

1926.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 28th January, 1926.

(Brought in by the Attorney-General, the Honorable J. G. Latham.)

A BILL

FOR

AN ACT

To amend the *Crimes Act* 1914-1915.

BE it enacted by the King'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* 1926. Short title
and citation.
- 5 (2.) The *Crimes Act* 1914-1915* is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by the *War Precautions Act Repeal Act* 1920 and by this Act, may be cited as the *Crimes Act* 1914-1926.
- 10 2. This Act shall commence on a date to be fixed by Proclamation. Commencement.
3. Section two of the Principal Act is amended by inserting, after Parts. the words " Part II.—Offences against the Government," the words " Part IIIA.—Protection of the Constitution and of Public and other Services."
- 15 4. Section three of the Principal Act is amended— Definitions.
- (a) by adding at the end of the definition of " Constable " the words " and any Peace Officer appointed in pursuance of the *Peace Officers Act* 1925 " ; and
- (b) by

* Act No. 12, 1914, as amended by No 6, 1915, and No. 54, 1920.

(b) by inserting therein, after the definition of "Property", the following definition :—

"Public authority under the Commonwealth' means any authority or body constituted by or under any Act and includes the Commonwealth Bank of Australia." 5

Aiders and abettors.

5. Section five of the Principal Act is amended by omitting therefrom the words "this Act or any other Act" and inserting in their stead the words "any law of the Commonwealth".

Attempts.

6. Section seven of the Principal Act is amended by omitting therefrom the words "this Act or any other Act" and inserting in their stead the words "any law of the Commonwealth". 10

7. After section eight of the Principal Act the following section is inserted :—

Arrest without warrant for any offence against law of Commonwealth.

"8A. Any constable may, without warrant, arrest any person, if the constable has reasonable ground to believe— 15

(a) that the person has committed an offence against the law of the Commonwealth; and

(b) that proceedings against the person by summons would not be effective." 20

Seizure and condemnation of forfeitable goods.

8. Section nine of the Principal Act is amended by omitting from sub-section (1.) thereof the words "this Act" and inserting in their stead the words "any law of the Commonwealth".

Search warrant.

9. Section ten of the Principal Act is amended by omitting from paragraph (a) thereof the words "indictable offence against this Act" 25 and inserting in their stead the words "offence against any law of the Commonwealth".

10. After section twelve of the Principal Act the following section is inserted :—

Offences may be dealt with summarily.

"12A.—(1.) Any offence against this Act, although declared 30 indictable, may, with the consent of the defendant, be heard and determined by a Court of Summary Jurisdiction.

"(2.) Any proceeding in respect of an offence against this Act, although declared to be an indictable offence, may—

(a) if the offence relates to property the value of which does not exceed Fifty pounds; and 35

(b) if the prosecutor so requests,

be heard and determined before a Court of Summary Jurisdiction.

"(3.) Where an offence is dealt with under this section the Court may impose a sentence of imprisonment not exceeding one year and, in its discretion, impose a pecuniary penalty not exceeding One hundred pounds in addition to or in lieu of a sentence of imprisonment." 40

Proof of exceptions, &c.

11. Section fourteen of the Principal Act is amended by omitting therefrom the words "Act or regulation" and inserting in their stead the word "law". 45

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12. Section eighteen of the Principal Act is amended—

- (a) by omitting from sub-section (1.) thereof the words "this or any Act" and inserting in their stead the words "any law of the Commonwealth"; and
- 5 (b) by omitting therefrom the word "Act" and inserting in its stead the word "law".

Sentence of imprisonment.

13. Section twenty of the Principal Act is amended—

- (a) by inserting in sub-section (1.) thereof, after the word "Commonwealth" the words "without passing any sentence upon him";
- 10 (b) by omitting from sub-section (1.) thereof the words "for the term of imprisonment passed upon him, and will during that term" and inserting in their stead the words "for such period as the Court thinks fit to order and will during that period"; and
- 15 (c) by omitting sub-section (2.) thereof and inserting in its stead the following sub-sections:—

Conditional release of offenders.

"(2.) If any person who has been released in pursuance of this section fails to comply with the conditions upon which he was released, he shall be guilty of an offence.

Penalty: Imprisonment for the period provided by law in respect of the offence of which he was previously convicted.

25 "(3.) The penalty provided by the last preceding sub-section may be imposed by the Court by which the offender was originally convicted or by any Court of Summary Jurisdiction before which he is brought.

"(4.) In addition, the recognizance of any such person and those of his sureties shall be estreated, and any other security shall be enforced."

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

- (a) by omitting from sub-section (1.) thereof the words "this or any other Act or any regulation under any Act" and inserting in their stead the words "any law of the Commonwealth";
- 35 (b) by omitting from sub-section (2.) thereof the words "Act or regulation under an Act passed or made" and inserting in their stead the words "law of the Commonwealth passed";
- (c) by omitting from sub-section (2.) the words "Act or regulation" and inserting in their stead the word "law";
- 40 (d) by omitting from sub-section (3.) thereof the words "Act or regulation under an Act" and inserting in their stead the words "law of the Commonwealth"; and
- (e) by omitting from sub-section (3.) the words "Act or regulation" and inserting in their stead the word "law".

Time for commencement of prosecutions.

45 15. After section twenty-one of the Principal Act the following sections are inserted:—

"21A.—(1.) If at the hearing of any indictment, information or summons any objection is taken for an alleged defect therein in substance

Form of indictments, information and summonses.

substance or in form, or if objection is taken to any variance between the indictment, information or summons and the evidence adduced at the hearing in support thereof, the Court may make such amendment in the indictment, information or summons as appears to it to be desirable or to be necessary to enable the real question in dispute to be determined. 5

“(2.) If in any such case the Court considers that the defendant has been misled by the form in which the indictment, information or summons has been made out, it may adjourn the hearing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper. 10

“(3.) The power of the Court under sub-section (1.) of this section shall not be exercised in cases where the Court considers that the required amendments cannot be made without injustice to the defendant. 15

Reparation
for offences.

“21B. Whenever any person is convicted of an offence against any law of the Commonwealth the Court may, in addition to any penalty imposed upon him, order the offender to make reparation to the Commonwealth, whether by way of money payment or otherwise, in respect of any loss suffered by the Commonwealth by reason of the offence. 20

Burden of proof
of lawful
authority.

“21c. Where under any law of the Commonwealth any act, if done without lawful authority, or without lawful authority or excuse, or without permission, is an offence against that law, the burden of proving that the act was done with lawful authority, or with lawful authority or excuse, or with permission (as the case may be), shall be on the person accused.” 25

16. After section twenty-nine of the Principal Act the following sections are inserted :—

False pretences.

“29A.—(1.) Any person who, with intent to defraud, by any false pretence obtains from the Commonwealth or from any public authority under the Commonwealth any chattel, money, valuable security or benefit, shall be guilty of an offence. 30

“(2.) Any person who, with intent to defraud, by any false pretence, causes or procures any money to be paid, or any chattel, valuable security or benefit to be delivered or given, by the Commonwealth or by any public authority under the Commonwealth to any person, shall be guilty of an offence. 35

Penalty : Imprisonment for five years.

False
representation.

“29B. Any person who imposes or endeavours to impose upon the Commonwealth or any public authority under the Commonwealth by any untrue representation, made either verbally or in writing, with a view to obtain money or any other benefit or advantage, shall be guilty of an offence. 40

Penalty : Imprisonment for two years. 45

“29c. Every

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

Penalty : Fifty pounds.”

17. After Part II. of the Principal Act the following Part is inserted :—

10 “ PART II A.—PROTECTION OF THE CONSTITUTION AND OF PUBLIC AND OTHER SERVICES.

“ 30A.—(1.) The following are hereby declared to be unlawful associations, namely :— Unlawful associations.

15 (a) Any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages—

(i) the overthrow of the Constitution of the Commonwealth by revolution or sabotage ;

20 (ii) the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilized country or of organized government ; or

25 (iii) the destruction or injury of property of the Commonwealth or of property used in trade or commerce with other countries or among the States,

or which is, or purports to be, affiliated with any organization which advocates or encourages any of the doctrines or practices specified in this paragraph ;

30 (b) Any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages the doing of any act having or purporting to have as an object the carrying out of a seditious intention as defined in section twenty-four A of this Act.

35 “ (2.) Any branch or committee of an unlawful association, and any institution or school conducted by or under the authority or apparent authority of an unlawful association, shall, for all the purposes of this Act, be deemed to be an unlawful association.

40 “ 30B. Any person over the age of eighteen years who is a member of an unlawful association, and any person who occupies or acts in any office or position in or of an unlawful association, or who acts as a representative of an unlawful association, or who acts as a teacher in any institution or school conducted by or under the authority or apparent authority of an unlawful association, shall be guilty of an offence. Officers of unlawful associations.

45 Penalty : Imprisonment for one year.

“ 30c. Any

Advocating or
inciting to
crime.

“ 30C. Any person who by speech or writing advocates or encourages—

- (a) the overthrow of the Constitution of the Commonwealth by revolution or sabotage ;
 - (b) the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilized country or of organized government ; or
 - (c) the destruction or injury of property of the Commonwealth or of property used in trade or commerce with other countries or among the States,
- shall be guilty of an offence and shall be liable on conviction to imprisonment for any period not exceeding two years, and in addition (if he was not born in Australia) to deportation by order of the Attorney-General as provided in this Act.

Giving or
soliciting
contributions
for unlawful
associations.

“ 30D.—(1.) Any person who—

- (a) gives or contributes money or goods to an unlawful association ; or
 - (b) receives or solicits subscriptions or contributions of money or goods for an unlawful association,
- shall be guilty of an offence.

Penalty : Imprisonment for six months.

“ (2.) For the purposes of this section the printer and the publisher of a newspaper or periodical which contains any solicitation of subscriptions or contributions of money or goods for an unlawful association, or any notification or indication as to places where or persons to whom payment or delivery may be made of subscriptions or contributions of money or goods for an unlawful association, shall be deemed to solicit subscriptions or contributions of money or goods for an unlawful association.

Books, &c.,
issued by
unlawful
association not
transmissible
by post.

“ 30E.—(1.) No book, periodical, pamphlet, handbill, poster or newspaper issued by or on behalf or in the interests of any unlawful association shall—

- (a) if posted in Australia, be transmitted through the post ; or
- (b) in the case of a newspaper, be registered as a newspaper under the provisions of the *Post and Telegraph Act 1901-1923*.

“ (2.) Any newspaper registered under that Act prior to the commencement of this Act, which is issued by or on behalf or in the interests of any unlawful association, shall be removed from the register.

“ (3.) Any book, periodical, pamphlet, handbill, poster or newspaper posted in Australia, the transmission of which would be a contravention of this Act, shall be forwarded to the General Post Office of the State in which it was posted, and shall be forfeited to the King and shall be destroyed or disposed of as the Postmaster-General directs.

Prohibition of
sale of books,
&c., issued by
unlawful
association.

“ 30F. Any person who knowingly prints, publishes, sells or exposes for sale any book, periodical, pamphlet, handbill, poster or newspaper for

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for or in the interests of or issued by any unlawful association shall be guilty of an offence.

Penalty : Imprisonment for six months.

5 " 30g. All goods and chattels belonging to an unlawful association, or held by any person for or on behalf of an unlawful association, and all books, periodicals, pamphlets, handbills, posters or newspapers issued by or on behalf of, or in the interests of, an unlawful association shall be forfeited to the King.

Forfeiture of property held by an unlawful association.

10 " 30h. In any prosecution under this Act, proof that the defendant has, at any time since the commencement of this section—

Proof of membership of an association

(a) been a member of an association ;

(b) attended a meeting of an association ;

(c) spoken publicly in advocacy of an association or its objects ;

or

15 (d) distributed literature of an association,

shall, in the absence of proof to the contrary, be evidence that at all times material to the case he was a member of the association.

20 " 30j.—(1.) If at any time the Governor-General is of opinion that there exists in Australia a serious industrial disturbance prejudicing or threatening trade or commerce with other countries or among the States, he may make a Proclamation to that effect, which Proclamation shall be and remain in operation for the purposes of this section until it is revoked.

Industrial disturbances, lock-outs and strikes.

25 " (2.) Any person who, during the operation of such Proclamation, takes part in or continues, or incites to, urges, aids or encourages the taking part in, or continuance of, a lock-out or strike—

(a) in relation to employment in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States ; or

30 (b) in relation to employment in, or in connexion with, the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth,

35 shall be guilty of an offence, and shall be liable on conviction to imprisonment for any period not exceeding one year, and in addition (if he was not born in Australia) to deportation by order of the Attorney-General as provided in this Act.

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

40 'employee' includes any person whose usual occupation is as an employee ;

'employer' includes any person whose usual occupation is as an employer ;

45 'lock-out' includes the closing of a place or part of a place of employment, and the total or partial refusal of employers, acting in combination, to give work, if the refusal is unreasonable, or the total or partial suspension of work by an employer, with

a view

a view to compel his employees, or to aid another employer in compelling his employees, to accept any term or condition of employment ;

' strike ' includes the total or partial cessation of work by employees, acting in combination, as a means of enforcing compliance with demands made by them or by other employees on employers, and the total or partial refusal of employees, acting in combination, to accept work, if the refusal is unreasonable, and also includes job control. 5

Obstructing
or hindering
the
performance
of services.

" 30k. Whoever, by violence to the person or property of another person, or by spoken or written threat or intimidation of any kind to whomsoever directed, or, without reasonable cause or excuse, by boycott or threat of boycott of person or property— 10

(a) obstructs or hinders the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth ; 15

(b) compels or induces any person employed in or in connexion with the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth to surrender or depart from his employment ; 20

(c) prevents any person from offering or accepting employment in or in connexion with the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth ; 25

(d) obstructs or hinders the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States ;

(e) compels or induces any person employed in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States to surrender or depart from his employment ; or 30

(f) prevents any person from offering or accepting employment in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States, 35

shall be guilty of an offence.

Penalty : Imprisonment for one year.

Deportation of
offenders.

" 30l. The Attorney-General may by order under his hand direct that any person not born in Australia convicted of any offence under section thirty c, thirty j or thirty q of this Act shall be deported from the Commonwealth : 40

Provided that such order may only be made before, or within three months after, the expiration of any period of imprisonment to which the offender has been sentenced for the offence or, if the offender was not sentenced to imprisonment, within three months after his conviction for the offence. 45

" 30m. Where

- “ 30M. Where the Attorney-General has made an order under this Act for the deportation of any person, that person shall be deported accordingly, and may, pending deportation and in the course of deportation, be kept in such custody as the Attorney-General or an officer of the Commonwealth authorized by him directs. Custody pending deportation.
- “ 30N.—(1.) The master, owner, agent or charterer of any vessel shall, when required so to do by notice in writing by the Attorney-General or by any officer of the Commonwealth authorized by him— Shipowners to provide passages for deportation.
- (a) provide a passage for any person ordered to be deported under this Act, and shall receive that person on board for conveyance to a port to which the vessel is bound; and
- (b) receive on board and provide with accommodation, for such time as is specified in the notice, any persons charged by the Attorney-General with the custody of the person ordered to be deported.
- Penalty : One hundred pounds.
- “ (2.) For the services specified in the last preceding sub-section the Attorney-General shall pay to the master, owner, agent or charterer such passage money as the Attorney-General thinks reasonable.
- “ 30P. Where a person, ordered to be deported under this Act, is undergoing a sentence of imprisonment for an offence against this Act, the Attorney-General may cause to be served, upon the person in charge of the gaol or prison in which the sentence is being served, a notice requiring the person ordered to be deported to be handed over to such custody as is specified in the notice, and the person so in charge shall hand over accordingly the person ordered to be deported, and upon his being so handed over his sentence shall be deemed to have determined. Imprisonment to cease for the purposes of deportation.
- “ 30Q. Any person who has been deported under this Act who returns to the Commonwealth shall be guilty of an offence, and shall be liable on conviction to imprisonment for a period not exceeding one year, and in addition to deportation by order of the Attorney-General as provided in this Act. Return of deportee.
- “ 30R.—(1.) In any prosecution for an offence under this Part, or for an offence to which any provision of this Part is material, the averments of the prosecutor contained in the information or indictment shall be *prima facie* evidence of the matter or matters averred. Effect of averments of prosecutor.
- “ (2.) The last preceding sub-section shall apply to any matter so averred although—
- (a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
- (b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.
- “ (3.) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.
- “ (4.) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.
- “ (5.) Any

“(5.) Any book, periodical, pamphlet, handbill, poster or newspaper purporting to be issued by or on behalf of, or in the interests of, an association shall, unless the contrary is proved, be deemed to be so issued.”.

18. After section sixty-three of the Principal Act the following section is inserted :—

Tampering
with notes or
securities.

“63A.—(1.) Any person who, with intent to defraud, splits or otherwise tampers with the paper on which any Australian note or other Commonwealth security is printed, written or made, in such a manner as to sever from the note or security any material part thereof, shall be deemed to have forged the note or security, and both the note or security and the part severed therefrom shall be deemed to be forgeries.

“(2.) In this section ‘paper’ includes any substance on which a note or security is printed, written or made.”.

Forgery of
Commonwealth
documents.

19. Section sixty-seven of the Principal Act is amended—

(a) by omitting paragraph (b) thereof and inserting in its stead the following paragraph :—

“(b) any document issuable by, or deliverable to any Department of the Commonwealth or any public authority under the Commonwealth, or any Commonwealth officer ; or ”; and

(b) by omitting paragraph (e) thereof and inserting in its stead the following paragraph :—

“(e) any register, book, record or other document kept by any Department of the Commonwealth or any public authority under the Commonwealth or any Commonwealth officer ; or ”.

20. Section seventy-one of the Principal Act is repealed and the following sections inserted in their stead :—

Stealing
property of the
Commonwealth

“71.—(1.) Any person who steals or fraudulently misappropriates or fraudulently converts to his own use any property belonging to the Commonwealth, or to any public authority under the Commonwealth, shall be guilty of an offence.

Penalty : Imprisonment for seven years.

“(2.) Any property which comes into the possession of any Commonwealth officer by reason of the fact that he is a Commonwealth officer shall, for the purposes of this Act, be deemed to be the property of the Commonwealth notwithstanding that the officer was not authorized to receive it.

“(3.) Any person who receives any property belonging to the Commonwealth or to any authority under the Commonwealth knowing it to have been stolen or unlawfully obtained from the Commonwealth shall be guilty of an offence.

Penalty : Imprisonment for seven years.

“71A. In

- “ 71A. In any prosecution under the last preceding section, it shall not be necessary to prove the stealing, fraudulent misappropriation or conversion of any specific sum of money or other property if there is proof of a general deficiency on the examination of the books of account or entries kept or made by the defendant or otherwise and the Court or jury is satisfied that the accused stole, fraudulently misappropriated or converted to his own use the deficient money or other property or any part thereof.”
- 5** **21.** Section seventy-two of the Principal Act is amended by omitting therefrom the words “ book or record ” (wherever occurring) and inserting in their stead the words “ book, record or document ”.
- 10** **22.** Section seventy-three of the Principal Act is repealed and the following section inserted in its stead :—
- “ 73.—(1.) Any Commonwealth officer who obtains or attempts to obtain any bribe shall be guilty of an offence.
- 15** **Penalty :** Imprisonment for two years.
- “ (2.) Any person who bribes or attempts to bribe any Commonwealth officer shall be guilty of an offence.
- 20** **Penalty :** Imprisonment for two years.
- “ (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 the affairs or business of the Commonwealth.”
- 25** **23.** Section seventy-six of the Principal Act is amended—
- (a) by omitting therefrom the word “ Act ” (first occurring) and inserting in its stead the words “ law of the Commonwealth ” ; and
- 30** (b) by omitting therefrom the word “ Act ” (last occurring) and inserting in its stead the words “ law of the Commonwealth, or by violence or threats or intimidation of any kind interferes with, hinders or obstructs any person performing any service or function for or on behalf of the Commonwealth in the performance of that service or
- 35** function ”.
- 24.** Section seventy-seven of the Principal Act is amended by omitting the word “ place ” (second occurring) and inserting in its stead the word “ plan ”.

Proof of general deficiency sufficient.

Falsification of books or record by officers.

Official corruption

Resisting or obstructing public officers.

Definitions.

