

CRIMES.

No. 84 of 1960.

An Act to amend the *Crimes Act* 1914-1959.

[Assented to 13th December, 1960.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1.) This Act may be cited as the *Crimes Act* 1960. Short title
and citation.
 - (2.) The *Crimes Act* 1914-1959* is in this Act referred to as the Principal Act.
 - (3.) The Principal Act, as amended by this Act, may be cited as the *Crimes Act* 1914-1960.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-
ment.
3. Section two of the Principal Act is repealed and the following section inserted in its stead:—

“ 2. This Act is divided into Parts, as follows:— Parts.

 - Part I.—Preliminary (Sections 1-3A).
 - Part IA.—General (Sections 4-23).
 - Part II.—Offences Against the Government (Sections 24-30).
 - Part IIA.—Protection of the Constitution and of Public and other Services (Sections 30A-30R).
 - Part III.—Offences Relating to the Administration of Justice (Sections 31-50).
 - Part IV.—Offences Relating to the Coinage (Sections 51-62A).
 - Part V.—Forgery (Sections 63-69).
 - Part VI.—Offences By and Against Public Officers (Sections 70-76).
 - Part VII.—Espionage and Official Secrets (Sections 77-85D).
 - Part VIII.—Miscellaneous (Sections 85E-91).”

* Act No. 12, 1914, as amended by No. 6, 1915; No. 54, 1920; No. 9, 1926; No. 13, 1928; No. 30, 1932; No. 5, 1937; No. 6, 1941; No. 77, 1946; No. 80, 1950; No. 10, 1955; and No. 11, 1959.

Definitions.

4. Section three of the Principal Act is amended—

(a) by omitting the definitions of “ Commonwealth officer ” and “ Constable ” and inserting in their stead the following definitions:—

“ ‘ Commonwealth officer ’ means a person holding office under, or employed by, the Commonwealth, and includes—

(a) a person permanently or temporarily employed in the Public Service of the Commonwealth or of a Territory or in, or in connexion with, the Defence Force, or in the service of a public authority under the Commonwealth; and

(b) a Commonwealth Police Officer;

“ ‘ Constable ’ means a Commonwealth Police Officer or a member of the police force of a State or Territory; ”;

(b) by omitting from the definition of “ Public authority under the Commonwealth ” the words “ any Act ” and inserting in their stead the words “ a law of the Commonwealth or of a Territory ”; and

(c) by adding at the end thereof the following definition:—

“ ‘ The Queen’s dominions ’ includes a British protectorate and a British protected State.”.

5. After section three of the Principal Act the following section and heading are inserted:—

Operation of Act.

“ 3A. This Act applies throughout the whole of the Commonwealth and the Territories and also applies beyond the Commonwealth and the Territories.

“ PART IA.—GENERAL.”.

Aiders and abettors.

6. Section five of the Principal Act is amended by inserting after the word “ Commonwealth ” the words “ or of a Territory ”.

Accessory after the fact.

7. Section six of the Principal Act is amended by inserting after the word “ offence ” (first occurring) the words “ against a law of the Commonwealth or of a Territory ”.

Attempts.

8. Section seven of the Principal Act is amended by inserting after the word “ Commonwealth ” the words “ or of a Territory ”.

9. Section seven A of the Principal Act is amended by inserting after the word " Commonwealth " the words " or of a Territory ".

Inciting to or urging the commission of offences.

10. Section eight A of the Principal Act is amended by omitting from paragraph (a) the words " the law of the Commonwealth " and inserting in their stead the words " a law of the Commonwealth or of a Territory ".

Arrest without warrant for suspected offences.

11. Section nine of the Principal Act is amended—

Seizure and condemnation of forfeitable goods.

(a) by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

"(2.) Where articles are taken before a Court of Summary Jurisdiction under the last preceding sub-section, the Court shall inquire into the matter and—

(a) if the Court is satisfied that the articles are forfeited—shall order that the articles be condemned; or

(b) if the Court is not so satisfied—shall order that the articles be delivered to such person as the Court is satisfied is entitled to the articles.

"(2A.) A Court of Summary Jurisdiction may, before inquiring into a matter under the last preceding sub-section, require notice of the inquiry to be given to such persons as the Court thinks fit."; and

(b) by omitting from sub-section (3.) the word " return " and inserting in its stead the words " the delivery to any person ".

12. Section ten of the Principal Act is amended by inserting in paragraph (a), after the word " Commonwealth ", the words " or of a Territory ".

Search warrant.

13. Section eleven of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

Prosecution where act an offence under different laws.

"(1.) Where the act or omission of a person is an offence against a law of the Commonwealth and is also an offence against another law of the Commonwealth or some other law, the person may be prosecuted and convicted under either of those laws.

"(1A.) Where an act or omission constitutes an offence against a law of a Territory, the validity of that law is not affected by reason only that the act or omission also constitutes an offence against a law of the Commonwealth."

Certain offences may be dealt with summarily.

14. Section twelve A of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(4.) Notwithstanding the preceding provisions of this section, an offence against section twenty-four, twenty-four AA, twenty-four AB or seventy-eight, or sub-section (2.) or (5.) of section seventy-nine, of this Act is punishable only on indictment.”.

Habitual criminals

15. Section seventeen of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “during the Governor-General’s pleasure in a reformatory prison” and inserting in their stead the words “in prison during the pleasure of the Governor-General”; and

(b) by omitting sub-sections (3.) and (4.) and inserting in their stead the following sub-section:—

“(3.) For the purposes of this section, ‘the Governor-General’ means the Governor-General of the Commonwealth, or the person for the time being administering the government of the Commonwealth, acting with the advice of the Attorney-General.”.

Sentence of imprisonment.

16. Section eighteen of the Principal Act is amended by inserting in sub-section (2.), after the word “State”, the words “or Territory”.

17. After section eighteen of the Principal Act the following section is inserted:—

Enforcement of fines, &c.

“18A.—(1.) The laws of a State or Territory with respect to the enforcement of fines ordered to be paid by offenders, including laws making provision for or in relation to—

(a) the awarding of imprisonment in default of payment of fines;

(b) the allowance of time for payment of fines;

(c) the payment of fines by instalments; or

(d) the giving of security for the payment of fines,

shall, so far as those laws are applicable and are not inconsistent with the laws of the Commonwealth, apply and be applied to persons who are convicted in that State or Territory of offences against laws of the Commonwealth.

“(2.) A reference in this section to fines shall be read as including a reference to pecuniary penalties, costs or other amounts ordered to be paid by offenders.”.

18. Section nineteen of the Principal Act is amended by omitting from sub-section (1.) the words " any other law in force in the Commonwealth or any part of the Commonwealth " and inserting in their stead the words " any law of a State or Territory ".

Cumulative
punishment.

19. After section nineteen of the Principal Act the following sections are inserted:—

" 19A.—(1.) In this section—

' licence ' means a licence to be at large granted under the next succeeding sub-section;

Licences for
offenders to
be at large.

' prescribed authority ' means—

(a) a person who holds office as a Chief, Police, Stipendiary, Resident or Special Magistrate of a State and in respect of whom an arrangement in force under sub-section (15.) of this section is applicable; or

(b) a person who holds office as a Chief, Police, Stipendiary, Resident or Special Magistrate, or a District-Officer or Assistant District Officer, of a Territory;

' the prescribed period ', in relation to a licence, means—

(a) if the person to whom the licence was granted was, at the time when the licence was granted, serving a term of imprisonment—the period commencing on the day on which the licence was granted and ending on the day which, if no remissions of his sentence were granted, would be the last day of that term; or

(b) if the person to whom the licence was granted was, at the time when the licence was granted, being detained in prison by virtue of a direction given under section seventeen of this Act—the period of three years commencing on the day on which the licence was granted.

" (2.) Where—

(a) a person is serving a term of imprisonment for an offence against a law of the Commonwealth; or

(b) a person is being detained in prison by virtue of a direction given under section seventeen of this Act,

the Governor-General may, if he thinks it proper so to do in the circumstances, grant to that person, by writing under his hand, a licence to be at large.

" (3.) A licence is sufficient authority for the release from prison of the person to whom it is granted.

" (4.) A licence is subject to such conditions, if any, as are specified in the licence.

“(5.) The Governor-General may, at any time before the expiration of the prescribed period, by writing under his hand—

- (a) vary or revoke a condition of a licence or impose additional conditions; or
- (b) revoke a licence.

“(6.) The varying of a condition, or the imposing of an additional condition, under the last preceding sub-section does not have effect until notice thereof has been given to the person to whom the licence was granted, being notice given before the expiration of the prescribed period.

“(7.) Where—

- (a) a licence granted to a person is revoked; or
- (b) the person to whom a licence has been granted has, during the prescribed period, failed to comply with a condition of the licence or there are reasonable grounds for suspecting that he has, during that period, failed to comply with a condition of the licence,

a constable may, without warrant, arrest the person.

“(8.) Where a constable arrests a person in pursuance of the last preceding sub-section on a ground specified in paragraph (b) of that sub-section, the constable shall, as soon as practicable, take that person before a prescribed authority and, if the prescribed authority is satisfied that that person without lawful excuse failed to comply with a condition of the licence granted to him, the prescribed authority shall cancel the licence.

“(9.) A person brought before a prescribed authority under the last preceding sub-section shall, unless the prescribed authority otherwise directs, be kept in custody until the prescribed authority has determined the matter.

“(10.) Where a licence granted to a person who, at the time of the grant, was serving a term of imprisonment is revoked or cancelled, the person may, subject to sub-section (12.) of this section, be detained in prison to undergo imprisonment for the part of that term that he had not served at the time when he was released from prison in pursuance of the licence.

“(11.) Where a licence granted to a person who, at the time of the grant, was being detained in prison by virtue of a direction given under section seventeen of this Act is revoked or cancelled, the person may, subject to the next succeeding sub-section, be detained in prison during the pleasure of the Governor-General as if the licence had not been granted.

“(12.) Where a prescribed authority cancels a licence under sub-section (8.) of this section, the person to whom the licence was granted may appeal to the Supreme Court of a State or Territory against the cancellation and the Court shall—

- (a) if it is satisfied that the ground on which the licence was cancelled has been established—confirm the cancellation; or
- (b) if it is not so satisfied—order that the cancellation cease to have effect.

“(13.) An appeal under the last preceding sub-section shall be by way of re-hearing, but the Court may have regard to any evidence given before the prescribed authority.

“(14.) For the purposes of the preceding provisions of this section, ‘the Governor-General’ means the Governor-General of the Commonwealth, or the person for the time being administering the government of the Commonwealth, acting with the advice of the Attorney-General.

“(15.) The Governor-General may arrange with the Governor of a State for the performance by persons who hold office as Chief, Police, Stipendiary, Resident or Special Magistrates in that State of the functions of a prescribed authority under this section.

“(16.) Notice of an arrangement under the last preceding sub-section shall be published in the *Gazette*.

“19B.—(1.) Where—

- (a) a person is charged before a Court of Summary Jurisdiction with an offence against a law of the Commonwealth; and
- (b) the Court is satisfied that the charge is proved but is of opinion, having regard to—
 - (i) the character, antecedents, age, health or mental condition of the person;
 - (ii) the extent, if any, to which the offence is of a trivial nature; or
 - (iii) the extent, if any, to which the offence was committed under extenuating circumstances, that it is inexpedient to inflict any punishment, or to inflict any punishment other than a nominal punishment, or that it is expedient to release the person on probation,

Conditional
release of
offenders
without
proceeding
to conviction.

the Court may, without proceeding to conviction, by order—

- (c) dismiss the charge; or

(d) discharge the person upon his giving security, with or without sureties, by recognizance or otherwise, to the satisfaction of the Court that he will be of good behaviour for such period, not exceeding three years, as the Court thinks fit to order and will appear for conviction and sentence when called on at any time during that period.

“(2.) If the Court before which an offender is bound by recognizance under this section is satisfied, by information on oath, that the offender has failed to observe a condition of his recognizance, the Court may issue a warrant for his arrest and, upon the person being apprehended and the Court being satisfied that he has failed to observe a condition of his recognizance, the Court may convict him of and sentence him for the offence with which he was originally charged as if he had not been released on recognizance.

“(3.) The conviction of a person under the last preceding sub-section does not prevent any security given in connexion with the recognizance from being enforced.”.

20. After section twenty of the Principal Act the following sections are inserted :—

Power to
discharge
or vary
conditions
of recognizance.

“ 20A.—(1.) Where a person has given a recognizance under either of the last two preceding sections, the Court before which the person is bound by his recognizance may—

- (a) upon application by an authorized person; and
- (b) upon being satisfied that the conduct of the person bound by the recognizance has been such as to make it unnecessary that he should remain longer under supervision,

discharge the recognizance.

“(2.) An authorized person may apply to the Court before which a person is bound by a recognizance given under either of the last two preceding sections for a variation of the terms of the recognizance.

“(3.) Upon application being made to a Court under the last preceding sub-section, the Court shall summon the person bound by the recognizance to appear before the Court and, if he fails to show cause why the variation in the terms of the recognizance should not be made and it appears to the Court that the variation should be made, the Court may vary the terms of the recognizance by—

- (a) extending or reducing the duration of the recognizance;
- (b) altering the conditions of the recognizance; or
- (c) inserting additional conditions in the recognizance.

“(4.) A Court shall not extend the duration of a recognizance given by a person under section nineteen B of this Act beyond the period of three years from the date of the order under that section discharging the person.

“(5.) In this section, ‘authorized person’ means the Attorney-General or a person appointed under section sixty-nine of the *Judiciary Act 1903–1960* to prosecute indictable offences against the laws of the Commonwealth.

“20B.—(1.) Where a person has been charged with an indictable offence against a law of the Commonwealth and—

Offenders
found to be
insane.

(a) the person is unfit to be tried by reason of unsoundness of mind; or

(b) the person is acquitted by reason of unsoundness of mind at the time of the commission of the offence,

the Court shall direct that the person be kept in strict custody until the pleasure of the Governor-General is known.

“(2.) Where a Court has, under the last preceding sub-section, directed that a person be kept in strict custody until the pleasure of the Governor-General is known, the Governor-General may, by writing under his hand, order that the person be detained in safe custody in such place and in accordance with such directions, if any, as the Governor-General specifies in the order.

“(3.) The Governor-General may, from time to time, by writing under his hand, vary an order made under the last preceding sub-section, either as to the place specified in the order or the directions so specified, or as to both, in such manner as he thinks fit.

“(4.) The Governor-General may, by writing under his hand, order that a person detained in safe custody in pursuance of an order made under sub-section (2.) of this section (being a person who, by reason of unsoundness of mind, has been acquitted of the offence with which he was charged) be released from custody either unconditionally or subject to such conditions as are specified in the order.

“(5.) Where the Governor-General orders that a person be released from custody subject to conditions, the Governor-General may, at any time, by writing under his hand—

(a) vary or revoke any or all of the conditions or impose additional conditions; or

(b) revoke the order.

“(6.) Where an order made in respect of a person under sub-section (4.) of this section is revoked or the person fails to comply with a condition of such an order, the person may, without warrant, be arrested by any constable and may be detained in safe custody in accordance with the order made in respect of the person under sub-section (2.) of this section as if the order under sub-section (4.) of this section had not been made.

“(7.) Upon the Governor-General making an order under sub-section (4.) of this section that a person be released from custody unconditionally or upon the Governor-General revoking all the conditions subject to which a person has been released from custody in pursuance of an order made under that sub-section, the order made under sub-section (2.) of this section in respect of the person ceases to have effect.

“(8.) Where an order is made under sub-section (2.) of this section in respect of a person who, by reason of unsoundness of mind, is unfit to be tried, he shall be detained until the Governor-General is satisfied by the certificate in writing of not less than two duly qualified medical practitioners that the person has become of sound mind and is fit to be tried, and, upon the Governor-General being so satisfied, the Governor-General may, by writing under his hand, order the removal of the person to such custody as is specified in the order so that he may be tried for the offence with which he was charged.

“(9.) For the purposes of the preceding provisions of this section, ‘the Governor-General’ means the Governor-General of the Commonwealth, or the person for the time being administering the government of the Commonwealth, acting with the advice of the Attorney-General.

“(10.) The Governor-General may make arrangements with the Governor of a State for or in relation to the detention in institutions maintained by the State of persons in respect of whom orders are made under sub-section (2.) of this section.

Offences by
children and
young persons.

“20c.—(1.) A child or young person who, in a State or Territory, is charged with or convicted of an offence against a law of the Commonwealth may be tried, punished or otherwise dealt with as if the offence were an offence against a law of the State or Territory.

“(2.) Where a person under the age of eighteen years is convicted of an offence against a law of the Commonwealth that is punishable by death, he shall not be sentenced to death but the Court shall impose such other punishment as the Court thinks fit.”

21. Section twenty-one B of the Principal Act is repealed and the following section inserted in its stead:—

Reparation
for offences.

“21B. Where—

- (a) a person is convicted of an offence against a law of the Commonwealth; or
- (b) an order is made under section nineteen B of this Act in relation to an offence against a law of the Commonwealth committed by a person,

the Court may, in addition to the penalty, if any, imposed upon the person, order the offender—

- (c) to make reparation to the Commonwealth or to a public authority under the Commonwealth, by way of money payment or otherwise, in respect of any loss suffered, or any expense incurred, by the Commonwealth or the authority, as the case may be, by reason of the offence; or
- (d) to make reparation to any person, by way of money payment or otherwise, in respect of any loss suffered by the person as a direct result of the offence.”.

22. After section twenty-one c of the Principal Act, the following section is inserted:—

“ 21D. Nothing in this Part shall be construed as affecting the powers vested in the Governor-General in the exercise of the Royal prerogative of mercy.” Prerogative of mercy.

23. Section twenty-three of the Principal Act is amended by omitting the words “ Federal or State ”. Civil rights not affected.

24. Section twenty-four of the Principal Act is repealed and the following sections are inserted in its stead :—

“ 24.—(1.) A person who—

- (a) kills the Sovereign, does the Sovereign any bodily harm tending to the death or destruction of the Sovereign or maims, wounds, imprisons or restrains the Sovereign;
- (b) kills the eldest son and heir apparent, or the Queen Consort, of the Sovereign;
- (c) levies war, or does any act preparatory to levying war, against the Commonwealth;
- (d) assists by any means whatever, with intent to assist, an enemy—
 - (i) at war with the Commonwealth, whether or not the existence of a state of war has been declared; and
 - (ii) specified by proclamation made for the purpose of this paragraph to be an enemy at war with the Commonwealth;
- (e) instigates a foreigner to make an armed invasion of the Commonwealth or any Territory not forming part of the Commonwealth; or
- (f) forms an intention to do any act referred to in a preceding paragraph of this sub-section and manifests that intention by an overt act,

Treason.

shall be guilty of an indictable offence, called treason, and liable to the punishment of death.

“(2.) A person who—

- (a) receives or assists another person who is, to his knowledge, guilty of treason in order to enable him to escape punishment; or
- (b) knowing that a person intends to commit treason, does not give information thereof with all reasonable despatch to a constable or use other reasonable endeavours to prevent the commission of the offence,

shall be guilty of an indictable offence.

Penalty: Imprisonment for life.

“(3.) On the trial of a person charged with treason on the ground that he formed an intention to do an act referred to in paragraph (a), (b), (c), (d) or (e) of sub-section (1.) of this section and manifested that intention by an overt act, evidence of the overt act shall not be admitted unless the overt act was alleged in the indictment.

“(4.) A sentence of death passed by a court in pursuance of this section shall be carried into execution in accordance with the law of the State or Territory in which the offender is convicted or, if the law of that State or Territory does not provide for the execution of sentences of death, in accordance with the directions of the Governor-General.

Treachery.

“24AA.—(1.) A person shall not—

- (a) do any act or thing with intent—
 - (i) to overthrow the Constitution of the Commonwealth by revolution or sabotage; or
 - (ii) to overthrow by force or violence the established government of the Commonwealth, of a State or of a proclaimed country; or
- (b) within the Commonwealth or a Territory not forming part of the Commonwealth—
 - (i) levy war, or do any act preparatory to levying war, against a proclaimed country;
 - (ii) assist by any means whatever, with intent to assist, a proclaimed enemy of a proclaimed country; or
 - (iii) instigate a person to make an armed invasion of a proclaimed country.

“(2.) Where a part of the Defence Force is on, or is proceeding to, service outside the Commonwealth and the Territories not forming part of the Commonwealth, a person shall not assist by any means whatever, with intent to assist, any persons—

- (a) against whom that part of the Defence Force, or a force that includes that part of the Defence Force, is or is likely to be opposed; and

(b) who are specified, or included in a class of persons specified, by proclamation to be persons in respect of whom, or a class of persons in respect of which, this sub-section applies.

“(3.) A person who contravenes a provision of this section shall be guilty of an indictable offence, called treachery.

Penalty: Imprisonment for life.

“(4.) In this section—

‘proclaimed country’ means a country specified by proclamation made for the purpose of this definition to be a proclaimed country, and includes any colony, overseas territory or protectorate of that country, or any territory for the international relations of which that country is responsible, which is a colony, overseas territory, protectorate or territory to which the proclamation is expressed to extend;

‘proclaimed enemy’, in relation to a proclaimed country, means an enemy—

(a) of and at war with a proclaimed country, whether or not the existence of a state of war has been declared; and

(b) specified by proclamation made for the purpose of this definition to be an enemy of and at war with that country.

“(5.) A proclamation shall not be made for the purpose of the definition of ‘proclaimed country’, or for the purpose of the definition of ‘proclaimed enemy’, in the last preceding sub-section except in pursuance of a resolution of each House of the Parliament passed within the preceding period of twenty-one days.

“24AB.—(1.) In this section—

Sabotage.

‘act of sabotage’ means the destruction, damage or impairment, for a purpose intended to be prejudicial to the safety or defence of the Commonwealth, of any article—

(a) that is used, or intended to be used, by the Defence Force or a part of the Defence Force or is used, or intended to be used, in the Commonwealth or a Territory not forming part of the Commonwealth, by the armed forces of a country that is a proclaimed country for the purposes of the last preceding section;

(b) that is used, or intended to be used, in or in connexion with the manufacture, investigation or testing of weapons or apparatus of war;

(c) that is used, or intended to be used, for any purpose that relates directly to the defence of the Commonwealth; or

(d) that is in or forms part of a place that is a prohibited place within the meaning of section eighty of this Act;

‘ article ’ includes any thing, substance or material.

“(2.) A person who—

(a) carries out an act of sabotage; or

(b) has in his possession any article that is capable of use, and which he intends for use, in carrying out an act of sabotage,

shall be guilty of an indictable offence.

Penalty: Imprisonment for fifteen years.

“(3.) On a prosecution under this section it is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the Commonwealth and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the Commonwealth.

“(4.) On a prosecution under this section, evidence is not admissible by virtue of the last preceding sub-section if the Magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the Judge presiding at the trial, as the case may be, is of the opinion that that evidence—

(a) would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth; or

(b) would, having regard to all the circumstances of the case and notwithstanding the next succeeding sub-section, prejudice the fair trial of the defendant.

“(5.) If evidence referred to in the last preceding sub-section is admitted at the trial, the Judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth and must be disregarded by the jury in relation to any other question.

“ 24AC.—(1.) Proceedings for the commitment for trial of a person, or for the summary conviction of a person, in respect of an offence against any of the last three preceding sections shall not be instituted except by the Attorney-General or with the consent of the Attorney-General or of a person thereto authorized in writing by the Attorney-General. Institution of prosecutions.

“ (2.) Notwithstanding that consent has not been obtained as provided by the last preceding sub-section—

(a) a person may be arrested for an offence referred to in that sub-section; or

(b) a warrant for the arrest of a person for such an offence may be issued and executed,

and he may be charged, and may be remanded in custody or on bail, but—

(c) no further proceedings shall be taken until that consent has been obtained; and

(d) he shall be discharged if proceedings are not continued within a reasonable time.”.

25. Section twenty-four A of the Principal Act is amended—

(a) by omitting the words “ (1.) Subject to sub-section (2.) of this section an ” and inserting in their stead the word “ An ”; and Definition of seditious intention.

(b) by omitting sub-section (2.).

26. After section twenty-four E of the Principal Act the following section is inserted:—

“ 24F.—(1.) Nothing in the preceding provisions of this Part makes it unlawful for a person— Certain acts done in good faith not unlawful.

(a) to endeavour in good faith to show that the Sovereign, the Governor-General, the Governor of a State, the Administrator of a Territory, or the advisers of any of them, or the persons responsible for the government of another country, has or have been, or is or are, mistaken in any of his or their counsels, policies or actions;

(b) to point out in good faith errors or defects in the government, the constitution, the legislation or the administration of justice of or in the Commonwealth, a State, a Territory or another country, with a view to the reformation of those errors or defects;

(c) to excite in good faith another person to attempt to procure by lawful means the alteration of any matter established by law in the Commonwealth, a State, a Territory or another country;

- (d) to point out in good faith, in order to bring about their removal, any matters that are producing, or have a tendency to produce, feelings of ill-will or hostility between different classes of persons; or
- (e) to do anything in good faith in connexion with an industrial dispute or an industrial matter.

“(2.) For the purpose of the last preceding sub-section, an act or thing done—

- (a) for a purpose intended to be prejudicial to the safety or defence of the Commonwealth;
- (b) with intent to assist an enemy—
 - (i) at war with the Commonwealth; and
 - (ii) specified by proclamation made for the purpose of paragraph (d) of sub-section (1.) of section twenty-four of this Act to be an enemy at war with the Commonwealth;
- (c) with intent to assist a proclaimed enemy, as defined by sub-section (4.) of section twenty-four AA of this Act, of a proclaimed country as so defined; or
- (d) with intent to assist persons specified in paragraphs (a) and (b) of sub-section (2.) of that section,

is not an act or thing done in good faith.”.

27. Section twenty-six of the Principal Act is repealed and the following section inserted in its stead:—

Assisting
prisoners
of war to
escape.

“26. A person who knowingly aids an alien enemy who is a prisoner of war to escape, or in his escape, from a prison or place of confinement, or from the Commonwealth or a Territory not forming part of the Commonwealth, shall be guilty of an indictable offence.

Penalty: Imprisonment for life.”.

28. Section twenty-nine c of the Principal Act is repealed and the following section inserted in its stead:—

Statements
in applications
for grant of
money, &c.

“29c. A person who, in or in connexion with or in support of, an application to the Commonwealth, to a Commonwealth officer or to a public authority under the Commonwealth for any grant, payment or allotment of money or allowance under a law of the Commonwealth makes, either orally or in writing, any untrue statement shall be guilty of an offence.

Penalty: Imprisonment for two years.”.

29. Section thirty of the Principal Act is amended by omitting the words "or out of the possession, custody, or control of any officer of the Commonwealth" and inserting in their stead the words "or a public authority under the Commonwealth or out of the possession, custody, or control of a Commonwealth officer".

Seizing goods in Commonwealth custody.

30. Section thirty-one of the Principal Act is amended—

Definitions.

- (a) by omitting from the definition of "holder of a judicial office" the words "being a part of the Commonwealth";
- (b) by omitting from the definition of "judicial proceeding" the words "being a part of the Commonwealth"; and
- (c) by inserting in the definition of "judicial proceeding", after the words "law of the Commonwealth", the words ", or of a Territory,".

31. Section thirty-three of the Principal Act is amended by inserting in paragraph (a), after the words "law of the Commonwealth" (wherever occurring), the words "or of a Territory".

Official corruption in relation to offences.

32. After section thirty-six of the Principal Act the following section is inserted:—

"36A. A person who—

- (a) threatens, intimidates or restrains;
- (b) uses violence to or inflicts an injury on;
- (c) causes or procures violence, damage, loss or disadvantage to; or
- (d) causes or procures the punishment of,

Intimidation of witnesses, &c.

a person for or on account of his having appeared, or being about to appear, as a witness in a judicial proceeding shall be guilty of an indictable offence.

Penalty: Imprisonment for five years."

33. Section forty of the Principal Act is repealed and the following section inserted in its stead:—

"40. A person who wilfully prevents or wilfully endeavours to prevent another person who has been summoned to attend as a witness in a judicial proceeding from attending as a witness or from producing anything in evidence pursuant to the subpoena or summons shall be guilty of an offence.

Preventing witnesses from attending Court.

Penalty: Imprisonment for one year."

Conspiracy
to bring
false
accusation.

34. Section forty-one of the Principal Act is amended by inserting after the word "Commonwealth" the words "or of a Territory".

Compounding
offences.

35. Section forty-four of the Principal Act is amended by inserting after the word "Commonwealth" the words "or of a Territory".

Inserting
advertisements
without
authority of
Court.

36. Section forty-five of the Principal Act is amended by omitting the words "being part of the Commonwealth".

Removing
property
under seizure.

37. Section forty-nine of the Principal Act is amended by omitting the words "being part of the Commonwealth".

Obstructing
officers of
Courts.

38. Section fifty of the Principal Act is amended by omitting the words "being part of the Commonwealth".

Definitions.

39. Section fifty-one of the Principal Act is amended by omitting the definition of "coin" and inserting in its stead the following definition:—

" 'coin' includes—

- (a) coin made in whole or in part out of material other than metal; and
- (b) the coin of any country or place outside Australia;".

Gilding, &c.,
metal or
other material
with intent to
make
counterfeit
coin.

40. Section fifty-two of the Principal Act is amended by inserting after the word "metal" (wherever occurring) the words "or other material".

Possession
of counterfeit
coin, &c.

41. Section fifty-six of the Principal Act is amended by omitting paragraphs (b) and (c) and inserting in their stead the following paragraph:—

" (b) any bullion, metal, material, substance or article intending to use it, or knowing that it is intended to be used, in or in connexion with the making of counterfeit coin,".

Uttering
metals, &c.,
as coin.

42. Section fifty-eight of the Principal Act is amended—

- (a) by omitting the words "gold or silver"; and
- (b) by inserting in paragraph (b), after the word "metal", the words "or other material".

Clipping or
sweating
coins.

43. Section fifty-nine of the Principal Act is amended by omitting the words "gold or silver" (wherever occurring).

44. Section sixty of the Principal Act is repealed and the following sections are inserted in its stead:—

Possession
of clippings,
&c.

" 60. Any person who, without lawful authority or excuse (proof whereof shall lie upon him), has in his possession or disposes of any metal or other material or substance which, to his knowledge, was obtained by dealing with current coin in such

a manner as to diminish its weight, whether that metal, material or substance consists of filings, clippings, dust or bullion, is in solution or is in any other form, shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

“ 60A. Any person who, without lawful authority or excuse (proof whereof shall lie upon him), makes, sells, offers for sale or has in his possession for sale, any medal, cast, token or other like thing, not being a genuine coin, that—

Making,
possessing or
selling tokens,
&c., resembling
coins.

- (a) resembles in size, figure and colour any current coin;
- (b) bears a device resembling a device on a current coin; or
- (c) is so formed that it can, by gilding, silvering, colouring, washing or other like process, be so dealt with as to resemble a current coin,

and is capable of being passed for genuine coin, shall be guilty of an offence.

Penalty: Imprisonment for one year.”

45. Section sixty-one of the Principal Act is amended—

Forfeiture
of coining
instruments.

- (a) by omitting from sub-section (1.) the words “ all metal ” and inserting in their stead the words “ any metal or other material or substance ”; and
- (b) by omitting from sub-section (1.) the words “ all articles and substances ” and inserting in their stead the words “ any material, substance or article ”.

46. Section sixty-two A of the Principal Act is repealed and the following section inserted in its stead:—

“ 62A.—(1.) A person who, without the consent of an authorized person, defaces or destroys, by melting or otherwise, a current gold coin shall be guilty of an offence.

Defacing or
destroying
coins.

Penalty: Imprisonment for one year.

“ (2.) A person who, without the consent of an authorized person, destroys, by melting or otherwise, a current coin, not being a current gold coin, shall be guilty of an offence.

Penalty: Imprisonment for six months.

“ (3.) A person who, without the consent of an authorized person, in the course of carrying on any trade or business, defaces a current coin, not being a current gold coin, shall be guilty of an offence.

Penalty: Imprisonment for six months.

“ (4.) In this section, ‘ authorized person ’ means the Treasurer or a person authorized in writing by the Treasurer to grant consents for the purposes of this section.”

Forgery of
seals.

47. Section sixty-five of the Principal Act is amended—

(a) by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

“(a) the Great Seal of the Commonwealth or the Public Seal of a Territory; or”; and

(b) by inserting after paragraph (d) of sub-section (1.) the following word and paragraph:—

“; or (e) an Official Seal of which, under a law of the Commonwealth or a Territory, judicial notice is to be taken.”.

Forgery of
official
signatures.

48. Section sixty-six of the Principal Act is amended by omitting paragraph (e) and inserting in its stead the following paragraph:—

“(e) a person of whose signature, under a law of the Commonwealth or a Territory, judicial notice is to be taken.”.

49. Section seventy of the Principal Act is repealed and the following section inserted in its stead:—

Disclosure of
information by
Commonwealth
officers.

“70.—(1.) A person who, being a Commonwealth officer, publishes or communicates, except to some person to whom he is authorized to publish or communicate it, any fact or document which comes to his knowledge, or into his possession, by virtue of his office, and which it is his duty not to disclose, shall be guilty of an offence.

“(2.) A person who, having been a Commonwealth officer, publishes or communicates, without lawful authority or excuse (proof whereof shall lie upon him), any fact or document which came to his knowledge, or into his possession, by virtue of his office, and which, at the time when he ceased to be a Commonwealth officer, it was his duty not to disclose, shall be guilty of an offence.

Penalty: Imprisonment for two years.”.

Stealing
property of the
Commonwealth.

50. Section seventy-one of the Principal Act is amended—

(a) by inserting in sub-section (2.), after the words “property of the Commonwealth”, the words “, or, if the officer is employed in the service of a public authority under the Commonwealth, of that authority,”; and

(b) by omitting sub-section (3.) and inserting in its stead the following sub-sections:—

“(3.) A person who receives property belonging to the Commonwealth or to a public authority under the Commonwealth knowing the property

to have been stolen or obtained in circumstances that amount to an offence against a law of the Commonwealth shall be guilty of an offence.

Penalty: Imprisonment for seven years.

“(4.) For the purposes of this section, property in the possession, custody or control of the Commonwealth or of a public authority under the Commonwealth shall be deemed to belong to the Commonwealth or to that authority, as the case may be.”.

51. Section seventy-three of the Principal Act is amended by omitting sub-section (3.) and inserting in its stead the following sub-section:—

Official
corruption.

“(3.) In this section—

‘bribe’ includes the giving, conferring or procuring of any property or benefit of any kind in respect of any act done or to be done, or any forbearance observed or to be observed, or any favour or disfavour shown or to be shown, in relation to a matter arising under a law of the Commonwealth or of a Territory or otherwise arising in relation to the affairs or business of the Commonwealth or of a Territory;

‘Commonwealth officer’ includes a person who performs services for or on behalf of the Commonwealth, a Territory or a public authority under the Commonwealth.”.

52. The heading to Part VII. of the Principal Act and sections seventy-seven, seventy-eight and seventy-nine of the Principal Act are repealed and the following heading and sections inserted in their stead:—

“PART VII.—ESPIONAGE AND OFFICIAL SECRETS.

“77.—(1.) In this Part, unless the contrary intention appears—

Interpretation.

‘article’ includes any thing, substance or material;

‘cipher’ includes—

(a) a code or cryptogram;

(b) a system, method, device or machine whereby a cipher, code or cryptogram may be created; and

(c) a code word, password or identification signal;

‘information’ means information of any kind whatsoever, whether true or false and whether in a material form or not, and includes—

(a) an opinion; and

(b) a report of a conversation;

- 'model' includes design, pattern and specimen;
- 'plan' includes a written record of a survey or of a bearing or measurement taken for the purpose of fixing the position of a place;
- 'sketch' includes a representation of a place or thing;
- 'the Commonwealth' includes the Territories.

"(2.) In this Part, unless the contrary intention appears—

- (a) expressions referring to obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining include obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining in whole or in part, and whether the thing or information itself, or only the substance, effect or description of the thing or information, is obtained, collected, recorded, used, possessed, communicated, received or retained;
- (b) expressions referring to obtaining or retaining any sketch, plan, photograph, model, cipher, note, document, article or information include copying or causing to be copied the whole or a part of the sketch, plan, photograph, model, cipher, note, document, article or information; and
- (c) expressions referring to the communication of any sketch, plan, photograph, model, cipher, note, document, article or information include the transfer or transmission, or the publishing, of the sketch, plan, photograph, model, cipher, note, document, article or information.

"(3.) A reference in this Part to a sketch, plan, photograph, model, cipher, note, document or article or to information shall be read as including a reference to a copy of, a part of or a copy of a part of a sketch, plan, photograph, model, cipher, note, document or article or information.

"(4.) For the purposes of this Part, a place that is occupied by, or a thing that is under the control of, the Commonwealth shall be deemed to belong to the Commonwealth.

"(5.) This Part applies to and in relation to a sketch, plan, photograph, model, cipher, note, document or article by whomsoever it is made and whatsoever information it contains.

Espionage and similar activities.

"78.—(1.) If a person for a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen's dominions—

- (a) makes a sketch, plan, photograph, model, cipher, note, document or article that is likely to be, might be or is intended to be directly or indirectly useful to an enemy or a foreign power;

- (b) obtains, collects, records, uses, has in his possession or communicates to another person a sketch, plan, photograph, model, cipher, note, document, article or information that is likely to be, might be or is intended to be directly or indirectly useful to an enemy or a foreign power; or
- (c) approaches, is in the neighbourhood of, is in, enters, inspects or passes over a prohibited place,

he shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

“(2.) On a prosecution under this section—

- (a) it is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions; and
- (b) if any sketch, plan, photograph, model, cipher, note, document, article or information relating to or used in a prohibited place, or anything in such a place, was made, obtained, collected, recorded, used, possessed or communicated by any person other than a person acting under lawful authority, it shall, unless the contrary is proved, be deemed to have been made, obtained, collected, recorded, used, possessed or communicated for a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions.

“(3.) On a prosecution under this section, evidence is not admissible by virtue of paragraph (a) of the last preceding subsection if the Magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the Judge presiding at the trial, as the case may be, is of the opinion that that evidence, if admitted—

- (a) would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions; or

(b) would, having regard to all the circumstances of the case and notwithstanding the next succeeding subsection, prejudice the fair trial of the defendant.

“(4.) If evidence referred to in the last preceding subsection is admitted at the trial, the Judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions and must be disregarded by the jury in relation to any other question.

Official secrets.

“79.—(1.) For the purposes of this section, a sketch, plan, photograph, model, cipher, note, document or article is a prescribed sketch, plan, photograph, model, cipher, note, document or article in relation to a person, and information is prescribed information in relation to a person, if the person has it in his possession or control and—

(a) it has been made or obtained in contravention of this Part;

(b) it has been entrusted to the person by a Commonwealth officer or a person holding office under the Queen or he has made or obtained it owing to his position as a person—

(i) who is or has been a Commonwealth officer;

(ii) who holds or has held office under the Queen;

(iii) who holds or has held a contract made on behalf of the Queen or the Commonwealth;

(iv) who is or has been employed by or under a person to whom a preceding sub-paragraph of this paragraph applies; or

(v) acting with the permission of a Minister,

and, by reason of its nature or the circumstances under which it was entrusted to him or it was made or obtained by him or for any other reason, it is his duty to treat it as secret; or

(c) it relates to a prohibited place or anything in a prohibited place and—

(i) he knows; or

(ii) by reason of its nature or the circumstances under which it came into his possession or control or for any other reason, he ought to know,

that it should not be communicated to a person not authorized to receive it.

“(2.) If a person for a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions—

(a) communicates a prescribed sketch, plan, photograph, model, cipher, note, document or article, or prescribed information, to a person, other than—

(i) a person to whom he is authorized to communicate it; or

(ii) a person to whom it is, in the interest of the Commonwealth or a part of the Queen’s dominions, his duty to communicate it,

or permits a person, other than a person referred to in sub-paragraph (i) or (ii) of this paragraph, to have access to it;

(b) retains a prescribed sketch, plan, photograph, model, cipher, note, document or article in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it; or

(c) fails to comply with a direction given by lawful authority with respect to the retention or disposal of a prescribed sketch, plan, photograph, model, cipher, note, document or article,

he shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

“(3.) If a person communicates a prescribed sketch, plan, photograph, model, cipher, note, document or article, or prescribed information, to a person, other than—

(a) a person to whom he is authorized to communicate it; or

(b) a person to whom it is, in the interest of the Commonwealth or a part of the Queen’s dominions, his duty to communicate it,

or permits a person, other than a person referred to in paragraph (a) or (b) of this sub-section, to have access to it, he shall be guilty of an offence.

Penalty: Imprisonment for two years.

“(4.) If a person—

(a) retains a prescribed sketch, plan, photograph, model, cipher, note, document or article in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it;

(b) fails to comply with a direction given by lawful authority with respect to the retention or disposal of a prescribed sketch, plan, photograph, model, cipher, note, document or article; or

(c) fails to take reasonable care of a prescribed sketch, plan, photograph, model, cipher, note, document or article, or prescribed information, or to ensure that it is not communicated to a person not authorized to receive it or so conducts himself as to endanger its safety,

he shall be guilty of an offence.

Penalty: Imprisonment for six months.

“(5.) If a person receives any sketch, plan, photograph, model, cipher, note, document, article or information, knowing or having reasonable ground to believe, at the time when he receives it, that it is communicated to him in contravention of section seventy-eight of this Act or sub-section (2.) of this section, he shall be guilty of an indictable offence unless he proves that the communication was contrary to his desire.

Penalty: Imprisonment for seven years.

“(6.) If a person receives any sketch, plan, photograph, model, cipher, note, document, article or information, knowing, or having reasonable ground to believe, at the time when he receives it, that it is communicated to him in contravention of sub-section (3.) of this section, he shall be guilty of an offence unless he proves that the communication was contrary to his desire.

Penalty: Imprisonment for two years.

“(7.) On a prosecution under sub-section (2.) of this section it is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions.

“(8.) On a prosecution under this section, evidence is not admissible by virtue of the last preceding sub-section if the Magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the Judge presiding at the trial, as the case may be, is of the opinion that that evidence, if admitted—

(a) would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions; or

(b) would, having regard to all the circumstances of the case and notwithstanding the next succeeding sub-section, prejudice the fair trial of the defendant.

“(9.) If evidence referred to in the last preceding sub-section is admitted at the trial, the Judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions and must be disregarded by the jury in relation to any other question.

“(10.) A person charged with an offence against sub-section (2.) of this section may be found guilty of an offence against sub-section (3.) or (4.) of this section and a person charged with an offence against sub-section (5.) of this section may be found guilty of an offence against sub-section (6.) of this section.”.

53. Section eighty of the Principal Act is amended—

Prohibited
places.

- (a) by inserting in paragraph (a), after the word “ dockyard,”, the word “ aerodrome,”;
- (b) by inserting in paragraph (a), after the word “ ship,” (wherever occurring), the word “ aircraft,”;
- (c) by inserting in paragraph (a), after the word “ making,”, the word “ obtaining ”;
- (d) by inserting in paragraph (b), after the word “ ship,”, the word “ aircraft,”;
- (e) by omitting from paragraph (b) the words “ or stored,” and inserting in their stead the words “ obtained, tested or stored ”;
- (f) by inserting in paragraph (c), after the word “ enemy ”, the words “ or to a foreign power ”;
- (g) by inserting in paragraph (d), after the word “ ship,”, the word “ aircraft,”;
- (h) by inserting in paragraph (d), after the word “ repaired,”, the words “ obtained, tested ”; and
- (i) by inserting in paragraph (d), after the word “ enemy ”, the words “ or to a foreign power ”.

54. Section eighty-one of the Principal Act is amended—

Harbouring
spies.

- (a) by omitting from paragraph (c) of sub-section (1.) the words “ of police or of the Defence Force ”; and

(b) by omitting sub-section (3.) and inserting in its stead the following sub-section:—

- “ (3.) In this section, ‘ authorized officer ’ means—
- (a) a Commonwealth Police Officer;
 - (b) an officer of the Defence Force who is in command or in charge of a prohibited place;
 - (c) a member of the Police Force of a State or Territory who is the principal officer of police in any town or locality; or
 - (d) any other person declared by the Attorney-General, in writing, to be an authorized officer for the purposes of this section.”.

55. Section eighty-two of the Principal Act is repealed and the following section inserted in its stead:—

Search
warrants.

“ 82.—(1.) If a Justice of the Peace is satisfied, by information on oath, that there is reasonable ground for suspecting that an offence against this Part has been, is being or is about to be committed, he may grant a search warrant.

“ (2.) A search warrant granted under this section authorizes any constable or Commonwealth officer who is named in, or is lawfully in possession of, the warrant, with such assistance as he thinks necessary, to—

- (a) enter, if necessary by force, at any time, any premises or place named or described in the warrant;
- (b) search the premises or place and every person found therein and every person whom he reasonably believes to be about to enter or to have recently left the premises or place;
- (c) break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises or place;
- (d) seize anything that he finds on the premises or place or on any such person, and which he has reasonable grounds to believe is evidence of or otherwise relates to any offence or suspected offence which has been, is being or is about to be committed against this Part;
- (e) make extracts from or copies of any book, document or paper liable to seizure under the warrant; and
- (f) take such action as he considers expedient to prevent the commission of an offence against this Part.

“ (3.) Where a search warrant is granted under this section—

- (a) the person who applied for the grant of the warrant shall forward to the Attorney-General a report of all the circumstances relating to the granting of the warrant; and
- (b) the constable or Commonwealth officer who executes the warrant shall forward to the Attorney-General a report of all the circumstances relating to the execution of the warrant.

“ (4.) A female shall not be searched under this section except by a female.

“ (5.) In this section, ‘ premises ’ includes vehicle, vessel or aircraft.”.

56. Section eighty-three of the Principal Act is amended by adding at the end thereof the following sub-section:— Unlawful soundings

“ (6.) A reference in this section to soundings shall be read as including a reference to a hydrographic survey and a reference to the taking of soundings shall be read as including a reference to the making of a hydrographic survey.”.

57. Section eighty-four of the Principal Act is repealed and the following sections are inserted in its stead:—

“ 83A.—(1.) A person who, for the purpose of contravening, or of assisting another person to contravene, a provision of this Part or of gaining admission, or of assisting another person to gain admission, to a prohibited place— Illegal use of uniforms, official permits, impersonation, &c.

- (a) uses or wears, without lawful authority, a naval, military, air force, police or other official uniform, or a uniform so nearly resembling such a uniform as to be likely to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear such a uniform;
- (b) makes use of a disguise or false name or knowingly conceals his identity or nationality;
- (c) forges, alters, tampers with, disposes of or destroys an official permit or knowingly uses or has in his possession a forged, altered or irregular official permit or official paper or anything so closely resembling an official permit or official paper as to be likely to deceive;

- (d) personates, or falsely represents himself to be, a person—
- (i) who is or has been a Commonwealth officer;
 - (ii) who holds or has held office under the Queen;
 - (iii) who holds or has held a contract made on behalf of the Queen or the Commonwealth;
 - (iv) who is or has been employed by or under a person to whom a preceding sub-paragraph of this paragraph applies; or
 - (v) acting with the permission of a Minister;
- (e) without lawful authority or excuse, manufactures, uses or disposes of, or has in his possession or under his control—
- (i) an official die, key, badge, device, seal or stamp;
 - (ii) an impression of such a die, key, badge, device, seal or stamp; or
 - (iii) an official paper; or
- (f) counterfeits an official die, key, badge, device, seal or stamp, or uses, disposes of or has in his possession or under his control—
- (i) a counterfeited official die, key, badge, device, seal or stamp;
 - (ii) anything so closely resembling an official die, key, badge, device, seal or stamp as to be likely to deceive; or
 - (iii) any paper so closely resembling an official paper as to be likely to deceive,

shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

“(2.) A person who, without lawful authority or excuse—

- (a) allows another person to have possession of an official permit issued for the use of the first-mentioned person alone;
- (b) being a person for whose use an official permit has been issued, fails to comply with a direction or condition appearing on, or given by the authority which issued, the permit;
- (c) has in his possession or use an official permit issued for the use of some person other than himself;

- (d) on obtaining possession of an official permit by finding or otherwise, neglects or fails to restore it to—
- (i) the person or authority by whom or for whose use it was issued;
 - (ii) a Commonwealth officer; or
 - (iii) a constable; or
- (e) manufactures, alters, disposes of or has in his possession or use an official die, key, badge, device, seal, or paper or anything so closely resembling such an article as to be likely to deceive,

shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

“(3.) For the purposes of this section—

- (a) the expression ‘official permit’ means a naval, military, air force, police or official passport, pass, permit, badge, certificate, licence or document which—
- (i) purports to identify the holder or authorizes him to do an act or thing; and
 - (ii) is used or intended for use in the service of the Queen or of the Commonwealth; and
- (b) a die, key, badge, device, seal, stamp or paper shall be deemed to be an official die, key, badge, device, seal, stamp or paper, as the case may be, if it is used or intended for use in the service of the Queen or of the Commonwealth.

“83B. A person may, without warrant, arrest another person—

- (a) if that other person has committed, is committing, has attempted to commit or is attempting to commit an offence against this Part;
- (b) if there is immediate danger that that other person will commit or attempt to commit an offence against this Part; or
- (c) if that first-mentioned person is a constable and he has reasonable grounds for suspecting that that other person has committed, is committing, has attempted to commit, is attempting to commit or is about to commit an offence against this Part,

Arrest
without
warrant of
offenders
against this
Part.

and the arrested person may be detained in proper custody to be dealt with according to law.

Arrest of
persons in
or about
prohibited
places.

“ 84.—(1.) Where a Commonwealth officer has reasonable grounds for suspecting that a person who is in, or in the neighbourhood of, a prohibited place has committed, is committing, has attempted to commit, is attempting to commit or is about to commit an offence against this Part, the Commonwealth officer may, without warrant, arrest that person.

“ (2.) A person who is arrested in pursuance of the last preceding sub-section shall forthwith be brought before the officer or other person in charge of the prohibited place.

“ (3.) The officer or other person in charge of the prohibited place may order the person brought before him to be detained pending further investigation, and the person shall thereupon be detained.

“ (4.) If a person is arrested under this section, a report of the facts and circumstances shall forthwith be made by the officer or other person in charge of the prohibited place to the Attorney-General and—

(a) if no charge is laid against the suspected person within twenty-four hours after his arrest—he shall be released from detention; or

(b) if a charge is laid against the suspected person—he shall be dealt with according to law.

“ (5.) No action lies against the Commonwealth or a Commonwealth officer or any other person in respect of any arrest or detention in pursuance of this section, but if the Governor-General is satisfied that an arrest or detention was made without reasonable cause he may award reasonable compensation in respect of the arrest or detention.

Search of
suspects.

“ 84A.—(1.) If a Commonwealth officer or a constable, while acting in the course of his duty or employment, has reasonable ground for suspecting that a person who—

(a) is about to enter or leave the Commonwealth;

(b) has been in or near, or has passed over, a prohibited place; or

(c) is behaving or has behaved in a suspicious manner,

is in possession of evidence of an offence against this Part, the officer or constable may cause the person, his belongings and any bag or other article in his possession to be searched, and may, without warrant, detain the person for that purpose.

“ (2.) A female shall not be searched under this section except by a female.”

58. After section eighty-five of the Principal Act the following sections are inserted in Part VII.:—

“ 85A. Where an offence against this Part is committed by a company or corporation, or by a member or servant of a partnership acting in the course of the business of the partnership, every director and officer of that company or corporation, or every member of that partnership, as the case may be, shall be guilty of that offence, unless he proves that the act or omission constituting the offence occurred without his knowledge or consent. Offences by companies, &c.

“ 85B.—(1.) At any time before or during the hearing before a Federal court, a court exercising Federal jurisdiction or a court of a Territory of an application or other proceedings, whether in pursuance of this Act or otherwise, the Judge or Magistrate, or other person presiding or competent to preside over the proceedings, may, if satisfied that such a course is expedient in the interest of the defence of the Commonwealth— Hearing in camera, &c.

- (a) order that some or all of the members of the public shall be excluded during the whole or a part of the hearing of the application or proceedings;
- (b) order that no report of the whole or a specified part of or relating to the application or proceedings shall be published; or
- (c) make such order and give such directions as he thinks necessary for ensuring that no person, without the approval of the court, has access, either before, during or after the hearing of the application or the proceedings, to any affidavit, exhibit, information or other document used in the application or the proceedings that is on the file in the court or in the records of the court.

“ (2.) A person who contravenes or fails to comply with an order made or direction given in pursuance of this section shall be guilty of an offence.

Penalty: Imprisonment for five years.

“ 85c.—(1.) The imprint appearing upon a book, periodical, pamphlet, hand-bill, poster or newspaper is, in a prosecution for an offence against this Part, evidence that the book, periodical, pamphlet, hand-bill, poster or newspaper was printed or published by the person specified in the imprint. Imprints to be evidence.

“ (2.) For the purposes of this section, ‘imprint’ means a statement of the name and address of the printer or the publisher of the book, periodical, pamphlet, hand-bill, poster or newspaper, with or without a description of the place where it is printed.

Forfeiture of
articles, &c.

“ 85D. A photograph, sketch, plan, model, article, cipher, note, record, document, die, key, badge, device, seal, stamp or paper which is made, obtained, collected, recorded, retained, forged, possessed or otherwise dealt with in contravention of this Part is forfeited to the Commonwealth.”.

59. Section eighty-six of the Principal Act is repealed and the following sections are inserted in its stead:—

Jurisdiction
of courts.

“ 85E.—(1.) Subject to the succeeding provisions of this section—

(a) the several courts of the States are invested with federal jurisdiction; and

(b) jurisdiction is conferred on the several courts of the Territories,

with respect to offences against this Act.

“ (2.) The jurisdiction invested in, or conferred on, courts by the last preceding sub-section is invested or conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise, but subject to the conditions and restrictions specified in paragraphs (a), (b) and (c) of sub-section (2.) of section thirty-nine of the *Judiciary Act* 1903–1960.

“ (3.) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Judge, a Magistrate, or a District Officer or Assistant District Officer of a Territory.

“ (4.) The trial on indictment of an offence against this Act, not being an offence committed within a State, may be held in any State or Territory.

“ (5.) Subject to this Act, the laws of a State or Territory with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

(a) their summary conviction;

(b) their examination and commitment for trial on indictment;

(c) their trial and conviction on indictment; and

(d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act.

“(6.) Except as provided by this section, the *Judiciary Act* 1903–1960 applies in relation to offences against this Act.

“(7.) For the purposes of this section, ‘court of summary jurisdiction’ includes a court of a Territory sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory.

“86.—(1.) A person who conspires with another person— Conspiracy.

- (a) to commit an offence against a law of the Commonwealth;
- (b) to prevent or defeat the execution or enforcement of a law of the Commonwealth;
- (c) to effect a purpose that is unlawful under a law of the Commonwealth;
- (d) to effect a lawful purpose by means that are unlawful under a law of the Commonwealth; or
- (e) to defraud the Commonwealth or a public authority under the Commonwealth,

shall be guilty of an indictable offence.

Penalty: Imprisonment for three years.

“(2.) Notwithstanding the penalty set out at the foot of the last preceding sub-section—

- (a) where the offender conspired with another person to commit an offence against a law of the Commonwealth that is punishable by death—the Court before which the offender is convicted may impose a penalty of imprisonment for life or such lesser penalty as it thinks fit; and
- (b) where the offender conspired with another person to commit an offence against a law of the Commonwealth that is punishable by imprisonment for a greater period than three years—the offender is punishable as if he had committed that offence.

“(3.) In this section, ‘law of the Commonwealth’ includes a law of a Territory.”.

60. Sections eighty-nine and eighty-nine A of the Principal Act are repealed and the following sections inserted in their stead:—

“89.—(1.) A person who, without lawful excuse (proof whereof shall lie upon him), trespasses or goes upon any prohibited Commonwealth land shall be guilty of an offence. Trespassing on Commonwealth land.

Penalty: Fifty pounds.

“(2.) Where a person is found upon prohibited Commonwealth land, a constable or an authorized Commonwealth officer may request the person to furnish his name and address to the constable or officer and, if the person fails to comply with the request, he shall be guilty of an offence.

Penalty: Fifty pounds.

“(3.) Where a person is found upon prohibited Commonwealth land and a constable or authorized Commonwealth officer has reasonable grounds to believe that that person has gone upon the land in circumstances that amount to an offence against sub-section (1.) of this section, the constable or officer may apprehend that person and that person may be detained in proper custody to be dealt with according to law.

“(4.) An authorized Commonwealth officer shall not, under this section, request a person to furnish his name or address, or apprehend a person, unless he first produces to the person the instrument by virtue of which he is an authorized Commonwealth officer.

“(5.) In this section—

‘authorized Commonwealth officer’ means a Commonwealth officer declared by a Minister, by instrument in writing, to be an authorized Commonwealth officer for the purposes of this section;

‘prohibited Commonwealth land’ means land belonging to, or in the occupation of, the Commonwealth or a public authority under the Commonwealth, being land upon which is posted a notice to the effect that trespassing upon the land is prohibited.

Discharging
firearms on
or over
Commonwealth
land.

“89A.—(1.) A person who, without lawful authority or excuse (proof whereof shall lie upon him), discharges a firearm upon or over a prohibited area shall be guilty of an offence and the firearm shall be forfeited to the Commonwealth.

Penalty: Imprisonment for six months.

“(2.) A person who commits an offence against this section may be apprehended by a constable or an authorized Commonwealth officer and detained in proper custody to be dealt with according to law.

“(3.) An authorized Commonwealth officer shall not, under this section, apprehend a person unless he first produces to the person the instrument by virtue of which he is an authorized Commonwealth officer.

“(4.) In this section—

‘authorized Commonwealth officer’ means a Commonwealth officer declared by a Minister, by instrument in writing, to be an authorized Commonwealth officer for the purposes of this section;

'prohibited area' means land belonging to, or in the occupation of, the Commonwealth or a public authority under the Commonwealth, being land upon which is posted a notice to the effect that shooting upon or over the land is prohibited."

61. After section ninety A of the Principal Act the following section is inserted:—

" 90B. A person who—

- (a) in a document that, under a law of a Territory, is, or is required to be, produced or furnished to, or filed or lodged with, a Commonwealth officer; or
- (b) in a document that is required to be registered, or to be prepared for the purposes of, a law of a Territory,

knowingly makes a false statement shall be guilty of an offence.

Penalty: Imprisonment for two years."

False statements in documents filed, &c., under laws of a Territory.

62. Section ninety-one of the Principal Act is amended by omitting the words "or officer of Police".

Arrest of persons ordered to be deported.

63. The Principal Act is amended as set out in the Schedule to this Act.

Additional amendments.

THE SCHEDULE.

Section 63.

ADDITIONAL AMENDMENTS.

Sections amended.	Amendments.
24A	Omit " King's Dominions " (wherever occurring), insert " Queen's dominions ".
	Omit " His Majesty's subjects " (wherever occurring), insert " Her Majesty's subjects ".
25	Omit " King's Forces " (wherever occurring), insert " Queen's Forces ".
30E	Omit from sub-section (3.) " King ", insert " Commonwealth ".
30G	Omit " King ", insert " Commonwealth ".
61	Omit " King " (wherever occurring), insert " Commonwealth ".
65	Omit from paragraph (c) of sub-section (1.) " any of the King's Ministers of State for the Commonwealth ", insert " a Minister of State ".
	Omit from sub-section (3.) " King ", insert " Commonwealth ".
66	Omit paragraph (c), insert the following paragraph:—" (c) a Minister of State; or ".
69	Omit from sub-section (2.) " King ", insert " Commonwealth ".
80	Omit " King " (wherever occurring), insert " Queen ".
83	Omit from sub-section (2.) " King ", insert " Queen ".
	Omit from sub-section (5.) " King ", insert " Commonwealth ".