

## CRIMES (AMENDMENT) ACT.

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Act No. 10, 1924.

**George V,** An Act to amend the criminal law, and for that  
**No. 10.** purpose to amend the Crimes Act, 1900, and  
certain other Acts; and for purposes con-  
nected therewith. [Assented to, 1st October,  
1924.]

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

Short title, **1.** This Act may be cited as the “Crimes (Amend-  
ment) Act, 1924,” and shall be read with the Crimes Act,  
1900, hereinafter called the Principal Act.

**2.**

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

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Interpreta-  
tion.

**3.** The enactments mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed except as to offences committed and things done or commenced before the passing of this Act, which shall be dealt with and continued, and in respect of which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.

Repeals.

**4.** Part I of the Principal Act is amended as follows:—

Amendment of  
Part I of Crimes  
Act, 1900, No. 40

(a) Section four:—

Sec. 4.

(i) By adding at the end of the 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.”

(ii) by inserting after the definition of “Governor” the following definition:—

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

(iii) by inserting after the definition of “justice” 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.

(b)

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Sec. 8.

- (b) Section eight: By inserting after the words "Where, by this or any other Act," the words "or by any rule, regulation, ordinance or by-law, duly made under or by virtue of the provisions of any Act,"

Amendment  
of Part III  
of Principal  
Act.

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

- (a) By omitting section thirty-six.  
(b) by omitting sections sixty-four, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven, and seventy-eight, and by inserting the following sections:—

Trial for  
rape—verdict  
of carnal  
knowledge.  
*Ibid.* s. 369.  
1910, No. 2,  
s. 2.

64. Where on the trial of a person for rape the jury are satisfied that the female was a girl under the age of sixteen years, but above the age of ten years, and that 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, and he shall be liable to punishment accordingly.

Trial for  
carnal  
knowledge—  
girl in fact  
over 10.  
*Ibid.* s. 369.  
*Ibid.* s. 2.

69. Where on the trial of a person for carnally knowing a girl under the age of ten years, the jury are satisfied that she was of or above that age, but under the age of sixteen years, and that the accused had carnal knowledge of such girl, they may acquit him of the offence charged and find him guilty of an offence under section seventy-one of this Act, and he shall be liable to punishment accordingly.

Trial for  
carnal  
knowledge—  
verdict of  
assault with  
intent.  
55 Vic. No. 5,  
s. 15.  
1910, No. 2,  
s. 2.

70. Where on the trial of a person for carnally knowing a girl under the age of ten years, the jury are satisfied that she was of or above that age, but under the age of sixteen years, and that the accused had not carnal knowledge of such girl, 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 the said last-mentioned section, and he shall be liable to punishment accordingly. 71.

71. Whosoever unlawfully and carnally knows any girl of or above the age of ten years, and under the age of sixteen years, shall be liable to penal servitude for ten years.

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Carnally know-  
ing girl between  
ten and sixteen.  
46 Vic. No. 17,  
s. 42.

1910, No. 2, s. 2.

72. Whosoever attempts unlawfully and carnally to know any girl above the age of ten years, and under the age of sixteen years, or assaults any such girl with intent carnally to know her, shall be liable to penal servitude for five years.

Attempts.

*Ibid.* s. 42.

*Ibid.* s. 2.

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.

73. Whosoever, being a schoolmaster or other teacher, or a father, or step-father, unlawfully and carnally knows any girl of or above the age of ten years, and under the age of seventeen years, being his pupil, or daughter, or step-daughter, shall be liable to penal servitude for fourteen years.

Carnal  
knowledge by  
teacher, &c.

*Ibid.* s. 43.

*Ibid.* ss. 2, 3.

74. Whosoever, being a schoolmaster or other teacher, or a father, or step-father, by any means attempts unlawfully and carnally to know any girl of or above the age of ten years, and under the age of seventeen years, being his pupil, or daughter, or step-daughter, or assaults any such girl with intent carnally to know her, shall be liable to penal servitude for seven years.

Attempts.

*Ibid.* s. 43.

*Ibid.* ss. 2, 3.

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

Alternative  
charge.

*Ibid.* s. 43.

*Ibid.* s. 3.

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.

*Ibid.* s. 44.

*Ibid.* s. 2.

Act No. 21,  
1911, s. 3.

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Consent no  
defence in  
certain cases.

*Ibid.* ss. 42,  
43.

*Ibid.* s. 3.

Defences.

1910, No. 2,  
s. 2.

77. The consent of the woman, girl, pupil, daughter, or step-daughter shall be no defence to any charge under sections sixty-seven, sixty-eight, seventy-one, seventy-two, 72A, 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 :

Provided that it shall be a sufficient defence 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, and did in fact believe, that she was of or above the age of sixteen years.

Limitation.  
cf. Act No.  
21, 1911, s. 2.

78. No prosecution in respect of any offence 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.

Sec. 79.

- (c) by omitting from section seventy-nine the words “penal servitude for life or any term not less than five years” and by inserting the words “penal servitude for fourteen years” in lieu thereof.

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

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Further amend-  
ment of Part III  
of Principal Act.

78A. Whosoever, being a male, has carnal knowledge of his mother, sister, daughter, or grand-daughter, or being a female of or above the age of sixteen years, with her consent permits her grandfather, father, brother, or son to have carnal knowledge of her (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 seven years.

Incest.  
cf. 8 Edw.  
VII, c. 45,  
ss. 1, 2, 3.

78B. Whosoever, being a male, attempts to commit any offence under the last-preceding section, shall be liable to imprisonment for two years.

Incest,  
attempts.  
*Ibid.* s. 1 (2).

78C. (1) It shall be a sufficient defence to a 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.

Defences.  
*Ibid.* ss. 1, 2.

(2) It shall be no defence to a charge under either of the last two preceding sections that the person with whom the offence is alleged to have been committed consented thereto.

Consent no  
defence.  
*Ibid.* ss. 1, 2.

78D. On the conviction of a father or step-father of an offence under section seventy-three or section seventy-four of this Act or of a male person of an offence under section 72A or 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.

Removal  
from  
guardianship,  
&c.  
*Ibid.* s. 1 (4).

78E. If on the trial of any male person for an offence under section sixty-three or under section sixty-five of this Act the jury are not satisfied that

Rape or attempt  
—verdict of  
incest or  
attempt.  
*Ibid.* s. 4.

he

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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.

Sanction of  
Attorney-  
General.  
*Ibid.* s. 6.

78F. (1) No prosecution for an offence under sections 78A or 78B shall be commenced without the sanction of the Attorney-General.

Proceedings in  
camera.  
*Ibid.* s. 5.

(2) All proceedings under the said sections shall be held in camera.

Further  
amendment  
of Part III.

7. Part III of the Principal Act is further amended by omitting section eighty-five and by inserting the following section in lieu thereof :—

Concealment  
of birth.

85. (1) Whosoever by any disposition of the dead body of a child, whether the child died before or after or during its birth, wilfully conceals or attempts to conceal the birth of the child, shall be liable to imprisonment for two years.

(2) It shall be a sufficient defence to any charge under this section if the accused person shall satisfy 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.

Insertion of  
new ss. 91A,  
91B, 91C, 91D.

8. Part III of the Principal Act is further amended by inserting the following sections after section ninety-one :—

Procuring,  
&c., female  
under  
twenty-one.

91A. Whosoever procures, entices or leads away any female under the age of twenty-one years, whether with her consent or not, with intent that some other person may have carnal knowledge of such female, 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.

91B. 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

leads away any woman of or above the age of twenty-one years with intent that 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 ten years. **George V, No. 10.**

91c. Whosoever having been convicted under the provisions of the Vagrancy Act, 1902, or of any Act amending or replacing such Act, 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.

91d. Whosoever employs in, or under any circumstances whatever knowingly 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. 1910, No. 2, s. 5.

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

- (a) by inserting after the word "countinghouse" wherever it occurs in sections one hundred and twelve and one hundred and thirteen the following words:—"office, store, garage, pavilion, factory, or workshop, or any building belonging to His Majesty or to any Government department or to any municipal or other public authority." Secs. 112, 113.
- (b) (i) by inserting in section one hundred and fourteen before the word "felony" wherever occurring, the word "a"; Sec. 114.
- (ii) and by inserting in the same section after the word "felony" wherever occurring, the words "or misdemeanour."
- (c) by omitting section one hundred and twenty-four and by inserting the following section in lieu thereof:— Sec. 124.

124. Where, upon the trial of a person for larceny, it appears— Fraudulent appropriation.

- (a) that he had fraudulently appropriated to his own use or that of another, the property



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property in respect of which he is indicted, although he had not originally taken the property with any fraudulent intent; or

- (b) that he had fraudulently retained the property in order to secure a reward for its restoration,

the jury may return a verdict accordingly, and thereupon he shall be liable to imprisonment for two years, or to a fine of one hundred pounds.

Sec. 154.

- (c) by inserting after section one hundred and fifty-four the following new heading and sections :—

*Of vehicles or boats.*

Unlawfully  
using  
another's  
vehicle or  
boat.

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

takes and uses, or takes for the purpose of using, any vehicle or boat; or

takes any such 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 liable to imprisonment for three years.

In this and the next succeeding section "vehicle" includes any cart, waggon, cab, carriage, aeroplane or other aircraft, motor car, motor lorry, motor or other bicycle, and "boat" includes launch, yacht, or other vessel.

Trial for  
larceny—  
alternative  
verdict.

154B. Where on the trial of a person for larceny of a vehicle or boat the jury are not satisfied that he is guilty thereof, but are satisfied that he is guilty of an offence under the next preceding 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.

(d)

- (d) by inserting the following section next after section one hundred and eighty-nine:—

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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.

Sec. 189.  
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, 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.

(3) No person shall be liable to conviction under this section if the taking, extorting, obtaining, embezzling, converting, or disposing is not a criminal offence in the country in which the act is committed.

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

Sec. 244.

**10.** Part V of the Principal Act is 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 between two parallel transverse lines; 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 between two parallel transverse lines;

either with or without the words 'not negotiable.'"

**George V, No. 10.** **11.** Part VII of the Principal Act is amended as follows:—

Amendment of Part VII of Principal Act. Sec. 340.

Sec. 341.

- (a) By inserting in section three hundred and forty after the word “sessions” when it first occurs the words “stipendiary or police magistrate,” and by inserting after the words “judge or chairman” the words “or magistrate”; and by omitting from the same section the words “or any circuit” and the words “or circuit”;
- (b) (i) by inserting in subsection one of section three hundred and forty-one after the word “chairman” the words “or magistrate”; and
- (ii) by inserting in subsection two of the same section after the word “justices” the words “other than a police or stipendiary magistrate.”

Amendment of Part X of Principal Act. Sec. 352.

**12.** Part X of the Principal Act is amended as follows:—

- (a) By inserting in subsection two (a) of section three hundred and fifty-two after the word “such” the words “offence or.”
- (b) by inserting after subsection three of section three hundred and fifty-two the following new subsection:—

(4) Any constable may, although the warrant is not at the time in his possession, apprehend 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.

Further amendment of Part X of Principal Act.

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

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

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)

(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.

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(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.

**14.** Part X of the Principal Act is further amended as follows:—By inserting in section three hundred and fifty-four after the word “indictment” the words “or which would be punishable by indictment if it had been committed within the State of New South Wales”; and by inserting before the words “such justice” the words “whether in or beyond the State of New South Wales.”

Further  
amendment  
of Part X of  
Principal  
Act.  
Sec. 354.

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

Amendment of  
Part XI of  
Principal Act.

- (a) By adding at the end of section three hundred and seventy 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.”
- (b) by adding at the end of section three hundred and ninety-two 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. 370.

Sec. 392.

{ (c)

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- Sec. 406. (c) by inserting in section four hundred and six after the words "for the murder" the words "or manslaughter"; and by inserting after the words "attend the trial" the words "or to give evidence."
- Sec. 407. (d) (i) by inserting in section four hundred and seven after the word "but" the words "save as hereinafter provided";
- (ii) by adding to the same section the following new paragraph:—
- (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 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;
- (b) where the offence charged is under the provisions of sections twenty-seven, forty-one, forty-two, fifty-four, sixty, one hundred and fourteen, or one hundred and eighteen of the Child Welfare Act, 1923, or any Act amending or replacing the said provisions.
- Sec. 409. (e) by inserting in section four hundred and nine the words "or coroner" after the word "justice" wherever it occurs in the section; and by inserting after the word "travel" wherever it occurs in the same section the words "or to give evidence."
- Sec. 415. (f) by inserting in section four hundred and fifteen after the word "given" the words "either orally or by affidavit."
- Sec. 416. (g) by inserting in section four hundred and sixteen after the word "by-laws" wherever occurring the words "rules ordinances."
- (h)

(h) by omitting from subsection one of section four hundred and eighteen the words "sixty-seven to eighty-one inclusive" and by inserting in lieu thereof the words "sixty-seven to eighty, or eighty-one." George V, No. 10. Sec. 418.

**16.** Part XI of the Principal Act is further amended by inserting the following new section next after section three hundred and ninety-four:— Further amendment of Part XI.

394A. Where a prisoner is arraigned on an indictment for any offence and can lawfully be convicted on such indictment of some other offence not charged in such indictment, he may plead not guilty of the offence charged in the indictment, but guilty of such other offence, and the Crown may elect to accept such plea of guilty or may require the trial to proceed upon the charge upon which the prisoner is arraigned. Conviction on indictment. cf. 4 & 5 Geo. V, c. 58, s. 39.

**17.** Part XI of the Principal Act is further amended by inserting next after section four hundred and seven the following new section:— Amendment of Part XI—new section 407A.

407A. (1) Any presumption of law that an offence committed by a wife in the presence of her husband is committed under the coercion of the husband is hereby abolished. Abolition of presumption of coercion of wife by husband.

(2) This section shall come into operation as from the date of the passing of the Crimes (Amendment) Act, 1924.

**18.** Part XI of the Principal Act is further amended by inserting next after section four hundred and fourteen the following new sections:— Further amendment of Part XI—addition of new sections.

414A. At any inquest or where a person is charged before a justice or justices with an indictable offence it shall not be necessary, unless so directed by the coroner or the said justice or justices, for any person who has made a scientific examination of any article or body to give evidence of the result of the examination, but a certificate under the hand of such person setting out that he has made the examination, the nature of his scientific qualifications, and the facts and conclusions he has arrived at shall be prima facie evidence of the matters stated in the certificate. Certificate of scientific examination evidence.

Where

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Where the certificate is tendered by the prosecutor the justice or justices shall not dispose of the case summarily except with the consent of the accused.

Proof of  
service of  
notice to  
produce.

414B. An affidavit by the clerk of the peace or his clerk, or by the accused or his solicitor or his solicitor's clerk, or by any officer of police of the service of any notice to produce 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.

Further  
amendment  
of Part XI.

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

Joint trial in  
case of  
perjury, &c.

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.

Amendment of  
Part XII of  
Principal Act.

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

Sec. 429.

(a) By inserting at the commencement of section four hundred and twenty-nine the following brackets and numeral “(1).”

(b) by adding to the same section the following new subsection:—

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(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 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; or

(b)

(b) of an offence under sections 72A, 78A, George V,  
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or 78B ;

he may be dealt with in the manner provided in subsection one of this section, or under the provisions of sections sixty-five, sixty-six, sixty-seven, and sixty-eight of the Child Welfare Act, 1923.

**21.** Part XII of the Principal Act is further amended as follows :— Further amend-  
ment of Part  
XII of Principal  
Act.

(a) By omitting sections four hundred and thirty-two and four hundred and thirty-three, and by inserting the following section :— Secs. 432, 433.

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. Mis-de-  
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.

(b) by inserting in section four hundred and thirty-seven after the word "felony" wherever occurring the words "or misdemeanour." Sec. 437.

(c) by omitting section four hundred and forty-two and by inserting the following section :— 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 either penal servitude or imprisonment of less duration. Provision for  
passing sen-  
tences of less  
duration than  
those fixed.

Nothing in this subsection shall prevent the awarding of hard labour or solitary confinement, or whipping, where at present authorised  
by



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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.

(d) by inserting the following new section after section four hundred and forty-seven :—

Punishment  
on escape.

**447A.** Whosoever escapes from lawful custody while undergoing a sentence involving deprivation of liberty, shall be liable upon recapture to undergo the punishment which he was undergoing at the time of his escape, for a term equal to that during which he was absent from prison after the escape and before the expiration of the term of his original sentence, whether at the time of his recapture the term of that sentence has or has not expired, in addition to any punishment which may be awarded for the escape.

Amendment  
of Part XIII  
of Principal  
Act.  
Sec. 463.

**22.** Part XIII of the Principal Act is amended as follows :—By omitting subsection two of section four hundred and sixty-three and by inserting the following new subsection :—

Revocation  
of ticket.

(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.

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.

Amendment of  
Part XIV of  
Principal Act.

Sec. 476.

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

(a) By omitting from section four hundred and seventy-six the word “twenty” and by inserting the words “one hundred” in lieu thereof.

(b)

- (b) by omitting from section four hundred and seventy-seven all paragraphs after paragraph (a) and by inserting the following new paragraphs :—

- (b) concealment of birth where the accused is the mother of the child, and is not charged jointly with any other person ;
- (c) committing simple larceny ;
- (d) escape from lawful custody ;
- (e) stealing any chattel, money, or valuable security from the person of another ;
- (f) 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-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 sixty-nine, 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, 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

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two hundred and forty-five, two hundred and forty-six, two hundred and forty-seven, two hundred and forty-eight, two hundred and seventy-three, two hundred and seventy-four, two hundred and seventy-five ;

(g) attempting to commit any offence hereinbefore mentioned.

Sec. 178.

(c) by omitting from section four hundred and seventy-eight the word "six" and by inserting the word "twelve" in lieu thereof; and by omitting the word "twenty" and inserting the word "fifty" in lieu thereof.

Sec. 500.

(d) (i) by inserting in section five hundred the words "and determine" after the word "hear."

(ii) by omitting from the same section the words "affecting the same."

(iii) by adding at the end of the same 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."

Secs. 503, 505,  
507, 511, 512,  
513, 515, 517,  
518, 519, 520,  
521, 522, 523,  
532, 533, 535,  
536, 537, 538,  
539, 541, 542.

(e) by omitting from 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 eighteen, five hundred and nineteen, 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 respectively the word "above" before the words "the value" or "the amount" as the case may be, and by inserting the words "in addition to" before the words "a fine";

and

and by omitting from section five hundred and seventeen the word "above" where secondly occurring, and by inserting in the same section before the words "a fine" the words "in addition to." George V,  
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- (f) by inserting in section five hundred and twenty-nine 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. 520.
- (g) by omitting from subsection one of section five hundred and forty-seven the words "as in any case of a like nature" and by inserting 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.
- (h) by omitting from subsection two of section five hundred and forty-seven the words "six" and "three" and substituting therefor the words "twelve" and "six" respectively. Sec. 547.

**24.** Part XIV of the Principal Act is further amended by omitting section five hundred and one and the heading "Larceny and unlawful taking, &c., of animals," immediately preceding and by inserting in lieu thereof the following section:— 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) the offence of stealing any chattel, money, or valuable security from the person of another; or
- (c) any offence mentioned in the following sections of this Act, namely, one hundred and twenty-six, one hundred and thirty-one, one hundred and thirty-two, one hundred and thirty-three, one hundred and thirty-nine, one hundred and forty, one hundred and forty-four, one hundred and

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and forty-eight, one hundred and fifty,  
one hundred and fifty-one, one hundred  
and fifty-two ;

and the amount of money or the value of the  
property in respect of which the offence is charged,  
or of the reward, does not exceed ten pounds, shall  
on conviction in a summary manner before two  
justices be liable to imprisonment for twelve months  
or to pay a fine of fifty pounds.

(2) The jurisdiction conferred on two  
justices by this section and by section 526A of  
this Act shall be exercisable only by a stipendiary  
or police magistrate.

Further  
amendment  
of Part XIV.  
Sec. 526A.

**25.** Part XIV of the Principal Act is further  
amended by inserting after section five hundred and  
twenty-six the following new short heading and  
section :—

*Unlawfully using vehicle or boat.*

Unlawfully  
using vehicle  
or boat.  
s. 154A.

526A. Whosoever, without the consent of the  
owner or person in lawful possession thereof—

takes and uses, or takes for the purpose of using  
any vehicle or boat, or

takes any such 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 on conviction before two justices be liable to  
imprisonment for twelve months or to pay a fine of  
one hundred pounds.

In this section the words “vehicle” and “boat”  
have the meanings ascribed to those words in  
section 154A.

Amendment  
of Principal  
Act.

**26.** The Principal Act is amended—

(a) by inserting after section five hundred and  
forty-five the following new heading and  
section :—

(D 1) BOGUS ADVERTISEMENTS.

Bogus adver-  
tisements.

545A. (1) Any person who tenders for in-  
sertion or causes to be inserted in any newspaper  
any

any bogus advertisement, knowing the same to be bogus, shall, on conviction before two justices, be liable to imprisonment for three months or to pay a fine of twenty pounds.

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(2) For the purposes of this section a bogus advertisement shall mean any advertisement or notice containing any material false statement or representation with respect to any birth, death, engagement, marriage, or employment, or with respect to any matter concerning any person other than the person who tenders the advertisement or causes it to be inserted, or concerning the property of such other person.

- (b) by inserting in section one before the heading “(E) Abettors” the heading “(D 1) Bogus advertisements—s. 545A.”

**27.** (1) Part XIV of the Principal Act is further amended—

Further  
amendment  
of Part XIV.

- (a) by inserting the following section and short heading next after section five hundred and forty-eight:—

*Power to commit.*

548A. On the hearing of a charge for any offence referred to in sections five hundred and one or 526A of this Act if the justices are of opinion that the charge should not be disposed of summarily they 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.

Power to  
commit.

- (b) by omitting section five hundred and fifty-four and by inserting in lieu thereof the following new section:—

554. (1) Wherever imprisonment is awarded by a court of summary jurisdiction for an offence punishable under this, or any other Act, the court may direct that the offender be imprisoned in any gaol, with either hard labour or light labour.

Hard or light  
labour.

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Recognizance  
for good  
behaviour.

(2) The said court may, in addition to, or in substitution for any sentence 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 not exceeding twelve months—and in default of entering into such recognizance, may direct that the offender be imprisoned, or further imprisoned, for a period not exceeding three months, unless such recognizance is sooner entered into :

Provided that in no case shall the total term of such imprisonment and further imprisonment together exceed twelve months.

Damages and  
compensation.

(3) Where a person is convicted of any offence by the said court, the court may on such conviction or at any time thereafter upon notice given to the offender direct that a sum not exceeding fifty pounds be paid out of the property of the offender to any person aggrieved by way of compensation for injury or loss sustained by reason of the commission of such offence, and in default of payment of the sum awarded may direct that the offender be imprisoned or further imprisoned for a period not exceeding six months :

Provided that in no case shall the total term of such imprisonment and further imprisonment together exceed twelve months.

Amendment  
of Part XV.

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

Sec. 558.

(a) In paragraph two of section five hundred and fifty-eight :—

(i) by inserting after the words “for a period” the words “which shall not be less than twelve months” ;

(ii) by omitting the words “equal to the term of the sentence or if the term of the sentence is less than twelve months then for the period of twelve months” ;

(iii)

- (iii) by omitting the word "like" and substituting therefor the word "said"; George V,  
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- (iv) by omitting the words "hereinafter contained" after the word "provisions" and by inserting in lieu thereof the words "of this Act";
- (v) by inserting at the end 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) (i) by inserting in subsection two of section Sec. 559. five hundred and fifty-nine after the words "of any such order" 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 subsection one of this section, 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";

(ii)



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(ii) by adding at the end of subsection two of the same section the words "or recognizance so conditioned being entered into."

New s. 560A.

(c) by inserting the following section next after section five hundred and sixty :—

Probation  
officers,  
regulations,  
&c.

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.

(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 sitting days after publication if Parliament is in session, and if not, then within fourteen sitting 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.

Sec. 561.

(d) by omitting section five hundred and sixty-one and inserting the following section in lieu thereof :—

Forfeiture of  
recognizance,  
&c.

561. (1) If during the period specified in the recognizance an offender so discharged—

- (a) is proved to any judge or justice to have failed to comply with any condition of his recognizance or to report his address and occupation to the person at the times and in the manner prescribed by section five hundred and sixty ; or
- (b) is charged by an officer of police with getting his livelihood by dishonest means

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

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- (e) 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 prison any judge may exercise all or any of the powers vested by subsection one of this section in the judge or justice or justices therein mentioned.

**29.** The Lunacy Act, 1898, is amended by inserting in section seventy-two after the word "permit" the words "any such person or."

Amendment of  
Lunacy Act,  
1898—Act No. 45  
of 1898, s. 72.

**Crimes (Amendment) Act.**

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Amendment  
of Act No. 27,  
1902.

Amendment  
of Act No. 15  
of 1905.

Sec. 3.

**30.** The Justices Act, 1902, is amended by inserting in subsection one of section one hundred and twenty-five after the word "vary" the word "increase."

**31.** The Habitual Criminals Act, 1905, is amended as follows:—

- (a) (i) By inserting at the beginning of section three the brackets and numeral "(1)";
- (ii) by omitting paragraphs (a) and (b) of the same section and by inserting 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 so 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 the 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)

- (iii) by inserting in the same section before the last paragraph the following new subsections :—

(2) Where a person is convicted before a stipendiary or police magistrate of an offence punishable summarily with or without the consent of the accused under any of the following sections of the Crimes Act, 1900, as amended by the Crimes (Amendment) Act, 1924, namely, sections four hundred and seventy-seven, five hundred and one, or 526A, and such person has been previously convicted either on indictment or summarily on more than three occasions of an offence comprised in any of the classes in the Schedule, 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) by inserting before the last paragraph the brackets and numeral “ (4).”
- (b) by omitting the proviso to section six and by inserting in lieu thereof the words “The part of such proceeds to be paid to the habitual criminal shall be fixed by regulation.”
- (c) (i) by omitting from section seven the words “by his warrant direct his release” and by inserting in lieu thereof the words “grant to him a written license to be at large, subject to such conditions endorsed on the license as the Governor shall prescribe”;
- (ii)

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No. 10.** (ii) by inserting in the same section after the word "period" the words "fixed by the license or when no period is so fixed during the period."
- Sec. 8.** (d) by inserting in section eight after the word "failed" the words "to comply with a condition of the license or."
- Sec. 12.** (e) by inserting in section twelve after the words "ten shillings" the words "or confinement in cells for any term not exceeding three days."
- Schedule.** (f) by omitting the whole of the Schedule and by inserting the following Schedule in its place:—

**SCHEDULE.**

*Classification of offences for the purposes of this Act.*

|           |                    |  |                                 |
|-----------|--------------------|--|---------------------------------|
| Class (i) | —Crimes Act, 1900— | Sections 33 to 37 inclusive—   | Wounding.                       |
| " (ii)    | " "                | Sections 38 to 41 inclusive—   | Poisoning.                      |
| " (iii)   | " "                | Sections 62 to 81 inclusive—   | Sexual offences.                |
| " (iv)    | " "                | Sections 83 to 84 inclusive—   | Abortion.                       |
| " (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 pretences.                |
|           |                    | 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.                        |
|           |                    | Under the Crimes (Amendment) Act, 1905—  | Fraudulent misappropriation.    |

Amendment of Act No. 16 of 1912.

**32.** The Criminal Appeal Act of 1912 is amended by inserting the following section next after section five:—

Point of law stated by judge.

**5A.** The judge before whom any person is tried and convicted may submit any question of law arising

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. **George V, No. 10.**

**33.** The Criminal Appeal Act of 1912 is further amended by the insertion of the following new sections next after section 5A :— **Amendment of Act No. 16, 1912.**

5B. A Court of Quarter Sessions may submit any question of law arising on any appeal coming before it to the Court of Criminal Appeal for determination and such submission shall be dealt with as if it were an appeal under this Act. **Case stated from Court of Quarter Sessions.**

5c. Where the Supreme Court or a Court of Quarter Sessions has quashed any information or indictment or any count thereof the Attorney-General may appeal to the Court of Criminal Appeal against the order made, and such court may thereupon determine the appeal and if the appeal is sustained may make such order for the prosecution of the trial as may be necessary. **Appeal against quashing of an indictment.**

5d. The Attorney-General may appeal to the Court of Criminal Appeal against any sentence pronounced by the Supreme Court or any Court of Quarter Sessions and the Court of Criminal Appeal may in its discretion vary the sentence and impose such sentence as to the said Court may seem proper. **Appeal by Crown against sentence.**

**34.** The Jury Act, 1912, is amended by inserting after subsection two of section twenty-seven the following new subsection :— **Amendment of Act No. 31 of 1912, s. 27.**

(3) Upon the trial of any person for a felony other than murder, treason, or treason felony, the Court may, if it sees fit, at any time before the jury consider their verdict, permit the jury to separate in the same way as the jury upon the trial of any person for misdemeanour are permitted to separate. **Separation of juries in cases of felony. 65 Vic., c. 18, s. 1.**

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## SCHEDULE.

Sec. 3.

| Reference to Act. | Title or short title.                           | Extent of repeal. |
|-------------------|---|-------------------|
| No. 2, 1910       | Crimes (Girls' Protection) Act, 1910.           | The whole Act.    |
| No. 21, 1911      | Crimes (Girls' Protection) Amendment Act, 1911. | The whole Act.    |