

(Reprint No. 1)

SOUTH AUSTRALIA

CRIMINAL LAW CONSOLIDATION ACT, 1935

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since its last reprinting on 1 January 1985.

SUMMARY OF PROVISIONS

PART I
PRELIMINARY

Section

1. Short title
2. Commencement of Act
5. Interpretation
- 5a. Abolition of capital punishment

PART II
TREASON FELONY

6. Repeal
7. Treason felonies
8. Time within which prosecution shall be commenced and warrant issued
9. In informations more than one overt act may be charged
10. Nothing herein to affect 25 Ed. III, c. 2
- 10a. Penalty for treason

PART III
OFFENCES AGAINST THE PERSON*Homicide*

11. Murder
12. Conspiring or soliciting to commit murder
13. Manslaughter
- 13a. Criminal liability in relation to suicide
15. Excusable homicide
16. Petit treason
17. Murder when death happens outside the State

Unlawful Threats

19. Unlawful threats

Death and Injury arising from Reckless Driving, etc.

- 19a. Death and injury arising from reckless driving, etc.
- 19b. Alternative verdicts

Acts Causing or Intended to Cause Danger to Life or Bodily Harm

20. Impeding a person endeavouring to save himself from shipwreck
21. Wounding, etc., with intent to do grievous bodily harm
23. Malicious wounding, etc.
24. Verdict of unlawful wounding when felony charged
25. Choking or stupefying to commit indictable offence
26. Maliciously administering poison, etc., so as to endanger life, or inflict grievous bodily harm
27. Maliciously administering poison, etc., with intent to injure, aggrieve or annoy any other person
28. Verdict for misdemeanour where felony charged
29. Acts endangering life or creating risk of grievous bodily harm
30. Failing to provide food, etc., in certain circumstances
31. Possession of object with intent to kill or cause grievous bodily injury
32. Possession of a firearm with intent to commit an offence

Assaults

39. Common assault
40. Assaults occasioning harm
41. Obstructing or assaulting clergyman in discharge of his duties
42. Assaulting a magistrate preserving wreck
43. Assaults in the course of resisting arrest, etc.
44. Forcibly hindering seaman
46. Summary proceedings for assault
47. Power to commit for trial

Threatening another person with a firearm

- 47a. Threatening another person with a firearm

Rape, Defilement and Abduction

48. Rape
49. Unlawful sexual intercourse
56. Indecent assault

- 57. Consent no defence in certain cases
- 57a. Power to take plea without evidence
- 58. Acts of gross indecency
- 58a. Offence if person for prurient purposes incites or procures commission by child of indecent act, etc.
- 59. Abduction of male or female person
- 63. Procuring persons to be prostitutes
- 64. Procuring sexual intercourse
- 65. Householder, etc., not to permit unlawful sexual intercourse on premises

Unnatural Offences

- 68a. Abolition of crime of sodomy
- 69. Offences with animals
- 72. Incest

Procedure in Sexual Offences

- 73. Offences involving sexual intercourse
- 75. Power on information for rape, etc., to convict for indecent assault or common assault
- 76. Corroborative evidence in certain cases

Bigamy

- 78. Bigamy
- 79. Defences in cases of bigamy

Abduction of Children

- 80. Abduction of child under 16 years

Attempts to procure Abortion

- 81. Attempts to procure abortion
- 82. Procuring drugs, etc., to cause abortion
- 82a. Medical termination of pregnancy

Concealment of Birth

- 83. Concealment of birth

PART IV

OFFENCES WITH RESPECT TO PROPERTY

- 84. Preliminary
- 85. Damaging property
- 86. Possession of object with intent to damage property
- 87. Offences against this Part

PART V

LARCENY AND SIMILAR OFFENCES

- 130. Interpretation
- 131. Simple larceny
- 132. Larceny by bailee
- 133. Joinder of counts for larceny
- 134. Larceny after a previous conviction for felony
- 135. Larceny after a previous conviction for misdemeanour

Larceny of Cattle and Other Animals

- 136. Stealing cattle
- 137. Killing animals with intent to steal the carcase
- 138. Stealing deer, etc., in enclosed land
- 139. Stealing dogs
- 140. Taking reward to restore stolen animals
- 141. Killing pigeons
- 142. Stealing birds and animals not the subject of larceny at common law
- 143. Stealing or dredging for oysters in oyster fisheries

Larceny of Written Instruments

- 144. Stealing bonds, bills, notes, etc.
- 145. Stealing deeds, wills, etc.
- 146. Stealing court records

Larceny of Things Attached To, or Growing On, Land

- 147. Glass, wood, metal, etc., fixed to houses and land

- 148. Trees, etc., in pleasure grounds
- 149. Other trees
- 150. Fences, gates, etc.
- 151. Plants, etc., in gardens, etc.

Larceny from Mines or Mineral Lands

- 152. Ore, metal, etc.
- 152a. Precious stones
- 153. Fraudulently removing ore, etc., from mines
- 153a. Interpretation

Larceny of Electricity

- 154. Stealing electricity

Larceny from the Person and Other Like Offences

- 155. Robbery and stealing from the person
- 157. Power to convict of lesser offence
- 158. Robbery with violence
- 159. Letters demanding money by menaces
- 160. Demanding money, etc., with menaces or by force and with intent to steal
- 161. Letter threatening to accuse of a crime, with intent to extort
- 162. Accusing or threatening to accuse with intent to extort
- 163. Threatening to accuse with a view to extort money
- 164. Threatening to publish a libel with intent to extort
- 165. Obtaining execution of documents by force
- 166. Interpretation

Sacrilege, Burglary, Housebreaking, etc.

- 167. Sacrilege
- 168. Burglary
- 169. Entering a dwelling house in the night with intent to commit a felony
- 170. Breaking and entering buildings and committing a felony
- 171. Housebreaking, etc., with intent to commit a felony
- 172. Being found by night, armed, or in possession of housebreaking implements
- 173. Larceny in dwelling houses

Larceny of Goods in Process of Manufacture

- 174. Stealing goods in process of manufacture

Larceny from Ships and Wharves, etc.

- 175. Stealing from ships, docks, etc.

Larceny and Embezzlement by Clerks, Servants and Persons in the Public Service

- 176. Larceny and embezzlement by clerks and servants
- 177. Larceny and embezzlement in the Public Service
- 178. Falsification of accounts, etc.
- 179. General deficiency
- 180. Information for embezzlement
- 181. Verdict of larceny where embezzlement charged, and *vice versa*
- 182. Larceny by partners

Larceny by Tenants and Lodgers

- 183. Larceny by tenants and lodgers

Frauds by Trustees, Agents, Bankers or Factors

- 184. Fraudulent misappropriation
- 185. Fraudulent sales under powers of attorney
- 186. Factors obtaining advances on the property of their principals
- 187. Trustees fraudulently disposing of property
- 188. Promoters of companies making untrue statements
- 189. Directors of companies fraudulently appropriating property
- 190. Directors, etc., keeping fraudulent accounts
- 191. Directors, etc., wilfully destroying books, etc.
- 192. Directors, etc., publishing fraudulent statements
- 193. Protection to persons disclosing offences in civil proceedings
- 194. Civil remedies not affected

False Pretences

195. False pretences

Receiving

196. Receiving where principal guilty of felony
 197. Receiving where principal guilty of misdemeanour
 197a. Receiving goods stolen outside the State
 198. Conviction of receivers in absence of principal
 199. Receiving where principal punishable summarily
 200. Previous convictions may be proved in receiving charges

Rewards for Recovery of Stolen Property

202. Corruptly taking reward for recovery of stolen property
 203. Advertising a reward for the return of stolen property, etc.

False Impersonation, etc.

204. Impersonation in order to obtain property
 205. Impersonating the owner of stock

Piracy

206. Piracy
 207. Assaults with intent to commit, or in furtherance of, piracy
 208. Robbery or other act of hostility at sea under colour of a foreign commission
 209. Piracy by master or seaman of ship
 210. Forcibly boarding a ship and throwing goods overboard
 211. Trading with pirates

PART VI

FORGERY

212. Interpretation
 213. The Public Seal
 214. Deeds, wills, bills of exchange, etc.
 215. Transfers of stock, etc.
 216. Attestation to power of attorney for transfer of stock

Making and Engraving Plates for Bank Notes

217. Making moulds for bank paper, etc.
 218. Engraving plates for making bank notes

Forging Bank Notes

219. Forging bank notes
 220. Receiving forged bank notes
 221. Drawing bill without lawful authority
 222. Crossings on cheques
 223. Debentures

Forging Official and Legal Documents

224. Original documents of courts of record
 225. Orders of justices
 226. Copies of certificates of record and using forged process
 227. False copies of record
 228. False certificates of previous convictions
 229. Certificates of judgment
 230. Forging official documents and tendering same in evidence
 231. Impounding of forged documents
 232. Documents relating to registration of deeds

Miscellaneous Matters

233. Falsely acknowledging recognizances, etc.
 234. Demanding property upon forged instruments
 235. Forgeries not already specified
 236. Search warrants for implements of forgery

PART VII

OFFENCES OF A PUBLIC NATURE

Offences against Public Justice

- 237. Compounding penal actions
- 238. Rescuing murderers
- 239. Perjury and subornation
- 240. Exacting fees from prisoners
- 241. Gaoler exacting fees from prisoners
- 242. Unlawfully administering oaths

Forcible Entry

- 243. Forcible entry

Riots

- 244. Rioters remaining after proclamation
- 245. Riotously preventing loading of ships

Defamatory Libels

- 246. Publishing defamatory libel knowing it to be false
- 247. Defamatory libel
- 248. Plea of justification
- 249. Publishing parliamentary reports
- 250. Evidence of publication
- 251. Verdict
- 252. Costs in prosecutions for libel

Trafficking in Public Offices

- 253. Trafficking in public offices

Nuisance by Fireworks

- 254. Nuisance by fireworks

Offences against Morality, Public Health, etc.

- 255. Lewdness
- 256. Offences in respect of infectious diseases

Offences against Religion, etc.

- 257. Interrupting religious worship
- 258. Molesting preachers
- 259. Pretending to witchcraft
- 259 a. Acting as a spiritualist, medium, etc.

Conspiracy and Protection of Property

- 260. Conspiracy in relation to industrial disputes
- 261. Breach of contract by railway and other employees
- 262. Breach of contract by servant involving probable injury to persons or property
- 263. Neglect by master to provide food, clothing, etc., for servant
- 264. Penalty for intimidation or annoyance by violence or otherwise
- 265. Offences triable summarily
- 266. Interpretation

PART VIII

ACCESSARIES

- 267. Accessaries before the fact
- 268. Accessaries after the fact
- 269. Abettors in misdemeanours

PART IX

MISCELLANEOUS AND PROCEDURE

Punishment for Certain Common Law Misdemeanours

- 270. Punishment for certain offences

Attempts

- 270a. Attempts
270ab. Attempted manslaughter

Assaults with Intent to Commit Felonies or Indictable Misdemeanours

- 270b. Assaults with intent

Apprehension of Offenders

271. Persons committing offences may be arrested by any person
272. Persons loitering at night and suspected of any felony, etc., may be apprehended
273. Judge's warrant for arrest of person charged

Informations

274. Interpretation
275. Informations may be presented in the name of the Attorney-General
276. Attorney-General may decline to prosecute
277. General provisions as to informations
278. Joinder of charges
279. Joint trial of accessories
280. Coin and bank notes may be described simply as money
281. Objections to informations, amendments and postponement of trial

Change of Forum

- 281a. Change of forum

Saving and Transitional Provisions

282. Saving provisions
283. Rules of court

Pleas and Proceedings on Trial

284. Plea of not guilty and refusal to plead
285. Form of plea of *autrefois convict* or *autrefois acquit*
285a. Certain questions of law may be determined before jury empanelled
285b. Conviction on plea of guilty of offence other than that charged
285c. Notice of certain evidence to be given
286. Inspection and copies of depositions
287. Prisoner's property may be made available for his defence
288. Defence by counsel and addresses
289. Postponement of trial
290. Verdict for attempt where full offence charged
291. Conviction of persons tried for misdemeanour if felony proved

Insanity

292. Verdict of not guilty on ground of insanity
293. Insanity affecting capacity to plead
293a. Release on licence

Verdicts

294. Defects cured by verdict
295. Forfeiture abolished

Costs, Witness Fees and Compensations

297. Fees and compensation

Firearms and Offensive Weapons

- 299a. Orders as to firearms and offensive weapons

Harbouring Thieves

317. Harbouring thieves
318. Authority to search for stolen property

Abolition of Presumption of Marital Coercion

- 328a. Abolition of presumption of marital coercion
329. Provision as to persons convicted of treason or a felony

PART XI

CASES STATED AND APPEALS

348. Interpretation
348a. Delegation of certain powers by the Attorney-General
349. Court to decide according to opinion of majority

Cases Stated

350. Questions of law may be reserved
351. Case to be stated by trial judge and powers of Full Court
351a. Restriction on reporting proceedings relating to reservation of question of law on trial of acquitted person

Right of Appeal and Determination of Appeals

352. Right of appeal in criminal cases
353. Determination of appeals in ordinary cases
354. Powers of Court in special cases
355. Revesting and restitution of property on conviction
356. Jurisdiction of Full Court

Procedure

357. Time for appealing
358. Judge's notes and report to be furnished on appeal
359. Supplemental powers of Court
360. Legal assistance to appellant
361. Right of appellant to be present
362. Attorney-General to be represented
363. Costs of appeal
364. Admission of appellant to bail and custody when attending Court
365. Duties of registrar with respect to notices of appeal, etc.
366. Notes of evidence on trial
367. Powers which may be exercised by a judge of the Court
368. Rules of court

References on Petitions for Mercy

369. References by Chief Secretary

SCHEDULES

CRIMINAL LAW CONSOLIDATION ACT, 1935

being

Criminal Law Consolidation Act, 1935, No. 2252 of 1935 [Assented to 21 December 1935]¹

as amended by

Criminal Law Consolidation Act Amendment Act, 1940, No. 54 of 1940 [Assented to 5 December 1940]
Criminal Law Consolidation Act Amendment Act, 1952, No. 27 of 1952 [Assented to 27 November 1952]
Coroners Act Amendment Act, 1952, No. 53 of 1952 [Assented to 4 December 1952]
Criminal Law Consolidation Act Amendment Act, 1956, No. 54 of 1956 [Assented to 29 November 1956]
Statute Law Revision Act, 1957, No. 42 of 1957 [Assented to 14 November 1957]
Maintenance Act Amendment Act, 1965, No. 54 of 1965 [Assented to 23 December 1965]²
Criminal Law Consolidation Act Amendment Act, 1966, No. 7 of 1966 [Assented to 24 February 1966]
Criminal Law Consolidation Act Amendment Act (No. 2), 1969, No. 71 of 1969 [Assented to 11 December 1969]³
Criminal Law Consolidation Act Amendment Act (No. 3), 1969, No. 88 of 1969 [Assented to 11 December 1969]⁴
Criminal Law Consolidation Act Amendment Act, 1969, No. 109 of 1969 [Assented to 8 January 1970]
Age of Majority (Reduction) Act, 1971, No. 15 of 1971 [Assented to 8 April 1971]⁵
Fisheries Act, 1971, No. 29 of 1971 [Assented to 22 April 1971]⁶
Corporal Punishment Abolition Act, 1971, No. 58 of 1971 [Assented to 14 October 1971]⁷
Criminal Law Consolidation Act Amendment Act, 1971, No. 96 of 1971 [Assented to 3 December 1971]
Local and District Criminal Courts Act Amendment Act, 1972, No. 54 of 1972 [Assented to 27 April 1972]⁸
Criminal Law Consolidation Act Amendment Act, 1972, No. 74 of 1972 [Assented to 21 September 1972]⁹
Criminal Law Consolidation Act Amendment Act, 1972, No. 94 of 1972 [Assented to 9 November 1972]
Criminal Law Consolidation Act Amendment Act (No. 3), 1972, No. 102 of 1972 [Assented to 16 November 1972]¹⁰
Criminal Law Consolidation Act Amendment Act (No. 5), 1972, No. 109 of 1972 [Assented to 23 November 1972]¹¹
Criminal Law Consolidation Act Amendment Act (No. 6), 1972, No. 122 of 1972 [Assented to 30 November 1972]¹²
Statute Law Revision Act, 1973, No. 77 of 1973 [Assented to 6 December 1973]
Criminal Law Consolidation Act Amendment Act, 1974, No. 13 of 1974 [Assented to 4 April 1974]
Criminal Law (Sexual Offences) Amendment Act, 1975, No. 66 of 1975 [Assented to 2 October 1975]
Statute Law Revision Act (No. 3), 1975, No. 88 of 1975 [Assented to 20 November 1975]
Criminal Law Consolidation Act Amendment Act, 1976, No. 83 of 1976 [Assented to 9 December 1976]
Statutes Amendment (Capital Punishment Abolition) Act, 1976, No. 115 of 1976 [Assented to 23 December 1976]
Criminal Law Consolidation Act Amendment Act, 1978, No. 14 of 1978 [Assented to 16 March 1978]¹³
Criminal Law (Prohibition of Child Pornography) Act, 1978, No. 92 of 1978 [Assented to 7 December 1978]
Criminal Law Consolidation Act Amendment Act, 1980, No. 67 of 1980 [Assented to 13 November 1980]¹⁴
Criminal Law Consolidation Act Amendment Act, 1981, No. 107 of 1981 [Assented to 23 December 1981]¹⁵
Criminal Law Consolidation Act Amendment Act (No. 2), 1981, No. 108 of 1981 [Assented to 23 December 1981]
Statutes Amendment (Jurisdiction of Courts) Act, 1981, No. 109 of 1981 [Assented to 23 December 1981]¹⁶
Criminal Law Consolidation Act Amendment Act, 1983, No. 45 of 1983 [Assented to 16 June 1983]
Criminal Law Consolidation Act Amendment Act (No. 2), 1983, No. 51 of 1983 [Assented to 16 June 1983]
Criminal Law Consolidation Act Amendment Act (No. 3), 1983, No. 84 of 1983 [Assented to 1 December 1983]

¹ Came into operation 2 January 1936: *Gaz.* 2 January 1936, p. 1.

² Came into operation 27 January 1966: *Gaz.* 27 January 1966, p. 145.

³ Came into operation 31 August 1970: *Gaz.* 20 August 1970, p. 701.

⁴ Came into operation 17 September 1970: *Gaz.* 17 September 1970, p. 1198.

⁵ Came into operation 15 April 1971: *Gaz.* 15 April 1971, p. 1598.

⁶ Came into operation 1 December 1971: *Gaz.* 30 November 1971, p. 2261.

⁷ Came into operation 18 November 1971: *Gaz.* 18 November 1971, p. 2070.

⁸ Came into operation 9 November 1972: *Gaz.* 9 November 1972, p. 2252.

⁹ Came into operation 2 November 1972: *Gaz.* 2 November 1972, p. 2132.

¹⁰ Came into operation 1 February 1973: *Gaz.* 1 February 1973, p. 377.

¹¹ Came into operation 15 February 1973: *Gaz.* 15 February 1973, p. 497.

¹² Came into operation 15 February 1973: *Gaz.* 15 February 1973, p. 496.

¹³ Came into operation 1 July 1979: *Gaz.* 14 June 1979, p. 1824.

¹⁴ Came into operation 11 December 1980: *Gaz.* 11 December 1980, p. 2119.

¹⁵ Came into operation 11 February 1982: *Gaz.* 11 February 1982, p. 361.

¹⁶ Came into operation 1 February 1982: *Gaz.* 28 January 1982, p. 209.

Statutes Amendment (Criminal Law Consolidation and Police Offences) Act, 1983, No. 114 of 1983 [Assented to 22 December 1983]¹
 Criminal Law Consolidation Act Amendment Act, 1984, No. 49 of 1984 [Assented to 24 May 1984]
 Statute Law Revision Act, 1984, No. 50 of 1984 [Assented to 24 May 1984]²
 Statutes Amendment (Oaths and Affirmations) Act, 1984, No. 56 of 1984 [Assented to 24 May 1984]³
 Criminal Law Consolidation Act Amendment Act (No. 2), 1984, No. 78 of 1984 [Assented to 15 November 1984]
 Evidence Act Amendment Act (No. 3) 1984, No. 107 of 1984 [Assented to 20 December 1984]
 Police Offences Act Amendment Act, 1985, No. 46 of 1985 [Assented to 2 May 1985]⁴
 Criminal Law Consolidation Act Amendment Act, 1985, No. 98 of 1985 [Assented to 1 November 1985]⁵
 Statutes Amendment (Victims of Crime) Act, 1986, No. 16 of 1986 [Assented to 20 March 1986]⁶
 Statutes Amendment (Parole) Act, 1986, No. 69 of 1986 [Assented to 20 November 1986]⁷
 Criminal Law Consolidation Act Amendment Act, 1986, No. 90 of 1986 [Assented to 4 December 1986]⁸
 Criminal Law Consolidation Act Amendment Act (No. 2), 1986, No. 91 of 1986 [Assented to 4 December 1986]⁹
 Criminal Law (Enforcement of Fines) Act, 1987, No. 49 of 1987 [Assented to 30 April 1987]¹⁰
 Statutes Amendment and Repeal (Sentencing) Act, 1988, No. 51 of 1988 [Assented to 5 May 1988]¹¹
 Criminal Law Consolidation Act Amendment Act, 1988, No. 78 of 1988 [Assented to 1 December 1988]
 Statutes Amendment (Criminal Law Consolidation and Summary Offences) Act, 1988, No. 103 of 1988 [Assented to 15 December 1988]¹²
 Statutes Amendment (Attorney-General's Portfolio) Act 1991 No. 33 of 1991 [Assented to 24 April 1991]¹³

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix 2.

An Act to consolidate certain Acts relating to the Criminal Law; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Criminal Law Consolidation Act, 1935*.

Commencement of Act

2. This Act shall come into force on a day to be fixed by proclamation.

* * * * *
 * * * * *

¹ Came into operation 22 December 1983: *Gaz.* 22 December 1983, p. 1718.

² Came into operation (except Scheds. 1, 3, 4 and 5) 1 November 1984: *Gaz.* 1 November 1984, p. 1398; Scheds. 1, 3, and 5 came into operation 1 January 1985: *Gaz.* 13 December 1984, p. 1811; Sched. 4 came into operation 6 July 1985: *Gaz.* 9 May 1985, p. 1398.

³ Came into operation 1 July 1984: *Gaz.* 28 June 1984, p. 1897.

⁴ Came into operation (except ss. 4, 9, 21, 26, 28-36) 10 May 1985; remainder of Act came into operation 8 July 1985: *Gaz.* 9 May 1985, p. 1398.

⁵ Came into operation 1 December 1985: *Gaz.* 14 November 1985, p. 1478.

⁶ Came into operation (except s. 26) 1 October 1986: *Gaz.* 4 September 1986, p. 696; s. 26 will not be brought into operation (the section it inserted was subsequently repealed by Act No. 51 of 1988, s. 35).

⁷ Came into operation 8 December 1986: *Gaz.* 27 November 1986, p. 1700.

⁸ Came into operation 1 February 1987: *Gaz.* 15 January 1987, p. 52.

⁹ Came into operation 18 December 1986: *Gaz.* 18 December 1986, p. 1877.

¹⁰ Came into operation (except ss. 5, 6(4), (5) and (6)) 21 June 1987: *Gaz.* 4 June 1987, p. 1430; remainder of Act came into operation 1 November 1987: *Gaz.* 29 October 1987, p. 1449.

¹¹ Came into operation (except ss. 3-6, 12, 15-20, 22-27, 30-39, 41-68, 70-78) 12 May 1988: *Gaz.* 12 May 1988, p. 1181; ss. 3 and 4 came into operation 8 September 1988: *Gaz.* 8 September 1988, p. 994; remainder of Act came into operation 1 January 1989: *Gaz.* 15 December 1988, p. 2009.

¹² Came into operation 6 March 1989: *Gaz.* 23 February 1989, p. 539.

¹³ Came into operation 6 June 1991: *Gaz.* 6 June 1991, p. 1776.

N.B. The amendments effected to this Act by the South Australian Health Commission Act, 1976, had not been brought into operation at the date of, and have not been included in, this reprint.

Interpretation

5. (1) In this Act—

* * * * *

“cattle” means horse, mare, gelding, colt, filly, mule, ass, bull, cow, ox, heifer, calf, ram, ewe, sheep, lamb, camel, llama, alpaca, goat or pig:

“common prostitute” includes any male person who prostitutes his body for fee or reward:

“court” means, except where a contrary intention is indicated or appears from the context, the Supreme Court, a District Criminal Court or a court of summary jurisdiction:

“dwelling house” does not include a building, although within the curtilage of a dwelling house and occupied with the dwelling house, unless there is a communication between the building and dwelling house, either immediate or by means of a covered and enclosed passage leading from the one to the other:

“firearm” means—

(a) a device designed to be carried by hand and to fire shot, bullets or other projectiles by means of burning propellant or by means of compressed air or other compressed gas;

(b) a device of a kind declared by regulation under the *Firearms Act, 1977*, to be a firearm for the purposes of that Act,

but does not include a device of a kind excluded by regulation under the *Firearms Act, 1977*, from the provisions of that Act:

“liable to be imprisoned for life” means liable to be imprisoned for life or any lesser term:

“night” means the interval between nine o’clock in the evening and six o’clock in the morning of the next day:

“the Parole Board” means the *Parole Board of South Australia*:

“place of divine worship” means any church, chapel, meeting house or other place of divine worship:

“property” means real or personal property whether tangible or intangible and includes a wild animal that is in captivity or ordinarily kept in captivity:

“sexual intercourse” includes any activity (whether of a heterosexual or homosexual nature) consisting of or involving—

(a) penetration of the vagina or anus of a person by any part of the body of another person or by any object;

(b) fellatio;

or

(c) cunnilingus.

(2) A reference in this Act to a felony extends to an indictable offence (not being an offence described in this Act as a misdemeanour) for which a maximum penalty of imprisonment for 3 years or more is prescribed by this Act.

Abolition of capital punishment

5a. (1) Notwithstanding any provision of any Act or law, no sentence of death shall be—

(a) imposed on, or recorded against, any person;

or

(b) carried into execution on any person.

(2) Where any person is liable to sentence of death under any Act or law, the court before which that person is convicted shall, instead of sentencing him to death, sentence him to be imprisoned for life.

(3) Any sentence of death that was imposed or recorded before the commencement of the *Statutes Amendment (Capital Punishment Abolition) Act, 1976*, shall (whether or not that sentence has been commuted to a sentence of imprisonment for life) be deemed to be a sentence of imprisonment for life imposed by a court of competent jurisdiction.

(4) Any direction or order made by the Governor on, or in relation to, the commutation of a sentence of death to a sentence of imprisonment for life shall be deemed to be a direction or order given or made by a court of competent jurisdiction.

PART II
TREASON FELONY

Repeal

6. The Acts 36 George III C. 7 and 57 George III C. 6 of the Imperial Parliament, except those provisions which relate to the compassing, imagining, inventing, devising or intending of the death or destruction, or any bodily harm tending to the death or destruction, maiming or wounding, imprisonment or restraint, of the person of Her Majesty, and the expressing, uttering or declaring of such compassings, imaginations, inventions, devices or intentions, are repealed.

Treason felonies

7. Any person who compasses, imagines, invents, devises or intends—

(a) to deprive or depose Her Majesty from the style, honour or Royal name of the Imperial Crown of the United Kingdom or of any other of Her Majesty's dominions and countries;

(b) to levy war against Her Majesty within any part of the United Kingdom or any other of Her Majesty's dominions in order—

(i) by force or constraint, to compel Her to change Her measures or counsels;

or

(ii) to put any force or constraint on, or to intimidate or overawe, both Houses or either House of the Parliament of the United Kingdom or the Parliament of this State;

or

(c) to move or stir any foreigner or stranger with force to invade the United Kingdom or any other of Her Majesty's dominions or countries under the obeisance of Her Majesty,

and expresses, utters or declares such compassings, imaginations, inventions, devices or intentions by publishing any printing or writing, or by open and advised speaking, or by any overt act or deed, shall be guilty of felony and liable to be imprisoned for life or for a term of not less than six months.

Time within which prosecution shall be commenced and warrant issued

8. (1) No person shall be prosecuted under section 7 in respect of any compassings, imaginations, inventions, devices or intentions which are expressed, uttered or declared by open and advised speaking only, unless—

(a) information of the compassings, imaginations, inventions, devices or intentions and of the words by which they were expressed, uttered or declared is given on oath to a justice within six days after the words were spoken;

and

(b) a warrant for the apprehension of the person by whom the words were spoken is issued within ten days after that information was given.

(2) No person shall be convicted of any such compassings, imaginations, inventions, devices or intentions which are expressed, uttered or declared by open or advised speaking except on his own confession in open court or unless the words so spoken are proved by two credible witnesses.

In informations more than one overt act may be charged

9. (1) It shall be lawful in any information under section 7 to charge against the offender any number of the matters, acts or deeds by which the compassings, imaginations, inventions, devices or intentions were expressed, uttered or declared.

(2) If the facts or matters alleged in an information under section 7 amount in law to treason, the information shall not for that reason be deemed void, erroneous or defective and, if the facts or matters proved on the trial of any person so informed against amount in law to treason, the accused person shall not for that reason be entitled to be acquitted of the felony charged, but no person tried for that felony shall be afterwards prosecuted for treason on the same facts.

Nothing herein to affect 25 Ed. III, c. 2

10. The provisions of this Part shall not lessen the force of, or in any manner affect, anything enacted by the Statute passed in the twenty-fifth year of King Edward the Third: "A Declaration which Offences shall be adjudged Treason".

Penalty for treason

10a. Any person who is convicted of treason shall be imprisoned for life.

PART III
OFFENCES AGAINST THE PERSON

Homicide

Murder

11. Any person who commits murder shall be guilty of felony and shall be imprisoned for life.

Conspiring or soliciting to commit murder

12. Any person who—

- (a) conspires, confederates and agrees with any other person to murder any person, whether he is a subject of Her Majesty or not and whether he is within the Queen's dominions or not;
- (b) solicits, encourages, persuades or endeavours to persuade, or proposes to, any person to murder any other person, whether he is a subject of Her Majesty or not and whether he is within the Queen's dominions or not,

shall be guilty of felony and liable to be imprisoned for life.

Manslaughter

13. Any person who is convicted of manslaughter shall be liable to be imprisoned for life or to pay such fine as the court awards or to both such imprisonment and fine.

Criminal liability in relation to suicide

13a. (1) It is not an offence to commit or attempt to commit suicide.

(2) Notwithstanding the provisions of subsection (1), a person who finds another committing or about to commit an act which he believes on reasonable grounds would, if committed or completed, result in suicide is justified in using reasonable force to prevent the commission or completion of the act.

(3) If on the trial of a person for the murder of another the jury is satisfied that the accused killed the other, or was a party to the other being killed by a third person, but is further satisfied that the acts or omissions alleged against the accused were done or made in pursuance of a suicide pact with the person killed, then, subject to subsection (11), the jury shall not find the accused guilty of murder but may bring in a verdict of manslaughter.

(4) The killing of another or an attempt to kill another in pursuance of a suicide pact shall, for the purposes of determining the criminal liability of a person who was a party to the killing or attempt but not a party to the suicide pact, be regarded as murder or attempted murder, as the case may require.

(5) A person who aids, abets or counsels the suicide of another, or an attempt by another to commit suicide, shall be guilty of an indictable offence.

(6) The penalty for an offence against subsection (5) shall be—

(a) subject to paragraph (b)—

- (i) where suicide was committed—imprisonment for a term not exceeding fourteen years;
- (ii) where suicide was attempted—imprisonment for a term not exceeding eight years;

(b) where the convicted person committed the offence in pursuance of a suicide pact and—

(i) suicide was committed—imprisonment for a term not exceeding five years;

(ii) suicide was attempted—imprisonment for a term not exceeding two years.

(7) A person who, by fraud, duress or undue influence, procures the suicide of another or an attempt by another to commit suicide shall (whether or not he was a party to a suicide pact with the other person) be guilty of murder or attempted murder, as the case may require.

(8) If on the trial of a person for murder or attempted murder the jury is not satisfied that the accused is guilty of the offence charged but is satisfied that he is guilty of an offence against subsection (5), the jury may bring in a verdict that he is guilty of an offence against that subsection.

(9) In any criminal proceedings in which it is material to establish the existence of a suicide pact and whether an act was done, or an omission made, in pursuance of the pact, the onus of proving the existence of the pact and that the act was done, or the omission made, in pursuance of the pact shall lie on the accused.

(10) For the purposes of this section—

(a) "suicide pact" means an agreement between two or more persons having for its object the death of all of them whether or not each is to take his own life;

and

(b) nothing done or omitted to be done by a person who enters into a suicide pact shall be treated as done or omitted to be done in pursuance of the pact unless it is done or omitted to be done while he has the settled intention of dying in pursuance of the pact.

(11) Where a person induced another to enter into a suicide pact by means of fraud, duress or undue influence, the person is not entitled in relation to an offence against the other to any mitigation of criminal liability or penalty under this section based on the existence of the pact.

* * * * *
* * * * *

Excusable homicide

15. Except as provided in section 14, no punishment shall be incurred by any person who kills another by misfortune or in his own defence, or in any other manner without felony.

Petit treason

16. Every offence which, before the commencement of the Act 9 George IV C. 31 of the Imperial Parliament, would have amounted to petit treason shall be deemed to be murder only, and no greater offence, and shall be punishable accordingly.

Murder when death happens outside the State

17. If any person within the State feloniously strikes, poisons or otherwise hurts another and that other person as a result dies at sea or outside the State, the guilty person may be tried and punished in the State, whether for murder or manslaughter or as accessory to murder or manslaughter, in the same manner as if the offence had been wholly committed within the State.

* * * * *

*Unlawful Threats***Unlawful threats**

19. (1) Where—

(a) a person, without lawful excuse, threatens to kill or endanger the life of another;

and

(b) the person making the threat intends to arouse a fear that the threat will be, or is likely to be, carried out, or is recklessly indifferent as to whether such a fear is aroused,

that person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 10 years or, where the person whose life was threatened was at the time of the commission of the offence under the age of 12 years, for a term not exceeding 12 years.

(2) Where—

(a) a person, without lawful excuse, threatens to cause harm to the person or property of another;

and

(b) the person making the threat intends to arouse a fear that the threat will be, or is likely to be, carried out, or is recklessly indifferent as to whether such a fear is aroused,

that person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 5 years.

(3) This section applies to a threat directly or indirectly communicated by words (written or spoken) or by conduct, or partially by words and partially by conduct.

*Death and Injury arising from Reckless Driving, etc.***Death and injury arising from reckless driving, etc.**

19a. (1) A person who—

(a) drives a motor vehicle in a culpably negligent manner, recklessly, or at a speed or in a manner dangerous to the public;

and

(b) by that culpable negligence, recklessness or other conduct, causes the death of another,

is guilty of an indictable offence.

(2) The penalty for an offence against subsection (1) is as follows:

(a) for a first offence—imprisonment for a term not exceeding 10 years and disqualification from holding or obtaining a driver's licence for 5 years or such longer period as the court orders;

(b) for a subsequent offence—imprisonment for a term not exceeding 15 years and disqualification from holding or obtaining a driver's licence for 10 years or such longer period as the court orders.

(3) A person who—

(a) drives or rides a vehicle or an animal in a culpably negligent manner, recklessly, or at a speed or in a manner dangerous to the public;

and

(b) by that culpable negligence, recklessness or other conduct, causes bodily harm to another,

is guilty of an indictable offence.

(4) The penalty for an offence against subsection (3) is as follows:

(a) where a motor vehicle was used in commission of the offence and grievous bodily harm was caused to a person—

(i) for a first offence—imprisonment for a term not exceeding 10 years and disqualification from holding or obtaining a driver's licence for 5 years or such longer period as the court orders;

(ii) for a subsequent offence—imprisonment for a term not exceeding 15 years and disqualification from holding or obtaining a driver's licence for 10 years or such longer period as the court orders;

(b) where a motor vehicle was used in commission of the offence but grievous bodily harm was not caused to any person—

(i) for a first offence—imprisonment for a term not exceeding 4 years and disqualification from holding or obtaining a driver's licence for one year or such longer period as the court orders;

(ii) for a subsequent offence—imprisonment for a term not exceeding 6 years and disqualification from holding or obtaining a driver's licence for 3 years or such longer period as the court orders;

(c) where a motor vehicle was not used in commission of the offence—imprisonment for a term not exceeding 2 years.

(5) In determining whether an offence is a first or subsequent offence for the purposes of this section all previous offences against subsection (1) or (3), or a corresponding previous enactment, that involved the driving of a motor vehicle, shall be taken into account except that such an offence shall not be taken to be a previous offence for the purposes of subsection (2) or (4)(a) unless it resulted in the death of, or grievous bodily harm to, the victim.

(6) Where a convicted person is disqualified from holding or obtaining a driver's licence—

(a) the disqualification operates to cancel any driver's licence held by the convicted person as at the commencement of the period of disqualification;

and

(b) the disqualification may not be reduced or mitigated in any way or be substituted by any other penalty or sentence.

(7) A person is liable to be charged with and convicted of an offence against subsection (1) in respect of each person killed, and of an offence against subsection (3) in respect of each person who suffers bodily harm, in consequence of the same act or omission.

(8) Where at the trial of a person for an offence against this section it appears that the defendant was, or may have been, in a state of self-induced intoxication at the time of the alleged offence but the evidence adduced at the trial would, assuming that the defendant had been sober, be sufficient to establish the mental elements of the alleged offence, the mental elements of the alleged offence shall be deemed to have been established against the defendant.

(9) For the purposes of subsection (8), intoxication shall be taken to be self-induced if it results from the voluntary consumption of alcohol or a drug (not being a drug supplied on the prescription of, and consumed in accordance with the directions of, a legally qualified medical practitioner).

(10) In this section—

“consumption” in relation to a drug includes injection and any other form of administration:

“motor vehicle” means—

(a) a vehicle, tractor or mobile machine driven or propelled or ordinarily capable of being driven or propelled by a steam engine, internal combustion engine, electricity or any other power, not being human or animal power;

and

(b) a caravan or trailer,

but does not include a mobile machine controlled and guided by a person walking, or a vehicle run upon a railway or tramway:

“vehicle” means—

(a) a motor vehicle;

(b) a vehicle drawn by an animal;

or

(c) a bicycle, tricycle or other similar vehicle for which the rider provides the motive force.

Alternative verdicts

19b. (1) If at the trial of a person for murder or manslaughter the jury is not satisfied that the accused is guilty of the offence charged but is satisfied that the accused is guilty of the offence constituted by section 19a(1) or (3), the jury may bring in a verdict that the accused is guilty of that offence.

(2) The following offences (which are listed in order of seriousness) are offences to which subsection (3) applies:

(a) the offence constituted by section 19a(1);

(b) the offence constituted by section 19a(3);

(c) the offence constituted by section 46 of the *Road Traffic Act, 1961*;

(d) the offence constituted by section 45 of the *Road Traffic Act, 1961*.

(3) If at the trial of a person for an offence to which this subsection applies (being an offence mentioned in subsection (2)(a) or (b)) the jury is not satisfied that the accused is guilty of the offence charged but is satisfied that the accused is guilty of a less serious offence to which this subsection applies, the jury may bring in a verdict that the accused is guilty of that less serious offence.

Acts Causing or Intended to Cause Danger to Life or Bodily Harm

Impeding a person endeavouring to save himself from shipwreck

20. Any person who unlawfully and maliciously—

- (a) prevents or impedes any person, being on board, or having quitted, any ship or vessel in distress, or wrecked, stranded or cast on shore, in his endeavour to save his life;
- (b) prevents or impedes any person in his endeavour to save the life of any person on board, or having quitted, any such ship or vessel,

shall be guilty of felony and liable to be imprisoned for life.

Wounding, etc., with intent to do grievous bodily harm

21. Any person who unlawfully and maliciously, by any means—

- (a) wounds any person;
- (b) causes any grievous bodily harm to any person;
- (c) shoots at any person;
- (d) attempts to discharge loaded arms of any kind at any person,

with intent to—

- (e) maim, disfigure, disable, or do other grievous bodily harm to, any person;
- (f) resist, or prevent the lawful apprehension or detainer of, any person,

shall be guilty of felony and liable to be imprisoned for life.

* * * * *

Malicious wounding, etc.

23. Any person who unlawfully and maliciously wounds or inflicts any grievous bodily harm on any other person, either with or without a weapon or instrument, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding five years or, where the victim was at the time of the commission of the offence under the age of twelve years, for a term not exceeding eight years.

Verdict of unlawful wounding when felony charged

24. If on the trial of any person for any felony, except murder or manslaughter, the information alleges that the accused person wounded any person and the jury is satisfied that the accused person is guilty of the wounding charged in the information but is not satisfied that he is guilty of the felony so charged, the jury may acquit him of the felony and find him guilty of unlawful wounding and thereupon he shall be liable to be imprisoned for a term not exceeding five years or, where the victim was at the time of the commission of the offence under the age of twelve years, for a term not exceeding eight years.

Choking or stupefying to commit indictable offence

25. Any person who, with intent to enable himself or any other person to commit any indictable offence or to assist any other person in committing any indictable offence—

- (a) by any means attempts to choke, suffocate or strangle any other person;
- (b) by any means calculated to choke, suffocate or strangle attempts to render any other person insensible, unconscious or incapable of resistance;
- (c) applies or administers, or attempts to apply or administer, to any person, or causes to be taken by any person, any chloroform, laudanum or other stupefying or overpowering drug, matter or thing,

shall be guilty of felony and liable to imprisonment for life.

Maliciously administering poison, etc., so as to endanger life, or inflict grievous bodily harm

26. Any person who unlawfully and maliciously administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing so as thereby—

- (a) to endanger the life of that other person;

or

- (b) to inflict upon that other person any grievous bodily harm,

shall be guilty of felony and liable to be imprisoned for a term not exceeding ten years.

Maliciously administering poison, etc., with intent to injure, aggrieve or annoy any other person

27. Any person who unlawfully and maliciously administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing with intent to injure, aggrieve or annoy that other person shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three years.

Verdict for misdemeanour where felony charged

28. If on the trial of any person for any felony referred to in section 26 the jury is not satisfied that the accused is guilty of that felony but is satisfied that he is guilty of the misdemeanour referred to in section 27, the jury may acquit the accused of that felony and find him guilty of that misdemeanour and thereupon he shall be liable to be punished in the same manner as if convicted on an information for that misdemeanour.

Acts endangering life or creating risk of grievous bodily harm

29. (1) Where a person, without lawful excuse, does an act or makes an omission—

- (a) knowing that the act or omission is likely to endanger the life of another;

and

- (b) intending to endanger the life of another or being recklessly indifferent as to whether the life of another is endangered,

that person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 15 years.

(2) Where a person, without lawful excuse, does an act or makes an omission—

(a) knowing that the act or omission is likely to cause grievous bodily harm to another;

and

(b) intending to cause such harm or being recklessly indifferent as to whether such harm is caused,

that person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 10 years.

(3) Where a person, without lawful excuse, does an act or makes an omission—

(a) knowing that the act or omission is likely to cause harm to the person of another;

and

(b) intending to cause such harm or being recklessly indifferent as to whether such harm is caused,

the person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 5 years.

Failing to provide food, etc., in certain circumstances

30. Where—

(a) a person is liable to provide necessary food, clothing or accommodation to another person who is—

(i) a minor;

(ii) suffering from an illness;

or

(iii) disabled;

and

(b) the person, without lawful excuse, fails to provide that food, clothing or accommodation,

that person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 3 years.

Possession of object with intent to kill or cause grievous bodily injury

31. (1) A person who, without lawful excuse, has the custody or control of an object that the person intends to use, or to cause or permit another to use—

(a) to kill, or to endanger the life of, another;

or

(b) to cause grievous bodily harm to another,

shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 10 years.

(2) A person who, without lawful excuse, has the custody or control of an object that the person intends to use, or to cause or permit another to use, to cause harm to the person of another, shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 5 years.

Possession of a firearm with intent to commit an offence

32. A person who has the custody or control of a firearm or imitation firearm for the purpose of—

(a) using, or causing or permitting another person to use, the firearm in the course of committing an offence punishable by a term of imprisonment of 3 years or more;

or

(b) carrying, or causing or permitting another person to carry, the firearm when committing an offence punishable by a term of imprisonment of 3 years or more,

is guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

*	*	*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*	*	*

*Assaults***Common assault**

39. Any person convicted of common assault shall be liable to be imprisoned for a term not exceeding three years.

Assaults occasioning harm

40. Any person convicted of assault occasioning actual bodily harm shall be liable to be imprisoned for a term not exceeding five years or, where the victim was at the time of the commission of the offence under the age of twelve years, for a term not exceeding eight years.

Obstructing or assaulting clergyman in discharge of his duties

41. Any person who—

(a) by threats or force, obstructs or prevents, or endeavours to obstruct or prevent, any clergyman or other minister in or from celebrating divine service or otherwise officiating in any place of divine worship, or in or from the performance of his duty in the lawful burial of the dead in any cemetery or other burial place;

(b) strikes, or offers any violence to, or, on any civil process or under the pretence of executing any civil process, arrests, any clergyman or other minister who is engaging or, to the knowledge of the offender, about to engage, in any of the rites or duties referred to in paragraph (a) or, to the knowledge of the offender, is going to perform, or is returning from the performance of, those rites or duties,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years.

Assaulting a magistrate preserving wreck

42. Any person who assaults and strikes, or wounds, any magistrate, officer, or other person whomsoever lawfully authorized, in, or on account of, the exercise of his duty in, or concerning, the preservation of any vessel in distress, or of any vessel, goods or effects wrecked, stranded, cast on shore or lying under water, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

Assaults in the course of resisting arrest, etc.

43. Any person who—

* * * * *

(b) assaults, resists or wilfully obstructs any police officer in the due execution of his duty or any person acting in aid of such an officer;

(c) assaults any person with intent to resist or prevent the lawful apprehension or detention of himself, or of any other person, for any offence,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding five years.

Forcibly hindering seaman

44. Any person who—

(a) unlawfully and with force hinders or prevents any seaman from working at or exercising his lawful trade, business or occupation;

(b) beats, or uses any violence against, any seaman with intent to hinder or prevent him from working at or exercising his lawful trade, business or occupation,

shall be guilty of an offence punishable summarily and liable to be imprisoned for a term not exceeding six months.

* * * * *

Summary proceedings for assault

46. (1) A complaint for assault or battery laid by, or on behalf of, the party aggrieved may be heard and determined summarily.

(2) In any such summary proceedings the court may punish the defendant by a fine not exceeding two hundred dollars or imprisonment for a term not exceeding six months.

* * * * *

Power to commit for trial

47. (1) If it appears to the magistrate or justices hearing any complaint for assault or battery that the offence is of such an aggravated nature that it cannot, in his or their opinion, be sufficiently punished under section 46, the magistrate or justices may either commit the person charged for trial or proceed to deal with the case as a minor indictable offence pursuant to the provisions of Division II of Part V of the *Justices Act, 1921*, and thereupon shall have power to award any punishment authorized by that Act.

(2) The magistrate or justices shall not have power to deal with the offence, either summarily or as a minor indictable offence, if it appears that the assault or battery complained of was accompanied by any attempt to commit a felony.

* * * * *

*Threatening another person with a firearm***Threatening another person with a firearm**

47a. A person who, without lawful excuse, threatens another person with a firearm, or imitation firearm, is guilty of an indictable offence.

Penalty: \$15 000 or imprisonment for 4 years.

*Rape, Defilement and Abduction***Rape**

48. A person who has sexual intercourse with another person without the consent of that other person—

(a) knowing that that other person does not consent to sexual intercourse with him;

or

(b) being recklessly indifferent as to whether that other person consents to sexual intercourse with him,

shall (whether or not physical resistance is offered by that other person) be guilty of the felony of rape and liable to be imprisoned for life.

* * * * *

Unlawful sexual intercourse

49. (1) A person who has sexual intercourse with any person under the age of twelve years shall be guilty of a felony and liable to be imprisoned for life.

* * * * *

(3) A person who has sexual intercourse with a person of or above the age of twelve years and under the age of seventeen years shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

(4) It shall be a defence to a charge under subsection (3) to prove that—

(a) the person with whom the accused is alleged to have had sexual intercourse was, on the date on which the offence is alleged to have been committed, of or above the age of sixteen years;

and

(b) the accused—

(i) was, on the date on which the offence is alleged to have been committed, under the age of seventeen years;

or

(ii) believed on reasonable grounds that the person with whom he is alleged to have had sexual intercourse was of or above the age of seventeen years.

(5) A person who, being the guardian, schoolmaster, schoolmistress or teacher of a person under the age of eighteen years, has sexual intercourse with that person shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

(6) A person who, knowing that another is by reason of intellectual disability unable to understand the nature or consequences of sexual intercourse, has sexual intercourse with that other person is guilty of an indictable offence.

Penalty: Imprisonment for a term not exceeding seven years.

(7) Consent to sexual intercourse is not a defence to a charge of an offence under this section.

(8) This section does not apply to sexual intercourse between persons who are married to each other.

* * * * *

Indecent assault

56. A person who indecently assaults another shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding eight years or, where the victim was at the time of the commission of the offence under the age of twelve years, for a term not exceeding ten years.

Consent no defence in certain cases

57. (1) No person under the age of eighteen years shall be deemed capable of consenting to any indecent assault committed by any person who is his or her guardian, teacher, schoolmaster or schoolmistress.

(2) Subject to subsection (3), no person under the age of seventeen years shall be deemed capable of consenting to any indecent assault.

(3) Where the person is between the age of sixteen and seventeen years, his or her consent shall be a defence to a charge of indecent assault if the accused proves that at the time of the indecent assault—

(a) he or she was under the age of seventeen years;

or

(b) he or she believed on reasonable grounds that the person was of or above the age of seventeen years.

Power to take plea without evidence

57a. (1) When a person is charged with sexual intercourse with, or an indecent assault upon, a person under the age of seventeen years, the justice sitting to conduct the preliminary examination of the witnesses may, without taking any evidence, accept a plea of guilty and commit the defendant to gaol, or admit him to bail, to appear for sentence.

(2) The justice shall take written notes of any facts stated by the prosecutor as the basis of the charge and of any statement made by the defendant in contradiction or explanation of the facts stated by the prosecutor and shall forward those notes to the Attorney-General together with any proofs of witnesses tendered by the prosecutor to the justice.

(3) The Attorney-General shall cause the notes and proofs of witnesses to be delivered to the proper officer of the court at which the defendant is to appear for sentence before or at the opening of the court on the first sitting thereof or at such other time as the judge who is to preside in the court may order.

(4) This section does not restrict or take away any right of the defendant to withdraw a plea of guilty and substitute a plea of not guilty.

* * * * *

Acts of gross indecency

58. (1) Any person who, in public or in private—

- (a) commits any act of gross indecency with, or in the presence of, any person under the age of sixteen years;
- (b) incites or procures the commission by any such person of any act of gross indecency with the accused, or in the presence of the accused, or with any other person in the presence of the accused;
- (c) is otherwise a party to the commission of any act of gross indecency by or with, or in the presence of, any such person, or by or with any other person in the presence of any such person, or by any such person with any other person in the presence of the accused,

shall be guilty of a misdemeanour and liable for a first offence to be imprisoned for a term not exceeding three years and for any subsequent offence to be imprisoned for a term not exceeding five years.

(2) It is no defence to a charge under this section that the act of indecency was committed with the consent of the person concerned.

* * * * *

Offence if person for prurient purposes incites or procures commission by child of indecent act, etc.

58a. (1) A person who with a view to gratifying prurient interest (whether of that person or some other person)—

- (a) incites or procures the commission by a child of an indecent act;
- or
- (b) causes or induces a child to expose any part of his or her body,

shall be guilty of an indictable offence and liable for a first offence to be imprisoned for a term not exceeding two years and for any subsequent offence to be imprisoned for a term not exceeding three years.

(2) Subsection (1) applies whether events referred to in the subsection occur in public or in private or with or without the consent of the child.

(3) In this section—

“child” means a person under the age of sixteen years.

Abduction of male or female person

59. A person who takes away by force, or detains against his will, any other person—

- (a) with intent to marry, or to have sexual intercourse with, that other person;
- or
- (b) with intent to cause that other person to be married to, or to have sexual intercourse with, a third person,

shall be guilty of a felony and liable to be imprisoned for a term not exceeding fourteen years.

* * * * *

Procuring persons to be prostitutes

63. Any person who—

- (a) procures any person to become a common prostitute;
- (b) procures any person, not being a common prostitute, to leave the State or to leave his or her usual place of abode in the State and to become the inmate of a brothel for the purposes of prostitution either within or outside the State,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

Procuring sexual intercourse

64. Any person who—

- (a) by threats or intimidation, procures any person to have sexual intercourse;
- (b) by false pretences, false representations or other fraudulent means, procures any person, not being a common prostitute or a person of known immoral character, to have sexual intercourse,

* * * * *

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

Householder, etc., not to permit unlawful sexual intercourse on premises

65. Any person who, being the owner or occupier of any premises or having, or acting or assisting in, the management or control thereof, induces or knowingly suffers any person under the age of seventeen years to resort to, or be in, those premises for the purpose of having sexual intercourse shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

* * * * *

Unnatural Offences

Abolition of crime of sodomy

68a. The law relating to unnatural offences shall be as prescribed by this Act and any such offence created under any other enactment or at common law is abolished.

Offences with animals

69. Any person who commits buggery with an animal shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding ten years.

* * * * *
* * * * *
* * * * *

Incest

72. Any persons who, being related, either as parent and child or as brother and sister, have sexual intercourse with each other shall be guilty of the felony of incest and liable to be imprisoned for a term not exceeding seven years.

*Procedure in Sexual Offences***Offences involving sexual intercourse**

73. (1) For the purposes of this Act, sexual intercourse is sufficiently proved by proof of penetration.

(2) No person shall, by reason of his age, be presumed incapable of sexual intercourse.

(3) No person shall, by reason only of the fact that he is married to some other person, be presumed to have consented to sexual intercourse with that other person.

(4) No person shall, by reason only of the fact that he is married to some other person, be presumed to have consented to an indecent assault by that other person.

(5) Notwithstanding the foregoing provisions of this section, a person shall not be convicted of rape or indecent assault on his spouse or an attempt to commit, or assault with intent to commit, rape or indecent assault on his spouse (except as an accessory) unless the alleged offence consisted of, was preceded or accompanied by, or was associated with—

(a) assault occasioning actual bodily harm, or threat of such an assault, on the spouse;

(b) an act of gross indecency, or threat of such an act, against the spouse;

(c) an act calculated seriously and substantially to humiliate the spouse, or threat of such an act;

or

(d) threat of the commission of a criminal act against any person.

* * * * *

Power on information for rape, etc., to convict for indecent assault or common assault

75. If on the trial of any information for any felony or misdemeanour under section 48 or 49, or for an attempt to commit a felony under section 48 or a felony or misdemeanour under section 49, the jury is satisfied that the accused is guilty of an indecent assault or of a common assault but is not satisfied that the accused is guilty of the felony or misdemeanour charged, the jury may acquit the accused of that felony or misdemeanour and find him guilty of an indecent assault or of a common assault, as the case may be, and thereupon the accused shall be liable to be punished in the same manner as if he had been convicted on an information for an indecent assault or for common assault, as the case may be.

Corroborative evidence in certain cases

76. No person shall be convicted of an offence under section 63 or 64 on the evidence of one witness only unless the evidence of the witness is corroborated in some material particular by evidence implicating the accused.

* * * * *

*Bigamy***Bigamy**

78. Any person who, being married, goes through the form or ceremony of marriage with any other person during the life of his or her wife or husband shall be guilty of felony and liable to be imprisoned for a first offence for a term not exceeding four years and for any subsequent offence for a term not exceeding ten years.

Defences in cases of bigamy

79. The provisions of section 78 do not extend to any person going through the form or ceremony of marriage as mentioned in that section—

(a) whose husband or wife has then been continuously absent from that person for the last seven years and has not been known by that person to be living within that time;

or

(b) whose marriage has been dissolved or declared void by any court of competent jurisdiction.

*Abduction of Children***Abduction of child under 16 years**

80. (1) Any person who—

(a) unlawfully, either by force or fraud, leads, takes, decoys or entices away, or detains, any child under the age of sixteen years;

(b) harbours or receives any such child, knowing him or her to have been, by force or fraud, led, taken, decoyed or enticed away, or detained,

with intent—

(c) to deprive any parent, guardian or other person, having the lawful care of the child, of the possession of the child;

or

(d) to steal any article on or about the person of the child,

shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years.

(1a) Any person who unlawfully takes, or causes to be taken, a child under the age of sixteen years out of the possession and against the will of the parent, guardian or other person having the lawful care of the child shall be guilty of a misdemeanour and liable to imprisonment for a term not exceeding two years.

(2) This section does not render liable to prosecution any person who, in the exercise of any *bona fide* claim to the right to possession of a child, whether as the mother or father of the child or otherwise, obtains possession of the child or takes the child out of the possession of any person having the lawful charge of the child.

*Attempts to Procure Abortion***Attempts to procure abortion**

81. (1) Any woman who, being with child, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, shall be guilty of felony and liable to be imprisoned for life.

(2) Any person who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her, or causes to be taken by her, any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, shall be guilty of felony and liable to be imprisoned for life.

Procuring drugs, etc., to cause abortion

82. Any person who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that it is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three years.

Medical termination of pregnancy

82a. (1) Notwithstanding anything contained in section 81 or 82, but subject to this section, a person shall not be guilty of a felony or misdemeanour under either of those sections—

(a) if the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where he and one other legally qualified medical practitioner are of the opinion, formed in good faith after both have personally examined the woman—

(i) that the continuance of the pregnancy would involve greater risk to the life of the pregnant woman, or greater risk of injury to the physical or mental health of the pregnant woman, than if the pregnancy were terminated;

or

(ii) that there is a substantial risk that, if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped,

and where the treatment for the termination of the pregnancy is carried out in a hospital, or a hospital of a class, declared by regulation to be a prescribed hospital, or a hospital of a prescribed class, for the purposes of this section;

or

(b) if the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where he is of the opinion, formed in good faith, that the termination is immediately necessary to save the life, or to prevent grave injury to the physical or mental health, of the pregnant woman.

(2) Subsection (1)(a) does not refer or apply to any woman who has not resided in South Australia for a period of at least two months before the termination of her pregnancy.

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the physical or mental health of a pregnant woman as is mentioned in subsection (1)(a)(i), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) The Governor may make regulations—

(a) for requiring any such opinion as is referred to in subsection (1) to be certified by the legally qualified medical practitioners or practitioner concerned in such form and at or within such time as may be prescribed and for requiring the preservation and disposal of any such certificate made for the purposes of this Act;

(b) for requiring any legally qualified medical practitioner who terminates a pregnancy, and the superintendent or manager of the hospital in which the termination is carried out, to give notice of the termination and such other information relating to the termination as may be prescribed to the Director-General of Medical Services;

(c) for prohibiting the disclosure, except to such persons or for such purposes as may be prescribed, of notices or information given pursuant to the regulations;

(d) declaring a particular hospital or a class of hospitals to be a prescribed hospital or a prescribed class of hospitals for the purposes of this section;

and

(e) for providing for, and prescribing, any penalty, not exceeding two hundred dollars, for any contravention of, or failure to comply with, any regulations.

(5) Subject to subsection (6), no person is under a duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorized by this section to which he has a conscientious objection, but in any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it.

(6) Nothing in subsection (5) affects any duty to participate in treatment which is necessary to save the life, or to prevent grave injury to the physical or mental health, of a pregnant woman.

(7) The provisions of subsection (1) do not apply to, or in relation to, a person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes such a child to die before it has an existence independent of its mother where it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(8) For the purposes of subsection (7), evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be *prima facie* proof that she was at that time pregnant of a child capable of being born alive.

(9) For the purposes of sections 81 and 82, anything done with intent to procure the miscarriage of a woman is unlawfully done unless authorized by this section.

(10) In this section and in sections 81 and 82—

“woman” means any female person of any age.

Concealment of Birth

Concealment of birth

83. (1) Any person who, by any secret disposition of the dead body of a child, whether the child died before, at or after its birth, endeavours to conceal the birth of the child shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three years.

(2) If on the trial of any person for the murder of a child recently born the jury is not satisfied that the accused is guilty of murder or manslaughter but is satisfied that such accused is guilty of an offence against subsection (1), it shall be lawful for the jury to return a verdict of guilty of concealment of birth and thereupon the accused shall be liable to be punished in the same manner as if convicted on an information under subsection (1).

PART IV

OFFENCES WITH RESPECT TO PROPERTY

Preliminary

84. (1) In this Part—

“to damage” in relation to property includes—

- (a) to destroy the property;
- (b) to make an alteration to the property that depreciates its value;
- (c) to render the property useless or inoperative;
- (d) in relation to an animal—to injure, wound or kill the animal,

and “damage” has a corresponding meaning:

“owner” of property means a person wholly entitled to the property both at law and in equity.

(2) Where a person damages, or attempts to damage, property of which the person is not the owner, that property shall (whether or not that person has some legal or equitable interest in it) be regarded as property of another for the purposes of this Part.

(3) In proceedings for an offence against this Part in which it is necessary to quantify damage or potential damage in terms of a monetary amount—

(a) no regard shall be had to any reduction or possible reduction of the damage through the intervention of some person other than the accused;

and

(b) where actual damage occurred and was in fact reduced by such intervention, the damage shall be deemed to include the potential damage that was prevented by that intervention.

Damaging property

85. (1) Where a person—

(a) intending to damage property of another, or being recklessly indifferent as to whether property of another is damaged;

and

(b) without lawful authority to do so, and knowing that no such lawful authority exists,

damages, or attempts to damage, property of another by fire or explosives, the person shall be guilty of an offence.

Penalty—

(a) for a completed offence—

(i) where the damage exceeds \$2 000—imprisonment for life;

(ii) where the damage does not exceed \$2 000—imprisonment for 5 years;

(b) for an attempt—

(i) where the damage would, if the offence had been completed, have exceeded \$2 000—imprisonment for 12 years;

(ii) where the damage would not, if the offence had been completed, have exceeded \$2 000—imprisonment for 3 years.

(2) The offence of damaging property by fire in contravention of subsection (1) is arson.

(3) Where a person—

(a) intending to damage property of another, or being recklessly indifferent as to whether property of another is damaged;

and

(b) without lawful authority to do so, and knowing that no such lawful authority exists,

damages, or attempts to damage, property of another, the person shall be guilty of an offence.

Penalty—

(a) for a completed offence—

(i) where the damage exceeds \$2 000—imprisonment for 10 years;

(ii) where the damage does not exceed \$2 000—imprisonment for 3 years;

(b) for an attempt—

(i) where the damage would, if the offence had been completed, have exceeded \$2 000—imprisonment for 6 years;

(ii) where the damage would not, if the offence had been completed, have exceeded \$2 000—imprisonment for 2 years.

(4) It is a defence to a charge of an offence against this section for the accused to prove an honest belief that the act constituting the charge was reasonable and necessary for the protection of life or property.

Possession of object with intent to damage property

86. (1) A person who has the custody or control of an object that the person intends to use, or to cause or permit another person to use, to damage property of another without lawful authority to do so, shall be guilty of an offence.

Penalty: Imprisonment for 3 years.

(2) It is a defence to a charge of an offence against this section for the accused to prove an honest belief that the intended damage to property was reasonable and necessary for the protection of life or property.

Offences against this Part

87. (1) Subject to subsection (2), offences against this Part are indictable offences.

(2) Proceedings for an offence against this Part, that does not involve damage to property exceeding \$800, may be disposed of summarily.

(3) Where proceedings for an offence against this Part are commenced on complaint, it shall be conclusively presumed that the offence is one that may be dealt with summarily under subsection (2).

PART V

LARCENY AND SIMILAR OFFENCES

Interpretation

130. In this Part—

“document of title to goods” includes any bill of lading, India warrant, dock warrant, warehousekeeper’s certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note or any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive any goods represented by, or mentioned or referred to in, that document:

“document of title to lands” includes any deed, map, paper or parchment, written or printed or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real estate or to any interest in, or out of, any real estate:

“property” includes every description of real and personal property, money, debts, legacies and all deeds and instruments relating to, or evidencing the title or right to, any property or giving a right to recover or receive any money or goods, and also includes not only such property as has been originally in the possession or under the control of any party but also any property into, or for which, such property may have been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise:

“trustee” means a trustee on some express trust created by some deed, will or instrument in writing and includes the heir or personal representative of any such trustee and any other person on or to whom the duty of the trust has devolved or come and also all executors and administrators, receivers under any Act of Parliament, or under any order or decree of the Supreme Court, and all assignees and trustees in bankruptcy:

“valuable security” includes any order or other security entitling, or evidencing the title of, any person to any share or interest in any public stock or fund or in any fund of any body corporate, company or society, whether within the State or elsewhere, or to any deposit in any bank, and also includes any debenture, deed, bond, bill, note, warrant, order or other security for money or for payment of money and any document of title to lands or goods as hereinbefore defined.

Simple larceny

131. Any person convicted of simple larceny, or of any felony by this Act made punishable like simple larceny, shall (except in the cases hereinafter otherwise provided for) be liable to be imprisoned for a term not exceeding five years.

Larceny by bailee

132. Any person who, being a bailee of any chattel, money or valuable security, fraudulently takes or converts it to his own use or the use of any person other than the owner, although he does not break bulk or otherwise determine the bailment, shall be guilty of larceny and liable to be punished accordingly.

Joinder of counts for larceny

133. (1) In an information for any offence of stealing under this Act, distinct acts of stealing, not exceeding three, which have been committed by the person accused against the same person within the space of six months may be charged in separate counts of the same information and tried together.

(2) If on the trial of an information for stealing any property it appears that the property alleged in the information to have been stolen at one time was taken at different times, the separate takings may be tried together to a number not exceeding three provided that not more than six months elapsed between the first and the last of those takings.

Larceny after a previous conviction for felony

134. Any person who commits simple larceny after a previous conviction for felony, whether the previous conviction took place on information before the Supreme Court or before a court of summary jurisdiction, shall be liable to be imprisoned for a term not exceeding ten years.

Larceny after a previous conviction for misdemeanour

135. Any person who commits simple larceny, or any offence by this Act made punishable like simple larceny, after having been previously convicted of any indictable misdemeanour punishable under this Part shall be liable to be imprisoned for a term not exceeding seven years.

*Larceny of Cattle and Other Animals***Stealing cattle**

136. Any person who steals any cattle shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

Killing animals with intent to steal the carcass

137. Any person who wilfully kills any animal with intent to steal the carcass, skin or any other part thereof shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

Stealing deer, etc., in enclosed land

138. Any person who unlawfully and wilfully snares, carries away, kills or wounds any deer, llama or alpaca kept or being in any enclosed land in which such animals are usually kept shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

Stealing dogs

139. (1) Any person who steals any dog, or unlawfully has in his possession or on his premises any stolen dog or the skin of any stolen dog, knowing that dog or skin to have been stolen or to be part of a stolen dog, shall be guilty of an offence punishable summarily and liable to be imprisoned for a term not exceeding six months or to a fine of not more than forty dollars.

(2) Any person who commits an offence against this section after a previous conviction for such an offence shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding eighteen months.

Taking reward to restore stolen animals

140. Any person who corruptly takes any money or reward, directly or indirectly, under pretence or on account of aiding any person to recover any animal which has been stolen, or which is in the possession of any person not being the owner, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding eighteen months.

Killing pigeons

141. Any person who unlawfully and wilfully kills, wounds or takes any house dove or pigeon under circumstances which do not amount to larceny at common law shall be guilty of an offence punishable summarily and liable to pay a fine not exceeding four dollars.

Stealing birds and animals not the subject of larceny at common law

142. (1) Any person who—

- (a) steals any bird, beast or other animal, or any fish, ordinarily kept in a state of confinement or for any domestic purpose, but not being the subject of larceny at common law;
- (b) wilfully kills any such bird, beast, animal or fish with intent to steal it or any part of it,

shall be guilty of an offence punishable summarily and liable for a first offence to be imprisoned for a term not exceeding six months, or to pay a fine not exceeding forty dollars, and for any subsequent offence to be imprisoned for a term not exceeding twelve months.

(2) Any person who has in his possession or on his premises any such bird, beast, fish or other animal or any part thereof, knowing it to be stolen or to be part of a stolen bird, beast, fish or other animal, shall be guilty of an offence punishable summarily and liable for a first offence to pay a fine not exceeding forty dollars and for any subsequent offence to be imprisoned for a term not exceeding twelve months.

(3) Any such stolen bird, beast, fish or other animal or any part thereof found in the possession or on the premises of any person other than the owner may be restored to the owner by any magistrate or two justices, although no proceedings are taken for any offence relating thereto.

Stealing or dredging for oysters in oyster fisheries

143. (1) Any person who steals any oysters or oyster brood from any oyster bed, laying or fishery described in any lease or exclusive licence under the *Fisheries Act, 1982*, being the property of any other person and sufficiently marked out or known as such, shall be guilty of felony and liable to be imprisoned for a term not exceeding two years.

(2) Any person who unlawfully and wilfully—

- (a) uses any dredge, or any net, instrument or device, within the limits of any oyster bed, laying or fishery, being the property of any other person and sufficiently marked out or known as such, for the purpose of taking oysters or oyster brood, although none is actually taken;
- (b) with any net, instrument or device, drags upon the ground or soil of any such fishery,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three months.

(3) Nothing in this section prevents any person from catching, or fishing for, any floating fish, within the limits of any oyster fishery, with any net, instrument or device adapted for taking floating fish only.

Larceny of Written Instruments

Stealing bonds, bills, notes, etc.

144. Any person who steals, or for any fraudulent purpose destroys, cancels or obliterates, the whole or any part of any valuable security, other than a document of title to lands, shall be guilty of felony of the same nature and in the same degree and punishable in the same manner as if he had stolen a chattel of like value with—

- (a) the share, interest or deposit to which the security so stolen relates;
 - (b) the money due on the security so stolen or secured thereby and remaining unsatisfied;
- or
- (c) the value of the goods or other valuable thing represented, mentioned or referred to in or by the security.

Stealing deeds, wills, etc.

145. (1) Any person who steals, or for any fraudulent purpose destroys, cancels, obliterates or conceals, the whole or any part of—

- (a) any document of title to lands;
- (b) any will, codicil or other testamentary instrument, whether it relates to real or personal estate, or to both, and whether during the life of the testator or after his death,

shall be guilty of felony and liable to be imprisoned for a term not exceeding four years.

(2) Nothing in this section, nor any proceeding, conviction or judgment under this section, shall prevent, lessen or impeach any remedy, at law or in equity, of any party aggrieved by any such offence, but no conviction for an offence under this section shall be received in evidence in any action against the offender.

(3) No person shall be liable to be convicted of any offence against this section by any evidence in respect of any act done by him if, at any time before being charged with the offence, he has first disclosed the act on oath in consequence of any compulsory process of any court in any action or proceeding *bona fide* instituted by any party aggrieved or if he has first disclosed the act in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy.

Stealing court records

146. Any person who steals, or for any fraudulent purpose takes, from its place of deposit for the time being or from any person having the lawful custody thereof, or unlawfully and maliciously cancels, obliterates, injures or destroys, the whole or any part of any original document of, or belonging to, any court of record or relating to any matter, civil or criminal, begun, pending or terminated in any such court, or of any original document relating to the business of any office or employment under the Crown or any public or government business, and being in any office appertaining to any court of justice or in any government or public office, shall be guilty of felony and liable to be imprisoned for a term not exceeding three years.

*Larceny of Things Attached To, or Growing On, Land***Glass, wood, metal, etc., fixed to houses and land**

147. Any person who steals, or rips, cuts, severs or breaks with intent to steal—

- (a) any glass or woodwork belonging to any building;
- (b) any metal, or any utensil or fixture made of any material, fixed in or to any building;
- (c) anything made of metal fixed in any land, being private property, or for a fence to any dwelling house or garden, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground or cemetery,

shall be guilty of felony and liable to be punished as in the case of simple larceny.

Trees, etc., in pleasure grounds

148. Any person who steals, or cuts, breaks, roots up or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling, shrub or underwood growing in any pleasure ground, garden or other enclosed land shall (where the value of the article stolen or the amount of the damage exceeds ten cents) be guilty of felony and liable to be punished as in the case of simple larceny.

Other trees

149. (1) Any person who steals, or breaks, roots up or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling, shrub or underwood growing elsewhere than is mentioned in section 148 shall (where the value of the article stolen or the amount of the damage exceeds ten cents) be guilty of an offence punishable summarily and liable for a first offence to pay a fine of not more than ten dollars and for a second offence to imprisonment for a term not exceeding twelve months.

(2) Any person who commits an offence against this section after having been twice previously convicted of any such offence shall be guilty of felony and liable to be imprisoned for a term not exceeding two years.

Fences, gates, etc.

150. Any person who steals, or cuts, breaks or throws down with intent to steal, any part of any live or dead fence, or any wooden post, pale, wire or rail set up or used as a fence, or any stile or gate or part of a stile or gate, shall be guilty of felony and liable to be imprisoned for a term not exceeding two years.

Plants, etc., in gardens, etc.

151. (1) Any person who—

- (a) steals, or destroys or damages with intent to steal, any plant, root, fruit or vegetable growing in any garden, orchard, pleasure ground, nursery ground, hothouse or greenhouse;
- (b) steals any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any open or enclosed land,

shall be guilty of an offence punishable summarily and liable to be imprisoned for a term not exceeding six months or to pay a fine of not more than forty dollars.

(2) Any person who commits an offence against this section after a previous conviction for such an offence shall be guilty of felony and liable to be imprisoned for a term not exceeding two years.

Larceny from Mines or Mineral Lands

Ore, metal, etc.

152. Any person who steals, or severs with intent to steal, gold, the ore of any metal, metalliferous stone or coal, from any mine, bed or vein, or from any claim, or from any land comprised in any lease for mining purposes granted or to be granted by, or on behalf of, the Crown, shall be guilty of felony and liable to be imprisoned for a term not exceeding two years.

Precious stones

152a. Any person who steals, or severs with intent to steal, any precious stones from land comprised in a mine shall be guilty of felony and liable to be imprisoned for a term not exceeding five years.

Fraudulently removing ore, etc., from mines

153. Any person who, being employed in or about any mine or claim or any land comprised in such lease as is mentioned in section 152, takes, removes or conceals any gold, or the ore of any metal or other mineral, or any precious stones, found or being in such mine, claim or land, with intent to defraud any proprietor of, or any adventurer in, such mine, claim or land, or any workman or miner employed therein, shall be guilty of felony and liable to be imprisoned for a term not exceeding four years.

Interpretation

153a. For the purposes of sections 152, 152a and 153, "mine" and "precious stones" bear the respective meanings assigned to them by the *Mining Act, 1971*.

Larceny of Electricity

Stealing electricity

154. Any person who wilfully and fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity shall be guilty of simple larceny and punishable accordingly.

Larceny from the Person and Other Like Offences

Robbery and stealing from the person

155. Any person who robs another, or steals any chattel, money or valuable security from the person of another, shall be guilty of felony and liable to be imprisoned for a term not exceeding fourteen years.

* * * * *

Power to convict of lesser offence

157. If on the trial of any person for robbery the jury is not satisfied that the accused is guilty of robbery but is satisfied that he is guilty of an assault with intent to rob, it shall be lawful for the jury to find him guilty of assault with intent to rob and he shall thereupon be punishable in the same manner as if convicted on an information for assault with intent to rob.

Robbery with violence

158. Any person who—

- (a) being armed with any offensive weapon or instrument, robs, or assaults with intent to rob, any person;
- (b) together with one or more other person or persons, robs, or assaults with intent to rob, any person;
- (c) robs any person and at the time of, or immediately before or immediately after, the robbery wounds, beats, strikes or uses any other personal violence to any person,

shall be guilty of felony and liable to be imprisoned for life.

Letters demanding money by menaces

159. Any person who sends, delivers or utters, or directly or indirectly causes to be received, knowing its contents, any letter or writing demanding of any person, with menaces and without any reasonable or probable cause, any property, chattel, money, valuable security or other valuable thing shall be guilty of felony and liable to be imprisoned for life.

Demanding money, etc., with menaces or by force and with intent to steal

160. Any person who, with menaces or by force, demands any property, chattel, money, valuable security or other valuable thing of any person with intent to steal it shall be guilty of felony and liable to be imprisoned for a term not exceeding three years.

Letter threatening to accuse of a crime, with intent to extort

161. Any person who sends, delivers or utters, or directly or indirectly causes to be received, knowing its contents, any letter or writing accusing, or threatening to accuse, any other person of—

- (a) any crime punishable by law with death or imprisonment for a longer term than two years;
- (b) any assault with intent to commit rape or any attempt to commit rape;
- (c) any infamous crime,

with a view or intent thereby to extort or gain any property, chattel, money, valuable security or other valuable thing from any person, shall be guilty of felony and liable to be imprisoned for life.

Accusing or threatening to accuse with intent to extort

162. Any person who accuses, or threatens to accuse, either the person to whom the accusation or threat is made or any other person of any of the crimes referred to in section 161, with the view or intent to extort or gain from the person so accused, or threatened to be accused, or from any other person any property, chattel, money, valuable security or valuable thing, shall be guilty of felony and liable to be imprisoned for life.

Threatening to accuse with a view to extort money

163. (1) Any person who, with intent—

- (a) to cause any person to marry, or to promise to marry, any person;

(b) to obtain any money or valuable consideration for the benefit of any person, directly or indirectly—

(c) threatens to accuse any person of any offence;

(d) offers to refrain from accusing any person of any offence;

(e) knowingly sends, posts or delivers, or causes to be received by any person, any letter or paper threatening to accuse any person of any offence or offering to refrain from accusing any person of any offence,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years.

(2) Nothing contained in this section shall apply to any *bona fide* claim made by, or on behalf of, any injured person in any case in which compensation for the injury may be legally recovered.

Threatening to publish a libel with intent to extort

164. Any person who—

(a) publishes, or threatens to publish, any libel upon any other person;

(b) directly or indirectly threatens, proposes or offers to print or publish, or abstain from printing or publishing, or to prevent the printing or publishing of, any matter or thing touching any other person,

with intent to extort any money or security for money or any valuable thing from any person, or with intent to induce any person to confer on, or procure for, any person any appointment or office of profit or trust, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three years.

Obtaining execution of documents by force

165. Any person who, with intent to defraud or injure any other person—

(a) by any unlawful violence to, or restraint of, or threat of violence to, or restraint of, the person of another;

(b) by accusing, or threatening to accuse, any person of any treason, felony or infamous crime,

compels or induces any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix his name or the name of any other person or of any company, firm or co-partnership or the seal of any body corporate, company or society on or to any paper or parchment, in order that it may be afterwards made or converted into, or used or dealt with as, a valuable security, shall be guilty of felony and liable to be imprisoned for life.

Interpretation

166. (1) For the purposes of this Part, it is immaterial whether the menaces or threats mentioned are of violence, injury or accusation to be caused or made by the offender or any other person.

(2) In this Part—

“infamous crime” means buggery, any assault with intent, or attempt, to commit buggery and any solicitation, persuasion, promise or threat offered or made to any person to move or induce that person to permit or commit buggery.

*Sacrilege, Burglary, Housebreaking, etc.***Sacrilege**

167. Any person who—

- (a) breaks and enters any place of divine worship and commits any felony therein;
- (b) breaks out of any place of divine worship, having committed any felony therein,

shall be guilty of the felony of sacrilege and liable to be imprisoned for life.

Burglary

168. Any person who, in the night—

- (a) breaks and enters the dwelling house of another with intent to commit any felony therein;
- (b) breaks out of the dwelling house of another, having—
 - (i) entered that dwelling house with intent to commit any felony therein;
 - or
 - (ii) committed any felony in that dwelling house,

shall be guilty of the felony of burglary and liable to be imprisoned for life.

Entering a dwelling house in the night with intent to commit a felony

169. Any person who enters any dwelling house in the night with intent to commit any felony therein shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years.

Breaking and entering buildings and committing a felony

170. (1) Any person who breaks and enters and commits any felony in any building, or breaks out of any building having committed any felony therein, shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

(2) In this section—

“building” includes any dwelling house, building within the curtilage of a dwelling house, school house, shop, warehouse, counting house, office, store, garage, pavilion, factory, workshop, dancing hall, place of public entertainment, billiard saloon, dressing room and any other building, whether of the same class as those previously mentioned in this subsection or not.

Housebreaking, etc., with intent to commit a felony

171. Any person who breaks and enters any of the buildings referred to in section 170, or any place of divine worship, with intent to commit any felony therein shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years.

Being found by night, armed, or in possession of housebreaking implements

172. Any person who is found by night—

- (a) armed with any dangerous or offensive weapon or instrument with intent to break, or enter, into any building and to commit any felony therein;

- (b) having in his possession without lawful excuse (the proof of which shall lie on that person) any key, picklock, crow, jack, bit or other implement of housebreaking;
- (c) having his face blackened or being otherwise disguised with intent to commit any felony;
- (d) in any building with intent to commit any felony therein,

shall be guilty of a misdemeanour and liable—

- (e) if he has been previously convicted of any such misdemeanour or of any felony, to be imprisoned for a term not exceeding ten years;
- (f) in all other cases, to be imprisoned for a term not exceeding seven years.

Larceny in dwelling houses

173. Any person who steals in any dwelling house any chattel, money or valuable security shall—

- (a) if the value of the property stolen amounts to ten dollars or more;

or

- (b) if he, by any menace or threat, puts any person being in the dwelling house in bodily fear,

be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

Larceny of Goods in Process of Manufacture

Stealing goods in process of manufacture

174. Any person who steals any woollen, linen, hempen or cotton yarn, or any goods or article of silk, wool, linen, cotton, alpaca or mohair, or of any one or more of those materials mixed with each other or mixed with any other material, while laid, placed or exposed during any stage, process or progress of manufacture in any building, field or other place shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

Larceny from Ships and Wharves, etc.

Stealing from ships, docks, etc.

175. Any person who steals—

- (a) any goods or merchandise in any vessel, barge or boat, or the gear, fittings or other articles belonging to any vessel, barge or boat, in any haven or any port of entry or discharge, or on any navigable river or canal, or in any creek or basin belonging to, or communicating with, any such haven, port, river or canal;
- (b) any goods or merchandise from any dock, wharf or quay adjacent to any such haven, port, river, canal, creek or basin;
- (c) any part of any vessel in distress, wrecked, stranded or cast on shore, or any goods, merchandise or articles belonging to such a vessel,

shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

*Larceny and Embezzlement by Clerks, Servants and Persons in
the Public Service*

Larceny and embezzlement by clerks and servants

176. (1) Any person who, being a clerk or servant or employed in the capacity of a clerk or servant—

- (a) steals any chattel, money or valuable security belonging to, or in the possession or power of, his master or employer;
- (b) fraudulently embezzles the whole or any part of any chattel, money or valuable security delivered to, or received or taken into possession by, him for or in the name or on the account of his master or employer,

shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

(2) Every person who is employed for the purpose, or in the capacity, of a clerk or servant, or as a collector of moneys, and although temporarily only, shall be deemed to be a clerk or servant.

Larceny and embezzlement in the Public Service

177. Any person who, being employed in the public service of the Crown—

- (a) steals any chattel, money or valuable security belonging to, or in the possession or power of, the Crown, or entrusted to, or received or taken into possession by, that person by virtue of his employment;
- (b) embezzles, or in any manner fraudulently applies or disposes of, for any purpose except for the public service, any chattel, money or valuable security entrusted to, or received or taken into possession by, him by virtue of his employment,

shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

Falsification of accounts, etc.

178. Any person who, being a clerk, officer or servant or any person employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud—

- (a) destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to, or is in the possession of, his employer, or has been received by him for, or on behalf of, his employer;
- (b) makes, or concurs in making, any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from or in, any such book, document or account,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

General deficiency

179. On the prosecution of any person for larceny or embezzlement as a clerk or servant of any money the property of his master or employer, it shall not be necessary to prove the larceny or embezzlement of any specific sum of money, but the accused shall be liable to be convicted on proof that there is a general deficiency in the moneys under his control and that he stole or embezzled the deficient moneys or any part of those moneys.

Information for embezzlement

180. (1) Any number of distinct acts of embezzlement, or of fraudulent application or disposition, committed by any person against the Crown or against the same master or employer may be charged in the same information and tried together.

(2) In every such information, where the offence relates to any money or any valuable security, it shall be sufficient to allege the embezzlement, or fraudulent application or disposition, to be of money without specifying any particular coin or valuable security; and the allegation, so far as regards the description of the property, shall be sustained if the offender is proved—

(a) to have embezzled, or fraudulently applied or disposed of, any amount, although the particular coin or valuable security of which that amount was composed is not proved;

or

(b) to have embezzled, or fraudulently applied or disposed of, any piece of coin or any valuable security, or any portion of the value thereof, although the piece of coin or valuable security was delivered to him in order that some part of the value thereof should be returned to any person and that part was returned accordingly.

Verdict of larceny where embezzlement charged, and vice versa

181. If on the trial of any person for embezzlement, or fraudulent application or disposition, as aforesaid it is proved that he took the property in question in any such manner as to amount in law to larceny, the jury shall be at liberty to return as their verdict that that person is guilty of simple larceny, or of larceny as a clerk, servant or person employed for the purpose, or in the capacity, of a clerk or servant or as a person employed in the public service, as the case may be, and thereupon that person shall be liable to be punished in the same manner as if he had been convicted on information for such larceny; and if on the trial of any person for such larceny it is proved that he took the property in question in any such manner as to amount in law to embezzlement, or fraudulent application or disposition, as aforesaid, the jury shall be at liberty to return as their verdict that that person is guilty of embezzlement, or fraudulent application or disposition, as the case may be, and thereupon that person shall be liable to be punished in the same manner as if he had been convicted on information for such embezzlement, fraudulent application or disposition.

Larceny by partners

182. If any person, being a member of any co-partnership or being one of two or more beneficial owners of any money, goods or effects, bills, notes, securities or other property, steals or embezzles any such money, goods or effects, bills, notes, securities or other property of, or belonging to, the co-partnership or joint beneficial owners, he shall be liable to be dealt with, tried, convicted and punished as if he had not been, or was not, a member of the co-partnership or one of the beneficial owners.

*Larceny by Tenants and Lodgers***Larceny by tenants and lodgers**

183. Any person who, being a tenant or lodger or the husband or wife of a tenant or lodger, steals any chattel or fixture let to be used in or with any house or lodging shall be guilty of felony and liable to be imprisoned for a term not exceeding four years.

*Frauds by Trustees, Agents, Bankers or Factors***Fraudulent misappropriation**

184. (1) Any person who—

(a) being entrusted, whether the instructions are written, verbal or implied, either solely or jointly with any other person, with any property in order that he may retain in safe custody, or apply, pay or deliver for any purpose or to any person, the property or any part thereof or any proceeds thereof;

or

(b) having, either solely or jointly with any other person, received any property for, or on account of, any other person,

fraudulently converts to his own use or benefit, or the use or benefit of any other person, the property or any part thereof or any proceeds thereof, or fraudulently destroys the property or any part thereof or any proceeds of the property or part thereof, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

(2) Nothing in this section shall apply to or affect any trustee of any express trust created by a deed or will, or any mortgagee of any property, real or personal, in respect of any act done by the trustee or mortgagee in relation to the property comprised in, or affected by, any such trust or mortgage.

Fraudulent sales under powers of attorney

185. Any person who, being entrusted, either solely or jointly with any other person, with any power of attorney for the sale or transfer of any property, fraudulently sells, or transfers or otherwise converts, the property, or any part thereof, to his own use or benefit, or the use or benefit of any person other than the person by whom he was so entrusted, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

Factors obtaining advances on the property of their principals

186. (1) Any person who, being a factor or agent entrusted, either solely or jointly with any other person for the purpose of sale or otherwise, with the possession of any goods or of any document of title to goods, contrary to, or without, the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so entrusted, and in violation of good faith—

(a) consigns, deposits, transfers or delivers any goods or document of title so entrusted to him as and by way of a pledge, lien or security for any money or valuable security borrowed or received, or intended to be borrowed or received, by him;

or

(b) accepts any advance of any money or valuable security on the faith of any contract or agreement to consign, deposit, transfer or deliver any such goods or document of title,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years; but no such factor or agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or document of title, if the goods or document of title is not made a security for, or subject to the payment of, any greater sum of money than the amount which, at the time of the consignment, deposit, transfer

or delivery, was justly due and owing to the factor or agent from his principal, together with the amount of any bill of exchange drawn by, or on account of, the principal and accepted by the factor or agent.

(2) Any factor or agent entrusted as aforesaid and in possession of any document of title to goods shall be deemed to have been entrusted with the possession of the goods represented by the document of title.

(3) Every contract pledging or giving a lien on any document of title to goods shall be deemed to be a pledge of and lien on the goods to which the document relates.

(4) Any such factor or agent shall be deemed to be in possession of such goods or documents, whether they are in his actual custody or are held by any other person subject to his control or for him or on his behalf.

(5) Where any loan or advance is made in good faith to any factor or agent entrusted with, and in possession of, any such goods or document of title on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver the goods or document of title and the goods or document of title are actually received by the person making the loan or advance without notice that the factor or agent was not authorized to make the pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of the goods or document of title and within the meaning of this section, although the goods or document of title are not actually received by the person making the loan or advance until the period subsequent thereto.

(6) Any payment made, whether by money or bill of exchange or other negotiable security, shall be deemed to be an advance within the meaning of this section.

(7) Any contract or agreement, whether made direct with a factor or agent or with any person on his behalf, shall be deemed to be a contract with the factor or agent.

(8) Any factor or agent in possession as aforesaid of any goods or document of title to goods shall be deemed, for the purposes of this section, to have been entrusted therewith by the owner thereof unless the contrary is shown in evidence.

Trustees fraudulently disposing of property

187. (1) Any person, being a trustee of any property for the use or benefit, either wholly or partially, of some other person or for any public or charitable purpose, who, with intent to defraud, converts or appropriates the property or any part thereof to or for his own use or benefit, or the use or benefit of any person other than the person for whose use or benefit the property is held in trust, or for any purpose other than the public or charitable purpose, or otherwise disposes of or destroys the property or any part thereof, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

(2) No prosecution under this section shall be commenced without the sanction of the Attorney-General.

Promoters of companies making untrue statements

188. Any person who, being the promoter of a public company, registered or incorporated or intended to be registered or incorporated, knowingly makes, circulates or publishes, or causes to be made, circulated or published, any untrue statement or advertisement, with intent to defraud or to induce any person to become a shareholder or partner in the company so that that person may be defrauded, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years.

Directors of companies fraudulently appropriating property

189. Any person who, being a director, member or public officer of any body corporate or public company, fraudulently takes or applies for his own use or benefit, or for any use or purposes other than the use or purposes of the body corporate or public company, any of the property of the body corporate or public company shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

Directors, etc., keeping fraudulent accounts

190. Any person who, being a director, public officer or manager of any body corporate or public company, receives, or possesses himself of, any of the property of the body corporate or public company otherwise than in payment of a just debt or demand and, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books and accounts of the body corporate or public company shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

Directors, etc., wilfully destroying books, etc.

191. Any person who, being a director, manager, public officer or member of any body corporate or public company, with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or public company, or makes, or concurs in the making of, any false entry, or omits, or concurs in omitting, any material particular in any book of account or other document, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

Directors, etc., publishing fraudulent statements

192. Any person who, being a director, manager or public officer of any body corporate or public company, makes, circulates or publishes, or concurs in making, circulating or publishing, any written statement or account which he knows to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor of the body corporate or public company or with intent to induce any person to become a shareholder or partner therein or to entrust or advance any property to the body corporate or public company or to enter into any security for the benefit thereof, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years.

Protection to persons disclosing offences in civil proceedings

193. (1) Nothing in sections 184 to 192 shall enable or entitle any person to refuse to make a full and complete discovery or to answer any question or interrogatory in any civil proceeding in any court or on the hearing of any matter in bankruptcy.

(2) No person shall be liable to be convicted of any of the misdemeanours referred to in those sections by any evidence in respect of any act done by him if, at any time prior to his being charged with the offence, he has first disclosed the act on oath, in consequence of any compulsory process of any court, in any action or proceeding *bona fide* instituted by any party aggrieved or if he has first disclosed the act in a compulsory examination or deposition before any court on the hearing of any matter in bankruptcy.

Civil remedies not affected

194. (1) Nothing in sections 184 to 193, nor any proceeding, conviction or judgment under those sections, shall prevent, lessen or impeach any remedy, at law or in equity, of any party aggrieved by any offence against any of those sections; but no conviction of any such offender shall be received in evidence in any action against him.

(2) Nothing in those sections shall affect or prejudice any agreement entered into, or security given, by any trustee, having for its object the restoration or repayment of any misappropriated trust property.

*False Pretences***False pretences**

195. (1) Any person who, by any false pretence—

(a) with intent to defraud, obtains from any other person any chattel, money or valuable security, or causes or procures any money to be paid, or any chattel or valuable security to be delivered, to himself or to any other person for the use or benefit or on account of himself or any other person;

or

(b) with intent to defraud or injure any other person, fraudulently causes or induces any other person—

(i) to execute, make, accept, endorse or destroy the whole or any part of any valuable security;

(ii) to write, impress or affix his name or the name of any other person or the seal of any body corporate or society on any paper or parchment, in order that it may be afterwards made or converted into, or used or dealt with as, a valuable security,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding four years.

(2) On the trial of any information under this section, it shall not be necessary to prove an intent to defraud any particular person but it shall be sufficient to prove that the accused did the act charged with intent to defraud.

(3) If on the trial of any information under subsection (1)(a) it is proved that the accused stole the property in question, he shall not by reason thereof be entitled to be acquitted of obtaining the property by false pretences.

*Receiving***Receiving where principal guilty of felony**

196. (1) Any person who receives any property, knowing it to have been stolen, or obtained or disposed of in any way under circumstances which amount to felony either at common law or by virtue of this Act, shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

(2) Charges of stealing any property and of feloniously receiving that property or part of that property may be included in separate counts of the same information and those counts may be tried together.

(3) Any person or persons charged in separate counts of the same information with stealing any property and with feloniously receiving that property or part of that property may severally be found guilty either of stealing or of receiving the property or part of the property.

(4) In an information for feloniously receiving any property, any number of persons who have at different times so received that property or any part of that property may be charged and tried together and either with or without the principal felon.

Receiving where principal guilty of misdemeanour

197. Any person who receives any property, knowing it to have been taken, obtained, converted or disposed of in any way in circumstances which amount to misdemeanour, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding four years.

Receiving goods stolen outside the State

197a. (1) Any person who receives any property, knowing it to have been taken, obtained, converted or disposed of outside the State under such circumstances that, if the act of taking, obtaining, converting or disposing had been done in the State, the person doing it would have been guilty of an offence triable on information in the Supreme Court, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding eight years.

(2) No person shall be liable to conviction under this section if the act of taking, obtaining, converting or disposing was not an offence in the place in which that act was done.

(3) In an information for receiving any property in contravention of this section, any number of persons who have at different times so received that property or any part of that property may be charged and tried together, notwithstanding that the principal has not been charged or tried.

(4) If on the trial of any two or more persons prosecuted jointly for receiving any property in contravention of this section it is proved that one or more of those persons separately received any part of that property, it shall be lawful for the jury to convict such of the persons as are proved to have received any part of that property.

Conviction of receivers in absence of principal

198. (1) Any person may be informed against and convicted of any offence against section 196, 197 or 197a, whether the principal offender has or has not been previously convicted or is or is not amenable to justice.

(2) If on the trial of any two or more persons prosecuted jointly for receiving any property it is proved that one or more of those persons separately received any part of that property, it shall be lawful for the jury to convict such of the persons as are proved to have received any part of that property.

Receiving where principal punishable summarily

199. Any person who receives any property, the stealing or taking of which is punishable on summary conviction (whether for every offence or for the first or second offence only or for the first offence only), knowing the property to have been unlawfully come by, shall be guilty of an offence punishable summarily and liable to be imprisoned for a term not exceeding one year.

Previous convictions may be proved in receiving charges

200. (1) When any person is proceeded against for receiving any property, knowing it to have been stolen, or for any other offence arising out of his possession of stolen property, for the purpose of proving guilty knowledge there may be given in evidence at any stage of the proceedings—

(a) the fact that other property stolen within the period of twelve months preceding the date of the offence charged was found, or had been, in his possession;

(b) the fact that prior to the date of the offence charged he was convicted of any offence specified in subsection (2) and involving fraud or dishonesty,

and, on proof of such a conviction, he shall be deemed to have known that the goods the subject matter of the charge had been stolen at the time they came into his possession until he has proved the contrary; but no previous conviction shall be proved pursuant to this section unless not less than seven days written notice has been given to the person charged, or his solicitor, that proof is intended to be given of his previous conviction and, on such proof, he will be deemed to have known that the goods the subject matter of the charge against him were stolen at the time they came into his possession, until he has proved the contrary.

(2) The offences referred to in subsection (1) are the following:

(a) any indictable offence against the laws of the Commonwealth or any Territory of the Commonwealth or any State, whether the offence was tried on indictment or summarily;

and

(b) any offence against section 39 or 41 of the *Police Offences Act, 1953*, or any offence against any enactment of another State, or of any Territory of the Commonwealth, corresponding with either of those sections.

Rewards for Recovery of Stolen Property

* * * * *

Corruptly taking reward for recovery of stolen property

202. Any person who corruptly takes any money or reward, directly or indirectly, under pretence or on account of helping any person to recover any property which has, by any felony or misdemeanour, been stolen, taken, obtained, extorted, embezzled, converted or disposed of as previously mentioned in this Act shall (unless he has used all due diligence to cause the offender to be brought to trial) be guilty of felony and liable to be imprisoned for a term not exceeding four years.

Advertising a reward for the return of stolen property, etc.

203. Any person who—

(a) publicly advertises a reward for the return of any property which has been stolen and in that advertisement uses any words to the effect that no questions will be asked, or that a reward will be given or paid for the return of any stolen property, without seizing, or making any inquiry after, the person producing the property;

(b) promises or offers in any such public advertisement to return to any pawnbroker or other person who may have bought, or advanced money by way of loan on, any stolen property the money so paid or advanced or any other sum of money or reward for the return of the property;

or

(c) prints or publishes any such advertisement,

shall forfeit the sum of one hundred dollars for every such offence, one-half of that sum to be paid into the Treasury for the purposes of the General Revenue and the other half to be paid to the informer; and that penalty may be recovered with full costs by action in the local court.

False Impersonation, etc.

Impersonation in order to obtain property

204. Any person who falsely and deceitfully impersonates any person, or the heir, executor, administrator, wife, widow, next of kin or relation of any person, with intent fraudulently to obtain any land, estate, chattel, money, valuable security or property, shall be guilty of felony and liable to be imprisoned for life.

Impersonating the owner of stock

205. Any person who—

(a) falsely and deceitfully impersonates any owner of any share or interest of or in the capital stock of any body corporate, company or society, or any owner of any dividend or money payable in respect of any such share or interest;

and

(b) thereby—

(i) transfers any share or interest belonging to any such owner;

or

(ii) receives any money due to any such owner,

as if the offender were the true and lawful owner,

shall be guilty of felony and liable to be imprisoned for life.

Piracy

Piracy

206. Any person who commits any robbery on the high seas or in any haven, river, creek or place within the jurisdiction of the Admiralty of England shall be guilty of felony and liable to be imprisoned for life.

Assaults with intent to commit, or in furtherance of, piracy

207. Any person who, with intent to commit, or at the time of or immediately before or immediately after committing, the crime of piracy in respect of any ship or vessel, assaults with intent to murder any person being on board, or belonging to, the ship or vessel, or wounds any such person, or unlawfully does any act by which the life of any such person may be endangered, shall be guilty of felony and, being convicted thereof, shall be imprisoned for life.

Robbery or other act of hostility at sea under colour of a foreign commission

208. Any person who, being a natural born subject of Her Majesty, commits any piracy or robbery, or any act of hostility, against any other of Her Majesty's subjects on the high seas, or in any haven, river, creek or place within the jurisdiction of the Admiralty of England, under colour of any commission from any foreign prince or state or pretence of authority from any person whatsoever, shall be guilty of felony and liable to be imprisoned for life.

Piracy by master or seaman of ship

209. Any person who, being a commander or master of any ship or a seaman or mariner, in any place within the jurisdiction of the Admiralty of England, betrays his trust and turns pirate, enemy or rebel and piratically or feloniously runs away with, or yields up voluntarily to any pirate, his ship or any barge, boat, ordnance, ammunition, goods or merchandise, or brings any seducing messages from any pirate, enemy or rebel, or consults, combines or confederates with, or attempts or endeavours to corrupt, any commander, master, officer or mariner to yield up, or run away with, any ship, goods or merchandise, or turn pirate or go over to pirates; and any person who lays violent hands on his commander, so as to hinder him from fighting in the defence of his ship and goods committed to his trust, or confines his master, or makes, or endeavours to make, a revolt in the ship, shall be guilty of felony and liable to be imprisoned for life.

Forcibly boarding a ship and throwing goods overboard

210. Any person who, belonging to any ship or vessel, on meeting any merchant ship or vessel on the sea or in any port, haven or creek, forcibly boards or enters into the ship or vessel and, although he does not seize and carry off the ship or vessel, throws overboard or destroys any part of the goods or merchandise belonging to the ship or vessel shall be guilty of felony and liable to be imprisoned for life.

Trading with pirates

211. Any person who trades with any pirate by truck, barter, exchange or in any other manner, or furnishes any pirate, felon or robber on the seas with any ammunition, provision or stores, or fits out any ship or vessel knowingly and with a desire to trade with or supply, or correspond with, any pirate, felon or robber on the seas, or consults, combines, confederates or corresponds with any pirate, felon or robber on the seas, knowing him to be guilty of any such piracy, felony or robbery, shall be guilty of felony and liable to be imprisoned for life.

PART VI
FORGERY**Interpretation**

212. (1) In this Part—

“bank” means a person, firm or company carrying on the business of banking:

“forge” includes to alter and to counterfeit:

“resembling” means made or apparently intended to resemble:

“utter” includes to offer, dispose of or put off and, when any uttering is made an offence or punishable, uttering with knowledge of the character of the thing uttered is intended.

(2) When the forging or uttering of any document is made an offence or punishable—

(a) it is immaterial in what language the document is expressed or in what place within the State or elsewhere it was, or purports to have been, made or is expressed to take effect;

(b) a reference to a document by any name or designation includes a reference to any document purporting to be a document of that character.

(3) Where the having of any thing in the custody or possession of any person is expressed to be an offence or to involve any other consequences, that expression includes having the thing referred to—

(a) in the custody or possession of any other person;

(b) in any place for the use or benefit of the person having the thing in his custody or possession, or of any other person.

(4) On the trial of any information for the forgery or uttering of any instrument, when it is necessary to prove an intent to defraud, it shall not be necessary to prove an intent to defraud any particular person but it shall be sufficient to prove that the accused did the act charged with an intent to defraud.

The Public Seal

213. Any person who—

(a) forges or utters the Public Seal of the State;

(b) forges the stamp or impression of that Seal;

(c) utters any document or instrument having thereon or affixed thereto—

(i) the stamp or impression of that forged Seal;

(ii) any forged stamp or impression resembling the stamp or impression of that Seal;

(d) forges or utters any document or instrument having that stamp or impression thereon or affixed thereto,

shall be guilty of felony and liable to be imprisoned for life.

Deeds, wills, bills of exchange, etc.

214. Any person who, with intent to defraud—

(a) forges or utters—

- (i) any deed, bond or writing obligatory;
- (ii) any assignment at law or in equity of any bond or writing obligatory;
- (iii) any will, testament, codicil or testamentary instrument;
- (iv) any bill of exchange or any acceptance, endorsement or assignment of any bill of exchange;
- (v) any promissory note for the payment of money or any endorsement or assignment of any such promissory note;
- (vi) any undertaking, warrant, order, authority or request for the payment of money or for the delivery or transfer of any goods or chattels or of any note, bill or other security for the payment of money or for procuring or giving credit;
- (vii) any endorsement on, or assignment of, any such undertaking, warrant, order, authority or request;
- (viii) any accountable receipt, acquittance or receipt for money or goods or for any note, bill or other security for the payment of money;
- (ix) any endorsement on, or assignment of, any such accountable receipt;

(b) forges any name, handwriting or signature purporting to be the name, handwriting or signature of a witness attesting the execution of any deed, bond or writing obligatory;

(c) utters any deed, bond or writing obligatory having thereon any such forged name, handwriting or signature,

shall be guilty of felony and liable to be imprisoned for life.

Transfers of stock, etc.

215. Any person who, with intent to defraud—

(a) forges or utters—

- (i) any transfer of any share or interest of or in the capital stock of any body corporate, company or society;
- (ii) any power of attorney or other authority to transfer any share or interest of or in any such capital stock or to receive any dividend or money payable in respect of any such share or interest;

(b) demands or endeavours to have any such share or interest transferred, or to receive any dividend or money payable in respect thereof, by virtue of any such forged power of attorney or other authority, knowing it to be forged,

shall be guilty of felony and liable to be imprisoned for life.

Attestation to power of attorney for transfer of stock

216. Any person who—

- (a) forges any name, handwriting or signature purporting to be the name, handwriting or signature of a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in the capital stock of any body corporate, company or society or to receive any dividend or money payable in respect of any such share or interest;
- (b) utters any such power of attorney or other authority with any such forged name, handwriting or signature thereon,

shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years.

*Making and Engraving Plates for Bank Notes***Making moulds for bank paper, etc.**

217. Any person who, without lawful authority or excuse (the proof of which shall lie on the person accused)—

- (a) makes or uses any frame, mould or instrument for the manufacture of paper, with the name of any bank appearing visible in the substance of the paper;
- (b) knowingly has in his custody or possession any such frame, mould or instrument;
- (c) manufactures, uses, sells, exposes for sale or utters, or knowingly has in his custody or possession, any paper in the substance of which the name of any bank appears visible;
- (d) causes the name of any bank to appear visible in the substance of any paper on which the name of the bank is written or printed,

shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

Engraving plates for making bank notes

218. Any person who, without lawful authority or excuse (the proof of which shall lie on the person accused)—

- (a) engraves or makes on any plate or any material—
 - (i) any bill of exchange or promissory note for the payment of money purporting to be the bill or note, or part of the bill or note, of any bank;
 - (ii) any word or words resembling any subscription subjoined to any bill of exchange or promissory note for the payment of money issued by any bank;
- (b) knowingly has in his custody or possession any plate or other material on which any such bill or note or part thereof, or any word or words resembling any such subscription, is or are engraved or made;
- (c) knowingly utters or has in his custody or possession any paper on which any part of such bill or note, or any word or words resembling any such subscription, is or are made or printed,

shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

*Forging Bank Notes***Forging bank notes**

219. Any person who, with intent to defraud, forges or utters—

- (a) any note or bill of exchange of any bank, commonly called a bank note, bank bill of exchange or bank post bill;
- (b) any endorsement on, or assignment of, any bank note, bank bill of exchange or bank post bill,

shall be guilty of felony and liable to be imprisoned for life.

Receiving forged bank notes

220. Any person who, without lawful authority or excuse (the proof of which shall lie on the person accused)—

- (a) purchases or receives from any other person;
- (b) has in his custody or possession,

any forged bank note, bank bill of exchange or bank post bill, or blank bank note, blank bill of exchange or blank bank post bill, knowing it to be forged, shall be guilty of felony and liable to be imprisoned for a term not exceeding fourteen years.

Drawing bill without lawful authority

221. Any person who, with intent to defraud—

- (a) by procuration or otherwise, draws, makes, signs, accepts or endorses any bill of exchange, promissory note, undertaking, warrant, order, authority or request for the payment of money, or for the delivery or transfer of goods or chattels or of any bill, note or other security for money for, in the name or on the account of any other person, without lawful authority or excuse;
- (b) utters any such document, knowing it to have been so drawn, made, signed, accepted or endorsed,

shall be guilty of felony and liable to be imprisoned for a term not exceeding fourteen years.

Crossings on cheques

222. Any person who, with intent to defraud—

- (a) obliterates, adds to or alters the crossing of any cheque or draft on a bank;
- (b) utters any cheque or draft so dealt with,

shall be guilty of felony and liable to be imprisoned for a term not exceeding fourteen years.

Debentures

223. Any person who forges or utters any debenture issued under any lawful authority, either within the State or elsewhere, shall be guilty of felony and liable to be imprisoned for a term not exceeding fourteen years.

*Forging Official and Legal Documents***Original documents of courts of record**

224. Any person who forges or utters—

- (a) any original document of, or belonging to, any court of record;
- (b) any document or writing, or any copy of any document or writing, used, or intended to be used, as evidence in any court of record;
- (c) any instrument made evidence by any Act of Parliament in respect of the forging or uttering of which no other penalty is provided in this Act,

shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years.

Orders of justices

225. Any person who, with intent to defraud, forges or utters—

- (a) any summons, conviction, order or warrant of any justice;
- (b) any recognizance purporting to have been entered into before any justice or any other officer authorized to take it;
- (c) any examination, deposition, affidavit, affirmation or declaration taken or made before any justice,

shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years.

Copies of certificates of record and using forged process

226. Any person who—

- (a) being a clerk of any court or other officer having the custody of the records of any court, or the deputy of any such clerk or officer, utters any false copy or certificate of any record;
- (b) not being such a clerk, officer or deputy, signs or certifies any copy or certificate of any record as such a clerk, officer or deputy;
- (c) forges or utters any copy or certificate of any record having on it any false or forged name, handwriting or signature;
- (d) forges the seal of any court of record;
- (e) forges any process of any court other than a court of record;
- (f) serves or enforces any forged process of any court, knowing it to be forged;
- (g) delivers, or causes to be delivered, to any person any paper falsely purporting to be the process of any court, or a copy thereof, or any judgment, decree or order of any court, or a copy thereof, knowing it to be false;
- (h) acts, or professes to act, under any false process of any court, knowing it to be false,

shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years.

False copies of record

227. Any person who, being employed in any court having the custody of records—

- (a) certifies any writing as a true and authentic copy of a record in the custody of the court, knowing it to be false in any material part;

(b) forges the signature of any officer of the court for the purpose of forging a certified copy of a record;

(c) forges the seal of the court,

shall be guilty of felony and liable to be imprisoned for a term not exceeding fourteen years.

False certificates of previous convictions

228. Any person who—

(a) being a clerk or officer of any criminal court and having the custody of the records of the court, or being the deputy of such a clerk or officer, utters a false certificate of any information and conviction for a felony;

(b) not being such a clerk, officer or deputy, signs any such certificate as such a clerk, officer or deputy, or utters any such certificate with a false or forged signature thereto,

shall be guilty of felony and liable to be imprisoned for a term not exceeding four years.

Certificates of judgment

229. Any person who, with intent to cause any person to be discharged from custody or otherwise to prevent the due course of justice, forges or utters—

(a) any certificate of, or copy certified by, any judge or by any associate or his deputy or by any officer of a court;

(b) any certificate of determination of any of the judges in any criminal case reserved for their opinion on a question of law,

shall be guilty of felony and liable to be imprisoned for a term not exceeding six years.

Forging official documents and tendering same in evidence

230. Any person who—

(a) forges—

(i) any certificate, official or public document, or document or proceeding of any corporation or company;

(ii) any certified copy of any document, by-law or entry in any register or other book;

(iii) any proceeding receivable in evidence before any legal tribunal or either House of Parliament, or any committee of either House, or in any judicial proceeding under any Act;

(b) tenders in evidence any such forged documents or matters, knowing them to be forged;

(c) forges the signature of any judge to any decree, order, certificate or other judicial or official document;

(d) tenders in evidence any order, decree, certificate or other judicial or official document bearing a forged signature of a judge, knowing it to be forged;

(e) prints any copy of any private Act, or of the journals of either House of Parliament, which copy falsely purports to have been printed by the Government Printer;

(f) tenders in evidence any such copy, knowing that it was not printed by the Government Printer,

shall be guilty of felony and liable to be imprisoned for a term not exceeding four years.

Impounding of forged documents

231. Any document or matter referred to in section 230 which is put in evidence in any proceeding may be impounded by the judge or other person presiding until further order.

Documents relating to registration of deeds

232. Any person who—

- (a) forges or utters any document, writing or entry made or issued under the provisions of any Act relating to the registration of deeds or the registration of titles to lands;
- (b) forges the seal of the Registrar-General of Deeds or any office relating to the registration of deeds or of titles to lands, or the stamp or impression of any such seal, or utters any document, writing or entry bearing the forged stamp or impression of any such seal,

shall be guilty of felony and liable to be imprisoned for a term not exceeding fourteen years.

Miscellaneous Matters

Falsely acknowledging recognizances, etc.

233. Any person who, without lawful authority or excuse (the proof of which shall lie on the person accused), in the name of any other person, acknowledges any recognizance or bail or any *cognovit actionem* or judgment or any deed or other instrument before any court, judge or other person lawfully authorized in that behalf shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years.

Demanding property upon forged instruments

234. Any person who, with intent to defraud, demands, receives or obtains or causes or procures to be delivered or paid to any person, or endeavours to receive or obtain or to cause or procure to be delivered or paid to any person, any chattel, money, security for money or other property whatsoever—

- (a) under, upon or by virtue of any forged instrument, knowing the instrument to be forged;
- (b) under, upon or by virtue of any probate or letters of administration, knowing the will, testament, codicil or testamentary writing on which the probate or letters of administration were obtained to have been forged or knowing the probate or letters of administration to have been obtained by false oath, affirmation or affidavit,

shall be guilty of felony and liable to be imprisoned for a term not exceeding fourteen years.

Forgeries not already specified

235. Any person who forges any instrument or matter, the forging of which is not punishable under any of the preceding sections or under any other Act, shall be liable to be imprisoned for a term not exceeding fourteen years.

Search warrants for implements of forgery

236. If it is made to appear, by information on oath before a justice, that there is reasonable cause to believe that any person has in his custody or possession, without lawful authority or excuse—

- (a) any note or bill of any bank;
- (b) any frame, mould or implement for making paper in imitation of the paper used for such notes or bills;
- (c) any such paper, or any plate or other material having thereon any words, forms, devices or characters capable of producing, or intended to produce, the impression of any such note or bill or any part thereof;
- (d) any tool, implement or material used or employed, or intended to be used or employed, in or about any of those operations;
- (e) any forged security, document or instrument;
- (f) any machinery, frame, mould, plate, die, seal, paper or other matter or thing used or employed, or intended to be used or employed, in the forgery of any security, document or instrument,

the justice may, if he thinks fit, grant a warrant to search for the same and, if the same is found on such a search, it shall be lawful to seize and carry the same before some justice to be disposed of by him according to law; and all such matters and things so seized shall, by order of the court before which the offender is tried or, if there is no trial, then by order of a justice, be defaced and destroyed or otherwise disposed of as the court or justice directs.

PART VII

OFFENCES OF A PUBLIC NATURE

*Offences against Public Justice***Compounding penal actions**

237. Any person who, having brought, or under colour of bringing, any action against any person under any penal statute in order to obtain from him any penalty, compounds the action without the order or consent of the Supreme Court shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three years.

Rescuing murderers

238. Any person who, by force, sets at liberty, or rescues, any person committed for, or found guilty of, murder shall be guilty of felony and liable to be imprisoned for life.

Perjury and subornation

239. (1) A person who makes a false statement under oath is guilty of perjury.

(2) A person who incites, procures, induces, aids or abets another to make a false statement under oath is guilty of subornation of perjury.

(3) In proceedings upon a charge of perjury or subornation of perjury, an apparently genuine document that appears to be a transcript of evidence given before a court in some other proceedings shall be accepted as evidence—

(a) of the evidence given in those other proceedings;

(b) where evidence appears from the transcript to have been given by a particular person—that it was so given;

and

(c) where evidence appears from the transcript to have been given under oath—that it was so given.

(4) Where it appears to a court that there are reasonable grounds to believe that a person appearing as a witness before the court has made, under oath, a false statement in evidence given before the court, the court may direct that the person be prosecuted for perjury and, in that event, the person shall be immediately taken before a justice to be dealt with upon a charge of perjury.

(5) It is not necessary for the conviction of a person for perjury or subornation of perjury that evidence of the perjury be corroborated.

(6) A person who is convicted of perjury or subornation of perjury is liable to imprisonment for a term not exceeding four years.

(7) For the purposes of this section—

(a) “court” includes a tribunal, authority or person invested by law with judicial or quasi-judicial powers, or with authority to make any inquiry or to receive evidence;

“oath” includes an affirmation;

and

(b) a statement shall be taken to be false if it is false in a material particular and—

(i) in the case of perjury—the person by whom it was made knew it to be false or did not believe it to be true;

or

- (ii) in the case of subornation of perjury—the person who incited, procured, induced, aided or abetted the other person to make the statement knew it to be false or did not believe it to be true.

Exactng fees from prisoners

240. Any person who, being an associate, clerk of a court or any other officer, exacts any fee or gratuity from any prisoner on his entrance or commitment to, or discharge from, prison or from any person charged with any felony or misdemeanour before any court of criminal jurisdiction who on his trial is acquitted, or discharged in any other way, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding one year.

Gaoler exactng fees from prisoners

241. Any person who, being a gaoler, exacts from any prisoner any fee or gratuity on account of the entrance, commitment or discharge of that prisoner, or detains any person in custody for non-payment of any fee or gratuity, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding one year.

Unlawfully administering oaths

242. (1) Any person who knowingly administers, or causes or allows to be administered, or receives, or causes or allows to be received, any oath, affidavit or affirmation, without statutory authority, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding one year.

(2) The provisions of this section do not extend to any oath, affidavit or affirmation made before any justice in any matter or thing touching the preservation of the peace or the prosecution, trial or punishment of offences, or any proceedings before either House of Parliament or any committee thereof, or any commission, or to any oath, affidavit or affirmation which is required by the laws of any foreign country to give validity to instruments in writing designed to be used in that foreign country.

Forcible Entry

Forcible entry

243. Any person who, by force or threats or by collecting together an unusual number of people, enters on any lands or tenements in order to take possession thereof, whether he has a legal right to enter thereon or not, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three years.

Riots

Rioters remaining after proclamation

244. (1) Whenever twelve or more persons are unlawfully, riotously and tumultuously assembled together to the disturbance of the public peace, it shall be the duty of the sheriff, the Lord Mayor of the City of Adelaide or the mayor of any corporate town where the assembly is, and all special magistrates and justices, on notice or knowledge of the assembly, to resort to the place of assembly and among the rioters, or as near to them as the person making the proclamation can safely come, and with a loud voice command, or cause to be commanded, silence to be kept and then openly and with a loud voice make, or cause to be made, a proclamation in these words: "Our Sovereign Lady the

Queen charges and commands all persons here assembled immediately to disperse themselves and peaceably to depart to their habitations or lawful business, or they will be guilty of a crime and liable to be imprisoned. God Save The Queen.”.

(2) All persons who—

- (a) wilfully and knowingly oppose, obstruct, hinder or hurt any person who begins to make, or goes to make, the proclamation, so that the proclamation is not made;
- (b) remain or continue together to the number of twelve or more unlawfully, riotously and tumultuously for one hour after the proclamation was made or, if they know that its making was hindered, for one hour after it would have been made if it had not been hindered,

shall be guilty of felony and liable to be imprisoned for life.

Riotously preventing loading of ships

245. (1) All persons who, being riotously assembled together to the number of three or more, unlawfully and with force—

- (a) prevent, hinder or obstruct the loading or unloading, or the sailing or navigating, of any ship or other vessel;
- (b) board any ship or other vessel with intent to prevent, hinder or obstruct the loading or unloading, or the sailing or navigating, of the ship or other vessel,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding one year.

(2) Any person who commits an offence against this section after a previous conviction for such an offence shall be guilty of felony and liable to be imprisoned for a term not exceeding eight years.

(3) No person shall be prosecuted for any offence against this section unless the prosecution is commenced within one year of the commission of the offence.

Defamatory Libels

Publishing defamatory libel knowing it to be false

246. Any person who maliciously publishes any defamatory libel, knowing it to be false, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years or to pay a fine not exceeding two thousand dollars or to both.

Defamatory libel

247. Any person who maliciously publishes any defamatory libel shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding one year or to pay a fine not exceeding one thousand dollars or to both.

Plea of justification

248. (1) On the trial of an information for publishing a defamatory libel, the truth of the matters charged in the alleged libel shall not amount to a defence or be inquired into unless—

- (a) the publication of those matters was for the public benefit;
- and
- (b) the defendant has entered a plea of justification.

(2) A plea of justification shall be in the form used for such a plea in an action for defamation and must allege, with particulars of the facts relied on, that it was for the public benefit that the matters charged in the alleged libel should be published and that those matters were true.

(3) The prosecutor may reply generally to a plea of justification, denying the whole.

(4) If a defendant who has entered a plea of justification is convicted, the court may, in fixing sentence, consider any evidence given in support of, or in answer to, that plea, either in aggravation or mitigation.

(5) A defendant may enter a plea of not guilty in addition to a plea of justification, and the provisions of this section shall not take away or prejudice any defence under the plea of not guilty which it is now competent for the defendant to make under that plea to an action or information for defamatory words or libel.

Publishing parliamentary reports

249. (1) It shall be lawful for any defendant, in any civil or criminal proceeding in respect of the publication of any report, paper, votes or proceedings of Parliament which either House of Parliament thinks fit and necessary and has authorized to be published, to bring before the court, after giving twenty-four hours notice to the plaintiff or prosecutor of his intention so to do, a certificate under the hand of the President or Clerk of the Legislative Council or the Speaker or Clerk of the House of Assembly stating that the matter in question was published by order or under the authority of the Legislative Council or House of Assembly, as the case may be, together with an affidavit verifying the certificate, and the court shall thereupon stay the proceeding and that proceeding, and every writ and process pertaining to that proceeding, shall be put an end to and superseded by virtue of this Act.

(2) It shall be lawful for the defendant in any civil or criminal proceeding in respect of the publication of any copy of any such report, paper, votes or proceedings to lay before the court, at any stage of the proceeding, the report, paper, votes or proceedings and the copy, together with an affidavit verifying the copy and the correctness of the copy, and the court shall thereupon stay the proceeding and that proceeding, and every writ and process pertaining to that proceeding, shall be put an end to and superseded by virtue of this Act.

(3) It shall be a good defence to any civil or criminal proceeding in respect of the printing of any extract from, or abstract of, any such report, paper, votes or proceedings if the defendant proves that the extract or abstract was published in good faith and without malice.

Evidence of publication

250. Whenever on the trial of any information for the publication of a libel evidence has been given which establishes a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be a good defence if the defendant proves that the publication was made without his authority, consent or knowledge and that the publication did not arise from want of due care or caution on his part.

Verdict

251. On the trial of any information for making or publishing a libel where any issue is joined on the plea of not guilty, the jury may give a general verdict of guilty or not guilty on the whole matter put in issue and shall not be required or directed by the court or judge before whom the information is tried to find the defendant guilty merely on proof of the publication by him of the paper charged to be a libel and of the sense ascribed to it in the information; but nothing in this section prevents the jury from

finding a special verdict in their discretion as in other criminal cases; and on every such trial, the court or judge shall give its or his opinion and directions to the jury on the matter in issue as in other criminal cases.

Costs in prosecutions for libel

252. In the case of any information by a private prosecutor for the publication of any defamatory libel, if judgment is given for the defendant, he shall be entitled to recover from the prosecutor his costs sustained by reason of the information and, on a plea of justification to the information, if the issue is found for the prosecutor, the prosecutor shall be entitled to recover from the defendant his costs sustained by reason of that plea, those costs in either case to be taxed by a master of the Supreme Court.

Trafficking in Public Offices

Trafficking in public offices

253. (1) Any person who—

(a) sells, or agrees to sell, or takes, or agrees to take, any reward or profit from the sale of;

or

(b) purchases, or agrees or promises to purchase, or gives, or agrees or promises to give, any reward or profit for the purchase of,

any office, or any appointment to, or resignation of, any office, or any consent to any such resignation or appointment, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years.

(2) Any person who—

(a) receives, or agrees to receive, any reward or profit for any interest, request or negotiation about any office or, under pretence of using any such interest, making any such request or being concerned in any such negotiation;

(b) gives, or procures to be given, or makes, or procures to be made, any agreement for the giving of any reward or profit for any such interest, request or negotiation;

(c) solicits, recommends or negotiates in any manner as to any appointment to, or resignation from, any office, in expectation of reward or profit;

(d) opens, or keeps open, any place for transacting or negotiating any business relating to vacancies in, or the sale or purchase of, or appointment to, or resignation from, offices,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years.

(3) The provisions of this section do not prevent or make void any deputation to any office in any case in which it is lawful to appoint a deputy, or any agreement lawfully made in respect of any allowance, salary or payment made, or agreed to be made, by or to the principal or deputy respectively out of the fees or profits of the office.

(4) In this section—

“office” means any office, commission, place or employment of profit or emolument under the Crown in South Australia, or any deputation thereto, or participation in the profits thereof.

*Nuisance by Fireworks***Nuisance by fireworks**

254. Any person who throws or fires any fireworks in or into any public street, house, shop, highway, road or passage shall be guilty of a misdemeanour punishable summarily and liable to be imprisoned for a term not exceeding six months.

*Offences against Morality, Public Health, etc.***Lewdness**

255. Any person who lewdly exposes his person in, or within view of, any street, road or public place shall be guilty of a misdemeanour and liable for a first offence to be imprisoned for a term not exceeding two years and for a subsequent offence shall be liable to be imprisoned for a term not exceeding four years.

Offences in respect of infectious diseases

256. (1) Any person who—

(a) suffering from any dangerous infectious disease—

(i) enters any railway carriage or public conveyance without notifying the fact that he is so suffering to the guard of the railway carriage or the owner or driver of the conveyance;

(ii) wilfully exposes himself without proper precaution against spreading that disease in any street, road, public place, railway carriage or public conveyance;

(b) being in charge of any person so suffering, wilfully exposes that person in any manner referred to in paragraph (a);

(c) being the owner or driver of a public conveyance, does not immediately provide for the disinfection of the conveyance after it has, with his knowledge, conveyed any person so suffering;

(d) without previous disinfection, gives, lends, sells, transmits or exposes any bedding, clothing or other thing which has been exposed to infection from such disease;

(e) knowingly lets any house, room or part of a house in which any person so suffering has been lodging or residing to any other person without having the house, room or part of a house and all articles therein liable to retain infection disinfected to the satisfaction of an inspector of the Board of Health or of a legally qualified medical practitioner, as testified by a certificate to be given by the inspector or medical practitioner,

shall be guilty of an offence punishable summarily and liable to a fine not exceeding one hundred dollars.

(2) For the purposes of this section, the holder of a publican's licence shall be deemed to let part of a house to any person admitted as a guest into the licensed premises.

*Offences against Religion, etc.***Interrupting religious worship**

257. Any person who wilfully interrupts or disturbs any congregation, meeting or assembly of persons assembled for religious worship, by noise, profane discourse or rude or indecent behaviour, either within the place where that congregation, meeting or

assembly is held or so near to it as to disturb the order and solemnity of that congregation, meeting or assembly, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years.

Molesting preachers

258. Any person who in any way wilfully disturbs, molests or misuses any preacher, teacher or person officiating at any congregation, meeting or assembly of persons assembled for religious worship or any person present at such a congregation, meeting or assembly shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years.

Pretending to witchcraft

259. Any person who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration or undertakes to tell fortunes or pretends from his skill or knowledge in any occult science to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding two years.

Acting as a spiritualist, medium, etc.

259a. (1) Subject to this section, where a person, with intent to defraud, purports to act as a spiritualist or medium, or to exercise powers of telepathy, clairvoyance or other similar powers, that person shall be guilty of a misdemeanour and liable to imprisonment for a term not exceeding two years.

(2) Proceedings for an offence against this section may only be brought by, or with the consent of, the Attorney-General.

Conspiracy and Protection of Property

Conspiracy in relation to industrial disputes

260. (1) No agreement or combination by two or more persons to do, or procure to be done, any act in contemplation or furtherance of an industrial dispute as defined in the *Industrial Conciliation and Arbitration Act, 1972*, shall be punishable as a conspiracy if the act, if committed by one person, would not be punishable by imprisonment.

(2) When any person is convicted of conspiracy by reason of any such agreement or combination to do, or procure to be done, any act which is punishable only on summary conviction, any term of imprisonment imposed on him shall not exceed three months, unless a longer term is prescribed by an Act of Parliament for the punishment of that act when committed by one person.

(3) Nothing in this section affects the law relating to riot, unlawful assembly, breach of the peace, sedition or any offence against the Sovereign or exempts from punishment any person guilty of a conspiracy for which any punishment is prescribed by any Act of Parliament.

(4) No person shall be liable to any punishment for doing, or conspiring to do, any act on the ground that the act restrains, or tends to restrain, the free course of trade, unless the act amounts to an offence against this Act.

Breach of contract by railway and other employees

261. (1) Any servant in the employ of the Government, or of any person on whom is imposed by any Act, or who has otherwise assumed, the duty of carrying on and conducting railways or tramways, or of supplying any place with gas or water, who wilfully or maliciously breaks his contract of service or hiring, knowing, or having

reasonable cause to believe, that the probable consequence of his so doing, either alone or in combination with others, will be to deprive any person, either wholly or to a great extent, of the use of the railway or tramway or the supply of gas or water, shall be guilty of an offence and liable to a fine not exceeding forty dollars or to be imprisoned for a term not exceeding three months.

(2) No person shall be convicted of an offence against this section unless there is posted up at his place of employment a printed copy of this section, in a conspicuous place where it may conveniently be read by the persons employed.

Breach of contract by servant involving probable injury to persons or property

262. Any servant who wilfully and maliciously breaks his contract of service or hiring, knowing, or having reasonable cause to believe, that the probable consequence of his so doing, either alone or in combination with others, will be to endanger human life or cause serious bodily injury or to expose valuable property, whether real or personal, to destruction or serious injury, shall be guilty of an offence and liable to a fine not exceeding forty dollars or to be imprisoned for a term not exceeding three months.

Neglect by master to provide food, clothing, etc., for servant

263. Any master who, being legally liable to provide for his servant necessary food, clothing, medical aid or lodging, wilfully and without lawful excuse refuses or neglects to provide such food, clothing, medical aid or lodging, so that the health of the servant is, or is likely to be, seriously or permanently injured, shall be guilty of an offence and liable to a fine not exceeding forty dollars or to be imprisoned for a term not exceeding six months.

Penalty for intimidation or annoyance by violence or otherwise

264. Any person who, with a view to compelling another person to do or abstain from doing any act which that other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

- (a) uses violence to, or intimidates, that other person or his wife or children, or injures his property;
- (b) persistently follows that other person about from place to place;
- (c) hides any tools, clothes or other property owned or used by that other person, or deprives him of, or hinders him in, the use thereof;
- (d) watches or besets the house or other place where that other person resides, works or carries on business, or happens to be on the approach to that house or place;
- (e) follows that other person with two or more other persons in a disorderly manner in or through any street or road,

shall be guilty of an offence and liable to a fine not exceeding forty dollars or to be imprisoned for a term not exceeding three months; but, for the purposes of this section, attending at or near the house or place where a person resides, works or carries on business, or happens to be on the approach to that house or place, with the object merely of obtaining or giving information shall not be deemed to be a watching or besetting within the meaning of this section.

Offences triable summarily

265. All proceedings for offences against sections 261 to 264 shall be disposed of summarily but, if any accused person objects to being tried summarily, the court shall treat the proceedings as though they were for an indictable offence and the accused person may be informed against and tried in the Supreme Court.

Interpretation

266. In sections 261 to 265 the following provisions shall apply:

- (a) nothing in those sections shall apply to seamen or apprentices to the sea service;
- (b) nothing in those sections shall in any way affect the provisions of the *Industrial Conciliation and Arbitration Act, 1972*;
- (c) unless inconsistent with the context—

“master” includes any person, and the attorney, agent or any person having the control or management of the business of any person, who has entered into a contract to employ any servant, workman, clerk, labourer, apprentice or other person:

“servant” includes any person who has entered into a contract to serve any master, either at salary, wages or any other remuneration or by the performance of work at a price by the piece or in gross.

PART VIII
ACCESSARIES

Accessaries before the fact

267. (1) Any person who becomes an accessary before the fact to any felony, whether a felony at common law or under any Act, may be informed against, tried, convicted and punished in all respects as if he were a principal felon.

(2) An accessary before the fact to a felony may be tried either together with or without the principal felon and whether the principal felon has or has not been tried or is or is not amenable to justice.

(3) An accessary before the fact to a felony may be dealt with by the court having jurisdiction to deal with the principal felon wherever (either within or outside the State) the offence of the accessary was committed.

Accessaries after the fact

268. (1) A person who becomes an accessary after the fact to a felony (whether the felony is constituted by statute or common law) shall be guilty of a felony and liable to be imprisoned for a term not exceeding five years or, where the felony to which he became an accessary was a homicide, for a term not exceeding ten years.

(2) An accessary after the fact may be informed against, tried and convicted either together with or without the principal felon and whether the principal felon has or has not been convicted or is or is not amenable to justice.

(3) An accessary after the fact may be dealt with by the court having jurisdiction to deal with the principal felon wherever (either within or outside the State) the offence of the accessary was committed.

Abettors in misdemeanours

269. Any person who aids, abets, counsels or procures the commission of any misdemeanour, whether it is a misdemeanour at common law or under any Act, shall be liable to be prosecuted and punished as a principal offender.

PART IX

MISCELLANEOUS AND PROCEDURE

*Punishment for Certain Common Law Misdemeanours***Punishment for certain offences**

270. (1) Any person convicted of any of the following common law misdemeanours, that is to say:

* * * * *

(b) any nuisance, keeping a common gaming house, a common bawdy house or a common ill-governed and disorderly house;

(c) any cheat or fraud punishable at common law;

(d) any escape or rescue from lawful custody on a criminal charge;

(e) any public selling, or exposing for public sale or to public view, of any obscene book, print, picture or other indecent exhibition,

shall be liable to be imprisoned for a term not exceeding two years.

(2) Any person convicted of any of the following common law misdemeanours, that is to say, any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert or defeat the course of public justice, shall be liable to be imprisoned for a term not exceeding seven years.

*Attempts***Attempts**

270a. (1) Subject to subsection (2), a person who attempts to commit an offence (whether the offence is constituted by statute or common law) shall be guilty of the offence of attempting to commit that offence.

(2) Where under a provision of any other Act, or any other provision of this Act, an attempt is constituted as an offence, this section—

(a) does not apply in relation to that offence;

and

(b) does not operate to create a further or alternative offence with which a person who commits the former offence might be charged.

(3) The penalty for an attempt to which this section applies shall be as follows:

(a) in the case of attempted murder or attempted treason, the penalty shall be life imprisonment or imprisonment for some lesser term;

(b) where the penalty or maximum penalty for the principal offence (not being treason or murder) is life imprisonment, the penalty for the attempt shall be imprisonment for a term not exceeding twelve years;

(c) in any other case, the penalty for the attempt shall be a penalty not exceeding a maximum of two-thirds of the maximum penalty prescribed for the principal offence.

(4) Where the principal offence is an indictable offence, an attempt to commit that offence shall also be an indictable offence; where the principal offence is a minor indictable offence, an attempt to commit that offence shall also be a minor indictable offence; and where the principal offence is a summary offence, an attempt to commit that offence shall also be a summary offence.

Attempted manslaughter

270ab. (1) Where—

(a) a person attempts to kill another or is a party to an attempt to kill another;
and

(b) he would, if the attempt had been successfully carried to completion, have been guilty of manslaughter rather than murder,

he shall be guilty of the felony of attempted manslaughter.

(2) The penalty for attempted manslaughter is imprisonment for a term not exceeding twelve years.

(3) If on the trial of a person for attempted murder the jury is not satisfied that the accused is guilty of the offence charged but is satisfied that the accused is guilty of attempted manslaughter, the jury shall acquit the accused of attempted murder but may find him guilty of attempted manslaughter.

Assaults with Intent to Commit Felonies or Indictable Misdemeanours

Assaults with intent

270b. (1) Subject to subsection (2), a person who assaults another with intent to commit a felony or indictable misdemeanour (whether constituted by statute or common law) shall be guilty of an indictable misdemeanour.

(2) Where under a provision of any other Act, or any other provision of this Act, an assault with intent to commit a felony or indictable misdemeanour is constituted as an offence, this section—

(a) does not apply in relation to that offence;

and

(b) does not operate to create a further or alternative offence with which a person who commits the former offence might be charged.

(3) The penalty for assault to which this section applies shall be—

(a) imprisonment for a term not exceeding seven years;

or

(b) imprisonment for a term not exceeding the maximum term that may be imposed for an attempt to commit the principal offence,

whichever is the greater maximum penalty.

Apprehension of Offenders

Persons committing offences may be arrested by any person

271. Any person found committing any offence punishable either on information or on summary conviction by virtue of this Act, or found in possession of any property on or in respect of which there is reasonable cause to believe that any felony or misdemeanour has been committed and that the person either committed the felony or misdemeanour or unlawfully received the property, knowing the felony or misdemeanour to have been committed, may be immediately apprehended, without a warrant, by any person and forthwith taken, together with the property (if any), before a justice to be dealt with according to law.

Persons loitering at night and suspected of any felony, etc., may be apprehended

272. Any person may take into custody, without a warrant, any person whom he finds lying or loitering in any highway, yard or other place during the night and whom he has good cause to suspect of having committed, or being about to commit, any felony referred to in this Act, and shall take that person as soon as reasonably may be before a justice to be dealt with according to law; and, if any person so liable to be apprehended under this Act, or any Act relating to the criminal law, assaults or offers any violence to any person authorized by this Act to apprehend or detain him, or to any person acting in his aid and assistance, every such offender shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding three years.

Judge's warrant for arrest of person charged

273. (1) Whenever it is made to appear to a judge, by affidavit or certificate, that any person is charged with any offence other than treason for which he may be prosecuted in the Supreme Court, it shall be lawful for the judge to issue a warrant and thereby to cause that person to be apprehended and brought before a judge or a justice in order to be bound, with or without two sufficient sureties, in such sum as is stated in the warrant, with condition to appear in that Court at the time mentioned in the warrant and to answer the information.

(2) Where any such person neglects or refuses to become so bound, it shall be lawful for the judge or justice to commit him to gaol until he becomes so bound or is discharged by order of a judge.

*Informations***Interpretation**

274. (1) The provisions of this Part relating to informations shall apply to any other criminal pleading with any modification made by rules under this Part.

(2) In this Part (except in sections 275 and 276)—

“information” means any criminal information presented to the Supreme Court or a District Criminal Court.

Informations may be presented in the name of the Attorney-General

275. (1) Any person may be put upon his trial at any criminal sessions of the Supreme Court, for any offence, on an information presented to the Court in the name and by the authority of the Attorney-General.

(2) Every rule of law and enactment for the time being in force in the State relating to indictments and to the manner and form of pleading thereto and to the trial thereon, and generally to all matters subsequent to the finding of the indictment, shall apply to any information so presented.

Attorney-General may decline to prosecute

276. (1) Subject to subsection (2), in every case in which any person has been lawfully committed for trial at any criminal sessions, it shall be the duty of the Attorney-General to present, or cause to be presented, an information against that person.

(2) If on examining the depositions taken in any case the Attorney-General is of the opinion that there is no reasonable ground for putting the person committed for trial upon his trial for any offence, he may so certify, in the form contained in schedule 1, to the judges of the Supreme Court, any one of whom may, if the accused person is in

prison, thereupon, by warrant in the form contained in schedule 2, direct the Director of Correctional Services, or the gaoler in whose custody the person is, immediately to discharge him from imprisonment in respect of the offence mentioned in that warrant and, where the person mentioned in the certificate is on bail, the recognizances of bail taken from him and his sureties shall, on the Attorney-General so certifying, become void.

General provisions as to informations

277. (1) Every information shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged, together with such particulars as are necessary for giving reasonable information as to the nature of the charge.

(2) Notwithstanding any rule of law or practice, an information shall, subject to the provisions of this Act, not be open to objection in respect of its form or contents if it is framed in accordance with the rules under this Part.

Joinder of charges

278. (1) Subject to the provisions of this Act, charges for more than one felony or for more than one misdemeanour, and charges for both felonies and misdemeanours, may be joined in the same information if those charges are founded on the same facts, or form, or are a part of, a series of offences of the same or a similar character.

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

(3) This section does not affect any other provision of this Act or any other enactment permitting more than one charge to be joined in the same information.

Joint trial of accessories

279. Any number of accessories at different times to any felony and any number of receivers at different times of property which has been stolen at one time may be charged with substantive felonies in the same information and may be tried together, notwithstanding that the principal felon is not included in the same information or is not amenable to justice.

Coin and bank notes may be described simply as money

280. (1) In every information in which it is necessary to mention or make any allegation as to any money or any note of any bank, it is sufficient to describe the money or bank note simply as money, without specifying any particular coin or bank note.

(2) Any such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank note although the particular species of coin of which the amount was composed or the particular nature of the bank note is not proved and, in cases of embezzlement and obtaining money or bank notes by false pretences, by proof that the offender embezzled or obtained any coin or any bank note, or any portion of the value thereof, although the coin or bank note was delivered to him in order that some part of its value should be returned to the party delivering it, or to some other person, and that part has been returned accordingly.

Objections to informations, amendments and postponement of trial

281. (1) Every objection to any information for any formal defect apparent on the face thereof shall be taken by demurrer, or motion to quash the information, before the jury is empanelled and not afterwards.

(2) When before trial, or at any stage of a trial, it appears to the court that any information is defective or that there is any variation between any particular stated therein and the evidence offered in proof thereof, the court shall make such order for the amendment of the information as the court thinks necessary to meet the circumstances of the case unless, having regard to the merits of the case, the required amendment cannot be made without injustice.

(3) When an information is so amended, a note of the order for amendment shall be endorsed on the information and the information shall be treated, for the purposes of the trial and all proceedings in connection therewith, as having been presented in the amended form.

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

(5) When an order of the court is made for a separate trial or for the postponement of a trial—

(a) if the order is made during a trial, the court may order that the jury be discharged from giving a verdict on the count or counts the trial of which is postponed or on the whole information, as the case may be;

(b) the procedure on the separate trial of a count shall be the same in all respects as if the count had been presented as a separate information and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged) as if the trial had not commenced;

and

(c) the court may make such order as to admitting the accused person to bail and as to the enlargement of recognizances and otherwise as the court thinks fit.

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

*Change of Forum***Change of forum**

281a. (1) Where a person has been committed for trial in the Supreme Court and the Court is of the opinion that the trial of the defendant might be appropriately conducted by a District Court, the Supreme Court may, of its own motion, or on the application of the Attorney-General or the defendant, direct that the case be referred to a District Court and, where such a direction is given, the District Court to which the case is referred shall hear and determine the case as if the defendant had been committed for trial in that District Court.

(2) A direction shall not be given under subsection (1) in respect of a case involving a charge of treason, murder, attempted murder, rape or armed robbery.

(3) Where a person has been committed for trial in a District Court and the Supreme Court is of the opinion that the trial should be conducted by the Supreme Court, the Supreme Court may, on the application of the Attorney-General or the

defendant, direct that the case be referred to the Supreme Court and, where such a direction is given, the Supreme Court shall hear and determine the case as if the defendant had been committed for trial in the Supreme Court.

(4) In determining whether to make a direction under subsection (1) or (3), the Supreme Court shall have regard to—

- (a) the gravity of the offence or offences;
 - (b) the complexity or otherwise of the evidence to be given at the trial;
 - (c) the difficulty or uncertainty of the law involved or likely to be involved at the trial;
 - (d) the views (so far as they have been expressed) of the parties to the proceedings;
- and
- (e) the circumstances of the case generally.

Saving and Transitional Provisions

Saving provisions

282. Nothing in this Part—

- (a) affects the law or practice relating to the jurisdiction of any court or the place where an accused person can be tried;
- (b) (except where expressly provided) prejudices or diminishes in any respect the obligation to establish, by evidence according to law, any acts, omissions or intentions which are legally necessary to constitute the offence with which the accused person is charged;

or

- (c) otherwise affects the laws of evidence in criminal cases.

Rules of court

283. (1) Subject to subsection (2), the rules contained in schedule 3, with any variation thereof or addition thereto under this section, shall have effect as if enacted in this Act.

(2) Rules of court made under the *Supreme Court Act, 1935*, may revoke, vary or add to the rules contained in the schedule or any other rules for the time being in force under this Part.

Pleas and Proceedings on Trial

Plea of not guilty and refusal to plead

284. (1) Any person arraigned on any information who pleads not guilty thereto shall, by that plea, without any further form, be taken to have put himself upon the country for trial; and the court shall, in the usual manner, proceed to the trial of that person accordingly.

(2) If any person, being so arraigned, stands mute, of malice, or is dumb, or will not answer directly to the information, it shall be lawful for the court to order a plea of not guilty to be entered on his behalf and the plea so entered shall have the same effect as if he had actually pleaded not guilty.

Form of plea of *autrefois convict* or *autrefois acquit*

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

Certain questions of law may be determined before jury empanelled

285a. A court before which a person has been arraigned may, if it thinks fit, hear and determine any question relating to the admissibility of evidence, and any other question of law affecting the conduct of the trial, before the jury is empanelled.

Conviction on plea of guilty of offence other than that charged

285b. Where a person arraigned on an information pleads not guilty of an offence charged in the information but guilty of some other offence of which he might be found guilty upon trial for the offence charged, and the plea of guilty is accepted by the prosecution, then (whether or not the two offences are separately charged in distinct counts)—

(a) the person may be convicted on the plea of guilty and his conviction shall operate as an acquittal of the offence charged;

(b) if he has been placed in the charge of the jury, the jury shall be discharged without being required to give a verdict (unless the trial is to continue in respect of further counts that are unaffected by the plea);

and

(c) he shall be liable to be punished for the offence of which he has been convicted in the same manner as if he had been found guilty of the offence upon trial for the offence charged.

Notice of certain evidence to be given

285c. (1) Subject to subsection (2), if a defendant proposes to introduce evidence of alibi at the trial of an indictable offence in the Supreme Court or a District Criminal Court, prior notice of the proposed evidence must be given.

(2) Notice of proposed evidence of alibi is not required under subsection (1) if the same evidence, or evidence to substantially the same effect, was received at the preliminary examination at which the defendant was committed for trial.

(3) The notice—

(a) must be in writing;

(b) must contain—

(i) a summary setting out with reasonable particularity the facts sought to be established by the evidence;

(ii) the name and address of the witness by whom the evidence is to be given;

and

(iii) any other particulars that may be required by the rules;

(c) must be given within seven days after the defendant is committed for trial;

(d) must be given by lodging the notice at the office of the Crown Prosecutor or by serving the notice by post on the Crown Prosecutor.

(4) Non-compliance with this section does not render evidence inadmissible but the non-compliance may be made the subject of comment to the jury.

(5) Except by leave of the court, evidence in rebuttal of an alibi shall not be adduced after the close of the case for the prosecution.

(6) Leave shall be granted under subsection (5) where the defendant gives or adduces evidence of alibi in respect of which—

(a) no notice was given under this section;

or

(b) notice was given but not with sufficient particularity,

(but this section does not limit the discretion of the court to grant such leave in any other case).

(7) In any legal proceedings, a certificate apparently signed by the Crown Prosecutor certifying receipt or non-receipt of a notice under this section, or any matters relevant to the question of the sufficiency of a notice given by a defendant under this section, shall be accepted, in the absence of proof to the contrary, as proof of the matters so certified.

(8) In this section—

* * * * *

“evidence of alibi” means evidence given or adduced, or to be given or adduced, by a defendant tending to show that he was in a particular place or within a particular area at a particular time and thus tending to rebut an allegation made against him either in the charge on which he is to be tried or in evidence adduced in support of the charge at the preliminary examination at which he was committed for trial.

Inspection and copies of depositions

286. Every accused person shall be entitled—

(a) at the time of his trial, to inspect, without fee or reward, all depositions taken against him which are in the custody of the court;

(b) at any time before his trial, to have a copy of all depositions taken against him from the person having the lawful custody thereof, on payment of such fee as the court or a judge may direct.

Prisoner's property may be made available for his defence

287. Any judge may order any money or property in the hands of the police taken from any prisoner to be paid out on the order of the prisoner for the purposes of his defence, except where, in the opinion of the judge, it is required for the purposes of identification or otherwise at the trial or where the property is the subject of a criminal prosecution.

Defence by counsel and addresses

288. (1) All persons tried on information shall be permitted to be defended by counsel.

(2) If any accused person is defended by counsel, but not otherwise, it is the duty of the judge, at the close of the case for the prosecution, to ask the counsel for each accused so defended whether he or they intend to adduce evidence and, in the event of none of

them thereupon announcing his intention to adduce evidence, the counsel for the prosecution shall be allowed to address the jury a second time for the purpose of summing up the evidence.

(3) Every accused person, whether defended by counsel or not, shall be allowed to open his case and, after the conclusion of the opening or of all the openings if more than one, to examine such witnesses as he thinks fit and, when all the evidence is concluded, to sum up the evidence.

(4) The right of reply and the practice and course of proceedings shall be the same as on the trial of an action, but (subject to the provisions of section 20 of the *Evidence Act, 1929*) no right of reply shall be allowed to counsel for the prosecution unless the accused or some of them have called evidence.

Postponement of trial

289. (1) No person is entitled to traverse or postpone the trial of any information presented against him in any court of criminal jurisdiction but, if the court is of the opinion that any trial should, for any reason, be adjourned, it may adjourn it to any day during the current sessions, or to the next sessions, on such terms as to bail or otherwise as it thinks fit, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend on the day to which the trial has been adjourned without entering into any fresh recognizances for that purpose.

(2) Nothing in this section extends to any prosecution by information in the nature of a *quo warranto*.

Verdict for attempt where full offence charged

290. If on the trial of any person charged with any felony or misdemeanour it appears to the jury on the evidence that the accused did not complete the offence charged but that he was guilty only of an attempt to commit the offence, the jury may return as their verdict that the accused is guilty of an attempt to commit the offence charged and thereupon the accused shall be liable to be punished in the same manner as if he had been convicted on an information for such an attempt.

Conviction of persons tried for misdemeanour if felony proved

291. (1) If on the trial of any person for any misdemeanour it appears that the facts given in evidence amount in law to a felony, that person shall not for that reason be entitled to be acquitted of the misdemeanour.

(2) No person tried for a misdemeanour shall be liable to be afterwards prosecuted for felony on the same facts unless the court before which the trial takes place thinks fit, in its discretion, to discharge the jury from giving any verdict on the trial and to direct that the accused be prosecuted for felony, in which case the accused may be dealt with in all respects as if he had not been put upon his trial for the misdemeanour.

Insanity

Verdict of not guilty on ground of insanity

292. (1) Where it is given in evidence that any person charged with an indictable offence was insane at the time of the commission of the offence and the person so charged is acquitted, the jury shall be required to declare whether he was acquitted by them on the ground of insanity.

(2) The court shall order any person found not guilty on the ground of insanity to be kept in strict custody in such place and in such manner as it thinks fit until the Governor's pleasure is known.

(3) On such an order being made, it shall be lawful for the Governor to order the safe custody of the person so found, during his pleasure, in such place and in such manner as he thinks fit.

Insanity affecting capacity to plead

293. (1) Where any person charged with an indictable offence is insane, so that he cannot be tried on the information, and is so found either—

(a) by a jury lawfully empanelled for that purpose;

or

(b) by the jury empanelled to try the information,

the court shall direct him to be kept in strict custody until the Governor's pleasure is known.

(2) Where any person charged with an indictable offence and brought before any court to be discharged for want of prosecution appears to be insane, it shall be lawful for the court to order a jury to be empanelled to try the sanity of that person and, if the jury finds him to be insane, the court may order him to be kept in strict custody in such place and in such manner as it thinks fit until the Governor's pleasure is known.

(3) The Governor may order the safe custody, during his pleasure, of any person found to be insane in any of the cases mentioned in this section, in such place and in such manner as he thinks fit.

Release on licence

293a. (1) Where the Governor has ordered the safe custody, during his pleasure, of any person found to be insane, he may, on the recommendation of the Parole Board, release that person on licence.

(2) The terms and conditions on which a person is released on licence under this section shall be determined by the Governor on the recommendation of the Parole Board.

(3) Where—

(a) the period for which a person was released on licence under this section has expired;

or

(b) the Parole Board has reasonable cause to suspect that any such person has contravened, or failed to comply with, any term or condition on which he was released,

a person authorized by warrant issued by a justice on the application of a member of the Parole Board may apprehend the person so released and return him to custody, or detain him for examination by the Parole Board, in accordance with the terms of the warrant.

*Verdicts***Defects cured by verdict**

294. No judgment after verdict for any indictable offence shall be stayed or reversed for want of a similitur, nor by reason of any defect or irregularity in the summoning of the jurors, nor for the misnomer or misdescription of a juror, nor because any person has served as a juror who has not been returned by the sheriff as a juror.

Forfeiture abolished

295. (1) No confession, verdict, inquest, conviction or judgment of or for any treason or felony shall cause any attainder, forfeiture or escheat.

(2) When any person is charged with treason or felony, the jury shall not be charged to inquire concerning his lands, tenements or goods or whether he fled for the treason or felony.

(3) In this section—

“forfeiture” does not include any fine or penalty imposed by way of sentence.

* * * * *

*Costs, Witness Fees and Compensations***Fees and compensation**

297. (1) The court before which any person is tried, or before which he is committed or bailed to appear for trial, for any indictable offence may order payment of reasonable fees to the witnesses for the prosecution to compensate them for expenses incurred and for their trouble and loss of time in attending before the examining magistrate or justice and in attending the trial and, where there is no trial, in attending the court in good faith in obedience to a recognizance or subpoena.

(2) The examining magistrate or justice may certify the amount which he considers reasonable for the compensation of a witness for his attendance at the preliminary examination and shall forward his certificate to the court.

(2a) This section does not derogate from the powers conferred on an examining magistrate or justice under the *Justices Act, 1921*, to order payment of any fees or compensation to witnesses in the course, or at the conclusion, of a preliminary examination.

(3) The court may, at the request of any witness for the defence, certify that the witness ought to be paid his expenses and in that case the amount to be paid to the witness shall be the same, and shall be ascertained and paid in the same manner, as if he had been a witness for the prosecution.

(4) Any court or judge may, in addition to any fees, order the payment of such sum of money as it or he considers reasonable to compensate any person who appears to the court or judge to have been active in or towards the apprehension of any person charged with felony, for his expenses, exertions and loss of time.

* * * * *

(6) Orders for witness fees and other amounts directed to be paid pursuant to this section shall be forthwith made out and delivered by the proper officer to the sheriff, who shall pay the specified amounts to the persons named in the orders out of any moneys in his hands or voted to him for that purpose. If such an order is endorsed “PAY BEARER”, or words to that effect, and signed by the person named therein and

witnessed by an independent witness, the sheriff shall pay the amount set out therein to the bearer, and that payment shall effectually discharge him from any claims by the person named in the order or any person claiming by, through or under him.

(7) The Governor may make regulations prescribing—

- (a) the rates of expenses and compensation to be allowed or ordered by the court to witnesses or to be certified by the examining magistrate or justice;
- (b) the amount which may be paid to any person who has been active in or towards the apprehension of felons;
- (c) the forms of certificates to be granted by the examining magistrate or justice and the details to be inserted therein.

(8) Such regulations shall not prevent the court from making a special allowance to any person who appears to the court to have shown extraordinary courage, diligence or exertion in or towards the apprehension of any person charged with felony.

* * * * *

Firearms and Offensive Weapons

Orders as to firearms and offensive weapons

299a. (1) Where a court is satisfied by evidence adduced before it that—

- (a) a firearm or other offensive weapon was used in the commission of an offence;
- (b) the commission of an offence was facilitated by the use of a firearm or other offensive weapon;

or

- (c) in the circumstances it is expedient that an order or orders be made under this section,

the court may make any one or more of the following orders:

- (d) an order that the firearm or other weapon be forfeited to the Crown;
- (e) an order that the firearm or other weapon be delivered into the custody of the Commissioner of Police for a period specified in the order or until further order;
- (f) any other order as to the custody or disposition of the firearm;
- (g) an order prohibiting any person or persons specified in the order from using or possessing a firearm or offensive weapon of any kind, or of a kind specified in the order, for a period specified in the order or until further order.

(2) Upon application by a person with a proper interest in the matter, the court may vary or revoke an order under subsection (1)(e), (f) or (g).

(3) Where an application is made under subsection (2), the court shall not vary or revoke the order in respect of which the application is made unless it is satisfied that it is not inimical to the safety of the community to do so.

(4) A person who contravenes or fails to comply with an order under this section shall be guilty of an offence cognizable by the court by which the order was made and liable to a penalty not exceeding five hundred dollars or imprisonment for twelve months.

Abolition of Presumption of Marital Coercion

Abolition of presumption of marital coercion

328a. 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 abolished; but, on a charge against a wife for any offence other than treason or murder, it shall be a good defence to prove that the offence was committed in the presence, and under the coercion, of the husband.

Provision as to persons convicted of treason or a felony

329. A person who has been convicted of treason, a felony or any other offence shall not, by reason of that conviction, suffer any legal disability except such as is prescribed by an Act of the State or the Commonwealth.

* * * * *

PART XI
CASES STATED AND APPEALS

* * * * *

Interpretation

348. In this Part, unless inconsistent with the context or subject matter—

“appellant” includes a person who has been convicted and desires to appeal under this Act:

“District Criminal Court” means a court constituted of a person appointed to, and holding, judicial office under the *Local and District Criminal Courts Act, 1926*, when sitting in the exercise of the jurisdiction conferred on him by the district criminal court provisions as defined in that Act:

“Full Court” means the Supreme Court constituted of an uneven number of judges, not being less than three:

“information” means an information on which a person is put upon his trial for any crime or offence at any criminal session of the Supreme Court or before any court of Oyer and Terminer and General Gaol Delivery or at any sitting of a District Criminal Court, as the case may be:

“judge” means a judge of the Supreme Court or a District Criminal Court:

* * * * *
* * * * *

“sentence” includes any order of the court of trial or of the judge thereof made on, or in connection with, a conviction with reference to the convicted person, or any property, or with reference to any moneys to be paid by him.

Delegation of certain powers by the Attorney-General

348a. (1) The Attorney-General may, by instrument in writing, delegate any of his powers under this Part—

(a) to apply for the reservation of a question of law;

or

(b) to appeal against sentence,

to any legal practitioner in the service of the Crown.

(2) A delegation under this section is revocable at will.

(3) An apparently genuine document purporting to be an instrument of delegation under subsection (1) shall, in the absence of proof to the contrary, be accepted in any legal proceedings as proof that the powers referred to in the instrument have been delegated to the legal practitioner referred to in the instrument.

(4) Any document for the institution of proceedings that the Attorney-General is empowered to take under this Part—

(a) purporting to be signed by the Solicitor-General, the Crown Solicitor or the Crown Prosecutor;

and

(b) alleging a delegation by the Attorney-General under this section,

shall, in the absence of proof to the contrary, be deemed to be proof of that delegation.

Court to decide according to opinion of majority

349. The determination of any question before the Full Court under this Act shall be according to the opinion of the majority of the members of the Court hearing the case.

* * * * *

*Cases Stated***Questions of law may be reserved**

350. (1) If on the trial or sentencing of any person convicted on information any question of difficulty in point of law or concerning the sentencing has arisen, it shall be lawful for the presiding judge in his discretion to reserve the question for the consideration and determination of the Full Court and to respite execution of the judgment or postpone judgment until the question has been considered and decided.

(1a) Where a person is tried on information and acquitted, the court shall, on the application of the Attorney-General, reserve any question of law arising at the trial for the consideration and determination of the Full Court.

(2) A case shall be stated as provided in section 351—

(a) if the Full Court, on motion, makes a rule or order for that purpose, which rule or order the Full Court is hereby authorized to make;

(b) if the Full Court, on an appeal involving a question of law alone, so requires as hereinafter mentioned.

(3) Where a person has been convicted on information and a question of law has been reserved, or the Full Court has ordered a case to be stated, in relation to his trial or sentencing, the presiding judge may, in his discretion, commit the convicted person to gaol or release him on recognizance of bail with one or two sufficient sureties and in such sum as the judge thinks fit, conditioned to appear at such time or times as the court directs, and receive judgment or render himself in execution, as the case may be.

Case to be stated by trial judge and powers of Full Court

351. (1) In any of the cases referred to in section 350, the presiding judge shall state a case setting forth the question reserved, with the circumstances on which it has arisen, and shall sign the case and transmit it within a reasonable time to the Full Court.

(2) Where a person has been convicted on information and a case has been stated in pursuance of subsection (1) in relation to his trial or sentencing, the Full Court shall have authority to hear and finally determine the question reserved and may—

(a) send the case back for amendment if it thinks necessary;

(b) affirm, amend, reverse or avoid any judgment which has been given on the information;

(c) set aside the conviction;

(d) arrest the judgment or, if no judgment has been given, order judgment to be given at some other sessions of the court where the question arose;

or

(e) make such other order as justice may require,

but—

(f) no judgment shall be reversed, avoided or arrested on the ground of the improper admission of evidence, if it appears to the Court that the evidence was merely of a formal character and not material, nor on the ground of the improper admission of evidence adduced for the defence;

(g) where any judgment has been reversed, avoided or arrested, the Court may order a new trial;

and

(h) the Court may, notwithstanding that it is of the opinion that the question so reserved might be decided in favor of the convicted person, affirm the judgment if it considers that no substantial miscarriage of justice has actually occurred.

(2a) Where a person is tried on information and acquitted but a question of law arising at the trial is reserved for the consideration and determination of the Full Court, the Full Court shall have authority to hear and finally determine the question reserved, but the determination of the Full Court shall not invalidate or otherwise affect the acquittal.

(2b) Where a person is tried on information and acquitted but a question of law arising at the trial is reserved for consideration and determination by the Full Court, the Attorney-General is liable to pay the taxed costs of the defendant in proceedings relating to the reservation and determination of the question of law and, if the defendant does not appear in those proceedings, the Attorney-General shall instruct counsel to present such argument to the Court as might have been presented by counsel for the defendant.

(3) The judgment and order (if any) of the Full Court shall be certified under the hand of the Chief Justice or senior member of the Court to the associate or clerk of arraigns, who shall enter it on the original record in proper form, and a certificate of the entry in, or to the effect of, the form contained in schedule 10 shall be transmitted to the Director of Correctional Services and shall be a sufficient warrant to all persons—

(a) to execute the judgment as affirmed or amended;

or

(b) to discharge the convicted person from custody,

as the case may be.

(4) If judgment is ordered to be given at some other sessions of the court where the question arose, it shall be given accordingly and, if the conviction is set aside in the case of a person released on bail, the recognizances of bail shall be vacated.

Restriction on reporting proceedings relating to reservation of question of law on trial of acquitted person

351a. (1) Where an application has been made for the reservation of a question of law arising at the trial of a person who was tried on information and acquitted, no person shall publish, by newspaper, radio or television, any report, statement or representation in relation to the application or any consequent proceedings—

(a) by which the identity of the acquitted person is revealed;

or

(b) from which the identity of the acquitted person might reasonably be inferred,

unless the acquitted person consents to the publication.

Penalty: One thousand dollars.

(2) In this section—

“newspaper” means any newspaper, journal, magazine or other publication that is published daily or at periodic intervals, but does not include —

(a) a publication consisting solely or primarily of the reported decisions or judgments of the Court;

or

(b) a publication of a technical nature designed primarily for use by legal practitioners.

Right of Appeal and Determination of Appeals

Right of appeal in criminal cases

352. (1) A person convicted on information may appeal under this Act to the Full Court—

(a) against his conviction on any ground of appeal which involves a question of law alone; but the Full Court in any such case may, if it thinks fit, decide that the procedure with relation to cases reserved should be followed and require a case to be stated accordingly in the same manner as if a question of law had been reserved, and thereupon the provisions of this Part relating to cases so reserved shall, with the necessary modifications, apply accordingly;

(b) on the certificate of the judge of the Supreme Court or District Criminal Court before whom he was tried that it is a fit case for appeal, against his conviction on any ground of appeal which involves a question of fact alone or a question of mixed law and fact;

(c) with the leave of the Full Court, on any ground referred to in paragraph (b) or any other ground which appears to the Full Court to be a sufficient ground of appeal;

and

(d) with the leave of the Full Court, against the sentence passed on his conviction, unless the sentence is one fixed by law.

(2) Where a person is convicted on information and sentenced, the Attorney-General may, with the leave of the Full Court, appeal to that Court against the sentence passed on that person, unless the sentence is one fixed by law.

Determination of appeals in ordinary cases

353. (1) The Full Court on any such appeal against conviction shall allow the appeal if it thinks that the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the court before which the appellant was convicted should be set aside on the ground of a wrong decision on any question of law, or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal; but the Full Court may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) Subject to the special provisions of this Act, the Full Court shall, if it allows an appeal against conviction, quash the conviction and either direct a judgment and verdict of acquittal to be entered or direct a new trial.

(3) Where a new trial is directed, the Full Court may make such order as it thinks fit for the safe custody of the appellant or for admitting him to bail.

(4) Subject to subsection (5), on an appeal against sentence, the Full Court shall, if it thinks that a different sentence should have been passed, quash the sentence passed at the trial and pass such other sentence warranted in law (whether more or less severe) in substitution therefor as it thinks ought to have been passed, and in any other case shall dismiss the appeal.

(5) The Full Court shall not exercise its powers under subsection (4) to increase the severity of a sentence except on an appeal by the Attorney-General against the sentence.

Powers of Court in special cases

354. (1) If it appears to the Full Court that an appellant, although not properly convicted on some count or part of the information, has been properly convicted on some other count or part of the information, the Court may either affirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefor as it thinks proper and as may be warranted in law by the verdict on the count or part of the information on which the Court considers that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and the jury could, on the information, have found him guilty of some other offence and, on the finding of the jury, it appears to the Full Court that the jury must have been satisfied of facts which proved him guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(3) Where on the conviction of the appellant the jury has found a special verdict and the Full Court considers that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Full Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

(4) If on any appeal it appears to the Full Court that an appellant found guilty of the offence with which he was charged was insane at the time of the commission of the offence so as not to be responsible according to law for his actions, the Court may quash the sentence passed at the trial and order the appellant to be kept in strict custody until the Governor's pleasure is known, in the same manner as if the appellant had been found to be insane by the special verdict of the jury under this Act.

Revesting and restitution of property on conviction

355. (1) The operation of any order for the restitution of any property to any person, or with reference to any property or the payment of money, made on, or in connection with, a conviction on information and the operation, in case of any such conviction, of the provisions of section 24(1) of the *Sale of Goods Act, 1895*, as to the revesting of the property in stolen goods on conviction shall (unless the court before which the conviction takes place directs to the contrary in any case in which in its opinion the title to the property is not in dispute) be suspended—

(a) in any case, until the expiration of ten days after the date of the conviction;

and

(b) in cases where notice of appeal or leave to appeal is given within ten days after the date of conviction, until the determination of the appeal,

and, in cases where the operation of any such order or provisions is suspended until the determination of the appeal, the order or provisions (as the case may be) shall not take effect as to the property in question if the conviction is quashed on appeal, except by the special order of the Full Court. Provision may be made by rules of court for securing the safe custody of any property pending the suspension of the operation of any such order or provisions.

(2) The Full Court may, by order, annul or vary, or refuse to annul or vary, any order made on, or in connection with, a conviction for the restitution of any property to any person, or with reference to any property or the payment of money, whether the conviction or sentence is or is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

Jurisdiction of Full Court

356. All jurisdiction and authority under any other Act in relation to questions of law arising in criminal trials which are vested in the judges of the Supreme Court or the Full Court of the Supreme Court as constituted by the *Supreme Court Act, 1935*, shall be vested in the Full Court for the purposes of this Act.

Procedure

Time for appealing

357. Where a convicted person desires to appeal under this Act to the Full Court or to obtain the leave of that Court to appeal, he shall give notice of appeal, or notice of his application for leave to appeal, in such manner as may be directed by rules of court, within 21 days of the date of conviction. Such rules shall enable any convicted person to present his case and his argument in writing instead of by oral argument if he so desires.

Any case or argument so presented shall be considered by the Full Court.

The time within which notice of appeal, or notice of an application for leave to appeal, may be given may be extended at any time by the Full Court notwithstanding that the application for extension was made after the time had expired.

* * * * *

Judge's notes and report to be furnished on appeal

358. The judge of the Supreme Court or District Criminal Court before whom a person is convicted shall, in the case of an appeal under this Act against the conviction or against the sentence or in the case of an application for leave to appeal under this Act, furnish to the registrar in accordance with rules of court his notes of the trial and shall also furnish to the registrar in accordance with rules of court a report giving his opinion on the case or on any point arising in the case.

Supplemental powers of Court

359. For the purposes of this Act, the Full Court may, if it thinks it necessary or expedient in the interests of justice—

- (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case;
- (b) order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in the manner provided by rules of court before any judge of the

Supreme Court or before any officer of the Supreme Court or justice of the peace or other person appointed by the Full Court for the purpose, and allow the admission of any depositions so taken as evidence before the Full Court;

- (c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness and, if the appellant consents, of the husband or wife of the appellant in cases where the evidence of the husband or wife could not have been given at the trial except with such consent;
- (d) where any question arising on the appeal involves prolonged examination of documents or accounts or any scientific or local investigation which cannot, in the opinion of the Full Court, conveniently be conducted before the Court, order the reference of the question in the manner provided by rules of court for inquiry and report to a special commissioner appointed by the Court and act on the report of any such commissioner so far as it thinks fit to adopt it;
- (e) appoint any person with special expert knowledge to act as assessor to the Full Court in any case where it appears to the Court that such special knowledge is required for the proper determination of the case;
- (f) exercise in relation to the proceedings of the Court any other powers which may for the time being be exercised by the Supreme Court on appeals or applications in civil matters;

and

- (g) issue any warrants necessary for enforcing the orders or sentences of the Court,

but in no case shall any sentence be increased by reason of, or in consideration of, any evidence that was not given at the trial.

Legal assistance to appellant

360. A judge may assign to an appellant a solicitor and counsel, or counsel only, in any appeal or new trial or proceedings preliminary or incidental to any appeal or new trial in which, in the opinion of the judge, it appears desirable in the interests of justice that the appellant should have legal aid and when, in the opinion of the judge, he has not sufficient means to enable him to obtain that aid.

Right of appellant to be present

361. (1) An appellant if he so desires shall, notwithstanding that he is in custody, be entitled to be present on the hearing of his appeal except where the appeal is on some ground involving a question of law alone, but in that case, and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, he shall not be entitled to be present except where rules of court provide that he shall have the right to be present or where the Full Court gives him leave to be present.

(2) The power of the Full Court to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

Attorney-General to be represented

362. The Attorney-General or counsel on his behalf shall appear for the Crown on every appeal to the Full Court under this Act, unless a private prosecutor in the case of a private prosecution undertakes the defence of the appeal, and provision shall be made by rules of court for the transmission to the Attorney-General of all such documents, exhibits and other things connected with the proceedings as he may require for the purposes of his duties under this section.

Costs of appeal

363. (1) On the hearing and determination of an appeal or new trial or any proceedings preliminary or incidental thereto under this Act, no costs shall be allowed on either side.

(2) The expenses of any solicitor or counsel assigned to an appellant under this Act and the expenses of any witnesses attending on the order of the Full Court, or examined in any proceedings incidental to the appeal or new trial, and of the appearance of an appellant on the hearing of his appeal or new trial or on any proceedings preliminary or incidental to the appeal or new trial, and all expenses of and incidental to any examination of witnesses conducted by any person appointed by the Full Court for the purpose of any reference of a question to a special commissioner appointed by the Full Court, or of any person appointed as assessor to the Full Court, shall be defrayed, up to an amount allowed by a master and approved by any judge who was a member of the Full Court on the hearing of the appeal, out of moneys provided by Parliament for the purpose, but subject to any regulations as to rates and scales of payment made by the Governor.

Admission of appellant to bail and custody when attending Court

364. (1) An appellant who is not admitted to bail shall, pending the determination of his appeal, be treated in such manner as may be directed by or under the Acts regulating prisons.

(2) The Full Court may, if it thinks fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal or, where a new trial is directed, until the commencement of the new trial.

(3) The time during which an appellant, pending the determination of his appeal or pending a new trial, is admitted to bail under this section shall not count as part of any term of imprisonment under his sentence. And, in the case of an appeal under this Act, any imprisonment of the appellant, whether it is under the sentence passed by the court of trial or the sentence passed by the Full Court, shall, subject to any directions which may be given by the Full Court, be deemed to be resumed or begin to run, as the case requires, if the appellant is in custody, as from the day on which the appeal is determined and, if he is not in custody, as from the day on which he is received into prison under the sentence.

(4) Where a question of law is reserved under this Part, this section shall apply to the person in relation to whose conviction the case is stated as it applies to an appellant.

(5) Provision shall be made under the Acts regulating prisons for the manner in which an appellant, when in custody, is to be brought to any place at which he is entitled to be present for the purposes of this Act, or to any place to which the Full Court or any judge of the Supreme Court may order him to be taken for the purposes of any proceedings of the Full Court, and for the manner in which he is to be kept in custody while absent from prison for any of those purposes.

Duties of registrar with respect to notices of appeal, etc.

365. (1) The registrar shall take all necessary steps for obtaining a hearing under this Act of any appeals or applications, notice of which is given to him under this Act, and shall obtain and lay before the Full Court in proper form all documents, exhibits and other things relating to the proceedings in the court before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

(2) If it appears to the registrar that any notice of an appeal against a conviction does not show any substantial ground of appeal, the registrar may refer the appeal to the Full Court for summary determination and, where the case is so referred, the Court may, if it considers that the appeal is frivolous or vexatious and can be determined without adjourning it for a full hearing, dismiss the appeal summarily without calling on any persons to attend the hearing or to appear for the Crown.

(3) Any documents, exhibits or other things connected with the trial of any person on information shall be kept in the custody of the court of trial, in accordance with rules of court made for the purpose, for such time as may be provided by the rules and subject to such power as may be given by the rules for the conditional release of any such documents, exhibits or things from that custody.

(4) The registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under this Act to any person who demands them and to officers of courts, keepers of gaols and such other officers or persons as he thinks fit, and the keeper of a gaol shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under this Act and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the registrar.

Notes of evidence on trial

366. (1) On any appeal, or application for leave to appeal, a transcript of the notes of the judge of the court of trial, or, where shorthand notes have been taken by direction of the judge, a transcript of the notes or any part thereof, shall be made, if the registrar so requests, and furnished to the registrar for the use of the Full Court or any judge thereof; and a transcript shall be furnished to any interested party on the payment of such charges as the Attorney-General may fix.

(2) The Attorney-General may also, if he thinks fit in any case, request a transcript of the notes to be made and furnished to him for his use.

(3) The cost of making any such transcript, where a transcript is requested to be made by the registrar or by the Attorney-General, shall be defrayed in accordance with scales of payment fixed for the time being by the Attorney-General out of moneys provided by Parliament for the purpose.

(4) Rules of court may make such provision as is necessary for the verification of the transcript.

Powers which may be exercised by a judge of the Court

367. The powers of the Full Court under this Act to give leave to appeal, to extend the time within which notice of appeal, or of an application for leave to appeal, may be given, to allow the appellant to be present at any proceedings in cases where he is not entitled to be present without leave, to admit an appellant to bail and to direct that time spent in custody by an appellant pending determination of an appeal be counted as part of a term of imprisonment may be exercised by any judge of the Supreme Court in the same manner as they may be exercised by the Full Court, and subject to the same provisions, but, if the judge refuses an application on the part of the appellant to exercise any such power in his favour, the appellant shall be entitled to have the application determined by the Full Court.

Rules of court

368. (1) Rules of court for the purposes of this Part shall be made by the judges of the Supreme Court.

(2) Rules so made may make provision with respect to any matter for which provision is to be made under this Act by rules of court and may regulate generally the practice and procedure under this Part.

(3) No person shall fail to comply with the requirements of rules made under this section and compliance with those rules may be enforced by order of the Full Court or of any judge of the Supreme Court.

(4) The provisions which relate to making rules of court and are contained in the Acts regulating the general practice and procedure of the Supreme Court shall, so far as applicable, apply to rules made under this section.

(5) All rules of court and all regulations and rules made before or after the commencement of the *Criminal Law Consolidation Act Amendment Act (No. 2), 1969*, under this Act or any other Act, for the purposes of this Act or of any provision of this Act, that apply to or in relation to the Supreme Court, or a judge of the Supreme Court, in the exercise of its criminal jurisdiction shall, until other provision is duly made, have effect and be construed, with such adaptations and modifications as may be necessary, so as to extend and apply to and in relation to District Criminal Courts and District Criminal Court Judges, respectively, in the exercise of the criminal jurisdiction conferred by the district criminal court provisions within the meaning of the *Local and District Criminal Courts Act, 1926*, and to and in relation to appeals from and cases stated by District Criminal Courts to the Full Court.

*References on Petitions for Mercy***References by Chief Secretary**

369. Nothing in this Part affects the prerogative of mercy but the Chief Secretary, on the consideration of any petition for the exercise of Her Majesty's mercy having reference to the conviction of a person on information or to the sentence passed on a person so convicted, may, if he thinks fit, with the concurrence of the Attorney-General, at any time, either—

(a) refer the whole case to the Full Court, and the case shall then be heard and determined by that Court as in the case of an appeal by a person convicted;

or

(b) if he desires the assistance of the judges of the Supreme Court on any point arising in the case with a view to the determination of the petition, refer that point to those judges for their opinion and those judges, or any three of them, shall consider the point so referred and furnish the Chief Secretary with their opinion accordingly.

SCHEDULES

SCHEDULE 1

In the Supreme Court. }
Criminal Jurisdiction. }

This is to certify that I decline to file any information against A.B., a person lawfully committed for trial at the Criminal Sessions to be held at _____ upon a charge of [state charge]. Given under my hand this _____ day of _____ 19 _____

Attorney-General

To their Honours the Judges of the Supreme Court.

SCHEDULE 2

In the Supreme Court. }
Criminal Jurisdiction. }

Whereas A.B. is detained in your custody under a warrant upon a charge of [as in the certificate], and it has been certified to the Judges of this Court by the Attorney-General that he declines to file any information against the said A.B. for the said offence, you are therefore hereby required forthwith to discharge the said A.B. from your custody under the said warrant. Given under my hand this _____ day of _____ 19 _____

A Judge of the Supreme Court.

To the Director of Correctional Services and to the Keeper of Her Majesty's Prison at _____

SCHEDULE 3

RULES

1. (1) Informations and other criminal pleadings may be written or printed, or partly written and partly printed, and shall be on white folio foolscap paper on one side only with a quarter margin, and shall be folded lengthwise.

(2) Figures and abbreviations may be used in informations for expressing anything which is commonly expressed thereby.

(3) There shall be endorsed on the back of every information the names of the witnesses intended to be called at the trial.

(4) An information shall not be open to objection by reason only of any failure to comply with this rule.

2. The commencement of an information shall be in the following form:

SOUTH AUSTRALIA

The Queen v. A.B.

COURT OF TRIAL

[e.g., Supreme Court, Adelaide, or Gladstone Circuit Court.]

..... Sessions

Information of the Attorney-General

A.B. is charged with the following offence (offences):

3. Charges for any offences, whether felonies or misdemeanours, may be joined in the same information if those charges are founded on the same facts or form, or are a part of, a series of offences of the same or a similar character.

4. (1) A description of the offence charged in an information or, where more than one offence is charged in an information, of each offence so charged, shall be set out in the information in a separate paragraph, called a count.

(2) Account of an information shall commence with a statement of the offence charged, called the statement of offence.

(3) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence and, if the offence charged is one created by statute, shall contain a reference to the section of the statute creating the offence and, if the penalty for the offence charged is fixed by statute, may contain a reference to the section of the statute fixing the penalty.

(4) After the statement of the offence, particulars thereof shall be set out in ordinary language in which the use of technical terms shall not be necessary: Provided that where any rule of law or any enactment limits the particulars of an offence which are required to be given in an information, nothing in this rule shall require any more particulars to be given than those so required.

(5) The forms set out in the appendix to these rules, or forms conforming thereto as nearly as may be, shall be used in cases to which they are applicable and in other cases forms to the like effect, or conforming thereto as nearly as may be, shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case.

(6) Where an information contains more than one count, the counts shall be numbered consecutively.

5. (1) Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities or intentions, or other matters stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

(2) It shall not be necessary, in any count charging a statutory offence, to negative any exception or exemption from, or qualification of, the operation of the statute creating the offence.

6. (1) The description of property in a count in an information shall be in ordinary language and such as to indicate with reasonable clearness the property referred to and, if the property is so described, it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs or the value of the property.

(2) Where property is vested in more than one person and the owners of the property are referred to in an information, it shall be sufficient to describe the property as owned by one of those persons by name with others and, if the persons owning the property are a body of persons with a collective name, such as "Inhabitants", "Trustees", "Commissioners" or "Club", or other such name, it shall be sufficient to use the collective name without naming any individual.

7. The description or designation in an information of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his abode, style, degree or occupation; and if, owing to the name of the person not being known or for any other reason, it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or the person may be described as "a person unknown".

8. Where it is necessary to refer to any document or instrument in an information, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

9. Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act or omission whatsoever to which it is necessary to refer in any information in ordinary language, in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act or omission referred to.

10. It shall not be necessary, in stating any intent to defraud, deceive or injure, to state an intent to defraud, deceive or injure any particular person, where the statute creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.

11. Any charge of a previous conviction may be made either by a separate information or at the end of the information by means of a statement that the person accused has been previously convicted of that offence at a certain time and place without stating particulars of that offence.

APPENDIX TO RULES FORMS OF INFORMATION

1

STATEMENT OF OFFENCE

Murder (C.L.C. Act, 1935, s. 11).

PARTICULARS OF OFFENCE

A.B., on the day of at murdered J.S.

2

STATEMENT OF OFFENCE

Accessory after the fact of murder.

PARTICULARS OF OFFENCE

A.B., well knowing that one, H.C., did, on the day of murder C.C., did, on the day of at and on other days thereafter receive, comfort, harbour, assist and maintain the said H.C.

3

STATEMENT OF OFFENCE

Manslaughter (C.L.C. Act, 1935, s. 13).

PARTICULARS OF OFFENCE

A.B., on the day of at unlawfully killed J.S.

4

STATEMENT OF OFFENCE

Rape (C.L.C. Act, 1935, s. 48).

PARTICULARS OF OFFENCE

A.B., on the day of at had sexual intercourse with E.F. without her consent.

5

STATEMENT OF OFFENCE

1st Count—Wounding with intent (C.L.C. Act, 1935, s. 21).

PARTICULARS OF OFFENCE

A.B., on the day of at wounded C.D. with intent to do him grievous bodily harm or to maim, disfigure or disable him or to resist the lawful apprehension of him the said A.B.

STATEMENT OF OFFENCE

2nd Count—Maliciously wounding (C.L.C. Act, 1935, s. 23).

PARTICULARS OF OFFENCE

A.B. on the day of at maliciously wounded C.D.

6

STATEMENT OF OFFENCE

Larceny by a servant (C.L.C. Act, 1935, s. 176(1)(a)).

PARTICULARS OF OFFENCE

A.B., on the day of at being clerk or servant to M.N. stole from the said M.N. 10 yards of cloth.

7

STATEMENT OF OFFENCE

Robbery with violence (C.L.C. Act, 1935, s. 158).

PARTICULARS OF OFFENCE

A.B., on the day of at robbed C.D. of a watch and at the time of or immediately before or immediately after such robbery used personal violence to the said C.D.

8

STATEMENT OF OFFENCE

1st Count—Larceny (C.L.C. Act, 1935, s. 131).

PARTICULARS OF OFFENCE

A.B., on the day of at stole \$20 the property of M.N. and others.

STATEMENT OF OFFENCE

2nd Count—Receiving (C.L.C. Act, 1935, s. 196).

PARTICULARS OF OFFENCE

A.B., on the day of at received (*the money mentioned in the 1st Count*) knowing it to have been stolen.

9

STATEMENT OF OFFENCE

Burglary (C.L.C. Act, 1935, s. 168(a)).

PARTICULARS OF OFFENCE

A.B., in the night of the day of at broke and entered the dwelling house of C.D. with intent to steal therein.

10

STATEMENT OF OFFENCE

1st Count—Shopbreaking and larceny (C.L.C. Act, 1935, s. 170(1)).

PARTICULARS OF OFFENCE

A.B., on the day of at broke and entered the shop of the Co-operative Grocery Company and stole therein 25 tins of jam.

STATEMENT OF OFFENCE

2nd Count—Receiving (C.L.C. Act, 1935, s. 196).

PARTICULARS OF OFFENCE

A.B., on the day of at received (*the goods mentioned in the 1st Count*) knowing them to have been stolen.

11

STATEMENT OF OFFENCE

Sending threatening letter with intent to extort money (C.L.C. Act, 1935, s. 161).

PARTICULARS OF OFFENCE

A.B., on the day of at sent, delivered or uttered to, or caused to be received by C.D. a letter accusing or threatening to accuse the said C.D. of an infamous crime with intent to extort money from the said C.D.

12

STATEMENT OF OFFENCE

Obtaining goods by false pretences (C.L.C. Act, 1935, s. 195(1)(a)).

PARTICULARS OF OFFENCE

A.B., on the day of at with intent to defraud obtained from C.D. 5 yards of cloth by falsely pretending that he the said A.B. was a servant to J.S. and had been sent by the said J.S. to C.D. for the said cloth and was authorized by the said J.S. to receive such cloth on behalf of the said J.S.

13

STATEMENT OF OFFENCE

Conspiracy to defraud (C.L.C. Act, 1935, s. 270).

PARTICULARS OF OFFENCE

A.B. and C.D. on the day of and on divers days between the day of and the day of at conspired together with intent to defraud by means of an advertisement inserted in the H.S. newspaper falsely representing that A.B. and C.D. were carrying on a genuine business as jewellers at and that they were then able to supply certain articles of jewellery to whomsoever would remit to them the sum of \$4.

14

STATEMENT OF OFFENCE

1st Count—Arson (C.L.C. Act, 1935, s. 84(b)).

PARTICULARS OF OFFENCE

A.B., on the day of at maliciously set fire to a dwelling house one F.G. being therein.

STATEMENT OF OFFENCE

2nd Count—Arson (C.L.C. Act, 1935, s. 84(c)).

PARTICULARS OF OFFENCE

A.B. on the day of at maliciously set fire to a dwelling house with intent to injure or defraud.

15

STATEMENT OF OFFENCES

A.B.—Arson (C.L.C. Act, 1935, s. 84(c)).

C.D.—Accessory before the fact to the same offence (*ibid.* s. 267).

PARTICULARS OF OFFENCES

A.B. on the day of at maliciously set fire to a dwelling house with intent to injure or defraud.

C.D. on the same day at counselled, procured and commanded the said A.B. to commit the said offence.

16

STATEMENT OF OFFENCE

1st Count—Obstructing railway (C.L.C. Act, 1935, s. 110).

PARTICULARS OF OFFENCE

A.B. on the day of at displaced a rail belonging to the *State Transport Authority* with intent to obstruct, overthrow, injure or destroy any engine, tender, carriage or truck using the said railway.

STATEMENT OF OFFENCE

2nd Count—Obstructing railway (C.L.C. Act, 1935, s. 111).

PARTICULARS OF OFFENCE

A.B. on the day of at by unlawfully displacing a sleeper belonging to the *State Transport Authority* did obstruct or cause to be obstructed an engine or carriage using the said railway.

17

STATEMENT OF OFFENCE

Damaging a tree after previous conviction (C.L.C. Act, 1935, s. 101).

PARTICULARS OF OFFENCE

A.B. on the day of at having been previously summarily convicted on the day of at of maliciously damaging a tree did maliciously destroy or damage certain underwood (the damage being less than \$2).

18

STATEMENT OF OFFENCE

1st Count—Forgery (C.L.C. Act, 1935, s. 214(a)(iv)).

PARTICULARS OF OFFENCE

A.B. on the day of at with intent to defraud forged a cheque for \$20 on the Bank.

STATEMENT OF OFFENCE

2nd Count—Uttering (*ibid.*)

PARTICULARS OF OFFENCE

A.B. on the day of at uttered (*the forged cheque mentioned in the 1st Count*) knowing it to be forged with intent to defraud.

19

STATEMENT OF OFFENCE

Perjury (C.L.C. Act, 1935, s. 239).

PARTICULARS OF OFFENCE

A.B. on the day of at being a witness upon the trial of an action in the Local Court of Adelaide in which C.D. was plaintiff and E.F. was defendant knowingly falsely swore that he saw M.N. at Port Adelaide on the day of .

20

STATEMENT OF OFFENCE

Libel (C.L.C. Act, 1935, s. 247).

PARTICULARS OF OFFENCE

A.B. on the day of at maliciously published a defamatory libel concerning E.F. in the form of a letter, book, pamphlet [*or as the case may be*], [*Innuendoes should be set out where necessary.*]

21

STATEMENT OF OFFENCE

1st Count—Fraudulent conversion (C.L.C. Act, 1935, s. 184).

PARTICULARS OF OFFENCE

A.B. on the _____ day of _____ at _____ fraudulently converted to his own use and benefit \$200 entrusted to him by J.S. in order that he the said A.B. might retain the same in safe custody.

STATEMENT OF OFFENCE

2nd Count—Fraudulent conversion (C.L.C. Act, 1935, s. 184).

PARTICULARS OF OFFENCE

A.B. on the _____ day of _____ at _____ fraudulently converted to his own use and benefit \$200 received by him for and on account of L.M.

22

STATEMENT OF OFFENCE

Riot (Common Law).

PARTICULARS OF OFFENCE

A.B. on the _____ day of _____ at _____ participated in a riot.

23

STATEMENT OF OFFENCE

Sexual intercourse with a person of or over 12 and under 17 (C.L.C. Act, 1935, s. 49(2)).

PARTICULARS OF OFFENCE

A.B. on the _____ day of _____ at _____ had sexual intercourse with C.D. a girl of 15 years.

24

PREVIOUS CONVICTIONS

A.B. has been previously convicted of—

1. *Larceny*, at the Supreme Court, Adelaide, on the _____ day of _____
2. *Shopbreaking and Larceny*, at the Circuit Court, Gladstone, on the _____ day of _____
3. *Receiving*, at the Supreme Court, Adelaide, on the _____ day of _____

* * * * *
 * * * * *

SCHEDULE 10

Certificate of determination of question reserved

Whereas at [describe the court] A.B., having been found guilty of _____ and judgment having been given that [state the substance], the court reserved a certain question of law for the consideration of the Full Court and execution was respited in the meantime.

This is to certify that the Full Court having considered the said question of law on the _____ day of _____ has decided that the said judgment should be annulled and you are therefore required forthwith to discharge the said A.B. from your custody.

(Signed)

Clerk of Arraigns.

To the Director of Correctional Services and all others whom it may concern.

APPENDIX 1

THE TREASON ACT 1351

The Act 25 Edward III Stat. 5, c 2: "A Declaration which Offences shall be adjudged Treason" reads as follows:

ITEM, Whereas divers Opinions have been before this Time in what Case Treason shall be said, and in what not; The King, at the Request of the Lords and of the Commons, hath made a Declaration in the Manner as hereafter followeth; that is to say, When a Man doth compass or imagine the Death of our Lord the King, or of our Lady his Queen, or of their eldest Son and Heir; or if a Man do violate the King's Companion, or the King's eldest Daughter unmarried, or the Wife of the King's Eldest Son and Heir; or if a Man do levy War against our Lord the King in his Realm, or be adherent to the King's Enemies in his Realm, giving to them Aid and Comfort, in the Realm, or elsewhere, and thereof be probably attainted of open Deed by the People of their Condition... And if a Man slea the Chancellor, Treasurer, or the King's Justices of the one Bench or the other, Justices in Eyre, or Justices of Assize and all other Justices assigned to hear and determine, being in their Places, doing their Offices. And it is to be understood, that in the Cases above rehearsed, that ought to be judged Treason which extends to our Lord the King, and his Royal Majesty: And of such Treason the Forfeiture of the Escheats pertaineth to our Sovereign Lord, as well of the Lands and Tenements holden of other, as of himself... And because that many other like Cases of Treason may happen in Time to come, which a Man cannot think nor declare at this present Time; it is accorded, That if any other Case, supposed Treason, which is not above specified, doth happen before any Justices, the Justices shall tarry without any going to Judgment of the Treason till the Cause be shewed and declared before the King and his Parliament, whether it ought to be judged Treason or other Felony. And, if percase any Man of this Realm, ride armed covertly or secretly, with Men of Arms against any other, to slay him, or rob him, or take him, or retain him till he hath made Fine or Ransom for to have his Deliverance, it is not the Mind of the King nor his Council, that in such Case it shall be judged Treason, but shall be judged Felony or Trespass, according to the Laws of the Land of old Time used, and according as the Case requireth. And if in such Case, or other like, before this Time any Justices have judged Treason, and for this Cause the Lands and Tenements have come into the King's Hands as Forfeit, the chief Lords of the Fee shall have the Escheats of the Tenements holden of them, whether that the same Tenements be in the King's Hands, or in others, by Gift or in other Manner; saving always to our Lord the King the year, and the Waste, and the Forfeitures of Chatties, which pertain to him in the Cases above named; and that the Writs of Scire facias be granted in such Case against the Land-Tenants without other original, and without allowing the Protection of our Lord the King, in the said Suit; and that of the Lands which be in the King's Hands, Writs be granted to the Sherrif of the Counties where the Lands be, to deliver them out of the King's Hands without Delay.

A Uxint pur ceo qe diverses opinions ount este einz ces heures qen cas quant il avient doit estre dit tresson & en quel cas noun le Roi a la requeste des Seignurs & de la Communalte ad fait declarissement qe ensuit cest assavoir Quant homme fait compasser ou imaginer la mort nostre Seignur le Roi ma dame sa compaigne ou de lour fitz primer & heir ou si homme violast la compaigne le Roi ou leisnesce fill le Roi nient marie ou la compaigne leisne fitz & heir du Roi & si homme leve de guerre contre nostre dit Seignur le Roi en son Roialme ou soit aherdant as enemys nostre Seignur le Roi en le Roialme donant a eux eid ou confort en son Roialme ou par aillours & de ceo provablement soit atteint de overt faite par gentz de lour condition... & si homme tuast Chancellor Tresorer ou Justice nostre Seignur le Roi del un Bank ou del autre Justice en Eir & des assises & toutes autres Justices assignez a oier & terminer esteiantz en leurs places en fesantz leurs offices. Et fait a entendre qen les cases suisnomez doit estre ajugge tresson qe sestent a nostre Seignur le Roi & a sa roial majeste & de tiele manere de tresson la forfeiture des eschetes appartient a nostre Seignur le Roi sibien des terres & tenemenz tenuz des autres come de lui meismes... Et pur ceo qe plusurs autres cases de semblable tresson purront escheer en temps a venir queux homme ne purra penser ne declarer en present Assentu est qe si autre cas supposee tresson qe nest especifie paramount aviegne de novel devant ascunes Justices demoege la Justices saunz aler au jugement de tresson tanqe par devant nostre Seignur le Roi en son parlement soit le cas monstree & desclarre le que ceo doit estre ajugge tresson ou autre felonie. Et si par cas ascun homme de cest roialme chivache arme descovert ou secrement od gentz armees contre ascun autre pur lui tuer ou dérober ou pur lui prendre & retenir tanqil face fyn ou raunceon pur sa delivrance avoir nest pas lentent du Roi & de son conseil qe en tiel cas soit ajugge tresson einz soit ajugge felonie ou trespass solonc la lei de la terre auncienement usee & solonc ceo qe le cas demand. Et si en tieu cas ou autre semblable devant ces heures ascune Justice eit ajugge tresson & par celle cause les terres & tenemenz soient devenuz en la main nostre Seignur le Roi come forfaitz eient les chiefs Seignures de fee leurs eschetes des tenemenz de eux tenuz le quel qe les tenemenz soient en la main nostre Seignur le Roi ou en la main des autres par donn ou en autre manere Sauvant totefoitz a nostre Seignur le Roi lan & le wast & autres forfaitures des chateux qe a lui attenent en les cases suisnommes & qe briefs de Scire facias vers les terres tenantz soient grantez en tieu cas saunz autre originale & saunz allower la protection nostre Seignur le Roi en la dite seute & qe de les terres qe sont en la main le Roi soit grante brief as viscontes des countees la ou les terres serront de ostier la main le Roi saunz outre delaie.

THE TREASON ACT 1795

The Act 36 George III C. 7 reads as follows:

An Act for the Safety and Preservation of His Majesty's Person and Government against treasonable and seditious Practices and Attempts.—[18th December 1795.]

WE, your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal, and Commons, of Great Britain, in this present Parliament assembled, duly considering the daring Outrages offered to your Majesty's most Sacred Person, in your Passage to and from your Parliament at the Opening of this present Session, and also the continued Attempts of wicked and evil-disposed Persons to disturb the Tranquility of this your Majesty's Kingdom, particularly by the Multitude of seditious Pamphlets and Speeches daily printed, published, and dispersed, with unremitting Industry, and with a transcendent boldness, in Contempt of your Majesty's Royal Person and Dignity, and tending to the Overthrow of the Laws, Government, and happy Constitution of these Realms, have judged that it is become necessary to provide a further Remedy against all such treasonable and seditious Practices and Attempts: We, therefore, calling to Mind the good and wholesome Provisions which have at different Times been made by the Wisdom of Parliament for the averting such Dangers, and more especially for the Security and Preservation of the Persons of the Sovereigns of these Realms, do most humbly beseech your Majesty that it may be enacted; and be it enacted by the King's most Excellency Majesty, by and with

the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That if any Person or Persons whatsoever, after the Day of the passing of this Act, during the natural Life of our most Gracious Sovereign Lord the King, (whom Almighty God preserve and bless with a long and prosperous Reign,) and until the End of the next Session of Parliament after a Demise of the Crown, shall, within the Realm or without, compass, imagine, invent, devise, or intend Death or Destruction, or any bodily Harm tending to Death or Destruction, Maim or Wounding, Imprisonment or Restraint, of the person of the same our Sovereign Lord the King, his Heirs and Successors, or to deprive or depose him or them from the Style, Honour, or Kingly Name of the Imperial Crown of this Realm, or of any other of his Majesty's Dominions or Countries; or to levy War against his Majesty, his Heirs and Successors, within this Realm, in order, by Force or Constraint, to compel him or them to change his or their Measures or Counsels, or in order to put any Force or Constraint upon, or to intimidate, or overawe, both Houses, or either House of Parliament; or to move or stir any Foreigner or Stranger with Force to invade this Realm, or any other his Majesty's Dominions or Countries, under the Obeisance of his Majesty, his Heirs and Successors; and such Compassings, Imaginations, Inventions, Devices, or Intentions, or any of them, shall express, utter or declare, by publishing any Printing or Writing, or by any overt Act or Deed; being legally convicted thereof, upon the Oaths of two lawful and credible Witnesses, upon Trial, or otherwise convicted or attainted by due Course of Law, then every such Person and Persons, so as aforesaid offending, shall be deemed, declared, and adjudged to be a Traitor and Traitors, and shall suffer Pains of Death, and also lose and forfeit as in Cases of High Treason.

II. And be it further enacted by the Authority aforesaid, That if any Person or Persons within that Part of *Great Britain*, called *England*, at any Time from and after the Day of passing this Act, during three Years from the Day of passing this Act, and until the End of the then next Session of Parliament, shall maliciously and advisedly, by Writing, Printing, Preaching, or other Speaking, express, publish, utter, or declare any Words or Sentences to incite or stir up the People to Hatred or Contempt of the Person of his Majesty, his Heirs or Successors, or the Government and Constitution of this Realm, as by Law established, then every such Person and Persons, being thereof legally convicted, shall be liable to such Punishment as may by Law be inflicted in Cases of High Misdemeanours; and if any Person or Persons shall, after being so convicted, offend a second Time, and be thereupon convicted, before any Commission of Oyer and Terminer, or Gaol Delivery, or in his Majesty's Court of King's Bench, such Person or Persons may, on such second Conviction, be adjudged, at the Discretion of the Court, either to suffer such Punishment as may now by Law be inflicted in Cases of High Misdemeanours, or to be banished this Realm, or to be transported to such Place as shall be appointed by his Majesty for the Transportation of Offenders; which Banishment or Transportation shall be for such Term as the Court may appoint, not exceeding seven Years.

III. And be it further enacted, That if any Offender or Offenders, who shall be so ordered by any such Court as aforesaid to be banished the Realm, or transported beyond the Seas, in Manner aforesaid, shall be afterwards at large within any Part of the Kingdom of *Great Britain*, without some lawful Cause, before the Expiration of the Term for which such Offender or Offenders shall have been ordered to be banished or transported beyond the Seas as aforesaid, every such Offender being so at large as aforesaid, being thereof lawfully convicted, shall suffer Death, as in Cases of Felony without Benefit of Clergy; and such Offender or Offenders may be Tried, either before Justices of Assize, Oyer and Terminer, Great Sessions, or Gaol Delivery, for the County, City, Liberty, Borough, or Place, where such Offender or Offenders shall be apprehended and taken, or from whence he, she, or they was or were ordered to be banished or transported; and the Clerk of Assize, Clerk of the Peace, or other Clerk or Officer of the Court, having the Custody of the Records where such Orders of Banishment or Transportation shall be made, shall, at the Request of the Prosecutor, or any other Person on his Majesty's Behalf, make out and give a Certificate in Writing, signed by him, containing the Effect and Substance only (omitting the formal Part) of every Indictment and Conviction of such Offender or Offenders, and of the Order for his, her, or their Banishment or Transportation, to the Justices of Assize, Oyer and Terminer, Great Sessions, or Gaol Delivery, where such Offender or Offenders shall be indicted (not taking for the same more than two Shillings and six Pence); which Certificate shall be sufficient Proof of the Conviction and Order for Banishment or Transportation of such Offender or Offenders.

IV. Provided always, That no Person or Persons, by virtue of this present Act, shall for any Misdemeanour incur any the Penalties hereinbefore mentioned, unless he, she, or they be prosecuted within six Calendar Months next after the Offence committed, and the Prosecution brought to Trial or Judgment within the first Term, Sittings, Assizes, or Sessions in which, by the Course of the Court wherein such Prosecution shall be depending, the Prosecutor could bring on such Trial, or cause such Judgment to be entered, or in the Term, Sittings, Assizes, or Session which shall next ensue, unless the Court in which such Prosecution shall be depending, or before which such Trial ought to be had, shall, on special Ground stated by Motion in open Court, think fit to enlarge the Time for the Trial thereof, or unless the Defendant shall be prosecuted to or towards an Outlawry; and that no Person shall, upon Trial, be convicted by virtue of this Act, for any Misdemeanour, but by the Oaths of two credible Witnesses.

V. Provided always, and be it further enacted, That all and every Person or Persons that shall at any Time be accused, or indicted, or prosecuted, for any Offence made or declared to be Treason by this Act, shall be entitled to the Benefit of the Act of Parliament, made in the seventh Year of his late Majesty King *William* the Third, intituled, *An Act for regulating of Trials in Cases of Treason and Misprision of Treason*; and also to the Provisions made by another Act of Parliament, passed in the seventh Year of her late Majesty Queen *Anne*, intituled, *An Act for improving the Union of the two Kingdoms*.

VI. Provided also, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to prevent or affect any Prosecution by Information or Indictment at the Common Law, for any Offence within the Provisions of this Act, unless the Party shall have been first prosecuted under this Act.

THE TREASON ACT 1817

The Act 57 George III C. 6 reads as follows:

An Act to make perpetual certain Parts of an Act of the Thirty-sixth Year of His present Majesty, for the Safety and Preservation of His Majesty's Person and Government against Treasonable and Seditious Practices and Attempts; and for the Safety and Preservation of the Person of His Royal Highness The Prince Regent against Treasonable Practices and Attempts. — [17th March 1817.]

WHEREAS by an Act passed in the Thirty sixth Year of His present Majesty's Reign, intituled *An Act for the Safety and Preservation of His Majesty's Person and Government against Treasonable and Seditious Practices and Attempts*, it was amongst other Things enacted, that if any Person or Persons whatsoever, after the Day of the passing of that Act, during the natural Life of His Majesty, and until the End of the next Session of Parliament after the Demise of the Crown, should,

within the Realm or without, compass, imagine, invent, devise or intend Death or Destruction, or any bodily Harm tending to Death or Destruction, Maim or Wounding, Imprisonment or Restraint of the Person of His Majesty, His Heirs and Successors, or to deprive or depose Him or them from the Stile, Honour or Kingly Name of the Imperial Crown of this Realm, or of any other of His Majesty's Dominions or Countries, or to levy War against His Majesty, His Heirs and Successors, within this Realm, in order by Force or Constraint to compel Him or them to change His or their Measures or Counsels, or in order to put any Force or Constraint upon or to intimidate or overawe both Houses or either House of Parliament, or to move or stir any Foreigner or Stranger with Force to invade this Realm or any other His Majesty's Dominions or Countries under the Obeisance of His Majesty, His Heirs and Successors, and such Compassings, Imaginations, Inventions, Devices or Intentions, or any of them, should express, utter or declare, by publishing any Printing or Writing, or by any overt Act or Deed, being legally convicted thereof upon the Oaths of Two lawful and credible Witnesses upon Trial, or otherwise convicted or attainted by due Course of Law, then every such Person and Persons so as aforesaid offending should be deemed, declared and adjudged to be a Traitor and Traitors, and should suffer Pains of Death, and also lose and forfeit as in cases of High Treason: And Whereas it is necessary and expedient that such of the Provisions of the said Act as would expire at the End of the next Session of Parliament after the Demise of the Crown should be further continued and made perpetual: Be it therefore enacted by The King's Most Excellent Majesty, and by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all and every the hereinbefore recited Provisions which relate to the Heirs and Successors of His Majesty, the Sovereigns of these Realms, shall be and the same are hereby made perpetual.

II. And Whereas, in consequence of the daring Outrages offered to the Person of His Royal Highness the Prince Regent of the United Kingdom of *Great Britain and Ireland*, in the Exercise and Administration of the Royal Power and Authority to the Crown of these Realms belonging, in His Passage to and from the Parliament, at the Opening of this present Session, it is expedient, for the Security and Preservation of the Person of the same His Royal Highness The Prince Regent, to extend certain of the Provisions of the said Act; Be it therefore enacted, That if any Person or Persons whatsoever, after the Day of passing this Act, during the Period in which His Royal Highness The Prince Regent shall remain in the Personal Exercise of the Royal Authority, shall, within the Realm or without, compass, imagine, invent, devise or intend Death or Destruction, or any bodily Harm tending to Death or Destruction, Maim or Wounding, Imprisonment or Restraint, of the Person of the same His Royal Highness The Prince Regent, and such Compassings, Imaginations, Inventions, Devices or Intentions, or any of them, shall express, utter or declare, by publishing any Printing or Writing, or by any overt Act or Deed, being legally convicted thereof upon the Oaths of Two lawful and credible Witnesses upon Trial, or otherwise convicted or attainted by due Course of Law, then every such Person and Persons so as aforesaid offending shall be deemed, declared and adjudged to be a Traitor and Traitors, and shall suffer Pains of Death, and also lose and forfeit as in cases of High Treason.

III. And Whereas it is expedient to extend the Provisions of a certain Act passed in the Thirty ninth and Fortieth Years of the Reign of His present Majesty, intituled *An Act for regulating Trials for High Treason and Misprision of Treason in certain cases*; Be it therefore enacted, That from and after the passing of this Act, all and every the Clauses, Provisions and Regulations in the said Act contained shall extend and be deemed, taken and construed to extend, to all and every case of High Treason in compassing or imagining the Death of His Royal Highness The Prince Regent, and Misprision of such Treason, where the overt Act or overt Acts which shall be alleged in the Indictment for such Offence shall be Assassination or Killing of His Royal Highness The Prince Regent, or any direct Attempt against His Life, or any direct Attempt against His Person whereby His Life may be endangered or His Person may suffer bodily Harm.

IV. Provided, and be it further enacted, That all and every Person and Persons that shall at any Time be accused, or indicted or prosecuted for any Offence made or declared to be High Treason by this Act, shall be entitled to the Benefit of the Act made in the Seventh Year of His Late Majesty King *William the Third*, intituled *An Act for regulating of Trials in Cases of Treason and Misprision of Treason*; and also to the Provisions made by another Act, passed in the Seventh Year of Her Late Majesty Queen *Anne*, intituled *An Act for improving the Union of the Two Kingdoms*; save and except in Cases of High Treason in compassing or imagining the Death of any Heir or Successor of His Majesty, or the Death of His Royal Highness The Prince Regent, and of Misprision of such Treason, where the overt Act or overt Acts of such Treason which shall be alleged in the Indictment for such Offence shall be Assassination or Killing of any Heir or Successor of His Majesty, or Assassination or Killing of His Royal Highness The Prince Regent, or any direct Attempt against the Life of any Heir or Successor of His Majesty, or any such Attempt against the Life of the Prince Regent, or any Direct Attempt against the Person of any Heir or Successor of His Majesty, or against the Person of The Prince Regent, whereby the Life of such Heir or Successor, or the Life of The Prince Regent, may be endangered, or the Person of such Heir or Successor, or of The Prince Regent, may suffer bodily Harm.

V. Provided also, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to prevent or affect any Prosecution, by Information or Indictment, to which any Person or Persons would have been or would be liable if this Act had not been enacted, for any Offence within the Provisions of this Act, unless the Party shall have been first prosecuted under this Act.

VI. Provided also, and be it enacted, That the Statute of the Fifty fourth Year of His Majesty's Reign, intituled *An Act to alter the Punishment in certain Cases of High Treason*, shall have the same Effect as to Sentences and Judgments to be pronounced and awarded under this Act, as if this Act had been made and passed before the said Act of the Fifty fourth Year of His Majesty's Reign.

APPENDIX 2

Legislative History

The *Criminal Law Consolidation Act, 1935*, repealed the following Acts to the extent indicated:

No. of Act	Title or Short Title	Extent of Repeal
14 of 1841-2	An act for adopting certain Acts of Parliament passed in the First Year of the Reign of Her Majesty Queen Victoria in the Administration of Justice in South Australia in like manner as other Laws of England are applied therein	The whole
13 of 1866-7	An Act for amending the Law of Evidence and Practice on Criminal Trials	The whole
2 of 1868	<i>The Treason Felony Act, 1868</i>	The whole
9 of 1870	<i>The Habitual Criminals Act, 1870</i>	The whole
25 of 1874	An Act to abolish Forfeitures for Treason and Felony, and to otherwise amend the law relating thereto	The whole
38 of 1876	<i>The Criminal Law Consolidation Act, 1876</i>	The whole
109 of 1878	<i>The Conspiracy and Protection of Property Act, 1878</i>	The whole
358 of 1885	<i>The Criminal Law Consolidation Amendment Act, 1885</i>	The whole
730 of 1899	<i>The Children's Protection Act, 1899</i>	Section 3
791 of 1902	<i>The Criminal Law Amendment Act, 1902</i>	The whole
927 of 1907	<i>The Habitual Criminals Amendment Act, 1907</i>	The whole
1303 of 1917	<i>The Criminal Law Amendment Act, 1917</i>	The whole
1479 of 1921	<i>The Justices Act, 1921</i>	Sections 156 and 157
1613 of 1924	<i>The Criminal Appeals Act, 1924</i>	The whole
1670 of 1925	<i>The Criminal Law Amendment Act, 1925</i>	The whole
1780 of 1926	<i>Maintenance Act, 1926</i>	Section 199
1804 of 1927	<i>The Criminal Law Act, 1927</i>	The whole
1909 of 1929	<i>The Criminal Informations Act, 1929</i>	The whole
1940 of 1929	<i>The Criminal Law Act, 1929</i>	The whole
2139 of 1933	<i>The Bushfires Act, 1933</i>	Section 24

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 3 of The Public General Acts of South Australia 1837-1975 at page 125.

Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 1 January 1985. A schedule of these alterations was laid before Parliament on 12 February 1985.

Section 3:	amended by 83, 1976, s. 2; 115, 1976, s. 3; 107, 1981, s. 3; 49, 1984, s. 2; deleted in pursuance of the <i>Acts Republication Act, 1967</i> ; see Summary of Provisions
Section 4:	repealed by 50, 1984, s. 3(1) (1st Sched.)
Section 5(1):	redesignated as s. 5 in pursuance of the <i>Acts Republication Act, 1967</i> definition of "carnal knowledge" repealed by 83, 1976, s. 3(a) definition of "court" inserted by 69, 1986, s. 17 definition of "dwelling-house" amended by 50, 1984, s. 3(1) (1st Sched.) definition of "firearm" inserted by 103, 1988, s. 3(a) definition of "the Parole Board" amended by 50, 1984, s. 3(1) (1st Sched.) definition of "property" substituted by 90, 1986, s. 3(a) definition of "rape" repealed and definition of "sexual intercourse" inserted in its place by 83, 1976, s. 3(b) definition of "sexual intercourse" substituted by 98, 1985, s. 3
Section 5(2):	repealed by 50, 1984, s. 3(1) (1st Sched.); inserted by 90, 1986, s. 3(b)
Section 5a:	inserted by 115, 1976, s. 4
Section 6:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 7:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 8(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 9:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 10:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 10a:	inserted by 115, 1976, s. 5
Section 11:	amended by 115, 1976, s. 6
Section 13a:	inserted by 45, 1983, s. 2
Section 14:	amended by 51, 1983, s. 2; 50, 1984, s. 3(1) (1st Sched.); repealed by 91, 1986, s. 3
Section 14a:	substituted by 51, 1983, s. 3; repealed by 91, 1986, s. 3
Section 16:	amended by 50, 1984, s. 3(1) (1st Sched.)
Heading preceding section 18:	repealed by 107, 1981, s. 4
Section 18:	repealed by 107, 1981, s. 4;
Heading preceding section 19:	substituted by 90, 1986, s. 4
Section 19:	amended by 50, 1984, s. 3(1) (1st Sched.); substituted by 90, 1986, s. 4
Heading preceding section 19a:	inserted by 91, 1986, s. 4
Section 19a:	inserted by 91, 1986, s. 4
Section 19a(6):	amended by 51, 1988, s. 27
Section 19b:	inserted by 91, 1986, s. 4
Section 21:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 22:	repealed by 50, 1984, s. 3(1) (1st Sched.)
Section 23:	amended by 107, 1981, s. 5
Section 24:	amended by 51, 1983, s. 4
Section 28:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 29:	amended by 50, 1984, s. 3(1) (1st Sched.); substituted by 90, 1986, s. 5
Sections 30 and 31:	substituted by 90, 1986, s. 5
Section 32:	repealed by 90, 1986, s. 5; inserted by 103, 1988, s. 3(b)

Section 33:	repealed by 90, 1986, s. 5
Sections 34 and 35:	amended by 50, 1984, s. 3(1) (1st Sched.); repealed by 90, 1986, s. 5
Sections 36 and 37:	repealed by 90, 1986, s. 5
Section 38:	amended by 51, 1983, s. 5; 50, 1984, s. 3(1) (1st Sched.); repealed by 91, 1986, s. 5
Section 38a:	substituted by 51, 1983, s. 6; repealed by 91, 1986, s. 5
Section 39:	amended by 107, 1981, s. 6
Section 40:	amended by 107, 1981, s. 7
Section 41:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 43:	amended by 107, 1981, s. 8(b); 50, 1984, s. 3(1) (1st Sched.)
Section 43(a):	repealed by 107, 1981, s. 8(a)
Section 45:	repealed by 50, 1984, s. 3(1) (1st Sched.)
Section 46(3) and (4):	repealed by 16, 1986, s. 14
Section 47(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 47(3):	amended by 50, 1984, s. 3(1) (1st Sched.); repealed by 90, 1986, s. 6
Section 47a and heading:	inserted by 103, 1988, s. 3(c)
Section 48:	substituted by 83, 1976, s. 4
Section 48(1):	redesignated as s. 48 in pursuance of the <i>Acts Republication Act, 1967</i> ; amended by 98, 1985, s. 4
Section 48(2):	repealed by 107, 1981, s. 9
Section 49:	substituted by 83, 1976, s. 4
Section 49(2):	repealed by 107, 1981, s. 10(a)
Section 49(3):	amended by 107, 1981, s. 10(b)
Section 49(4):	amended by 107, 1981, s. 10(c)
Section 49(5):	amended by 107, 1981, s. 10(d)
Section 49(6):	amended by 107, 1981, s. 10(e); substituted by 33, 1991, s. 7
Sections 50 - 55:	repealed by 83, 1976, s. 4
Section 56:	substituted by 107, 1981, s. 11
Section 57a:	substituted by 83, 1976, s. 5
Section 57b:	repealed by 83, 1976, s. 6
Section 58(1):	amended by 92, 1978, s. 2(a); 107, 1981, s. 12
Section 58(3) - (6):	inserted by 92, 1978, s. 2(b); repealed by 114, 1983, s. 3
Section 58a:	inserted by 84, 1983, s. 2
Section 59:	substituted by 83, 1976, s. 7
Sections 60 - 62:	repealed by 83, 1976, s. 7
Section 63:	amended by 107, 1981, s. 13
Section 64:	amended by 83, 1976, s. 8(a), (b); 107, 1981, s. 14; 50, 1984, s. 3(1) (1st Sched.)
Section 64(c):	repealed by 83, 1976, s. 8(c)
Section 65:	amended by 83, 1976, s. 9
Sections 66 - 68:	repealed by 83, 1976, s. 10
Section 69(1):	redesignated as s. 69 in pursuance of the <i>Acts Republication Act, 1967</i>
Section 69(2):	repealed by 107, 1981, s. 15
Section 72:	substituted by 83, 1976, s. 11
Section 73:	substituted by 83, 1976, s. 12
Section 74:	repealed by 107, 1984, s. 9
Section 75:	amended by 83, 1976, s. 13; 51, 1983, s. 7
Section 76:	amended by 83, 1976, s. 14
Section 76a:	amended by 83, 1976, s. 15; repealed by 98, 1985, s. 5
Section 77:	amended by 83, 1976, s. 16; 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 28
Section 77a:	amended by 83, 1976, s. 17; 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 29
Section 79:	amended by 50, 1984, s. 3(1) (1st Sched.)
Heading preceding section 80:	substituted by 83, 1976, s. 18
Section 80(1):	amended by 83, 1976, s. 19(a); 50, 1984, s. 3(1) (1st Sched.)
Section 80(1a):	inserted by 83, 1976, s. 19(b); amended by 50, 1984, s. 3(1) (1st Sched.)
Section 80(2):	amended by 83, 1976, s. 19(c); 50, 1984, s. 3(1) (1st Sched.)
Section 82a(4):	amended by 14, 1978, s. 3
Section 82a(5) and (9):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 83(1):	amended by 50, 1984, s. 3(1) (1st Sched.)

Part IV comprising ss. 84 - 129 and headings amended by 107, 1981, ss. 16 - 19; 50, 1984, s. 3(1) (1st Sched.); 16, 1986, ss. 15 - 18; repealed and ss. 84 - 87 and heading inserted in its place by 90, 1986, s. 7

Section 130:	definition of "document of title to goods" amended by 50, 1984, s. 3(1) (1st Sched.)
Section 132:	definition of "valuable security" amended by 50, 1984, s. 3(1) (1st Sched.)
Section 138:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 139(1):	amended by 107, 1981, s. 20
Section 141:	amended by 16, 1986, s. 19
Section 142(1):	amended by 16, 1986, s. 20
Section 142(2):	amended by 50, 1984, s. 3(1) (1st Sched.); 16, 1986, s. 21(a)
Section 145(2):	amended by 16, 1986, s. 21(b)
Section 146:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 149(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 150:	amended by 16, 1986, s. 22
Section 151(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 152:	amended by 16, 1986, s. 23
Section 153a:	amended by 50, 1984, s. 3(1) (1st Sched.)
Heading preceding section 154:	inserted by 50, 1984, s. 3(1) (1st Sched.)
Section 154:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 156:	repealed by 107, 1981, s. 21
Section 159:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 161:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 162:	amended by 50, 1984, s. 3(1) (1st Sched.)

Section 166(2):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 171:	amended by 50, 1984, s. 3(1) (1st Sched.)
Heading preceding section 174:	inserted by 50, 1984, s. 3(1) (1st Sched.)
Section 174:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 175:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 177:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 179:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 180(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 193:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 194(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 196(2) - (4):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 197a(3):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 200(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Heading preceding section 201:	amended by 51, 1988, s. 30
Section 201:	amended by 16, 1986, s. 24; repealed by 51, 1988, s. 31
Section 205:	amended by 107, 1981, s. 22
Section 207:	amended by 115, 1976, s. 7
Section 208:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 209:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 211:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 229:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 231:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 236:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 238:	amended by 115, 1976, s. 8; 107, 1981, s. 23
Section 239:	substituted by 56, 1984, s. 4
Section 244(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 246:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 247:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 249(1) and (2):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 251:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 253(4):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 256(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 257:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 259a:	inserted by 46, 1985, s. 37
Section 264:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 265:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 266:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 268(1):	substituted by 107, 1981, s. 24
Section 270(1)(a):	repealed by 107, 1981, s. 25
Section 270a and heading:	inserted by 107, 1981, s. 26
Section 270ab:	inserted by 45, 1983, s. 3
Section 270b and heading:	inserted by 107, 1981, s. 26
Section 272:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 273:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 274(2):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 276(2):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 280(2):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 281a and heading:	inserted by 109, 1981, s. 59
Heading preceding section 282:	inserted by 109, 1981, s. 60
Section 282:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 283(2):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 285a:	inserted by 108, 1981, s. 2
Section 285b:	inserted by 45, 1983, s. 4
Section 285c:	inserted by 78, 1984, s. 2
Section 285c(8):	definition of "evidence" repealed by 90, 1986, s. 8
Section 291(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 293a(3):	amended by 78, 1988, s. 2
Section 295(1) and (3):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 296:	amended by 115, 1976, s. 9; repealed by 49, 1984, s. 3
Section 297(1) and (4):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 297(5):	amended by 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 32
Section 297(6):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 298:	repealed by 51, 1988, s. 33
Section 299:	substituted by 16, 1986, s. 25; repealed by 51, 1988, s. 33
Heading preceding section 300:	repealed by 51, 1988, s. 34
Section 300:	amended by 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 34
Section 300a:	amended by 49, 1987, Sched. 2; repealed by 51, 1988, s. 34
Sections 300b - 300d:	repealed by 51, 1988, s. 34
Section 300e:	amended by 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 34
Sections 300f and 300g:	repealed by 51, 1988, s. 34
Section 300h:	amended by 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 34
Heading preceding section 301:	amended by 115, 1976, s. 10(1); repealed by 51, 1988, s. 35
Section 301:	repealed by 115, 1976, s. 10(2); inserted by 16, 1986, s. 26; repealed by 51, 1988, s. 35
Section 301a:	repealed by 115, 1976, s. 10(2)
Section 302:	repealed by 115, 1976, s. 10(2); inserted by 69, 1986, s. 18; repealed by 51, 1988, s. 35
Sections 303 - 306:	repealed by 115, 1976, s. 10(2)
Section 309:	repealed by 51, 1988, s. 35
Section 310:	substituted by 67, 1980, s. 3; amended by 69, 1986, s. 19; repealed by 51, 1988, s. 35
Section 311:	repealed by 51, 1988, s. 35
Sections 313 and 313a:	repealed by 51, 1988, s. 35
Section 314:	amended by 115, 1976, s. 11; 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 35
Heading preceding section 315:	amended by 51, 1988, s. 36
Sections 315 and 316:	amended by 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 37

Section 317(1):	amended by 50, 1984, s. 3(1) (1st Sched.); 51, 1988, s. 38
Section 318(1):	amended by 51, 1988, s. 39(a)
Section 318(2):	amended by 51, 1988, s. 39(b)
Heading preceding section 319:	repealed by 51, 1988, s. 40
Section 319:	amended by 50, 1984, s. 3(1) (1st Sched.); 90, 1986, s. 9; repealed by 51, 1988, s. 40
Section 320:	repealed by 51, 1988, s. 40
Section 321:	amended by 50, 1984, s. 3(1) (1st Sched.); repealed by 51, 1988, s. 40
Section 323:	repealed by 51, 1988, s. 40
Section 328:	repealed by 51, 1988, s. 40
Section 329:	inserted by 49, 1984, s. 4
	Part X comprising ss. 329 - 346 and heading repealed by 49, 1984, s. 5
Section 347:	repealed by 67, 1980, s. 4
Section 348:	definition of "information" amended by 50, 1984, s. 3(1) (1st Sched.) definition of "Master" repealed 50, 1984, s. 3(1) (1st Sched.) inserted by 67, 1980, s. 5
Section 348a:	repealed by 67, 1980, s. 4
Section 349(1):	redesignated as s. 349 in pursuance of the <i>Acts Republication Act, 1967</i>
Section 350(1a):	inserted by 67, 1980, s. 6(a)
Section 350(2):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 350(3):	amended by 67, 1980, s. 6(b)
Section 351(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 351(2):	amended by 67, 1980, s. 7(a); 50, 1984, s. 3(1) (1st Sched.)
Section 351(2a) and (2b):	inserted by 67, 1980, s. 7(b)
Section 351a:	inserted by 67, 1980, s. 8
Section 352:	redesignated to read as s. 352(1) by 67, 1980, s. 9; amended by 50, 1984, s. 3(1) (1st Sched.)
Section 352(2):	inserted by 67, 1980, s. 9
Section 353(1) and (2):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 353(4):	amended by 67, 1980, s. 10(a)
Section 353(5):	inserted by 67, 1980, s. 10(b)
Section 355(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 357(1):	amended by 115, 1976, s. 12(a); redesignated as s. 357 in pursuance of the <i>Acts Republication Act, 1967</i> ; amended by 33, 1991, s. 8
Section 357(2):	repealed by 115, 1976, s. 12(b)
Section 358:	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 364(1):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 364(3):	amended by 33, 1991, s. 9
Section 364(5):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 365(1), (2) and (4):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 366(1) and (3):	amended by 50, 1984, s. 3(1) (1st Sched.)
Section 367:	amended by 67, 1980, s. 11
Section 368(3):	substituted by 50, 1984, s. 3(1) (1st Sched.)
Section 369:	amended by 115, 1976, s. 13
Schedule 3:	amended by 50, 1984, s. 3(1) (1st Sched.)
Schedules 8 and 9:	repealed by 115, 1976, s. 14