

Crimes (Amendment) Bill, 1939.

EXPLANATORY NOTE.

Clause 2—

(a) The fraudulent disposal of property by trustees is an offence under section 172. This section should apply to executors and administrators, and they are included in the definition of trustee in section 46 of the English Larceny Act, 1916.

(b) The object of this amendment is to prevent a woman being convicted of murder in the circumstances stated. It adopts the provisions of the English Infanticide Act, 1938.

X (c) By this amendment rape ceases to be a capital offence.

(d) The object of this amendment is to obviate a difficulty of proof of incest in a case where the offence is committed by or upon an illegitimate child. By section 78A the relationship need not be traced through lawful wedlock, i.e., a man may commit this offence with his illegitimate daughter. In *R. v. Seaton* (1933) N.Z.L.R. 548, it was held that the decision in *Russell v. Russell* (1924) A.C. 687, that evidence of non-access by a husband, which would bastardise a child born in wedlock, is not admissible, applied not only to proceedings in the Divorce Court, but also to a criminal prosecution. In that case the accused committed incest with his daughter, the mother of the child being a married woman who was living apart from her husband. The conviction was set aside because the mother had given evidence that the accused, and not her husband, was the father of the child: see 7 A.L.J. 148, where it is shown that the non-application of the rule in *Russell v. Russell* may in some cases assist the person charged to prove his innocence.

(e) This amendment enables a trial for incest to be heard in open court. This is now the law in England.

(f) As section 81 provides that consent is not a defence to a charge of indecent assault, a similar provision is made in regard to the offence of assault with intent in s. 80.

(g) This amendment adopts the provision of section 11 of the English Criminal Law Amendment Act, 1885.

(h) The effect of the amendment is to make the definitions of "clerk" and "servant" of general application.

(i) This amendment adopts the provisions of the Crimes Act, 1928 (Victoria), section 181, subsection (2): see also 32 & 33 Vic., c. 62, s. 13.

(j) The effect of the amendment is to render a person who tampers with a witness guilty of an offence, without the necessity of proving that the witness has been bound over or subpoenaed to give evidence.

(k) This is a verbal amendment copied from section 9 of the English Perjury Act, 1911, which, it is considered, is an improvement in the language of the section.

(l) This is an adoption of a provision in section 10 of the Commonwealth Crimes Act, 1914-1937, relating to search warrants.

(m) This follows the English practice by allowing the accused to open his case before calling his witnesses.

(n) The effect of this amendment is that a child of tender years may make an unsworn statement upon the hearing of any charge, whether called as a witness for the prosecution or defence, if in the opinion of the Court the child does not understand the nature of an oath but understands the duty of speaking the truth. But if the evidence of the child is tendered by the prosecution, no person can be convicted upon this evidence unless it is corroborated. Where the evidence is tendered at the lower Court, the evidence is to be deemed to be a deposition, and may be read as evidence for the prosecution or the defence at the trial under section 409, if the child is dead or too ill to give evidence at the trial: see Children and Young Persons Act, 23 Geo. 5, c. 12, s. 38, where there is a similar provision.

(o) These amendments are designed to facilitate proof of the ownership of goods stolen from trains and railway premises.

(p) This amendment authorises the payment of moneys held on behalf of a prisoner in satisfaction of a direction to pay compensation.

(q) The effect of the amendment is that if a ticket-of-leave is revoked, the offender is required to serve the unserved portion of his original sentence. The term of this sentence will not continue to run while the offender is out on license.

(r) The object of the amendment is to make it clear that a further inquiry may be granted in every case where there has been a conviction. If a person were convicted, and released as a first offender, or bound over to come up for sentence, it might be contended that he was not a "prisoner," as he was not serving a sentence, and therefore could not be granted a further inquiry.

(s) This amendment enlarges the jurisdiction of magistrates to deal summarily with indictable offences, when the accused consents.

Clause 3—

(a) In the case of assaults, particularly if committed on a child or any female, or while in company, it is considered that a magistrate should have power to impose a sentence exceeding six months.

(b) This amendment removes a doubt as to whether the section is affected by the limitation imposed by section 56 of the Justices Act, 1902, which requires certain proceedings to be brought within six months of the commission of the offence: see *Ex parte Cusack*, (1935) 52 W.N. 214. The words omitted in (i) are inserted in s. 526A: see paragraph (d).

(c) This amendment enables a person found in possession of cattle reasonably suspected to have been stolen to be dealt with summarily.

(d) This amendment inserts the words omitted by paragraph (b) (i).

(e) This amendment adopts a provision in the South Australian Police Act, by which persons passing valueless cheques can be dealt with summarily.

(f) This amendment will enable a person to be bound over for a term not exceeding three years, instead of not exceeding six months.

(g) This amendment states that the provision for reduction of sentence or fine is of general application.

(h) This is a verbal amendment which, it is considered, is an improvement upon the existing provision.

(i) This amendment excludes the application of section 556A in cases of revenue offences.

(j) This amendment provides for the case of breaches of recognizances to be of good behaviour. In case of a breach the offender may be arrested and sentenced as if he had not been released on recognizances.

(k) Consequential amendment to (j).

(l) It is considered that the words proposed to be omitted are inconsistent with the earlier words in the paragraph and cause difficulties in certain cases.

Clause 4—

(a) Section 299 is superseded by ss. 86, 87 of the Commonwealth Trade Marks Act, 1905-1936.

(b) Part VI deals with coinage offences and is superseded by the Commonwealth Crimes Act, 1914-1937, s. 52, et seq.

Clause 5—

(a) This amendment is a copy of section 41 of the English Criminal Justice Act, 1925, and prohibits the taking and publication of photographs or sketches of judges, jurors, witnesses, or parties before any civil or criminal court.

(b) This is a consequential amendment.

Clause 6—

(a) This amendment adopts certain of the provisions of the English Prevention of Corruption Acts, 1906 and 1916.

(b) This is a consequential amendment.

Clause 7—

(a) At criminal trials decisions of general importance are sometimes given in cases where the jury acquit. Under the existing law there is no method of questioning the accuracy of these decisions, which may govern other cases. It is proposed to allow a right of appeal by case stated. No decision upon the case stated will affect the verdict. Section 5c of the Act allows an appeal against the quashing of an indictment.

(b) This is a verbal amendment to meet a difficulty raised in *Kennedy v. Donnelly*, 34 S.R. 61.

Clause 8—

This is a consequential amendment.

Clause 9—

These are drafting amendments which do not alter the law.

[CONFIDENTIAL]
(Rough Draft for Consideration Only.)

No. , 1939.

A BILL

To amend the Crimes Act, 1900, the Criminal Appeal Act of 1912, the Habitual Criminals Act, 1905, and certain other Acts in certain respects; 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 (Amendment) Act, 1939." Short title.

2. The Crimes Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 40, 1900.

10 (a) by inserting in the definition of "Trustee" in section four after the words "and also" the words "an executor and administrator and"; Sec. 4. (Definition of "trustee.") cf. 6 and 7 Geo. V, c. 50, s. 40.

Crimes (Amendment).

(b) by inserting after section twenty-two the following new section:— New s. 22A.

5 22A. (1) Where a woman by any wilful act or omission causes the death of her child, being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder, she shall be guilty of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of such child. Infanticide. 1 and 2 Geo. VI, c. 36, s. 1.

10 (2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to such child, or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for the provisions of this section they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide, and the woman may be dealt with and punished as if she had been guilty of the offence of manslaughter of the said child.

15 (3) Nothing in this section shall affect the power of the jury upon an indictment for the murder of a child to return a verdict of manslaughter or a verdict of not guilty on the ground of insanity, or a verdict of concealment of birth.

(c)

Crimes (Amendment).

- (c) (i) by omitting from section sixty-three the words "to suffer death" and by inserting in lieu thereof the words "to penal servitude for life"; Sec. 63. (Rape.)
- 5 (ii) by omitting from subsection one of section four hundred and thirty the words "or rape"; Sec. 430. (Consequential.)
- (iii) by omitting from section four hundred and fifty-nine the words "of rape, or"; Sec. 459. (Consequential.)
- 10 (d) by inserting at the end of section 78c the following new subsection:—

(3) The rule of law that neither a husband nor a wife is permitted to give evidence of non-intercourse after marriage to bastardise a child born in wedlock shall not apply upon the hearing of a charge under section 78A or section 78B, and such evidence shall be admissible to prove the paternity of any child by whom or with respect to whom any offence under either of those sections is alleged to have been committed. cf. R. v. Seaton (1933) N.Z.L.R. 548.
- 15 (e) by omitting subsection two of section 78F; Sec. 78F. (Proceedings in camera.)
- (f) by inserting in section eighty after the words "with intent to commit the same" the words "with or without the consent of such person"; Sec. 80. (Attempt, etc. to commit buggery.)
- 20 (g) (i) by inserting after section eighty-one the following new section:—

81A. Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be liable to penal servitude for five years. Outrages on decency. cf. 48 and 49 Vict., c. 69, s. 11.
- 25 (ii) by omitting from the matter relating to Part III in section one the figures "81" and by inserting in lieu thereof the figures and letter "81A"; Sec. 1. (Consequential.)

Crimes (Amendment).

- (h) by omitting from section one hundred and fifty-five the words " within the meaning of the two next following sections ";

Sec. 155.
(Definition of clerk or servant.)
- 5 (i) (i) by inserting next after section one hundred and seventy-nine the following new section:—

New s. 179A.

179A. Whosoever in incurring any debt or liability obtains credit under false pretences or by means of any other fraud shall be liable to penal servitude for five years.

Obtaining credit by fraud.
32 and 38 Vict., c. 62, s. 13.
Act No. 3664 (Vict.), s. 181 (2).
- (ii) by inserting in paragraph (f) of section four hundred and seventy-seven after the words "one hundred and seventy-nine" the figures and letter "179A";

Sec. 477.
(Offences punishable summarily with consent.)
- 15 (j) by omitting from section three hundred and thirty-six the words "such person being bound by recognizance or subpoena so to attend ";

Sec. 336.
(Tampering with witness.)
- (k) by omitting from section three hundred and forty all the words after the words "direct such person to be prosecuted for perjury in respect thereof " and by inserting in lieu thereof the words " and may commit him, or admit him to bail, to take his trial at the proper court, and may require any person then present to enter into a recognizance to give evidence against the person whose prosecution is so directed. Where there is a committal by a magistrate and bail is not granted the magistrate may issue any necessary warrant."

Sec. 340.
(Directing prosecution for perjury.)
cf. 1 and 2 Geo. V, c. 6, s. 9.
- 20 (l) by inserting at the end of section three hundred and fifty-four the following new subsection:—

Sec. 354.
(Search warrant.)

(2) Where any credible person on oath before a justice shows reasonable cause to believe that there is in any premises, vessel or place anything which will afford evidence as to the commission of any such offence as is referred to in the foregoing provisions of this section such justice may

cf. Crimes Act, 1914-1937 (C'wealth), s. 10.

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Crimes (Amendment).

may grant a warrant to search for the same, which warrant may be executed as in the case of a warrant to search for stolen goods.

- 5 (m) by inserting at the end of section four hundred and five the following new subsection:— Sec. 405.

(2) Where the accused intends to call witnesses in support of the defence the accused or his counsel shall be entitled to open the case for the defence before calling his evidence. Accused may open case before calling witnesses.

- 10 (n) (i) by omitting from subsection one of section four hundred and eighteen the words Sec. 418. (Unsworn statement by child.) “ under sections sixty-seven to 78B inclusive, or under sections seventy-nine, eighty or eighty-one, of this Act”;

- 15 (ii) by inserting at the end of the same section the following new subsection:—

20 (3) The evidence of the child tendered as a witness though not given on oath but otherwise taken and reduced into writing in accordance with the provisions of section thirty-six of the Justices Act, 1902, shall be deemed to be a deposition.

- 25 (o) (i) by omitting from section 419A the words “ or boat ” wherever occurring and by inserting in lieu thereof the words “boat or train ”; Sec. 419A. (Pilfering of goods from vessel, etc.)

- 30 (ii) by omitting from the same section the words “ or quay ” wherever occurring and by inserting in lieu thereof the words “quay, railway goods yard, or other railway premises ”;

- 35 (iii) by inserting in the same section after the words “shipping receipt” the words “consignment note, railway receipt, way-bill, original order”;

(q)

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- (p) by inserting next after subsection one of section **four hundred and fifty-seven** the following new subsection:—
Sec. 457.
(Direction for compensation enforceable by execution.)
- 5 (1A) Where a direction has been entered as prescribed by subsection one of this section the Comptroller-General of Prisons or any member of the police force or any other officer of the Crown who holds money for or to the credit of the offender in respect of whose property the direction was made, may pay the whole or any part of such money to the Prothonotary to be applied by him in satisfaction or part satisfaction of the direction; and any payment so made shall be a valid discharge to the Comptroller-General or such member of the police force or other officer as against such offender.
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- (q) by omitting from subsection two of section **four hundred and sixty-three** the words “ the remainder of his sentence ” and by inserting in lieu thereof the words “ such portion of his sentence as had not been served at the time when the license which has been revoked was granted ”;
Sec. 463.
(Tickets-of-leave.)
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- (r) (i) by omitting from subsection one of section **four hundred and seventy-five** the words “ of a prisoner ” and by inserting in lieu thereof the words “ of any person ”;
Sec. 475.
(Governor or judge may direct inquiry.)
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- (ii) by omitting from the same subsection the words “ of the prisoner ” and by inserting in lieu thereof the words “ of the person convicted ”;
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- (iii) by inserting in subsection four of the same section after the word “ practicable ” the words “ together with his report as to the conclusions to be drawn therefrom ”;
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- (s) by omitting from paragraph two of section **four hundred and seventy-six** the words “ one hundred pounds ” and by inserting in lieu thereof the words “ two hundred and fifty pounds.”
Sec. 476.
(Indictable offences punishable summarily by consent of the accused.)

Crimes (Amendment).

3. The Crimes Act, 1900, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 40, 1900.

5 (a) by omitting from section four hundred and ninety-four the words "six months" and by inserting in lieu thereof the words "twelve months";

Sec. 494. (Aggravated assaults.)

10 (b) (i) by omitting from subsection two of section five hundred and one the words and figures "and by section 526A of this Act";

Sec. 501. (Offences punishable summarily without consent of accused.)

(ii) by inserting at the end of the same section the following new subsection:—

(3) The provisions of section fifty-six of the Justices Act, 1902, shall not apply to proceedings under this section.

15 (c) (i) by inserting in section five hundred and two after the word "found" the words "any cattle reasonably suspected to have been stolen or";

Sec. 502. (Possession of skins, etc., of cattle.)

20 (ii) by inserting in the same section after the words "that the same" the words "was stolen or";

(d) by inserting at the end of section 526A the following new subsection:—

Sec. 526A. (Unlawfully using vehicle or boat.)

25 (2) The jurisdiction conferred on two justices by this section shall be exercisable only by a stipendiary or police magistrate.

(e) (i) by inserting next after section five hundred and twenty-seven the following short heading and new section:—

New sec. 527A.

30 *Valueless cheques.*

527A. Whosoever obtains any chattel, money or valuable security by passing any cheque which is not paid on presentation shall, unless he proves—

Valueless cheques. South Australian Police Act 1936, s. 90.

35 (a) that he had reasonable grounds for believing that that cheque would be paid in full on presentation; and

(b)

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5 (b) that he had no intent to defraud, on conviction before two justices, be liable to imprisonment for one year, notwithstanding that there may have been some funds to the credit of the account on which the cheque was drawn at the time it was passed.

10 (ii) by omitting in the matter relating to Part XIV, Chapter III, in section one the letter and figures "s. 527" and by inserting in lieu thereof the letters and figures "ss. 527, 527A." Sec. 1. (Consequential.)

15 (f) (i) by omitting from subsection one of section five hundred and forty-seven the words " for a term not exceeding six months " and by inserting in lieu thereof the words " for a term not exceeding three years "; Sec. 547. (Recognition to keep the peace.)

20 (ii) by omitting from subsection two of the same section the words " for a term not exceeding twelve months " and by inserting in lieu thereof the words " for a term not exceeding three years ";

25 (g) by omitting from section five hundred and fifty-three the words "section of this"; Sec. 553. (Sentence may be for less term, or fine for less amount than that fixed.)

(h) (i) by inserting in subsection two of section five hundred and fifty-four after the words "three months" the words "with either hard labour or light labour"; Sec. 554. (Recognition for good behaviour.)

30 (ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

35 (3) Where a person is convicted of any offence by the said Court, the said 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 Damages and compensation.

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be paid to any person aggrieved, by way of compensation for injury or loss sustained by reason of the commission of such offence.

5 Any sum so directed to be paid shall be paid by the offender to the clerk of the court, to be by him paid to the person aggrieved.

10 Any such direction shall be deemed to be a conviction or order whereby a sum of money is adjudged to be paid within the meaning of the Justices Act, 1902, as amended by subsequent Acts.

(i) by inserting at the end of section 556A the following new subsection:—

Sec. 556A.
(Power to permit conditional release of offenders.)

15 (3) This section shall not apply where the offence charged is a breach or contravention of any of the provisions of the Stamp Duties Act, 1920-1938, the Income Tax (Management) Act, 1936, the Special Income and Wages Tax (Management) Act, 1936-1938, or any other Act relating to taxation.

20 (j) (i) by inserting next after section 556A the following new section:—

New s. 556B.

25 556B. If the court before which an offender is bound by recognizance to appear for conviction, or sentence or any court of summary jurisdiction, is satisfied by information on oath that the offender has failed to observe any condition of his recognizance, it may issue a warrant for his apprehension and upon his apprehension, on being satisfied that he has failed to observe any condition of his recognizance, may convict and sentence him, or sentence him, as the case may require, for the offence with which he was originally charged as if he had not been released on recognizance.

Proceedings on breach of condition of recognizance.

35 (ii) by omitting in the matter relating to Part XIV, Chapter IV, in section one the letters and figures "s. 556A" and by inserting in lieu thereof the letters and figures "ss. 556A, 556B."

Sec. 1.
(Consequential.)

(k)

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- (k) by omitting from paragraph five of section five hundred and fifty-eight all words after the word "committal"; Sec. 558.
(Suspension of punishment on first conviction.)
- 5 (l) by omitting from subsection one of section five hundred and sixty-one the words " or so much thereof as remains to be performed, under the provisions hereinbefore contained." Sec. 561.
(Forfeiture of recognizance, etc.)
- 4. The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40, 1900.
 - 10 (a) by omitting section two hundred and ninety-nine; (Forging trade mark.)
 - (b) by omitting Part VI; (Coinage offences.)
 - (c) by omitting in section one the reference to Part VI. (Consequential.)
- 15 5. The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40, 1900.
 - (a) by inserting next after section 547A the following subheading and new sections:— New secs. 547B and 547C.
 - (H) PHOTOGRAPHS, PORTRAITS OR SKETCHES.
 - 20 547B. (1) No person shall— Prohibition on taking photographs, etc., in court.
 - (a) take or attempt to take in any Court any photograph, or with a view to publication make or attempt to make in any Court any portrait or sketch of any person, being a judge of the Court or a juror or a witness in or a party to any proceedings before the Court, whether civil or criminal; or cf. 15 and 16 Geo. V c. 86, s. 41.
 - 25 (b) publish any photograph, portrait or sketch taken or made in contravention of the foregoing provisions of this section, or any reproduction thereof;
 - 30 and if any person acts in contravention of this section he shall, on summary conviction, be liable for a first offence to a penalty not exceeding fifty pounds and for a second or any subsequent offence to a penalty not exceeding one hundred pounds.
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(2) For the purposes of this section—

- (a) the expression " Court " means any Court of Justice including the court of a coroner;
- 5 (b) the expression " judge " includes registrar, magistrate, justice or coroner;
- 10 (c) a photograph, portrait or sketch shall be deemed to be a photograph, portrait or sketch taken or made in court if it is taken or made in the court-room or in the building or in the precincts of the building in which the court is held, or if it is a photograph, portrait or sketch taken or made of the person while he is entering or leaving the court-room or any such building or precincts as aforesaid.

547c. (1) No person shall—

- 20 (a) take or attempt to take any photograph, or with a view to publication make or attempt to make any portrait or sketch of any person who is at the time in the custody of a member of the police force or who is apparently in such custody;
- 25 (b) publish any photograph, portrait or sketch taken or made in contravention of the foregoing provisions of this section or any reproduction thereof;

Prohibition on taking photographs, etc., of persons in custody of the police.

30 and if any person acts in contravention of this section he shall on summary conviction be liable for a first offence to a penalty not exceeding fifty pounds and for a second or any subsequent offence to a penalty not exceeding one hundred pounds.

35 (2) Subsection one of this section shall not extend—

- 40 (a) to the taking or attempting to take a photograph at the written request of a member of the police force; or

(b)

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- (b) to the taking or attempting to take a photograph by a member of the police force for police purposes; or
- (c) to the publication or circulation of a photograph or any reproduction of a photograph by or on behalf of the police.

(b) by inserting in section one at the end of the matter relating to Chapter III of Part XIV the following words:— Sec. 1.
(Consequential.)

(H) PHOTOGRAPHS, PORTRAITS OR SKETCHES
—ss. 547B, 547C.

6. The Crimes Act, 1900, as amended by subsequent Acts, is further amended— Further amendment of Act No. 40, 1900.

(a) by inserting next after section ninety-three the following new Part:— New Part IIIA.

PART IIIA.

PREVENTION OF CORRUPTION.

93A. In this Part unless the context or subject matter otherwise indicates or requires— Interpretation/
52 and 53
Vict., c. 69,
s. 7.

“ *Advantage* ” includes any office or dignity and any forbearance to demand any money or money’s worth or valuable thing, and also includes any aid, vote, consent or influence, or pretended aid, vote, consent or influence, and also includes any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of any gift, loan, fee, reward or advantage.

“ *Person* ” includes a body of persons corporate or unincorporate.

“ *Public body* ” means the Municipal Council of Sydney and any municipal or shire or county council, and any board, commission, or commissioners or other body constituted by or under any Act and which has power to act under and for the purposes of any Act, and includes local and

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and public authorities of all descriptions, and also includes the Crown or any Government department.

5 “ *Public office* ” means any office or employment of a person as a member, officer, or employee of a public body. 6 and 7
Geo. V, c. 64.

10 93B. (1) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or employee of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the public body is concerned, shall be liable to penal servitude for ten years. Corruption
in office.
52 and 53
Vict., c. 69,
s. 1.

15 (2) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer or employee of any public body, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the public body is concerned, shall be liable to penal servitude for ten years.

20 25 30 93c. Any person convicted of an offence against a provision of this Part shall at the discretion of the Court before which he is convicted in addition to penal servitude— Penalty for
offences.
52 and 53
Vict., c. 69,
s. 2.

35 (a) be liable to be ordered to pay to such public body and in such manner as the Court directs the amount or value of any gift, loan, fee, or reward received by him or any part thereof; and

(b)

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- (b) be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction and to forfeit any office held by him at the time of his conviction; and
- (c) if such person is an officer or employee of any public body upon such conviction he shall at the discretion of the Court be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been or might have become entitled.

93D. (1) Where in any proceedings against a person for an offence against any provision of this Part it is proved that any money, gift, loan, fee, reward or other consideration has been paid or given to or received by a person in the employment of a public body by or from a person or agent of a person holding or seeking to obtain a contract from the public body the money, gift, loan, fee, reward or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in section 93B of this Act unless the contrary is proved.

Presump-
tion of
corruption
in certain
cases.
6 and 7
Geo. V, c.
64, s. 2.

(2) Any proceedings for an offence against any provision of this Part shall be commenced before the expiration of six months after the first discovery of the offence by the prosecutor.

Time for
commencing
proceedings.
Ibid., s. 3.

(3) A prosecution for an offence against any provision of this Part shall not be instituted except by or with the consent of the Attorney-General.

Consent of
Attorney-
General.
52 and 53
Vict., c. 69,
s. 4.

93E. (1) Where an offence against a provision of this Part is also punishable under any other enactment or at Common Law such offence may be prosecuted and punished either under this Part or under the other enactment or at Common Law, but so that no person shall be punished twice for the same offence.

Savings.

(2)

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(2) A person shall not be exempt from punishment under this Part by reason of the invalidity of the appointment or election of a person to a public office.

52 and 53
Vict., c. 69,
s. 3 (2).

5 (b) by inserting in section one at the end of the matter relating to Part III the following words:—

Sec. 1.
(Consequen-
tial.)

PART IIIA.—PREVENTION OF CORRUPTION.—
ss. 93A—93E.

10 7. The Criminal Appeal Act of 1912, as amended by subsequent Acts, is amended—

Amendment of
Act No. 16,
1912.

(a) by inserting at the end of section 5A the following new subsection:—

Sec. 5A.

15 (2) (a) The judge or chairman of quarter sessions presiding at a criminal trial shall, if so requested by counsel for the Crown during the hearing or after the conclusion of the trial, reserve for decision by the Court of Criminal Appeal any question of law arising on the trial.

Reserving
question
of law.

20 (b) The question reserved shall be referred by the judge or chairman to the Court of Criminal Appeal for decision, together with a statement of the circumstances out of which such question arose or such further statement as the Court of Criminal Appeal may require.

(c) The Court of Criminal Appeal shall have power to determine the question reserved.

25 (d) The determination by the Court of Criminal Appeal of the question reserved shall not in any way affect or invalidate any verdict or decision given at the trial.

30 (e) Any person charged at the trial or affected by the decision shall be entitled to be heard before the Court of Criminal Appeal upon the determination of the question reserved.

35 (f) On the determination of the question reserved no costs shall be allowed by the Court of Criminal Appeal.

(b)

Crimes (Amendment)

5 (b) by omitting from section 5B the words "A court of quarter sessions may submit any question of law arising on any appeal coming before it" and by inserting in lieu thereof the words "A chairman of quarter sessions may submit any question of law arising on any appeal to a court of quarter sessions coming before him."

Sec. 5B.
(Case stated from Quarter Sessions.)

10 8. The Habitual Criminals Act, 1905, as amended by subsequent Acts, is amended by omitting from the Schedule the words and figures—

Amendment of Act No. 15, 1905. Schedule.

"Under any of the sections in Part VI of the Crimes Act, 1900—Coinage.

Under the Crimes (Amendment) Act, 1905—Fraudulent misappropriation";

15 and by inserting in lieu thereof the following words and figures—

"Under Part IV of the Commonwealth Crimes Act, 1914-1937—Coinage.

20 Under s. 178A of the Crimes Act, 1900—Fraudulent misappropriation."

9. The Crimes Act, 1900, as amended by subsequent Acts, is further amended to the extent set out in the Schedule to this Act.

Further amendment of Act No. 40, 1900. (Revision.)

99

Crimes (Amendment).

SCHEDULE.

Sec. 9.

Enactment of Act No. 40, 1900.	Amendment.
5 Section thirty ...	Omit the words "the preceding sections" and insert in lieu thereof the words "sections twenty-seven to twenty-nine both inclusive."
10 Section thirty-four...	(a) Omit the words "the last preceding section" and insert in lieu thereof the words "section thirty-three"; (b) omit the words "the next following section" and insert in lieu thereof the words "section thirty-five."
15 Section forty ...	(a) Omit the words "the last preceding section" and insert in lieu thereof the words "section thirty-nine"; (b) omit the words "the next following section" and insert in lieu thereof the words "section forty-one."
20 Section sixty ...	Omit the words "the last preceding section" and insert in lieu thereof the words "section fifty-nine."
25 Section seventy-five	Omit the words "the last two preceding sections" and insert in lieu thereof the words "section seventy-three or section seventy-four."
25 Section 78B ...	Omit the words "the last preceding section" and insert in lieu thereof the word and figures "section 78A."
30 Section 78c ...	Omit the words "either of the last two preceding sections" wherever occurring and insert in lieu thereof the words and figures "section 78A or section 78B."
35 Section eighty-eight	Omit the words "either of the two last preceding sections" and insert in lieu thereof the words "section eighty-six or section eighty-seven."
35 Section ninety-three	Omit the words "the last preceding section" and insert in lieu thereof the words "section ninety-two."
40 Section ninety-six ...	Omit the words "the last preceding section" and insert in lieu thereof the words "section ninety-five."
Section one hundred and one.	Omit the words "hereinafter defined" and insert in lieu thereof the words "defined in section one hundred and four."

Crimes (Amendment).**SCHEDULE—continued.**

Enactment of Act No. 40, 1900.	Amendment.
5 Section one hundred and two.	After the words " crime or offence " insert the words " as is referred to in section one hundred and one."
Section one hundred and three.	After the words " infamous crime " insert the words " as is defined in section one hundred and four."
10 Section one hundred and four.	Omit the words " the three last preceding sections " and insert in lieu thereof the words " sections one hundred and one to one hundred and three both inclusive."
15 Section one hundred and five.	Omit the words " as aforesaid " and insert in lieu thereof the words " as is referred to in sections ninety-nine to one hundred and three both inclusive."
20 Section one hundred and fifteen.	Omit the words " the last preceding section " and insert in lieu thereof the words " section one hundred and fourteen."
Section one hundred and twenty-seven.	Omit the words " the last preceding section " and insert in lieu thereof the words " section one hundred and twenty-six."
25 Section one hundred and thirty.	Omit the words " the next following section " and insert in lieu thereof the words " section one hundred and thirty-one."
Section one hundred and thirty-six.	Omit the words " either of the two last preceding sections " and insert in lieu thereof the words " section one hundred and thirty-four or section one hundred and thirty-five."
30 Section one hundred and thirty-seven.	Omit the words " in the said two sections " and insert in lieu thereof the words " in section one hundred and thirty-four or in section one hundred and thirty-five."
35 Section 154A ...	Omit the words " and the next succeeding section " and insert in lieu thereof the words and figures " section and in section 154B."
Section 154B ...	Omit the words " the next preceding section " and insert in lieu thereof the word and figures " section 154A."
40 Section one hundred and sixty-four.	Omit the words " the seven next following sections " and insert in lieu thereof the words " sections one hundred and sixty-five to one hundred and seventy-one both inclusive."

Crimes (Amendment).

SCHEDULE—continued.

Enactment of Act No. 40, 1900.	Amendment.
5. Section one hundred and sixty-seven.	Omit the words "the two last preceding sections" and insert in lieu thereof the words "section one hundred and sixty-five or section one hundred and sixty-six."
10 Section one hundred and seventy-one.	Omit the words "the last preceding section" and insert in lieu thereof the words "section one hundred and seventy."
15 Section one hundred and seventy-seven.	Omit the words "twelve last preceding sections" and insert in lieu thereof the words "sections from section one hundred and sixty-five to section one hundred and seventy-six both inclusive."
20 Section one hundred and eighty.	Omit the words "the said twelve sections" and insert in lieu thereof the words "sections one hundred and sixty-five to one hundred and seventy-six both inclusive."
25 Section one hundred and eighty-seven.	Omit the words "the last preceding section" and insert in lieu thereof the words "section one hundred and seventy-nine."
30 Section one hundred and ninety-one.	Omit the words "the two next following sections" and insert in lieu thereof the words "sections one hundred and eighty-eight and one hundred and eighty-nine."
35 Section one hundred and ninety-five.	Omit the words "the last preceding section" and insert in lieu thereof the words "section one hundred and ninety."
40 Section two hundred and two.	Insert after the words "any such act" the words "as is referred to in section one hundred and ninety-four."
45 Section two hundred and two.	Omit the words "not hereinbefore mentioned" and insert in lieu thereof the words "not mentioned in sections one hundred and ninety-six to one hundred and ninety-nine both inclusive."
50 Section two hundred and two.	Omit the words "as aforesaid" and insert in lieu thereof the words "as is referred to in sections one hundred and ninety-six to two hundred and one both inclusive."

Crimes (Amendment).

SCHEDULE—continued.

Enactment of Act No. 40, 1900.	Amendment.
5 Section two hundred and six.	(a) Omit the words " the last preceding section " and insert in lieu thereof the words " section two hundred and five "; (b) omit the words " the next following section " and insert in lieu thereof the words " section two hundred and seven."
10 Section two hundred and fourteen.	Omit the words " in the three last preceding sections mentioned " and insert in lieu thereof the words " mentioned in sections two hundred and eleven to two hundred and thirteen both inclusive."
15 Section two hundred and seventeen.	Omit the words " the last preceding section " and insert in lieu thereof the words " section two hundred and sixteen."
20 Section two hundred and twenty-two.	Omit the words " as in the last preceding section mentioned " and insert in lieu thereof the words " as is mentioned in section two hundred and twenty-one."
25 Section two hundred and thirty-one.	(a) Omit the words " the last preceding section " and insert in lieu thereof the words " section two hundred and thirty." (b) omit the words " the next following section " and insert in lieu thereof the words " section two hundred and thirty-two."
30 Section two hundred and thirty-four.	Omit the words " in the last preceding section mentioned " and insert in lieu thereof the words " mentioned in section two hundred and thirty-three."
35 Section two hundred and forty-one.	Omit the words " hereinbefore provided " and insert in lieu thereof the words " provided in sections two hundred and thirty-five to two hundred and forty both inclusive."
40 Section two hundred and forty-seven.	Omit the words " hereinbefore provided " and insert in lieu thereof the words " provided in this Chapter of this Part."
Section two hundred and fifty-two.	Omit the word " herein " and insert in lieu thereof the words " by any provision in this Part."
Section two hundred and fifty-seven.	Insert after the words " such share, or interest " where firstly occurring the words " as is referred to in section two hundred and fifty-six."

Crimes (Amendment).

SCHEDULE—continued.

Enactment of Act No. 40, 1900.	Amendment.
5 Section two hundred and sixty-two.	Omit the words "in the last section mentioned" and insert in lieu thereof the words "mentioned in section two hundred and sixty-one."
10 Section two hundred and sixty-three.	Omit the words "in the last two preceding sections mentioned" and insert in lieu thereof the words "mentioned in sections two hundred and sixty-one and two hundred and sixty-two."
15 Section two hundred and sixty-eight.	Omit the words "the two last preceding sections" and insert in lieu thereof the words "sections two hundred and sixty-six and two hundred and sixty-seven."
Section two hundred and seventy-four.	Omit the words "as aforesaid" and insert in lieu thereof the words "as is referred to in section two hundred and seventy-three."
20 Section two hundred and seventy-six.	Omit the word "herein" and insert in lieu thereof the words "by any provision of this Part."
Section two hundred and seventy-nine.	Omit the words "the five next following sections" and insert in lieu thereof the words "sections two hundred and eighty to two hundred and eighty-four both inclusive."
25 Section two hundred and eighty-eight.	Omit the words "in the last preceding section mentioned" and insert in lieu thereof the words "mentioned in section two hundred and eighty-seven."
30 Section two hundred and ninety-two.	Omit the word "herein" and insert in lieu thereof the words "by any provision of this Part."
Section three hundred and twenty-nine.	Omit the words "the next following section" and insert in lieu thereof the words "section three hundred and thirty."
35 Section three hundred and forty-one.	Omit the words "the last preceding section" wherever occurring and insert in lieu thereof the words "section three hundred and forty."
Section three hundred and fifty-six.	Omit the words "either of the two last preceding sections" and insert in lieu thereof the words "section three hundred and fifty-four or section three hundred and fifty-five."
40 Section four hundred and sixty-three.	(a) Omit from subsection three the words "or the last preceding subsection" and insert in lieu thereof the words "subsection or subsection two of this section";

Crimes (Amendment).

SCHEDULE—continued.

Enactment of Act No. 40, 1900.	Amendment.
5 Section four hundred and sixty-three— <i>continued.</i>	(b) omit from subsection four the words "the said subsections" and insert in lieu thereof the words "subsection two or subsection three of this section."
10 Section four hundred and sixty-eight.	Omit the words "the two last preceding sections and of sections four hundred and thirty-seven and four hundred and fifty-seven" and insert in lieu thereof the words "sections four hundred and thirty-seven, four hundred and fifty-seven, four hundred and sixty-six and four hundred and sixty-seven."
15 Section four hundred and seventy-six.	Omit the words "the next following section" and insert in lieu thereof the words "section four hundred and seventy-seven."
20 Section four hundred and seventy-seven.	Omit the words "the last preceding section" and insert in lieu thereof the words "section four hundred and seventy-six."
20 Section four hundred and seventy-eight.	Omit the words "the last preceding section" and insert in lieu thereof the words "section four hundred and seventy-seven."
25 Section four hundred and eighty.	Omit the words "In any such case" and insert in lieu thereof the words "Where a charge is disposed of summarily under section four hundred and seventy-nine."
30 Section four hundred and eighty-one.	(a) Omit the words "in any such case" and insert in lieu thereof the words "upon a charge disposed of summarily under section four hundred and seventy-nine"; (b) omit the words "the last preceding section" and insert in lieu thereof the words "section four hundred and eighty."
35 Section four hundred and eighty-two.	Omit the words "the nine next following sections" and insert in lieu thereof the words "sections four hundred and eighty-three to four hundred and ninety-one both inclusive."
40 Section four hundred and eighty-four.	Omit the words "the last preceding section" and insert in lieu thereof the words "section four hundred and eighty-three."
Section four hundred and ninety.	Omit from subsection two the words "the preceding subsection" and insert in lieu thereof the words "subsection one of this section."

Crimes (Amendment).

SCHEDULE—continued.

Enactment of Act No. 40, 1900.	Amendment.
5 Section four hundred and ninety-eight.	Omit the words "such case of assault" and insert in lieu thereof the words "case of assault under sections four hundred and ninety-three to four hundred and ninety-six both inclusive."
10 Section four hundred and ninety-nine.	Omit the words "such certificate" and insert in lieu thereof the words "a certificate of dismissal under section four hundred and ninety-eight."
15 Section five hundred	Omit the words "the preceding sections" and insert in lieu thereof the words "sections four hundred and ninety-three to four hundred and ninety-nine both inclusive."
Section five hundred and six.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and five."
20 Section five hundred and eight.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and seven."
Section five hundred and fourteen.	Omit the words "the preceding section" and insert in lieu thereof the words "section five hundred and thirteen."
25 Section five hundred and sixteen.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and fifteen."
Section five hundred and nineteen.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and eighteen."
30 Section five hundred and twenty-four.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and twenty-three."
35 Section five hundred and twenty-six.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and twenty-five."
Section five hundred and thirty.	Omit the words "the twelve sections next following" and insert in lieu thereof the words "sections five hundred and thirty-one to five hundred and forty-two both inclusive."
40 Section five hundred and thirty-one.	After the words "any such act" insert the words "as is referred to in section five hundred and thirty."

Crimes (Amendment).

SCHEDULE—continued.

Enactment of Act No. 40, 1900.	Amendment.
5 Section five hundred and thirty-three.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and thirty-two."
Section five hundred and thirty-six.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and thirty-five."
10 Section five hundred and thirty-eight.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and thirty-seven."
Section five hundred and forty.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and thirty-nine."
15 Section five hundred and forty-one.	Omit the words "hereinbefore provided" and insert in lieu thereof the words "provided in sections five hundred and thirty to five hundred and forty both inclusive."
20 Section five hundred and forty-two.	Omit the words "the last preceding section" and insert in lieu thereof the words "section five hundred and forty-one."
25 Section five hundred and fifty-eight.	Omit from paragraph four the words "hereinafter specified" and insert in lieu thereof the words "specified in section five hundred and sixty-one."
Section five hundred and sixty.	Omit the words "the foregoing provisions" and insert in lieu thereof the words "section five hundred and fifty-eight or section five hundred and fifty-nine."
30 Section five hundred and sixty-one.	After the words "so discharged" in subsection one insert the words "under section five hundred and fifty-eight or section five hundred and fifty-nine."
35 Section five hundred and sixty-two.	Omit the word "aforesaid" and insert in lieu thereof the words "mentioned in section five hundred and sixty-one."