) On a trial on indictment the defendant shall not without the leave of the Court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi. Notice of alibi.

20 (2) Without prejudice to subsection (1), on a trial on indictment the defendant shall not without the leave of the Court call any other person to give evidence in support of an alibi unless—

25 (a) the notice under that subsection includes the name and address of the person, or, if the name or address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the person;

30 (b) if the name or the address is not included in the notice, the Court is satisfied that the defendant before giving the notice took, and thereafter continued to take, all reasonable steps to secure that the name or the address would be ascertained;

(c)

---

*Crimes and Other Acts (Amendment).*

---

5 (c) if the name or the address is not included in the notice, but the defendant subsequently discovers the name or address or receives other information which might be of material assistance in finding the person, he forthwith gives notice of the name, address or other information, as the case may be; and

10 (d) if the defendant is notified by or on behalf of the Crown that the person has not been traced by the name or at the address given by the defendant, he forthwith gives notice of any information which might be of material assistance in finding the person and  
15 which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

20 (3) The Court shall not refuse leave under this section if it appears to the Court that on the committal for trial of the defendant he was not informed by the committing justice of the requirements of subsections (1), (2) and (5), and the statement in writing of the committing justice that the defendant was so informed shall be evidence  
25 that the defendant was so informed.

(4) Any evidence tendered to disprove an alibi may, subject to any direction by the Court, be given before or after evidence is given in support of the alibi.

30 (5) Any notice purporting to be given under this section on behalf of the defendant by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(6)

---

*Crimes and Other Acts (Amendment).*

---

5 (6) A notice under this section shall be given in writing to the Clerk of the Peace, and may be given by delivering it to the Clerk of the Peace, or by leaving it at his office, or by sending it in a registered letter or by certified mail addressed to him at his office.

(7) In this section—  
“evidence in support of an alibi” means evidence  
10 tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time  
15 of its alleged commission;

“the prescribed period” means the period of ten days commencing at the time of the committal of the defendant for trial.

20 (c) (i) by omitting paragraph (1) of the proviso to section 407 and by inserting instead the following paragraph :—

(1) No such person charged with an indictable offence shall be liable to be called as a witness on behalf of the prosecution.  
25

Sec. 407.  
(Competency of parties and accused persons and their husbands and wives to give evidence.)

(ii) by omitting paragraph (2) of the proviso to section 407 and by inserting instead the following paragraphs :—

30 (2) Where an accused person does not give evidence—

(a) no person other than the Judge or the accused or his counsel or any other person being tried together

with

---

*Crimes and Other Acts (Amendment).*

---

with the accused, or his counsel, shall make any comment to the jury on that failure to give evidence; and

5 (b) subject to paragraph (2B), any comment by the Judge on that failure to give evidence shall be restricted to informing the jury that the accused could have given evidence if he had chosen to do so.

10

(2A) Subject to paragraph (2B), the failure of the husband or wife, as the case may be, of an accused person to give evidence shall not be made the subject of any comment by the Judge or by counsel for the Crown.

15

(2B) Where two or more persons are being tried together, and comment is made, by or on behalf of any of them, upon the failure of any of them, or of the husband or wife, as the case may be, of any of them, to give evidence, the Judge may make such observation to the jury in regard to such comment or such failure to give evidence as he thinks fit.

20

25

(d) (i) by omitting from section 409 (1) the words "on oath that";

30 (ii) by inserting in section 409 (1) (a) before the words "the witness" the words "on oath that";

(iii) by inserting in section 409 (1) (b) (i) before the words "the deposition" the word "that";

35 (iv) by inserting in section 409 (1) (b) (ii) after the word "coroner," the word "that";

(v)

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



---

*Crimes and Other Acts (Amendment).*

---

- (v) by inserting in section 409 (1) (c) before the words "the accused" the word "that";
- (vi) by inserting after section 409 (4) the following subsections :—

5 (5) For the purposes of subsection (1), unless it is proved to the contrary—

10 (a) a deposition, or a deposition in the form of a transcript, of the evidence of a witness shall be deemed to have been taken or made in the presence of the accused, or during any period when the accused, having been discharged under section 41 (1B) of the Justices Act, 1902, was absent; and

15 (b) the accused or his counsel or attorney shall be deemed to have had a full opportunity of cross-examining the witness, or the accused, having been discharged under section 41 (1B), shall be deemed to have been absent when the deposition was taken and not represented by counsel or attorney,

20 if it appears from the deposition that it was so taken or made, and that the accused or his counsel had such an opportunity or was so absent and not represented by counsel or attorney, as the case may be.

25 (6) For the purposes of subsection (1) (b) (ii), where a deposition is in the form of a transcript of the record, unless it is proved to the contrary, the record shall be deemed to be a true record of the matter deposed, and the transcript shall be deemed to be a correct transcript of the record if, in the case of a transcript of a record—

30 (a) made in shorthand notes, the transcript is identified by, and signed in the handwriting

*Crimes and Other Acts (Amendment).*

5 handwriting of, the person purporting to have made the shorthand notes; or  
(b) made by any other means (other than writing) authorised by law for the taking of a deposition, the transcript is certified in the manner prescribed by regulations made under the Justices Act, 1902.

10 (e) by inserting after section 413 the following sections :— Secs. 413A, 413B and 413C.

15 413A. (1) Subject to this section and section 413B, where in any proceedings an accused person gives evidence he shall not in cross-examination be asked, and if asked shall not be required to answer, any question tending to reveal to the Court or jury— Restriction on cross-examination of accused.

- 20 (a) the fact that he has committed, or has been charged with or convicted or acquitted of, any offence other than the offence charged; or  
(b) the fact that he is generally or in a particular respect a person of bad disposition or reputation.

25 (2) Subsection (1) shall not apply to a question tending to reveal to the Court or jury any fact such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose of proving the commission by the accused of the offence charged.

30 (3) Where, in any proceedings in which two or more persons are jointly charged, any of the accused persons gives evidence, subsection (1) shall not in his case apply to any question tending to reveal to the Court or jury a fact about him such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose  
35 of

---

*Crimes and Other Acts (Amendment).*

---

of showing any other of the accused to be not guilty of the offence with which that other is charged.

(4) Subsection (1) shall not apply if—

5 (a) the accused person has personally or by his  
counsel asked any witness for the prosecution or for a person jointly charged with  
him any question concerning the witness's  
10 conduct on any occasion (other than his  
conduct in the activities or circumstances  
giving rise to the charge or his conduct  
during the trial or in the activities, circum-  
stances or proceedings giving rise to the  
15 trial) or as to whether the witness has committed,  
or has been charged with or convicted or acquitted of, any offence; and

(b) the Court is of the opinion that the main purpose of that question was to raise an issue as to the witness's credibility,

20 but the Court shall not permit a question falling  
within subsection (1) to be put to an accused person  
by virtue of this subsection unless it is of the  
opinion that the question is relevant to his credibility  
as a witness and that in the interests of justice  
25 and in the circumstances of the case it is proper to  
permit the question to be put.

(5) Subsection (1) shall not apply where  
the accused person has given evidence against any  
person jointly charged with him in the same  
30 proceedings.

*Crimes and Other Acts (Amendment).*

413B. (1) In any proceedings an accused person may—

Admissibility of evidence and questions about accused's disposition or reputation.

5 (a) personally or by his counsel ask questions of any witness with a view to establishing directly or by implication that the accused is generally or in a particular respect a person of good disposition or reputation;

10 (b) himself give evidence tending to establish directly or by implication that the accused is generally or in a particular respect such a person; or

(c) call a witness to give any such evidence,

15 but where any of these things has been done, the prosecution may call, and any person jointly charged with the accused person may call, or himself give, evidence to establish that the accused person is a person of bad disposition or reputation, and the prosecution or any person so charged may in  
20 cross-examining any witness (including, where he gives evidence, the accused person) ask him questions with a view to establishing that fact.

(2) Where by virtue of this section a party is entitled—

25 (a) to call evidence to establish that the accused person is a person of bad disposition or reputation, that party may call evidence of his previous convictions, if any, whether or not the party calls any other evidence for that purpose; or

30 (b) in cross-examining the accused to ask him questions with a view to establishing that he is such a person section 413A (1) shall not apply in relation to his cross-examination by that party.

413c.

*Crimes and Other Acts (Amendment).*

5 413c. (1) Where in any proceedings the fact that an accused person has been convicted of an offence is admissible in evidence, a document purporting to be a record of the conviction (whether in the State or elsewhere) of the accused person for the offence and purporting to be signed by an authorised person shall be received in the proceedings as evidence of that fact. Documen-  
tary evidence  
of previous  
convictions.

10 (2) The method of proving a conviction authorised by this section shall be in addition to and not to the exclusion of any other method of proving a conviction. 01

(3) For the purposes of subsection (1), "authorised person" means— 01

15 (a) the officer-in-charge of the Central Fingerprint Bureau of the Police Department, or any person authorised by him for the purposes of this section; 02

(b) a gaol recorder; 02

20 (c) the officer-in-charge of police at the town where the Court, in which it is proposed to give evidence that an accused person has been convicted of an offence, is being held; or 02

25 (d) in the case of proceedings before a stipendiary magistrate, the police prosecutor conducting the proceedings. 02

(f) (i) by inserting in section 414A after the word "article" the words "or living person"; 02

Sec. 414A.  
(Certificate  
of scientific  
examination  
evidence.)

(ii)

---

*Crimes and Other Acts (Amendment).*

---

(ii) by inserting at the end of section 414A the following subsections :—

5 (2) A certificate which would, by virtue of section 4E (12) (a) or (b) of the Motor Traffic Act, 1909, be prima facie evidence of the particulars certified in and by the certificate in proceedings for an offence under  
10 section 4E (1) of that Act shall be prima facie evidence of those particulars at any inquest or where a person is charged before a stipendiary magistrate or before any Court with an indictable offence.

15 (3) Where any certificate is admitted in evidence by virtue of subsection (2), evidence of the condition of a breath analysing instrument or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced.

20 (g) by omitting section 415 and by inserting instead the **Sec. 415.** following section :—

415. (1) Subject to subsection (2), in any case **Proof of banking transactions.** where it is necessary to prove—

25 (a) the state of an account in the books or records of a banking corporation, or company;

(b) that any person has not or had not an account, or any funds, to his credit in any such books or records; or

30 (c) any entry in any such books or records with respect to—

(i) the opening of an account of any kind;

(ii)

---

*Crimes and Other Acts (Amendment).*

---

- (ii) the specimen signature of any person;
- (iii) the account number of any account;
- 5 (iv) the issue of, or the number on, any cheque, draft, warrant, cheque-book, bank-book or passbook;
- (v) the particulars of any deposit, deposit slip or remitting warrant;
- 10 (vi) the drawing, endorsement or marking of any cheque;
- (vii) the dishonouring of any cheque, draft or promissory note;
- (viii) the presentation and meeting of any cheque;
- 15 (ix) the depositing or withdrawal of any money in respect of any account;
- (x) any documents in respect of any such deposit or withdrawal; or
- 20 (xi) the lodgment of any document or security or other item in safe deposit or for safe custody or the granting of access to or withdrawal of any such item,

25 it shall not be necessary to produce any such book or record, but evidence of any such matter may be given, either orally or by affidavit, by any officer or clerk of the corporation or company who has examined the book or record.

30 (2) Where in any Court evidence is given by affidavit under subsection (1) the Court may if it thinks fit order that the evidence be not admitted unless the person who made the affidavit gives oral evidence in the proceedings or gives evidence by a further affidavit.

(3)

*Crimes and Other Acts (Amendment).*

(3) The method of proving any matter referred to in subsection (1) shall be in addition to and not to the exclusion of any other method of proving that matter.

- 5 (h) by omitting from section 420 (b) the words “such trial” and by inserting instead the words “the commission of the offence charged, or if more than one offence is charged, the commission of the earliest such offence charged”; Sec. 420. (Receivers. Evidence of guilty knowledge.)

10 9. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

- (a) by omitting the words “*Sentences of whipping or irons.*” occurring before section 434 and by omitting section 434; Sec. 434. (Juvenile offenders may be whipped.)

- (b) by omitting section 435; Sec. 435. (Whipping adults in certain cases.)

- 15 (c) (i) by omitting from section 437 (1) the words “two thousand dollars” and by inserting instead the matter “\$4,000”; Sec. 437. (Compensation to person aggrieved by any felony or misdemeanour.)

- 20 (ii) by inserting in section 437 (1) after the word “misdemeanour” where secondly occurring the words “or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour”;

- 25 (iii) by inserting in section 437 (3) after the word “misdemeanour” the words “or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour”;

(iv)



---

*Crimes and Other Acts (Amendment).*

---

(iv) by inserting after section 437 (3) the following subsection :—

5 (3A) Subject to section 9 of the Criminal Appeal Act, 1912, any sum directed under subsection (1) to be paid to an aggrieved person shall be paid forthwith, or within such period (if any) as is specified in the direction, to the Clerk of the Peace for payment to the person aggrieved.

10 (d) by inserting after section 437 the following section :—

15 437A. (1) This section shall have effect where a direction is given under section 437 (1) in favour of an aggrieved person in respect of any injury or loss and civil proceedings in respect of the injury or loss are subsequently brought by or on behalf of the aggrieved person. Effect of direction under s. 437 on civil proceedings.

20 (2) A direction under section 437 (1) shall not affect the right to bring the civil proceedings and the damages in the civil proceedings shall be assessed without regard to the direction, but where—

- 25 (a) the whole or part of the amount directed under section 437 (1) to be paid; or
- (b) an amount under the Criminal Injuries Compensation Act, 1967, in respect of the injury or loss,

30 has been paid, the judgment of the Court, in so far as it relates to an amount of damages equal to the amount so paid under the direction or that Act, or under the direction and that Act, shall not be entered without the leave of the Court.

(v)

(3)

*Crimes and Other Acts (Amendment).*

(3) Where there is an amount unpaid under a direction and a Court awards damages in civil proceedings, then the Court shall direct that the judgment—

- 5 (a) if it is for an amount not exceeding the amount unpaid under the direction, shall not be enforced; or
- (b) if it is for an amount exceeding the amount unpaid under the direction, shall not be enforced as to the amount equal to the amount unpaid under the direction,
- 10 without the leave of the Court.

- 15 (e) by omitting from section 440B (1) the words “two thousand dollars” and by inserting instead the matter “\$4,000”; Sec. 440B.  
(Imposition of fine on sentence being deferred or suspended.)

- (f) by omitting from section 442 (1) the words “or whipping,”; Sec. 442.  
(Provision for passing sentences of less duration than those fixed.)

- (g) (i) by inserting in section 444 (1) after the word “Judge” the words “or magistrate”; Sec. 444.  
(Sentence during any unexpired sentence may be cumulative.)
- 20 (ii) by inserting in section 444 (1A) after the word “Judge” the words “or magistrate”;
- (iii) by inserting in section 444 (2) after the word “Judge” wherever occurring the words “or magistrate”;
- 25 (iv) by inserting in section 444 (3) after the word “Judge” the words “or magistrate”;

(v)

*Crimes and Other Acts (Amendment).*

(v) by omitting section 444 (4) and by inserting instead the following subsection :—

5 (4) Notwithstanding anything in this section, a magistrate, whether dealing with an offence or offences under section 476 or otherwise, shall not impose, or make an order having the effect of imposing, on any offender—

10 (a) more than one sentence of imprisonment or penal servitude to be served consecutively on any other sentence of imprisonment or penal servitude then imposed on, or being served by, the offender; or

15 (b) sentences of imprisonment or penal servitude, to be served consecutively, totalling more than three years.

10. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

(a) by omitting section 453;

Sec. 453.  
(Meaning and effect of penal servitude sentences.)

20 (b) by omitting section 454;

Sec. 454.  
(Existing laws to be applicable.)

(c) by omitting the words "*Whipping sentences.*" occurring before section 455 and by omitting section 455;

Sec. 455.  
(Kind of instrument and manner of use to be fixed by Comptroller-General.)

(d)

---

*Crimes and Other Acts (Amendment).*

---

(d) by omitting section 456;

Sec. 456.  
(Surgeon  
may  
remit  
whipping  
in certain  
cases.)

(e) by omitting section 457 and by inserting instead the following section :—

5           457. (1) Where pursuant to section 437 a Court  
or a Judge directs that a sum be paid to an aggrieved  
person in respect of any injury or loss and the whole  
or any part of that sum is not paid in accord-  
ance with section 437 (3A) to the Clerk of the  
10           Peace, the Clerk of the Peace, on the application  
of the aggrieved person, shall issue to the aggrieved  
person a certificate specifying the direction of the  
Court or the Judge and the amount of the  
sum required by the direction to be paid which  
has not, at the date of the certificate, been paid  
15           to the Clerk of the Peace.

(2) Where a certificate is issued pursuant  
to subsection (1) the Clerk of the Peace shall not  
thereafter accept any payments from the offender in  
respect of the direction specified in the certificate.

20           (3) An aggrieved person may file in the  
District Court at Sydney a certificate issued to him  
under subsection (1), and thereupon the registrar  
shall enter judgment in favour of the aggrieved  
25           person against the offender specified in the certificate  
for the amount specified in the certificate as having  
not been paid and any fees payable to the registrar  
in respect of the certificate.

(f)

*Crimes and Other Acts (Amendment).*

(f) by omitting from section 459 the following words :—

Sec. 459.  
(Commutation of capital sentences.)

5 , and also, if the Governor thinks fit so to direct, that he be kept in irons, for any time not exceeding the first three years of such servitude or imprisonment.

10 In addition thereto, in cases of rape, or of carnal knowledge of a girl under ten years, the Governor may direct that the offender shall be once, twice, or thrice publicly or privately whipped, at such times and with so many strokes at each time, not more than fifty, as he thinks fit;

(g) by omitting section 467.

Sec. 467.  
(Position of wife of felon.)

11. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

15 (a) by omitting section 476 and by inserting instead the following section :—

Sec. 476.

20 476. (1) Where a person is charged before a stipendiary magistrate with an offence mentioned in subsection (6) the magistrate may require the person to state whether he intends to plead guilty or not guilty to the charge, and if the person does not so state he shall be taken for the purposes of this section to have stated that he intends to plead not guilty.

Indictable offences punishable summarily.

25 (2) Where a person states under subsection (1) that he intends to plead not guilty to a charge, and it appears to the magistrate that the case may properly be disposed of summarily and that the person consents to it being so disposed of,

the

---

*Crimes and Other Acts (Amendment).*

---

the magistrate shall have jurisdiction to hear and determine the charge in a summary manner and pass sentence upon the person.

5 (3) Where a person states under subsection (1) that he intends to plead guilty to a charge the magistrate may accept or reject the plea.

10 (4) Where a magistrate rejects a plea under subsection (3) the proceedings before the magistrate shall continue as though the person had stated under subsection (1) that he intends to plead not guilty.

(5) Where a magistrate accepts a plea under subsection (3) and it appears to the magistrate—

15 (a) that the case may be properly disposed of summarily and that the person consents to it being so disposed of, the magistrate shall have jurisdiction to pass sentence upon the person; or

20 (b) that the case may not properly be disposed of summarily, or that the person does not consent to it being so disposed of, the provisions of section 51A of the Justices Act, 1902, shall apply as though the person had  
25 pleaded guilty to the charge under that section.

(6) The offences referred to in subsection (1) are—

30 (a) (i) larceny, and any offence which under this Act is deemed to be, or is made punishable as, larceny or stealing;

(ii) the offence of stealing any chattel, money, or valuable security from the person of another; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

5 (iii) any offence mentioned in section 126,  
131, 145, 146, 148, 150, 151, 152,  
156, 157, 159, 160, 165, 166, 168,  
169, 170, 178A, 178B, 178C, 179, 186,  
188, 189, 189A, 190, 192, 208, 209,  
210, 220, 229, 244, 245, 247, 248,  
273, 274 or 275,

10 where the value of the property, matter or  
thing the subject of the charge or the  
damage thereto, or the amount of money or  
reward the subject of the charge, does not  
exceed \$1,000;

15 (b) any offence mentioned in section 71, 72, 76  
or 76A, where the female the subject of the  
charge was at the time of the commission  
of the offence of or above the age of  
fourteen years;

20 (c) any offence mentioned in section 81 where  
the person upon whom the assault was  
committed was at the time of the assault  
of or above the age of fourteen years;

(d) any offence mentioned in section 56, 57, 58,  
59, 61, 81A, 81B, 81C, 114, 132, 133, 154A,  
158 or 252;

25 (e) any offence mentioned in section 85 where  
the person charged is the mother of the child  
and is not charged with any other person;

(f) any offence mentioned in section 112  
where—

30 (i) the felony alleged is stealing;  
(ii) the value of the property stolen does  
not exceed \$1,000; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

- 5 (iii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- (g) any offence mentioned in section 111 or 113 where—
- 10 (i) the felony intended is stealing; and
- (ii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- 15 (h) escape from lawful custody, except where the escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952; and
- 20 (i) (i) attempting to commit;
- (ii) where the offence is a felony, being an accessory before or after the fact to; or
- 25 (iii) where the offence is a misdemeanour, aiding, abetting, counselling or procuring the commission of, any offence mentioned in paragraph (a), (b), (c), (d), (f), (g) or (h).
- 30 (7) Notwithstanding anything in this Act to the contrary—
- (a) the maximum term of imprisonment, or penal servitude, to which a person may be sentenced by a magistrate under this section in



*Crimes and Other Acts (Amendment).*

5 in respect of any one offence is two years,  
or the maximum term of imprisonment, or  
penal servitude, fixed by law (other than  
by this subsection) in respect of the offence,  
whichever is the shorter term;

10 (b) the maximum fine which may be imposed by  
a magistrate under this section is, in respect  
of any one offence, \$2,000, or the maximum  
fine fixed by law (other than by this  
subsection) in respect of the offence,  
whichever is the smaller; and

15 (c) where the maximum punishment which may  
be imposed by law (other than by this  
subsection) in respect of an offence is a  
term of imprisonment or penal servitude, or  
a fine, or both, the maximum punishment  
20 which may be imposed by a magistrate  
under this section in respect of the offence  
is that term, or two years, whichever is the  
shorter term, or that fine, or \$2,000,  
whichever is the smaller fine, or both.

(8) The provisions of section 82 of the  
Justices Act, 1902, apply to any fine imposed by a  
magistrate under this section.

25 (9) Where, before the commencement of  
the Crimes and Other Acts (Amendment) Act,  
1974, a conviction in respect of an offence  
mentioned in this section would have been a  
conviction in respect of a felony, a conviction by  
30 a magistrate under this section in respect of that  
offence shall for all purposes be deemed to be a  
conviction in respect of a felony.

35 (b) by omitting the words "*Offences and punishment.*"  
occurring before section 477 and by omitting  
section 477;

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

*Crimes and Other Acts (Amendment).*

- (c) by omitting section 478; Sec. 478.  
(Punishment in such cases.)
- (d) by omitting section 479; Sec. 479.  
(Accused to have option of summary disposal of case or of trial by jury.)
- (e) by omitting section 479A; Sec. 479A.  
(Certain offences not to be dealt with summarily.)
- 5 (f) by omitting section 480 and by inserting instead the following section :— Sec. 480.
- 10 480. Where a charge is disposed of summarily under section 476, the magistrate shall, if the case is dismissed and he is requested to do so, make out and deliver to the person charged with the offence so disposed of, a certificate under the magistrate's hand stating the fact of the dismissal. Certificate of dismissal.
- 15 (g) by omitting the words "CHAPTER II.—*Offences punishable summarily in certain cases by whipping.*" occurring before section 482 and by omitting sections 482, 483, 484, 485, 486, 487, 488, 489, 490, 491 and 492; Secs. 482-492.
- (h) by omitting section 493 and by inserting instead the following section :— Sec. 493.
- 20 493. Whosoever assaults any person shall on summary conviction be liable to imprisonment for six months, or to a fine of \$500, or both. Common assaults.
- (i) by omitting from section 494 the words "two hundred dollars" and by inserting instead the words "\$500, or both"; Sec. 494.  
(Aggravated assaults.)
- (j)

*Crimes and Other Acts (Amendment).*

- (j) by omitting section 495; Sec. 495.  
(Assaults respecting the sale of grain.)
- (k) by omitting section 496; Sec. 496.  
(Assaults obstructing workmen.)
- (l) by omitting section 497; Sec. 497.  
(Where jurisdiction excluded.)
- 5 (m) by omitting from section 498 the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494"; Sec. 498.  
(Certificate of dismissal.)
- 10 (n) by omitting from section 499 (2) the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494"; Sec. 499.  
(Certificate or conviction a bar to other proceedings.)
- 15 (o) (i) by omitting from section 501 (1) (a) the word "simple"; Sec. 501.  
(List of offences punishable summarily without consent of accused.)
- (ii) by inserting in section 501 (1) (c) after the words "one hundred and fifty-two" the matter ", 178B";
- (iii) by omitting from section 501 (1) the words "one hundred dollars" where firstly occurring and by inserting instead the matter "\$500";
- 20 (iv) by omitting from section 501 (1) the words "one hundred dollars" where secondly occurring and by inserting instead the words "\$1,000, or both";
- 25 (p) by omitting from section 502 the words "one hundred dollars" and by inserting instead the words "\$500, or both"; Sec. 502.  
(Possession of skin, &c., of stolen cattle.)

(q)

*Crimes and Other Acts (Amendment).*

- (q) by omitting from section 503 the words "the value of the dog, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- 5 (r) by omitting from section 504 the words "forty dollars" and by inserting instead the matter "\$500";
- (s) by omitting from section 505 the words "the value of the animal or bird, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- 10 (t) by omitting from section 507 the words "the value of such animal bird or skin, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- 15 (u) by omitting from section 510 the words "forty dollars" and by inserting instead the matter "\$500";
- (v) by omitting from section 511 the words "the value of the bird, in addition to a fine of four dollars" and by inserting instead the words "a fine of \$200";
- 20 (w) (i) by omitting from section 513 the words "the value of or the injury done to which exceeds ten cents,";
- 25 (ii) by omitting from section 513 the words "pay the value of the property stolen, or intended to be stolen, or the amount of injury done, in addition to a fine of ten dollars" and by inserting instead the words "imprisonment for six months, or to pay a fine of \$500, or both";
- (x) by omitting section 514;
- (y) Sec. 514.  
(The like—second offence.)

*Crimes and Other Acts (Amendment).*

- (y) by omitting from section 515 the words "twenty dollars" and by inserting instead the matter "\$100"; Sec. 515. (Stealing, &c., live or dead fence, &c.)
- (z) by omitting section 516; Sec. 516. (The like—second offence.)
- 5 (aa) (i) by omitting from section 517 the words " , being of or above the value of ten cents,"; Sec. 517. (Unlawful possession of trees, fences, &c.)  
(ii) by omitting from section 517 the words "ten dollars" and by inserting instead the matter "\$100";
- 10 (bb) (i) by omitting from section 518 the words " , such wood being of the value of or above ten cents,"; Sec. 518. (Stealing dead wood.)  
(ii) by omitting from section 518 the words "ten dollars" and by inserting instead the matter "\$100";
- 15 (cc) by omitting section 519; Sec. 519. (The like—second offence.)
- (dd) by omitting from section 520 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 520. (Stealing plants, &c., in gardens.)
- 20 (ee) by omitting from section 521 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of two dollars" and by inserting instead the words "a fine of \$200"; Sec. 521. (Stealing plants, &c., not growing in gardens.)
- 25 (ff) (i) by omitting from section 522 the words "of the value of fifty cents,"; Sec. 522. (Possession of shipwrecked goods.)  
(ii) by omitting from section 522 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";

(gg)

*Crimes and Other Acts (Amendment).*

- (gg) by omitting from section 523 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 523.  
(Offering ship-wrecked goods for sale.)
- 5 (hh) by inserting in section 525 after the word "fine" the words "of \$1,000 in addition to a fine"; Sec. 525.  
(Stealing or damaging books, &c., in public library, &c.)
- (ii) by omitting section 526A (1) and by inserting instead the following subsections :— Sec. 526A.  
(Taking a conveyance without the consent of the owner.)
- (1) Any person who—
- 10           (a) without having the consent of the owner or person in lawful possession of a conveyance takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or
- 15           pretended restoration, or for any other fraudulent purpose; or
- (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,
- 20 shall be guilty of larceny and shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.
- (1A) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether
- 25           decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.
- (jj)

*Crimes and Other Acts (Amendment).*

- (jj) by omitting from section 527 the words "three months, or to pay a fine of forty dollars" and by inserting instead the words "six months, or to pay a fine of \$500, or both";
- 5 (kk) by omitting from section 528 the words "one hundred dollars" and by inserting instead the matter "500";
- (ll) by omitting section 529 and by inserting instead the following section :—
- 10 529. (1) In this section—
- "receives" includes disposes of, and attempts to dispose of;
- "stolen" includes taken, extorted, obtained, embezzled, and otherwise disposed of, unlawfully.
- 15 (2) Any person who receives any stolen property of a value not exceeding \$500, knowing the same to have been stolen, shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.
- 20
12. The Crimes Act 1900 is further amended—
- (a) by omitting the subheading "(C) MALICIOUS INJURIES TO PROPERTY. *Declaratory clauses.*" occurring before section 530 and by omitting section 530;
- 25

Sec. 527.  
(Fraudulently appropriating or retaining property.)

Sec. 528.  
(Advertising reward for return of stolen property.)

Sec. 529.

Receivers punishable summarily.

Further amendment of Act No. 40, 1900.

Sec. 530.  
(Ownership and possession of property injured.)

(b)





*Crimes and Other Acts (Amendment).*

- (k) by omitting from section 545B (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545B. (Intimidation or annoyance by violence or otherwise.)
- 5 (l) (i) by omitting from section 545C (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545C. (Knowingly joining or continuing in an unlawful assembly.)
- (ii) by omitting from section 545C (2) the words "one hundred dollars" and by inserting instead the words "\$1,000, or both";
- 10 (m) by omitting from section 545D the words "six months" and by inserting instead the words "twelve months, or to a fine not exceeding \$1,000, or both"; Sec. 545D. (Unlawful making or possession of explosives.)
- (n) by inserting in section 546 after the words "summary conviction," the word "aids,;" Sec. 546. (Abetting or procuring.)
- 15 (o) by inserting after section 547A the following section and subheading :— Sec. 547B.

## (H) PUBLIC MISCHIEF.

20 547B. (1) Any person who, by any means, knowingly makes to a member of the police force any false representation that an act has been, or will be, done or that any event has occurred, or will occur, which act or event as so represented is such as calls for an investigation by a member of the police force, shall be liable on conviction before a stipendiary magistrate to imprisonment for six months, or to a fine of \$500, or both. Public mischief.

25

(2) For the purposes of subsection (1), a person shall be deemed to make a representation to a member of the police force if he makes the representation

---

*Crimes and Other Acts (Amendment).*

---

representation to any other person and the nature of the representation reasonably requires that other person to communicate it to a member of the police force and that person does so communicate it.

- 5 (p) by omitting section 548A and the subheading thereto; Sec. 548A.  
(Power to  
commit.)
- (q) by omitting from section 554 (3) the words “three hundred dollars” and by inserting instead the matter “\$600”; Sec. 554.  
(Damages  
and  
compensation.)
- 10 (r) by omitting the words “*Conditional release of offenders.*” occurring before section 556A and by inserting instead the heading “PART XV. CONDITIONAL RELEASE OF OFFENDERS.”;
- 15 (s) (i) by omitting from section 556A (1) the words “a court of summary jurisdiction” and by inserting instead the words “any court”; Sec. 556A.  
(Power to  
permit  
release of  
offenders.)
- (ii) by inserting in section 556A (1) after the word “committed,” the words “or to any other matter which the court thinks it proper to consider.”;
- 20 (iii) by inserting after section 556A (1) the following subsection :—
- (1A) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the court shall order.
- 25 (iv) by omitting from section 556A (2) the words “subsection three of section five hundred and fifty-four” and by inserting instead the matter “section 437 (1) or section 554 (3)”;
- 30

(v)

*Crimes and Other Acts (Amendment).*

(v) by omitting section 556A (3) and by inserting instead the following subsection :—

5 (3) Where under subsection (1) a charge is dismissed or an offender is conditionally discharged, the person charged shall have the same rights as to appeal on the ground that he was not guilty of the offence charged as he would have had if convicted of the offence.

10 (t) (i) by inserting in section 556B after the word "recognizance" where firstly occurring the words "(whether entered into for the purposes of section 556A or otherwise)";

Sec. 556B. (Proceedings on breach of condition of recognizance.)

15 (ii) by omitting from section 556B the words "summary jurisdiction" and by inserting instead the words "like jurisdiction to that court".

13. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

20 (a) by omitting the heading "PART XV. FIRST OFFENDERS." occurring before section 557 and by omitting section 557;

Sec. 557. (Interpretation.)

(b) by omitting section 558 and by inserting instead the following section:—

Subst. sec. 558.

25 558. (1) A Court before which a person comes to be sentenced for any offence may if it thinks fit defer passing sentence upon the person and order his release upon his entering into a recognizance, with or without sureties, in such amount as the Court directs, to be of good behaviour for such period as the Court thinks proper and to come up for sentence if called upon.

30

Deferring sentence.

---

*Crimes and Other Acts (Amendment).*

---

(2) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the Court shall order.

5 (3) Where a person has entered into a  
recognizance mentioned in subsection (1) he may  
be removed to such gaol, or other place, as the  
Court may determine, and there forthwith submitted  
10 to the examination customary for securing future  
identification, and may be detained for whatever  
period, not exceeding forty-eight hours, as may be  
necessary for this purpose.

(4) Where the penalty provided by law in  
15 respect of an offence is a sentence of imprisonment  
or a fine or both, nothing in this section prevents the  
imposition of a fine for the offence when sentence  
for the offence is deferred under subsection (1).

(5) The provisions of section 82 of the  
20 Justices Act, 1902, apply to a fine imposed as  
referred to in subsection (4).

(6) A person may be called up for  
sentence and sentenced on the breach by him of  
any of the terms or conditions of a recognizance  
25 entered into by him under this section if the breach  
occurs during the period of the recognizance fixed  
under subsection (1), notwithstanding that the  
period has expired.

(7) Any power conferred upon a Court by  
30 the operation of this section shall be in addition  
to, and not in substitution for, any power conferred  
upon the Court otherwise.

(c)

---

*Crimes and Other Acts (Amendment).*

---

- (c) by omitting section 559;                      Sec. 559.  
(Order for restitution or payment of compensation may be made by Court.)
- (d) by omitting section 560;                      Sec. 560.  
(Offender discharged to report himself.)
- (e) by omitting section 561;                      Sec. 561.  
(Forfeiture of recognizance, &c.)
- (f) by omitting section 562;                      Sec. 562.  
(Otherwise to be discharged and conviction not to be deemed a previous conviction.)
- 5        (g) by inserting in section 578 after the word "seventy-six," the matter "76A,";                      Sec. 578.  
(Publication of evidence may be forbidden in certain cases.)
- (h) by omitting the Second Schedule and by inserting instead the following Schedule :—                      Second Schedule.

**SECOND SCHEDULE.**

10        Parts and sections in force, so far as their provisions are applicable, with respect to all offences and courts.

15        Sections 4 to 10 inclusive, 23, 34, 40, 62, 77, 78, 116, 118 to 124 inclusive, 128 to 130 inclusive, 163, 183, 191, 193 to 195 inclusive, 206, 231, 250,

251,

*Crimes and Other Acts (Amendment).*

251, 344A, 345 to 347 inclusive, 351, Parts X to XIII inclusive, sections 547 to 556B inclusive, section 558 and Part XVI.

- 5 (i) by omitting from the Fourth Schedule the words "two hundred and thirty-three, two hundred and thirty-four,"; Fourth Schedule.
- (j) by omitting the Sixth Schedule. Sixth Schedule.
14. The Justices Act, 1902, is amended— Amendment of Act No. 27, 1902.
- 10 (a) by omitting section 51A (6) (a) and by inserting instead the following paragraph :— Sec. 51A. (Effect of plea of guilty in committal proceedings.)
- (a) a magistrate has jurisdiction to pass sentence upon the person under section 476 (5) (a) of the Crimes Act 1900; or;
- 15 (b) by omitting from section 80 the words " : Provided that in the case of an information, if upon the close of the case for the prosecution it appears to the Justice or Justices that the offence ought to be dealt with by indictment, he or they shall abstain from adjudication thereon and shall deal with the case for the purpose of committal for trial only"; Sec. 80. (After hearing case Justices to convict or make an order or dismiss case.)
- 20 (c) by inserting after section 125 (1) the following subsection :— Sec. 125. (Powers of Court appealed to.)
- 25 (1A) Where the conviction, order, sentence, or adjudication appealed against was recorded, made, passed, or given under the jurisdiction conferred upon a magistrate under section 476 of the Crimes Act 1900, the Court hearing the appeal shall not vary any penalty imposed by increasing it beyond the penalty which could have been imposed by the
- 30 magistrate under that section.

*Crimes and Other Acts (Amendment).*

15. The Jury Act, 1912, is amended—
- (a) by omitting section 27 (3) and by inserting instead the following subsection :—
- (3) Upon the trial of any person for a felony the jury shall, unless the court otherwise orders, be permitted to separate, at any time before they consider their verdict, in the same way as the jury upon the trial of any person for a misdemeanour are permitted to separate.
- (b) by omitting section 27A and by inserting instead the following section :—
- 27A. Where in the course of a criminal trial any member of the jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless—
- (a) if the number of its members is not reduced below ten; or
- (b) if the number of its members is reduced below ten and assent in writing is given by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give),
- and if the court so orders, be considered as remaining for all the purposes of that trial properly constituted.
16. The Criminal Appeal Act, 1912, is amended—
- (a) by omitting from section 5A (2) (g) the words “for the New South Wales State Reports or Weekly Notes” and by inserting instead the words “for any lawful purpose of the Council of Law Reporting for New South Wales”;

Amendment  
of Act No.  
31, 1912.Sec. 27.  
(Trial by  
jury in  
criminal  
cases.)

Sec. 27A.

Provision  
for con-  
tinuance of  
trial where  
juror dies  
or becomes  
incapable.Amend-  
ment  
of Act No.  
16, 1912.Sec. 5A.  
(Point of  
law stated  
by judge.)

(b)

---

*Crimes and Other Acts (Amendment).*

---

(b) by inserting after section 9 (3) the following subsections :—

Sec. 9.  
(Revest-  
ing and  
restitu-  
tion of  
property  
on  
convic-  
tion.)

5 (4) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence—

10 (a) the operation of the direction shall be suspended until the expiration of the time provided for appealing to the court; and

15 (b) where notice of appeal or of application for leave to appeal is given within the time provided, the operation of the direction shall be suspended until the determination of the appeal or refusal of the application,

20 and in cases where the operation of any such direction is suspended until the determination of the appeal, the direction shall not take effect if the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given, is quashed on appeal, except by the special order of the court.

25 (5) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence, the court may annul or vary any such direction although the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given is not  
30 quashed on appeal.



*Crimes and Other Acts (Amendment).*

17. The Criminal Injuries Compensation Act, 1967, is amended—

Amend-  
ment of  
Act No.  
14, 1967.

(a) by omitting section 5 (2) and by inserting instead the following subsections :—

Sec. 5.  
(Payment  
of com-  
pensation  
by  
Treasurer  
to  
applicant.)

5 (2) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that in the circumstances of the case the making under this subsection of a payment to the applicant is justified, the Treasurer  
10 may make a payment to the applicant not exceeding the appropriate amount referred to in subsection (1) (a) as specified in that statement.

15 (2A) In determining the amount of any payment to be made under subsection (2) the Treasurer shall have regard to—

- (a) the appropriate amount referred to in subsection (1) (a); and
- (b) any amounts referred to in subsection (1) (b),

20 as specified in the Under Secretary's statement, and any recommendations made by the Under Secretary with respect to any such amounts referred to in subsection (1) (b).

25 (2B) Any payment made under subsection (2) shall be made ex gratia and not as of right.

(b) by omitting section 7 and by inserting instead the following section :—

Sec. 7.

7. (1) Where a payment is made under section 5 (2) to an aggrieved person—

Rights  
against  
convicted  
person  
where  
payment  
made.

30 (a) the Under Secretary shall forthwith notify the Clerk of the Peace of the particulars of the payment, including the date and amount;

---

*Crimes and Other Acts (Amendment).*

---

- 5 (b) the Clerk of the Peace shall endorse on any certificate thereafter issued by him to the aggrieved person under section 457 (1) of the Crimes Act 1900 the date and amount of the payment so notified to him, and may also issue to the Under Secretary any certificate so endorsed;
- 10 (c) the Under Secretary may file a certificate so issued to him in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the Under Secretary against the offender specified in the certificate for the amount endorsed on the certificate under paragraph (b); and
- 15 (d) the aggrieved person may file a certificate endorsed under paragraph (b) in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the balance of the amount of the sum directed to be paid, specified in the certificate, after deduction of the amount endorsed on the certificate under paragraph (b).
- 20
- 25

30 (2) Where judgment has been entered in favour of an aggrieved person under section 457 (3) of the Crimes Act 1900 in respect of a direction made under section 437 (1) of that Act, and a payment has been made to the aggrieved person pursuant to section 5 (2) in respect of that direction, the Under Secretary may file a notice specifying the date and amount of the payment in

the

---

*Crimes and Other Acts (Amendment).*

---

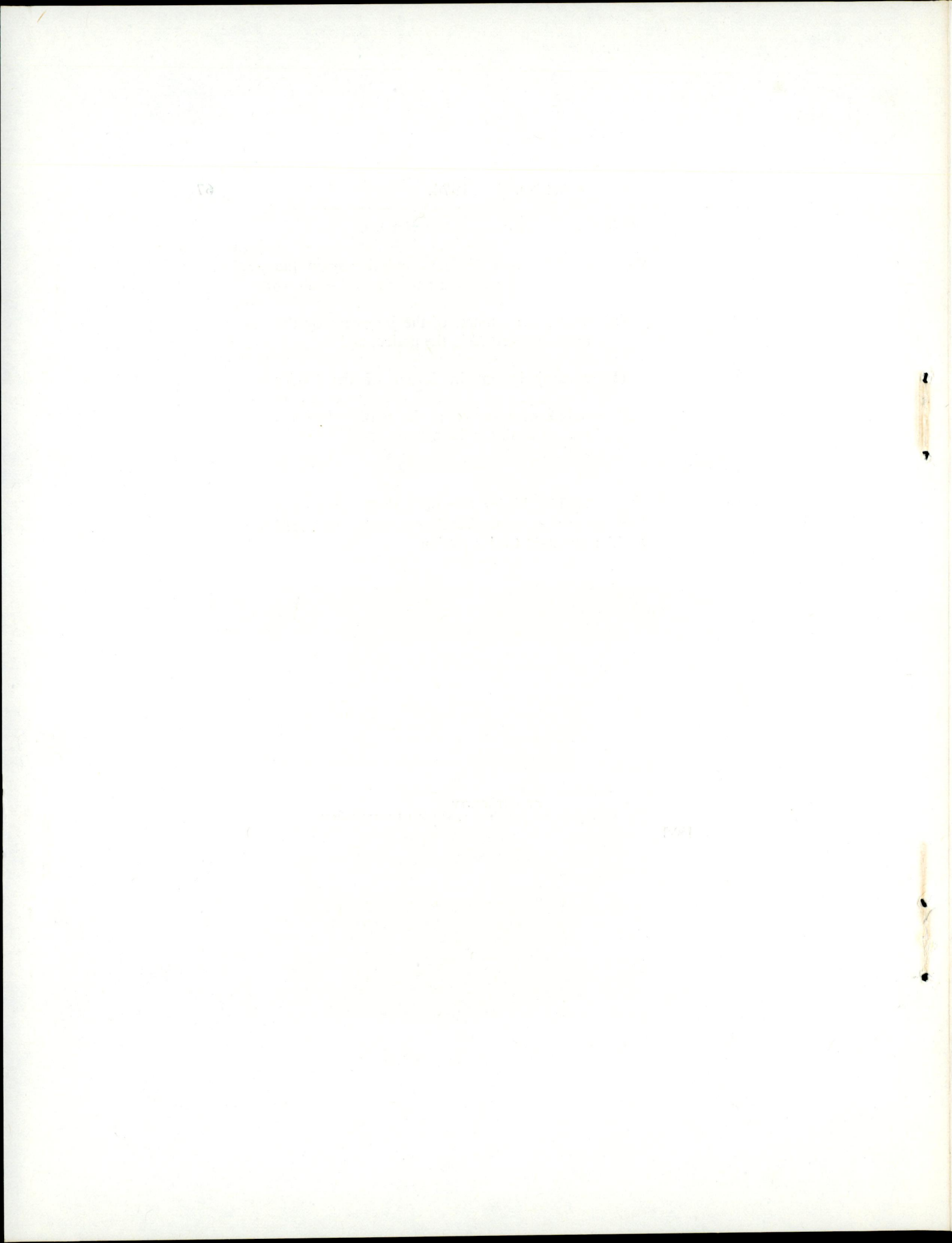
the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall—

- (a) reduce the amount of the judgment by the amount specified in the notice; and
  - 5 (b) enter judgment in favour of the Under Secretary, against the offender against whom judgment in favour of the aggrieved person was entered, for the amount specified in the notice.
- 10 (3) The Under Secretary shall pay to the Consolidated Revenue Fund any money recovered by him pursuant to this section.

---

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974  
[60c]



*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.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 19 March, 1974.*

## New South Wales



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No.           , 1974.**

An Act to make provision for certain new offences; to amend the law relating to certain existing offences; to make provision for a defence of diminished responsibility in a trial for murder; to amend the law so as to remove the right of an accused person to make an unsworn statement in a criminal trial; to re-enact with modifications and additions certain provisions relating to the cross-examination of an accused person, the payment of compensation to a person aggrieved by a misdemeanour or felony, the summary trial of indictable offences, deferring sentence and the separation of juries; to repeal certain obsolete provisions of the Crimes Act 1900;

---

*Crimes and Other Acts (Amendment).*

---

to alter the penalties which may be imposed for certain offences; for these and other purposes to amend the Crimes Act 1900, the Justices Act, 1902, the Jury Act, 1912, the Criminal Appeal Act, 1912, and the Criminal Injuries Compensation Act, 1967; and for purposes connected therewith.

**B**E 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:—

- 5
1. This Act may be cited as the "Crimes and Other Acts (Amendment) Act, 1974". Short title.
  
  2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette. Commence-ment.
  
  3. (1) Subject to this section, in so far as it affects any matter of procedure or evidence or the jurisdiction or powers of any Court in relation to an offence, this Act shall have effect in relation to proceedings on—
- 15
- (a) a trial on indictment for the offence if, but only if, the indictment is filed after the day appointed for the commencement of this Act; or
  - (b) a summary trial for the offence if, but only if, the hearing is commenced after the day so appointed.

(2)

---

*Crimes and Other Acts (Amendment).*

---

(2) Section 5 (b) shall have effect in relation to an offence if, but only if, an indictment for that offence is filed after the day appointed for the commencement of this Act.

5 (3) Section 5 (r) shall have effect in relation to proceedings notwithstanding that they have been commenced before the day appointed for the commencement of this Act.

(4) Section 8 (b) shall have effect in a trial on indictment if, but only if, the committal proceedings in relation to the trial have been commenced on or after the day appointed  
10 for the commencement of this Act.

(5) Section 9 (c) and (d) shall have effect for the purpose of giving, on or after the day appointed for the commencement of this Act, a direction for the payment of compensation, and in relation to a direction so given.

15 (6) Section 15 (a) shall have effect with respect to a jury in the trial of a person for a felony, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

20 (7) Section 15 (b) shall have effect with respect to a jury in a criminal trial, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

25 (8) Section 17 shall have effect for the purpose of making any payment, and in respect of any payment made, under the Criminal Injuries Compensation Act, 1967, if, but only if—

- (a) the payment is made under that Act after the day appointed for the commencement of this Act; and
- 30 (b) the payment so made follows on a direction for the payment of compensation given under section 437 of the Crimes Act 1900 on or after the day so appointed.

(9)

*Crimes and Other Acts (Amendment).*

(9) The Criminal Injuries Compensation Act, 1967 (as in force immediately before the day appointed for the commencement of this Act) shall—

- 5 (a) continue to apply to and in respect of any payment made under that first-mentioned Act before the day so appointed; and
- (b) have effect for the purpose of making any payment, and in respect of any payment made, if section 17 does not (pursuant to subsection (8)) have effect for that purpose and in that respect.
- 10

(10) Nothing in this Act shall affect any term of imprisonment or the amount of any fine which may be imposed on conviction for an offence committed before the day appointed for the commencement of this Act.

15 4. The Crimes Act 1900 is amended—

- (a) (i) by inserting in the matter relating to Part III in section 1 after the matter "81B." the words "(10A) *Misconduct with regard to corpses.*—s. 81C.";
- 20 (ii) by inserting in the matter relating to Part IV in the same section after the word "*offences.*" the matter "(aa) GENERAL.—s. 93J.";
- (iii) by omitting from the same matter the word ", BURGLARY,";
- 25 (iv) by omitting from the same matter the words "*Simple larceny and general*" and by inserting instead the word "*General*";
- (v) by omitting from the same matter the words "*and telegraphs.*—ss. 230-234" and by inserting instead the matter ".—ss. 230-232";
- 30 (vi)

Amend-  
ment of  
Act No. 40,  
1900.  
Sec. 1.  
(Short  
title and  
contents  
of Act.)



---

*Crimes and Other Acts (Amendment).*

---

- (vi) by omitting from the same matter the matter "ss. 245, 246" and by inserting instead the matter "s. 245";
- 5 (vii) by inserting in the same matter after the matter "s. 248" the words "(17A) *False statement that person or property in danger.—s. 248A.*";
- (viii) by inserting after the matter relating to Part VIII in the same section the following matter :—
- 10                   PART VIII A.—ATTEMPTS.—s. 344A.
- (ix) by omitting from the matter relating to Part XI in the same section the matter "405" and by inserting instead the matter "405A";
- 15 (x) by omitting from the matter relating to Part XII in the same section the words "(4) *Sentences of whipping or irons.—ss. 434-436.*";
- (xi) by omitting from the same matter the matter "s. 437" and by inserting instead the matter "ss. 437, 437A";
- 20 (xii) by omitting from the matter relating to Part XIII in the same section the words "(3) *Whipping sentences.—ss. 455, 456.*";
- (xiii) by omitting from the matter relating to Part XIV in the same section the words "(2) *Offences and punishment.—ss. 477, 478.*";
- 25 (xiv) by omitting from the same matter the matter "ss. 479-481" and by inserting instead the matter "ss. 480, 481";

(xv)

---

*Crimes and Other Acts (Amendment).*

---

- (xv) by omitting from the same matter the words  
 “CHAPTER II.—OFFENCES PUNISHABLE  
 SUMMARILY IN CERTAIN CASES BY WHIPPING.  
 —ss. 482-492.”;
- 5 (xvi) by omitting from the same matter the following  
 words :—
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.*—ss. 530,  
 531.
- 10 style="padding-left: 80px;">(2) *Injuries to trees, shrubs, vege-  
 table produce, fences, &c.*—ss.  
 532-538.
- (3) *Injuries to certain animals.*—  
 ss. 539, 540.
- 15 style="padding-left: 80px;">(4) *Injuries not otherwise provided  
 for.*—ss. 541, 542.
- (5) *Application of compensation.*  
 —s. 543.
- (D) COINAGE OFFENCES.—ss. 544, 545.
- 20 (xvii) by inserting in the same matter after the matter  
 “s. 547A.” the words “(H) PUBLIC MISCHIEF.  
 —s. 547B.”;
- (xviii) by omitting from the same matter the words  
 “(1A) *Power to commit.*—s. 548A.”;
- 25 (xix) by omitting from the same matter the words  
 “(9) *Conditional release of offenders.*—ss.  
 556A, 556B.”;
- (xx) by omitting from the matter relating to Part  
 XV in the same section the words “FIRST  
 30 OFFENDERS.—ss. 557-562” and by inserting  
 instead the words “CONDITIONAL RELEASE OF  
 OFFENDERS.—ss. 556A-560A”.

(b)

*Crimes and Other Acts (Amendment).*

- (b) (i) by omitting the definition of "*Dwelling-house*" in section 4 and by inserting instead the following definition :— Sec. 4.  
(Interpretation.)

"*Dwelling-house*" includes—

- 5 (a) any building or other structure intended for occupation as a dwelling and capable of being so occupied, although it has never been so occupied;
- 10 (b) a boat or vehicle in or on which any person resides; and
- 15 (c) any building or other structure within the same curtilage as a dwelling-house, and occupied therewith or whose use is ancillary to the occupation of the dwelling-house.

- (ii) by inserting in section 4 after the definition of "*Night*" the following definition :—

20 "*Offensive weapon*" and "*Offensive weapon, or instrument*" include an imitation or replica of an offensive weapon or of an offensive weapon, or an instrument, as the case may require.

- 25 (iii) by inserting in section 4 after the definition of "*Vessel*" the following definition :—

30 "*Weapon*" and "*Weapon, or instrument*" include an imitation or replica of a weapon or of a weapon, or an instrument, as the case may require.

- (iv) by inserting at the end of section 4 the following subsection :—

35 (2) A dwelling-house does not cease to be a dwelling-house by reason only of being temporarily unoccupied.

(c)

*Crimes and Other Acts (Amendment).*

(c) by omitting from section 10 the words "or whipping," Sec. 10.  
(What offences misdemeanours.)

5. The Crimes Act 1900 is further amended— Further amendment of Act No. 40, 1900.

5 (a) by omitting from section 18 (1) (a) the words "of an act obviously dangerous to life, or"; Sec. 18.  
(Murder defined.)

(b) by inserting after section 23 the following section :— Sec. 23A.

10 23A. (1) Where, on the trial of a person for murder, it appears that at the time of the acts or omissions causing the death charged the person was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for the acts or omissions, he shall not be convicted of murder. Diminished responsibility.

15 (2) It shall be upon the person accused to prove that he is by virtue of subsection (1) not liable to be convicted of murder.

20 (3) A person who but for subsection (1) would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

25 (4) The fact that a person is by virtue of subsection (1) not liable to be convicted of murder in respect of a death charged shall not affect the question whether any other person is liable to be convicted of murder in respect of that death.

(5)

*Crimes and Other Acts (Amendment).*

(5) Where, on the trial of a person for murder, the person contends—

5 (a) that he is entitled to be acquitted on the ground that he was mentally ill at the time of the acts or omissions causing the death charged; or

10 (b) that he is by virtue of subsection (1) not liable to be convicted of murder, evidence may be offered by the Crown tending to prove the other of those contentions, and the Court may give directions as to the stage of the proceedings at which that evidence may be offered.

15 (c) by omitting from section 24 the words “, or for any term not less than three years, or to imprisonment for any term not exceeding three years”; Sec. 24. (Man-slaughter—punishment.)

(d) by inserting after section 32B the following Sec. 32c. section :—

20 32c. (1) Any person who makes a demand of any person with a threat to destroy or endanger the safety of an aircraft, vessel, motor vehicle, engine or carriage used upon a railway, or building, or to kill or injure all or any of the persons in or on any such aircraft, vessel, motor vehicle, engine, carriage or building, shall be liable to penal servitude for life. Threats to destroy aircraft or other conveyances.

30 (2) Any person who makes a demand of any person with any threat mentioned in subsection (1) and while that threat subsists discharges any firearm, or causes any explosion, or wounds or inflicts grievous bodily harm on any person, shall be liable to penal servitude for life.

(3) The provisions of section 442 shall not be in force with respect to the sentence to be passed under subsection (2)

(4)

---

*Crimes and Other Acts (Amendment).*

---

(4) For the purposes of subsection (1), "building" includes any bridge, mine or structure in the nature of a building.

5 (e) by inserting after section 33 the following sections :— Secs. 33A  
and 33B.

33A. Any person who maliciously discharges, or in any manner attempts to discharge, any kind of loaded arms with intent to do grievous bodily harm to any person, or with intent to resist, or prevent, the lawful apprehension or detention either of himself or any other person, shall be liable to penal servitude for fourteen years. Discharging  
loaded arms  
with intent.

10

33B. Any person who—

15 (a) uses, attempts to use or threatens to use an offensive weapon or instrument; or Use of  
weapon  
to resist  
arrest, &c.

(b) threatens injury to any person or property, with intent to prevent or hinder the lawful apprehension or detention either of himself or any other person or to prevent or hinder a member of the police force from investigating any act or circumstance which reasonably calls for investigation by the member shall be liable to penal servitude for ten years.

20

25 (f) by omitting from section 35 the word "five" and by inserting instead the word "seven"; Sec. 35.  
(Maliciously  
wounding or  
inflicting  
grievous  
bodily  
harm.)

(g) by omitting section 45; Sec. 45.  
(Wife or  
child  
desertion.)

(h)

*Crimes and Other Acts (Amendment).*

(h) by omitting section 49 and by inserting instead the Sec. 49. following section :—

49. (1) Any person who—

Setting trap, &c.

5

(a) places or sets, or causes to be placed or set, any trap, device or thing (whether its nature be electronic, electric, mechanical, chemical or otherwise) capable of destroying human life or inflicting grievous bodily harm on any person; or

10

(b) knowingly permits any such trap, device or thing to continue to be placed or set,

with intent to inflict grievous bodily harm shall be liable to imprisonment for five years.

15

(2) Nothing in subsection (1) shall extend to any gin or trap, placed with the intention of destroying vermin, or to any trap, device or thing placed in a dwelling-house for the protection thereof.

20

(i) by omitting from section 51 the word "life" and by inserting instead the words "ten years";

Sec. 51. (Casting stone, &c., on a railway carriage.)

(j) (i) by omitting section 52A (1) and (2) and by inserting instead the following subsections :—

Sec. 52A. (Culpable driving.)

25

(1) Where the death of, or grievous bodily harm to, any person is occasioned through—

(a) the impact with any object of a motor vehicle in which that person was a passenger;

30

(b) a motor vehicle in which that person was a passenger overturning or leaving the highway.

(c)

---

*Crimes and Other Acts (Amendment).*

---

- (c) impact with a motor vehicle ; or
- (d) the impact of a motor vehicle with any vehicle or other object in, on or near which that person was at the time of the impact,

and the motor vehicle was at the time of the impact, or at the time of overturning or leaving the highway, being driven by another person—

- (e) under the influence of intoxicating liquor or of a drug ; or
- (f) at a speed or in a manner dangerous to the public,

the person who was so driving the motor vehicle shall be guilty of the misdemeanour of culpable driving.

(2) A person convicted of the misdemeanour of culpable driving is—

- (a) if the death of any person was occasioned, liable to imprisonment for five years ; or
- (b) if grievous bodily harm to any person was occasioned, liable to imprisonment for three years.

(ii) by omitting from section 52A (7) the words “and structure” and by inserting instead the words “, structure, earthwork, embankment, gutter, stormwater channel, drain, bridge, culvert, median strip, post and tree” ;

(k) by omitting from section 61 the words “, and if the person assaulted is a female, shall, in addition, be liable to be once privately whipped” ;

Sec. 61.  
(Common assault prosecuted by indictment.)

(1)



*Crimes and Other Acts (Amendment).*

- (l) by omitting from section 64 the words "but with her consent" and by inserting instead the words ", but are not satisfied that carnal knowledge was had without her consent"; Sec. 64. (Trial for rape—verdict of carnal knowledge.)
- 5 (m) by omitting from section 70 the words "and that the accused had not carnal knowledge of such girl, but" and by inserting instead the words "but are not satisfied that the accused had carnal knowledge of the girl, and are satisfied that he"; Sec. 70. (Trial for carnal knowledge—verdict of assault with intent.)
- 10 (n) by inserting in section 72 after the words "any girl" the words "of or"; Sec. 72. (Attempts.)
- (o) (i) by omitting from section 76 the word "three" and by inserting instead the word "four"; Sec. 76. (Indecent assault.)
- 15 (ii) by omitting from section 76 the word "five" and by inserting instead the word "six";
- (p) by inserting after section 76 the following Sec. 76A.  
section :—
- 20 76A. Any person who commits any act of indecency with or towards any girl under the age of sixteen years, or incites a girl under that age to any act of indecency with him or another, shall be liable to imprisonment for two years. Act of indecency.
- 25 (q) (i) by omitting from section 77 the words "or seventy-four" and by inserting instead the matter "74 or 76A"; Sec. 77. (Consent no defence in certain cases.)
- (ii) by omitting from section 77 the words "or seventy-two" and by inserting instead the matter ", 72 or 76A";

(r)

*Crimes and Other Acts (Amendment).*

- (r) by inserting after section 77 the following Sec. 77A.  
section :—

5 77A. Any proceedings in respect of an offence under section 63, 65, 66, 67, 68, 71, 72, 72A, 73, 74, 76 or 76A shall, if the Court so directs, be held in camera. Proceedings in camera in certain cases.

- (s) by inserting after section 81B the following Sec. 81c.  
section and subheading :—

*Misconduct with regard to corpses.*

10 81c. Any person who— Misconduct with regard to corpses.

(a) indecently interferes with any dead human body; or

(b) improperly interferes with, or offers any indignity to, any dead human body or human remains (whether buried or not),

15 shall be liable to imprisonment for two years.

- (t) by omitting from section 91A the words “female under the age of twenty-one years, whether with her consent or not, with intent that some other person may have carnal knowledge of such female” and by inserting instead the words “person, whether with that person’s consent or not, for purposes of prostitution”; Sec. 91A. (Procur-ing, &c.)

25 (u) by omitting from section 91B the words “woman of or above the age of twenty-one years with intent that some other person may have carnal knowledge of such woman” and by inserting instead the words “person for purposes of prostitution”; Sec. 91B. (Pro-curing person by drugs, &c.)

30 (v) by omitting from section 91D the word “female” and by inserting instead the words “person (not being a member of the police force acting in the course of his duty)”. Sec. 91D. (Employ-ment in brothel.)

*Crimes and Other Acts (Amendment).*

6. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

(a) by inserting next after the words "Chapter I.— *Stealing and like offences.*" in Part IV the following section and subheading :—

Sec. 93J.

5

GENERAL.

10

15

93J. Where on the trial of a person for any offence which includes the stealing of any property it appears that the property was, at the time when it was taken by the accused, already out of the possession of the owner by reason of its having been previously stolen, the accused may be convicted of the offence charged notwithstanding that it is not proved that the taking by him amounted to an interference with the right to possession of, or a trespass against, the owner.

Property previously stolen.

(b) by omitting from section 99 the word "seven" and by inserting instead the word "ten";

Sec. 99. (Demanding money with intent to steal.)

(c) by omitting from the subheading occurring before section 106 the word ", BURGLARY";

Sub-heading before sec. 106.

20

(d) by omitting section 108;

Sec. 108. (Burglary.)

(e) by omitting from section 109 the words "in the night, shall be deemed guilty of burglary, and";

Sec. 109. (Entering with intent, or stealing, &c., in dwelling-house and breaking out.)

(f)

*Crimes and Other Acts (Amendment).*

(f) by omitting section 114 and by inserting instead Sec. 114. the following section :—

114. (1) Any person who—

- 5 (a) is armed with any weapon, or instrument, with intent to enter a building and to commit a felony or misdemeanour therein; Being armed, &c., with intent to commit offence.
- 10 (b) has in his possession, without lawful excuse, any implement of housebreaking or safe-breaking, or any implement capable of being used to enter or drive or enter and drive a conveyance;
- 15 (c) has his face blackened or otherwise disguised, or has in his possession the means of blacking or otherwise disguising his face, with intent to commit a felony or misdemeanour;
- 20 (d) enters or remains in or upon any part of a building or any land occupied or used in connection therewith with intent to commit a felony or misdemeanour in or upon the building,

shall be liable to penal servitude for seven years.

(2) For the purposes of subsection (1)

- 25 (b) "conveyance" means any cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly. 05
- 30 (g) by omitting from the subheading appearing before section 117 the words "*Simple larceny and general*" and by inserting instead the word "*General*"; Sub-heading before sec. 117.

(h)

*Crimes and Other Acts (Amendment).*

- (h) by omitting from section 117 the word "simple" wherever occurring; Sec. 117.  
(Punishment for larceny.)
- 5 (i) by inserting in section 120 after the word "pretence" where firstly occurring the words "or by any wilfully false promise"; Sec. 120.  
(Trial for larceny—verdict of embezzlement, &c.)
- (j) by omitting from section 124 the words "two hundred dollars" and by inserting instead the words "\$2,000, or both"; Sec. 124.  
(Fraudulent appropriation.)
- 10 (k) by omitting from section 125 the words ", and may be convicted thereof upon an indictment for simple larceny"; Sec. 125.  
(Larceny by bailee.)
- (l) by omitting from section 126 the word "ten" and by inserting instead the word "fourteen"; Sec. 126.  
(Stealing cattle or killing with intent to steal.)
- (m) by omitting from section 134 the word "simple"; Sec. 134.  
(Stealing, destroying, &c., valuable security.)
- 15 (n) by inserting in section 136 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 136.  
(Proviso to sections 134 and 135.)
- (o) by omitting from section 139 the word "simple"; Sec. 139.  
(Stealing, &c., metal, glass, wood, &c., fixed to house or land.)
- 20 (p) by omitting from section 140 the word "simple"; Sec. 140.  
(Stealing, &c., trees, &c., in pleasure grounds.)

*Crimes and Other Acts (Amendment).*

- (q) by omitting from section 144 the word "simple"; Sec. 144.  
(Stealing ore of metal, coal, &c.)
- (r) by omitting from section 147 the word "simple"; Sec. 147.  
(Fraud on partners in mines, &c.)
- (s) by omitting from section 153 the word "fourteen" and by inserting instead the word "ten"; Sec. 153.  
(Stealing from ship in distress or wrecked.)
- 5 (t) by omitting from section 154 the word "simple"; Sec. 154.  
(Tenants, &c., stealing articles let to hire.)
- (u) by omitting section 154A and by inserting instead the following section :— Sec. 154A.

154A. (1) Any person who—

- 10 (a) without having the consent of the owner or person in lawful possession of a conveyance, takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or
- 15 (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,

20 shall be deemed to be guilty of larceny and liable to be indicted for that offence.

25 (2) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used or intended for navigation, and "drive" shall be construed accordingly.

(v)

*Crimes and Other Acts (Amendment).*

- (v) by omitting from section 154c the word "simple"; Sec. 154c.  
(Malicious or fraudulent abstraction, waste, &c., of electricity.)
- (w) by omitting from section 163 the word "simple"; Sec. 163.  
(Trial for embezzlement—verdict of larceny.)
- (x) by omitting from section 173 the word "ten" and by inserting instead the word "fourteen"; Sec. 173.  
(Directors, &c., fraudulently appropriating, &c., property.)
- 5 (y) by omitting from section 174 the word "ten" and by inserting instead the word "fourteen"; Sec. 174.  
(Directors, &c., omitting certain entries.)
- (z) by omitting from section 175 the word "ten" and by inserting instead the word "fourteen"; Sec. 175.  
(Director, &c., wilfully destroying, &c., books of company, &c.)
- 10 (aa) by omitting from section 176 the word "ten" and by inserting instead the word "fourteen"; Sec. 176.  
(Director or officer publishing fraudulent statements.)
- (bb) by inserting in section 177 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 177.  
(Proviso to ss. 165 to 176 incl.)
- 15 (cc) by omitting from section 183 the word "simple"; Sec. 183.  
(Trial for false pretences, &c.—verdict of larceny.)
- (dd)

*Crimes and Other Acts (Amendment).*

- (dd) by omitting from section 184 the word "life" and by inserting instead the words "seven years"; Sec. 184. (Fraudulent personation.)
- 5 (ee) by inserting in section 188 after the word "receives" the words ", or disposes of, or attempts to dispose of,"; Sec. 188. (Receiving where principal guilty of felony.)
- (ff) by inserting in section 189 after the word "receives" the words ", or disposes of, or attempts to dispose of,"; Sec. 189. (Receiving where principal guilty of misdemeanour.)
- 10 (gg) (i) by inserting in section 189A (1) after the word "receives" the words ", or disposes of, or attempts to dispose of,"; Sec. 189A. (Receiving, &c., goods stolen out of New South Wales.)
- 15 (ii) by inserting in section 189A (1) after the words "been stolen," the words "and whether or not he took part in the stealing of the property,";
- (hh) by inserting after section 189A the following section :— Sec. 189B.
- 20 189B. (1) Where in the trial of a person for the offence under section 188 or 189 of receiving, or disposing of, or attempting to dispose of, any property knowing it to have been stolen, it is proved that the property was stolen in the course of transmission between New South Wales and any other jurisdiction or between any other jurisdiction and New South Wales— Prosecution under section 188 or 189 where property stolen in course of transmission.
- 25 (a) the person shall be liable to be convicted of the offence without proof that the stealing took place in New South Wales; and
- 30 (b) for the purpose of determining whether or not the stealing amounts to a felony or a misdemeanour, the stealing shall be deemed to have taken place in New South Wales.
- (2)



*Crimes and Other Acts (Amendment).*

(2) For the purposes of subsection (1) "other jurisdiction" means a State (other than New South Wales) or Territory of the Commonwealth.

- 5 (ii) by inserting in section 190 after the word "receives" where secondly occurring the words ", or disposes of, or attempts to dispose of,"; Sec. 190. (Receiving cattle feloniously killed, or carcass, &c.)
- (jj) by omitting from section 213 the word "ten" and by inserting instead the word "five"; Sec. 213. (Setting fire to fences.)
- 10 (kk) by omitting from section 214 the words "lable to penal servitude for seven years" and by inserting instead the words "liable to penal servitude for three years"; Sec. 214. (Attempts to set fire to such things.)
- (ll) by omitting section 216; Sec. 216. (Injuring trees, shrubs, &c., in pleasure-ground, &c.)
- (mm) by omitting section 217; Sec. 217. (The like to value of over \$10 elsewhere.)
- 15 (nn) by omitting section 218; Sec. 218. (Injuring trees, &c., after two summary convictions.)
- (oo) by omitting section 219; Sec. 219. (Destroying plant, &c., in a garden after one summary conviction.)
- (pp)

---

*Crimes and Other Acts (Amendment).*

---

- (pp) by omitting from the subheading occurring before section 230 the words "*and telegraphs*"; Sub-heading before sec. 230.
- (qq) by omitting section 233; Sec. 233. (Injuring telegraph posts, &c.)
- (rr) by omitting section 234; Sec. 234. (Attempt.)
- 5 (ss) (i) by omitting from section 245 the words "other than pigs or goats,"; Sec. 245. (Killing or maiming cattle.)  
(ii) by omitting from section 245 the words "forty dollars" and by inserting instead the matter "\$1,000";
- 10 (tt) by omitting section 246; Sec. 246. (Cruelly wounding or torturing cattle.)
- (uu) (i) by omitting from section 247 the words " , to an amount exceeding ten dollars,"; Sec. 247. (Other injuries.)  
(ii) by omitting from section 247 the words "shall be liable to imprisonment for two years, and where such offence is committed in the night,";
- 15 (vv) by omitting from section 248 the word "seven" and by inserting instead the word "five"; Sec. 248. (Letters threatening to destroy property.)
- (ww) by inserting after section 248 the following section and subheading :— Sec. 248A.
- 20 *False statement that person or property in danger.*  
248A. Where any person knowingly makes to any other person a false statement, or sends to any other person a document containing a statement that he knows to be false, and the statement tends to

to

*Crimes and Other Acts (Amendment).*

5 to give rise to apprehension for the safety of any person (including the person making the statement and the person to whom it is made) or property, or both, he shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for twelve months, or both, or on conviction on indictment to imprisonment for five years.

## 7. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

- 10 (a) by omitting from section 271 the word "life" and by inserting instead the words "fourteen years"; (Forging wills.) Sec. 271.
- (b) (i) by omitting from section 336 the words "in a judicial proceeding,"; (Tampering with witness.) Sec. 336.
- 15 (ii) by omitting from section 336 the words "such person being bound by recognizance or subpoena so to attend,";
- (c) by inserting after section 344 the following Part :— Part VIII.A.

## PART VIII.A.

## ATTEMPTS.

20 344A. (1) Subject to this Act, any person who attempts to commit any offence for which a penalty is provided under this Act shall be liable to that penalty. Attempts.

25 (2) Where a person is convicted of an attempt to commit an offence and the offence concerned is a felony he shall be deemed to have been convicted of a felony.

- (d) by omitting from section 351 the word "Whosoever" and by inserting instead the words "Any person who aids,"; (Abettors in misdemeanours—how tried and punished.) Sec. 351.
- (e)

*Crimes and Other Acts (Amendment).*

(e) by inserting in section 353B after the word "months" the words ", or to a fine of \$500, or both"; Sec. 353B.  
(Person apprehended carrying razor, &c.)

(f) by omitting section 354 and by inserting instead the following section :— Sec. 354.

5           354. (1) Upon a complaint made on oath that there is reasonable ground to believe that there is in or on any premises— Search warrant for property where indictable offence in respect thereof committed, &c.

10           (a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed;

              (b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of any indictable offence; or

15           (c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any indictable offence,

20           a justice may, by warrant, authorise and require any member of the police force to enter and search the premises.

              (2) A warrant issued under subsection (1) shall be executed by day, unless the justice, by the warrant, authorises its execution by night.

25           (3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

30           (4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5)

---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force executing a warrant issued under subsection (1) may—

- 5 (a) seize or dispose of in a safe place, or guard in or on the premises, anything mentioned in the warrant and, in addition, any other thing that on reasonable grounds he believes has been obtained by, or has been used in, the commission of an offence, until any charge in relation thereto is dealt with; and
- 10 (b) arrest, search and bring before a justice any person found in the premises whom he suspects of having committed an offence in respect of anything so seized.

15 (6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on the premises, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

20 (7) Any person who without lawful excuse hinders or obstructs any person executing a warrant issued under subsection (1) shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000, or both.

25 (8) For the purposes of this section—

“indictable offence” includes any act or omission which if done, or omitted to be done, in New South Wales would constitute an offence punishable on indictment;

30 “premises” includes any structure, building, aircraft, vehicle, vessel, or place (whether built upon or not), and any part thereof.

(g)

*Crimes and Other Acts (Amendment).*

(g) by omitting from section 356 (1) the words "section three hundred and fifty-four or";

Sec. 356.  
(Pro-  
ceedings on  
finding  
explosive  
substances,  
&c., under  
warrant.)

(h) by omitting section 357 and by inserting instead the following section :—

Sec. 357.

5           357. (1) Upon a complaint made on oath that the complainant has reason to suspect, and believes, that an animal stolen or otherwise unlawfully obtained is concealed or lodged in or on any specified premises, a justice may, by warrant, authorise and require any member of the police force to enter and search the premises.

Searching  
for stolen  
cattle.

10                           (2) A member of the police force may without a warrant—

15                           (a) require the person in charge of a vehicle to cause the vehicle to stop or remain stationary and afford him access to the vehicle, and may enter and search the vehicle; or

20                           (b) enter and search a vehicle,  
for the purpose of searching for any animal that has been stolen or otherwise unlawfully obtained, or that is reasonably suspected of having been stolen or otherwise unlawfully obtained.

25                           (3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

30                           (4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5)

---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force may—

- 5 (a) seize or dispose of in a safe place, or guard  
in or on the premises or in the vehicle, any  
animal found pursuant to a search under  
subsection (1) or (2) that is reasonably  
suspected of having been stolen or otherwise  
unlawfully obtained, until any charge in  
relation to the animal is dealt with; and
- 10 (b) arrest, search and bring before a justice any  
person found in premises, or in charge of or  
in any vehicle, whom he suspects of having  
committed an offence in respect of any  
animal.

15 (6) After it has been produced in  
evidence, or when it is not required as evidence,  
anything seized, disposed of in a safe place, or  
guarded in or on premises or in a vehicle, under  
subsection (5) (a) shall be disposed of as the Court  
or any stipendiary magistrate shall direct.

20 (7) Any person who without lawful  
excuse—

- 25 (a) hinders or obstructs any person executing a  
warrant issued under subsection (1), or a  
member of the police force searching a  
vehicle under subsection (2);
- (b) fails or neglects to cause a vehicle to stop  
or remain stationary when required to do  
so by a member of the police force acting  
under subsection (2); or
- 30 (c) fails to afford access to a vehicle to a  
member of the police force acting under  
subsection (2),

35 shall be guilty of an offence and liable to  
imprisonment for two years or to a fine of \$2,000,  
or both.

(8)

*Crimes and Other Acts (Amendment).*

5 (8) Nothing in subsection (1) shall prevent a member of the police force who finds on any premises any animal reasonably suspected of having been stolen or unlawfully obtained, from seizing or retaining the animal without a warrant.

(9) For the purposes of this section—  
“animal” means a bull, steer, cow, heifer, calf, horse, mare, gelding, colt, foal, filly, ram, ewe, sheep, lamb or pig, and includes any part, skin or carcass of any such animal;  
10 “premises” includes any structure, building, or place (whether built upon or not), and any part thereof;  
“vehicle” includes a vessel.

15 8. The Crimes Act 1900 is further amended—

(a) (i) by omitting section 405 (1) and by inserting instead the following subsections :—

20 (1) In any proceedings an accused person shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination.

25 (1A) Subsection (1) shall not affect the right of the accused, if not represented by counsel, to address the Court or jury otherwise than on oath on any matter on which, if he were so represented, counsel could address the Court or jury on his behalf.

Further amendment of Act No. 40, 1900. Sec. 405. (Accused not entitled to give evidence without being sworn.)

(ii)



---

*Crimes and Other Acts (Amendment).*

---

(ii) by inserting after section 405 (2) the following subsection :—

5 (3) Where the accused does not give evidence or call any witness or witnesses in support of the defence the accused or his counsel shall be entitled to address the jury but, if counsel for the Crown addresses the jury, the accused or his counsel shall not be so entitled until after counsel for the Crown has done so.

(b) by inserting after section 405 the following **Sec. 405A.** section :—

15 405A. (1) On a trial on indictment the defendant shall not without the leave of the Court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi. **Notice of alibi.**

20 (2) Without prejudice to subsection (1), on a trial on indictment the defendant shall not without the leave of the Court call any other person to give evidence in support of an alibi unless—

25 (a) the notice under that subsection includes the name and address of the person, or, if the name or address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the person;

30 (b) if the name or the address is not included in the notice, the Court is satisfied that the defendant before giving the notice took, and thereafter continued to take, all reasonable steps to secure that the name or the address would be ascertained;

(c)

---

*Crimes and Other Acts (Amendment).*

---

5 (c) if the name or the address is not included in the notice, but the defendant subsequently discovers the name or address or receives other information which might be of material assistance in finding the person, he forthwith gives notice of the name, address or other information, as the case may be; and

10 (d) if the defendant is notified by or on behalf of the Crown that the person has not been traced by the name or at the address given by the defendant, he forthwith gives notice of any information which might be of material assistance in finding the person and which is then in his possession or, on  
15 subsequently receiving any such information, forthwith gives notice of it.

20 (3) The Court shall not refuse leave under this section if it appears to the Court that on the committal for trial of the defendant he was not informed by the committing justice of the requirements of subsections (1), (2) and (5), and the statement in writing of the committing justice that the defendant was so informed shall be evidence  
25 that the defendant was so informed.

(4) Any evidence tendered to disprove an alibi may, subject to any direction by the Court, be given before or after evidence is given in support of the alibi.

30 (5) Any notice purporting to be given under this section on behalf of the defendant by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(6)

*Crimes and Other Acts (Amendment).*

5 (6) A notice under this section shall be given in writing to the Clerk of the Peace, and may be given by delivering it to the Clerk of the Peace, or by leaving it at his office, or by sending it in a registered letter or by certified mail addressed to him at his office.

(7) In this section—  
“evidence in support of an alibi” means evidence  
10 tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time  
15 of its alleged commission;

“the prescribed period” means the period of ten days commencing at the time of the committal of the defendant for trial.

20 (c) (i) by omitting paragraph (1) of the proviso to section 407 and by inserting instead the following paragraph :—

(1) No such person charged with an indictable offence shall be liable to be called as a witness on behalf of the prosecution.  
25

Sec. 407.  
(Competency of parties and accused persons and their husbands and wives to give evidence.)

(ii) by omitting paragraph (2) of the proviso to section 407 and by inserting instead the following paragraphs :—

30 (2) Where an accused person does not give evidence—

(a) no person other than the Judge or the accused or his counsel or any other person being tried together

with

---

*Crimes and Other Acts (Amendment).*

---

with the accused, or his counsel, shall make any comment to the jury on that failure to give evidence; and

5 (b) subject to paragraph (2B), any comment by the Judge on that failure to give evidence shall be restricted to informing the jury that the accused could have given evidence if he had chosen to do so.

10 (2A) Subject to paragraph (2B), the failure of the husband or wife, as the case may be, of an accused person to give evidence shall not be made the subject of any comment by the Judge or by counsel for the Crown.

15 (2B) Where two or more persons are being tried together, and comment is made, by or on behalf of any of them, upon the failure of any of them, or of the husband or wife, as the case may be, of any of them, to give evidence, the Judge may make such observation to the jury in regard to such comment or such failure to give evidence as he thinks fit.

20 (d) (i) by omitting from section 409 (1) the words "on oath that";

25 (ii) by inserting in section 409 (1) (a) before the words "the witness" the words "on oath that";

30 (iii) by inserting in section 409 (1) (b) (i) before the words "the deposition" the word "that";

35 (iv) by inserting in section 409 (1) (b) (ii) after the word "coroner," the word "that";

(v)

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

*Crimes and Other Acts (Amendment).*

- (v) by inserting in section 409 (1) (c) before the words "the accused" the word "that";
- (vi) by inserting after section 409 (4) the following subsections :—

5 (5) For the purposes of subsection (1), unless it is proved to the contrary—

10 (a) a deposition, or a deposition in the form of a transcript, of the evidence of a witness shall be deemed to have been taken or made in the presence of the accused, or during any period when the accused, having been discharged under section 41 (1B) of the Justices Act, 1902, was absent; and

15 (b) the accused or his counsel or attorney shall be deemed to have had a full opportunity of cross-examining the witness, or the accused, having been discharged under section 41 (1B), shall be deemed to have been absent when the deposition was taken and not represented by counsel or attorney,

20 if it appears from the deposition that it was so taken or made, and that the accused or his counsel had such an opportunity or was so absent and not represented by counsel or attorney, as the case may be.

25 (6) For the purposes of subsection (1) (b) (ii), where a deposition is in the form of a transcript of the record, unless it is proved to the contrary, the record shall be deemed to be a true record of the matter deposed, and the transcript shall be deemed to be a correct transcript of the record if, in the case of a transcript of a record—

30 (a) made in shorthand notes, the transcript is identified by, and signed in the  
35 handwriting

*Crimes and Other Acts (Amendment).*

handwriting of, the person purporting to have made the shorthand notes; or

5 (b) made by any other means (other than writing) authorised by law for the taking of a deposition, the transcript is certified in the manner prescribed by regulations made under the Justices Act, 1902.

10 (e) by inserting after section 413 the following sections :—

Secs. 413A, 413B and 413C.

15 413A. (1) Subject to this section and section 413B, where in any proceedings an accused person gives evidence he shall not in cross-examination be asked, and if asked shall not be required to answer, any question tending to reveal to the Court or jury—

Restriction on cross-examination of accused.

20 (a) the fact that he has committed, or has been charged with or convicted or acquitted of, any offence other than the offence charged; or

(b) the fact that he is generally or in a particular respect a person of bad disposition or reputation.

25 (2) Subsection (1) shall not apply to a question tending to reveal to the Court or jury any fact such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose of proving the commission by the accused of the offence charged.

30 (3) Where, in any proceedings in which two or more persons are jointly charged, any of the accused persons gives evidence, subsection (1) shall not in his case apply to any question tending to reveal to the Court or jury a fact about him such as is mentioned in subsection (1) (a) or (b) if  
35 evidence of that fact is admissible for the purpose of  
of

---

*Crimes and Other Acts (Amendment).*

---

of showing any other of the accused to be not guilty of the offence with which that other is charged.

(4) Subsection (1) shall not apply if—

5 (a) the accused person has personally or by his  
counsel asked any witness for the prosecution or for a person jointly charged with  
him any question concerning the witness's  
10 conduct on any occasion (other than his  
conduct in the activities or circumstances  
giving rise to the charge or his conduct  
during the trial or in the activities, circum-  
stances or proceedings giving rise to the  
15 trial) or as to whether the witness has committed,  
or has been charged with or  
convicted or acquitted of, any offence; and

(b) the Court is of the opinion that the main  
purpose of that question was to raise an  
issue as to the witness's credibility,

20 but the Court shall not permit a question falling  
within subsection (1) to be put to an accused person  
by virtue of this subsection unless it is of the  
opinion that the question is relevant to his credi-  
25 bility as a witness and that in the interests of justice  
and in the circumstances of the case it is proper to  
permit the question to be put.

(5) Subsection (1) shall not apply where  
the accused person has given evidence against any  
person jointly charged with him in the same  
30 proceedings.

*Crimes and Other Acts (Amendment).*

413B. (1) In any proceedings an accused person may—

Admissibility of evidence and questions about accused's disposition or reputation.

5 (a) personally or by his counsel ask questions of any witness with a view to establishing directly or by implication that the accused is generally or in a particular respect a person of good disposition or reputation ;

10 (b) himself give evidence tending to establish directly or by implication that the accused is generally or in a particular respect such a person ; or

15 (c) call a witness to give any such evidence, but where any of these things has been done, the prosecution may call, and any person jointly charged with the accused person may call, or himself give, evidence to establish that the accused person is a person of bad disposition or reputation, and the prosecution or any person so charged may in cross-examining any witness (including, where he gives evidence, the accused person) ask him 20 questions with a view to establishing that fact.

(2) Where by virtue of this section a party is entitled—

25 (a) to call evidence to establish that the accused person is a person of bad disposition or reputation, that party may call evidence of his previous convictions, if any, whether or not the party calls any other evidence for that purpose ; or

30 (b) in cross-examining the accused to ask him questions with a view to establishing that he is such a person section 413A (1) shall not apply in relation to his cross-examination by that party.

413c.



---

*Crimes and Other Acts (Amendment).*

---

5 413c. (1) Where in any proceedings the fact that an accused person has been convicted of an offence is admissible in evidence, a document purporting to be a record of the conviction (whether in the State or elsewhere) of the accused person for the offence and purporting to be signed by an authorised person shall be received in the proceedings as evidence of that fact. Documen-  
tary evidence  
of previous  
convictions.

10 (2) The method of proving a conviction authorised by this section shall be in addition to and not to the exclusion of any other method of proving a conviction.

(3) For the purposes of subsection (1), "authorised person" means—

15 (a) the officer-in-charge of the Central Fingerprint Bureau of the Police Department, or any person authorised by him for the purposes of this section;

(b) a gaol recorder;

20 (c) the officer-in-charge of police at the town where the Court, in which it is proposed to give evidence that an accused person has been convicted of an offence, is being held; or

25 (d) in the case of proceedings before a stipendiary magistrate, the police prosecutor conducting the proceedings.

(f) (i) by inserting in section 414A after the word "article" the words "or living person"; Sec. 414A.  
(Certificate  
of scientific  
examination  
evidence.)

(ii)

---

*Crimes and Other Acts (Amendment).*

---

(ii) by inserting at the end of section 414A the following subsections :—

5 (2) A certificate which would, by virtue of section 4E (12) (a) or (b) of the Motor Traffic Act, 1909, be prima facie evidence of the particulars certified in and by the certificate in proceedings for an offence under section 4E (1) of that Act shall be prima facie evidence of those particulars at any inquest or where a person is charged before a stipendiary magistrate or before any Court with an indictable offence.

10 (3) Where any certificate is admitted in evidence by virtue of subsection (2), evidence of the condition of a breath analysing instrument or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced.

15 (g) by omitting section 415 and by inserting instead the following section :— **Sec. 415.**

20 415. (1) Subject to subsection (2), in any case where it is necessary to prove— **Proof of banking transactions.**

25 (a) the state of an account in the books or records of a banking corporation, or company;

(b) that any person has not or had not an account, or any funds, to his credit in any such books or records; or

30 (c) any entry in any such books or records with respect to—

(i) the opening of an account of any kind;

(ii)

---

*Crimes and Other Acts (Amendment).*

---

- (ii) the specimen signature of any person;
- (iii) the account number of any account;
- 5 (iv) the issue of, or the number on, any cheque, draft, warrant, cheque-book, bank-book or passbook;
- (v) the particulars of any deposit, deposit slip or remitting warrant;
- 10 (vi) the drawing, endorsement or marking of any cheque;
- (vii) the dishonouring of any cheque, draft or promissory note;
- (viii) the presentation and meeting of any cheque;
- 15 (ix) the depositing or withdrawal of any money in respect of any account;
- (x) any documents in respect of any such deposit or withdrawal; or
- 20 (xi) the lodgment of any document or security or other item in safe deposit or for safe custody or the granting of access to or withdrawal of any such item,

25 it shall not be necessary to produce any such book or record, but evidence of any such matter may be given, either orally or by affidavit, by any officer or clerk of the corporation or company who has examined the book or record.

30 (2) Where in any Court evidence is given by affidavit under subsection (1) the Court may if it thinks fit order that the evidence be not admitted unless the person who made the affidavit gives oral evidence in the proceedings or gives evidence by a further affidavit.

(3)

*Crimes and Other Acts (Amendment).*

- (3) The method of proving any matter referred to in subsection (1) shall be in addition to and not to the exclusion of any other method of proving that matter.
- 5 (h) by omitting from section 420 (b) the words “such trial” and by inserting instead the words “the commission of the offence charged, or if more than one offence is charged, the commission of the earliest such offence charged”; Sec. 420. (Receivers. Evidence of guilty knowledge.)
- 10 9. The Crimes Act 1900 is further amended— Further amend-ment of Act No. 40, 1900.
- (a) by omitting the words “*Sentences of whipping or irons.*” occurring before section 434 and by omitting section 434; Sec. 434. (Juvenile offenders may be whipped.)
- (b) by omitting section 435; Sec. 435. (Whipping adults in certain cases.)
- 15 (c) (i) by omitting from section 437 (1) the words “two thousand dollars” and by inserting instead the matter “\$4,000”; Sec. 437. (Compensation to person aggrieved by any felony or mis-
- 20 (ii) by inserting in section 437 (1) after the word “misdemeanour” where secondly occurring the words “or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour”;
- 25 (iii) by inserting in section 437 (3) after the word “misdemeanour” the words “or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour”;
- (iv)

*Crimes and Other Acts (Amendment).*

(iv) by inserting after section 437 (3) the following subsection :—

5 (3A) Subject to section 9 of the Criminal Appeal Act, 1912, any sum directed under subsection (1) to be paid to an aggrieved person shall be paid forthwith, or within such period (if any) as is specified in the direction, to the Clerk of the Peace for payment to the person aggrieved.

10 (d) by inserting after section 437 the following Sec. 437A. section :—

15 437A. (1) This section shall have effect where a direction is given under section 437 (1) in favour of an aggrieved person in respect of any injury or loss and civil proceedings in respect of the injury or loss are subsequently brought by or on behalf of the aggrieved person. Effect of direction under s. 437 on civil proceedings.

20 (2) A direction under section 437 (1) shall not affect the right to bring the civil proceedings and the damages in the civil proceedings shall be assessed without regard to the direction, but where—

(a) the whole or part of the amount directed under section 437 (1) to be paid; or

25 (b) an amount under the Criminal Injuries Compensation Act, 1967, in respect of the injury or loss,

30 has been paid, the judgment of the Court, in so far as it relates to an amount of damages equal to the amount so paid under the direction or that Act, or under the direction and that Act, shall not be entered without the leave of the Court.

(3)

*Crimes and Other Acts (Amendment).*

(3) Where there is an amount unpaid under a direction and a Court awards damages in civil proceedings, then the Court shall direct that the judgment—

5

(a) if it is for an amount not exceeding the amount unpaid under the direction, shall not be enforced; or

10

(b) if it is for an amount exceeding the amount unpaid under the direction, shall not be enforced as to the amount equal to the amount unpaid under the direction,

without the leave of the Court.

15

(e) by omitting from section 440B (1) the words "two thousand dollars" and by inserting instead the matter "\$4,000";

Sec. 440B.  
(Imposition of fine on sentence being deferred or suspended.)

(f) by omitting from section 442 (1) the words "or whipping,";

Sec. 442.  
(Provision for passing sentences of less duration than those fixed.)

20

(g) (i) by inserting in section 444 (1) after the word "Judge" the words "or magistrate";

Sec. 444.  
(Sentence during any unexpired sentence may be cumulative.)

(ii) by inserting in section 444 (1A) after the word "Judge" the words "or magistrate";

(iii) by inserting in section 444 (2) after the word "Judge" wherever occurring the words "or magistrate";

25

(iv) by inserting in section 444 (3) after the word "Judge" the words "or magistrate";

(v)

*Crimes and Other Acts (Amendment).*

(v) by omitting section 444 (4) and by inserting instead the following subsection :—

(4) Notwithstanding anything in this section, a magistrate, whether dealing with an offence or offences under section 476 or otherwise, shall not impose, or make an order having the effect of imposing, on any offender—

(a) more than one sentence of imprisonment or penal servitude to be served consecutively on any other sentence of imprisonment or penal servitude then imposed on, or being served by, the offender; or

(b) sentences of imprisonment or penal servitude, to be served consecutively, totalling more than three years.

**10. The Crimes Act 1900 is further amended—**

Further amendment of Act No. 40, 1900.

(a) by omitting section 453;

Sec. 453.  
(Meaning and effect of penal servitude sentences.)

20 (b) by omitting section 454;

Sec. 454.  
(Existing laws to be applicable.)

(c) by omitting the words "*Whipping sentences.*" occurring before section 455 and by omitting section 455;

Sec. 455.  
(Kind of instrument and manner of use to be fixed by Comptroller-General.)

(d)

---

*Crimes and Other Acts (Amendment).*

---

(d) by omitting section 456;

Sec. 456.  
(Surgeon  
may  
remit  
whipping  
in certain  
cases.)

(e) by omitting section 457 and by inserting instead the following section :—

5           457. (1) Where pursuant to section 437 a Court or a Judge directs that a sum be paid to an aggrieved person in respect of any injury or loss and the whole or any part of that sum is not paid in accordance with section 437 (3A) to the Clerk of the Peace, the Clerk of the Peace, on the application  
10           of the aggrieved person, shall issue to the aggrieved person a certificate specifying the direction of the Court or the Judge and the amount of the sum required by the direction to be paid which has not, at the date of the certificate, been paid  
15           to the Clerk of the Peace.

Direction  
for com-  
pensation to  
be enforce-  
able by  
execution,  
&c.

(2) Where a certificate is issued pursuant to subsection (1) the Clerk of the Peace shall not thereafter accept any payments from the offender in respect of the direction specified in the certificate.

20           (3) An aggrieved person may file in the District Court at Sydney a certificate issued to him under subsection (1), and thereupon the registrar shall enter judgment in favour of the aggrieved  
25           person against the offender specified in the certificate for the amount specified in the certificate as having not been paid and any fees payable to the registrar in respect of the certificate.

(f)



*Crimes and Other Acts (Amendment).*

(f) by omitting from section 459 the following words :—  
Sec. 459.  
(Commuta-  
tion of  
capital  
sentences.)

5 , and also, if the Governor thinks fit so to direct, that he be kept in irons, for any time not exceeding the first three years of such servitude or imprisonment.

10 In addition thereto, in cases of rape, or of carnal knowledge of a girl under ten years, the Governor may direct that the offender shall be once, twice, or thrice publicly or privately whipped, at such times and with so many strokes at each time, not more than fifty, as he thinks fit;

(g) by omitting section 467.  
Sec. 467.  
(Position  
of wife  
of felon.)

11. The Crimes Act 1900 is further amended—  
Further  
amendment  
of Act No.  
40, 1900.

15 (a) by omitting section 476 and by inserting instead the following section :—  
Sec. 476.

20 476. (1) Where a person is charged before a stipendiary magistrate with an offence mentioned in subsection (6) the magistrate may require the person to state whether he intends to plead guilty or not guilty to the charge, and if the person does not so state he shall be taken for the purposes of this section to have stated that he intends to plead not guilty.  
Indictable  
offences  
punishable  
summarily.

25 (2) Where a person states under subsection (1) that he intends to plead not guilty to a charge, and it appears to the magistrate that the case may properly be disposed of summarily and that the person consents to it being so disposed of,

the

---

*Crimes and Other Acts (Amendment).*

---

the magistrate shall have jurisdiction to hear and determine the charge in a summary manner and pass sentence upon the person.

5 (3) Where a person states under subsection (1) that he intends to plead guilty to a charge the magistrate may accept or reject the plea.

10 (4) Where a magistrate rejects a plea under subsection (3) the proceedings before the magistrate shall continue as though the person had stated under subsection (1) that he intends to plead not guilty.

(5) Where a magistrate accepts a plea under subsection (3) and it appears to the magistrate—

15 (a) that the case may be properly disposed of summarily and that the person consents to it being so disposed of, the magistrate shall have jurisdiction to pass sentence upon the person; or

20 (b) that the case may not properly be disposed of summarily, or that the person does not consent to it being so disposed of, the provisions of section 51A of the Justices Act, 1902, shall apply as though the person had  
25 pleaded guilty to the charge under that section.

(6) The offences referred to in subsection (1) are—

30 (a) (i) larceny, and any offence which under this Act is deemed to be, or is made punishable as, larceny or stealing;

(ii) the offence of stealing any chattel, money, or valuable security from the person of another; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

5 (iii) any offence mentioned in section 126,  
131, 145, 146, 148, 150, 151, 152,  
156, 157, 159, 160, 165, 166, 168,  
169, 170, 178A, 178B, 178C, 179, 186,  
188, 189, 189A, 190, 192, 208, 209,  
210, 220, 229, 244, 245, 247, 248,  
273, 274 or 275,

10 where the value of the property, matter or  
thing the subject of the charge or the  
damage thereto, or the amount of money or  
reward the subject of the charge, does not  
exceed \$1,000;

15 (b) any offence mentioned in section 71, 72, 76  
or 76A, where the female the subject of the  
charge was at the time of the commission  
of the offence of or above the age of  
fourteen years;

20 (c) any offence mentioned in section 81 where  
the person upon whom the assault was  
committed was at the time of the assault  
of or above the age of fourteen years;

(d) any offence mentioned in section 56, 57, 58,  
59, 61, 81A, 81B, 81C, 114, 132, 133, 154A,  
158 or 252;

25 (e) any offence mentioned in section 85 where  
the person charged is the mother of the child  
and is not charged with any other person;

(f) any offence mentioned in section 112  
where—

30 (i) the felony alleged is stealing;  
(ii) the value of the property stolen does  
not exceed \$1,000; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

- 5 (iii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- (g) any offence mentioned in section 111 or 113 where—
- 10 (i) the felony intended is stealing; and
- (ii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- 15 (h) escape from lawful custody, except where the escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952; and
- 20 (i) (i) attempting to commit;
- (ii) where the offence is a felony, being an accessory before or after the fact to; or
- 25 (iii) where the offence is a misdemeanour, aiding, abetting, counselling or procuring the commission of,
- any offence mentioned in paragraph (a), (b), (c), (d), (f), (g) or (h).
- (7) Notwithstanding anything in this Act
- 30 to the contrary—
- (a) the maximum term of imprisonment, or penal servitude, to which a person may be sentenced by a magistrate under this section in

*Crimes and Other Acts (Amendment).*

5 in respect of any one offence is two years,  
or the maximum term of imprisonment, or  
penal servitude, fixed by law (other than  
by this subsection) in respect of the offence,  
whichever is the shorter term;

(b) the maximum fine which may be imposed by  
a magistrate under this section is, in respect  
of any one offence, \$2,000, or the maximum  
fine fixed by law (other than by this  
10 subsection) in respect of the offence,  
whichever is the smaller; and

(c) where the maximum punishment which may  
be imposed by law (other than by this  
subsection) in respect of an offence is a  
15 term of imprisonment or penal servitude, or  
a fine, or both, the maximum punishment  
which may be imposed by a magistrate  
under this section in respect of the offence  
is that term, or two years, whichever is the  
20 shorter term, or that fine, or \$2,000,  
whichever is the smaller fine, or both.

(8) The provisions of section 82 of the  
Justices Act, 1902, apply to any fine imposed by a  
magistrate under this section.

25 (9) Where, before the commencement of  
the Crimes and Other Acts (Amendment) Act,  
1974, a conviction in respect of an offence  
mentioned in this section would have been a  
conviction in respect of a felony, a conviction by  
30 a magistrate under this section in respect of that  
offence shall for all purposes be deemed to be a  
conviction in respect of a felony.

(b) by omitting the words "*Offences and punishment.*"  
occurring before section 477 and by omitting  
35 section 477;

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

*Crimes and Other Acts (Amendment).*

- (c) by omitting section 478; Sec. 478.  
(Punish-  
ment in  
such  
cases.)
- (d) by omitting section 479; Sec. 479.  
(Accused to  
have option  
of summary  
disposal of  
case or of  
trial by  
jury.)
- (e) by omitting section 479A; Sec. 479A.  
(Certain  
offences  
not to be  
dealt with  
summarily.)
- 5 (f) by omitting section 480 and by inserting instead the following section :— Sec. 480.
480. Where a charge is disposed of summarily under section 476, the magistrate shall, if the case is dismissed and he is requested to do so, make out and deliver to the person charged with the offence so disposed of, a certificate under the magistrate's hand stating the fact of the dismissal. Certificate  
of dismissal.
- 10
- (g) by omitting the words "CHAPTER II.—*Offences punishable summarily in certain cases by whipping.*" occurring before section 482 and by omitting sections 482, 483, 484, 485, 486, 487, 488, 489, 490, 491 and 492; Secs.  
482-492.
- 15
- (h) by omitting section 493 and by inserting instead the following section :— Sec. 493.
493. Whosoever assaults any person shall on summary conviction be liable to imprisonment for six months, or to a fine of \$500, or both. Common  
assaults.
- 20
- (i) by omitting from section 494 the words "two hundred dollars" and by inserting instead the words "\$500, or both"; Sec. 494.  
(Aggravated  
assaults.)
- (j)

*Crimes and Other Acts (Amendment).*

- (j) by omitting section 495; Sec. 495.  
(Assaults  
respecting  
the sale  
of grain.)
- (k) by omitting section 496; Sec. 496.  
(Assaults  
obstructing  
workmen.)
- (l) by omitting section 497; Sec. 497.  
(Where  
jurisdiction  
excluded.)
- 5 (m) by omitting from section 498 the words "sections Sec. 498.  
four hundred and ninety-three to four hundred and (Certificate  
ninety-six both inclusive" and by inserting instead of dis-  
the words "section 493 or 494"; missal.)
- 10 (n) by omitting from section 499 (2) the words Sec. 499.  
"sections four hundred and ninety-three to four (Certificate  
hundred and ninety-six both inclusive" and by or conviction  
inserting instead the words "section 493 or 494"; a bar to  
other pro-  
ceedings.)
- 15 (o) (i) by omitting from section 501 (1) (a) the word Sec. 501.  
"simple"; (List of  
offences  
punishable  
summarily  
without  
consent of  
accused.)
- (ii) by inserting in section 501 (1) (c) after the  
words "one hundred and fifty-two" the matter  
", 178B";
- 20 (iii) by omitting from section 501 (1) the words  
"one hundred dollars" where firstly occurring  
and by inserting instead the matter "\$500";
- (iv) by omitting from section 501 (1) the words  
"one hundred dollars" where secondly occur-  
ring and by inserting instead the words  
"\$1,000, or both";
- 25 (p) by omitting from section 502 the words "one Sec. 502.  
hundred dollars" and by inserting instead the words (Posses-  
"\$500, or both"; sion of skin,  
&c., of stolen  
cattle.)
- (q)

*Crimes and Other Acts (Amendment).*

- (q) by omitting from section 503 the words "the value of the dog, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 503. (Stealing dogs.)
- 5 (r) by omitting from section 504 the words "forty dollars" and by inserting instead the matter "\$500"; Sec. 504. (Possessing stolen dog or skin.)
- (s) by omitting from section 505 the words "the value of the animal or bird, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 505. (Stealing animals, &c., ordinarily kept in confinement.)
- 10 (t) by omitting from section 507 the words "the value of such animal bird or skin, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 507. (Possession of stolen animals, &c.)
- 15 (u) by omitting from section 510 the words "forty dollars" and by inserting instead the matter "\$500"; Sec. 510. (Setting engine for deer, &c.)
- (v) by omitting from section 511 the words "the value of the bird, in addition to a fine of four dollars" and by inserting instead the words "a fine of \$200"; Sec. 511. (Killing pigeons.)
- 20 (w) (i) by omitting from section 513 the words ", the value of or the injury done to which exceeds ten cents,"; Sec. 513. (Stealing shrubs, &c.)
- (ii) by omitting from section 513 the words "pay the value of the property stolen, or intended to be stolen, or the amount of injury done, in addition to a fine of ten dollars" and by inserting instead the words "imprisonment for six months, or to pay a fine of \$500, or both";
- 25 (x) by omitting section 514; Sec. 514. (The like—second offence.)
- (y)



*Crimes and Other Acts (Amendment).*

- (y) by omitting from section 515 the words "twenty dollars" and by inserting instead the matter "\$100"; Sec. 515. (Stealing, &c., live or dead fence, &c.)
- (z) by omitting section 516; Sec. 516. (The like —second offence.)
- 5 (aa) (i) by omitting from section 517 the words " , being of or above the value of ten cents,"; Sec. 517. (Unlawful possession of trees, fences, &c.)
- (ii) by omitting from section 517 the words "ten dollars" and by inserting instead the matter "\$100";
- 10 (bb) (i) by omitting from section 518 the words " , such wood being of the value of or above ten cents,"; Sec. 518. (Stealing dead wood.)
- (ii) by omitting from section 518 the words "ten dollars" and by inserting instead the matter "\$100";
- 15 (cc) by omitting section 519; Sec. 519. (The like —second offence.)
- (dd) by omitting from section 520 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 520. (Stealing plants, &c., in gardens.)
- 20 (ee) by omitting from section 521 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of two dollars" and by inserting instead the words "a fine of \$200"; Sec. 521. (Stealing plants, &c., not growing in gardens.)
- 25 (ff) (i) by omitting from section 522 the words "of the value of fifty cents,"; Sec. 522. (Possession of shipwrecked goods.)
- (ii) by omitting from section 522 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- 30 (gg)

*Crimes and Other Acts (Amendment).*

- (gg) by omitting from section 523 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 523.  
(Offering ship-wrecked goods for sale.)
- 5 (hh) by inserting in section 525 after the word "fine" the words "of \$1,000 in addition to a fine"; Sec. 525.  
(Stealing or damaging books, &c., in public library, &c.)
- (ii) by omitting section 526A (1) and by inserting instead the following subsections :— Sec. 526A.  
(Taking a conveyance without the consent of the owner.)
- (1) Any person who—
- 10 (a) without having the consent of the owner or person in lawful possession of a conveyance takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or
- 15 pretended restoration, or for any other fraudulent purpose; or
- (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,
- 20 shall be guilty of larceny and shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.
- (1A) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.
- 25
- (jj)

*Crimes and Other Acts (Amendment).*

- (jj) by omitting from section 527 the words "three months, or to pay a fine of forty dollars" and by inserting instead the words "six months, or to pay a fine of \$500, or both";
- 5 (kk) by omitting from section 528 the words "one hundred dollars" and by inserting instead the matter "500";
- (ll) by omitting section 529 and by inserting instead the following section :—
- 10 529. (1) In this section—
- "receives" includes disposes of, and attempts to dispose of;
- "stolen" includes taken, extorted, obtained, embezzled, and otherwise disposed of, unlawfully.
- 15
- (2) Any person who receives any stolen property of a value not exceeding \$500, knowing the same to have been stolen, shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.
- 20
12. The Crimes Act 1900 is further amended—
- (a) by omitting the subheading "(C) MALICIOUS INJURIES TO PROPERTY. *Declaratory clauses.*" occurring before section 530 and by omitting section 530;
- 25

Sec. 527.  
(Fraudulently appropriating or retaining property.)

Sec. 528.  
(Advertising reward for return of stolen property.)

Sec. 529.

Receivers punishable summarily.

Further amendment of Act No. 40, 1900.

Sec. 530.  
(Ownership and possession of property injured.)

(b)

*Crimes and Other Acts (Amendment).*

- (b) by omitting section 531; Sec. 531.  
(Actual malice—  
certain acts not malicious.)
- (c) by omitting the words “*Injuries to trees, shrubs, vegetable produce, fences, &c.*” and “*Injuries to certain animals.*” occurring before section 539 and by omitting section 539; 5  
Sec. 539.  
(Killing or maiming animals not being cattle.)
- (d) by omitting section 540; Sec. 540.  
(The like—second offence.)
- (e) by omitting the words “*Injuries not otherwise provided for.*” occurring before section 541 and by omitting section 541; Sec. 541.  
(Injuring property not previously provided for.)
- 10 (f) by omitting section 542; Sec. 542.  
(The like—second offence.)
- (g) by omitting the words “*Application of compensation.*” occurring before section 543 and by omitting section 543; Sec. 543.  
(Application of compensation.)
- 15 (h) by omitting the words “(D) COINAGE OFFENCES.” occurring before section 544 and by omitting section 544; Sec. 544.  
(Uttering defaced coin.)
- (i) by omitting section 545; Sec. 545.  
(Possessing above five pieces of counterfeit foreign coin.)
- 20 (j) by omitting from section 545A (1) the words “forty dollars” and by inserting instead the words “\$200, or both”; Sec. 545A.  
(Bogus advertisements.)

(k)

*Crimes and Other Acts (Amendment).*

- (k) by omitting from section 545B (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545B. (Intimidation or annoyance by violence or otherwise.)
- 5 (l) (i) by omitting from section 545c (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545c. (Knowingly joining or continuing in an unlawful assembly.)
- (ii) by omitting from section 545c (2) the words "one hundred dollars" and by inserting instead the words "\$1,000, or both";
- 10 (m) by omitting from section 545D the words "six months" and by inserting instead the words "twelve months, or to a fine not exceeding \$1,000, or both"; Sec. 545D. (Unlawful making or possession of explosives.)
- (n) by inserting in section 546 after the words "summary conviction," the word "aids,"; Sec. 546. (Abetting or procuring.)
- 15 (o) by inserting after section 547A the following section and subheading :— Sec. 547B.

## (H) PUBLIC MISCHIEF.

20 547B. (1) Any person who, by any means, knowingly makes to a member of the police force any false representation that an act has been, or will be, done or that any event has occurred, or will occur, which act or event as so represented is such as calls for an investigation by a member of the police force, shall be liable on conviction before a stipendiary magistrate to imprisonment for six months, or to a fine of \$500, or both. Public mischief.

25

(2) For the purposes of subsection (1), a person shall be deemed to make a representation to a member of the police force if he makes the representation

*Crimes and Other Acts (Amendment).*

representation to any other person and the nature of the representation reasonably requires that other person to communicate it to a member of the police force and that person does so communicate it.

- 5 (p) by omitting section 548A and the subheading thereto; Sec. 548A.  
(Power to  
commit.)
- (q) by omitting from section 554 (3) the words "three hundred dollars" and by inserting instead the matter "\$600"; Sec. 554.  
(Damages  
and  
compensa-  
tion.)
- 10 (r) by omitting the words "*Conditional release of offenders.*" occurring before section 556A and by inserting instead the heading "PART XV. CONDITIONAL RELEASE OF OFFENDERS.";
- 15 (s) (i) by omitting from section 556A (1) the words "a court of summary jurisdiction" and by inserting instead the words "any court"; Sec. 556A.  
(Power to  
permit  
release of  
offenders.)
- (ii) by inserting in section 556A (1) after the word "committed," the words "or to any other matter which the court thinks it proper to consider,";
- 20 (iii) by inserting after section 556A (1) the following subsection :—
- (1A) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the court shall order.
- 25 (iv) by omitting from section 556A (2) the words "subsection three of section five hundred and fifty-four" and by inserting instead the matter
- 30 "section 437 (1) or section 554 (3)";

(v)

*Crimes and Other Acts (Amendment).*

(v) by omitting section 556A (3) and by inserting instead the following subsection :—

(3) Where under subsection (1) a charge is dismissed or an offender is conditionally discharged, the person charged shall have the same rights as to appeal on the ground that he was not guilty of the offence charged as he would have had if convicted of the offence.

- (t) (i) by inserting in section 556B after the word "recognizance" where firstly occurring the words "(whether entered into for the purposes of section 556A or otherwise)";
- (ii) by omitting from section 556B the words "summary jurisdiction" and by inserting instead the words "like jurisdiction to that court".

Sec. 556B.  
(Proceedings on breach of condition of recognizance.)

13. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

- (a) by omitting the heading "PART XV. FIRST OFFENDERS." occurring before section 557 and by omitting section 557;
- (b) by omitting section 558 and by inserting instead the following section:—

Sec. 557.  
(Interpretation.)

Subst. sec. 558.

558. (1) A Court before which a person comes to be sentenced for any offence may if it thinks fit defer passing sentence upon the person and order his release upon his entering into a recognizance, with or without sureties, in such amount as the Court directs, to be of good behaviour for such period as the Court thinks proper and to come up for sentence if called upon.

Deferring sentence.

---

*Crimes and Other Acts (Amendment).*

---

(2) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the Court shall order.

5 (3) Where a person has entered into a recognizance mentioned in subsection (1) he may be removed to such gaol, or other place, as the Court may determine, and there forthwith submitted to the examination customary for securing future  
10 identification, and may be detained for whatever period, not exceeding forty-eight hours, as may be necessary for this purpose.

(4) Where the penalty provided by law in respect of an offence is a sentence of imprisonment or a fine or both, nothing in this section prevents the  
15 imposition of a fine for the offence when sentence for the offence is deferred under subsection (1).

(5) The provisions of section 82 of the Justices Act, 1902, apply to a fine imposed as  
20 referred to in subsection (4).

(6) A person may be called up for sentence and sentenced on the breach by him of any of the terms or conditions of a recognizance entered into by him under this section if the breach  
25 occurs during the period of the recognizance fixed under subsection (1), notwithstanding that the period has expired.

(7) Any power conferred upon a Court by the operation of this section shall be in addition to, and not in substitution for, any power conferred upon the Court otherwise.

30

(c)



*Crimes and Other Acts (Amendment).*

- (c) by omitting section 559;      Sec. 559  
(Order for restitution or payment of compensation may be made by Court.)
- (d) by omitting section 560;      Sec. 560.  
(Offender discharged to report himself.)
- (e) by omitting section 561;      Sec. 561.  
(Forfeiture of recognizance, &c.)
- (f) by omitting section 562;      Sec. 562.  
(Otherwise to be discharged and conviction not to be deemed a previous conviction.)
- 5 (g) by inserting in section 578 after the word "seventy-six," the matter "76A,";      Sec. 578.  
(Publication of evidence may be forbidden in certain cases.)
- (h) by omitting the Second Schedule and by inserting instead the following Schedule :—      Second Schedule.

## SECOND SCHEDULE.

10      Parts and sections in force, so far as their provisions are applicable, with respect to all offences and courts.

15      Sections 4 to 10 inclusive, 23, 34, 40, 62, 77, 78, 116, 118 to 124 inclusive, 128 to 130 inclusive, 163, 183, 191, 193 to 195 inclusive, 206, 231, 250,

*Crimes and Other Acts (Amendment).*

251, 344A, 345 to 347 inclusive, 351, Parts X to XIII inclusive, sections 547 to 556B inclusive, section 558 and Part XVI.

- 5 (i) by omitting from the Fourth Schedule the words "two hundred and thirty-three, two hundred and thirty-four,"; Fourth Schedule.
- (j) by omitting the Sixth Schedule. Sixth Schedule.
14. The Justices Act, 1902, is amended— Amendment of Act No. 27, 1902.
- 10 (a) by omitting section 51A (6) (a) and by inserting instead the following paragraph :— Sec. 51A. (Effect of plea of guilty in committal proceedings.)
- (a) a magistrate has jurisdiction to pass sentence upon the person under section 476 (5) (a) of the Crimes Act 1900; or;
- 15 (b) by omitting from section 80 the words " : Provided that in the case of an information, if upon the close of the case for the prosecution it appears to the Justice or Justices that the offence ought to be dealt with by indictment, he or they shall abstain from adjudication thereon and shall deal with the case for the purpose of committal for trial only"; Sec. 80. (After hearing case Justices to convict or make an order or dismiss case.)
- 20 (c) by inserting after section 125 (1) the following subsection :— Sec. 125. (Powers of Court appealed to.)
- (1A) Where the conviction, order, sentence, or adjudication appealed against was recorded, made, passed, or given under the jurisdiction conferred upon a magistrate under section 476 of the Crimes Act 1900, the Court hearing the appeal shall not vary any penalty imposed by increasing it beyond the penalty which could have been imposed by the magistrate under that section.
- 25
- 30

*Crimes and Other Acts (Amendment).***15.** The Jury Act, 1912, is amended—Amendment  
of Act No.  
31, 1912.

- (a) by omitting section 27 (3) and by inserting instead the following subsection :—

Sec. 27.  
(Trial by  
jury in  
criminal  
cases.)

5 (3) Upon the trial of any person for a felony the jury shall, unless the court otherwise orders, be permitted to separate, at any time before they consider their verdict, in the same way as the jury upon the trial of any person for a misdemeanour are permitted to separate.

- 10 (b) by omitting section 27A and by inserting instead the following section :—

Sec. 27A.

15 27A. Where in the course of a criminal trial any member of the jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless—

Provision  
for con-  
tinuance of  
trial where  
juror dies  
or becomes  
incapable.

- (a) if the number of its members is not reduced below ten; or
- 20 (b) if the number of its members is reduced below ten and assent in writing is given by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give),
- 25 and if the court so orders, be considered as remaining for all the purposes of that trial properly constituted.

**16.** The Criminal Appeal Act, 1912, is amended—Amend-  
ment  
of Act No.  
16, 1912.

- 30 (a) by omitting from section 5A (2) (g) the words "for the New South Wales State Reports or Weekly Notes" and by inserting instead the words "for any lawful purpose of the Council of Law Reporting for New South Wales";

Sec. 5A.  
(Point of  
law stated  
by judge.)

(b)

*Crimes and Other Acts (Amendment).*

(b) by inserting after section 9 (3) the following subsections :—

Sec. 9.  
(Revest-  
ing and  
restitu-  
tion of  
property  
on  
convic-  
tion.)

5 (4) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence—

10 (a) the operation of the direction shall be suspended until the expiration of the time provided for appealing to the court; and

15 (b) where notice of appeal or of application for leave to appeal is given within the time provided, the operation of the direction shall be suspended until the determination of the appeal or refusal of the application,

20 and in cases where the operation of any such direction is suspended until the determination of the appeal, the direction shall not take effect if the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given, is quashed on appeal, except by the special order of the court.

25 (5) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence, the court may annul or vary any such direction although the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given is not  
30 quashed on appeal.

*Crimes and Other Acts (Amendment).*

17. The Criminal Injuries Compensation Act, 1967, is amended—

Amendment of Act No. 14, 1967.

(a) by omitting section 5 (2) and by inserting instead the following subsections :—

Sec. 5. (Payment of compensation by Treasurer to applicant.)

5 (2) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that in the circumstances of the case the making under this subsection of a payment to the applicant is justified, the Treasurer may make a payment to the applicant not exceeding the appropriate amount referred to in subsection (1) (a) as specified in that statement.

15 (2A) In determining the amount of any payment to be made under subsection (2) the Treasurer shall have regard to—

- (a) the appropriate amount referred to in subsection (1) (a); and
- (b) any amounts referred to in subsection (1) (b),

20 as specified in the Under Secretary's statement, and any recommendations made by the Under Secretary with respect to any such amounts referred to in subsection (1) (b).

25 (2B) Any payment made under subsection (2) shall be made ex gratia and not as of right.

(b) by omitting section 7 and by inserting instead the following section :—

Sec. 7.

7. (1) Where a payment is made under section 5 (2) to an aggrieved person—

Rights against convicted person where payment made.

30 (a) the Under Secretary shall forthwith notify the Clerk of the Peace of the particulars of the payment, including the date and amount;

---

*Crimes and Other Acts (Amendment).*

---

- 5 (b) the Clerk of the Peace shall endorse on any certificate thereafter issued by him to the aggrieved person under section 457 (1) of the Crimes Act 1900 the date and amount of the payment so notified to him, and may also issue to the Under Secretary any certificate so endorsed;
- 10 (c) the Under Secretary may file a certificate so issued to him in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the Under Secretary against the offender specified in the certificate for the amount endorsed on the
- 15 certificate under paragraph (b); and
- 20 (d) the aggrieved person may file a certificate endorsed under paragraph (b) in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the balance of the amount of the sum directed to be paid, specified in the certificate, after
- 25 deduction of the amount endorsed on the certificate under paragraph (b).

30 (2) Where judgment has been entered in favour of an aggrieved person under section 457 (3) of the Crimes Act 1900 in respect of a direction made under section 437 (1) of that Act, and a payment has been made to the aggrieved person pursuant to section 5 (2) in respect of that direction, the Under Secretary may file a notice specifying the date and amount of the payment in

the

---

*Crimes and Other Acts (Amendment).*

---

the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall—

- (a) reduce the amount of the judgment by the amount specified in the notice; and
  - 5 (b) enter judgment in favour of the Under Secretary, against the offender against whom judgment in favour of the aggrieved person was entered, for the amount specified in the notice.
- 10 (3) The Under Secretary shall pay to the Consolidated Revenue Fund any money recovered by him pursuant to this section.

---

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974  
[60c]

THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY

REPORT OF THE  
COMMISSIONERS OF THE  
LAND OFFICE  
OF THE STATE OF ILLINOIS  
FOR THE YEAR 1880

CHICAGO: PUBLISHED BY THE  
UNIVERSITY OF CHICAGO PRESS  
1881



*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.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 19 March, 1974.*

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

A. W. SAXON,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, , 1974.*

## New South Wales



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. , 1974.**

An Act to make provision for certain new offences; to amend the law relating to certain existing offences; to make provision for a defence of diminished responsibility in a trial for murder; to amend the law so as to remove the right of an accused person to make an unsworn statement in a criminal trial; to re-enact with modifications and additions certain provisions relating to the cross-examination of an accused person, the payment of compensation to a person aggrieved by a misdemeanour or felony, the summary trial of indictable offences, deferring sentence and the separation of juries; to repeal certain obsolete provisions of the Crimes Act 1900;

46699 97—A

to

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

---

*Crimes and Other Acts (Amendment).*

---

to alter the penalties which may be imposed for certain offences; for these and other purposes to amend the Crimes Act 1900, the Justices Act, 1902, the Jury Act, 1912, the Criminal Appeal Act, 1912, and the Criminal Injuries Compensation Act, 1967; and for purposes connected therewith.

**B**E 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      5      1. This Act may be cited as the "Crimes and Other Acts (Amendment) Act, 1974". Short title.

2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette. Commencement.

3. (1) Subject to this section, in so far as it affects any matter of procedure or evidence or the jurisdiction or powers of any Court in relation to an offence, this Act shall have effect in relation to proceedings on— Savings.

15      (a) a trial on indictment for the offence if, but only if, the indictment is filed after the day appointed for the commencement of this Act; or

(b) a summary trial for the offence if, but only if, the hearing is commenced after the day so appointed.

(2)

---

*Crimes and Other Acts (Amendment).*

---

(2) Section 5 (b) shall have effect in relation to an offence if, but only if, an indictment for that offence is filed after the day appointed for the commencement of this Act.

5 (3) Section 5 (r) shall have effect in relation to proceedings notwithstanding that they have been commenced before the day appointed for the commencement of this Act.

(4) Section 8 (b) shall have effect in a trial on indictment if, but only if, the committal proceedings in relation to the trial have been commenced on or after the day appointed  
10 for the commencement of this Act.

(5) Section 9 (c) and (d) shall have effect for the purpose of giving, on or after the day appointed for the commencement of this Act, a direction for the payment of compensation, and in relation to a direction so given.

15 (6) Section 15 (a) shall have effect with respect to a jury in the trial of a person for a felony, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

20 (7) Section 15 (b) shall have effect with respect to a jury in a criminal trial, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

(8) Section 17 shall have effect for the purpose of making any payment, and in respect of any payment made,  
25 under the Criminal Injuries Compensation Act, 1967, if, but only if—

(a) the payment is made under that Act after the day appointed for the commencement of this Act; and

30 (b) the payment so made follows on a direction for the payment of compensation given under section 437 of the Crimes Act 1900 on or after the day so appointed.

*Crimes and Other Acts (Amendment).*

(9) The Criminal Injuries Compensation Act, 1967 (as in force immediately before the day appointed for the commencement of this Act) shall—

- 5 (a) continue to apply to and in respect of any payment made under that first-mentioned Act before the day so appointed; and
- (b) have effect for the purpose of making any payment, and in respect of any payment made, if section 17 does not (pursuant to subsection (8)) have effect
- 10 for that purpose and in that respect.

(10) Nothing in this Act shall affect any term of imprisonment or the amount of any fine which may be imposed on conviction for an offence committed before the day appointed for the commencement of this Act.

15 4. The Crimes Act 1900 is amended—

(a) (i) by inserting in the matter relating to Part III in section 1 after the matter "81B." the words "(10A) *Misconduct with regard to corpses.*—s. 81C.";

Amend-  
ment of  
Act No. 40,  
1900.

Sec. 1.  
(Short  
title and  
contents  
of Act.)

20 (ii) by inserting in the matter relating to Part IV in the same section after the word "*offences.*" the matter "(aa) GENERAL.—s. 93J.";

(iii) by omitting from the same matter the word "*BURGLARY,*";

25 (iv) by omitting from the same matter the words "*Simple larceny and general*" and by inserting instead the word "*General*";

30 (v) by omitting from the same matter the words "*and telegraphs.—ss. 230-234*" and by inserting instead the matter ".—ss. 230-232";

(vi)

---

*Crimes and Other Acts (Amendment).*

---

- (vi) by omitting from the same matter the matter "ss. 245, 246" and by inserting instead the matter "s. 245";
- 5 (vii) by inserting in the same matter after the matter "s. 248" the words "(17A) *False statement that person or property in danger.—s. 248A.*";
- (viii) by inserting after the matter relating to Part VIII in the same section the following matter :—
- 10                   PART VIII A.—ATTEMPTS.—s. 344A.
- (ix) by omitting from the matter relating to Part XI in the same section the matter "405" and by inserting instead the matter "405A";
- 15 (x) by omitting from the matter relating to Part XII in the same section the words "(4) *Sentences of whipping or irons.—ss. 434-436.*";
- (xi) by omitting from the same matter the matter "s. 437" and by inserting instead the matter "ss. 437, 437A";
- 20 (xii) by omitting from the matter relating to Part XIII in the same section the words "(3) *Whipping sentences.—ss. 455, 456.*";
- 25 (xiii) by omitting from the matter relating to Part XIV in the same section the words "(2) *Offences and punishment.—ss. 477, 478.*";
- (xiv) by omitting from the same matter the matter "ss. 479-481" and by inserting instead the matter "ss. 480, 481";

(xv)

---

*Crimes and Other Acts (Amendment).*

---

- (xv) by omitting from the same matter the words  
“CHAPTER II.—OFFENCES PUNISHABLE  
SUMMARILY IN CERTAIN CASES BY WHIPPING.  
—ss. 482-492.”;
- 5 (xvi) by omitting from the same matter the following  
words :—
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.*—ss. 530,  
531.
- 10 (2) *Injuries to trees, shrubs, vegetable  
produce, fences, &c.*—ss.  
532-538.
- (3) *Injuries to certain animals.*—  
ss. 539, 540.
- 15 (4) *Injuries not otherwise provided  
for.*—ss. 541, 542.
- (5) *Application of compensation.*  
—s. 543.
- (D) COINAGE OFFENCES.—ss. 544, 545.
- 20 (xvii) by inserting in the same matter after the matter  
“s. 547A.” the words “(H) PUBLIC MISCHIEF.  
—s. 547B.”;
- (xviii) by omitting from the same matter the words  
“(1A) *Power to commit.*—s. 548A.”;
- 25 (xix) by omitting from the same matter the words  
“(9) *Conditional release of offenders.*—ss.  
556A, 556B.”;
- (xx) by omitting from the matter relating to Part  
XV in the same section the words “FIRST  
OFFENDERS.—ss. 557-562” and by inserting  
30 instead the words “CONDITIONAL RELEASE OF  
OFFENDERS.—ss. 556A-560A”.

(b)

---

*Crimes and Other Acts (Amendment).*

---

- (b) (i) by omitting the definition of "*Dwelling-house*" in section 4 and by inserting instead the following definition :— Sec. 4.  
(Interpre-  
tation.)

"*Dwelling-house*" includes—

- 5 (a) any building or other structure intended for occupation as a dwelling and capable of being so occupied, although it has never been so occupied;
- 10 (b) a boat or vehicle in or on which any person resides; and
- 15 (c) any building or other structure within the same curtilage as a dwelling-house, and occupied therewith or whose use is ancillary to the occupation of the dwelling-house.

- (ii) by inserting in section 4 after the definition of "*Night*" the following definition :—

20 "*Offensive weapon*" and "*Offensive weapon, or instrument*" include an imitation or replica of an offensive weapon or of an offensive weapon, or an instrument, as the case may require.

- 25 (iii) by inserting in section 4 after the definition of "*Vessel*" the following definition :—

30 "*Weapon*" and "*Weapon, or instrument*" include an imitation or replica of a weapon or of a weapon, or an instrument, as the case may require.

- (iv) by inserting at the end of section 4 the following subsection :—

35 (2) A dwelling-house does not cease to be a dwelling-house by reason only of being temporarily unoccupied.

(c)

*Crimes and Other Acts (Amendment).*

(c) by omitting from section 10 the words "or whipping,". Sec. 10. (What offences misdemeanours.)

5. The Crimes Act 1900 is further amended— Further amendment of Act No. 40, 1900.

5 (a) by omitting from section 18 (1) (a) the words "of an act obviously dangerous to life, or"; Sec. 18. (Murder defined.)

(b) by inserting after section 23 the following section :— Sec. 23A.

10 23A. (1) Where, on the trial of a person for murder, it appears that at the time of the acts or omissions causing the death charged the person was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for the acts or omissions, he shall not be convicted of murder. Diminished responsibility.

15 (2) It shall be upon the person accused to prove that he is by virtue of subsection (1) not liable to be convicted of murder.

20 (3) A person who but for subsection (1) would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

25 (4) The fact that a person is by virtue of subsection (1) not liable to be convicted of murder in respect of a death charged shall not affect the question whether any other person is liable to be convicted of murder in respect of that death.

(5)



*Crimes and Other Acts (Amendment).*

(5) Where, on the trial of a person for murder, the person contends—

5 (a) that he is entitled to be acquitted on the ground that he was mentally ill at the time of the acts or omissions causing the death charged; or

(b) that he is by virtue of subsection (1) not liable to be convicted of murder,  
10 evidence may be offered by the Crown tending to prove the other of those contentions, and the Court may give directions as to the stage of the proceedings at which that evidence may be offered.

(c) by omitting from section 24 the words “, or for any term not less than three years, or to imprisonment for any term not exceeding three years”;  
15 (Man-slaughter—punishment.)

(d) by inserting after section 32B the following section :—  
20 Sec. 32c.

32c. (1) Any person who makes a demand of any person with a threat to destroy or endanger the safety of an aircraft, vessel, motor vehicle, engine or carriage used upon a railway, or building, or to kill or injure all or any of the persons in or on any such aircraft, vessel, motor vehicle, engine, carriage or building, shall be liable to penal servitude for life.  
25 Threats to destroy aircraft or other conveyances.

(2) Any person who makes a demand of any person with any threat mentioned in subsection (1) and while that threat subsists discharges any firearm, or causes any explosion, or wounds or inflicts grievous bodily harm on any person, shall be liable to penal servitude for life.  
30

(3) The provisions of section 442 shall not be in force with respect to the sentence to be passed under subsection (2)

(4)

*Crimes and Other Acts (Amendment).*

(4) For the purposes of subsection (1), "building" includes any bridge, mine or structure in the nature of a building.

5 (e) by inserting after section 33 the following sections :— Secs. 33A  
and 33B.

10 33A. Any person who maliciously discharges, or in any manner attempts to discharge, any kind of loaded arms with intent to do grievous bodily harm to any person, or with intent to resist, or prevent, the lawful apprehension or detention either of himself or any other person, shall be liable to penal servitude for fourteen years. Discharging  
loaded arms  
with intent.

15 33B. Any person who— Use of  
weapon  
to resist  
arrest, &c.

(a) uses, attempts to use or threatens to use an offensive weapon or instrument ; or

20 (b) threatens injury to any person or property, with intent to prevent or hinder the lawful apprehension or detention either of himself or any other person or to prevent or hinder a member of the police force from investigating any act or circumstance which reasonably calls for investigation by the member shall be liable to penal servitude for ten years.

25 (f) by omitting from section 35 the word "five" and by inserting instead the word "seven"; Sec. 35.  
(Maliciously  
wounding or  
inflicting  
grievous  
bodily  
harm.)

(g) by omitting section 45; Sec. 45.  
(Wife or  
child  
desertion.)

(h)

*Crimes and Other Acts (Amendment).*

(h) by omitting section 49 and by inserting instead the Sec. 49. following section :—

49. (1) Any person who—

Setting trap, &c.

5 (a) places or sets, or causes to be placed or set, any trap, device or thing (whether its nature be electronic, electric, mechanical, chemical or otherwise) capable of destroying human life or inflicting grievous bodily harm on any person; or

10 (b) knowingly permits any such trap, device or thing to continue to be placed or set, with intent to inflict grievous bodily harm shall be liable to imprisonment for five years.

15 (2) Nothing in subsection (1) shall extend to any gin or trap, placed with the intention of destroying vermin, or to any trap, device or thing placed in a dwelling-house for the protection thereof.

20 (i) by omitting from section 51 the word "life" and by inserting instead the words "ten years"; Sec. 51. (Casting stone, &c., on a railway carriage.)

(j) (i) by omitting section 52A (1) and (2) and by inserting instead the following subsections :— Sec. 52A. (Culpable driving.)

(1) Where the death of, or grievous bodily harm to, any person is occasioned through—

25 (a) the impact with any object of a motor vehicle in which that person was a passenger;

30 (b) a motor vehicle in which that person was a passenger overturning or leaving the highway.

(c)

---

*Crimes and Other Acts (Amendment).*

---

- 5 (c) impact with a motor vehicle ; or
- (d) the impact of a motor vehicle with any vehicle or other object in, on or near which that person was at the time of the impact,

and the motor vehicle was at the time of the impact, or at the time of overturning or leaving the highway, being driven by another person—

- 10 (e) under the influence of intoxicating liquor or of a drug ; or
- (f) at a speed or in a manner dangerous to the public,

15 the person who was so driving the motor vehicle shall be guilty of the misdemeanour of culpable driving.

(2) A person convicted of the misdemeanour of culpable driving is—

- 20 (a) if the death of any person was occasioned, liable to imprisonment for five years ; or
- (b) if grievous bodily harm to any person was occasioned, liable to imprisonment for three years.

25 (ii) by omitting from section 52A (7) the words “and structure” and by inserting instead the words “, structure, earthwork, embankment, gutter, stormwater channel, drain, bridge, culvert, median strip, post and tree”;

30 (k) by omitting from section 61 the words “, and if the person assaulted is a female, shall, in addition, be liable to be once privately whipped”;

Sec. 61.  
(Common assault prosecuted by indictment.)

(1)

*Crimes and Other Acts (Amendment).*

- (l) by omitting from section 64 the words "but with her consent" and by inserting instead the words "; but are not satisfied that carnal knowledge was had without her consent"; Sec. 64. (Trial for rape—verdict of carnal knowledge.)
- 5 (m) by omitting from section 70 the words "and that the accused had not carnal knowledge of such girl, but" and by inserting instead the words "but are not satisfied that the accused had carnal knowledge of the girl, and are satisfied that he"; Sec. 70. (Trial for carnal knowledge—verdict of assault with intent.)
- 10 (n) by inserting in section 72 after the words "any girl" the words "of or"; Sec. 72. (Attempts.)
- (o) (i) by omitting from section 76 the word "three" and by inserting instead the word "four"; Sec. 76. (Indecent assault.)
- 15 (ii) by omitting from section 76 the word "five" and by inserting instead the word "six";
- (p) by inserting after section 76 the following section :— Sec. 76A.
- 20 76A. Any person who commits any act of indecency with or towards any girl under the age of sixteen years, or incites a girl under that age to any act of indecency with him or another, shall be liable to imprisonment for two years. Act of indecency.
- 25 (q) (i) by omitting from section 77 the words "or seventy-four" and by inserting instead the matter "74 or 76A"; Sec. 77. (Consent no defence in certain cases.)
- (ii) by omitting from section 77 the words "or seventy-two" and by inserting instead the matter ", 72 or 76A";

(r)

*Crimes and Other Acts (Amendment).*

- (r) by inserting after section 77 the following section :—

5           77A. Any proceedings or any part of any proceedings in respect of an offence under section 63, 65, 66, 67, 68, 71, 72, 72A, 73, 74, 76 or 76A shall, if the Court so directs, be held in camera.

Pro-  
ceedings  
in camera  
in certain  
cases.

- (s) by inserting after section 81B the following section and subheading :—

*Misconduct with regard to corpses.*

10           81C. Any person who—

(a) indecently interferes with any dead human body; or

(b) improperly interferes with, or offers any indignity to, any dead human body or human remains (whether buried or not),

15 shall be liable to imprisonment for two years.

- (t) by omitting from section 91A the words “female under the age of twenty-one years, whether with her consent or not, with intent that some other person may have carnal knowledge of such female” and by inserting instead the words “person, whether with that person’s consent or not, for purposes of prostitution”;

Sec. 91A.  
(Procur-  
ing, &c.)

- (u) by omitting from section 91B the words “woman of or above the age of twenty-one years with intent that some other person may have carnal knowledge of such woman” and by inserting instead the words “person for purposes of prostitution”;

Sec. 91B.  
(Pro-  
curing  
person by  
drugs, &c.)

- (v) by omitting from section 91D the word “female” and by inserting instead the words “person (not being a member of the police force acting in the course of his duty)”.

Sec. 91D.  
(Employ-  
ment in  
brothel.)

*Crimes and Other Acts (Amendment).*

## 6. The Crimes Act 1900 is further amended—

Further  
amend-  
ment of  
Act No.  
40, 1900.

- (a) by inserting next after the words "Chapter I.—  
*Stealing and like offences.*" in Part IV the following  
section and subheading :—

Sec. 93J.

5

## GENERAL.

10

15

93J. Where on the trial of a person for any offence which includes the stealing of any property it appears that the property was, at the time when it was taken by the accused, already out of the possession of the owner by reason of its having been previously stolen, the accused may be convicted of the offence charged notwithstanding that it is not proved that the taking by him amounted to an interference with the right to possession of, or a trespass against, the owner.

Property  
previously  
stolen.

- (b) by omitting from section 99 the word "seven" and by inserting instead the word "ten";

Sec. 99.  
(Demand-  
ing money  
with  
intent to  
steal.)

- (c) by omitting from the subheading occurring before section 106 the word ", BURGLARY";

Sub-  
heading  
before  
sec. 106.

20

- (d) by omitting section 108;

Sec. 108.  
(Burglary.)

- (e) by omitting from section 109 the words "in the night, shall be deemed guilty of burglary, and";

Sec. 109.  
(Entering  
with  
intent, or  
stealing,  
&c., in  
dwelling-  
house and  
breaking  
out.)

(f)

*Crimes and Other Acts (Amendment).*

(f) by omitting section 114 and by inserting instead Sec. 114.  
the following section :—

114. (1) Any person who—

- 5 (a) is armed with any weapon, or instrument, with intent to enter a building and to commit a felony or misdemeanour therein; Being armed, &c., with intent to commit offence.
- 10 (b) has in his possession, without lawful excuse, any implement of housebreaking or safe-breaking, or any implement capable of being used to enter or drive or enter and drive a conveyance;
- 15 (c) has his face blackened or otherwise disguised, or has in his possession the means of blacking or otherwise disguising his face, with intent to commit a felony or misdemeanour;
- 20 (d) enters or remains in or upon any part of a building or any land occupied or used in connection therewith with intent to commit a felony or misdemeanour in or upon the building,

shall be liable to penal servitude for seven years.

(2) For the purposes of subsection (1)

- 25 (b) "conveyance" means any cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.

- 30 (g) by omitting from the subheading appearing before section 117 the words "*Simple larceny and general*" and by inserting instead the word "*General*"; Sub-heading before sec. 117.

(h)



*Crimes and Other Acts (Amendment).*

- (h) by omitting from section 117 the word "simple" wherever occurring; Sec. 117.  
(Punishment for larceny.)
- 5 (i) by inserting in section 120 after the word "pretence" where firstly occurring the words "or by any wilfully false promise"; Sec. 120.  
(Trial for larceny—verdict of embezzlement, &c.)
- (j) by omitting from section 124 the words "two hundred dollars" and by inserting instead the words "\$2,000, or both"; Sec. 124.  
(Fraudulent appropriation.)
- 10 (k) by omitting from section 125 the words ", and may be convicted thereof upon an indictment for simple larceny"; Sec. 125.  
(Larceny by bailee.)
- (l) by omitting from section 126 the word "ten" and by inserting instead the word "fourteen"; Sec. 126.  
(Stealing cattle or killing with intent to steal.)
- (m) by omitting from section 134 the word "simple"; Sec. 134.  
(Stealing, destroying, &c., valuable security.)
- 15 (n) by inserting in section 136 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 136.  
(Proviso to sections 134 and 135.)
- (o) by omitting from section 139 the word "simple"; Sec. 139.  
(Stealing, &c., metal, glass, wood, &c., fixed to house or land.)
- 20 (p) by omitting from section 140 the word "simple"; Sec. 140.  
(Stealing, &c., trees, &c., in pleasure grounds.)

*Crimes and Other Acts (Amendment).*

- (q) by omitting from section 144 the word "simple"; Sec. 144.  
(Stealing ore of metal, coal, &c.)
- (r) by omitting from section 147 the word "simple"; Sec. 147.  
(Fraud on partners in mines, &c.)
- (s) by omitting from section 153 the word "fourteen" and by inserting instead the word "ten"; Sec. 153.  
(Stealing from ship in distress or wrecked.)
- 5 (t) by omitting from section 154 the word "simple"; Sec. 154.  
(Tenants, &c., stealing articles let to hire.)
- (u) by omitting section 154A and by inserting instead the following section :— Sec. 154A.

154A. (1) Any person who—

- 10 (a) without having the consent of the owner or person in lawful possession of a conveyance, takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or
- 15 (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,

20 shall be deemed to be guilty of larceny and liable to be indicted for that offence.

25 (2) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used or intended for navigation, and "drive" shall be construed accordingly.

(v)

---

*Crimes and Other Acts (Amendment).*


---

- (v) by omitting from section 154c the word "simple";      Sec. 154c.  
(Malicious or fraudulent abstraction, waste, &c., of electricity.)
- (w) by omitting from section 163 the word "simple";      Sec. 163.  
(Trial for embezzlement —verdict of larceny.)
- (x) by omitting from section 173 the word "ten" and by inserting instead the word "fourteen";      Sec. 173.  
(Directors, &c., fraudulently appropriating, &c., property.)
- 5      (y) by omitting from section 174 the word "ten" and by inserting instead the word "fourteen";      Sec. 174.  
(Directors, &c., omitting certain entries.)
- (z) by omitting from section 175 the word "ten" and by inserting instead the word "fourteen";      Sec. 175.  
(Director, &c., wilfully destroying, &c., books of company, &c.)
- 10      (aa) by omitting from section 176 the word "ten" and by inserting instead the word "fourteen";      Sec. 176.  
(Director or officer publishing fraudulent statements.)
- (bb) by inserting in section 177 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation";      Sec. 177.  
(Proviso to ss. 165 to 176 incl.)
- 15      (cc) by omitting from section 183 the word "simple";      Sec. 183.  
(Trial for false pretences, &c. —verdict of larceny.)
- (dd)

*Crimes and Other Acts (Amendment).*

- (dd) by omitting from section 184 the word "life" and  
by inserting instead the words "seven years"; Sec. 184.  
(Fraudulent personation.)
- (ee) by inserting in section 188 after the word "receives"  
the words ", or disposes of, or attempts to dispose  
of,"; 5 (Receiving where principal guilty of felony.)
- (ff) by inserting in section 189 after the word "receives"  
the words ", or disposes of, or attempts to dispose  
of,"; (Receiving where principal guilty of misdemeanour.)
- (gg) (i) by inserting in section 189A (1) after the word  
"receives" the words ", or disposes of, or  
attempts to dispose of,"; 10 (Sec. 189A. (Receiving, &c., goods stolen out of New South Wales.)
- (ii) by inserting in section 189A (1) after the  
words "been stolen," the words "and whether  
or not he took part in the stealing of the  
property,"; 15
- (hh) by inserting after section 189A the following  
section :— Sec. 189B.
- 189B. (1) Where in the trial of a person for the  
offence under section 188 or 189 of receiving, or  
disposing of, or attempting to dispose of, any  
property knowing it to have been stolen, it is proved  
that the property was stolen in the course of  
transmission between New South Wales and any  
other jurisdiction or between any other jurisdiction  
and New South Wales— 20  
25
- (a) the person shall be liable to be convicted of  
the offence without proof that the stealing  
took place in New South Wales; and
- (b) for the purpose of determining whether or  
not the stealing amounts to a felony or a  
misdemeanour, the stealing shall be deemed  
to have taken place in New South Wales. 30
- (2)

*Crimes and Other Acts (Amendment).*

- (2) For the purposes of subsection (1) "other jurisdiction" means a State (other than New South Wales) or Territory of the Commonwealth.
- 5 (ii) by inserting in section 190 after the word "receives" where secondly occurring the words "; or disposes of, or attempts to dispose of,"; Sec. 190. (Receiving cattle feloniously killed, or carcass, &c.)
- (jj) by omitting from section 213 the word "ten" and by inserting instead the word "five"; Sec. 213. (Setting fire to fences.)
- 10 (kk) by omitting from section 214 the words "lable to penal servitude for seven years" and by inserting instead the words "liable to penal servitude for three years"; Sec. 214. (Attempts to set fire to such things.)
- (ll) by omitting section 216; Sec. 216. (Injuring trees, shrubs, &c., in pleasure-ground, &c.)
- (mm) by omitting section 217; Sec. 217. (The like to value of over \$10 elsewhere.)
- 15 (nn) by omitting section 218; Sec. 218. (Injuring trees, &c., after two summary convictions.)
- (oo) by omitting section 219; Sec. 219. (Destroying plant, &c., in a garden after one summary conviction.)
- (pp)

---

*Crimes and Other Acts (Amendment).*

---

- (pp) by omitting from the subheading occurring before section 230 the words "*and telegraphs*"; Sub-heading before sec. 230.
- (qq) by omitting section 233; Sec. 233. (Injuring telegraph posts, &c.)
- (rr) by omitting section 234; Sec. 234. (Attempt.)
- 5 (ss) (i) by omitting from section 245 the words "other than pigs or goats,"; Sec. 245. (Killing or maiming cattle.)
- (ii) by omitting from section 245 the words "forty dollars" and by inserting instead the matter "\$1,000";
- 10 (tt) by omitting section 246; Sec. 246. (Cruelly wounding or torturing cattle.)
- (uu) (i) by omitting from section 247 the words ", to an amount exceeding ten dollars,"; Sec. 247. (Other injuries.)
- (ii) by omitting from section 247 the words "shall be liable to imprisonment for two years, and where such offence is committed in the night,"; 15
- (vv) by omitting from section 248 the word "seven" and by inserting instead the word "five"; Sec. 248. (Letters threatening to destroy property.)
- (ww) by inserting after section 248 the following section and subheading :— Sec. 248A.
- 20 *False statement that person or property in danger.*
- 248A. Where any person knowingly makes to any other person a false statement, or sends to any other person a document containing a statement that he knows to be false, and the statement tends to

to

*Crimes and Other Acts (Amendment).*

5 to give rise to apprehension for the safety of any person (including the person making the statement and the person to whom it is made) or property, or both, he shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for twelve months, or both, or on conviction on indictment to imprisonment for five years.

7. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

10 (a) by omitting from section 271 the word "life" and by inserting instead the words "fourteen years";

Sec. 271. (Forging wills.)

(b) (i) by omitting from section 336 the words "in a judicial proceeding,";

Sec. 336. (Tampering with witness.)

15 (ii) by omitting from section 336 the words "such person being bound by recognizance or subpoena so to attend,";

(c) by inserting after section 344 the following Part :— Part VIII.A.

PART VIII.A.

ATTEMPTS.

20 344A. (1) Subject to this Act, any person who attempts to commit any offence for which a penalty is provided under this Act shall be liable to that penalty.

25 (2) Where a person is convicted of an attempt to commit an offence and the offence concerned is a felony he shall be deemed to have been convicted of a felony.

(d) by omitting from section 351 the word "Whosoever" and by inserting instead the words "Any person who aids,";

Sec. 351. (Abettors in misdemeanours —how tried and punished.)

*Crimes and Other Acts (Amendment).*

- (e) by inserting in section 353B after the word "months" the words ", or to a fine of \$500, or both"; Sec. 353B.  
(Person apprehended carrying razor, &c.)
- (f) by omitting section 354 and by inserting instead the following section :— Sec. 354.

5           354. (1) Upon a complaint made on oath that there is reasonable ground to believe that there is in or on any premises— Search warrant for property where indictable offence

10           (a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed; in respect thereof committed, &c.

              (b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of any indictable offence; or

15           (c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any indictable offence,

20           a justice may, by warrant, authorise and require any member of the police force to enter and search the premises.

              (2) A warrant issued under subsection (1) shall be executed by day, unless the justice, by the warrant, authorises its execution by night.

25           (3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

30           (4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5)



*Crimes and Other Acts (Amendment).*

(5) A member of the police force executing a warrant issued under subsection (1) may—

- 5 (a) seize or dispose of in a safe place, or guard in or on the premises, anything mentioned in the warrant and, in addition, any other thing that on reasonable grounds he believes has been obtained by, or has been used in, the commission of an offence, until any charge in relation thereto is dealt with; and
- 10 (b) arrest, search and bring before a justice any person found in the premises whom he suspects of having committed an offence in respect of anything so seized.

15 (6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on the premises, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

20 (7) Any person who without lawful excuse hinders or obstructs any person executing a warrant issued under subsection (1) shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000, or both.

25 (8) For the purposes of this section—

- “indictable offence” includes any act or omission which if done, or omitted to be done, in New South Wales would constitute an offence punishable on indictment;
- 30 “premises” includes any structure, building, aircraft, vehicle, vessel, or place (whether built upon or not), and any part thereof.

(g)

*Crimes and Other Acts (Amendment).*

(g) by omitting from section 356 (1) the words "section three hundred and fifty-four or";

Sec. 356.  
(Pro-  
ceedings on  
finding  
explosive  
substances,  
&c., under  
warrant.)

(h) by omitting section 357 and by inserting instead the following section : —

Sec. 357.

5           357. (1) Upon a complaint made on oath that the complainant has reason to suspect, and believes, that an animal stolen or otherwise unlawfully obtained is concealed or lodged in or on any specified premises, a justice may, by warrant, authorise and require any member of the police force to enter and search the premises.

Searching  
for stolen  
cattle.

10

(2) A member of the police force may without a warrant—

15

(a) require the person in charge of a vehicle to cause the vehicle to stop or remain stationary and afford him access to the vehicle, and may enter and search the vehicle; or

20

(b) enter and search a vehicle,  
for the purpose of searching for any animal that has been stolen or otherwise unlawfully obtained, or that is reasonably suspected of having been stolen or otherwise unlawfully obtained.

25

(3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

30

(4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5)

---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force may—

- 5 (a) seize or dispose of in a safe place, or guard  
in or on the premises or in the vehicle, any  
animal found pursuant to a search under  
subsection (1) or (2) that is reasonably  
suspected of having been stolen or otherwise  
unlawfully obtained, until any charge in  
relation to the animal is dealt with; and
- 10 (b) arrest, search and bring before a justice any  
person found in premises, or in charge of or  
in any vehicle, whom he suspects of having  
committed an offence in respect of any  
animal.

15 (6) After it has been produced in  
evidence, or when it is not required as evidence,  
anything seized, disposed of in a safe place, or  
guarded in or on premises or in a vehicle, under  
subsection (5) (a) shall be disposed of as the Court  
or any stipendiary magistrate shall direct.

20 (7) Any person who without lawful  
excuse—

- 25 (a) hinders or obstructs any person executing a  
warrant issued under subsection (1), or a  
member of the police force searching a  
vehicle under subsection (2);
- (b) fails or neglects to cause a vehicle to stop  
or remain stationary when required to do  
so by a member of the police force acting  
under subsection (2); or
- 30 (c) fails to afford access to a vehicle to a  
member of the police force acting under  
subsection (2),

35 shall be guilty of an offence and liable to  
imprisonment for two years or to a fine of \$2,000,  
or both.

(8)

*Crimes and Other Acts (Amendment).*

5 (8) Nothing in subsection (1) shall prevent a member of the police force who finds on any premises any animal reasonably suspected of having been stolen or unlawfully obtained, from seizing or retaining the animal without a warrant.

(9) For the purposes of this section—  
“animal” means a bull, steer, cow, heifer, calf, horse, mare, gelding, colt, foal, filly, ram, ewe, sheep, lamb or pig, and includes any part, skin or carcass of any such animal;  
10 “premises” includes any structure, building, or place (whether built upon or not), and any part thereof;  
“vehicle” includes a vessel.

15 8. The Crimes Act 1900 is further amended—

(a) (i) by omitting section 405 (1) and by inserting instead the following subsections :—

20 (1) In any proceedings an accused person shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination.

25 (1A) Subsection (1) shall not affect the right of the accused, if not represented by counsel, to address the Court or jury otherwise than on oath on any matter on which, if he were so represented, counsel could address the Court or jury on his behalf.

(ii)

Sec. 405.  
(Accused not entitled to give evidence without being sworn.)

*Crimes and Other Acts (Amendment).*

(ii) by inserting after section 405 (2) the following subsection :—

5  
10

(3) Where the accused does not give evidence or call any witness or witnesses in support of the defence the accused or his counsel shall be entitled to address the jury but, if counsel for the Crown addresses the jury, the accused or his counsel shall not be so entitled until after counsel for the Crown has done so.

(b) (a) by inserting after section 405 the following section :—

15  
20  
25  
30  
35

405A. (1) On a trial on indictment the defendant shall not without the leave of the Court adduce evidence in support of an alibi <sup>Notice of alibi.</sup> or assert in any statement made by him under section 405 (1) that he has an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.

(2) Without prejudice to subsection (1), on a trial on indictment the defendant shall not without the leave of the Court call any other person to give evidence in support of an alibi—

(a) the notice under that subsection includes the name and address of the person, or, if the name or address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the person;

(b) if the name or the address is not included in the notice, the Court is satisfied that the defendant before giving the notice took, and thereafter continued to take, all reasonable steps to secure that the name or the address would be ascertained;

(c)

---

*Crimes and Other Acts (Amendment).*

---

5 (c) if the name or the address is not included in the notice, but the defendant subsequently discovers the name or address or receives other information which might be of material assistance in finding the person, he forthwith gives notice of the name, address or other information, as the case may be; and

10 (d) if the defendant is notified by or on behalf of the Crown that the person has not been traced by the name or at the address given by the defendant, he forthwith gives notice of any information which might be of material assistance in finding the person and  
15 which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

20 (3) The Court shall not refuse leave under this section if it appears to the Court that on the committal for trial of the defendant he was not informed by the committing justice of the requirements of subsections (1), (2) and (5), and the statement in writing of the committing justice that the defendant was so informed shall be evidence  
25 that the defendant was so informed.

(4) Any evidence tendered to disprove an alibi may, subject to any direction by the Court, be given before or after evidence is given in support of the alibi.

30 (5) Any notice purporting to be given under this section on behalf of the defendant by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(6)

*Crimes and Other Acts (Amendment).*

5 (6) A notice under this section shall be given in writing to the Clerk of the Peace, and may be given by delivering it to the Clerk of the Peace, or by leaving it at his office, or by sending it in a registered letter or by certified mail addressed to him at his office.

(7) In this section—  
10 “evidence in support of an alibi” means evidence tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;  
15

“the prescribed period” means the period of ten days commencing at the time of the committal of the defendant for trial.

20 ~~(e)~~ (b) (i) by omitting paragraph (1) of the proviso to section 407 and by inserting instead the following paragraph :—

25 (1) No such person charged with an indictable offence shall be liable to be called as a witness on behalf of the prosecution.

Sec. 407.  
(Competency of parties and accused persons and their husbands and wives to give evidence.)

(ii) by omitting paragraph (2) of the proviso to section 407 and by inserting instead the following paragraphs :—

30 (2) Where an accused person does not give evidence—

(a) no person other than the Judge or the accused or his counsel or any other person being tried together

with

*Crimes and Other Acts (Amendment).*

with the accused, or his counsel, shall make any comment to the jury on that failure to give evidence; and

5 (b) subject to paragraph (2B), any comment by the Judge on that failure to give evidence shall be restricted to informing the jury that the accused could have given  
10 evidence if he had chosen to do so.

(2A) Subject to paragraph (2B), the failure of the husband or wife, as the case may be, of an accused person to give  
15 evidence shall not be made the subject of any comment by the Judge or by counsel for the Crown.

(2B) Where two or more persons are being  
20 tried together, and comment is made, by or on behalf of any of them, upon the failure of any of them, or of the husband or wife, as the case may be, of any of them, to give evidence, the  
25 Judge may make such observation to the jury in regard to such comment or such failure to give evidence as he thinks fit.

- (d) (c) (i) by omitting from section 409 (1) the words "on oath that";
- 30 (ii) by inserting in section 409 (1) (a) before the words "the witness" the words "on oath that";
- (iii) by inserting in section 409 (1) (b) (i) before the words "the deposition" the word "that";
- 35 (iv) by inserting in section 409 (1) (b) (ii) after the word "coroner," the word "that";
- (v)

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



---

*Crimes and Other Acts (Amendment).*

---

- (v) by inserting in section 409 (1) (c) before the words "the accused" the word "that";
- (vi) by inserting after section 409 (4) the following subsections :—

5 (5) For the purposes of subsection (1), unless it is proved to the contrary—

(a) a deposition, or a deposition in the form of a transcript, of the evidence of a witness shall be deemed to have been  
10 taken or made in the presence of the accused, or during any period when the accused, having been discharged under section 41 (1B) of the Justices Act, 1902, was absent; and

15 (b) the accused or his counsel or attorney shall be deemed to have had a full opportunity of cross-examining the witness, or the accused, having been discharged under section 41 (1B),  
20 shall be deemed to have been absent when the deposition was taken and not represented by counsel or attorney,

25 if it appears from the deposition that it was so taken or made, and that the accused or his counsel had such an opportunity or was so absent and not represented by counsel or attorney, as the case may be.

(6) For the purposes of subsection (1) (b) (ii), where a deposition is in the form of  
30 a transcript of the record, unless it is proved to the contrary, the record shall be deemed to be a true record of the matter deposed, and the transcript shall be deemed to be a correct transcript of the record if, in the case of a  
35 transcript of a record—

(a) made in shorthand notes, the transcript is identified by, and signed in the  
handwriting

*Crimes and Other Acts (Amendment).*

5  
 handwriting of, the person purporting to have made the shorthand notes; or  
 (b) made by any other means (other than writing) authorised by law for the taking of a deposition, the transcript is certified in the manner prescribed by regulations made under the Justices Act, 1902.

10 ~~(e)~~ (d) by inserting after section 413 the following sections :— Secs. 413A, 413B and 413C.

15 413A. (1) Subject to this section and section 413B, where in any proceedings an accused person gives evidence he shall not in cross-examination be asked, and if asked shall not be required to answer, any question tending to reveal to the Court or jury— Restriction on cross-examination of accused.

- 20 (a) the fact that he has committed, or has been charged with or convicted or acquitted of, any offence other than the offence charged; or
- (b) the fact that he is generally or in a particular respect a person of bad disposition or reputation.

25 (2) Subsection (1) shall not apply to a question tending to reveal to the Court or jury any fact such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose of proving the commission by the accused of the offence charged.

30 (3) Where, in any proceedings in which two or more persons are jointly charged, any of the accused persons gives evidence, subsection (1) shall not in his case apply to any question tending to reveal to the Court or jury a fact about him such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose

35 of

---

*Crimes and Other Acts (Amendment).*

---

of showing any other of the accused to be not guilty of the offence with which that other is charged.

(4) Subsection (1) shall not apply if—

5 (a) the accused person has personally or by his  
counsel asked any witness for the prosecution or for a person jointly charged with  
him any question concerning the witness's  
10 conduct on any occasion (other than his  
conduct in the activities or circumstances  
giving rise to the charge or his conduct  
during the trial or in the activities, circum-  
stances or proceedings giving rise to the  
15 trial) or as to whether the witness has committed,  
or has been charged with or  
convicted or acquitted of, any offence; and

(b) the Court is of the opinion that the main purpose of that question was to raise an issue as to the witness's credibility,

20 but the Court shall not permit a question falling  
within subsection (1) to be put to an accused person  
by virtue of this subsection unless it is of the  
opinion that the question is relevant to his credibility  
as a witness and that in the interests of justice  
25 and in the circumstances of the case it is proper to  
permit the question to be put.

(5) Subsection (1) shall not apply where  
the accused person has given evidence against any  
person jointly charged with him in the same  
30 proceedings.

*Crimes and Other Acts (Amendment).*

413B. (1) In any proceedings an accused person may— Admissibility of evidence and questions about accused's disposition or reputation.

5 (a) personally or by his counsel ask questions of any witness with a view to establishing directly or by implication that the accused is generally or in a particular respect a person of good disposition or reputation;

10 (b) himself give evidence tending to establish directly or by implication that the accused is generally or in a particular respect such a person; or

15 (c) call a witness to give any such evidence, but where any of these things has been done, the prosecution may call, and any person jointly charged with the accused person may call, or himself give, evidence to establish that the accused person is a person of bad disposition or reputation, and the prosecution or any person so charged may in 20 cross-examining any witness (including, where he gives evidence, the accused person) ask him questions with a view to establishing that fact.

(2) Where by virtue of this section a party is entitled—

25 (a) to call evidence to establish that the accused person is a person of bad disposition or reputation, that party may call evidence of his previous convictions, if any, whether or not the party calls any other evidence for that purpose; or

30 (b) in cross-examining the accused to ask him questions with a view to establishing that he is such a person section 413A (1) shall not apply in relation to his cross-examination by that party.

413C.

*Crimes and Other Acts (Amendment).*

5 413c. (1) Where in any proceedings the fact that an accused person has been convicted of an offence is admissible in evidence, a document purporting to be a record of the conviction (whether in the State or elsewhere) of the accused person for the offence and purporting to be signed by an authorised person shall be received in the proceedings as evidence of that fact.

Documen-  
tary evidence  
of previous  
convictions.

10 (2) The method of proving a conviction authorised by this section shall be in addition to and not to the exclusion of any other method of proving a conviction.

(3) For the purposes of subsection (1), "authorised person" means—

- 15 (a) the officer-in-charge of the Central Fingerprint Bureau of the Police Department, or any person authorised by him for the purposes of this section;
- (b) a gaol recorder;
- 20 (c) the officer-in-charge of police at the town where the Court, in which it is proposed to give evidence that an accused person has been convicted of an offence, is being held;  
or
- 25 (d) in the case of proceedings before a stipendiary magistrate, the police prosecutor conducting the proceedings.

- ~~(f)~~ (e) (i) by inserting in section 414A after the word "article" the words "or living person";
- (ii)

Sec. 414A.  
(Certificate  
of scientific  
examinator  
evidence.)

*Crimes and Other Acts (Amendment).*

(ii) by inserting at the end of section 414A the following subsections :—

5 (2) A certificate which would, by virtue of section 4E (12) (a) or (b) of the Motor Traffic Act, 1909, be prima facie evidence of the particulars certified in and by the certificate in proceedings for an offence under  
10 section 4E (1) of that Act shall be prima facie evidence of those particulars at any inquest or where a person is charged before a stipendiary magistrate or before any Court with an indictable offence.

15 (3) Where any certificate is admitted in evidence by virtue of subsection (2), evidence of the condition of a breath analysing instrument or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced.

20 ~~(g)~~ (f) by omitting section 415 and by inserting instead the **Sec. 415.** following section :—

415. (1) Subject to subsection (2), in any case **Proof of banking transactions.** where it is necessary to prove—

25 (a) the state of an account in the books or records of a banking corporation, or company;

(b) that any person has not or had not an account, or any funds, to his credit in any such books or records; or

30 (c) any entry in any such books or records with respect to—

(i) the opening of an account of any kind;

(ii)

---

*Crimes and Other Acts (Amendment).*

---

- (ii) the specimen signature of any person;
- (iii) the account number of any account;
- 5 (iv) the issue of, or the number on, any cheque, draft, warrant, cheque-book, bank-book or passbook;
- (v) the particulars of any deposit, deposit slip or remitting warrant;
- 10 (vi) the drawing, endorsement or marking of any cheque;
- (vii) the dishonouring of any cheque, draft or promissory note;
- (viii) the presentation and meeting of any cheque;
- 15 (ix) the depositing or withdrawal of any money in respect of any account;
- (x) any documents in respect of any such deposit or withdrawal; or
- 20 (xi) the lodgment of any document or security or other item in safe deposit or for safe custody or the granting of access to or withdrawal of any such item,

25 it shall not be necessary to produce any such book or record, but evidence of any such matter may be given, either orally or by affidavit, by any officer or clerk of the corporation or company who has examined the book or record.

30 (2) Where in any Court evidence is given by affidavit under subsection (1) the Court may if it thinks fit order that the evidence be not admitted unless the person who made the affidavit gives oral evidence in the proceedings or gives evidence by a further affidavit.

(3)

*Crimes and Other Acts (Amendment).*

(3) The method of proving any matter referred to in subsection (1) shall be in addition to and not to the exclusion of any other method of proving that matter.

- 5 ~~(h)~~ (g) by omitting from section 420 (b) the words "such trial" and by inserting instead the words "the commission of the offence charged, or if more than one offence is charged, the commission of the earliest such offence charged";
- Sec. 420.  
(Receivers.  
Evidence of  
guilty  
knowledge.)

10 **9.** The Crimes Act 1900 is further amended—

Further  
amend-  
ment of  
Act No.  
40, 1900.

- (a) by omitting the words "*Sentences of whipping or irons.*" occurring before section 434 and by omitting section 434;
- Sec. 434.  
(Juvenile  
offenders  
may be  
whipped.)

- (b) by omitting section 435;
- Sec. 435.  
(Whipping  
adults in  
certain  
cases.)

- 15 (c) (i) by omitting from section 437 (1) the words "two thousand dollars" and by inserting instead the matter "\$4,000";
- Sec. 437.  
(Compensa-  
tion to  
person  
aggrieved  
by any  
felony or  
mis-  
demeanour.)

- 20 (ii) by inserting in section 437 (1) after the word "misdemeanour" where secondly occurring the words "or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour";

- 25 (iii) by inserting in section 437 (3) after the word "misdemeanour" the words "or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour";

(iv)



*Crimes and Other Acts (Amendment).*

(iv) by inserting after section 437 (3) the following subsection :—

5

(3A) Subject to section 9 of the Criminal Appeal Act, 1912, any sum directed under subsection (1) to be paid to an aggrieved person shall be paid forthwith, or within such period (if any) as is specified in the direction, to the Clerk of the Peace for payment to the person aggrieved.

10

(d) by inserting after section 437 the following Sec. 437A. section :—

15

437A. (1) This section shall have effect where a direction is given under section 437 (1) in favour of an aggrieved person in respect of any injury or loss and civil proceedings in respect of the injury or loss are subsequently brought by or on behalf of the aggrieved person.

Effect of direction under s. 437 on civil proceedings.

20

(2) A direction under section 437 (1) shall not affect the right to bring the civil proceedings and the damages in the civil proceedings shall be assessed without regard to the direction, but where—

25

(a) the whole or part of the amount directed under section 437 (1) to be paid; or

(b) an amount under the Criminal Injuries Compensation Act, 1967, in respect of the injury or loss,

30

has been paid, the judgment of the Court, in so far as it relates to an amount of damages equal to the amount so paid under the direction or that Act, or under the direction and that Act, shall not be entered without the leave of the Court.

(3)

*Crimes and Other Acts (Amendment).*

(3) Where there is an amount unpaid under a direction and a Court awards damages in civil proceedings, then the Court shall direct that the judgment—

5 (a) if it is for an amount not exceeding the amount unpaid under the direction, shall not be enforced; or

10 (b) if it is for an amount exceeding the amount unpaid under the direction, shall not be enforced as to the amount equal to the amount unpaid under the direction,

without the leave of the Court.

15 (e) by omitting from section 440B (1) the words "two thousand dollars" and by inserting instead the matter "\$4,000";

Sec. 440B.  
(Imposition of fine on sentence being deferred or suspended.)

(f) by omitting from section 442 (1) the words "or whipping,";

Sec. 442.  
(Provision for passing sentences of less duration than those fixed.)

20 (g) (i) by inserting in section 444 (1) after the word "Judge" the words "or magistrate";

Sec. 444.  
(Sentence during any unexpired sentence may be cumulative.)

(ii) by inserting in section 444 (1A) after the word "Judge" the words "or magistrate";

(iii) by inserting in section 444 (2) after the word "Judge" wherever occurring the words "or magistrate";

(iv) by inserting in section 444 (3) after the word "Judge" the words "or magistrate";

(v)

*Crimes and Other Acts (Amendment).*

- (v) by omitting section 444 (4) and by inserting instead the following subsection :—
- 5 (4) Notwithstanding anything in this section, a magistrate, whether dealing with an offence or offences under section 476 or otherwise, shall not impose, or make an order having the effect of imposing, on any offender—
- 10 (a) more than one sentence of imprisonment or penal servitude to be served consecutively on any other sentence of imprisonment or penal servitude then imposed on, or being served by, the offender; or
- 15 (b) sentences of imprisonment or penal servitude, to be served consecutively, totalling more than three years.

## 10. The Crimes Act 1900 is further amended—

- |    |  |   |
|----|--|---|
|    | (a) by omitting section 453;   | Further amendment of Act No. 40, 1900.<br><br>Sec. 453.<br>(Meaning and effect of penal servitude sentences.) |
| 20 | (b) by omitting section 454;   | Sec. 454.<br>(Existing laws to be applicable.)  |
|    | (c) by omitting the words " <i>Whipping sentences.</i> " occurring before section 455 and by omitting section 455; | Sec. 455.<br>(Kind of instrument and manner of use to be fixed by Comptroller-General.)                       |
|    | (d)  |   |

*Crimes and Other Acts (Amendment).*

(d) by omitting section 456;

Sec. 456.  
(Surgeon  
may  
remit  
whipping  
in certain  
cases.)

(e) by omitting section 457 and by inserting instead the following section :—

5           457. (1) Where pursuant to section 437 a Court or a Judge directs that a sum be paid to an aggrieved person in respect of any injury or loss and the whole or any part of that sum is not paid in accordance with section 437 (3A) to the Clerk of the Peace, the Clerk of the Peace, on the application  
10           of the aggrieved person, shall issue to the aggrieved person a certificate specifying the direction of the Court or the Judge and the amount of the sum required by the direction to be paid which  
15           has not, at the date of the certificate, been paid to the Clerk of the Peace.

Direction  
for com-  
pensation to  
be enforce-  
able by  
execution,  
&c.

(2) Where a certificate is issued pursuant to subsection (1) the Clerk of the Peace shall not thereafter accept any payments from the offender in respect of the direction specified in the certificate.

20           (3) An aggrieved person may file in the District Court at Sydney a certificate issued to him under subsection (1), and thereupon the registrar shall enter judgment in favour of the aggrieved  
25           person against the offender specified in the certificate for the amount specified in the certificate as having not been paid and any fees payable to the registrar in respect of the certificate.

(f)

*Crimes and Other Acts (Amendment).*

(f) by omitting from section 459 the following words :—

Sec. 459.  
(Commuta-  
tion of  
capital  
sentences.)

5 , and also, if the Governor thinks fit so to direct, that he be kept in irons, for any time not exceeding the first three years of such servitude or imprisonment.

10 In addition thereto, in cases of rape, or of carnal knowledge of a girl under ten years, the Governor may direct that the offender shall be once, twice, or thrice publicly or privately whipped, at such times and with so many strokes at each time, not more than fifty, as he thinks fit ;

(g) by omitting section 467.

Sec. 467.  
(Position  
of wife  
of felon.)

11. The Crimes Act 1900 is further amended—

Further  
amendment  
of Act No.  
40, 1900.

15 (a) by omitting section 476 and by inserting instead the following section :—

Sec. 476.

20 476. (1) Where a person is charged before a stipendiary magistrate with an offence mentioned in subsection (6) the magistrate may require the person to state whether he intends to plead guilty or not guilty to the charge, and if the person does not so state he shall be taken for the purposes of this section to have stated that he intends to plead not guilty.

Indictable  
offences  
punishable  
summarily.

25 (2) Where a person states under subsection (1) that he intends to plead not guilty to a charge, and it appears to the magistrate that the case may properly be disposed of summarily and that the person consents to it being so disposed of,

the

---

*Crimes and Other Acts (Amendment).*

---

the magistrate shall have jurisdiction to hear and determine the charge in a summary manner and pass sentence upon the person.

5 (3) Where a person states under subsection (1) that he intends to plead guilty to a charge the magistrate may accept or reject the plea.

10 (4) Where a magistrate rejects a plea under subsection (3) the proceedings before the magistrate shall continue as though the person had stated under subsection (1) that he intends to plead not guilty.

(5) Where a magistrate accepts a plea under subsection (3) and it appears to the magistrate—

15 (a) that the case may be properly disposed of summarily and that the person consents to it being so disposed of, the magistrate shall have jurisdiction to pass sentence upon the person; or

20 (b) that the case may not properly be disposed of summarily, or that the person does not consent to it being so disposed of, the provisions of section 51A of the Justices Act, 1902, shall apply as though the person had  
25 pleaded guilty to the charge under that section.

(6) The offences referred to in subsection (1) are—

30 (a) (i) larceny, and any offence which under this Act is deemed to be, or is made punishable as, larceny or stealing;

(ii) the offence of stealing any chattel, money, or valuable security from the person of another; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

- 5 (iii) any offence mentioned in section 126,  
131, 145, 146, 148, 150, 151, 152,  
156, 157, 159, 160, 165, 166, 168,  
169, 170, 178A, 178B, 178C, 179, 186,  
188, 189, 189A, 190, 192, 208, 209,  
210, 220, 229, 244, 245, 247, 248,  
273, 274 or 275,
- 10 where the value of the property, matter or  
thing the subject of the charge or the  
damage thereto, or the amount of money or  
reward the subject of the charge, does not  
exceed \$1,000;
- 15 (b) any offence mentioned in section 71, 72, 76  
or 76A, where the female the subject of the  
charge was at the time of the commission  
of the offence of or above the age of  
fourteen years;
- 20 (c) any offence mentioned in section 81 where  
the person upon whom the assault was  
committed was at the time of the assault  
of or above the age of fourteen years;
- (d) any offence mentioned in section 56, 57, 58,  
59, 61, 81A, 81B, 81C, 114, 132, 133, 154A,  
158 or 252;
- 25 (e) any offence mentioned in section 85 where  
the person charged is the mother of the child  
and is not charged with any other person;
- (f) any offence mentioned in section 112  
where—
- 30 (i) the felony alleged is stealing ;  
(ii) the value of the property stolen does  
not exceed \$1,000; and
- (iii)

---

*Crimes and Other Acts (Amendment).*

---

5 (iii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;

(g) any offence mentioned in section 111 or 113 where—

10 (i) the felony intended is stealing; and

(ii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;

15 (h) escape from lawful custody, except where the escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952; and

20 (i) (i) attempting to commit;  
(ii) where the offence is a felony, being an accessory before or after the fact to;  
or

25 (iii) where the offence is a misdemeanour, aiding, abetting, counselling or procuring the commission of,  
any offence mentioned in paragraph (a), (b), (c), (d), (f), (g) or (h).

30 (7) Notwithstanding anything in this Act to the contrary—

(a) the maximum term of imprisonment, or penal servitude, to which a person may be sentenced by a magistrate under this section  
in



*Crimes and Other Acts (Amendment).*

in respect of any one offence is two years, or the maximum term of imprisonment, or penal servitude, fixed by law (other than by this subsection) in respect of the offence, whichever is the shorter term;

(b) the maximum fine which may be imposed by a magistrate under this section is, in respect of any one offence, \$2,000, or the maximum fine fixed by law (other than by this subsection) in respect of the offence, whichever is the smaller; and

(c) where the maximum punishment which may be imposed by law (other than by this subsection) in respect of an offence is a term of imprisonment or penal servitude, or a fine, or both, the maximum punishment which may be imposed by a magistrate under this section in respect of the offence is that term, or two years, whichever is the shorter term, or that fine, or \$2,000, whichever is the smaller fine, or both.

(8) The provisions of section 82 of the Justices Act, 1902, apply to any fine imposed by a magistrate under this section.

(9) Where, before the commencement of the Crimes and Other Acts (Amendment) Act, 1974, a conviction in respect of an offence mentioned in this section would have been a conviction in respect of a felony, a conviction by a magistrate under this section in respect of that offence shall for all purposes be deemed to be a conviction in respect of a felony.

(b) by omitting the words "*Offences and punishment.*" occurring before section 477 and by omitting section 477;

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

---

*Crimes and Other Acts (Amendment).*


---

(c) by omitting section 478;

Sec. 478.  
(Punish-  
ment in  
such  
cases.)

(d) by omitting section 479;

Sec. 479.  
(Accused to  
have option  
of summary  
disposal of  
case or of  
trial by  
jury.)

(e) by omitting section 479A;

Sec. 479A.  
(Certain  
offences  
not to be  
dealt with  
summarily.)

5 (f) by omitting section 480 and by inserting instead the following section :—

Sec. 480.

10 480. Where a charge is disposed of summarily under section 476, the magistrate shall, if the case is dismissed and he is requested to do so, make out and deliver to the person charged with the offence so disposed of, a certificate under the magistrate's hand stating the fact of the dismissal.

Certificate  
of dismissal.

15 (g) by omitting the words "CHAPTER II.—*Offences punishable summarily in certain cases by whipping.*" occurring before section 482 and by omitting sections 482, 483, 484, 485, 486, 487, 488, 489, 490, 491 and 492;

Secs.  
482-492.

(h) by omitting section 493 and by inserting instead the following section :—

Sec. 493.

20 493. Whosoever assaults any person shall on summary conviction be liable to imprisonment for six months, or to a fine of \$500, or both.

Common  
assaults.

(i) by omitting from section 494 the words "two hundred dollars" and by inserting instead the words "\$500, or both";

Sec. 494.  
(Aggravated  
assaults.)

(j)

*Crimes and Other Acts (Amendment).*

- (j) by omitting section 495; Sec. 495.  
(Assaults respecting the sale of grain.)
- (k) by omitting section 496; Sec. 496.  
(Assaults obstructing workmen.)
- (l) by omitting section 497; Sec. 497.  
(Where jurisdiction excluded.)
- 5 (m) by omitting from section 498 the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494"; Sec. 498.  
(Certificate of dismissal.)
- 10 (n) by omitting from section 499 (2) the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494"; Sec. 499.  
(Certificate or conviction a bar to other proceedings.)
- 15 (o) (i) by omitting from section 501 (1) (a) the word "simple"; Sec. 501.  
(List of offences punishable summarily without consent of accused.)
- (ii) by inserting in section 501 (1) (c) after the words "one hundred and fifty-two" the matter ", 178B";
- 20 (iii) by omitting from section 501 (1) the words "one hundred dollars" where firstly occurring and by inserting instead the matter "\$500";
- (iv) by omitting from section 501 (1) the words "one hundred dollars" where secondly occurring and by inserting instead the words "\$1,000, or both";
- 25 (p) by omitting from section 502 the words "one hundred dollars" and by inserting instead the words "\$500, or both"; Sec. 502.  
(Possession of skin, &c., of stolen cattle.)

(q)

*Crimes and Other Acts (Amendment).*

- (q) by omitting from section 503 the words "the value of the dog, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 503.  
(Stealing dogs.)
- 5 (r) by omitting from section 504 the words "forty dollars" and by inserting instead the matter "\$500"; Sec. 504.  
(Possession of stolen dog or skin.)
- (s) by omitting from section 505 the words "the value of the animal or bird, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 505.  
(Stealing animals, &c., ordinarily kept in confinement.)
- 10 (t) by omitting from section 507 the words "the value of such animal bird or skin, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 507.  
(Possession of stolen animals, &c.)
- 15 (u) by omitting from section 510 the words "forty dollars" and by inserting instead the matter "\$500"; Sec. 510.  
(Setting engine for deer, &c.)
- (v) by omitting from section 511 the words "the value of the bird, in addition to a fine of four dollars" and by inserting instead the words "a fine of \$200"; Sec. 511.  
(Killing pigeons.)
- 20 (w) (i) by omitting from section 513 the words ", the value of or the injury done to which exceeds ten cents,"; Sec. 513.  
(Stealing shrubs, &c.)
- (ii) by omitting from section 513 the words "pay the value of the property stolen, or intended to be stolen, or the amount of injury done, in addition to a fine of ten dollars" and by inserting instead the words "imprisonment for six months, or to pay a fine of \$500, or both";
- 25 (x) by omitting section 514; Sec. 514.  
(The like—second offence.)
- (y)

*Crimes and Other Acts (Amendment).*

- (y) by omitting from section 515 the words "twenty dollars" and by inserting instead the matter "\$100"; Sec. 515. (Stealing, &c., live or dead fence, &c.)
- (z) by omitting section 516; Sec. 516. (The like—second offence.)
- 5 (aa) (i) by omitting from section 517 the words " , being of or above the value of ten cents, "; Sec. 517. (Unlawful possession of trees, fences, &c.)
- (ii) by omitting from section 517 the words "ten dollars" and by inserting instead the matter "\$100";
- 10 (bb) (i) by omitting from section 518 the words " , such wood being of the value of or above ten cents, "; Sec. 518. (Stealing dead wood.)
- (ii) by omitting from section 518 the words "ten dollars" and by inserting instead the matter "\$100";
- 15 (cc) by omitting section 519; Sec. 519. (The like—second offence.)
- (dd) by omitting from section 520 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 520. (Stealing plants, &c., in gardens.)
- 20 (ee) by omitting from section 521 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of two dollars" and by inserting instead the words "a fine of \$200"; Sec. 521. (Stealing plants, &c., not growing in gardens.)
- 25 (ff) (i) by omitting from section 522 the words "of the value of fifty cents, "; Sec. 522. (Possession of ship-wrecked goods.)
- (ii) by omitting from section 522 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- 30

(gg)

*Crimes and Other Acts (Amendment).*

- (gg) by omitting from section 523 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- 5 (hh) by inserting in section 525 after the word "fine" the words "of \$1,000 in addition to a fine";
- (ii) by omitting section 526A (1) and by inserting instead the following subsections :—
- (1) Any person who—
- 10 (a) without having the consent of the owner or person in lawful possession of a conveyance takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or
- 15 (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,
- 20 shall be guilty of larceny and shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.
- (1A) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.
- 25

Sec. 523.  
(Offering ship-wrecked goods for sale.)

Sec. 525.  
(Stealing or damaging books, &c., in public library, &c.)

Sec. 526A.  
(Taking a conveyance without the consent of the owner.)

(ij)

*Crimes and Other Acts (Amendment).*

- (jj) by omitting from section 527 the words "three months, or to pay a fine of forty dollars" and by inserting instead the words "six months, or to pay a fine of \$500, or both";
- 5 (kk) by omitting from section 528 the words "one hundred dollars" and by inserting instead the matter "\$500";
- (ll) by omitting section 529 and by inserting instead the following section :—
- 10 529. (1) In this section—
- "receives" includes disposes of, and attempts to dispose of;
- "stolen" includes taken, extorted, obtained, embezzled, and otherwise disposed of, unlawfully.
- 15
- (2) Any person who receives any stolen property of a value not exceeding \$500, knowing the same to have been stolen, shall, on conviction before two justices, be liable to imprisonment for
- 20 twelve months, or to pay a fine of \$1,000, or both.
12. The Crimes Act 1900 is further amended—
- (a) by omitting the subheading "(c) MALICIOUS INJURIES TO PROPERTY. *Declaratory clauses.*" occurring before section 530 and by omitting section 530;
- 25
- (b)

Sec. 527.  
(Fraudulently appropriating or retaining property.)

Sec. 528.  
(Advertising reward for return of stolen property.)

Sec. 529.

Receivers punishable summarily.

Further amendment of Act No. 40, 1900.

Sec. 530.  
(Ownership and possession of property injured.)

---

*Crimes and Other Acts (Amendment).*


---

- (b) by omitting section 531; Sec. 531.  
(Actual malice—  
certain acts not  
malicious.)
- (c) by omitting the words "*Injuries to trees, shrubs, vegetable produce, fences, &c.*" and "*Injuries to certain animals.*" occurring before section 539 and by omitting section 539; 5 (Killing or maiming animals not being cattle.)
- (d) by omitting section 540; Sec. 540.  
(The like—  
second offence.)
- (e) by omitting the words "*Injuries not otherwise provided for.*" occurring before section 541 and by omitting section 541; Sec. 541.  
(Injuring property not previously provided for.)
- 10 (f) by omitting section 542; Sec. 542.  
(The like—  
second offence.)
- (g) by omitting the words "*Application of compensation.*" occurring before section 543 and by omitting section 543; Sec. 543.  
(Application of compensation.)
- 15 (h) by omitting the words "(D) COINAGE OFFENCES." occurring before section 544 and by omitting section 544; Sec. 544.  
(Uttering defaced coin.)
- (i) by omitting section 545; Sec. 545.  
(Possessing above five pieces of counterfeit foreign coin.)
- 20 (j) by omitting from section 545A (1) the words "forty dollars" and by inserting instead the words "\$200, or both"; Sec. 545A.  
(Bogus advertisements.)

(k)



*Crimes and Other Acts (Amendment).*

- (k) by omitting from section 545B (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545B.  
(Intimidation or annoyance by violence or otherwise.)
- 5 (l) (i) by omitting from section 545C (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545C.  
(Knowingly joining or continuing in an unlawful assembly.)
- (ii) by omitting from section 545C (2) the words "one hundred dollars" and by inserting instead the words "\$1,000, or both";
- 10 (m) by omitting from section 545D the words "six months" and by inserting instead the words "twelve months, or to a fine not exceeding \$1,000, or both"; Sec. 545D.  
(Unlawful making or possession of explosives.)
- (n) by inserting in section 546 after the words "summary conviction," the word "aids,"; Sec. 546.  
(Abetting or procuring.)
- 15 (o) by inserting after section 547A the following section and subheading :— Sec. 547B.

**(H) PUBLIC MISCHIEF.**

20 547B. (1) Any person who, by any means, knowingly makes to a member of the police force any false representation that an act has been, or will be, done or that any event has occurred, or will occur, which act or event as so represented is such as calls for an investigation by a member of the police force, shall be liable on conviction before a stipendiary magistrate to imprisonment for six months, or to a fine of \$500, or both. Public mischief.

25

(2) For the purposes of subsection (1), a person shall be deemed to make a representation to a member of the police force if he makes the representation

*Crimes and Other Acts (Amendment).*

representation to any other person and the nature of the representation reasonably requires that other person to communicate it to a member of the police force and that person does so communicate it.

- 5 (p) by omitting section 548A and the subheading thereto; **Sec. 548A.**  
(Power to commit.)
- (q) by omitting from section 554 (3) the words "three hundred dollars" and by inserting instead the matter "\$600"; **Sec. 554.**  
(Damages and compensation.)
- 10 (r) by omitting the words "*Conditional release of offenders.*" occurring before section 556A and by inserting instead the heading "PART XV. CONDITIONAL RELEASE OF OFFENDERS.";
- 15 (s) (i) by omitting from section 556A (1) the words "a court of summary jurisdiction" and by inserting instead the words "any court"; **Sec. 556A.**  
(Power to permit release of offenders.)
- (ii) by inserting in section 556A (1) after the word "committed," the words "or to any other matter which the court thinks it proper to consider,";
- 20 (iii) by inserting after section 556A (1) the following subsection :—
- (1A) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the court shall order.
- 25 (iv) by omitting from section 556A (2) the words "subsection three of section five hundred and fifty-four" and by inserting instead the matter "section 437 (1) or section 554 (3)";
- 30 (v)

*Crimes and Other Acts (Amendment).*

(v) by omitting section 556A (3) and by inserting instead the following subsection :—

(3) Where under subsection (1) a charge is dismissed or an offender is conditionally discharged, the person charged shall have the same rights as to appeal on the ground that he was not guilty of the offence charged as he would have had if convicted of the offence.

(t) (i) by inserting in section 556B after the word "recognizance" where firstly occurring the words "(whether entered into for the purposes of section 556A or otherwise)";

Sec. 556B.  
(Proceedings on breach of condition of recognizance.)

(ii) by omitting from section 556B the words "summary jurisdiction" and by inserting instead the words "like jurisdiction to that court".

**13.** The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

(a) by omitting the heading "PART XV. FIRST OFFENDERS." occurring before section 557 and by omitting section 557;

Sec. 557.  
(Interpretation.)

(b) by omitting section 558 and by inserting instead the following section:—

Subst. sec. 558.

558. (1) A Court before which a person comes to be sentenced for any offence may if it thinks fit defer passing sentence upon the person and order his release upon his entering into a recognizance, with or without sureties, in such amount as the Court directs, to be of good behaviour for such period as the Court thinks proper and to come up for sentence if called upon.

Deferring sentence.

---

*Crimes and Other Acts (Amendment).*

---

(2) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the Court shall order.

5 (3) Where a person has entered into a  
recognizance mentioned in subsection (1) he may  
be removed to such gaol, or other place, as the  
Court may determine, and there forthwith submitted  
10 to the examination customary for securing future  
identification, and may be detained for whatever  
period, not exceeding forty-eight hours, as may be  
necessary for this purpose.

(4) Where the penalty provided by law in  
15 respect of an offence is a sentence of imprisonment  
or a fine or both, nothing in this section prevents the  
imposition of a fine for the offence when sentence  
for the offence is deferred under subsection (1).

(5) The provisions of section 82 of the  
20 Justices Act, 1902, apply to a fine imposed as  
referred to in subsection (4).

(6) A person may be called up for  
25 sentence and sentenced on the breach by him of  
any of the terms or conditions of a recognizance  
entered into by him under this section if the breach  
occurs during the period of the recognizance fixed  
under subsection (1), notwithstanding that the  
period has expired.

(7) Any power conferred upon a Court by  
30 the operation of this section shall be in addition  
to, and not in substitution for, any power conferred  
upon the Court otherwise.

(c)



*Crimes and Other Acts (Amendment).*

251, 344A, 345 to 347 inclusive, 351, Parts X to XIII inclusive, sections 547 to 556B inclusive, section 558 and Part XVI.

5 (i) by omitting from the Fourth Schedule the words "two hundred and thirty-three, two hundred and thirty-four,"; Fourth Schedule.

(j) by omitting the Sixth Schedule. Sixth Schedule.

14. The Justices Act, 1902, is amended— Amendment of Act No. 27, 1902.

10 (a) by omitting section 51A (6) (a) and by inserting instead the following paragraph :— Sec. 51A. (Effect of plea of guilty in committal proceedings.)

(a) a magistrate has jurisdiction to pass sentence upon the person under section 476 (5) (a) of the Crimes Act 1900; or;

15 (b) by omitting from section 80 the words " : Provided that in the case of an information, if upon the close of the case for the prosecution it appears to the Justice or Justices that the offence ought to be dealt with by indictment, he or they shall abstain from adjudication thereon and shall deal with the case for the purpose of committal for trial only"; Sec. 80. (After hearing case Justices to convict or make an order or dismiss case.)

20

(c) by inserting after section 125 (1) the following subsection :— Sec. 125. (Powers of Court appealed to.)

25 (1A) Where the conviction, order, sentence, or adjudication appealed against was recorded, made, passed, or given under the jurisdiction conferred upon a magistrate under section 476 of the Crimes Act 1900, the Court hearing the appeal shall not vary any penalty imposed by increasing it beyond the penalty which could have been imposed by the magistrate under that section.

30

*Crimes and Other Acts (Amendment).***15.** The Jury Act, 1912, is amended—Amendment  
of Act No.  
31, 1912.

- (a) by omitting section 27 (3) and by inserting instead the following subsection :—

Sec. 27.

(Trial by  
jury in  
criminal  
cases.)

5 (3) Upon the trial of any person for a felony the jury shall, unless the court otherwise orders, be permitted to separate, at any time before they consider their verdict, in the same way as the jury upon the trial of any person for a misdemeanour are permitted to separate.

- 10 (b) by omitting section 27A and by inserting instead the following section :—

Sec. 27A.

15 27A. Where in the course of a criminal trial any member of the jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless—

Provision  
for con-  
tinuance of  
trial where  
juror dies  
or becomes  
incapable.

- (a) if the number of its members is not reduced below ten; or
- 20 (b) if the number of its members is reduced below ten and assent in writing is given by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give),
- 25 and if the court so orders, be considered as remaining for all the purposes of that trial properly constituted.

**16.** The Criminal Appeal Act, 1912, is amended—Amend-  
ment  
of Act No.  
16, 1912.

- 30 (a) by omitting from section 5A (2) (g) the words "for the New South Wales State Reports or Weekly Notes" and by inserting instead the words "for any lawful purpose of the Council of Law Reporting for New South Wales";

Sec. 5A.

(Point of  
law stated  
by judge.)

(b)

*Crimes and Other Acts (Amendment).*

(b) by inserting after section 9 (3) the following subsections :—

Sec. 9.  
(Revest-  
ing and  
restitu-  
tion of  
property  
on  
convic-  
tion.)

5 (4) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence—

10 (a) the operation of the direction shall be suspended until the expiration of the time provided for appealing to the court; and

15 (b) where notice of appeal or of application for leave to appeal is given within the time provided, the operation of the direction shall be suspended until the determination of the appeal or refusal of the application,

20 and in cases where the operation of any such direction is suspended until the determination of the appeal, the direction shall not take effect if the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given, is quashed on appeal, except by the special order of the court.

25 (5) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence, the court may annul or vary any such direction although the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given is not  
30 quashed on appeal.



*Crimes and Other Acts (Amendment).*

17. The Criminal Injuries Compensation Act, 1967, is amended—

Amendment of Act No. 14, 1967.

(a) by omitting section 5 (2) and by inserting instead the following subsections :—

Sec. 5.  
(Payment of compensation by Treasurer to applicant.)

5 (2) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that in the circumstances of the case the making under this subsection of a payment to the applicant is justified, the Treasurer may make a payment to the applicant not exceeding the appropriate amount referred to in subsection 10 (1) (a) as specified in that statement.

15 (2A) In determining the amount of any payment to be made under subsection (2) the Treasurer shall have regard to—

- (a) the appropriate amount referred to in subsection (1) (a); and
- (b) any amounts referred to in subsection (1) (b),

20 as specified in the Under Secretary's statement, and any recommendations made by the Under Secretary with respect to any such amounts referred to in subsection (1) (b).

25 (2B) Any payment made under subsection (2) shall be made ex gratia and not as of right.

(b) by omitting section 7 and by inserting instead the following section :—

Sec. 7.

7. (1) Where a payment is made under section 5 (2) to an aggrieved person—

Rights against convicted person where payment made.

30 (a) the Under Secretary shall forthwith notify the Clerk of the Peace of the particulars of the payment, including the date and amount;

---

*Crimes and Other Acts (Amendment).*

---

- 5 (b) the Clerk of the Peace shall endorse on any certificate thereafter issued by him to the aggrieved person under section 457 (1) of the Crimes Act 1900 the date and amount of the payment so notified to him, and may also issue to the Under Secretary any certificate so endorsed;
- 10 (c) the Under Secretary may file a certificate so issued to him in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the Under Secretary against the offender specified in the certificate for the amount endorsed on the
- 15 certificate under paragraph (b); and
- 20 (d) the aggrieved person may file a certificate endorsed under paragraph (b) in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the balance of the amount of the sum directed to be paid, specified in the certificate, after
- 25 deduction of the amount endorsed on the certificate under paragraph (b).

30 (2) Where judgment has been entered in favour of an aggrieved person under section 457 (3) of the Crimes Act 1900 in respect of a direction made under section 437 (1) of that Act, and a payment has been made to the aggrieved person pursuant to section 5 (2) in respect of that direction, the Under Secretary may file a notice specifying the date and amount of the payment in

the

---

*Crimes and Other Acts (Amendment).*

---

the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall—

- (a) reduce the amount of the judgment by the amount specified in the notice; and
  - 5 (b) enter judgment in favour of the Under Secretary, against the offender against whom judgment in favour of the aggrieved person was entered, for the amount specified in the notice.
- 10 (3) The Under Secretary shall pay to the Consolidated Revenue Fund any money recovered by him pursuant to this section.

---

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

The first part of the report  
concerns the general  
state of the country  
and the progress of  
the war. It is  
found that the  
army has been  
reduced to a  
small number  
and that the  
country is  
in a state of  
anarchy.



# New South Wales



ANNO VICESIMO TERTIO

## ELIZABETHÆ II REGINÆ

\*\*\*\*\*

### Act No. 50, 1974.

An Act to make provision for certain new offences; to amend the law relating to certain existing offences; to make provision for a defence of diminished responsibility in a trial for murder; to re-enact with modifications and additions certain provisions relating to the cross-examination of an accused person, the payment of compensation to a person aggrieved by a misdemeanour or felony, the summary trial of indictable offences, deferring sentence and the separation of juries; to repeal certain obsolete provisions of the Crimes Act

---

*Crimes and Other Acts (Amendment).*

---

Act 1900; to alter the penalties which may be imposed for certain offences; for these and other purposes to amend the Crimes Act 1900, the Justices Act, 1902, the Jury Act, 1912, the Criminal Appeal Act, 1912, and the Criminal Injuries Compensation Act, 1967; and for purposes connected therewith. [Assented to, 6th May, 1974.]

**B**E 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:—

Short  
title.

1. This Act may be cited as the "Crimes and Other Acts (Amendment) Act, 1974".

Commence-  
ment.

2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Savings.

3. (1) Subject to this section, in so far as it affects any matter of procedure or evidence or the jurisdiction or powers of any Court in relation to an offence, this Act shall have effect in relation to proceedings on—

- (a) a trial on indictment for the offence if, but only if, the indictment is filed after the day appointed for the commencement of this Act; or
- (b) a summary trial for the offence if, but only if, the hearing is commenced after the day so appointed.

---

*Crimes and Other Acts (Amendment).*

---

(2) Section 5 (b) shall have effect in relation to an offence if, but only if, an indictment for that offence is filed after the day appointed for the commencement of this Act.

(3) Section 5 (r) shall have effect in relation to proceedings notwithstanding that they have been commenced before the day appointed for the commencement of this Act.

(4) Section 8 (b) shall have effect in a trial on indictment if, but only if, the committal proceedings in relation to the trial have been commenced on or after the day appointed for the commencement of this Act.

(5) Section 9 (c) and (d) shall have effect for the purpose of giving, on or after the day appointed for the commencement of this Act, a direction for the payment of compensation, and in relation to a direction so given.

(6) Section 15 (a) shall have effect with respect to a jury in the trial of a person for a felony, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

(7) Section 15 (b) shall have effect with respect to a jury in a criminal trial, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

(8) Section 17 shall have effect for the purpose of making any payment, and in respect of any payment made, under the Criminal Injuries Compensation Act, 1967, if, but only if—

- (a) the payment is made under that Act after the day appointed for the commencement of this Act; and
- (b) the payment so made follows on a direction for the payment of compensation given under section 437 of the Crimes Act 1900 on or after the day so appointed.

(9)

---

*Crimes and Other Acts (Amendment).*

---

(9) The Criminal Injuries Compensation Act, 1967 (as in force immediately before the day appointed for the commencement of this Act) shall—

- (a) continue to apply to and in respect of any payment made under that first-mentioned Act before the day so appointed; and
- (b) have effect for the purpose of making any payment, and in respect of any payment made, if section 17 does not (pursuant to subsection (8)) have effect for that purpose and in that respect.

(10) Nothing in this Act shall affect any term of imprisonment or the amount of any fine which may be imposed on conviction for an offence committed before the day appointed for the commencement of this Act.

Amend-  
ment of  
Act No. 40,  
1900.  
Sec. 1.  
(Short  
title and  
contents  
of Act.)

4. The Crimes Act 1900 is amended—

- (a) (i) by inserting in the matter relating to Part III in section 1 after the matter "81B." the words "(10A) *Misconduct with regard to corpses.*—s. 81C.";
- (ii) by inserting in the matter relating to Part IV in the same section after the word "*offences.*" the matter "(aa) GENERAL.—s. 93J.";
- (iii) by omitting from the same matter the word ", BURGLARY,";
- (iv) by omitting from the same matter the words "*Simple larceny and general*" and by inserting instead the word "*General*";
- (v) by omitting from the same matter the words "*and telegraphs.*—ss. 230-234" and by inserting instead the matter ".—ss. 230-232";

(vi)



---

*Crimes and Other Acts (Amendment).*


---

- (vi) by omitting from the same matter the matter “ss. 245, 246” and by inserting instead the matter “s. 245”;
- (vii) by inserting in the same matter after the matter “s. 248” the words “(17A) *False statement that person or property in danger.*—s. 248A.”;
- (viii) by inserting after the matter relating to Part VIII in the same section the following matter :—

PART VIIIA.—ATTEMPTS.—s. 344A.

- (ix) by omitting from the matter relating to Part XI in the same section the matter “405” and by inserting instead the matter “405A”;
- (x) by omitting from the matter relating to Part XII in the same section the words “(4) *Sentences of whipping or irons.*—ss. 434-436.”;
- (xi) by omitting from the same matter the matter “s. 437” and by inserting instead the matter “ss. 437, 437A”;
- (xii) by omitting from the matter relating to Part XIII in the same section the words “(3) *Whipping sentences.*—ss. 455, 456.”;
- (xiii) by omitting from the matter relating to Part XIV in the same section the words “(2) *Offences and punishment.*—ss. 477, 478.”;
- (xiv) by omitting from the same matter the matter “ss. 479-481” and by inserting instead the matter “ss. 480, 481”;

(xv)

---

*Crimes and Other Acts (Amendment).*

---

- (xv) by omitting from the same matter the words "CHAPTER II.—OFFENCES PUNISHABLE SUMMARILY IN CERTAIN CASES BY WHIPPING.—ss. 482-492.";
- (xvi) by omitting from the same matter the following words :—
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.*—ss. 530, 531.
  - (2) *Injuries to trees, shrubs, vegetable produce, fences, &c.*—ss. 532-538.
  - (3) *Injuries to certain animals.*—ss. 539, 540.
  - (4) *Injuries not otherwise provided for.*—ss. 541, 542.
  - (5) *Application of compensation.*—s. 543.
- (D) COINAGE OFFENCES.—ss. 544, 545.
- (xvii) by inserting in the same matter after the matter "s. 547A." the words "(H) PUBLIC MISCHIEF.—s. 547B.";
- (xviii) by omitting from the same matter the words "(1A) *Power to commit.*—s. 548A.";
- (xix) by omitting from the same matter the words "(9) *Conditional release of offenders.*—ss. 556A, 556B.";
- (xx) by omitting from the matter relating to Part XV in the same section the words "FIRST OFFENDERS.—ss. 557-562" and by inserting instead the words "CONDITIONAL RELEASE OF OFFENDERS.—ss. 556A-560A".

(b)

---

*Crimes and Other Acts (Amendment).*

---

- (b) (i) by omitting the definition of "*Dwelling-house*" in section 4 and by inserting instead the following definition :— Sec. 4.  
(Interpretation.)

*"Dwelling-house"* includes—

- (a) any building or other structure intended for occupation as a dwelling and capable of being so occupied, although it has never been so occupied;
- (b) a boat or vehicle in or on which any person resides; and
- (c) any building or other structure within the same curtilage as a dwelling-house, and occupied therewith or whose use is ancillary to the occupation of the dwelling-house.

- (ii) by inserting in section 4 after the definition of "*Night*" the following definition :—

*"Offensive weapon"* and "*Offensive weapon, or instrument*" include an imitation or replica of an offensive weapon or of an offensive weapon, or an instrument, as the case may require.

- (iii) by inserting in section 4 after the definition of "*Vessel*" the following definition :—

*"Weapon"* and "*Weapon, or instrument*" include an imitation or replica of a weapon or of a weapon, or an instrument, as the case may require.

- (iv) by inserting at the end of section 4 the following subsection :—

(2) A dwelling-house does not cease to be a dwelling-house by reason only of being temporarily unoccupied.

(c)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 10.  
(What offences mis-  
demeanours.)

(c) by omitting from section 10 the words "or whipping."

Further amend-  
ment of  
Act No.  
40, 1900.

5. The Crimes Act 1900 is further amended—

Sec. 18.  
(Murder defined.)

(a) by omitting from section 18 (1) (a) the words "of an act obviously dangerous to life, or";

Sec. 23A.

(b) by inserting after section 23 the following section :—

Diminished  
responsi-  
bility.

23A. (1) Where, on the trial of a person for murder, it appears that at the time of the acts or omissions causing the death charged the person was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for the acts or omissions, he shall not be convicted of murder.

(2) It shall be upon the person accused to prove that he is by virtue of subsection (1) not liable to be convicted of murder.

(3) A person who but for subsection (1) would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

(4) The fact that a person is by virtue of subsection (1) not liable to be convicted of murder in respect of a death charged shall not affect the question whether any other person is liable to be convicted of murder in respect of that death.

(5)

---

*Crimes and Other Acts (Amendment).*

---

(5) Where, on the trial of a person for murder, the person contends—

(a) that he is entitled to be acquitted on the ground that he was mentally ill at the time of the acts or omissions causing the death charged; or

(b) that he is by virtue of subsection (1) not liable to be convicted of murder,

evidence may be offered by the Crown tending to prove the other of those contentions, and the Court may give directions as to the stage of the proceedings at which that evidence may be offered.

(c) by omitting from section 24 the words “, or for any term not less than three years, or to imprisonment for any term not exceeding three years”; Sec. 24.  
(Man-  
slaughter—  
punish-  
ment.)

(d) by inserting after section 32B the following section :— Sec. 32c.

32c. (1) Any person who makes a demand of any person with a threat to destroy or endanger the safety of an aircraft, vessel, motor vehicle, engine or carriage used upon a railway, or building, or to kill or injure all or any of the persons in or on any such aircraft, vessel, motor vehicle, engine, carriage or building, shall be liable to penal servitude for life. Threats  
to destroy  
aircraft  
or other  
con-  
veyances.

(2) Any person who makes a demand of any person with any threat mentioned in subsection (1) and while that threat subsists discharges any firearm, or causes any explosion, or wounds or inflicts grievous bodily harm on any person, shall be liable to penal servitude for life.

(3) The provisions of section 442 shall not be in force with respect to the sentence to be passed under subsection (2)

(4).

---

*Crimes and Other Acts (Amendment).*

---

(4) For the purposes of subsection (1), "building" includes any bridge, mine or structure in the nature of a building.

Secs. 33A  
and 33B.

(e) by inserting after section 33 the following sections :—

Discharging  
loaded arms  
with intent.

33A. Any person who maliciously discharges, or in any manner attempts to discharge, any kind of loaded arms with intent to do grievous bodily harm to any person, or with intent to resist, or prevent, the lawful apprehension or detention either of himself or any other person, shall be liable to penal servitude for fourteen years.

Use of  
weapon  
to resist  
arrest, &c.

33B. Any person who—

(a) uses, attempts to use or threatens to use an offensive weapon or instrument; or

(b) threatens injury to any person or property, with intent to prevent or hinder the lawful apprehension or detention either of himself or any other person or to prevent or hinder a member of the police force from investigating any act or circumstance which reasonably calls for investigation by the member shall be liable to penal servitude for ten years.

Sec. 35.  
(Maliciously  
wounding or  
inflicting  
grievous  
bodily  
harm.)

(f) by omitting from section 35 the word "five" and by inserting instead the word "seven";

Sec. 45.  
(Wife or  
child  
desertion.)

(g) by omitting section 45;

(h)

---

*Crimes and Other Acts (Amendment).*

---

- (h) by omitting section 49 and by inserting instead the Sec. 49. following section :—

49. (1) Any person who—

**Setting  
trap, &c.**

- (a) places or sets, or causes to be placed or set, any trap, device or thing (whether its nature be electronic, electric, mechanical, chemical or otherwise) capable of destroying human life or inflicting grievous bodily harm on any person; or

- (b) knowingly permits any such trap, device or thing to continue to be placed or set,

with intent to inflict grievous bodily harm shall be liable to imprisonment for five years.

(2) Nothing in subsection (1) shall extend to any gin or trap, placed with the intention of destroying vermin, or to any trap, device or thing placed in a dwelling-house for the protection thereof.

- (i) by omitting from section 51 the word "life" and by inserting instead the words "ten years";

**Sec. 51.**  
(Casting  
stone, &c.,  
on a railway  
carriage.)

- (j) (i) by omitting section 52A (1) and (2) and by inserting instead the following subsections :—

**Sec. 52A.**  
(Culpable  
driving.)

(1) Where the death of, or grievous bodily harm to, any person is occasioned through—

- (a) the impact with any object of a motor vehicle in which that person was a passenger;

- (b) a motor vehicle in which that person was a passenger overturning or leaving the highway;

(c)

---

*Crimes and Other Acts (Amendment).*

---

- (c) impact with a motor vehicle; or
- (d) the impact of a motor vehicle with any vehicle or other object in, on or near which that person was at the time of the impact,

and the motor vehicle was at the time of the impact, or at the time of overturning or leaving the highway, being driven by another person—

- (e) under the influence of intoxicating liquor or of a drug; or
- (f) at a speed or in a manner dangerous to the public,

the person who was so driving the motor vehicle shall be guilty of the misdemeanour of culpable driving.

(2) A person convicted of the misdemeanour of culpable driving is—

- (a) if the death of any person was occasioned, liable to imprisonment for five years; or
- (b) if grievous bodily harm to any person was occasioned, liable to imprisonment for three years.

(ii) by omitting from section 52A (7) the words “and structure” and by inserting instead the words “, structure, earthwork, embankment, gutter, stormwater channel, drain, bridge, culvert, median strip, post and tree”;

(k) by omitting from section 61 the words “, and if the person assaulted is a female, shall, in addition, be liable to be once privately whipped”;

Sec. 61.  
(Common assault prosecuted by indictment.)

(1)



---

*Crimes and Other Acts (Amendment).*


---

- (l) by omitting from section 64 the words "but with her consent" and by inserting instead the words ", but are not satisfied that carnal knowledge was had without her consent"; Sec. 64.  
(Trial for rape—  
verdict of carnal  
know-  
ledge.)
- (m) by omitting from section 70 the words "and that the accused had not carnal knowledge of such girl, but" and by inserting instead the words "but are not satisfied that the accused had carnal knowledge of the girl, and are satisfied that he"; Sec. 70.  
(Trial for carnal know-  
ledge—  
verdict of assault  
with  
intent.)
- (n) by inserting in section 72 after the words "any girl" the words "of or"; Sec. 72.  
(Attempts.)
- (o) (i) by omitting from section 76 the word "three" and by inserting instead the word "four"; Sec. 76.  
(Indecent assault.)
- (ii) by omitting from section 76 the word "five" and by inserting instead the word "six";
- (p) by inserting after section 76 the following Sec. 76A.  
section :—
- 76A. Any person who commits any act of indecency with or towards any girl under the age of sixteen years, or incites a girl under that age to any act of indecency with him or another, shall be liable to imprisonment for two years. Act of  
indecency.
- (q) (i) by omitting from section 77 the words "or seventy-four" and by inserting instead the matter "74 or 76A"; Sec. 77.  
(Consent no  
defence  
in certain  
cases.)
- (ii) by omitting from section 77 the words "or seventy-two" and by inserting instead the matter ", 72 or 76A";

(r)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 77A. (r) by inserting after section 77 the following section :—

Pro-  
ceedings  
in camera  
in certain  
cases.

77A. Any proceedings or any part of any proceedings in respect of an offence under section 63, 65, 66, 67, 68, 71, 72, 72A, 73, 74, 76 or 76A shall, if the Court so directs, be held in camera.

Sec. 81C. (s) by inserting after section 81B the following section and subheading :—

*Misconduct with regard to corpses.*

Miscon-  
duct with  
regard to  
corpses.

81C. Any person who—

- (a) indecently interferes with any dead human body; or
- (b) improperly interferes with, or offers any indignity to, any dead human body or human remains (whether buried or not),

shall be liable to imprisonment for two years.

Sec. 91A.  
(Procur-  
ing, &c.) (t) by omitting from section 91A the words “female under the age of twenty-one years, whether with her consent or not, with intent that some other person may have carnal knowledge of such female” and by inserting instead the words “person, whether with that person’s consent or not, for purposes of prostitution”;

Sec. 91B.  
(Pro-  
curing  
person by  
drugs, &c.) (u) by omitting from section 91B the words “woman of or above the age of twenty-one years with intent that some other person may have carnal knowledge of such woman” and by inserting instead the words “person for purposes of prostitution”;

Sec. 91D.  
(Employ-  
ment in  
brothel.) (v) by omitting from section 91D the word “female” and by inserting instead the words “person (not being a member of the police force acting in the course of his duty)”.

---

*Crimes and Other Acts (Amendment).*


---

## 6. The Crimes Act 1900 is further amended—

Further  
amend-  
ment of  
Act No.  
40, 1900.

- (a) by inserting next after the words “Chapter I.— *Stealing and like offences.*” in Part IV the following section and subheading :—

Sec. 93J.

## GENERAL.

93J. Where on the trial of a person for any offence which includes the stealing of any property it appears that the property was, at the time when it was taken by the accused, already out of the possession of the owner by reason of its having been previously stolen, the accused may be convicted of the offence charged notwithstanding that it is not proved that the taking by him amounted to an interference with the right to possession of, or a trespass against, the owner.

Property  
previously  
stolen.

- (b) by omitting from section 99 the word “seven” and by inserting instead the word “ten”;
- (c) by omitting from the subheading occurring before section 106 the word “, BURGLARY”;
- (d) by omitting section 108;
- (e) by omitting from section 109 the words “in the night, shall be deemed guilty of burglary, and”;

Sec. 99.  
(Demand-  
ing money  
with  
intent to  
steal.)Sub-  
heading  
before  
sec. 106.Sec. 108.  
(Burglary.)Sec. 109.  
(Entering  
with  
intent, or  
stealing,  
&c., in  
dwelling-  
house and  
breaking  
out.)

(f)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 114.

(f) by omitting section 114 and by inserting instead the following section :—

Being  
armed,  
&c., with  
intent to  
commit  
offence.

114. (1) Any person who—

- (a) is armed with any weapon, or instrument, with intent to enter a building and to commit a felony or misdemeanour therein;
- (b) has in his possession, without lawful excuse, any implement of housebreaking or safe-breaking, or any implement capable of being used to enter or drive or enter and drive a conveyance;
- (c) has his face blackened or otherwise disguised, or has in his possession the means of blacking or otherwise disguising his face, with intent to commit a felony or misdemeanour;
- (d) enters or remains in or upon any part of a building or any land occupied or used in connection therewith with intent to commit a felony or misdemeanour in or upon the building,

shall be liable to penal servitude for seven years.

(2) For the purposes of subsection (1)

(b) “conveyance” means any cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and “drive” shall be construed accordingly.

Sub-  
heading  
before  
sec. 117.

(g) by omitting from the subheading appearing before section 117 the words “*Simple larceny and general*” and by inserting instead the word “*General*”;

(h)

---

*Crimes and Other Acts (Amendment).*


---

- (h) by omitting from section 117 the word "simple" wherever occurring; Sec. 117.  
(Punishment for larceny.)
- (i) by inserting in section 120 after the word "pretence" where firstly occurring the words "Or by any wilfully false promise"; Sec. 120.  
(Trial for larceny—verdict of embezzlement, &c.)
- (j) by omitting from section 124 the words "two hundred dollars" and by inserting instead the words "\$2,000, or both"; Sec. 124.  
(Fraudulent appropriation.)
- (k) by omitting from section 125 the words " , and may be convicted thereof upon an indictment for simple larceny"; Sec. 125.  
(Larceny by bailee.)
- (l) by omitting from section 126 the word "ten" and by inserting instead the word "fourteen"; Sec. 126.  
(Stealing cattle or killing with intent to steal.)
- (m) by omitting from section 134 the word "simple"; Sec. 134.  
(Stealing, destroying, &c., valuable security.)
- (n) by inserting in section 136 after the word "insolvency" the words " , or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 136.  
(Proviso to sections 134 and 135.)
- (o) by omitting from section 139 the word "simple"; Sec. 139.  
(Stealing, &c., metal, glass, wood, &c., fixed to house or land.)
- (p)

---

*Crimes and Other Acts (Amendment).*

---

- Sec. 140. (p) by omitting from section 140 the word "simple";  
(Stealing, &c., trees, &c., in pleasure grounds.)
- Sec. 144. (q) by omitting from section 144 the word "simple";  
(Stealing ore of metal, coal, &c.)
- Sec. 147. (r) by omitting from section 147 the word "simple";  
(Fraud on partners in mines, &c.)
- Sec. 153. (s) by omitting from section 153 the word "fourteen" and by inserting instead the word "ten";  
(Stealing from ship in distress or wrecked.)
- Sec. 154. (t) by omitting from section 154 the word "simple";  
(Tenants, &c., stealing articles let to hire.)
- Sec. 154A. (u) by omitting section 154A and by inserting instead the following section :—
- Taking a conveyance without the consent of the owner.
- 154A. (1) Any person who—
- (a) without having the consent of the owner or person in lawful possession of a conveyance, takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or
- (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,
- shall be deemed to be guilty of larceny and liable to be indicted for that offence.

---

*Crimes and Other Acts (Amendment).*


---

(2) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used or intended for navigation, and "drive" shall be construed accordingly.

- (v) by omitting from section 154c the word "simple"; Sec. 154c.  
(Malicious or fraudulent abstraction, waste, &c., of electricity.)
- (w) by omitting from section 163 the word "simple"; Sec. 163.  
(Trial for embezzlement —verdict of larceny.)
- (x) by omitting from section 173 the word "ten" and by inserting instead the word "fourteen"; Sec. 173.  
(Directors, &c., fraudulently appropriating, &c., property.)
- (y) by omitting from section 174 the word "ten" and by inserting instead the word "fourteen"; Sec. 174.  
(Directors, &c., omitting certain entries.)
- (z) by omitting from section 175 the word "ten" and by inserting instead the word "fourteen"; Sec. 175.  
(Director, &c., wilfully destroying, &c., books of company, &c.)
- (aa) by omitting from section 176 the word "ten" and by inserting instead the word "fourteen"; Sec. 176.  
(Director or officer publishing fraudulent statements.)

(bb)

---

*Crimes and Other Acts (Amendment).*

---

- Sec. 177.  
(Proviso to ss. 165 to 176 incl.)
- (bb) by inserting in section 177 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation";
- Sec. 183.  
(Trial for false pretences, &c. —verdict of larceny.)
- (cc) by omitting from section 183 the word "simple";
- Sec. 184.  
(Fraudulent personation.)
- (dd) by omitting from section 184 the word "life" and by inserting instead the words "seven years";
- Sec. 188.  
(Receiving where principal guilty of felony.)
- (ee) by inserting in section 188 after the word "receives" the words ", or disposes of, or attempts to dispose of,";
- Sec. 189.  
(Receiving where principal guilty of misdemeanour.)
- (ff) by inserting in section 189 after the word "receives" the words ", or disposes of, or attempts to dispose of,";
- Sec. 189A.  
(Receiving, &c., goods stolen out of New South Wales.)
- (gg) (i) by inserting in section 189A (1) after the word "receives" the words ", or disposes of, or attempts to dispose of,";
- (ii) by inserting in section 189A (1) after the words "been stolen," the words "and whether or not he took part in the stealing of the property,";

(hh)



---

*Crimes and Other Acts (Amendment).*


---

(hh) by inserting after section 189A the following section :— Sec. 189B.

189B. (1) Where in the trial of a person for the offence under section 188 or 189 of receiving, or disposing of, or attempting to dispose of, any property knowing it to have been stolen, it is proved that the property was stolen in the course of transmission between New South Wales and any other jurisdiction or between any other jurisdiction and New South Wales— Prosecution under section 188 or 189 where property stolen in course of transmission.

- (a) the person shall be liable to be convicted of the offence without proof that the stealing took place in New South Wales; and
- (b) for the purpose of determining whether or not the stealing amounts to a felony or a misdemeanour, the stealing shall be deemed to have taken place in New South Wales.

(2) For the purposes of subsection (1) "other jurisdiction" means a State (other than New South Wales) or Territory of the Commonwealth.

- (ii) by inserting in section 190 after the word "receives" where secondly occurring the words ", or disposes of, or attempts to dispose of,"; Sec. 190. (Receiving cattle feloniously killed, or carcass, &c.)
- (jj) by omitting from section 213 the word "ten" and by inserting instead the word "five"; Sec. 213. (Setting fire to fences.)
- (kk) by omitting from section 214 the words "liable to penal servitude for seven years" and by inserting instead the words "liable to penal servitude for three years"; Sec. 214. (Attempts to set fire to such things.)

(ll)

---

*Crimes and Other Acts (Amendment).*

---

- Sec. 216. (ll) by omitting section 216;  
(Injuring trees, shrubs, &c., in pleasure-ground, &c.)
- Sec. 217. (mm) by omitting section 217;  
(The like to value of over \$10 elsewhere.)
- Sec. 218. (nn) by omitting section 218;  
(Injuring trees, &c., after two summary convictions.)
- Sec. 219. (oo) by omitting section 219;  
(Destroying plant, &c., in a garden after one summary conviction.)
- Sub-heading before sec. 230. (pp) by omitting from the subheading occurring before section 230 the words "*and telegraphs*";
- Sec. 233. (qq) by omitting section 233;  
(Injuring telegraph posts, &c.)
- Sec. 234. (rr) by omitting section 234;  
(Attempt.)
- Sec. 245. (ss) (i) by omitting from section 245 the words "other than pigs or goats,";  
(Killing or maiming cattle.)  
(ii) by omitting from section 245 the words "forty dollars" and by inserting instead the matter "\$1,000";
- (tt)

---

*Crimes and Other Acts (Amendment).*


---

- (tt) by omitting section 246; Sec. 246.  
(Cruelly wounding or torturing cattle.)
- (uu) (i) by omitting from section 247 the words “, to an amount exceeding ten dollars,”; Sec. 247.  
(Other injuries.)
- (ii) by omitting from section 247 the words “shall be liable to imprisonment for two years, and where such offence is committed in the night,”;
- (vv) by omitting from section 248 the word “seven” and by inserting instead the word “five”; Sec. 248.  
(Letters threatening to destroy property.)
- (ww) by inserting after section 248 the following section and subheading :— Sec. 248A.

*False statement that person or property in danger.*

248A. Where any person knowingly makes to any other person a false statement, or sends to any other person a document containing a statement that he knows to be false, and the statement tends to give rise to apprehension for the safety of any person (including the person making the statement and the person to whom it is made) or property, or both, he shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for twelve months, or both, or on conviction on indictment to imprisonment for five years. False statement that person or property in danger.

---

*Crimes and Other Acts (Amendment).*


---

Further amendment of Act No. 40, 1900.

7. The Crimes Act 1900 is further amended—

Sec. 271.  
(Forging wills.)

- (a) by omitting from section 271 the word “life” and by inserting instead the words “fourteen years”;

Sec. 336.  
(Tampering with witness.)

- (b) (i) by omitting from section 336 the words “, in a judicial proceeding,”;  
(ii) by omitting from section 336 the words “such person being bound by recognizance or subpoena so to attend,”;

Part VIII.A.

- (c) by inserting after section 344 the following Part :—

PART VIII.A.

ATTEMPTS.

Attempts.

344A. (1) Subject to this Act, any person who attempts to commit any offence for which a penalty is provided under this Act shall be liable to that penalty.

(2) Where a person is convicted of an attempt to commit an offence and the offence concerned is a felony he shall be deemed to have been convicted of a felony.

Sec. 351.  
(Abettors in misdemeanours—how tried and punished.)

- (d) by omitting from section 351 the word “Whosoever” and by inserting instead the words “Any person who aids,”;

Sec. 353B.  
(Person apprehended carrying razor, &c.)

- (e) by inserting in section 353B after the word “months” the words “, or to a fine of \$500, or both”;

(f)

---

*Crimes and Other Acts (Amendment).*


---

- (f) by omitting section 354 and by inserting instead the following section :—

354. (1) Upon a complaint made on oath that there is reasonable ground to believe that there is in or on any premises—

Search  
warrant  
for property  
where indict-  
able offence  
in respect  
thereof com-  
mitted, &c.

- (a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed;
- (b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of any indictable offence; or
- (c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any indictable offence,

a justice may, by warrant, authorise and require any member of the police force to enter and search the premises.

(2) A warrant issued under subsection (1) shall be executed by day, unless the justice, by the warrant, authorises its execution by night.

(3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

(4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force executing a warrant issued under subsection (1) may—

- (a) seize or dispose of in a safe place, or guard in or on the premises, anything mentioned in the warrant and, in addition, any other thing that on reasonable grounds he believes has been obtained by, or has been used in, the commission of an offence, until any charge in relation thereto is dealt with; and
- (b) arrest, search and bring before a justice any person found in the premises whom he suspects of having committed an offence in respect of anything so seized.

(6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on the premises, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

(7) Any person who without lawful excuse hinders or obstructs any person executing a warrant issued under subsection (1) shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000, or both.

(8) For the purposes of this section—

“indictable offence” includes any act or omission which if done, or omitted to be done, in New South Wales would constitute an offence punishable on indictment;

“premises” includes any structure, building, aircraft, vehicle, vessel, or place (whether built upon or not), and any part thereof.

---

*Crimes and Other Acts (Amendment).*

---

- (g) by omitting from section 356 (1) the words "section three hundred and fifty-four or"; Sec. 356.  
(Pro-  
ceedings on  
finding  
explosive  
substances,  
&c., under  
warrant.)
- (h) by omitting section 357 and by inserting instead the following section :— Sec. 357.

357. (1) Upon a complaint made on oath that the complainant has reason to suspect, and believes, that an animal stolen or otherwise unlawfully obtained is concealed or lodged in or on any specified premises, a justice may, by warrant, authorise and require any member of the police force to enter and search the premises. Searching  
for stolen  
cattle.

(2) A member of the police force may without a warrant—

(a) require the person in charge of a vehicle to cause the vehicle to stop or remain stationary and afford him access to the vehicle, and may enter and search the vehicle; or

(b) enter and search a vehicle,

for the purpose of searching for any animal that has been stolen or otherwise unlawfully obtained, or that is reasonably suspected of having been stolen or otherwise unlawfully obtained.

(3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

(4)

---

*Crimes and Other Acts (Amendment).*

---

(4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5) A member of the police force may—

- (a) seize or dispose of in a safe place, or guard in or on the premises or in the vehicle, any animal found pursuant to a search under subsection (1) or (2) that is reasonably suspected of having been stolen or otherwise unlawfully obtained, until any charge in relation to the animal is dealt with; and
- (b) arrest, search and bring before a justice any person found in premises, or in charge of or in any vehicle, whom he suspects of having committed an offence in respect of any animal.

(6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on premises or in a vehicle, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

(7) Any person who without lawful excuse—

- (a) hinders or obstructs any person executing a warrant issued under subsection (1), or a member of the police force searching a vehicle under subsection (2);

(b)



---

*Crimes and Other Acts (Amendment).*

---

(b) fails or neglects to cause a vehicle to stop or remain stationary when required to do so by a member of the police force acting under subsection (2); or

(c) fails to afford access to a vehicle to a member of the police force acting under subsection (2),

shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000, or both.

(8) Nothing in subsection (1) shall prevent a member of the police force who finds on any premises any animal reasonably suspected of having been stolen or unlawfully obtained, from seizing or retaining the animal without a warrant.

(9) For the purposes of this section—

“animal” means a bull, steer, cow, heifer, calf, horse, mare, gelding, colt, foal, filly, ram, ewe, sheep, lamb or pig, and includes any part, skin or carcass of any such animal;

“premises” includes any structure, building, or place (whether built upon or not), and any part thereof;

“vehicle” includes a vessel.

---

*Crimes and Other Acts (Amendment).*

---

Further  
amendment  
of Act No.  
40, 1900.

**8. The Crimes Act 1900 is further amended—**

Sec. 405A.

- (a) by inserting after section 405 the following section :—

Notice  
of alibi.

405A. (1) On a trial on indictment the defendant shall not without the leave of the Court adduce evidence in support of an alibi or assert in any statement made by him under section 405 (1) that he has an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.

(2) Without prejudice to subsection (1), on a trial on indictment the defendant shall not without the leave of the Court call any other person to give evidence in support of an alibi unless—

- (a) the notice under that subsection includes the name and address of the person, or, if the name or address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the person;
- (b) if the name or the address is not included in the notice, the Court is satisfied that the defendant before giving the notice took, and thereafter continued to take, all reasonable steps to secure that the name or the address would be ascertained;
- (c) if the name or the address is not included in the notice, but the defendant subsequently discovers the name or address or receives other information which might be of material assistance in finding the person, he forthwith gives notice of the name, address or other information, as the case may be; and

(d)

---

*Crimes and Other Acts (Amendment).*

---

(d) if the defendant is notified by or on behalf of the Crown that the person has not been traced by the name or at the address given by the defendant, he forthwith gives notice of any information which might be of material assistance in finding the person and which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

(3) The Court shall not refuse leave under this section if it appears to the Court that on the committal for trial of the defendant he was not informed by the committing justice of the requirements of subsections (1), (2) and (5), and the statement in writing of the committing justice that the defendant was so informed shall be evidence that the defendant was so informed.

(4) Any evidence tendered to disprove an alibi may, subject to any direction by the Court, be given before or after evidence is given in support of the alibi.

(5) Any notice purporting to be given under this section on behalf of the defendant by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(6) A notice under this section shall be given in writing to the Clerk of the Peace, and may be given by delivering it to the Clerk of the Peace, or by leaving it at his office, or by sending it in a registered letter or by certified mail addressed to him at his office.

(7)

---

*Crimes and Other Acts (Amendment).*


---

## (7) In this section—

“evidence in support of an alibi” means evidence tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

“the prescribed period” means the period of ten days commencing at the time of the committal of the defendant for trial.

Sec. 407.  
(Competency of parties and accused persons and their husbands and wives to give evidence.)

(b) by omitting paragraph (1) of the proviso to section 407 and by inserting instead the following paragraph :—

(1) No such person charged with an indictable offence shall be liable to be called as a witness on behalf of the prosecution.

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

(c) (i) by omitting from section 409 (1) the words “on oath that”;

(ii) by inserting in section 409 (1) (a) before the words “the witness” the words “on oath that”;

(iii) by inserting in section 409 (1) (b) (i) before the words “the deposition” the word “that”;

(iv) by inserting in section 409 (1) (b) (ii) after the word “coroner,” the word “that”;

(v)

---

*Crimes and Other Acts (Amendment).*

---

- (v) by inserting in section 409 (1) (c) before the words "the accused" the word "that";
- (vi) by inserting after section 409 (4) the following subsections :—

(5) For the purposes of subsection (1), unless it is proved to the contrary—

- (a) a deposition, or a deposition in the form of a transcript, of the evidence of a witness shall be deemed to have been taken or made in the presence of the accused, or during any period when the accused, having been discharged under section 41 (1B) of the Justices Act, 1902, was absent; and
- (b) the accused or his counsel or attorney shall be deemed to have had a full opportunity of cross-examining the witness, or the accused, having been discharged under section 41 (1B), shall be deemed to have been absent when the deposition was taken and not represented by counsel or attorney,

if it appears from the deposition that it was so taken or made, and that the accused or his counsel had such an opportunity or was so absent and not represented by counsel or attorney, as the case may be.

(6) For the purposes of subsection (1) (b) (ii), where a deposition is in the form of a transcript of the record, unless it is proved to the contrary, the record shall be deemed to be a true record of the matter deposed, and the transcript shall be deemed to be a correct transcript of the record if, in the case of a transcript of a record—

- (a) made in shorthand notes, the transcript is identified by, and signed in the  
handwriting

---

*Crimes and Other Acts (Amendment).*

---

handwriting of, the person purporting to have made the shorthand notes; or

- (b) made by any other means (other than writing) authorised by law for the taking of a deposition, the transcript is certified in the manner prescribed by regulations made under the Justices Act, 1902.

**Secs. 413A,  
413B and  
413C.**

- (d) by inserting after section 413 the following sections :—

Restriction  
on cross-  
examina-  
tion of  
accused.

413A. (1) Subject to this section and section 413B, where in any proceedings an accused person gives evidence he shall not in cross-examination be asked, and if asked shall not be required to answer, any question tending to reveal to the Court or jury—

- (a) the fact that he has committed, or has been charged with or convicted or acquitted of, any offence other than the offence charged; or
- (b) the fact that he is generally or in a particular respect a person of bad disposition or reputation.

(2) Subsection (1) shall not apply to a question tending to reveal to the Court or jury any fact such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose of proving the commission by the accused of the offence charged.

(3) Where, in any proceedings in which two or more persons are jointly charged, any of the accused persons gives evidence, subsection (1) shall not in his case apply to any question tending to reveal to the Court or jury a fact about him such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose of

of

---

*Crimes and Other Acts (Amendment).*

---

of showing any other of the accused to be not guilty of the offence with which that other is charged.

(4) Subsection (1) shall not apply if—

- (a) the accused person has personally or by his counsel asked any witness for the prosecution or for a person jointly charged with him any question concerning the witness's conduct on any occasion (other than his conduct in the activities or circumstances giving rise to the charge or his conduct during the trial or in the activities, circumstances or proceedings giving rise to the trial) or as to whether the witness has committed, or has been charged with or convicted or acquitted of, any offence; and
- (b) the Court is of the opinion that the main purpose of that question was to raise an issue as to the witness's credibility,

but the Court shall not permit a question falling within subsection (1) to be put to an accused person by virtue of this subsection unless it is of the opinion that the question is relevant to his credibility as a witness and that in the interests of justice and in the circumstances of the case it is proper to permit the question to be put.

(5) Subsection (1) shall not apply where the accused person has given evidence against any person jointly charged with him in the same proceedings.

---

*Crimes and Other Acts (Amendment).*


---

Admissibility of evidence and questions about accused's disposition or reputation.

413B. (1) In any proceedings an accused person may—

- (a) personally or by his counsel ask questions of any witness with a view to establishing directly or by implication that the accused is generally or in a particular respect a person of good disposition or reputation;
- (b) himself give evidence tending to establish directly or by implication that the accused is generally or in a particular respect such a person; or

(c) call a witness to give any such evidence,

but where any of these things has been done, the prosecution may call, and any person jointly charged with the accused person may call, or himself give, evidence to establish that the accused person is a person of bad disposition or reputation, and the prosecution or any person so charged may in cross-examining any witness (including, where he gives evidence, the accused person) ask him questions with a view to establishing that fact.

(2) Where by virtue of this section a party is entitled—

- (a) to call evidence to establish that the accused person is a person of bad disposition or reputation, that party may call evidence of his previous convictions, if any, whether or not the party calls any other evidence for that purpose; or
- (b) in cross-examining the accused to ask him questions with a view to establishing that he is such a person section 413A (1) shall not apply in relation to his cross-examination by that party.

413c.



*Crimes and Other Acts (Amendment).*

413c. (1) Where in any proceedings the fact that an accused person has been convicted of an offence is admissible in evidence, a document purporting to be a record of the conviction (whether in the State or elsewhere) of the accused person for the offence and purporting to be signed by an authorised person shall be received in the proceedings as evidence of that fact.

Documentary evidence of previous convictions.

(2) The method of proving a conviction authorised by this section shall be in addition to and not to the exclusion of any other method of proving a conviction.

(3) For the purposes of subsection (1), "authorised person" means—

- (a) the officer-in-charge of the Central Fingerprint Bureau of the Police Department, or any person authorised by him for the purposes of this section;
- (b) a gaol recorder;
- (c) the officer-in-charge of police at the town where the Court, in which it is proposed to give evidence that an accused person has been convicted of an offence, is being held; or
- (d) in the case of proceedings before a stipendiary magistrate, the police prosecutor conducting the proceedings.

(e) (i) by inserting in section 414A after the word "article" the words "or living person";

Sec. 414A.  
(Certificate of scientific examination evidence.)

C

(ii)

---

*Crimes and Other Acts (Amendment).*

---

(ii) by inserting at the end of section 414A the following subsections :—

(2) A certificate which would, by virtue of section 4E (12) (a) or (b) of the Motor Traffic Act, 1909, be prima facie evidence of the particulars certified in and by the certificate in proceedings for an offence under section 4E (1) of that Act shall be prima facie evidence of those particulars at any inquest or where a person is charged before a stipendiary magistrate or before any Court with an indictable offence.

(3) Where any certificate is admitted in evidence by virtue of subsection (2), evidence of the condition of a breath analysing instrument or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced.

**Sec. 415.**

(f) by omitting section 415 and by inserting instead the following section :—

**Proof of  
banking  
transactions.**

415. (1) Subject to subsection (2), in any case where it is necessary to prove—

- (a) the state of an account in the books or records of a banking corporation, or company;
- (b) that any person has not or had not an account, or any funds, to his credit in any such books or records; or
- (c) any entry in any such books or records with respect to—
  - (i) the opening of an account of any kind;

(ii)

---

*Crimes and Other Acts (Amendment).*

---

- (ii) the specimen signature of any person;
- (iii) the account number of any account;
- (iv) the issue of, or the number on, any cheque, draft, warrant, cheque-book, bank-book or passbook;
- (v) the particulars of any deposit, deposit slip or remitting warrant;
- (vi) the drawing, endorsement or marking of any cheque;
- (vii) the dishonouring of any cheque, draft or promissory note;
- (viii) the presentation and meeting of any cheque;
- (ix) the depositing or withdrawal of any money in respect of any account;
- (x) any documents in respect of any such deposit or withdrawal; or
- (xi) the lodgment of any document or security or other item in safe deposit or for safe custody or the granting of access to or withdrawal of any such item,

it shall not be necessary to produce any such book or record, but evidence of any such matter may be given, either orally or by affidavit, by any officer or clerk of the corporation or company who has examined the book or record.

(2) Where in any Court evidence is given by affidavit under subsection (1) the Court may if it thinks fit order that the evidence be not admitted unless the person who made the affidavit gives oral evidence in the proceedings or gives evidence by a further affidavit.

(3)

---

*Crimes and Other Acts (Amendment).*


---

(3) The method of proving any matter referred to in subsection (1) shall be in addition to and not to the exclusion of any other method of proving that matter.

Sec. 420.  
(Receivers.  
Evidence of  
guilty  
knowledge.)

- (g) by omitting from section 420 (b) the words "such trial" and by inserting instead the words "the commission of the offence charged, or if more than one offence is charged, the commission of the earliest such offence charged".

Further  
amend-  
ment of  
Act No.  
40, 1900.

9. The Crimes Act 1900 is further amended—

Sec. 434.  
(Juvenile  
offenders  
may be  
whipped.)

- (a) by omitting the words "*Sentences of whipping or irons.*" occurring before section 434 and by omitting section 434;

Sec. 435.  
(Whipping  
adults in  
certain  
cases.)

- (b) by omitting section 435;

Sec. 437.  
(Compensa-  
tion to  
person  
aggrieved  
by any  
felony or  
mis-  
demeanour.)

- (c) (i) by omitting from section 437 (1) the words "two thousand dollars" and by inserting instead the matter "\$4,000";
- (ii) by inserting in section 437 (1) after the word "misdemeanour" where secondly occurring the words "or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour";
- (iii) by inserting in section 437 (3) after the word "misdemeanour" the words "or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour";

(iv)

---

*Crimes and Other Acts (Amendment).*

---

- (iv) by inserting after section 437 (3) the following subsection :—

(3A) Subject to section 9 of the Criminal Appeal Act, 1912, any sum directed under subsection (1) to be paid to an aggrieved person shall be paid forthwith, or within such period (if any) as is specified in the direction, to the Clerk of the Peace for payment to the person aggrieved.

- (d) by inserting after section 437 the following Sec. 437A. section :—

437A. (1) This section shall have effect where a direction is given under section 437 (1) in favour of an aggrieved person in respect of any injury or loss and civil proceedings in respect of the injury or loss are subsequently brought by or on behalf of the aggrieved person. Effect of direction under s. 437 on civil proceedings.

(2) A direction under section 437 (1) shall not affect the right to bring the civil proceedings and the damages in the civil proceedings shall be assessed without regard to the direction, but where—

- (a) the whole or part of the amount directed under section 437 (1) to be paid; or
- (b) an amount under the Criminal Injuries Compensation Act, 1967, in respect of the injury or loss,

has been paid, the judgment of the Court, in so far as it relates to an amount of damages equal to the amount so paid under the direction or that Act, or under the direction and that Act, shall not be entered without the leave of the Court.

(3)

---

*Crimes and Other Acts (Amendment).*

---

(3) Where there is an amount unpaid under a direction and a Court awards damages in civil proceedings, then the Court shall direct that the judgment—

- (a) if it is for an amount not exceeding the amount unpaid under the direction, shall not be enforced; or
- (b) if it is for an amount exceeding the amount unpaid under the direction, shall not be enforced as to the amount equal to the amount unpaid under the direction,

without the leave of the Court.

**Sec. 440B.**  
(Imposition of fine on sentence being deferred or suspended.)

- (e) by omitting from section 440B (1) the words “two thousand dollars” and by inserting instead the matter “\$4,000”;

**Sec. 442.**  
(Provision for passing sentences of less duration than those fixed.)

- (f) by omitting from section 442 (1) the words “or whipping,”;

**Sec. 444.**  
(Sentence during any unexpired sentence may be cumulative.)

- (g) (i) by inserting in section 444 (1) after the word “Judge” the words “or magistrate”;
- (ii) by inserting in section 444 (1A) after the word “Judge” the words “or magistrate”;
- (iii) by inserting in section 444 (2) after the word “Judge” wherever occurring the words “or magistrate”;
- (iv) by inserting in section 444 (3) after the word “Judge” the words “or magistrate”;

(v)

---

*Crimes and Other Acts (Amendment).*

---

(v) by omitting section 444 (4) and by inserting instead the following subsection :—

(4) Notwithstanding anything in this section, a magistrate, whether dealing with an offence or offences under section 476 or otherwise, shall not impose, or make an order having the effect of imposing, on any offender—

(a) more than one sentence of imprisonment or penal servitude to be served consecutively on any other sentence of imprisonment or penal servitude then imposed on, or being served by, the offender; or

(b) sentences of imprisonment or penal servitude, to be served consecutively, totalling more than three years.

10. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

(a) by omitting section 453;

Sec. 453.  
(Meaning and effect of penal servitude sentences.)

(b) by omitting section 454;

Sec. 454  
(Existing laws to be applicable.)

(c) by omitting the words "*Whipping sentences.*" occurring before section 455 and by omitting section 455;

Sec. 455.  
(Kind of instrument and manner of use to be fixed by Comptroller-General.)

(d)

---

*Crimes and Other Acts (Amendment).*


---

Sec. 456.  
(Surgeon  
may  
remit  
whipping  
in certain  
cases.)

(d) by omitting section 456;

**Sec. 457.**

(e) by omitting section 457 and by inserting instead the following section :—

Direction  
for com-  
pensation to  
be enforce-  
able by  
execution,  
&c.

457. (1) Where pursuant to section 437 a Court or a Judge directs that a sum be paid to an aggrieved person in respect of any injury or loss and the whole or any part of that sum is not paid in accordance with section 437 (3A) to the Clerk of the Peace, the Clerk of the Peace, on the application of the aggrieved person, shall issue to the aggrieved person a certificate specifying the direction of the Court or the Judge and the amount of the sum required by the direction to be paid which has not, at the date of the certificate, been paid to the Clerk of the Peace.

(2) Where a certificate is issued pursuant to subsection (1) the Clerk of the Peace shall not thereafter accept any payments from the offender in respect of the direction specified in the certificate.

(3) An aggrieved person may file in the District Court at Sydney a certificate issued to him under subsection (1), and thereupon the registrar shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the amount specified in the certificate as having not been paid and any fees payable to the registrar in respect of the certificate.

(f)



---

*Crimes and Other Acts (Amendment).*

---

- (f) by omitting from section 459 the following words :—
- Sec. 459.  
(Commutation of capital sentences.)
- , and also, if the Governor thinks fit so to direct, that he be kept in irons, for any time not exceeding the first three years of such servitude or imprisonment.

In addition thereto, in cases of rape, or of carnal knowledge of a girl under ten years, the Governor may direct that the offender shall be once, twice, or thrice publicly or privately whipped, at such times and with so many strokes at each time, not more than fifty, as he thinks fit;

- (g) by omitting section 467.
- Sec. 467.  
(Position of wife of felon.)

**11. The Crimes Act 1900 is further amended—**

Further amendment of Act No. 40, 1900.

- (a) by omitting section 476 and by inserting instead the following section :—
- Sec. 476.

476. (1) Where a person is charged before a stipendiary magistrate with an offence mentioned in subsection (6) the magistrate may require the person to state whether he intends to plead guilty or not guilty to the charge, and if the person does not so state he shall be taken for the purposes of this section to have stated that he intends to plead not guilty.

Indictable offences punishable summarily.

(2) Where a person states under subsection (1) that he intends to plead not guilty to a charge, and it appears to the magistrate that the case may properly be disposed of summarily and that the person consents to it being so disposed of,

the

---

*Crimes and Other Acts (Amendment).*

---

the magistrate shall have jurisdiction to hear and determine the charge in a summary manner and pass sentence upon the person.

(3) Where a person states under subsection (1) that he intends to plead guilty to a charge the magistrate may accept or reject the plea.

(4) Where a magistrate rejects a plea under subsection (3) the proceedings before the magistrate shall continue as though the person had stated under subsection (1) that he intends to plead not guilty.

(5) Where a magistrate accepts a plea under subsection (3) and it appears to the magistrate—

- (a) that the case may be properly disposed of summarily and that the person consents to it being so disposed of, the magistrate shall have jurisdiction to pass sentence upon the person; or
- (b) that the case may not properly be disposed of summarily, or that the person does not consent to it being so disposed of, the provisions of section 51A of the Justices Act, 1902, shall apply as though the person had pleaded guilty to the charge under that section.

(6) The offences referred to in subsection (1) are—

- (a) (i) larceny, and any offence which under this Act is deemed to be, or is made punishable as, larceny or stealing;
- (ii) the offence of stealing any chattel, money, or valuable security from the person of another; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

(iii) any offence mentioned in section 126, 131, 145, 146, 148, 150, 151, 152, 156, 157, 159, 160, 165, 166, 168, 169, 170, 178A, 178B, 178C, 179, 186, 188, 189, 189A, 190, 192, 208, 209, 210, 220, 229, 244, 245, 247, 248, 273, 274 or 275,

where the value of the property, matter or thing the subject of the charge or the damage thereto, or the amount of money or reward the subject of the charge, does not exceed \$1,000;

(b) any offence mentioned in section 71, 72, 76 or 76A, where the female the subject of the charge was at the time of the commission of the offence of or above the age of fourteen years;

(c) any offence mentioned in section 81 where the person upon whom the assault was committed was at the time of the assault of or above the age of fourteen years;

(d) any offence mentioned in section 56, 57, 58, 59, 61, 81A, 81B, 81C, 114, 132, 133, 154A, 158 or 252;

(e) any offence mentioned in section 85 where the person charged is the mother of the child and is not charged with any other person;

(f) any offence mentioned in section 112 where—

(i) the felony alleged is stealing;

(ii) the value of the property stolen does not exceed \$1,000; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

- (iii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- (g) any offence mentioned in section 111 or 113 where—
- (i) the felony intended is stealing; and
- (ii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- (h) escape from lawful custody, except where the escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952; and
- (i) (i) attempting to commit;
- (ii) where the offence is a felony, being an accessory before or after the fact to; or
- (iii) where the offence is a misdemeanour, aiding, abetting, counselling or procuring the commission of,
- any offence mentioned in paragraph (a), (b), (c), (d), (f), (g) or (h).
- (7) Notwithstanding anything in this Act to the contrary—
- (a) the maximum term of imprisonment, or penal servitude, to which a person may be sentenced by a magistrate under this section
- in

---

*Crimes and Other Acts (Amendment).*

---

in respect of any one offence is two years, or the maximum term of imprisonment, or penal servitude, fixed by law (other than by this subsection) in respect of the offence, whichever is the shorter term;

- (b) the maximum fine which may be imposed by a magistrate under this section is, in respect of any one offence, \$2,000, or the maximum fine fixed by law (other than by this subsection) in respect of the offence, whichever is the smaller; and
- (c) where the maximum punishment which may be imposed by law (other than by this subsection) in respect of an offence is a term of imprisonment or penal servitude, or a fine, or both, the maximum punishment which may be imposed by a magistrate under this section in respect of the offence is that term, or two years, whichever is the shorter term, or that fine, or \$2,000, whichever is the smaller fine, or both.

(8) The provisions of section 82 of the Justices Act, 1902, apply to any fine imposed by a magistrate under this section.

(9) Where, before the commencement of the Crimes and Other Acts (Amendment) Act, 1974, a conviction in respect of an offence mentioned in this section would have been a conviction in respect of a felony, a conviction by a magistrate under this section in respect of that offence shall for all purposes be deemed to be a conviction in respect of a felony.

- (b) by omitting the words "*Offences and punishment.*" occurring before section 477 and by omitting section 477;

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

(c)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 478.  
(Punishment in such cases.)

(c) by omitting section 478;

Sec. 479.  
(Accused to have option of summary disposal of case or of trial by jury.)

(d) by omitting section 479;

Sec. 479A.  
(Certain offences not to be dealt with summarily.)

(e) by omitting section 479A;

Sec. 480.

(f) by omitting section 480 and by inserting instead the following section :—

Certificate of dismissal.

480. Where a charge is disposed of summarily under section 476, the magistrate shall, if the case is dismissed and he is requested to do so, make out and deliver to the person charged with the offence so disposed of, a certificate under the magistrate's hand stating the fact of the dismissal.

Secs. 482-492.

(g) by omitting the words "CHAPTER II.—*Offences punishable summarily in certain cases by whipping.*" occurring before section 482 and by omitting sections 482, 483, 484, 485, 486, 487, 488, 489, 490, 491 and 492;

Sec. 493.

(h) by omitting section 493 and by inserting instead the following section :—

Common assaults.

493. Whosoever assaults any person shall on summary conviction be liable to imprisonment for six months, or to a fine of \$500, or both.

Sec. 494.  
(Aggravated assaults.)

(i) by omitting from section 494 the words "two hundred dollars" and by inserting instead the words "\$500, or both";

(j)

---

*Crimes and Other Acts (Amendment).*


---

- (j) by omitting section 495;      Sec. 495.  
(Assaults respecting the sale of grain.)
- (k) by omitting section 496;      Sec. 496.  
(Assaults obstructing workmen.)
- (l) by omitting section 497;      Sec. 497.  
(Where jurisdiction excluded.)
- (m) by omitting from section 498 the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494";      Sec. 498.  
(Certificate of dismissal.)
- (n) by omitting from section 499 (2) the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494";      Sec. 499.  
(Certificate or conviction a bar to other proceedings.)
- (o) (i) by omitting from section 501 (1) (a) the word "simple";      Sec. 501.  
(List of offences punishable summarily without consent of accused.)
- (ii) by inserting in section 501 (1) (c) after the words "one hundred and fifty-two" the matter ", 178B";
- (iii) by omitting from section 501 (1) the words "one hundred dollars" where firstly occurring and by inserting instead the matter "\$500";
- (iv) by omitting from section 501 (1) the words "one hundred dollars" where secondly occurring and by inserting instead the words "\$1,000, or both";
- (p) by omitting from section 502 the words "one hundred dollars" and by inserting instead the words "\$500, or both";      Sec. 502.  
(Possession of skin, &c., of stolen cattle.)

(q)

---

*Crimes and Other Acts (Amendment).*


---

- Sec. 503.  
(Stealing dogs.)
- (q) by omitting from section 503 the words "the value of the dog, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- Sec. 504.  
(Possessing stolen dog or skin.)
- (r) by omitting from section 504 the words "forty dollars" and by inserting instead the matter "\$500";
- Sec. 505.  
(Stealing animals, &c., ordinarily kept in confinement.)
- (s) by omitting from section 505 the words "the value of the animal or bird, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- Sec. 507.  
(Possession of stolen animals, &c.)
- (t) by omitting from section 507 the words "the value of such animal bird or skin, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- Sec. 510.  
(Setting engine for deer, &c.)
- (u) by omitting from section 510 the words "forty dollars" and by inserting instead the matter "\$500";
- Sec. 511.  
(Killing pigeons.)
- (v) by omitting from section 511 the words "the value of the bird, in addition to a fine of four dollars" and by inserting instead the words "a fine of \$200";
- Sec. 513.  
(Stealing shrubs, &c.)
- (w) (i) by omitting from section 513 the words ", the value of or the injury done to which exceeds ten cents,";
- (ii) by omitting from section 513 the words "pay the value of the property stolen, or intended to be stolen, or the amount of injury done, in addition to a fine of ten dollars" and by inserting instead the words "imprisonment for six months, or to pay a fine of \$500, or both";
- Sec. 514.  
(The like—second offence.)
- (x) by omitting section 514;

(y)



*Crimes and Other Acts (Amendment).*

- (y) by omitting from section 515 the words "twenty dollars" and by inserting instead the matter "\$100"; Sec. 515.  
(Stealing, &c., live or dead fence, &c.)
- (z) by omitting section 516; Sec. 516.  
(The like —second offence.)
- (aa) (i) by omitting from section 517 the words ", being of or above the value of ten cents,;" Sec. 517.  
(Unlawful possession of trees, fences, &c.)
- (ii) by omitting from section 517 the words "ten dollars" and by inserting instead the matter "\$100";
- (bb) (i) by omitting from section 518 the words ", such wood being of the value of or above ten cents,;" Sec. 518.  
(Stealing dead wood.)
- (ii) by omitting from section 518 the words "ten dollars" and by inserting instead the matter "\$100";
- (cc) by omitting section 519; Sec. 519.  
(The like —second offence.)
- (dd) by omitting from section 520 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both"; Sec. 520.  
(Stealing plants, &c., in gardens.)
- (ee) by omitting from section 521 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of two dollars" and by inserting instead the words "a fine of \$200"; Sec. 521.  
(Stealing plants, &c., not growing in gardens.)
- (ff) (i) by omitting from section 522 the words "of the value of fifty cents,;" Sec. 522.  
(Possession of ship-wrecked goods.)
- (ii) by omitting from section 522 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";

(gg)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 523.  
(Offering ship-wrecked goods for sale.)

(gg) by omitting from section 523 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";

Sec. 525.  
(Stealing or damaging books, &c., in public library, &c.)

(hh) by inserting in section 525 after the word "fine" the words "of \$1,000 in addition to a fine";

Sec. 526A.  
(Taking a conveyance without the consent of the owner.)

(ii) by omitting section 526A (1) and by inserting instead the following subsections :—

(1) Any person who—

(a) without having the consent of the owner or person in lawful possession of a conveyance takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or

(b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it.

shall be guilty of larceny and shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.

(1A) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.

(jj)

---

*Crimes and Other Acts (Amendment).*

---

- (jj) by omitting from section 527 the words "three months, or to pay a fine of forty dollars" and by inserting instead the words "six months, or to pay a fine of \$500, or both"; Sec. 527.  
(Fraudulently appropriating or retaining property.)
- (kk) by omitting from section 528 the words "one hundred dollars" and by inserting instead the matter "\$500"; Sec. 528.  
(Advertising reward for return of stolen property.)
- (ll) by omitting section 529 and by inserting instead the following section :— Sec. 529.
529. (1) In this section— Receivers punishable summarily.
- "receives" includes disposes of, and attempts to dispose of;
- "stolen" includes taken, extorted, obtained, embezzled, and otherwise disposed of, unlawfully.
- (2) Any person who receives any stolen property of a value not exceeding \$500, knowing the same to have been stolen, shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.
- 12. The Crimes Act 1900 is further amended—** Further amendment of Act No. 40, 1900.
- (a) by omitting the subheading "(C) MALICIOUS INJURIES TO PROPERTY. *Declaratory clauses.*" occurring before section 530 and by omitting section 530; Sec. 530.  
(Ownership and possession of property injured.)

(b)

---

*Crimes and Other Acts (Amendment).*


---

Sec. 531.  
(Actual malice—certain acts not malicious.)

(b) by omitting section 531;

Sec. 539.  
(Killing or maiming animals not being cattle.)

(c) by omitting the words "*Injuries to trees, shrubs, vegetable produce, fences, &c.*" and "*Injuries to certain animals.*" occurring before section 539 and by omitting section 539;

Sec. 540.  
(The like—second offence.)

(d) by omitting section 540;

Sec. 541.  
(Injuring property not previously provided for.)

(e) by omitting the words "*Injuries not otherwise provided for.*" occurring before section 541 and by omitting section 541;

Sec. 542.  
(The like—second offence.)

(f) by omitting section 542;

Sec. 543.  
(Application of compensation.)

(g) by omitting the words "*Application of compensation.*" occurring before section 543 and by omitting section 543;

Sec. 544.  
(Uttering defaced coin.)

(h) by omitting the words "(D) COINAGE OFFENCES." occurring before section 544 and by omitting section 544;

Sec. 545.  
(Possessing above five pieces of counterfeit foreign coin.)

(i) by omitting section 545;

Sec. 545A.  
(Bogus advertisements.)

(j) by omitting from section 545A (1) the words "forty dollars" and by inserting instead the words "\$200, or both";

(k)

---

*Crimes and Other Acts (Amendment).*


---

- (k) by omitting from section 545B (1) the words “forty dollars” and by inserting instead the words “\$500, or both”; Sec. 545B. (Intimidation or annoyance by violence or otherwise.)
- (l) (i) by omitting from section 545C (1) the words “forty dollars” and by inserting instead the words “\$500, or both”; Sec. 545C. (Knowingly joining or continuing in an unlawful assembly.)
- (ii) by omitting from section 545C (2) the words “one hundred dollars” and by inserting instead the words “\$1,000, or both”;
- (m) by omitting from section 545D the words “six months” and by inserting instead the words “twelve months, or to a fine not exceeding \$1,000, or both”; Sec. 545D. (Unlawful making or possession of explosives.)
- (n) by inserting in section 546 after the words “summary conviction,” the word “aids,”; Sec. 546. (Abetting or procuring.)
- (o) by inserting after section 547A the following section and subheading:—

## (H) PUBLIC MISCHIEF.

547B. (1) Any person who, by any means, knowingly makes to a member of the police force any false representation that an act has been, or will be, done or that any event has occurred, or will occur, which act or event as so represented is such as calls for an investigation by a member of the police force, shall be liable on conviction before a stipendiary magistrate to imprisonment for six months, or to a fine of \$500, or both. Public mischief.

(2) For the purposes of subsection (1), a person shall be deemed to make a representation to a member of the police force if he makes the representation

---

*Crimes and Other Acts (Amendment).*

---

representation to any other person and the nature of the representation reasonably requires that other person to communicate it to a member of the police force and that person does so communicate it.

Sec. 548A.  
(Power to  
commit.)

- (p) by omitting section 548A and the subheading thereto;

Sec. 554.  
(Damages  
and  
compensation.)

- (q) by omitting from section 554 (3) the words "three hundred dollars" and by inserting instead the matter "\$600";
- (r) by omitting the words "*Conditional release of offenders.*" occurring before section 556A and by inserting instead the heading "PART XV. CONDITIONAL RELEASE OF OFFENDERS.";

Sec. 556A.  
(Power to  
permit  
release of  
offenders.)

- (s) (i) by omitting from section 556A (1) the words "a court of summary jurisdiction" and by inserting instead the words "any court";
- (ii) by inserting in section 556A (1) after the word "committed," the words "or to any other matter which the court thinks it proper to consider,";
- (iii) by inserting after section 556A (1) the following subsection:—
- (1A) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the court shall order.
- (iv) by omitting from section 556A (2) the words "subsection three of section five hundred and fifty-four" and by inserting instead the matter "section 437 (1) or section 554 (3)";

(v)

*Crimes and Other Acts (Amendment).*

(v) by omitting section 556A (3) and by inserting instead the following subsection :—

(3) Where under subsection (1) a charge is dismissed or an offender is conditionally discharged, the person charged shall have the same rights as to appeal on the ground that he was not guilty of the offence charged as he would have had if convicted of the offence.

- (t) (i) by inserting in section 556B after the word "recognizance" where firstly occurring the words "(whether entered into for the purposes of section 556A or otherwise)"; Sec. 556B. (Proceedings on breach of condition of recognizance.)
- (ii) by omitting from section 556B the words "summary jurisdiction" and by inserting instead the words "like jurisdiction to that court".

**13.** The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

- (a) by omitting the heading "PART XV. FIRST OFFENDERS." occurring before section 557 and by omitting section 557; Sec. 557. (Interpretation.)
- (b) by omitting section 558 and by inserting instead the following section:— Subst. sec. 558.

558. (1) A Court before which a person comes to be sentenced for any offence may if it thinks fit defer passing sentence upon the person and order his release upon his entering into a recognizance, with or without sureties, in such amount as the Court directs, to be of good behaviour for such period as the Court thinks proper and to come up for sentence if called upon. Deferring sentence.

---

*Crimes and Other Acts (Amendment).*

---

(2) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the Court shall order.

(3) Where a person has entered into a recognizance mentioned in subsection (1) he may be removed to such gaol, or other place, as the Court may determine, and there forthwith submitted to the examination customary for securing future identification, and may be detained for whatever period, not exceeding forty-eight hours, as may be necessary for this purpose.

(4) Where the penalty provided by law in respect of an offence is a sentence of imprisonment or a fine or both, nothing in this section prevents the imposition of a fine for the offence when sentence for the offence is deferred under subsection (1).

(5) The provisions of section 82 of the Justices Act, 1902, apply to a fine imposed as referred to in subsection (4).

(6) A person may be called up for sentence and sentenced on the breach by him of any of the terms or conditions of a recognizance entered into by him under this section if the breach occurs during the period of the recognizance fixed under subsection (1), notwithstanding that the period has expired.

(7) Any power conferred upon a Court by the operation of this section shall be in addition to, and not in substitution for, any power conferred upon the Court otherwise.

(c)



---

*Crimes and Other Acts (Amendment).*


---

- |  |  |
|--|--|
| (c) by omitting section 559;   | Sec. 559.<br>(Order for restitution or payment of compensation may be made by Court.)            |
| (d) by omitting section 560;   | Sec. 560.<br>(Offender discharged to report himself.)  |
| (e) by omitting section 561;   | Sec. 561.<br>(Forfeiture of recognizance, &c.)   |
| (f) by omitting section 562;   | Sec. 562.<br>(Otherwise to be discharged and conviction not to be deemed a previous conviction.) |
| (g) by inserting in section 578 after the word "seventy-six," the matter "76A,";       | Sec. 578.<br>(Publication of evidence may be forbidden in certain cases.)                        |
| (h) by omitting the Second Schedule and by inserting instead the following Schedule :— | Second Schedule.   |

**SECOND SCHEDULE.**

Parts and sections in force, so far as their provisions are applicable, with respect to all offences and courts.

Sections 4 to 10 inclusive, 23, 34, 40, 62, 77, 78, 116, 118 to 124 inclusive, 128 to 130 inclusive, 163, 183, 191, 193 to 195 inclusive, 206, 231, 250,

---

*Crimes and Other Acts (Amendment).*


---

251, 344A, 345 to 347 inclusive, 351, Parts X to XIII inclusive, sections 547 to 556B inclusive, section 558 and Part XVI.

Fourth  
Schedule.

- (i) by omitting from the Fourth Schedule the words “two hundred and thirty-three, two hundred and thirty-four,”;

Sixth  
Schedule.

- (j) by omitting the Sixth Schedule.

Amendment  
of Act No.  
27, 1902.

**14.** The Justices Act, 1902, is amended—

Sec. 51A.

(Effect of  
plea of  
guilty in  
committal  
proceed-  
ings.)

- (a) by omitting section 51A (6) (a) and by inserting instead the following paragraph :—

- (a) a magistrate has jurisdiction to pass sentence upon the person under section 476 (5) (a) of the Crimes Act 1900; or;

Sec. 80.

(After  
hearing  
case  
Justices to  
convict or  
make an  
order or  
dismiss  
case.)

- (b) by omitting from section 80 the words “: Provided that in the case of an information, if upon the close of the case for the prosecution it appears to the Justice or Justices that the offence ought to be dealt with by indictment, he or they shall abstain from adjudication thereon and shall deal with the case for the purpose of committal for trial only”;

Sec. 125.

(Powers of  
Court  
appealed  
to.)

- (c) by inserting after section 125 (1) the following subsection :—

(1A) Where the conviction, order, sentence, or adjudication appealed against was recorded, made, passed, or given under the jurisdiction conferred upon a magistrate under section 476 of the Crimes Act 1900, the Court hearing the appeal shall not vary any penalty imposed by increasing it beyond the penalty which could have been imposed by the magistrate under that section.

---

*Crimes and Other Acts (Amendment).*


---

**15.** The Jury Act, 1912, is amended—Amendment  
of Act No.  
31, 1912.

- (a) by omitting section 27 (3) and by inserting instead the following subsection :—

Sec. 27.  
(Trial by  
jury in  
criminal  
cases.)

(3) Upon the trial of any person for a felony the jury shall, unless the court otherwise orders, be permitted to separate, at any time before they consider their verdict, in the same way as the jury upon the trial of any person for a misdemeanour are permitted to separate.

- (b) by omitting section 27A and by inserting instead the following section :—

Sec. 27A.

27A. Where in the course of a criminal trial any member of the jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless—

Provision  
for con-  
tinuance of  
trial where  
juror dies  
or becomes  
incapable.

- (a) if the number of its members is not reduced below ten; or
- (b) if the number of its members is reduced below ten and assent in writing is given by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give),

and if the court so orders, be considered as remaining for all the purposes of that trial properly constituted.

**16.** The Criminal Appeal Act, 1912, is amended—Amend-  
ment  
of Act No.  
16, 1912.

- (a) by omitting from section 5A (2) (g) the words “for the New South Wales State Reports or Weekly Notes” and by inserting instead the words “for any lawful purpose of the Council of Law Reporting for New South Wales”;

Sec. 5A.  
(Point of  
law stated  
by judge.)

(b)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 9.  
(Revest-  
ing and  
restitu-  
tion of  
property  
on  
convic-  
tion.)

(b) by inserting after section 9 (3) the following subsections :—

(4) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence—

(a) the operation of the direction shall be suspended until the expiration of the time provided for appealing to the court; and

(b) where notice of appeal or of application for leave to appeal is given within the time provided, the operation of the direction shall be suspended until the determination of the appeal or refusal of the application,

and in cases where the operation of any such direction is suspended until the determination of the appeal, the direction shall not take effect if the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given, is quashed on appeal, except by the special order of the court.

(5) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence, the court may annul or vary any such direction although the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given is not quashed on appeal.

---

*Crimes and Other Acts (Amendment).*


---

**17. The Criminal Injuries Compensation Act, 1967, is amended—**

Amend-  
ment of  
Act No.  
14, 1967.

- (a) by omitting section 5 (2) and by inserting instead the following subsections :—

Sec. 5.  
(Payment  
of com-  
pensation  
by  
Treasurer  
to  
applicant.)

(2) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that in the circumstances of the case the making under this subsection of a payment to the applicant is justified, the Treasurer may make a payment to the applicant not exceeding the appropriate amount referred to in subsection (1) (a) as specified in that statement.

(2A) In determining the amount of any payment to be made under subsection (2) the Treasurer shall have regard to—

- (a) the appropriate amount referred to in subsection (1) (a); and  
(b) any amounts referred to in subsection (1) (b),

as specified in the Under Secretary's statement, and any recommendations made by the Under Secretary with respect to any such amounts referred to in subsection (1) (b).

(2B) Any payment made under subsection (2) shall be made *ex gratia* and not as of right.

- (b) by omitting section 7 and by inserting instead the following section :—

Sec. 7.

7. (1) Where a payment is made under section 5 (2) to an aggrieved person—

Rights  
against  
convicted  
person  
where  
payment  
made.

- (a) the Under Secretary shall forthwith notify the Clerk of the Peace of the particulars of the payment, including the date and amount;

(b)

---

*Crimes and Other Acts (Amendment).*

---

- (b) the Clerk of the Peace shall endorse on any certificate thereafter issued by him to the aggrieved person under section 457 (1) of the Crimes Act 1900 the date and amount of the payment so notified to him, and may also issue to the Under Secretary any certificate so endorsed;
- (c) the Under Secretary may file a certificate so issued to him in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the Under Secretary against the offender specified in the certificate for the amount endorsed on the certificate under paragraph (b); and
- (d) the aggrieved person may file a certificate endorsed under paragraph (b) in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the balance of the amount of the sum directed to be paid, specified in the certificate, after deduction of the amount endorsed on the certificate under paragraph (b).

(2) Where judgment has been entered in favour of an aggrieved person under section 457 (3) of the Crimes Act 1900 in respect of a direction made under section 437 (1) of that Act, and a payment has been made to the aggrieved person pursuant to section 5 (2) in respect of that direction, the Under Secretary may file a notice specifying the date and amount of the payment in

the

---

*Crimes and Other Acts (Amendment).*

---

the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall—

- (a) reduce the amount of the judgment by the amount specified in the notice; and
- (b) enter judgment in favour of the Under Secretary, against the offender against whom judgment in favour of the aggrieved person was entered, for the amount specified in the notice.

(3) The Under Secretary shall pay to the Consolidated Revenue Fund any money recovered by him pursuant to this section.

---

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

1890

Journal of the

Proceedings of the  
General Assembly of the  
Presbyterian Church of the  
United States

held at the  
City of New York  
from the 1st to the 10th  
of June 1890

Published by the  
Board of Christian Education  
of the Presbyterian Church  
of the United States

Philadelphia: 1890



*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.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 4 April, 1974.*

## **New South Wales**



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 50, 1974.**

An Act to make provision for certain new offences; to amend the law relating to certain existing offences; to make provision for a defence of diminished responsibility in a trial for murder; to re-enact with modifications and additions certain provisions relating to the cross-examination of an accused person, the payment of compensation to a person aggrieved by a misdemeanour or felony, the summary trial of indictable offences, deferring sentence and the separation of juries; to repeal certain obsolete provisions of the Crimes Act

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

**J. H. BROWN,**  
*Chairman of Committees of the Legislative Assembly.*

---

*Crimes and Other Acts (Amendment).*

---

Act 1900; to alter the penalties which may be imposed for certain offences; for these and other purposes to amend the Crimes Act 1900, the Justices Act, 1902, the Jury Act, 1912, the Criminal Appeal Act, 1912, and the Criminal Injuries Compensation Act, 1967; and for purposes connected therewith. [Assented to, 6th May, 1974.]

**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:—

Short  
title.

1. This Act may be cited as the "Crimes and Other Acts (Amendment) Act, 1974".

Commence-  
ment.

2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Savings.

3. (1) Subject to this section, in so far as it affects any matter of procedure or evidence or the jurisdiction or powers of any Court in relation to an offence, this Act shall have effect in relation to proceedings on—

- (a) a trial on indictment for the offence if, but only if, the indictment is filed after the day appointed for the commencement of this Act; or
- (b) a summary trial for the offence if, but only if, the hearing is commenced after the day so appointed.

(2)

---

*Crimes and Other Acts (Amendment).*

---

(2) Section 5 (b) shall have effect in relation to an offence if, but only if, an indictment for that offence is filed after the day appointed for the commencement of this Act.

(3) Section 5 (r) shall have effect in relation to proceedings notwithstanding that they have been commenced before the day appointed for the commencement of this Act.

(4) Section 8 (b) shall have effect in a trial on indictment if, but only if, the committal proceedings in relation to the trial have been commenced on or after the day appointed for the commencement of this Act.

(5) Section 9 (c) and (d) shall have effect for the purpose of giving, on or after the day appointed for the commencement of this Act, a direction for the payment of compensation, and in relation to a direction so given.

(6) Section 15 (a) shall have effect with respect to a jury in the trial of a person for a felony, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

(7) Section 15 (b) shall have effect with respect to a jury in a criminal trial, notwithstanding that the trial has been commenced before the day appointed for the commencement of this Act.

(8) Section 17 shall have effect for the purpose of making any payment, and in respect of any payment made, under the Criminal Injuries Compensation Act, 1967, if, but only if—

- (a) the payment is made under that Act after the day appointed for the commencement of this Act; and
- (b) the payment so made follows on a direction for the payment of compensation given under section 437 of the Crimes Act 1900 on or after the day so appointed.

(9)

---

*Crimes and Other Acts (Amendment).*

---

(9) The Criminal Injuries Compensation Act, 1967 (as in force immediately before the day appointed for the commencement of this Act) shall—

- (a) continue to apply to and in respect of any payment made under that first-mentioned Act before the day so appointed; and
- (b) have effect for the purpose of making any payment, and in respect of any payment made, if section 17 does not (pursuant to subsection (8)) have effect for that purpose and in that respect.

(10) Nothing in this Act shall affect any term of imprisonment or the amount of any fine which may be imposed on conviction for an offence committed before the day appointed for the commencement of this Act.

Amend-  
ment of  
Act No. 40,  
1900.

Sec. 1.  
(Short  
title and  
contents  
of Act.)

4. The Crimes Act 1900 is amended—

- (a) (i) by inserting in the matter relating to Part III in section 1 after the matter "81B." the words "(10A) *Misconduct with regard to corpses.*—s. 81C.";
- (ii) by inserting in the matter relating to Part IV in the same section after the word "*offences.*" the matter "(aa) GENERAL.—s. 93J.";
- (iii) by omitting from the same matter the word ", BURGLARY,";
- (iv) by omitting from the same matter the words "*Simple larceny and general*" and by inserting instead the word "*General*";
- (v) by omitting from the same matter the words "*and telegraphs.*—ss. 230-234" and by inserting instead the matter ".—ss. 230-232";
- (vi)

---

*Crimes and Other Acts (Amendment).*

---

- (vi) by omitting from the same matter the matter "ss. 245, 246" and by inserting instead the matter "s. 245";
- (vii) by inserting in the same matter after the matter "s. 248" the words "(17A) *False statement that person or property in danger.*—s. 248A.";
- (viii) by inserting after the matter relating to Part VIII in the same section the following matter :—

PART VIII A.—ATTEMPTS.—s. 344A.

- (ix) by omitting from the matter relating to Part XI in the same section the matter "405" and by inserting instead the matter "405A";
- (x) by omitting from the matter relating to Part XII in the same section the words "(4) *Sentences of whipping or irons.*—ss. 434-436.";
- (xi) by omitting from the same matter the matter "s. 437" and by inserting instead the matter "ss. 437, 437A";
- (xii) by omitting from the matter relating to Part XIII in the same section the words "(3) *Whipping sentences.*—ss. 455, 456.";
- (xiii) by omitting from the matter relating to Part XIV in the same section the words "(2) *Offences and punishment.*—ss. 477, 478.";
- (xiv) by omitting from the same matter the matter "ss. 479-481" and by inserting instead the matter "ss. 480, 481";

(xv)

---

*Crimes and Other Acts (Amendment).*

---

- (xv) by omitting from the same matter the words "CHAPTER II.—OFFENCES PUNISHABLE SUMMARILY IN CERTAIN CASES BY WHIPPING.—ss. 482-492.";
- (xvi) by omitting from the same matter the following words :—
- (C) MALICIOUS INJURIES TO PROPERTY—
- (1) *Declaratory clauses.*—ss. 530, 531.
  - (2) *Injuries to trees, shrubs, vegetable produce, fences, &c.*—ss. 532-538.
  - (3) *Injuries to certain animals.*—ss. 539, 540.
  - (4) *Injuries not otherwise provided for.*—ss. 541, 542.
  - (5) *Application of compensation.*—s. 543.
- (D) COINAGE OFFENCES.—ss. 544, 545.
- (xvii) by inserting in the same matter after the matter "s. 547A." the words "(H) PUBLIC MISCHIEF.—s. 547B.";
- (xviii) by omitting from the same matter the words "(1A) *Power to commit.*—s. 548A.";
- (xix) by omitting from the same matter the words "(9) *Conditional release of offenders.*—ss. 556A, 556B.";
- (xx) by omitting from the matter relating to Part XV in the same section the words "FIRST OFFENDERS.—ss. 557-562" and by inserting instead the words "CONDITIONAL RELEASE OF OFFENDERS.—ss. 556A-560A".

(b)

---

*Crimes and Other Acts (Amendment).*

---

- (b) (i) by omitting the definition of "*Dwelling-house*" in section 4 and by inserting instead the following definition :— Sec. 4.  
(Interpre-  
tation.)

*"Dwelling-house"* includes—

- (a) any building or other structure intended for occupation as a dwelling and capable of being so occupied, although it has never been so occupied;
  - (b) a boat or vehicle in or on which any person resides; and
  - (c) any building or other structure within the same curtilage as a dwelling-house, and occupied therewith or whose use is ancillary to the occupation of the dwelling-house.
- (ii) by inserting in section 4 after the definition of "*Night*" the following definition :—
- "Offensive weapon"* and "*Offensive weapon, or instrument*" include an imitation or replica of an offensive weapon or of an offensive weapon, or an instrument, as the case may require.

- (iii) by inserting in section 4 after the definition of "*Vessel*" the following definition :—

*"Weapon"* and "*Weapon, or instrument*" include an imitation or replica of a weapon or of a weapon, or an instrument, as the case may require.

- (iv) by inserting at the end of section 4 the following subsection :—

(2) A dwelling-house does not cease to be a dwelling-house by reason only of being temporarily unoccupied.

(c)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 10.  
(What offences  
mis-  
demean-  
ours.)

(c) by omitting from section 10 the words "or whipping,".

Further amend-  
ment of  
Act No.  
40, 1900.

5. The Crimes Act 1900 is further amended—

Sec. 18.  
(Murder  
defined.)

(a) by omitting from section 18 (1) (a) the words "of an act obviously dangerous to life, or";

Sec. 23A.

(b) by inserting after section 23 the following section :—

Diminished  
responsi-  
bility.

23A. (1) Where, on the trial of a person for murder, it appears that at the time of the acts or omissions causing the death charged the person was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for the acts or omissions, he shall not be convicted of murder.

(2) It shall be upon the person accused to prove that he is by virtue of subsection (1) not liable to be convicted of murder.

(3) A person who but for subsection (1) would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

(4) The fact that a person is by virtue of subsection (1) not liable to be convicted of murder in respect of a death charged shall not affect the question whether any other person is liable to be convicted of murder in respect of that death.

(5)



---

*Crimes and Other Acts (Amendment).*

---

(5) Where, on the trial of a person for murder, the person contends—

- (a) that he is entitled to be acquitted on the ground that he was mentally ill at the time of the acts or omissions causing the death charged; or
- (b) that he is by virtue of subsection (1) not liable to be convicted of murder,

evidence may be offered by the Crown tending to prove the other of those contentions, and the Court may give directions as to the stage of the proceedings at which that evidence may be offered.

- (c) by omitting from section 24 the words “, or for any term not less than three years, or to imprisonment for any term not exceeding three years”; Sec. 24.  
(Man-  
slaughter—  
punish-  
ment.)
- (d) by inserting after section 32B the following section :— Sec. 32c.

32c. (1) Any person who makes a demand of any person with a threat to destroy or endanger the safety of an aircraft, vessel, motor vehicle, engine or carriage used upon a railway, or building, or to kill or injure all or any of the persons in or on any such aircraft, vessel, motor vehicle, engine, carriage or building, shall be liable to penal servitude for life. Threats  
to destroy  
aircraft  
or other  
con-  
veyances.

(2) Any person who makes a demand of any person with any threat mentioned in subsection (1) and while that threat subsists discharges any firearm, or causes any explosion, or wounds or inflicts grievous bodily harm on any person, shall be liable to penal servitude for life.

(3) The provisions of section 442 shall not be in force with respect to the sentence to be passed under subsection (2)

(4).

---

*Crimes and Other Acts (Amendment).*

---

(4) For the purposes of subsection (1), "building" includes any bridge, mine or structure in the nature of a building.

Secs. 33A  
and 33B.

(e) by inserting after section 33 the following sections :—

Discharging  
loaded arms  
with intent.

33A. Any person who maliciously discharges, or in any manner attempts to discharge, any kind of loaded arms with intent to do grievous bodily harm to any person, or with intent to resist, or prevent, the lawful apprehension or detention either of himself or any other person, shall be liable to penal servitude for fourteen years.

Use of  
weapon  
to resist  
arrest, &c.

33B. Any person who—

(a) uses, attempts to use or threatens to use an offensive weapon or instrument ; or

(b) threatens injury to any person or property, with intent to prevent or hinder the lawful apprehension or detention either of himself or any other person or to prevent or hinder a member of the police force from investigating any act or circumstance which reasonably calls for investigation by the member shall be liable to penal servitude for ten years.

Sec. 35.  
(Maliciously  
wounding or  
inflicting  
grievous  
bodily  
harm.)

(f) by omitting from section 35 the word "five" and by inserting instead the word "seven";

Sec. 45.  
(Wife or  
child  
desertion.)

(g) by omitting section 45;

(h)

---

*Crimes and Other Acts (Amendment).*

---

- (h) by omitting section 49 and by inserting instead the Sec. 49. following section :—

49. (1) Any person who—

Setting  
trap, &c.

(a) places or sets, or causes to be placed or set, any trap, device or thing (whether its nature be electronic, electric, mechanical, chemical or otherwise) capable of destroying human life or inflicting grievous bodily harm on any person; or

(b) knowingly permits any such trap, device or thing to continue to be placed or set,

with intent to inflict grievous bodily harm shall be liable to imprisonment for five years.

(2) Nothing in subsection (1) shall extend to any gin or trap, placed with the intention of destroying vermin, or to any trap, device or thing placed in a dwelling-house for the protection thereof.

- (i) by omitting from section 51 the word “life” and by inserting instead the words “ten years”;

Sec. 51.  
(Casting  
stone, &c.,  
on a railway  
carriage.)

- (j) (i) by omitting section 52A (1) and (2) and by inserting instead the following subsections :—

Sec. 52A.  
(Culpable  
driving.)

(1) Where the death of, or grievous bodily harm to, any person is occasioned through—

(a) the impact with any object of a motor vehicle in which that person was a passenger;

(b) a motor vehicle in which that person was a passenger overturning or leaving the highway;

(c)

---

*Crimes and Other Acts (Amendment).*

---

- (c) impact with a motor vehicle ; or
- (d) the impact of a motor vehicle with any vehicle or other object in, on or near which that person was at the time of the impact,

and the motor vehicle was at the time of the impact, or at the time of overturning or leaving the highway, being driven by another person—

- (e) under the influence of intoxicating liquor or of a drug ; or
- (f) at a speed or in a manner dangerous to the public,

the person who was so driving the motor vehicle shall be guilty of the misdemeanour of culpable driving.

(2) A person convicted of the misdemeanour of culpable driving is—

- (a) if the death of any person was occasioned, liable to imprisonment for five years ; or
- (b) if grievous bodily harm to any person was occasioned, liable to imprisonment for three years.

(ii) by omitting from section 52A (7) the words “and structure” and by inserting instead the words “, structure, earthwork, embankment, gutter, stormwater channel, drain, bridge, culvert, median strip, post and tree” ;

Sec. 61.  
(Common assault prosecuted by indictment.)

(k) by omitting from section 61 the words “, and if the person assaulted is a female, shall, in addition, be liable to be once privately whipped” ;

(1)

---

*Crimes and Other Acts (Amendment).*


---

- (l) by omitting from section 64 the words "but with her consent" and by inserting instead the words "but are not satisfied that carnal knowledge was had without her consent"; Sec. 64.  
(Trial for rape—  
verdict of carnal know-  
ledge.)
- (m) by omitting from section 70 the words "and that the accused had not carnal knowledge of such girl, but" and by inserting instead the words "but are not satisfied that the accused had carnal knowledge of the girl, and are satisfied that he"; Sec. 70.  
(Trial for carnal know-  
ledge—  
verdict of assault with  
intent.)
- (n) by inserting in section 72 after the words "any girl" the words "of or"; Sec. 72.  
(Attempts.)
- (o) (i) by omitting from section 76 the word "three" and by inserting instead the word "four"; Sec. 76.  
(Indecent assault.)
- (ii) by omitting from section 76 the word "five" and by inserting instead the word "six";
- (p) by inserting after section 76 the following Sec. 76A.  
section :—
- 76A. Any person who commits any act of Act of  
indecenty with or towards any girl under the age of indecenty.  
sixteen years, or incites a girl under that age to any  
act of indecenty with him or another, shall be liable  
to imprisonment for two years.
- (q) (i) by omitting from section 77 the words "or seventy-four" and by inserting instead the Sec. 77.  
(Consent no  
defence  
in certain  
cases.)  
matter "74 or 76A";
- (ii) by omitting from section 77 the words "or seventy-two" and by inserting instead the  
matter "72 or 76A";

(r)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 77A. (r) by inserting after section 77 the following section :—

Pro-  
ceedings  
in camera  
in certain  
cases.

77A. Any proceedings or any part of any proceedings in respect of an offence under section 63, 65, 66, 67, 68, 71, 72, 72A, 73, 74, 76 or 76A shall, if the Court so directs, be held in camera.

Sec. 81c. (s) by inserting after section 81B the following section and subheading :—

Miscon-  
duct with  
regard to  
corpses.

*Misconduct with regard to corpses.*

81c. Any person who—

(a) indecently interferes with any dead human body; or

(b) improperly interferes with, or offers any indignity to, any dead human body or human remains (whether buried or not),

shall be liable to imprisonment for two years.

Sec. 91A.  
(Procur-  
ing, &c.)

(t) by omitting from section 91A the words “female under the age of twenty-one years, whether with her consent or not, with intent that some other person may have carnal knowledge of such female” and by inserting instead the words “person, whether with that person’s consent or not, for purposes of prostitution”;

Sec. 91B.  
(Pro-  
curing  
person by  
drugs, &c.)

(u) by omitting from section 91B the words “woman of or above the age of twenty-one years with intent that some other person may have carnal knowledge of such woman” and by inserting instead the words “person for purposes of prostitution”;

Sec. 91D.  
(Employ-  
ment in  
brothel.)

(v) by omitting from section 91D the word “female” and by inserting instead the words “person (not being a member of the police force acting in the course of his duty)”.

---

*Crimes and Other Acts (Amendment).*


---

6. The Crimes Act 1900 is further amended—
- Further  
amend-  
ment of  
Act No.  
40, 1900.
- (a) by inserting next after the words “Chapter I.—  
*Stealing and like offences.*” in Part IV the following  
section and subheading :—
- Sec. 93J.

## GENERAL.

93J. Where on the trial of a person for any offence which includes the stealing of any property it appears that the property was, at the time when it was taken by the accused, already out of the possession of the owner by reason of its having been previously stolen, the accused may be convicted of the offence charged notwithstanding that it is not proved that the taking by him amounted to an interference with the right to possession of, or a trespass against, the owner.

Property  
previously  
stolen.

- (b) by omitting from section 99 the word “seven” and  
by inserting instead the word “ten”;
- Sec. 99.  
(Demand-  
ing money  
with  
intent to  
steal.)
- (c) by omitting from the subheading occurring before  
section 106 the word “, BURGLARY”;
- Sub-  
heading  
before  
sec. 106.
- (d) by omitting section 108;
- Sec. 108.  
(Burglary.)
- (e) by omitting from section 109 the words “in the  
night, shall be deemed guilty of burglary, and”;
- Sec. 109.  
(Entering  
with  
intent, or  
stealing,  
&c., in  
dwelling-  
house and  
breaking  
out.)

(f)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 114.

(f) by omitting section 114 and by inserting instead the following section :—

Being  
armed,  
&c., with  
intent to  
commit  
offence.

114. (1) Any person who—

- (a) is armed with any weapon, or instrument, with intent to enter a building and to commit a felony or misdemeanour therein;
- (b) has in his possession, without lawful excuse, any implement of housebreaking or safe-breaking, or any implement capable of being used to enter or drive or enter and drive a conveyance;
- (c) has his face blackened or otherwise disguised, or has in his possession the means of blacking or otherwise disguising his face, with intent to commit a felony or misdemeanour;
- (d) enters or remains in or upon any part of a building or any land occupied or used in connection therewith with intent to commit a felony or misdemeanour in or upon the building,

shall be liable to penal servitude for seven years.

(2) For the purposes of subsection (1)

(b) "conveyance" means any cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.

Sub-  
heading  
before  
sec. 117.

(g) by omitting from the subheading appearing before section 117 the words "*Simple larceny and general*" and by inserting instead the word "*General*";

(h)



---

*Crimes and Other Acts (Amendment).*


---

- (h) by omitting from section 117 the word "simple" wherever occurring; Sec. 117.  
(Punishment for larceny.)
- (i) by inserting in section 120 after the word "pretence" where firstly occurring the words "or by any wilfully false promise"; Sec. 120.  
(Trial for larceny—verdict of embezzlement, &c.)
- (j) by omitting from section 124 the words "two hundred dollars" and by inserting instead the words "\$2,000, or both"; Sec. 124.  
(Fraudulent appropriation.)
- (k) by omitting from section 125 the words ", and may be convicted thereof upon an indictment for simple larceny"; Sec. 125.  
(Larceny by bailee.)
- (l) by omitting from section 126 the word "ten" and by inserting instead the word "fourteen"; Sec. 126.  
(Stealing cattle or killing with intent to steal.)
- (m) by omitting from section 134 the word "simple"; Sec. 134.  
(Stealing, destroying, &c., valuable security.)
- (n) by inserting in section 136 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation"; Sec. 136.  
(Proviso to sections 134 and 135.)
- (o) by omitting from section 139 the word "simple"; Sec. 139.  
(Stealing, &c., metal, glass, wood, &c., fixed to house or land.)
- (p)

---

*Crimes and Other Acts (Amendment).*

---

- Sec. 140. (p) by omitting from section 140 the word "simple";  
(Stealing, &c., trees, &c., in pleasure grounds.)
- Sec. 144. (q) by omitting from section 144 the word "simple";  
(Stealing ore of metal, coal, &c.)
- Sec. 147. (r) by omitting from section 147 the word "simple";  
(Fraud on partners in mines, &c.)
- Sec. 153. (s) by omitting from section 153 the word "fourteen" and by inserting instead the word "ten";  
(Stealing from ship in distress or wrecked.)
- Sec. 154. (t) by omitting from section 154 the word "simple";  
(Tenants, &c., stealing articles let to hire.)
- Sec. 154A. (u) by omitting section 154A and by inserting instead the following section :—
- Taking a conveyance without the consent of the owner.
- 154A. (1) Any person who—
- (a) without having the consent of the owner or person in lawful possession of a conveyance, takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or
- (b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,
- shall be deemed to be guilty of larceny and liable to be indicted for that offence.

---

*Crimes and Other Acts (Amendment).*


---

(2) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used or intended for navigation, and "drive" shall be construed accordingly.

- (v) by omitting from section 154c the word "simple"; Sec. 154c.  
(Malicious or fraudulent abstraction, waste, &c., of electricity.)
- (w) by omitting from section 163 the word "simple"; Sec. 163.  
(Trial for embezzlement —verdict of larceny.)
- (x) by omitting from section 173 the word "ten" and by inserting instead the word "fourteen"; Sec. 173.  
(Directors, &c., fraudulently appropriating, &c., property.)
- (y) by omitting from section 174 the word "ten" and by inserting instead the word "fourteen"; Sec. 174.  
(Directors, &c., omitting certain entries.)
- (z) by omitting from section 175 the word "ten" and by inserting instead the word "fourteen"; Sec. 175.  
(Director, &c., wilfully destroying, &c., books of company, &c.)
- (aa) by omitting from section 176 the word "ten" and by inserting instead the word "fourteen"; Sec. 176.  
(Director or officer publishing fraudulent statements.)

(bb)

---

*Crimes and Other Acts (Amendment).*

---

- Sec. 177.  
(Proviso to ss. 165 to 176 incl.)
- (bb) by inserting in section 177 after the word "insolvency" the words ", or under compulsory examination in some matter in the liquidation of a corporation";
- Sec. 183.  
(Trial for false pretences, &c. —verdict of larceny.)
- (cc) by omitting from section 183 the word "simple";
- Sec. 184.  
(Fraudulent personation.)
- (dd) by omitting from section 184 the word "life" and by inserting instead the words "seven years";
- Sec. 188.  
(Receiving where principal guilty of felony.)
- (ee) by inserting in section 188 after the word "receives" the words ", or disposes of, or attempts to dispose of,";
- Sec. 189.  
(Receiving where principal guilty of misdemeanour.)
- (ff) by inserting in section 189 after the word "receives" the words ", or disposes of, or attempts to dispose of,";
- Sec. 189A.  
(Receiving, &c., goods stolen out of New South Wales.)
- (gg) (i) by inserting in section 189A (1) after the word "receives" the words ", or disposes of, or attempts to dispose of,";
- (ii) by inserting in section 189A (1) after the words "been stolen," the words "and whether or not he took part in the stealing of the property,";

(hh)

---

*Crimes and Other Acts (Amendment).*


---

- (hh) by inserting after section 189A the following section :— Sec. 189B.

189B. (1) Where in the trial of a person for the offence under section 188 or 189 of receiving, or disposing of, or attempting to dispose of, any property knowing it to have been stolen, it is proved that the property was stolen in the course of transmission between New South Wales and any other jurisdiction or between any other jurisdiction and New South Wales— Prosecution under section 188 or 189 where property stolen in course of transmission.

- (a) the person shall be liable to be convicted of the offence without proof that the stealing took place in New South Wales; and
- (b) for the purpose of determining whether or not the stealing amounts to a felony or a misdemeanour, the stealing shall be deemed to have taken place in New South Wales.

(2) For the purposes of subsection (1) "other jurisdiction" means a State (other than New South Wales) or Territory of the Commonwealth.

- (ii) by inserting in section 190 after the word "receives" where secondly occurring the words ", or disposes of, or attempts to dispose of,"; Sec. 190. (Receiving cattle feloniously killed, or carcass, &c.)
- (jj) by omitting from section 213 the word "ten" and by inserting instead the word "five"; Sec. 213. (Setting fire to fences.)
- (kk) by omitting from section 214 the words "liable to penal servitude for seven years" and by inserting instead the words "liable to penal servitude for three years"; Sec. 214. (Attempts to set fire to such things.)

(ll)

---

*Crimes and Other Acts (Amendment).*


---

- Sec. 216.  
(Injuring trees, shrubs, &c., in pleasure-ground, &c.) (ll) by omitting section 216;
- Sec. 217.  
(The like to value of over \$10 elsewhere.) (mm) by omitting section 217;
- Sec. 218.  
(Injuring trees, &c., after two summary convictions.) (nn) by omitting section 218;
- Sec. 219.  
(Destroying plant, &c., in a garden after one summary conviction.) (oo) by omitting section 219;
- Sub-heading before sec. 230. (pp) by omitting from the subheading occurring before section 230 the words "*and telegraphs*";
- Sec. 233.  
(Injuring telegraph posts, &c.) (qq) by omitting section 233;
- Sec. 234.  
(Attempt.) (rr) by omitting section 234;
- Sec. 245.  
(Killing or maiming cattle.) (ss) (i) by omitting from section 245 the words "other than pigs or goats,";  
(ii) by omitting from section 245 the words "forty dollars" and by inserting instead the matter "\$1,000";
- (tt)

---

*Crimes and Other Acts (Amendment).*

---

- (tt) by omitting section 246; Sec. 246.  
(Cruelly wounding or torturing cattle.)
- (uu) (i) by omitting from section 247 the words “, to an amount exceeding ten dollars,”; Sec. 247.  
(Other injuries.)
- (ii) by omitting from section 247 the words “shall be liable to imprisonment for two years, and where such offence is committed in the night,”;
- (vv) by omitting from section 248 the word “seven” and by inserting instead the word “five”; Sec. 248.  
(Letters threatening to destroy property.)
- (ww) by inserting after section 248 the following section and subheading :— Sec. 248A.

*False statement that person or property in danger.*

248A. Where any person knowingly makes to any other person a false statement, or sends to any other person a document containing a statement that he knows to be false, and the statement tends to give rise to apprehension for the safety of any person (including the person making the statement and the person to whom it is made) or property, or both, he shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for twelve months, or both, or on conviction on indictment to imprisonment for five years.

---

*Crimes and Other Acts (Amendment).*


---

Further amendment of Act No. 40, 1900.

7. The Crimes Act 1900 is further amended—

Sec. 271.  
(Forging wills.)

- (a) by omitting from section 271 the word “life” and by inserting instead the words “fourteen years”;

Sec. 336.  
(Tampering with witness.)

- (b) (i) by omitting from section 336 the words “, in a judicial proceeding,”;  
(ii) by omitting from section 336 the words “such person being bound by recognizance or subpoena so to attend,”;

Part VIIIA.

- (c) by inserting after section 344 the following Part :—

PART VIIIA.

ATTEMPTS.

Attempts.

344A. (1) Subject to this Act, any person who attempts to commit any offence for which a penalty is provided under this Act shall be liable to that penalty.

(2) Where a person is convicted of an attempt to commit an offence and the offence concerned is a felony he shall be deemed to have been convicted of a felony.

Sec. 351.  
(Abettors in misdemeanours—how tried and punished.)

- (d) by omitting from section 351 the word “Whosoever” and by inserting instead the words “Any person who aids,”;

Sec. 353B.  
(Person apprehended carrying razor, &c.)

- (e) by inserting in section 353B after the word “months” the words “, or to a fine of \$500, or both”;

(f)



---

*Crimes and Other Acts (Amendment).*

---

- (f) by omitting section 354 and by inserting instead the following section :—

354. (1) Upon a complaint made on oath that there is reasonable ground to believe that there is in or on any premises—

- Search  
warrant  
for property  
where indict-  
able offence  
in respect  
thereof com-  
mitted, &c.
- (a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed;
- (b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of any indictable offence; or
- (c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any indictable offence,

a justice may, by warrant, authorise and require any member of the police force to enter and search the premises.

(2) A warrant issued under subsection (1) shall be executed by day, unless the justice, by the warrant, authorises its execution by night.

(3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

(4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5)

---

*Crimes and Other Acts (Amendment).*

---

(5) A member of the police force executing a warrant issued under subsection (1) may—

- (a) seize or dispose of in a safe place, or guard in or on the premises, anything mentioned in the warrant and, in addition, any other thing that on reasonable grounds he believes has been obtained by, or has been used in, the commission of an offence, until any charge in relation thereto is dealt with; and
- (b) arrest, search and bring before a justice any person found in the premises whom he suspects of having committed an offence in respect of anything so seized.

(6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on the premises, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

(7) Any person who without lawful excuse hinders or obstructs any person executing a warrant issued under subsection (1) shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000, or both.

(8) For the purposes of this section—

“indictable offence” includes any act or omission which if done, or omitted to be done, in New South Wales would constitute an offence punishable on indictment;

“premises” includes any structure, building, aircraft, vehicle, vessel, or place (whether built upon or not), and any part thereof.

(g)

---

*Crimes and Other Acts (Amendment).*

---

(g) by omitting from section 356 (1) the words “section three hundred and fifty-four or”; Sec. 356.  
(Proceedings on finding explosive substances, &c., under warrant.)

(h) by omitting section 357 and by inserting instead the following section :— Sec. 357.

357. (1) Upon a complaint made on oath that the complainant has reason to suspect, and believes, that an animal stolen or otherwise unlawfully obtained is concealed or lodged in or on any specified premises, a justice may, by warrant, authorise and require any member of the police force to enter and search the premises. Searching for stolen cattle.

(2) A member of the police force may without a warrant—

(a) require the person in charge of a vehicle to cause the vehicle to stop or remain stationary and afford him access to the vehicle, and may enter and search the vehicle; or

(b) enter and search a vehicle,

for the purpose of searching for any animal that has been stolen or otherwise unlawfully obtained, or that is reasonably suspected of having been stolen or otherwise unlawfully obtained.

(3) For the purpose of executing a warrant issued under subsection (1) a member of the police force may use force, whether by breaking open doors or otherwise, for the purpose of entering the premises.

(4)

---

*Crimes and Other Acts (Amendment).*

---

(4) A member of the police force may execute a warrant issued under subsection (1) with the aid of such assistants as he deems necessary.

(5) A member of the police force may—

- (a) seize or dispose of in a safe place, or guard in or on the premises or in the vehicle, any animal found pursuant to a search under subsection (1) or (2) that is reasonably suspected of having been stolen or otherwise unlawfully obtained, until any charge in relation to the animal is dealt with; and
- (b) arrest, search and bring before a justice any person found in premises, or in charge of or in any vehicle, whom he suspects of having committed an offence in respect of any animal.

(6) After it has been produced in evidence, or when it is not required as evidence, anything seized, disposed of in a safe place, or guarded in or on premises or in a vehicle, under subsection (5) (a) shall be disposed of as the Court or any stipendiary magistrate shall direct.

(7) Any person who without lawful excuse—

- (a) hinders or obstructs any person executing a warrant issued under subsection (1), or a member of the police force searching a vehicle under subsection (2);

(b)

---

*Crimes and Other Acts (Amendment).*

---

(b) fails or neglects to cause a vehicle to stop or remain stationary when required to do so by a member of the police force acting under subsection (2); or

(c) fails to afford access to a vehicle to a member of the police force acting under subsection (2),

shall be guilty of an offence and liable to imprisonment for two years or to a fine of \$2,000, or both.

(8) Nothing in subsection (1) shall prevent a member of the police force who finds on any premises any animal reasonably suspected of having been stolen or unlawfully obtained, from seizing or retaining the animal without a warrant.

(9) For the purposes of this section—

“animal” means a bull, steer, cow, heifer, calf, horse, mare, gelding, colt, foal, filly, ram, ewe, sheep, lamb or pig, and includes any part, skin or carcass of any such animal;

“premises” includes any structure, building, or place (whether built upon or not), and any part thereof;

“vehicle” includes a vessel.

---

*Crimes and Other Acts (Amendment).*

---

Further amendment of Act No. 40, 1900.

**8. The Crimes Act 1900 is further amended—**

Sec. 405A

- (a) by inserting after section 405 the following section :—

Notice of alibi.

405A. (1) On a trial on indictment the defendant shall not without the leave of the Court adduce evidence in support of an alibi or assert in any statement made by him under section 405 (1) that he has an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.

(2) Without prejudice to subsection (1), on a trial on indictment the defendant shall not without the leave of the Court call any other person to give evidence in support of an alibi unless—

- (a) the notice under that subsection includes the name and address of the person, or, if the name or address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the person;
- (b) if the name or the address is not included in the notice, the Court is satisfied that the defendant before giving the notice took, and thereafter continued to take, all reasonable steps to secure that the name or the address would be ascertained;
- (c) if the name or the address is not included in the notice, but the defendant subsequently discovers the name or address or receives other information which might be of material assistance in finding the person, he forthwith gives notice of the name, address or other information, as the case may be; and

(d)

---

*Crimes and Other Acts (Amendment).*

---

(d) if the defendant is notified by or on behalf of the Crown that the person has not been traced by the name or at the address given by the defendant, he forthwith gives notice of any information which might be of material assistance in finding the person and which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

(3) The Court shall not refuse leave under this section if it appears to the Court that on the committal for trial of the defendant he was not informed by the committing justice of the requirements of subsections (1), (2) and (5), and the statement in writing of the committing justice that the defendant was so informed shall be evidence that the defendant was so informed.

(4) Any evidence tendered to disprove an alibi may, subject to any direction by the Court, be given before or after evidence is given in support of the alibi.

(5) Any notice purporting to be given under this section on behalf of the defendant by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(6) A notice under this section shall be given in writing to the Clerk of the Peace, and may be given by delivering it to the Clerk of the Peace, or by leaving it at his office, or by sending it in a registered letter or by certified mail addressed to him at his office.

(7)

---

*Crimes and Other Acts (Amendment).*


---

## (7) In this section—

“evidence in support of an alibi” means evidence tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

“the prescribed period” means the period of ten days commencing at the time of the committal of the defendant for trial.

Sec. 407.  
(Competency of parties and accused persons and their husbands and wives to give evidence.)

- (b) by omitting paragraph (1) of the proviso to section 407 and by inserting instead the following paragraph :—

(1) No such person charged with an indictable offence shall be liable to be called as a witness on behalf of the prosecution.

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

- (c) (i) by omitting from section 409 (1) the words “on oath that”;
- (ii) by inserting in section 409 (1) (a) before the words “the witness” the words “on oath that”;
- (iii) by inserting in section 409 (1) (b) (i) before the words “the deposition” the word “that”;
- (iv) by inserting in section 409 (1) (b) (ii) after the word “coroner,” the word “that”;

(v)



---

*Crimes and Other Acts (Amendment).*

---

- (v) by inserting in section 409 (1) (c) before the words "the accused" the word "that";
- (vi) by inserting after section 409 (4) the following subsections :—

(5) For the purposes of subsection (1), unless it is proved to the contrary—

- (a) a deposition, or a deposition in the form of a transcript, of the evidence of a witness shall be deemed to have been taken or made in the presence of the accused, or during any period when the accused, having been discharged under section 41 (1B) of the Justices Act, 1902, was absent; and
- (b) the accused or his counsel or attorney shall be deemed to have had a full opportunity of cross-examining the witness, or the accused, having been discharged under section 41 (1B), shall be deemed to have been absent when the deposition was taken and not represented by counsel or attorney,

if it appears from the deposition that it was so taken or made, and that the accused or his counsel had such an opportunity or was so absent and not represented by counsel or attorney, as the case may be.

(6) For the purposes of subsection (1) (b) (ii), where a deposition is in the form of a transcript of the record, unless it is proved to the contrary, the record shall be deemed to be a true record of the matter deposed, and the transcript shall be deemed to be a correct transcript of the record if, in the case of a transcript of a record—

- (a) made in shorthand notes, the transcript is identified by, and signed in the **handwriting**

---

*Crimes and Other Acts (Amendment).*

---

handwriting of, the person purporting to have made the shorthand notes; or

- (b) made by any other means (other than writing) authorised by law for the taking of a deposition, the transcript is certified in the manner prescribed by regulations made under the Justices Act, 1902.

Secs. 413A,  
413B and  
413C.

- (d) by inserting after section 413 the following sections :—

Restriction  
on cross-  
examina-  
tion of  
accused.

413A. (1) Subject to this section and section 413B, where in any proceedings an accused person gives evidence he shall not in cross-examination be asked, and if asked shall not be required to answer, any question tending to reveal to the Court or jury—

- (a) the fact that he has committed, or has been charged with or convicted or acquitted of, any offence other than the offence charged;  
or  
(b) the fact that he is generally or in a particular respect a person of bad disposition or reputation.

(2) Subsection (1) shall not apply to a question tending to reveal to the Court or jury any fact such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose of proving the commission by the accused of the offence charged.

(3) Where, in any proceedings in which two or more persons are jointly charged, any of the accused persons gives evidence, subsection (1) shall not in his case apply to any question tending to reveal to the Court or jury a fact about him such as is mentioned in subsection (1) (a) or (b) if evidence of that fact is admissible for the purpose  
of

---

*Crimes and Other Acts (Amendment).*

---

of showing any other of the accused to be not guilty of the offence with which that other is charged.

(4) Subsection (1) shall not apply if—

- (a) the accused person has personally or by his counsel asked any witness for the prosecution or for a person jointly charged with him any question concerning the witness's conduct on any occasion (other than his conduct in the activities or circumstances giving rise to the charge or his conduct during the trial or in the activities, circumstances or proceedings giving rise to the trial) or as to whether the witness has committed, or has been charged with or convicted or acquitted of, any offence; and
- (b) the Court is of the opinion that the main purpose of that question was to raise an issue as to the witness's credibility,

but the Court shall not permit a question falling within subsection (1) to be put to an accused person by virtue of this subsection unless it is of the opinion that the question is relevant to his credibility as a witness and that in the interests of justice and in the circumstances of the case it is proper to permit the question to be put.

(5) Subsection (1) shall not apply where the accused person has given evidence against any person jointly charged with him in the same proceedings.

---

*Crimes and Other Acts (Amendment).*


---

Admissibility of evidence and questions about accused's disposition or reputation.

413B. (1) In any proceedings an accused person may—

(a) personally or by his counsel ask questions of any witness with a view to establishing directly or by implication that the accused is generally or in a particular respect a person of good disposition or reputation;

(b) himself give evidence tending to establish directly or by implication that the accused is generally or in a particular respect such a person; or

(c) call a witness to give any such evidence,

but where any of these things has been done, the prosecution may call, and any person jointly charged with the accused person may call, or himself give, evidence to establish that the accused person is a person of bad disposition or reputation, and the prosecution or any person so charged may in cross-examining any witness (including, where he gives evidence, the accused person) ask him questions with a view to establishing that fact.

(2) Where by virtue of this section a party is entitled—

(a) to call evidence to establish that the accused person is a person of bad disposition or reputation, that party may call evidence of his previous convictions, if any, whether or not the party calls any other evidence for that purpose; or

(b) in cross-examining the accused to ask him questions with a view to establishing that he is such a person section 413A (1) shall not apply in relation to his cross-examination by that party.

413c.

---

*Crimes and Other Acts (Amendment).*

---

413c. (1) Where in any proceedings the fact that an accused person has been convicted of an offence is admissible in evidence, a document purporting to be a record of the conviction (whether in the State or elsewhere) of the accused person for the offence and purporting to be signed by an authorised person shall be received in the proceedings as evidence of that fact. Documentary evidence of previous convictions.

(2) The method of proving a conviction authorised by this section shall be in addition to and not to the exclusion of any other method of proving a conviction.

(3) For the purposes of subsection (1), "authorised person" means—

- (a) the officer-in-charge of the Central Fingerprint Bureau of the Police Department, or any person authorised by him for the purposes of this section;
- (b) a gaol recorder;
- (c) the officer-in-charge of police at the town where the Court, in which it is proposed to give evidence that an accused person has been convicted of an offence, is being held; or
- (d) in the case of proceedings before a stipendiary magistrate, the police prosecutor conducting the proceedings.

(e) (i) by inserting in section 414A after the word "article" the words "or living person"; Sec. 414A.  
(Certificate of scientific examination evidence.)

(ii)

---

*Crimes and Other Acts (Amendment).*

---

- (ii) by inserting at the end of section 414A the following subsections :—

(2) A certificate which would, by virtue of section 4E (12) (a) or (b) of the Motor Traffic Act, 1909, be prima facie evidence of the particulars certified in and by the certificate in proceedings for an offence under section 4E (1) of that Act shall be prima facie evidence of those particulars at any inquest or where a person is charged before a stipendiary magistrate or before any Court with an indictable offence.

(3) Where any certificate is admitted in evidence by virtue of subsection (2), evidence of the condition of a breath analysing instrument or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced.

Sec. 415.

- (f) by omitting section 415 and by inserting instead the following section :—

Proof of  
banking  
transactions.

415. (1) Subject to subsection (2), in any case where it is necessary to prove—

- (a) the state of an account in the books or records of a banking corporation, or company;
- (b) that any person has not or had not an account, or any funds, to his credit in any such books or records; or
- (c) any entry in any such books or records with respect to—
  - (i) the opening of an account of any kind;

(ii)

---

*Crimes and Other Acts (Amendment).*

---

- (ii) the specimen signature of any person;
- (iii) the account number of any account;
- (iv) the issue of, or the number on, any cheque, draft, warrant, cheque-book, bank-book or passbook;
- (v) the particulars of any deposit, deposit slip or remitting warrant;
- (vi) the drawing, endorsement or marking of any cheque;
- (vii) the dishonouring of any cheque, draft or promissory note;
- (viii) the presentation and meeting of any cheque;
- (ix) the depositing or withdrawal of any money in respect of any account;
- (x) any documents in respect of any such deposit or withdrawal; or
- (xi) the lodgment of any document or security or other item in safe deposit or for safe custody or the granting of access to or withdrawal of any such item,

it shall not be necessary to produce any such book or record, but evidence of any such matter may be given, either orally or by affidavit, by any officer or clerk of the corporation or company who has examined the book or record.

(2) Where in any Court evidence is given by affidavit under subsection (1) the Court may if it thinks fit order that the evidence be not admitted unless the person who made the affidavit gives oral evidence in the proceedings or gives evidence by a further affidavit.

(3)

---

*Crimes and Other Acts (Amendment).*

---

(3) The method of proving any matter referred to in subsection (1) shall be in addition to and not to the exclusion of any other method of proving that matter.

Sec. 420.  
(Receivers.  
Evidence of  
guilty  
knowledge.)

- (g) by omitting from section 420 (b) the words "such trial" and by inserting instead the words "the commission of the offence charged, or if more than one offence is charged, the commission of the earliest such offence charged".

Further  
amend-  
ment of  
Act No.  
40, 1900.

9. The Crimes Act 1900 is further amended—

Sec. 434.  
(Juvenile  
offenders  
may be  
whipped.)

- (a) by omitting the words "*Sentences of whipping or irons.*" occurring before section 434 and by omitting section 434;

Sec. 435.  
(Whipping  
adults in  
certain  
cases.)

- (b) by omitting section 435;

Sec. 437.  
(Compensa-  
tion to  
person  
aggrieved  
by any  
felony or  
mis-  
demeanour.)

- (c) (i) by omitting from section 437 (1) the words "two thousand dollars" and by inserting instead the matter "\$4,000";
- (ii) by inserting in section 437 (1) after the word "misdemeanour" where secondly occurring the words "or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour";
- (iii) by inserting in section 437 (3) after the word "misdemeanour" the words "or any other offence taken into account pursuant to section 447B in passing sentence for such felony or misdemeanour";

(iv)



---

*Crimes and Other Acts (Amendment).*

---

- (iv) by inserting after section 437 (3) the following subsection :—

(3A) Subject to section 9 of the Criminal Appeal Act, 1912, any sum directed under subsection (1) to be paid to an aggrieved person shall be paid forthwith, or within such period (if any) as is specified in the direction, to the Clerk of the Peace for payment to the person aggrieved.

- (d) by inserting after section 437 the following section :—

437A. (1) This section shall have effect where a direction is given under section 437 (1) in favour of an aggrieved person in respect of any injury or loss and civil proceedings in respect of the injury or loss are subsequently brought by or on behalf of the aggrieved person. Effect of direction under s. 437 on civil proceedings.

(2) A direction under section 437 (1) shall not affect the right to bring the civil proceedings and the damages in the civil proceedings shall be assessed without regard to the direction, but where—

- (a) the whole or part of the amount directed under section 437 (1) to be paid; or
- (b) an amount under the Criminal Injuries Compensation Act, 1967, in respect of the injury or loss,

has been paid, the judgment of the Court, in so far as it relates to an amount of damages equal to the amount so paid under the direction or that Act, or under the direction and that Act, shall not be entered without the leave of the Court.

(3)

---

*Crimes and Other Acts (Amendment).*

---

(3) Where there is an amount unpaid under a direction and a Court awards damages in civil proceedings, then the Court shall direct that the judgment—

- (a) if it is for an amount not exceeding the amount unpaid under the direction, shall not be enforced; or
- (b) if it is for an amount exceeding the amount unpaid under the direction, shall not be enforced as to the amount equal to the amount unpaid under the direction,

without the leave of the Court.

Sec. 440B.  
(Imposition of fine on sentence being deferred or suspended.)

- (e) by omitting from section 440B (1) the words “two thousand dollars” and by inserting instead the matter “\$4,000”;

Sec. 442.  
(Provision for passing sentences of less duration than those fixed.)

- (f) by omitting from section 442 (1) the words “or whipping.”;

Sec. 444.  
(Sentence during any unexpired sentence may be cumulative.)

- (g) (i) by inserting in section 444 (1) after the word “Judge” the words “or magistrate”;
- (ii) by inserting in section 444 (1A) after the word “Judge” the words “or magistrate”;
- (iii) by inserting in section 444 (2) after the word “Judge” wherever occurring the words “or magistrate”;
- (iv) by inserting in section 444 (3) after the word “Judge” the words “or magistrate”;

(v)

---

*Crimes and Other Acts (Amendment).*

---

(v) by omitting section 444 (4) and by inserting instead the following subsection :—

(4) Notwithstanding anything in this section, a magistrate, whether dealing with an offence or offences under section 476 or otherwise, shall not impose, or make an order having the effect of imposing, on any offender—

(a) more than one sentence of imprisonment or penal servitude to be served consecutively on any other sentence of imprisonment or penal servitude then imposed on, or being served by, the offender; or

(b) sentences of imprisonment or penal servitude, to be served consecutively, totalling more than three years.

10. The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

(a) by omitting section 453;

Sec. 453.  
(Meaning and effect of penal servitude sentences.)

(b) by omitting section 454;

Sec. 454.  
(Existing laws to be applicable.)

(c) by omitting the words "*Whipping sentences.*" occurring before section 455 and by omitting section 455;

Sec. 455.  
(Kind of instrument and manner of use to be fixed by Comptroller-General.)

(d)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 456.  
(Surgeon  
may  
remit  
whipping  
in certain  
cases.)

(d) by omitting section 456;

Sec. 457.

(e) by omitting section 457 and by inserting instead the following section :—

Direction  
for com-  
pensation to  
be enforce-  
able by  
execution,  
&c.

457. (1) Where pursuant to section 437 a Court or a Judge directs that a sum be paid to an aggrieved person in respect of any injury or loss and the whole or any part of that sum is not paid in accordance with section 437 (3A) to the Clerk of the Peace, the Clerk of the Peace, on the application of the aggrieved person, shall issue to the aggrieved person a certificate specifying the direction of the Court or the Judge and the amount of the sum required by the direction to be paid which has not, at the date of the certificate, been paid to the Clerk of the Peace.

(2) Where a certificate is issued pursuant to subsection (1) the Clerk of the Peace shall not thereafter accept any payments from the offender in respect of the direction specified in the certificate.

(3) An aggrieved person may file in the District Court at Sydney a certificate issued to him under subsection (1), and thereupon the registrar shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the amount specified in the certificate as having not been paid and any fees payable to the registrar in respect of the certificate.

(f)

*Crimes and Other Acts (Amendment).*

- (f) by omitting from section 459 the following words :—

Sec. 459.  
(Commuta-  
tion of  
capital  
sentences.)

, and also, if the Governor thinks fit so to direct, that he be kept in irons, for any time not exceeding the first three years of such servitude or imprisonment.

In addition thereto, in cases of rape, or of carnal knowledge of a girl under ten years, the Governor may direct that the offender shall be once, twice, or thrice publicly or privately whipped, at such times and with so many strokes at each time, not more than fifty, as he thinks fit;

- (g) by omitting section 467.

Sec. 467.  
(Position  
of wife  
of felon.)

**11.** The Crimes Act 1900 is further amended—

Further  
amendment  
of Act No.  
40, 1900.

- (a) by omitting section 476 and by inserting instead the following section :—

Sec. 476.

476. (1) Where a person is charged before a stipendiary magistrate with an offence mentioned in subsection (6) the magistrate may require the person to state whether he intends to plead guilty or not guilty to the charge, and if the person does not so state he shall be taken for the purposes of this section to have stated that he intends to plead not guilty.

Indictable  
offences  
punishable  
summarily.

(2) Where a person states under subsection (1) that he intends to plead not guilty to a charge, and it appears to the magistrate that the case may properly be disposed of summarily and that the person consents to it being so disposed of,

the

---

*Crimes and Other Acts (Amendment).*

---

the magistrate shall have jurisdiction to hear and determine the charge in a summary manner and pass sentence upon the person.

(3) Where a person states under subsection (1) that he intends to plead guilty to a charge the magistrate may accept or reject the plea.

(4) Where a magistrate rejects a plea under subsection (3) the proceedings before the magistrate shall continue as though the person had stated under subsection (1) that he intends to plead not guilty.

(5) Where a magistrate accepts a plea under subsection (3) and it appears to the magistrate—

- (a) that the case may be properly disposed of summarily and that the person consents to it being so disposed of, the magistrate shall have jurisdiction to pass sentence upon the person; or
- (b) that the case may not properly be disposed of summarily, or that the person does not consent to it being so disposed of, the provisions of section 51A of the Justices Act, 1902, shall apply as though the person had pleaded guilty to the charge under that section.

(6) The offences referred to in subsection (1) are—

- (a) (i) larceny, and any offence which under this Act is deemed to be, or is made punishable as, larceny or stealing;
- (ii) the offence of stealing any chattel, money, or valuable security from the person of another; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

(iii) any offence mentioned in section 126, 131, 145, 146, 148, 150, 151, 152, 156, 157, 159, 160, 165, 166, 168, 169, 170, 178A, 178B, 178C, 179, 186, 188, 189, 189A, 190, 192, 208, 209, 210, 220, 229, 244, 245, 247, 248, 273, 274 or 275,

where the value of the property, matter or thing the subject of the charge or the damage thereto, or the amount of money or reward the subject of the charge, does not exceed \$1,000;

(b) any offence mentioned in section 71, 72, 76 or 76A, where the female the subject of the charge was at the time of the commission of the offence of or above the age of fourteen years;

(c) any offence mentioned in section 81 where the person upon whom the assault was committed was at the time of the assault of or above the age of fourteen years;

(d) any offence mentioned in section 56, 57, 58, 59, 61, 81A, 81B, 81C, 114, 132, 133, 154A, 158 or 252;

(e) any offence mentioned in section 85 where the person charged is the mother of the child and is not charged with any other person;

(f) any offence mentioned in section 112 where—

(i) the felony alleged is stealing;

(ii) the value of the property stolen does not exceed \$1,000; and

(iii)

---

*Crimes and Other Acts (Amendment).*

---

- (iii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- (g) any offence mentioned in section 111 or 113 where—
  - (i) the felony intended is stealing; and
  - (ii) the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped;
- (h) escape from lawful custody, except where the escape constitutes an offence against prison discipline within the meaning of Part IV of the Prisons Act, 1952; and
  - (i) (i) attempting to commit;
  - (ii) where the offence is a felony, being an accessory before or after the fact to; or
  - (iii) where the offence is a misdemeanour, aiding, abetting, counselling or procuring the commission of,any offence mentioned in paragraph (a), (b), (c), (d), (f), (g) or (h).

(7) Notwithstanding anything in this Act to the contrary—

- (a) the maximum term of imprisonment, or penal servitude, to which a person may be sentenced by a magistrate under this section  
in



---

*Crimes and Other Acts (Amendment).*

---

in respect of any one offence is two years, or the maximum term of imprisonment, or penal servitude, fixed by law (other than by this subsection) in respect of the offence, whichever is the shorter term;

- (b) the maximum fine which may be imposed by a magistrate under this section is, in respect of any one offence, \$2,000, or the maximum fine fixed by law (other than by this subsection) in respect of the offence, whichever is the smaller; and
- (c) where the maximum punishment which may be imposed by law (other than by this subsection) in respect of an offence is a term of imprisonment or penal servitude, or a fine, or both, the maximum punishment which may be imposed by a magistrate under this section in respect of the offence is that term, or two years, whichever is the shorter term, or that fine, or \$2,000, whichever is the smaller fine, or both.

(8) The provisions of section 82 of the Justices Act, 1902, apply to any fine imposed by a magistrate under this section.

(9) Where, before the commencement of the Crimes and Other Acts (Amendment) Act, 1974, a conviction in respect of an offence mentioned in this section would have been a conviction in respect of a felony, a conviction by a magistrate under this section in respect of that offence shall for all purposes be deemed to be a conviction in respect of a felony.

- (b) by omitting the words "*Offences and punishment.*" occurring before section 477 and by omitting section 477;

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

(c)

---

*Crimes and Other Acts (Amendment).*


---

- Sec. 478.  
(Punishment in such cases.)
- (c) by omitting section 478;
- Sec. 479.  
(Accused to have option of summary disposal of case or of trial by jury.)
- (d) by omitting section 479;
- Sec. 479A.  
(Certain offences not to be dealt with summarily.)
- (e) by omitting section 479A;
- Sec. 480.
- (f) by omitting section 480 and by inserting instead the following section :—
- Certificate of dismissal.
480. Where a charge is disposed of summarily under section 476, the magistrate shall, if the case is dismissed and he is requested to do so, make out and deliver to the person charged with the offence so disposed of, a certificate under the magistrate's hand stating the fact of the dismissal.
- Secs. 482-492.
- (g) by omitting the words "CHAPTER II.—*Offences punishable summarily in certain cases by whipping.*" occurring before section 482 and by omitting sections 482, 483, 484, 485, 486, 487, 488, 489, 490, 491 and 492;
- Sec. 493.
- (h) by omitting section 493 and by inserting instead the following section :—
- Common assaults.
493. Whosoever assaults any person shall on summary conviction be liable to imprisonment for six months, or to a fine of \$500, or both.
- Sec. 494.  
(Aggravated assaults.)
- (i) by omitting from section 494 the words "two hundred dollars" and by inserting instead the words "\$500, or both";
- (j)

---

*Crimes and Other Acts (Amendment).*


---

- (j) by omitting section 495; Sec. 495.  
(Assaults  
respecting  
the sale  
of grain.)
- (k) by omitting section 496; Sec. 496.  
(Assaults  
obstructing  
workmen.)
- (l) by omitting section 497; Sec. 497.  
(Where  
jurisdiction  
excluded.)
- (m) by omitting from section 498 the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494"; Sec. 498.  
(Certificate  
of dis-  
missal.)
- (n) by omitting from section 499 (2) the words "sections four hundred and ninety-three to four hundred and ninety-six both inclusive" and by inserting instead the words "section 493 or 494"; Sec. 499.  
(Certificate  
or conviction  
a bar to  
other pro-  
ceedings.)
- (o) (i) by omitting from section 501 (1) (a) the word "simple"; Sec. 501.  
(List of  
offences  
punishable  
summarily  
without  
consent of  
accused.)
- (ii) by inserting in section 501 (1) (c) after the words "one hundred and fifty-two" the matter "; 178B";
- (iii) by omitting from section 501 (1) the words "one hundred dollars" where firstly occurring and by inserting instead the matter "\$500";
- (iv) by omitting from section 501 (1) the words "one hundred dollars" where secondly occurring and by inserting instead the words "\$1,000, or both";
- (p) by omitting from section 502 the words "one hundred dollars" and by inserting instead the words "\$500, or both"; Sec. 502.  
(Posses-  
sion of skin,  
&c., of stolen  
cattle.)
- (q)

---

*Crimes and Other Acts (Amendment).*


---

- Sec. 503.  
(Stealing dogs.)
- (q) by omitting from section 503 the words "the value of the dog, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- Sec. 504.  
(Possessing stolen dog or skin.)
- (r) by omitting from section 504 the words "forty dollars" and by inserting instead the matter "\$500";
- Sec. 505.  
(Stealing animals, &c., ordinarily kept in confinement.)
- (s) by omitting from section 505 the words "the value of the animal or bird, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- Sec. 507.  
(Possession of stolen animals, &c.)
- (t) by omitting from section 507 the words "the value of such animal bird or skin, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- Sec. 510.  
(Setting engine for deer, &c.)
- (u) by omitting from section 510 the words "forty dollars" and by inserting instead the matter "\$500";
- Sec. 511.  
(Killing pigeons.)
- (v) by omitting from section 511 the words "the value of the bird, in addition to a fine of four dollars" and by inserting instead the words "a fine of \$200";
- Sec. 513.  
(Stealing shrubs, &c.)
- (w) (i) by omitting from section 513 the words "the value of or the injury done to which exceeds ten cents,";
- (ii) by omitting from section 513 the words "pay the value of the property stolen, or intended to be stolen, or the amount of injury done, in addition to a fine of ten dollars" and by inserting instead the words "imprisonment for six months, or to pay a fine of \$500, or both";
- Sec. 514.  
(The like—second offence.)
- (x) by omitting section 514;
- (y)

---

*Crimes and Other Acts (Amendment).*


---

- (y) by omitting from section 515 the words "twenty dollars" and by inserting instead the matter "\$100";
- Sec. 515.  
(Stealing, &c., live or dead fence, &c.)
- (z) by omitting section 516;
- Sec. 516.  
(The like —second offence.)
- (aa) (i) by omitting from section 517 the words ", being of or above the value of ten cents,";
- Sec. 517.  
(Unlawful possession of trees, fences, &c.)
- (ii) by omitting from section 517 the words "ten dollars" and by inserting instead the matter "\$100";
- (bb) (i) by omitting from section 518 the words ", such wood being of the value of or above ten cents,";
- Sec. 518.  
(Stealing dead wood.)
- (ii) by omitting from section 518 the words "ten dollars" and by inserting instead the matter "\$100";
- (cc) by omitting section 519;
- Sec. 519.  
(The like —second offence.)
- (dd) by omitting from section 520 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";
- Sec. 520.  
(Stealing plants, &c., in gardens.)
- (ee) by omitting from section 521 the words "the value of the article stolen, or the amount of injury done, in addition to a fine of two dollars" and by inserting instead the words "a fine of \$200";
- Sec. 521.  
(Stealing plants, &c., not growing in gardens.)
- (ff) (i) by omitting from section 522 the words "of the value of fifty cents,";
- Sec. 522.  
(Possession of ship-wrecked goods.)
- (ii) by omitting from section 522 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";

(gg)

---

*Crimes and Other Acts (Amendment).*


---

Sec. 523.  
(Offering  
ship-  
wrecked  
goods  
for  
sale.)

(gg) by omitting from section 523 the words "the value of the article, in addition to a fine of forty dollars" and by inserting instead the words "a fine of \$500, or both";

Sec. 525.  
(Stealing  
or  
damaging  
books, &c.,  
in public  
library,  
&c.)

(hh) by inserting in section 525 after the word "fine" the words "of \$1,000 in addition to a fine";

Sec. 526A.  
(Taking a  
convey-  
ance  
without  
the  
consent of  
the  
owner.)

(ii) by omitting section 526A (1) and by inserting instead the following subsections :—

(1) Any person who—

(a) without having the consent of the owner or person in lawful possession of a conveyance takes and drives it, or takes it for the purpose of driving it, or secreting it, or obtaining a reward for its restoration or pretended restoration, or for any other fraudulent purpose; or

(b) knowing that any conveyance has been taken without such consent, drives it or allows himself to be carried in or on it,

shall be guilty of larceny and shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.

(1A) For the purposes of this section "conveyance" means any cart, waggon, cab, carriage, motor car, caravan, trailer, motor lorry, omnibus, motor or other bicycle, or any ship, or vessel, whether decked or undecked, used in or intended for navigation, and "drive" shall be construed accordingly.

(ij)

---

*Crimes and Other Acts (Amendment).*

---

- (jj) by omitting from section 527 the words "three months, or to pay a fine of forty dollars" and by inserting instead the words "six months, or to pay a fine of \$500, or both"; Sec. 527.  
(Fraudulently appropriating or retaining property.)
- (kk) by omitting from section 528 the words "one hundred dollars" and by inserting instead the matter "\$500"; Sec. 528.  
(Advertising reward for return of stolen property.)
- (ll) by omitting section 529 and by inserting instead the following section :— Sec. 529.
529. (1) In this section— Receivers punishable summarily.
- "receives" includes disposes of, and attempts to dispose of;
- "stolen" includes taken, extorted, obtained, embezzled, and otherwise disposed of, unlawfully.
- (2) Any person who receives any stolen property of a value not exceeding \$500, knowing the same to have been stolen, shall, on conviction before two justices, be liable to imprisonment for twelve months, or to pay a fine of \$1,000, or both.

**12. The Crimes Act 1900 is further amended—**

Further amendment of Act No. 40, 1900.

- (a) by omitting the subheading "(C) MALICIOUS INJURIES TO PROPERTY. *Declaratory clauses.*" occurring before section 530 and by omitting section 530; Sec. 530.  
(Ownership and possession of property injured.)

(b)

---

*Crimes and Other Acts (Amendment).*


---

- Sec. 531.  
(Actual malice—  
certain  
acts not  
malicious.)
- Sec. 539.  
(Killing  
or maiming  
animals not  
being  
cattle.)
- Sec. 540.  
(The like—  
second  
offence.)
- Sec. 541.  
(Injuring  
property not  
previously  
provided  
for.)
- Sec. 542.  
(The like—  
second  
offence.)
- Sec. 543.  
(Application  
of com-  
pensation.)
- Sec. 544.  
(Uttering  
defaced  
coin.)
- Sec. 545.  
(Posses-  
sing above  
five pieces  
of counter-  
feit foreign  
coin.)
- Sec. 545A.  
(Bogus  
advertise-  
ments.)
- (b) by omitting section 531;
- (c) by omitting the words "*Injuries to trees, shrubs, vegetable produce, fences, &c.*" and "*Injuries to certain animals.*" occurring before section 539 and by omitting section 539;
- (d) by omitting section 540;
- (e) by omitting the words "*Injuries not otherwise provided for.*" occurring before section 541 and by omitting section 541;
- (f) by omitting section 542;
- (g) by omitting the words "*Application of compensation.*" occurring before section 543 and by omitting section 543;
- (h) by omitting the words "(D) COINAGE OFFENCES." occurring before section 544 and by omitting section 544;
- (i) by omitting section 545;
- (j) by omitting from section 545A (1) the words "forty dollars" and by inserting instead the words "\$200, or both";

(k)



---

*Crimes and Other Acts (Amendment).*

---

- (k) by omitting from section 545B (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545B.  
(Intimidation or annoyance by violence or otherwise.)
- (l) (i) by omitting from section 545C (1) the words "forty dollars" and by inserting instead the words "\$500, or both"; Sec. 545C.  
(Knowingly joining or continuing in an unlawful assembly.)
- (ii) by omitting from section 545C (2) the words "one hundred dollars" and by inserting instead the words "\$1,000, or both";
- (m) by omitting from section 545D the words "six months" and by inserting instead the words "twelve months, or to a fine not exceeding \$1,000, or both"; Sec. 545D.  
(Unlawful making or possession of explosives.)
- (n) by inserting in section 546 after the words "summary conviction," the word "aids,"; Sec. 546.  
(Abetting or procuring.)
- (o) by inserting after section 547A the following section and subheading :— Sec. 547B.

(H) PUBLIC MISCHIEF.

547B. (1) Any person who, by any means, knowingly makes to a member of the police force a false representation that an act has been, or will be, done or that any event has occurred, or will occur, which act or event as so represented is such as calls for an investigation by a member of the police force, shall be liable on conviction before a stipendiary magistrate to imprisonment for six months, or to a fine of \$500, or both. Public mischief.

(2) For the purposes of subsection (1), a person shall be deemed to make a representation to a member of the police force if he makes the representation

---

*Crimes and Other Acts (Amendment).*

---

representation to any other person and the nature of the representation reasonably requires that other person to communicate it to a member of the police force and that person does so communicate it.

Sec. 548A.  
(Power to  
commit.)

(p) by omitting section 548A and the subheading thereto;

Sec. 554.  
(Damages  
and compensa-  
tion.)

(q) by omitting from section 554 (3) the words "three hundred dollars" and by inserting instead the matter "\$600";

(r) by omitting the words "*Conditional release of offenders.*" occurring before section 556A and by inserting instead the heading "PART XV. CONDITIONAL RELEASE OF OFFENDERS.";

Sec. 556A.  
(Power to  
permit  
release of  
offenders.)

(s) (i) by omitting from section 556A (1) the words "a court of summary jurisdiction" and by inserting instead the words "any court";

(ii) by inserting in section 556A (1) after the word "committed," the words "or to any other matter which the court thinks it proper to consider,";

(iii) by inserting after section 556A (1) the following subsection :—

(1A) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the court shall order.

(iv) by omitting from section 556A (2) the words "subsection three of section five hundred and fifty-four" and by inserting instead the matter "section 437 (1) or section 554 (3)";

(v)

---

*Crimes and Other Acts (Amendment).*


---

(v) by omitting section 556A (3) and by inserting instead the following subsection :—

(3) Where under subsection (1) a charge is dismissed or an offender is conditionally discharged, the person charged shall have the same rights as to appeal on the ground that he was not guilty of the offence charged as he would have had if convicted of the offence.

- (t) (i) by inserting in section 556B after the word "recognizance" where firstly occurring the words "(whether entered into for the purposes of section 556A or otherwise)"; Sec. 556B. (Proceedings on breach of condition of recognizance.)
- (ii) by omitting from section 556B the words "summary jurisdiction" and by inserting instead the words "like jurisdiction to that court".

**13.** The Crimes Act 1900 is further amended—

Further amendment of Act No. 40, 1900.

- (a) by omitting the heading "PART XV. FIRST OFFENDERS." occurring before section 557 and by omitting section 557; Sec. 557. (Interpretation.)
- (b) by omitting section 558 and by inserting instead the following section:— Subst. sec. 558.

558. (1) A Court before which a person comes to be sentenced for any offence may if it thinks fit defer passing sentence upon the person and order his release upon his entering into a recognizance, with or without sureties, in such amount as the Court directs, to be of good behaviour for such period as the Court thinks proper and to come up for sentence if called upon. Deferring sentence.

---

*Crimes and Other Acts (Amendment).*

---

(2) A recognizance mentioned in subsection (1) shall be conditioned upon and subject to such terms and conditions as the Court shall order.

(3) Where a person has entered into a recognizance mentioned in subsection (1) he may be removed to such gaol, or other place, as the Court may determine, and there forthwith submitted to the examination customary for securing future identification, and may be detained for whatever period, not exceeding forty-eight hours, as may be necessary for this purpose.

(4) Where the penalty provided by law in respect of an offence is a sentence of imprisonment or a fine or both, nothing in this section prevents the imposition of a fine for the offence when sentence for the offence is deferred under subsection (1).

(5) The provisions of section 82 of the Justices Act, 1902, apply to a fine imposed as referred to in subsection (4).

(6) A person may be called up for sentence and sentenced on the breach by him of any of the terms or conditions of a recognizance entered into by him under this section if the breach occurs during the period of the recognizance fixed under subsection (1), notwithstanding that the period has expired.

(7) Any power conferred upon a Court by the operation of this section shall be in addition to, and not in substitution for, any power conferred upon the Court otherwise.

(c)

---

*Crimes and Other Acts (Amendment).*


---

- |  |  |
|--|--|
| (c) by omitting section 559;   | Sec. 559.<br>(Order for restitution or payment of compensation may be made by Court.)            |
| (d) by omitting section 560;   | Sec. 560.<br>(Offender discharged to report himself.)  |
| (e) by omitting section 561;   | Sec. 561.<br>(Forfeiture of recognizance, &c.)   |
| (f) by omitting section 562;   | Sec. 562.<br>(Otherwise to be discharged and conviction not to be deemed a previous conviction.) |
| (g) by inserting in section 578 after the word "seventy-six," the matter "76A,";       | Sec. 578.<br>(Publication of evidence may be forbidden in certain cases.)                        |
| (h) by omitting the Second Schedule and by inserting instead the following Schedule :— | Second Schedule.   |

SECOND SCHEDULE.

Parts and sections in force, so far as their provisions are applicable, with respect to all offences and courts.

Sections 4 to 10 inclusive, 23, 34, 40, 62, 77, 78, 116, 118 to 124 inclusive, 128 to 130 inclusive, 163, 183, 191, 193 to 195 inclusive, 206, 231, 250,

251,

---

*Crimes and Other Acts (Amendment).*

---

251, 344A, 345 to 347 inclusive, 351, Parts X to XIII inclusive, sections 547 to 556B inclusive, section 558 and Part XVI.

Fourth  
Schedule.

- (i) by omitting from the Fourth Schedule the words "two hundred and thirty-three, two hundred and thirty-four,";

Sixth  
Schedule.

- (j) by omitting the Sixth Schedule.

Amendment  
of Act No.  
27, 1902.

**14.** The Justices Act, 1902, is amended—

Sec. 51A.  
(Effect of  
plea of  
guilty in  
committal  
proceed-  
ings.)

- (a) by omitting section 51A (6) (a) and by inserting instead the following paragraph :—

(a) a magistrate has jurisdiction to pass sentence upon the person under section 476 (5) (a) of the Crimes Act 1900; or;

Sec. 80.  
(After  
hearing  
case  
Justices to  
convict or  
make an  
order or  
dismiss  
case.)

- (b) by omitting from section 80 the words " : Provided that in the case of an information, if upon the close of the case for the prosecution it appears to the Justice or Justices that the offence ought to be dealt with by indictment, he or they shall abstain from adjudication thereon and shall deal with the case for the purpose of committal for trial only";

Sec. 125.  
(Powers of  
Court  
appealed  
to.)

- (c) by inserting after section 125 (1) the following subsection :—

(1A) Where the conviction, order, sentence, or adjudication appealed against was recorded, made, passed, or given under the jurisdiction conferred upon a magistrate under section 476 of the Crimes Act 1900, the Court hearing the appeal shall not vary any penalty imposed by increasing it beyond the penalty which could have been imposed by the magistrate under that section.

*Crimes and Other Acts (Amendment).***15.** The Jury Act, 1912, is amended—

- (a) by omitting section 27 (3) and by inserting instead the following subsection :—

(3) Upon the trial of any person for a felony the jury shall, unless the court otherwise orders, be permitted to separate, at any time before they consider their verdict, in the same way as the jury upon the trial of any person for a misdemeanour are permitted to separate.

- (b) by omitting section 27A and by inserting instead the following section :—

27A. Where in the course of a criminal trial any member of the jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reason, the jury shall nevertheless—

- (a) if the number of its members is not reduced below ten; or
- (b) if the number of its members is reduced below ten and assent in writing is given by or on behalf of both the Crown Prosecutor and the accused (which assent the accused is hereby authorised to give),

and if the court so orders, be considered as remaining for all the purposes of that trial properly constituted.

**16.** The Criminal Appeal Act, 1912, is amended—

- (a) by omitting from section 5A (2) (g) the words “for the New South Wales State Reports or Weekly Notes” and by inserting instead the words “for any lawful purpose of the Council of Law Reporting for New South Wales”;

(b)

Amendment  
of Act No.  
31, 1912.

Sec. 27.  
(Trial by  
jury in  
criminal  
cases.)

Sec. 27A.

Provision  
for con-  
tinuance of  
trial where  
juror dies  
or becomes  
incapable.

Amend-  
ment  
of Act No.  
16, 1912.

Sec. 5A.  
(Point of  
law stated  
by judge.)

---

*Crimes and Other Acts (Amendment).*

---

Sec. 9.  
(Revest-  
ing and  
restitu-  
tion of  
property  
on  
convic-  
tion.)

(b) by inserting after section 9 (3) the following subsections :—

(4) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence—

(a) the operation of the direction shall be suspended until the expiration of the time provided for appealing to the court; and

(b) where notice of appeal or of application for leave to appeal is given within the time provided, the operation of the direction shall be suspended until the determination of the appeal or refusal of the application,

and in cases where the operation of any such direction is suspended until the determination of the appeal, the direction shall not take effect if the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given, is quashed on appeal, except by the special order of the court.

(5) Where a direction for the payment of compensation is given under section 437 of the Crimes Act 1900 against any person in respect of an offence taken into account under section 447B of that Act in passing sentence, the court may annul or vary any such direction although the conviction for the offence or, if more than one, all the offences, of which that person was convicted in the proceedings in which the direction was given is not quashed on appeal.



---

*Crimes and Other Acts (Amendment).*

---

17. The Criminal Injuries Compensation Act, 1967, is amended—

Amend-  
ment of  
Act No.  
14, 1967.

- (a) by omitting section 5 (2) and by inserting instead the following subsections :—

Sec. 5.  
(Payment  
of com-  
pensation  
by  
Treasurer  
to  
applicant.)

(2) Where the Treasurer, after receiving the Under Secretary's statement relating to any such application, considers that in the circumstances of the case the making under this subsection of a payment to the applicant is justified, the Treasurer may make a payment to the applicant not exceeding the appropriate amount referred to in subsection (1) (a) as specified in that statement.

(2A) In determining the amount of any payment to be made under subsection (2) the Treasurer shall have regard to—

- (a) the appropriate amount referred to in subsection (1) (a); and  
(b) any amounts referred to in subsection (1) (b),

as specified in the Under Secretary's statement, and any recommendations made by the Under Secretary with respect to any such amounts referred to in subsection (1) (b).

(2B) Any payment made under subsection (2) shall be made ex gratia and not as of right.

- (b) by omitting section 7 and by inserting instead the following section :—

Sec. 7.  
Rights  
against  
convicted  
person  
where  
payment  
made.

7. (1) Where a payment is made under section 5 (2) to an aggrieved person—

- (a) the Under Secretary shall forthwith notify the Clerk of the Peace of the particulars of the payment, including the date and amount;

(b)

---

*Crimes and Other Acts (Amendment).*

---

- (b) the Clerk of the Peace shall endorse on any certificate thereafter issued by him to the aggrieved person under section 457 (1) of the Crimes Act 1900 the date and amount of the payment so notified to him, and may also issue to the Under Secretary any certificate so endorsed;
- (c) the Under Secretary may file a certificate so issued to him in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the Under Secretary against the offender specified in the certificate for the amount endorsed on the certificate under paragraph (b); and
- (d) the aggrieved person may file a certificate endorsed under paragraph (b) in the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall enter judgment in favour of the aggrieved person against the offender specified in the certificate for the balance of the amount of the sum directed to be paid, specified in the certificate, after deduction of the amount endorsed on the certificate under paragraph (b).

(2) Where judgment has been entered in favour of an aggrieved person under section 457 (3) of the Crimes Act 1900 in respect of a direction made under section 437 (1) of that Act, and a payment has been made to the aggrieved person pursuant to section 5 (2) in respect of that direction, the Under Secretary may file a notice specifying the date and amount of the payment in

the

---

*Crimes and Other Acts (Amendment).*

---

the District Court at Sydney, and thereupon the registrar of the District Court for Sydney shall—

- (a) reduce the amount of the judgment by the amount specified in the notice; and
- (b) enter judgment in favour of the Under Secretary, against the offender against whom judgment in favour of the aggrieved person was entered, for the amount specified in the notice.

(3) The Under Secretary shall pay to the Consolidated Revenue Fund any money recovered by him pursuant to this section.

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

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 6th May, 1974.*

THE HISTORY OF

THE CITY OF BOSTON

FROM THE FIRST SETTLEMENT TO THE PRESENT TIME

BY NATHAN OSGOOD

VOLUME I

BOSTON: PUBLISHED BY

W. B. BOSTON, 1845

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON

W. B. BOSTON