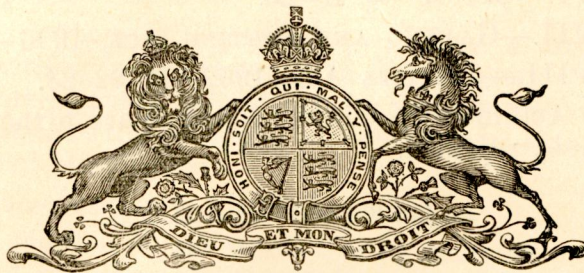


New South Wales.



ANNO OCTAVO

EDWARDI VII REGIS.

Act No. 12, 1908.

An Act to prevent soliciting for the purpose of prostitution; to regulate the keeping of opium; to amend the Prisons Act, 1899, the Police Offences Act, 1901, the Obscene and Indecent Publications Act, 1901, the Poisons Act, 1902, the Vagrancy Act, 1902, the Vagrancy (Amendment) Act, 1905, the Justices Act, 1902, and the Gaming and Betting Act, 1906; and for other purposes incidental thereto. [Assented to, 5th December, 1908.]

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Police Offences (Amendment) Short title. Act, 1908," and is divided into Parts, as follows:—

PART I.—PRELIMINARY—ss. 1-2.

A

PART

*Police Offences (Amendment).*PART II.—VAGRANCY ACTS—*ss.* 3-7.PART III.—POLICE OFFENCES ACT, 1901—*ss.* 8-15.PART IV.—PRISONS ACT, 1899—*s.* 16.PART V.—OBSCENE AND INDECENT PUBLICATIONS ACT, 1901—*s.* 17.PART VI.—OPIUM—*ss.* 18-20.PART VII.—GAMING AND BETTING ACT, 1906—*s.* 21.PART VIII.—JUSTICES ACT, 1902—*ss.* 22-23.

Repeal.

2. The Acts mentioned in the Schedule are, to the extent therein expressed, hereby repealed.

PART II.

VAGRANCY ACTS, 1902, AND 1905.

Extension of the meaning of "aboriginal."

3. Section three of the Vagrancy Act, 1902, is amended by the addition to the definition of "aboriginal" in that section of the words "or of any other State of the Commonwealth of Australia."

Amendment of s. 4, subs. 2, of the Vagrancy Act, 1902.

Certain persons to be deemed rogues and vagabonds.

cf. South Aust. Act, 1899, No. 715, s. 4, and Vict. Act, No. 1241, s. 13.

4. Section four, subsection two, of the same Act, is hereby amended by the addition of the following paragraphs—

(l) in or near any public place or place of public resort, or in or near any house or premises licensed under the Liquor Act, 1898, or the Billiards and Bagatelle Act, 1902, or any Acts amending the same, engages in playing or betting, or solicits or encourages any other person to play or bet—

(i) at or with any table or instrument of gaming at any game or pretended game of chance; or

(ii) at or on any game or trick of sleight of hand; or

(iii) at or on any game or trick played with any instrument which in the opinion of the adjudicating justice is constructed or used as a means of cheating;

(m) being a known or reputed cheat, loiters in or near any public place or place of public resort, or in or near any premises licensed under the Liquor Act, 1898, or the Billiards and Bagatelle Act, 1902, or any Acts amending the same, and has in his possession any instrument of gaming, or any instrument which in the opinion of the adjudicating justice, is constructed or used as a means of cheating, unless such person accounts for his having such instrument in his possession, to the satisfaction of the adjudicating justice;

(n) pretends or professes to tell fortunes, or uses any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose on any person;

(o)

Fortune telling.

5 Geo. IV, c. 83, s. 4.

Police Offences (Amendment).

- (o) being a male person—
- (i) knowingly lives wholly or in part on the earnings of prostitution; or
 - (ii) in any public place solicits or importunes for immoral purposes.

Persons trading upon prostitution. South Australian Act of 1899, No. 715, s. 10.

For the purpose of paragraph (o), where a male person is proved to live with or to be habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he satisfies the adjudicating justice to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Proof. South Australian Act of 1899, No. 715, s. 12.

5. The same section is further amended,—

- (1) by the addition of the words “ or by common prostitutes ” at the end of paragraph (e) of subsection one; and
- (2) by the addition of the following paragraph after paragraph (h) of subsection one:—
 - (i) Being a common prostitute, solicits or importunes for immoral purposes, any person who is in any public street, thoroughfare, or place.
- (3) by the addition of the following words at the end of subsection one:—

Further amendment of s. 4, of the Vagrancy Act, 1902.

Provided that when a female is arrested for any offence included under paragraph (i) of this subsection, the convicting justice may—

- (i) commit the female to be detained for any period not exceeding twelve months in an institution established by the Governor as a reformatory for the purposes of this Act; or
- (ii) impose imprisonment as aforesaid; or
- (iii) by his sentence impose either of the above penalties, and suspend the execution of such sentence upon such terms and conditions as he may think fit, which he shall embody in his recorded decision of the case for transmission to the Minister.

If any female whose sentence has been so suspended fails to observe any of such terms and conditions she may be arrested by any officer of police and brought before any justice, and on proof of such failure on her part being given to his satisfaction such justice may direct that the original sentence be put into force, and may give all orders and grant such warrants as may be necessary for such enforcement.

- (4) by the omission of the word “ frequents ” and the substitution therefor of the words “ is found in or on ” in paragraph (j) of subsection two.

Police Offences (Amendment).

6. The following sections are inserted next after section eight:—

Insulting behaviour,
&c.
Vict. Act, 1891, No.
1241, s. 7.

8A. Every person who, in or near any public street, thoroughfare, or place, or within the view or hearing of any person passing therein—

(a) behaves in a riotous, indecent, offensive, threatening, or insulting manner; or

(b) uses any threatening, abusive, or insulting words,

shall be liable on conviction to a penalty not exceeding five pounds, and may, in addition thereto or in substitution therefor, be required by the adjudicating justice to enter into a recognizance, with or without sureties, to be of good behaviour for a term not exceeding twelve months, and, in default of its being entered into forthwith, the defendant may be imprisoned for any period not exceeding six months, unless such recognizance is sooner entered into.

Penalty on owner,
occupier, or agent of
house for permitting
prostitution therein.
29 Vic., c. 35, s. 36.

8B. If any person, being the owner, occupier, or agent of any house, room, or place, or being a manager or assistant in the management thereof, induces or suffers any female whom he knows to be a common prostitute to be in that house, room, or place for the purpose of prostitution, he shall be liable to a penalty not exceeding twenty pounds, or, in the discretion of the justices, to be imprisoned for any term not exceeding six months.

Owner may evict
occupier of house.

If any owner of a house, room, or other place has reasonable grounds to suspect that the same is used in contravention of this section, he may serve on the occupier a notice to quit.

The serving of such notice shall determine as from the seventh day after the date of such service any tenancy under which the occupier may hold, whether as tenant or subtenant, as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

Such notice shall be served personally on the occupier, but if he cannot be found service may be effected by posting a copy of the notice on some conspicuous part of the said house, room, or place.

Any such notice to quit may be cancelled by the Court before whom the proceedings are heard, subject to such terms as it thinks fit, on the hearing, on proof that the occupier has not at any time allowed the house, room, or place to be used in contravention of this section.

No conviction under this section shall exempt the offender from any penalty or other punishment to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

Police Offences (Amendment).

8c. Where any person is accused of being an idle or disorderly person on the ground that he has no visible lawful means of support, or that he has insufficient lawful means of support, proof that he possesses money or property shall not be a defence unless it is also proved by the defendant that such money or property was obtained by him honestly and in a bona fide manner.

Persons charged with being idle and disorderly, having money in their possession.

South Aust. Act, 1899, No. 715, s. 3. and Vict. Act, No. 1241, of 1891, s. 11.

7. (1) Section two of the Vagrancy (Amendment) Act, 1905, is amended by omitting the word "and" after the word "fan-tan" and inserting after the word "pak-a-pu" the words "and two-up," and by inserting after the word "chance" the words "or the disposal of money by lottery or chance."

Amendment of s. 2 of Vagrancy (Amendment) Act, 1905.

Unlawful games.

(2) Section three of the same Act is amended by inserting after the word "game" the words "or in any such disposal of money by lottery or chance."

PART III.

POLICE OFFENCES ACT, 1901.

8. (1) Section six is amended by the omission of the words "one pound" and the substitution in lieu thereof of the words "two pounds"

Amendment of section 6.

(2) Section seven is amended by the omission of the words "two pounds" and the substitution in lieu thereof of the words "three pounds"

Amendment of section 7.

9. The following section is inserted next after section eight:—

8A. Whosoever carries in any street or public place or sells any detonator stick, explosive stick, or metal contrivance whereby detonators or explosive matter of any description may be exploded, shall be liable to a penalty not exceeding two pounds.

Selling detonators.

10. Section nine is amended by inserting after the word "makes" in the sentence "makes any bonfire" the words "or assists in making."

Amendment of section 9.

11. The following section shall be read as and in place of section twenty seven:—

Persons unlawfully in possession of property.

27. Whosoever being charged before a justice with—

cf. Police Offences Act, 1901, s. 27.

- (a) having anything in his custody; or
- (b) knowingly having anything in the custody of another person; or
- (c) knowingly having anything in a house, building, lodging, apartment, field, or other place, whether belonging to or occupied by himself or not, or whether such thing is there had, or placed for his own use or the use of another,

which

Police Offences (Amendment).

which thing may be reasonably suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of such justice how he came by the same, shall be liable to a penalty not exceeding ten pounds or to imprisonment for a term not exceeding three months.

Amendment of
section 28 of the
Police Offences Act,
1901.

12. (1) Section twenty-eight is amended by omitting the word "dwelling" where it occurs in that section, and inserting after the word "house" each time it occurs the words "building, lodging, apartment, field."

(2) The same section is amended by omitting the words "any chief constable or inspector of police," and inserting in lieu thereof the words "any constable"; and by omitting the words "such chief constable or inspector" where they occur in the section, and substituting in lieu thereof the words "such constable."

Amendment of
section 29 of the
same Act.

(3) Section twenty-nine is amended by omitting the words "having or conveying anything stolen or unlawfully obtained," and inserting in lieu thereof the words "an offence under section twenty-seven"; and by omitting the words "the same" where first occurring, and inserting "anything the subject of such charge."

Amendment of
section 32.

13. Section thirty-two is amended by the addition of the following subsection next after subsection three:—

(3A) In such further order the justice may, in his discretion, order that if the person against whom such order is made does not forfeit or pay to the party aggrieved the amount of the value so determined, he shall be imprisoned in accordance with the provisions of section eighty-two of the Justices Act, 1902; but if the justice does not so order, then the aforesaid further order shall, together with any order for costs made against the defendant, operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said last-mentioned Acts. Such order for such purpose may be entered in the records of the Small Debts Court exercising jurisdiction at the Petty Sessions where such order was made in such manner as may be prescribed by rules made under the last-mentioned Acts.

Amendment of
section 58.

- 14.** (1) Section fifty-eight subsection one is amended by—
- (a) omitting the words "petty misdemeanour" and substituting therefor the words "offence punishable on summary conviction by a fine or penalty not exceeding ten pounds"; and
 - (b) omitting the words "said city or towns" and inserting in lieu thereof the word "state"; and
 - (c) inserting at the end of the subsection the following proviso:
Provided that such recognizance shall be good and have effect according to the terms thereof, notwithstanding the fact that, on subsequent investigation, it appears that the said person would, under the said charge, be liable to a penalty exceeding ten pounds. (2)

Police Offences (Amendment).

(2) Subsection four of the same section is amended by omitting the words "or within one hour thereafter"

15. Section one hundred and one is amended by inserting next after subsection one the following subsection:—

Amendment of section 101.

(1A) A police magistrate or any two justices may, at the request of his employer, or of the council of a municipality or shire, and subject to the approval of the Inspector-General of Police, in like manner nominate and appoint any person employed as a caretaker, night watchman, or in any similar capacity, as a special constable for such time as such magistrate or justices may think fit.

Special constables.

The provisions of this Part relating to special constables who have been called out shall apply to all special constables appointed under this subsection from the time when such constables have taken the oath as in the next subsection provided.

The Inspector-General of Police may, whenever he thinks fit, suspend or determine the services of any such special constable. Notice of such suspension or determination of service shall be forthwith sent by the Inspector-General of Police to the Colonial Secretary.

PART IV.

PRISONS ACT, 1899.

16. Section thirty-seven of the Prisons Act, 1899, is amended—
- (a) by the insertion after the word "hard" in subsection one of the words "or light" and after the word "he" of the words "or any other justice"; and
 - (b) by the addition of the following subsection to be read after subsection one:—

Amendment of section 37.

(2) Any offender who refuses to obey an order given by any officer of the police force, attached to such watch-house or lock-up, in pursuance of such direction, or who is guilty of idleness or negligence in obeying such order, or in his work, may be brought before any justice at such watch-house or lock-up, and, on conviction of such refusal, idleness, or negligence, be liable to the punishment mentioned in subsection two of section fourteen.

Police Offences (Amendment).

PART V.

OBSCENE AND INDECENT PUBLICATIONS ACT, 1901.

Amendment of
section 16.

17. Section sixteen of the Obscene and Indecent Publications Act, 1901, is amended by the insertion after the word "sells" in paragraph (a) of the words "or has in his possession apparently for the purpose of sale."

PART VI.

OPIUM.

Definition.

18. For the purposes of this Part, "opium" includes any preparation thereof in a form capable of being used for the purposes of smoking.

Prohibition of
possession of opium.

19. (1) No person shall—

Opium smoking.
Keeping place for
opium smoking.

- (a) unless the holder of a certificate to deal in poisons, issued under the provisions of the Poisons Act, 1902, or any Act amending the same, sell, or have in his possession, opium ;
- (b) smoke opium ;
- (c) keep open, manage, or assist in keeping open or managing, any house, room, or place used for the purpose of opium smoking ;
- (d) being the owner or lessee of any house, room, or place, knowingly permit such house, room, or place to be used for the purpose of opium smoking.

Penalty.

Any person contravening the provisions of this section shall be liable on conviction to a penalty not exceeding fifty pounds.

Exemptions.

Such penalty may be recovered before a stipendiary or police magistrate or any two justices of the Peace:

(2) Nothing in this section shall apply to the possession or sale of—

- (a) opium when made up or compounded as a medicine by a medical practitioner or according to the prescription of a medical practitioner ;
- (b) opium in the form of homœopathic medicine, unless in the crude state, mother tincture, or of a greater strength than the third potency ;
- (c) patent medicines ;
- (d) medicines dispensed by veterinary surgeons for animals under their treatment ;
- (e) fly poison papers and packets of poisonous mixtures for the destruction of vermin, when marked as such.

Police Offences (Amendment).

20. (1) If any constable has reasonable cause to suspect that there is in any house or place opium, in contravention of this Act, or that opium is being smoked therein, he may, with the authority in writing of a magistrate or a superintendent of police, enter such house or place and make search. Constables may enter, search, and arrest.

If opium is found in any such house or place, or in the possession of any person, the constable may demand the production of the said certificate from the owner or occupier of such house or place, or from the person in whose possession the opium is found, and if such certificate is not produced, may forthwith seize the opium, and arrest any person present who he has reasonable grounds to suspect is contravening the provisions of the last preceding section and take him before a stipendiary or police magistrate, or any two justices of the peace, and there charge him with such offence.

(2) The opium so seized shall be forfeited and disposed of as the adjudicating magistrate or justices may direct.

(3) Any person resisting or aiding or abetting in the resistance to any constable in the execution of his duty under this section shall be liable to a penalty not exceeding fifty pounds.

PART VII.

GAMING AND BETTING ACT, 1906.

21. Subsection (a) of section three of the Gaming and Betting Act, 1906, is amended by inserting after the word "playing" the words "or taking part in"; and by inserting after the word "therein" the words "or for giving or selling any ticket or chance, or share in a ticket or chance, for the disposal of money by lottery or chance, or for aiding or taking part in the disposal of money by lottery or chance." Amendment of s. 3 of Gaming and Betting Act, 1906.

PART VIII.

JUSTICES ACT, 1902.

22. Section eighty-two is amended as follows:—

- (a) In subsection one, by the insertion after the words "In no case" of the words "except where the conviction or order is made against a corporate body." Amendment of s. 82. Remedies against corporate bodies.
- (b) In subsection two, by the insertion after the words "Justices making the conviction or order shall" of the words "except where the conviction or order is made against a corporate body."

B

(c)

Police Offences (Amendment).

(c) By the insertion of the following subsection after subsection two:—

Whenever any corporate body is, by any conviction or order, adjudged to pay any fine, penalty, sum of money, or costs, such conviction or order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said Acts. For such purpose such conviction or order may be entered in the records of the Small Debts Court exercising jurisdiction at the petty sessions where such order or conviction was made in such manner as may be prescribed by rules made under the said Acts.

Amendment of s. 13
of Justices Act,
1902.

23. Section thirteen of the Justices Act, 1902, is amended by the addition of the following proviso:—

Provided further, that nothing in this Part of this Act shall abridge or prejudice the powers of any justice, authorised by the Governor for that purpose in the Government Gazette, to hear and determine offences under sections six and seven of the Police Offences Act, 1901.

SCHEDULE.

Reference to Act.	Short title.	Extent of repeal.
1 Edw. VII, No. 5...	Police Offences Act, 1901	Sections 27, 110, 111, and 112.
2 Edw. VII, No. 74...	Vagrancy Act, 1902... ..	Section 4, subs. 1 (c) and 2 (f); section 8.

By Authority: WILLIAM APPELGATE GULLICK, Government Printer, Sydney, 1908.

[6d.]

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.

Legislative Assembly Chamber,
Sydney, 25 November, 1908, A.M. }

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

New South Wales.



ANNO OCTAVO

EDWARDI VII REGIS.

Act No. 12, 1908.

An Act to prevent soliciting for the purpose of prostitution ; to regulate the keeping of opium ; to amend the Prisons Act, 1899, the Police Offences Act, 1901, the Obscene and Indecent Publications Act, 1901, the Poisons Act, 1902, the Vagrancy Act, 1902, the Vagrancy (Amendment) Act, 1905, the Justices Act, 1902, and the Gaming and Betting Act, 1906 ; and for other purposes incidental thereto. [Assented to, 5th December, 1908.]

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

PART I.

PRELIMINARY.

1. This Act may be cited as the " Police Offences (Amendment) Short title. Act, 1908," and is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1-2.

PART

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

JOHN J. COHEN,
Chairman of Committees of the Legislative Assembly.

*Police Offences (Amendment).*PART II.—VAGRANCY ACTS—*ss.* 3–7.PART III.—POLICE OFFENCES ACT, 1901—*ss.* 8–15.PART IV.—PRISONS ACT, 1899—*s.* 16.PART V.—OBSCENE AND INDECENT PUBLICATIONS ACT, 1901—
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Repeal.

2. The Acts mentioned in the Schedule are, to the extent therein expressed, hereby repealed.

PART II.

VAGRANCY ACTS, 1902, AND 1905.

Extension of the meaning of "aboriginal."

3. Section three of the Vagrancy Act, 1902, is amended by the addition to the definition of "aboriginal" in that section of the words "or of any other State of the Commonwealth of Australia."

Amendment of *s.* 4, subs. 2, of the Vagrancy Act, 1902. Certain persons to be deemed rogues and vagabonds. cf. South Aust. Act, 1899, No. 715, *s.* 4, and Vict. Act, No. 1241, *s.* 13.

4. Section four, subsection two, of the same Act, is hereby amended by the addition of the following paragraphs—

- (l) in or near any public place or place of public resort, or in or near any house or premises licensed under the Liquor Act, 1898, or the Billiards and Bagatelle Act, 1902, or any Acts amending the same, engages in playing or betting, or solicits or encourages any other person to play or bet—
 - (i) at or with any table or instrument of gaming at any game or pretended game of chance; or
 - (ii) at or on any game or trick of sleight of hand; or
 - (iii) at or on any game or trick played with any instrument which in the opinion of the adjudicating justice is constructed or used as a means of cheating;
- (m) being a known or reputed cheat, loiters in or near any public place or place of public resort, or in or near any premises licensed under the Liquor Act, 1898, or the Billiards and Bagatelle Act, 1902, or any Acts amending the same, and has in his possession any instrument of gaming, or any instrument which in the opinion of the adjudicating justice, is constructed or used as a means of cheating, unless such person accounts for his having such instrument in his possession, to the satisfaction of the adjudicating justice;
- (n) pretends or professes to tell fortunes, or uses any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose on any person;
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Fortune telling. 5 Geo. IV, c. 83, *s.* 4.

Police Offences (Amendment).

(o) being a male person—

- (i) knowingly lives wholly or in part on the earnings of prostitution; or
- (ii) in any public place solicits or importunes for immoral purposes.

Persons trading upon prostitution. South Australian Act of 1899, No. 715, s. 10.

For the purpose of paragraph (o), where a male person is proved to live with or to be habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he satisfies the adjudicating justice to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Proof. South Australian Act of 1899, No. 715, s. 12.

5. The same section is further amended,—

- (1) by the addition of the words “or by common prostitutes” at the end of paragraph (e) of subsection one; and
- (2) by the addition of the following paragraph after paragraph (h) of subsection one.
 - (i) Being a common prostitute, solicits or importunes for immoral purposes, any person who is in any public street, thoroughfare, or place.
- (3) by the addition of the following words at the end of subsection one:—

Further amendment of s. 4, of the Vagrancy Act, 1902.

Provided that when a female is arrested for any offence included under paragraph (i) of this subsection, the convicting justice may—

- (i) commit the female to be detained for any period not exceeding twelve months in an institution established by the Governor as a reformatory for the purposes of this Act; or
- (ii) impose imprisonment as aforesaid; or
- (iii) by his sentence impose either of the above penalties, and suspend the execution of such sentence upon such terms and conditions as he may think fit, which he shall embody in his recorded decision of the case for transmission to the Minister.

If any female whose sentence has been so suspended fails to observe any of such terms and conditions she may be arrested by any officer of police and brought before any justice, and on proof of such failure on her part being given to his satisfaction such justice may direct that the original sentence be put into force, and may give all orders and grant such warrants as may be necessary for such enforcement.

- (4) by the omission of the word “frequents” and the substitution therefor of the words “is found in or on” in paragraph (j) of subsection two.

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6. The following sections are inserted next after section eight:—

8A. Every person who, in or near any public street, thoroughfare, or place, or within the view or hearing of any person passing therein—

(a) behaves in a riotous, indecent, offensive, threatening, or insulting manner; or

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shall be liable on conviction to a penalty not exceeding five pounds, and may, in addition thereto or in substitution therefor, be required by the adjudicating justice to enter into a recognizance, with or without sureties, to be of good behaviour for a term not exceeding twelve months, and, in default of its being entered into forthwith, the defendant may be imprisoned for any period not exceeding six months, unless such recognizance is sooner entered into.

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If any owner of a house, room, or other place has reasonable grounds to suspect that the same is used in contravention of this section, he may serve on the occupier a notice to quit.

The serving of such notice shall determine as from the seventh day after the date of such service any tenancy under which the occupier may hold, whether as tenant or subtenant, as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

Such notice shall be served personally on the occupier, but if he cannot be found service may be effected by posting a copy of the notice on some conspicuous part of the said house, room, or place.

Any such notice to quit may be cancelled by the Court before whom the proceedings are heard, subject to such terms as it thinks fit, on the hearing, on proof that the occupier has not at any time allowed the house, room, or place to be used in contravention of this section.

No conviction under this section shall exempt the offender from any penalty or other punishment to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

Police Offences (Amendment).

8c. Where any person is accused of being an idle or disorderly person on the ground that he has no visible lawful means of support, or that he has insufficient lawful means of support, proof that he possesses money or property shall not be a defence unless it is also proved by the defendant that such money or property was obtained by him honestly and in a bona fide manner.

Persons charged with being idle and disorderly, having money in their possession.
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Amendment of s. 2 of Vagrancy (Amendment) Act, 1905.
Unlawful games.

(2) Section three of the same Act is amended by inserting after the word "game" the words "or in any such disposal of money by lottery or chance."

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Amendment of section 6.

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Amendment of section 7.

9. The following section is inserted next after section eight :—

8A. Whosoever carries in any street or public place or sells any detonator stick, explosive stick, or metal contrivance whereby detonators or explosive matter of any description may be exploded, shall be liable to a penalty not exceeding two pounds.

Selling detonators.

10. Section nine is amended by inserting after the word "makes" in the sentence "makes any bonfire" the words "or assists in making."

Amendment of section 9.

11. The following section shall be read as and in place of section twenty seven :—

Persons unlawfully in possession of property.

27. Whosoever being charged before a justice with—

cf. Police Offences Act, 1901, s. 27.

- (a) having anything in his custody; or
- (b) knowingly having anything in the custody of another person;
- or
- (c) knowingly having anything in a house, building, lodging, apartment, field, or other place, whether belonging to or occupied by himself or not, or whether such thing is there had, or placed for his own use or the use of another,

which

Police Offences (Amendment).

which thing may be reasonably suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of such justice how he came by the same, shall be liable to a penalty not exceeding ten pounds or to imprisonment for a term not exceeding three months.

Amendment of section 28 of the Police Offences Act, 1901.

12. (1) Section twenty-eight is amended by omitting the word "dwelling" where it occurs in that section, and inserting after the word "house" each time it occurs the words "building, lodging, apartment, field."

(2) The same section is amended by omitting the words "any chief constable or inspector of police," and inserting in lieu thereof the words "any constable"; and by omitting the words "such chief constable or inspector" where they occur in the section, and substituting in lieu thereof the words "such constable."

Amendment of section 29 of the same Act.

(3) Section twenty-nine is amended by omitting the words "having or conveying anything stolen or unlawfully obtained," and inserting in lieu thereof the words "an offence under section twenty-seven"; and by omitting the words "the same" where first occurring, and inserting "anything the subject of such charge."

Amendment of section 32.

13. Section thirty-two is amended by the addition of the following subsection next after subsection three:—

(3A) In such further order the justice may, in his discretion, order that if the person against whom such order is made does not forfeit or pay to the party aggrieved the amount of the value so determined, he shall be imprisoned in accordance with the provisions of section eighty-two of the Justices Act, 1902; but if the justice does not so order, then the aforesaid further order shall, together with any order for costs made against the defendant, operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said last-mentioned Acts. Such order for such purpose may be entered in the records of the Small Debts Court exercising jurisdiction at the Petty Sessions where such order was made in such manner as may be prescribed by rules made under the last-mentioned Acts.

Amendment of section 58.

14. (1) Section fifty-eight subsection one is amended by—

- (a) omitting the words "petty misdemeanour" and substituting therefor the words "offence punishable on summary conviction by a fine or penalty not exceeding ten pounds"; and
- (b) omitting the words "said city or towns" and inserting in lieu thereof the word "state"; and
- (c) inserting at the end of the subsection the following proviso:
Provided that such recognizance shall be good and have effect according to the terms thereof, notwithstanding the fact that, on subsequent investigation, it appears that the said person would, under the said charge, be liable to a penalty exceeding ten pounds. (2)

Police Offences (Amendment).

(2) Subsection four of the same section is amended by omitting the words "or within one hour thereafter"

15. Section one hundred and one is amended by inserting next Amendment of section 101. after subsection one the following subsection:—

(1A) A police magistrate or any two justices may, at the Special constables. request of his employer, or of the council of a municipality or shire, and subject to the approval of the Inspector-General of Police, in like manner nominate and appoint any person employed as a caretaker, night watchman, or in any similar capacity, as a special constable for such time as such magistrate or justices may think fit.

The provisions of this Part relating to special constables who have been called out shall apply to all special constables appointed under this subsection from the time when such constables have taken the oath as in the next subsection provided.

The Inspector-General of Police may, whenever he thinks fit, suspend or determine the services of any such special constable. Notice of such suspension or determination of service shall be forthwith sent by the Inspector-General of Police to the Colonial Secretary.

PART IV.**PRISONS ACT, 1899.**

- 16.** Section thirty-seven of the Prisons Act, 1899, is amended— Amendment of section 37.
- (a) by the insertion after the word "hard" in subsection one of the words "or light" and after the word "he" of the words "or any other justice"; and
- (b) by the addition of the following subsection to be read after subsection one:—

(2) Any offender who refuses to obey an order given by any officer of the police force, attached to such watch-house or lock-up, in pursuance of such direction, or who is guilty of idleness or negligence in obeying such order, or in his work, may be brought before any justice at such watch-house or lock-up, and, on conviction of such refusal, idleness, or negligence, be liable to the punishment mentioned in subsection two of section fourteen.

PART

Police Offences (Amendment).

PART V.

OBSCENE AND INDECENT PUBLICATIONS ACT, 1901.

Amendment of
section 16.

17. Section sixteen of the Obscene and Indecent Publications Act, 1901, is amended by the insertion after the word "sells" in paragraph (a) of the words "or has in his possession apparently for the purpose of sale."

PART VI.

OPIUM.

Definition.

18. For the purposes of this Part, "opium" includes any preparation thereof in a form capable of being used for the purposes of smoking.

Prohibition of
possession of opium.

19. (1) No person shall—

Opium smoking.
Keeping place for
opium smoking.

(a) unless the holder of a certificate to deal in poisons, issued under the provisions of the Poisons Act, 1902, or any Act amending the same, sell, or have in his possession, opium ;

(b) smoke opium ;

(c) keep open, manage, or assist in keeping open or managing, any house, room, or place used for the purpose of opium smoking ;

(d) being the owner or lessee of any house, room, or place, knowingly permit such house, room, or place to be used for the purpose of opium smoking.

Any person contravening the provisions of this section shall be liable on conviction to a penalty not exceeding fifty pounds.

Penalty.

Such penalty may be recovered before a stipendiary or police magistrate or any two justices of the Peace.

Exemptions.

(2) Nothing in this section shall apply to the possession or sale of—

(a) opium when made up or compounded as a medicine by a medical practitioner or according to the prescription of a medical practitioner ;

(b) opium in the form of homœopathic medicine, unless in the crude state, mother tincture, or of a greater strength than the third potency ;

(c) patent medicines ;

(d) medicines dispensed by veterinary surgeons for animals under their treatment ;

(e) fly poison papers and packets of poisonous mixtures for the destruction of vermin, when marked as such. **20.**

Police Offences (Amendment).

20. (1) If any constable has reasonable cause to suspect that there is in any house or place opium, in contravention of this Act, or that opium is being smoked therein, he may, with the authority in writing of a magistrate or a superintendent of police, enter such house or place and make search. Constables may enter, search, and arrest.

If opium is found in any such house or place, or in the possession of any person, the constable may demand the production of the said certificate from the owner or occupier of such house or place, or from the person in whose possession the opium is found, and if such certificate is not produced, may forthwith seize the opium, and arrest any person present who he has reasonable grounds to suspect is contravening the provisions of the last preceding section and take him before a stipendiary or police magistrate, or any two justices of the peace, and there charge him with such offence.

(2) The opium so seized shall be forfeited and disposed of as the adjudicating magistrate or justices may direct.

(3) Any person resisting or aiding or abetting in the resistance to any constable in the execution of his duty under this section shall be liable to a penalty not exceeding fifty pounds.

PART VII.

GAMING AND BETTING ACT, 1906.

21. Subsection (a) of section three of the Gaming and Betting Act, 1906, is amended by inserting after the word "playing" the words "or taking part in"; and by inserting after the word "therein" the words "or for giving or selling any ticket or chance, or share in a ticket or chance, for the disposal of money by lottery or chance, or for aiding or taking part in the disposal of money by lottery or chance." Amendment of s. 3 of Gaming and Betting Act, 1906.

PART VIII.

JUSTICES ACT, 1902.

22. Section eighty-two is amended as follows:—

- (a) In subsection one, by the insertion after the words "In no case" of the words "except where the conviction or order is made against a corporate body." Amendment of s. 82. Remedies against corporate bodies.
- (b) In subsection two, by the insertion after the words "Justices making the conviction or order shall" of the words "except where the conviction or order is made against a corporate body." (c)

Police Offences (Amendment).

(c) By the insertion of the following subsection after subsection two:—

Whenever any corporate body is, by any conviction or order, adjudged to pay any fine, penalty, sum of money, or costs, such conviction or order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said Acts. For such purpose such conviction or order may be entered in the records of the Small Debts Court exercising jurisdiction at the petty sessions where such order or conviction was made in such manner as may be prescribed by rules made under the said Acts.

Amendment of s. 13
of Justices Act,
1902.

23. Section thirteen of the Justices Act, 1902, is amended by the addition of the following proviso:—

Provided further, that nothing in this Part of this Act shall abridge or prejudice the powers of any justice, authorised by the Governor for that purpose in the Government Gazette, to hear and determine offences under sections six and seven of the Police Offences Act, 1901.

SCHEDULE.

Reference to Act.	Short title.	Extent of repeal.
1 Edw. VII, No. 5...	Police Offences Act, 1901	Sections 27, 110, 111, and 112.
2 Edw. VII, No. 74...	Vagrancy Act, 1902... ..	Section 4, subs. 1 (c) and 2 (f); section 8.

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

State Government House,
Sydney, 5th December, 1908.

HARRY H. RAWSON,
Governor.

POLICE OFFENCES (AMENDMENT) BILL.

Schedule of the Amendments referred to in Message of 19th November, 1908.

Page 3, clause 5, line 22. *After* "subsection" *omit* remainder of subsection (3); *insert* "the convicting justice may—

- (i) commit the female to be detained for any period not exceeding twelve months in an institution established by the Governor as a reformatory for the purposes of this Act; or
- (ii) impose imprisonment as aforesaid; or
- (iii) by his sentence impose either of the above penalties, and suspend the execution of such sentence upon such terms and conditions as he may think fit, which he shall embody in his recorded decision of the case for transmission to the Minister.

If any female whose sentence has been so suspended fails to observe any of such terms and conditions she may be arrested by any officer of police and brought before any justice, and on proof of such failure on her part being given to his satisfaction such justice may direct that the original sentence be put into force, and may give all orders and grant such warrants as may be necessary for such enforcement."

Page 4, clause 6, line 25. *Omit* "or"

Page 4, clause 6, line 25. *After* "occupier" *insert* "or agent"

Page 4, clause 6, lines 27 and 28. *Omit* "knowing any female to be a common prostitute, induces or suffers her"; *insert* "induces or suffers any female whom he knows to be a common prostitute"

Page 4, clause 6, line 38. *After* "hold" *insert* "whether as tenant or sub-tenant"

Page 5, clause 6, line 3. *Omit* "either"

Page 5, clause 6, line 3. *Omit* "or on summons taken out by the occupier"

Page 5, clause 6, line 14. *After* "was" *insert* "obtained"

Page 5, clause 6, line 15. *Omit* "obtained"

Page 5, Part III. *Omit* clause 8 *insert* new clause 8.

Page 5, clause 9. *Omit* paragraph (a).

Page 6, clause 12, lines 23 and 24. *Omit* "where they occur in the section"

Page 6, clause 12, line 24. *After* "constable" *insert* "and by omitting the words 'such chief constable' 'or inspector' where they occur in the section, and substituting in lieu thereof the words 'such constable' "

Page 6, clause 13, line 40. *After* "shall" *insert* "together with any order for costs made against the defendant"

Page 9, clause 19, line 3. *After* "medicine" *insert* "by a medical practitioner, or"

Page 9, clause 20, line 16. *After* "may" *insert* "with the authority in writing of a magistrate or a superintendent of police"

THE LEGISLATIVE COUNCIL OF NEW SOUTH WALES
IN PARLIAMENT ASSEMBLED
THAT the following Bill be enacted with amendments
as therein expressed.

ENACTED BY THE LEGISLATIVE COUNCIL OF NEW SOUTH WALES
IN PARLIAMENT ASSEMBLED
That the following Bill be enacted with amendments
as therein expressed.

Authority of the same, as follows:—
Assembly of New South Wales in Parliament assembled, and by the
advice and consent of the Executive Council of New South Wales
in Executive Council assembled, do hereby enact and declare:
That the following Bill be enacted with amendments
as therein expressed.

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.

*Legislative Assembly Chamber,
Sydney, 5 November, 1908. }*

*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,
Sydney, 19th November, 1908. }*

*JOHN J. CALVERT,
Clerk of the Parliaments.*

New South Wales.



ANNO OCTAVO

EDWARDI VII REGIS.

Act No. , 1908.

An Act to prevent soliciting for the purpose of prostitution ; to regulate the keeping of opium ; to amend the Prisons Act, 1899, the Police Offences Act, 1901, the Obscene and Indecent Publications Act, 1901, the Poisons Act, 1902, the Vagrancy Act, 1902, the Vagrancy (Amendment) Act, 1905, the Justices Act, 1902, and the Gaming and Betting Act, 1906 ; and for other purposes incidental thereto.

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

5

PART I.

PRELIMINARY.

1. This Act may be cited as the " Police Offences (Amendment) Short title. Act, 1908," and is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1-2.

25987

105—A

PART

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

*Police Offences (Amendment).*PART II.—VAGRANCY ACTS—*ss.* 3-7.PART III.—POLICE OFFENCES ACT, 1901—*ss.* 8-15.PART IV.—PRISONS ACT, 1899—*s.* 16.PART V.—OBSCENE AND INDECENT PUBLICATIONS ACT, 1901—
5 *s.* 17.PART VI.—OPIUM—*ss.* 18-20.PART VII.—GAMING AND BETTING ACT, 1906—*s.* 21.PART VIII.—JUSTICES ACT, 1902—*ss.* 22-23.

2. The Acts mentioned in the Schedule are, to the extent therein ~~Repeal~~
10 expressed, hereby repealed.

PART II.

VAGRANCY ACTS, 1902, AND 1905.

3. Section three of the Vagrancy Act, 1902, is amended by the
addition to the definition of "aboriginal" in that section of the words
15 "or of any other State of the Commonwealth of Australia."

Extension of the
meaning of
"aboriginal."

4. Section four, subsection two, of the same Act, is hereby
amended by the addition of the following paragraphs—

Amendment of *s.* 4,
subs. 2, of the
Vagrancy Act, 1902.

(*l*) in or near any public place or place of public resort, or in or
near any house or premises licensed under the Liquor Act,
20 1898, or the Billiards and Bagatelle Act, 1902, or any Acts
amending the same, engages in playing or betting, or solicits
or encourages any other person to play or bet—

Certain persons to be
deemed rogues and
vagabonds.

cf. South Aust. Act,
1899, No. 715, *s.* 4,
and Vict. Act, No.
1241, *s.* 13.

(*i*) at or with any table or instrument of gaming at any game
or pretended game of chance; or

25 (*ii*) at or on any game or trick of sleight of hand; or

(*iii*) at or on any game or trick played with any instrument which
in the opinion of the adjudicating justice is constructed
or used as a means of cheating;

30 (*m*) being a known or reputed cheat, loiters in or near any public
place or place of public resort, or in or near any premises
licensed under the Liquor Act, 1898, or the Billiards and
Bagatelle Act, 1902, or any Acts amending the same, and
has in his possession any instrument of gaming, or any
instrument which in the opinion of the adjudicating justice,
35 is constructed or used as a means of cheating, unless such
person accounts for his having such instrument in his
possession, to the satisfaction of the adjudicating justice;

40 (*n*) pretends or professes to tell fortunes, or uses any subtle craft,
means, or device, by palmistry or otherwise, to deceive and
impose on any person;

Fortune telling.

5 Geo. IV, c. 83, *s.* 4.

(*o*)

Police Offences (Amendment).

(o) being a male person—

- (i) knowingly lives wholly or in part on the earnings of prostitution; or
 (ii) in any public place solicits or importunes for immoral purposes.

Persons trading upon prostitution. South Australian Act of 1899, No. 715, s. 10.

5 For the purpose of paragraph (o), where a male person is proved to live with or to be habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he satisfies the adjudicating justice to the contrary, be deemed to be knowingly living
 10 on the earnings of prostitution.

Proof. South Australian Act of 1899, No. 715, s. 12.

5. The same section is further amended,—

- (1) by the addition of the words "or by common prostitutes" at the end of paragraph (e) of subsection one; and
 (2) by the addition of the following paragraph after paragraph (h)
 15 of subsection one.
 (i) Being a common prostitute, solicits or importunes for immoral purposes, any person who is in any public street, thoroughfare, or place.
 (3) by the addition of the following words at the end of subsection
 20 one:—

Further amendment of s. 4, of the Vagrancy Act, 1902.

25 Provided that when a female is arrested for any offence included under paragraph (i) of this subsection, the arresting constable shall, in the presence of a justice of the peace, ask the arrested person whether she consents to go to a reformatory established or to be established for this purpose; and if she shall so consent and shall signify her consent in writing in the presence of such justice, the arresting constable or some other officer of police shall thereupon
 30 escort her to such reformatory and deliver her to the matron or principal of the same, who shall thereupon have legal custody of her according to the rules of such reformatory and subject to the regulations made hereunder: Provided further, that if such female when arrested shall not consent to go to a reformatory, she shall be brought before a justice
 35 and dealt with according to the law now or hereafter in force relating to such cases. the convicting justice may—

- (i) commit the female to be detained for any period not exceeding twelve months in an institution established by the Governor as a reformatory for the
 35 purposes of this Act; or
 (ii) impose imprisonment as aforesaid; or
 (iii) by his sentence impose either of the above penalties, and suspend the execution of such sentence upon such terms and conditions as he may think fit, which he shall embody in his recorded decision of
 40 the case for transmission to the Minister. If

Police Offences (Amendment).

If any female whose sentence has been so suspended fails to observe any of such terms and conditions she may be arrested by any officer of police and brought before any justice, and on proof of such failure on her part being given to his satisfaction such justice may direct that the original sentence be put into force, and may give all orders and grant such warrants as may be necessary for such enforcement.

5

(4) by the omission of the word "frequents" and the substitution therefor of the words "is found in or on" in paragraph (j) of subsection two.

10

6. The following sections are inserted next after section eight:—

8A. Every person who, in or near any public street, thoroughfare, or place, or within the view or hearing of any person passing therein— Insulting behaviour, &c. Vict. Act, 1891, No. 1241, s. 7.

15

- (a) behaves in a riotous, indecent, offensive, threatening, or insulting manner; or
- (b) uses any threatening, abusive, or insulting words,

20

shall be liable on conviction to a penalty not exceeding five pounds, and may, in addition thereto or in substitution therefor, be required by the adjudicating justice to enter into a recognizance, with or without sureties, to be of good behaviour for a term not exceeding twelve months, and, in default of its being entered into forthwith, the defendant may be imprisoned for any period not exceeding six months, unless such recognizance is sooner entered into.

25

8B. If any person, being the owner or occupier or agent of any house, room, or place, or being a manager or assistant in the management thereof, ~~knowing any female to be a common prostitute, induces or suffers her to be~~ **induces or suffers any female whom he knows to be** Penalty on owner or occupier or agent of house for permitting prostitution therein. 29 Vic., c. 35, s. 36.

30

a common prostitute to be in that house, room, or place for the purpose of prostitution, he shall be liable to a penalty not exceeding twenty pounds, or, in the discretion of the justices, to be imprisoned for any term not exceeding six months.

35

If any owner of a house, room, or other place has reasonable grounds to suspect that the same is used in contravention of this section, he may serve on the occupier a notice to quit. Owner may evict occupier of house

40

The serving of such notice shall determine as from the seventh day after the date of such service any tenancy under which the occupier may hold whether as tenant or subtenant as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

Such notice shall be served personally on the occupier, but if he cannot be found service may be effected by posting a copy of the notice on some conspicuous part of the said house, room, or place.

Any

Police Offences (Amendment).

Any such notice to quit may be cancelled by the Court before whom the proceedings are heard, subject to such terms as it thinks fit, either on the hearing or on summons taken out by the occupier, on proof that the occupier has not at any time allowed the house, room, or place to be used in contravention of this section.

No conviction under this section shall exempt the offender from any penalty or other punishment to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

8c. Where any person is accused of being an idle or disorderly person on the ground that he has no visible lawful means of support, or that he has insufficient lawful means of support, proof that he possesses money or property shall not be a defence unless it is also proved by the defendant that such money or property was obtained by him honestly and in a bona fide manner obtained.

Persons charged with being idle and disorderly, having money in their possession.

South Aust. Act, 1899, No. 715, s. 3, and Vict. Act, No. 1241, of 1891, s. 11.

(1) Section two of the Vagrancy (Amendment) Act, 1905, is amended by omitting the word "and" after the word "fan-tan" and inserting after the word "pak-a-pu" the words "and two-up," and by inserting after the word "chance" the words "or the disposal of money by lottery or chance."

Amendment of s. 2 of Vagrancy (Amendment) Act, 1905.

Unlawful games.

(2) Section three of the same Act is amended by inserting after the word "game" the words "or in any such disposal of money by lottery or chance."

PART III.

POLICE OFFENCES ACT, 1901.

8. Section eight is amended by the omission of the words, "sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or,"

Amendment of section 8.

(1) Section six is amended by the omission of the words "one pound" and the substitution in lieu thereof of the words "two pounds"

Amendment of section 6.

(2) Section seven is amended by the omission of the words "two pounds" and the substitution in lieu thereof of the words "three pounds"

Amendment of section 7.

9. The following section is inserted next after section eight:—

8A. Whosoever—

(a) sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or

(b) carries in any street or public place, or sells any detonator stick, explosive stick, or metal contrivance, whereby detonators or explosive matter of any description may be exploded, shall be liable to a penalty not exceeding two pounds.

10. Selling detonators.

Police Offences (Amendment).

10. Section nine is amended by inserting after the word "makes" in the sentence "makes any bonfire" the words "or assists in making."

Amendment of section 9.

11. The following section shall be read as and in place of section twenty seven :—

Persons unlawfully in possession of property.

27. Whosoever being charged before a justice with—

cf. Police Offences Act, 1901, s. 27.

(a) having anything in his custody; or

(b) knowingly having anything in the custody of another person;

or

10 (c) knowingly having anything in a house, building, lodging, apartment, field, or other place, whether belonging to or occupied by himself or not, or whether such thing is there had, or placed for his own use or the use of another,

15 which thing may be reasonably suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of such justice how he came by the same, shall be liable to a penalty not exceeding ten pounds or to imprisonment for a term not exceeding three months.

12. (1) Section twenty-eight is amended by omitting the word "dwelling" where it occurs in that section, and inserting after the word "house" each time it occurs the words "building, lodging, apartment, field."

Amendment of section 28 of the Police Offences Act, 1901.

25 (2) The same section is amended by omitting the words "any chief constable or inspector of police" where they occur in the section, and inserting in lieu thereof the words "any constable." ; and by omitting the words "such chief constable or inspector" where they occur in the section, and substituting in lieu thereof the words "such constable."

30 (3) Section twenty-nine is amended by omitting the words "having or conveying anything stolen or unlawfully obtained," and inserting in lieu thereof the words "an offence under section twenty-seven"; and by omitting the words "the same" where first occurring, and inserting "anything the subject of such charge."

Amendment of section 29 of the same Act.

13. Section thirty-two is amended by the addition of the following subsection next after subsection three :—

Amendment of section 32.

35 (3A) In such further order the justice may, in his discretion, order that if the person against whom such order is made does not forfeit or pay to the party aggrieved the amount of the value so determined, he shall be imprisoned in accordance with the provisions of section eighty-two of the Justices Act, 1902; but if the justice 40 does not so order, then the aforesaid further order shall, together with any order for costs made against the defendant, operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said last-mentioned Acts. Such order for 45 such purpose may be entered in the records of the Small Debts Court exercising

Police Offences (Amendment).

exercising jurisdiction at the Petty Sessions where such order was made in such manner as may be prescribed by rules made under the last-mentioned Acts.

- 5 14. (1) Section fifty-eight subsection one is amended by— Amendment of
section 58.
- (a) omitting the words "petty misdemeanour" and substituting therefor the words "offence punishable on summary conviction by a fine or penalty not exceeding ten pounds"; and
- (b) omitting the words "said city or towns" and inserting in lieu thereof the word "state"; and
- 10 (c) inserting at the end of the subsection the following proviso:
Provided that such recognizance shall be good and have effect according to the terms thereof, notwithstanding the fact that, on subsequent investigation, it appears that the said person would, under the said charge, be
- 15 liable to a penalty exceeding ten pounds.

(2) Subsection four of the same section is amended by omitting the words "or within one hour thereafter"

- 15 15. Section one hundred and one is amended by inserting next after subsection one the following subsection:— Amendment of
section 101.
- 20 (1A) A police magistrate or any two justices may, at the request of his employer, or of the council of a municipality or shire, and subject to the approval of the Inspector-General of Police, in like manner nominate and appoint any person employed as a caretaker, night watchman, or in any similar capacity, as a special constable for
- 25 such time as such magistrate or justices may think fit. Special constables.

The provisions of this Part relating to special constables who have been called out shall apply to all special constables appointed under this subsection from the time when such constables have taken the oath as in the next subsection provided.

- 30 The Inspector-General of Police may, whenever he thinks fit, suspend or determine the services of any such special constable. Notice of such suspension or determination of service shall be forthwith sent by the Inspector-General of Police to the Colonial Secretary.

35

PART IV.

PRISONS ACT, 1899.

16. Section thirty-seven of the Prisons Act, 1899, is amended— Amendment of
section 37.
- (a) by the insertion after the word "hard" in subsection one of the words "or light" and after the word "he" of the words "or any other justice"; and
- 40 (b)

Police Offences (Amendment).

(b) by the addition of the following subsection to be read after subsection one :—

(2) Any offender who refuses to obey an order given by any officer of the police force, attached to such watch-house or lock-up, in pursuance of such direction, or who is guilty of idleness or negligence in obeying such order, or in his work, may be brought before any justice at such watch-house or lock-up, and, on conviction of such refusal, idleness, or negligence, be liable to the punishment mentioned in subsection two of section fourteen.

10

PART V.

OBSCENE AND INDECENT PUBLICATIONS ACT, 1901.

17. Section sixteen of the Obscene and Indecent Publications Act, 1901, is amended by the insertion after the word "sells" in paragraph (a) of the words "or has in his possession apparently for the purpose of sale." Amendment of section 16.

PART VI.

OPIUM.

18. For the purposes of this Part, "opium" includes any preparation thereof in a form capable of being used for the purposes of smoking. Definition.

19. (1) No person shall—

- (a) unless the holder of a certificate to deal in poisons, issued under the provisions of the Poisons Act, 1902, or any Act amending the same, sell, or have in his possession, opium ; Prohibition of possession of opium.
- 25 (b) smoke opium ; Opium smoking.
- (c) keep open, manage, or assist in keeping open or managing any house, room, or place used for the purpose of opium smoking ; Keeping place for opium smoking.
- 30 (d) being the owner or lessee of any house, room, or place, knowingly permit such house, room, or place to be used for the purpose of opium smoking.

Any person contravening the provisions of this section shall be liable on conviction to a penalty not exceeding fifty pounds.

Such penalty may be recovered before a stipendiary or police magistrate or any two justices of the Peace. Penalty.

(2)

Police Offences (Amendment).

(2) Nothing in this section shall apply to the possession or sale of— Exemptions.

- 5 (a) opium when made up or compounded as a medicine by a medical practitioner or according to the prescription of a medical practitioner ;
- (b) opium in the form of homœopathic medicine, unless in the crude state, mother tincture, or of a greater strength than the third potency ;
- 10 (c) patent medicines ;
- (d) medicines dispensed by veterinary surgeons for animals under their treatment ;
- (e) fly poison papers and packets of poisonous mixtures for the destruction of vermin, when marked as such.

15 **20.** (1) If any constable has reasonable cause to suspect that there is in any house or place opium, in contravention of this Act, or that opium is being smoked therein, he may, **with the authority in writing of a magistrate or a superintendent of police**, enter such house or place and make search. Constables may enter, search, and arrest.

20 If opium is found in any such house or place, or in the possession of any person, the constable may demand the production of the said certificate from the owner or occupier of such house or place, or from the person in whose possession the opium is found, and if such certificate is not produced, may forthwith seize the opium, and arrest any person present who he has reasonable grounds to suspect is

25 contravening the provisions of the last preceding section and take him before a stipendiary or police magistrate, or any two justices of the peace, and there charge him with such offence.

(2) The opium so seized shall be forfeited and disposed of as the adjudicating magistrate or justices may direct.

30 (3) Any person resisting or aiding or abetting in the resistance to any constable in the execution of his duty under this section shall be liable to a penalty not exceeding fifty pounds.

PART VII.

GAMING AND BETTING ACT, 1906.

35 **21.** Subsection (a) of section three of the Gaming and Betting Act, 1906, is amended by inserting after the word "playing" the words "or taking part in"; and by inserting after the word "therein" the words "or for giving or selling any ticket or chance, or share in a ticket or chance, for the disposal of money by lottery or chance, or

40 for aiding or taking part in the disposal of money by lottery or chance." Amendment of s. 3 of Gaming and Betting Act, 1906.

PART

Police Offences (Amendment).

PART VIII.

JUSTICES ACT, 1902.

22. Section eighty-two is amended as follows:—

Amendment of s. 82.
Remedies against
corporate bodies.

- 5 (a) In subsection one, by the insertion after the words "In no case" of the words "except where the conviction or order is made against a corporate body."
- (b) In subsection two, by the insertion after the words "Justices making the conviction or order shall" of the words "except where the conviction or order is made against a corporate body."
- 10 (c) By the insertion of the following subsection after subsection two:—

Whenever any corporate body is, by any conviction or order, adjudged to pay any fine, penalty, sum of money, or costs, such
15 conviction or order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said Acts. For such purpose such conviction or order may be entered
20 in the records of the Small Debts Court exercising jurisdiction at the petty sessions where such order or conviction was made in such manner as may be prescribed by rules made under the said Acts.

23. Section thirteen of the Justices Act, 1902, is amended by the addition of the following proviso:—

Amendment of s. 13
of Justices Act,
1902.

25 Provided further, that nothing in this Part of this Act shall abridge or prejudice the powers of any justice, authorised by the Governor for that purpose in the Government Gazette, to hear and determine offences under sections six and seven of the Police Offences Act, 1901.

SCHEDULE.

30 Reference to Act.	Short title.	Extent of repeal.
1 Edw. VII, No. 5...	Police Offences Act, 1901	Sections 27, 110, 111, and 112.
2 Edw. VII, No. 74...	Vagrancy Act, 1902... ..	Section 4, subs. 1 (c) and 2 (f); section 8.

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.

*Legislative Assembly Chamber,
Sydney, 5 November, 1908.* }

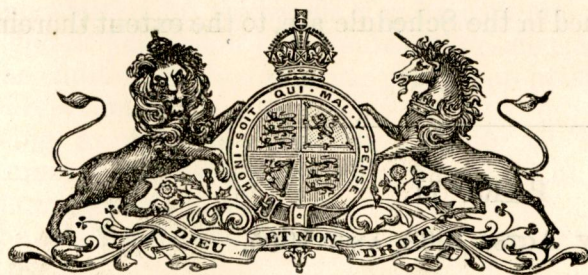
RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

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

*Legislative Council Chamber,
Sydney, November, 1908.* }

Clerk of the Parliaments.

New South Wales.



ANNO OCTAVO

EDWARDI VII REGIS.

Act No. , 1908.

An Act to prevent soliciting for the purpose of prostitution ; to regulate the keeping of opium ; to amend the Prisons Act, 1899, the Police Offences Act, 1901, the Obscene and Indecent Publications Act, 1901, the Poisons Act, 1902, the Vagrancy Act, 1902, the Vagrancy (Amendment) Act, 1905, the Justices Act, 1902, and the Gaming and Betting Act, 1906 ; and for other purposes incidental thereto.

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

5

PART I.

PRELIMINARY.

1. This Act may be cited as the " Police Offences (Amendment) Short title. Act, 1908," and is divided into Parts, as follows :—

PART I.—PRELIMINARY—ss. 1-2.

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PART

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

*Police Offences (Amendment).*PART II.—VAGRANCY ACTS—*ss.* 3-7.PART III.—POLICE OFFENCES ACT, 1901—*ss.* 8-15.PART IV.—PRISONS ACT, 1899—*s.* 16.PART V.—OBSCENE AND INDECENT PUBLICATIONS ACT, 1901—
5 *s.* 17.PART VI.—OPIUM—*ss.* 18-20.PART VII.—GAMING AND BETTING ACT, 1906—*s.* 21.PART VIII.—JUSTICES ACT, 1902—*ss.* 22-23.

2. The Acts mentioned in the Schedule are, to the extent therein Repeal.
10 expressed, hereby repealed.

PART II.

VAGRANCY ACTS, 1902, AND 1905.

3. Section three of the Vagrancy Act, 1902, is amended by the
addition to the definition of "aboriginal" in that section of the words
15 "or of any other State of the Commonwealth of Australia."

Extension of the
meaning of
"aboriginal."

4. Section four, subsection two, of the same Act, is hereby
amended by the addition of the following paragraphs—

Amendment of *s.* 4,
subs. 2, of the
Vagrancy Act, 1902.

(*l*) in or near any public place or place of public resort, or in or
near any house or premises licensed under the Liquor Act,
20 1898, or the Billiards and Bagatelle Act, 1902, or any Acts
amending the same, engages in playing or betting, or solicits
or encourages any other person to play or bet—

Certain persons to be
deemed rogues and
vagabonds.

(*i*) at or with any table or instrument of gaming at any game
or pretended game of chance; or

cf. South Aust. Act,
1899, No. 715, *s.* 4,
and Vict. Act, No.
1241, *s.* 13.

(*ii*) at or on any game or trick of sleight of hand; or

(*iii*) at or on any game or trick played with any instrument which
in the opinion of the adjudicating justice is constructed
or used as a means of cheating;

(*m*) being a known or reputed cheat, loiters in or near any public
30 place or place of public resort, or in or near any premises
licensed under the Liquor Act, 1898, or the Billiards and
Bagatelle Act, 1902, or any Acts amending the same, and
has in his possession any instrument of gaming, or any
instrument which in the opinion of the adjudicating justice,
35 is constructed or used as a means of cheating, unless such
person accounts for his having such instrument in his
possession, to the satisfaction of the adjudicating justice;

(*n*) pretends or professes to tell fortunes, or uses any subtle craft,
40 means, or device, by palmistry or otherwise, to deceive and
impose on any person;

Fortune telling.
5 Geo. IV, c. 83, *s.* 4.

(o)

Police Offences (Amendment).

(o) being a male person—

- (i) knowingly lives wholly or in part on the earnings of prostitution; or
 (ii) in any public place solicits or importunes for immoral purposes.

Persons trading upon prostitution, South Australian Act of 1899, No. 715, s. 10.

5 For the purpose of paragraph (o), where a male person is proved to live with or to be habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he satisfies the adjudicating justice to the contrary, be deemed to be knowingly living
 10 on the earnings of prostitution.

Proof. South Australian Act of 1899, No. 715, s. 12.

5. The same section is further amended,—

(1) by the addition of the words "or by common prostitutes" at the end of paragraph (e) of subsection one; and

Further amendment of s. 4, of the Vagrancy Act, 1902.

15 (2) by the addition of the following paragraph after paragraph (h) of subsection one.

- (i) Being a common prostitute, solicits or importunes for immoral purposes, any person who is in any public street, thoroughfare, or place.

20 (3) by the addition of the following words at the end of subsection one:—

Provided that when a female is arrested for any offence included under paragraph (i) of this subsection, the arresting constable shall, in the presence of a justice of the peace, ask the arrested person whether she consents to go to a reformatory established or to be established for this purpose; and if she shall so consent and shall signify her consent in writing in the presence of such justice, the arresting constable or some other officer of police shall thereupon escort her to such reformatory and deliver her to the matron or principal of the same, who shall thereupon have legal custody of her according to the rules of such reformatory and subject to the regulations made hereunder: Provided further, that if such female when arrested shall not consent to go to a reformatory, she shall be brought before a justice and dealt with according to the law now or hereafter in force relating to such cases: the convicting justice may—

25 (i) commit the female to be detained for any period not exceeding twelve months in an institution established by the Governor as a reformatory for the purposes of this Act; or

(ii) impose imprisonment as aforesaid; or

35 (iii) by his sentence impose either of the above penalties, and suspend the execution of such sentence upon such terms and conditions as he may think fit, which he shall embody in his recorded decision of the case for transmission to the Minister. If
 40

Police Offences (Amendment).

If any female whose sentence has been so suspended fails to observe any of such terms and conditions she may be arrested by any officer of police and brought before any justice, and on proof of such failure on her part being given to his satisfaction such justice may direct that the original sentence be put in force, and may give all orders and grant such warrants as may be necessary for such enforcement.

5

(4) by the omission of the word "frequents" and the substitution therefor of the words "is found in or on" in paragraph (j) of subsection two.

10

6. The following sections are inserted next after section eight:—

8A. Every person who, in or near any public street, thoroughfare, or place, or within the view or hearing of any person passing therein—

Insulting behaviour, &c.
Vict. Act, 1891, No. 1241, s. 7.

15

(a) behaves in a riotous, indecent, offensive, threatening, or insulting manner; or
(b) uses any threatening, abusive, or insulting words,

20

shall be liable on conviction to a penalty not exceeding five pounds, and may, in addition thereto or in substitution therefor, be required by the adjudicating justice to enter into a recognizance, with or without sureties, to be of good behaviour for a term not exceeding twelve months, and, in default of its being entered into forthwith, the defendant may be imprisoned for any period not exceeding six months, unless such recognizance is sooner entered into.

25

8B. If any person, being the owner or occupier or agent of any house, room, or place, or being a manager or assistant in the management thereof, ~~knowing any female to be a common prostitute, induces or suffers her to be a common prostitute~~ induces or suffers any female whom he knows to be a common prostitute to be in that house, room, or place for the purpose of prostitution, he shall be liable to a penalty not exceeding twenty pounds, or, in the discretion of the justices, to be imprisoned for any term not exceeding six months.

Penalty on owner or occupier or agent of house for permitting prostitution therein.
29 Vic., c. 35, s. 36.

30

If any owner of a house, room, or other place has reasonable grounds to suspect that the same is used in contravention of this section, he may serve on the occupier a notice to quit.

Owner may evict occupier of house.

35

The serving of such notice shall determine as from the seventh day after the date of such service any tenancy under which the occupier may hold whether as tenant or subtenant as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

40

Such notice shall be served personally on the occupier, but if he cannot be found service may be effected by posting a copy of the notice on some conspicuous part of the said house, room, or place.

Any

Police Offences (Amendment).

Any such notice to quit may be cancelled by the Court before whom the proceedings are heard, subject to such terms as it thinks fit, either on the hearing or on summons taken out by the occupier, on proof that the occupier has not at any time allowed the house, room, or place to be used in contravention of this section.

No conviction under this section shall exempt the offender from any penalty or other punishment to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

10 8c. Where any person is accused of being an idle or disorderly person on the ground that he has no visible lawful means of support, or that he has insufficient lawful means of support, proof that he possesses money or property shall not be a defence unless it is also proved by the defendant that such money or property was obtained by him honestly and in a bona fide manner obtained.

Persons charged with being idle and disorderly, having money in their possession.

South Aust. Act, 1899, No. 715, s. 3, and Vict. Act, No. 1241, of 1891, s. 11.

15 7. (1) Section two of the Vagrancy (Amendment) Act, 1905, is amended by omitting the word "and" after the word "fan-tan" and inserting after the word "pak-a-pu" the words "and two-up," and by inserting after the word "chance" the words "or the disposal of money by lottery or chance."

Amendment of s. 2 of Vagrancy (Amendment) Act, 1905.

Unlawful games.

(2) Section three of the same Act is amended by inserting after the word "game" the words "or in any such disposal of money by lottery or chance."

PART III.

POLICE OFFENCES ACT, 1901.

25 8. Section eight is amended by the omission of the words, "~~sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or,~~"

Amendment of section 8.

30 (1) Section six is amended by the omission of the words "one pound" and the substitution in lieu thereof of the words "two pounds"

Amendment of section 6.

(2) Section seven is amended by the omission of the words "two pounds" and the substitution in lieu thereof of the words "three pounds"

Amendment of section 7.

35 9. The following section is inserted next after section eight:—

8A. Whosoever—

(a) ~~sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or~~

40 (b) a carries in any street or public place, or sells any detonator stick, explosive stick, or metal contrivance, whereby detonators or explosive matter of any description may be exploded, shall be liable to a penalty not exceeding two pounds.

Selling detonators.

Police Offences (Amendment).

10. Section nine is amended by inserting after the word "makes" in the sentence "makes any bonfire" the words "or assists in making."
- Amendment of section 9.
11. The following section shall be read as and in place of section twenty seven :—
- Persons unlawfully in possession of property. cf. Police Offences Act, 1901, s. 27.
27. Whosoever being charged before a justice with—
- (a) having anything in his custody; or
- (b) knowingly having anything in the custody of another person; or
- 10 (c) knowingly having anything in a house, building, lodging, apartment, field, or other place, whether belonging to or occupied by himself or not, or whether such thing is there had, or placed for his own use or the use of another, which thing may be reasonably suspected of being stolen or unlawfully
- 15 obtained, does not give an account to the satisfaction of such justice how he came by the same, shall be liable to a penalty not exceeding ten pounds or to imprisonment for a term not exceeding three months.
12. (1) Section twenty-eight is amended by omitting the word "dwelling" where it occurs in that section, and inserting after the
- 20 word "house" each time it occurs the words "building, lodging, apartment, field."
- Amendment of section 28 of the Police Offences Act, 1901.
- (2) The same section is amended by omitting the words "any chief constable or inspector of police" where they occur in the section, and inserting in lieu thereof the words "any constable." ; and
- 25 by omitting the words "such chief constable or inspector" where they occur in the section, and substituting in lieu thereof the words "such constable."
- (3) Section twenty-nine is amended by omitting the words "having or conveying anything stolen or unlawfully obtained," and
- 30 inserting in lieu thereof the words "an offence under section twenty-seven" ; and by omitting the words "the same" where first occurring, and inserting "anything the subject of such charge."
- Amendment of section 29 of the same Act.
13. Section thirty-two is amended by the addition of the following subsection next after subsection three :—
- Amendment of section 32.
- 35 (3A) In such further order the justice may, in his discretion, order that if the person against whom such order is made does not forfeit or pay to the party aggrieved the amount of the value so determined, he shall be imprisoned in accordance with the provisions of section eighty-two of the Justices Act, 1902; but if the justice
- 40 does not so order, then the aforesaid further order shall, together with any order for costs made against the defendant, operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said last-mentioned Acts. Such order for
- 45 such purpose may be entered in the records of the Small Debts Court exercising

Police Offences (Amendment).

exercising jurisdiction at the Petty Sessions where such order was made in such manner as may be prescribed by rules made under the last-mentioned Acts.

14. (1) Section fifty-eight subsection one is amended by— Amendment of section 58.
- 5 (a) omitting the words "petty misdemeanour" and substituting therefor the words "offence punishable on summary conviction by a fine or penalty not exceeding ten pounds"; and
- (b) omitting the words "said city or towns" and inserting in lieu thereof the word "state"; and
- 10 (c) inserting at the end of the subsection the following proviso:
Provided that such recognizance shall be good and have effect according to the terms thereof, notwithstanding the fact that, on subsequent investigation, it appears that the said person would, under the said charge, be
- 15 liable to a penalty exceeding ten pounds.

(2) Subsection four of the same section is amended by omitting the words "or within one hour thereafter"

15. Section one hundred and one is amended by inserting next Amendment of section 101. after subsection one the following subsection:—
- 20 (1A) A police magistrate or any two justices may, at the Special constables. request of his employer, or of the council of a municipality or shire, and subject to the approval of the Inspector-General of Police, in like manner nominate and appoint any person employed as a caretaker, night watchman, or in any similar capacity, as a special constable for
- 25 such time as such magistrate or justices may think fit.

The provisions of this Part relating to special constables who have been called out shall apply to all special constables appointed under this subsection from the time when such constables have taken the oath as in the next subsection provided.

- 30 The Inspector-General of Police may, whenever he thinks fit, suspend or determine the services of any such special constable. Notice of such suspension or determination of service shall be forthwith sent by the Inspector-General of Police to the Colonial Secretary.

35

PART IV.

PRISONS ACT, 1899.

16. Section thirty-seven of the Prisons Act, 1899, is amended— Amendment of section 37.
- (a) by the insertion after the word "hard" in subsection one of the words "or light" and after the word "he" of the words
- 40 "or any other justice"; and

(b)

Police Offences (Amendment).

(b) by the addition of the following subsection to be read after subsection one :—

(2) Any offender who refuses to obey an order given by any officer of the police force, attached to such watch-house or lock-up, in pursuance of such direction, or who is guilty of idleness or negligence in obeying such order, or in his work, may be brought before any justice at such watch-house or lock-up, and, on conviction of such refusal, idleness, or negligence, be liable to the punishment mentioned in subsection two of section fourteen.

10

PART V.

OBSCENE AND INDECENT PUBLICATIONS ACT, 1901.

17. Section sixteen of the Obscene and Indecent Publications Act, 1901, is amended by the insertion after the word "sells" in paragraph (a) of the words "or has in his possession apparently for the purpose of sale." Amendment of section 16.

PART VI.

OPIUM.

18. For the purposes of this Part, "opium" includes any preparation thereof in a form capable of being used for the purposes of smoking. Definition.

19. (1) No person shall—

- (a) unless the holder of a certificate to deal in poisons, issued under the provisions of the Poisons Act, 1902, or any Act amending the same, sell, or have in his possession, opium ; Prohibition of possession of opium.
- 25 (b) smoke opium ; Opium smoking.
- (c) keep open, manage, or assist in keeping open or managing, any house, room, or place used for the purpose of opium smoking ; Keeping place for opium smoking.
- 30 (d) being the owner or lessee of any house, room, or place, knowingly permit such house, room, or place to be used for the purpose of opium smoking.

Any person contravening the provisions of this section shall be liable on conviction to a penalty not exceeding fifty pounds.

Such penalty may be recovered before a stipendiary or police magistrate or any two justices of the Peace. Penalty.

Police Offences (Amendment).

(2) Nothing in this section shall apply to the possession or Exemptions.
sale of—

- (a) opium when made up or compounded as a medicine by a
5 **medical practitioner** or according to the prescription of a
medical practitioner ;
(b) opium in the form of homœopathic medicine, unless in the
crude state, mother tincture, or of a greater strength than the
third potency ;
(c) patent medicines ;
10 (d) medicines dispensed by veterinary surgeons for animals under
their treatment ;
(e) fly poison papers and packets of poisonous mixtures for the
destruction of vermin, when marked as such.

20. (1) If any constable has reasonable cause to suspect that
15 there is in any house or place opium, in contravention of this Act, or
that opium is being smoked therein, he may, **with the authority in
writing of a magistrate or a superintendent of police**, enter such house
or place and make search. Constables may enter, search, and arrest.

If opium is found in any such house or place, or in the possession
20 of any person, the constable may demand the production of the said
certificate from the owner or occupier of such house or place, or from
the person in whose possession the opium is found, and if such
certificate is not produced, may forthwith seize the opium, and arrest
any person present who he has reasonable grounds to suspect is
25 contravening the provisions of the last preceding section and take him
before a stipendiary or police magistrate, or any two justices of the
peace, and there charge him with such offence.

(2) The opium so seized shall be forfeited and disposed of
as the adjudicating magistrate or justices may direct.

30 (3) Any person resisting or aiding or abetting in the
resistance to any constable in the execution of his duty under this
section shall be liable to a penalty not exceeding fifty pounds.

PART VII.

GAMING AND BETTING ACT, 1906.

35 21. Subsection (a) of section three of the Gaming and Betting
Act, 1906, is amended by inserting after the word "playing" the
words "or taking part in"; and by inserting after the word "therein"
the words "or for giving or selling any ticket or chance, or share in a
40 ticket or chance, for the disposal of money by lottery or chance, or
for aiding or taking part in the disposal of money by lottery or chance." Amendment of s. 3 of Gaming and Betting Act, 1906.

Police Offences (Amendment).

PART VIII.

JUSTICES ACT, 1902.

22. Section eighty-two is amended as follows:—

- 5 (a) In subsection one, by the insertion after the words "In no case" of the words "except where the conviction or order is made against a corporate body."
- 10 (b) In subsection two, by the insertion after the words "Justices making the conviction or order shall" of the words "except where the conviction or order is made against a corporate body."
- (c) By the insertion of the following subsection after subsection two:—

Amendment of s. 82.
Remedies against
corporate bodies.

Whenever any corporate body is, by any conviction or order, adjudged to pay any fine, penalty, sum of money, or costs, such
15 conviction or order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said Acts. For such purpose such conviction or order may be entered in the records of the Small Debts Court exercising jurisdiction at the
20 petty sessions where such order or conviction was made in such manner as may be prescribed by rules made under the said Acts.

23. Section thirteen of the Justices Act, 1902, is amended by the addition of the following proviso:—

Amendment of s. 13
of Justices Act,
1902.

25 Provided further, that nothing in this Part of this Act shall abridge or prejudice the powers of any justice, authorised by the Governor for that purpose in the Government Gazette, to hear and determine offences under sections six and seven of the Police Offences Act, 1901.

SCHEDULE.

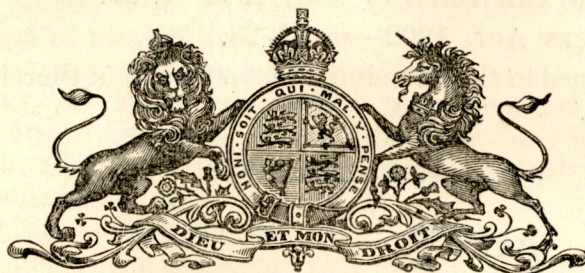
30 Reference to Act.	Short title.	Extent of repeal.
1 Edw. VII, No. 5...	Police Offences Act, 1901 ...	Sections 27, 110, 111, and 112.
2 Edw. VII, No. 74...	Vagrancy Act, 1902... ..	Section 4, subs. 1 (c) and 2 (f); section 8.

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.

*Legislative Assembly Chamber,
Sydney, 5 November, 1908.* }

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

New South Wales.



ANNO OCTAVO

EDWARDI VII REGIS.

Act No. , 1908.

An Act to prevent soliciting for the purpose of prostitution ; to regulate the keeping of opium ; to amend the Prisons Act, 1899, the Police Offences Act, 1901, the Obscene and Indecent Publications Act, 1901, the Poisons Act, 1902, the Vagrancy Act, 1902, the Vagrancy (Amendment) Act, 1905, the Justices Act, 1902, and the Gaming and Betting Act, 1906 ; and for other purposes incidental thereto.

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

5

PART I.

PRELIMINARY.

1. This Act may be cited as the " Police Offences (Amendment) Act, 1908," and is divided into Parts, as follows :—

PART I.—PRELIMINARY—*ss.* 1-2.

25987

105—A

PART

*Police Offences (Amendment).*PART II.—VAGRANCY ACTS—*ss.* 3-7.PART III.—POLICE OFFENCES ACT, 1901—*ss.* 8-15.PART IV.—PRISONS ACT, 1899—*s.* 16.PART V.—OBSCENE AND INDECENT PUBLICATIONS ACT, 1901—
5 *s.* 17.PART VI.—OPIUM—*ss.* 18-20.PART VII.—GAMING AND BETTING ACT, 1906—*s.* 21.PART VIII.—JUSTICES ACT, 1902—*ss.* 22-23.

2. The Acts mentioned in the Schedule are, to the extent therein Repeal.
10 expressed, hereby repealed.

PART II.

VAGRANCY ACTS, 1902, AND 1905.

3. Section three of the Vagrancy Act, 1902, is amended by the
addition to the definition of "aboriginal" in that section of the words
15 "or of any other State of the Commonwealth of Australia."

Extension of the
meaning of
"aboriginal."

4. Section four, subsection two, of the same Act, is hereby
amended by the addition of the following paragraphs—

Amendment of s. 4,
subs. 2, of the
Vagrancy Act, 1902.

(l) in or near any public place or place of public resort, or in or
near any house or premises licensed under the Liquor Act,
20 1898, or the Billiards and Bagatelle Act, 1902, or any Acts
amending the same, engages in playing or betting, or solicits
or encourages any other person to play or bet—

Certain persons to be
deemed rogues and
vagabonds.

(i) at or with any table or instrument of gaming at any game
or pretended game of chance; or

cf. South Aust. Act,
1899, No. 715, s. 4,
and Vict. Act, No.
1241, s. 18.

25 (ii) at or on any game or trick of sleight of hand; or

(iii) at or on any game or trick played with any instrument which
in the opinion of the adjudicating justice is constructed
or used as a means of cheating;

30 (m) being a known or reputed cheat, loiters in or near any public
place or place of public resort, or in or near any premises
licensed under the Liquor Act, 1898, or the Billiards and
Bagatelle Act, 1902, or any Acts amending the same, and
has in his possession any instrument of gaming, or any
instrument which in the opinion of the adjudicating justice,
35 is constructed or used as a means of cheating, unless such
person accounts for his having such instrument in his
possession, to the satisfaction of the adjudicating justice;

(n) pretends or professes to tell fortunes, or uses any subtle craft,
40 means, or device, by palmistry or otherwise, to deceive and
impose on any person;

Fortune telling.

5 Geo. IV, c. 83, s. 4.

(o)

Police Offences (Amendment).

(o) being a male person—

- (i) knowingly lives wholly or in part on the earnings of prostitution; or
 (ii) in any public place solicits or importunes for immoral purposes.

Persons trading upon prostitution. South Australian Act of 1899, No. 715, s. 10.

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For the purpose of paragraph (o), where a male person is proved to live with or to be habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he satisfies the adjudicating justice to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Proof. South Australian Act of 1899, No. 715, s. 12.

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5. The same section is further amended,—

- (1) by the addition of the words “or by common prostitutes” at the end of paragraph (e) of subsection one; and

Further amendment of s. 4, of the Vagrancy Act, 1902.

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- (2) by the addition of the following paragraph after paragraph (h) of subsection one.

(i) Being a common prostitute, solicits or importunes for immoral purposes, any person who is in any public street, thoroughfare, or place.

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- (3) by the addition of the following words at the end of subsection one:—

Provided that when a female is arrested for any offence included under paragraph (i) of this subsection, the arresting constable shall, in the presence of a justice of the peace, ask the arrested person whether she consents to go to a reformatory established or to be established for this purpose; and if she shall so consent and shall signify her consent in writing in the presence of such justice, the arresting constable or some other officer of police shall thereupon escort her to such reformatory and deliver her to the matron or principal of the same, who shall thereupon have legal custody of her according to the rules of such reformatory and subject to the regulations made hereunder: Provided further, that if such female when arrested shall not consent to go to a reformatory, she shall be brought before a justice and dealt with according to the law now or hereafter in force relating to such cases.

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- (4) by the omission of the word “frequents” and the substitution therefor of the words “is found in or on” in paragraph (j) of subsection two.

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6. The following sections are inserted next after section eight:—

8A. Every person who, in or near any public street, thoroughfare, or place, or within the view or hearing of any person passing therein—

Insulting behaviour, &c. Vict. Act, 1891, No. 1241, s. 7.

45

- (a) behaves in a riotous, indecent, offensive, threatening, or insulting manner; or

(b)

Police Offences (Amendment).

(b) uses any threatening, abusive, or insulting words, shall be liable on conviction to a penalty not exceeding five pounds, and may, in addition thereto or in substitution therefor, be required by the adjudicating justice to enter into a recognizance, with or
 5 without sureties, to be of good behaviour for a term not exceeding twelve months, and, in default of its being entered into forthwith, the defendant may be imprisoned for any period not exceeding six months, unless such recognizance is sooner entered into.

8B. If any person, being the owner or occupier of any house, room, or place, or being a manager or assistant in the management thereof, knowing any female to be a common prostitute, induces or
 10 suffers her to be in that house, room, or place for the purpose of prostitution, he shall be liable to a penalty not exceeding twenty pounds, or, in the discretion of the justices, to be imprisoned for any
 15 term not exceeding six months.

Penalty on owner or occupier of house for permitting prostitution therein. 29 Vic., c. 35, s. 36.

If any owner of a house, room, or other place has reasonable grounds to suspect that the same is used in contravention of this section, he may serve on the occupier a notice to quit. Owner may evict occupier of house.

The serving of such notice shall determine as from the seventh
 20 day after the date of such service any tenancy under which the occupier may hold as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

Such notice shall be served personally on the occupier, but if
 25 he cannot be found service may be effected by posting a copy of the notice on some conspicuous part of the said house, room, or place.

Any such notice to quit may be cancelled by the Court before whom the proceedings are heard, subject to such terms as it thinks fit, either on the hearing or on summons taken out by the occupier,
 30 on proof that the occupier has not at any time allowed the house, room, or place to be used in contravention of this section.

No conviction under this section shall exempt the offender from any penalty or other punishment to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house,
 35 or for the nuisance thereby occasioned.

8c. Where any person is accused of being an idle or disorderly person on the ground that he has no visible lawful means of support, or that he has insufficient lawful means of support, proof that he possesses money or property shall not be a defence unless it is also
 40 proved by the defendant that such money or property was by him honestly and in a bona fide manner obtained.

Persons charged with being idle and disorderly, having money in their possession. South Aust. Act, 1899, No. 715, s. 3, and Vict. Act, No. 1241, of 1891, s. 11.

7. (1) Section two of the Vagrancy (Amendment) Act, 1905, is amended by omitting the word "and" after the word "fan-tan" and inserting after the word "pak-a-pu" the words "and two-up," and by
 45 inserting after the word "chance" the words "or the disposal of money by lottery or chance."

Amendment of s. 2 of Vagrancy (Amendment) Act, 1905.

Unlawful games.

Police Offences (Amendment).

(2) Section three of the same Act is amended by inserting after the word "game" the words "or in any such disposal of money by lottery or chance."

PART III.

POLICE OFFENCES ACT, 1901.

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8. Section eight is amended by the omission of the words, "sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or," Amendment of section 8.

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9. The following section is inserted next after section eight :— Selling gunpowder, &c., by artificial light.

8A. Whosoever—

(a) sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or

(b) carries in any street or public place, or sells any detonator stick, explosive stick, or metal contrivance, whereby detonators or explosive matter of any description may be exploded, Selling detonators.

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shall be liable to a penalty not exceeding two pounds.

10. Section nine is amended by inserting after the word "makes" in the sentence "makes any bonfire" the words "or assists in making." Amendment of section 9.

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11. The following section shall be read as and in place of section twenty seven :— Persons unlawfully in possession of property.

27. Whosoever being charged before a justice with—

(a) having anything in his custody; or

(b) knowingly having anything in the custody of another person; cf. Police Offences Act, 1901, s. 27.

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(c) knowingly having anything in a house, building, lodging, apartment, field, or other place, whether belonging to or occupied by himself or not, or whether such thing is there had, or placed for his own use or the use of another,

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which thing may be reasonably suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of such justice how he came by the same, shall be liable to a penalty not exceeding ten pounds or to imprisonment for a term not exceeding three months.

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12. (1) Section twenty-eight is amended by omitting the word "dwelling" where it occurs in that section, and inserting after the word "house" each time it occurs the words "building, lodging, apartment, field." Amendment of section 28 of the Police Offences Act, 1901.

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(2) The same section is amended by omitting the words "any chief constable or inspector of police" where they occur in the section, and inserting in lieu thereof the words "any constable."

(3)

Police Offences (Amendment).

(3) Section twenty-nine is amended by omitting the words "having or conveying anything stolen or unlawfully obtained," and inserting in lieu thereof the words "an offence under section twenty-seven"; and by omitting the words "the same" where first occurring, and inserting "anything the subject of such charge."

Amendment of section 29 of the same Act.

13. Section thirty-two is amended by the addition of the following subsection next after subsection three:—

Amendment of section 32.

(3A) In such further order the justice may, in his discretion, order that if the person against whom such order is made does not forfeit or pay to the party aggrieved the amount of the value so determined, he shall be imprisoned in accordance with the provisions of section eighty-two of the Justices Act, 1902; but if the justice does not so order, then the aforesaid further order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said lastmentioned Acts. Such order for such purpose may be entered in the records of the Small Debts Court exercising jurisdiction at the Petty Sessions where such order was made in such manner as may be prescribed by rules made under the last mentioned Acts.

14. (1) Section fifty-eight subsection one is amended by—

Amendment of section 58.

- (a) omitting the words "petty misdemeanour" and substituting therefor the words "offence punishable on summary conviction by a fine or penalty not exceeding ten pounds"; and
- (b) omitting the words "said city or towns" and inserting in lieu thereof the word "state"; and
- (c) inserting at the end of the subsection the following proviso:
Provided that such recognizance shall be good and have effect according to the terms thereof, notwithstanding the fact that, on subsequent investigation, it appears that the said person would, under the said charge, be liable to a penalty exceeding ten pounds.

(2) Subsection four of the same section is amended by omitting the words "or within one hour thereafter"

15. Section one hundred and one is amended by inserting next after subsection one the following subsection:—

Amendment of section 101.

(1A) A police magistrate or any two justices may, at the request of his employer, or of the council of a municipality or shire, and subject to the approval of the Inspector-General of Police, in like manner nominate and appoint any person employed as a caretaker, night watchman, or in any similar capacity, as a special constable for such time as such magistrate or justices may think fit.

Special constables.

The provisions of this Part relating to special constables who have been called out shall apply to all special constables appointed under this subsection from the time when such constables have taken the oath as in the next subsection provided.

The

Police Offences (Amendment).

The Inspector-General of Police may, whenever he thinks fit, suspend or determine the services of any such special constable. Notice of such suspension or determination of service shall be forthwith sent by the Inspector-General of Police to the Colonial Secretary.

PART IV.**PRISONS ACT, 1899.**

- 16.** Section thirty-seven of the Prisons Act, 1899, is amended— Amendment of section 37.
- 10 (a) by the insertion after the word "hard" in subsection one of the words "or light" and after the word "he" of the words "or any other justice"; and
- (b) by the addition of the following subsection to be read after subsection one :—
- 15 (2) Any offender who refuses to obey an order given by any officer of the police force, attached to such watch-house or lock-up, in pursuance of such direction, or who is guilty of idleness or negligence in obeying such order, or in his work, may be brought before any justice at such watch-house or lock-up, and, on conviction of such refusal, idleness, or negligence, be liable to the punishment
- 20 mentioned in subsection two of section fourteen.

PART V.**OBSCENE AND INDECENT PUBLICATIONS ACT, 1901.**

- 17.** Section sixteen of the Obscene and Indecent Publications Act, 1901, is amended by the insertion after the word "sells" in Amendment of section 16.
- 25 paragraph (a) of the words "or has in his possession apparently for the purpose of sale."

PART VI.**OPIUM.**

- 18.** For the purposes of this Part, "opium" includes any Definition.
- 30 preparation thereof in a form capable of being used for the purposes of smoking.
- 19.** (1) No person shall—
- (a) unless the holder of a certificate to deal in poisons, issued under the provisions of the Poisons Act, 1902, or any Act amending Prohibition of possession of opium.
- 35 the same, sell, or have in his possession, opium; (b)

Police Offences (Amendment).

- (b) smoke opium ; Opium smoking.
 (c) keep open, manage, or assist in keeping open or managing, Keeping place for opium smoking.
 any house, room, or place used for the purpose of opium
 smoking ;
 5 (d) being the owner or lessee of any house, room, or place,
 knowingly permit such house, room, or place to be used for
 the purpose of opium smoking.

Any person contravening the provisions of this section shall Penalty.
 be liable on conviction to a penalty not exceeding fifty pounds.

10 Such penalty may be recovered before a stipendiary or police
 magistrate or any two justices of the Peace.

(2) Nothing in this section shall apply to the possession or Exemptions.
 sale of—

- 15 (a) opium when made up or compounded as a medicine according
 to the prescription of a medical practitioner ;
 (b) opium in the form of homœopathic medicine, unless in the
 crude state, mother tincture, or of a greater strength than the
 third potency ;
 (c) patent medicines ;
 20 (d) medicines dispensed by veterinary surgeons for animals under
 their treatment ;
 (e) fly poison papers and packets of poisonous mixtures for the
 destruction of vermin, when marked as such.

25 **20.** (1) If any constable has reasonable cause to suspect that Constables may enter, search, and arrest.
 there is in any house or place opium, in contravention of this Act, or
 that opium is being smoked therein, he may enter such house or place
 and make search.

If opium is found in any such house or place, or in the possession
 of any person, the constable may demand the production of the said
 30 certificate from the owner or occupier of such house or place, or from
 the person in whose possession the opium is found, and if such
 certificate is not produced, may forthwith seize the opium, and arrest
 any person present who he has reasonable grounds to suspect is
 contravening the provisions of the last preceding section and take him
 35 before a stipendiary or police magistrate, or any two justices of the
 peace, and there charge him with such offence.

(2) The opium so seized shall be forfeited and disposed of
 as the adjudicating magistrate or justices may direct.

40 (3) Any person resisting or aiding or abetting in the
 resistance to any constable in the execution of his duty under this
 section shall be liable to a penalty not exceeding fifty pounds.

Police Offences (Amendment).

PART VII.

GAMING AND BETTING ACT, 1906.

21. Subsection (a) of section three of the Gaming and Betting Act, 1906, is amended by inserting after the word "playing" the words "or taking part in"; and by inserting after the word "therein" the words "or for giving or selling any ticket or chance, or share in a ticket or chance, for the disposal of money by lottery or chance, or for aiding or taking part in the disposal of money by lottery or chance."

Amendment of s. 3
of Gaming and
Betting Act, 1906.

PART VIII.

JUSTICES ACT, 1902.

22. Section eighty-two is amended as follows:—
- 10 (a) In subsection one, by the insertion after the words "In no case" of the words "except where the conviction or order is made against a corporate body."
- (b) In subsection two, by the insertion after the words "Justices making the conviction or order shall" of the words "except where the conviction or order is made against a corporate body."
- 15 (c) By the insertion of the following subsection after subsection two:—

Amendment of s. 82.
Remedies against
corporate bodies.

Whenever any corporate body is, by any conviction or order, adjudged to pay any fine, penalty, sum of money, or costs, such conviction or order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said Acts. For such purpose such conviction or order may be entered in the records of the Small Debts Court exercising jurisdiction at the petty sessions where such order or conviction was made in such manner as may be prescribed by rules made under the said Acts.

23. Section thirteen of the Justices Act, 1902, is amended by the addition of the following proviso:—

Amendment of s. 13
of Justices Act,
1902.

30 Provided further, that nothing in this Part of this Act shall abridge or prejudice the powers of any justice, authorised by the Governor for that purpose in the Government Gazette, to hear and determine offences under section six and seven of the Police Offences Act, 1901.

Police Offences (Amendment).

SCHEDULE.

Reference to Act.	Short title.	Extent of repeal.
1 Edw. VII, No. 5...	Police Offences Act, 1901 ...	Sections 27, 110, 111, and 112.
5 2 Edw. VII, No. 74...	Vagrancy Act, 1902... ..	Section 4, subs. 1 (c) and 2 (f); section 8.

Sydney : William Applegate Gullick, Government Printer.—1908.

[9d.]

22. Section 27 of the Police Offences Act, 1901, shall be amended as follows:—

(a) In subsection one, by the insertion after the words "in any case" of the words "or by the conviction of either party against a corporate body";

(b) In subsection two, by the insertion after the words "making the conviction or order" of the words "except where the conviction or order is made against a corporate body";

(c) By the insertion of the following subsection after subsection two:—

Whenever any corporate body is by any conviction or order adjudged to pay any sum of money, or some such conviction or order shall operate as a bar to the payment of money under the Small Debts Act, 1902, and any proceedings under the said Act and the provisions of the provisions of the said Act, in respect of such conviction or order may be taken in the name of the Small Debts Court, and judgment may be given in such proceedings as if the conviction or order were made in such name as aforesaid.

23. Section 4 of the Vagrancy Act, 1902, shall be amended by the deletion of the following proviso:—

Provided further that nothing in this section shall apply or operate in favour of any person who has been convicted or punished in respect of any offence under section 4 of the Police Offences Act, 1901.

1908.

Legislative Council.

POLICE OFFENCES (AMENDMENT) BILL.

(Amendments to be proposed in Committee of the Whole by
THE HON. JOHN HUGHES.)

Page 3, clause 5, lines 22 to 36. *Omit* from "subsection" in line 22 to the end of line 36; *insert* "the convicting justice may—

- (i) impose a penalty not exceeding twenty pounds; or
- (ii) commit the female to be detained for any period not exceeding twelve months in an institution established by the Governor as a reformatory for the purposes of this Act; or
- (iii) impose imprisonment as aforesaid; or
- (iv) by his sentence impose any of the above penalties, and suspend the execution of such sentence upon such terms and conditions as he may think fit.

If any female whose sentence has been so suspended fails to observe any of such terms and conditions she may be arrested by any officer of police and brought before any justice, and on proof of such failure on her part being given to his satisfaction such justice may direct that the original sentence be put into force, and may give all orders and grant such warrants as may be necessary for such enforcement."

Page , clause 6, line 9. *After* "occupier" *insert* "or agent"

Page 4, clause 6, lines 11 and 12. *Omit* "knowing any female to be a common prostitute, induces or suffers her"; *insert* in lieu thereof "induces or suffers any female whom he knows to be a common prostitute"

Page 4, clause 6, line 29. *Omit* "either"; *omit* "or on summons taken out by the occupier"

Page 5, Part III. *Before* clause 8 *insert* new clause:—

7A. (1) Section six is amended by the omission of the words "one pound" and the substitution in lieu thereof of the words "two pounds"

(2) Section seven is amended by the omission of the words "two pounds" and the substitution in lieu thereof of the words "three pounds"

Page 5. *Omit* clause 8.

Page 5, clause 9. *Omit* paragraph (a).

Page 5, clause 12, subclause (2), lines 39 and 40. *Omit* "where they occur in the section"

Page 5, clause 12, subclause (2). At end of subclause *add* "and by omitting the words 'such chief constable or inspector' where they occur in the section, and substituting in lieu thereof the words 'such constable'"

Page 6, clause 13, line 13. *After* "shall" *insert* "together with any order for costs made against the defendant"

THE HISTORY OF THE UNITED STATES

The history of the United States is a story of growth and change. It begins with the first settlers who came to the eastern coast of North America. These settlers were mostly from Europe, and they brought with them the culture and customs of their home countries. Over time, these settlers and their descendants merged to form a new people, the Americans. The American people have a rich and diverse heritage, and their history is a testament to their resilience and spirit of innovation.

The American Revolution was a pivotal moment in the nation's history. It was a struggle for independence from British rule, and it resulted in the birth of a new nation. The American people fought for their freedom and their right to self-determination. The Revolution was a triumph of the American people, and it paved the way for the development of the United States as a great nation.

The American people have a long and proud history of freedom and democracy. They have fought for their rights and their freedom, and they have built a nation that is a beacon of hope and inspiration for people all over the world. The American people are a people of courage and determination, and their history is a story of triumph and achievement.

The American people have a rich and diverse culture, and their history is a testament to their resilience and spirit of innovation. They have built a nation that is a beacon of hope and inspiration for people all over the world. The American people are a people of courage and determination, and their history is a story of triumph and achievement.

POLICE OFFENCES BILL, 1908.

Sections of Vagrancy Act, 1902, as amended by Bill.

3. In this Act, unless the context or subject matter otherwise indicates or requires,— **Clause 3.**
Interpretation.
“ Aboriginal ” means an aboriginal native of New South Wales, No. 13, 1901, s. 3.
or of any other State of the Commonwealth of Australia.

Offences.

4. (1) Whosoever— **Clause 5.**
* * * * * Punishment of idle
(e) is the holder of a house frequented by reputed thieves or and disorderly
persons who have no visible lawful means of support, or by persons.
common prostitutes; No. 13, 1901, s. 4.
* * * * *
(i) Being a common prostitute, solicits or importunes for
immoral purposes, any person who is in any public street,
thoroughfare, or place,
shall, on conviction before any justice, by his own view or otherwise,
be liable to imprisonment with hard labour for a term not exceeding
six months :

Provided that when a female is arrested for any offence included under paragraph (i) of this subsection, the arresting constable shall, in the presence of a justice of the peace, ask the arrested person whether she consents to go to a reformatory established or to be established for this purpose; and if she shall so consent and shall signify her consent in writing in the presence of such justice, the arresting constable or some other officer of police shall thereupon escort her to such reformatory and deliver her to the matron or principal of the same, who shall thereupon have legal custody of her according to the rules of such reformatory and subject to the regulations made hereunder: Provided further, that if such female when arrested shall not consent to go to a reformatory, she shall be brought before a justice and dealt with according to the law now or hereafter in force relating to such cases.

- (2) Whosoever— **Punishment of**
(j) being a suspected person or reputed thief frequents is found rogues and
in or on any river, canal, or navigable stream, dock or basin, vagabonds.
or any quay, wharf, or warehouse near or adjoining thereto, No. 13, 1901, s. 4.

or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, highway, or place adjacent, with intent to commit felony ;

* * * * *

Certain persons to be deemed rogues and vagabonds.

cf. South Aust., Act, 1899, No. 715, s. 4, and Vict. Act, No. 1241, s. 13.

- (l) in or near any public place or place of public resort, or in or near any house or premises licensed under the Liquor Act, 1898, or the Billiards and Bagatelle Act, 1902, or any Acts amending the same, engages in playing or betting, or solicits or encourages any other person to play or bet—
- (i) at or with any table or instrument of gaming at any game or pretended game of chance ; or
- (ii) at or on any game or trick of sleight of hand ; or
- (iii) at or on any game or trick played with any instrument which, in the opinion of the adjudicating justice, is constructed or used as a means of cheating ;
- (m) being a known or reputed cheat, loiters in or near any public place or place of public resort, or in or near any premises licensed under the Liquor Act, 1898, or the Billiards and Bagatelle Act, 1902, or any Acts amending the same, and has in his possession any instrument of gaming, or any instrument which, in the opinion of the adjudicating justice, is constructed or used as a means of cheating, unless such person accounts for his having such instrument in his possession, to the satisfaction of the adjudicating justice ;
- (n) pretends or professes to tell fortunes, or uses any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose on any person ;
- (o) being a male person—
- (i) knowingly lives wholly or in part on the earnings of prostitution ; or
- (ii) in any public place solicits or importunes for immoral purposes.

Fortune telling.
5 Geo. IV, c. 83, s. 4.

Persons trading upon prostitution.
South Australian Act of 1899, No. 715, s. 10.

Proof.
South Australian Act of 1899, No. 715, s. 12.

For the purpose of paragraph (o), where a male person is proved to live with or to be habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he satisfies the adjudicating justice to the contrary, be deemed to be knowingly living on the earnings of prostitution.

shall, on conviction before any justice, be liable to imprisonment with hard labour for a term not exceeding six months, and every such implement, offensive weapon, and instrument as aforesaid shall, by the conviction of the offender, become forfeited to the King's Majesty.

The

The following sections are inserted after section eight:—

8A. Every person who, in or near any public street, thoroughfare, or place, or within the view or hearing of any person passing therein—

(a) behaves in a riotous, indecent, offensive, threatening, or insulting manner; or

(b) uses any threatening, abusive, or insulting words, shall be liable on conviction to a penalty not exceeding five pounds, and may, in addition thereto, or in substitution therefor, be required by the adjudicating justice to enter into a recognizance, with or without sureties, to be of good behaviour for a term not exceeding twelve months, and, in default of its being entered into forthwith, the defendant may be imprisoned for any period not exceeding six months, unless such recognizance is sooner entered into.

8B. If any person being the owner or occupier of any house, room, or place, or being a manager or assistant in the management thereof, knowing any female to be a common prostitute, induces or suffers her to be in that house, room, or place for the purpose of prostitution, he shall be liable to a penalty not exceeding twenty pounds, or, in the discretion of the justices, to be imprisoned for any term not exceeding six months.

If any owner of a house, room, or other place has reasonable grounds to suspect that the same is used in contravention of this section, he may serve on the occupier a notice to quit.

The serving of such notice shall determine as from the seventh day after the date of such service any tenancy under which the occupier may hold as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

Such notice shall be served personally on the occupier, but if he cannot be found service may be effected by posting a copy of the notice on some conspicuous part of the said house, room, or place.

Any such notice to quit may be cancelled by the Court before whom the proceedings are heard, subject to such terms as it thinks fit, either on the hearing or on summons taken out by the occupier, on proof that the occupier has not at any time allowed the house, room, or place to be used in contravention of this section.

No conviction under this section shall exempt the offender from any penalty or other punishment to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

8C. Where any person is accused of being an idle or disorderly person on the ground that he has no visible lawful means of support, or that he has insufficient lawful means of support, proof that he possesses money or property shall not be a defence unless it is also proved by the defendant that such money or property was by him honestly and in a bona fide manner obtained.

Insulting
behaviour, &c.
Vic., Act, 1891,
No. 1241, s. 7.

Penalty on owner
or occupier of
house for
permitting
prostitution
therein.
29 Vic., c. 35, s. 36.

Owner may evict
occupier of house.

Persons charged with
being idle and
disorderly, having
money in their
possession.

South Aust. Act, 1899,
No. 715, s. 3, and Vict.
Act, No. 1241, of 1891,
s. 11.

Section

Section seven of the Vagrancy (Amendment) Act, 1905, as amended by Bill.

Unlawful games.

2. The games called respectively fan-tan and pak-a-pu and two-up or any similar game of chance, or the disposal of money by lottery or chance, are declared to be unlawful games.

Person selling ticket or chance deemed rogue and vagabond.

3. Any person who gives or sells any ticket or chance, or share in any ticket or chance, in any such game, or in any such disposal of money by lottery or chance, shall be guilty of an offence under subsection two of section four of the Vagrancy Act, 1902, and shall be deemed a rogue and vagabond within the meaning of the said Act.

Sections of Police Offences Act, 1901, as amended by Bill.

Certain offences in public places to annoyance, &c., of residents, &c.

8. Whosoever in any street or public place to the obstruction, annoyance, or danger of the residents or passengers—

Selling gunpowder, &c., by artificial light. 19 Vic. No. 24, s. 21.

~~sells gunpowder, squibs, rockets, or other combustible matter by gas, candle, or other artificial light; or,~~

* * * * *

Selling gunpowder, &c., by artificial light.

8A. Whosoever—

(a) sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or

Selling detonators.

(b) carries in any street or public place, or sells any detonator stick, explosive stick, or metal contrivance, whereby detonators or explosive matter of any description may be exploded,

shall be liable to a penalty not exceeding two pounds.

9. Whosoever in any street or public place—

* * * * *

makes or assists in making any bonfire, or lets off any firework; or,

* * * * *

Replaced by new section 27 as set out in cl. 11 of Bill.

27. Whosoever being charged before a Justice with having in his possession or conveying in any manner anything which may be reasonably suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of such Justice how he came by the same, shall be liable to a penalty not exceeding ten pounds or to imprisonment for a term not exceeding three months.

Persons unlawfully in possession of property. cf. Police Offences, Act, 1901, s. 27.

27. Whosoever being charged before a justice with—

(a) having anything in his custody; or
(b) knowingly having anything in the custody of another person;
or

(c) knowingly having anything in a house, building, lodging, apartment, field, or other place, whether belonging to or occupied by himself or not, or whether such thing is there had or placed for his own use or the use of another,

which thing may be reasonably suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of such justice how he came by the same, shall be liable to a penalty not exceeding ten pounds or to imprisonment for a term not exceeding three months.

28. If information is given on oath to a Justice that there is Search warrant.
 reasonable cause for suspecting that anything stolen or unlawfully Ibid. s. 2.
 obtained is concealed or lodged in any ~~dwelling-house~~, **building, lodging,**
apartment, field, or any other place, such Justice may, by special
 warrant under his hand directed to ~~any chief constable or inspector of~~
~~police~~, **any constable**, cause every such ~~dwelling-house~~, **building,**
lodging, apartment, field, or other place to be entered and searched at
 any time of the day or by night if power for that purpose is given by
 such warrant.

The said Justice, if it appears to him necessary, may empower
 such ~~chief constable or inspector~~ **constable**, with such assistance as may
 be found necessary (such ~~chief constable or inspector~~ **constable** having
 previously made known such his authority),

- (1) To use force for the effecting of such entry, whether by
 breaking open doors or otherwise; and,
- (2) to convey any such thing found upon such search before a
 Justice, or to guard the same on the spot until the offenders
 are taken before a Justice, or otherwise to dispose thereof in
 some place of safety; and,
- (3) to take into custody and carry before the said Justice every
 person found in such house or place who appears to have
 been privy to the deposit of any such thing, knowing or
 having reasonable cause to suspect the same to have been
 stolen or otherwise unlawfully obtained.

29. (1) When any person who has been brought before a Person from whom
 Justice charged with ~~having or conveying anything stolen or unlawfully~~ stolen goods are said
 obtained, **an offence under section twenty-seven**, declares that he to have been received
 received ~~the same~~ **anything the subject of such charge** from some to be examined by
 other person, or that he was employed as a carrier, agent, or servant the Justice.
 to convey the same for some other person, such Justice shall cause Ibid. s. 3.
 every such person, and also if necessary every former or pretended
 purchaser or other person through whose possession such thing has
 passed, to be brought before him and examined, and shall examine
 witnesses upon oath touching the same.

32. (1) Upon complaint made to a Justice by any person Order for the
 claiming to be entitled to the property or possession of any goods which delivery to the
 are detained by any other person, the value of which is not greater than owner of goods
 twenty pounds, and not being deeds, muniments, or papers relating to unlawfully detained.
 any property of greater value than fifty pounds, any Justice may Ibid. s. 10.
 summon the person complained of and inquire into the title thereto or
 to the possession thereof.

(2) If it appears to the Justice hearing the case that such
 goods have been detained without just cause, after due notice of the
 claim made by the person complaining, or that the person detaining
 such goods has a lien or right to detain the same by way of security
 for the payment of money or the performance of any act by the owner
 thereof

thereof, such Justice may order the goods to be delivered up to the owner thereof either absolutely or upon tender of the amount appearing to be due by such owner (which amount such Justice shall determine), or upon performance, or upon tender and refusal of the performance of the act for the performance whereof such goods are detained as security, or if such act cannot be performed then upon tender of amends for non-performance thereof (the nature or amount of which amends such Justice shall determine).

Order for payment of value if goods not delivered up may be included in such order
No. 71, 1900, s. 8 (1).

(3) Such Justice may in and by the said order further order and direct that, in the event of neglect or refusal to deliver up the goods according to such order, the person against whom such order is made shall forfeit to the party aggrieved the full value of such goods not being greater than twenty pounds, which value the Justice shall determine.

New subsection.

(3a) In such further order the Justice may, in his discretion, order that if the person against whom such order is made does not forfeit or pay to the party aggrieved the amount of the value so determined, he shall be imprisoned in accordance with the provisions of section eighty-two of the Justices Act, 1902; but if the Justice does not so order, then the aforesaid further order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said last-mentioned Acts. Such order for such purpose may be entered in the records of the Small Debts Court exercising jurisdiction at the Petty Sessions where such order was made in such manner as may be prescribed by rules made under the last-mentioned Acts.

or may be made subsequently by any Justice.

Ibid., subs. (2).

Such order no bar to right to sue.

19 Vic. No. 24, s. 10.

(4) In any case where no such further order and direction is made by the adjudicating Justice such further order and direction may be subsequently made by any Justice.

(5) No such order shall be any bar to the right of any person to sue the person to whose possession such goods or money came by virtue of such order, and to recover from him the goods or money so delivered or forfeited by an action commenced within six months next after the making of such order.

Constables attending at the watch-house may take bail by recognizance from persons brought before them for petty misdemeanour, such recognizance to be conditioned for the appearance of the parties before a Justice.

4 Wm. IV No. 7, s. 7.

2 Vic. No. 2, s. 7.

17 Vic. No. 25, s. 3.

5 Vic. No. 5, s. 23.

58. (1) Where any person found lying or loitering about as aforesaid, or charged with any petty misdemeanour, offence punishable on summary conviction by a fine or penalty not exceeding ten pounds, is brought without the warrant of a Justice into the custody of any constable during his attendance at any watch-house within the said city or towns, State, in the night-time or in the day-time, if such person cannot be immediately brought before a Justice such constable may, if he shall deem it prudent, take bail by recognizance with or without sureties, without any fee or reward, from such person, conditioned that such person shall appear for examination before a Justice or at the next ensuing sitting of the Court of Petty Sessions for the district in which he has been apprehended, at a time and place to be mentioned in such recognizance :

Provided

Provided that such recognizance shall be good and have effect according to the terms thereof, notwithstanding the fact that, on subsequent investigation, it appears that the said person would, under the said charge, be liable to a penalty exceeding ten pounds.

* * * * *

(4) If the party does not appear at the time and place required, ~~or within one hour thereafter,~~ the Justice shall cause a record of such recognizance to be drawn up and signed by the constable, and shall return the same to the next Court of Quarter Sessions, with a certificate at the back thereof, signed by such Justice, that the party has not complied with the obligation therein contained; and the Clerk of the Peace shall make the like estreats and schedules of every such recognizance as of recognizances forfeited in Quarter Sessions.

In default of appearance recognizance to be forfeited.

PART IV.

Special constables.

101. (1) In all cases where it appears to a Police Magistrate, or any two Justices, that any tumult, riot, or felony has taken place, or may be reasonably apprehended in any city, town, or place, and he or they are of opinion that the ordinary constables or officers appointed for preserving the peace are not sufficient for the preservation of the peace, and for the protection of the inhabitants and the security of their property, or for the apprehension of offenders, any Police Magistrate, or any two Justices, may nominate and appoint by precept in writing under his or their hands, so many as he or they think fit of the householders, or other persons (not legally exempt from serving the office of constable) residing in or near to such city, town, or place, to act as special constables for such time and in such manner as to the said Police Magistrate or Justices seems fit and necessary for the public peace, and for the protection of the inhabitants and the security of the property in or near such city, town, or place.

Police Magistrate and Justices may appoint special constables.
19 Vic. No. 24, s. 12.

(1a) A police magistrate or any two justices may, at the request of his employer, or of the council of a municipality or shire, and subject to the approval of the Inspector-General of Police, in like manner nominate and appoint any person employed as a caretaker, night watchman, or in any similar capacity, as a special constable for such time as such magistrate or justices may think fit.

Special constables.

The provisions of this Part relating to special constables who have been called out shall apply to all special constables appointed under this subsection from the time when such constables have taken the oath as in the next subsection provided.

The Inspector-General of Police may, whenever he thinks fit, suspend or determine the services of any such special constable. Notice of such suspension or determination of service shall be forthwith sent by the Inspector-General of Police to the Colonial Secretary.

(2)

(2) The Police Magistrate or Justices who appoint any special constables by virtue of this Act are hereby authorised to administer to every person so appointed the following oath, that is to say:—

Form of oath to be taken by special constables.

I, A.B., do swear that I will well and truly serve our Sovereign Lord the King in the office of special constable for the [city, town, or place, as the case may be] without favour or affection, malice, or ill-will, and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects, and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law—
So help me God.

(3) Whenever it is deemed necessary to nominate and appoint such special constables as aforesaid, notice thereof shall be forthwith transmitted by the said Police Magistrate or Justices to the Colonial Secretary.

Section 37 of Prisons Act, 1899, as amended by Bill.

Justices may direct labour to be performed outside watch-house or lock-up.
Ibid., s. 2.

37. (1) Whenever a Justice orders or directs an offender to be imprisoned with hard or light labour for a period not exceeding fourteen days within any watch-house or lock-up he or any other Justice may by warrant under his hand direct such labour to be performed outside such watch-house or lock-up.

New subsection.

(2) Any offender who refuses to obey an order given by any officer of the police force, attached to such watch-house or lock-up, in pursuance of such direction, or who is guilty of idleness or negligence in obeying such order, or in his work, may be brought before any Justice at such watch-house or lock-up, and, on conviction of such refusal, idleness, or negligence, be liable to the punishment mentioned in subsection two of section fourteen.

Punishment for escape.
Ibid., s. 3.

(2 3) Every offender employed outside a watch-house or lock-up pursuant to the provisions of this section who escapes or attempts to escape from custody shall be guilty of a misdemeanour and may be sentenced to imprisonment with or without hard labour for any term not exceeding six months.

Section 16 of the Obscene and Indecent Publications Act, 1901, as amended by Bill.

Printing or publishing obscene publications.

Ibid.

No. 2, 1900, s. 1.

16. Whosoever—

(a) prints photographs lithographs draws makes sells or has in his possession apparently for the purpose of sale publishes distributes or exhibits any obscene publication or assists in so doing or

* * * * *

shall be liable to a penalty not exceeding twenty pounds or in the discretion of the Court to imprisonment for a term not exceeding six months with or without hard labour.

Section

Section 3 of the Gaming and Betting Act, 1906, as amended by Bill.

3. In this Act a house, office, room, or other place is used in contravention of this Act if it or any part of it is used—

- (a) as a common gaming-house, or for playing or taking part in any unlawful game therein, or for giving or selling any ticket or chance, or share in a ticket or chance, for the disposal of money by lottery or chance, or for aiding or taking part in the disposal of money by lottery or chance; or
- (b) in any manner prohibited by section seventeen of the Principal Act as amended by this Act.

Definition of house, &c., used in contravention of Act.

Section 82 of the Justices Act, 1902, as amended by Bill.

82. (1) In no case except where the conviction or order is made against a corporate body shall any fine; or penalty, or any sum of money, or costs, adjudged to be paid by any conviction or order made by any Justice or Justices founded on this or any other Act past or future, be or be adjudged to be levied by distress.

Abolition in all cases of recovery of fine, &c., by levy and distress. No. 71, 1900, s. 7 (1).

(2) Whenever by any conviction or order it is adjudged that any fine, or penalty, or any sum of money, or costs, shall be paid, the Justice or Justices making the conviction or order shall **except where the conviction or order is made against a corporate body** therein and thereby adjudge that, in default of payment, in accordance with the terms of the conviction or order, of the amount thereby adjudged to be paid as ascertained thereby, the person against whom the conviction or order is made shall be imprisoned and so kept for such period, within the limits hereinafter prescribed, as to such Justice or Justices seems fit, unless the said amount and, if to such Justice or Justices it seems fit, the costs and charges of conveying him to prison be sooner paid:

Imprisonment to be alternative of non-payment, &c., and to be adjudged in all cases in the same conviction or order. *Ibid.*, subs. (2).

Provided that this subsection shall not affect the provisions relating to periodical payments contained in the Deserted Wives and Children's Act, 1901, and in the Lunacy Act of 1898.

cf. 11 and 12 Vic., c. 43, s. 17 and Sch.

Where the said amount—	Such period shall not exceed—
Does not exceed ten shillings	Seven days.
Exceeds ten shillings, but does not exceed one pound	Fourteen days.
Exceeds one pound, but does not exceed two pounds	One month.
Exceeds two pounds, but does not exceed five pounds	Two months.
Exceeds five pounds, but does not exceed twenty pounds	Four months.
Exceeds twenty pounds, but does not exceed fifty pounds	Six months.
Exceeds fifty pounds, but does not exceed one hundred pounds	Nine months.
Exceeds one hundred pounds	Twelve months.
	Such

Such imprisonment shall be with either hard labour or light labour, as the Justice or Justices in and by the conviction or order adjudge.

New subsection.

(2a) Whenever any corporate body is, by any conviction or order, adjudged to pay any fine, penalty, sum of money, or costs, such conviction or order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said Acts. For such purpose such conviction or order may be entered in the records of the Small Debts Court exercising jurisdiction at the petty sessions where such order or conviction was made in such manner as may be prescribed by rules made under the said Acts.

Repeal of all enactments inconsistent with this section.

No. 71, 1900, ss. 2, 7.

Limitation of powers of other justices within areas to which stipendiary magistrates appointed.

45 Vic. No. 17, s. 6.

60 Vic. No. 18, s. 5.

(3) Every enactment inconsistent with the provisions of this section is hereby repealed.

13. No justice other than a stipendiary magistrate or, within the metropolitan police district, the Mayor of Sydney, shall—

(a) within the metropolitan police district or the police district of Newcastle; or

(b) within any police district to which this Act is extended from and after the expiration of thirty days from the day on which such extension takes effect and until such extension is revoked, sit either alone or with other justices at any petty or other sessions of peace for the purpose of adjudicating in a summary way, in respect of any information, complaint, or matter, or of making any order or of deciding any matter on appeal which by law justices are now empowered to hear and determine, deal with, or decide :

Provided that nothing in this Part of this Act shall abridge or prejudice the ministerial powers of justices in committal cases, or the powers of justices to take any information or issue any summons or grant, issue, or endorse any warrant or admit to bail in any case in which justices might by law have exercised any such power if this section had not been enacted :

Provided further, that nothing in this Part of this Act shall abridge or prejudice the powers of any justice, authorised by the Governor for that purpose in the Government Gazette, to hear and determine offences under sections six and seven of the Police Offences Act, 1901.

No. , 1908.

A BILL

To prevent soliciting for the purpose of prostitution; to regulate the keeping of opium; to amend the Prisons Act, 1899, the Police Offences Act, 1901, the Obscene and Indecent Publications Act, 1901, the Poisons Act, 1902, the Vagrancy Act, 1902, the Vagrancy (Amendment) Act, 1905, the Justices Act, 1902, and the Gaming and Betting Act, 1906; and for other purposes incidental thereto.

[MR. WADE;—6 August, 1908.]

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

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Police Offences (Amendment) Act, 1908," and is divided into Parts, as follows:—

PART I.—PRELIMINARY—*ss.* 1-2.

10 PART II.—VAGRANCY ACTS—*ss.* 3-7.

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PART III.—POLICE OFFENCES ACT, 1901—*ss.* 8–15.

PART IV.—PRISONS ACT, 1899—*s.* 16.

PART V.—OBSCENE AND INDECENT PUBLICATIONS ACT, 1901—*s.* 17.

PART VI.—OPIUM—*ss.* 18–20.

5

PART VII.—GAMING AND BETTING ACT, 1906—*s.* 21.

PART VIII.—JUSTICES ACT, 1902—*s.* 22.

Repeal.

2. The Acts mentioned in the Schedule are, to the extent therein expressed, hereby repealed.

PART II.

10

VAGRANCY ACTS, 1902, AND 1905.

Extension of the meaning of "aboriginal."

3. Section three of the Vagrancy Act, 1902, is amended by the addition to the definition of "aboriginal" in that section of the words "or of any other State of the Commonwealth of Australia."

Amendment of *s.* 4, subs. 2, of the Vagrancy Act, 1902. Certain persons to be deemed rogues and vagabonds.

cf. South Aust. Act, 1899, No. 715, *s.* 4, and Vict. Act, No. 1241, *s.* 13.

4. Section four, subsection two, of the same Act, is hereby 15 amended by the addition of the following paragraphs—

- (l) in or near any public place or place of public resort, or in or near any house or premises licensed under the Liquor Act, 1898, or the Billiards and Bagatelle Act, 1902, or any Acts amending the same, engages in playing or betting, or solicits 20 or encourages any other person to play or bet—
- (i) at or with any table or instrument of gaming at any game or pretended game of chance; or
- (ii) at or on any game or trick of sleight of hand; or
- (iii) at or on any game or trick played with any instrument which 25 in the opinion of the adjudicating justice is constructed or used as a means of cheating;
- (m) being a known or reputed cheat, loiters in or near any public place or place of public resort, or in or near any premises licensed under the Liquor Act, 1898, or the Billiards and 30 Bagatelle Act, 1902, or any Acts amending the same, and has in his possession any instrument of gaming, or any instrument which in the opinion of the adjudicating justice, is constructed or used as a means of cheating, unless such person accounts for his having such instrument in his 35 possession, to the satisfaction of the adjudicating justice;
- (n) pretends or professes to tell fortunes, or uses any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose on any person; (o)

Fortune telling.
5 Geo. IV, c. 83, *s.* 4.

(o) being a male person—

(i) knowingly lives wholly or in part on the earnings of prostitution; or

(ii) in any public place solicits or importunes for immoral purposes.

Persons trading upon prostitution. South Australian Act of 1899, No. 715, s. 10.

5

For the purpose of paragraph (o), where a male person is proved to live with or to be habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he satisfies the adjudicating justice to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Proof. South Australian Act of 1899, No. 715, s. 12.

5. The same section is further amended,—

(1) by the addition of the words “or by common prostitutes” at the end of paragraph (e) of subsection one; and

(2) by the addition of the following paragraph after paragraph (h) of subsection one.

15

(i) Being a common prostitute, solicits or importunes for immoral purposes, any person who is in any public street, thoroughfare, or place.

(3) by the omission of the word “frequents” and the substitution therefor of the words “is found in or on” in paragraph (j) of subsection two.

20

6. The following sections are inserted next after section eight:—

Further amendment of s. 4, of the Vagrancy Act, 1902.

8A. Every person who, in or near any public street, thoroughfare, or place, or within the view or hearing of any person passing therein—

Insulting behaviour, &c. Vict. Act, 1891, No. 1241, s. 7.

(a) behaves in a riotous, indecent, offensive, threatening, or insulting manner; or

(b) uses any threatening, abusive, or insulting words,

shall be liable on conviction to a penalty not exceeding *five* pounds, and may, in addition thereto or in substitution therefor, be required by the adjudicating justice to enter into a recognizance, with or without sureties, to be of good behaviour for a term not exceeding *twelve* months, and, in default of its being entered into forthwith, the defendant may be imprisoned for any period not exceeding *six* months, unless such recognizance is sooner entered into.

35

8B. If any person, being the owner or occupier of any house, room, or place, or being a manager or assistant in the management thereof, having reasonable cause to believe any female to be a common prostitute, or to be affected with a contagious disease, induces or suffers her to be in that house, room, or place for the purpose of prostitution, he shall be liable to a penalty not exceeding *twenty* pounds, or, in the discretion of the justices, to be imprisoned for any term not exceeding *six* months.

Penalty on owner or occupier of house for permitting prostitution therein. 29 Vic., c. 35, s. 36.

For the purposes of this section, “contagious disease” means

45 venereal disease, including gonorrhœa.

No

No conviction under this section shall exempt the offender from any penalty or other punishment to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

Persons charged with being idle and disorderly, having money in their possession.

South Aust. Act, 1899, No. 715, s. 3, and Vict. Act, No. 1241, of 1891, s. 11.

8c. Where any person is accused of being an idle or disorderly person on the ground that he has no visible lawful means of support, or that he has insufficient lawful means of support, proof that he possesses money or property shall not be a defence unless it is also proved by the defendant that such money or property was by him honestly and in a bona fide manner obtained. 5

Amendment of s. 2 of Vagrancy (Amendment) Act, 1905.

Unlawful games.

7. Section two of the Vagrancy (Amendment) Act, 1905, is amended by omitting the word "and" after the word "fan-tan" and inserting after the word "pak-a-pu" the words "and two-up," and by inserting after the word "chance" the words "or the disposal of money by lottery or chance." 10 15

PART III.

POLICE OFFENCES ACT, 1901.

Amendment of section 8.

8. Section eight is amended by the omission of the words, "sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or," 20

Selling gunpowder, &c., by artificial light.

9. The following section is inserted next after section eight:—

8A. Whosoever—

(a) sells gunpowder, squibs, rockets, or other combustible matter, by gas, candle, or other artificial light; or

Selling detonators.

(b) carries in any street or public place, or sells any detonator stick, explosive stick, or metal contrivance, whereby detonators or explosive matter of any description may be exploded, 25

shall be liable to a penalty not exceeding *two* pounds.

Amendment of section 9.

10. Section nine is amended by inserting after the word "makes" in the sentence "makes any bonfire" the words "or assists in making." 30

Persons unlawfully in possession of property. cf. Police Offences Act, 1901, s. 27.

11. The following section shall be read as and in place of section twenty seven:—

27. Whosoever being charged before a justice with—

(a) having anything in his custody; or 35

(b)

Police Offences (Amendment).

5

(b) knowingly having anything in the custody of another person;
or

5 (c) knowingly having anything in a house, building, lodging,
apartment, field, or other place, whether belonging to or
occupied by himself or not, or whether such thing is there
had, or placed for his own use or the use of another,

10 which thing may be reasonably suspected of being stolen or unlawfully
obtained, does not give an account to the satisfaction of such justice
how he came by the same, shall be liable to a penalty not exceeding
ten pounds or to imprisonment for a term not exceeding *three* months.

12. (1) Section twenty-eight is amended by omitting the word Amendment of
section 28 of the
Police Offences Act,
1901. "dwelling" where it occurs in that section, and inserting after the
word "house" each time it occurs the words "building, lodging,
apartment, field."

15 (2) The same section is amended by omitting the words
"any chief constable or inspector of police" where they occur in the
section, and inserting in lieu thereof the words "any constable."

20 (3) Section twenty-nine is amended by omitting the words Amendment of
section 29 of the
same Act. "having or conveying anything stolen or unlawfully obtained," and
inserting in lieu thereof the words "an offence under section twenty-
seven"; and by omitting the words "the same" where first occurring,
and inserting "anything the subject of such charge."

13. Section thirty-two is amended by the addition of the Amendment of
section 32. following subsection next after subsection three:—

25 (3A) In such further order the justice may, in his discretion,
order that if the person against whom such order is made does not
forfeit or pay to the party aggrieved the amount of the value so
determined, he shall be imprisoned in accordance with the provisions
of section eighty-two of the Justices Act, 1902; but if the justice
30 does not so order, then the aforesaid further order shall operate as an
order for the payment of money under the Small Debts Recovery Act,
1899, and any Act amending the same, and be enforceable as such
order under the provisions of the said lastmentioned Acts. Such
order for such purpose may be entered in the records of the Small
35 Debts Court exercising jurisdiction at the Petty Sessions where such
order was made in such manner as may be prescribed by rules made
under the last mentioned Acts.

14. (1) Section fifty-eight subsection one is amended by— Amendment of
section 58.

40 (a) omitting the words "petty misdemeanour" and substituting
therefor the words "offence punishable on summary conviction
by a fine or penalty not exceeding *ten* pounds"; and

(b) omitting the words "said city or towns" and inserting in lieu
thereof the word "state"; and

(c)

(c) inserting at the end of the subsection the following proviso :

Provided that such recognizance shall be good and have effect according to the terms thereof, notwithstanding the fact that, on subsequent investigation, it appears that the said person would, under the said charge, be liable to a penalty exceeding *ten* pounds. 5

(2) Subsection four of the same section is amended by omitting the words "or within one hour thereafter" 10

Amendment of
section 101.

15. Section one hundred and one is amended by inserting next after subsection one the following subsection :— 15

Special constables.

(1A) A police magistrate or any two justices may, at the request of his employer, or of the council of a municipality or shire, and subject to the approval of the Inspector-General of Police, in like manner nominate and appoint any person employed as a caretaker, night watchman, or in any similar capacity, as a special constable for such time as such magistrate or justices may think fit. 15

The provisions of this Part relating to special constables who have been called out shall apply to all special constables appointed under this subsection from the time when such constables have taken the oath as in the next subsection provided. 20

The Inspector-General of Police may, whenever he thinks fit, suspend or determine the services of any such special constable. Notice of such suspension or determination of service shall be forthwith sent by the Inspector-General of Police to the Colonial Secretary. 25

PART IV.

PRISONS ACT, 1899.

Amendment of
section 37.

16. Section thirty-seven of the Prisons Act, 1899, is amended—

(a) by the insertion after the word "hard" in subsection one of the words "or light" and after the word "he" of the words "or any other justice"; and 30

(b) by the addition of the following subsection to be read after subsection one :—

(2) Any offender who refuses to obey an order given by any officer of the police force, attached to such watch-house or lock-up, in pursuance of such direction, or who is guilty of idleness or negligence in obeying such order, or in his work, may be brought before any justice at such watch-house or lock-up, and, on conviction of such refusal, idleness, or negligence, be liable to the punishment mentioned in subsection two of section fourteen. 40

PART

PART V.

OBSCENE AND INDECENT PUBLICATIONS ACT, 1901.

17. Section sixteen of the Obscene and Indecent Publications Act, 1901, is amended by the insertion after the word "sells" in paragraph (a) of the words "or has in his possession apparently for the purpose of sale."

Amendment of section 16.

PART VI.

OPIUM.

18. For the purposes of this Part, "opium" includes any preparation thereof in a form capable of being used for the purposes of smoking.

Definition.

19. (1) No person shall—

(a) unless the holder of a certificate to deal in poisons, issued under the provisions of the Poisons Act, 1902, or any Act amending the same, sell, or have in his possession, opium ;

Prohibition of possession of opium.

(b) smoke opium ;

Opium smoking.

(c) keep open, manage, or assist in keeping open or managing any house, room, or place used for the purpose of opium smoking ;

Keeping place for opium smoking.

(d) being the owner or lessee of any house, room, or place, knowingly permit such house, room, or place to be used for the purpose of opium smoking.

Any person contravening the provisions of this section shall be liable on conviction to a penalty not exceeding fifty pounds.

Penalty.

Such penalty may be recovered before a stipendiary or police magistrate or any two justices of the Peace.

(2) Nothing in this section shall apply to the possession or sale of—

Exemptions.

(a) opium when made up or compounded as a medicine according to the prescription of a medical practitioner ;

(b) opium in the form of homœopathic medicine, unless in the crude state, mother tincture, or of a greater strength than the third potency ;

(c) patent medicines ;

(d) medicines dispensed by veterinary surgeons for animals under their treatment ;

(e) fly poison papers and packets of poisonous mixtures for the destruction of vermin, when marked as such.

Constables may enter, search, and arrest.

20. (1) If any constable has reasonable cause to suspect that there is in any house or place opium, in contravention of this Act, or that opium is being smoked therein, he may enter such house or place and make search.

If opium is found in any such house or place, or in the possession of any person, the constable may demand the production of the said certificate from the owner or occupier of such house or place, or from the person in whose possession the opium is found, and if such certificate is not produced, may forthwith seize the opium, and arrest any person present who he has reasonable grounds to suspect is contravening the provisions of the last preceding section and take him before a stipendiary or police magistrate, or any two justices of the peace, and there charge him with such offence. 5 10

(2) The opium so seized shall be forfeited and disposed of as the adjudicating magistrate or justices may direct. 15

(3) Any person resisting or aiding or abetting in the resistance to any constable in the execution of his duty under this section shall be liable to a penalty not exceeding *fifty* pounds.

PART VII.

GAMING AND BETTING ACT, 1906. 20

Amendment of s. 3 of Gaming and Betting Act, 1906.

21. Subsection (a) of section three of the Gaming and Betting Act, 1906, is amended by inserting after the word "playing" the words "or taking part in."

PART VIII.

JUSTICES ACT, 1902. 25

Amendment of s. 82. Remedies against corporate bodies.

22. Section eighty-two is amended as follows:—

- (a) In subsection one, by the insertion after the words "In no case" of the words "except where the conviction or order is made against a corporate body."
- (b) In subsection two, by the insertion after the words "Justices making the conviction or order shall" of the words "except where the conviction or order is made against a corporate body."

(c)

(c) By the insertion of the following subsection after subsection two :—

Whenever any corporate body is, by any conviction or order, adjudged to pay any fine, penalty, sum of money, or costs, such conviction or order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1899, and any Act amending the same, and be enforceable as such order under the provisions of the said Acts. For such purpose such conviction or order may be entered in the records of the Small Debts Court exercising jurisdiction at the petty sessions where such order or conviction was made in such manner as may be prescribed by rules made under the said Acts.

SCHEDULE.

Reference to Act.	Short title.	Extent of repeal.
1 Edw. VII, No. 5...	Police Offences Act, 1901	Sections 27, 110, 111, and 112.
15 2 Edw. VII, No. 74...	Vagrancy Act, 1902... ..	Section 4, subs. 1 (c) and 2 (f); section 8.

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[9d.]

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