



ANNO DECIMO SEXTO

GEORGI V REGIS.

A.D. 1925.

No. 1670.

An Act to further amend the Criminal Law Consolidation Act, 1876, and for other purposes.

[Assented to, October 22nd, 1925.]

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

1. (1) This Act may be cited as the "Criminal Law Amendment Act, 1925." Short titles.

(2) The Criminal Law Consolidation Acts, 1876 to 1917, and this Act may be cited together as the "Criminal Law Consolidation Acts, 1876 to 1925."

(3) In this Act the Criminal Law Consolidation Act, 1876, is referred to as "the principal Act." No. 38 of 1876.

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

3. Section 54 of the principal Act is amended—

(a) by inserting after the word "fine" in the seventh line thereof the words "not exceeding Twenty-five Pounds and such additional amount by way of compensation to the party aggrieved"; Amendment of ibid., s 54—
Penalty for common assault.

(b) by striking out the passage "not exceeding together with costs (if ordered) the sum of Five Pounds" in the eighth and ninth lines thereof; and

(c) by striking out the word "costs" in the tenth line thereof and inserting in lieu of that word the word "compensation".

4. Section

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Amendment of *ibid.*,
s. 66—
Punishment for
indecent assault.

4. Section 66 of the principal Act (as enacted by section 3 of the Criminal Law Amendment Act, 1917) is amended by substituting the word “may” for the word “shall” in the last line thereof.

Amendment of *ibid.*,
s. 71—
Punishment for
sodomy and
bestiality.

5. Section 71 of the principal Act is amended by striking out the the words “life or any term not less than” in the third line thereof and substituting the words “any term not exceeding”.

Amendment of *ibid.*,
s. 77—
Punishment for
bigamy.

6. Section 77 of the principal Act is amended by inserting after the word “labor” in the fourth line thereof the following passage, “for a first offence and for any term not exceeding ten years, with hard labor, for a second or any subsequent offence”.

Amendment of *ibid.*,
s. 119—
Placing poison to be
taken by dogs and
other animals.

7. Section 119 of the principal Act is amended by inserting after the word “purpose” in the fifth line thereof the words “or shall unlawfully and maliciously place poison in such a position as to be easily partaken of by any such dog, bird, beast, or animal.”

Amendment of *ibid.*,
s. 178—
Breaking into
certain buildings
and committing
felony.
Cf. *Eng. Larceny
Act, 1916, s. 27.*

8. Section 178 of the principal Act is amended by inserting after the word “counting-house” in the second line, and also after the same word in the fourth line, the following passage:—“or any office, store, garage, pavilion, factory, or workshop, or any building belonging to His Majesty, or to any Government Department, or to any municipal or other public authority”.

Amendment of *ibid.*,
s. 179—
Breaking into
certain buildings
with intent to
commit felony.
Cf. *ibid.*

9. Section 179 of the principal Act is amended by inserting after the word “counting-house” in the fourth line thereof, the following passage:—“or any office, store, garage, pavilion, factory, or workshop, or any building belonging to His Majesty, or to any Government Department, or to any municipal or other public authority”.

Amendment of *ibid.*,
s. 389—
Punishment for
conspiracy.

10. Section 389 of the principal Act is amended by striking out the passage “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” in the sixth, seventh and eighth lines thereof, and by adding at the end of the section the following subsection:—

(2) Whenever any person shall be convicted of any one of the offences hereinafter mentioned as a misdemeanor at common law, 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, it shall be lawful for the Court to sentence the offender to be imprisoned for any term not exceeding seven years, with hard labor.

Amendment of *ibid.*,
s. 398—
Provisions as to
reserved questions
of law.
Cf. *Queensland
Criminal Code,
s. 671.*

11. Section 398 of the principal Act is hereby amended by adding at the end thereof the following proviso:—

Provided that—

i. no judgment shall be reversed, avoided, or arrested upon the ground of the improper admission of evidence, if it appears

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appears to the said Judges that the evidence was merely of a formal character and not material, nor upon the improper admission of evidence adduced for the defence ;

II. where any judgment has been reversed, avoided, or arrested, the said Judges may order a new trial ; and

Cf. Victoria Crimes Act, 1915, s. 471.

III. the said Judges may, notwithstanding that they are of opinion that the question or questions so reserved might be decided in favor of the person convicted, affirm the judgment, if they consider that no substantial miscarriage of justice has actually occurred.

Cf. N.S.W., 16, 1912, s. 6 ;
Queensland, 23, 1913, s. 9 ;
U.K., 7,
Edw. VII., c. 23,
s. 4.

12. (1) Subject to the provisions of this Act, charges for more than one felony or for more than one misdemeanor, and charges for both felonies and misdemeanors, may be joined in the same information: Provided that 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.

Joinder of charges.

Cf. Eng. Indictments Act, 1915, s. 4.

Cf. Rule 3 thereunder.

(2) Where before trial, or at any stage of a trial, the Court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same information, or that, for any other reason, it is desirable to direct that the 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 such information.

Cf. Eng. Indictments Act, 1915, s. 5 (3).

(3) This section shall not affect any provision of the Criminal Law Consolidation Act, 1876, or of any other Act permitting more than one charge to be joined in the same information.

13. The principal Act is amended in manner set out in the Schedule to this Act.

Amendment of principal Act to abolish minimum penalties.

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

(a) commits any act of gross indecency with or in the presence of any girl under the age of sixteen years ; or

Penalty for act of gross indecency with girl under the age of sixteen years.

(b) incites or procures or attempts to procure the commission by any such girl 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 ; or

Cf. Victoria, 3025, 1919, s. 2.

(c) is otherwise a party to the commission of any act of gross indecency by or with or in the presence of any such girl or by or with any other person in the presence of such girl or by any such girl with any other person in the presence of the accused—

shall be guilty of a misdemeanor and shall be liable for a first offence to imprisonment for any term not exceeding two years, with hard labor, and for a second or any subsequent offence to imprisonment for any term not exceeding three years, with hard labor.

(2) It

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Consent no
defence.

(2) It shall be no defence to a charge for a misdemeanor under this section that the act of indecency was committed with the consent of such girl.

Penalty for out-
rages on decency.
48 & 49 Vict.,
c. 69, s. 11.

15. Any male person who, in public or in private, commits or is a party to the commission of or procures or attempts to procure the commission by any male person of any act of gross indecency with another male person shall be guilty of a misdemeanor and shall be liable to imprisonment for any term not exceeding three years, with hard labor.

In the name and on behalf of His Majesty, I hereby assent to
this Bill.

T. SLANEY POOLE, Administrator.

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THE SCHEDULE.

Sec. 14.

Section of Act Amended.	Line or Lines of Section in which the words struck out occur.	Words Struck Out.
21.....	6 and 7.....	“or for any term not less than three years”
22.....	4 and 5.....	“or for any term not less than three years”
23.....	6 and 7.....	“or for any term not less than three years”
24.....	9 and 10.....	“or for any term not less than three years”
25.....	4.....	“or for any term not less than three years”
26.....	5 and 6.....	“and not less than three years”
27.....	8.....	“or any term not less than three years”
28.....	9 and 10.....	“or any term not less than three years”
32.....	9.....	“or any term not less than three years”
33.....	9.....	“or any term not less than three years”
34.....	7.....	“and not less than three years”
40.....	11.....	“or any term not less than three years”
41.....	7.....	“and not less than three years”
44.....	12 and 13.....	“or any term not less than three years”
60.....	3.....	“or any term not less than four years”
63.....	3 and 4.....	“or any term not less than four years”
78.....	10.....	“or any term not less than three years”
81.....	4.....	“or for any term not less than seven years”
82.....	4.....	“or any term not less than seven years”
83.....	9 and 10.....	“or any term not less than three years”
84.....	6.....	“or any term not less than seven years”
85.....	7 and 8.....	“or any term not less than seven years”
89.....	6 and 7.....	“or for any term not less than seven years”
91.....	17.....	“or any term not less than seven years”
96.....	7 and 8.....	“or any term not less than three years”
97.....	5 and 6.....	“or any term not less than three years”
125.....	7 and 8.....	“or any term not less than three years”
126.....	9.....	“or any term not less than three years”
160.....	4 and 5.....	“and not less than two years”
163.....	8.....	“or for any term not less than three years”
164.....	7.....	“or any term not less than three years”
166.....	11 and 12.....	“or any term not less than three years”
167.....	9.....	“or any term not less than three years”
169.....	13 and 14.....	“or for any term not less than three years”
171.....	6 and 7.....	“or any term not less than three years”
172.....	2 and 3.....	“or any term not less than three years”
225.....	6 and 7.....	“or any term not less than five years”
240.....	9.....	“or any term not less than three years”
265.....	4 and 5.....	“or any term not less than three years”
266.....	25 and 26.....	“or any term not less than three years”
267.....	5 and 6.....	“or any term not less than three years”
269.....	8 and 9.....	“or any term not less than three years”
270.....	7 and 8.....	“or any term not less than three years”
274.....	7.....	“or any term not less than three years”
276.....	15.....	“nor less than three years”
280.....	6.....	“and not less than three years”
281.....	7 and 8.....	“or any term not less than three years”
285.....	27 and 28.....	“or for any term not less than three years”