



Australian Capital Territory

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AUSTRALIAN CAPITAL TERRITORY

CRIMES ACT, 1900 (NEW SOUTH WALES)

As amended in its application to the Australian Capital
Territory by Ordinances of the Territory

Reprinted as at 18 November 1983

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Repeal of Acts

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THIRD SCHEDULE

Forms

FOURTH SCHEDULE

As to allegation of property

SIXTH SCHEDULE

Form of List of Other Offences Charged

AUSTRALIAN CAPITAL TERRITORY

CRIMES ACT, 1900 (NEW SOUTH WALES)

As amended in its application to the Australian Capital
Territory by Ordinances of the Territory

An Act to consolidate the Statutes relating to Criminal Law

PART I

PRELIMINARY AND INTERPRETATION

Short title

1. This Act may be cited as the Crimes Act, 1900.¹

Repeals and savings

2. (1) The Acts mentioned in the First Schedule hereto are, to the extent therein expressed, hereby repealed, except as to offences committed and things done or commenced before the passing of this Act, which shall be dealt with and continued, and in respect of which every right and liability shall remain as if this Act had not been passed.

(2) All persons appointed under any Act, or section of an Act, hereby repealed, and holding office at the time of the passing of this Act, shall be deemed to have been appointed hereunder.

Application of certain Parts of Act

3. The sections mentioned in the Second Schedule hereto, so far as their provisions can be applied, shall be in force with respect to all offences, whether at Common Law or by Statute, whensoever committed and in whatsoever Court tried.

Interpretation

4. (1) In this Act, unless the context or subject-matter otherwise indicates or requires—

“Banker” includes every director or manager of any banking company, whether incorporated or not, or of any branch thereof, and every person carrying on the business of a banker.

“Burglary” means the breaking and entering by a person of the dwelling-house of another person, between the hours of 9 o’clock in the evening and 6 o’clock in the morning, with intent to commit an offence therein.

“Cattle” includes poultry and domestic pets and any horse, mare, gelding, colt, foal, filly, ass, mule, bull, cow, ox, steer, heifer, calf, ram, ewe, sheep, lamb, pig, goat, deer, alpaca, llama, vicuna, camel, or dromedary, and every hybrid or cross thereof.

“Counsel” includes attorneys.

“Court” and “Judge” respectively shall be equally taken to mean the Court in which or the Judge before whom the trial or proceeding is had in respect of which either word is used.

“Document of title to goods” includes every bill of lading, India warrant, dock warrant, warehouse-keeper’s certificate, warrant, or order for the delivery or transfer of any goods or valuable thing, and every bought and sold note or document used in the ordinary course of business as proof of the possession or control of goods, or purporting to authorise by indorsement or delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to.

“Document of title to land” includes every deed, certificate of title, map, paper, or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or part of the title, to any real estate or to any interest in or out of real estate.

“Dwelling-house” includes—

- (a) any building or other structure intended for occupation as a dwelling and capable of being so occupied, whether or not it is or has ever been so occupied;
- (b) any building or other structure containing separate flats or units that are intended for occupation as dwellings and capable of being so occupied, whether or not the flats or units are or have ever been so occupied;
- (c) a boat or vehicle in or on which any person resides; and
- (d) any building or structure within the same curtilage as a dwelling-house, and occupied therewith, or whose use is ancillary to the occupation of the dwelling-house.

“Grievous bodily harm” includes any permanent or serious disfiguring of the person.

“Indictment” includes any information presented or filed as provided by law for the prosecution of offences.

“Judge”—see “Court”.

“law of the Territory” includes a continued State law but does not include an Act of the Parliament of the Commonwealth or Regulations under such an Act.

- "Loaded arms" means any firearm, air-gun or air-pistol that is loaded with any projectile or missile, whether or not the firearm, air-gun or air-pistol is capable of being discharged.
- "Money" includes all coined money, whether current within New South Wales or not, and all bank notes or instruments ordinarily so called, if current as such, and payable to the bearer.
- "Night" means the period of time commencing at nine of the clock in the evening of each day and concluding at six of the clock in the morning of the next succeeding day.
- "Offensive weapon" and "offensive weapon or instrument" includes an imitation or replica of an offensive weapon, or of an offensive weapon or an instrument, as the case may be.
- "Person, Master, and Employer" severally include, any society, company, or corporation.
- "Place of Divine worship" includes any building or structure ordinarily used for Divine worship.
- "Property" includes every description of real and personal property; money, valuable securities, debts, and legacies; and all deeds and instruments relating to, or evidencing the title or right to any property, or giving a right to recover or receive any money or goods; and includes not only property originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and everything acquired by such conversion or exchange, whether immediately or otherwise.
- "Property belonging to a vessel" includes every portion of its cargo, and property belonging to any of the officers, crew, or passengers thereof.
- "Telegraph" includes telephones.
- "the Crimes Act" means the Crimes Act, 1900, of the State of New South Wales in its application to the Australian Capital Territory;
- "Trustee" means a trustee on some express trust howsoever created, and includes the heir or personal representative of such trustee, and every other person upon whom the duty of such trust shall have devolved, and also any official manager, assignee, liquidator, or other like officer, acting under any Act relating to joint stock companies or to bankruptcy or insolvency.
- "Valuable security" includes every order or other security whatsoever entitling or evidencing the title of any person to any share or interest in any public stock or fund, whether of any part of the British dominions or of any Foreign State, or in any fund of any body corporate, company, or society, whether within or without the British dominions, or to any deposit in any bank; and every debenture, deed, bond, bill, note, cheque, warrant, order, or security whatsoever for money, or for payment of money, whether current in any part of the British dominions or in any Foreign State, and every document of title to land or goods, as herein defined.

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"Vessel" means any ship or vessel used in or intended for navigation, not being an undecked boat.

"Weapon" and "weapon or instrument" includes an imitation or replica of a weapon, or of a weapon or an instrument, as the case may be.

(2) For the purposes of this Act, a firearm, air-gun or air-pistol that is unlawfully presented at a person shall, unless the contrary is proved, be deemed to be loaded arms.

Maliciously

5. "Maliciously": Every act done of malice, whether against an individual or any corporate body or number of individuals, or done without malice but with indifference to human life or suffering, or with intent to injure some person or persons, or corporate body, in property or otherwise, and in any such case without lawful cause or excuse, or done recklessly or wantonly, shall be taken to have been done maliciously, within the meaning of this Act, and of every indictment and charge where malice is by law an ingredient in the crime.

Month

6. In this Act, and in every sentence passed by any Court or Judge or Justice under this or any other Act or at Common Law, unless the contrary is expressed—

"Month" means a calendar month.

"Possession" when criminal

7. Where by this Act or any other law in force in the Territory the receiving of any property, or its possession without lawful cause or excuse, is expressed to be an offence, every person shall be deemed to have such property in his possession within the meaning of such Act who—

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

"Public place", &c.

8. Where, by this or any other Act, any offence, conduct, or language, in a public place, or open and public place, or place of public resort, is made punishable, or a person guilty thereof is made liable by apprehension, the place shall be deemed public for the purposes of the enactment or taken to be otherwise within its meaning if the same, although a vessel or vehicle only, or a room, or field, or place, ordinarily private, was at the time used for a public purpose, or as a place of common resort, or was open to the public on the payment of money or otherwise.

Abolition of distinctions between felony and misdemeanour

9. All distinctions between felony and misdemeanour are hereby abolished.

PART III

OFFENCES AGAINST THE PERSON

Murder and manslaughter defined

18. (1) (a) Murder shall be taken to have been committed where the act of the accused, or thing by him omitted to be done, causing the death charged, was done or omitted with reckless indifference to human life, or with intent to kill or inflict grievous bodily harm upon some person, or done in an attempt to commit, or during or immediately after the commission, by the accused, or some accomplice with him, of an act obviously dangerous to life, or of a crime punishable by imprisonment for life.

(b) Every other punishable homicide shall be taken to be manslaughter.

(2) (a) No act or omission which was not malicious, or for which the accused had lawful cause or excuse, shall be within this section.

(b) No punishment or forfeiture shall be incurred by any person who kills another by misfortune only, or in his own defence.

Murder—punishment

19. Whosoever commits the crime of murder shall be liable to imprisonment for life.

Child murder—when child deemed born alive

20. On the trial of a person for the murder of a child, such child shall be held to have been born alive if it has breathed, and has been wholly born into the world, whether it has had an independent circulation or not.

Child murder by mother. Verdict of contributing to death, &c.

21. Whosoever, being a woman delivered of a child is indicted for its murder, shall, if the jury acquit her of the murder, and specially find that she has in any manner wilfully contributed to the death of such child, whether during delivery, or at or after its birth, or has wilfully caused any violence, the mark of which has been found on its body, be liable to imprisonment for ten years.

Trial for child murder—verdict of concealment of birth

22. Where, on the trial of a person for the murder of a child, the jury are not satisfied that he is guilty thereof, but are satisfied that he is guilty of an offence within section eighty-five of this Act, they may acquit him of the offence charged and find him guilty of an offence under the said section, and he shall be liable to punishment accordingly.

On trials for murder as to provocation

23. (1) Where, on the trial of a person for murder, it appears that the act causing death was induced by the use of grossly insulting language, or gestures, on the part of the deceased, the jury may consider the provocation offered, as in the case of provocation by a blow.

Trial for murder—verdict of manslaughter

(2) Where, on any such trial, it appears that the act or omission causing death does not amount to murder, but does amount to manslaughter, the jury may acquit the accused of murder, and find him guilty of manslaughter, and he shall be liable to punishment accordingly:

Provided always that in no case shall the crime be reduced from murder to manslaughter, by reason of provocation, unless the jury find—

- (a)** That such provocation was not intentionally caused by any word or act on the part of the accused;
- (b)** That it was reasonably calculated to deprive an ordinary person of the power of self-control, and did in fact deprive the accused of such power, and,
- (c)** That the act causing death was done suddenly, in the heat of passion caused by such provocation, without intent to take life.

Manslaughter—punishment

24. Whosoever commits the crime of manslaughter shall be liable to imprisonment for life.

Provided that, in any case, if the Judge is of opinion that, having regard to all the circumstances, a nominal punishment would be sufficient, he may discharge the jury from giving any verdict, and such discharge shall operate as an acquittal.

Trial where the death or cause of death occurs out of the Territory

25. Where, in any case of homicide, the cause of death happened on the sea, or elsewhere without the Territory, but the death was within the Territory, or the cause of death happened within the Territory, but the death was on the sea or elsewhere without the Territory, the offence may be dealt with, in all respects, as if the same had been wholly committed within the Territory.

Conspiring to commit murder

26. Whosoever—

conspires and agrees to murder any person, whether a subject of Her Majesty or not, and whether within the Queen's dominions or not, or solicits, encourages, persuades, or endeavours to persuade, or proposes to, any person to commit any such murder,

shall be liable to imprisonment for life.

Acts done to the person with intent to murder

27. Whosoever—

administers to, or causes to be taken by, any person any poison, or other destructive thing, or

by any means wounds, or causes grievous bodily harm to any person, with intent in any such case to commit murder,

shall be liable to imprisonment for life.

Acts done to property with the like intent

28. Whosoever—

sets fire to any vessel, or any chattel therein, or any part of her tackle apparel or furniture, or

casts away or destroys any vessel, or

by the explosion of gunpowder, or other explosive substance, destroys, or damages any building, or

places, or throws, any matter or thing upon or across a railway, or removes, or displaces any sleeper, or other thing belonging to a railway,

with intent in any such case to commit murder,

shall be liable to imprisonment for life.

Certain other attempts to murder

29. Whosoever—

attempts to administer to, or cause to be taken by, any person any poison, or other destructive thing, or

shoots at, or in any manner attempts to discharge any kind of loaded arms at any person, or

attempts to drown, suffocate, or strangle any person,

with intent in any such case to commit murder,

shall, whether any bodily injury is effected or not, be liable to imprisonment for life.

Attempts to murder by other means

30. Whosoever, by any means other than those specified in the preceding sections, attempts to commit murder shall be liable to imprisonment for life.

Letters threatening murder

31. Whosoever maliciously sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill any person shall be liable to imprisonment for ten years.

Impeding endeavours to escape shipwreck**32. Whosoever—**

maliciously prevents or impedes any person on board of, or having quitted, any ship or vessel in distress, or wrecked, stranded, or cast on shore, in his endeavour to save his life, or

maliciously prevents or impedes any person in his endeavour to save the life of such first-mentioned person,

shall be liable to imprisonment for life.

Wounding, &c., with intent to do bodily harm or resist arrest**33. Whosoever—**

maliciously by any means wounds or inflicts grievous bodily harm upon any person, or

maliciously shoots at, or in any manner attempts to discharge any kind of loaded arms at any person,

with intent in any such case to do grievous bodily harm to any person, or with intent to resist, or prevent, the lawful apprehension or detainer either of himself or any other person,

shall be liable to imprisonment for life.

Discharging loaded arms with intent

33A. Any person who maliciously discharges, or in any manner attempts to discharge, any kind of loaded arms with intent to do grievous bodily harm to any person, or with intent to resist, or prevent, the lawful apprehension or detention of himself or any other person shall be liable to imprisonment for 14 years.

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

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

(b) threatens to injure any person or property,

with intent to prevent or hinder the lawful apprehension or detention of himself or any other person or to prevent or hinder a member of the police force from investigating any act or matter which reasonably calls for investigation by the member shall be liable to imprisonment for 10 years.

Wounding

34. Where, on the trial of a person for an offence under section 33, the jury are satisfied that the accused is guilty of the wounding, or inflicting grievous bodily harm, mentioned in the indictment, but are not satisfied that he is guilty of the intent charged therein, they may acquit him of such intent and find him guilty of an offence under section 35, and he shall be liable to punishment accordingly.

Maliciously wounding or inflicting grievous bodily harm

35. Whosoever maliciously by any means wounds or inflicts grievous bodily harm upon any person shall be liable to imprisonment for five years.

Attempts to choke, &c. (garotting)

37. Whosoever—

by any means attempts to choke suffocate or strangle any person, or

by any means calculated to choke suffocate or strangle, attempts to render any person insensible unconscious or incapable of resistance,

with intent in any such case to enable himself or another person to commit, or with intent in any such case to assist any person in committing, an indictable offence,

shall be liable to imprisonment for life.

Using chloroform, &c., to commit an offence

38. Whosoever unlawfully applies or administers to, or causes to be taken by, or attempts to apply or administer to, or cause to be taken by, any person, any chloroform laudanum or other stupefying or overpowering drug or thing, with intent in any such case to enable himself, or another person, to commit, or with intent to assist another person in committing, an indictable offence, shall be liable to imprisonment for life.

Using poison, &c., so as to endanger life

39. Whosoever maliciously administers to, or causes to be administered to, or taken by, any person, any poison or other destructive or noxious thing, so as to endanger the life of such person, or so as to inflict upon such person grievous bodily harm, shall be liable to imprisonment for ten years.

On trial for poisoning—verdict of minor offence

40. Where, on the trial of a person for an offence under the last preceding section, the jury are not satisfied that the accused is guilty thereof, but are satisfied that he is guilty of an offence within the next following section, they may acquit him of the offence charged, and find him guilty of an offence under the said last-mentioned section, and he shall be liable to punishment accordingly.

Administering poison, &c., with intent to injure or annoy

41. Whosoever maliciously administers to, or causes to be administered to, or taken by, any person, any poison or other destructive or noxious thing, with intent to injure aggrieve or annoy such person, shall be liable to imprisonment for five years.

Injuries to child at time of birth

42. Whosoever, during or after the delivery of a child, maliciously inflicts on such child, whether then wholly born or not, any grievous bodily harm, shall be liable to imprisonment for fourteen years.

Exposing or abandoning child under two

43. Whosoever unlawfully abandons or exposes any child under the age of two years, whereby the life of such child was or is endangered, or its health was or is likely to be seriously injured, shall be liable to imprisonment for five years.

Not providing wife, child, or servant with food, &c.

44. Whosoever—

being legally liable to provide any wife, child, ward, apprentice, or servant or any insane person with necessary food, clothing, or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, or

maliciously does, or causes to be done, any bodily harm to any wife, child, ward, apprentice or servant, or to any insane person

so that, in any such case, his or her life is endangered, or his or her health becomes or is or is likely to be seriously injured,

shall be liable to imprisonment for five years.

Wife or child desertion

45. Whosoever, being legally liable to maintain his wife or child, wilfully and without lawful excuse deserts such wife, or any such child, and remains absent from his home for the space of thirty days, leaving such wife or child without means of support shall be liable to imprisonment for three years.

Causing bodily injury by gunpowder, &c.

46. Whosoever maliciously by the explosion of gunpowder or other substance, or the use of any corrosive fluid, or destructive matter, burns maims disfigures disables, or does grievous bodily harm to, any person, shall be liable to imprisonment for life.

Using, &c., explosive substance or corrosive fluid, &c.

47. Whosoever—

maliciously causes any gunpowder or other explosive substance to explode, or

maliciously sends, or delivers to, or causes to be taken, or received by, any person, any explosive substance, or other dangerous or noxious thing, or

maliciously puts or lays at any place, or casts or throws at, or upon, or otherwise applies to, any person, any corrosive fluid or any destructive or explosive substance,

with intent in any such case to burn maim disfigure disable, or do grievous bodily harm to, any person,
shall, whether bodily injury is effected or not, be liable to imprisonment for life.

Placing gunpowder near a building, &c.

48. Whosoever maliciously places, or throws into, upon, against, or near, any building, ship, or vessel, any gunpowder, or other explosive substance, with intent to do some bodily injury to any person, shall, whether an explosion takes place or not, and whether bodily injury is effected or not, be liable to imprisonment for fourteen years.

Setting spring-guns, &c.

49. Whosoever—

places, or causes to be placed, any spring-gun man-trap, or other engine calculated to destroy human life, or inflict grievous bodily harm on any person, or

continues any such engine so placed, or

knowingly permits the same to continue so placed,

with intent in any such case to inflict grievous bodily harm, shall be liable to imprisonment for four years:

Provided that nothing in this section shall extend to any gin, or trap, placed with the intention of destroying vermin, or to any spring-gun, man-trap, or other engine, placed in a dwelling-house for the protection thereof.

Placing wood, &c., on a railway

50. Whosoever—

maliciously puts, or throws, upon, or across a railway any wood stone or other thing, or

maliciously takes up, removes, or displaces, any rail, sleeper, or other thing belonging to any railway, or

maliciously turns moves, or diverts, or neglects to turn move, or divert, any point, or other machinery belonging to any railway, or

maliciously makes shows hides, or removes, any signal or light, upon, or near to any railway, or

maliciously does, or causes to be done, or neglects to do, or cause to be done any other thing,

with intent in any such case to injure, or endanger the safety of any person travelling, or being on such railway, or in any railway carriage, engine, tender, or truck

shall be liable to imprisonment for life.

Casting stone, &c., on a railway carriage

51. Whosoever maliciously throws, or causes to fall, or strike at, against, into, or upon, any engine, tender, carriage, or truck, used upon a railway, any

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wood, stone, or other thing, with intent to injure, or endanger the safety of, any person in or upon such engine, tender, carriage, or truck, or in or upon any other engine, tender, carriage, or truck, of the same train, shall be liable to imprisonment for life.

Endangering passengers on railway

52. Whosoever, by any unlawful or negligent act or omission, endangers, or causes to be endangered, the safety of any person conveyed, or being in or upon a railway, shall be liable to imprisonment for three years.

Culpable driving

52A. (1) In this section, "drug" has the same meaning as in the *Motor Traffic Ordinance 1936*.

(2) A person who, by the culpable driving of a motor vehicle, causes the death of another person is guilty of an offence and punishable, on conviction, by imprisonment for a term not exceeding 5 years.

(3) A person who, by the culpable driving of a motor vehicle, causes grievous bodily harm to another person is guilty of an offence and punishable, on conviction, by imprisonment for a term not exceeding 3 years.

(4) For the purposes of sub-sections (2) and (3), a person drives a motor vehicle culpably if he drives the motor vehicle—

- (a) recklessly;
- (b) negligently;
- (c) while under the influence of alcohol to such an extent as to be incapable of having proper control of the motor vehicle; or
- (d) while under the influence of a drug to such an extent as to be incapable of having proper control of the motor vehicle.

(5) An information or indictment for an offence against sub-section (2) or (3) shall specify the nature of the culpability within the meaning of sub-section (4) that is alleged.

(6) For the purposes of this section, a person drives a motor vehicle recklessly if he consciously and unjustifiably disregards a substantial risk that the death of another person or the infliction of grievous bodily harm upon another person may result from his driving.

(7) For the purposes of this section, a person drives a motor vehicle negligently if he fails unjustifiably and to a gross degree to observe the standard of care which a reasonable man would have observed in all the circumstances of the case.

(8) Nothing in sub-section (5) renders inadmissible in proceedings for an offence against sub-section (2) or (3) evidence that, apart from that sub-section, would be admissible in the proceedings.

(9) Nothing in this section affects—

- (a) the liability of a person to be convicted of an offence of murder or manslaughter or any other offence; or
- (b) the punishment that may be imposed for such an offence.

(10) A person who has been convicted or acquitted of an offence against sub-section (2) or (3) is not liable to be convicted of any other offence against this Act on the same or substantially the same facts.

(11) A person who has been convicted or acquitted of an offence is not liable to be convicted of an offence against sub-section (2) or (3) on the same or substantially the same facts.

(12) Upon the trial of a person charged with an offence of murder or manslaughter or an offence against section 53 or 54 of this Act, being an offence arising out of the driving by that person of a motor vehicle, the jury may, if it is satisfied that the person is guilty of an offence against this section, find the person not guilty of the offence with which he is charged but guilty of an offence against sub-section (2) or (3), as the case may be, of this section.

Injuries by furious driving, &c.

53. Whosoever, being at the time on horseback, or in charge of any carriage or other vehicle, by wanton or furious riding, or driving, or racing, or other misconduct, or by wilful neglect, does or causes to be done to any person any bodily harm, shall be liable to imprisonment for two years.

Causing grievous bodily harm

54. Whosoever by any unlawful or negligent act, or omission, causes grievous bodily harm to any person, shall be liable to imprisonment for two years.

Possessing, &c., gunpowder, &c., with intent to injure the person

55. Whosoever knowingly has in his possession, or makes, or manufactures, any gunpowder, explosive substance, or dangerous or noxious thing, or any machine, engine, instrument, or thing,

- (a) with intent by means thereof to injure, or otherwise commit an offence against the person of any one, or
- (b) for the purpose of enabling another person to injure, or otherwise commit an offence against the person of any one,

shall be liable to imprisonment for five years.

Obstructing clergyman in discharge of his duties

56. Whosoever—

by threats or force prevents, or endeavours to prevent, any clergyman, or other person duly authorised in that behalf, from officiating in a place of divine worship, or from the performance of his duty in the lawful burial of the dead in a burial-place, or

strikes, or offers any violence to, any clergyman, or minister engaged in, or to the knowledge of the offender about to engage in, any of the duties aforesaid, or going to perform the same,

shall be liable to imprisonment for two years.

Assault on persons preserving wreck

57. Whosoever wounds, strikes, or assaults, any person while in the execution of his duty concerning the preservation of a vessel in distress, or any vessel or effects, stranded, or cast on shore, or lying under water, with intent to obstruct him, or thereby in fact obstructing him, in the execution of such duty, shall be liable to imprisonment for seven years.

Assault with intent to commit an offence on certain officers

58. Whosoever—

assaults any person with intent to commit an offence; or

assaults, resists, or wilfully obstructs any officer while in the execution of his duty, such officer being a justice, constable, or other peace officer, custom-house officer, sheriff's officer, or bailiff, or any person acting in aid of such officer; or

assaults any person, with intent to resist or prevent the lawful apprehension or detainer of any person for any offence,

shall be liable to imprisonment for two years.

Assault occasioning actual bodily harm

59. Whosoever assaults any person, and thereby occasions actual bodily harm, shall be liable to imprisonment for five years.

Common assault prosecuted by indictment

61. Whosoever assaults any person, although not occasioning actual bodily harm, shall be liable to imprisonment for two years.

Carnal knowledge— proof

62. "Carnal knowledge" shall, in every case under this Act, be deemed complete upon proof of penetration only.

Rape

63. Whosoever commits the crime of rape shall be liable to imprisonment for life.

The consent of the woman, if obtained by threats or terror, shall be no defence to a charge under this section.

Trial for rape—verdict of carnal knowledge

64. Where on the trial of a person for rape, the jury are satisfied that—

- (a) the female was a girl under the age of sixteen years, but above the age of ten years; and

(b) the accused had carnal knowledge of her, but with her consent, they may acquit him of the rape charged and find him guilty of an offence under section seventy-one of this Act.

Attempt, &c., to commit rape

65. Whosoever attempts to commit, or assaults any female with intent to commit, the crime of rape, shall be liable to imprisonment for fourteen years.

Procuring, &c., carnal knowledge by fraud

66. Whosoever—

by any false pretence, false representation, or other fraudulent means, or by the use of any intoxicating drug, induces or procures a woman to have illicit carnal connection with a man, or by any such means has such connection with a woman; or

having by his language or conduct induced any woman to believe that he is her husband, when in fact he is not, has carnal knowledge of such woman with her consent while she is under such belief;

shall be liable to imprisonment for fourteen years.

Carnally knowing girl under ten

67. Whosoever carnally knows any girl under the age of ten years shall be liable to imprisonment for life.

Attempting, or assaulting with intent to carnally know girl under ten

68. Whosoever attempts carnally to know any girl under the age of ten years, or assaults any such girl with intent carnally to know her, shall be liable to imprisonment for fourteen years.

Trial for carnal knowledge—girl in fact over ten

69. Where, on the trial of a person for carnally knowing a girl under the age of ten years, the jury are satisfied that—

(a) she was of or above that age, but under the age of sixteen years; and

(b) the accused had carnal knowledge of her,

they may acquit him of the offence charged and find him guilty of an offence under section seventy-one of this Act.

Trial for carnal knowledge—verdict of assault with intent

70. Where, on the trial of a person for carnally knowing a girl under the age of ten years, the jury are satisfied that—

(a) she was of or above the age of sixteen years; and

(b) the accused did not have carnal knowledge of her, but was guilty of an offence under section seventy-two of this Act,

they may acquit him of the offence charged and find him guilty of an offence under that section.

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Carnally knowing a girl between ten and sixteen

71. A person who unlawfully and carnally knows a girl of or above the age of ten years but under the age of sixteen years is liable to imprisonment for ten years.

Attempts

72. A person who attempts unlawfully and carnally to know, or assaults with intent unlawfully and carnally to know, a girl of or above the age of ten years and under the age of sixteen years is liable to imprisonment for five years.

Carnal knowledge of idiot or imbecile

72A. A person who, knowing a woman or girl to be an idiot or imbecile, has, or attempts to have, unlawful carnal knowledge of her is liable to imprisonment for five years.

Carnal knowledge by teacher, &c.

73. A teacher, father or step-father who unlawfully and carnally knows a girl of or above the age of ten years and under the age of seventeen years, being his pupil, daughter or step-daughter, is liable to imprisonment for fourteen years.

Attempts

74. A teacher, father or step-father who attempts unlawfully and carnally to know or assaults with intent unlawfully and carnally to know, a girl of or above the age of ten years and under the age of seventeen years, being his pupil, daughter, or step-daughter, is liable to imprisonment for seven years.

Alternative charge

75. Nothing in the last two preceding sections prevents a teacher, father or step-father from being prosecuted under section seventy-one or seventy-two of this Act.

Indecent assault

76. A person who assaults a female and at the time of, or immediately before or after, the assault commits an act of indecency upon or in the presence of that female is liable to imprisonment for three years, or, if the female is under the age of sixteen years, to imprisonment for five years.

Defences

77. It is a defence to a charge under section seventy-one or seventy-two of this Act, or, if the female is under the age of sixteen years, to a charge under section seventy-six of this Act, if it appears to the court or jury that, at the time of the alleged offence—

- (a) the female was over the age of fourteen years;
- (b) she consented to the commission of the offence; and

(c) either—

- (i) she was a common prostitute or an associate of common prostitutes; or
- (ii) the person charged had reasonable cause to believe, and did believe, that she was of or above the age of sixteen years.

Consent no defence in certain cases

77A. The consent of the woman, girl, pupil, daughter or step-daughter is no defence to a charge under section sixty-seven, sixty-eight, seventy-one, seventy-two, seventy-two A, seventy-three, or seventy-four of this Act, or, if the female is under the age of sixteen years, to a charge under section seventy-six of this Act.

Limitation

78. If the girl was, at the time of the alleged offence, over the age of fourteen years and under the age of sixteen years, no prosecution under section seventy-one, seventy-two or seventy-six of this Act shall be commenced after the expiration of twelve months from the time of the alleged offence.

Incest by male

78A. A male who has carnal knowledge of his mother, sister, daughter or granddaughter (whether the relationship is of half-blood or full blood, or is or is not traced through lawful wedlock) is liable to imprisonment for seven years.

Incest by male, attempts

78B. A male who attempts to commit an offence under the last preceding section is liable to imprisonment for two years.

Incest by female

78C. A female who, with her consent, permits her grandfather, father, brother or son to have carnal knowledge of her (whether the relationship is of half-blood or full blood, or is or is not traced through lawful wedlock) is liable to imprisonment for seven years.

Defences

78D. (1) It is a defence to a charge under any of the last three preceding sections that the person charged did not know that the person with whom the offence is alleged to have been committed was related to him or her, as alleged.

(2) The consent of the person with whom the offence is alleged to have been committed is no defence to a charge under section seventy-eight A or seventy-eight B of this Act.

Removal from guardianship, &c.

78E. On the conviction of a father or step-father of an offence under section seventy-three or seventy-four of this Act or of a male of an offence

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under section seventy-two A, seventy-eight A or seventy-eight B of this Act, the court may—

- (a) divest the offender of all authority over the female with whom the offence is committed or, if the offender is her guardian, remove the offender from that guardianship; and
- (b) appoint a person or persons to be her guardian or guardians during her minority, or for a greater or less period.

Rape or attempt—verdict of incest or attempt

78F. Where on the trial of a male for an offence under section sixty-three or sixty-five of this Act, the jury are not satisfied that he is guilty of the offence charged, but are satisfied that he is guilty of an offence under section seventy-eight A or seventy-eight B of this Act, they may acquit him of the offence charged and find him guilty of an offence under section seventy-eight A or seventy-eight B of this Act.

Sanction of Attorney-General

78G. (1) A prosecution for an offence under section seventy-eight A, seventy-eight B or seventy-eight C of this Act shall not be commenced without the sanction of the Attorney-General.

(2) All proceedings under section seventy-eight A, seventy-eight B or seventy-eight C of this Act shall be held *in camera*.

Buggery and bestiality

79. Whosoever commits the abominable crime of buggery, or bestiality, with mankind, or with any animal, shall be liable to imprisonment for life or any term not less than five years.

Attempt, &c., to commit buggery

80. Whosoever attempts to commit the said abominable crime, or assaults any person with intent to commit the same, shall be liable to imprisonment for five years.

Indecent assault on male

81. Whosoever commits an indecent assault upon a male person of whatever age, with or without the consent of such person, shall be liable to imprisonment for five years.

Administering drugs, &c., to herself by woman with child

82. Whosoever, being a woman with child,

unlawfully administers to herself any drug or noxious thing; or

unlawfully uses any instrument or other means,

with intent in any such case to procure her miscarriage, shall be liable to imprisonment for ten years.

Administering drugs, &c., to woman with intent

83. Whosoever—

unlawfully administers to, or causes to be taken by, any woman, whether with child or not, any drug or noxious thing; or

unlawfully uses any instrument or other means,

with intent in any such case to procure her miscarriage, shall be liable to imprisonment for ten years.

Procuring drugs, &c.

84. Whosoever unlawfully supplies or procures any drug or noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used with intent to procure the miscarriage of any woman, whether with child or not, shall be liable to imprisonment for five years.

Concealment of birth

85. (1) A person who wilfully conceals or attempts to conceal the birth of a child by disposing of its dead body, whether the child died before, after or during its birth, is liable to imprisonment for two years.

(2) It is a sufficient defence to a charge under this section if the accused person satisfies the court or jury that the dead body in respect of which the disposition took place had issued from the body of its mother before the expiration of the twenty-eighth week of pregnancy.

Abduction of woman against her will

86. Whosoever, from motives of lucre, takes away or detains against her will a female of any age who has an interest in property or is a presumptive heiress or next of kin to any one having such interest, with intent to marry or carnally know her, or to cause her to be married, or carnally known, by any person, shall be liable to imprisonment for fourteen years.

The like against the will of parent, &c.

87. Whosoever fraudulently allures, takes away, or detains any female under the age of twenty-one years, out of the possession and against the will of any person having the lawful charge of her, with intent to marry or carnally know her, or to cause her to be married to or carnally known by any person, shall be liable to imprisonment for seven years.

In such cases property of woman to remain hers

88. No offender under either of the two last preceding sections shall be capable of taking any estate or interest in any property in right of any such female, and if any marriage has taken place, the property of the wife shall be settled in such manner as the Supreme Court, at the suit of the Attorney-General, may appoint.

Forcible abduction of a woman

89. Whosoever by force takes away, or detains against her will, any female of any age, with intent to marry or carnally know her, or to cause her to be married to or carnally known by any person, shall be liable to imprisonment for fourteen years.

Abduction of girl under sixteen

90. Whosoever unlawfully takes, or causes to be taken, any unmarried girl under the age of sixteen years, out of the possession and against the will of any person having the lawful charge of her, shall be liable to imprisonment for three years.

Kidnapping

90A. (1) Whosoever leads, takes or entices away or detains a person with intent to hold him for ransom or for any other advantage to any person shall be liable to imprisonment for twenty years or, if it is proved to the satisfaction of the judge that the person so led taken enticed away or detained was thereafter liberated without having sustained any substantial injury, to imprisonment for fourteen years.

(2) This section does not apply to a person who, in good faith, claims a right to the possession of the person so led, taken or enticed away or detained.

Taking child with intent to steal, &c.

91. Whosoever—

by force or fraud, leads or takes away, entices away, or detains, any child under the age of twelve years, with intent to deprive any person having the lawful charge of such child of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong, or

receives or harbours any such child, knowing such child to have been so led, taken, enticed away, or detained,

shall be liable to imprisonment for ten years:

Provided that this section shall not extend to any person who shall, in good faith, have claimed a right to the possession of such child.

Procuring, &c., female

91A. A person who procures, entices or leads away a female of any age, whether with her consent or not, with intent that another person carnally know her, either within or without the Territory, is, notwithstanding that any of the acts constituting the offence is committed outside the Territory, liable to imprisonment for seven years.

Procuring female by drugs, &c.

91B. A person who, by means of fraud, violence, threat or abuse of authority, or by the use of drugs or intoxicating liquor, procures, entices or

leads away a female of any age with intent that another person carnally know her, either within or without the Territory, is, notwithstanding that any of the acts constituting the offence is committed outside the Territory, liable to imprisonment for ten years.

Male living on earnings of prostitution

91C. A male who—

- (a) has been convicted under the Vagrancy Act, 1902 of the State of New South Wales in its application to the Territory, or under an Act, applying to the Territory, which amends or replaces that Act, of an offence of knowingly living, wholly or in part, on the earnings of prostitution; and

- (b) afterwards commits that offence,

is liable to imprisonment for three years.

Employment, &c., in brothel of girl under eighteen

91D. A person who employs in, or knowingly allows to resort to be or be upon, premises used as a brothel or house of ill-fame, a girl under the age of eighteen years, is liable to imprisonment for five years.

PART IV

OFFENCES RELATING TO PROPERTY

Property previously stolen

93. Where, upon the trial of a person for any offence which includes the stealing of any property, it appears that the property was, at the time when it was taken by the person, out of the possession of the owner by reason of its having been stolen by another person, the first-mentioned person may be convicted of the offence charged notwithstanding that it is not proved that the taking by that person of the property constituted an interference with the right to possession of, or a trespass against, the owner.

Delivery of stolen goods held by dealers

93A. (1) Where the owner of any goods that have been stolen, unlawfully obtained or unlawfully deposited, pawned, pledged, sold or exchanged makes a complaint to a Magistrate that the goods are in the possession of a dealer in second-hand goods or of any person who has advanced money upon the security of the goods, the Magistrate may—

- (a) issue a summons for the appearance of the dealer or person and for the production of the goods; and
- (b) order the dealer or person to deliver the goods to the owner upon payment by the owner of such sum (if any) and at such time as the Magistrate thinks fit.

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(2) A dealer or person who refuses or fails to comply with an order made under paragraph (1) (b), or who disposes of any goods after he has been notified by the owner of the goods that they were stolen, unlawfully obtained or unlawfully deposited, shall be liable to pay to the owner of the goods the full value of the goods as determined by a Magistrate.

(3) An order under paragraph (1) (b) shall not bar the dealer or person from recovering possession of the goods in respect of which the order is made from the owner by proceedings in a court of competent jurisdiction, being proceedings commenced within 6 months after the date on which the order is made.

Disposal of stolen goods, &c.

93B. (1) Where—

- (a) any goods are lawfully held in the custody of a member of the police force;
- (b) a person is charged with having stolen or fraudulently obtained the goods; and
- (c) the person so charged—
 - (i) cannot be found;
 - (ii) is discharged or acquitted; or
 - (iii) is convicted and the goods are not included in any indictment upon which he is so convicted,

a Magistrate may make an order for the delivery of the goods to the person who appears to be the owner of the goods or, where the owner cannot be ascertained, may make such order with respect to the goods as the Magistrate thinks just.

(2) An order under sub-section (1) shall not bar a person from recovering possession of the goods in respect of which the order is made from the person to whom the goods are delivered in pursuance of the order by proceedings in a court of competent jurisdiction, being proceedings commenced within 6 months after the date on which the order is made.

(3) In this section, "goods" includes a sum of money.

Robbery or stealing from the person

94. Whosoever—

robs or assaults with intent to rob any person, or
steals any chattel, money, or valuable security from the person of another,

shall, except where a greater punishment is provided by this Act, be liable to imprisonment for ten years.

Same with striking

95. Whosoever robs, or assaults with intent to rob, any person, or steals any chattel, money, or valuable security, from the person of another, and immediately before, or at the time of, or immediately after, such robbery, assault, or larceny from the person, strikes, or uses any other corporal violence to any person, shall be liable to imprisonment for fourteen years.

Robbery—threat of violence to third person

95A. A person who steals any chattel, money or valuable security and who, immediately before or at the time of doing so, puts or seeks to put the person from whom he so steals in fear that any other person will be there and then subjected to violence, is guilty of robbery and liable, on conviction, to imprisonment for 14 years.

Same with wounding

96. Whosoever commits any offence under section 95 or 95A, and in the course of committing that offence wounds any person, shall be liable to imprisonment for life.

Robbery, &c., or stopping a mail being armed or in company

97. Whosoever, being armed with an offensive weapon, or instrument, or being in company with another person,

robs, or assaults with intent to rob, any person, or

stops any mail, or vehicle, railway train, or person conveying a mail, with intent to rob, or search the same,

shall be liable to imprisonment for fourteen years.

Robbery with arms, &c., and wounding

98. Whosoever, being armed with an offensive weapon, or instrument, or being in company with another person so armed, robs, or assaults with intent to rob, any person, and immediately before, or at the time of, or immediately after, such robbery, or assault, wounds, or inflicts grievous bodily harm upon, such person, shall be liable to imprisonment for life.

Demanding money with intent to steal

99. Whosoever, with menaces, or by force, demands any property from any person, with intent to steal the same, shall be liable to imprisonment for seven years.

Letter demanding money, &c., with menaces

100. Whosoever sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing demanding any property of any person, with menaces or any threat, and without reasonable cause, shall be liable to imprisonment for ten years.

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Threatening letters

101. Whosoever sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing accusing or threatening to accuse a person of having committed, or of having attempted to commit, an offence punishable by imprisonment for 5 years or more, with intent in any such case to extort or gain property from any person, shall be liable to imprisonment for fourteen years.

Accusing or threatening to accuse of offence to extort money, &c.

102. Whosoever, in any manner, by words or otherwise, accuses, or threatens to accuse, either the person to whom such accusation or threat is made, or some other person, of any such offence, with intent in any such case to extort or gain property from any person, shall be liable to imprisonment for ten years.

Causing a person by violence or threats to execute deeds, &c.

103. Whosoever by unlawful violence to, or restraint of the body of, any person, or by any threat of such violence, or restraint, or by accusing or threatening to accuse a person of any such offence, compels, or induces, any person to execute, make, accept, indorse, alter, or destroy, the whole or any part of any valuable security, or to write, impress, or affix, any name or seal upon, or to, any paper or parchment, with intent in any such case to defraud, shall be liable to imprisonment for fourteen years.

Menace may be of violence or accusation, &c.

105. It shall be immaterial whether any such menace or threat, as aforesaid, is of violence, or injury, or of an accusation to be caused, or made, by the offender, or by any other person, or whether the accusation, if made, shall purport to be that of the offender, or some other person.

Breaking and entering place of Divine worship and committing offence

106. (1) Whosoever—

breaks and enters any place of Divine worship and commits any offence therein, or,

being in any place of Divine worship, commits any offence therein and breaks out of the same,

shall be liable to imprisonment for fourteen years.

(2) A person who, being armed with an offensive weapon or instrument, or being in company with another person who is so armed, commits an offence against sub-section (1) shall be liable to imprisonment for 20 years.

The like with intent to commit an offence

107. (1) Whosoever breaks and enters any place of Divine worship, with intent to commit an offence therein, shall be liable to imprisonment for seven years.

(2) A person who, being armed with an offensive weapon or instrument, or being in company with another person who is so armed, commits an offence against sub-section (1) shall be liable to imprisonment for 14 years.

Burglary

108. (1) Whosoever commits the crime of burglary shall be liable to imprisonment for fourteen years.

(2) A person who, being armed with an offensive weapon or instrument, or being in company with another person who is so armed, commits an offence against sub-section (1) shall be liable to imprisonment for 20 years.

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

109. (1) Whosoever—

enters the dwelling-house of another, with intent to commit an offence therein, or,

being in such dwelling-house commits any offence therein,

and in either case breaks out of the said dwelling-house in the night, shall be deemed guilty of burglary, and shall be liable to imprisonment for fourteen years.

(2) A person who, being armed with an offensive weapon or instrument, or being in company with another person who is so armed, commits an offence against sub-section (1) shall be liable to imprisonment for 20 years.

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

110. Whosoever breaks and enters any dwelling-house, or any building appurtenant thereto, and while therein or on premises occupied therewith assaults with intent to murder any person, or inflicts grievous bodily harm upon any person, shall be liable to imprisonment for life.

Entering dwelling-house in the night

111. (1) Whosoever enters any dwelling-house in the night, with intent to commit an offence therein, shall be liable to imprisonment for seven years.

(2) A person who, being armed with an offensive weapon or instrument, or being in company with another person who is so armed, commits an offence against sub-section (1) shall be liable to imprisonment for 14 years.

Breaking and entering house, &c., and committing offence

112. Whosoever—

- (a) breaks and enters any dwelling-house, or any building within the curtilage of any dwelling-house and occupied therewith but not being part thereof, or any school-house, shop, warehouse, or counting-house, office, store, garage, pavilion, factory, or workshop, or any building belonging to Her Majesty, or to the Commonwealth, or to any authority established by or under a law of the Commonwealth or the Territory, and commits any offence therein; or

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- (b) being in any dwelling-house, or any such building as aforesaid, or any school-house, shop, warehouse, or counting-house, office, store, garage, pavilion, factory, or workshop, or any building belonging to Her Majesty, or to the Commonwealth, or to any authority established by or under a law of the Commonwealth or the Territory, commits any offence therein and breaks out of the same,

shall be liable to imprisonment for ten years.

Breaking and entering house, &c., with intent to commit an offence

113. Whosoever breaks and enters any dwelling-house, or any building within the curtilage of any dwelling-house, or any school-house, shop, warehouse, or counting-house, office, store, garage, pavilion, factory, or workshop, or any building belonging to Her Majesty, or to the Commonwealth, or to any authority established by or under a law of the Commonwealth or the Territory, with intent to commit an offence therein, shall be liable to imprisonment for seven years.

Being found with intent to commit an offence

114. (1) Whosoever is found under any of the following circumstances, that is to say:

being armed with any weapon, or instrument, with intent to enter a building and to commit offence therein, or

having in his possession, without lawful excuse, any implement of housebreaking, or

having his face blackened or otherwise disguised, with intent to commit offence, or

entering, or being in any building with intent to commit offence therein,

shall be liable to imprisonment for five years.

(2) Where a person is convicted of an offence against sub-section (1), any weapon, instrument or implement of housebreaking in the custody or possession of the person shall be forfeited.

The like after a previous conviction

115. Whosoever, having been convicted of any offence, afterwards commits any offence mentioned in the last preceding section, shall be liable to imprisonment for seven years.

All larcenies to be of same nature

116. Every larceny, whatever the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects, as grand larceny was before the passing of the Act seventh and eighth George the Fourth, chapter twenty-nine.

Punishment for larceny

117. Whosoever commits larceny, or any offence by this Act made punishable like larceny, shall, except in the cases hereinafter otherwise provided for, be liable to imprisonment for five years.

Intent to return property no defence

118. Where, on the trial of a person for larceny, it appears that the accused appropriated the property in question to his own use, or for his own benefit, or that of another, but intended eventually to restore the same, or in the case of money to return an equivalent amount, such person shall not by reason only thereof be entitled to acquittal.

Verdict where several takings proved

119. Where, on the trial of a person for larceny, it appears that the property alleged in any count to have been stolen at one time was taken at different times, the prosecutor shall not be required to elect upon which taking he will proceed, unless the Judge so orders:

Provided always that evidence shall not, in any case, be given of more than three takings, nor of any taking which occurred more than six months in point of time from any other of such takings.

Trial for larceny—verdict of embezzlement, &c.

120. Where, on the trial of a person for larceny, it appears that he took the property in such manner as to amount in law to the offence of embezzlement or fraudulent misappropriation, or the fraudulent application, or disposition, of property as a clerk, or servant, or person employed in the Public Service, or of obtaining property by any false pretence, or partly by a false pretence and partly by a wilfully false promise, the jury may acquit him of the larceny charged, and find him guilty of such other offence, and he shall be liable to punishment accordingly.

Verdict of "larceny or receiving"

121. Where, on the trial of a person charged with larceny, or any offence which includes larceny, and also, with having received the property charged to have been stolen, knowing it to have been stolen, the jury find specially that he either stole, or received such property, and that they are unable to say which of those offences was committed by him, such person shall not by reason thereof be entitled to acquittal, but shall be liable to be sentenced for the larceny or for the receiving, whichever of the two offences is subject to the lesser punishment.

Verdict where persons indicted for joint larceny or receiving

122. On the trial of any two, or more, persons charged with larceny, and also with having received property, the jury may find all, or any, of such persons guilty, either of stealing, or receiving, the property, or part or parts thereof, or may find one, or more, of the said persons guilty of stealing, and the other or others of them guilty of receiving the property, or part or parts thereof.

Verdict of offence punishable summarily

124. Where, on the trial of a person for larceny, it appears that he took the property in question under circumstances constituting an offence punishable summarily under this Act, the jury may return a verdict accordingly, and thereupon he shall be liable to be punished as if he had been convicted of such offence before a court of summary jurisdiction.

Larceny by bailee

125. Whosoever, being a bailee of any property, fraudulently takes, or converts, the same, or any part thereof, or any property into or for which it has been converted, or exchanged, to his own use, or the use of any person other than the owner thereof, although he does not break bulk, or otherwise determine the bailment, shall be deemed to be guilty of larceny.

The accused shall be taken to be a bailee within the meaning of this section, although he may not have contracted to restore, or deliver, the specific property received by him, or may only have contracted to restore, or deliver, the property specifically.

Stealing cattle, or killing with intent to steal

126. Whosoever—

steals any cattle, or

wilfully kills any cattle with intent to steal the carcass, or skin, or other part, of the cattle so killed,

shall be liable to imprisonment for ten years.

Stealing or killing cattle—uncertainty as to sex or age not to entitle to acquittal

127. Where, on the trial of a person for an offence under the last preceding section it appears that he stole, or killed, an animal of the species described in the indictment, but it is uncertain on the evidence what was its sex or age, such person shall not be entitled to acquittal by reason only of such uncertainty.

Trial for stealing cattle—verdict of stealing skins

128. Where, on the trial of a person for stealing cattle, the jury are not satisfied that he is guilty thereof, but are satisfied that he is guilty of stealing the carcass, or skin, or part, of such cattle, or of killing the said cattle within section one hundred and twenty-six of this Act, they may acquit him of the offence charged and find him guilty of such last-mentioned stealing, or killing, and he shall be liable to punishment accordingly.

Trial for killing cattle—verdict of stealing

129. Where, on the trial of a person for the offence of killing cattle within the meaning of section one hundred and twenty-six of this Act, the jury are not satisfied that he is guilty thereof, but are satisfied that he is guilty of stealing such cattle, they may acquit him of the offence charged, and find him guilty of such stealing, and he shall be liable to punishment accordingly.

Trial for stealing cattle—verdict of offence

130. Where, on the trial of a person for stealing cattle, the jury are not satisfied that he is guilty thereof, but are satisfied that he is guilty of an offence within the next following section, they may acquit him of the offence charged, and find him guilty of an offence under the said last mentioned section, and he shall be liable to punishment accordingly.

Unlawfully using, &c., another person's cattle

131. Whosoever—

takes and works, or otherwise uses, or takes for the purpose of working or using, any cattle the property of another person without the consent of the owner, or person in lawful possession thereof, or

takes any such cattle for the purpose of secreting the same, or obtaining a reward for the restoration or pretended finding thereof, or for any other fraudulent purpose, or

fraudulently brands, or ear-marks, or defaces, or alters, the brands or ear-marks of any cattle the property of another person,

shall be liable to imprisonment for three years.

Stealing dogs

132. Whosoever, having been summarily convicted under this or any former Act of any such offence as is hereinafter in this section mentioned, afterwards

steals any dog, or

has unlawfully in his possession any stolen dog, or the skin of any stolen dog, knowing such dog to have been stolen,

shall be liable to imprisonment for one year.

Taking money to restore dogs

133. Whosoever corruptly takes any money or reward, directly or indirectly, under pretence, or upon account, of aiding any person to recover any dog which has been stolen, or which is in the possession of any person other than its owner, shall be liable to imprisonment for one year.

Stealing, destroying, &c., valuable security

134. Whosoever steals, embezzles, or for any fraudulent purpose destroys, cancels, obliterates, or conceals, the whole or any part of any valuable security, shall be liable, as if he had stolen a chattel, to be punished as for larceny.

Stealing, destroying, &c., wills or codicils

135. Whosoever steals, or for any fraudulent purpose destroys, cancels, obliterates, or conceals, the whole or any part of any will, codicil, or other testamentary instrument, either during the life of the testator, or after his death, or whether the same relates to real, or personal estate, or to both, shall be liable to imprisonment for seven years.

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Proviso to the two last preceding sections

136. No person shall be convicted under either of the two last preceding sections in respect of any act done by him, if, before being charged with the offence, he first disclosed such act on oath, under compulsory process, in a proceeding instituted in good faith by a party aggrieved, or under compulsory examination in some matter in bankruptcy, or insolvency.

Civil remedies not affected by conviction

137. (1) Nothing in the said two sections, nor any proceeding, conviction, or judgment thereupon, shall affect any remedy at law, or in equity, which any party aggrieved would have had if this Act had not been passed.

Evidence of conviction inadmissible

(2) No evidence of the conviction of any person under either of the said sections shall be admissible in any action, or suit, against him.

Stealing, destroying, &c., records, &c., of any court or public office

138. Whosoever steals, or for any fraudulent purpose takes from its place of deposit, for the time being, or from any person having the lawful custody thereof, or unlawfully and maliciously cancels, obliterates, injures, or destroys, the whole or any part, of any record, document, or writing, of, or belonging to, any Court, or relating to any matter or cause, civil or criminal, pending, or terminated, in any Court, or relating to the business of any office or employment under Her Majesty, and being in any public office, shall be liable to imprisonment for seven years.

Stealing, &c., metal, glass, wood, &c., fixed to house or land

139. Whosoever steals, or rips, cuts, severs, or breaks with intent to steal, any glass, or woodwork, belonging to any building, or any metal, or any utensil, or fixture, whether made of metal or other material, or of both respectively, fixed in, or to, any building, or anything made of metal, fixed in any land being private property, or used as a fence to any dwelling-house, garden or area, or being in any square, or street, or in, or on, any place dedicated to public use or ornament, or in any burial-ground, shall be liable to be punished as for larceny.

Stealing, &c., trees, &c., in pleasure-grounds. The like elsewhere**140. Whosoever—**

steals, or destroys or damages with intent to steal, the whole, or any part, of any tree, sapling, shrub, or plant, or any underwood, growing in any park, pleasure-ground, garden, orchard, or avenue, or in any ground belonging to any dwelling-house, where the value of the article stolen, or the amount of injury done, exceeds \$2, or

steals, or destroys or damages, with intent to steal, the whole, or any part, of any tree, sapling, shrub, or plant, or any underwood respectively

growing elsewhere than in any situation before-mentioned, where the value of the article stolen, or the amount of injury done, exceeds \$10,

shall be liable to be punished as for larceny.

Stealing ore of metal, coal, &c.

144. Whosoever steals, or severs with intent to steal, any gold, or the ore of any metal, or any metal or mineral of commercial value, or any coal, or cannel coal, from any mine, bed, or vein thereof respectively, or from any claim, or land comprised in any lease, or promise of lease, for mining purposes by or on behalf of the Crown, shall be liable to be punished as for larceny.

Miners removing ore with intent to defraud

145. Whosoever, being employed in or about any mine, or claim, or any land comprised in any lease, or promise of lease, for mining purposes by or on behalf of the Crown takes, removes, or conceals, any gold, or the ore of any metal, or any metal or mineral of commercial value, found, or being in such mine, claim, or land, with intent to defraud any mining company, or partnership, or any proprietor of, or adventurer in, such mine, claim, or land, or any workman or miner employed therein shall be liable to imprisonment for three years.

Concealing royalty

146. Whosoever, being the holder of any lease issued under any Act relating to the gold-fields,

by any device or contrivance defrauds, or attempts to defraud, Her Majesty of any gold, or money payable under such lease, or

conceals, or makes a false statement as to the amount of any gold procured by him, or falsifies any account, with intent in any such case to defraud,

shall be guilty of an offence.

Fraud on partners in mines, &c.

147. Whosoever, with intent to defraud his co-partner, or co-adventurer, in any claim, or land comprised in any lease, or promise of lease, for mining purposes by or on behalf of the Crown, or in any share or interest therein, secretly keeps back, or conceals, any gold, or any other metal or mineral of commercial value, found in, or upon, or taken from, such claim or land, shall be liable to be punished as for larceny.

Stealing to value of \$10

148. Whosoever steals in a dwelling-house any property, to the value in the whole of \$10 or more, shall be liable to imprisonment for seven years.

The same with menaces

149. Whosoever steals any property in a dwelling-house, and uses thereafter any menace or threat to any person therein, shall be liable to imprisonment for fourteen years.

Stealing goods in process of manufacture

150. Whosoever steals, to the value of \$1, any goods, article, or material, while anywhere placed, or exposed, during the process or progress of manufacture, shall be liable to imprisonment for a term not exceeding three years.

Selling, &c., materials to be manufactured

151. Whosoever, being, for the purpose of manufacture, or any special purpose connected with manufacture, employed to make, prepare, or work up, any goods, article, or material, or being for any such purpose entrusted with any such goods, article, or material, or with any tools, or apparatus, sells, pawns, purloins, secretes, embezzles, exchanges, or otherwise fraudulently disposes of the same, or any part thereof, shall be liable to imprisonment for four years.

Stealing from ship in port or on wharfs, &c.

152. Whosoever—

steals any property in any vessel, barge, or boat, while in any haven or port, or upon any navigable river, or canal, or in any creek, or basin, belonging to, or communicating with, any such haven, port, river, or canal, or

steals any property from any dock, wharf, or quay,

shall be liable to imprisonment for seven years.

Stealing from ship in distress or wrecked

153. Whosoever steals, or plunders, any part of any vessel in distress, or wrecked, stranded, or cast on shore, or any property of any kind to the value of \$2 belonging to such vessel, shall be liable to imprisonment for fourteen years.

Tenants, &c., stealing articles let to hire

154. Whosoever, being the tenant, or occupier, of any house, building, or lodging, steals any chattel, or fixture let to be used therewith, whether the contract was entered into by the accused, or by any person on his behalf, shall be liable to be punished as for larceny.

Unlawfully using another's vehicle or boat

154A. (1) Whosoever, without the consent of the owner or person in lawful possession thereof—

(a) takes and uses, or takes for the purpose of using, a vehicle or boat; or

- (b) takes a vehicle or boat for the purpose of secreting the same, or obtaining a reward for the restoration or pretended finding thereof, or for any other fraudulent purpose,

shall be deemed to be guilty of larceny.

(2) In this section—

- (a) “vehicle” includes a cart, waggon, cab, carriage, aeroplane or other aircraft, motor car, caravan, trailer, motor lorry, motor or other bicycle, grader or tractor; and
- (b) “boat” includes launch, yacht, raft or pontoon.

Definition of clerk or servant

155. Every person employed for any purpose, as, or in the capacity of, a clerk, or servant, or as a collector of moneys, although temporarily only, or employed also by other persons, or employed to pay as well as receive moneys, or although he had no authority from his employer to receive money, or other property, on his account, shall be deemed a clerk, or servant, within the meaning of the two next following sections.

Larceny by clerks or servants

156. Whosoever, being a clerk, or servant, steals any property belonging to, or in the possession, or power of, his master, or employer, or any property, into or for which it has been converted, or exchanged, shall be liable to imprisonment for ten years.

Embezzlement by clerks or servants

157. Whosoever, being a clerk, or servant, fraudulently embezzles, either the whole or any part of, any property delivered to, or received, or taken into possession by him, for, or in the name, or on the account of, his master, or employer, shall be deemed to have stolen the same, although such property was not received into the possession of such master, or employer, otherwise than by the actual possession of such clerk, or servant, and shall be liable to imprisonment for ten years.

Destruction, falsification of accounts, &c., by clerk or servant

158. Whosoever, being a clerk, or servant, or person acting in the capacity of a clerk, or servant,

destroys, alters, mutilates, or falsifies, any book, paper, writing, valuable security, or account, belonging to, or in the possession of, or received for his employer, or

makes, or concurs in making, any false entry in, or omits, or alters, or concurs in omitting or altering, any material particular from, or in, any such book, or writing, or account,

with intent in any such case to defraud,
shall be liable to imprisonment for five years.

Larceny by persons in Public Service

159. Whosoever, being employed in the Public Service, steals any property, or any part thereof, intrusted to him, or taken into his possession, or being in his custody, or under his control, by virtue or colour of such employment, shall be liable to imprisonment for ten years.

Embezzlement, &c., by persons in the Public Service

160. Whosoever, being employed in the Public Service, fraudulently embezzles any property, or any part thereof, so intrusted to him, or taken into his possession, or being in his custody, or under his control, or fraudulently secretes, removes, or in any manner fraudulently applies, or disposes of, the same, or any part thereof, shall be deemed to have stolen the same, and shall be liable to imprisonment for ten years.

Proof of general deficiency in accounts

161. On the prosecution of a person for larceny, or embezzlement as a clerk, or servant, or as a person employed in the Public Service, where the charge is in respect of money, it shall not be necessary to prove the larceny, or embezzlement, by the accused of any specific sum of money, if there is proof of a general deficiency on the examination of the books of account, or entries kept, or made by him, or otherwise, and the jury are satisfied that he stole, or fraudulently embezzled the deficient money, or any part thereof.

Larceny, &c., by joint owners

162. Whosoever, being a member of any copartnership, or being one of two, or more, joint owners, steals, or embezzles, any property of, or belonging to, such copartnership, or joint owners, may be convicted of, and punished for, the offence as if he was not a member of the copartnership, or one of such joint owners.

“Copartnership” shall, for the purposes of this section, include all corporations and societies whatsoever.

Trial for embezzlement—verdict of larceny

163. Where, on the trial of any person for embezzlement, or the fraudulent application, or disposition, of property as a clerk, or servant, or person employed in the Public Service, it appears that he obtained the property in such manner as to amount in law to larceny, the jury may acquit him of the offence charged, and find him guilty of larceny, or of larceny as such clerk, servant, or person, as the case may be, and he shall be liable to punishment accordingly.

Terms “agent”, “intrusted” and “misappropriate”

164. For the purposes of the seven next following sections—

“intrusted” means intrusted, either solely, or jointly, with any other person—

“agent” includes bankers, merchants, attorneys, factors, brokers, and every other person acting in the capacity of an agent so intrusted—

“misappropriate” means appropriate in any manner, whether by sale, pledge, or otherwise, to the agent’s own use or benefit, or the use or benefit of some one other than the person, by, or for whom, he was so intrusted.

Agent misappropriating money, &c., intrusted to him

165. Whosoever having been intrusted as an agent with any money, or security for the payment of money, with a direction in writing to apply, pay, or deliver, such money, or security, or any part thereof, respectively, or the proceeds, or any part of the proceeds, of such security for any purpose, or to any person specified in such direction, misappropriates in any manner such money, security, or proceeds, or any part thereof, respectively, in violation of good faith, and contrary to the terms of such direction, shall be liable to imprisonment for ten years.

The like as to goods, &c., intrusted to him

166. Whosoever having been intrusted as an agent with any chattel, or valuable security, for safe custody, or for any special purpose, without authority to sell, negotiate, transfer, or pledge the same, or with any power of attorney for the sale, or transfer, of any share, or interest, in any public stock, or fund, or in any stock, or fund of any body corporate, or company, misappropriates in any manner such chattel, or security, or the proceeds of the same, or any part thereof, or the share, or interest, in the stock, or fund, to which such power of attorney relates, or any part thereof, in violation of good faith, and contrary to the purpose for which such chattel, security, or power of attorney, was intrusted to him, shall be liable to imprisonment for ten years.

Not to affect trustees or mortgagees nor to restrain agents from receiving money on valuable securities, &c.

167. Nothing in the two last preceding sections shall affect any trustee under any instrument, or any mortgagee of property, in respect of any act done by such trustee, or mortgagee, in relation to the property comprised in, or affected by, the trust, or mortgage, or shall restrain an agent from receiving money payable upon any valuable security according to the tenor and effect thereof, or from disposing of property on which he has any claim entitling him by law so to do, unless such disposal extends to more than is requisite for satisfying such claim.

Fraudulent sale of property by agent

168. Whosoever, being an agent intrusted with property for safe custody, fraudulently sells, negotiates, transfers, pledges, or in any manner misappropriates, the same, or any part thereof, shall be guilty of an offence.

The same by person under power of attorney

169. Whosoever, being intrusted with any power of attorney for the sale, or transfer, of property, fraudulently sells, transfers, or otherwise misappropriates the same, or any part thereof, shall be liable to imprisonment for ten years.

s. 170**Agent obtaining advances on property of his principal**

170. Whosoever, being an agent intrusted with property for the purpose of sale, or otherwise disposing of the same,

otherwise than for the use of his principal, and in violation of good faith, transfers, consigns, pledges, or delivers the same, or any part thereof, as security for money, or other valuable thing, borrowed, or received, or to be borrowed, or received, by such agent, or,

otherwise than for the use of his principal, and in violation of good faith, obtains any advance of money, or other valuable thing, upon any undertaking by him to transfer, consign, pledge, or deliver such property, or any part thereof, or

assists in the making of any such transfer, consignment, pledge, or delivery, or in the obtaining of any such advance, knowing the same in any such case to be in violation of good faith,

shall be liable to imprisonment for ten years:

Provided that nothing in this section shall extend to any transfer, consignment, pledge, or delivery, made, or agreed to be made, as security for no greater sum than the amount, if any, then due to such agent, and of any current bill, or bills, drawn by, or on account of, his principal and accepted by such agent.

What to be deemed intrusting with goods, &c.

171. For the purposes of the last preceding section—

- (1) every agent intrusted with the possession of a document of title to property, whether derived immediately from the owner of the property, or obtained by such agent by reason of his having possession of such property, or of some other document of title thereto, shall be deemed to have been intrusted with the property indicated by such document;
- (2) every transfer, pledge, or delivery, of any such document shall be deemed a transfer, pledge, or delivery, of the property indicated by the same;
- (3) where any such document, or the property thereby indicated, is held by any person on the behalf, or subject to the control, of any such agent, the same shall be taken to be in the possession of such agent;
- (4) every agent in possession of property, or of any such document of title, shall be taken to have been intrusted therewith by the owner, unless the contrary is shown.

Trustees fraudulently disposing of property

172. Whosoever, being a trustee of property for the use or benefit, wholly or partially, of some other person, or for any public or charitable purpose,

converts, or appropriates, the same, or any part thereof, for the use or benefit of himself, or some other person, or for any other than such public or charitable purpose, or,

otherwise disposes of, or destroys such property, or any part thereof, in violation in any such case of good faith, and with intent to defraud, shall be liable to imprisonment for ten years:

Provided that no prosecution shall be instituted under this section without the leave of the Supreme Court, or a Judge thereof, or of the Attorney-General.

Directors, &c., fraudulently appropriating, &c., property

173. Whosoever, being a director, officer, or member of any body corporate, or public company,

fraudulently takes, or applies, for his own use or benefit, or any use or purpose other than the use or purpose of such body corporate, or company, or

fraudulently destroys any of the property of such body corporate, or company,

shall be liable to imprisonment for ten years.

Director, &c., omitting certain entries

174. Whosoever, being a director, or officer of any body corporate, or public company, receives, or possesses himself, of any of the property of such body corporate, or company, otherwise than in payment of a just debt, and, with intent to defraud, omits to make, or direct to be made, a true and sufficient entry thereof in the books, or accounts, of such body corporate, or company, shall be liable to imprisonment for ten years.

Director, &c., wilfully destroying, &c., books of company, &c.

175. Whosoever, being a director, officer, or member, of any body corporate, or public company,

destroys, alters, mutilates, or falsifies, any book, entry, paper-writing, or valuable security, belonging to such body corporate, or company, or

makes, or concurs in making, any false entry, or omits, or concurs in omitting, any material particular in any book of account, or other document,

with intent in any such case to defraud,

shall be liable to imprisonment for ten years.

Director or officer publishing fraudulent statements

176. Whosoever, being a director, or officer, of any body corporate, or public company, makes, circulates, or publishes, or concurs in making, circulating, or publishing, any written statement, or account, which he knows to be false in any material particular, with intent to deceive, or defraud, any member, shareholder, or creditor, of such body corporate, or company, or with intent to induce any person to become a shareholder, or partner therein, or to intrust, or advance, any property to such body corporate, or company, or to enter into any security for the benefit thereof, shall be liable to imprisonment for ten years.

Proviso to sections 165 to 176 inclusive

177. No person shall be convicted of any offence under any of the twelve last preceding sections in respect of any act or omission by him, if, before being charged with the offence, he first disclosed such act or omission, on oath, under compulsory process, in a proceeding instituted by a party aggrieved, or under compulsory examination in some matter in bankruptcy, or insolvency.

No relief from compulsory disclosures

178. (1) Nothing in the said twelve sections shall relieve any person from making a full discovery, by answer to interrogatories in equity, or from answering any question in a civil proceeding.

(2) No evidence of the conviction of any person, under any of the said sections, shall be admissible in any suit against him.

Civil remedies, &c., not affected by conviction

(3) Nothing in the said sections, nor any proceeding or conviction under them, shall affect any remedy which any party would have had if this Act had not been passed, nor shall affect any agreement entered into, or security given, by a trustee, having for its object the restoration, or repayment, of any trust property misappropriated.

Fraudulent misappropriation of moneys collected or received

178A. (1) A person who, having, whether before or after the commencement of this section, collected or received money or a valuable security upon terms requiring him to deliver or account for or pay to a person the whole or a part of—

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

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

(2) For the purposes of this section, any such money, valuable security, or proceeds thereof, or any balance thereout shall be deemed to be the property of the person who authorized the collection or receipt of the money or valuable security or from whom the money or valuable security was received notwithstanding that the accused may have been authorized to make a deduction thereout on his own behalf, or a payment thereout to another person, or to mix such money, valuable security, or proceeds thereof, or such balance with his own moneys.

Valueless cheques

178B. (1) A person who—

- (a) obtains any chattel, money or valuable security; or
- (b) purports to pay wages or salary,

by passing a cheque that is not paid on presentation is guilty of an offence punishable, on conviction, by a fine not exceeding \$2,000 or by imprisonment for a term not exceeding 12 months.

(2) It is a defence to a prosecution for an offence against sub-section (1) that the defendant—

- (a) had reasonable grounds for believing that the cheque would be paid in full on presentation; and
- (b) did not have an intent to defraud.

(3) In a prosecution for an offence against sub-section (1), the fact that, at the time when the cheque was drawn, there were some funds standing to the credit of the account on which the cheque was drawn is not of itself a defence.

Obtaining money, &c., by deception

178C. (1) A person who, by any deception, dishonestly obtains for himself or any other person any money or valuable thing or any financial advantage is guilty of an offence punishable, on conviction, by imprisonment for a term not exceeding 5 years.

(2) In this section, “deception” means any deliberate or reckless deception by words or conduct in relation to any matter of fact or law or in relation to the intention of any person.

Obtaining money, &c., by false or misleading statements

178D. A person who, with intent to obtain for himself or any other person any money or valuable thing or any financial advantage, makes or publishes, or concurs in making or publishing, any statement (whether in writing or otherwise) which he knows, or ought reasonably to know, to be false or misleading in a material particular, is guilty of an offence punishable, on conviction, by imprisonment for a term not exceeding 5 years.

Obtaining credit by fraud

178E. A person who incurs any debt or liability and who obtains credit by any false pretence or by any wilfully false promise, or both, or by any other fraud is guilty of an offence punishable, on conviction, by a fine not exceeding \$2,000 or by imprisonment for a term not exceeding 12 months.

False pretences, &c.

179. Whosoever, by any false pretence or by any wilfully false promise, or partly by a false pretence and partly by a wilfully false promise, obtains from any person any property, with intent to defraud, shall be liable to imprisonment for five years.

Causing payment, &c., by false pretence, &c.

180. Where the accused, by any false pretence or by any wilfully false promise, or partly by a false pretence and partly by a wilfully false promise, causes, or procures, any money to be paid, or any property to be delivered, to himself, or any other person for the use or benefit, or on account of himself, or any other person, with intent to defraud, he shall be deemed to have obtained the same within the meaning of the last preceding section.

False pretence of title

181. Where the accused falsely, and with intent to defraud, represents that he has a title, or right, to certain property, or to convey, or dispose of, certain property, knowing such representation to be false, and thereby obtains any property, he shall be deemed to have obtained the same within the meaning of section one hundred and seventy-nine.

Accused may be convicted on a charge of false pretences, &c., though property obtained partly by a false promise

182. Where, on the trial of a person for obtaining property by any false pretence or by any wilfully false promise, it appears that the property was obtained partly by a false pretence and partly by a wilfully false promise, such person shall not by reason thereof be entitled to acquittal.

Trial for false pretences, &c., verdict of larceny

183. Where, on the trial of a person for obtaining property by a false pretence or by a wilfully false promise, or partly by a false pretence and partly by a wilfully false promise, it appears that he obtained the property in such manner as to amount in law to larceny or fraudulent misappropriation, the jury may acquit him of the offence charged, and find him guilty of larceny, or of larceny as a clerk, or servant, or a person employed in the Public Service, or of fraudulent misappropriation, as the case may be, and he shall be liable to punishment accordingly.

Fraudulent personation

184. Whosoever falsely personates, or pretends to be, some other person, with intent fraudulently to obtain any property, shall be liable to imprisonment for life.

Nothing in this section shall prevent any person so personating, or pretending, from being proceeded against in respect of such act, or pretence, under any other enactment or at Common Law.

Inducing persons by fraud to execute instruments

185. Whosoever, with intent to defraud or injure any person, causes, or induces, any person, by any false pretence, to execute, make, accept, indorse, or destroy, the whole, or any part, of any valuable security, or to write, impress, or affix, any name, or seal, upon any paper, or parchment, shall be liable to imprisonment for seven years.

Taking reward for helping to recover stolen property

186. Whosoever corruptly takes, or offers, or agrees, to take, any money, or reward, directly or indirectly, under pretence, or upon account, of helping any person to any property, taken, or obtained, or converted, or disposed of, in such manner as to be punishable by this Act, shall, unless he has used all due diligence to cause the offender to be brought to trial for the same, be liable to imprisonment for five years.

Term "stealing" in two following sections

187. For the purposes of the two next following sections—

"Stealing" includes the taking, extorting, obtaining, embezzling, or otherwise disposing of the property in question.

Receiving where principal guilty of offence punishable by imprisonment for 5 years or more

188. Whosoever receives any property, the stealing whereof amounts to an offence punishable by imprisonment for 5 years or more, knowing the same to have been stolen, shall be guilty of an offence, and may be indicted, either as an accessory after the fact, or for a substantive offence, and in the latter case whether the principal offender has been previously tried or not, or is amenable to justice or not, and in either case shall be liable to imprisonment for ten years.

Receiving where principal guilty of offence punishable by imprisonment for less than 5 years

189. Whosoever receives any property, the stealing whereof is an offence punishable by imprisonment for less than 5 years, knowing the same to have been stolen, shall be guilty of an offence, and whether the person guilty of the principal offence has been previously tried or not, or is amenable to justice or not, shall be liable to imprisonment for three years.

Receiving, &c., goods stolen outside the Territory

189A. (1) A person who, without lawful excuse, receives or has in his possession any property stolen outside the Territory, knowing the same to have been stolen, is liable to imprisonment for ten years.

(2) For the purposes of this section, property shall be deemed to have been stolen if it has been taken, extorted, obtained, embezzled, converted, or disposed of under such circumstances that if the act had been committed in the Territory the person committing it would have been guilty of an indictable offence under the law of the Territory.

(3) A person is not liable to conviction under this section if the taking, extorting, obtaining, embezzling, converting, or disposing is not a criminal offence in the place in which the act is committed.

Receiving cattle killed, or carcass, &c.**190. Whosoever—**

receives any animal, that has been killed in contravention of this Act, with intent to steal the carcass, or skin, or other part thereof, knowing the same to have been so killed, or

receives any part of an animal so killed, or of an animal that has been stolen, knowing it to have been so killed or so stolen,

shall be guilty of an offence, and may be indicted and punished as if the animal had been stolen, and the accused had received the same.

Uncertainty as to sex or age not to entitle to acquittal

191. Where, on the trial of a person for an offence under the last preceding section, it appears that the animal was of the species mentioned in the indictment, but it is uncertain on the evidence what was its sex or age, such person shall not be entitled to acquittal by reason only of such uncertainty.

Receiving material or tools intrusted for manufacture

192. Whosoever receives any goods, article, or material or any tools, or apparatus for manufacturing, or working up, the same, knowing the same to have been purloined, embezzled, or secreted, within the meaning of section one hundred and fifty-one of this Act, or that the person offering the same is fraudulently disposing thereof, shall be liable to imprisonment for four years.

Verdict where several persons are indicted for jointly receiving

193. Where, on the trial of two or more persons for jointly receiving property, it appears that one, or more, separately received such property, or any part thereof, the jury may convict such one or more of the said persons, as is, or are, proved to have so received the same.

Ownership and possession of property injured

194. (1) Every act of malicious injury to property punishable under this Act, shall be an offence so punishable, whether the property belonged to a private person, or to Her Majesty, or was otherwise of a public nature.

(2) Every act of malicious injury done to property by any person, with intent to injure or defraud another, shall be an offence within this Act, although the offender was, at the time of its commission, in lawful possession of such property.

Actual malice

195. On the trial of a person for any such act, it shall not be necessary to prove the existence of malice, either against the owner of the property, or against any other person:

Provided that:

No act shall be deemed malicious which was done by the accused under a reasonable supposition that he had a right to do such act.

Setting fire to dwelling, &c., a person being therein or to a church

197. Whosoever maliciously sets fire to any dwelling-house, vehicle or aircraft, any person being then in such dwelling-house, vehicle or aircraft, or to any place of Divine worship, shall be liable to imprisonment for life.

Setting fire to certain other buildings, &c.

198. Whosoever maliciously sets fire to any dwelling-house, vehicle or aircraft, or warehouse, office, shop, mill, barn, store-house, granary, or wool-shed, whether the same is then in the possession of the offender, or of any other person, with intent to injure or defraud any person, shall be liable to imprisonment for fourteen years.

Setting fire to railway station or public building

199. Whosoever maliciously sets fire to any station, engine-house, warehouse, or other building, belonging, or appertaining, to any railway, port, dock, or harbour, or canal, or other navigation, or to any building, the property of the Queen, or of the council, or body corporate of any municipal institution, or the property of any university, or college, or dedicated to public use or ornament, or erected, or maintained, by public subscription, shall be liable to imprisonment for fourteen years.

Setting fire to other buildings

200. Whosoever maliciously sets fire to any building not mentioned in sections one hundred and ninety-six to one hundred and ninety-nine both inclusive shall be liable to imprisonment for ten years.

Setting fire to things in or adjacent to buildings, &c.

201. Whosoever maliciously sets fire to any matter or thing, in, against, or under, any building, vehicle or aircraft, under such circumstances that if the building, vehicle or aircraft were thereby set on fire the offence would be punishable by imprisonment for 5 years or more, shall be liable to imprisonment for seven years.

Attempt to set fire to buildings, &c.

202. Whosoever maliciously attempts to set fire to any such building, vehicle, aircraft, or matter, or thing, as aforesaid, shall be liable to imprisonment for five years.

Destroying or damaging a house, &c., with gunpowder

203. Whosoever maliciously, by the explosion of gunpowder or other explosive substance, destroys, throws down, or damages, the whole, or any part, of any dwelling-house, vehicle or aircraft, any person being therein, or the whole, or any part, of any building whatsoever, vehicle or aircraft, whereby the life of any person is endangered, shall be liable to imprisonment for life.

Attempting to destroy building, &c., with gunpowder

204. Whosoever maliciously places, or throws in, or into, or upon, under, against, or near any building, vehicle or aircraft, any gunpowder, or other explosive substance, with intent to destroy or damage any building, vehicle, aircraft, engine, machinery, tools, fixtures, or other property, whether any explosion takes place or not, and whether any damage is caused or not, shall be liable to imprisonment for fourteen years.

Tenants maliciously injuring houses

208. Whosoever, being possessed of any building, or part of any building, held for any period, or at will, or held over after the termination of any tenancy, maliciously pulls down, or demolishes, or begins, or attempts, to pull down, or demolish, the same, or any part thereof, or maliciously pulls down, or severs from the freehold, any fixture belonging to such building, shall be liable to imprisonment for three years.

Injuring machinery or goods in process of manufacture

209. Whosoever—

maliciously cuts, breaks, or destroys, or damages, with intent to destroy or render useless, any goods, article, or material, in any stage, process, or progress, of manufacture, or any loom, frame, machine, engine, rack, tackle, tool, or implement, whether fixed or movable, prepared for, or employed in, manufacturing, or preparing, any such goods, article, or material, or

by force enters into any building, or place, with intent to commit any such offence,

shall be liable to imprisonment for seven years.

Injuring agricultural and other machines

210. Whosoever maliciously cuts, breaks, or destroys, or damages, with intent to destroy, or render useless, any machine, or engine, whether fixed or movable, used, or intended to be used, for performing any agricultural operation, or any machine, or engine, used, or intended to be used, for sheep-washing, wool-pressing, sugar-crushing, cotton-ginning, or for performing any process connected with the preparation of any agricultural, or pastoral, produce, or with the preservation of meat, or other animal substances, or any appliance, or apparatus, in connection with any such machine, or engine, shall be liable to imprisonment for five years.

Setting fire to crops

211. Whosoever maliciously sets fire to any crop of hay, grass, sugar-cane, corn, grain, pulse, cotton, or cultivated vegetable produce of any kind, whether standing or cut down, or to any wood, coppice, or plantation of trees, or to any

heath, gorse, furze, or fern, or to any natural grass, wheresoever growing, shall be liable to imprisonment for fourteen years.

Setting fire to stacks, &c.

212. Whosoever maliciously sets fire to any stack of corn, grain, pulse, tares, hay, straw, haulm, stubble, or cultivated vegetable produce, or of furze, gorse, heath, fern, turf, peat, coals, kerosene-shale, charcoal, wood, or bark, or to any grain, or hay, housed in a barn or shed, shall be liable to imprisonment for fourteen years.

Setting fire to fences

213. Whosoever maliciously sets fire to any fence, or to any timber cut, laid down, or prepared, for the purpose of fencing, shall be liable to imprisonment for ten years.

Attempts to set fire to such things

214. Whosoever maliciously attempts to set fire to any matter, article, or thing, in the three last preceding sections mentioned, shall be liable to imprisonment for seven years.

Destroying hopbinds, vines, &c.

215. Whosoever maliciously destroys, or damages, any hopbinds growing on poles in any plantation of hops, or any vines growing in any vineyard or garden, or any growing or planted cotton, or sugar-canes, shall be liable to imprisonment for ten years.

Injuring trees, shrubs, &c., in pleasure-ground, &c.

216. Whosoever maliciously destroys, or damages, any tree, sapling, shrub, or plant, or any underwood, growing in any park, pleasure-ground, garden, orchard, or avenue or in any public place, or enclosed ground, or in any ground belonging to any dwelling-house, if the amount of injury done exceeds \$2, shall be liable to imprisonment for five years.

The like to value of over \$10 elsewhere

217. Whosoever maliciously destroys, or damages, any tree, sapling, shrub, or plant, or any underwood growing elsewhere than in any place mentioned in the last preceding section, if the amount of injury done exceeds \$10, shall be liable to imprisonment for five years.

Injuring trees, &c., after two summary convictions

218. Whosoever, having been twice summarily convicted under this or any former Act of any such offence as is hereinafter in this section mentioned, afterwards maliciously destroys, or damages, any tree, sapling, shrub, or plant, or any underwood, if the injury done exceeds 10 cents, shall be liable to imprisonment for two years.

Destroying plant, &c., in a garden after one summary conviction

219. Whosoever, having been summarily convicted under this or any former Act of any such offence as is hereinafter in this section mentioned, afterwards maliciously destroys, or damages, any plant, root, fruit, or vegetable produce, growing in any garden, orchard, nursery-ground, hothouse, greenhouse, or conservatory, shall be liable to imprisonment for five years.

Driving cattle, &c., on to cultivated land**220. Whosoever—**

maliciously drives any cattle into, or upon, any enclosed land then under cultivation, or

maliciously pulls, or breaks down, or removes, cuts, or severs, any fence, wall, dyke, or palisade, or

maliciously opens, or leaves open, any gate, or slip-rail,

with intent in any such case to allow cattle to stray in or upon such enclosed land,

shall be liable to imprisonment for four years.

Setting fire to coal-mine

221. Whosoever maliciously sets fire to any mine of coal, cannel-coal, anthracite, kerosene-shale, or other mineral, fuel, or to any well of mineral oil, shall be liable to imprisonment for life.

Attempt to fire coal-mine

222. Whosoever maliciously attempts to set fire to any such mine, or well, as in the last preceding section mentioned, shall be liable to imprisonment for fourteen years.

Conveying water into mine, shaft, &c.**223. Whosoever—**

maliciously causes any water to be conveyed, or run, into any mine, or into any subterranean passage communicating therewith, or

maliciously pulls down, fills up, or obstructs, or damages, with intent to destroy, obstruct, or render useless, any airway, waterway, drain, pit, level, or shaft, of or belonging to any mine,

with intent in any such case to destroy, or damage, such mine, or to hinder, or delay, the working thereof,

shall be liable to imprisonment for seven years.

Damaging engines, staiths, waggon-ways**224. Whosoever—**

maliciously sets fire to, or pulls down, or destroys, or damages, with intent to destroy, or render useless, any engine employed, or about to be employed in sinking, draining, ventilating, or working any mine, or any appliance or apparatus in connection therewith, or any staith, building,

or erection, bridge, waggon-way, or trunk, used or intended to be used, in, or about, the business of any mine, whether such engine, staith, building, erection, bridge, waggon-way, or trunk, is completed or unfinished, or

maliciously prevents, or obstructs, the working of any such engine, appliance, or apparatus, or

maliciously cuts, breaks, unfastens, or damages, with intent to destroy, or render useless, any rope, chain, or tackle used in any mine, or in or upon any way, or work, employed in, or connected with, any mine, or the business thereof,

shall be liable to imprisonment for seven years.

Destroying sea or river bank or wall

225. Whosoever—

maliciously breaks down, cuts down, or otherwise destroys, or damages, any sea-bank, or sea-wall, or the bank, dam, or wall, of or belonging to, any river, creek, canal, drain, reservoir, pool, or marsh, whereby any land or building is, or probably may be, overflowed, or damaged, or

maliciously throws, breaks, or cuts down, levels, undermines, or otherwise destroys, or damages, any watercourse, aqueduct, pipe, dam, embankment, cutting, or reservoir, connected with any work for the supply or conservation of water, or any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing-path, drain, watercourse, or other work belonging to any port, harbour, dock, or reservoir, or on, or belonging to, any navigable river, creek, or canal,

shall be liable to imprisonment for life.

Removing piles, or obstructing navigation of river

226. Whosoever—

maliciously cuts off, draws up, or removes, any materials, fixed in, or placed on, the ground, and used for securing any sea-bank, or sea-wall, or the bank, dam, or wall, of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty, or lock, or

maliciously opens, or draws up, any floodgate, or sluice, or does any other injury to any navigable river or canal with intent to obstruct, or prevent the carrying on, completing, or maintaining, the navigation thereof,

shall be liable to imprisonment for seven years.

Breaking down dams, &c., poisoning fish

227. Whosoever—

maliciously cuts through, breaks down, or destroys, the dam, floodgate, or sluice, of any fish-pond, or of any water being private property, with intent thereby to take, or destroy, any fish in such pond or water, or so as to cause the loss, or destruction, of any such fish, or

maliciously puts any lime, or other noxious material, in any such pond or water, with intent thereby to destroy any fish then, or that may thereafter be, therein, or

maliciously cuts through, breaks down, or destroys, the dam, or floodgate, of any mill-pond, reservoir, or pool,

shall be liable to imprisonment for four years.

Injury to a public bridge, &c.

228. Whosoever—

maliciously pulls or throws down, or in anywise destroys, any bridge, viaduct, or aqueduct, over or under which any highway, railway road, or canal, passes, or

maliciously does any injury with intent thereby to render such bridge, viaduct, or aqueduct, or the highway, railway, road, or canal, passing over or under the same, or any part thereof, dangerous, or impassable,

shall be liable to imprisonment for life.

Destroying turnpike-gate, &c.

229. Whosoever maliciously throws down, levels, or otherwise destroys, in the whole, or in part, any turnpike-gate, or toll-bar, or any wall, chain, rail, post, bar, or other fence, belonging to any turnpike-gate, or toll-bar, erected to prevent passengers passing by without paying toll, or any house, building, or weighing-engine, erected for the better collection, ascertainment, or security, of any such toll, shall be liable to imprisonment for one year.

Certain acts, &c., on railway, with intent to obstruct, &c.

230. Whosoever—

maliciously places, or throws, any matter, or thing, upon, or across, any railway, or

maliciously takes up, removes, or displaces, any rail, sleeper, or other thing, belonging to any railway, or

maliciously turns, moves, or diverts, or neglects to turn, move, or divert, any point, or other machinery belonging to any railway, or

maliciously makes, or shows, hides, or removes, any signal, or light, upon or near to any railway, or

maliciously does, or causes to be done, any other thing,

with intent in any such case to obstruct, overthrow, destroy,

or injure, any engine, tender, carriage, or truck, on such railway,

shall be liable to imprisonment for life.

Obstructing railways—alternative verdict

231. Where, on the trial of a person for an offence under the last preceding section, the jury are not satisfied that the accused is guilty thereof, but are satisfied that he is guilty of an offence within the next following section, they may acquit him of the offence charged, and find him guilty of an offence under

the said last-mentioned section, and he shall be liable to punishment accordingly.

Obstructing engines or carriages on railways

232. Whosoever, by any unlawful act, or wilful omission, or neglect, obstructs, or causes to be obstructed, the passing, or working, of any engine, or carriage, on any railway, or aids, or assists, in any such offence, shall be liable to imprisonment for three years.

Injuring telegraph posts, &c.

233. Whosoever—

maliciously destroys, breaks, removes, or in any manner damages, any telegraph post, or wire, or any part thereof, or any insulator attached to any such post, or,

by any unlawful act, wilfully obstructs the passing of any message along any such wire,

shall be liable to imprisonment for three years.

Attempt

234. Whosoever maliciously attempts to commit any offence in the last preceding section mentioned, shall be liable to imprisonment for one year.

Setting fire to vessels

236. Whosoever—

maliciously sets fire to, or casts away, or in anywise destroys, any vessel, whether complete or unfinished, or

maliciously, and with intent to destroy such vessel, sets fire to the tackle, apparel, or furniture, of such vessel, or any goods therein,

shall be liable to imprisonment for life.

Setting fire to vessels—attempt

237. Whosoever maliciously attempts to set fire to, or cast away, or destroy, any such vessel, shall be liable to imprisonment for fourteen years.

Placing gunpowder near a ship with intent to damage it

238. Whosoever maliciously places, or throws in, or into, or upon, against, or near, any vessel, any gunpowder, or other explosive substance, with intent to destroy or damage such vessel, or any machinery, working tools, or chattel, in or near the same, whether an explosion takes place or any damage is caused or not, shall be liable to imprisonment for fourteen years.

Damaging ship otherwise than by fire

239. Whosoever, maliciously damages, otherwise than by fire, gunpowder, or other explosive substance, any vessel whether complete or unfinished, with intent to destroy the same, or render the same useless, shall be liable to imprisonment for seven years.

Exhibiting false signals, &c.

240. Whosoever maliciously masks, alters, or removes, any light or signal, or exhibits a false light or signal, with intent to bring any vessel or boat into danger, shall be liable to imprisonment for life.

Doing any act with intent to cause loss of vessel, &c.

241. Whosoever maliciously does anything with intent to cause the loss, or destruction of, or serious injury to, any vessel or boat, for which offence no punishment is hereinbefore provided, shall be liable to imprisonment for life.

Removing or concealing buoys, &c.

242. Whosoever maliciously cuts away, casts adrift, removes, alters, defaces, sinks, or destroys, or does any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or injure, or conceal, any boat, buoy, buoy-rope, perch, or mark used or intended for the guidance of seamen, or the purposes of navigation, shall be liable to imprisonment for seven years.

Destroying wrecks, &c.

243. Whosoever maliciously destroys any part of any vessel in distress, or wrecked, stranded, or cast on shore, or any goods, or article of any kind, belonging to such ship, or vessel, shall be liable to imprisonment for fourteen years.

Injuries to works of art in museums, &c.

244. Whosoever maliciously destroys, or damages, any book, manuscript, picture, print, statue, bust, or vase, monument, or other memorial, painted glass, ornament, or ornamental work, or other article or thing, kept, or deposited, for the purposes of art, science, or literature, or as an object of curiosity, in any building belonging to the Queen, or in any museum, gallery, cabinet, library, school of arts, or other repository, habitually, or from time to time, open for the admission of the public, whether gratuitously, or by the payment of money, or in any place of Divine worship, or in any building belonging to the council, or body corporate, of any municipal institution, or to any university, or college, or in any street, burial-ground, or public garden, or ground, or any statue, or monument, exposed to public view, or any ornament, railing, or fence, belonging to, or surrounding, the same, or any post office receiving box, or pillar, or any drinking fountain, or any erection, place, or object of public or scientific interest, shall be liable to imprisonment for five years.

Killing or maiming cattle other than pigs or goats

245. Whosoever maliciously kills, maims, or wounds, any cattle other than pigs or goats, shall be liable to imprisonment for ten years:

Provided that—

Where, on the trial of a person for an offence under this section, it appears that he was the occupier of any enclosed land under cultivation,

or a person acting by the order of such occupier, and that the cattle when killed, maimed, or wounded, were trespassing on such land, he shall be liable only to imprisonment for one year, or to a fine of \$40.

Cruelly wounding or torturing cattle

246. Whosoever maliciously and cruelly wounds, or tortures any cattle, whether his own or not, shall be liable to imprisonment for one year or to a fine of \$200.

Provided that—

- (1) nothing in this section shall prevent the summary conviction of the offender, under any Act passed to prevent cruelty to animals:
- (2) after any such conviction, or after acquittal on the merits, he shall not be liable to prosecution under this Act for the same cause.

Other injuries over \$10

247. Whosoever maliciously injures, to an amount exceeding \$10, any real or personal property whatsoever, either of a public or private nature for which act no punishment is hereinbefore provided, shall be liable to imprisonment for two years, and where such offence is committed in the night, shall be liable to imprisonment for five years.

Letters threatening to destroy property

248. Whosoever sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing, threatening to burn, or destroy, any vessel, or any building, or any rick, or stack of grain, hay, or straw, or other agricultural produce, or any grain, hay, straw, or other agricultural produce, in, or under, any building, shall be liable to imprisonment for seven years.

Making or having gunpowder, &c., to commit malicious injury

249. Whosoever makes, or knowingly has in his possession, any gunpowder, or other explosive substance, or any dangerous, or noxious thing, or any machine, engine, instrument, or thing, with intent thereby, or by means thereof, to commit, or for the purpose of enabling some other person to commit, any malicious injury within the meaning of this Act, shall be liable to imprisonment for three years.

PART V

FORGERY

Forging and uttering defined

250. For the purposes of this Act:

“Forging” means the counterfeiting, or altering in any particular, by whatsoever means effected, with intent to defraud, of an instrument, or document, or of some signature, or other matter, or thing, or of any

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attestation, or signature of a witness, whether by law required or not to any instrument, document, or matter, the forging of which is punishable under the Act.

“Utter, or uttering,” wherever used herein with respect to any forged instrument, document, signature, matter, or thing, or any instrument, document, or matter with a forged attestation or signature of a witness thereto, means that the person uttered, offered, disposed of, or put off, the same with intent to defraud, knowing it to be forged.

Uttering to be offence of same degree and subject to same punishment as forging

251. The uttering of any forged instrument, document, signature, matter, or thing, or of any instrument, document, or matter with a forged attestation or signature of a witness thereto, whether in any such case the same was made, or purports to have been made, in or out of the Territory, shall, whenever the forging of the same is punishable under this Act, be an offence of the same degree, and punishable in the same manner as such forgery.

Forging not specially provided for

252. Whosoever forges, or utters, any instrument, or matter, the forging or uttering of which is not herein otherwise punishable, shall be liable to imprisonment for two years.

Acts, proclamations, &c.**255. Whosoever—**

prints any copy of any Act, or of any proclamation or commission issued by the Governor-General, which copy falsely purports to have been printed by the Government Printer, or

tenders in evidence any such copy knowing the same was not printed by the Government Printer,

shall be liable to imprisonment for fourteen years.

Transfer of certain stock, or power of attorney relating thereto**256. Whosoever—**

forges, or utters, any transfer of any share or interest of or in any stock annuity or other public fund of or in any part of Her Majesty's dominions, or of or in the capital stock of any body corporate, company, or society, now or hereafter established by charter, or by any Imperial or Colonial Act, or

forges, or utters, any power of attorney, or other authority to transfer any such share, or interest, or to receive any dividend, or money payable in respect of any such share or interest, or

demands, or endeavours, to have any such share or interest transferred, or to receive any dividend, or money payable in respect thereof, by

virtue of any such forged power of attorney, or authority, knowing the same to be forged,

with intent in any such case to defraud,
shall be liable to imprisonment for fourteen years.

Personating owner of stock or property

257. Whosoever falsely and deceitfully personates any owner of any such share, or interest, or any owner of any dividend, or money payable in respect of any such share, or interest, or any owner of any property whatever, or any estate, or interest, therein, or any charge or encumbrance thereon, and thereby transfers, or endeavours to transfer, any share, estate, or interest belonging to any such owner, or thereby receives, or endeavours to receive, any money due to any such owner as if such offender were the true owner, shall be liable to imprisonment for fourteen years.

Falsifying books of public funds

258. Whosoever—

wilfully makes any false entry in, or alters any word or figure in, any book of account, in which the accounts of the owners of any share, or interest of or in any stock, annuities, or other public funds are entered, or wilfully falsifies any of the accounts of any such owner in any such book, or

wilfully makes any transfer of any share, or interest of or in any such stock, annuity, or public fund, or any such capital stock as aforesaid, or of or in the capital stock of any such body corporate, company, or society, as aforesaid, in the name of any person not being the true owner of such share or interest,

with intent in any such case to defraud,
shall be liable to imprisonment for fourteen years.

Forging a bank note, and possession of same

265. Whosoever—

forges, or utters, any note, or bill of exchange, of any company or person carrying on the business of banking, whether in the Territory or elsewhere, commonly called a bank note, bank bill of exchange, or bank post bill, or any indorsement on, or assignment of, any such note or bill, or

for any unlawful purpose, or without lawful authority or excuse, purchases or receives from any person, or has in his possession, any such forged bank note, bank bill of exchange, or bank post bill, knowing the same to be forged,

shall be liable to imprisonment for fourteen years.

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Engraving or having any plate, &c., for making bank notes or paper

266. Whosoever, for any unlawful purpose, or without lawful authority or excuse,

engraves or makes, upon any material, any words or writing purporting to be a bank note, bank bill of exchange, or bank post bill, of any company or person carrying on the business of banking in the Territory, or elsewhere, or to be part of any such instrument, or any name, word, or character, resembling or apparently intended to resemble any subscription to any such instrument, issued by any such company or person, or

uses any material, or implement, or device, for making or printing any such instrument, or any part thereof, or

knowingly has in his possession any such material, or any such implement, or device, or

knowingly offers, utters, disposes of, or puts off, or has in his possession, any paper, upon which any such instrument, or any part thereof, or any name, word, or character, resembling or apparently intended to resemble any such subscription as aforesaid, is made or printed,

shall be liable to imprisonment for fourteen years.

Engraving, &c., any part of a bank note, &c.

267. Whosoever, for any unlawful purpose, or without lawful authority or excuse,

engraves, or makes upon any material any word, number, figure, device, character, or ornament, the impression taken from which resembles, or apparently is intended to resemble, any part of a bank note, bank bill of exchange, or bank post bill, of any company or person carrying on the business of banking in the Territory or elsewhere, or

uses, or knowingly has in his possession, any such material, or instrument, or device, for impressing upon paper or other material any word, number, figure, character, or ornament, which resembles or apparently is intended to resemble any part of any such note, or bill, or

knowingly offers, utters, disposes of, or puts off, or has in his possession, any paper or other material, upon which there is an impression of any such matter as aforesaid,

shall be liable to imprisonment for fourteen years.

Instruments in blank

268. Every instrument in blank, which in a complete state would be a bank note, bank bill of exchange, or bank post bill, shall be within the two last preceding sections.

Having moulds for paper with the name of any banker

269. Whosoever, for any unlawful purpose, or without lawful authority or excuse,

makes or uses, any frame, mould, or instrument for the manufacture of paper, with the name or firm of any company or person carrying on the business of banking in the Territory or elsewhere appearing visible in the substance of the paper, or knowingly has in his possession any such frame, mould, or instrument, or

makes, uses, sells, exposes for sale, utters, or disposes of, or knowingly has in his possession, any paper, in the substance of which the name or firm of any such company or person appears visible, or

by any art or contrivance causes the name or firm of any such company or person to appear visible in the substance of the paper upon which the same is written or printed,

shall be liable to imprisonment for fourteen years.

Engraving plates for foreign bills or notes

270. Whosoever, for any unlawful purpose, or without lawful authority or excuse,

engraves, or makes upon any material, any bill of exchange, promissory-note, undertaking, or order for payment of money, or any part of any such instrument, in whatsoever language the same is expressed, and whether the same is under seal or not, or intended to be under seal, purporting to be the bill, note, undertaking, or order, or part of the bill, note, undertaking, or order of a foreign prince or State, or any body corporate, or body of the like nature, or person or company of persons, in any country not under the dominion of Her Majesty, or

uses, or knowingly has in his possession any material upon which any such foreign bill, note, undertaking, or order, or any part thereof, is engraved, or made, or

knowingly offers, utters, disposes of, or puts off, or has in his possession, any paper upon which any part of any such instrument is made or printed,

shall be liable to imprisonment for fourteen years.

Forging wills

271. Whosoever forges, or utters, any will, testament, codicil, or testamentary instrument, shall be liable to imprisonment for life.

Forging deeds

272. Whosoever forges any deed, bond, or writing obligatory, or any assignment thereof, shall be liable to imprisonment for fourteen years.

Forging bills, notes, or orders, receipts for goods, &c.

273. Whosoever forges, or utters, any bill of exchange, or any acceptance, indorsement, or assignment thereof, or any promissory-note for the payment of money, or any indorsement, or assignment thereof, or any undertaking, warrant, order, authority, or request, for the payment of money, or the delivery or transfer of any chattel, note, bill, or security, or for procuring, or giving credit, or any acquittance, or receipt for money, or goods, or for any note, bill, or other security, or any indorsement on, or assignment of, any such undertaking, warrant, order, authority, request, receipt, or other instrument, shall be liable to imprisonment for ten years.

Signing bill, note, &c., by procuration, without authority

274. Whosoever—

draws, makes, signs, accepts, or indorses, any bill of exchange or promissory-note, or any such undertaking, warrant, order, authority, or request, as aforesaid, by procuration or otherwise, for or in the name or on the account of any other person, without lawful authority or excuse, or

offers, utters, disposes of, or puts off, any such instrument so drawn, made, signed, accepted, or indorsed, knowing the same to have been so drawn, made, signed, accepted, or indorsed,

with intent in any such case to defraud,
shall be liable to imprisonment for ten years.

Obliterating crossings on cheques

275. Whosoever, when any cheque or draft on any banker is crossed with the name of a banker, or with two transverse lines with the words “bank,” or the words “and company,” or any abbreviation thereof respectively, or with the word “credit” followed by the name of any individual or firm,

obliterates, adds to, or alters, any such crossing, or

utters any cheque or draft whereon any such obliteration, addition, or alteration has been made, knowing the same to have been made,

with intent in any such case to defraud,
shall be liable to imprisonment for ten years.

Forging debentures

276. Whosoever forges, or utters, any debenture, or other security, or instrument, issued, or purporting to be issued, under any lawful authority whatsoever, either within Her Majesty's dominions or elsewhere, the forging, or uttering, of which is not herein otherwise punishable, shall be liable to imprisonment for ten years.

Forging instruments, &c., made by judges, &c., or signature thereto

277. Whosoever forges, or utters, any instrument, document, writing, or signature, made, or purporting, or appearing to be made, by any Judge, or by

any officer of any Court, or by any Justice, or any officer authorised to take affidavits or solemn declarations, shall be liable to imprisonment for ten years.

Forging signature of Supreme Court Judge to decree, &c., or tendering same in evidence with forged signature

278. Whosoever—

forges the signature of any Judge of the Supreme Court purporting to be attached or appended to any decree, order, certificate, or other official, or judicial document, or

tenders in evidence any such decree, order, certificate, or document, as aforesaid, with a false or counterfeit signature of any such Judge thereto, knowing the same to be false or counterfeit,

shall be liable to imprisonment for fourteen years.

Forging records, &c., of any Court

280. Whosoever forges any record, entry, minute, process, instrument, or document, of or belonging to, or issued by, or filed in, any Court, shall be liable to imprisonment for ten years.

Forging seal or stamp on records, &c.

281. Whosoever forges the seal of any Court, or any stamp or seal used for stamping or sealing any such record, entry, minute, process, instrument, or document, or the impression thereof on any such matter, shall be liable to imprisonment for seven years.

Forging copy or certificate of record, &c.

282. Whosoever—

forges, or utters, any copy or certificate of any such record, entry, minute, process, instrument, or document, or

utters any such copy or certificate having thereon any forged signature, or,

not being any officer or clerk of or in the Court, signs or certifies any such copy or certificate as such officer or clerk,

shall be liable to imprisonment for seven years.

Serving, &c., forged process

283. Whosoever—

serves, or enforces, any forged process of any Court, knowing the same to be forged, or

delivers, or causes to be delivered, to any person, any parchment or paper, falsely purporting to be any such process, or a copy thereof, or to be a decree or order of any Court, or a copy thereof, knowing the same to be false, or

acts, or professes to act, under any such false process, knowing the same to be false,

shall be liable to imprisonment for seven years.

Forging documents, &c., used as evidence

284. Whosoever forges any document or writing or any copy of any document or writing, used, or intended to be used, as evidence in any Court, shall be liable to imprisonment for ten years.

Forgery of signature to copies admissible in evidence of decrees, &c.

285. Whosoever, where any copy of any judgment, decree, rule, or order, filed or recorded in the Supreme Court is admissible in evidence when certified under the hand of the proper officer of such Court,

forges the signature of such officer to any such copy, or tenders in evidence any such copy with a false or counterfeit signature thereto, knowing the same to be false,

shall be liable to imprisonment for fourteen years.

Forgery of signature to certificate admissible in evidence of facts relating to trials, &c.

286. Whosoever, where the fact that any particular cause or case or matter was tried, or was under inquiry, in any Court, or before any Judge, or that any person was acquitted, or convicted of any offence, or sentenced to any punishment or fine, or was ordered to pay any sum of money, may be proved by a certificate under the hand, or purporting so to be, of the officer having ordinarily the custody of such records, or documents, or proceedings,

forges, or procures to be forged, the signature of any such officer, or person, to any such certificate, or to any paper purporting to be such a certificate, or fraudulently alters any such certificate after it has been signed, or

gives or tenders in evidence, any such forged, or altered, certificate or paper, knowing the same to be forged or fraudulently altered, or

signs, issues, gives or tenders in evidence, any such certificate or paper, knowing the same to be false in any particular,

shall be liable to imprisonment for five years.

Clerk of Court or other officer wilfully certifying false copy of record of conviction, &c., or of public document

287. Whosoever, being an officer to whose custody is intrusted any book or document of such a public nature as to be admissible in evidence on its mere production from the proper custody, and being authorised, or required, by any law in force in the Territory to furnish certified copies or extracts of such books or documents, wilfully certifies any document as being a true copy or extract of any such book or document, knowing that the same is not a true copy or extract, as the case may be, shall be liable to imprisonment for eighteen months.

Forgery of seal, &c., on such copy, &c., or on examined copy of any document inspected by order of Judge

288. Whosoever—

forges the seal, stamp, or signature, of any document, being such certified copy or extract as in the last preceding section mentioned, or being an examined copy or extract of any document in the said section mentioned, or being an examined copy of any document inspected under an order of the Supreme Court or any Judge thereof, or

tenders in evidence any such certified copy or extract, or any such examined copy or extract, with a false or counterfeit, seal, stamp or signature thereto, knowing the same to be false or counterfeit,

shall be liable to imprisonment for seven years.

Forgery of seal, &c., on public documents, &c., and copies admissible in evidence

289. Whosoever, where any certificate, or official, or public document, or any document or proceeding of any corporation, or joint stock or other company, now or hereafter to be established, or any certified copy of any document, or by-law, or entry in any register or other book, or of any other proceeding, is admissible in evidence under any law in force in the Territory when purporting to be sealed or stamped and signed as directed by the law under which the same is so admissible,

forges the seal, stamp, or signature, appended to any such certificate, or document, or proceeding, or to any such certified copy, as aforesaid, or

tenders in evidence any such certificate, or document, or proceeding, or any such certified copy, as aforesaid, with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit,

shall be liable to imprisonment for fourteen years.

Forging signature or seal on copy admissible in evidence of treaty, &c., of a State or proceeding of a Court outside the Territory

290. Whosoever, where any copy of any proclamation, treaty, or other Act of State of Great Britain, or of any British Colony, or of any Foreign State, or any judgment, decree, order, or other judicial proceeding of any Court of Justice in Great Britain, or any British Colony, or in any Foreign State, or any affidavits, pleadings, or other legal documents, filed or deposited in any such Court, is admissible in evidence when such copy is an examined copy, or is authenticated by purporting to be sealed, or signed, as directed by the law under which the same is so admissible,

forges the seal, or signature, of any such copy, or tenders in evidence any such copy with a false and counterfeit seal or signature thereto, knowing the same to be false or counterfeit,

shall be liable to imprisonment for seven years.

Forging, &c., certificate issued by officer outside the Territory

291. Whosoever, where a certificate of the birth, marriage, or death, of any person in any place other than the Territory, is admissible in evidence when purporting to be issued by the officer authorised by the law in that behalf of such place,

forges, or utters, any such certificate, or tenders, or causes to be tendered, in evidence any such certificate, knowing the same to be forged,

shall be liable to imprisonment for fourteen years.

Forging instruments made evidence by statute

292. Whosoever forges, or utters, any instrument, whether written or printed, or partly written and partly printed, which is made evidence by any Act or Imperial Act, or by any law in force in the Territory, the forging, or uttering, of which is not herein otherwise punishable, shall be liable to imprisonment for seven years.

Forgery of deeds, &c., made, &c., under Registration law

293. Whosoever—

forges, or utters, any instrument, document, entry, or writing, made or issued, or purporting so to be, under the provisions of any law in force in the Territory relating to the Registry of Deeds or other instruments, or

forges the seal of, or belonging to, any office for the Registry of Deeds or other instruments, or any stamp or impression of any such seal, or

forges, or utters, any signature, purporting to be the signature of any person to any such instrument, document, or writing,

shall be liable to imprisonment for ten years.

Acknowledging recognizances, &c., in the name of another

294. Whosoever, without lawful authority or excuse, confesses a judgment in any Court, or signs any cognovit, or acknowledges any recognizance, deed, or instrument, in the name of another person before any Court or person lawfully authorised in that behalf, shall be liable to imprisonment for seven years.

Demanding property on forged instruments

298. Whosoever, with intent to defraud, obtains, or demands, or causes to be delivered, or paid to any person, or endeavours to obtain, or cause to be delivered, or paid to any person, any property, upon or by virtue of any forged instrument, knowing the same to be forged, or upon or by virtue of any probate, or letters of administration, knowing the will, codicil, or testamentary writing, on which the same was, or were, obtained, to have been forged, or such probate, or letters, to have been obtained by any false oath or affirmation, shall be liable to imprisonment for fourteen years.

PART VII
PERJURY AND LIKE OFFENCES

Perjury

327. Whosoever commits the crime of perjury shall be liable to imprisonment for seven years.

Perjury with intent to procure conviction, &c.

328. Whosoever commits perjury with intent to procure the conviction, or acquittal, of any person for, or of, any offence punishable by imprisonment shall be liable to imprisonment for fourteen years.

Conviction for false swearing on indictment for perjury

329. Where, on the trial of any person for perjury, it appears that the offence does not amount in law to perjury, but is an offence within the next following section, the jury may acquit him of the offence charged, and find him guilty of an offence under the said last-mentioned section, and he shall be liable to punishment accordingly.

False swearing not being perjury

330. Whosoever, before any person authorised to administer an oath, wilfully makes on oath any false statement, knowing the same to be false, shall, where such offence does not amount in law to perjury, be liable to imprisonment for five years.

Contradictory statements on oath

331. Where, on the trial of a person for perjury, or for wilfully making a false statement on oath not amounting to perjury, it appears that the accused has made two statements on oath, of which one is irreconcilably in conflict with the other, and the jury are of opinion that one of such statements was wilfully false, but they cannot say which of them was so, they may specially so find and that the accused is guilty of perjury, or of wilful false swearing as the case may be, and he shall be liable to punishment accordingly.

Certain technical defects provided for

332. Where, on the trial of a person for perjury, or for wilfully making a false statement on oath not amounting to perjury, any affidavit, deposition, examination, or solemn declaration, offered in evidence, is wrongly intituled, or otherwise informal or defective, or the jurat to any such instrument is informal or defective, or any such deposition, where taken before a Magistrate or Coroner has no caption, or no proper caption, the accused shall not be entitled to an acquittal by reason of such omission, defect, or informality, but every such instrument, if otherwise admissible, may be given in evidence and used for all purposes of the trial.

False evidence by child not on oath

333. Whosoever, being a child of tender years admitted to give evidence, though not on oath, under the provisions of this Act, gives any false evidence shall be guilty of an offence:

Provided that no prosecution shall be instituted under, or by virtue of, this section, without the leave of the Court, or Magistrate, before whom such evidence was given.

Directing prosecution for perjury

340. Where any statement on oath has been made by any person in any suit, proceeding, or matter, pending in the Supreme Court, or before any Judge of that Court, the Judge before whom the same was so made, may, if reasonable cause appears for so doing, direct such person to be prosecuted for perjury in respect thereof,

and may thereupon require him forthwith to enter into a recognizance, with one or more surety or sureties, to take his trial for that offence at the next, or nearest practicable, sitting of the Supreme Court,

and may also require any persons then present to enter into recognizances to prosecute, and give evidence, respectively, against the accused, and may commit any person in default of his entering into any such recognizance.

For restraining vexatious prosecutions

341. (1) No prosecution in respect of any such statement on oath, as in the last preceding section mentioned, shall be instituted without such direction as in the said section provided, or without the leave of the Court, or Judge therein mentioned.

(2) No prosecution in respect of any statement on oath made before any Registrar, or District Registrar in Bankruptcy shall be instituted without the leave of a Judge of the Supreme Court.

Application of laws

342. The provisions of this Act shall apply to every false oath, declaration, or affirmation, declared by any law in force in the Territory to be perjury, or thereby made punishable as perjury,

and shall extend to every declaration made, or purporting, or intended to have been made, under any Act directing, or authorising the making of a solemn declaration, before any public or other functionary in lieu of an oath, or otherwise, although such declaration may not be in the form prescribed by such law.

Saving of other punishments

343. Nothing in this Part shall prevent, or affect, any other punishment, or any forfeiture, provided under any Act now or hereafter passed.

PART VIII

CONSPIRACY TO ACCUSE OF CRIME

Conspiracy to accuse of crime an offence

344. Any conspiracy falsely to accuse a person of a crime shall be punishable by imprisonment for fourteen years.

PART IX

ABETTORS AND ACCESSORIES

Punishment of accessories after the fact to murder, &c.

349. Every accessory after the fact to murder, or the crime of robbery with arms or in company with one or more other person or persons, shall be liable to imprisonment for life.

PART X

APPREHENSION, DETENTION AND DISCHARGE OF CERTAIN PERSONS AND SEARCH AND SEIZURE PROVISIONS

Seizure of forfeited articles

350. (1) A member of the police force may, without warrant, seize any article which is forfeited, or which he has reasonable grounds for believing is forfeited, under any law in force in the Territory and take that article before the Court of Petty Sessions.

(2) Where any article is brought before the Court under sub-section (1), the Court may, subject to the giving of such notice (if any) to such person (if any) as the Court directs, order that the article be condemned or returned to the person from whom it was taken.

(3) Where a prosecution is pending in relation to an article, the Court shall not make an order under sub-section (2) in relation to the article until the prosecution is determined.

(4) All articles condemned under sub-section (2) shall be dealt with as directed by the Attorney-General and, pending his direction, may be detained in such custody as the Court of Petty Sessions directs.

Detention of drunken persons

351. (1) A person who is found drunk in a public place and who is—

- (a)** behaving in a disorderly manner;
- (b)** behaving in a manner likely to cause injury to himself or another person or damage to any property; or

- (c) incapacitated, due to his being drunk, and in need of physical protection,

may be taken into custody by a member of the police force and detained until he ceases to be drunk or until the expiration of the period of 8 hours after he is so taken into custody, whichever first occurs.

(2) A member of the police force may search a person who is taken into custody under sub-section (1) and may take possession of any personal belongings found in the possession of the person.

(3) A person is entitled to the return of any personal belongings taken from him under sub-section (2) when he ceases to be detained under this section.

Person in act of committing or having committed an offence

352. (1) Any person may, without warrant, apprehend—

- (a) any person in the act of committing, or immediately after having committed, an offence punishable, whether by indictment or on summary conviction, under any law in force in the Territory; or
- (b) any person who has committed an offence punishable by imprisonment for 5 years or more, being an offence for which he has not been tried,

and take him, and any property found upon him, before a Magistrate to be dealt with according to law.

Person suspected of having committed or of being about to commit offence

(2) Any constable may without warrant apprehend,

- (b) any person lying, or loitering, in any highway, yard, or other place during the night, whom he, with reasonable cause, suspects of being about to commit any offence punishable by imprisonment for 5 years or more,

and take him, and any property found upon him, before a Magistrate to be dealt with according to law.

Offender for whose arrest warrant has been issued

(3) Any constable may, although the warrant is not at the time in his possession, apprehend any person for whose apprehension for an offence a warrant has been issued, and take him, and any property found upon him, before a Magistrate to be dealt with according to law.

Persons offering stolen property

353. Every person to whom any property is offered to be sold, or pawned, or delivered, and who has reasonable cause to suspect that an offence has been committed with respect to such property, may, and if in his power is required, to apprehend and forthwith take before a Magistrate the person offering the same, together with such property, to be dealt with according to law.

Power to search person, make medical examination, take photograph, finger-prints, &c.

353A. (1) Where a person is in lawful custody upon a charge of committing any crime or offence, any constable may search his person and take from him anything found upon his person.

(2) When a person is in lawful custody upon a charge of committing any crime or offence which is of such a nature and is alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the crime or offence, any legally qualified medical practitioner acting at the request of any officer of police of or above the rank of sergeant, and any person acting in good faith in his aid and under his direction, may make such an examination of the person so in custody as is reasonable in order to ascertain the facts which may afford such evidence.

(3) When a person is in lawful custody for any offence punishable on indictment or summary conviction, the officer in charge of police at the station where he is so in custody may take or cause to be taken all such particulars as may be deemed necessary for the identification of such person, including his photograph and finger-prints.

Escape and harbouring

354. (1) A person who is lawfully held in custody (other than a person taken into custody and detained under section 351) shall not, at any time when he is so held, break or escape out of that custody.

(2) A person shall not knowingly harbour any person who has broken or escaped out of custody in contravention of sub-section (1).

Penalty: \$5,000 or imprisonment for 2 years.

When case not to be proceeded with gaoler to discharge prisoner on certificate from Attorney-General

358. (1) The Attorney-General may, in respect of any person under committal for trial, and in all cases in which any person is remanded to prison, and in which he may in his discretion think fit not further to proceed, transmit at any time a certificate to the Judges of the Supreme Court, any one of whom may thereupon by warrant direct the gaoler in whose custody the prisoner, or person under remand, may be to discharge him from custody in respect of the offence mentioned in such warrant, and, if such gaoler neglects so to do, he shall be liable to a fine of fifty pounds, to be recovered by action of debt in the name of the Attorney-General.

Forms where person is committed for trial

(2) In the case of a person under committal for trial, the certificate shall be in the Form No. 1 in the Third Schedule to this Act, and the warrant in the Form No. 2 in the said Schedule.

Forms where person is under remand

(3) In the case of a person under remand, the certificate shall be in Form No. 3, and the warrant in Form No. 4 in the said Schedule.

PART XI**PROCEDURE, EVIDENCE, VERDICT, &c.****Meaning of "Statute" and "Act" in indictments, &c.**

359. In all indictments and informations, and all criminal pleadings and proceedings, the word "Statute," and the word "Act," used to indicate an enactment shall each include an Imperial Act as well as an Act.

What defects shall not vitiate an indictment

360. No indictment shall be held bad or insufficient for want of an averment of any matter unnecessary to be proved, or necessarily implied, nor for the omission of the words "as appears by the record," or "with force and arms," or "against the peace," nor for the insertion or omission of the words "against the form of the statute," nor for designating any person by a name of office, or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offence was committed, nor for stating the time wrongly, in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or a day that never happened, nor for want of a proper or perfect venue, or a proper or formal conclusion, nor for want of or imperfection in any addition of the accused, nor for want of any statement of the value or price of any matter or thing, or the amount of damage, or injury, in any case where such value, or price, or amount, is not of the essence of the offence.

Formal objections when to be taken

362. Every objection to an indictment, for any formal defect apparent on the face thereof, shall be taken by demurrer or motion to quash such indictment before the jury are sworn, and every Court before which any such objection is taken may thereupon cause the indictment to be forthwith amended, and afterwards the trial shall proceed as if no such defect had appeared.

Judgment on demurrer to indictment

363. In all cases the judgment against the accused on demurrer shall be that he "answer over" to the charge.

Traversing indictment

364. No traverse shall in any case be allowed, or trial postponed, or time to plead to the indictment given, unless the Court shall so order:

Provided that where the Judge is of opinion that the accused ought to be allowed time, either to prepare for his defence, or otherwise, such Judge shall

postpone the trial upon such terms as to him seems meet, and may respite the recognizances of the prosecutor and witnesses accordingly.

Orders for amendment of indictment, separate trial and postponement of trial

365. (1) Where, before trial, or at any stage of a trial, it appears to the court that the indictment is defective, the court shall make such order for the amendment of the indictment as the court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

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

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

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

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

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

Amended indictment

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

Verdict and judgment valid after amendment

367. Every verdict, and judgment, given after the making of any amendment under this Act, shall be of the same force and effect, as if the

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indictment had originally been in the words, and form, in which it is after such amendment.

Form of record after amendment

368. If it is necessary at any time to draw up a formal record, in any case where an amendment has been made, such record may be drawn up in the words and form of the amended indictment, without noticing the fact of amendment.

Respiteing recognizances on postponement

369. In all cases where the trial is postponed the Court may respite the recognizance of the prosecutor and witnesses, and of the accused and his sureties, if any, requiring them severally to appear and prosecute, or be tried, or give evidence, at the time and place to which the trial is so postponed.

Separate offences when can be joined

370. In every case counts may be inserted in the same indictment, against the same person, for any number of distinct offences of the same kind, not exceeding three, committed against the same person:

Provided that no more than six months have elapsed between the first and last of such offences.

Accessories may be charged together in one indictment

371. In the case of any offence, any number of accessories thereto, whether before or after the fact, may be charged with substantive offences in the same indictment, and be tried together, although the principal offender is not included in such indictment, or is not in custody or amenable to justice.

Indictment charging previous offence also

372. In an indictment for an offence committed after a previous conviction for an offence, whether indictable or punishable on summary conviction, it shall be sufficient, after charging the subsequent offence, to state that the accused was theretofore at a certain time and place convicted of an indictable offence, or an offence punishable on summary conviction, as the case may be, without particularly describing such previous offence.

Description of partners, &c.

373. Whenever, in any indictment, it is necessary to mention, for any purpose, any partners, joint-tenants, parceners, or tenants in common, it shall be sufficient to describe them by naming one of such persons, and referring to the rest as "another," or "others," as the case may be.

This provision shall extend to all joint stock companies, executors, administrators, and trustees.

Description of written instruments

374. In every case where a written, or printed, instrument, or instrument partly written and partly printed, is the subject of an indictment, or it is necessary to make an averment in an indictment respecting such instrument, it shall be sufficient to describe such instrument by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy thereof, or otherwise describing the same, and without stating the value thereof.

General averment of intent to defraud or injure

375. (1) In every case where it is necessary to allege an intent to defraud, or injure, it shall be sufficient to allege that the accused did the act with such intent, without alleging an intent to defraud, or injure, any particular person.

(2) In an indictment for doing an act fraudulently, or for a fraudulent purpose, it shall not be necessary to state what was the fraudulent intent, or purpose.

Form of indictment for murder or manslaughter

376. In an indictment for murder, or manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death alleged was caused, but it shall be sufficient in an indictment for murder to charge that the accused did maliciously murder the deceased, and in an indictment for manslaughter to charge that the accused did kill the deceased.

Form of indictment against accessories to murder

378. In an indictment against an accessory to murder, or manslaughter, it shall be sufficient to charge the offence of the principal in the manner hereinbefore specified, and then to charge the accused as an accessory.

Rape, &c.—Count for indecent assault

379. In an indictment for rape, or an unnatural crime, or an attempt to commit the same, a count may be added for an indecent assault.

Addition of count for assault

380. In an indictment for an offence against the person, where such offence includes an assault, a count may be added for such assault.

Indecent assault

381. In an indictment for an indecent assault it shall be sufficient to state that the accused did, on the day and at the place named, commit an indecent assault on the person alleged to have been assaulted, without stating the mode of such assault.

Where not necessary to lay property in any person

382. In an indictment in respect of any of the matters mentioned in the Fourth Schedule of this Act, it shall not be necessary to allege that the

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instrument, document, building, chattel, or other matter, or thing, in respect of which the offence was committed, is the property of any person.

Property of partners or joint owners

383. In an indictment wherein it is necessary to state the ownership of property belonging to more than one person, whether as partners in trade, joint-tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons, and to allege such property to belong to the person so named, and another, or others, as the case may be.

This provision shall extend to all joint stock companies, executors, administrators, and trustees.

Stealing and receiving in one indictment

384. In an indictment containing a charge of stealing property, a count may be added, against the same person, for receiving the same, or any part thereof, knowing the same to have been stolen, and the prosecutor shall not be put to his election as to such charges.

Separate receivers may be charged in one indictment

385. Whenever any property has been stolen, taken, embezzled, obtained, or fraudulently applied, or disposed of, in such a manner as to amount to an offence, any number of receivers at different times of such property, or of parts thereof, may be charged with substantive offences in the same indictment, and be tried together, although the principal offender is not included in such indictment, or is not in custody or amenable to justice.

Allegations in indictment as to money or securities stolen

386. In an indictment for stealing, taking, receiving, or embezzling, or for the misappropriation, or fraudulent application, or disposal, of money, or any valuable security, or for the obtaining of money or any valuable security by any threat, or false pretence, or partly by a false pretence and partly by a wilfully false promise, it shall be sufficient to describe the property as a certain amount of money, or as a certain valuable security, without specifying any particular kind of money or security, which description shall be sustained by proof of the taking, receiving, embezzling, appropriating, disposal, or obtaining, of any money or valuable security, although some part of the value thereof was agreed to be, or was in fact, returned, and although, as it respects money, the particular kind of money is not proved, or provable.

Indictment for stealing by tenants

387. In every case of stealing any chattel let to be used in, or with, any house, or lodging, an indictment in the common form as for larceny, and in every case of stealing any fixture so let as aforesaid, an indictment in the same form as if the offender were not a tenant, or lodger, shall be sufficient, and in either case the property may be laid in the owner, or the person letting to hire.

Indictment for stealing deeds

388. In an indictment for stealing, embezzling, destroying, cancelling, obliterating, or concealing, any document of title to land, or any part thereof, it shall be sufficient to allege such document to contain evidence of the title to such land, and to mention the person, or one of the persons, having an interest in such land, or some part thereof.

Indictment for larceny by public servant, property to be laid in the Queen

389. In an indictment for larceny, or embezzlement, as a public servant, the property may be described as the property of Her Majesty, from whom it shall be deemed to have been stolen.

Description in indictment for engraving, &c.

390. In an indictment for engraving, or making the whole, or any part, of any instrument, or thing, or using, or having possession of any plate, or material upon which the whole, or any part, of any instrument or thing, is engraved, or made, or for having possession of paper upon which the whole, or any part, of any instrument, or thing, is made or printed, it shall be sufficient to describe such instrument, or thing, by any name or designation by which it is usually known, without setting out any copy of the same, or any part thereof.

Indictment for perjury

392. In an indictment for perjury it shall be sufficient to allege that the accused on a certain day and at a certain place, before a person named, falsely swore, or falsely declared, or affirmed, the matter charged as false, stating the substance only of such matter, and averring that the same was so sworn, declared or affirmed, on an occasion when the truth of such matter was material, without specifying the occasion, or showing how the matter was material, or what was the cause or trial or inquiry, if any, pending, or the judicial, or official, character of the person administering the oath, or taking the declaration, or affirmation, charged as false.

Indictments for conspiracy

393. In an indictment for conspiracy it shall not be necessary to state any overt act, and each defendant in any case of conspiracy, whether two or more defendants are included in the same indictment or not, may be charged separately, in any count, as having conspired with divers persons, of whom it shall be sufficient to name one only, or as having conspired with one other named person only, and may be convicted on such count upon proof of his having unlawfully conspired for the purpose therein alleged with any one such person:

Provided always, that no more than three counts against the same defendant shall be inserted in any such indictment, and that the Court may, in any case before plea pleaded, order such particulars to be given, as to such Court shall seem meet, and that where conspiracies substantially different are

charged in the same indictment, the prosecutor may be put to his election as to the one on which he will proceed.

Arraignment, &c., on charge of previous conviction

394. (1) No person shall be arraigned, in respect of any previous conviction charged in any indictment, unless he is convicted of the subsequent offence charged therein.

(2) Upon such conviction he shall forthwith be arraigned, and the jury shall be charged as to such previous conviction, or convictions, and the trial shall proceed in respect thereof.

Plea of "not guilty"

395. If any person arraigned on an indictment pleads thereto "not guilty," he shall, without further form, be deemed to have put himself upon the country for trial, and the Court shall, in the usual manner, order a jury for his trial accordingly.

Refusal to plead

396. If any person being so arraigned stands mute, or will not answer directly to the indictment, the Court may order a plea of "not guilty" to be entered on behalf of such person, and the plea so entered shall have the same effect as if he had actually pleaded the same.

Plea of autrefois convict, &c.

399. In any plea of autrefois convict, or of autrefois acquit, it shall be sufficient for the accused to allege that he has been lawfully convicted, or acquitted, as the case may be, of the offence charged in the indictment, without specifying the time or place of such previous conviction or acquittal.

Practice as to entering the dock

400. In every case the presiding Judge shall have power to order the accused to enter the dock, or usual place of arraignment, or to allow him to remain on the floor of the Court, and in either case to sit down, as such Judge shall see fit:

Provided that every defendant in a case of libel, or of assault simply not being an indecent assault, may remain on the floor of the Court as at present.

Accused may be defended by counsel

402. Every accused person shall, in all Courts, be admitted to make full answer and defence by counsel, and in every case may reserve his address until the close of the evidence for the defence, and in the latter case, all evidence in reply for the Crown shall be given before such address.

Right to inspect depositions on trial

403. Every accused person shall be entitled on his trial to inspect, without fee or reward, all depositions taken against him and returned into, or which shall be in, the Court before which he is under trial.

Statement and address to jury by accused

405. Every accused person on his trial, whether defended by counsel or not, may make any statement at the close of the case for the prosecution, and before calling any witness in his defence, without being liable to examination thereupon by counsel for the Crown, or by the Court, and may thereafter, personally or by his counsel, address the jury.

Criminating statements admissible though on oath

411. No criminating statement by the accused, offered in evidence in any case, if the same was made voluntarily, and before any charge preferred against him, shall be rejected, because of the statement having been on oath.

Evidence of previous conviction charged in an indictment

414. No evidence of any previous conviction, charged in an indictment, shall be offered, except in reply to evidence of character, unless the accused is convicted of the subsequent offence charged in such indictment.

Proof of lawful authority or excuse

417. Wherever, by this Act, doing a particular act or having a specified article or thing in possession without lawful authority or excuse, is made or expressed to be an offence, the proof of such authority or excuse shall lie on the accused.

Receivers. Evidence of guilty knowledge

420. On the trial of a person for receiving stolen property, evidence may be given

- (a) that he has been, within seven years previously, convicted of larceny, or the receiving of stolen property, or of obtaining property by false pretences,
- (b) that other stolen property, if stolen within twelve months before such trial, has been found in his possession, or on his premises,

and such facts may be taken into consideration by the jury as evidence of guilty knowledge.

Provided always, that

- (1) the same facts have been given in evidence against the accused on his committal, or
- (2) that ten days' notice, at the least, was given him before his trial of the intention to adduce such evidence.

On trial for perjury presumption of authority to administer oath, &c.

423. On any trial for perjury the person before whom the perjury is alleged to have been committed shall be presumed to have had authority to administer the oath, or take the declaration, or affirmation, unless the contrary is shown.

Witnesses in mitigation

424. After the conviction of an accused person in any case, and before sentence passed, the Court may if it sees fit, as well on application by the Crown as by or on behalf of the accused, summon witnesses and examine them on oath, in respect of any matter in extenuation of his offence.

Conviction for alternative offence

425. Where, on the trial of a person for an offence, it appears that the facts in evidence amount in law to another offence, he may notwithstanding be found guilty of and sentenced for the first-mentioned offence, and in that case shall not be liable to be prosecuted for the second-mentioned offence on the same facts:

Provided always, that the Court may discharge the jury from giving any verdict upon such trial, and direct the person to be indicted for the second-mentioned offence.

After trial for an offence, where alternative verdict possible, no further prosecution

426. No person tried for an offence, in any case where under this Act he may be acquitted thereof but be found guilty of some other offence, shall be liable to prosecution on the same facts for any such other offence.

On trial for any offence—verdict of attempt

427. Where on the trial of a person for any offence the jury are not satisfied that he is guilty thereof, but are satisfied that he is guilty of an attempt to commit, or of an assault with intent to commit, the same, they may acquit him of the offence charged, and find him guilty of such attempt, or assault, and he shall be liable to punishment accordingly.

Reserving questions of law at trial

428. (1) Where any question of law arises on the trial of any person, or is submitted before sentence passed on him, the Court shall, on the application of his counsel then made, and may in its discretion, without any application, reserve every such question for the consideration of the judges of the Supreme Court.

(2) Upon reserving any such question the Court shall either commit the person to prison, or take his recognizance, with one or more surety or sureties, to appear at such time and place as the Supreme Court may direct, and receive judgment, or, if judgment has been given, that he will render himself in execution.

(3) The like proceedings may be taken, so far as they are applicable, where any question of law arises on the arraignment of any person, or as to the verdict, or judgment given, or to be given, thereon.

PART XII

SENTENCES

Court may release juvenile offender on recognizance

429. (1) Where a person under the age of sixteen years is convicted on indictment of an offence under this Act, the Court may—

- (a) abstain from passing sentence upon him if he enters into a recognizance with sureties that he will—
 - (i) appear and receive sentence if, within three years, he is so required; and
 - (ii) keep the peace and be of good behaviour for that period; or
- (b) direct that, instead of, or in addition to, any sentence, he be sent, forthwith or at the expiration of his sentence, to an institution in the State of New South Wales for the reception, detention and maintenance of children in pursuance of the provisions of the *Child Welfare Agreement Ordinance 1941*.

(2) Where a person of or above the age of sixteen years and under the age of eighteen years is convicted—

- (a) of an offence under section seventy-one, seventy-two or seventy-six of this Act, and the jury are satisfied that the girl in question was at the time of the offence of or above the age of fourteen years and under the age of sixteen years; or
- (b) of an offence under section seventy-two A, seventy-eight A or seventy-eight B,

he may be dealt with in the manner provided by the last preceding sub-section or under the provisions of sections thirty, thirty-one, thirty-two and thirty-three of the *Neglected Children and Juvenile Offenders Act, 1905* of the State of New South Wales in its application to the Territory, as amended by the *Juvenile Offenders Ordinance 1941*.²

Sentences—imprisonment and fines

430. Where a person is convicted of an offence against a provision of this Act, the penalty for which is a fine or a term of imprisonment, the Court may, if it thinks fit, impose both penalties on the person.

Compensation to person aggrieved by any offence

437. Where a person is convicted of any offence the Court in which he was tried, or any Judge thereof, may, on such conviction or at any time thereafter, direct that a sum not exceeding \$1,000 be paid out of the property of the

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offender to any aggrieved person, by way of compensation for injury, or loss, sustained through, or by reason of, that offence.

Restitution of property in certain cases

438. (1) Where a person is convicted under this Act of stealing, embezzling, or receiving property, the Court may order the restitution thereof, in a summary manner, to the owner, or his representative.

(2) Where any person indicted for any such offence is acquitted, the Court in its discretion, on being satisfied that any property mentioned in the indictment has been stolen, embezzled, or received, contrary to this Act, may order in like manner the restitution of such property.

(3) Where any valuable security has been paid by some person liable to the payment thereof, or, being a negotiable instrument, has been taken for a valuable consideration, without notice, or cause to suspect, that the same had been dishonestly come by, the Court shall not order such restitution.

(4) This section shall equally apply to property in any manner taken, or otherwise acquired, received, retained, or disposed of, in violation of any provisions of this Act.

Acquittals on ground of insanity

439. Where a person, indicted for any offence, is acquitted on the ground that he was insane at the time of committing such offence, or is on arraignment found to be insane, he shall be dealt with in the manner in such case provided by the Lunacy Act or Acts in force for the time being.

Judgment after sentence deferred

441. Where a person is convicted of an offence and sentence is deferred, the Court before which he was tried, or the Supreme Court, may pronounce judgment against him at any time afterwards.

Time from which sentence to take effect

441A. Where a Court passes a sentence, the sentence shall take effect from the date on which it is passed unless the Court otherwise orders.

Provision for passing sentences of less duration than those fixed

442. (1) Where, by this Act, an offender is made liable to imprisonment for life or to imprisonment for a fixed term, the court may nevertheless pass a sentence of imprisonment of less duration.

(2) The last preceding sub-section does not prevent the awarding of hard labour or solitary confinement, where authorized by law, or the directing of the offender to enter into recognizances to keep the peace and be of good behaviour.

(3) Where, by any section of this Act, an offender is made liable to a fine of any fixed amount, the court may nevertheless inflict a fine of less amount.

Additional sentences on second or third convictions

443. In every case where, on the conviction of a person of an offence punishable under this Act, it is made to appear to the Judge that the offender has been previously convicted of, and sentenced for, an indictable offence, under this or any former Act, such Judge may sentence him to a term of punishment, in addition to that prescribed for the offence of which he then stands convicted.

Such additional punishment shall be—

- (1) Where the offence of which he then stands convicted is punishable by imprisonment for five years or more—
 - (a) if he has been once previously so convicted and sentenced—imprisonment for ten years, or not less than two years;
 - (b) if he has been twice or oftener previously so convicted and sentenced—imprisonment for fourteen years, or not less than three years.
- (2) Where the offence of which he then stands convicted is punishable by imprisonment for less than 5 years—imprisonment for eighteen months, or not less than six months.

Proof of previous conviction

444. (1) Where a person is convicted of any offence, and at the time of passing sentence the term of any sentence of imprisonment previously passed on him is unexpired, the Judge may direct that the sentence for the offence of which such person then stands convicted shall commence at a future day to be named by the Judge, and to be within, or at the expiration of the period of such unexpired sentence.

- (2) Where no such direction is given the sentences shall be concurrent.

Previous sentences to be noted in new sentence

446. Whenever an additional, or cumulative, sentence is passed as aforesaid, the fact of the previous sentence, or sentences, specifying the date, or dates, thereof, and of the term, or terms, of sentence shall be entered on the minutes and record of the sentence lastly passed.

Sentences on two or more counts may be cumulative

447. Where a person is, in any case, convicted on the same indictment of two or more offences similarly punishable, the Judge may, if he thinks fit, pass sentence on the second and third counts respectively for a term to commence at a future day named by him, within, or at the expiration of, the term of sentence passed on the last preceding count.

Outstanding charges may be taken into account in passing sentence

448. (1) Where a person is convicted of an offence, not being an offence punishable by imprisonment for life, and the Court is satisfied that—

- (a) there has been filed in court a document in, or to the effect of, the form set out in the Sixth Schedule, signed by the Deputy Crown Solicitor, Australian Capital Territory, or by a person authorized in writing by him, and by the person so convicted, containing on the back of the form a list of other offences, not being offences punishable with imprisonment for life, with which the person has been charged (whether or not the person has been committed for trial in respect of those other offences);
- (b) a copy of that document has been furnished to the person so convicted; and
- (c) in all the circumstances of the case it is proper to do so,

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

(2) Where a person referred to in sub-section (1) asks the Court to take into account any offence in passing sentence for the offence of which he has been convicted, the Court may take that first-mentioned offence into account in passing sentence.

(3) The Court shall not take into account under this section any indictable offence that it would not have jurisdiction to try even if the defendant consented to the Court hearing and determining proceedings for the offence or the prosecutor requested the Court to hear and determine those proceedings.

(4) Where the Court decides to take an offence into account under sub-section (2), the sentence passed by the Court upon the person shall not exceed the maximum sentence that may be passed in respect of the offence of which the person is convicted.

(5) The Court shall certify upon the document referred to in sub-section (1) the offences (if any) that have been taken into account in passing sentence on the person to whom the document relates for an offence of which that person is convicted, and proceedings or further proceedings shall not be taken against that person in respect of any offence so certified unless his conviction is quashed or set aside.

(6) An admission of guilt made by a person under this section in respect of an offence shall not be admissible in evidence in any proceedings or further proceedings taken against that person in respect of that offence.

(7) Where, under this section, an offence is taken into account in passing sentence on a person in respect of another offence of which he is convicted, the person shall not, by reason of the first-mentioned offence being so taken into

account, be regarded, for any purpose as having been convicted of that first-mentioned offence.

(8) Where, under this section, an offence is taken into account in passing sentence on a person in relation to another offence of which he is convicted—

- (a) reference may be made to the fact that the first-mentioned offence was so taken into account in, or in relation to, any criminal proceedings where reference may lawfully be made to the fact that the person was convicted of the second-mentioned offence; and
- (b) evidence may be given of the fact that the first-mentioned offence was so taken into account in, or in relation to, any criminal proceedings where evidence may lawfully be given of the fact that the person was convicted of the second-mentioned offence.

(9) For the purposes of sub-section (8), the fact that an offence was taken into account in passing sentence on a person in respect of another offence of which he is convicted may be proved in the same manner as the conviction of the person may be proved.

(10) For the purposes of this section, a reference to passing sentence shall be read as including a reference to—

- (a) deferring the passing of a sentence;
- (b) making an order under sub-section 556A (1);
- (c) making an order under sub-section 19B (1) of the *Crimes Act 1914*; and
- (d) making a decision or an order to remand in custody or to remand and release, upon conditions or otherwise.

PART XIII

PROCEEDINGS AFTER SENTENCE

Direction for compensation to be enforceable by execution, &c.

457. (1) In all cases where under section four hundred and thirty-seven of this Act any sum by way of compensation has been directed to be paid, every such direction shall be entered by the Registrar, in a book to be kept in his office, and, after such entry, shall be deemed to be of record, and shall have the effect of a judgment of the Supreme Court at law, and be enforceable by execution as any such judgment is ordinarily enforced.

Alienation void

(2) Every alienation of the offender's property or any part thereof, executed, or made, by him or any person by his direction, after the commission of his offence and within twelve months before his conviction, shall, as against every such writ be absolutely void:

Provided that nothing in this section shall affect any alienation to a person, for valuable consideration, and without notice or knowledge of such offence.

Common law forfeiture in offences abolished

465. (1) No inquest, conviction, or judgment, in respect of any offence, shall cause any escheat or forfeiture of lands or goods.

(2) There shall be no forfeiture of any chattel which may have moved to, or caused, the death of any human being for or in respect of such death.

Disabilities of offence

466. After the conviction of an offender for any offence, until he has endured the punishment to which he was sentenced, or the punishment, if any, substituted for the same, or the unremitted portion of such punishment, or has received a free pardon for his offence, he shall be incapable of holding, or being elected or appointed to any office, or of exercising any electoral or municipal franchise.

Effect of reversing judgment in such cases

468. Upon the avoidance or vacating of the conviction of any such person, or reversal of the judgment against him, the provisions of the two last preceding sections, and of sections four hundred and thirty-seven and four hundred and fifty-seven, of this Act shall, with respect to such person, determine, and every order made for the payment of money out of his property shall become of no effect, and he shall be restored to all that he may have lost thereby.

Proceedings when question reserved

470. (1) The Judge by whom any question of law is reserved under the provisions of this Act shall, as soon as practicable, state a Case setting forth the same, with the facts and circumstances out of which such question arose, and shall transmit such Case to the Judges of the Supreme Court who shall determine the question, and may affirm, amend, or reverse the judgment given, or avoid or arrest the same, or may order an entry to be made on the record that the person convicted ought not to have been convicted, or may make such other order as justice requires:

Provided that no conviction, or judgment thereon, shall be reversed, arrested, or avoided, on any Case so stated, unless for some substantial wrong, or other miscarriage of justice.

Case may be sent back for amendment

(2) The Judges of the Supreme Court may, if they think fit, cause any Case so stated to be sent back for amendment, and thereupon the same shall be amended, and judgment delivered thereon accordingly.

Argument and judgment on case

(3) Every judgment of the Judges on any such Case shall be delivered in open Court—after hearing counsel, or the parties, in case the

Attorney-General, or prosecutor, or the person convicted, appears to argue the same—as other judgments of the Supreme Court are delivered.

Certificate of affirmance or reversal

(4) Every such determination and order shall be certified, under the hand of the Prothonotary, to the proper officer of the Court in which the conviction took place, who shall enter the same on the record, and if the person convicted is in custody, a certificate shall be transmitted to the gaoler having such custody, which certificate shall be a sufficient warrant for the execution of the judgment, if against the convicted person, or for his discharge from imprisonment, if the judgment has been reversed, avoided, or arrested.

(5) Such judgment shall be executed, or the person forthwith discharged, or his recognizance, if on bail, be vacated accordingly.

What not sufficient to stay or reverse judgment

472. (1) No judgment after verdict, in any case, shall be stayed or reversed for want of a similiter, nor by reason that the jury process was awarded to a wrong officer, nor for any misnomer, or misdescription, of the officer returning such process, or of any juror, nor because any person served upon the jury who was not returned as a juror.

(2) Nor shall any verdict be affected, because of the jury not having been instructed that the accused might, on the evidence, be convicted of a less offence than the one charged.

(3) Where the offence charged is created by statute, or subjected to a greater degree of punishment by any statute, the indictment shall after verdict be sufficient, if it described the offence in the words of the statute.

Pronouncing proper judgment

473. No judgment shall be reversed, or avoided, for any error in law in the sentence imposed, but it shall be competent for the Judges of the Supreme Court, in case of any such error, either to pronounce such judgment and sentence as is authorised by law, or to remit the record to the Court whence it came, in order that such Court may pronounce such judgment and sentence as is authorised by law.

New trials regulated

474. (1) A new trial may be granted in the case of any offence, for any cause for which a new trial may now be granted, in respect of all, or some, or one only, of the defendants where two or more are included in the same indictment, although all are not present, nor are parties to the motion, nor have been tried.

Governor-General or Judge may direct inquiry

475. (1) Whenever, after the conviction of a prisoner, any doubt or question arises as to his guilt, or any mitigating circumstance in the case, or any

portion of the evidence therein, the Governor-General, on the petition of the prisoner, or some person on his behalf, representing such doubt or question, or a Judge of the Supreme Court of his own motion, may direct any Magistrate to, and such Magistrate may, summon and examine on oath all persons likely to give material information on the matter suggested.

Attendance of witnesses, &c.

(2) The attendance of every person so summoned may be enforced, and his examination compelled, and any false statement wilfully made by him shall be punishable in like manner as if he had been summoned by, or been duly sworn and examined before, the same Magistrate, in a case lawfully pending before him.

Cross-examination by person affected by evidence

(3) Where on such inquiry the character of any person who was a witness on the trial is affected thereby, the Magistrate shall allow such person to be present, and to examine any witness produced before such Magistrate.

Form and disposal of deposition

(4) Every deposition taken under this section shall be stated in the commencement to have been so taken, and in reference to what case, and in pursuance of whose direction, mentioning the date thereof, and shall be transmitted by the Magistrate, before whom the same was taken, as soon as shall be practicable, to the Governor-General if the inquiry was directed by him, or to the Judge directing the inquiry, and the matter shall thereafter be disposed of, as to the Governor-General, on the report of such Judge, or otherwise, shall appear to be just.

PART XIV

OFFENCES PUNISHABLE SUMMARILY AND SUMMARY PROCEDURE GENERALLY

Certain offences may be dealt with summarily

476. (1) Where—

- (a) a person is charged before the court of Petty Sessions with an offence to which this section applies;
- (b) the evidence for the prosecution is, in the opinion of the Court, sufficient to put the accused on his trial;
- (c) the Court is of the opinion that the case may properly be disposed of summarily; and
- (d) the amount of the money involved, or the value of the property involved, as the case may be, does not, in the opinion of the Court, exceed Five hundred dollars,

the Court has jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged.

(2) The following offences, namely—

- (a) larceny;
- (b) stealing any chattel, money or valuable security from the person of another;
- (c) an offence mentioned in sections 126, 131, 132, 133, 139, 140, 144, 148, 150, 151, 152, 179 and 247 of this Act; and
- (d) attempting to commit an offence mentioned in this sub-section,

are offences to which this section applies.

(3) Where a person is convicted by the Court of Petty Sessions of an offence to which this section applies, he is liable to imprisonment for a term not exceeding six months or to a fine not exceeding Five hundred dollars.

Offences that may be dealt with summarily with consent of accused

477. (1) Subject to section 478, where—

- (a) a person is charged before the Court of Petty Sessions with an offence, other than a common law offence;
- (b) in the opinion of the Court the charge is not one that the Court has jurisdiction, apart from this section, to hear and determine in a summary manner;
- (c) the evidence for the prosecution is, in the opinion of the Court, sufficient to put the accused on his trial;
- (d) the Court is of the opinion that the case may properly be disposed of summarily;
- (e) the accused consents to it being so disposed of; and
- (f) in the case of an offence relating to money or property other than a vehicle, the amount of the money involved, or the value of the property involved, as the case may be, does not, in the opinion of the Court, exceed Two thousand dollars,

the Court has jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged.

(2) Where a person is convicted of an offence by virtue of this section, he is liable to imprisonment for a term not exceeding two years or to a fine not exceeding Two thousand dollars or if he is, in the opinion of the Court, under sixteen years of age, to imprisonment for a term not exceeding six months or a fine not exceeding Five hundred dollars.

(3) In this section, “vehicle” has the same meaning as in section 154A.

Common law offences may be dealt with summarily by consent

477A. Where—

- (a) a person is charged before the Court of Petty Sessions with a common law offence;

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- (b) in the opinion of the Court the charge is not one that the Court has jurisdiction, apart from this section, to hear and determine in a summary manner;
- (c) the evidence for the prosecution is, in the opinion of the Court, sufficient to put the accused on his trial;
- (d) the Court is of the opinion that the case may properly be disposed of summarily;
- (e) the prosecution and the accused both consent to its being so disposed of; and
- (f) in the case of an offence relating to money or property other than a vehicle, the amount of the money involved, or the value of the property involved, as the case may be, does not, in the opinion of the Court, exceed \$2,000,

the Court has jurisdiction to hear and determine the charge in a summary manner, and to pass sentence upon the person so charged.

- (2) In this section, "vehicle" has the same meaning as in section 154A.

Certain offences not to be dealt with summarily

478. Nothing in section 477 applies to or in relation to an offence punishable by imprisonment for life or for a term exceeding ten years.

Saving of other summary jurisdiction

479. Nothing in this chapter affects the operation of any other law in force in the Territory by which jurisdiction is conferred on the Court of Petty Sessions.

Certificate of dismissal

480. Where the Court of Petty Sessions has heard and determined a charge in pursuance of section 476, 477 or 477A and has dismissed the charge, the Magistrate constituting the Court or the Clerk of the Court shall, if so requested by the person charged, give that person a certificate under his hand stating the fact of the dismissal.

Summary conviction or dismissal a bar to indictment

481. (1) A conviction upon a charge disposed of summarily in pursuance of section 476, 477 or 477A has the same effect as a conviction upon indictment for the offence would have had and a person who is so convicted is not afterwards liable to prosecution for the same cause.

(2) The dismissal by the Court of Petty Sessions of an information heard and determined by the Court in pursuance of section 476, 477 or 477A has the same effect as an acquittal of the person charged in a trial on indictment.

Misbehaviour at public meetings

482. (1) A person shall not, in any premises in which a public meeting is being held, behave in a manner that disrupts, or is likely to disrupt, the meeting.

Penalty: \$1,000 or imprisonment for 6 months.

(2) Where a person presiding at any public meeting reasonably believes that another person in the premises in which the meeting is being held is behaving in a manner that is disrupting, or is likely to disrupt, the meeting, the person so presiding may request any member of the police force who is present to remove the other person and the member of the police force may remove that other person accordingly.

Common assaults

493. Whosoever unlawfully assaults any person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding three months, or to pay a fine, exclusive of costs if ordered, of \$20.

Aggravated assaults

494. Whosoever unlawfully assaults an officer, being a justice, constable, or other peace officer, custom-house officer, sheriff's officer or bailiff, while in the execution of his duty, or a child under twelve years of age, or any female, or being in company with any person together with such person assaults any other person, shall on conviction before a Magistrate be liable to imprisonment for a term not exceeding six months, or to pay a fine, exclusive of costs if ordered, of \$40.

Assaults respecting the sale of grain

495. Whosoever—

beats, or uses any violence, or threat of violence to any person, with intent to deter, or hinder him, from buying, or disposing of, or to compel him to buy, or dispose of, any grain, flour, meal, malt, or vegetable produce, in any market or other place, or

beats, or uses any such violence, or threat to any person having the charge of any such commodity, whilst on the way to, or from any place, with intent to stop the conveyance of the same,

shall, on conviction before a Magistrate, be liable to imprisonment for six months, or to a fine of \$40:

Provided that:

No person punished under this section shall be punished for the same offence under any other law.

Assaults obstructing workmen

496. Whosoever—

unlawfully and with violence, or by any threat of violence, prevents any person from, or obstructs him in, working at or exercising his lawful trade or occupation, or

beats, or uses any violence, or threat of violence to any such person, with intent so to prevent, or obstruct him,

shall, on conviction before a Magistrate, be liable to imprisonment for six months, or to a fine of \$40:

Provided that:

No person punished under this section shall be punished for the same offence under any other law.

Where jurisdiction excluded

497. In case the Magistrate finds the assault complained of to have been accompanied by an attempt to commit an offence, or is of opinion that the same is, from any other circumstance, a fit subject for prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case by committal, or holding to bail, as in an ordinary case of an indictable offence.

Certificate of dismissal

498. If, on the hearing of any such case of assault upon the merits, the Magistrate deems the offence not to be proved, or finds the assault to have been justified, or so trifling as not to call for punishment, and accordingly dismisses the complaint, he, shall forthwith make out a certificate of such dismissal, and deliver the same to the defendant.

Certificate or conviction a bar to other proceedings

499. (1) A person who obtains a certificate of dismissal under section four hundred and ninety-eight, or, who, having been convicted under sections four hundred and ninety-three to four hundred and ninety-six (both inclusive), pays the amount adjudged to be paid, or suffers the imprisonment awarded, shall be released—

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

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

Exception from jurisdiction

500. Nothing in the preceding sections shall authorise a Magistrate to hear any case of assault, in which any question affecting the same arises as to the title to land, or any interest therein, or accruing therefrom.

Unlawfully driving, using, marking or possessing cattle

501. (1) A person shall not—

- (a) without reasonable excuse, drive any cattle owned by another person from the land, or out of the herds, of that other person without the consent of that other person;
- (b) take and work or use, or take for the purpose of working or using, any cattle owned by another person without the consent of the owner, or the person lawfully in possession of, the cattle;
- (c) take any cattle owned by another person for the purpose of committing a fraud;
- (d) fraudulently brand or ear-mark, or deface or alter the brand or ear-mark of, any cattle owned by another person; or
- (e) without reasonable excuse, have in his possession any stolen cattle or any cattle reasonably suspected of having been stolen.

(2) A person who commits an offence against this section shall be liable, on conviction before a Magistrate, to a fine not exceeding \$2,000 or by imprisonment for a term not exceeding 12 months.

Possession of skin, &c., of stolen cattle

502. Whosoever, in whose possession there has been found the skin or carcass of any stolen cattle, or of any cattle reasonably suspected to have been stolen, or any part of any such skin or carcass, may be summoned to appear before any Magistrate to show in what manner he became possessed of the same, and if there is reasonable cause to believe that he has dishonestly come by the same, and if he fails to satisfy the Magistrate before whom the case is heard that he obtained the same without any knowledge or reasonable ground to suspect that the same was the skin or carcass, or part of the skin or carcass, of any stolen cattle, he shall be liable to imprisonment for six months, or to pay a fine of \$100.

Stealing dogs

503. Whosoever steals any dog shall, on conviction before a Magistrate, be liable to imprisonment for six months, or to pay, above the value of the dog, a fine of \$40.

Possessing stolen dog or skin

504. Whosoever has unlawfully in his possession any stolen dog, or the skin of any such dog, knowing the dog to have been stolen, shall, on conviction before a Magistrate, be liable to pay a fine of \$40.

Stealing animals, &c., ordinarily kept in confinement

505. Whosoever—

steals any animal or bird ordinarily kept in a state of confinement, or for any domestic purpose, but not being the subject of larceny at Common Law, or

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kills any such animal or bird with intent to steal the same, or any part thereof,

shall, on conviction before a Magistrate, be liable to imprisonment for six months, or to pay, above the value of the animal or bird, a fine of \$40.

Stealing animals, &c., ordinarily kept in confinement. Second offence

506. Whosoever, having been convicted under this or any former Act of any such offence as is mentioned in the last preceding section, afterwards commits any offence in the said section mentioned shall, on conviction before a Magistrate, be liable to imprisonment for one year.

Possession of stolen animals, &c.

507. Whosoever in whose possession there has been found any such animal or bird as in section five hundred and five mentioned, or the skin thereof, respectively, which to his knowledge has been stolen, or is the skin of a stolen animal or bird, shall, on conviction before a Magistrate, be liable to imprisonment for six months, or to pay, above the value of such animal bird or skin, a fine of \$40.

Possession of stolen animals, &c. Second offence

508. Whosoever, having been convicted, under this or any former Act, of any such offence as is mentioned in the last preceding section, afterwards commits any offence in the said section mentioned, shall, on conviction before a Magistrate, be liable to imprisonment for one year.

Restoration of such stolen animals, &c.

509. Any such animal or bird as is mentioned in section five hundred and five, or the skin thereof, which has been found in the possession of any person may be restored to the owner thereof by the order of any Magistrate.

Setting engine for deer, &c.

510. Whosoever—

unlawfully and wilfully sets, or uses, any snare, or engine, for the purpose of taking or killing deer upon any inclosed land in the occupation of the owner of such deer, or

unlawfully and wilfully destroys any part of the fence of any land where deer are then kept

shall, on conviction before a Magistrate, be liable to pay a fine of \$40.

Laying of poison

510A. A person shall not lay any poison which endangers, or is likely to endanger, the life of any domestic animal or bird.

Penalty: \$1,000 or imprisonment for 6 months.

Killing pigeons

511. Whosoever unlawfully and wilfully kills, wounds, or takes, any house-dove, or pigeon, under circumstances not amounting to larceny at Common Law, shall, on conviction before a Magistrate, be liable to pay, above the value of the bird, a fine of \$4.

Taking fish in waters on private property

512. Whosoever unlawfully and wilfully takes, or destroys, any fish in any water being private property, shall, on conviction before a Magistrate, be liable to pay, above the value of the fish taken or destroyed, a fine of \$10.

Stealing shrubs, &c., of the value of 10 cents

513. Whosoever steals, or destroys, or damages with intent to steal, the whole, or any part, of any tree, sapling, shrub, or plant, or any underwood, the value of or the injury done to which exceeds 10 cents, shall, on conviction before a Magistrate, be liable to pay, above the value of the property stolen, or intended to be stolen, or the amount of injury done, a fine of \$10.

The like—second offence

514. Whosoever, having been convicted under this or any former Act, of any such offence as is mentioned in the preceding section, afterwards commits any offence in the said section mentioned, shall, on conviction before a Magistrate, be liable to pay the value of the property stolen, or intended to be stolen, or the amount of the injury done, in addition to a fine of \$40.

Stealing, &c., live or dead fence, &c.

515. Whosoever steals, or cuts, breaks, or throws down with intent to steal, any part of any live or dead fence, or any material set up, or used, as a fence, or any stile, or gate, or any part thereof, respectively, shall, on conviction before a Magistrate, be liable to pay above the value of the property stolen, or the amount of injury done, a fine of \$20.

The like—second offence

516. Whosoever, having been convicted, under this or any former Act, of any such offence as is mentioned in the last preceding section, afterwards commits any offence in the said section mentioned, shall, on conviction before a Magistrate, be liable to pay the value of the property stolen, or intended to be stolen, or the amount of the injury done, in addition to a fine of \$40.

Unlawful possession of trees, fence, &c.

517. Whosoever, in whose possession the whole or any part of any tree, sapling, or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile, or gate, or any part thereof being of or above the value of 10 cents, has been found, on being taken or summoned before a Magistrate fails to satisfy the Magistrate that he came lawfully by the same,

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shall on conviction, before the Magistrate, be liable to pay, above the value of the property found, a fine of \$10.

Stealing dead wood

518. Whosoever steals, or destroys, or damages with intent to steal, any dead wood, lying on land in the occupation of another person, such wood being of the value of or above 10 cents, shall, on conviction before a Magistrate, be liable to pay above the value of the wood, a fine of \$10.

The like—second offence

519. Whosoever, having been convicted under this or any former Act, of any such offence as is mentioned in the last preceding section, afterwards commits any offence in the said section mentioned shall, on conviction, before a Magistrate, be liable to pay, above the value of the wood, a fine of \$20.

Stealing plants, &c., in gardens

520. Whosoever steals, or destroys, or damages with intent to steal, any plant, root, fruit, or vegetable produce, growing in any garden, orchard, pleasure-ground, nursery-ground, hothouse, greenhouse, or conservatory, shall, on conviction before a Magistrate, be liable to imprisonment for six months, or to pay, above the value of the article stolen, or the amount of injury done, a fine of \$40.

Stealing plants, &c., not growing in gardens

521. Whosoever steals, or destroys, or damages with intent to steal, any cultivated root, or plant, used for the food of man or beast, or for medicine, or for distilling, or dyeing, or for any manufacture, and growing in any inclosed land, not being a garden, orchard, pleasure-ground, or nursery-ground, shall, on conviction before a Magistrate be liable to pay, above the value of the article stolen, or the amount of injury done, a fine of \$2.

Possession of shipwrecked goods

522. Whosoever in whose possession any article of the value of 50 cents, belonging to a vessel in distress, or wrecked, stranded, or cast on shore, has been found, on being summoned before a Magistrate, fails to satisfy the Magistrate that he came lawfully by the same, shall be liable to imprisonment for six months, or to pay, above the value of the article, a fine of \$40:

And such article shall, by the order of the Magistrate, be delivered to or for the use of the owner.

Offering shipwrecked goods for sale

523. Whosoever offers for sale any article unlawfully taken, or reasonably suspected to have been so taken, from any vessel in distress, or wrecked stranded, or cast on shore, and who, on being summoned before a Magistrate fails to satisfy the Magistrate that he came lawfully by such article, or received the same without knowing or having cause to suspect that it had been so taken

as aforesaid, shall be liable to imprisonment for six months, or to pay, above the value of the article, a fine of \$40.

And such article shall, by the order of the Magistrate, be delivered to or for the use of the owner upon payment of a reasonable reward, to be ascertained by the Magistrate, to the person who seized the same.

Seizure of such goods

524. Any person, to whom any article mentioned in the last preceding section is offered, or any officer of customs or police, may seize the same, and shall carry it to, or give notice of such seizure to, a Magistrate.

Stealing or damaging books, &c., in public library, &c.

525. Whosoever steals, or removes, secretes, or damages with intent to steal, any book, print, manuscript, or other article, or any part thereof, kept for the purposes of reference, or exhibition, or of art, science, or literature, in any public library, or in any building belonging to the Queen, or to any university or college, or the council of any municipality, shall, on conviction before a Magistrate, be liable to imprisonment for one year, and to pay a fine equal to four times the value of the article stolen, or intended to have been stolen.

Term "Public Library"

526. Every collection of books, prints, manuscripts, or similar articles, kept in any school-of-arts, or mechanics-institute, or in any building, or room, occupied or habitually used by the members of any association, or municipality, as a reading-room, or library, shall be deemed a public library within the meaning of the last preceding section.

Unlawfully using vehicle or boat

526A. (1) Whosoever, without the consent of the owner or person in lawful possession thereof—

- (a) takes and uses, or takes for the purpose of using, a vehicle or boat; or
- (b) takes a vehicle or boat for the purpose of secreting the same or obtaining a reward for the restoration or pretended finding thereof, or for any other fraudulent purpose,

shall be guilty of statutory larceny and shall, on conviction before a Magistrate, be liable to imprisonment for twelve months, or to pay a fine of \$200.

(2) In this section, the words "vehicle" and "boat" have the meanings ascribed to those words in section one hundred and fifty-four A.

Fraudulently appropriating or retaining property

527. Whosoever—

fraudulently appropriates, to his own use, or that of another, any property belonging to another person, although not originally taken with any fraudulent intent, or

fraudulently retains any such property in order to procure a reward for its restoration,
shall, on conviction before a Magistrate, be liable to imprisonment for three months, or to pay a fine of \$40.

Unlawful possession

527A. (1) A person who—

- (a) has any goods in his custody or in the custody of another person;
- (b) has any goods in or on any premises, whether the goods are in or on those premises for his own use or for the use of another person; or
- (c) gives custody of any goods to a person who is not lawfully entitled to possession of the goods,

being goods that are reasonably suspected of having been stolen or otherwise unlawfully obtained, shall be guilty of an offence punishable, on conviction before a Magistrate, by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 6 months.

(2) It is a defence to a prosecution for an offence against sub-section (1) if the defendant satisfies the Court that he had no reasonable grounds for suspecting that the goods in relation to which the offence is alleged to have been committed were stolen or otherwise unlawfully obtained.

(3) Where the owner of any goods suspected of having been stolen or unlawfully obtained is not discovered before the expiration of the period of 3 months from the date of the conviction of a person for an offence under sub-section (1) in relation to those goods, the goods may be sold by public auction and the proceeds of the sale shall be paid to the Commonwealth.

(4) Where, at any time after the expiration of the period of 3 months referred to in sub-section (3), the owner of the goods claims the goods or the proceeds of the sale of the goods by public auction, the goods shall be returned to him or, if they have been sold by public auction, an amount equal to the proceeds of the sale shall be paid to him by the Commonwealth.

(5) In this section, “premises” includes any building, structure, vehicle or vessel, or any place, whether built upon or otherwise, and any part of a building, structure, vehicle, vessel or place.

Advertising reward for return of stolen property

528. Whosoever—

advertises a reward for the return of any property stolen, or lost, and uses words purporting that no questions will be asked, or
makes use of words, in any advertisement, purporting that a reward will, without seizing or making any inquiry after the person producing the same, be given for any such property, or
promises, or offers, in any advertisement to return any money advanced upon, or paid for, any such property, or

publishes any such advertisement,
shall, on conviction before a Magistrate, be liable to pay a fine of \$100.

Receivers punishable summarily

529. Whosoever, where the stealing, or taking of any property is by this Act punishable on summary conviction, receives such property, knowing the same to have been stolen, or unlawfully taken, shall, on conviction before a Magistrate, be liable to the same penalty and punishment, and to the same increased punishment for a subsequent offence, to which a person stealing or taking such property is made liable.

Ownership and possession of property injured

530. (1) Every act of malicious injury to property punishable under the twelve sections next following shall be so punishable whether the property belonged to a private person, or to Her Majesty, or was otherwise of a public nature.

(2) Every act of malicious injury done to property by any person, with intent to injure or defraud another, shall be an offence within the said sections, although the offender was at the time of its commission in lawful possession of such property.

Actual malice—certain acts not malicious

531. In any prosecution before a Magistrate in respect of any such act, it shall not be necessary to prove the existence of malice, either against the owner of the property, or against any other person:

Provided that:

No act shall be deemed malicious which was done by the accused under a reasonable supposition that he had a right to do such act.

Damaging trees, &c., to amount of 10 cents

532. Whosoever maliciously destroys, or damages, any tree, sapling, shrub, vine, or plant, or any underwood, wheresoever growing, if the amount of injury done exceeds 10 cents, shall, on conviction before a Magistrate, be liable to pay, above the value of the property destroyed, or the damage done, a fine of \$10.

The like—second offence

533. Whosoever, having been convicted, under this or any former Act, of any such offence as is mentioned in the last preceding section, afterwards commit any offence in the said section mentioned, shall, on conviction before a Magistrate, be liable to pay, above the value of the property destroyed, or the damages done, a fine of \$40.

Destroying fruit or vegetable produce in a garden

534. Whosoever maliciously destroys, or damages, any plant, root, fruit, or vegetable produce, growing in any garden, orchard, nursery-ground, hothouse, greenhouse, or conservatory, or any ornamental tree, or shrub, growing in a

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public park, shall, on conviction before a Magistrate, be liable to pay the value of the property destroyed, or the amount of the damage done, in addition to a fine of \$40.

Destroying cultivated roots, &c., not in a garden

535. Whosoever maliciously destroys, or damages, any cultivated root, or plant, used for the food of man or beast, or for medicine, or for distilling, or dyeing, or for any manufacture, and growing in any enclosed land, not being a garden, orchard, or nursery-ground, shall, on conviction before a Magistrate, be liable to pay, above the value of the property destroyed or the damage done, a fine of \$2.

The like—second offence

536. Whosoever, having been convicted, under this or any former Act, of any such offence as is mentioned in the last preceding section, afterwards commits any offence in the said section mentioned, shall, on conviction before a Magistrate, be liable to pay, above the value of the property destroyed, or the damage done, a fine of \$20.

Destroying any fence, wall, stile, or gate

537. Whosoever maliciously cuts, breaks, throws down or in anywise destroys, any fence of any description, or any wall, stile, or gate, or any part thereof, respectively, shall, on conviction before a Magistrate, be liable to pay, above the value of the property destroyed or the damage done, a fine of \$10.

The like—second offence

538. Whosoever, having been convicted, under this or any former Act, of any such offence as is mentioned in the last preceding section, afterwards commits any offence in the said section mentioned, shall, on conviction before a Magistrate, be liable to pay, above the value of the property destroyed, or the damage done, a fine of \$40.

Killing or maiming animals not being cattle

539. Whosoever maliciously kills, maims, or wounds, any dog, or bird, or any animal, or beast, other than cattle, being respectively the subject of larceny, or ordinarily kept in a state of confinement, or for any domestic purpose, shall, on conviction before a Magistrate, be liable to imprisonment for four months, or to pay, above the amount of injury done, a fine of \$40.

The like—second offence

540. Whosoever, having been convicted under this or any former Act of any such offence as is mentioned in the last preceding section, afterwards commits any offence in the said section mentioned, shall, on conviction before a Magistrate, be liable to imprisonment for six months.

Injuring property not previously provided for

541. Whosoever maliciously damages any real or personal property whatsoever, including any tree, sapling, shrub, plant, or underwood for which no punishment is hereinbefore provided, shall, on conviction before a Magistrate, be liable to pay, above the value of the property injured or the damage done, a fine of \$10.

The like—second offence

542. Whosoever, having been convicted under this or any former Act of any such offence as is mentioned in the last preceding section, afterwards commits any offence in the said section mentioned, shall, on conviction before a Magistrate, be liable to pay, above the value of the property injured, or the damage done, a fine of \$40.

Application of compensation

543. In the case of private property, the compensation for the damage or injury done shall be paid to the party aggrieved, and in the case of property of a public nature, or wherein any public right is concerned, shall be applied as the Magistrate thinks fit.

Obstruction of stream, &c.

544. A person shall not place any obstruction in any stream, river or lake, being an obstruction that is likely to endanger the safety of any person.

Penalty: \$1,000 or imprisonment for 6 months.

Entrance to cellars, &c.

545. The owner or occupier of any premises in or on which there is any cellar, man-hole or other similar place having an entrance that opens into, upon or near a public place shall have and maintain in good repair a rail, gate, fence or cover effectively enclosing that entrance and shall not permit that entrance to remain open for longer than is reasonably necessary.

Penalty: \$1,000 or imprisonment for 6 months.

Defacing premises

546. (1) A person shall not—

- (a) affix a placard or paper upon any private premises; or
- (b) wilfully mark, by means of chalk, paint or any other material, any private premises,

unless the person has first obtained the consent—

- (c) where the premises are occupied—of the occupier or person in charge of the premises; or
- (d) where the premises are not occupied—of the owner or person in charge of the premises.

Penalty: \$1,000 or imprisonment for 6 months.

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(2) A person shall not, without lawful authority, affix a placard or paper upon, or wilfully mark, by means of chalk, paint or any other material, any public street, road, footpath, bus-shelter or other property of the Commonwealth or of an authority or body constituted by or under a law of the Commonwealth or of a Territory.

Penalty: \$1,000 or imprisonment for 6 months.

(3) A person convicted of an offence under sub-section (1) or (2) shall be liable to pay to the owner of the premises or property in relation to which the offence was committed such amount (if any) as the Court may order as the cost of, or contribution to the cost of, any repairs or restoration of the premises or property that are necessary as a result of the action constituting the offence.

Offensive behaviour

546A. A person shall not in, near, or within the view or hearing of a person in, a public place behave in a riotous, indecent, offensive or insulting manner.

Penalty: \$1,000.

Indecent exposure

546B. A person who offends against decency by the exposure of his person in a public place, or in any place within the view of a person who is in a public place, is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.

Noise abatement directions

546C. (1) Where it appears to a member of the police force that offensive noise is being, or has at any time during the preceding 30 minutes been, emitted from any premises, he may—

- (a) direct the person whom he believes to be the occupier of those premises to cause the emission of the noise to cease; or
- (b) direct any person whom he believes to be making, or contributing to the making of, the noise to cease making, or contributing to the making of, the noise,

or he may give directions under both paragraphs (a) and (b).

(2) A person to whom a direction referred to in paragraph (1) (a) is given shall not, without reasonable excuse—

- (a) fail to cause the emission from the premises of the noise in respect of which the direction was given to cease promptly; or
- (b) at any time within 6 hours after the time when the direction was given, cause, permit or allow any offensive noise to be emitted from the premises.

Penalty: \$1,000 or imprisonment for 6 months.

(3) A person to whom a direction referred to in paragraph (1) (b) is given shall not, without reasonable excuse—

- (a) fail to promptly cease making, or contributing to the making of, the noise in respect of which the direction was given; or
- (b) at any time within 6 hours after the time when the direction was given, make, or contribute to the making of, any offensive noise emitted from the premises.

Penalty: \$1,000 or imprisonment for 6 months.

(4) A person shall not be convicted of an offence under this section unless the prosecution establishes that the noise to which the alleged offence relates was an offensive noise.

(5) In this section—

“offensive noise” means noise that, by reason of its level or nature, or the time at which it is made, or any other circumstances, is likely to be harmful or offensive to, or to interfere unreasonably with the comfort or repose of, persons who are—

- (a) where the noise is made in premises other than a public place—outside the premises; or
- (b) where the noise is made in premises that are a public place—within or outside the premises;

“premises” include any place, vehicle or vessel.

Apprehended violence or injury—recognizance to keep the peace

547. (1) In every case of apprehended violence by any person to the person of another, or of his wife or child, or of apprehended injury to his property, a Magistrate may on the complaint of the person apprehending such violence or injury, issue a summons or warrant as in any case of apprehended violence to the person, where at present security is required to keep the peace—and a Magistrate may examine the complainant, and defendant, and their witnesses, as to the truth of the matter alleged, and, if it appears that the apprehension alleged is reasonable, but not otherwise, the Magistrate may require the defendant to enter into a recognizance to keep the peace, with or without sureties, as in any case of a like nature.

Defamatory words—recognizance for good behaviour

(2) If in any such case the defendant has spoken any offensive or defamatory words to or of the complainant, on an occasion when a breach of the peace might have been induced thereby, he may be required by the Magistrate to enter into a recognizance, with or without sureties, to be of good behaviour for a term not exceeding six months, and, in default of its being entered into forthwith, the defendant may be imprisoned for three months, unless such recognizance is sooner entered into.

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(3) The Magistrate, in every such case, may award costs to either complainant or defendant, to be recovered as costs in summary jurisdiction cases are recoverable.

Alternative methods of proceeding before a Magistrate

548. Where by this Act a person is made liable to imprisonment, or to pay a sum of money, on conviction before a Magistrate, such person may be proceeded against and convicted in a summary way under this Act, so far as it is applicable, or under any law in force in the Territory regulating proceedings on summary convictions, and every provision contained in any such law shall be applicable to such proceedings as if the same were incorporated in this Act.

Where not necessary to allege particular ownership

550. In any proceeding before a Magistrate in respect of any of the matters mentioned in the Fourth Schedule to this Act, it shall not be necessary to allege that the instrument, document, building, chattel, or other matter or thing, in respect of which the offence was committed, is the property of any person.

General averment of intent to defraud or injure

551. In any proceeding before a Magistrate where it is necessary to allege an intent to defraud, or to injure, it shall be sufficient to allege that the accused did the act with such intent, without alleging an intent to defraud or to injure any particular person.

Discharge of juvenile first offenders

552. Where any person under the age of sixteen years is summarily convicted before a Magistrate under this Act, and it is a first conviction, the Magistrate may, if the Magistrate thinks fit, discharge the offender upon his making such satisfaction to the party aggrieved for damages and costs as the Magistrate thinks just, or upon his entering into a recognizance, with one or more surety or sureties, that he will be of good behaviour for a term to be fixed by the Magistrate, not exceeding the twelve months next ensuing.

Sentence may be for less term or fine of less amount than that fixed herein

553. Where by any section of this Act an offender is for any offence made liable to imprisonment for a fixed term or to a fine of any fixed amount the Magistrate may nevertheless pass a sentence of imprisonment of less duration or inflict a fine of less amount.

Hard or light labour

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Recognizance for good behaviour

(2) A court of summary jurisdiction may, in addition to, or in substitution for, any sentence imposing a fine or of imprisonment, require the offender to

enter into a recognizance, with or without a surety or sureties, to be of good behaviour for a term which shall not be less than twelve months or more than three years, and may direct that, in default of entering into the recognizance, the offender be imprisoned, or further imprisoned, for a period not exceeding three months with either hard labour or light labour, unless the recognizance is sooner entered into, but so that the total term of the imprisonment and further imprisonment shall not together exceed twelve months.

Damages and compensation

(3) Where a person is convicted of an offence by a court of summary jurisdiction, the court may, at the time of the conviction, or at any time thereafter upon notice given to the offender, direct that a sum not exceeding \$300 be paid to any person aggrieved by way of compensation for injury or loss sustained by reason of the commission of the offence.

(4) Any sum so directed to be paid shall be paid by the offender to the Clerk of the Court, to be paid by him to the person aggrieved.

(5) A direction under this section shall be deemed to be a conviction or order whereby a sum of money is adjudged to be paid within the meaning of the *Court of Petty Sessions Ordinance 1930-1951*.

Application of forfeitures and penalties

555. Every sum forfeited for the amount of any injury shall be assessed by the convicting Magistrate, and paid to the party aggrieved, except where he is unknown, in which case such sum shall be applied in the same manner as a penalty.

Every sum imposed as a penalty by a Magistrate, whether in addition to such amount, or otherwise, shall be applied as directed by the Acts in force for the time being providing for the application of penalties:

Provided that, where several persons have joined in the commission of the same offence, and on conviction are severally adjudged to forfeit a sum equivalent to the amount of the injury done, no greater sum shall be paid to the party aggrieved than such amount, and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a Magistrate is applied.

Summary conviction a bar to further proceedings

556. Where any person, summarily convicted under this Act, pays the sum or sums adjudged to be paid, together with costs, or receives a remission thereof from the Crown, or suffers the imprisonment provided for non-payment thereof, or the imprisonment adjudged in the first instance, or is discharged from his conviction by the Magistrate under section five hundred and fifty-two of this Act, he shall not be liable to any other proceeding for the same cause.

PART XV**CONDITIONAL RELEASE OF OFFENDERS****Conditional release of offenders without proceeding to conviction****556A. (1) Where—**

- (a) a person is charged before the Court of Petty Sessions with an offence against a law of the Territory; and
- (b) the Court is satisfied that the charge is proved but is of opinion, having regard to—
 - (i) the character, antecedents, age, health or mental condition of the person;
 - (ii) the extent, if any, to which the offence is of a trivial nature; or
 - (iii) the extent, if any, to which the offence was committed under extenuating circumstances,

that it is inexpedient to inflict any punishment, or to inflict any punishment other than a nominal punishment, or that it is expedient to release the person on probation,

the Court may dismiss the charge or, without proceeding to conviction, by order, direct that the person be discharged upon his giving security, with or without sureties, by recognizance or otherwise, to the satisfaction of the Court, that—

- (c) he will be of good behaviour for such period, not exceeding three years, as the Court specifies in the order; and
- (d) he will, during the period so specified, comply with such conditions (if any) as the Court thinks fit to specify in the order, which conditions may include—
 - (i) the condition that the offender will, during the period so specified, be subject to the supervision on probation under a person, for the time being, appointed in accordance with the order; and
 - (ii) the condition that the offender will obey all reasonable directions of a person so appointed;

(2) Where a person has been discharged in pursuance of an order made under the last preceding sub-section upon the condition that he will be of good behaviour for a period specified in the order (in this section referred to as “the period of good behaviour”) and information is laid before a magistrate, whether before or after the expiration of the period of good behaviour, alleging that the person has, during the period of good behaviour—

- (a) failed to be of good behaviour; or
- (b) failed to comply with a condition specified in the order in accordance with paragraph (d) of the last preceding sub-section,

the magistrate may issue a summons directing the person to appear before the Court of Petty Sessions at a time specified in the summons and show cause why

he should not be dealt with by that Court under this section or, if the information is laid on oath, may issue a warrant for the arrest of the person and for his being brought before the Court of Petty Sessions to be dealt with under this section.

(3) Where a person who has been discharged by an order made under sub-section (1) of this section appears before the Court of Petty Sessions on summons or warrant issued under the last preceding sub-section, the Court may, if it is satisfied that the person has, during the period of good behaviour—

- (a) failed to be of good behaviour; or
- (b) failed to comply with a condition specified in that order in accordance with paragraph (d) of sub-section (1) of this section,

impose on the person any penalty which the Court would, if the person had then and there been convicted of the offence with which he was originally charged, be empowered to impose or make any order (including an order under sub-section (1) of this section or an order under sub-section (1) of the next succeeding section) which the Court would, if he had then and there been convicted of the offence of which he was originally charged, be empowered to make.

(4) Where a recognizance that was entered into in accordance with an order made under sub-section (1) of this section is varied under section five hundred and fifty-six D of the Crimes Act, a corresponding variation shall be deemed to have been made in the terms of that order, and the last two preceding sub-sections apply to and in relation to that order—

- (a) in a case where the period specified in the order in accordance with paragraph (c) of sub-section (1) of this section is to be deemed to have been varied—as if references in the last two preceding sub-sections to that period were read as references to that period as it is to be deemed to have been varied; and
- (b) in a case where the conditions specified in the order in accordance with paragraph (d) of sub-section (1) of this section are to be deemed to have been varied (whether by the alteration of such a condition or the addition of a further condition)—as if references in the last two preceding sub-sections to a condition so specified were read as references to a condition included in those conditions as they are to be deemed to have been varied.

(5) Where a person is dealt with by the Court of Petty Sessions under sub-section (3) of this section, the Court may, in addition to the imposition of a penalty on the person or to the making of an order against him, order that any recognizance given by him or by a surety for him shall be estreated and that any other security given by or in respect of him shall be enforced.

Conditional release of offenders

556B. (1) Subject to this section, where a person is convicted of an offence against the law of the Territory, the Court by which he is convicted may, if it thinks fit, by order—

- (a) release the person without passing sentence upon him upon his giving security, with or without sureties, by recognizance or otherwise, to the satisfaction of the Court that—
 - (i) he will be of good behaviour for such period as the Court specifies in the order;
 - (ii) he will, during the period so specified, comply with such conditions (if any) as the Court thinks fit to specify in the order, which conditions may include—
 - (A) the condition that the offender will, during the period so specified, be subject to the supervision on probation under a person, for the time being appointed in accordance with the order; and
 - (B) the condition that the offender will obey all reasonable directions of a person so appointed; and
 - (iii) he will pay to the Commonwealth such penalty if any (being a penalty not exceeding the prescribed penalty) as the Court specifies in the order on or before a date specified in the order or by specified instalments as provided in the order; or
- (b) sentence the person to a term of imprisonment but direct that the person be released, upon his giving a like security to that referred to in the last preceding paragraph, either forthwith or after he has served a specified part of the sentence imposed upon him.

(2) Where a person is convicted of an offence in respect of which a fine might be imposed on the person instead of imprisonment, the last preceding sub-section does not authorize the court by which he is convicted, when directing that the person be released as provided in paragraph (a) of that sub-section, to require the person to give security for the payment of a penalty exceeding the maximum amount of the fine that might be so imposed.

(3) Sub-section (1) of this section does not authorize the Court of Petty Sessions when directing that a person be released as provided in paragraph (a) of that sub-section, to require the person to give security for the payment of a penalty where the offence of which the person has been convicted is an offence in respect of which the Court is empowered to sentence the person to imprisonment but the maximum term of imprisonment to which the court may sentence the person is less than six months.

(4) Sub-section (1) of this section does not authorize a court, when directing that the person be released as provided in paragraph (b) of that sub-section, to require the person to give security for the payment of a penalty.

(5) Where a court releases a person under paragraph (a) of sub-section (1) of this section upon his giving security for the payment of a penalty, the provisions of section four of the *Fines and Penalties Act*, 1901, of the State of New South Wales, in its application in the Territory, do not apply to or in relation to the penalty so required to be paid.

(6) Where a court makes an order for the release of a person upon his giving security for the payment of a penalty, the Court shall specify in the order the person to whom and the place at which the penalty, or each instalment of the penalty, as the case may be, is to be paid.

(7) For the purpose of sub-paragraph (iii) of paragraph (a) of sub-section (1) of this section, the prescribed penalty is, subject to sub-section (2) of this section—

- (a) if the court by which the order is made is the Supreme Court—Two thousand dollars; or
- (b) in any other case—Five hundred dollars.

Failure to comply with condition of recognizance or release

556C. (1) Where a person has been released in pursuance of an order made under the last preceding section upon the condition that he will be of good behaviour for a period specified in the order in accordance with sub-paragraph (i) of paragraph (a) of sub-section (1) of that section (in this section referred to as “the period of good behaviour”) and information is laid before a magistrate, whether before or after the expiration of the period of good behaviour, alleging that—

- (a) the person has failed during the period of good behaviour to comply with a condition specified in the order in accordance with sub-paragraph (ii) of paragraph (a) of sub-section (1) of the last preceding section;
- (b) the person has failed to pay, as provided in the order, the penalty or an instalment of the penalty for the payment of which he has given security; or
- (c) the person has been convicted, whether within or outside the Territory, of an offence committed during the period of good behaviour,

the magistrate may issue a summons directing the person to appear before the court by which he was so released at a time specified in the summons and show cause why he should not be dealt with by that court under this section or, if the information is laid on oath, may issue a warrant for the arrest of the person and for his being brought before the court by which he was so released to be dealt with under this section.

(2) Sections twenty-eight and twenty-nine of the *Court of Petty Sessions Ordinance 1930-1968* apply to and in relation to a summons or information under the last preceding sub-section.

(3) Where a person is arrested by virtue of a warrant under sub-section (1) of this section that requires him to be brought before the Supreme Court and the Supreme Court is not sitting at the time of his arrest, the person shall be brought before a magistrate who may admit the person to bail on such recognizance as the magistrate thinks fit on condition that the person appears before the Supreme Court at such time and place as the magistrate specifies to be dealt with by the Supreme Court under this section or may direct that he be kept in such custody as the magistrate directs until he can be brought before the Supreme Court to be so dealt with.

(4) Where a person who has been released in pursuance of an order made under the last preceding section appears before the court on summons or warrant issued under sub-section (1) of this section or as a result of having been committed to be dealt with by the court under the last preceding sub-section, the court, if it is satisfied that—

- (a) the person has failed during the period of good behaviour to comply with a condition specified in the order in accordance with sub-paragraph (ii) of paragraph (a) of sub-section (1) of the last preceding section;
- (b) the person has failed to pay, as provided in the order, the penalty or an instalment of the penalty for the payment of which he has given security; or
- (c) the person has been convicted, whether within or outside the Territory, of an offence committed during the period of good behaviour,

may—

- (d) in a case where the person was released without sentence having been passed on him—impose on the person any penalty which the Court would, if the person had then and there been convicted of the offence with which he was originally charged, be empowered to impose or make any order (including an order under sub-section (1) of the last preceding section) which the Court would, if he had then and there been convicted of the offence of which he was originally charged, be empowered to make; or
- (e) in a case where the person having been sentenced, was released forthwith or after he had served a specified part of the sentence imposed on him—commit the person to prison to undergo imprisonment for such term, being a term not exceeding the sentence or the balance of that sentence, as the case requires, or make any order (including an order under sub-section (1) of the last preceding section) which the Court would, if he had then and there been sentenced for the offence or which he was originally charged, be empowered to make.

(5) Where the court commits to prison a person who had served part of his sentence, the order for his release from prison shall, if the period of good behaviour has not elapsed, be deemed to have been revoked.

(6) Where a person who has been released under sub-section (1) of the last preceding section is convicted by the Supreme Court of an offence committed during the period of good behaviour, the Supreme Court may, upon convicting the person and in addition to dealing with the person for the offence of which he is convicted, deal with the person in like manner as it or the Court of Petty Sessions, as the case may be, could deal with the person if he were before whichever of those courts is the appropriate court in pursuance of a summons or warrant issued under sub-section (1) of this section.

(7) Where a person who has been released under sub-section (1) of the last preceding section is convicted by the Court of Petty Sessions of an offence committed during the period of good behaviour, the Court of Petty Sessions may, upon convicting the person and in addition to dealing with the person for the offence of which he is convicted—

- (a) if the person had been so released by an order of the Supreme Court—commit him to be dealt with by the Supreme Court under this section and then deal with him in like manner as a magistrate may deal with a person brought before him under sub-section (3) of this section; or
- (b) if the person had been so released by order of the Court of Petty Sessions—deal with the person in like manner as it could deal with the person if he were before the Court of Petty Sessions in pursuance of a summons or warrant issued under sub-section (1) of this section.

(8) Where a person is dealt with by the court under this section, the court may, in addition to the imposition of a penalty or to so dealing with him, but subject to the next succeeding sub-section, order that any recognizance given by him or by a surety for him shall be estreated and that any other security given by or in respect of him shall be enforced.

(9) Where a person who has been released under sub-section (1) of the last preceding section upon giving security for the payment of a penalty is dealt with by the Court under this section, the person and any surety—

- (a) ceases to be liable to pay any part of the penalty that remains unpaid; and
- (b) is not entitled to recover any part of the penalty that has already been paid.

(10) Where a recognizance that was entered into in accordance with an order made under sub-section (1) of the last preceding section is varied under the next succeeding section, a corresponding variation shall be deemed to have been made in the terms of that order, and the preceding sub-sections of this section apply to and in relation to that order—

- (a) in a case where the period specified in the order in accordance with sub-paragraph (i) of paragraph (a) of sub-section (1) of the last preceding section is to be deemed to have been varied—as if references in those sub-sections to that period were read as references to that period as it is to be deemed to have been varied;

s. 556C

- (b) in a case where the conditions specified in the order in accordance with sub-paragraph (ii) of paragraph (a) of sub-section (1) of the last preceding section are to be deemed to have been varied (whether by the alteration of such a condition or the addition of a further condition)—as if references in the preceding sub-sections of this section to a condition so specified were read as references to a condition included in those conditions as they are to be deemed to have been varied; and
- (c) in a case where the provisions of the order with respect to the amount of the penalty, or the manner in which the penalty or the instalments of the penalty are to be paid have been varied or the amount of each instalment of the penalty has been varied—as if references in the preceding sub-sections of this section to failure to pay, as provided in the order, the penalty or an instalment of the penalty were read as references to failure to pay, as provided in the order as it is to be deemed to have been varied, the penalty or an instalment of the penalty.

Power to discharge or vary conditions of recognizance

556D. (1) Where a person has given a recognizance under section five hundred and fifty-six A or five hundred and fifty-six B of the Crimes Act, the court before which the person is bound by his recognizance may—

- (a) upon application by an authorized person, the person who has given the recognizance or his surety; and
- (b) upon being satisfied that the conduct of the person bound by the recognizance has been such as to make it unnecessary that he should remain bound by the recognizance,

discharge the recognizance and any surety given in respect of the recognizance.

(2) Where a person has given a recognizance under section five hundred and fifty-six A or five hundred and fifty-six B of the Crimes Act, an authorized person, the person who has given the recognizance or his surety may apply to the Court before which the person is bound by the recognizance for a variation of the terms of the recognizance including a reduction of the amount of penalty that is to be paid by the person who has given the recognizance or a variation of the manner in which the penalty or the instalments of penalty are to be paid by that person.

(3) Upon application being made to a Court under the last preceding sub-section, the Court may, if satisfied that notice as required by sub-section (5) or (6) of this section has been given and upon hearing the applicant and any person to whom notice has been so given, vary, if it thinks fit to do so, the terms of the recognizance in all or any of the following ways, that is to say, by—

- (a) extending or reducing the duration of the recognizance;
- (b) altering the conditions of the recognizance;
- (c) inserting additional conditions in the recognizance;

- (d) reducing the amount of the penalty that is to be paid by the person; and
- (e) altering the manner in which the penalty or the instalments of penalty are to be paid.

(4) A court shall not extend the duration of a recognizance given by a person under section five hundred and fifty-six A of this Act beyond the period of three years from the date of the order under that section discharging the person.

(5) Where an application is made under sub-section (1) or (2) of this section by an authorized person, the authorized person shall cause notice of the application and of the time and place fixed for the hearing of the application to be served on the person who has given the recognizance and, if that person has a surety in respect of the recognizance, on the surety.

(6) Where an application is made under sub-section (1) or (2) of this section by a person who has given a recognizance or by his surety, the person making the application shall cause notice of the application, and of the time and place fixed for the hearing of the application, to be served on the Deputy Crown Solicitor, Australian Capital Territory, and—

- (a) if the application is made by a surety—on the person who has given the recognizance; or
- (b) if the application is made by the person who has given the recognizance and that person has a surety—on his surety.

(7) Where notice of an application is served on a surety under either of the last two preceding sub-sections, the surety may appear on the hearing or further hearing of the application and show cause before the court why he should not continue to be bound by the terms of the recognizance.

(8) Where a court varies the terms of a recognizance, a person who is a surety in respect of the recognizance continues to be bound by the recognizance as so varied except that—

- (a) if the recognizance is varied by extending its duration—he is not bound after the expiration of the period for which he had agreed to be bound when he entered into the recognizance;
- (b) if the recognizance is varied by altering a condition—he is not bound by that condition as altered; and
- (c) if the recognizance is altered by the addition of a condition—he is not bound by the additional condition,

unless he agrees to be bound by the recognizance as so varied.

(9) Where the court varies a recognizance by altering a condition of the recognizance, the court shall direct the extent, if any, to which a surety in respect of the recognizance is to continue to be bound by the condition as it existed before the alteration and the condition as it so existed shall be deemed,

s. 556D

after the variation of the recognizance, to bind the surety to that extent but not otherwise.

(10) In this section—

- (a) “authorized person” means the Attorney-General or a person appointed under section fifty-three of the *Australian Capital Territory Supreme Court Act 1933-1968* to prosecute indictable offences triable before the Supreme Court of the Australian Capital Territory; and
- (b) references to a variation of the manner in which the instalments of penalty are to be paid by a person shall be read as including references to a variation of the amount of any instalments of the penalty.

Recovery of amounts where recognizances estreated

556E. (1) Where the Supreme Court has, under sub-section (8) of section five hundred and fifty-six C of the Crimes Act made an order that a recognizance given by a person or by a surety for him be estreated, the order shall, upon being filed by the Registrar of that Court, be deemed to have the same effect as if the order were a judgment by the Supreme Court in favour of the Commonwealth against the person who has given the security or his surety for the amount for which the person or the surety was bound, and the like proceedings may be taken for the enforcement of the order as if it were such a judgment.

(2) Where the Court of Petty Sessions has under sub-section (5) of section five hundred and fifty-six A of the Crimes Act or under sub-section (8) of section five hundred and fifty-six C of the Crimes Act, made an order that a recognizance given by a person or by a surety for him be estreated, the order shall, upon being filed by the Clerk of the Court of Petty Sessions, be deemed to have the same effect as if it were an order made by the Clerk of Petty Sessions on a complaint by the Commonwealth for recovery of the amount for which the person who has given the recognizance or the surety was bound, and the like proceedings may be taken for the enforcement of the order as if it were an order made on such a complaint.

PART XVI

MISCELLANEOUS ENACTMENTS

Protection of persons acting under this Act

563. (1) All actions against any person, for anything done, or reasonably supposed to have been done in pursuance of this Act, shall be commenced within six months after the fact committed, and notice in writing of any such action, and of the cause thereof, shall be given to the defendant one month at least before commencement of the action, and in any such action the defendant may plead the general issue, and give the special matter in evidence thereupon.

(2) No plaintiff shall recover in any such action, if a tender of sufficient amends was made before action brought, or if a sufficient sum is paid into Court, on behalf of the defendant, after action brought.

(3) If a verdict passes for the defendant, or the plaintiff becomes nonsuit, or discontinues his action after issue joined, or if upon demurrer, or otherwise, judgment is given against the plaintiff, the defendant shall recover costs as between attorney and client.

No Court fees to be taken in criminal cases

564. It shall not be lawful to receive any Court fees, for the issuing of process on behalf of a person charged with an offence nor to receive a fee from any such person, for taking a recognizance of bail, or issuing any writ, or recording any appearance, or plea to an indictment, or discharging any recognizance.

Power of Courts to bring prisoners before them

565. Every Court or Judge, for the purposes of any trial or prosecution, shall have power, by order in writing directed to any gaoler, to cause any prisoner to be brought before such Court or Judge, under secure conduct, in order to be tried, or examined, or to give evidence, before such Court or Judge, or before any other Court, or any Magistrate, and immediately after such prisoner's trial, or examination, or his having so given evidence, to be returned to his former custody:

Provided that nothing in this section shall affect the power of a Court of Gaol Delivery, sitting for the delivery of a gaol, to cause any prisoner therein to be brought before it for any purpose, without order in writing.

Witnesses neglecting to attend trial and captured under warrant may be admitted to bail

566. Where a person bound by recognizance, or served with a subpoena, to attend as a witness in any Court at a trial, who has failed to appear when called in open Court, either at such trial, or on the day appointed for such trial, has been captured under a warrant issued by such Court, bail may be taken before any Magistrate for his appearance at the trial.

Supreme Court Judges may prescribe forms of indictments, &c.

567. The Judges of the Supreme Court, or any two of them, may from time to time frame and prescribe forms of indictments, records, informations, depositions, convictions, warrants, recognizances, and proceedings, in all Courts, and before all Magistrates, in respect of any of the offences and matters mentioned in this Act, and every such form, so prescribed, shall thereafter be sufficient for the purpose, and be deemed sufficiently to state the offence, or matter, for or in respect of which it is framed.

Prosecutions for blasphemy

574. No person shall be liable to prosecution in respect of any publication by him, orally or otherwise, of words or matter charged as blasphemous, where the same is by way of argument, or statement, and not for the purpose of scoffing or reviling, nor of violating public decency, nor in any manner tending to a breach of the peace.

Misappropriations of corn, &c., by servants

575. No servant who, contrary to the orders of his master, takes any food being his master's property for the purpose of its being given to any animal in the possession of his master, shall by reason thereof be guilty of an indictable offence, but shall be liable to be dealt with under any law in force in the Territory regulating the duties and liabilities of masters and servants.

Change of venue

577. In any criminal proceeding, if it is made to appear to the Court—

- (a) that a fair or unprejudiced trial cannot otherwise be had, or
- (b) that for any other reason, it is expedient so to do,

the Supreme Court may change the venue, and direct the trial to be had in such other district, or at such particular place, as the Court thinks fit, and may for that purpose make all such orders as justice appears to require.

SCHEDULES

FIRST SCHEDULE

Repeal of Acts

Reference to Act	Subject or short title	Extent of repeal
4 Vic. No. 22	Administration of Justice	So much of s. 10 as relates to appointment of Crown Prosecutor at Quarter Sessions, s. 12, and so much of s. 15 as relates to criminal proceedings.
7 Vic. No. 16	Deeds Registration	Section 28.
11 & 12 Vic., c. 42, adopted by 14 Vic. No. 43	Duties of Justices (Indictable Offences) Act.	Section 17.
13 Vic. No. 16	Law of Evidence	So much of s. 5 as is hitherto unrepealed.
13 Vic. No. 18	Deodands Abolition	Section 1 and 3.
14 Vic. No. 43	Imperial Acts Adoption and Application	Section 16.
16 Vic. No. 1	Acts Shortening Act	Section 13.
16 Vic. No. 14	Law of Evidence Amendment	Section 10 and so much of s. 11 as is hitherto unrepealed.
17 Vic. No. 39	"The Justices Act Amendment Act of 1853."	Section 13.
22 Vic. No. 7	Law of Evidence Further Amendment.	Section 10.
22 Vic. No. 12	Acts Shortening Act	So much of section 7 as relates to criminal pleadings and proceedings and section 10.
22 Vic. No. 18	"District Courts Act of 1885"	Section 25.
23 Vic. No. 1	Quarter Sessions Chairman	The whole.
24 Vic. No. 6	Common Law Procedure Act Extension	Sections 1 and 2 so far as they relate to criminal trials.
30 Vic. No. 9	"District Courts Amendment Act of 1866."	All hitherto unrepealed, except so far as it relates to District Courts
31 Vic. No. 25	"Treason Felony Act of 1868"	The whole.
46 Vic. No. 17	"Criminal Law Amendment Act."	All hitherto unrepealed, except s. 295, from the words "And every solemn declaration" to the end of the section; ss. 336 to 340 inclusive; the last clause of s. 342; s. 343; ss. 346, 347; so much of s. 359 as relates to the custody of records by the Prothonotary; s. 434; s. 436; ss. 440 to 444 inclusive; the last clause of s. 445; ss. 453, 454, 455; so much of s. 459 as relates to Courts of Petty Sessions; s. 471; and the Seventh Schedule.
52 Vic. No. 6	"Criminal Law Amendment Act of 1888."	The whole, except s. 2.
55 Vic. No. 5	"Criminal Law and Evidence Amendment Act of 1891."	All hitherto unrepealed, except ss. 17, 23, 24, 26, and 34, and so much of s. 35 as relates to 40 Vic. No. 14.
57 Vic. No. 23	"First Offenders Probation Act of 1894."	The whole.
No. 11, 1898	"Evidence Act, 1898"	Sections 7, 27, 31, 37, 38, 39, 40, 41, and 48.
No. 12, 1898	"Evidence (Penalties) Act"	The whole.
No. 30, 1898	"Accused Persons Evidence Act of 1898."	The whole.

SECOND SCHEDULE

Section 3

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

Sections seven, eight, twenty-three, thirty-four, forty, seventy-six, seventy-seven, one hundred and eighteen to one hundred and twenty-four inclusive, one hundred and twenty-eight to one hundred and thirty inclusive, one hundred and sixty-three, one hundred and eighty-three, one hundred and ninety-three, two hundred and six, two hundred and thirty-one; Parts X to XIII inclusive, sections five hundred and forty-seven to five hundred and fifty-six inclusive, and Part XVI.

THIRD SCHEDULE

Section 358

FORM NO. 1

Discharge of persons committed for trial

Certificate of Attorney-General

This is to certify that I decline to file any information against A.B., a prisoner now in the gaol at _____, under the warrant of R.W., Esquire, justice of the peace, upon a charge of [stating same].

Given under my hand this _____ day of _____, 18 ____
To their Honors the Judges of
the Supreme Court.

L.M.,
Attorney-General.

FORM NO. 2

Warrant thereupon

Supreme Court of New South Wales.

Whereas A.B. is detained in your custody under the warrant of R.W., Esquire, justice of the peace, upon a charge of [as in certificate], and it has been certified to the judges of this Court by Her Majesty's Attorney-General that he declines to file any information against the said A.B. for the said offence, you are therefore hereby required forthwith to discharge the said A.B. from your custody under the said warrant.

Given under my hand this _____ day of _____, 18 ____
To the Sheriff and to the keeper of
H.M.'s Gaol at _____

S.M.,
A Judge of the Supreme Court.

FORM NO. 3

Discharge of persons under remand

Certificate of Attorney-General

This is to certify that I decline to proceed further upon an indictment filed against A.B., a prisoner now in the gaol at _____, under the order of His Honor _____, a Judge of the Supreme Court, or A.M., Esquire, Chairman of Quarter Sessions, upon a charge of [stating same].

Given under my hand this _____ day of _____, 18 ____
To their Honors the Judges of
the Supreme Court.

L.M.,
Attorney-General.

THIRD SCHEDULE—continued

FORM NO. 4

Warrant thereupon

Supreme Court of New South Wales.

Whereas A.B. is detained in your custody under the order of His Honor _____, a Judge of the Supreme Court, or A.M., Esquire, Chairman of Quarter Sessions, upon a charge of [*as in certificate*], and it has been certified to the judges of this Court by Her Majesty's Attorney-General that he declines to proceed further upon an indictment filed against the said A.B. for the said offence, you are therefore hereby required forthwith to discharge the said A.B. from your custody under the said order.

Given under my hand this _____ day of _____, 18 ____
To the Sheriff and to the keeper of
H.M.'s Gaol at _____

S.M.,
A Judge of the Supreme Court.

FOURTH SCHEDULE

Sections 382 and 550

As to allegation of property

- (1) Stealing or destroying or injuring any testamentary instrument, or any document of any Court, or anything fixed or growing in any square or street or place dedicated to public use or ornament.
- (2) Any offence committed in or respecting a place of Divine Worship or respecting property in any public library or building.
- (3) Any matter or thing mentioned in any of the following sections of this Act, viz.: sections one hundred and ninety-nine, two hundred and nine, two hundred and twenty-eight, two hundred and twenty-nine, two hundred and thirty-three, two hundred and thirty-four, two hundred and forty-two, two hundred and forty-three, two hundred and forty-four, five hundred and thirty-five.

SIXTH SCHEDULE

Section 448

Form of List of Other Offences Charged

Deputy Crown Solicitor's Office.
Canberra, A.C.T.

To
charged with

Memorandum for accused's information

- (1) The list on the back hereof gives particulars of other alleged offences with which you are charged.
- (2) If you are convicted of the charge of first mentioned above, you may before sentence is passed, if the presiding Judge or Magistrate so decides and the prosecutor consents, admit all or any of the other offences set out on the back hereof and ask that any of those offences that you have admitted be taken into account by the presiding Judge or Magistrate in passing sentence upon you.
- (3) If you are convicted and the presiding Judge or Magistrate does take any of the other offences that you have admitted into account, the maximum sentence that may be imposed upon you will nevertheless be the maximum sentence for the offence of first mentioned above.
- (4) No further proceedings may be taken against you in respect of the other offences taken into account unless your conviction for the offence of first mentioned above is set aside or quashed.

SIXTH SCHEDULE—continued

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

Signature of the Deputy Crown Solicitor, Australian Capital Territory, or of a person authorized in writing by him

Date.....

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

Date.....

CERTIFICATE

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

Dated this day of 19 .

.....
A Judge of the Supreme Court
or A Magistrate of the Court of Petty Sessions

[BACK OF FORM]

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

NOTES

1. The Crimes Act, 1900 of the State of New South Wales (No. 40, 1900, assented to 31 October 1900) was one of the laws in force in the Australian Capital Territory immediately before 1 January 1911, and was, therefore, continued in force by the *Seat of Government Acceptance Act 1909*.

The Crimes Act, 1900 in its application to the Territory has been amended as indicated in the Tables below.

Section 2 of the *Crimes Ordinance 1931* (No. 24, 1931) provides as follows:

"2. The Crimes (Amendment) Act, 1905 of the State of New South Wales, in its application to the Territory, is repealed."

Section 3 of the *Crimes Ordinance 1951* (No. 14, 1951) provides as follows:

"3. The Crimes (Girls' Protection) Act, 1910 of the State of New South Wales shall cease to apply to the Territory."

Sub-section 31 (3) of the *Crimes (Amendment) Ordinance 1983* (No. 27, 1983) provides as follows:

"(3) The Habitual Criminals Act, 1905 of the State of New South Wales shall cease to be in force in the Territory."

Table of Ordinances

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Crimes Ordinance 1942</i>	12, 1942	28 May 1942	28 May 1942	—
<i>Crimes Ordinance 1944</i>	1, 1944	20 Jan 1944	20 Jan 1944	—
<i>Crimes Ordinance 1951</i>	14, 1951	14 Dec 1951	14 Dec 1951	—
<i>Crimes Ordinance 1963</i>	11, 1963	23 May 1963	23 May 1963	—
<i>Crimes Ordinance 1968(a)</i>	4, 1968	14 Mar 1968	15 Mar 1968	S. 20 (1)
<i>Crimes Ordinance 1970</i>	40, 1970	22 Oct 1970	22 Oct 1970	—
<i>Crimes Ordinance 1971</i>	2, 1971	25 Feb 1971	S. 8: 29 Mar 1971 Remainder: 1 Mar 1971	Ss. 9 and 10
<i>Public Order (Protection of Persons and Property) Act 1971(b)</i>				
<i>Crimes Ordinance 1974</i>	17, 1974	17 Apr 1974	17 Apr 1974	S. 14
<i>Crimes (Amendment) Ordinance 1978</i>	45, 1978	21 Dec 1978	21 Dec 1978	—
<i>Crimes (Amendment) Ordinance 1979</i>	1, 1979	31 Jan 1979	31 Jan 1979	—
<i>Crimes (Amendment) Ordinance 1983</i>	27, 1983	22 Sept 1983	22 Sept 1983	S. 32
as amended by				
<i>Crimes (Amendment) Ordinance (No. 2) 1983</i>	45, 1983	29 Sept 1983	22 Sept 1983	—
<i>Crimes (Amendment) Ordinance (No. 3) 1983(c)</i>	55, 1983	18 Nov 1983	18 Nov 1983	—

- (a) The Piracy Punishment Act, 1902 of the State of New South Wales in its application to the Territory was amended by the *Crimes Ordinance 1968* (No. 4, 1968), section 19 and sub-section 20 (2) of which provide as follows:

"19. (1) In this section, 'the Piracy Punishment Act' means the Piracy Punishment Act, 1902 of the State of New South Wales in its application to the Territory."

NOTES—continued

Table of Ordinances—continued

"(2) Section 4 of the Piracy Punishment Act is amended by omitting the words 'suffer death' and inserting in their stead the words 'imprisonment for life'.

"(3) Section 6 of the Piracy Punishment Act is amended by omitting the words 'with death or otherwise'.

"20.

"(2) Where a person is convicted, on or after the date of commencement of this Ordinance, of an offence for which a penalty is provided by the Piracy Punishment Act, 1902 of the State of New South Wales in its application to the Territory, the person is liable to the penalty provided for that offence by that Act as amended by this Ordinance whether the offence was committed before, or is committed on or after, that date."

- (b) The Crimes Act, 1900 was amended by section 25 and The Schedule of the *Public Order (Protection of Persons and Property) Act 1971* (No. 26, 1971, assented to and commenced 13 May 1971).

For application, saving or transitional provisions relating to those amendments, see section 25 of that Act.

- (c) Section 24 of the *Crimes (Amendment) Ordinance (No. 3) 1983* (No. 55, 1983) provides as follows:

"24. The common law offences of publicly exposing the naked person and of breaking out and escaping from confinement are abolished."

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading preceding s. 1	rep. No. 27, 1983
S. 1	am. No. 14, 1951; No. 4, 1968; No. 2, 1971; No. 17, 1974 rs. No. 27, 1983
S. 2	am. No. 27, 1983
Heading preceding s. 4	rep. No. 27, 1983
S. 4	am. No. 2, 1971; No. 27, 1983 (as am. by No. 45, 1983); No. 55, 1983
S. 7	am. No. 27, 1983
S. 9	am. No. 4, 1968 rs. No. 45, 1978; No. 27, 1983
S. 10	am. No. 4, 1968; No. 45, 1978 rep. No. 27, 1983
Part II (ss. 11-16)	rep. No. 4, 1968
Ss. 11-16	rep. No. 4, 1968
Heading preceding s. 17	rep. No. 27, 1983
S. 17	rep. No. 27, 1983
Ss. 18, 19	am. No. 27, 1983
S. 21	am. No. 27, 1983
Ss. 24, 25	am. No. 27, 1983
Heading preceding s. 26	rep. No. 27, 1983
S. 26	am. No. 27, 1983
Heading preceding s. 27	rep. No. 27, 1983
Ss. 27, 28	am. No. 4, 1968
Ss. 29, 30	am. No. 27, 1983
Headings preceding ss. 31, 32	rep. No. 27, 1983
Ss. 31, 32	am. No. 27, 1983
S. 33	am. No. 27, 1983
Ss. 33A, 33B	ad. No. 27, 1983
S. 34	am. No. 55, 1983
S. 35	am. No. 27, 1983

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 36	rep. No. 55, 1983
Ss. 37-39	am. No. 27, 1983
Ss. 41-44	am. No. 27, 1983
Ss. 46-48	am. No. 27, 1983
Ss. 50, 51	am. No. 27, 1983
S. 52A	ad. No. 11, 1963 rs. No. 1, 1979
Heading preceding s. 55	rep. No. 27, 1983
S. 55	am. No. 27, 1983
Heading preceding s. 56	rep. No. 27, 1983
Ss. 57-59	am. No. 27, 1983
S. 60	rep. No. 27, 1983
Heading preceding s. 61	rep. No. 27, 1983
S. 61	am. No. 17, 1974
Heading preceding s. 62	rep. No. 27, 1983
S. 63	am. No. 4, 1968
S. 64	rs. No. 14, 1951
Ss. 65, 66	am. No. 27, 1983
S. 67	am. No. 4, 1968
S. 68	am. No. 27, 1983
Ss. 69, 70	rs. No. 14, 1951
Ss. 71, 72	rs. No. 14, 1951 am. No. 27, 1983
S. 72A	ad. No. 14, 1951 am. No. 27, 1983
Ss. 73, 74	rs. No. 14, 1951 am. No. 27, 1983
S. 75	rs. No. 14, 1951
S. 76	rs. No. 14, 1951 am. No. 27, 1983
S. 77	rs. No. 14, 1951
S. 77A	ad. No. 14, 1951
S. 78	rs. No. 14, 1951
S. 78A	ad. No. 14, 1951 am. No. 27, 1983
S. 78B	ad. No. 14, 1951
S. 78C	ad. No. 14, 1951 am. No. 27, 1983
Ss. 78D-78G	ad. No. 14, 1951
Heading preceding s. 79	rep. No. 27, 1983
Ss. 79-81	am. No. 27, 1983
Heading preceding s. 82	rep. No. 27, 1983
Ss. 82-84	am. No. 27, 1983
Heading preceding s. 85	rep. No. 27, 1983
S. 85	rs. No. 14, 1951
Heading preceding s. 86	rep. No. 27, 1983

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 86, 87	am. No. 27, 1983
S. 89	am. No. 27, 1983
S. 90A	ad. No. 11, 1963
S. 91	am. No. 27, 1983
Ss. 91A, 91B	ad. No. 14, 1951 am. No. 40, 1970; No. 27, 1983
S. 91C	ad. No. 14, 1951
S. 91D	ad. No. 14, 1951 am. No. 27, 1983
Heading preceding s. 92	rep. No. 27, 1983
S. 92	rep. No. 2, 1971
S. 93	rep. No. 2, 1971 ad. No. 27, 1983
Ss. 93A, 93B	ad. No. 55, 1983
Headings preceding s. 94	rep. No. 27, 1983
Ss. 94, 95	am. No. 27, 1983
S. 95A	ad. No. 55, 1983
S. 96	am. Nos. 27 and 55, 1983
Ss. 97, 98	am. No. 27, 1983
Heading preceding s. 99	rep. No. 27, 1983
Ss. 99, 100	am. No. 27, 1983
Ss. 101-103	am. Nos. 27 and 55, 1983
S. 104	rep. No. 55, 1983
Heading preceding s. 106	rep. No. 27, 1983
Ss. 106-109	am. No. 27, 1983
S. 110	am. No. 4, 1968
S. 111	am. No. 27, 1983
S. 112	rs. No. 1, 1944; No. 11, 1963 am. No. 45, 1978; No. 27, 1983
S. 113	rs. No. 11, 1963 am. No. 45, 1978; No. 27, 1983
S. 114	am. Nos. 27 and 55, 1983
S. 115	am. No. 27, 1983
Headings preceding ss. 116, 117	rep. No. 27, 1983
S. 117	am. No. 27, 1983
S. 120	am. No. 11, 1963
Ss. 121, 122	am. No. 27, 1983
S. 123	rep. No. 27, 1983
Headings preceding ss. 125, 126	rep. No. 27, 1983
Ss. 125, 126	am. No. 27, 1983
Heading preceding s. 134	rep. No. 27, 1983
Ss. 134, 135	am. No. 27, 1983
S. 138	am. No. 27, 1983
Heading preceding s. 139	rep. No. 27, 1983
Ss. 139, 140	am. No. 27, 1983

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 141-143	rep. No. 27, 1983
Heading preceding s. 144	rep. No. 27, 1983
S. 144	am. No. 27, 1983
Ss. 146, 147	am. No. 27, 1983
Heading preceding s. 148	rep. No. 27, 1983
Ss. 148, 149	am. No. 27, 1983
Heading preceding s. 150	rep. No. 27, 1983
S. 150	am. No. 27, 1983
Heading preceding s. 152	rep. No. 27, 1983
Ss. 152, 153	am. No. 27, 1983
Heading preceding s. 154	rep. No. 27, 1983
S. 154	am. No. 27, 1983
S. 154A	ad. No. 11, 1963 am. No. 27, 1983
Headings preceding s. 155	rep. No. 27, 1983
Ss. 156-158	am. No. 27, 1983
Heading preceding s. 159	rep. No. 27, 1983
Ss. 159, 160	am. No. 27, 1983
Headings preceding ss. 161-163	rep. No. 27, 1983
S. 163	am. No. 27, 1983
Heading preceding s. 164	rep. No. 27, 1983
Ss. 165, 166	am. No. 27, 1983
Ss. 168-170	am. No. 27, 1983
Ss. 172-176	am. No. 27, 1983
S. 178A	ad. No. 11, 1963
Ss. 178B-178E	ad. No. 55, 1983
Heading preceding s. 179	rep. No. 27, 1983
S. 179	am. No. 11, 1963; No. 27, 1983
S. 180	am. No. 11, 1963
S. 182	am. No. 11, 1963
S. 183	rs. No. 11, 1963 am. No. 27, 1983
Ss. 184, 185	am. No. 27, 1983
Heading preceding s. 186	rep. No. 27, 1983
S. 186	am. No. 27, 1983
Heading preceding s. 187	rep. No. 27, 1983
Ss. 188, 189	am. No. 27, 1983
S. 189A	ad. No. 14, 1951 am. No. 27, 1983
S. 190	am. No. 27, 1983
Headings preceding s. 194	rep. No. 27, 1983
Heading preceding s. 196	rep. No. 27, 1983
S. 196	am. No. 11, 1963 rep. No. 4, 1968
Ss. 197, 198	am. No. 11, 1963; No. 27, 1983

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 199	am. No. 27, 1983
Ss. 200-202	am. No. 11, 1963; No. 27, 1983
Heading preceding s. 203	rep. No. 27, 1983
Ss. 203, 204	am. No. 11, 1963; No. 27, 1983
Heading preceding s. 205	rep. No. 27, 1983
Ss. 205-207	rep. Act No. 26, 1971
Headings preceding ss. 208, 209	rep. No. 27, 1983
Ss. 209, 210	am. No. 27, 1983
Heading preceding s. 211	rep. No. 27, 1983
Ss. 211-218	am. No. 27, 1983
S. 219	am. No. 55, 1983
Heading preceding s. 221	rep. No. 27, 1983
Ss. 221-224	am. No. 27, 1983
Heading preceding s. 225	rep. No. 27, 1983
Ss. 225, 226	am. No. 27, 1983
Headings preceding ss. 227, 228	rep. No. 27, 1983
S. 228	am. No. 27, 1983
Heading preceding s. 230	rep. No. 27, 1983
S. 230	am. No. 27, 1983
Heading preceding s. 235	rep. No. 27, 1983
S. 235	rep. No. 4, 1968
Ss. 236-239	am. No. 27, 1983
S. 240	am. No. 4, 1968
Ss. 241-243	am. No. 27, 1983
Headings preceding ss. 244, 245	rep. No. 27, 1983
Ss. 244, 245	am. No. 27, 1983
S. 246	am. No. 27, 1983
Headings preceding ss. 247, 248	rep. No. 27, 1983
Ss. 247, 248	am. No. 27, 1983
Headings preceding ss. 249, 250	rep. No. 27, 1983
S. 251	am. No. 27, 1983
Headings preceding ss. 252, 253	rep. No. 27, 1983
Ss. 253, 254	rep. No. 27, 1983
Heading preceding s. 255	rep. No. 27, 1983
S. 255	am. Nos. 27 and 55, 1983
Heading preceding s. 256	rep. No. 27, 1983
Ss. 256-258	am. No. 27, 1983
S. 259	rep. No. 27, 1983
Heading preceding s. 260	rep. No. 27, 1983
Ss. 260-263	rep. No. 27, 1983

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading preceding s. 264	rep. No. 27, 1983
S. 264	rep. No. 27, 1983
Heading preceding s. 265	rep. No. 27, 1983
Ss. 265-267	am. No. 27, 1983
Ss. 269, 270	am. No. 27, 1983
Heading preceding s. 271	rep. No. 27, 1983
Ss. 271-276	am. No. 27, 1983
Heading preceding s. 277	rep. No. 27, 1983
Ss. 277, 278	am. No. 27, 1983
Heading preceding s. 279	rep. No. 27, 1983
S. 279	rep. No. 27, 1983
S. 280	am. Nos. 27 and 55, 1983
Ss. 281-283	am. No. 27, 1983
Heading preceding s. 284	rep. No. 27, 1983
Ss. 284-286	am. No. 27, 1983
S. 287	am. No. 55, 1983
S. 288	am. No. 27, 1983
S. 289	am. Nos. 27 and 55, 1983
Ss. 290-292	am. No. 27, 1983
Headings preceding ss. 293, 294	rep. No. 27, 1983
Ss. 293, 294	am. No. 27, 1983
Headings preceding ss. 295, 296	rep. No. 27, 1983
Ss. 295-297	rep. No. 27, 1983
Heading preceding s. 298	rep. No. 27, 1983
S. 298	am. No. 27, 1983
Heading preceding s. 299	rep. No. 27, 1983
S. 299	rep. No. 27, 1983
Part VI (ss. 300-326)	rep. No. 27, 1983
Ss. 300-326	rep. No. 27, 1983
Ss. 327, 328	am. No. 27, 1983
S. 330	am. No. 27, 1983
S. 332	am. No. 55, 1983
S. 333	am. Nos. 27 and 55, 1983
Ss. 334-339	rep. No. 27, 1983
Ss. 340-342	am. No. 27, 1983
S. 344	am. No. 27, 1983
Ss. 345-348	rep. No. 27, 1983
S. 349	am. No. 27, 1983
Heading to Part X	rs. No. 55, 1983
Ss. 350, 351	rep. No. 27, 1983 ad. No. 55, 1983
Heading preceding s. 352	rep. No. 27, 1983
Ss. 352, 353	am. No. 27, 1983

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 353A	ad. No. 1, 1944
Heading preceding s. 354	rep. No. 27, 1983
S. 354	rep. No. 27, 1983 ad. No. 55, 1983
Ss. 355-357	rep. No. 27, 1983
Headings preceding ss. 358, 359	rep. No. 27, 1983
S. 360	am. No. 27, 1983
S. 361	rep. No. 27, 1983
S. 363	am. No. 27, 1983
Ss. 365, 366	rs. No. 11, 1963
Ss. 370, 371	am. No. 27, 1983
S. 376	am. No. 55, 1983
S. 377	rep. No. 27, 1983
S. 378	am. Nos. 27 and 55, 1983
S. 380	am. No. 27, 1983
Ss. 384, 385	am. No. 27, 1983
S. 391	rep. No. 27, 1983
Heading preceding s. 394	rep. No. 27, 1983
Ss. 397, 398	rep. No. 27, 1983
S. 400	am. No. 27, 1983
S. 401	rep. No. 27, 1983
S. 404	rep. No. 2, 1971
Heading preceding s. 406	rep. No. 27, 1983
Ss. 406-410	rep. No. 2, 1971
S. 411	am. No. 27, 1983
Ss. 412, 413	rep. No. 2, 1971
S. 415	rep. No. 2, 1971
S. 416	rep. No. 27, 1983
Ss. 418, 419	rep. No. 2, 1971
S. 420	am. Nos. 27 and 55, 1983
S. 421	rep. No. 55, 1983
S. 422	rep. No. 27, 1983
Heading preceding s. 425	rep. No. 27, 1983
Ss. 425-427	am. No. 27, 1983
Headings preceding ss. 428, 429	rep. No. 27, 1983
S. 429	rs. No. 14, 1951
Heading preceding s. 430	rep. No. 27, 1983
S. 430	am. No. 4, 1968 rep. No. 27, 1983 ad. No. 55, 1983
S. 431	rep. No. 4, 1968
Heading preceding s. 432	rep. No. 27, 1983
Ss. 432, 433	rep. No. 27, 1983
Heading preceding s. 434	rep. No. 17, 1974

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 434-436	rep. No. 17, 1974
Heading preceding s. 437	rep. No. 27, 1983
S. 437	am. No. 27, 1983
Headings preceding ss. 438-440	rep. No. 27, 1983
S. 440	rep. No. 27, 1983
Heading preceding s. 441	rep. No. 27, 1983
S. 441	am. No. 27, 1983
S. 441A	ad. No. 27, 1983
Heading preceding s. 442	rep. No. 27, 1983
S. 442	rs. No. 11, 1963 am. No. 17, 1974
Heading preceding s. 443	rep. No. 27, 1983
Ss. 443, 444	am. No. 27, 1983
S. 445	rep. No. 2, 1971
S. 448	rs. No. 27, 1983
Headings preceding s. 448 in Part XIII	rep. No. 27, 1983
Ss. 448-452 in Part XIII	rep. No. 27, 1983
Heading preceding s. 453	rep. No. 27, 1983
Ss. 453, 454	rep. No. 17, 1974
Heading preceding s. 455	rep. No. 17, 1974
Ss. 455, 456	rep. No. 17, 1974
Heading preceding s. 457	rep. No. 27, 1983
S. 457	am. No. 27, 1983
Heading preceding s. 458	rep. No. 27, 1983
S. 458	rep. No. 27, 1983
Heading preceding s. 459	am. No. 17, 1974 rep. No. 27, 1983
S. 459	am. No. 4, 1968 rep. No. 17, 1974
S. 460	rep. No. 17, 1974
Ss. 461-464	rep. No. 27, 1983
Heading preceding s. 465	rep. No. 27, 1983
Ss. 465, 466	am. No. 27, 1983
S. 467	rep. No. 27, 1983
S. 469	rep. No. 27, 1983
Headings preceding ss. 470, 471	rep. No. 27, 1983
S. 471	rep. No. 27, 1983
Heading preceding s. 472	rep. No. 27, 1983
Headings preceding ss. 474, 475	rep. No. 27, 1983
Ss. 474, 475	am. No. 27, 1983
Heading to Part XIV	rs. No. 55, 1983
Chapter 1 of Part XIV (ss. 476-481)	rep. No. 14, 1951

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Chapter 1 of Part XIV (ss. 476-478, 480, 481)	ad. No. 14, 1951
Heading preceding s. 476	rep. No. 27, 1983
S. 476	am. No. 12, 1942 rs. No. 14, 1951; No. 17, 1974 am. No. 27, 1983
S. 477	rs. No. 14, 1951 am. No. 11, 1963 rs. No. 17, 1974 am. No. 27, 1983
S. 477A	ad. No. 27, 1983
S. 478	rs. No. 14, 1951; No. 17, 1974
S. 479	rep. No. 14, 1951 ad. No. 17, 1974
Ss. 480, 481	rs. No. 14, 1951; No. 17, 1974 am. No. 27, 1983
Chapter 2 of Part XIV (ss. 482-492)	rep. No. 17, 1974
S. 482	rep. No. 17, 1974 ad. No. 55, 1983
Ss. 483-492	rep. No. 17, 1974
Headings precedings s. 493	rep. No. 27, 1983
Ss. 493-496	am. No. 27, 1983
S. 497	am. Nos. 27 and 55, 1983
S. 498	am. No. 27, 1983
S. 499	rs. No. 11, 1963
S. 500	am. No. 27, 1983
Headings preceding s. 501	rep. No. 27, 1983
S. 501	am. No. 27, 1983 rs. No. 55, 1983
Ss. 502-510	am. No. 27, 1983
S. 510A	ad. No. 55, 1983
Ss. 511, 512	am. No. 27, 1983
Heading preceding s. 513	rep. No. 27, 1983
S. 513	am. Nos. 27 and 55, 1983
S. 514	am. No. 27, 1983
S. 515	am. Nos. 27 and 55, 1983
S. 516	am. No. 55, 1983
Ss. 517, 518	am. Nos. 27 and 55, 1983
Ss. 519-521	am. No. 27, 1983
Heading preceding s. 522	rep. No. 27, 1983
S. 522	am. Nos. 27 and 55, 1983
S. 523	am. No. 55, 1983
S. 524	am. No. 27, 1983
Heading preceding s. 525	rep. No. 27, 1983
S. 525	am. No. 27, 1983
S. 526A	ad. No. 11, 1963 am. No. 27, 1983

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading preceding s. 527	rep. No. 27, 1983
S. 527	am. No. 27, 1983
S. 527A	ad. No. 55, 1983
Headings preceding ss. 528, 529	rep. No. 27, 1983
Ss. 528, 529	am. No. 27, 1983
Headings preceding s. 530	rep. No. 27, 1983
S. 531	am. No. 27, 1983
Heading preceding s. 532	rep. No. 27, 1983
S. 532	am. Nos. 27 and 55, 1983
Ss. 533-538	am. No. 27, 1983
Heading preceding s. 539	rep. No. 27, 1983
Ss. 539, 540	am. No. 27, 1983
Heading preceding s. 541	rep. No. 27, 1983
Ss. 541, 542	am. No. 27, 1983
Heading preceding s. 543	rep. No. 27, 1983
S. 543	am. No. 27, 1983
Heading preceding s. 544	rep. No. 27, 1983
Ss. 544, 545	rep. No. 27, 1983 ad. No. 55, 1983
Heading preceding s. 546	rep. No. 27, 1983
S. 546	rep. No. 27, 1983 ad. No. 55, 1983
Ss. 546A-546C	ad. No. 55, 1983
Headings preceding ss. 547, 548	rep. No. 27, 1983
Ss. 547, 548	am. No. 27, 1983
Heading preceding s. 549	rep. No. 27, 1983
S. 549	rep. No. 27, 1983
Heading preceding s. 550	rep. No. 27, 1983
Ss. 550, 551	am. No. 27, 1983
Headings preceding ss. 552, 553	rep. No. 27, 1983
Ss. 552, 553	am. No. 27, 1983
Heading preceding s. 554	rep. No. 27, 1983
S. 554	rs. No. 14, 1951 am. No. 11, 1963; No. 27, 1983
Headings preceding ss. 555, 556	rep. No. 27, 1983
Ss. 555, 556	am. No. 27, 1983
S. 556A	ad. No. 12, 1942 rep. No. 2, 1971
Part XV (ss. 557-562)	rep. No. 2, 1971
Part XV (ss. 556A-556E)	ad. No. 2, 1971
S. 556A	rs. No. 2, 1971
Ss. 556B-556E	ad. No. 2, 1971
Ss. 557, 558	rep. No. 2, 1971

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 559	am. No. 14, 1951 rep. No. 2, 1971
S. 560	rep. No. 2, 1971
S. 561	rs. No. 14, 1951 rep. No. 2, 1971
S. 562	rep. No. 2, 1971
S. 564	am. No. 55, 1983
Ss. 565-567	am. No. 27, 1983
Ss. 568-573	rep. No. 27, 1983
S. 575	am. No. 27, 1983
S. 576	rep. No. 55, 1983
Fifth Schedule	rep. No. 55, 1983
Sixth Schedule	rep. No. 17, 1974 ad. No. 27, 1983
Seventh Schedule	rep. No. 27, 1983

2. S. 429 (2)—The *Juvenile Offenders Ordinance 1941* was repealed by the *Child Welfare Ordinance 1957* (No. 17, 1957).