

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1922.

A BILL

To amend the criminal law, and for that purpose to amend the Crimes Act, 1900, and certain other Acts; and for purposes connected therewith.

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

1. This Act may be cited as the "Crimes (Amend- Short title. ment) Act, 1922," and shall be read with the Crimes Act, 1900, hereinafter called the Principal Act.

2. In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act as amended by this Act.

3. The enactments mentioned in the Schedule to this Act are hereby repealed.

4. Part I of the Principal Act is amended as follows:— Amendment of Part I of Crimes Act, 1900, No. 40.

(a) Section four: After the definition of "Governor" Sec. 4. insert the following definition:—

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

(b) Section four: Add at end of definition of "dwelling-house": "Any building or other place which if occupied would be a dwelling-house shall be deemed to be a dwelling-house notwithstanding that it is temporarily unoccupied." Ibid.

(c) Section four: After the definition of "justice" Ibid. insert the following definition:—

"Loaded arms" means any gun, pistol, or other arms, loaded in the barrel or chamber with gunpowder or other explosive substance, and with ball, shot, slug, or other destructive material, although the attempt to discharge may fail from want of proper priming, or from any other cause; and every gun, pistol, or other arms, unlawfully presented at any person, shall be deemed to be loaded unless the contrary is shown.

(d) Section eight: Insert after the words "Where, Sec. 8. by this or any other Act," the words "or by any rule, regulation or by-law, duly made under or by virtue of the provisions of any Act."

5. Part III of the Principal Act is amended as follows:— Amendment of Part III of Principal Act.

(a) Section thirty-six is repealed.

(b)

- (b) The following section is inserted next after section fifty-four of the Principal Act :—

54A. Whosoever unlawfully and knowingly communicates any contagious disease to any other person shall be liable to imprisonment for *five* years.

Communi-
cation of
contagious
disease.

- (c) By the insertion after section seventy-two of the following new section :—

72A. Whosoever knowing a woman or girl to be an idiot or imbecile has or attempts to have unlawful carnal knowledge of her shall be liable to penal servitude for *five* years.

Carnal
knowledge
of idiot or
imbecile.

- (d) Section seventy-three is amended by the omission of the words “or a father” occurring after the word “teacher” and the words “or daughter” after the word “pupil.”

Sec. 73.

- (e) Section seventy-four is amended by the omission of the words “or father” occurring after the word “teacher” and the words “or daughter” after the word “pupil.”

Sec. 74.

- (f) Section seventy-five is amended by the omission of the words “or father” after the word “teacher.”

Sec. 75.

- (g) Sections seventy-six, seventy-seven, and seventy-eight are repealed and the following new sections are substituted in lieu thereof :—

Ss. 76, 77, 78.
Repeal of and
insertion of
new sections.

76. Whosoever assaults any female and, at the time of, or immediately before or after such assault, commits any act of indecency upon or in the presence of such female, shall be liable to imprisonment for *three* years, or, if the female be under the age of sixteen years, to penal servitude for *five* years.

Indecent
assault.

77. The consent of the girl, pupil, or step-daughter shall be no defence to any charge under sections sixty-seven, sixty-eight, seventy-one, seventy-two, seventy-three, or seventy-four of this Act, or, if the female be under the age of sixteen years, to any charge under section seventy-six of this Act:

Consent no
defence in
certain cases.

Provided

Provided that it shall be a sufficient defence Defences.
to any charge which renders a person liable to be found guilty of an offence under sections seventy-one or seventy-two of this Act, or if the female be under the age of sixteen years to any charge under section seventy-six of this Act, if it be made to appear to the court or jury before whom the charge is brought—

- (a) that the girl was over the age of fourteen years at the time of the alleged offence ; and
- (b) that she consented to the commission of the offence ; and
- (c) either—
 - (i) that she was at the said time a common prostitute or an associate of common prostitutes ; or
 - (ii) that the person so charged had at the said time reasonable cause to believe she was of or above the age of sixteen years.

78. No prosecution in respect of any offence Limitation.
under sections seventy-one, seventy-two, or seventy-six of this Act shall, if the girl in question was at the time of the alleged offence over the age of fourteen years and under the age of sixteen years, be commenced after the expiration of twelve months from the time of the alleged offence.

- (h) Section seventy-nine: Omit the words “ penal Sec. 79.
servitude for life or any term not less than five years ” and substitute therefor the words “ penal servitude for *fourteen* years.”

6. Part III of the Principal Act is further amended Further amendment of Part III of Principal Act.
by the insertion of the following sections next after section seventy-eight of the Principal Act as inserted by this Act :—

78A. Whosoever, being a male, has carnal know- Incest.
ledge of his grandmother, mother, grand aunt, aunt, sister, daughter, grand-daughter, niece, or grand-niece, or being a female of or above the age of sixteen
sixteen

sixteen years, has carnal knowledge of her grandfather, father, grand-uncle, uncle, brother, son, grandson, nephew, or grand-nephew, whether in any such case the relationship is of half or full blood, or is or is not traced through lawful wedlock, shall be liable to penal servitude for *fourteen* years.

78B. Whosoever, being a male, or being a female ^{Incest, attempts.} of or above the age of sixteen years, attempts to commit any offence under the last-preceding section, shall be liable to penal servitude for *seven* years.

78c. (1) It shall be a sufficient defence to a ^{Defences.} charge under either of the last two 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) It shall be no defence to a charge under ^{Consent no defence.} either of the last two preceding sections that the person with whom the offence is alleged to have been committed consented thereto.

78D. On the conviction of a male person of an ^{Removal from guardianship, &c.} offence under section 78A or under section 78B of this Act, the court may divest the offender of all authority over the female with whom the offence has been committed, and if the offender is the guardian of such female, may remove the offender from such guardianship, and in any such case may appoint any person or persons to be the guardian or guardians of such female during her minority, or for any greater or less period.

78E. If on the trial of any male person for an ^{Rape or attempt—verdict of incest or attempt.} offence under section sixty-three or under section 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 78A or under section 78B of this Act, they may acquit such person of the offence charged, and find him guilty of an offence under section 78A or under section 78B of this Act, and he shall be liable to punishment accordingly.

7. The following section is inserted next after section eighty-seven of the Principal Act :— Insertion of new s. 87.

87A. Whosoever procures, entices or leads away, or detains any female under the age of twenty-one years, whether with her consent or not, with intent that he, or some other person, may have carnal knowledge of such girl, either within or without New South Wales, shall, notwithstanding that some one or more of the various acts constituting the offence may have been committed outside New South Wales, be liable to penal servitude for *fourteen* years. Procuring, &c., female under twenty-one.

8. The following section is inserted next after section eighty-nine of the Principal Act :— Insertion of new s. 89A.

89A. Whosoever by means of any fraud, violence, threat, or abuse of authority, or by the use of any drug or intoxicating liquor, procures, entices, or leads away or detains any woman of or above the age of twenty-one years with intent that he, or some other person, may have carnal knowledge of such woman, either within or without New South Wales, shall, notwithstanding that some one or more of the various acts constituting the offence may have been committed outside New South Wales, be liable to penal servitude for *seven* years. Procuring female by drugs, &c.

9. The following sections are inserted next after section ninety-one of the Principal Act :— Insertion of new ss. 91A, 91B.

91A. Whosoever having been convicted under the provisions of the Vagrancy Act, 1902, as amended by the Police Offences (Amendment) Act, 1908, of being a male person knowingly living, wholly or in part, on the earnings of prostitution afterwards commits the said offence shall be liable to imprisonment for *three* years. Male living on earnings of prostitution.

91B. Whosoever employs in, or under any circumstances whatever suffers to resort to, or be upon, any premises used as a brothel or house of ill-fame, any girl under the age of eighteen years, shall be liable to penal servitude for *five* years. Employment, &c., in brothel of female under eighteen.

10.

10. Part IV of the Principal Act is amended as follows:— Amendment of Part IV of Principal Act.

- (a) Section ninety-nine: Omit the words "with intent to steal the same" and substitute therefor the words "without reasonable cause and whether such person is thereby put in fear or not." Sec. 99.
- (b) Section one hundred and twenty-four is repealed and the following is substituted therefor:— Sec. 124.

124. Whosoever— Fraudulent appropriation.
 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 secure a reward for its restoration,

shall be liable to imprisonment for *two* years or to a fine of *fifty* pounds.

- (c) Section one hundred and thirty-one: After the word "whosoever" insert the words "takes and uses or takes for the purpose of using any cart, waggon, carriage, motor-car, bicycle, or other vehicle, or any boat howsoever propelled, or any other means of locomotion, the property of another person, without the consent of the owner, or person in lawful possession thereof, or." Sec. 131.

11. Part V of the Principal Act is amended— New section inserted.

- (a) by the insertion of the following section next after section one hundred and eighty-nine:—

189A. (1) Whosoever, without lawful excuse, receives, or has in his possession, any property stolen outside the State of New South Wales, knowing the same to have been stolen, shall be liable to penal servitude for *ten* years. Receiving, &c., goods stolen out of New South Wales.

(2) For the purposes of this section property shall be deemed to have been stolen if it has been taken, extorted, obtained, embezzled,

embezzled, converted, or disposed of under such circumstances that if the act had been committed in the State of New South Wales the person committing it would have been guilty of an indictable offence according to the law for the time being of the State of New South Wales.

- (b) Section two hundred and forty-four: Omit the words "or to imprisonment for three years." Sec. 244.

12. Part V of the Principal Act is further amended by omitting from section two hundred and seventy-five all the words after the words "crossed with" down to and including the word "firm" and substituting the following words therefor— Further amendment of Part V of Principal Act. Sec. 275.

- (a) the name of a banker; or
- (b) the word "bank" or the words "and company" or any abbreviation of them respectively between two parallel transverse lines; or
- (c) two parallel transverse lines simply; or
- (d) the word "credit" followed by the name of any individual or firm;

either with or without the words "not negotiable."

13. Part VII of the Principal Act is amended as follows:— Amendment of Part VII of Principal Act.

- (a) Section three hundred and forty: Insert after the word "sessions" the words "stipendiary or police magistrate," and after the words "judge or chairman" insert the words "or magistrate." Sec. 340.
- (b) Section three hundred and forty-one: In subsection one after the word "chairman" insert the words "or magistrate." Sec. 341.

14. Part X of the Principal Act is amended as follows:— Amendment of Part X of Principal Act.

- (a) Section three hundred and fifty-two, subsection two (a): After the word "such" insert the words "offence or." Sec. 352.
- (b) Section three hundred and fifty-two: The following subsection to be inserted after subsection three:—
 - (4) Any constable may, although the warrant is not at the time in his possession, apprehend any

any person for whose apprehension on any ground other than a charge of felony or misdemeanour or offence punishable as a misdemeanour a warrant has been lawfully issued, provided the issue of such warrant has been certified by telegraph by the Inspector-General of Police or by the justice who has signed such warrant.

15. Part X of the Principal Act is further amended by inserting next after section three hundred and fifty-three the following new section :—

Amendment of Part X of Principal Act by addition of new s. 353A.

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, and may use such force as is reasonably necessary for that purpose.

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

(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 constable, 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, and may use such force as is reasonably necessary for that purpose.

(3) When a person is in lawful custody for any offence punishable on indictment or summary conviction under any Act or Imperial Act, 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, and may use or cause to be used such reasonable force as may be necessary to secure the same.

16. Part XI of the Principal Act is amended as follows:—

Amendment of
Part XI of
Principal Act.

- (a) Section three hundred and seventy: Omit the words "not capital" and add at the end of the section the words "Provided further that nothing in this section shall affect the right of the Crown to insert alternative counts in any indictment describing the offence in different terms." Sec. 370.
- (b) Section three hundred and ninety-two: Add at the end of the section the words "and it shall be sufficient to state generally that the matter charged as having been falsely sworn was false in fact without negating each assignment specifically." Sec. 392.
- (c) Section four hundred and six: Insert after the words "for the murder" the words "or manslaughter"; and after the words "attend the trial" insert the words "or to give evidence." Sec. 406.
- (d) Section four hundred and seven:—
- (i) Insert after the word "but" the words "save as hereinafter provided." Sec. 407.
- (ii) Add the following new subsection:—
- (3) The husband or wife of any accused person in a criminal proceeding shall be compellable to give evidence in such proceeding in every court, either for the prosecution or for the defence, and without the consent of the accused—
- (a) where at common law the husband or wife of the accused person was a compellable witness;
- (b) where the offence charged is under any Act or Imperial Act by which the husband or wife of the accused is made a compellable witness in a proceeding in respect of the offence;
- (c) where the offence charged is under any of the following sections of this Act, namely, sections

sections forty-two, forty-three, forty-four, forty-five, 54A, sixty-three, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-one, seventy-two, 72A, seventy-three, seventy-four, seventy-six, 78A, 78B, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six, eighty-seven, 87A, eighty-nine, 89A, ninety, ninety-one, 91A, 91B, ninety-two, ninety-three;

- (d) where the offence charged is under the Child Welfare and State Relief Act, 1922.
- (e) Section four hundred and nine: Insert the Sec. 409. words "or coroner" after the word "justice" wherever it occurs in the section.
- (f) Section four hundred and ten, subsection one: Sec. 410. Insert after the word "statement" the words "by an accused person"; and omit after the word "against" the words "an accused person" and substitute therefor the words "him if it has been made in answer to questions after his arrest unless he has been cautioned that he need not say anything, but that if he does whatever he says may be given in evidence, and it has been made in the presence of some person other than a constable, warder, or other officer of police or of a gaol under the rank of sergeant or senior warder, and it has been taken down in writing and read over to the accused and he has been given an opportunity of correcting it if he wishes to do so, or if."
- (g) Section four hundred and eighteen: In sub- Sec. 418. section one omit the words "sixty-seven to eighty-one inclusive" and insert in lieu thereof the words "sixty-seven to 78E, inclusive, or under sections seventy-nine, eighty, or eighty-one."

17. Part XI of the Principal Act is further amended by the insertion next after section four hundred and fourteen of the following new sections :—

Further amend-
ment of Part XI
—addition of
new sections.

414A. On the hearing of any charge under this or any Act before a justice or justices, it shall not be necessary for any person who has made a scientific examination of any article or body to give evidence of the result of such examination, but a certificate under the hand of such person setting out the facts and conclusions he has arrived at shall be prima facie evidence thereof.

Certificate of
scientific
examination
evidence.

414B. An affidavit by the clerk of the peace or his clerk, or by the accused or his solicitor or his solicitor's clerk of the service of any notice to produce in respect of which notice to admit shall have been given and of the time when it was served, with a copy of such notice annexed to such affidavit, shall be sufficient evidence of the service of the original of such notice and of the time when it was served.

Proof of
service of
notice to
produce.

18. Part XI of the Principal Act is further amended by the insertion next after section four hundred and twenty-three of the following new section :—

Further amend-
ment of Part XI
—insertion of
new section.

423A. Where any two or more persons are severally indicted for perjury or false swearing and the statements alleged to be false are alleged to have been made on the same occasion and before the same tribunal and in respect of the same subject matter and are in each case to the same effect, whether in identical terms or not, all such persons may be tried together at the same time and before the same jury, provided that each person shall have his full right of challenge.

Joint trial in
case of
perjury, &c.

19. Part XI of the Principal Act is further amended by the insertion after section four hundred and twenty-four of the following new section :—

Further amend-
ment of Part XI
—insertion of
new section.

424A. Where on the trial of any person for any felony or misdemeanour, the jury have been unable to come to a unanimous decision after deliberating for six hours, the verdict of the majority, provided it be not less than three-fourths of the whole, shall be

Majority
verdict.

be taken as the verdict of the jury, and shall to all intents and purposes be as effective as if it were the unanimous verdict of the whole jury.

20. Part XII of the Principal Act is amended as follows:—

Amendment of
Part XII of
Principal Act.

- (a) Section four hundred and twenty-nine: Insert at the commencement the following brackets and numeral "(1)."
 (b) The same section is further amended by the addition thereto of the following new subsection:—

(2) Where a person of or above the age of sixteen years and under the age of eighteen years is convicted of an offence under sections seventy-one, seventy-two, or seventy-six of this Act, and the jury was 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, he may be dealt with in the manner provided in subsection one of this section, or under the provisions of Part IX of the Child Welfare and State Relief Act, 1922.

- (c) Sections four hundred and thirty-two and four hundred and thirty-three are repealed, and the following section is inserted and shall be read as section four hundred and thirty-two:—

432. (1) Where any offender is sentenced to imprisonment, whether for a misdemeanour at common law, or under this or any other Act, or Imperial Act, he shall be kept, if a male, to hard labour, and if a female, to light labour, unless the court shall in and by the sentence otherwise direct.

Misde-
meanours.
Punishment.

(2) The Court may, in the sentence, also require the offender to enter into a recognizance, with or without sureties, for keeping the peace and being of good behaviour for a term not exceeding three years:

Recogni-
zances.

Provided that no person shall be imprisoned under this Act more than one year for not finding sureties.

21.

21. Section four hundred and forty-two is repealed, and the following is substituted therefor :—

Further amend-
ment of Part
XII.
Sec. 442.

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

Provision for
passing sen-
tences of less
duration than
those fixed.

Provided that nothing in this subsection shall prevent the awarding of hard labour or solitary confinement, or whipping, where at present authorised by law, or the directing of the offender to enter into recognizances to keep the peace and be of good behaviour.

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

22. Part XIII of the Principal Act is amended as follows :—Section four hundred and sixty-three, subsection two, is repealed, and the following substituted therefor :—

Amendment
of Part XIII
of Principal
Act.

Sec. 463.

(2) Any such license may be revoked by the Governor at his discretion, and shall be revoked by a justice on proof before him in a summary way that the licensee has been guilty of a breach of any condition of the license.

Revocation
of ticket.

Where a license is revoked as aforesaid the person released on license may be taken by any member of the police force and returned to gaol, and may be detained there to undergo the remainder of his sentence.

23. Part XIV of the Principal Act is amended as follows :—

Amendment of
Part XIV of
Principal Act.

(a) Section four hundred and seventy-six : Omit the words "one or more than one justice" and substitute therefor the words "two or more justices"; and omit the words "justice or" wherever occurring. Also omit the word "twenty" and substitute therefor the word "fifty."

Sec. 476.

(b)

(b) Section four hundred and seventy-seven :— Sec. 477.

Omit all paragraphs after paragraph (b) and insert the following new paragraphs :—

- (c) escape from lawful custody ;
- (d) stealing any chattel, money, or valuable security from the person of another ;
- (e) any offence mentioned in any of the following sections of this Act, namely, sections one hundred and twenty-five, one hundred and twenty-six, one hundred and thirty-one, one hundred and thirty-two, one hundred and thirty-three, one hundred and thirty-four, one hundred and thirty-nine, one hundred and forty, one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-four, one hundred and forty-seven, one hundred and forty-eight, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-two, one hundred and fifty-four, one hundred and fifty-six, one hundred and fifty-seven, one hundred and fifty-eight, one hundred and fifty-nine, one hundred and sixty, one hundred and sixty-five, one hundred and sixty-six, one hundred and sixty-eight, one hundred and seventy-nine, one hundred and eighty-six, one hundred and eighty-eight, one hundred and eighty-nine, one hundred and ninety-two, two hundred and eight, two hundred and sixteen, two hundred and seventeen, two hundred and eighteen, two hundred and nineteen, two hundred and twenty, two hundred and forty-four, two hundred and forty-five, two hundred and forty-six, two hundred and forty-seven, two hundred and seventy-three, two hundred and seventy-four, two hundred and seventy-five ; (f)

- (f) attempting to commit any offence here-
inbefore mentioned.
- (c) Section five hundred : Insert the words “and determine” after the word “hear”; omit the words “affecting the same” and add at the end of the section the words “unless such determination does not involve any determination as to the title to the land or to any interest therein or accruing therefrom.” Sec. 500.
- (d) Sections five hundred and three, five hundred and five, five hundred and seven, five hundred and eleven, five hundred and twelve, five hundred and thirteen, five hundred and fifteen, five hundred and seventeen, five hundred and eighteen, five hundred and twenty, five hundred and twenty-one, five hundred and twenty-two, five hundred and twenty-three, five hundred and thirty-two, five hundred and thirty-three, five hundred and thirty-five, five hundred and thirty-six, five hundred and thirty-seven, five hundred and thirty-eight, five hundred and thirty-nine, five hundred and forty-one, and five hundred and forty-two : Omit the word “above” before the words “the value” or “the amount” as the case may be, and insert the words “in addition to” before the words “a fine.” Secs. 503, 505, 507, 511, 512, 513, 515, 517, 518, 520, 521, 522, 523, 532, 533, 535, 536, 537, 538, 539, 541, 542.
- (e) Section five hundred and twenty-nine : Insert after the words “punishable on summary conviction” the words “whether under the provisions of section four hundred and seventy-six of this Act, or otherwise.” Sec. 529.
- (f) Section five hundred and forty-seven : At the end of subsection one omit the words “as in any case of a like nature” and insert in lieu thereof the words “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.” Sec. 547.

(g)

(g) Section five hundred and forty-seven, subsection two, is amended by omitting the words "six" and "three" and substituting therefor the words "twelve" and "six" respectively.

24. Section five hundred and one of the Principal Act is repealed, and the following is substituted therefor:—

Further amendment of Part XIV. Sec. 501.

501.⁽¹⁾ Whosoever commits or attempts to commit—

List of offences punishable summarily without consent of accused.

- (a) simple larceny; or
- (b) any offence mentioned in the following sections of this Act, namely, one hundred and twenty-five, one hundred and twenty-six, one hundred and thirty-one, one hundred and thirty-three, one hundred and thirty-nine, one hundred and forty, one hundred and forty-four, one hundred and forty-seven, one hundred and forty-eight, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-two, one hundred and fifty-four, one hundred and fifty-six, one hundred and fifty-seven, one hundred and fifty-eight, one hundred and fifty-nine, one hundred and sixty, one hundred and sixty-five, one hundred and sixty-six, one hundred and sixty-eight, one hundred and seventy-nine, one hundred and eighty-six, one hundred and eighty-eight, one hundred and eighty-nine, one hundred and ninety, one hundred and ninety-two;

and the amount of money or the value of the property stolen, taken, embezzled, secreted, removed, appropriated, or obtained, or attempted to be stolen, taken, embezzled, secreted, removed, appropriated or obtained, or of the reward, does not exceed ~~ten~~ pounds, shall on conviction in a summary manner before two justices be liable to imprisonment for ~~six~~ months or to pay a fine of ~~twenty~~ pounds.

100
12
50.

25.

25. The following section is inserted next after section five hundred and thirty-one of the Principal Act:—

Further amendment of Part XIV. New s. 531A. Attempts.

531A. Whosoever commits, or attempts to commit, any offence mentioned in any of the following sections of this Act, namely, sections two hundred and eight, two hundred and twenty, two hundred and forty-five, two hundred and forty-six, and the value of the property or the amount of injury done does not exceed ten pounds, shall on conviction in a summary manner before two justices be liable to imprisonment for *six* months or to pay a fine of *twenty* pounds.

26. The following section is inserted next after section five hundred and forty-three of the Principal Act:—

Further amendment of Part XIV. New s. 543A.

(D) *Forgeries.*

543A. Whosoever commits any offence mentioned in any of the following sections of this Act, namely, sections two hundred and seventy-three, two hundred and seventy-four, or two hundred and seventy-five, and the amount purporting to be payable or of the credit to be procured or given or of the value involved does not exceed ten pounds, shall on conviction in a summary manner before two justices be liable to imprisonment for *six* months or to pay a fine of *twenty* pounds.

Certain offences punishable summarily.

27. Part XV of the Principal Act is amended as follows:—

Amendment of Part XV.

(a) Section five hundred and fifty-eight: In paragraph two insert after the words "for a period" the words "which shall not be less than twelve months"; and omit all the words from and including the word "equal" down to and including the words "of twelve months"; and omit the word "like" and substitute therefor the word "said"; and omit the words "hereinafter contained" after the word "provisions" and insert in lieu thereof the words "of this Act"; and insert at the end of

Sec. 558.

of the paragraph the following words: "Such recognizance may also contain additional conditions with respect to all or any of the following matters:—

- (i) The supervision of the offender by a probation officer during the period specified in the recognizance, and such other conditions for securing such supervision as may be specified therein.
- (ii) For prohibiting the offender from associating with thieves and other undesirable persons, or from frequenting undesirable places.
- (iii) As to the abstention of the offender from intoxicating liquor.
- (iv) Generally for securing that the offender shall lead an honest and industrious life."

(b) Section five hundred and fifty-nine: In sub-Sec. 559.

section two, after the words "of any such order" insert the words "or may direct that the recognizance mentioned in section five hundred and fifty-eight, subsection two, shall be further conditioned that the offender shall perform any order made or any directions given under section five hundred and fifty-nine, subsection one, and may in the sentence passed upon the offender sentence him to such additional terms as to the court may seem fitting to be served by him in the event of his failure to give such security or to comply with such condition of the recognizance."

(c) The same section is further amended by adding at the end of subsection two the words "or recognizance so conditioned being entered into."

(d) Section five hundred and sixty-one is repealed Sec. 561. and the following is substituted:—

561. (1) If during the period specified in the recognizance an offender so discharged— Forfeiture of recognizance, &c.

- (a) is proved to any judge or justice to have failed to comply with any condition of his

his recognizance or to report his address and occupation to the person at the times and in the manner prescribed by the last preceding section ; or

- (b) is charged by an officer of police with getting his livelihood by dishonest means, and, being brought before any justice, it appears to such justice that there are reasonable grounds for believing that he is getting his livelihood by dishonest means ; or
- (c) on being charged with an offence punishable on indictment, or summary conviction, and on being required by the justices before whom he is charged to give his name and address, refuses to do so, or gives a false name or a false address ; or
- (d) is convicted of any offence against the Vagrancy Act, 1902, or of any indictable offence, or of any offence punishable on summary conviction, and for which imprisonment for a period exceeding one month may be imposed ;

then, and in any of such cases, the judge or the justice or justices before whom such proof is given, or before whom the offender is so charged, or convicted, may, whether the period named in the recognizance has or has not expired, forfeit the recognizance, and may direct him to be committed to prison to perform his sentence as aforesaid or so much thereof as remains to be performed, under the provisions hereinbefore contained, and he shall be so committed accordingly, and the judge or justice or justices may grant any necessary warrant for his committal.

(2) Upon the production of a certificate under the hand of the clerk of the peace stating that the recognizance is liable to be forfeited or that the offender is liable to be committed to

to prison any judge may exercise all or any of the powers vested by the said subsection in the judge or justice or justices therein mentioned.

28. The following section is inserted next after section five hundred and sixty of the Principal Act :—

560A. (1) The Governor may appoint probation officers for the purposes of this Act, and may make regulations relating to the supervision of offenders by such probation officers. Probation officers, regulations, &c.

(2) Such regulations shall—

- (i) be published in the Gazette ;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations ;
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

29. The Criminal Appeal Act of 1912 is amended by the insertion of the following section next after section five :— Amendment of Act No. 16 of 1912.

5A. The judge before whom any person is tried and convicted may submit any question of law arising at or in reference to such trial or conviction to the Court of Criminal Appeal for determination, and such submission shall be dealt with as if it were an appeal under this Act. Point of law stated by judge.

30. The Habitual Criminals Act, 1905, is amended as follows :— Amendment of Act No. 15 of 1905.

(a) Section three :—

- (i) Insert at the beginning the brackets and numeral “(1).”
- (ii)

Sec. 3.

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- (ii) Omit paragraphs (a) and (b) and insert the following new paragraphs in lieu thereof:—
 - (a) When such person is so convicted of an offence included in classes (i) (ii) (iii) (iv) of the offences mentioned in the Schedule and has been previously so convicted on at least two occasions of an offence within any of such classes; or has been previously convicted on one occasion of an offence within any of the said classes and on two occasions of an offence within class (v) of the offences mentioned in this Schedule, the judge before whom such person is so convicted may in his discretion declare as part of the sentence of such person that he is an habitual criminal.
 - (b) When such person is so convicted of an offence included in class (v) of the offences mentioned in the Schedule and has previously been convicted either on indictment or summarily on at least three occasions of an offence within the same class or on at least two occasions of an offence within the same class and on one occasion of an offence within any other such class such judge may in his discretion declare as aforesaid that such person is an habitual criminal.
 - (iii) Insert the following new subsections:—
 - (2) Where any person is convicted before any stipendiary or police magistrate of any of the offences punishable summarily with or without the consent of the accused under either section four hundred and seventy-seven or section five

five hundred and one of the Crimes Act, 1900, or any amendment thereof, and has been previously convicted either on indictment or summarily on more than three occasions of an offence punishable on indictment, the stipendiary or police magistrate may, in his discretion, in addition to the sentence, direct that an application be made by the clerk of the peace to a judge of the Supreme Court or to a court of quarter sessions to have the person so convicted declared an habitual criminal.

(3) A judge of the Supreme Court or a court of quarter sessions may, upon the application of the clerk of the peace, by warrant declare the person so convicted to be an habitual criminal.

- (iv) Insert before the last paragraph the brackets and numeral “(4).”
- (b) Section six:—Omit the proviso and insert in Sec. 6. lieu thereof the words “The part of such proceeds to be paid to the habitual criminal shall be fixed by regulation.”
- (c) Section seven:— Sec. 7.
- (i) Omit all words after “may” where that word first occurs and insert in lieu thereof the words “grant to him a written license to be at large, subject to such conditions indorsed on the license as the Governor shall prescribe.”
- (ii) Insert after the word “period” the words “fixed by the license or when no period is so fixed during the period.”
- (d) Section eight: Insert after the word “failed” Sec. 8. the words “to comply with a condition of the license or.”
- (e) Section twelve: Insert after the words “ten Sec. 12. shillings” the words “or confinement in cells for any term not exceeding three days.”
- (f)

- (f) The whole of the Schedule after the word *Schedule*.
 "abortion" to be omitted and the following
 inserted in its place:—

Class (v) Sections 94 to 98 inclusive—Robbery.
 Sections 99 to 105 inclusive—Extortion.
 Sections 106 to 114 inclusive—Burglary, &c.
 Sections 117 to 131 inclusive, 134 to 139
 inclusive, 148 to 153 inclusive—Larceny.
 Sections 155 to 178 inclusive—Embezzlement.
 Sections 179 to 193 inclusive—False pre-
 tentences.
 Sections 196 to 204 inclusive, 209 to 217
 inclusive, 221 to 226 inclusive, 228 to
 243 inclusive—Arson and injuries to
 property.
 Under any of the sections in Part V of the
 Crimes Act, 1900—Forgery.
 Under any of the sections in Part VI of the
 Crimes Act, 1900—Coinage.

THE SCHEDULE.

Reference to Act.	Title or short title.
No. 2, 1910... ..	Crimes (Girls' Protection) Act, 1910.
No. 21, 1911... ..	Crimes (Girls' Protection) Amendment Act, 1911.
